2022 SPORTS BETTING STUDY COMMITTEE

Report and Recommendations of the 2022 Sports Betting Study Committee

Submitted 12/13/2022

Table of Contents

Glossary

Adjusted Gross Wagering Revenue: The total revenue generated by an operator, based on the amount of money players wager, minus the amount players win and any allowable deductions.

Handle: The amount wagered over a given time period. In other words, the total amount of dollars placed by bettors.

Hold: The amount of revenue retained by the operator as a share of the handle.

In-play Wagers: Wagers placed after an event after it has started. Also known as live or immersive betting. Operators may post multiple in-play betting options throughout a sporting event.

Mobile or Online Sports Wagering: A prominent channel for Internet sports wagering, with games typically played through an operator's mobile application.

Operator: A licensee that offers a sports book, either at retail locations or through online sports wagering.

Pari-Mutuel Wagering: A form of wagering – typically used in horse racing – in which all bets on a particular event are pooled, and payoff odds are calculated by sharing the pool among all winning bets.

Parlay: A single bet that consists of two or more contingencies. Each contingency must "win" to produce a win for the parlay bettor. If there is a tie or "push," the parlay bet is voided.

Proposition Bet: Proposition or "prop" bets are special wagers that focus on the occurrence or nonoccurrence of discrete, measurable action during a sporting event but that usually does not directly impact or concern the final outcome of the game.

Retail Sports Wagering: Betting in person at a physical location, such as at a lottery retailer or casino.

Skin: An individually branded website or mobile app that an operator uses to offer mobile sports wagering to consumers.

Sports Book: An entity that offers and accepts sports wagers.

Introduction

Creation and Statutory Charge

The 2022 Sports Betting Study Committee was established in 2022 Act No. 183, Sec. 55. In Act 183, the General Assembly structured the Study Committee and enumerated a series of findings related to the proliferation of legal sports wagering and the potential revenue that could be generated in Vermont. In creating the Study Committee, the General Assembly expressed its intent as:

> "Given the widespread participation in sports betting, the General Assembly finds that careful examination of whether and how best to regulate sports betting in Vermont and protect Vermonters involved in sports betting is necessary."

Accordingly, the General Assembly established the Sports Betting Study Committee to study and report on whether and how to regulate sports betting in Vermont. Act 183 established the Study Committee as a nine-member committee representing the Attorney General or designee, Commissioner of Liquor and Lottery or designee, Commissioner of Taxes or designee, Secretary of State or designee, Secretary of Commerce and Community Development or designee, two current members of the Senate, and two current members of the House.

The members of the 2022 Sports Betting Study Committee were:

Wendy Knight, Commissioner of the Department of Liquor and Lottery – *Chair*
Christopher Curtis, Designee for the Office of the Attorney General
John Gortakowski, Designee for the Department of Taxes
Chris Winters, Designee for the Secretary of State
Tayt Brooks, Designee for the Agency of Commerce and Community Development
Senator Kesha Ram Hinsdale
Senator Dick Sears Jr.
Representative Carol Ode
Representative Matthew Birong

The Committee first met on August 30, 2022, to elect a chair and set a preliminary agenda. Commissioner Wendy Knight was elected as Chair of the Committee. The Committee determined that it would be appropriate to hold weekly meetings on Tuesdays and to schedule a public hearing. The Committee held the following meetings:

Tuesday, August 30, 2022
Tuesday, September 13, 2022
Tuesday, September 27, 2022
Tuesday, October 4, 2022
Tuesday, October 11, 2022

Tuesday, October 18, 2022
Tuesday October 18, 2022 – *Public Hearing*
Tuesday, October 25, 2022
Tuesday, November 1, 2022
Tuesday, November 15, 2022
Tuesday, November 22, 2022
Tuesday, December 6, 2022
Tuesday, December 13, 2022

Methodology and Meetings

The Committee focused on the statutory charge established in Act 183, which directed the Committee to analyze the 2022 Sports Wagering Study conducted by the Office of Legislative Counsel and the Joint Fiscal Office and to prepare a report containing the Committee's findings and recommendations for legislative action.

In order to meet the statutory charge set by the General Assembly and submit meaningful recommendations, the Committee focused on the following questions:

- *Should Vermont legalize sports wagering?*
- *Should Vermont establish State control or a licensure model for the regulation of sports wagering?*
- *Which State administrative agency should oversee the sports wagering market in Vermont and what regulatory tools will that agency need?*
- *Should Vermont legalize mobile sports wagering or retail sports wagering, or both?*
- *How should Vermont structure a tax on sports wagering revenue?*
- *How should Vermont structure its responsible gaming resources and problem gambling programs?*

The Study Committee held twelve meetings and a public hearing dedicated to each of these questions. At these meetings, the Study Committee heard from the following witnesses:

Christopher Curtis, Chief, Public Protection Division, Attorney General's Office
Tucker Anderson, Legislative Counsel, Office of Legislative Counsel
Rebecca London, Government Affairs Manager, Draft Kings
John Herko, Vermont Resident
Graham Campbell, Senior Fiscal Analyst, Joint Fiscal Office
James Pepper, Chair, Cannabis Control Board
Andrew Winchell, Director of Governmental Affairs, FanDuel
Charles McIntyre, Executive Director, NH Lottery Commission
Danny Maloney, Director of Sports Betting, NH Lottery Commission
Greg Smith, President and CEO, Connecticut Lottery Corporation
Danny DiRienzo, Senior Director, Government Relations, GeoComply
Brianne Doura-Schawohl, Founder, National Council on Problem Gambling
Marlene Warner, CEO, The Massachusetts Council on Gaming and Health, Inc.

Wendy Mays, Vermont Resident

The witnesses' written testimony and other documents can be found on the Study Committee's information page. The Study Committee's meetings and the public hearing can be viewed on the Vermont Legislative Study Committees YouTube page.

The Committee employed a consensus model of decision making. While some members may have abstained from certain votes or recommendations, there were no dissenting votes concerning the Committee's recommendations. At least a quorum of the Committee voted affirmatively on all recommendations.

