



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 3749 Introduced on January 19, 2023
Author: Murphy
Subject: Sports and Equine Wagering
Requestor: House Ways and Means
RFA Analyst(s): Tipton and Gardner
Impact Date: March 28, 2023

Fiscal Impact Summary

This bill establishes interactive sports wagering and advance deposit wagering (ADW) on horse racing and creates the South Carolina Equine and Sports Wagering Commission (commission) to supervise these provisions. Under the bill, lawful online or mobile sports wagering and ADW in the state will be administered and regulated by the commission with the assistance of other state agencies. The bill establishes guidelines for the implementation of sports wagering and provides for a 10 percent privilege tax on the adjusted gross wagering receipts. The bill also establishes guidelines for the implementation of ADW on equine events and establishes a 10 percent license fee on all earnings in the state by ADW licensees.

The responsibilities and allocation of revenues from the privilege tax and ADW are summarized as follows:

The commission is responsible for managing interactive sports wagering including licensure, regulation, administration, and revenue collection. To oversee the commission, the bill establishes the Equine and Sports Wagering Commission Sports Wagering Advisory Council (council) composed of nine appointed members. The council appoints the executive director to manage the commission. Further the bill creates the Equine Subcommittee (subcommittee) within the council. The subcommittee is composed of five appointed members who must be members of the equine industry. The subcommittee will oversee ADW application licensure and administration with the assistance of staff of the commission. Further, the commission is to hire a director of Equine Advancement with the advice and consent of the subcommittee. The director is an employe of the commission and reports to the executive director. The director is responsible for managing ADW and any other duties provided by the council or subcommittee.

The funds generated by sports wagering are distributed as follows:

- 80 percent of the privilege tax revenue from sports wagering will be transmitted by the commission to the Department of Revenue (DOR) for deposit into the General Fund;
- 15 percent of the privilege tax revenue will be transmitted by the commission quarterly to DOR for distribution to local governments on a per capita basis to be used for local infrastructure projects;

- 5 percent of the privilege tax revenue will be allocated to the Department of Mental Health (DMH) for the oversight of a grant program to provide treatment services for individuals with problem gambling or gambling disorders;

The funds generated by ADW on horse racing are distributed as follows:

- 95 percent of the license tax on ADW pari-mutuel wagering applications will be deposited into the Equine Industry Development Fund to provide grants for the purpose of improving and developing South Carolina's equine-related agriculture, business, and recreation; and
- 5 percent of the license tax on ADW pari-mutuel wagering applications may be retained by the Equine Subcommittee for administrative expenses.

Expenditures

The commission is responsible for the licensure of up to six sports wagering operators as well as each qualifying designated operator as defined by the bill and prescribes numerous requirements of the commission in its licensing of prospective operators. The bill further allows the commission to issue supplier licenses for entities that provide critical services to an operator but do not directly accept wagers, for a license fee of \$10,000 to be retained by the commission for administrative costs. The commission may also retain a portion of the \$500,000 license fee for temporary licenses as permitted by the bill for administrative purposes. We anticipate that the commission will be wholly funded using revenue generated by the sports wagering privilege tax as well as operator or supplier license application fees.

The bill specifies that all expenses of the council will be an obligation of the commission. The subcommittee is permitted to retain up to 5 percent of the license tax received in a given year on ADW applications, expected to be between \$15,400 and \$75,000 in FY 2023-24 and between \$19,300 and \$93,700 in each year thereafter. However, it is currently unknown whether sufficient funds would be available to cover all administrative costs of the council and subcommittee, and therefore, the expenditure impact of the council and subcommittee is undetermined.

This bill requires DOR to receive from the commission funds generated by the privilege tax levied on sports wagering operators as well as any operator or supplier license application fee or any other fees that are directed to the General Fund and distribute the revenue. To carry out these requirements, the bill appropriates an additional \$1,000,000 to the agency in FY 2023-24, but the source of this appropriation is undetermined. This appropriation may be sufficient to cover all necessary expenses related to the administration of the privilege tax. However, the expenditure impact of this bill on DOR is pending, contingent upon a response from the agency.

Under this bill, the Department of Mental Health (DMH) must oversee a grant program to provide treatment services for individuals with problem gambling or gambling disorders. This bill also requires DMH to generate a report outlining the agency's activities with respect to these funds and must include certain metrics specified by the bill. The agency's expenditures for administration, the grant programs, and other related responsibilities will be determined by the available revenue. DMH will receive 5 percent of the privilege tax levied on adjusted gross

receipts of licensed operators, which is expected to total between \$787,000 and \$901,000 in FY 2023-24 and between \$983,000 and \$1,126,000 in each year thereafter.

This bill requires management performance audits of the commission to be conducted by Legislative Audit Council (LAC) every three years or by request of the legislature. LAC indicates these will take place under normal course of business for the agency and will have no impact. Any expenditures exceeding those of normal business operations or existing appropriations will be an obligation of the commission pursuant to the bill, but will depend on the number and extent of the audits requested.

The bill allows a licensee or other person aggrieved by a final action of the commission to appeal that decision to the Administrative Law Court (ALC). The ALC indicates that this requirement will take place under normal business for the court and will, therefore, have no impact.

This bill requires SLED to conduct background checks of prospective licensees for the commission as well as prospective members of the advisory council. The bill may also impact oversight and enforcement activities of the agency. However, the fiscal impact of this bill on SLED is pending, contingent upon a response from the agency.

