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FISCAL IMPACT STATEMENT

LS 7250

BILL NUMBER: HB 1335

NOTE PREPARED: Jan 4, 2021

BILL AMENDED:

SUBJECT: Video Gaming Terminals.

FIRST AUTHOR: Rep. Judy

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill authorizes wagering on video gaming terminals in certain establishments. It establishes a licensing structure for participants in video gaming. It imposes a video gaming wagering tax of 30% of adjusted gross receipts.

Effective Date: July 1, 2021.

Explanation of State Expenditures: *Indiana Gaming Commission (IGC):* The bill requires the IGC to administer, enforce, and regulate the system of video gaming in Indiana. The IGC will have to set licensing standards and conduct investigations of the licensees. The provisions in the bill would lead to additional administrative cost for the IGC. The bill provides that the license fees imposed under the bill would be used to pay for the cost of investigating license applicants and license holders. However, any additional expenses would be paid from riverboat wagering tax revenue annually appropriated to the IGC for administrative purposes. HEA 1001-2019 appropriated \$3.5 M annually in FY 2020 and FY 2021 to the IGC for administrative purposes.

Department of State Revenue (DOR): The bill provides guidelines and sets up requirements for the DOR for remittance and collection of the video gaming wagering tax. The DOR will incur additional expenses to create forms, instructions, and computer programs based on the guidelines provided in the bill. The DOR's current level of resources should be sufficient to implement these changes.

Penalties: The bill establishes a Class A misdemeanor and a Level 6 felony for certain violations of provisions relating to video gaming. A Level 6 felony is punishable by a prison term ranging from 6 to 30 months, with an advisory sentence of 1 year. The sentence depends on mitigating and aggravating

circumstances. The average expenditure to house an adult offender was \$21,551 annually, or \$59 daily, in FY 2020. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,524 annually, or \$9.66 daily, per prisoner.

Explanation of State Revenues: Wagering on video gaming terminals (VGTs) in Indiana under this bill is estimated to:

- (1) Generate wagering tax revenue from VGT operations.
- (2) Generate license fee revenue from VGT operations.
- (3) Result in a loss of riverboat and racino taxes due to the displacement of riverboat and racino wagering by VGT wagering.

Due to the time required for the licensing and installation of the VGTs, the wagering tax impact is estimated to occur only during part of FY 2022. The first full year of impact will be in FY 2023. Under the bill, all of VGT wagering tax revenue would be distributed among the municipalities and counties where the VGT operators are located. The state General Fund would receive revenue from various initial license fees and annual license renewal fees collected under the bill.

The estimated impact of the bill on the state General Fund in FY 2022, FY 2023, FY 2024, and FY 2025 is reported in the table below. The estimate accounts for the decline in riverboat and racino taxes due to displacement of riverboat and racino wagering by VGT wagering.

(\$ in Millions)	Video Gaming Tax Revenues (30%)		Video Gaming License Fees Revenues		Riverboat and Racino Revenue Losses		Net General Fund Impact	
	Low	High	Low	High	Low	High	Low	High
FY 2022	\$3.1	\$5.8	\$1.5	\$2.8	-\$5.5	-\$10.9	-\$0.9	-\$2.3
FY 2023	12.9	24.3	1.2	2.5	-22.1	-43.5	-8.0	-16.7
FY 2024	18.5	34.8	1.2	2.6	-31.4	-61.6	-11.7	-24.2
FY 2025	21.4	40.4	1.3	2.8	-36.9	-72.5	-14.2	-29.3

Impact on Dedicated Funds: The decline in supplemental wagering tax due to displacement by VGT wagering would also impact distributions to Mental Health Division and State Fair Commission. The revenue loss could be between \$0.2 M to \$0.4 M annually. The decline in racino AGR due to displacement by VGT wagering would impact distributions to the Breed Funds. The revenue loss could be between \$2.4 M to \$4.9 M annually. Since this is the estimated full impact in FY 2025, the revenue loss would be lower during the initial years.