The Committee has organized its findings into six primary recommendations:

- Vermont should legalize sports wagering and establish a State-controlled market;
- Vermont should grant the Department of Liquor and Lottery the administrative authority over sports wagering;
- Vermont should ensure that the administrative agencies have sufficient authority to respond to the rapidly changing market;
- Vermont should legalize mobile and online sports wagering;
- Vermont should establish a revenue share through the competitive bidding process; and
- Vermont Should adopt comprehensive responsible gaming measures.

The report contains a section dedicated to each of these recommendations. Each section explains the Study Committee's findings, contextualizes the regulatory approach for the recommendation, and provides legislative proposals for a sports wagering bill.

In addition to the primary recommendations, the Committee agreed to a series of informal recommendations for the committees of jurisdiction in the General Assembly. The Committee determined that each of the following decisions were best left to the General Assembly:

- *Minimum age*. The Committee recommends that the committees of jurisdiction review the age of majority within Vermont law and seek parity. The Committee recommends that the General Assembly consider the minimum ages for voting, tobacco, alcoholic beverages, cannabis, fantasy sports contests, and firearms, among others.
- *Minimum revenue share*. The Committee took extensive testimony on tax rates and revenue shares and looked at various models for establishing a minimum revenue share rate in statute. Based on testimony from other states that a minimum statutory tax rate could put the State at a disadvantage when negotiating maximum revenue share, the Committee decided to not recommend a statutory minimum tax rate. The Committee did not provide a formal recommendation for a minimum tax rate.
- *Wager types and subjects*. The Committee received limited testimony concerning the types and subjects of wagers that exist in the states with legal markets.

However, the Committee did have concerns both about the types of wagers (the category of bets that are offered to the public, such as “in play,” “parlay,” or “proposition”) and the potential sports that may be subjects of those bets. The Committee recommends that the General Assembly research both of these topics and consider whether bettors will be able to wager on events such as motor vehicle racing, horse racing, e-gaming, and others.

- *Financial literacy education*. Members of the Committee expressed an interest in pursuing funding or support for financial literacy in primary education. This topic surfaced during discussions of responsible gaming measures. In particular, the Committee heard about recent legislation in some states that requires responsible gaming education in public education. The Committee recommends that the General Assembly consider whether the State’s sports wagering statutes should include a provision concerning financial literacy education within Vermont’s system of primary education.

Recommendation for Regulatory Model

Vermont Should Legalize Sports Wagering and Establish a State-Controlled Market.

The Committee analyzed the existing sports wagering markets, with a particular focus on states in the New England and greater Northeast region. The Committee considered three general options:

- Prohibition. This model follows the current legal regime in Vermont, which prohibits sports wagering and applies criminal penalties to individuals offering or engaging in sports wagering.
- State Control. This model authorizes the State to operate sports wagering either as a form of lottery game or as a franchised market. For the latter, the State would establish exclusive contracts with sports wagering operators who wish to operate a sportsbook in Vermont.
- Licensed Market. This model authorizes sports wagering operators to open a sportsbook in Vermont, provided that they meet the qualifications for licensure.

As a first step, the Committee unanimously determined that *the State's interests would be best served by legalizing sports wagering*. The Committee determined that a legal and regulated market would align with the Committee's institutional priorities, including:

- converting the illegal market into a robust, regulated market;
- providing consumers with a safer and more secure product, including strong consumer protections that do not exist in the illegal market;
- establishing strong and responsive administrative authority;
- monitoring wagering activity to detect impacts on the integrity of both sporting events and wagering systems;
- funding responsible gaming, educational programs, and problem gambling resources; and
- establishing State revenue through the application of a tax or revenue share.

The Committee then compared the costs and benefits of a state-control model against a licensed-market model. The Committee considered the following factors:

- The licensure model typically involves fewer "absolute barriers to entry" and may result in a more competitive and robust market.
- States that implement the licensure model may generate higher handles, which may result in relatively high gross gaming revenue that is subject to taxation.
- The licensure model may allow a more diverse array of products to enter the market, which results in more people converting from the illegal market to the regulated market.
- The licensure model has primarily been implemented by states that had existing licensing structures and gaming control boards. The majority of these states

leveraged existing gaming licenses to ensure that new operators would partner with an in-state entity, such as a casino or racetrack.

- Control states typically had fewer operators, but those operators are "high quality" entities that offer competitive betting lines.
- Control states that selected sports wagering operators through a competitive bidding process often succeeded in finding operators that agreed to a high revenue share.
- The control-state model does not necessitate the establishment of a new administrative structure, such as a gaming control board, if one does not already exist.
- In New England and bordering states, nearly all of the regulated markets have established some form of the state-control model where operators or platform providers are selected directly by the state, either through franchise or by competitive bid for licensure (New Hampshire, New York, Connecticut, and Rhode Island).

The Committee then considered Vermont's existing wagering market, administrative structures, and potential in-state partners. Because Vermont does not have regulated gaming entities, such as casinos or racetracks, the Committee found that the best enterprise that that State can leverage is the Department of Liquor and Lottery. The Committee considered the Department's current role as a controlling enterprise for spirits and lottery and determined that the State should authorize the Department to offer sports wagering to Vermont consumers.

After examining the various control states, the Committee determined that *the Department should not offer its own sports wagering platform through the State Lottery*. The Committee analyzed states that have established unique wagering platforms and found that those states suffered from slow implementation, lower customer engagement, and lower revenue generation (*See* Oregon, Montana, and Washington D.C. in Appendix A, JFO Analysis).

Instead, the Committee determined that *the State would be best served by conducting a competitive bidding process,* which would allow the Department to select the most qualified operators based on the State's institutional priorities. The Committee found that the control states that used a bidding process were more successful at finding high quality operators and efficiently introducing an active and robust market.

> **<u>Recommendation</u>: Vermont should establish a state-control model that authorizes the Department of Liquor and Lottery to select between two to six operators through a competitive bidding process.**

Legislative Proposals:

- The Committee recommends that a sports wagering bill should authorize the Commissioner of Liquor and Lottery to establish exclusive contracts to offer sports wagering within the State.

- The Committee recommends authorizing a "minimum of two but not more than six" operators. It was the consensus of the Committee that the State should not establish a single rights-holder, unless the competitive bidding process does not result in more than one qualified bidder. The Committee also determined that a maximum number of operators should be established due to the relative size of Vermont's market. The Committee determined that six operators would be an appropriate maximum threshold.