This bill creates the new offenses for violations of the provisions governing wagering and licensees. Judicial reports that the bill's creation of new offenses may impact general sessions and magistrates and municipal court caseloads. Also, the bill's expansion of civil actions that may be brought by the Attorney General may increase common pleas court caseloads. In CY 2022, there were 39 cases brought in courts statewide for various gambling offenses. However, there are no data to estimate either the number of cases that may be heard or the number of civil actions that may be filed in FY 2023-24. Judicial, the Attorney General's office and the Prosecution Coordination Commission anticipate they can manage any expenditure impact resulting from changes in caseloads using existing staff and appropriations. We anticipate that the Commission on Indigent Defense will also manage the increase in responsibilities with existing resources.

This bill requires the State Treasurer's Office to establish the Equine Industry Development Fund, separate from the General Fund and all Other Funds, in which proceeds generated by the license application and annual license tax on ADW applications will be deposited. The State Treasurer's Office indicates that this requirement will be managed within existing appropriations and will have no expenditure impact.

The House of Representatives, the Senate, and the Governor's Office indicate that the appointment requirements for the Equine and Sports Wagering Commission Sports Wagering Advisory Council and Equine Subcommittee will take place under normal operations and will, therefore, have no impact.

Revenues

Revenue generated by the 10 percent privilege tax on sports wagering is estimated to total between \$15,732,000 and \$18,012,600 in FY 2023-24 and between \$19,665,000 and

\$22,515,700 in each year thereafter. Proceeds from the privilege tax may vary and are contingent upon the total amount wagered by bettors in the state, the total amount retained by licensed sports wagering operators, and the operators' adjusted gross wagering receipts. Based upon the 80 percent distribution rate, the establishment of the privilege tax will increase General Fund revenue by between \$12,585,600 and \$14,410,000 in FY 2023-24 and between \$15,732,000 and \$18,012,600 in each year thereafter. Based upon the five percent distribution rate, Other Funds revenue for DMH will increase by between \$786,600 and \$900,600 in FY 2023-24 and between \$983,300 and \$1,125,800 in each year thereafter. Additional privilege tax revenue may be generated by wagers offered by designated operators, the number of which is currently unknown.

License fees for sports wagering operators will increase General Fund revenue by \$3,000,000 in FY 2023-24, less any administrative expenses incurred by the commission, under the assumption that six operators become licensed and pay the required \$500,000 license fee. This revenue will follow a three-year cycle as licenses are renewed. The bill is expected to increase revenue for the commission to cover administrative costs by approximately \$150,000 to \$300,000 in FY 2023-24 for supplier licenses and will follow a three-year cycle as licenses are renewed.

In total, sports wagering may increase General Fund revenue by between \$15,585,600 and \$17,410,000 in FY 2023-24 and between \$15,732,000 and \$18,012,600 in each year thereafter until license fees are renewed, in which case an additional \$3,000,000 of revenue would be generated. However, this revenue may vary depending upon the total amount wagered by bettors in the state, the total amount retained by licensed sports wagering operators, and the operators' adjusted gross wagering receipts.

Revenue generated for the Equine Industry Development Fund by the 10 percent license tax on ADW applications is estimated to total between \$308,200 and \$1,500,000 in FY 2023-24 and between \$385,200 and \$1,874,400 in each year thereafter. Proceeds are contingent upon takeout rates and other regulations set by the Equine Subcommittee, and wagers placed by bettors in South Carolina. Additional revenue may be generated by other licenses granted for live horse racing events in the state as well as any other fee or charge imposed by the commission. Of the estimated revenue, 5 percent of total proceeds, or between \$15,400 and \$75,000 in FY 2023-24 and between \$19,300 and \$93,700 in each year thereafter, may be retained by the subcommittee, and the remaining \$292,800 to \$1,424,500 in FY 2023-24 and \$366,000 to \$1,780,400 in each year thereafter must be administered by the subcommittee as grants. This estimate is based on an analysis of other states and may vary depending on the regulations promulgated by the subcommittee.

The bill is expected to increase Other Funds revenue of SLED from background checks by an undetermined amount. SLED is authorized to retain fees from background checks above \$4,461,000 which is allocated to the General Fund pursuant to Section 23-3-115. Over the past three years, SLED retained an average of \$10,375,000. So, there is no expected increase in General Fund Revenue from the additional background checks and the potential increase in Other Funds to SLED is undetermined as it depends on the number of additional background checks.

Local

This bill will have an undetermined local expenditure impact, as the number of inmates that will be housed in county prisons or local jails as a result of the penalties established by the bill are currently unknown. The Revenue and Fiscal Affairs Office (RFA) anticipates based on the response by Judicial that the increase in municipal and magistrates court caseload will be managed within the current budget of the court systems.

This bill will increase total local revenue by between \$2,359,800 and \$2,701,900 in FY 2023-24 and between \$2,949,800 and \$3,377,400 in each year thereafter as a result of the 15 percent distribution of the privilege tax on sports wagers to local governments. The bill also has the potential to increase General Fund, Other Funds, and local revenue of state agencies and local governments due to court fines and fees. However, as the number of offenses that might occur in a given year is unknown, the revenue impact is undetermined.

