

Legislative Analysis



REVENUE DISTRIBUTIONS TO THE AGRICULTURE EQUINE INDUSTRY DEVELOPMENT FUND

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<http://www.house.mi.gov/hfa>

House Bill 4823 as reported from committee
Sponsor: Rep. Julie Alexander

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4824 as reported from committee
Sponsor: Rep. Kevin Hertel

Committee: Agriculture
Complete to 5-27-21

BRIEF SUMMARY: House Bills 4823 and 4824 would respectively amend the Lawful Internet Gaming Act and the Lawful Sports Betting Act to remove the cap on revenues collected under those acts that are distributed to the Agriculture Equine Industry Development Fund (AEIDF).

FISCAL IMPACT: The fiscal impact of House Bills 4823 and 4824 would depend on whether the earmark to the AEIDF under the Lawful Internet Gaming Act or the Lawful Sports Betting Act, or both, exceeded the current cap on those distributions (which the bills would remove). The bills would not affect total state revenue, but could affect the distribution of revenue between two state restricted funds. The bills would have no impact on local units of government. More information can be found under **Fiscal Information**, below.

THE APPARENT PROBLEM:

The AEIDF is directly linked to Michigan horse racing purse structures and breeding numbers. According to committee testimony, as the purse structures from the fund fell, so did the number of registered horses. Breeding for horse racing contributes to the collection of tax revenue from the industry, so less breeding in Michigan has resulted in fewer tax revenues being collected. Legislation has been proposed to remove the cap on revenue that is distributed to the AEIDF under the Lawful Internet Gaming Act and the Lawful Sports Betting Act, which could allow the AEIDF to collect more revenue under those two acts.

THE CONTENT OF THE BILL:

The Lawful Internet Gaming Act,¹ which authorizes licensed internet gaming in Michigan, imposes a tax on adjusted gross receipts from that gaming and earmarks tax revenue as follows:

- 30% to the city in which the internet gaming operator's license is located.
- 65% to the Internet Gaming Fund established in the act.

¹ 2019 PA 152 (House Bill 4311): <http://legislature.mi.gov/doc.aspx?2019-HB-4311>

- 5% to the AEIDF. The Lawful Internet Gaming Act also limits the amount of the deposit to the AEIDF to \$3.0 million per state fiscal year, and any revenue in excess of the \$3.0 million is to be credited to the Internet Gaming Fund.

Similarly, the Lawful Sports Betting Act,² which authorizes licensed sports betting, imposes a tax on sports betting gross proceeds and earmarks tax revenue in the same amounts (and with the same \$3.0 million cap) as described above.

The bills would amend the respective acts to remove the \$3.0 million annual cap on revenue distributed to the AEIDF. The bills would not change the 5% distribution to the AEIDF.

MCL 432.315 (HB 4823)

MCL 432.415 (HB 4824)

BACKGROUND INFORMATION:

The AEIDF is established in section 20 of the Horse Racing Law of 1995. Since the fund's creation, its revenue has been derived primarily from a 3.5% tax on simulcast horse race wagering. Beginning in 2020, AEIDF revenue has been supplemented by a tax on advance deposit wagering on horse races as made through licensed third-party facilitators. AEIDF revenue was \$2.3 million in 2019 and \$2.0 million in 2020. AEIDF revenue is used for horse racing supplements and awards paid to owners and breeders of Michigan racehorses and regulatory costs of the Michigan Gaming Control Board.³

Legislation that proposes increasing breeders' awards in Michigan from the AEIDF has recently been passed by the House of Representatives.⁴

FISCAL INFORMATION:

Although the Lawful Internet Gaming Act and Lawful Sports Betting Act both took effect in December 2019, the Michigan Gaming Control Board did not finalize administrative rules governing internet gaming and sports betting until December 2020. Operators could not begin accepting wagers until 2021.⁵ Based on estimates at the time of enactment, a mature internet gaming market is expected to generate approximately \$30.0 million in wagering tax revenue from commercial casinos, and a mature internet sports wagering market is estimated to generate approximately \$8.0 million in wagering tax revenue. Wagering tax revenue from either revenue stream would need to reach \$60.0 million for the AEIDF cap to be reached.

