



**Legislative
Council Staff**

Nonpartisan Services for Colorado's Legislature

HB 19-1327

**FINAL
FISCAL NOTE**

Drafting Number:	LLS 19-0030	Date:	August 5, 2019
Prime Sponsors:	Rep. Garnett; Neville Sen. Donovan; Cooke	Bill Status:	Signed into Law
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Bill Topic: AUTHORIZE & TAX SPORTS BETTING

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input checked="" type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill decriminalizes sports betting and, conditional upon voter approval, levies a tax on net sports betting revenue. This bill conditionally increases state revenue and expenditures on an ongoing basis.

Appropriation Summary: Conditional upon voter approval, for FY 2019-20, this bill requires a General Fund appropriation of \$1,858,534 to the Department of Revenue.

Fiscal Note Status: The final fiscal note reflects the enacted bill.

**Table 1
State Fiscal Impacts Under HB 19-1327**

		FY 2019-20	FY 2020-21
Revenue	Sports Betting Fund	\$6.3 million - \$6.5 million	\$9.7 million - \$11.2 million
	Total	\$6.3 million - \$6.5 million	\$9.7 million - \$11.2 million
Expenditures	General Fund	\$1,858,534	-
	Sports Betting Fund	-	\$2,247,717
	Other Cash Funds	-	\$130,000
	Centrally Approp.	\$190,111	\$379,344
	Total	\$2,048,645	\$2,757,061
	Total FTE	12.6 FTE	24.3 FTE
Transfers	Sports Betting Fund	(\$6,300,000)	(\$7,072,939)
	General Fund	\$1,858,534	-
	Other Cash Funds	\$4,441,466	\$7,072,939
	Total	\$0	\$0
TABOR Refund		-	-

Summary of Legislation

Conditional upon voter approval, this bill decriminalizes sports betting and places it under the authority of the Division of Gaming in the Department of Revenue and the Colorado Limited Gaming Control Commission (limited gaming commission). Both in-person and online bets must be placed in Colorado and are limited to people 21 years of age or older.

Types of bets allowed. Upon statewide voter approval, beginning in May 2020, sports betting will be allowed both in-person at casinos in the state's three gaming towns (Black Hawk, Central City, and Cripple Creek), if approved by local voters, and online through internet sports betting operators contracted by casinos. Bets can be placed on both amateur and professional sporting events in which the outcome is not determined by chance. This includes professional, collegiate, sanctioned motor sports, and Olympic sporting events, but excludes high school sporting events, video games not sanctioned by a sports governing body, and proposition bets on collegiate events. Bets can also be placed on individual performance statistics of athletes during a sporting event or a combination of sporting events. The limited gaming commission may allow bets to be placed on other types of sporting events.

Licensing. The limited gaming commission is permitted to issue at least three types of licenses. A master license will be issued to a person that held a retail gaming license in the state prior to May 1, 2020, or that has obtained one through the purchase of an ownership interest in a casino that was in operation May 1, 2020. A person holding more than one retail gaming license may be issued one master license for each retail gaming license it holds. This license is required if sports betting is to be conducted on premises, and it expires two years from the date of issuance. Licenses may be renewed upon approval of the application after their expiration. All sports betting must go through a master licensee whether it is online or in person, and master licenses may not be transferred to any facility located outside of the three gaming towns.

A sports betting operator license or an internet sports betting operator license allows the licensee to contract with a the holder of a master license to operate a sports betting operation in person or online. Only one sports betting operator and one internet sports betting operator may contract with a master licensee; however, a person may hold both a sports betting operator and internet sports betting operator license. Licenses may be granted to individuals, firms, associations, or corporations; however, the following prohibit the aforementioned from obtaining a license:

- being convicted of a gambling-related offense;
- being a professional gambler or promoter;
- being a bookmaker or participating in any form of illegal gambling;
- having an unfit character or reputation;
- being convicted of misrepresenting yourself or fraud; and
- employing people that fit any of the aforementioned disqualifying characteristics.

In order to obtain a license, an applicant must undergo a thorough background investigation conducted by the Division of Gaming, the rules of which will be determined by the commission. The commission has the authority to grant, suspend, revoke, and renew licenses. Complete information must be disclosed by a corporate applicant regarding the people and subsidiaries involved financially or otherwise with the corporate applicant. A license may be revoked under the following conditions if a licensee:

- has provided misleading information;
- been convicted of a felony or gambling-related offense;
- has the character of someone who does not inspire trust in sports betting;

- has intentionally refused to pay a prize;
- has been delinquent in remitting money to anyone involved in sports betting; or
- fails to ensure the trustworthy operation of sports betting.

