

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 225 (Delegate Ebersole, *et al.*)
 Ways and Means

Gaming - Sports Wagering - Implementation

This bill authorizes a sports wagering licensee to conduct and operate sports wagering in the State, including online sports wagering. A video lottery operator or thoroughbred horse racing licensee may apply to the State Lottery and Gaming Control Commission (SLGCC) for a sports wagering license and pay a one-time application fee of \$2.5 million. The license may be renewed every 15 years, subject to an annual fee of \$250,000. Of the sports wagering proceeds, 80% is distributed to the sports wagering licensee with the remainder, along with application and licensing fees, distributed to the Education Trust Fund (ETF). **The bill takes effect July 1, 2020, contingent on HB 169 of 2020 taking effect.**

Fiscal Summary

State Effect: Special fund revenues and expenditures increase by approximately \$29.7 million in FY 2021 and by \$21.2 million in FY 2025. General fund expenditures decrease by \$29.0 million in FY 2021 and by \$19.4 million in FY 2022. Future year general fund expenditures reflect ongoing administrative costs.

(\$ in millions)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
SF Revenue	\$29.7	\$20.5	\$20.7	\$21.0	\$21.2
GF Expenditure	(\$29.0)	(\$19.4)	\$1.1	\$1.2	\$1.2
SF Expenditure	\$29.7	\$20.5	\$20.7	\$21.0	\$21.2
Net Effect	\$29.0	\$19.4	(\$1.1)	(\$1.2)	(\$1.2)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None. It is assumed that sports wagering does not materially affect video lottery terminal (VLT) and table game revenues in the State, thus local impact grants are not affected. The bill is not anticipated to materially affect the circuit courts.

Small Business Effect: Minimal.

Analysis

Bill Summary: Sports wagering is the business of accepting wagers on any sporting event by any system or method of wagering. A sporting event is the following:

- a professional sports or athletic event;
- a collegiate sports or athletic event;
- an Olympic or international sports or athletic event in which the majority of the participants are at least 18 years old;
- an electronic sports or video game competition sanctioned by an eSports governing entity in which participants are at least 18 years old;
- a motor race event sanctioned by a motor racing governing entity; or
- any portion of a sporting event, including the individual performance statistics of athletes or competitors in a sporting event.

A sporting event does not include a high school sports or athletic event or a fantasy competition. Specified individuals may not wager on a sporting event and a sports wagering licensee may not accept a wager from those individuals, including among others specified in the bill, those under the age of 21 years, those not physically present in the State, and athletes, coaches, referees, directors, or employees of a sports governing entity or any of its member teams.

A sports wagering licensee may not accept wagers on sporting events unless an approved sports wagering lounge is established and has commenced operation in the licensee's video lottery or racing facility. However, a licensee may petition to SLGCC to conduct sports wagering at a temporary facility in the immediate proximity of the VLT or racing facility or online for up to 18 months during the construction of a sports wagering lounge.

A sports wagering licensee may accept wagers made by an individual in a sports wagering lounge, on a self-service kiosk or machine in the licensee's video lottery or racing facility, or through online sports wagering by an individual physically located in the State. To participate in online sports wagering, a bettor must register online or in-person at the sports wagering licensee's video lottery or racing facility.

A sports wagering licensee may conduct and operate online sports wagering or may enter into a written contract approved by SLGCC with one online sports wagering operator to

conduct online sports wagering on its behalf as specified in the bill. A third party must be licensed as an online sports wagering operator before providing services. For online sports wagering, the sports wagering licensee must take specified measures to prevent prohibited individuals from wagering on sporting events.

SLGCC must regulate sports wagering and the conduct of such to the same extent that it regulates the operation of VLTs and table games, and SLGCC must adopt regulations as specified in the bill. The State Lottery and Gaming Control Agency (SLGCA) must provide assistance to SLGCC in the performance of the commission's duties under the bill. It is the intent of the General Assembly that SLGCA prepare to implement sports wagering in the State as expeditiously as possible and in a manner that is in the best interests of the State and its citizens. SLGCC must report annually by December 1 to the Governor and the General Assembly relating to sports wagering and problem gambling.

The bill specifies licensing requirements for:

- a video lottery operator or horse racing licensee that operates sports wagering;
- a person that operates sports wagering on behalf of a sports wagering licensee, including an online sports wagering operator;
- a person that manages, operates, supplies, provides security for, or provides service, maintenance, or repairs for sports wagering equipment and devices; and
- any individual employed in the operation of sports wagering by a sports wagering licensee if the individual does not otherwise hold a valid State gaming or horse racing license.