- The Committee recommends that a sports wagering bill should establish a competitive bidding process for the selection of the State's sports wagering operators. The competitive bidding process may be structured to be similar to New Hampshire or New York.

Recommendation for Administrative Authority

Vermont Should Grant the Department of Liquor and Lottery the Administrative Authority Over Sports Wagering.

As a component of the Committee's discussions concerning the state-control model, the Committee examined models for both centralized and decentralized structures for sports wagering regulation. Under a centralized model, a primary agency such as a gaming control board assumes the bulk of the regulatory authority over the sports wagering market. In a decentralized model, multiple agencies are granted regulatory authority over separate, discrete components of the market.

The Committee determined that *the State would be best served by consolidating regulatory authority within a primary agency*. Primarily, the Committee considered the current role of the Department of Liquor and Lottery with respect to control of the spirits market and the State Lottery. The Committee found that the Department should be granted primary regulatory authority over the sports wagering market, including the competitive bidding process.

However, the Committee did recommend the decentralization of some administrative functions. Primarily, the Committee recommends assigning authority over problem gambling resources and related public health studies to the Department of Mental Health.

> **<u>Recommendation</u>: Grant the Department of Liquor and Lottery the authority to operate and regulate sports wagering and assign the Department of Mental Health the duty of administering problem gambling services and studying the prevalence of problem gambling, including specific demographic data.**

Recommendation for Regulatory Tools and Scope of Administrative Authority

Vermont Should Ensure That the Administrative Agencies Have Sufficient Authority to Respond to the Rapidly Changing Market

The Committee examined issues related to the scope of administrative authority in the states with legal sports wagering markets. As a component of the Committee discussions, the members analyzed the costs and benefits of establishing a robust and responsive regulatory structure. The discussion focused on two essential questions: (1) how to balance statutory requirements with regulatory authority and (2) whether the State would need to establish a new, dedicated administrative structure to regulate sports wagering.

The Committee first determined that *the Department of Liquor and Lottery should be granted broad regulatory authority that will allow the Department to quickly and efficiently respond to advancement in the sports wagering market*. The Committee recommends that the delegating statute should grant regulatory flexibility that is guided by the findings and intent of the General Assembly.

The Committee then determined that *the Department of Liquor and Lottery would be able to exercise the assigned regulatory authority without the need to create a new regulatory body to oversee sports wagering*. The Committee recommends that the State leverage its existing resources.

> **Recommendation: Provide expanded regulatory authority to the Department of Liquor and Lottery to establish a robust and responsive administrative structure.**

Recommendation for Mobile v. Retail Sports Wagering

Vermont Should Legalize Mobile and Online Sports Wagering.

The Committee examined models for the legalization of both mobile and retail sports wagering. Mobile sports wagering is wagering conducted *through an electronic device* such as a smart phone, tablet, or computer. Retail wagering is conducted *in-person*, typically at a location such as a betting lounge or sports bar. In some states, retail wagering is conducted through kiosks that are located at licensed lottery locations.

While balancing mobile and retail wagering models, the Committee considered the following factors:

- The majority of sports wagers are now placed via mobile and online platforms.
- The mobile wagering market provides regulators with more tools to:
    - "know the customer" and confirm the identity of a bettor;
    - monitor wagering irregularities;
    - audit transactions and other financial records;
    - transfer funds without the risk of handling large sums of cash;
    - attract customers who are currently betting online through the illegal market; and
    - quickly introduce the regulated market.
- Mobile wagering requires access to mobile devices or the Internet, and people without those resources may be more likely to access sports wagering through retail locations.
- The retail market attracts "high volume" and savvy bettors.
- Retail wagering locations offer a more social experience and may be used primarily by bettors who prefer more traditional means of wagering.
- Retail wagering requires significant capital investments.
- Retail wagering requires a sufficient regional population to support the retail locations.
- The retail market may require more intensive and costly regulatory presence, such as increased surveillance requirements and the physical presence of gaming control staff at decentralized locations.
- Retail wagering has been successful in some of Vermont's neighboring states, although those states may have been able to leverage existing wagering locations and "casino culture" (*See* Appendix B, State by State – Retail v. Mobile).

Based on the testimony and evidence presented by experts and regulators, the Committee has found that the best option for Vermont is to first open the sports wagering market with mobile and online wagering. The Committee then recommends that the Department of Liquor and Lottery could conduct a feasibility study to determine whether retail wagering could be viable in certain locations.

> **<u>Recommendation</u>: Legalize mobile sports wagering and study the feasibility of a retail wagering model.**

Legislative Proposals:

- The Committee recommends that a sports wagering bill should initially confine sports wagering to mobile platforms, including a definition for "mobile sports wagering" that excludes retail or in-person wagering.

- The Committee additionally recommends that a sports wagering bill should authorize the Department of Liquor and Lottery to conduct a feasibility study that will be submitted to the General Assembly in 2024. Based on the testimony the Committee received concerning the success of retail wagering in other states, the Committee determined that it would be appropriate to study the viability of retail wagering in Vermont. The feasibility study could be designed to reflect studies conducted in other states, including Massachusetts.

Recommendation for Tax Structure or Revenue Share

Vermont Should Establish a Revenue Share Through the Competitive Bidding Process

The Committee examined different state models for the taxation of sports wagering revenue. The Committee did not focus on a particular region or model of regulation. Instead, the Committee analyzed tax and revenue models that fell into the four major categories that were identified in the 2022 Sports Wagering Study:

- More Operators; Low Tax Rate. This model is used by states that have established either an open licensure market *or* that have established exclusive franchises where "high quality" operators have been granted operator contracts. The tax rates in these states are typically fixed in statute and are on the lower end of the tax range that the Committee studied. The tax rates for these states are generally less than 20 percent. States with this model include Tennessee, New Jersey, West Virginia, Iowa, Indiana, Michigan, Colorado, Illinois, and Virginia.

- More Operators; High Tax Rate. This model is used by states that have established the "more operators" or "high quality operators" model outlined above and that have enacted or adopted relatively high tax rates. The tax rates for these states were generally between 35 percent and 51 percent. States under this model include Pennsylvania, New Hampshire, and Rhode Island.

- Fewer Operators; Low Tax Rate. This model is used by states that have established a model with relatively few operator licenses or exclusive rights holders. Further, this model generally excludes "high quality operators" that offer competitive lines. The tax rates in these states are typically fixed in statute and fall within the lower end of the tax range that the Committee studied. The tax rates in these states were generally between 10 percent and 20 percent. States with this model include Mississippi and Arkansas.

