SB 104-FN-A - AS AMENDED BY THE SENATE

02/22/2023 0438s
03/30/2023 1145s

2023 SESSION

23-0790
02/04

SENATE BILL ***104-FN-A***

AN ACT to regulate online gambling and direct net proceeds to a community college education scholarship fund.

SPONSORS: Sen. Lang, Dist 2; Sen. Watters, Dist 4; Sen. Gannon, Dist 23; Sen. D'Allesandro, Dist 20; Sen. Avard, Dist 12; Sen. Pearl, Dist 17; Rep. Ladd, Graf. 5

COMMITTEE: Ways and Means

ANALYSIS

This bill regulates online gambling and directs the net proceeds to a newly established community college education scholarship fund.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT to regulate online gambling and direct net proceeds to a community college education scholarship fund.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Subparagraph; Online Gambling. Amend RSA 647:2, V by inserting after subparagraph (f) the following new subparagraph:

(g) Gambling done over an Internet connection on a website on the Internet.

2 New Subdivision; Community College Scholarship Program and Fund. Amend RSA 188-F by inserting after section 69 the following new subdivision:

Community College Scholarship Program and Fund

188-F:70 Definitions. In this subdivision:

I. "Eligible institution" means a postsecondary educational institution within the community college system of New Hampshire as defined in RSA 188-F.

II. "Eligible student" means student who enrolls in a course or program of study determined by the community college system of New Hampshire to be eligible for funding under this section and who meets the following requirements:

(a) A person eligible for scholarship funds under this section must be a New Hampshire resident as defined by the board of trustees.

(b) A person shall meet the qualifications for academic performance or work experience as established by the board of trustees.

(c) A person shall have an annual household income at the time the student applies for the program of less than or equal to $100,000.

III. “Eligible costs” may include tuition, registration fees, books, lab and other mandatory fees that are determined by the community college system of New Hampshire to be part of the cost to successfully complete a course or program, and may include the costs of credit and non-credit offerings.

IV. “Program” means the community college scholarship program and fund established in this subdivision

V. “Board” means the board of trustees of the community college system of New Hampshire, established in RSA 188-F:2.

188-F:71 Scholarship Program and Fund Established.

I. It is the intent of the general court to provide financial support for New Hampshire residents to further their education through the community college system of New Hampshire.

II. It is further the intent of the general court to provide financial support for New Hampshire residents who choose to transfer community college credit, including credit earned through the dual and concurrent enrollment program, to the university system of New Hampshire.

III. There is hereby established the community college scholarship program and the community college scholarship fund. Proceeds allocated to the fund according to RSA 287-J:6 shall be non-lapsing and continually appropriated to the board for the purposes of this subdivision. The state treasurer shall credit to the fund any appropriation relating to the community college scholarship fund made in each fiscal year to the board. The state treasurer shall invest the fund in accordance with RSA 6:8. Any earnings shall be added to the fund. The fund shall be kept distinct and separate from all other funds and shall be used for the purposes of this subdivision.

IV. The funds shall be distributed to the community college system of New Hampshire for scholarship awards to eligible students who incur eligible expenses that are not already offset by funds drawn from other federal, state, institutional, or philanthropic sources.

V. The trustees of the community college system shall establish policies relative to awarding and disbursing scholarship funds to eligible students, and shall administer the program and fund.

VI. The eligible institution shall not reduce any merit or need-based grant aid that would have otherwise been provided to the eligible student.

VII. The trustees of the community college system shall work collaboratively with the trustees of the university system of New Hampshire to annually allocate a portion of the fund to support community college students who have earned an associate degree and who choose to transfer community college system credit to the university system of New Hampshire, and for students who have earned dual and concurrent enrollment credit through the community college system of New Hampshire.

VIII. Funds awarded under this section shall be made on a first come first served basis and the community college system of New Hampshire shall not be obligated to pay or waive costs in excess of the funds available.

IX. Beginning in 2024, the board of trustees shall submit a report by November 1 of each year detailing expenditures from the fund, including the number and amount of scholarships awarded, the program areas for which such awards were made, and the use of funds to support transfer of credit to the university system to the chairs of the house and senate education committees, the governor, and the commissioner of the New Hampshire department of education. Such report shall not include personally identifiable information of any student.

3 New Chapter; Online Gaming. Amend RSA by inserting after chapter 287-I the following new chapter:

CHAPTER 287-J

ONLINE GAMING

287-J:1 Definitions. In this chapter:

I. "Agent" means a party who is authorized by contract or agreement with the commission to conduct online gaming.

II. "Authorized online gaming bettor" means an individual 18 years of age or older who is physically present in the state of New Hampshire, or otherwise permitted to place a wager by law, when placing an online gaming wager with the commission or an authorized agent of the commission and is not a prohibited online gaming bettor.

