



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number: LLS 22-0882
Prime Sponsors: Rep. Garnett

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Bill Status: House Finance
Fiscal Analyst: Anna Gerstle | 303-866-4375
David Hansen | 303-866-2633

Bill Topic: **RESPONSIBLE GAMING GRANT PROGRAM**

Summary of Fiscal Impact:

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

The bill creates a grant program to promote responsible gaming and address problem gaming, modifies free bets for the purpose of calculating net sports betting proceeds, and makes a variety of other changes to the regulation of gaming and the state lottery. The bill impacts state transfers, increases state revenue and expenditures.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$200,000 to the Department of Revenue. See State Appropriations Section.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 22-1402

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue	Cash Fund	\$2.6 million	\$5.9 million
	Total Revenue	\$2.6 million	\$5.9 million
Expenditures	Cash Fund	\$2,850,000	\$2,700,000
	Centrally Appropriated	\$13,515	\$16,618
	Total Expenditures	\$2,863,515	\$2,716,618
	Total FTE	0.8 FTE	1.0 FTE
Transfers	Limited Gaming Fund	(\$2,500,000)	(\$2,500,000)
	Responsible Gaming Grant Prog. CF	\$2,500,000	\$2,500,000
	Sports Betting Fund	(\$2,646,164)	(\$6,071,139)
	Wagering Recipients Hold-Harm. CF	\$158,770	\$356,468
	Water Plan Implementation CF	\$2,487,394	\$5,714,671
	Net Transfer	\$0	\$0
Other Budget Impacts		-	-

Summary of Legislation

Responsible Gaming Grant Program. The bill creates the Responsible Gaming Grant Program in the Department of Revenue (DOR) to promote responsible gambling and address problem gambling. The Limited Gaming Control Commission, in collaboration with the Behavioral Health Administration (BHA), must administer the program and award grants. The bill specifies the contents of grant applications and evaluation criteria for making awards. By September 1, 2023 and each year thereafter, grantees must report to the commission on how the grant was used, and by December 1, 2023 and each year thereafter, the commission must submit a summary report to the relevant legislative committees and the BHA.

Cash fund. The bill creates the Responsible Gaming Grant Program Cash Fund, which is continuously appropriated to the DOR and exempt from the limit on uncommitted reserves. The fund consists of the following:

- money in the Wagering Revenue Recipients Hold-Harmless Fund that is not disbursed within two years of being credited to the fund, to be transferred on December 31, 2023, and annually thereafter;
- \$2.5 million transferred to the fund from the Limited Gaming Fund, beginning in FY 2022-23 and each year thereafter;
- any gifts, grants, and donations; and
- any other money appropriated to the fund by the General Assembly.

The commission may spend up to 5 percent of the grant amount awarded in given year for administrative expenses. The program is repeated September 1, 2032, after a sunset review.

Free bets. The bill modifies the amount of free bets that may be deducted from net sports betting proceeds. Until January 1, 2023, a sports betting operator or internet sports betting operator may include all free bets placed, and carry forward unused free bet credits accumulated on or before November 30, 2022. After January 1, 2023, a sports betting operator or internet sports betting operator must only include a portion of the total free bets placed, as follows:

- up to 2.5 percent of the total amount of all bets, from January 1, 2023 through June 30, 2024;
- up to 2.25 percent of the total amount of all bets, in FY 2024-25;
- up to 2.0 percent of the total amount of all bets, in FY 2025-26; and
- up to 1.75 percent of the total amount of all bets, after July 1, 2026.

A sports betting operator or internet sports betting operator may not carry over free bets in excess of the deduction; or carry forward any unused free bet credits accumulated before January 1, 2023.

Distribution of sports betting revenue. Under current law, \$130,000 in sports betting revenue is transferred to the Colorado Department of Human Services (CDHS) for a gambling addiction hotline, and for prevention, education, and treatment services. Beginning January 1, 2024, the transfer is repealed.

Exclusion of certain individuals. On or after January 1, 2023, the Division of Gaming in the DOR must operate a program to exclude the following individuals from participation in gaming activities:

- individuals who have voluntarily requested to be excluded, through a process established by the division;
- individuals who are required by the commission to be excluded or ejected from a licensed gaming establishment, as is currently allowed; and
- certain sports betting individuals from placing wagers on certain sporting events.

