

Amendment 66

Colorado Legislative Council Staff
FISCAL IMPACT STATEMENT

Date: September 24, 2013

Contact: Josh Abram, 303-866-3561

BALLOT TITLE: FUNDING FOR PUBLIC SCHOOLS

Ballot Question: Shall state taxes be increased by \$950,100,000 annually in the first full fiscal year and by such amounts as are raised thereafter by amendments to the Colorado Constitution and the Colorado Revised Statutes concerning funding for preschool through twelfth-grade public education, and, in connection therewith, increasing the current state income tax rate on individuals, estates, and trusts, and imposing an additional rate so higher amounts of income are taxed at higher rates; requiring the resulting increases in tax revenues be spent only for improvements to preschool through twelfth-grade public education; allowing all tax revenues attributable to this measure to be collected and spent without future voter approval; requiring at least 43% of state sales, excise, and income tax revenues be deposited in the State Education Fund and repealing certain existing public education funding requirements?

Fiscal Impact Summary	Fiscal Year 2013-14	Fiscal Year 2014-15*	Fiscal Year 2015-16
State Revenue State Educational Achievement Fund	\$452.0 million	\$950.1 million	\$1.0 billion
State Spending General Fund State Educational Achievement Fund	up to \$452.0 million	\$201,986 up to \$950.1 million	\$71,339 \$1.0 billion

* The state's fiscal year runs from July 1 to June 30. Fiscal year 2014-15 is the first full fiscal year of increased tax collections.

Summary of Measure

Amendment 66 amends the Colorado Constitution and the Colorado Statutes to change how the state funds public preschool through twelfth grade (P-12) education. The amendment raises taxes to increase the amount of money available for public schools, changes how the state distributes funding to school districts, and requires that a fixed percentage of revenue from certain state taxes be annually set aside for schools. Specifically, the measure:

- raises the state individual income tax rate from 4.63 percent to 5.0 percent on the first \$75,000 of taxable income, and to 5.9 percent on any taxable income over \$75,000;

- deposits the additional tax revenue from the tax rate change into the newly created State Educational Achievement fund;
- implements legislation passed by the state legislature creating a new formula for allocating state and local funding to school districts;
- repeals the constitutional requirement that base per pupil funding for public education increase by at least the rate of inflation annually; and
- requires that at least 43 percent of state income, sales, and excise tax revenue, collected at existing tax rates, be set aside annually to pay for public education.

Background. The state's current income tax rate is 4.63 percent for both households and businesses, regardless of income level. In 1987, the state moved from a graduated income tax rate to a single tax rate, which was initially set at 5.0 percent. This rate was reduced to 4.75 percent in 1999, and reduced again to 4.63 percent in 2000. This measure increases the individual income tax rate. For assistance estimating your household's anticipated tax changes under Amendment 66, please visit the online tax calculator at: www.colorado.gov/lcs/taxestimator.

Funding for public education comes from multiple sources, primarily state and local tax collections, and some federal funds. The bulk of funding is distributed under the provisions of the School Finance Act of 1994 (SFA). Local school districts may also raise money above what is required under the act. For example, with voter approval, districts may raise and spend property taxes for operating expenses, or enter into bonded debt for capital expenses. Districts also receive state funds through a variety of programs designed to serve special groups of students or student needs, known as categorical programs. State appropriations also help fund the Colorado Department of Education and other administrative functions, such as the Colorado Student Assessment Program.

Fiscal Impact

Amendment 66 will increase state revenue from taxes, most of which will be distributed to public school districts and charter schools under the provisions of Senate Bill 13-213.

State revenue. Amendment 66 will increase state tax revenue beginning in fiscal year 2013-14. The amendment is estimated to increase tax revenue from individual income taxes by \$452 million in fiscal year 2013-14 (a one-half year impact); \$950.1 million in fiscal year 2014-15 (the first full year of increased tax collections); and \$1.0 billion in fiscal year 2015-16.

State spending - Education. Amendment 66 may increase state expenditures for public schools by up to \$452 million in fiscal year 2013-14, \$950.1 million in fiscal year 2014-15, and \$1.0 billion in fiscal year 2015-16.

The new revenue collected under Amendment 66 must be used for funding P-12 public education. The amendment also triggers implementation of Senate Bill 13-213, enacted during the 2013 legislative session and signed by the Governor. Beginning with fiscal year 2015-16, the allocation formula in SB 13-213 replaces the allocation formula contained in the SFA of 1994. For a detailed description of state and school district expenditures under SB 13-213, please refer to the final fiscal note for that legislation.