III. "Commission" means the lottery commission.

IV. "Director" means the executive director of the lottery commission or designee.

V. "Online gaming wagering platform" means the combination of hardware, software, and data networks used to manage, administer, record, and/or control online gaming wagers.

VI. "Online gaming wager" means cash or cash equivalent paid by an individual to participate in online gaming wagering.

VII. "Online gaming" means games of chance as defined by RSA 287-D:1, III as may be approved by the director, including but not limited to poker, blackjack, cards, roulette, craps, baccarat or other style games in which an individual wagers money or something of monetary value for the opportunity to win money or something of monetary value, and which is offered on an online gaming platform including by electronic communication through Internet websites accessed via a mobile device or computer and mobile device applications. The term does not include sports wagering conducted under RSA 287-I or paid fantasy sports games conducted under RSA 287-H, games of chance conducted under RSA 287-D, Internet lottery conducted under RSA 284:21-h, or historic horse racing as defined under RSA 284:22-b.

VIII. “Permissible jurisdiction” means another jurisdiction from which wagers may be accepted under an interstate gaming reciprocal agreement.

IX. "Prohibited online gaming bettor" means:

(a) Any member or employee of the commission and any spouse, child, sibling, or parent residing in the same household as a member or employee of the commission.

(b) Any principal or employee of any agent.

(c) Any contractor of the commission or its agents when such contract relates to the conduct of online gaming wagering.

(d) Any contractor or employee of an entity that conducts online gaming wagering in another jurisdiction when the bettor possesses confidential nonpublic information as a result of his or her contract or employment relating to the wager being placed.

(e) Any individual placing a wager as an agent of or proxy for a prohibited online gaming bettor.

(f) Any person under the age of 18

287-J:2 Online Gaming Authorized; Commission. The commission is authorized to operate online gaming for the purposes of accepting and paying wagers by authorized online gaming bettors

within the state or other authorized jurisdiction as authorized under RSA 287-J:8 in conformance with the requirements of this chapter.

287-J:3 Commission Agents. The commission shall conduct online gaming through agents selected through a competitive bid process and approved by the governor and executive council. Any such contract shall be based on the state receiving a percentage of revenue from online gaming activities within the state. The commission shall ensure that an agent demonstrates financial stability, responsibility, good character, honesty, and integrity. In selecting an agent, the commission shall consider, at a minimum, the experience and background of the agent, the agent's mobile and Internet capabilities, the agent's contribution to economic development within the state, the agent's commitment to prevention of problem gambling, to responsible gaming, and to integrity in Internet gaming. The commission shall select one or more bidders who best meet the criteria set forth in this paragraph and select from that group the agents whose bids provide the state with the highest percentage of revenue from the Internet gaming activities covered by the bids, provided that the commission determines that the bidder's commitment to return said revenue percentage to the state is consistent with the bidder's commitment to meet all other criteria specified in the bid request and in applicable law. All agents shall be subject to criminal and financial background checks as prescribed by the commission.

287-J:4 Online Gaming Wagering Authorized. The commission and its agents are authorized to operate online gaming through an online gaming wagering platform by mobile devices or over the Internet. With respect to online gaming wagers, the commission, either independently, or through its agent, shall provide:

I. Age verification measures to be undertaken to block access to and prevent online gaming wagers by persons under the age of 18 years.

II. Identity verification through secure online databases or by examination of photo identification.

III. Geographic restrictions to ensure that online gaming wagers must be initiated and received within the geographic borders of the state of New Hampshire or a permissible jurisdiction, and are not intentionally routed outside of the state. The incidental intermediate routing of a mobile online gaming wager shall not determine the location or locations in which such a wager is initiated, received, or otherwise made.

IV. Wager limits for daily, weekly, and monthly amounts consistent with the best practices in addressing problem gambling.

V. A voluntary self-exclusion program for players to self-exclude themselves from online gaming wagering for set periods of time.

VI. Security mechanisms to ensure the confidentiality of wagering and personal and financial information except as otherwise authorized by this chapter.

287-J:5 Online Gaming Wagering Supervision. The commission shall create a division of online gaming wagering which shall be responsible for ensuring compliance with the requirements of this chapter and any rules adopted by the commission in accordance with the authorities granted under this chapter. In addition, the division, under the direction of the director and commission, shall ensure that the commission's agents and vendors comply with the following obligations:

I. Each agent engaged in online gaming wagering shall submit a security and internal control report for the division's review and approval prior to conducting any online gaming wagering within the state and every year thereafter. This report shall address all aspects of security and controls including physical security, personnel security, and computer systems security including:

(a) Employment background checks and policies.