Additionally, SLGCC may by regulation require a person that contracts with a licensee and the person's employees to be licensed if necessary. SLGCC may issue licenses or waive or exempt licensing requirements as specified in the bill. SLGCC must adopt regulations that establish an application fee and a license renewal fee for licenses under the bill (other than a sports wagering license), of which the application fee for an online sports wagering operator license must be at least \$5,000. The Comptroller must distribute all application and license renewal fees to ETF.

Among other requirements, an applicant for a license under the bill must sign a memorandum of understanding with SLGCC that requires the applicant to use best efforts and effective outreach to comply with the State's minority business enterprise program.

The bill specifies penalty provisions for individuals who violate provisions of the bill. SLGCC may deny a license, reprimand or fine a licensee, or suspend or revoke a license for specified violations, and SLGCC may impose a penalty of up to \$5,000 for each violation per day.

A sports wagering licensee must maintain records, report to SLGCC as specified in the bill, and adopt procedures to obtain personally identifiable information from any individual who places any single wager of \$10,000 or more on a sporting event. SLGCC is authorized to share this information with any appropriate law enforcement agency, sports team, sports governing entity, or regulatory agency.

Current Law: Chapter 5 of the 2007 special session amended the Maryland Constitution so that after November 15, 2008, the General Assembly may only authorize additional forms or expansion of commercial gaming if approved through a referendum by a majority of the voters in a general election.

Wagering on a contest, event, game, or match between individuals or teams sponsored by a professional league or association or hosted by a college or university is illegal in Maryland.

Chapter 346 of 2012 exempts a specified “fantasy competition” from prohibitions against betting, wagering, and gambling in State law. The law defines “fantasy competition” as any online fantasy or simulated game or contest such as fantasy sports in which (1) participants own, manage, or coach imaginary teams; (2) all prizes and awards offered to winning participants are established and made known to participants in advance of the game or contest; and (3) the winning outcome of the game or contest reflects the relative skill of the participants and is determined by statistics generated by actual individuals.

Chapter 338 of 2019 authorizes an organization conducting an “eSports competition” to offer prize money or merchandise to winning participants in the eSports competition. An eSports competition is a competition involving video games, including first-person shooters, real-time strategy games, and multiplayer online battle arenas in which players compete against each other and the players’ skills generally determine the results.

Education Trust Fund

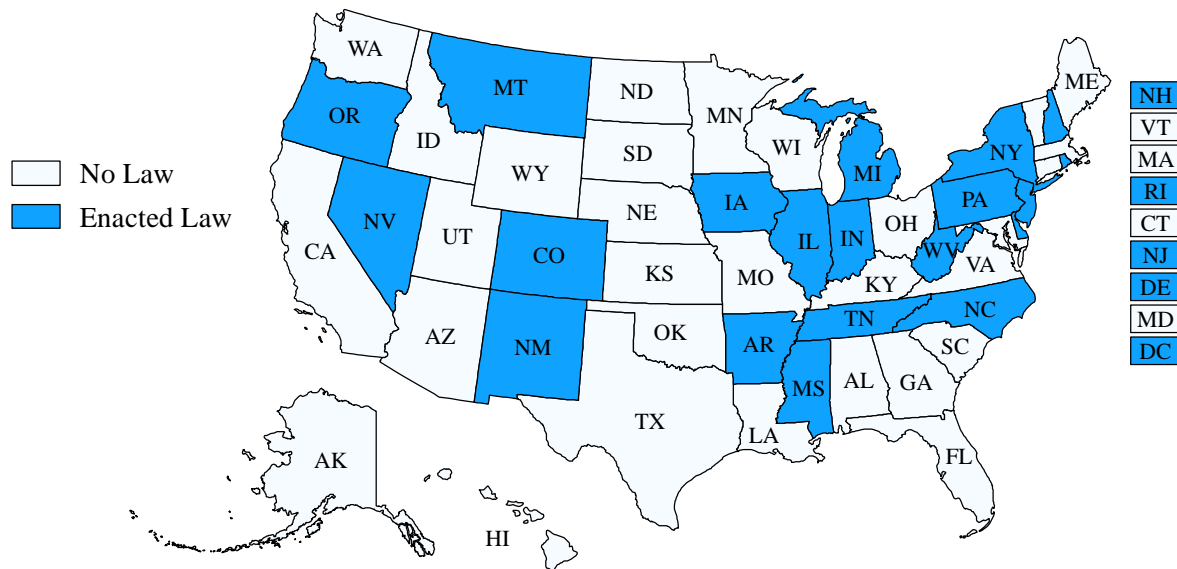
Established during the 2007 special session, the ETF is a nonlapsing, special fund supported by gaming revenues that has been used to provide funding for formulas and programs under the Bridge to Excellence in Public Schools Act. Chapter 357 of 2018, a constitutional amendment approved by the voters at the 2018 general election, requires the Governor to provide supplemental State funding for public education through the use of commercial gaming revenues that are dedicated to public education in the State budget

beginning in fiscal 2020. Supplemental funding must total at least \$250 million in fiscal 2021, growing to 100% of all gaming revenues dedicated to ETF by fiscal 2023. This funding must be dedicated to public education as supplemental education or school construction funding, in addition to the State funding provided through the Bridge to Excellence in Public Schools Act.