- Fewer Operators; High Tax Rate. This model is used by states that have established the "few operator" model outlined above. In these states, the tax rates are established somewhat evenly between statute and negotiated revenue share rates. States under this model include Oregon, Montana, and Washington, DC.

  (*See* Appendix A, JFO Analysis).

The Committee also analyzed the varying models for how "sports wagering revenue" might be defined in statute or rule. In the states with legal markets, one of the primary considerations was whether operators should be able to deduct promotional credits or advertising expenses from the adjusted gross revenue that is subject to a sports wagering tax.

With respect to tax models, the Committee received testimony from multiple stakeholders who expressed differing views on how the tax model should be structured. Given that the Committee had determined that Vermont should establish a State-controlled market, the primary discussion was around whether a tax rate should be established in statute or whether the Department of Liquor and Lottery should incorporate a "revenue share" as a component of the competitive bidding process.

In general, the witnesses in favor of establishing a fixed statutory tax rate highlighted the following benefits:

- A statutory tax rate offers operators a higher level of predictability, which allows the operator to offer more competitive lines.
- States with more open markets and fixed tax rates have more competition in the market place, which allows the operators to offer better products to consumers.
- A statutory tax rate within the lower range of taxes will allow operators to compete with illegal operations, thereby converting more of the illegal market to the regulated market.

The witnesses who testified concerning the "revenue share" model highlighted the following benefits:

- The competitive bidding process typically results in a revenue sharing agreement with a higher revenue share for the state and higher revenue rates on a per capita basis.
- Incorporating the revenue share as a component of the competitive bidding process allows the State to balance priorities and negotiate a tax rate with the most qualified bidders.
- The revenue share model does not preclude the setting of a minimum tax rate in statute but does allow the tax "ceiling" to be negotiated by the State and the bidders.

After considering the testimony, the Committee determined that *the State would be best served by authorizing the Department of Liquor and Lottery to negotiate a revenue share through the competitive bidding process*. The Committee also determined that the *State should consider setting a minimum statutory tax rate but declined to make a formal recommendation as to what the minimum rate would be*.

> **<u>Recommendation</u>: Authorize the Department of Liquor and Lottery to establish a revenue share as a component of the competitive bidding process.**

Legislative Proposals:

- The Committee first recommends that the General Assembly define adjusted gross sports wagering revenue for purposes of the revenue share.

- The Committee also recommends establishing the revenue share as a mandatory component of the competitive bidding process, selection of operators, and the contract to offer sports wagering within the State.

- The Committee recommends incorporating revenue share as a mandatory duty of any operator selected by the Department through the competitive bidding process. The General Assembly may consider providing for a minimum revenue share.

Recommendation for Responsible Gaming Measures

Vermont Should Adopt Comprehensive Responsible Gaming and Problem Gambling Measures

The Committee examined the responsible gaming measures that have been enacted in the states with legal sports wagering markets. The Committee examined responsible gaming measures in the following general categories:

- Responsible gaming as a component of consumer protection. This category focused on measures that ensure that consumers have access to information about their wagering activity, the rules of the wagering "games" that they are playing, and appropriate notices about their wagering account.
- Responsible gaming tools within the mobile platform. This category focused on the measures that some states have implemented to ensure that players are able to self-restrict their wagering, initiate deposit limits, or establish breaks in play.
- Restrictions on indebtedness and multiple accounts. This category focused on statutory prohibitions against the extension or use of credit, the types of payment accounts that may be established by a customer, and the number of accounts that may be established by a single customer.
- Funding and studies concerning problem gambling. This category focused on the development of problem gambling resources and periodic studies to audit the State's structures for responsible gaming and problem gambling treatment.

The Committee took extensive testimony concerning responsible gaming, how to structure consumer protection within a legal market, and how to ensure that administrative agencies have the best tools and information to address problem gambling.

The Committee also analyzed the existing consumer protection measures in the statutes governing fantasy sports contests, 9 V.S.A. chapter 116. The Committee determined that *the existing fantasy sports contest statutes should act as a "regulatory floor" for establishing comprehensive responsible gaming measures in the context of sports wagering*. If the General Assembly adopts the recommendations of the Committee concerning responsible gaming, then the Committee would recommend updating the fantasy sports contest consumer protection provisions to align the respective operator requirements.

Ultimately, the Committee determined that Vermont would be best served by adopting comprehensive responsible gaming measures similar to Massachusetts, New York, and Connecticut. Specifically, the Committee recommends that the State adopt the following responsible gaming measures:

- Require operators to:
    - adopt and annually submit a responsible gaming plan, which will be available to the public;

- provide consumer protection notices that are at least as comprehensive as the current requirements for "fantasy sports contest operators" pursuant to 9 V.S.A. chapter 116;
- allow customers to set deposit limitations, betting limits, and to establish breaks in play;
- provide customers with access to records concerning their wagering activities; and
- allow customers to irrevocably self-restrict their ability to play for a period of time.

- Prohibit operators from extending credit to customers.

- Prohibit customers from using a credit card to establish an account or place wagers.

- Establish a Responsible Gaming Special Fund to support both responsible gaming education and problem gambling services.

- Require periodic audits and reports concerning the State's responsible gaming measures, problem gambling services, and the socioeconomic impacts of gambling within the State. In particular, the Committee recommends that the General Assembly consider the responsible gaming study requirements in Massachusetts.

Recommendation: The State should adopt comprehensive responsible gaming requirements that are aligned with current best practices.

Legislative Proposals:

- The Committee recommends that a sports wagering bill should require each operator to adopt a responsible gaming plan. Further, the Department of Liquor and Lottery and Department of Mental Health should annually submit a report to the General Assembly concerning problem gambling in Vermont.

- The Committee also recommends that a sports wagering bill should include an enumerated list of operator duties related to responsible gaming, subject to monitoring and enforcement.

- Finally, the Committee recommends that a sports wagering bill should establish a special fund dedicated to addressing responsible gaming and problem gambling within the State.

Appendix A: JFO Analysis of Tax Rates

NOTE: This analysis is taken from the 2022 OLC and JFO Sports Wagering Study. Legislators or the Committees of Jurisdiction may want to request an updated fiscal analysis for specific questions about sports wagering revenue and tax rates.

