

Amendment 67

Colorado Legislative Council Staff
FISCAL IMPACT STATEMENT

Date: September 4, 2014

Fiscal Analyst: Lauren Schreier, 303-866-3523

TITLE: DEFINITION OF PERSON AND CHILD

Ballot Question: Shall there be an amendment to the Colorado Constitution protecting pregnant women and unborn children by defining "person" and "child" in the Colorado Criminal Code and the Colorado wrongful death act to include unborn human beings?

Fiscal Impact Summary*	Fiscal Year 2014-15	Fiscal Year 2015-16
State Revenue	\$0	\$0
State Spending	\$0	\$0

* This summary shows changes in state government revenue and spending that are directly caused by the measure. The amount shown represents the change from current law. State fiscal years run from July 1 to June 30.

Summary of Measure

Amendment 67 specifies that the terms "person" and "child" in the Colorado Criminal Code and the wrongful death statutes include unborn human beings. The measure takes effect if it is approved by voters in the November 2014 election.

Fiscal Impact

Amendment 67 is assessed as having no fiscal impact because the measure does not require any state actions or services to be provided, nor does it impose any new fines or criminal charges. Depending on how the measure is interpreted and applied by the courts, or whether the legislature adopts specific implementing legislation, the amendment may result in new criminal offenses and penalties being created or applied in certain situations when a pregnancy is terminated. Costs may increase for state and local law enforcement agencies and the courts for the investigation and prosecution of individuals charged with such criminal offenses, and the Department of Corrections for the incarceration of individuals convicted and sentenced to prison. The potential costs cannot be determined at this time.

Amendment 68

Colorado Legislative Council Staff
FISCAL IMPACT STATEMENT

Date: September 4, 2014

Fiscal Analyst: Greg Sobetski, 303-866-4105

TITLE: HORSE RACETRACK CASINO GAMBLING

Ballot Question: SHALL STATE TAXES BE INCREASED \$114,500,000 ANNUALLY IN THE FIRST FULL FISCAL YEAR, AND BY SUCH AMOUNTS THAT ARE RAISED THEREAFTER, BY IMPOSING A NEW TAX ON AUTHORIZED HORSE RACETRACKS' ADJUSTED GROSS PROCEEDS FROM LIMITED GAMING TO INCREASE STATEWIDE FUNDING FOR K-12 EDUCATION, AND, IN CONNECTION THEREWITH, AMENDING THE COLORADO CONSTITUTION TO PERMIT LIMITED GAMING IN ADDITION TO PRE-EXISTING PARI-MUTUEL WAGERING AT ONE QUALIFIED HORSE RACETRACK IN EACH OF THE COUNTIES OF ARAPAHOE, MESA, AND PUEBLO; ALLOCATING THE RESULTING TAX REVENUES TO A FUND TO BE DISTRIBUTED TO SCHOOL DISTRICTS AND THE CHARTER SCHOOL INSTITUTE FOR K-12 EDUCATION; AND AUTHORIZING HOST COMMUNITIES TO IMPOSE REASONABLE IMPACT FEES ON HORSE RACETRACKS AUTHORIZED TO CONDUCT LIMITED GAMING?

Fiscal Impact Summary*	Fiscal Year 2015-16	Fiscal Year 2016-17
State Revenue	\$67,235,140	\$85,033,743
K-12 Education Cash Fund	\$81,870,642	\$114,500,000
Limited Gaming Cash Fund	(\$14,635,502)	(\$29,466,257)
State Spending		
General Fund	\$778,360	\$793,114
FTE Position Change	9.0	10.1
Local Government Impact: Increased funding for public schools; increased costs and potential fee revenue for other local governments.		

* This summary shows changes in state government revenue and spending that are directly caused by the measure. The amount shown represents the change from current law. State fiscal years run from July 1 to June 30.

Summary of Measure

Amendment 68 amends the Colorado Constitution to allow limited gaming at horse racetracks in Arapahoe, Mesa, and Pueblo counties. One racetrack in each county may be licensed to offer limited gaming, including slot machines, card games, and other games of chance, with maximum single bets of \$100. Racetracks licensed to conduct gaming are authorized to have 2,500 slot machines or a greater number as requested by the racetrack and approved by the Limited Gaming Control Commission. No restrictions are placed on the number of tables for card games or other games of chance.

