

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington St., Suite 301
Indianapolis, IN 46204
(317) 233-0696
iga.in.gov

FISCAL IMPACT STATEMENT

LS 7108
BILL NUMBER: HB 1536

NOTE PREPARED: Jan 17, 2023
BILL AMENDED:

SUBJECT: Interactive Gaming.

FIRST AUTHOR: Rep. Manning
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill authorizes the Lottery Commission to operate the sale of draw games and digital representations of scratch-off games over the Internet.

The bill authorizes the following persons to conduct interactive gaming:

- (1) A licensed owner of a riverboat.
- (2) An operating agent operating a riverboat in a historic hotel district.
- (3) A permit holder conducting gambling games at the permit holder's racetrack.

The bill provides for the licensure of persons providing services and equipment for managing and conducting interactive gaming. It specifies requirements for the conduct of interactive gaming. It imposes an adjusted gross receipts tax of 20% on interactive gaming. It provides for revenue sharing to cities and counties in which casinos are operated. It makes an appropriation. It makes conforming and technical changes.

Effective Date: Upon passage; July 1, 2023.

Explanation of State Expenditures: *State Lottery Commission:* The bill allows the state Lottery Commission to operate or authorize the sale of draw games and digital scratch-off games over the internet. It provides that the Commission must adopt rules to establish and implement a voluntary exclusion program. This would result in additional workload for the Commission. The expenses would be paid from the Hoosier Lottery profits.

Indiana Gaming Commission (IGC): The bill requires the IGC to regulate and administer interactive gaming conducted by an interactive gaming licensee or an interactive gaming management vendor. It specifies the

powers and duties of the IGC as it relates to regulating interactive gaming. It allows the IGC to investigate and reinvestigate applicants, interactive gaming licensees, interactive gaming management vendors, and other licensees involved with interactive gaming. It allows the IGC to conduct hearings and take enforcement and disciplinary actions related to violations of interactive gaming provisions. It requires the IGC to develop responsible interactive gaming measures and adopt rules to establish and implement a voluntary exclusion program related to interactive gaming. It provides that the IGC may require a background investigation of any officer, director, or shareholder of an applicant. The bill requires the IGC to add the fiscal impact study on interactive gaming in the report on sports wagering submitted to the Governor under current law.

The provisions in the bill would increase the administrative workload for the IGC. The bill provides that the IGC may recover certain cost of investigating applicants from the applicant. However, any additional expenses would be paid from Riverboat Wagering Tax revenue annually appropriated to the IGC for administrative purposes. HEA 1001- 2021 appropriated \$3.4 M in FY 2023 to the IGC for administrative purposes.

Child Support Bureau: The bill provides the process for withholding delinquent child support from interactive gaming winnings. It requires the bureau to provide information to an interactive gaming licensee concerning persons who are delinquent in child support. The bureau's current level of resources should be sufficient to implement these changes.

Explanation of State Revenues: Summary - The bill will result in a state revenue impact occurring from the following:

- (1) Sales of digital lottery games over the internet.
- (2) An Interactive Gaming Tax imposed at the rate of 20% of AGR from interactive gaming.
- (3) Loss of tax revenues from displacement of gaming activities at brick-and-mortar casinos and racinos.
- (4) Initial and renewal license fees on interactive gaming licensees and providers.

The table below shows the net impact in FY 2024 to FY 2026 on state funds.

Source of Impact	Fund	FY 2024 (in \$ M)	FY 2025 (in \$ M)	FY 2026 (in \$ M)
Online Lottery Sales	State General Fund	\$7.8 - \$27.1	\$15.5 - \$54.3	\$23.5 - \$82.2
Interactive Gaming Taxes	State General Fund	\$18 - \$38.5	\$36 - \$76.9	\$54.5 - \$116.5
Riverboat and Racino Taxes	State General Fund	(\$12.9) - (\$25.6)	(\$25.7) - (\$51.2)	(\$39) - (\$77.6)
Supplemental Wagering Taxes	State Dedicated Funds	(\$0.1) - (\$0.2)	(\$0.2) - (\$0.4)	(\$0.3) - (\$0.7)
License Fee	Interactive Gaming Fund	\$2.0	\$0.9 - \$1.0	\$0.9 - \$1.0
License Fee	State General Fund	\$5.3 - \$5.8	\$0	\$0
Interactive Gaming		\$12.3 - \$20.5	\$11 - \$26.3	\$16.1 - \$39.2
Total	All State Funds	\$20.1 - \$47.6	\$26.5 - \$80.6	\$39.6 - \$121.4
<i>Note:</i>				
<i>10% of the Interactive Gaming Tax revenue deposited into the state General Fund in the previous state fiscal year would be transferred to the Addiction Services Fund.</i>				
<i>The table does not show the additional 12% in interactive gaming AGR from the licensee that operates the racinos distributed towards supporting the Indiana horse racing industry.</i>				

