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Fiscal Note & Local Impact Statement

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Version: As Enacted

Primary Sponsors: Reps. Wiggam and A. Miller

Local Impact Statement Procedure Required: No

Eric Makela, Economist, and other LBO staff

Highlights

Legalization of sports wagering

- The bill legalizes sports wagering at brick-and-mortar locations in Ohio and via internet and mobile devices beginning on a date designated by the Director of the Casino Control Commission, but no later than January 1, 2023. The bill imposes a 10% tax on sports gaming receipts (SGR). SGR is defined as sports wagering revenue minus paid winnings and voided wagers, and starting in 2027, minus promotional credits as allowed under the bill. Sports betting is placed under the regulatory oversight of the Casino Control Commission (CAC).
- Legalizing and taxing sports gaming will raise several tens of millions of dollars per year, once the program is fully operational and sports wagering markets mature.
- The bill creates the Sports Gaming Revenue Fund (SGRF), Sports Gaming Tax Administration Fund (SGTAF), Sports Gaming Profits Education Fund (SGPEF), Sports Gaming Profits Veterans Fund (SGPVF), and Problem Sports Gaming Fund (PSGF) in the state treasury. After transfers to the SGTAF to defray Department of Taxation (TAX) costs, 98% of tax revenues are transferred quarterly to SGPEF. The remaining 2% is transferred to the PSGF.
- The bill requires Sports Gaming Proprietors (SGPs) to hold type A, type B, or type C sports gaming proprietors' licenses, and also creates the mobile management service provider license and the management service provider license. Under the bill, license fees are based on a tiered structure where an initial fee and annual installments are based on the type of applicant and the contractual status between the SGPs and management service providers. Sports gaming equipment suppliers and workers with sports gaming-related

duties are also required to obtain licenses from CAC. The SGPVF receives 0.5% of revenue from certain license fees, to be used by the Department of Veterans Services (DVS) to support various initiatives. The remainder of license fee revenue is deposited in the SGRF, for distribution via a codified formula.

- GRF revenue from the commercial activity tax (CAT) will increase between \$500,000 and \$1 million annually once gaming via SGPs is fully operational.
- The bill may increase operating costs within CAC by about \$1 million per year, primarily to increase its number of licensing, regulatory, legal, and problem gambling staff as needed to enforce the bill's provisions.
- The bill creates a nine-member Select Committee on Sports Gaming and Problem Gambling, to investigate problem gambling and problem gambling funding, and requires the Committee to report its findings. The bill also creates the Joint Committee on Sport Gaming, to monitor the implementation of sports gaming.
- The bill specifies a government debt recovery mechanism from gambling winnings. The bill's provisions regarding withholding amounts from sports gaming, casino, and lottery winnings will increase the amount of debt collected for the state and political subdivisions. Any additional revenue from these provisions is uncertain.

State agency operations

- The bill subjects a person who operates sports gaming or casino gaming in Ohio without a license to the sports gaming receipts tax or gross casino revenue tax.
- The bill increases, from 5% to 10%, the percentage of its gross casino tax revenue the Ohio State Racing Commission (RAC) can use on operating expenses.

Detailed Analysis

The bill makes a number of changes to Ohio's gambling laws, legalizing sports wagering through a variety of channels and raising tax and fee revenue accruing to the state. The bill also modifies the charitable gaming law, augments the authority of the Casino Control Commission's Enforcement Division to investigate gaming crime, and creates legislative committees to study and make recommendations on the state of gambling revenue and problem gambling in Ohio, among other changes.

The following sections discuss the bill's provisions which have notable fiscal impacts, beginning with the legalization of sports betting, followed by other provisions in order from those with the greatest fiscal impact to those with the least fiscal impact. A more in-depth discussion of every provision can be found in the [LSC bill analysis](#).