(b) Automated and manual risk management procedures.

(c) Procedures for identifying and reporting fraud and suspicious conduct.

(d) Any and all monitoring systems utilized by the agents to report and receive information on suspicious betting conduct.

(e) Systems and procedures to prevent prohibited online gaming bettors from placing wagers.

(f) Description of anti-money laundering compliance standards.

(g) Descriptions of all integrated third-party systems or components and the security procedures relating to those systems.

II. For each wagering computer system used to conduct online gaming wagering, including all mobile online gaming wagering platforms within the state, the agent providing such system shall provide a detailed computer system security report to be approved by the commission prior to the acceptance of wagers and each year thereafter. The report shall address the issues set forth in the security and internal control report along with the following:

(a) Documented system security testing performed by a licensed third-party contractor approved by the commission.

(b) A description of all software applications that comprise the system.

(c) A procedure for third-party auditing of financial transactions received by the system.

(d) A description of all types of wagers supported by the system.

(e) Unique identification and verification systems for wagers.

(f) A list of data recorded relating to each wager.

(g) System redundancy to ensure recording of wagers during a system outage.

(h) A mechanism to provide read only access to the commission to the back office system for the purposes of reviewing and auditing wagering activities.

(i) Integration with an independent control system to ensure integrity of system wagering information.

(j) Capabilities for freezing or suspending wagering across the platform.

(k) Any other issue identified by the division upon review of the proposed gaming system.

III. Each agent engaged in online gaming wagering shall submit rules for each online game for the division's review and approval prior to conducting any online gaming within the state and every year thereafter. These rules for each online game shall include at a minimum:

(a) The method for calculation and payment of winning wagers.

(b) Treatment of errors.

(c) Method of contacting the agents for questions or complaints.

(d) The policies and procedures in place for limiting or banning a player from the online gaming wagering platform.

(e) The method and location for posting and publishing the rules for each online game.

IV. Each agent engaged in online gaming wagering shall submit accounting controls for the division's review and approval prior to conducting any online gaming wagering within the state and every year thereafter. These accounting controls shall include at a minimum:

(a) A process for documenting and verifying beginning of day cash balance.

(b) The establishment of a segregated account related to New Hampshire online gaming wagering activities.

V. The commission's agents shall submit a responsible gaming plan for the division's review and approval prior to conducting any online gaming wagering within the state and every year thereafter. This plan should include identification of posting and materials related to problem gaming, resources to be made available to bettors expressing concerns about problem gaming, house imposed player limits, and self-exclusion programs.

VI. The commission's agents shall maintain a cash reserve available to pay wagers as determined by the commission.

VII. The commission's agents shall not accept any wager on an online game unless it has received approval from the commission to conduct that type of online game.

VIII. Wagers made under this section shall be made with:

(a) Cash.

(b) Cash equivalent.

(c) PayPal.

(d) Debit card.

(e) ACH.

(f) Promotional funds.

(g) Any other means approved by the executive director.

287-J:6 Proceeds to Community College Scholarship Fund. The proceeds received by the commission from online gaming wagering, less the administrative costs of the commission, prizes

paid, and payments for problem gambling services, shall be deposited in the scholarship fund established in RSA 188-F:71.

287-J:7 Limitations on Online Gaming Wagers. The commission and its agents are prohibited from the following activities:

I. Accepting or making payment relating to online gaming wagers made by prohibited online gaming bettors.

II. Accepting online gaming wagers from persons who are physically outside of the state of New Hampshire at the time of the online gaming wager.

III. Accepting online gaming wagers from persons outside of the state of New Hampshire not in compliance with RSA 287-J:8.

287-J:8 Acceptance of Out-of-State Wagers. Notwithstanding any other provision of law to the contrary, wagers may be accepted pursuant to this chapter from persons who are not physically present in the state of New Hampshire if the commission has determined that:

(a) Accepting the wagers is not inconsistent with federal law or the laws of New Hampshire; or

(b) The wagering is conducted pursuant to a reciprocal agreement to which the state of New Hampshire is a party that is not inconsistent with federal law.

287-J:9 Financial Reports. The commission may seek financial and compliance reports from its agents periodically and may conduct audits of these reports to ensure that the state receives the agreed upon revenue sharing proceeds.

287-J:10 Compliance Reviews. The commission shall retain oversight of its agents to ensure that all online gaming wagering activities are conducted in accordance with this chapter and any rules adopted by the commission.