Penalties: If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. The maximum fine for a Level 6 felony is \$10,000. Additionally, the bill permits the IGC to impose a civil penalty of up to \$5,000 upon a licensee that permits a person barred from wagering under to place a wager on a VGT. It requires any civil penalties to be deposited in the state General Fund.

Other Revenue: This bill may increase the number of VGTs sold, increasing Sales Tax revenue. Sales Tax revenue is deposited in the state General Fund and three other dedicated funds. If allowing operation of VGTs in alcoholic beverage retail establishments increases alcohol sales, revenue from the Alcoholic

Beverage Excise Tax may increase. Alcoholic Beverage Excise Tax revenue is deposited in the state General Fund and five other dedicated funds.

Additional Information - The bill allows VGTs to be installed in a licensed establishment. It allows up to 5 VGTs in: (1) A fraternal organization establishment, and (3) A veterans organization establishment.

It is estimated that the VGT operations will grow rapidly until the end of the fourth year of operations. It is estimated to reach 15% of capacity in FY 2022, 60% in FY 2023, 90% in FY 2024, and by the end of FY 2025 between 1,400 and 2,200 qualified establishments will have a license. Since this level will be reached by the end of fourth year, the average number of establishment for the fourth year will be 1,300, to 2,050, as specified in the table below. The market is estimated to continue to grow in the fifth and sixth years before stabilizing. The level of decline in riverboat/racino taxes due to displacement by VGT operations would be commensurate with the growth in the VGT market. Using experiences from other states, the estimate takes into account the local ordinance permissions allowed in the bill.

The analysis assumes that on average, each establishment will install 5 VGTs within their premises. The average daily AGR in other states on similar operations is above \$120. Recent trends indicate that the gaming markets in Indiana are saturated. Consequently, the average AGR could potentially be lower than \$120 in Indiana. The impact below assumes between \$100 and \$120 average daily AGR per terminal in Indiana. The annual statewide AGR for the full impact of the bill in the fourth year of operations is shown below.

4th Year (FY 2025)	Number of Establishments	Terminals per Establishment	AGR per Day per Terminal	Annual Statewide AGR
Low Range	1,300	5	\$100	\$237.3 M
High Range	2,050	5	\$120	\$449.0 M

The following table provides data from seven states where VGTs are operated in bars, taverns, lounges, and other sites where access by underage persons is restricted due to retail alcohol sales. New Mexico is more limited as VGTs are restricted to nonprofit social and fraternal organization facilities. Since the variation in VGT activities likely is, in part, the result of state differences in population, income, and competing forms of gaming, this variation has been taken into account in developing the estimated average daily AGR per VGT.

State*	Avg. Number of Establishments	Avg. Daily Number of Terminals	Terminal per Site	Annual AGR	Daily AGR per Machine
Illinois	7,009	32,162	5	\$1,676.0 M	\$143
Louisiana	1,754	13,091	8	\$576.9 M	\$121
Montana	1,418	16,864	12	\$402.1 M	\$65
New Mexico	40	633	15	\$9.7 M	\$42
Oregon	2,000	11,909	6	\$876.4 M	\$202
South Dakota	1,331	9,002	7	\$207.6 M	\$63
West Virginia	1,303	7,162	5	\$368.1 M	\$140

*The totals are from the available reports for a 12-month period. LSA is in the process of updating this table.

Casinos/Racino Impact: The revenue loss in riverboat wagering taxes, supplemental wagering taxes, and racino wagering taxes due to displacement by VGT wagering would lower the distributions of these revenues to the state General Fund. Based on actual impact of VGT operations on Illinois casinos, it is estimated that the AGR at Indiana gaming facilities would decline by 6% to 12%. This would impact the wagering taxes in the same proportion.

Video Gaming Wagering Tax: The bill imposes a wagering tax equal to 30% of the adjusted gross receipts (AGR) from VGTs. It distributes the total AGR as follows: (1) 30% as tax to the state and a portion is distributed to the county and municipality where the VGT is located. (2) 35% to the operator of the VGT, and (3) 35% to the establishment where the VGT is located. [The General Fund receives 30% of the tax revenue remitted to the state.]

