

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5525-05  
Bill No.: Truly Agreed To and Finally Passed SS for SCS for HCS for HB 1941  
Subject: Taxation and Revenue - General; Gambling  
Type: Original  
Date: June 10, 2016

Bill Summary: This proposal provides licensing and taxation for daily fantasy sports games.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	Unknown	Unknown	Unknown
<b>Total Estimated Net Effect on General Revenue</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Gaming Proceeds for Education Fund	\$498,333	\$598,000	\$598,000
Gaming Commission Fund	(\$54,946)	(\$52,988)	(\$54,280)
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$443,387</b>	<b>\$545,012</b>	<b>\$543,720</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 9 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
Gaming Commission	2 FTE	2 FTE	2 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>2 FTE</b>	<b>2 FTE</b>	<b>2 FTE</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
Local Government	\$0	\$0	\$0

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Department of Public Safety - Gaming Commission (GAM)** assume there will initially be two companies which will be interested in obtaining a license in Missouri. GAM also assumes there would be approximately 7 Key licensees, 4 Level I licensees, and 10 Level II licensees.

GAM assumes it will be necessary to have two new full-time positions for regulatory monitoring, tracking and auditing of fantasy contest activity in Missouri totaling approximately \$155,469 annually for salary and fringe benefits. The positions necessary would be a Financial Auditor and an Auditor II. The background investigations would be absorbed by the current Missouri State Highway Patrol background investigators.

**Oversight** assumes the costs for these positions would be \$124,689 for FY17 (10 months), \$143,796 for FY18 and \$144,889 for FY19 based on a starting salary for all positions at two steps above the base salary. This decision reflects a study of actual starting salaries for new state employees and policy of the Joint Committee on Legislative Research.

§313.970 of this proposal states, “A fantasy sports contest operator wishing to offer fantasy sports contests in this state shall annually apply to the commission for a license and shall remit to the commission an annual application fee of ten thousand dollars or ten percent of the applicant’s net revenue from the previous calendar year, whichever is lower.” These fees are to be deposited in the Gaming Commission Fund created under section 313.835.

§313.970.3 of this proposal states, “In addition to the application fee, a licensed operator shall also pay an annual operation fee, on April fifteenth of each year, in a sum equal to eleven and one-half percent of the licensed operator’s net revenue from the previous calendar year.” These fees are to be deposited into the Gaming Proceeds for Education Fund created under section 313.822.

§313.910(9) of this proposal states, “Net revenue, for all fantasy sports contests, the amount equal to the total entry fees collected from all participants entering such fantasy sports contests less winnings paid to participants in the contests, multiplied by the resident percentage.”

§313.910(13) of this proposal states, “Resident percentage, for all fantasy sports contests, the percentage, rounded to nearest one-tenth of one percent, of the total entry fees collected from Missouri residents divided by the total entry fees collected from all players, regardless of the player’s location, of the fantasy sports contests.”

ASSUMPTION (continued)

§313.970.4 of this proposal states, “Any fantasy sports contest operator operating under this subsection after August 28, 2016, shall pay the annual operation fee of eleven and one-half percent of its net revenue from the effective date of this section until action is taken on its application”

**GAM** also assumes their organization would spend approximately \$52,136 the first year for equipment, supplies, and training of the two new employees and travel expenses to conduct background investigations and licensing activity for the two companies. The ongoing expenses would be approximately \$20,000 annually.

Based on the fees listed in the proposed legislation and the above assumed number of licensees, GAM would collect approximately \$100,000 the first year and then \$100,000 each year thereafter. The collection of these fees would be deposited in the state treasury to the credit of the Gaming Commission Fund (0286) to be administered pursuant to the provisions of section 313.835.

**Oversight** will show a fiscal impact in FY17 to the Gaming Commission Fund of \$83,333 (\$100,000 multiplied by 10/12ths to reflect 10 months) based on the effective date stated in section 313.970.4. Oversight will show a fiscal impact in FY18 and FY19 to the Gaming Commission Fund of \$100,000 for each year respectively.