Sports gaming legalized through licensed proprietors

The bill legalizes sports wagering through licensed retail and mobile sports gaming proprietors (SGPs) and places regulatory oversight of sports gaming activities under the Ohio Casino Control Commission (CAC). The bill requires CAC to license SGPs to offer sports gaming under type A licenses through online sports books, under type B licenses at sports gaming facilities, or under type C licenses through self-service or clerk-operated sports gaming terminals

on the premises of type C sports gaming hosts.¹ The bill prohibits sports gaming activities prior to a date designated by the Director of CAC, with that date to be no later than January 1, 2023, and requires CAC's Director to implement an application timeline which serves that purpose.

Table 1 provides certain information on the bill's provisions on licensing and general market participation of sports gaming proprietors. The bill specifies that CAC cannot issue more than 40 type B licenses or 20 type C licenses; the initial number of active type A licenses is 25, though the bill allows CAC to issue additional type A sports gaming proprietor licenses, beyond the bill's limit of 25 licenses at any one time, to eligible applicants who demonstrate that Ohio's sports gaming market needs additional type A sports gaming proprietors.

The bill also creates the mobile management service provider license and the management service provider license, which must be obtained by companies wishing to provide sports gaming products through contracts with type A and type B licensed proprietors, respectively. License fees for management service providers and mobile management service providers vary based on the type of organization the business is in contract with, as well as other factors that reflect the commercial reasonability of each contract; each license requires an up-front fee and an annual fee, and must be renewed every five years. One management service provider license is required for each SGP contract. Similar fee structures are implemented for type A and type B SGPs, whose licenses must also be renewed every five years and whose fees vary based on the type of organization and number of contracts held with service providers.² Lastly, businesses which hold certain types of class D liquor permits, that wish to contract with type C sports gaming providers to place sports gaming terminals in their establishments, must obtain a type C sports gaming host license. In issuing licenses, the bill lists a number of criteria which CAC must consider when approving applications, allocating licenses, and associated license fees.³ A portion, 0.5%, of certain license fees imposed by the bill are deposited in the Sports Gaming Profits Veterans Fund (SGPVF), administered by the Department of Veterans Services (DVS).⁴

¹ A "sports gaming facility" is any brick-and-mortar location for which a business holds a type B sports gaming license issued by CAC; a "type C sports gaming host" is a holder of a class D-1, D-2, or D-5 liquor permit who meets other CAC criteria for the license.

² License fees are generally higher for SGPs that are professional sports organizations and that contract with multiple management service providers.

³ Refer to the [LSC bill analysis](#) for a comprehensive list of these criteria.

⁴ License fees are those from all SGPs, management service providers, and mobile management service providers. The bill requires DVS to administer the fund and provides a comprehensive list of uses for the moneys, all of which support various health and support services to veteran residents and their families.

Table 1. Sports Gaming Proprietor License Fees and Characteristics

	Type A Sports Gaming Proprietor	Type B Sports Gaming Proprietor	Type C Sports Gaming Proprietor/Host
Maximum # of licenses	No codified limit	40	20 (no limit on host licenses)
License fee	Initial/Renewal: up to \$2.5 million (varies based on type of applicant and the number of contracting management service providers) Annual: up to \$625,000 in every year which a license or renewal is not granted (varies based on type of applicant and the number of contracting management service providers)	Initial/Renewal: \$50,000 (or \$100,000 if the licensee also holds a type A license) Annual: \$10,000 in every year which a license or renewal is not granted	Initial Proprietor: \$100,000 Host: \$1,000 Renewal: \$25,000 for proprietor; \$1,000 for host
Type of bets allowed	All*	All*	Spread, money line, parlay, over/under
Application limitations	Must operate at least one place of business in the state under a type B license, or maintain a facility which regularly hosts multiple employees	Maximum of one sports gaming facility in a county with under 100,000 residents; maximum of two sports gaming facilities in a county with between 100,000 and 400,000 residents; no more than five licenses in any county	At least two type C licenses must be issued statewide, unless only one suitable application is received

*Sports gaming offered by type A and type B licensees includes the following: exchange wagering, parlays, over/under, moneyline, in-game wagering, single game bets, teaser bets, in-play bets, proposition bets, pools, pari-mutual sports wagering pools, and straight bets.