To obtain a gaming license, a facility must have operated as a Class B horse racetrack licensed by the Colorado Racing Commission for at least five years as of January 1, 2014, or for five years immediately preceding its application for a license to conduct limited gaming. To be licensed as a Class B horse racetrack, the facility must host 30 live race days each year and allow

pari-mutuel betting on horse races. Because there are currently no racetracks in either Mesa or Pueblo county that satisfy these requirements, only one racetrack, Arapahoe Park in Arapahoe County, would be able to conduct limited gaming until at least 2019.

The measure creates the K-12 Education Fund (fund) in the state treasury. Within 30 days of commencing gaming operations, each racetrack must make a single payment of \$25 million to the fund. Additionally, the fund receives revenue generated from a new tax on limited gaming at horse racetracks, and accumulated interest on the fund balance. Racetrack adjusted gross proceeds (AGP) from limited gaming, defined as the total amount of all wagers made less payments to players, are taxed at a rate of 34 percent. All revenue generated from the tax on AGP is paid to the fund. The treasurer annually distributes the balance of the fund on a per-pupil basis to school districts and the State Charter School Institute (CSI).

The host community may impose an initial impact fee and annual impact fees that are reasonably related to the community's costs resulting from the presence of gaming at the racetrack. The amount of the fee(s) must be negotiated between the racetrack and the host community.

Background. In 1990, voters approved Initiative 4, which permits limited gaming in the cities of Central City, Black Hawk, and Cripple Creek. In 2008, voters approved Amendment 50, allowing extended limited gaming at the discretion of voters in each of the three cities. The Limited Gaming Control Commission establishes rates of taxation on AGP collected at existing casinos. Currently, the commission uses six graduated tax tiers, the highest of which is a 20 percent tax levied on AGP that exceed \$13.0 million during a given fiscal year. In FY 2013-14, the state collected \$104.9 million in gaming tax revenue.

Gaming tax revenue is distributed according to two statutory formulas. Revenue attributable to *limited gaming*, which totaled \$95.2 million in FY 2013-14, is first used to pay administrative expenses related to the regulation of limited gaming and then distributed as follows:

- 10 percent to Central City, Black Hawk, and Cripple Creek, allocated proportionally to the share of tax revenue collected from each city;
- 12 percent to Gilpin and Teller counties, allocated proportionally to the share of tax revenue collected from each county;
- 28 percent to the State Historical Fund; and
- 50 percent to be allocated by the legislature, of which \$35.1 million is distributed to economic development programs pursuant to Senate Bill 13-133, with the remainder deposited in the General Fund.

Revenue attributable to *extended limited gaming* authorized by Amendment 50 totaled \$9.7 million in FY 2013-14 and is distributed according to a separate formula. This revenue is first used to pay administrative expenses related to the regulation of extended limited gaming and then distributed as follows:

- 10 percent to Central City, Black Hawk, and Cripple Creek, allocated proportionally to the share of tax revenue collected from each city;
- 12 percent to Gilpin and Teller counties, allocated proportionally to the share of tax revenue collected from each county; and
- 78 percent to the state's public community colleges, junior colleges, and local district colleges.

Fiscal Impact

State revenue. State revenue is projected to increase \$67.2 million in FY 2015-16 and \$85.0 million in FY 2016-17. The projection for FY 2015-16 represents a half-year impact and includes a one-time fee of \$25 million, paid by the operators of Arapahoe Park racetrack in Arapahoe County. The projection for FY 2016-17 represents a full-year impact for limited gaming in Arapahoe County. Limited gaming in Mesa and Pueblo counties cannot begin before FY 2019-20, and then only if horse racing is established first. Projections assume that Arapahoe Park will satisfy demand for casino gambling in a presently underserved market. If Arapahoe Park does not mature into an attractive destination for customers, revenue to the K-12 Education Fund will be lower and the impacts described below will be smaller.

Tax revenue to the K-12 Education Fund is projected at \$81.9 million in FY 2015-16 and \$114.5 million in FY 2016-17, assuming that limited gaming at Arapahoe Park horse racetrack begins on January 1, 2016.