Prior to fiscal year 2015-16, all revenue collected under Amendment 66 is deposited as follows:

- up to 15 percent to the Educator Effectiveness Reserve Fund;
- up to 40 percent to the Preschool through 12th Grade Education Reserve Fund;
- up to 40 percent to the Public School Capital Construction Assistance Fund; and
- up to 5 percent to the Education Technology Fund.

Total spending from these funds in fiscal years 2013-14 and 2014-15 is indeterminate; appropriations from these funds are made at the discretion of the General Assembly during the annual budget setting process.

State spending - Department of Revenue. Amendment 66 will also increase General Fund expenditures in the Department of Revenue (DOR) by \$201,986 and 3.6 staff positions in fiscal year 2014-15; and \$71,339 and 1.5 staff positions in fiscal year 2015-16.

New state spending in the DOR is anticipated for the Tax Call Center and the Public Information and Education Office in the DOR. The DOR is responsible for processing approximately 2.4 million individual income tax returns, and Amendment 66 will potentially impact each of these returns. The DOR can anticipate an increased workload to educate the public and respond to questions regarding the two-tiered tax rate change, especially in the first full tax year of implementation. The DOR can then anticipate a reduced volume of outreach and call center activity following the first year.

In addition to outreach and education, the DOR can anticipate increased workload to address filing errors in individual tax returns. Based on historical data with other tax policy changes, three percent of individual tax returns will be filed incorrectly and require additional processing and review during the first year. The error rate is then expected to fall to one-half this amount in the second year.

Finally, the DOR will have increased expenditures to program and update the GenTax system. The system will require 60 hours of one-time programming at a cost of \$200.00 per hour for a total of \$12,000. Total new expenditures for the DOR are displayed in Table 1.

Table 1. Total DOR Expenditures Under Amendment 66		
Cost Components	FY 2013-14	FY 2014-15
Personal Service Costs	\$170,200	\$69,914
Full Time Staff Positions	3.6	1.5
Operating Expenses and Capital Outlay	19,786	1,425
Computer System Modifications	12,000	-
TOTAL	\$201,986	\$71,339

School District Impact

Amendment 66 increases tax revenues for public school districts and charter schools and triggers implementation of SB13-213. Due to provisions contained in SB13-213, and beginning with the 2015-16 academic year, the funded pupil count, the total amount of school district funding, and the amount of per pupil funding will change; however, the actual amount is dependant on a number of variables including a district's percentage of at-risk students and English language learners, and the potential for voter approved mill levy increases in local school districts. For details on how the new revenue will be allocated to public school districts and charter schools under the new formula, please refer to the final fiscal note for Senate Bill 13-213, available on the General Assembly's web site. A district by district comparison is also available at:

www.colorado.gov/cs/Satellite/CGA-LegislativeCouncil/CLC/1251600282747

Proposition AA



Colorado *Legislative Council Staff*
FISCAL IMPACT STATEMENT

Date: September 24, 2013

Contact: Clare Pramuk, 303-866-2677

TITLE: RETAIL MARIJUANA TAXES

Ballot Question: Shall state taxes be increased by \$70,000,000 annually in the first full fiscal year and by such amounts as are raised annually thereafter by imposing an excise tax of 15% when unprocessed retail marijuana is first sold or transferred by a retail marijuana cultivation facility with the first \$40,000,000 of tax revenues being used for public school capital construction as required by the state constitution, and by imposing an additional sales tax of 10% on the sale of retail marijuana and retail marijuana products with the tax revenues being used to fund the enforcement of regulations on the retail marijuana industry and other costs related to the implementation of the use and regulation of retail marijuana as approved by the voters, with the rate of either or both taxes being allowed to be decreased or increased without further voter approval so long as the rate of either tax does not exceed 15%, and with the resulting tax revenue being allowed to be collected and spent notwithstanding any limitations provided by law?

Fiscal Impact Summary	FY 2013-14*	FY 2014-15
State Revenue	<u>\$33.5 million</u>	<u>\$67.0 million</u>
Excise Tax	13.8 million	27.5 million
Sales Tax	19.7 million	39.5 million
State Spending	\$4.2 million	\$1.3 million
Local Government Revenue	\$3.0 million	\$5.9 million

*FY = fiscal year. The state's fiscal (or budget) year runs from July through June.

Summary of Measure

Proposition AA establishes an excise tax and special sales tax on retail marijuana beginning January 1, 2014. These taxes are not subject to the limitations on revenue, spending, or appropriations contained in Section 20 of Article X of the State Constitution (TABOR). The excise tax revenue is to be used for public school construction, while the special sales tax revenue is to increase funding for regulation of the retail marijuana industry. The Department of Revenue (DOR) has rulemaking authority over implementation of these taxes and is the primary agency responsible for regulating the retail marijuana industry.