The license, and subsequent license renewal fee, cannot exceed \$125,000 and must be renewed every two years.

Conflict of interest restrictions. The following entities may not hold an ownership interest or be employed by a sports betting operator or licensee:

- an athlete, coach, referee, employee, or the director of a sports governing body or any team that is a member of a sports governing body;
- a sports governing body or any of its member teams;
- an agent, union, or union representative that advocates for players, referees, or other personnel involved in sporting events;
- a person who holds a position of authority that may exert influence over participants in a sporting event;
- a person with access to nonpublic information about any sports event overseen by that person's sports governing body; or
- a person identified by the sports governing body to have potential conflicts of interest.

Additionally, members of the gaming commission and employees of the Division of Gaming may not participate in sports betting activities, since they are considered to hold positions of public trust.

Wagers. Each sports betting operator may set bet limits. These limits may be based on the type of sports betting, a specific sporting event, or a person placing the bet. All odds for different wagers must be displayed. A sports governing body may petition the commission to limit a type of wager based exclusively on the actions of a single player. Any suspicious wagering activity must be reported to the limited gaming commission by sports betting operators. If a wager is placed by an ineligible person, the operator will refund the wager if possible, and if not, it will be deposited in the sports betting fund. All bets must be placed within Colorado.

Taxation, revenue, and distributions. Upon voter approval, a ten percent tax will be levied on net sports betting proceeds. All of the revenue generated by this tax will be deposited into the newly created Sports Betting Fund, along with all licensing fees, fines, and penalties. Net sports betting proceeds are the total amount wagered less the 0.25 percent federal excise tax levied on the total amount wagered and less the payout to bettors.

All of the expenses associated with regulating, administering, and investigating sports betting activity will be paid out of the Sports Betting Fund. The treasurer can invest the money in the fund as long as enough money remains to cover administrative expenses at any given time. Any additional funds may be spent by the state and are continuously appropriated.

The distribution of all moneys credited to the Sports Betting Fund shall occur in the following order:

- 1) repayment of General Fund moneys provided for start up costs for the Division of Gaming;
- 2) payment of ongoing Division of Gaming administrative expenses for sports betting. The state treasurer may withhold an amount to cover administrative expenses for the following fiscal year;
- 3) transfer of six percent of the full fiscal year sports betting tax revenue to the Hold Harmless Fund, which will be further distributed to its beneficiaries, as described below;

- 4) transfer of \$130,000 to the Office of Behavioral Health in the Department of Human Services, of which \$30,000 will be allocated to the Rocky Mountain Crisis Partners, or its successor, for the operation of a crisis hotline for gamblers, and \$100,000 will be allocated for the prevention, education, treatment, and workforce development by counselors certified to treat gambling disorders; and
- 5) transfer of the remaining funds to the Water Plan Implementation Cash Fund.

After the initial appropriation to cover startup costs, the bill requires that no state money other than the revenue in the fund will be used to pay the administrative expenses of sports betting in the state.

Hold Harmless Fund. This bill creates the Hold Harmless Fund, which will distribute six percent of total sports betting tax revenue to entities that may see a decrease in revenue if betting behavior shifts from casino-game and parimutuel bets to sports betting. Each entity may submit an annual application to the gaming commission to receive a portion of those funds once it shows the loss in revenue attributable to the implementation of sports betting. If there is not sufficient revenue to cover all documented losses, the gaming commission will decrease distributions by a uniform percentage so that each receives a share proportionate to their losses. The following entities may apply for a distribution from this fund:

- the State Historical Fund;
- community colleges;
- the cities of Black Hawk, Central, and Cripple Creek;
- the counties of Gilpin and Teller; and
- any person or entity that benefits from purse funds, including off-track betting sites and the horse breeders' and owners' awards and supplemental purse fund.

Water Plan Implementation Cash Fund. This bill creates the Water Plan Implementation Cash Fund, which will receive deposits from sports betting revenue and any other money allocated by the General Assembly. Grants may be made from this fund pursuant to Section 37-60-106.3 (6), C.R.S., along with any expenditures that will ensure compliance with interstate water allocation compacts, equitable apportionment decrees, international treaties, and federal laws relating to interstate storage, release, apportionment, and allocation of water. Any expenditures related to the administration of this fund may also be paid out of the fund.

Background

In May 2018, the U.S. Supreme Court effectively removed the prohibition of sports betting for states by overturning the federal Professional and Amateur Sports Protection Act (PASPA) of 1992 in *Murphy v. National Collegiate Athletic Association*. Prior to this decision, only a handful of states were allowed to legalize sports betting, including Nevada. Since the decision, nine states have legalized sports betting, and over a dozen more are considering legislation to legalize it.

