



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

HOUSE BILL NO. 271

PRINTERS NO. 1942

PRIME SPONSOR: Ortitay

### REVENUE INCREASE / (DECREASE)

FUND	FY 2016/17	FY 2017/18
General Fund	\$0	See Fiscal Impact
State Lottery Fund	\$0	See Fiscal Impact
Other Special Funds of the Commonwealth	\$0	See Fiscal Impact
Local Share Accounts	\$0	See Fiscal Impact

**SUMMARY:** House Bill 271, Printer's Number 1942, amends Title 3 (Agriculture), Title 4 (Amusements) and Title 18 (Crimes and Offenses) repealing definitions and further providing for licensing costs, fees and operation in race horse industry reform; providing for fantasy contests; iLottery; interactive gaming; sports wagering; slot machines at nonprimary locations; video gaming; multi-use gaming devices in qualified airports; casino simulcasting at Category 2 and Category 3 facilities; the operation of multistate wide-area progressive slot machines, hybrid slot machines and skill slot machines; casino liquor licenses; and slot machine license fees. The legislation establishes the Lottery Sales Advisory Council; the Video Gaming Fund; the Fire Company and Emergency Responder Grant Fund; the City of the First Class Enforcement Fund; the Lottery Stabilization Fund; and the Gun Violence Task Force Fund. The legislation further provides for definitions; powers and duties of the Pennsylvania Gaming Control Board (Board) and the Department of Revenue (DOR); license applications, appeals, renewals and fees; testing and certification; authorization and conduct of table game tournaments; local share assessment; regulatory assessments; nongaming service providers; special funds of the Commonwealth; compulsive and problem gambling; investigation and enforcement; appropriations; repayment of loans; prohibited acts and penalties, other miscellaneous, technical and editorial changes; and making related repeals.

**ANALYSIS:** This legislation makes various changes to Titles 3, 4 and 18 of the Pennsylvania Consolidated Statutes by expanding, enhancing and providing for the oversight and regulation of the gaming industry in the Commonwealth as well as providing for local share assessments, distributions and transfers of gaming revenues. More specific details on the changes included in the legislation and the fiscal impact of each provision are provided below:

### Title 3 (Agriculture)

The definitions of “primary market area of a racetrack” and “secondary market area of a racetrack” are repealed. The electronic wagering license fee is reduced from \$500,000 to \$50,000 and the renewal fee for an electronic wagering license is reduced from \$100,000 to \$10,000. These fees are deposited into the State Racing Fund

### Fantasy Contests - (Chapter 3)

Fantasy contest license applications shall be submitted to the board for providing online fantasy or simulated games or contests with an entry fee and a prize or award offered to winning participants. No winning or outcome shall be based on the score, point spread or performance of a single actual team or combination of teams or solely on a single performance of an individual athlete or player in a single actual event. A nonrefundable application fee shall be paid which may not exceed the amount necessary to reimburse the board for all costs incurred in the application process or exceed an amount equal to 5% of the applicant’s fantasy contest adjusted revenues for the previous calendar year.

Within 30 days of the issuance of a fantasy contest license by the board, the applicant shall pay a license fee which shall be deposited into the General Fund. The license fee shall be \$50,000 or an amount equivalent to 7.5% of the applicant’s fantasy contest adjusted revenues for the previous calendar year, whichever is less, except that an applicant who is also a licensed gaming entity shall pay \$50,000. Licenses shall be renewed every 5-years. Within 30 days of the board renewing a license, the licensee shall pay a renewal fee which is the lesser of \$5,000 or 7.5% of the applicant’s fantasy contest adjusted revenues for the previous calendar year which shall be deposited into the General Fund.

Each fantasy contest licensee shall file a monthly report with the department and pay a tax equal to 19% of its fantasy contest adjusted revenue for the previous month. All taxes owed shall be held in trust for the Commonwealth until paid to the department. Taxes paid to the department shall be deposited into the General Fund.

The department shall assess each licensed operator a percentage of its fantasy operator’s contest adjusted revenues which shall be used to recover costs or expenses incurred by the board and the department in carrying out the duties and responsibilities under this chapter as well as repay the loans made by the General Fund to begin implementing the chapter.