New gaming tax revenue from Arapahoe Park will be offset by reduced gaming tax revenue from existing casinos, resulting in reduced revenue to the Limited Gaming Fund and reduced distributions to the General Fund, other cash funds, local governments, and community colleges. These revenue impacts are summarized in Table 1.

Table 1. Changes to Revenue and Distributions under Amendment 68.		
	FY 2015-16	FY 2016-17
State Revenue	<u>\$67,235,140</u>	<u>\$85,033,743</u>
<i>K-12 Education Fund</i>	\$81,870,642	\$114,500,000
<i>Limited Gaming Fund</i>	(\$14,635,502)	(\$29,466,257)
Distributions from the Limited Gaming Fund	<u>(\$14,635,502)</u>	<u>(\$29,466,257)</u>
<i>Extended Limited Gaming Fund</i>	(\$1,347,789)	(\$2,713,558)
<i>Counties: Gilpin and Teller</i>	(\$161,735)	(\$325,627)
<i>Municipalities: Black Hawk, Cripple Creek, Central City</i>	(\$134,779)	(\$271,356)
<i>Community, Junior, and Local District Colleges</i>	(\$1,051,275)	(\$2,116,576)
<i>Counties: Gilpin and Teller</i>	(\$1,594,526)	(\$3,210,324)
<i>Municipalities: Black Hawk, Cripple Creek, Central City</i>	(\$1,328,771)	(\$2,675,270)
<i>State Historical Fund</i>	(\$3,720,560)	(\$7,490,756)
<i>Creative Industries Cash Fund*</i>	\$0	(\$372,205)
<i>Office of Film, Television, and Media Operations*</i>	\$0	(\$500,000)
<i>General Fund</i>	(\$6,643,857)	(\$12,504,145)

* Beginning FY 2016-17, revenue to the Limited Gaming Fund is projected to be insufficient to make statutory transfers to these funds pursuant to Senate Bill 13-133. See Section 12-47.1-701 (2), C.R.S.

This analysis assumes that approximately 44 percent of the AGP collected by the Arapahoe Park racetrack will be AGP foregone by existing casinos in Central City, Black Hawk, and Cripple Creek. It also assumes that AGP foregone by existing casinos would have been taxed at the highest current tax rate, 20 percent, while Amendment 68 would tax AGP at the higher rate of 34 percent.

New tax revenue estimates are based on the location of Arapahoe Park horse racetrack and estimates of population and average household income for zip codes less than three hours' drive from the new casino. These were used to estimate Arapahoe Park's potential market. Revenue loss to the Limited Gaming Fund is projected according to each zip code's driving time to existing gaming sites in Gilpin and Teller counties.

Additional revenue will be added to the K-12 Education Fund if limited gaming begins at horse racetracks in Mesa or Pueblo counties in FY 2019-20 or a subsequent year.

State spending. State spending will increase \$778,360 in FY 2015-16 and \$793,114 in FY 2016-17. The Department of Revenue will require 9.0 additional full time equivalent (FTE) employees in FY 2015-16 and 10.1 additional FTE in FY 2016-17. State spending is summarized in Table 2.

Table 2. State Spending under Amendment 68		
	FY 2015-16	FY 2016-17
Department of Revenue	\$766,360	\$781,114
<i>Personnel Salary and Benefits</i>	\$560,929	\$609,963
<i>Office Equipment</i>	\$57,327	\$9,595
<i>Law Enforcement Equipment</i>	\$28,126	\$5,919
<i>Audit Training and Software</i>	\$1,800	\$0
<i>Legal Services</i>	\$17,078	\$6,831
<i>Vehicles</i>	\$20,883	\$24,665
<i>Communication Fees</i>	\$11,250	\$15,000
<i>Insurance and Disability</i>	\$68,967	\$109,141
Office of the State Auditor		
<i>K-12 Education Fund Financial Audit</i>	\$12,000	\$12,000

The Department of Revenue will incur initial administrative costs prior to the projected opening of the Arapahoe Park casino on January 1, 2016. These initial costs include personnel, office furnishings, law enforcement equipment, and training.