In August 2018, the Colorado Attorney General's Office issued an opinion that sports betting is permissible under the Colorado Constitution because it does not conflict with existing provisions related to limited gaming.

Federal tax. The federal government charges a 0.25 percent excise tax on the total amount wagered on sports.

Comparable Crime Analysis

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of an existing crime. The following sections outline data on crimes that are comparable to the offense in this bill and discuss assumptions on future rates of criminal convictions under the bill.

Prior conviction data. This bill creates new class 2 misdemeanor criminal offenses related to online sports betting fees, sports betting licensing, and betting by a person under 21 years old. This bill also creates a new class 6 felony crime of providing false or misleading information to influence the issuance or renewal of a sports betting license. To form an estimate on the prevalence of these new crimes, the fiscal note analyzed the existing Colorado Gaming Act offenses as a comparable crime. From 2016 to 2018, 22 offenders have been convicted and sentenced for Colorado Gaming Act offenses. Of these, there were 17 misdemeanor convictions and 5 felony convictions. The majority of these convictions were for fraudulent taking of money not won. Of the persons convicted, 16 were male, 6 were female. Demographically, 16 were White, 2 were Hispanic, 3 were Asian, and 1 offender was classified as "Other".

Assumptions. This analysis assumes that there will be less than 10 misdemeanor sports betting convictions per year. A high level of compliance among licensees is assumed and because other remedies, such as the suspension or revocation of a license, are possible before filing criminal charges, no felony impacts are anticipated.

Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Revenue

This bill is expected to increase state revenue by between \$6.3 million and \$6.5 million in FY 2019-20 (part-year impact) and by between \$9.7 million and \$11.2 million in FY 2020-21. As the sports betting market matures in the state, revenue is expected to grow around 10 percent in FY 2021-22 to between \$13.5 million to \$15.2 million. Revenue in FY 2019-20 and FY 2021-22 include licensing fees for the initial license and biannual renewal, respectively, for the majority of licensees. Tax revenue generated by this bill results from a voter-approved revenue change and is exempt from TABOR. Fee revenue generated by this bill does not result from a voter-approved revenue change and is subject to TABOR. No TABOR refund is currently expected in FY 2019-20 and FY 2020-21, according to Legislative Council Staff's March 2019 forecast. The revenue impacts are described below.

Tax revenue. Revenue from the 10 percent tax levied on the net sports betting proceeds is expected to total between \$1.3 million and \$1.5 million in FY 2019-20, which reflects two months of revenue, and at between \$8.9 million and \$10.4 million in FY 2020-21. Tax revenue estimates are based on an estimated total amount wagered of between \$1.3 billion and \$1.5 billion in the first full fiscal year. These estimates are based on current sports betting revenue trends in states with similar sports betting structures, adjusted on a per capita basis. The casino win amount is assumed to be about 7 percent of the total amount wagered based on historical trends in Nevada's win amount, as well as trends in states that recently implemented sports betting. In the event the money wagered differs from the assumptions in this fiscal note, the tax revenue may be higher or lower.

License fees. The licensing fee for all master licensee, sports betting operators, and internet sports betting operators is \$125,000 per license. With an estimated 40 license applications submitted during FY 2019-20, this will result in licensing revenue of about \$5.0 million in FY 2019-20. In FY 2020-21, it is assumed an additional 6 license applications will be processed, totaling \$750,000 in revenue. License renewals will occur every two years, so a greater influx of revenue is expected every other year in future years. In the event the number of licenses differs from the assumptions in this fiscal note, the licensing fees may be higher or lower.

Criminal fines and court fees. By creating new misdemeanor sports betting offenses and a new felony offense, this bill will increase state revenue from criminal fines and court fees by a minimal amount beginning in FY 2019-20, credited to the Fines Collection Cash Fund, various other cash funds in the Judicial Department, and the General Fund. The fine penalty for a class 2 misdemeanor is \$250 to \$1,000 and the fine penalty for a class 6 felony is \$1,000 to \$100,000. Additionally, court fees may be imposed on a case-by-case basis for a variety of court-related costs, such as probation supervision, drug surcharges, or late fees. Because the courts have the discretion of incarceration, imposing a fine, or both, a precise state revenue impact cannot be determined. Criminal fine and court fee revenue is subject to TABOR.