Explanation of Fiscal Impact

Introduced on January 19, 2023

State Expenditure

This bill establishes interactive sports wagering and advance deposit wagering (ADW) and creates the South Carolina Equine and Sports Wagering Commission (commission) to supervise these provisions. Under the bill, lawful online or mobile sports wagering and ADW in the state will be administered and regulated by the commission with the assistance of other state agencies. The bill establishes guidelines for the implementation of sports wagering and provides for a 10 percent privilege tax on the adjusted gross wagering receipts. The bill also establishes guidelines for the implementation of ADW on equine events and establishes a 10 percent license fee on all earnings in the state by ADW licensees.

The commission is responsible for managing interactive sports wagering including licensure, regulation, and administration. To oversee the commission, the bill establishes the Equine and Sports Wagering Commission Sports Wagering Advisory Council composed of nine appointed members. The council appoints the executive director to manage the commission. Further the bill creates the Equine Subcommittee within the council. The subcommittee is composed of five appointed members who must be members of the equine industry. The subcommittee will oversee ADW licensure and administration with the assistance of staff of the commission. Further, the commission is to hire a director of Equine Advancement with the advice and consent of the subcommittee. The director is an employe of the commission and reports to the executive director. The director is responsible for managing ADW and any other duties provided by the council or subcommittee.

This bill directs the commission to issue licenses for interactive sports wagering to each qualifying designated operator and six other operators in the state. A qualifying designated operator is defined as any professional sports team or league that meets certain requirements regarding the number of yearly sporting events that take place in the state. Other operators include up to six mobile sports wagering operators.

The bill prescribes numerous requirements of the commission in its licensing of prospective operators, including, but not limited to criminal background checks of the organization's leadership conducted by SLED, proof of active operation in at least five other states and letters of reference from each state's regulatory body, financial information and records to ensure integrity in the betting system, and any additional information deemed necessary by the commission. Upon the payment of a \$500,000 license fee and confirmation by the commission, the licensed operator may provide legal sports wagers in the state for three years before the license must be renewed. An applicant that is licensed to operate by at least five other jurisdictions may submit with the application a request for the immediate commencement of sports wagering operations through a temporary license, which the commission may grant if certain requirements are met and the application fee has been paid. Initial license and renewal fees with the exception of temporary license fees must be remitted to DOR for deposit into the General Fund.

The bill further allows the commission to issue supplier licenses for entities that provide critical services to an operator but do not directly accept wagers. The fee for an initial or renewed supplier license is \$10,000 and may also include a processing fee for the cost of reviewing the application, at the discretion of the director of the commission. The application fee may be retained by the commission to cover related administrative costs. The supplier license is valid for three years.

The bill prohibits licensees from allowing a minor, or those under the age of 18, to place a wager, and implements penalties for doing so. The bill specifies additional regulatory requirements of the commission and reporting requirements of licensees, and tasks the commission with examining regulations set forth in other states where sports wagering is conducted to determine the regulations that will be promulgated pursuant to this bill. The commission must submit a report annually to the Governor, the Speaker of the House of Representatives, and the President of the Senate that contains information on the number of active licensees, the aggregate and adjusted gross sports wagering receipts, and the financial impact on state and local governments as a result of sports wagering.

We anticipate that the commission will be wholly funded using revenue generated by the sports wagering privilege tax as well as operator or supplier license application fees.

The bill further establishes the Equine and Sports Wagering Commission Sports Wagering Advisory Council (council) to assist the commission with sports wagering activities and advise the commission of best practices. The bill provides that the council will be comprised of the following nine members:

- Three members appointed by the Governor,
- Three members appointed by the President of the Senate, and
- Three members appointed by the Speaker of the House of Representatives.

The council is additionally required to keep and maintain the revenues for sports wagering and equine wagering in separate accounts and distribute funds in accordance with the bill. The

council will appoint and provide compensation for an executive director, who directs the day-to-day operations and management of the commission.

The bill further establishes the Equine Subcommittee (subcommittee) within the council to support the improvement and development of South Carolina's equine-related agriculture, business, and recreation through the licensure of ADW applications allowing for pari-mutuel wagering on horse races. The bill provides that the subcommittee will consist of the following five members:

- Two members appointed by the President of the Senate,
- Two members appointed by the Speaker of the House of Representatives, and
- One member appointed by the Governor.

Each member of the subcommittee must also be a member of the equine industry. The subcommittee is required by the bill to provide advice and consent to the commission in the hiring of a director of Equine Advancement. The director will be an employee of the commission and will report to the executive director. The bill specifies each member of the subcommittee's term and procedures for resolving subcommittee vacancies.

Under this bill, no more than three ADW licensees may operate in the state, and they must comply with requirements set by the subcommittee. Additional licenses may be granted by the subcommittee for ADW applications offering wagers on live horse racing events in the state. The bill establishes a 10 percent license fee on all earnings in the state by ADW licensees, with 5 percent of total proceeds to be retained by the subcommittee for administrative expenses and the remainder to be administered as grants to support the equine industry in the state. ADW licenses granted by the subcommittee for providing pari-mutuel horse race wagering may not exceed ten years.

This bill further requires the subcommittee to establish a grant program utilizing Equine Industry Development Fund proceeds generated by the license fee on ADW licensee earnings to be administered in support of the bill's purpose of improving and developing South Carolina's equine-related agriculture, business, and recreation. The bill also specifies that in performing an essential government function, the subcommittee is not required to pay taxes or assessments on property or income.