Background: The federal Professional Amateur Sports Protection Act of 1992 (PASPA) made betting on sports in most states illegal under federal law. New Jersey challenged the PASPA in the U.S. Supreme Court, arguing in *Murphy v. National Collegiate Athletic Association* that the federal ban violated the U.S. Constitution by commandeering the states into enforcing federal law. In May 2018, the U.S. Supreme Court ruled in *Murphy* that the PASPA was unconstitutional, leaving states free to authorize sports betting.

On June 5, 2018, less than one month after the PASPA was struck down by the U.S. Supreme Court, Delaware became the first state outside of Nevada to offer single-game sports betting. New Jersey launched single-game sports betting just nine days later. Since then, there has been a rush of legislative activity in states hoping to capture a new source of gaming revenue. **Exhibit 1** shows the states that have enacted sports betting laws as of January 2020.

Exhibit 1
States with Enacted Sports Betting Laws



Source: Department of Legislative Services

Along with Nevada, sports betting operations are now underway in 13 of those states as of January 2020. **Exhibit 2** shows how the states recent to sports betting have structured their operations and the revenues generated since going live. Additionally, 6 other states (Colorado, Illinois, Michigan, Montana, North Carolina, and Tennessee) and the District of Columbia are expected to launch sports betting operations in 2020. The majority of states with sports betting laws authorize online sports betting.

Exhibit 2
Post-PASPA Sports Betting Active States and Revenues

<u>State</u>	<u>First Bet Placed</u>	<u>Tax Rate</u>	<u>Fees</u>	<u>Retail Sportsbooks Type / #</u>	<u>Mobile Betting</u>	<u>Sportsbook Data (Launch Date through December 2019)</u>
DE	6/5/18	59.8% (includes a 9.8% share for race purses)	No separate sportsbook licensing fee required	Racetracks (3)	No	Handle – \$189,620,117 Revenue ¹ – \$21,407,621 State Share – \$10,703,827
NJ	6/14/18	8.5% onsite betting 13% online betting	\$100,000 application fee	Casinos and racetracks (10)	Yes	Handle – \$5,837,241,986 Revenue – \$393,503,018 State Share – \$46,802,942
MS	8/1/18	12% (includes a 4% local share)	Not specified	Landbased and riverboat casinos (23)	No	Handle – \$477,236,811 Revenue – \$56,148,121 State Share – \$6,737,774
WV	8/30/18	10%	\$100,000 application fee	Racetracks (4) and the private club at Greenbriar	Yes	Handle – \$282,110,247 Revenue – \$26,265,588 State Share – \$2,626,559
NM²	10/16/18	Not specified	Not specified	Tribal casinos (2)	No	Not currently available
PA	11/17/18	36% (includes a 2% local share)	\$10,000,000 application fee	Casinos and racetracks (12)	Yes	Handle – \$1,506,982,035 Revenue – \$86,664,503 State Share – \$31,199,221
RI	11/26/18	51%	No separate sportsbook licensing fee required	Casinos (2)	Yes	Handle – \$221,911,697 Revenue – \$16,265,850 State Share – \$8,749,801
AR	7/1/19	First \$150,000,000 at 13%, any additional revenues at 20%	Application fee not to exceed \$250,000	Racetracks (2) and proposed casinos (2)	No	Not currently available

<u>State</u>	<u>First Bet Placed</u>	<u>Tax Rate</u>	<u>Fees</u>	<u>Retail Sportsbooks Type / #</u>	<u>Mobile Betting</u>	<u>Sportsbook Data (Launch Date through December 2019)</u>
IA	8/15/19	6.75%	\$45,000 application fee	Casinos and racetracks (18)	Yes	Handle – \$212,225,573 Revenue – \$19,283,573 State Share – \$1,301,641
OR	8/27/19	Not available	Not specified	Tribal casinos ³	Yes	Not currently available
IN	9/1/19	9.5%	\$100,000 application fee	Casinos and racetracks (16)	Yes	Handle – \$435,998,649 Revenue – \$41,385,968 State Share – \$3,931,665
NH	12/30/19	Negotiable	Not specified	Lottery (5)	Yes	Not currently available

AR: Arkansas
DE: Delaware
IA: Iowa
IN: Indiana
MS: Mississippi
NH: New Hampshire
NJ: New Jersey

NM: New Mexico
OR: Oregon
PA: Pennsylvania
PASPA: Professional Amateur Sports Protection Act
RI: Rhode Island
WV: West Virginia

¹ Vendor fees are subtracted from the handle before the distribution of the revenue.