State Transfers

This bill is intended to be self-financing, so all expenses for the administration and oversight of sports betting are assumed to be covered by sports betting revenue. The state treasurer may withhold money in the Sports Betting Fund to cover future administrative expenses, but this fiscal note assumes that all revenue will be allocated for the distributions described on pages 3 and 4 of this fiscal note. Table 2 summarizes the minimum expected distributions required from the Sports Betting Fund.

**Table 2
Estimated Distribution of Sports Betting Revenue***

	FY 2019-20	FY 2020-21
General Fund Transfer	\$2,099,997	\$0
Administrative Expenses	\$0	\$2,627,061
Hold Harmless Fund	\$0	at least \$534,000
Office of Behavioral Health	\$130,000	\$130,000
Water Plan Implementation Cash Fund	\$4,121,355	\$6,358,939
Total	\$6,300,000	\$9,650,000

**All estimates are based on the lower end of the revenue estimates and are subject to change as more information becomes available.*

Transfers from the Sports Betting Fund. Based on this projected distribution in Table 2, it is anticipated that there will be a one-time transfer from the Sports Betting Fund to the General Fund of \$2.0 million in FY 2019-20. There will also be a regular transfer to the Water Plan Implementation Cash Fund, estimated at \$4.1 million in FY 2019-20 and \$6.4 million in FY 2020-21. In addition, at least \$534,000 will be transferred to the Hold Harmless Fund starting in FY 2020-21, with this transfer continuing in future years. Other distributions from the fund will be as expenditures of funds for specified purposes, rather than transfers between funds. These other distribution impacts are discussed in more detail in the State Expenditures section.

State Expenditures

Contingent upon voter approval, state expenditures will increase by \$2,048,645 and 12.6 FTE in FY 2019-20, and \$2,757,061 and 24.3 FTE in FY 2020-21, with ongoing expenditure impacts in subsequent years. Administrative costs to implement sports betting are designed to be funded by the revenue generated by the tax and licensing fee revenue associated with sports betting; however, there will be a lag between initial required costs and the incoming revenue under the bill. These expenditure impacts are described below and summarized in Table 3.

**Table 3
Expenditures Under HB 19-1327**

	FY 2019-20	FY 2020-21
Department of Revenue		
Personal Services	\$950,574	\$1,901,145
MyLo Licensing Software Programming	\$22,500	-
GenTax Programming	\$443,500	-
Vehicle Lease Payments	\$34,650	\$34,650
Travel Mileage	\$38,100	\$38,100
Law Enforcement Expenses	\$49,924	\$6,909
Pass-through investigations	\$51,100	\$102,200
Background Checks	\$1,716	-
Operating Expenses and Capital Outlay Costs	\$124,082	\$22,325
Legal Services	\$142,388	\$142,388
Centrally Appropriated Costs*	\$190,111	\$379,344
FTE – Personal Services	11.8 FTE	23.5 FTE
FTE – Legal Services	0.8 FTE	0.8 FTE
Subtotal (DOR)	\$2,048,645	\$2,627,061
Other Programs		
Gambling Treatment Programs (DHS)	-	\$130,000
Subtotal (Other Programs)	-	\$130,000
Total Cost	\$2,048,645	\$2,757,061
Total FTE	12.6 FTE	24.3 FTE

* Centrally appropriated costs are not included in the bill's appropriation.

Department of Revenue. This bill will require 11.8 FTE in FY 2019-20 (part-year impact) and 23.5 FTE in FY 2020-21 (full-year impact). The Division of Gaming (DOG) within the Department of Revenue is responsible for the administration and enforcement of sports betting. DOG assumes that 12 master licenses and 28 operator licenses will be applied for under this bill during the first year based on surveys of casinos currently operating in Colorado. Background investigations take up to 1,400 hours each to complete, and can last between five and six months. Additionally, key licensees, who are responsible for sports betting operations on licensed premises at all times, will be investigated. It is estimated that 242 key licenses will be issued.

Under DOG, the background and field investigations group requires 8.0 FTE to perform all criminal and financial background investigations for all license holders. These investigations occur during the licensing process, as well as on an ongoing basis. The technical systems group requires 5.0 FTE to review all IT systems and procedures, including testing and ensuring the security of any new software. The auditing section requires 6.0 FTE to ensure that all regulations and rules are followed, verify funds, and review all financial processes. The executive director's office at the Department of Revenue will administratively support DOG with 4.5 FTE, including accounting technicians, a budget and policy analyst, and a purchasing agent. Personal costs are prorated in FY 2019-20 for a January 1 start date.

The MyLo computer system tracks and manages all licenses within the sports betting group, including the data, license types, application and supporting documentation, and any changes made to licenses. The programming costs of \$22,500 will update the system to account for the new license types.