Introduction and Context

In the roughly three years since the Supreme Court ended a nationwide prohibition on sports betting, numerous states have rushed to legalize it. As of September 2021, twenty-six states and Washington, DC, have passed legislation legalizing sports betting. Twenty states plus Washington, DC, have operational markets. In addition to this, many other states have put forth legislation to legalize sports betting.

In all states that have legalized sports betting, state governments are collecting revenues. Sports gambling revenues collected in each state are a function of three variables, all of which will be addressed in kind:

- *The maturity of the sports gambling market.* In all states, there is a ramp-up period in betting and revenue collection.
- *The legal and regulatory structure of the market,* meaning the number of operators[1] permitted to take bets in each state, whether it is a private or public system, and whether betting is purely in person or online, or both.
- *The share of revenues collected by the state from the operator*. In many cases, this is a tax on gross revenue, but in others, it is a revenue-sharing agreement with the operator. In states with government-run operators, it is 100 percent of profit.

Before continuing, it is important to understand the various terms in sports betting for measuring total betting, revenue, and profit:

- *Handle*: the amount wagered over a given time period. In other words, the total amount of dollars placed by bettors.
- *Revenue*: the amount of money retained by the operator out of the money wagered, after winning bets are paid out.

[1] An operator in this context refers to the firm or entity who solicits bets on sports. When an individual wants to bet on a sporting event, it is the entity that takes the bet. In the industry, operators are also known as sportsbooks.

- *Hold*: the amount of revenue retained by the operator as a share of the handle.

The Maturity of the Sports Gambling Market

In general, states with longer-established sports betting see larger sports betting markets (i.e., greater per capita handle). In states that have legalized sports betting since 2018, in all cases, market size is larger in the second and third years than the first year.

Table 1 shows per capita handle[2] for various states in the first and second years of their operating legal sports gambling markets. Many states' first or second year occurred in 2020 and thus were heavily impacted by the COVID-19 pandemic. Some states closed in-person betting sites during this time and, as a result, saw significantly lower betting for some period of time between March 2020 and October 2020. Even if a state did not close in-person betting, the amount of sporting events available to bet on during this period dramatically decreased, resulting in drastically slower betting. To get a better sense of a normal operating year, JFO adjusted the data by excluding months where per capita handle was below March 2020 until per capita handle recovered to pre-pandemic levels (see Appendix for complete methodology).[3]

Table 1: Per Capital Handle by State			
		COVID-19-Adjusted Per Capital Handle	
State	**Date Legalized**	**Year 1**	**Year 2**
New Jersey	June 2018	$318.26	$630.55
Delaware	June 2018	$162.17	$132.62
West Virginia	August 2018	$81.61	$24.22
Mississippi	August 2018	$106.31	$168.23
Pennsylvania	November 2018	$65.23	$354.50
Rhode Island	November 2018	$178.89	$323.66
Arkansas	November 2018	$9.04	$20.89
Iowa	May 2019	$145.21	$402.38
Indiana	May 2019	$233.93	$448.06
Oregon	August 2019	$56.32	$75.33
New Hampshire	July 2019	$250.82	$430.81

[2] Per-person betting rather than per bettor.

[3] For instance, for a state whose first year began in January 2020 and closed in-person gambling sites from April through August 2020, JFO counted handle and revenues for January, February, and March but skipped April through August and then continued counting the remaining nine months of September 2020 through May 2021.

Colorado	November 2019	$507.70	N/A
Michigan	December 2019	$90.31	$349.59
Tennessee	April 2019	$306.56	N/A
Montana	May 2019	$37.01	$42.32
Illinois	June 2019	$389.33	N/A
Virginia	July 2019	$306.68	N/A
Notes: Nevada excluded since sports betting has been legal since 1949. For states with more than 4 months but less than 12 months of data in a given year, data were extrapolated for the missing months. “Date legalized” refers to when legislation was passed.			

Prior to the Supreme Court striking down the Professional and Amateur Sports Protection Act (PAPSA) in 2018 and legalizing sports gambling, the only state that had full legalized sports gambling was Nevada, which legalized sports gambling in 1949, prior to PAPSA. As a result of this first-mover advantage of sorts, the state became, and still is, a tourist draw for those interested in betting on sports. The state generates significant handle; in 2019, prior to COVID-19 interruptions in in-person gaming, the state generated annual per capita handle of more than $1,700—more than double the next highest state. In most analyses conducted by JFO, data from Nevada are excluded for this reason.

The Legal and Regulatory Structure of the Market

While sports gambling is legal in thirty-one states and Washington, DC, the legal and regulatory structures of each state differ. Typically, two parameters are important for determining the size of the market:

- the number of operators permitted to operate in the state; and
- whether sports gamblers are permitted to place bets only in person or online, or both.

In general, the easier it is for gamblers to place bets, the greater the size of the market. To the first point above, while states operate different frameworks, they generally fall into two buckets:

1. *Many Operators/Competitive Markets*. These states either permit many operators to take sports bets or they permit one operator but ensure that the betting lines are nationally competitive, either by mandating it from the sole operator or by choosing a nationally reputable firm. These states always permit online and mobile betting and usually have some in-person betting establishments.

Moreover, because of the competitive betting landscapes, the operators usually offer not only single-game betting but also in-game betting and proposition bets.[4] As a result, these states generate high per capita handle. States with this type of regime with many operators include New Jersey, Indiana, Pennsylvania, Illinois, Iowa, and Colorado. New Hampshire and Rhode Island have one and two operators, respectively, but they are well-known operators who offer promotions, competitive betting lines, and mobile betting.

2. *Few Operators/Less Competitive Markets*. These states permit only limited operators or manage a government-run operator through their lottery systems. Some permit online and mobile betting but others only allow in-person betting, such as at a casino. They do not typically offer many promotions to sports bettors, and the lack of competition generally leads to betting lines that are worse for the bettor than what would be available in Las Vegas.[5] As a result, per capita handle in these states is markedly lower. Examples of these type of states include Mississippi and Arkansas, which only permit on-premises betting, as well as Washington, DC, Oregon, and Montana, whose operators are state-run largely out of their existing lottery.