Online Sales of Lottery: The bill allows the state Lottery Commission to offer or provide authority to offer online draw games and digital scratch-off games. The provision is effective upon passage. It is assumed that the Commission will allow online lottery sales starting FY 2024. Although it could take longer to reach full potential, it is assumed that the full impact of online sales will be reached by the third year and generate between \$235 M to \$548 M annually in net statewide online lottery sales. This would result in lottery profits of between \$23.5 M and \$82.2 M. The actual impact in FY 2024 and FY 2025 will be lower. Lottery profits are deposited in the Lottery Surplus Fund. Since the Lottery Surplus Fund is a reverting fund, it could lead to the state General Fund receiving reversions to the extent that the General Assembly’s annual appropriations from the Lottery Surplus Fund are lower than the revenue annually deposited in the fund.

Interactive Gaming: The bill distributes 5/6 of the Interactive Gaming Tax revenues to the state General Fund. The remaining 1/6 of the gaming tax revenues are deposited in the Revenue Sharing Account established by the bill. The money in the Revenue Sharing Account will be distributed to local units (*see Explanation of Local Revenues*). Interactive gaming will result in reduced gaming activity at the racinos and casinos, so the state General Fund will also receive lower gaming tax revenues from the casinos and racinos. The bill imposes license fees and requires the fees to be deposited in the Interactive Gaming Fund established by the bill. The fiscal impact will begin in FY 2024 and increase every year to reach the full impact in FY 2026.

The estimate covers the impact of interactive gaming on the gaming tax base and major gaming taxes in Indiana. It is based on the following assumptions:

- Indiana will offer a full range of online casino games through Indiana’s licensed riverboats and casinos.
- The legalization and regulation of interactive gaming would substantially increase the participation in

casino style games.

- Online casino games will displace some gambling activities occurring at brick-and-mortar casinos. Studies have concluded that up to 30% of new online gaming revenues are displaced from existing casino revenues. This figure could be higher for a saturated market like Indiana.

License Fees: The bill requires the IGC to impose the following license fees:

(1) An initial license fee of \$500,000 paid by the interactive gaming licensee. This license may be renewed annually upon paying a fee of \$50,000.

(2) An initial license fee of \$100,000 paid by any interactive gaming management vendor licensee. This license may be renewed annually upon paying a fee of \$25,000.

(3) It requires the IGC to determine a supplier's license fee and occupational license fee.

The estimate assumes that all 13 Indiana riverboats and racinos will apply for an interactive gaming license. It also assumes that businesses having expertise in offering online gaming will apply for interactive gaming management vendor licenses.

Interactive Gaming Fund: The bill establishes the nonreverting fund. The fund shall be administered by the IGC. The fund consists of the license fees and administrative fees collected under the interactive gaming provisions. The expenses of administering the fund shall be paid from the fund. The remaining amount in the fund would be used for the purpose of problem gaming programs. The maximum amount that may be deposited in the fund in any one fiscal year is \$2 M. Any amount in excess of \$2 M would be deposited in the state General Fund.

Addiction Services Fund: Of the Interactive Gaming Tax revenue deposited into the state General Fund in the previous state fiscal year, 10% would be transferred to the Addiction Services Fund. The fund could receive between \$1.8 M and \$3.8 M in FY 2025 and \$3.6 M to \$7.7 M in FY 2026. Revenue to the fund is estimated to increase in future years. It provides that the fund must be spent towards prevention and treatment of compulsive gambling. The fund is administered by the Division of Mental Health.