Background. Amendment 64, passed by the voters in November 2012, allows for an adult 21 years or older to possess up to one ounce of marijuana and requires that a state regulatory structure be established. Beginning January 1, 2014, Amendment 64 also allows the cultivation, processing, and retail sale of marijuana in Colorado. These Amendment 64 provisions are in effect regardless of whether Proposition AA passes. The General Assembly passed four bills in the 2013 legislative session related to the implementation of Amendment 64. House Bill 13-1318 referred this measure to the ballot.

Excise tax. The measure creates a 15 percent excise tax to be applied to the average market rate of unprocessed retail marijuana on its first sale or transfer from a cultivation facility to a retail store, product manufacturing facility, or other cultivation facility. The DOR will develop a methodology for determining the average market rate for unprocessed marijuana and will set the rate twice a year. Retail marijuana businesses are required to keep detailed electronic records on all transactions involving retail marijuana. As specified by Amendment 64, the first \$40 million collected annually in excise tax goes to the Public School Capital Construction Assistance Fund. Any amount above \$40 million will be deposited into the Marijuana Cash Fund.

Retail marijuana sales tax. The measure authorizes a special sales tax on retail marijuana of 15 percent. The tax is initially set at 10 percent but can be adjusted later. The retail marijuana special sales tax is in addition to the current 2.9 percent state sales tax. Local jurisdictions will receive 15 percent of the proceeds of the retail marijuana special sales tax allocated according to the percentage of retail marijuana sales in their areas, distributed monthly. Local governments may also apply local sales taxes to retail marijuana. Retail marijuana businesses are prohibited from maintaining any portion of the retail marijuana special sales tax to cover the expenses of collecting and remitting the tax, unlike the "vendor fee" allowed for businesses collecting regular state sales taxes.

Fiscal Impact

The measure will affect state revenue and spending as well as local government revenue, as described below. This revenue estimates are based on the assumptions shown in Table 1.

Table 1. Assumptions for Revenue Projections*		
	FY 2013-14	FY 2014-15
Value of Wholesale Product (for excise tax)	\$91,767,000	\$183,534,000
Gross Retail Sales (for sales tax)	197,299,000	394,597,000

**Actual revenue will vary based on DOR's wholesale price, product mark up, and consumer demand.*

State Revenue. This measure is expected to increase state revenue from taxes by \$33.5 million in FY 2013-14 and \$67.0 million in FY 2014-15. Of this, \$13.8 million in FY 2013-14 and \$27.5 million in FY 2014-15 is from the excise tax and to be deposited into the Public School Capital Construction Assistance Fund. Revenue from the special sales tax on retail marijuana is projected to be \$19.7 million in FY 2013-14 and \$39.5 million in FY 2014-15 and deposited initially into the General Fund.

State Spending. The DOR is expected to have increased expenditures of \$4,258,166 in FY 2013-14 and \$1,280,050 in FY 2014-15 and thereafter. Because the taxes will go into effect January 1, 2014, costs for FY 2013-14 represent 6 months of expenditures for personal services, operating expenses, and capital outlay. These expenditures are shown in Table 2 and explained below.

Cost Components	FY 2013-14	FY 2014-15
Personal Services	\$730,428	\$1,232,552
Full-Time Staff Positions	11.5	21.8
Operating Expenses and Capital Outlay	114,391	20,805
Travel	13,347	26,693
Contract Computer Programming	3,400,000	
TOTAL	\$4,258,166	\$1,280,050

Information technology costs. The DOR will have \$3,400,000 in costs in FY 2013-14 to make modifications to its tax collection system (GenTax). These costs are for 17,000 hours of programming at the contract rate of \$200 per hour. These programming changes will allow for the collection, monitoring, and reporting of both the excise tax and the retail marijuana special sales tax.

Tax administration. In order to assess and collect the new taxes, the DOR will require additional staff to determine the average market rate for unprocessed retail marijuana and to work with marijuana businesses to understand and comply with the new tax laws. Revenue agents, tax examiners, and criminal investigators will do onsite audits and investigations to ensure that the taxes paid match reports from the DOR inventory tracking system. Total staff positions are estimated at 11.5 in FY 2013-14 and 21.9 in FY 2014-15 and thereafter.

Retail marijuana regulation. The costs for regulating the retail marijuana market are not considered as part of this analysis because the market will exist regardless of whether Proposition AA passes. These costs are described in the final fiscal notes for HB 13-1317 and SB 13-283.

Local Government Impact. Local governments that allow retail marijuana stores to operate in their jurisdiction will receive an allocation of the retail marijuana special sales tax. The total amount allocated to local governments is estimated to be \$3.0 million in FY 2013-14 and \$5.9 million in FY 2014-15. The exact distributions among local governments will depend on the amount of sales in each jurisdiction.