Amendment 68 allows limited gaming to occur in Mesa and Pueblo counties at Class B horse racetracks that conduct racing and on-track parimutuel wagering for five consecutive years. The Department of Revenue will incur additional costs if and when limited gaming begins in these counties, not before FY 2019-20. If a horse racetrack is opened to satisfy the racing requirement, the Division of Racing in the department will incur costs to regulate horse racing; however, the division has the authority to charge fees to fund the cost of any new expense.

Table 3 shows personnel additions in the Division of Gaming attributable to Amendment 68 for the next two fiscal years.

Table 3. State Personnel Additions (FTE) under Amendment 68		
	FY 2015-16	FY 2016-17
Department of Revenue	9.0	10.1
<i>Criminal Investigator I</i>	4.4	5.0
<i>Criminal Investigator II</i>	1.3	1.1
<i>Administrative Assistant III</i>	0.8	1.0
<i>Auditor II</i>	0.9	1.0
<i>Auditor III</i>	0.6	0.5
<i>Compliance Investigator I</i>	0.5	1.0
<i>Accountant III</i>	0.5	0.5

New criminal investigators will be responsible for patrolling the casino floor, responding to patron complaints, assisting other law enforcement agencies to ensure patron safety, and monitoring the casino for compliance with limited gaming regulations. A new compliance investigator will conduct routine compliance inspections of the casino's gaming devices and related hardware and software. An administrative assistant, auditors, and accountant are necessary Division support staff.

The Department of Revenue is expected to hire new staff four months prior to the Arapahoe Park casino opening date. FY 2015-16 represents a half-year impact together with staff time accrued prior to the casino opening. FY 2016-17 represents a full-year impact. Additional personnel will be required if limited gaming begins at horse racetracks in Mesa or Pueblo counties in FY 2019-20 or a subsequent year.

Under current law, expenditures related to the administration of limited gaming and extended limited gaming are financed by fees levied against existing casinos and by transfers from the Limited Gaming and Extended Limited Gaming cash funds, respectively. Amendment 68 does not include a mechanism for financing the state's administrative expenses associated with horse racetrack limited gaming. For the purposes of this fiscal note, it is assumed that expenses will be paid from the General Fund.

The Office of the State Auditor is required to conduct an annual financial audit of the K-12 Education Fund. Because no payments into or out of the fund are expected until FY 2015-16, no expenditures are anticipated in FY 2014-15. Beginning in FY 2015-16, contracting for the audit is expected to cost \$12,000 each year.

Local Government Impact. Amendment 68 will affect local government revenue and expenditures in FY 2015-16 and subsequent years. Revenue and expenditures will increase in cities and counties where horse racetrack casinos are to be located, including Arapahoe County. Revenue and expenditures will decrease in cities and counties where existing casinos are located, including Gilpin and Teller counties and the municipalities of Black Hawk, Central City, and Cripple Creek. The precise amount of increased local expenditures are not estimated; however, revenue impacts are displayed in Table 1.

Amendment 68 allows a racetrack casino's host community to impose a one-time initial impact fee and annual impact fees that are reasonably related to the community's costs resulting from the presence of racetrack gaming. The amounts of these fees are to be established in negotiations between the horse racetrack and the host community and are therefore indeterminate. Caseloads for several local government services are expected to increase, including law enforcement, court services, traffic control, and road repair. Host and nearby communities may generate additional revenue from local sales taxes.

Under current law, a portion of taxes and fees paid by casinos are distributed to the two counties and three municipalities where limited gaming is currently authorized. Because Amendment 68 is expected to lessen revenue to existing casinos, these distributions will decrease as shown in Table 1. Current gaming cities and counties will also experience revenue reductions in the form of lower sales tax and property tax collections. Amendment 68 is not expected to affect the transfer to the Local Government Limited Gaming Impact Fund in Section 12-47.1-701 (2)(a)(IV), C.R.S.

School District Impact. Once a year, the measure requires the state treasurer to distribute the balance of the K-12 Education Fund to school districts and the CSI on a per-pupil basis. Using a K-12 funded pupil count of 856,000 in FY 2015-16, as forecast by Legislative Council Staff, new revenue is estimated at \$96 per pupil. For the 2014-15 academic year, average per-pupil funding under the School Finance Act is \$7,021.