§313.835 states all revenue received by GAM should be deposited in the state treasury to the credit of the “Gaming Commission Fund” for the sole purpose of funding the administrative costs of the commission, subject to appropriation.

**GAM** states the fantasy contest industry generates approximately \$2,600,000,000 in wagers annually world-wide. The GAM assumes approximately 2% of those wagers are placed in Missouri. GAM assumes the companies withhold an average of 10% of the gross receipts from wagering which is what GAM considers as the net revenue and what the 11.5% tax is calculated on. As a result, this proposed legislation would generate approximately \$598,000 ( $\$2.6 \text{ billion} \times 2\% \times 11.5\% \times 10\%$ ) annually in taxes to be deposited in the state treasury to the credit of the Gaming Proceeds for Education Fund. These monies will be kept separately from the General Revenue Fund as well as any other funds or accounts in the state treasury, and shall be used solely for education.

**Oversight** notes that proceeds from the Gaming Proceeds for Education Fund are earmarked for education purposes and eventually sent to public school districts. However, for fiscal note simplification purposes Oversight will show additional income to the Gaming Proceeds for

ASSUMPTION (continued)

Education Fund in FY17 based on the amount of \$498,333 (11.5% tax to be collected on net revenue multiplied by 10/12ths to reflect 10 months) per the effective date stated in section 313.970.4. For FY18 and FY19 Oversight will show proceeds to the Gaming Proceeds for Education Fund based on the amount of \$598,000 (11.5% tax collected on net revenue).

Officials at the **Department of Revenue (DOR)** assumed the proposal would have a negative fiscal impact on their organization requiring additional staff, equipment and expenses.

**§313.1000** - DOR noted Collections and Tax Assistance will see additional customer contacts for registration, registration changes, withholding questions and withholding billings. The section requires one Revenue Processing Technician I per 13,200 contacts annually to the registration section and two Tax Collection Technicians I per 15,000 contacts; one for the non-delinquent tax line and one for contacts annually on the delinquent tax line. Each technician requires CARE equipment.

**Oversight** will not show a fiscal impact for the new positions of one Revenue Processing Technicians I and two Tax Collection Technicians I. Oversight assumes, DOR can absorb the costs related to these new positions. If necessary DOR, could request additional funding through the appropriation process.

**§313.960** - States, "Each licensed operator shall comply with all applicable federal, state, local laws and regulations, including without limitation laws and regulations applicable to tax withholdings and laws and regulations applicable to providing information about winnings and the withholding to taxing authorities."

**Oversight** will show an unknown positive fiscal impact to DOR for the state income tax to be withheld on all prizes.

Officials at the **Lottery Commission (LOT)** assume this proposal will have an unknown negative fiscal impact on their organization.

The proposal legalizes fantasy sports betting which competes with the sale of Lottery products. Lottery proceeds net of prizes and administrative expenses are currently appropriated solely for public institutions of elementary, secondary and higher education. Individuals who might otherwise play the Missouri Lottery but choose to play fantasy sports instead divert Lottery proceeds funding away from elementary, secondary and higher education. Although this proposal imposes an annual operation fee on the licensed operator's net revenue to be placed in the gaming proceeds for education fund, the fee is 11.5% of "entry fees...less winnings paid to participants...". The 11.5% fee in the proposal compares to Lottery's percentage of receipts not paid out in prizes that are transferred to education of approximately 73%. The resulting shortfall in elementary, secondary and higher education funding would have to be absorbed with General Revenue funding, negatively impacting Total State Revenue.

ASSUMPTION (continued)

**Oversight** will not show a fiscal impact to the Lottery based on their assumption.

Officials at the **Office of State Courts Administrator**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **State Public Defender's Office** and the **Office of Prosecution Services** each assume this proposal will not have a fiscal impact on their respective organizations.

