

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7599

BILL NUMBER: HB 1569

NOTE PREPARED: Jan 10, 2005

BILL AMENDED:

SUBJECT: Slot Machines at Racetracks.

FIRST AUTHOR: Rep. Messer

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill authorizes slot machines at racetracks and imposes a state wagering tax of 35% of the adjusted gross receipts from slot machine wagering. The bill imposes a local wagering tax of 7%.

The bill also redirects certain Riverboat Admissions Taxes from the Horse Racing Commission to the Property Tax Replacement Fund.

The bill provides for the annual distribution of state Slot Machine Wagering Taxes before July 1, 2007, as follows: (1) the first \$27,205,284 to the Horse Racing Commission to be used in the same manner as Riverboat Admissions Taxes are currently used; (2) \$30,000,000 to the Capital Improvement Board; and (3) the remainder to the Property Tax Replacement Fund. It also provides for the annual distribution after June 30, 2007, and before July 1, 2036, as follows: (1) \$30,000,000 to the Capital Improvement Board; and (2) the remainder to the Property Tax Replacement Fund. The bill requires the tax revenue to be deposited in the Property Tax Replacement Fund after June 30, 2036.

The bill imposes a Horse Racing Promotion Fee of 12% of the adjusted gross receipts from slot machine wagering.

The bill provides for the distribution of the local taxes in Madison County and Shelby County.

The bill also provides for the distribution of the fees to purses, breed development, and the associations representing owners, breeders, and trainers.

Effective Date: July 1, 2005.

Summary of Net State Impact: The potential annual net revenue impact and distributions to the state General Fund and Property Tax Replacement Fund (PTRF) under the bill are summarized in the table below.

Source	Distribution	FY 2006	FY 2007	FY 2008 and after
Initial License Fee	General Fund	\$100.0 M	\$0	\$0
Slot Machine Wagering Tax	PTRF	0	0 - 4.7 M	0 - 31.9 M
Riverboat Admission Tax Collections *	PTRF	0	17.2 M	17.2 M
Riverboat Admission Tax Supplemental Funding *	PTRF	0	10.0 M	10.0 M
Total		\$100.0 M	\$27.2 M - \$31.9 M	\$27.2 M - \$59.1 M
* Existing revenues which will now remain in the PTRF in place of the current distribution to the Indiana Horse Racing Commission.				

Explanation of State Expenditures: *Indiana Gaming Commission (IGC):* The bill requires the IGC to regulate and administer slot machine operations at the state's two horse racing tracks. The IGC would incur additional administrative expenses as a result. However, the bill provides slot machine operation licensees and slot machine supplier's licensees bear the cost of any investigation by the IGC relating to the licensee. To the extent that the IGC incurs expenses beyond the investigatory functions, this bill does not provide any funding for reimbursement for these expenses.

Department of State Revenue: DOR could incur additional audit expenses since the bill does not provide for any inspectors or agents present while gambling is conducted at the facilities, as is the case of the riverboats.

Penalties: The bill establishes a Class D felony for various types of violations at slot operations. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$59,574, with the costs ranging from a low of \$52,420 to a high of \$77,674. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Summary:* The bill authorizes the operation of slot machines at Hoosier Park and Indiana Downs. The bill limits the number of slot machines at each facility to 2,500. The bill imposes an initial license fee, a 35% Wagering Tax, and a 12% Horse Promotion Fee.

(1) The initial fee for each of two licenses to operate slot machines at a race track is \$50 M, with revenue from the license fee deposited in the state General Fund.

(2) The 35% Slot Machine Wagering Tax imposed at the two facilities is estimated to generate **\$28.4 M to \$61.9 M** annually. (It is estimated that AGR from the two facilities could potentially range from approximately \$81 M to \$177 M.) This tax is to be deposited in the Racetrack Gaming Fund created in this bill. Assuming a 12- to 15-month start-up period, it is estimated that no revenue from either the tax or the fee will be generated in FY 2006 and about 9-12 months of revenue could potentially be generated in FY 2007. Under the bill, once the IGC approves a slot machine licensee’s plans for a permanent facility, it must allow the licensee to operate slot machines in a temporary facility for up to 18 months. As a result, the start-up period could be reduced to the extent that operations in a temporary facility are established. Estimated distributions of Slot Machine Wagering Tax revenue are reported in the table below.

Distribution from the Racetrack Gaming Fund	FY 2007	FY 2008 and after
Horse Racing Subsidy Replacement	\$27.2 M	\$0
Marion County Capital Improvement Board	1.2 M - 30.0 M	28.4 M - 30.0 M
PTRF	0 - 4.7 M	0 - 31.9 M
Total	28.4 M - 61.9 M	28.4 M - 61.9 M

Until the end of FY 2007, the first \$27.2 M annually from the Wagering Tax is distributed to the Indiana Horse Racing Commission (IHRC) for horse racing purposes. The next \$30 M annually is distributed to the Marion County Capital Improvement Board for a convention center and stadium project, with the remainder distributed to the PTRF. Beginning in FY 2008, the first \$30 M annually in Wagering Tax revenue is to be distributed to the Marion County Capital Improvement Board, with the remainder being distributed to the PTRF. Beginning in FY 2037 all the revenue is to be deposited in the PTRF.