The Share of Revenues Collected by the State from the Operators

All states with legal sports gambling generate state revenues from sports betting operators. Typically, this is done by either having their own state-run operator and keeping the net profits or applying a tax rate or revenue-sharing agreement to operator revenues.

Oregon and Montana are examples of state-run operators that keep the net profits. This model is similar to Vermont's liquor control market where the State captures profits from liquor sales to support the General Fund.

[4] A single game bet would be one where the bettor bets on the outcome of the game prior to it starting. An in-game bet is a bet taken while the game is being played and is usually placed on an outcome within the game, such as "Will the New England Patriots be leading at half time?" A proposition bet is a bet either in-game or before a game on a specific instance in the game, such as "Will Tom Brady throw for more than 300 yards?"

[5] In the sports gambling world, the betting lines offered to gamblers in Las Vegas are seen as the strongest since the competition in Nevada forces operators/sportsbooks to accept lower profits/holds.

For the remaining states that do not have a state-run operator, most levy a tax on revenues or have a revenue-sharing agreement with operators in their state. In some states, this is in the 10–20 percent range. However, in Rhode Island, New Hampshire, and Delaware, the revenue split is 50 percent or greater (see Table 2).

Table 2: State Tax Rates or Revenue Sharing for Sports Gambling

State	Tax Rate
Arkansas	13% or 20%
Colorado	10%
Connecticut	13.75%
Delaware	50% of total revenue
Illinois	15%
Indiana	9.50%
Iowa	6.75%
Michigan	8.40%
Mississippi	8% state, 4% local tax
Montana	Net state sportsbook profit
New Hampshire	51% of gross revenue
New Jersey	8.50% or 14.25% if online
New York	10%*
Oregon	Net state sportsbook profit
Pennsylvania	34% tax with 2% local option tax
Rhode Island	51% of revenue
Tennessee	20%
Virginia	15%
West Virginia	10%

*New York recently expanded online betting, and its law states sportsbook must pay at least 50% of revenues.

It is important to note that in sports betting markets, based upon other states' experience, higher tax rates do not result in higher costs for gamblers, as they might with more traditional taxes. The most salient drawback to a higher tax rate is that it may act as a deterrent for an operator to set up in a state. As a result of fewer operators, the bettor may receive less competitive betting lines (e.g., lower winnings for a given bet), fewer promotions, and fewer available betting opportunities. This is not always the case, however. In high-tax rate states like New Hampshire and Rhode Island, though there are only one or two operators, they generally offer competitive betting lines for consumers because the operators are reputable national firms and the agreement with the state requires lines to be nationally competitive.

Revenues and Estimates

Overview of State Revenue Collections

The revenues a state collects will be a function of many variables, including the type of regulatory market, the number of operators, the tax rate or revenue sharing agreement in place, and the population of the state.

As Table 3 lays out, generally, states with larger populations, higher tax rates, and/or a large in-person and online betting market generate more tax revenue in absolute terms. However, states with a robust online betting market and very high tax rate (New Hampshire and Rhode Island) generate very high revenue per capita despite their small size.

Table 3: State Revenues in Calendar Years 2020 and 2021

State	2020	Per Capita	Jan-July 2021	Per Capita
Nevada	$17,808,056	$5.73	$13,977,766	$4.50
New Jersey	$50,891,397	$5.48	$46,206,971	$4.97
Delaware	$12,043,312	$12.15	$3,396,415	$3.43
West Virginia	$2,852,172	$1.59	$1,609,049	$0.90
Mississippi	$3,499,322	$1.18	$2,427,355	$0.82
Pennsylvania	$76,854,070	$5.91	$55,964,071	$4.30
Rhode Island	$12,274,413	$11.18	$9,616,883	$8.76
Arkansas	$583,374	$0.19	$676,208	$0.22
Iowa	$2,806,655	$0.88	$3,698,260	$1.16
Indiana	$13,041,325	$1.92	$13,018,210	$1.92
New Hampshire	$11,012,005	$7.98	$9,271,740	$6.72
Colorado	N/A		$5,493,562	$0.95
Michigan	N/A		$3,715,166	$0.37
Tennessee	N/A		$18,800,000	$2.72
Illinois	N/A		$40,776,494	$3.18
Virginia	N/A		$7,831,050	$0.90

Note: States are in order of legalization. N/A indicates full year data not available.
Source: Legal Sports Report.

In general, while these revenue totals are sizeable, they do not represent a major revenue source for most of these states. For instance, while New Jersey collected over $50 million in sports gambling revenue in 2020, the state's total general fund budget totals over $40 billion.[6] Even in the highest revenue per capita states, the revenues are not suitable to support major programs:

- In New Hampshire, all sports gambling revenues go to the education trust fund, which in FY2022 was $1.09 billion. The lottery generates about $125 million per year in New Hampshire, so sports betting revenues represent about 1 percent of revenues for education and less than 10 percent of total lottery revenues. [7]
- In Rhode Island, all sports gambling revenues are dedicated to the general fund. Sports gambling revenue represent less than 0.2 percent of total general fund spending.[8]

JFO State Revenue Estimates for Legal Sports Gambling

At the time of publication, there is no legislation available upon which to generate a formal revenue estimate. JFO's work for this report focused on creating a model for sports betting that is flexible and can give legislators a range of possible revenue outcomes depending upon the final legal framework. The market size and potential state revenues will depend heavily on the market structure and tax rate and also on, to a lesser extent, holds for operators.

JFO's revenue estimates rely largely on the experiences in other states. However, as mentioned earlier, gambling markets and state revenues across states vary significantly. In order to generate ranges, JFO made market estimates using a matrix of two parameters, the number of operators and the tax rate, as follows:

- *Many operators, low tax rate*. Under this model, Vermont would contract with many operators and offer in-person and online betting. The tax rate would be less than 20 percent. States with this model include New Jersey, West Virginia, Iowa, Indiana, Michigan, Colorado, Illinois, and Virginia.