Council and subcommittee members will not receive compensation beyond normal mileage, per diem, and subsistence as provided by law for state boards, committees, and commissions. Pursuant to Proviso 117.19 of the FY 2022-23 Appropriations Act, each council and subcommittee member will receive per diem of \$50 resulting in a maximum per diem expense of \$450 per council meeting or \$250 per subcommittee meeting. Proviso 117.20 of the FY 2022-23 Appropriations Act sets mileage reimbursement rates applicable to state committees equal to the standard business mileage rate as established by the Internal Revenue Service (IRS) of 65.5 cents per mile, and subsistence to be no more than \$35 per day when traveling in-state and \$50 per day when out-of-state. As the council and subcommittee meeting schedule and thus mileage and subsistence are currently unknown, the annual cost of meetings is undetermined. Further, administrative and personnel expenses, including the salary and fringe of the Executive Director

of the council and director of Equine Advancement are also unknown. All expenses of the council will be an obligation of the commission and all expenses of the subcommittee are eligible for reimbursement of up to 5 percent of ADW license fee proceeds in a given fiscal year estimated to total between \$15,400 and \$75,000 in FY 2023-24 and between \$19,300 and \$93,700 in each year thereafter. However, it is currently unknown whether sufficient funds would be available to cover all administrative costs of the council and subcommittee and therefore, the expenditure impact of the council and subcommittee is undetermined.

Department of Revenue. This bill requires DOR to administer and distribute revenue generated by the privilege tax levied on sports wagering operators as well as any operator or supplier license application fee or any other fees that are directed to the General Fund. To carry out these requirements, the bill appropriates an additional \$1,000,000 to the agency in FY 2023-24 but the source of this appropriation is undetermined. This appropriation may be sufficient to cover all necessary expenses related to the administration of the privilege tax. However, the expenditure impact of this bill on DOR is pending, contingent upon a response from the agency.

Department of Mental Health. Under this bill, DMH must oversee a grant program with organizations to provide treatment services for individuals with problem gambling or gambling disorders. This bill also requires DMH to generate a report outlining the agency's activities with respect to these funds, and must include certain metrics specified by the bill. The agency's expenditures for administration, the grant programs, and other related responsibilities will be determined by the available revenue. DMH will receive 5 percent of the privilege tax levied on adjusted gross receipts of licensed operators, which is expected to total between \$787,000 and \$901,000 in FY 2023-24 and between \$983,000 and \$1,126,000 in each year thereafter.

Legislative Audit Council. This bill requires LAC to perform a management performance audit of the commission beginning in December 2023 and every three years thereafter, the cost of which is designated an operating expense of the commission. LAC is also required to perform the audit at the request of five members of the House of Representatives or five members of the Senate. The LAC indicates that this will take place under normal course of business for the agency and will have no impact. Any expenditures exceeding those of normal business operations or existing appropriations will be an obligation of the commission, but will depend on the number and extent of the audits requested.

Administrative Law Court. The bill allows a licensee or other person aggrieved by a final action of the commission to appeal that decision to the ALC pursuant to the Administrative Procedures Act. The ALC, upon hearing the appeal and reviewing the proceedings of the commission, may reverse the decision if the decision was found to meet certain criteria specified by the bill. The ALC indicates that this requirement will take place under normal business for the court and will, therefore, have no impact.

State Law Enforcement Division. This bill requires SLED to conduct background checks of prospective licensees for the commission as well as prospective members of the advisory council. The bill may also impact oversight and enforcement activities of the agency. However, the fiscal impact of this bill on SLED is pending, contingent upon a response from the agency.

Judicial. This bill creates the following new offenses:

Section 52-23-280 – Unlawful wagering on a sporting event by certain persons;

Section 52-23-470 – Unlawful receipt, supply, broadcast, display, or other transmission of material nonpublic information for the purpose of wagering on a sporting event or influencing another person’s or entity’s wager on a sporting event; and

Section 52-23-620 – Unlawful operation of a pari-mutuel wagering application or pari-mutuel wagering on horse racing when certain conditions are not met.

The bill also authorizes the Attorney General to bring a civil action against a licensee or other person who violates the provisions of the article.

Judicial reports that the bill’s creation of new offenses may impact general sessions and magistrates and municipal court caseloads. Also, the bill’s expansion of civil actions that may be brought by the Attorney General may increase common pleas court caseloads. In CY 2022, there were 39 cases brought in courts statewide for various gambling offenses. However, there are no data to estimate either the number of cases that may be heard or the number of civil actions that may be filed in FY 2023-24. Judicial anticipates it can manage any expenditure impact resulting from changes in caseloads using existing staff and appropriations.

Attorney General’s Office. This bill authorizes the Attorney General to bring a civil action against a licensee or another person who violates the provisions of Article 1 governing sports wagering. It also enables the Attorney General to seek and obtain an injunction for purposes of enforcing the article. The Attorney General’s Office will manage the responsibilities with existing staff and resources.

State Treasurer’s Office. This bill requires the State Treasurer’s Office to establish the Equine Industry Development Fund separate from the General Fund and all Other Funds in which proceeds generated by the license application and annual license tax on ADW applications will be deposited. The State Treasurer’s Office indicates that this requirement will be managed within existing appropriations and will have no expenditure impact.

House of Representatives and the Senate. The House of Representatives and the Senate indicate that the appointment requirements for the council and subcommittee will take place under normal operations and will, therefore, have no impact.