License Fees: The bill sets an initial license fee. The revenues from the license fee net of the IGC’s cost of investigating an applicant for an establishment license will be deposited in the state General Fund. The bill requires the licenses to be renewed annually. The license fees are as follows:

- (1) An initial manufacturer, distributor, or supplier fee of \$25,000 for an Indiana resident and \$35,000 for a nonresident. The renewal fee for these licensees is set at \$10,000.
- (2) An initial operator fee of \$15,000 for an Indiana resident and \$25,000 for a nonresident. The renewal fee for these licensees is set at \$5,000.
- (3) An initial establishment fee of \$500. The renewal fee for these licensees are set at a graduated rate between \$100 to \$1,000, based on the AGR generated in the previous 12 months.

The estimate does not account for potential displacement of charity gaming and lottery sales by VGT wagering, or the impact this could have on tax and other revenue from these activities. The impact on tax collections from these gaming sources could further offset the revenue generated by the video gaming in Indiana.

Explanation of Local Expenditures: *Penalties:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. A Class A misdemeanor is punishable by up to one year in jail. The average cost per day to incarcerate a prisoner is approximately \$54 based on the per diem payments reported by U.S. Marshals to house federal prisoners in 16 county jails across Indiana during federal FY 2017.

Explanation of Local Revenues: The bill allows local units to pass ordinances to prohibit video gaming. For counties where VGT operations are conducted: (1) 35% of the video gaming wagering tax revenue would be quarterly distributed to the county where the operator submitting the taxes is located, and (2) 35% would be quarterly distributed to the municipality where the operator submitting the taxes is located.

The revenue loss in riverboat wagering taxes, supplemental wagering taxes, and racino wagering taxes due to displacement by VGT wagering would lower the distributions of these revenues to the local units where the riverboats and racinos are located. The estimated net distributions to the local units is provided in the following table.

(\$ in Millions)	Video Gaming Tax Revenue		Riverboat and Racino Tax Revenue Loss		Net Local Impact	
	Low	High	Low	High	Low	High

FY 2022	\$7.2	\$13.4	-\$1.0	-\$2.0	\$6.2	\$11.4
FY 2023	30.0	56.6	-4.1	-8.1	25.9	48.5
FY 2023	43.1	81.2	-5.8	-11.5	37.3	69.7
FY 2024	50.0	94.2	-6.8	-13.5	43.2	80.7

It provides that the county may use the funds for (1) mental health treatment for jail inmates, (2) addiction interventions for jail inmates, (3) contributions to the pension fund of the county's sheriff's department, and (4) training and equipment for the county's sheriff's department. A municipality may use the revenue for (1) contributions to the 1977 Police and Firefighters' Pension and Disability Fund, and (2) training and equipment for the police department of the municipality.

Penalties: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: Indiana Gaming Commission; Department of State Revenue; Division of Mental Health and Addiction; State Fair Commission.

Local Agencies Affected: Trial courts, local law enforcement agencies, local units receiving riverboat & racino taxes.

Information Sources: Louisiana Gaming Control Board, Annual Reports, http://lgcb.dps.louisiana.gov/annual_reports.html; Montana Department of Justice, Gambling Control Division Reports; <https://media.dojmt.gov/wp-content/uploads/FY17-FY18-Biennial-Report-Final-1218.pdf>; West Virginia Lottery, Annual Reports, <https://wvlottery.com/news-and-info/information/financial-reports/>; New Mexico Gaming Control Division, Annual Reports, <https://www.nmgcb.org/>; Oregon Lottery Audited Financial Reports, <https://www.oregonlottery.org/>; South Dakota Annual Rpeort; <https://lottery.sd.gov/about/>; Indiana Gaming Commission, Annual Reports, <http://www.in.gov/igc/2362.htm>; Hoosier Lottery, Annual Reports, www.hoosierlottery.com/about-us/annual-report; State Revenue Forecast, December 20, 2019, <https://www.in.gov/sba/2760.htm>; State Revenue Forecast, December 16, 2020, <https://www.in.gov/sba/2837.htm>; Alcohol & Tobacco Commission, Online License Database; <http://www.in.gov/atc/2410.htm>;

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