The Fantasy Sports Report published by the board in May 2016 indicated that the arena of fantasy sports is rapidly expanding and estimates that more than \$3 billion in entry fees from approximately 4.5 million players were paid in 2015 alone which generated revenue of \$300 million for the industry after the payout of winnings. Historically, Pennsylvania’s population represents 4% of the United States population. Using this as a proxy, it is estimated that a fantasy contest tax of 19% would generate \$2,280,000 annually for the General Fund. For purposes of this analysis it is assumed that 5 entities will apply for and operate fantasy contests in PA which would generate \$250,000 in license fees in 2017-18. Assuming the licensees begin operating by January 1, 2018, this will result in 5 months of collections of revenues estimated to be \$950,000. These monies are deposited into the General Fund.

### Lottery (Chapter 5)

Establishes the Lottery Sales Advisory Council comprised of the Secretary of Revenue, Director of the Division of the State Lottery, a representative from the Department of Aging, a representative from the Statewide Food Merchants Association, licensed lottery sales agents and any other individual at the discretion of the department. The Council shall operate in an advisory, nonbinding capacity with the purpose of increasing the partnership between the State Lottery and licensed lottery sales agents and develop policy recommendations for increased lottery sales.

The legislation establishes a minimum lottery sales agent commission to be no less than 5.5% (current commissions are 5.0%). Beginning one year after the effective date the minimum commission shall be no less than 6.0%. Lottery sales agents are permitted to redeem a winning ticket for a prize amount of \$2,500 or less and the secretary shall provide a cash redemption bonus to the licensed lottery sales agents in an amount that shall be no less than 1%. It is estimated that these provisions will result in additional commissions of \$8.5 million to lottery sales agents.

### iLottery

This legislation authorizes the Department of Revenue to operate iLottery and Internet instant games. iLottery and Internet instant games are lottery games of chance in which, by the use of a computer, tablet computer, other mobile device or other web or mobile applications a player purchases a lottery play that reveals numbers, letters or symbols indicating whether a lottery prize has been won. All revenues from the sales of iLottery will be deposited into the State Lottery Fund. According to the Department of Revenue in fiscal year 2017-18 iLottery sales are estimated to be \$86.3 million which generates \$19 million in profits for the Lottery Fund based on an October 1, 2017, launch date.

### Category 3 Licenses

This legislation removes the amenity requirement on Category 3 licensees. Category 3 licensees in existence as of January 1, 2017 are required to remit a one-time nonrefundable fee of \$1 million. A category 3 license issued after January 1, 2017 shall be required to remit a one-time nonrefundable fee of \$1.0 million. A one-time fee of \$2.5 million is required for a Category 3 licensee to add up to 250 slot machines and a one-time fee of \$1.0 million is required to add up to 15 gaming tables. Finally, the legislation provides that the board may issue no more than two Category 3 licenses, eliminating the ability of the board to issue a third license.

This provision will generate an additional \$9 million in 2017-18 assuming the 2 currently operating Category 3 facilities apply for additional slot machines and gaming tables. These license fees are deposited into the General Fund

### Category 1 Licenses

This legislation provides that the board may not accept an application for or issue a Category 1 license for the period starting on the effective date through July 1, 2020.

### Category 2 Licenses

The board shall create an expedited approval process that prioritizes the issuance of any remaining Category 2 slot machine licenses not issued prior to the effective date.

### Slot Machine License Operation Fee

This legislation imposes an annual slot machine license operation fee on all Category 1 and 2 licensed gaming entities in the amount of 20% of the entity's slot machine license fee paid at issuance (\$50 million). The fee will generate \$10 million annually from each licensed entity. Fees collected are deposited into the State Gaming Fund to be used for purposes of local share distributions. Changes are made to various local share assessment distributions to counties and municipalities. These changes will have no impact on Commonwealth funds.

### Interactive Gaming (Chapter 13B) and Multi-Use Computing Devices (Subchapter B.1)

Slot machine licensees are authorized to conduct interactive gaming. There is a one-time nonrefundable fee of \$8 million for conducting interactive gaming. Licensees may contract with an interactive gaming operator. There is a one-time nonrefundable fee of \$2 million for each operator. An operator may also conduct interactive gaming at a qualified airport. The one-time nonrefundable fee is \$5 million for an international airport located partially in a county of the first class and partially in a county contiguous to a county of the first class; \$2.5 million for an international airport located in a county of the second class; \$1 million for an international airport located in a county other than a county of the first or second class; and \$250,000 for a qualified airport that has not been designated an international airport.

The tax rate on interactive gaming is 16% of the daily gross interactive gaming revenue. Additionally, a 3% local share assessment is applied to the daily gross interactive gaming revenue with 2% going to the Department of Community and Economic Development for grants to any county and 1% to the host county. The tax rate for airport gaming is 16% of the daily gross interactive gaming revenue. Additionally, 20% of the daily gross interactive gaming revenue is distributed to the qualified airport.