287-J:11 Rulemaking. The commission shall adopt rules, pursuant to RSA 541-A, relative to the operation, conduct, location, and oversight of online gaming wagering. The commission may enact emergency rules, which will take effect upon approval.

287-J:12 Prohibition on Authorization of Online Gaming Agents Operating in Terror States and Illegal Markets.

I. Prior to the authorization of an agent under this section, the commission shall conduct a comprehensive investigation of the prospective agent to determine whether the agent or any of its affiliates, including entities under common control, is knowingly:

(a) Accepting revenue, directly or indirectly, derived from any jurisdiction sanctioned by the Office of Foreign Assets Control (OFAC) of the United States Treasury; or

(b) Accepting or assisting, directly or indirectly, in the acceptance of online wagers or consideration related to online wagering from any country in which such online gaming is prohibited or illegal.

II. The commission shall not authorize an agent under this section if the commission determines that the agent or any of its affiliates, including entities under common control, is knowingly:

(a) Accepting revenue, directly or indirectly, derived from any jurisdiction sanctioned by the Office of Foreign Assets Control (OFAC) of the United States Treasury Department; or

(b) Accepting or assisting, directly or indirectly, in the acceptance of online wagers or other consideration related to online wagering from any country in which such online gaming is prohibited or illegal.

III. If at any time during authorization the commission determines that the agent or any of its affiliates, including entities under common control, is knowingly:

(a) Accepting revenue, directly or indirectly, derived from any jurisdiction sanctioned by the Office of Foreign Assets Control (OFAC) of the United States Treasury Department; or

(b) Accepting or assisting, directly or indirectly, in the acceptance of online wagers or other consideration related to online wagering from any country in which such online gaming is prohibited or illegal, the commission shall impose discipline up to and including revocation of the license held by the agent.

4 Effective Date. This act shall take effect January 1, 2024.

LBA
23-0790
Amended 4/17/23

SB 104-FN-A- FISCAL NOTE

AS AMENDED BY THE SENATE (AMENDMENT #2023-1145s)

AN ACT to regulate online gambling and direct net proceeds to a community college education scholarship fund.

FISCAL IMPACT: [X] State [ ] County [ ] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Appropriation	$0	$0	$0	$0
Revenue	$0	$2,362,500	$9,450,000	$14,175,000
Expenditures	$0	$160,00	$633,000	$621,000
Funding Source:	[ ] General [ ] Education [ ] Highway [X] Other - Community College Scholarship Fund			

METHODOLOGY:

This bill authorizes casino games being offered over the internet (iGaming) in the State of New Hampshire, to be regulated by the NH Lottery Commission. This bill further requires the proceeds received by the Commission from online gaming wagering, less the administrative costs, prizes paid, and payments for problem gambling services, shall be deposited in a newly created Community College Scholarship Fund (this fund and scholarship program would be administered by the Community College System of New Hampshire).

Based on the assumptions and information provided below, the Lottery Commission estimates the following revenue and expenditures associated with this bill:

	FY 2024	**FY 2025**	**FY 2026**
Gross Gaming Revenue	$6,750,000	$27,000,000	$40,500,000
Tax Revenue to the State (35%)	$2,362,500	$9,450,000	$14,175,000
Less: Lottery Commission Administrative Costs	($160,000)	($633,000)	($621,000)
Net Revenue to Scholarship Fund	**$2,202,500**	**$8,817,000**	**$13,554,000**

Lottery Commission General Assumptions

The Lottery Commission has provided the following assumptions relative to this bill:

- The Commission would be responsible for operation of iGaming through contracted private partners who will act as agents of the Commission.

- The share of revenue that will be provided to the State will be established through a contract with prospective vendors/bidders.
- This bill's effective date is January 1, 2024, however the Commission assumes it would begin ramp up work after the bill's passage, and that it will take nine (9) months to complete a contracting process and adopt administrative rules associated with iGaming.
- iGaming will begin on or around April 1, 2024 and will take approximately 36 months to come to maturity.
- The iGaming market for New Hampshire will not initially be as strong as established in New Jersey, Pennsylvania, and Michigan, as there is only a limited established player database for casino customers in the State. It is assumed that the New Hampshire iGaming market will be roughly on par with those markets on a per capita basis in approximately three years.
- Negotiations for the State's revenue share will be at least 35% of gross gaming revenue ("GGR") and that there will be three to five (3 to 5) authorized iGaming agents.
- Annual gross gaming revenue of approximately $27,000,000 in the first year of operation, rising to an estimate of $40,500,000 in the second year of operation and $54,000,000 in third year at maturity (these are estimates based on assessment of similar gaming markets).
- This bill establishes the position of Director of iGaming as the head of a new iGaming Division, and it is assumed five (5) additional positions would be needed to effectively administer the iGaming program; one (1) business systems analyst, two (2) auditors, one (1) investigator, and one (1) accountant.
- Current and new staff will require training on iGaming and that it will need technical assistance from a gaming laboratory to assist in drafting the technical components of administrative rules.