Proposition 104



Colorado Legislative Council Staff
FISCAL IMPACT STATEMENT

Date: September 4, 2014

Fiscal Analyst: Kristen Koehler, 303-866-4918

TITLE: SCHOOL BOARD MEETING REQUIREMENTS

Ballot Question: Shall there be a change to the Colorado Revised Statutes requiring any meeting of a board of education, or any meeting between any representative of a school district and any representative of employees, at which a collective bargaining agreement is discussed to be open to the public?

Fiscal Impact Summary*	Fiscal Year 2014-15	Fiscal Year 2015-16
State Revenue	\$0	\$0
State Spending	\$0	\$0

* This summary shows changes in state government revenue and spending that are directly caused by the measure. The amount shown represents the change from current law. State fiscal years run from July 1 to June 30.

Summary of Measure

Proposition 104 requires that local school boards discuss collective bargaining agreements with unions in meetings that are open to the public. This measure does not impact any other public body.

Background. Under current law, any meeting at which a state or local governmental body discusses public business or takes formal action must be open to the public, with certain exceptions. For instance, a school board may designate an employee or representative to negotiate a collective bargaining agreement and there is no requirement that these negotiations be held publically. Current law requires however, that final collective bargaining agreements be voted on by the school board in public and be made available on the Internet.

Fiscal Impact

Proposition 104 may increase the number of school board meetings that are open to the public and require some effort in fulfilling the legal requirements for an open meeting, but these impacts will not have a significant fiscal impact.

The measure only applies to school districts and will not impact other local governments or the state.

Proposition 105

Colorado Legislative Council Staff FISCAL IMPACT STATEMENT

Date: September 4, 2014

Fiscal Analyst: Kristen Koehler, 303-866-4918

TITLE: LABELING GENETICALLY MODIFIED FOOD

Ballot Question: Shall there be a change to the Colorado Revised Statutes concerning labeling of genetically modified food; and, in connection therewith, requiring food that has been genetically modified or treated with genetically modified material to be labeled, "Produced With Genetic Engineering" starting on July 1, 2016; exempting some foods including but not limited to food from animals that are not genetically modified but have been fed or injected with genetically modified food or drugs, certain food that is not packaged for retail sale and is intended for immediate human consumption, alcoholic beverages, food for animals, and medically prescribed food; requiring the Colorado department of public health and environment to regulate the labeling of genetically modified food; and specifying that no private right of action is created for failure to conform to the labeling requirements?

Fiscal Impact Summary*	Fiscal Year 2014-15	Fiscal Year 2015-16	Fiscal Year 2016-17
State Revenue Fines Collection Cash Fund	\$0 0	\$0 0	<\$5,000 <\$5,000
State Spending General Fund	\$0 0	\$112,640 112,640	\$129,319 129,319
Local Government Impact: Potential jail costs due to misdemeanor penalty.			

* This summary shows changes in state government revenue and spending that are directly caused by the measure. The amount shown represents the change from current law. State fiscal years run from July 1 to June 30.

Summary of Measure

Proposition 105 amends the Colorado statutes to require that certain foods that have been produced with genetic engineering or that have been genetically modified be labeled with the words "Produced with Genetic Engineering." Genetic engineering refers to the process of scientifically altering organisms at the molecular or cellular level.

Under the measure, food is considered to be genetically engineered or modified if the organism from which the food is derived has been treated with a genetically engineered material, or the food contains an ingredient or component that is genetically engineered. Beginning July 1, 2016, if a genetically engineered or genetically modified food is not labeled as required by the measure, the food is considered to be misbranded. Certain foods and food products are exempted from the measure's requirements.

The Colorado Department of Public Health and Environment (CDPHE) is required to establish regulations for labeling foods that have been genetically modified or produced with genetic engineering. These regulations may include procedures for the inspection of food manufacturers and testing of food products to ensure compliance with the measure's labeling requirements.

Background. Genetic engineering of food was first accomplished in 1973 and became commercialized in 1976. Genetically engineered foods, also known as genetically modified organisms or GMOs, have been in the U.S. food supply since 1990. According to the U.S. Department of Agriculture (USDA), in 2013, 90 percent of corn, 90 percent of cotton, and 93 percent of soybean crops planted in the United States were genetically engineered.