² In New Mexico, two of that state’s nine tribal casinos offer sports betting under the existing tribal gaming compact, although the activity remains unsanctioned under state law.

³ Currently, only 1 of Oregon’s 10 tribal casinos offers sports betting. Oregon has a lottery-operated online app.

Note: Handle is the total amount of all wagers. Revenue (or gross gaming revenue) is the handle minus total win.

Source: Department of Legislative Services

State Fiscal Effect: The bill is contingent on HB 169 taking effect, which requires a voter referendum to authorize sports wagering. Thus, the Department of Legislative Services (DLS) assumes that sports wagering will be operational 90 days after the November 2020 general election in fiscal 2021 and that each of the State’s six casinos and three thoroughbred horse racing licensees will apply for a sports gaming license and pay the \$2.5 million initial application fee in fiscal 2021 and also pay the \$250,000 annual fee beginning in fiscal 2022. Other application and licensing fee revenues will depend on the fees established in regulations, but if each licensee contracts with an online sports wagering operator to conduct online sports wagering, online sports wagering license fees increase by at least \$40,000 annually beginning in fiscal 2021. This assumes that Laurel Park and Pimlico Race Course, as related entities, would receive one online sports wagering license.

Based on sports gambling revenues in surrounding states, DLS estimates that revenues from sports wagering could total 5% of overall gaming revenues in the State on an annual basis. The fiscal 2021 estimate reflects 40% of estimated annual sports wagering revenues as a result of being implemented at the end of the National Football League season.

The Comptroller’s Office must distribute application and license fee revenues and 20% of sports wagering proceeds to ETF. Thus, ETF revenues and expenditures increase by approximately \$29.7 million in fiscal 2021 and by \$21.2 million in fiscal 2025. **Exhibit 3** shows the distribution of sports gaming and license fee revenues under the bill. ETF revenues are currently budgeted for the State foundation program, the State’s largest education aid formula. Thus, any increase in ETF revenues decreases general fund appropriations for the State foundation program by an equal amount through fiscal 2022. However, pursuant to Chapter 357 of 2018, 100% of ETF revenues must be used for supplemental education funding beginning in fiscal 2023. Thus, general fund expenditures decrease by \$29.7 million in fiscal 2021 and by \$20.5 million in fiscal 2022.

Exhibit 3
Revenue Distribution under the Bill
Fiscal 2021-2025
(\$ in Millions)

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
<u>Sports Wagering Revenues</u>					
Licensees	\$28.8	\$72.9	\$73.8	\$74.8	\$75.7
Education Trust Fund (ETF)	7.2	18.2	18.5	18.7	18.9
Total Sports Wagering Revenues	\$36.0	\$91.1	\$92.3	\$93.5	\$94.7
License Fees to ETF	\$22.5	\$2.3	\$2.3	\$2.3	\$2.3
Total ETF Revenues	\$29.7	\$20.5	\$20.7	\$21.0	\$21.2

Note: Numbers may not sum to total due to rounding.

Source: Department of Legislative Services

The bill’s fine and penalty provisions do not materially affect general fund revenues.

Additionally, general fund expenditures for SLGCA increase by at least \$762,185 in fiscal 2021, which accounts for the bill’s July 1, 2020 effective date. Although sports betting would likely not be implemented until 90 days after the November 2020 election, since it is the intent of the General Assembly to implement sports wagering in the State as expeditiously as possible, seven employees are needed as of July 1, 2020, to develop regulations, responsible gaming initiatives, and financial reporting requirements. Once sports wagering commences, SLGCA advises that compliance representatives and a supervisor are needed at racing facilities to oversee sports wagering while existing SLGCA

compliance officers at the casinos can oversee sports wagering there. This estimate reflects the cost of hiring 14 additional staff at SLGCA to provide oversight for sports gaming. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	14
Salaries and Fringe Benefits	\$687,458
Operating Expenses	<u>74,727</u>
Total FY 2021 State Expenditures	\$762,185

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses. Additionally, SLGCA notes that it lacks the resources to meet the bill's reporting requirements, such as reporting on the impact of sports wagering on the integrity of sporting events and the impact of sports wagering on problem gamblers. Thus, SLGCA general fund expenditures may increase by at least \$200,000 beginning in fiscal 2022 to hire a consultant to meet the bill's reporting requirements. Furthermore, SLGCA may incur additional costs not reflected in this analysis for infrastructure to monitor and regulate sports gaming operations.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Maryland Department of Labor; Maryland Department of Transportation; Maryland State Lottery and Gaming Control Agency; Department of Legislative Services

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mr/jrb

Analysis by: Heather N. MacDonagh

Direct Inquiries to:
(410) 946-5510
(301) 970-5510