The greater of \$2 million or 0.2% of gross interactive revenue shall be allocated to the Compulsive and Problem Gambling Treatment Fund. Similarly, the greater of \$2 million or 0.2% of gross interactive revenue shall be allocated for Drug and Alcohol programs.

The authorization of interactive gaming will result in \$96 million in license fees in 2017-18 assuming all current slots licensees conduct interactive gaming. Furthermore, assuming each licensee contracts with one operator, this will result in \$24 million in operator license fees in 2017-18. Finally, there are 8 qualified airports in the Commonwealth in which interactive gaming will be authorized. If an operator chooses to conduct interactive gaming in each of the 8 qualified airports, this would generate \$12 million in license fees in 2017-18. It is estimated that a full year of collections of the tax on interactive gaming (including airport gaming) would generate \$52.5 million. Assuming interactive gaming (including airport gaming) is up and operating by January 1, 2018, additional tax revenues estimated to be \$21.9 million will be generated. After the transfer of \$2 million each for compulsive gambling and drug and alcohol, a total of \$17.9 million in revenues will be deposited into the General Fund in 2017-18. Additionally, a total of \$3.75 million is estimated to be generated for local share distribution in 2017-18 from iGaming which annualizes when fully phased-in to \$9 million and a total of \$2.38 million is estimated as the local share distribution to qualified airports which annualizes to \$5.71 million.

### Sports Wagering (Chapter 13C)

The board is given the authority to establish standards and procedures to govern sports wagering in the Commonwealth in the event that sports wagering is authorized under Federal law. The Secretary of the Commonwealth shall publish notice in the Pennsylvania Bulletin certifying the enactment or filing of a court decision that affirms the authority of a state to regulate sports wagering. A licensed casino would be able to apply for a sports wagering license to conduct sports wagering at the casino, a nonprimary location or online. A sports wagering license fee is \$10 million. The tax rate is 16% with a local share of 2%. All fees and taxes would be deposited into the General Fund.

### Slot Machines at Nonprimary Locations (Chapter 13D)

Each Category 1 licensee may make slot machines available at up to 4 nonprimary locations. Each nonprimary location may have up to 250 slot machines. There is a one-time nonrefundable fee of \$5 million for each nonprimary location. The tax rate on slot machines at nonprimary locations is set at 50% and the revenues will be deposited into the General Fund. A local share assessment will be imposed at 4% with 2% being distributed as grants through the Commonwealth Financing Authority (CFA) to the host county and 2% being distributed to the host municipality.

Currently there are 10 nonprimary locations operating and assuming all 10 place 250 slots in its location will result in a total of \$50 million in license fees in 2017-18. It is estimated that \$56.7 million in tax revenue will be received in a fiscal year when fully implemented. Assuming slots are placed into operation at nonprimary locations beginning January 1, 2018, it is estimated that \$23.6 million in tax revenues will be deposited into the General Fund in 2017-18. Additionally, a total of \$1.89 million is estimated to be generated for local share distribution in 2017-18 which annualizes when fully phased-in to \$4.54 million.

### Casino Simulcasting (Chapter 13F)

This legislation authorizes category 2 and category 3 licensed facilities to conduct casino simulcasting or enter into an agreement or agreements with a licensed racing entity or other person for the conduct of casino simulcasting. Casino simulcasting permits shall not be subject to the payment of an authorization fee, renewal fee or the payment of an additional permit fee. A tax equal to 2% of the amount wagered shall be paid by the licensed entity and shall be deposited into the General Fund. This provision will result in an unknown amount of additional revenues to the General Fund which is believed to be minimal.

### Regulatory Assessments

Beginning July 1, 2017, the regulatory assessment rate shall not exceed an amount equal to 1.7% of the slot machine licensee's gross terminal revenue. Beginning July 1, 2018, and each year thereafter, the regulatory assessment rate shall not exceed an amount equal to 1.5% of the slot machine licensee's gross terminal revenue. The amount of the assessment for the 2016-17 fiscal year was 1.7% and the Department of Revenue anticipates the assessment to increase to 1.9% on August 1, 2017. This legislation provides additional funds for the oversight and regulation of the gaming industry through regulatory assessments on the new and expanded gaming.

### Casino Liquor Licenses

This legislation authorizes casinos to purchase a permit to sell liquor 24 hours a day and 7 days a week. The fee is \$1 million for a 5-year license with an annual renewal fee of \$50,000 starting in year 6. Assuming all 12 casinos purchase the permit will generate \$12 million in fees for the General Fund in fiscal year 2017-18.