Rules for this provision must be adopted by November 1, 2022, and a list of excluded individuals must be provided to licensed gaming operators.

Reporting. By October 1, 2023, and each year thereafter, retail licensees, sports betting operators, and internet sports betting operators must submit a report to the division that describes efforts of the licensee to promote responsible gaming via advertising and other promotional methods.

Lottery changes. For FY 2022-23 and each year thereafter, the bill requires that the General Assembly appropriate \$200,000 from the Lottery Fund to the Lottery Division for the promotion of responsible gaming in the state. The bill repeals the provision that the Lottery Commission rules must require instant scratch game tickets be sold on a cash only basis.

Background

Sports Betting. Following voter approval in November 2019, House Bill 19-1327 took effect and allowed both in-person and online sports betting beginning May 2020. The legislation established a 10 percent tax on net sports betting proceeds, and created the Sports Betting Fund, the Wagering Recipients Hold-Harmless Fund, and the Water Plan Implementation Fund. After covering administrative expenses, 6.0 percent of sports betting tax revenue is transferred to the Hold-Harmless Fund, \$130,000 is transferred to the Office of Behavioral Health in the Department of Human Services, and remaining funds are transferred to the Water Plan Implementation Fund.

Under current law, net sports betting proceeds are equal to wagers less payments to players, a 0.25 percent federal excise tax, and free bets. Since inception, free bets have totaled about 3.6 percent of total wagers.

Sports betting revenue is comprised of license fees, operations fees, other charges for services, and tax revenue, among other sources. License fees, operations fees, and other charges for services are subject to TABOR while sports betting tax revenue is TABOR exempt. In FY 2020-21, sports betting wagers totaled more than \$2.7 billion and \$2.6 billion was paid out to players. In FY 2020-21, sports betting tax revenue totaled \$8.1 million, resulting in a transfer of \$488,782 to the Wagering Recipients Hold-Harmless Fund.

Wagering Recipients Hold-Harmless Fund. Created by House Bill 19-1327, the hold-harmless fund distributes payments to communities or entities that may have lost revenue due to sports betting. Payments are distributed through an application process administered by the gaming commission.

Water Plan Implementation Cash Fund. Created by House Bill 19-1327, the fund awards grants to eligible applicants for local public and private water conservation plans, water supply and conservation projects, and other approved engagement and water projects. Funds are also used for 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.

State Revenue

The bill will increase sports betting tax revenue by \$2.6 million in FY 2022-23 and by \$5.9 million in FY 2023-24, with increasing impacts in subsequent years with further growth in wagers and limited free bet deductions. Sports betting tax revenue is deposited in the Sports Betting Fund and is exempt from TABOR.

Sports betting tax revenue data and assumptions. The bill will increase sports betting tax revenue from FY 2022-23 to FY 2026-27 as the amount of free bets that may be deducted incrementally decreases as a share of wagers. This analysis assumes the amount of wagers and payments to players increases by 68 percent from FY 2020-21 to FY 2021-22, in line with the year-over-year increase in wagers from March 2021 to March 2022. Wagers and payments are assumed to increase another 10.0 percent in FY 2022-23 and 5.0 percent in FY 2023-24. Further, the analysis assumes free bets comprise 3.6 percent of wagers through the analysis period based on data from the Division of Gaming in the Department of Revenue. Assuming wagers continue to grow at 5.0 percent each year starting in FY 2023-24, sports betting tax revenue could increase by around \$11.5 million by FY 2026-27.

Gifts, grants, and donations. The bill potentially increases state revenue from gifts, grants, or donations for the grant program; however, no sources have been identified at this time. Gifts, grants, and donations are exempt from TABOR revenue limits.

State Transfers

The bill creates new transfers to the new Responsible Gaming Grant Program Cash Fund and impacts the amount of funds transferred under existing sports betting distributions, as described below.

Transfers to Responsible Gaming Grant Program Cash Fund. Beginning in FY 2022-23, the bill annually transfers \$2.5 million from the Limited Gaming Fund to the newly created Responsible Gaming Grant Program Cash Fund. In addition, beginning December 31, 2023, the bill annually transfers to the Responsible Gaming Grant Program Cash Fund any money in the Wagering Revenue Recipients Hold-Harmless Fund that is not disbursed within two years of being credited to the hold harmless fund. This amount has not been estimated.