Wagering tax revenue from internet gaming at commercial casinos through the first three months of the fiscal year totaled approximately \$30.0 million. While revenues are currently

² 2019 PA 149 (House Bill 4916): <http://legislature.mi.gov/doc.aspx?2019-HB-4916>

³ For additional information on horse racing and the AEIDF, see the 2017 House Fiscal Agency publication "Fiscal Focus - Horse Racing in Michigan - A Primer": https://www.house.mi.gov/hfa/PDF/Agriculture/FiscalFocus_Horse_Racing_in_Michigan.pdf

⁴ <http://legislature.mi.gov/doc.aspx?2021-HB-4599>

⁵ https://www.michigan.gov/mgcb/0,4620,7-351-79131_79259---,00.html

running above estimates, it should be noted that brick-and-mortar casino revenues have been depressed because of pandemic restrictions around capacity. Full-year estimates are not available and likely will correspond to changes in capacity limits at brick-and-mortar casinos. Statute requires the first draw of Internet Gaming Fund revenue to satisfy the hold-harmless provision for city of Detroit wagering taxes. The hold-harmless provision requires funds in the Internet Gaming Fund to be dedicated to the city of Detroit if total gaming taxes fall below \$183.0 million (capped at 55% of the fund minus the 30% internet gaming tax received by the city of Detroit).

It is unknown how much of the Internet Gaming Fund, if any, will be needed at the close of this fiscal year to satisfy this hold-harmless provision. Outside of possible impacts on this provision, any redirected revenue to AEIDF under HB 4823 would result in a corresponding reduction in School Aid Fund (SAF) revenue due to the provision that any remaining funds in the Internet Gaming Fund at the close of the year must be deposited in the SAF.

Based on both estimates (noted above) and actual collections through the first three months of the year (just over \$1.0 million), internet sports wagering taxes are not expected to meet the threshold necessary (\$60.0 million) to trigger the AEIDF cap. If internet sports wagering taxes did reach this threshold in any given fiscal year, there would be a corresponding reduction in SAF revenue for the same reason mentioned above for the Internet Gaming Fund.

In sum, the fiscal impact of House Bills 4823 and 4824 would be contingent on whether or not the earmark to the AEIDF from either the Lawful Internet Gaming Act or the Lawful Sports Betting Act, or both, exceeded the current \$3.0 million limitation. The bills would not affect total state revenue, but could affect the distribution of revenue between two state restricted funds. The bills would have no impact on local units of government.

ARGUMENTS:

For:

Supporters of the bills argue that limiting the revenue directed to the AEIDF has a direct negative impact on the horse racing industry in Michigan. More funds in the AEIDF would result in a stronger purse structure in Michigan, which will create stronger Michigan-bred horses for stronger races to attract stronger betting, all of which would help the horse racing industry rebound in the state. Horse racing has a long and robust history in Michigan, helping to bring in tax revenue. However, over the years, the winnings distributed from the AEIDF have significantly decreased, which has had a direct negative impact on horse breeding in Michigan. Breeders are going to surrounding states, where they have the opportunity to win much larger purses from races. Supporters of the bills argue that more funds in the AEIDF will help draw horse breeders back to Michigan.

Against:

Critics of the bills argue that although the Lawful Internet Gaming Act and the Lawful Sports Betting Act are still new, and thus reaching the cap on the AEIDF could be far in

the future, removing the cap could result in a future reduction of funds to the School Aid Fund. Any revenue collected above the current cap would now go to the SAF, and removing the cap would result in less revenue to the SAF. Because many schools in Michigan are already struggling, critics argue, any potential revenues should not be diverted from helping Michigan students.

Others maintain that horse racing across the nation, not just in Michigan, is a dying industry due to the changing interests of the public and concerns about the mistreatment of horses. These critics argue that previous attempts to save the industry in Michigan were short-lived and that these bills would not serve to save a dying industry, but would only harm the SAF and Michigan schoolchildren.

POSITIONS:

A representative of the United States Trotting Association testified in support of the bills. (5-12-21)

The following entities indicated support for the bills:

- Michigan Harness Horsemen’s Association (5-12-21)
- AmWest (5-12-21)
- Horsemen’s Benevolent Protection Association (5-12-21)
- Michigan Equine Partnership (5-12-21)
- Michigan Great Lakes International (5-12-21)
- Michigan Association of Fairs and Exhibitions (5-12-21)
- Michigan Thoroughbred Breeders (5-12-21)
- Michigan Farm Bureau (5-19-21)

A representative of Attorneys for Animals testified in opposition to the bills (5-19-21).

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.