U.S. Food and Drug Administration (FDA) rules state that genetically engineered foods and food ingredients must meet the same safety requirements as other foods. The FDA allows food producers to voluntarily label products as to whether or not they contain genetically engineered material, and has issued draft guidance on this labeling to the food industry. The FDA may assess penalties for producers that mislabel products.

The USDA certifies organic foods under the National Organic Program, which can then be labeled as "USDA Organic." Crops grown with the use of genetic engineering cannot be certified as organic under the USDA program. Additionally, a number of producers currently sell food identified as not containing genetically engineered material that have been verified by a third-party verification organization. One such organization currently lists about 16,000 individual food products as having passed its verification process. These products are labeled as "Non-GMO Project Verified."

Fiscal Impact

The measure will affect state revenue and spending, as well as local government spending, as described below.

State revenue. Beginning in FY 2016-17, Proposition 105 is anticipated to increase state revenue from fines imposed on any manufacturers, distributors, or retailers that violate the Colorado Food and Drug Act by failing to properly label foods produced with genetic engineering. The precise impact cannot be determined because the courts have the discretion of incarceration, imposing a fine, or both, but less than \$5,000 is expected to be collected per year. Initial violations of the act are subject to a fine of not more than \$1,000, six months imprisonment in a county jail, or both. Subsequent violations are punishable by a fine of up to \$2,000, one year in a county jail, or both. In the past five years, one person has been found guilty of mislabeling a food, drug, device, or cosmetic product. Any new revenue would be credited to the Fines Collection Cash Fund in the Judicial Branch.

State spending. This measure is expected to increase state General Fund expenditures in the Colorado Department of Public Health and Environment (CDPHE) by \$112,640 and 1.2 FTE in FY 2015-16, and by \$129,319 and 1.5 FTE beginning in FY 2016-17 and each year thereafter. The measure is not expected to affect state spending in FY 2014-15.

This fiscal estimate assumes that labeling requirements will be in place by July 1, 2016. In FY 2015-16, the CDPHE will develop rules for administering the labeling program for genetically engineered foods through a stakeholder process with legal services from the Department of Law. This effort will require \$112,640 and 1.2 FTE for an environmental protection specialist and administrative support. Included in this amount is 80 hours of legal services at a rate of \$99.01 per hour for a total of \$7,921 for rulemaking, and 88 hours of computer programming at \$103 per hour for a total of \$9,064 for updating the department's web-based module for tracking complaints.

Proposition 105

Beginning in FY 2016-17, the labeling program will be operational and CDPHE staff will perform manufacturer inspections, gather samples, and test food in response to consumer complaints. These efforts will require \$129,319 and 1.5 FTE in FY 2016-17 and each year thereafter. The frequency of inspections, sampling, and testing will depend on the rules established by the department and the frequency of consumer complaints. This fiscal estimate assumes, however, that at least 30 food samples will be tested annually, at a cost of \$300 per test. Also included in the annual expenditures is \$1,500 for maintenance of the web-based module for tracking complaints and \$1,000 in mileage for staff travel to manufacturer facilities. Expenditures are detailed in Table 1.

Cost Component	FY 2014-15	FY 2015-16	FY 2016-17
Personal Services and Employee Benefits	-	\$88,871	\$116,094
Full Time Staff Positions	-	1.2	1.5
Operating Expenses and Capital Outlay	-	\$6,784	\$1,425
Travel	-	-	\$1,000
Computer System Updates and Maintenance	-	\$9,064	\$1,500
Samples and Laboratory Testing	-	-	\$9,300
Legal Services	-	\$7,921	-
Total	-	\$112,640	\$129,319

Local government impact. Proposition 105 impacts local governments by creating a new element to the misdemeanor crime of mislabeling a food, drug, device, or cosmetic product. The precise impact cannot be determined because the courts have the discretion of incarceration, imposing a fine, or both, but the impact on county jails is expected to be minimal. Only one person has been found guilty of mislabeling a food, drug, device, or cosmetic product in the past five years. Initial violations are punishable by six months in a county jail; subsequent violations are punishable by a jail sentence of one year. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. The state currently reimburses county jails at a daily rate of \$51.45 to house state inmates.