Horse Racing Support: The bill provides that 12% of the interactive gaming AGR from the licensee that operates the racinos will be transferred to support the Indiana horse racing industry. This would be in addition to the Interactive Gaming Tax. It provides that the distribution of this money is similar to the distribution of racino AGR to the horse racing industry under current law. Under current law, about \$60 M of AGR generated at the two Indiana racinos is distributed to purposes related to the horse racing industry. These distributions are made towards equine promotion welfare, backside benevolence, thoroughbred racing, standardbred racing, and quarter horse racing. It is estimated that about \$14.7 M to \$32.4 M will be annually transferred towards these purposes. The impact in FY 2024 and FY 2025 is estimated to be lower.

Live Game Studios: The bill also allows a licensed entity to provide live game studios at a physical location in Indiana to use live video streaming technology to provide live games to patrons through internet connection. These games use sophisticated video streaming technology to stream the live gaming action to players' computers and allow them to participate in the games and also interact with other participants. This provision will increase the impact from interactive gaming.

Sports Wagering: Although sports wagering and interactive gaming within the U.S. do not have a long history to provide empirical evidence of the correlation between the two, it is estimated that interactive gaming would have a net positive impact on sports wagering in Indiana.

Additional Information -

Online Sales of Lottery: The sales volume and profitability of the games would depend on game pricing, payout rates, ticket printing and shipping costs, advertising and promotional costs, and other operational factors. The estimate above assumes that the per capita sales of a game in Indiana would be comparable to the per capita sales volume realized by other states that offer online scratch-off tickets. Since 2000, the operating margin for the Hoosier Lottery on draw games and instant ticket games combined has averaged about 25%. However, based on experiences in other states, it is estimated that the operating margin for instant tickets, particularly the tickets sold online, would likely be below this overall average. It is assumed that the profit margin on the online lottery games in Indiana would be between 10% and 15%.

The impact accounts for a decrease in traditional lottery as a result of competition from online sales of lottery. This bill also allows for interactive gaming, which also uses online technology and delivery channel to attract patrons in similar industry. However, any overlap is limited to that extent, as the products offered by lottery and interactive gaming are different. The bill provides that the state Lottery Commission may not provide a game that simulates a casino style gambling game. It is estimated that online sales of lottery could have an impact on Indiana casinos. However, it is more likely to impact interactive games and traditional lottery.

Interactive Gaming: The bill would effectively allow internet or mobile gambling, more commonly known as online gaming, involving wagering money on casino style games over the internet.

The bill defines "interactive game" as an internet-based version or substantial equivalent of a gambling game, in which an individual wagers money or something of monetary value for the opportunity to win money or something of monetary value, and which is accessed by an internet-connected computer or mobile device. Interactive game includes gaming tournaments conducted via the internet. It clarifies that the term does not include sports wagering, which is conducted under a different statute of Indiana law.

It provides that "interactive gaming licensee" means an Indiana riverboat owner or operator or a racino owner that holds an interactive gaming license. It allows a licensee or an interactive gaming management vendor on behalf of the licensee to operate an interactive gaming platform where a person who is either physically present in Indiana when placing a wager or otherwise permitted to place a wager by law could participate in interactive games. The bill allows an eligible person to establish an interactive wagering account: (1) in person at a riverboat or racetrack; or (2) over the internet without appearing in person. It disallows a person less than 21 years of age to establish an account.

There is little data available on online gaming in the U.S. The legalization of online gaming in some states has provided information on the potential size of total and per capita online wagers. Using data for per capita online gaming and online gaming as a share of total statewide gaming from states where online gaming is currently allowed, a range estimates was created for Indiana.

It is estimated that the full impact of interactive gaming will be reached by the third year and generate between \$406 M to \$812 M annually in statewide AGR. It would also reduce the casino/racino AGR between \$134 M to \$268 M annually. The marginal tax rates of riverboat and racino taxes are about 30%, which means that any AGR losses at the riverboat and racino would have been taxed at about 30%. The tax revenue collections from interactive gaming will be taxed at a separate 20% rate. Online gaming will generate about \$65.4 M to \$139.9 M in online gaming taxes. It will also reduce gaming taxes collected from riverboats and racinos by \$44.2 M to \$88.1 M. The net gaming tax revenue would be \$21.2 M to \$51.8 M in the third year

of legalization. This would impact state funds and local units. Additionally, license fee revenue will be deposited in the Interactive Gaming Fund established by the bill.