Governor’s Office. The Governor’s Office indicates that the appointment requirements for the council and subcommittee will take place under normal operations and will, therefore, have no impact.

Commission on Prosecution Coordination. The bill may increase the number of warrants sent to solicitors’ offices for prosecution. However, as these are new offenses, data are unavailable to estimate the potential increase. Assuming that the additional caseload is not significant, the duties will be handled with existing staff and resources.

Commission on Indigent Defense. The new offenses created by the bill may impact caseloads. However, assuming that the additional caseload is not significant, we anticipate that the duties will be handled with existing staff and resources.

State Revenue

This bill establishes interactive sports wagering and advance deposit wagering (ADW) and creates the South Carolina Equine and Sports Wagering Commission (commission) to supervise these provisions.

Sports Wagering

The bill establishes a privilege tax of 10 percent on the adjusted gross sports wagering receipts, to be paid by each licensed operator to the commission by the fifteenth of each month. Adjusted gross wagering receipts (AGR) are defined as the total of all cash and cash equivalents received by a sports wagering operator minus all amounts paid out in winnings, the actual cost paid by the operator for anything of value including merchandise or services, sums paid for any federal tax, voided or canceled wagers, and uncollectible sports wagering receivables.

These funds are distributed as follows:

- 80 percent of the privilege tax revenue will be transmitted by the commission to the Department of Revenue (DOR) for deposit into the General Fund;
- 15 percent of the privilege tax revenue will be transmitted by the commission quarterly to DOR for distribution to local governments on a per capita basis to be used for local infrastructure projects;
- 5 percent of the privilege tax revenue will be allocated to the Department of Mental Health (DMH) for the oversight of a grant program to provide treatment services for individuals with problem gambling or gambling disorders;

Based on an analysis of the 28 states in which sports betting is legal, either in-person, online, or both, at the time that this impact was published, four states either close in proximity or population and with systems similar to that proposed in the bill are listed below. Included in the table are the total wagers placed in 2021 and 2022 in each state according to state regulatory or gaming agencies and the average win rate, or the percentage of wagers not paid out to bettors and retained by the sportsbook, in each applicable year.

Total Wagers in 2021 and 2022 for Comparable States

| State | Total Wagers 2021 | Total Wagers 2022 | Gross Revenue Win Rate** |
|----------------------------|-------------------|-------------------|--------------------------|
| Arizona ¹ | \$1,743,249,640* | \$6,036,844,930 | 8.27% |
| Tennessee ² | \$2,730,400,000 | \$3,850,547,906 | 9.43% |
| Virginia ³ | \$3,221,790,714 | \$4,914,954,449 | 9.30% |
| West Virginia ⁴ | \$544,529,834 | \$568,918,911 | 8.85% |

*Arizona legalized sports betting in September 2021; shown are wagers from September – December

**Does NOT yield AGR

Under this bill, operators would then subtract operating expenses, the actual cost for anything of value including merchandise or services, sums paid for any federal tax, voided or canceled wagers, and uncollectible sports wagering receivables to determine their AGR. Based on comparable states, approximately 6 percent of the total wagers retained or won by the operator will represent qualifying adjustments. Based upon this metric, AGR and a 10 percent privilege tax for the sample group of states is estimated as follows:

Potential Range of Privilege Tax Based on Other States

| State | Total Wagers Retained by Operator - 2022 | AGR | Estimated 10% Privilege Tax* |
|---------------|--|---------------|------------------------------|
| Arizona | \$499,171,615 | \$469,221,318 | \$46,922,131 |
| Tennessee | \$363,074,579 | \$341,290,105 | \$34,129,010 |
| Virginia | \$456,885,974 | \$429,472,815 | \$42,947,282 |
| West Virginia | \$50,349,323 | \$47,328,364 | \$4,732,836 |

*Note: These values are illustrations and do not represent actual tax revenue for the applicable states.

We have estimated the total amount that will be wagered on sports in South Carolina under this bill using both nationwide results and the sample of four potentially similar states. Based on data from Arizona and Tennessee, which legalized sports betting within the last two years, we estimate that the first year of implementation will be approximately 80 percent of the amount wagered in subsequent years due to lead time on application compliance, establishment of regulations by the commission, and adoption by the public. The four states in the sample all implement age restrictions on sports betting, with bettors required to be at least 21 years of age in Arizona, West Virginia, and Virginia, and at least 18 years of age in Tennessee. This bill requires bettors in South Carolina to be at least 18 years of age.

According to the U.S. Census Bureau, the total legal population of states in which sports wagering is legal in 2022 was approximately 108,732,896. Based on the total amount wagered in 28 states since federal restrictions were removed in 2018, the average wager per legal bettor

¹ <https://gaming.az.gov/resources/reports>

² <https://www.tn.gov/swac/reports.html>

³ <https://www.valottery.com/aboutus/casinosandsportsbetting>

⁴ <https://wvlottery.com/secured-portal-reporting/?hash=5be9f594>

per year is approximately \$588. Applying this metric to the estimated 18 and older population of South Carolina of approximately 4,164,800 in 2022 yields total wagers of approximately \$2,234,471,500.