Sports Betting Fund distributions. Increased sports betting tax revenue under the bill will increase distributions from the Sports Betting Fund to the Wagering Recipients Hold-Harmless Fund and the Water Plan Implementation Cash Fund, as shown in Table 2. Distributions to the Hold-Harmless Fund equal 6.0 percent of sports betting tax revenue as estimated above in the State Revenue section. Funds distributed to the Water Plan Implementation Fund depend on administrative expenses for the Division of Gaming in the Department of Revenue. Table 2 also reflects the repeal of the transfer to CDHS, which increases the transfer to the Water Plan Implementation Cash Fund by \$130,000. This analysis assumes annual administrative expenses total \$3.5 million beginning in FY 2022-23.

**Table 2
 Sports Betting Tax Revenue Distributions Under HB 22-1402**

	FY 2022-23	FY 2023-24
Sports Betting Fund	(\$2.6 million)	(\$6.0 million)
Wagering Recipients Hold-Harmless Fund	\$158,770	\$356,468
Water Plan Implementation Cash Fund	\$2.5 million	\$5.7 million
Total	\$0	\$0

State Expenditures

The bill increases state expenditures in the DOR by \$2.9 million in FY 2022-23 and \$2.7 million in FY 2023-24. Costs are split between the Lottery Fund, newly created grant program fund, and Limited Gaming Fund. Expenditures are shown in Table 3 and detailed below.

**Table 3
 Expenditures Under HB22-1402**

	FY 2022-23	FY 2023-24
Department of Revenue		
Personal Services	\$61,309	\$73,571
Operating Expenses	\$1,080	\$1,350
Capital Outlay Costs	\$6,200	-
Database Costs	\$150,000	-
Grants	\$2,431,411	\$2,425,079
Lottery Outreach	\$200,000	\$200,000
Centrally Appropriated Costs ¹	\$13,515	\$16,618
Total Cost	\$2,863,515	\$2,716,618
Total FTE	0.8 FTE	1.0 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Revenue. The bill increases expenditures in the Division of Gaming and the Lottery Division within the DOR.

- **Limited Gaming Division.** This division requires 1.0 FTE beginning in FY 2022-23 to manage the grant program and the exclusion program. Staffing costs are prorated for a September start date in the first year, and standard operating and capital outlay costs are included. After administrative costs, about \$2.4 million will be available for grants. These costs are from the Responsible Gaming Grant Program Cash Fund.

The division will also require \$150,000 in FY 2022-23 for the creation of a database to track the number of free bets, ensure compliance with free bet limits, and report on entities that exceed the new free bet limits, and manage the list of individuals who are not allowed to gamble. These costs are assumed to be from the Limited Gaming Fund. Workload will also increase to promulgate rules to align with the bill.

- **Lottery Division.** The bill provides \$200,000 in spending authority for the Lottery Division to promote responsible gaming in the state. It is expected to be used for marketing and problem gambling outreach. Workload will also increase to adopt rules to align with repealing the cash only purchases of scratch games.

Behavioral Health Administration. The BHA in the Colorado Department of Human Services will have increased workload to collaborate with the DOR to implement the grant program.

Other state programs. As discussed in the State Transfer section, the bill transfers \$2.5 million from the Limited Gaming Fund for the grant program, which correspondingly reduces the amount of limited gaming revenue distributed to the General Fund that is available to fund other state programs. Similarly, the increase in the amount transferred to the funds listed in Table 2 will result in additional funding being available for entities that may have lost revenue due to sports betting, and for water plan projects.

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 shown in Table 2.

Local Government

The bill will increase money in the Wagering Recipients Hold-Harmless Fund and the Water Plan Implementation Cash Fund that could increase grants to cities and counties depending on approved applications for hold-harmless funds and water conservation projects. The impact to local governments has not been estimated.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, except that changes to the distribution of sports betting revenue take effect January 1, 2024.

State Appropriations

In FY 2022-23, the bill requires an appropriation of \$200,000 from the Lottery Fund to the Department of Revenue.

The Responsible Gaming Grant Program Cash Fund and Limited Gaming Fund are continuously appropriated to the Department of Revenue, which requires 0.8 FTE.

State and Local Government Contacts

Human Services

Information Technology

Revenue