The bill imposes a 10% tax on sports gaming receipts (SGR), defined as the total amount of wagers taken in by SGPs minus winnings and voided wagers. Beginning in CY 2027, the bill also excludes a percentage of promotional gaming credits from SGR. The bill allows a partial tax exemption on promotional credits, reducing SGR by 10% of the dollar value of credits from 2027 through 2031, and reducing SGR by 20% of the value of credits thereafter.

The bill creates the Sports Gaming Revenue Fund (SGRF), the Problem Sports Gaming Fund (PSGF), and the Sports Gaming Profits Education Fund (SGPEF). All revenue from the SGR tax, and any license fees not first deposited in the SGPVF, plus any fines imposed by CAC are deposited in the SGRF. After reimbursing the Department of Taxation (TAX) for expenses incurred in administering the tax, 98% of the remaining funds are deposited in the SGPEF, while 2% are deposited in the PSGF. Moneys in the SGPEF are to be used to support public and nonpublic

education as determined in appropriations by the General Assembly, with 50% of the money to be used to fund interscholastic athletics and other extracurricular activities. Moneys in the PSGF are to fund programs to alleviate problem sports gaming. (Those programs are unspecified in the bill).

In addition to the excise tax on SGR, SGPs are also subject to Ohio's primary business tax, the commercial activity tax (CAT). The tax is levied on a business's gross receipts, which generally includes all amounts received by the business. However, a SGP is only required to pay the CAT on its sports gaming receipts (amounts wagered less winnings paid), not on the gross amount it receives from sports gaming.

Fiscal impact

LBO anticipates that revenue during FY 2023 would be mostly derived from license fees, though the tax on wagering will yield some receipts. Fiscal year 2023 license fee revenue is likely to reach or exceed \$10 million.

Wagering occurring on mobile equipment and at physical locations will provide several millions of dollars in revenue, to be initially deposited in the SGRF. LBO estimates the sports gaming market to be approximately \$3.35 billion, after several years of operation. The amount of time the market takes to reach peak revenue will depend somewhat on the number of SGPs receiving licenses, contract negotiations with management service providers, and the implementation of various aspects of the sports betting industry through CAC.

At the outset of legal sports wagering in Ohio, LBO assumes a market of about \$1.1 billion in FY 2023 and \$3.1 billion in FY 2024, assuming the sports gaming program becomes operational in January 2023.⁵ The corresponding SGR tax base might be about \$74 million and \$243 million, respectively. At the tax rate of 10%, such tax bases would yield approximately \$7 million and \$24 million, in those respective years to the SGRF. Of this total, 98% or \$6.8 million and \$23.5 million, respectively, would be deposited in the SGPEF. The PSGF would receive roughly \$200,000 to \$500,000 per year of the sports gaming tax revenues. Transfers to the SGTAFF would be under \$100,000 per year. Please note that LBO does not rule out that actual revenue to the SGRF in those years could exceed projected revenue, if the market expands rapidly.

LBO's estimates are based on other states' revenue experiences and various market research reports on the industry. The initial estimates were adjusted for state-level differences in gambling-age population, tax rates, gambling propensity, and Ohio-specific regulatory factors. In calculating tax revenues, LBO has assumed SGPs will take in a profit margin of 7.5%. Please note there are a number of factors at play that could affect the rate of growth in the industry in Ohio, and because the bill's regulatory and market structure does not allow a simple comparison with other states, the potential exists that the above estimates are off by several million dollars. (For more information on sports gaming tax revenue in other states, please refer to the "**Appendix**" on the last page of this fiscal note.)

⁵ The FY 2023 estimate is based on the seasonality of sports gaming receipts in other states.