Comparatively, the sample states have a higher per bettor average wager. According to the U.S. Census Bureau, the total population of Arizona, Tennessee, Virginia, and West Virginia legally allowed to bet on sports in 2022 was approximately 20,233,075, resulting in an average wager per legal bettor of approximately \$639 per year based on the total wagers in those states. Applying this metric to the estimated 18 and older population of South Carolina in 2022 yields total wagers of approximately \$2,661,430,042.

Applying the 20 percent reduction assumption in the first year, we estimate the total amount wagered in the state will be between \$1,859,577,200 and \$2,129,144,000 in FY 2023-24, and between \$2,324,471,500 and \$2,661,430,000 in each year thereafter. Further applying the average win rate of 9 percent and estimated adjustment rate of 6 percent for expenses, total AGR in FY 2023-24 is estimated to be between \$157,320,200 and \$180,125,600, increasing to between \$196,650,300 and \$225,157,000 in each year thereafter. These values are contingent upon the timely approval of licensees by the commission and may vary depending upon the number of additional designated operators licensed to provide legal wagers.

Therefore, revenue generated by the 10 percent privilege tax is estimated to total between \$15,732,000 and \$18,012,600 in FY 2023-24 and between \$19,665,000 and \$22,515,700 in each year thereafter. Proceeds from the privilege tax may vary and are contingent upon the total amount wagered by bettors in the state, the total amount retained by licensed sports wagering operators, and the operators' adjusted gross wagering receipts. The bill requires 80 percent of this revenue be transmitted to DOR for deposit into the General Fund, 15 percent must be transmitted to DOR to be remitted quarterly to each local government in the state on a per capita basis, and 5 percent will be remitted to DMH for the purposes of providing treatment services for individuals with problem gambling or gambling disorders. Therefore, the establishment of the privilege tax will increase General Fund revenue by between \$12,585,600 and \$14,410,000 in FY 2023-24 and between \$15,732,000 and \$18,012,600 in each year thereafter. Other Funds revenue for DMH will increase by between \$786,600 and \$900,600 in FY 2023-24 and between \$983,300 and \$1,125,800 in each year thereafter. Additional privilege tax revenue may be generated by wagers offered by designated operators, the number of which is currently unknown.

This bill allows for the licensure of six mobile sports wagering operators in the state by the commission. The bill also allows for the licensure of each qualifying designated operator. Upon the payment of the \$500,000 license fee established by the bill, the licensed operator may provide legal sports wagers in the state for three years before the license must be renewed. Initial license and renewal fees with the exception of temporary license fees must be remitted to DOR for deposit into the General Fund. Under the assumption that six operators will submit an application for licensure within the first year that the bill is effective, this will increase General Fund revenue by \$3,000,000 in FY 2023-24, less any administrative expenses incurred by the commission. This revenue will follow a three-year cycle as licenses are renewed. Additional

revenue may be generated by an undetermined number of additional license fees set at the discretion of the commission for designated operators.

The bill further allows the commission to issue supplier licenses for entities that provide critical services to an operator but do not directly accept wagers. A supplier license is valid for three years. The fee for an initial or renewed supplier license is \$10,000 and may also include a processing fee for the cost of reviewing the application, at the discretion of the director of the commission. The application fee may be retained by the commission to cover related administration costs. We anticipate between 15 and 30 suppliers will apply for licenses in the first year of the bill's implementation.⁵ Therefore, this section will increase revenue for the commission by approximately \$150,000 to \$300,000 in FY 2023-24 and will follow a three-year cycle as licenses are renewed. These funds will be retained by the commission to cover administrative costs.

The commission has the ability to conduct investigations of licensees and levy fines if unlawful activities are discovered. The commission may impose an administrative fine of no more than \$25,000 on a licensee that has violated the provisions of the section in addition to the revocation of the license. Further administrative fines may be imposed on licensees providing legal wagers to minors, in the amounts of \$1,000 for a first offense, \$2,000 for a second offense, and \$5,000 for a third or subsequent offense. Persons or entities accepting wagers without a license are subject to administrative fines by the commission of \$10,000 for a first offense, \$15,000 for a second offense, and \$25,000 for a third or subsequent offense. Given that the number of violative actions by licensees, bettors, or other persons is currently unknown, the revenue impact for the commission of any administrative fine imposed under this bill is undetermined.

In addition, this bill prohibits certain members of the public with knowledge, involvement, or other conflicts of interest from placing sports wagers, and establishes penalties and fines for violations of this provision. Violators are guilty of a misdemeanor and are subject to a fine of up to \$100 or 30 days in prison for a first offense, \$500 or 30 days in prison for a second offense, and \$1,000 and 90 days in prison for a third or subsequent offense. The bill requires these cases be heard in magistrates court. The bill further establishes a misdemeanor penalty for the transmission of material nonpublic information for the purposes of wagering on a sporting event or influencing another person's wager. Violators may be fined up to \$100 or imprisoned for up to 30 days. Thus, this bill has the potential to increase General Fund, and Other Funds, and local revenue of state agencies and local governments due to the fine for offenders convicted in court. However, as the number of such offenses that might occur in a given year is unknown, the revenue impact is undetermined.

In total, sports wagering may increase General Fund revenue by between \$15,585,600 and \$17,410,000 in FY 2023-24 and between \$15,732,000 and \$18,012,600 in each year thereafter until license fees are renewed, in which case an additional \$3,000,000 of revenue would be generated. This revenue may vary depending upon the total amount wagered by bettors in the

⁵ <https://igamingbusiness.com/sports-betting/virginia-lottery-awards-26-sports-betting-vendor-licences/>

state, the total amount retained by licensed sports wagering operators, and the operators' adjusted gross wagering receipts.