### Casino Loan Repayments

The board shall establish a schedule, no later than September 30, 2017, for repayment of the \$36.1 million in loans which were provided as start-up costs with the enactment of Act 71 of 2004. The repayment schedule shall commence no later than January 1, 2018, and the total amount of the loan shall be repaid by June 30, 2019. All loan repayments shall be deposited into the General Fund. Repayments shall be made over a period of 18 months and for purposes of this analysis it is assumed that the General Fund will received repayments totaling \$12 million in 2017-18.

### Video Gaming (VGT's)

This legislation permits up to 5 VGT's on the premises of a licensed establishment and 10 VGT's on the premises of truck stops. A VGT license application fee of \$100 shall be paid with the filing of the application. Manufacturer license application fees are \$50,000. Terminal Operator license application fees are \$10,000.

The tax rate on VGT's is 37.5% of gross revenue which will be deposited into the Video Gaming Fund and the following shall be transferred out of the fund annually: \$2.5 million to the Compulsive and Problem Gambling Treatment Fund; \$2.5 million to the Fire Company and Emergency Responder Grant Fund; \$2.5 million to the Department of Drug and Alcohol Programs for drug and alcohol addiction treatment services; \$3 million to the City of the First Class Enforcement Fund; and \$2 million to the Gun Violence Task Force Fund. In 2017-18 a total of \$38 million shall be transferred to the State Lottery Fund and in subsequent years the amount transferred shall be determined by the General Assembly to make the State Lottery Fund whole. In 2018-19 and thereafter, 3.5% of the gross terminal revenue from video gaming shall be transferred to the Lottery Stabilization Fund. Any remaining monies shall be transferred to the General Fund at the end of each fiscal year.

A 4% local share is imposed with 2% being distributed to the Commonwealth Financing Authority (CFA) for grants in host counties and 2% distributed to the host municipalities to be used for blight, police, fire and EMS and economic development purposes.

There are approximately 13,500 establishments eligible for a video gaming license. When fully phased-in, it is estimated that 60% of the eligible establishments apply for a video gaming license and place 4 VGT's in the establishment for a total of 32,400 VGT's in operation. It is assumed that each VGT will produce \$30,000 of revenue annually (\$82 per day) which will generate \$364.5 million from the 37.5% tax on the gross revenue to be deposited in the Video Gaming Fund.

In fiscal year 2017-18 it is assumed that \$70.6 million in revenues will be generated from the 37.5% tax and deposited in the Video Gaming Fund. As VGT's are placed into operation during the fiscal year, this equates to the revenues that would be generated from approximately 6,300 VGT's operating for a full year. A total of \$50.5 million will be transferred from the Video Gaming Fund to special funds of the Commonwealth as detailed above leaving \$20.1 million to be transferred to the General Fund in 2017-18. Additionally, a total of \$16.2 million is estimated to be generated for local share distribution in 2017-18 which annualizes when fully phased-in to \$38.9 million.

### Appropriations

The following appropriations are made for fiscal year 2017-18 and shall be considered loans to be repaid by terminal operators beginning two years from the date the board authorizes the first video gaming terminal to be connected to the central computer system through an assessment of 0.05% of gross terminal revenue on a bi-monthly basis until the loan has been repaid in its entirety:

- \$5 million to the Gaming Control Board
- \$3 million to the Department of Revenue
- \$2 million to the Pennsylvania State Police

**FISCAL IMPACT:** All licenses, fees and taxes established in the legislation are deposited into the General fund unless otherwise noted in the analysis above. It is estimated that this legislation will generate a total of \$357 million in additional revenues from the payment of licenses and fees and collections of both State tax revenues and local share assessments in fiscal year 2017-18. The receipt of the additional tax revenues in the General Fund from the expanded and enhanced gaming provisions in this legislation depends on the ability of the board to approve licenses authorizing the entities and the ability of the entities to begin providing the expanded and enhanced gaming options to customers. It is believed that the General Fund and the local share assessment will begin to see a portion of this tax revenue in 2017-18. The General Fund is estimated to receive additional revenues of \$267.8 million; the Lottery Fund is estimated to receive additional revenues of \$48.5 million; all other special funds of the Commonwealth are estimated to receive \$16.5 million; and a total of \$24.2 million is estimated to be received as local share assessment to be distributed to counties and municipalities. These amounts are net of the appropriations that are provided in the legislation.

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**DATE:** June 12, 2017 (Updated)

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*