The bill is expected to increase CAT revenue by an undetermined amount, likely between \$500,000 and \$1 million per year based on the market revenue figures above, when the sports gaming market fully matures. Most CAT revenue is deposited in the GRF.⁶

CAC costs

Implementation, licensing, and regulatory oversight of sports gaming will increase CAC operating costs. Currently, the Commission is funded through gaming fees and fines, as well as its share of the gross casino revenue tax.⁷ CAC estimates implementation of the bill would require about ten additional employees, costing about \$1 million per year once the regulatory program is fully staffed.⁸ Two positions would be added to the licensing and investigative staff, and six additional regulatory compliance personnel are likely to be needed, according to CAC; one addition to the legal team and a problem gambling counselor would also be hired. In addition, the Commission estimates spending of approximately \$30,000 to upgrade equipment; other interagency costs, such as updates to the eLicensing system conducted by the Department of Administrative Services, are also going to be needed to maintain the same level of licensure services provided to the casino industry.

LOT sport gaming

The bill requires the State Lottery Commission (LOT) to operate lottery sports gaming as part of the statewide lottery under the oversight of CAC which is to license type C sports gaming proprietors. The bill also requires LOT to contract with each type C sports gaming proprietor to operate lottery sports gaming on behalf of LOT in exchange for a portion of the state's proceeds from lottery sports gaming. The bill specifically excludes any receipts that a type C sports gaming proprietor receives from lottery sports gaming from the bill's tax on sports gaming receipts.

The bill allows LOT to adopt rules for that purpose. The bill requires LOT to contract with a minimum of two type C sports gaming proprietors.⁹ As of this writing, LBO does not have an estimate of potential costs to the agency to implement this provision of the bill.

CAC Enforcement Division

The bill subjects all persons, including those without a license, operating sports gaming in Ohio to the sports gaming receipts tax, and all persons operating casino gaming in Ohio to the gross casino revenue tax. Additionally, the bill designates Division gaming agents as peace officers under Ohio law. This designation augments the investigation and arrest authority of gaming

⁶ Of all CAT revenue, 13% is remitted to the School District Tangible Property Tax Replacement Fund, and 2% is remitted to the Local Government Tangible Property Tax Replacement Fund.

⁷ Some capital expenditures for CAC's Enforcement Division comes from fines and sales of seized property retained through its operations, though in FY 2020 these expenditures accounted for under 0.8% of total expenses.

⁸ These expenditure estimates are based on estimates compiled by CAC in May 2021, and potential costs may be higher by the time of implementation of the bill.

⁹ This provision is waived if only one successful application is received.

agents, potentially allowing or easing enforcement actions that were previously untenable.¹⁰ These provisions may facilitate an increase in tax revenue from sports gaming receipts or gross casino revenue seized from unlicensed sports gaming operators or casino gaming businesses.

Ohio State Racing Commission operating revenue

The bill increases the percentage of casino gaming revenue RAC can use to fund operations. The Ohio State Racing Commission Fund receives 3% of the tax on gross casino revenue, and this revenue stream has provided an average of \$8.0 million annually in the last five fiscal years, distributions of which are made quarterly. The bill allows RAC to use up to 10% of this revenue stream for operating expenses, an increase from the 5% in codified law. Thus, the bill provides an additional \$400,000 to RAC for operations.

Recovery of government debts from gambling winnings

Both AGO and the Department of Job and Family Services (JFS) have developed and implemented real time data match programs for the withholding of certain winnings. The JFS data match programs are used to identify lottery and casino winners who are past due on child or spousal support, whereas the AGO data match program only applies to lottery winners and is used to identify those who owe debts to the state or a political subdivision.

The bill requires a sports gaming proprietor to use the same data match program that casinos currently use to determine whether a patron owes past due child or spousal support and increases the number of days in which the amounts withheld must be transmitted to JFS from seven to 14 days. The bill also requires the AGO to implement a real time data match system for sports proprietors and casino operators to identify patrons who owe debts to the state or a political subdivision, similar to the system currently used for the Ohio Lottery. Like lottery withholdings, past due child or spousal support must be satisfied before any government debts are paid from the sports gaming or casino winnings.