Officials at the **Attorney General's Office** did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
<b>GENERAL REVENUE</b>			
Revenue §313.960 - State Income Tax Withheld on Prizes	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>
<b>GAMING PROCEEDS FOR EDUCATION FUND</b>			
<u>Revenue</u> - §313.970 - Annual Operation Fee - 11.5% of Gross Receipts	<u>\$498,333</u>	<u>\$598,000</u>	<u>\$598,000</u>
<b>ESTIMATED NET EFFECT ON GAMING PROCEEDS FOR EDUCATION FUND</b>	<b><u>\$498,333</u></b>	<b><u>\$598,000</u></b>	<b><u>\$598,000</u></b>

<u>FISCAL IMPACT - State Government</u>	FY 2017	FY 2018	FY 2019
(continued)	(10 Mo.)		

**GAMING COMMISSION FUND**

<u>Revenue - §313.970</u>			
Licensing Fees	\$83,333	\$100,000	\$100,000

<u>Costs - Regulatory Monitoring</u>			
Personnel (2 FTE)	(\$70,070)	(\$84,925)	(\$85,774)
Fringe Benefits	(\$56,310)	(\$60,921)	(\$61,184)
Equipment and Expense	(\$11,899)	(\$7,142)	(\$7,322)
Total Costs	<u>(\$138,279)</u>	<u>(\$152,988)</u>	<u>(\$154,280)</u>

FTE Change - GAM	2 FTE	2 FTE	2 FTE
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<b>NET EFFECT ON GAMING COMMISSION FUND</b>	<b><u>(\$54,946)</u></b>	<b><u>(\$52,988)</u></b>	<b><u>(\$54,280)</u></b>
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Net FTE Change - GAM	2 FTE	2 FTE	2 FTE
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<u>FISCAL IMPACT - Local Government</u>	FY 2017	FY 2018	FY 2019
	(10 Mo.)		

	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

Small business Fantasy Sports Contest operators could be impacted by this proposal.

FISCAL DESCRIPTION

This act is known as the "Missouri Daily Fantasy Sports Consumer Protection Act." Daily fantasy sports games are defined in the act as games of any duration where a player competes against other players or a target score as the manager of an imaginary team of athletes, uses statistics from real-world sporting events, plays for a predetermined prize, and pays a charge or fee to participate.

This bill requires the Missouri Gaming Commission to provide annual licenses for the operation of websites engaged in daily fantasy sports games in Missouri. Operators will pay an annual application fee of \$10,000 or 10% of the applicant's net revenue from the previous calendar year, whichever is lower.

FISCAL DESCRIPTION (continued)

Licensed operators must hold amounts for their players in trust and must post procedures on their website that will prevent unauthorized withdrawals or commingling of the funds and provide procedures for a player to report a compromised account. Licensed operators may not issue credit to players and may not allow multiple accounts for one player.

All winning outcomes shall be determined by accumulated statistical results of fully completed contests or events rather than just a portion thereof, except that fantasy participants may be credited for statistical results accumulated in a suspended or shortened contest or event which has been called on account of weather or other natural or unforeseen event. Players shall not be allowed to select athletes through an auto-draft that does not involve any input or control by the player or to choose preselected teams of athletes. The fantasy sports contest operator cannot offer or award a prize to the winner of, or athletes in, the underlying competition itself. Contests cannot be based on the collegiate, high school, or youth athletics or performances.

Licensed operators shall verify players' states of residence and that players are over 21, the legal age of participation in Missouri. Licensed operators shall maintain exclusion lists. Licensed operators are subject to advertising restrictions.

Persons associated with licensed operations may not disclose proprietary or nonpublic information to individuals who are eligible to participate in fantasy sports games. Licensed operators must conduct and pay for an annual independent audit to ensure compliance with this bill.

Documents and information provided to the commission are closed records, but certain information must be disclosed to the public based on a written request. The commission shall oversee all licensed operators and has certain investigatory, licensing, and rule-making powers under these provisions.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

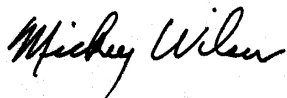
SOURCES OF INFORMATION

Department of Public Safety - Gaming Commission  
Lottery Commission  
Office of State Courts Administrator  
State Public Defender's Office



SOURCES OF INFORMATION (continued)

Office of Prosecution Services  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Revenue



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June 10, 2016

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