<u>Lottery Commission Revenue Analysis Detail</u>

The Lottery Commission reviewed iGaming revenues in five states New Jersey, Pennsylvania, Michigan, Connecticut, and Delaware:

- New Jersey's gross iGaming revenues are anticipated to top $1,600,000,000 in FY 2023. While New Jersey is an outlier due to its' strong casino presence and proximity to New York City, based on historical sports betting revenues, it is estimated that the mature New Jersey market would be approximately 12 times larger than the New Hampshire market.
- Pennsylvania is expected to generate approximately $1,300,000,000 in iGaming revenue in FY 2023. It is anticipated based on population and sports betting revenue history that

the Pennsylvania market will be approximately nine times larger than the New Hampshire market.

- Michigan is expected to generate $1,430,000,000 in iGaming revenue in FY 2023. It is anticipated based on population and sports betting history that the Michigan market will be approximately six times larger than the New Hampshire market.
- Connecticut is expected to make approximately $225,000,000 in iGaming revenue in FY 2023. This is its first year of iGaming operation and it is expected that the market will continue to grow over the next several years. It is anticipated based on population and sports betting history that the Connecticut market will be approximately two times larger than the New Hampshire market.
- Delaware iGaming was also reviewed, however, the market appears to be an outlier on the low end as the anticipated gross gaming revenue for FY 2023 is anticipated to be only $14 million. As Delaware appears to act differently than other iGaming markets, it was not considered in this analysis.

Jurisdiction	FY 2023 GGR (estimated)	Comparison to NH Market	Implied NH GGR	Implied NH Revenue Share at 35%
New Jersey	$1.66 billion	12x larger	$138 million	$48.3 million
Pennsylvania	$1.3 billion	9x larger	$144 million	$50.4 million
Michigan	$1.43 billion	7x larger	$204 million	$71 million
Connecticut	$226 million	2x larger	$113 million	$39.5 million

All four jurisdictions reviewed have an established casino industry in the jurisdiction with extensive player databases. Additionally, all four states have sports betting markets containing multiple licensees that cross-sell sports bettors to iGaming. New Hampshire, by comparison, does not have large scale casinos that offer iGaming and has a single operator online sports betting market. For those reasons, it is anticipated that the first two to three years of operation would lag behind the four comparison markets and would reach maturity in FY 2027. Based on Lottery's experience with sports betting and iLottery, it is anticipated that the fifteen months of operation will be approximately 50% of the mature market (FY 2024 and FY 2025), the second year of operation will be 75% of maturity (FY 2026), and full maturity in the third year of operation (FY 2027 and beyond).

Tax rates in iGaming jurisdictions range from 15% to 50% and based on Lottery's experience with competitive bidding it is expected the revenue share in New Hampshire would be on the higher end and have set an expectation of state revenues as 35% of gross gaming revenues.

Lottery Commission Expenditures Detail

The Lottery Commission has provided the following detail as to anticipated expenditures under this bill:

	FY 2024	FY 2025	FY 2026
Six New Positions* One (1) Division Director (LG 33, Step 3) Two (2) Agency Audit Managers (LG 25, Step 3) One (1) Business Systems Analyst (LG 28, Step 3) One (1) Accountant II (LG 21, Step 3) One (1) Field Auditor (LG 21, Step 3)	$85,000	$608,000	$596,000
Contract with a gaming laboratory to assist in providing technical assistance in formulating iGaming administrative rules	50,000	0	0
Training costs for auditing and investigation staff	25,000	25,000	25,000
Total	**$160,000**	**$633,000**	**$621,000**

* Position start dates staggered over FY 2024 and FY 2025

Community College System of New Hampshire Impact

The Community College System of New Hampshire (CCSNH) states this bill would have the following impacts on its on current operations:

- CCSNH financial aid personnel would process students' and applicants' financial information and award funds from the new scholarship fund
- The bill could result in enrollment increases at the community colleges

This bill may result in enrollment increases at the community colleges as more students will have the means to afford postsecondary education, however CCSNH does not anticipate additional fiscal impact (it is assumed any administrative cost would come from fund proceeds).

AGENCIES CONTACTED:

Lottery Commission and Community College System of New Hampshire