The GenTax software system is used by the DOG to track sports betting tax returns and track annual financial statements related to sports betting. The system changes required by the bill will total 1,774 hours of programming, at \$250 per hour, for a total of \$443,500.

Department of Law. The Department of Law provides legal guidance to the DOG for rule making, promulgation, legal representation, and handling complex investigative cases. Approximately 1,374 hours, or 0.8 FTE are required to assist with the sports betting division.

Judicial Department. This bill will increase costs and workload for the trial courts in the Judicial Department to process sports betting criminal case filings. To the extent that offenders are sentenced to probation, costs and workload in the Division of Probation will increase. Costs and workload may also increase in the agencies that provide representation to indigent persons, including the Office of the State Public Defender and the Office of Alternate Defense Council. Overall, it is assumed that this workload can be accomplished within existing appropriations. Should a change in funding be required for any agency or division with the Judicial Department, the fiscal note assumes it will be addressed through the annual budget process.

Department of Corrections. To the extent that this bill increases the number of persons sentenced to prison for felony false or misleading sports betting license information, Department of Corrections costs will increase. However, at this time it is assumed that the likelihood of persons being sentenced to the custody of the DOC is minimal and that any increase in costs will be addressed through the annual budget process, if necessary.

Other programs. As listed in the State Transfers section, the bill distributes funds to certain programs and purposes, which will increase state expenditures. Specifically, starting in FY 2020-21, expenditures will increase by \$130,000 in the Department of Human Services to provide gambling treatment services through specified organizations.

Other distributions. This bill will result increase available funds for spending from the Water Plan Implementation Cash Fund and the Hold Harmless Fund. Future expenditures from these funds are not specified in this fiscal note.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$190,111 in FY 2019-20 and \$379,344 in FY 2020-21.

Election expenditure impact — existing appropriations. This bill includes a referred measure that will appear before voters at the November 2019 general election. While no additional appropriation is required in this bill, certain election costs are incurred by the state when ballot measures are referred to voters. These costs, paid using existing appropriations, are in two areas. First, current law requires the state to reimburse counties for costs incurred conducting a ballot measure election, paid from the Department of State Cash Fund in the Secretary of State's Office, estimated at \$3.2 million in FY 2019-20. Second, the text and title of the measure must be published in one legal newspaper per county and an analysis of the measure must be included in the Ballot Information Booklet mailed to all registered voter households, paid from the Ballot Analysis Revolving Fund in the Legislative Department, which is estimated to cost \$920,000 in FY 2019-20. Publication costs increase by approximately \$115,000 per measure beyond this base amount for each additional referred or initiated measures placed on the ballot.

Local Government

This bill will impact tax revenue in the three gaming towns if sports betting results in a lesser amount of money bet on limited gaming activities and if the distribution from the Hold Harmless fund from sports betting revenue does not offset this loss. This bill is also expected to increase local government revenue, costs, and workload as described below. The exact impact to a particular local government will vary depending on the number of offenses committed within its jurisdiction.

District attorneys. The bill increases workload and costs for district attorneys to prosecute sports betting offenses. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

County jails. To the extent that offenders are sentenced to county jail for misdemeanor sports betting offenses, this bill will increase county jail costs. However, because the courts have the discretion of incarceration or imposing a fine, the precise county impact cannot be determined. Under current law, the state reimburses county jails for housing state inmates. Based on a 2018 Joint Budget Committee Staff county jail survey, the average cost to house an offender in a county jail is \$98.83 per day, but varies significantly from \$43.65 to \$350.21 per day depending on the county. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.93.

Denver County Court. The bill increases revenue, costs and workload for the Denver County Court, which is managed and funded by the City and County of Denver, to try misdemeanor cases under the bill. Probation services in the Denver County Courts may also experience an increase in revenue, costs, and workload revenue to supervise persons convicted under the bill within Denver County.

Effective Date

The bill was signed into law by the Governor on May 29, 2019, and took effect on August 2, 2019; except for sections 1 to 3, 6, 7, 12, and 13, which take effect May 1, 2020, only upon voter approval during the November 2019 statewide election.

State Appropriations

For FY 2019-20, this bill requires a General Fund appropriation of \$1,858,534 to the Department of Revenue, of which \$142,388 and 0.8 FTE will be reappropriated to the Department of Law, \$34,650 will be reappropriated to the Department of Personnel, and \$1,716 will be reappropriated to the Department of Public Safety.

State and Local Government Contacts

Information Technology

Law

Revenue