Further, this bill will increase the number of criminal records searches that SLED is required to perform. SLED indicates that the total cost for a criminal records search is \$51.75, of which \$25 is retained by SLED. The vendor, Identogo, receives \$13.50, and the remainder of the fee, \$13.25, is remitted to the FBI. Pursuant to Section 23-3-115(A), revenue generated by criminal records checks performed by SLED up to an amount of \$4,461,000 must be deposited in the General Fund. Any revenue over that amount is retained by SLED. Over the past three years, SLED retained an average of \$10,375,000. So, there is no expected increase in General Fund Revenue from the additional background checks and the potential increase in Other Funds to SLED is undetermined as it depends on the number of additional background checks.

Equine Wagering (Advance Deposit Wagering)

This bill establishes guidelines for equine wagering and the licensure of ADW applications providing pari-mutuel wagers on horse races. These functions are to be overseen by the director of Equine Advancement under supervision of the subcommittee.

The funds generated must be distributed as follows:

- 95 percent of the license tax on ADW pari-mutuel wagering applications will be deposited into the Equine Industry Development Fund to provide grants for the purpose of improving and developing South Carolina's equine-related agriculture, business, and recreation; and
- 5 percent of the license tax on ADW pari-mutuel wagering applications may be retained by the Equine Subcommittee for administrative expenses.

Under this bill, no more than three ADW licensees may operate, and must comply with requirements set by the subcommittee. Additional licenses may be granted by the subcommittee for ADW applications offering wagers on live horse racing events in the state.

The bill establishes a 10 percent license application fee on the projected annual earnings of the ADW licensee in the state during the first full year of operations, and an annual fee of 10 percent of the ADW licensee's prior year's earnings in the state in each year thereafter. This bill defines ADW licensee earnings as the licensee's gross receipts from takeout on ADW wagering minus fees required to be paid by the licensee to offer races for wagering. Under the pari-mutuel wagering format, takeout is the portion of total wagers placed that the ADW application will retain for fees remitted to racetracks other required payments, and generates earnings for the ADW application. Across states with similar programs, takeout rates are established by regulatory racing or gaming agencies, and this bill similarly provides the Equine Subcommittee with the ability to set takeout rates for ADW licensees as it deems appropriate.

The table below contains information from the Oregon Racing Commission, which requires ADW applications to register and provide financial information on the number of pari-mutuel wagers placed in a given year. Shown below are the three applications with the largest yearly

volume of wagers placed, and we assume these would be the three licensees under this bill. These applications accounted for 93 percent of total ADW pari-mutuel wagers placed in 2021.

| ADW Application | 2020 | 2021 |
|---|------------------------|------------------------|
| Churchill Downs Technology Initiatives Company, "Twin Spires" | \$ 2,451,519,908 | \$ 2,455,848,444 |
| ODS Technologies, "TVG" | \$ 2,460,937,900 | \$ 2,351,165,177 |
| Xpressbet, LLC | \$ 1,349,410,862 | \$ 1,389,235,218 |
| Total⁶ | \$6,261,868,670 | \$6,196,248,839 |

The table below shows the total amount wagered in four states in the most recent year that data is available close to South Carolina in proximity, population, or both, where each of the three applications is legal. Notably, Kentucky is significantly higher than the other states due to the size of the equine wagering industry in the state. For this reason, we have not used Kentucky in our sample of states to project revenues, only in national calculations.

| State | Arizona⁷ | Kentucky⁸ | Virginia⁹ | West Virginia¹⁰ |
|--------------|----------------------------|-----------------------------|-----------------------------|-----------------------------------|
| Year | FY 2021-22 | FY 2020-21 | CY 2020 | CY 2022 |
| Twin Spires | \$10,537,092 | \$242,321,654 | \$9,025,538 | \$5,934,394 |
| TVG | \$23,858,497 | \$144,325,118 | \$16,744,374 | \$6,699,890 |
| Xpressbet | \$9,544,953 | \$46,825,797 | \$4,540,037 | \$3,104,135 |
| Total | \$43,940,542 | \$433,472,569 | \$30,309,949 | \$15,738,419 |

Estimating the total amount that will be wagered in South Carolina under this bill can be done using nationwide data or that of the smaller group of similar states. Further, based on data from Arizona and Michigan that implemented the regulation of ADW applications within the last five years, we estimate that the first year of implementation will be approximately 80 percent of the amount wagered in subsequent years due to lead time on application compliance, establishment of regulations, and adoption by the public. The three ADW applications listed above are legal in up to 40 states, and all limit the use of the application to residents of those states at least 18 years or older. This bill similarly requires bettors in South Carolina to be at least 18 years of age.