As a result of these changes, the state will likely have additional avenues to recover certain debts. However, any additional revenue recouped would depend on a number of factors, including the size of the debt an individual has outstanding, whether the winnings are subject to be checked against the database, and the amount of winnings available to satisfy the debt after certain other withholdings are accounted for. LBO assumes minimal costs to AGO for this provision of the bill.

Committee to study sports gaming and problem gambling

The bill creates the Select Committee on Sports Gaming and Problem Gambling for the purposes of studying sports gaming and developing methods of combating compulsive and problem gambling. The Committee is to determine whether LOT and AGO should develop problem gambling plans to mitigate compulsive gambling and educate gambling patrons and charitable bingo participants. In addition, the Committee will determine whether an appropriate amount of money is currently being allocated to the Problem Sports Gaming Fund. The

¹⁰ The Ohio Attorney General has a civil cause of action to restrain any violation of the bill or of rules adopted under the bill, and upon the request of CAC, shall commence and prosecute such an action to completion. The bill also requires CAC, law enforcement agencies, prosecutors, and sports governing bodies to cooperate in investigating potential violations of the bill or the Commission's rules.

Committee is to be composed of the following nine members who serve without compensation: three members of the Senate, three members of the House of Representatives, and three members of the public. Two of the Senate members are appointed by the Senate President and the other by the Senate Minority Leader. Similarly, two of the House members are appointed by the Speaker of the House and the other by the House Minority Leader. Of members of the public, one is appointed by the President of the Senate, one is appointed by the Speaker of the House, and one is appointed by the Governor. Under the bill, the Committee must submit a report on its findings no later than January 1, 2022, after which it ceases to exist.¹¹ The bill contains no appropriation for this Committee.

Committee to study implementation of sports gaming

The bill creates the Joint Committee on Sports Gaming for the purpose of monitoring the implementation of sport gaming in Ohio and making any recommendations to the General Assembly. The Committee is to be composed of the following six members who serve without compensation: three members of the Senate, as appointed by the President, and three members of the House of Representatives, as appointed by the Speaker. At least one member of each body must be from the minority party. The Committee ceases to exist two years after the bill's effective date.

¹¹ The Committee's deadline to submit the report passed before the act took effect.

Appendix

Sports wagering expanded nationwide following the repeal of the Professional and Amateur Sports Protection Act of 1992 (PASPA) by the U.S. Supreme Court on May 14, 2018.¹² The table below summarizes monthly sports wagering revenue totals in selected states using available data collected from official state government sources. On average, the states included in the table below have received revenue of approximately \$578,000 per month from brick-and-mortar sports betting locations and approximately \$4.3 million per month from online and mobile operations since sports wagering was legalized federally.¹³ The inclusion of mobile betting appears to have a significant impact on state revenues. It should be noted however, that the unique regulatory structure in the bill cannot be easily compared with other states currently operating in the sports betting market. Thus, any extrapolation of Ohio gaming revenue based on results in these states, having operating sports betting since 2018, may be inadequate and must be made with caution.

Table 2. Summary of Sports Wagering Tax Revenue in Selected States, through August 2021

State	Retail		Mobile	
	Tax Rate	State Revenue	Tax Rate	State Revenue
Mississippi ^a	8.0%	\$11.1 million	--	--
New Jersey ^b	8.5%	\$15.1 million	14.25%	\$142.3 million
Pennsylvania ^c	34.0%	\$35.3 million	34.0%	\$128.6 million

^aAugust 2018 – August 2021, approximately \$300,000 per month

^bJune 2018 – August 2021, approximately \$398,000 per month retail operations and \$4.0 million per month mobile operations

^cNovember 2018 – August 2021, approximately \$1.0 million per month retail operations and \$4.6 million per month mobile operations

¹² https://www.supremecourt.gov/opinions/17pdf/16-476_dbfi.pdf.

¹³ Distribution methods and tax rates vary significantly between states, accounting for some of the difference in revenue.