---

[6] https://www.njlm.org/DocumentCenter/View/9015/RevisedFY21Budget
[7] "Where the Money Comes From," Transparent New Hampshire. "https://www.nh.gov/transparentnh/where-the-money-comes-from/index.htm"
[8] FY 2021 Operating Budget. Office of Management and Budget, Rhode Island. http://www.omb.ri.gov/documents/Prior%20Year%20Budgets/Operating%20Budget%202021/ExecutiveSummary/0_Complete%20FY%202021%20Executive%20Summary.pdf

- *Many operators, high tax rate*. Under this model, Vermont would contract with many operators or, alternatively, contract with a national operator with competitive lines and well-established betting platforms. Betting could occur in person or online. The tax rate, however, would be significantly higher, at least 35 percent and more likely 50 percent or higher. States under this model include Pennsylvania, New Hampshire, and Rhode Island.
- *Few operators, low tax rate*. Under this model, Vermont would either have a single operator and establish retail betting operations or allow certain retail establishments to have betting operations. Betting would largely be in person, and if there were online betting, it would require the bettor to be on premises. The tax rate would be between 10 percent and 20 percent. States with this model are Mississippi and Arkansas.
- *Few operators, high tax rate.* Under this model, Vermont would either operate a State-run sportsbook and establish retail betting operations or allow certain retail establishments to operate betting operations. Betting could occur online or in person, but because of the limited number of operators, the betting lines are likely to be less competitive. States under this model include Oregon, Montana, and Washington, DC.

Learning from the experiences of other states, JFO made revenue estimates for two years of operations. The first year of operations usually has a three to six month ramp-up period, while the second year is a better reflection of ongoing market size and revenue collections.

Table 4 lays out a range of potential revenue in the first year depending upon the model. JFO estimates revenues would fall between $640,000.00 and $4.8 million.

Table 4: Preliminary Potential State Revenues under Differing Frameworks
Year 1 of Operations

	Many Operators		Few Operators	
	Low Tax Rate	**High Tax Rate**	**Low Tax Rate**	**High Tax Rate**
Total Handle	$198,200,000	$124,900,000	$37,900,000	$57,600,000
Per Capita Handle	$308	$194	$59	$90
Hypothetical Hold	8.0%	7.7%	11.2%	9.1%
Hypothetical Tax Rate	10%	50%	15%	50%
Potential Revenue	**$1,540,000**	**$4,810,000**	**$640,000**	**$2,610,000**

Table 5 lays out JFO's estimates for revenues in the second year depending upon the market. As noted, as betting operations mature and residents become more accustomed to betting on sports, the size of the market grows.[9] The higher-end estimate of $10.3 million is in line with New Hampshire and Rhode Island for their most recent data. Over the first six months of 2021, these states generated per capita handle of between $30 and $35 per month. JFO estimates $33 per month for Vermont.

Table 5: Preliminary Potential State Revenues under Differing Frameworks Year 2 of Operations				
	Many Operators		**Few Operators**	
	Low Tax Rate	**High Tax Rate**	**Low Tax Rate**	**High Tax Rate**
Total Handle	$268,500,000	$255,300,000	$66,900,000	$52,200,000
Per Capita Handle	$418	$397	$104	$81
Hypothetical Hold	7.8%	8.1%	13.8%	10.5%
Hypothetical Tax Rate	10%	50%	15%	50%
Potential Revenue	**$2,030,000**	**$10,340,000**	**$1,380,000**	**$2,740,000**

Several factors could make a significant impact on these revenue estimates:

- The most direct variable is the tax rate set by the Legislature or the share committed by an operator as part of a contract with the State.
- Holds (i.e., operator revenues after making payouts) also tend to vary from year to year, which will have an impact on revenues. Typically, robust sports betting markets achieve between 7 percent and 9.5 percent on average. However, if an operator or operators find themselves on the wrong side of a major sporting event, holds could be lower for a given month or year.
- The impact of COVID-19 is ongoing. The primary impact of the pandemic will continue to be its effect on sporting events. For instance, the virus could cause the cancellation of games or cause the outcome of a game to be increasingly random. For example, a late removal of a player due to a COVID-19 close contact. Both of these would depress betting.

[9] The *few operators, high tax rate* overall estimate declines from $56 million in year 1 to $52 million in year 2 because Delaware is part of the sample used to calculate this number. In their second year of betting operations, they lost money as a state due to the Superbowl result in 2020.

- Interstate competition could be important. The core group of customers for sports betting tends to be made up of savvy bettors. This group will almost certainly travel to a neighboring state to take advantage of more favorable betting lines or promotions. JFO's discussions with lottery and sports gambling experts found that New Hampshire's operator generally offers nationwide competitive betting lines and New York's new online betting platforms are likely to offer the same. If Vermont's operator is not offering lines similar to these two states, it could lose bettors not only from Vermont but also from Massachusetts gamblers.[10] Similarly, if Vermont's operator offers better lines or promotions, it will likely benefit from cross-border gamblers.

The ultimate structure of a legal sports betting market in Vermont is the decision of the Legislature. It is worth noting, however, that Vermont's betting market might make one model more feasible than another. JFO's conversations with stakeholders revealed Vermont's relatively small population could not sustain both a high tax rate *and* many operators like Pennsylvania or New York. The operators would be unable to generate a worthwhile after-tax profit in such an environment.

At the same time, establishing a market with few operators and in-person betting such as Mississippi and Arkansas is also unlikely because Vermont does not have existing casinos or on-premises gambling establishments. If the goal of the Legislature is to maximize State revenues given Vermont's market, the New Hampshire or Rhode Island model appears to be most instructive.

Fee Revenue

Fees in states with legalized sports betting vary significantly. While not strictly the case across states, licensing fees are, in theory, in place to cover the regulatory costs to the state and localities rather than to raise revenues for the state. Table 6 lays out the licensing fee structures across states.

The revenues collected from licensing fees will depend upon whether Vermont chooses to pay for operating costs using sports gambling tax revenues or with

[10] Massachusetts does not have legal sports betting as of September 2021.

fees. States like New Hampshire and Rhode Island have a high tax rate and few operators and therefore cover state operating costs with tax revenue rather than a high fee for a limited number of operators. Other states such as New Jersey or Indiana cover operating costs with fees from many operators.

The Department of Liquor and Lottery has estimated that they will incur approximately $460,000.00 in ongoing costs for a sports betting market, largely from a sports betting manager position and two customer service positions. This is in addition to an estimated $55,000 in one-time setup costs for information technology support and office equipment. Should Vermont choose to have a licensing fee, the size of the fee will depend upon the number of operators permitted to operate in the State.