According to the U.S. Census Bureau, the total 18 years and older population of states in which the three applications are legal in 2022 was 198,253,802, resulting in an average wager per legal bettor of \$31.25 based on the total wagers in 2021. Applying this metric to the estimated 18 and older population of South Carolina of approximately 4,164,800 in 2022 yields total wagers of

⁶ <https://www.oregon.gov/racing/Pages/Advance-Deposit-Wagering.aspx>

⁷ <https://gaming.az.gov/resources/reports>

⁸ <https://khrc.ky.gov/Documents/parimutuelJUNE2021.pdf>

⁹ <https://www.vabred.org/virginias-on-line-wagering-handle-on-horse-racing-remains-robust-through-april/>

¹⁰ <https://racing.wv.gov/Pages/Reports.aspx>

approximately \$130,166,600. According to the U.S. Census Bureau, the total 18 and older population of Arizona, Virginia, and West Virginia in 2021 was 14,010,130, resulting in an average wager per legal bettor of \$6.42 based on the total wagers in those states in the most recent year that data is available. Applying this metric to the estimated 18 and older population of South Carolina in 2021 yields total wagers of approximately \$26,750,800. Applying the 20 percent reduction assumption in the first year yields a total handle of between \$21,400,600 and \$104,133,300 in FY 2023-24, and between \$26,750,800 and \$130,166,600 in each year thereafter.

Takeout rates vary between states in which advance deposit pari-mutuel wagering is legal, with the average rate for simple wagers of 18 percent, and the average rate for complex or exotic wagers of 25.5 percent, according to a review of regulations in place across legal states. Assuming 80 percent of all wagers are simple and 20 percent are complex or exotic, we can estimate an average takeout rate of 19.4 percent, which applied to the previously estimated total wagers of between \$21,400,600 and \$104,133,300 in FY 2023-24, and between \$26,750,800 and \$130,166,600 in each year thereafter results in possible takeout of between \$4,151,700 and \$20,201,900 in FY 2023-24 and between \$5,189,700 and \$25,252,300 in each year thereafter. Fees that ADW applications are required to remit to racetracks and other entities for providing wagers on the race vary and are currently undetermined. As an illustration, if ADW applications remit 5 percent of takeout as fees to various entities and retain 14.4 percent of total wagers as earnings under this bill, total license fee proceeds would create revenue for the Equine Industry Development Fund of between \$308,200 and \$1,500,000 in FY 2023-24 and between \$385,200 and \$1,874,400 in each year thereafter.

Of that amount, 5 percent of total proceeds, or between \$15,400 and \$75,000 in FY 2023-24 and between \$19,300 and \$93,700 in each year thereafter may be retained by the subcommittee and the remaining \$292,800 to \$1,424,500 in FY 2023-24 and \$366,000 to \$1,780,400 in each year thereafter must be administered by the subcommittee as grants. Proceeds are contingent upon takeout rates set by the subcommittee, and we assume that nationwide wagers among legal bettors would be similar in South Carolina. Additional revenue may be generated by licenses granted for live horse racing events in the state as well as any other fee or charge imposed by the subcommittee.

In addition, this bill prohibits ADW applications not licensed with the subcommittee from providing pari-mutuel wagers, and establishes a misdemeanor penalty and fine for violations of this provision of up to \$5,000 and imprisonment of up to a year. Further, this bill prohibits pari-mutuel wagering by an individual through an unlicensed application and establishes a misdemeanor penalty with a fine for violators of up to \$2,000 and imprisonment of up to a year. Thus, this bill has the potential to increase General Fund, and Other Funds, and local revenue of state agencies and local governments due to the fine for offenders convicted in general sessions courts. However, as the number of such offenses that might occur in a given year is unknown, the revenue impact cannot be determined.

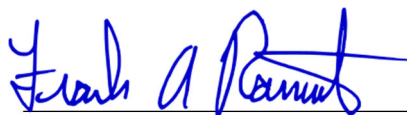
Local Expenditure

This bill may increase the number of cases heard in municipal and magistrates court for the new offenses created and may result in an increase in the number of individuals imprisoned in county prisons or municipal jails. Based on the response by Judicial, RFA anticipates that the additional caseload will be managed within the current budgets of the local court systems and will have no impact. However, as the number of inmates that will be housed in county prisons or municipal jails as a result of the penalties established by the bill are currently unknown, the local expenditure impact is undetermined.

Local Revenue

This bill establishes Article 1, Interactive Sports Wagering, within Chapter 23 of Title 52. Under the bill, lawful online or mobile sports and equine wagering in the state will be administered and regulated by the South Carolina Equine and Sports Wagering Commission. The bill establishes a privilege tax of 10 percent on the adjusted gross sports wagering receipts, of which 15 percent will be remitted to local governments on a per capita basis. For the purposes of this calculation, incorporated municipalities will be removed from the county population. Based on the analysis in the State Revenue section, this will increase total local revenue by between \$2,359,800 and \$2,701,900 in FY 2023-24 and between \$2,949,800 and \$3,377,400 in each year thereafter.

In addition, this bill prohibits certain members of the public with knowledge, involvement, or other conflicts of interest from placing sports wagers, and establishes penalties and fines for violations of this provision. Violators are guilty of a misdemeanor and are subject to a fine of up to \$100 or 30 days in prison for a first offense, \$500 or 30 days in prison for a second offense, and \$1,000 and 90 days in prison for a third or subsequent offense. The bill requires these cases be heard in magistrates court. The bill further establishes a misdemeanor penalty for the transmission of material nonpublic information for the purposes of wagering on a sporting event or influencing another person's wager. Violators may be fined up to \$100 or imprisoned for up to 30 days. Thus, this bill has the potential to increase General Fund, and Other Funds, and local revenue of state agencies and local governments due to the fine for offenders convicted in court. However, as the number of such offenses that might occur in a given year is unknown, the local revenue impact is undetermined.



Frank A. Rainwater, Executive Director