The bill allows IGC to accept applications for an interactive gaming license starting July 1, 2023. It authorizes a licensee to conduct interactive gaming starting September 1, 2023. Since the bill allows the IGC to offer temporary licenses, it is assumed that interactive gaming in Indiana will begin on September 1, 2023. It is assumed that the impact in the first year of legalization will be one-third of the aforementioned impact and gradually increase to the full impact in the third year. Thereafter, it will grow based on industry economic factors and business cycle.

The bill allows IGC to enter into an interactive gaming reciprocal agreement with a regulatory agency of one or more other states or jurisdictions in which interactive gaming is authorized to allow an interactive gaming operator to accept wagers from persons not physically present in Indiana, and to allow persons physically present in Indiana to place wagers with parties to the interactive gaming reciprocal agreement, if the reciprocal agreement is consistent with federal law and is approved by the Governor.

Explanation of Local Expenditures:

Explanation of Local Revenues: The bill deposits 1/6 of the Interactive Gaming Tax into the Revenue Sharing Account. It provides that the money deposited in the account in the previous state fiscal year will be distributed as follows:

- (1) 50% to the city in which the interactive gaming licensee's casino is located.
- (2) 50% to the county in which the interactive gaming licensee's casino is located.

If a casino is not located in a city, all the money deposited in the account attributable to taxes paid by a casino would be distributed to the county in which the casino is located. Additionally, the loss of riverboat wagering taxes and riverboat supplemental wagering taxes will reduce distribution of these taxes to local units.

The net impact on local units is shown in the following table:

Source of Impact	FY 2024 (in \$ M)	FY 2025 (in \$ M)	FY 2026 (in \$ M)
Interactive Gaming Taxes	\$0	\$3.6 - \$7.7	\$7.2 - \$15.4
Riverboat Wagering Taxes	(\$1) - (\$2)	(\$2) - (\$4)	(\$3) - (\$6)
Riverboat Supplemental Taxes	(\$0.6) - (\$1.3)	(\$1.3) - (\$2.5)	(\$1.9) - (\$3.8)
Total of Local Units	(\$1.6) - (\$3.3)	\$0.3 - \$1.2	\$2.3 - \$5.6

State Agencies Affected: State Lottery Commission; Indiana Gaming Commission; Department of State Revenue; Department of Child Services.

Local Agencies Affected: Local units with riverboats and racinos.

Information Sources: American Gaming Association - State of the States 2022: <https://www.americangaming.org/resources/state-of-the-states-2022/> ; Delaware iGaming Reports -

<https://www.delottery.com/More/iGaming/Monthly-Net-Proceeds> ;
Indiana Gaming Commission - Annual Reports: <https://www.in.gov/igc/2362.htm>
National Conference of State Legislatures, Daily Fantasy Sports -
<https://www.ncsl.org/research/civil-and-criminal-justice/tackling-daily-fantasy-sports-in-the-states.aspx> ;
New Jersey Division of Gaming, Internet Gaming Revenues -
<https://www.njoag.gov/about/divisions-and-offices/division-of-gaming-enforcement-home/financial-and-statistical-information/monthly-internet-gross-revenue-reports/> ;
Pennsylvania Gaming Control Board, Internet Gaming -
https://gamingcontrolboard.pa.gov/files/legislation/igaming_FAQ.pdf,
<https://gamingcontrolboard.pa.gov/?p=317> ;
Michigan Internet Gaming Revenue;
https://www.michigan.gov/mgcb/0,4620,7-351-79127_82898-244408--,00.html;
Philander, K. S. (2011). The Effect of Online Gaming on Commercial Casino Revenue. UNLV Gaming Research & Review Journal, 15(2). Retrieved from <https://digitalscholarship.unlv.edu/grrj/vol15/iss2/5>
U.S. Census Bureau, Population - <https://www.census.gov/> .
Kentucky Lottery, Annual Reports -
https://www.kylottery.com/export/kylmod/galleries/documents/KYLottery_annual_report/KLC_Annual-Report_2021-_v5.pdf
Pennsylvania Lottery, Annual Reports -
https://www.palottery.state.pa.us/PaLotteryWebSite/media/PA-Lottery-Reports/Profit/PAL_Profit-Report_FY20-21.pdf
Michigan Lottery, Annual Reports; Hoosier Lottery, Annual Reports.

Fiscal Analyst: Randhir Jha, 317-232-9556