Table 6: Licensing Fees for Sports Betting Across States

State	Fee
Arkansas	No licensing fees.
Colorado	The master license fee is $2,000, and the retail operator fee and mobile operator fee are $1,200 each. $2,000, $1,200, and $1,200 renewal fees, respectively, every two years.
Delaware	No additional fee for sports wagering.
Illinois	In person: $10 million initial license fee Online: $20 million initial license fee $1 million renewal fee every four years.
Indiana	$100,000 initial fee; $50,000 annual renewal
Iowa	$45,000 initial fee; $10,000 annual renewal
Michigan	$150,000 licensing fee; $50,000 application fee; $50,000 annual renewal fee
Mississippi	No additional fee for sports wagering.
Montana	$1,000 annual fee for platform operators; $100 fee per kiosk.
New Hampshire	No licensing fees.
New Jersey	$100,000 annual fee.
New York	No licensing fees.
Oregon	No licensing fees.
Pennsylvania	$10 million initial license fee; $250,000 renewal fee every five years.
Rhode Island	No licensing fees.
Tennessee	$750,000 annual fee.
Virginia	$250,000 3-year license; $200,000 renewal fee; $50,000 application fee.
Washington, DC	Up to $500,000 initial license fee $250,000 renewal fee every five years
West Virginia	$100,000 fee; renewed every five years
Source: “The Early Bets Are In: Is Sports Betting Paying Off?” National Conference of State Legislators, March 1, 2021	

Appendix: Estimation Methodology

COVID-19 Adjustments. As noted, JFO's estimate relied heavily upon the handle, hold, and revenue data from other states gathered by Legal Sports Report. In estimating Year 1 and Year 2 revenues, JFO made adjustments to account for the COVID-19 pandemic, as most states' first or second year of legal sports betting fell during the pandemic. The impact of the pandemic on sports betting was both through the closure of venues to place bets (such as casinos) but also the decrease in the number of sporting events. For example, the 2019–2020 NBA season was suspended on March 11, 2020, and did not resume until July 30, 2020.

Generally, across all states with legal sports betting at the time, JFO observed that overall betting was depressed from roughly March 2020 through July 2020, sometimes longer. In JFO's judgement, years that fell during the pandemic would not be representative of normal betting market conditions. To adjust for this, JFO did the following for each state:

- Calculated monthly handle numbers to per capita handle.
- For 2020, excluded all months that had lower per capita handle than March 2020 from calculations of average annual handles for Year 1 or Year 2, depending upon which year was impacted by the pandemic. In other words, JFO excluded all months in 2020 that were below the per capita pre-pandemic level.
- Subsequent months were used to complete the remaining 12-month averages.

For example, suppose a state established a legal sports betting market in January 2020 and had a per capita handle of $20 by March 2020. Due to the pandemic, its per capita handle dropped to $3, $10, and $17 in April, May, and June 2020, respectively. By July 2020, per capita handle was $22. In order to calculate the 12-month average and median handle of that state, JFO excluded April, May, and June 2020 from the average, and included the remaining months to create a 12-month average. In this example, the 12-month average would include data January through March 2020 and then July 2020 through April 2021. See the illustration at right.

Hypothetical Example
COVID-19 Adjustment

	Per Capita Handle	Included in Calculation of Year 1 average?
Jan-20	$9	Yes
Feb-20	$11	Yes
Mar-20	$20	Yes
Apr-20	$3	No
May-20	$10	No
Jun-20	$17	No
Jul-20	$22	Yes
Aug-20	$30	Yes
Sep-20	$34	Yes
Oct-20	$38	Yes
Nov-20	$42	Yes
Dec-20	$46	Yes
Jan-21	$50	Yes
Feb-21	$54	Yes
Mar-21	$58	Yes

Extrapolation of Incomplete Data. For several states, 12 months of data did not exist to complete a 12-month average handle for either Year 1 or Year 2. In these cases, JFO extrapolated the data, if the state had at least four months' worth of data, by assuming that the months without data would be equal to the average monthly handle for the available data.

JFO acknowledges this imperfect solution may lead to misleading averages if there is seasonality in sports betting. By speaking to stakeholders and examining the data, however, the Office found that clear seasonality across all states was not evident. In theory, sports betting should be lower in the late summer because the number of sporting events tends to wane in August and September (the NBA, NHL, and NFL are all in the off-season). Conversely, sports betting should spike during the NFL playoffs and Superbowl in late January and February. While such a pattern was evident in some states like Nevada and Mississippi, it was not as clear in others. JFO determined that seasonality, while potentially an issue within subsets of the overall sample (some states may exhibit seasonality), it is not evident enough throughout the entire sample, and as such, is not entirely clear whether JFO's estimates would be upwardly or downwardly biased because of the extrapolation.

Appendix B: State by State—Mobile v. Retail

Table 1. State Market Overview (Online, Mobile, Retail, Tribal, State Control)

State	Online	Mobile	Retail	Tribal gaming	State control or lottery
Arizona	✓	✓	✓	✓	
Arkansas		✓	✓		
Colorado	✓	✓	✓	✓	
Connecticut	✓	✓	✓	✓	✓
Delaware	✓	✓	✓		✓
Illinois	✓	✓	✓		
Indiana	✓	✓	✓	✓	
Iowa	✓	✓	✓	✓	
Louisiana	✓	✓		✓	
Michigan	✓	✓	✓	✓	
Mississippi	✓ (on premises)	✓ (on premises)	✓		
Montana	✓ (on premises)	✓ (on premises)	✓	✓	✓
Nebraska			✓		
Nevada	*	✓	✓	✓	
New Hampshire	✓	✓	✓		✓
New Jersey	✓	✓	✓		
New Mexico			✓	✓	
New York	✓	✓	✓	✓	
North Carolina			✓	✓	
Ohio	✓	✓	✓		
Oklahoma		✓	✓	✓	
Oregon	✓	✓	✓	✓	✓
Pennsylvania	✓	✓	✓		
Rhode Island	✓	✓	✓		✓
South Dakota			✓	✓	
Tennessee	✓	✓			
Virginia	✓	✓			
Washington	✓	✓	✓	✓	
Washington, DC	✓	✓	✓		✓
West Virginia	✓	✓	✓		✓
Wisconsin			✓	✓	
Wyoming	✓	✓	✓	✓	