(3) It is also estimated that the 12% Horse Racing Promotion Fee imposed at the two facilities could potentially generate **\$9.8 M to \$21.2 M** annually. The revenue from the Promotion Fee is distributed as follows: (1) 81% to purses and the horsemen’s associations, and (2) 19% to the breed development funds. The total to purses and horsemen’s associations is distributed as follows: (1) 46% for thoroughbred purposes; (2) 46% for standardbred purposes; and (3) 8% for quarterhorse purposes. The total to the breed development funds is distributed in the same proportions.

Caveats: The fiscal estimates are not adjusted to account for the potential negative effect that riverboat gaming operations may have on slot machine wagering at Hoosier Park and Indiana Downs. Thus, actual Wagering Tax revenue could potentially be less than estimated to the extent that these facilities share their markets with riverboat casinos. In addition, the fiscal estimates do not account for potential decline in Admission and Wagering Tax revenue at the riverboat casinos due to slot machine operations at Hoosier Park and Indiana Downs. These potential competitive impacts on the fiscal outcomes are indeterminable.

Background: Existing Riverboat Admission Tax to Horse Racing: Until the end of FY 2007, the bill distributes \$27.2 M from the Slot Machine Wagering Tax to replace (1) Riverboat Admission Tax collections and (2) the annual supplemental payment from PTRF for replacement of Admission Tax shortages currently funding horse racing programs. Beginning in FY 2008, the Slot Machine Wagering Tax is no longer utilized to replace the Riverboat subsidy to horse racing. The bill also redirects actual Riverboat Admission Tax collections otherwise earmarked for the horse racing subsidy to the PTRF; and supplemental Admission Tax payments are not to be made from the PTRF. The replaced amounts of Riverboat Admission Tax are distributed to the PTRF. Beginning in FY 2008, the Riverboat Admission Tax distribution to horse racing in its entirety is redirected

to the PTRF, and no Slot Machine Wagering Tax is utilized as replacement revenue. Under current statute, \$0.65 per \$3.00 Admission Tax paid is distributed to the IHRC for purses, horsemen's associations, breed development, and the race track subsidy. This annual distribution is guaranteed at \$27.2 M, with the supplemental payment from PTRF making up the difference between the guarantee amount and actual Admission Tax collections. The supplemental payment is made in the fiscal year following the fiscal year of the shortage. In FY 2004 approximately \$17.2 M in Admission Tax collections was distributed to the IHRC. Thus, the supplemental payment from PTRF for the FY 2004 shortage totaled approximately \$10.0 M.

License Fees: The bill provides for a slot machine operator license and a slot machine supplier's license. The initial slot machine operator's license would be effective for 5 years, with the initial fee totaling \$50 M. Revenue from the initial fee is distributed to the state General Fund. The annual renewal fee would be determined by the Indiana Gaming Commission. The annual fee for a supplier's license would be \$5,000. The bill requires a person to obtain a supplier's license to furnish slot machines to the horse race tracks.

Fiscal Impact Details: The fiscal impact is based on a range of estimates of patronage at the facilities once slot operations commence. The estimates are based on patron growth rates observed at Iowa racing venues after the installation of slot machines in 1995. Reported and imputed patron totals for existing facilities are utilized to develop estimates for operations at Hoosier Park. The Hoosier Park estimate is scaled down to derive an estimate for operations at Indiana Downs based on projections by gaming industry analysts. It is assumed that the AGR per patron equals \$73 to derive AGR totals for the locations.

Penalties: The bill makes it a Class A misdemeanor for a person to knowingly or intentionally aid, induce, or cause a person less than 21 years of age and who is not an employee of a pari-mutuel pull tab operation to enter or attempt to enter the operation. It also makes it a Class A misdemeanor for a person who is less than 21 years of age and who is not an employee of a slot operation to knowingly or intentionally enter or attempt to enter the operation. The bill also establishes a Class D felony for various types of cheating at slot operations. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000, and the maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: *Penalties:* A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Marion County CIB:* The bill distributes up to \$30 M annually until 2036 to the Marion County Capital Improvement Board for a convention center and stadium project. This distribution is estimated to range from \$1.2 M to \$30 M in FY 2007 and \$28.4 M to \$30 M each year thereafter until July 1, 2036.

Local Wagering Tax: The bill imposes a 7% Slot Machine Wagering Tax, with the revenues to be distributed in Madison and Shelby County. Each county would receive the collections from slot operations in that county. The revenue from the tax could potentially total \$3.4 M to \$7.2 M annually in Madison County and \$2.3 M to \$5.2 M annually in Shelby County. The percentage distribution shares to the local units in each county are presented in the tables below.

Distribution Shares for Madison County Local Units/Organizations

Recipient	
Shelter for Victims of Domestic Violence	First \$150,000
Remaining Revenue:	% Distribution
Madison County Economic Development Council	35%
Anderson	15%
Madison County School Corporations (divided on a pro rata basis according to enrollment)	20%
Madison County Cities & Towns excluding Anderson (divided on a per capita basis)	15%
Madison County Capital Projects Fund	14.5%
Mental Health & Addiction Services Providers in Madison County	0.5%

Distribution Shares for Shelby County Local Units/Organizations

Recipient	% Distribution
Shelby County	39.5%
Shelbyville	40%
Shelby County School Corporations (divided on a pro rata basis according to enrollment)	20%
Mental Health & Addiction Services Providers in Shelby County	0.5%

Penalties: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Indiana Gaming Commission, Indiana Horse Racing Commission, Department of State Revenue, Department of Correction, State Police.

Local Agencies Affected: Marion County Capital Improvement Board; Local units in Madison County and Shelby County; Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; Department of Correction.

Fiscal Analyst: Jim Landers, 317-232-9869.