

Department of Legislative Services  
 Maryland General Assembly  
 2021 Session

FISCAL AND POLICY NOTE  
 Enrolled - Revised

House Bill 532

(Allegany County Delegation)

Ways and Means

Budget and Taxation

Gaming - Video Lottery Facilities - Payout Percentages, Distribution of Proceeds,  
 and Building Restrictions

This bill alters the distribution of video lottery terminal (VLT) proceeds from the video lottery facility in Allegany County after the first 10 years of operations, and beginning July 1, 2023, alters the percentage of VLT proceeds to be paid to the facility licensees in Baltimore City and Cecil County, subject to certain requirements. The bill also reduces the minimum average payout percentages for individual VLTs and gaming floors. Any amount of local impact grants distributed to Anne Arundel County or Baltimore City as a result of a specified hold harmless provision must be paid from the State Lottery Fund. **The bill takes effect July 1, 2021.**

Fiscal Summary

**State Effect:** General fund revenues decrease by \$3.9 million in FY 2022 and by \$2.9 million by FY 2026. Education Trust Fund (ETF) special fund revenues and expenditures decrease by \$237,900 in FY 2023, decrease by \$5.6 million in FY 2024 and 2025, and decrease by \$5.7 million in FY 2026. State Lottery and Gaming Control Agency (SLGCA) special fund revenues and expenditures decrease by \$59,500 in FY 2023 and by \$557,500 in FY 2026, offset by increases in general fund expenditures.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Revenue	(\$3,907,900)	(\$3,716,800)	(\$3,261,000)	(\$3,061,700)	(\$2,859,500)
SF Revenue	\$0	(\$297,400)	(\$6,147,200)	(\$6,190,400)	(\$6,234,100)
GF Expenditure	\$0	\$59,500	\$547,600	\$552,500	\$557,500
SF Expenditure	\$0	(\$297,400)	(\$6,147,200)	(\$6,190,400)	(\$6,234,100)
Net Effect	(\$3,907,900)	(\$3,776,300)	(\$3,808,600)	(\$3,614,300)	(\$3,417,100)

Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

**Local Effect:** VLT local impact grant revenues and expenditures are altered beginning in FY 2022.

**Small Business Effect:** None.

## Analysis

**Bill Summary:** Beginning in fiscal 2022, generally, a VLT must have an average payout percentage of at least 85%. The State Lottery and Gaming Control Commission (SLGCC) may by regulation establish an average collective payout percentage of more than 88% but not more than 95% for video lottery operation licensees. However, as under current law, SLGCC may approve a collective average payout percentage above 95% for VLTs at a facility. SLGCC must, by December 1, 2022, report to the Governor and the General Assembly on the change in each VLT facility's average payout percentage and the impact of the change on the amount of VLT proceeds from each facility resulting from the bill.

After the first 10 years of operations, the video lottery operation licensee in Allegany County receives 58% of VLT proceeds from the video lottery facility in Allegany County. As under current law, the equivalent of 2.5% of VLT proceeds retained by the licensee is contingent upon that amount being spent on capital improvements at the facility. In addition, after the first 10 years of operations, the percentage of proceeds from the Allegany County facility distributed to SLGCA will remain at 1%.

Beginning July 1, 2023, the licensee's share of VLT proceeds is increased from 46% to 47% for Baltimore City and increased from 39% to 42% for Cecil County. These increases are retained contingent upon the expenditure of these funds on capital improvements at the respective facilities and on marketing, advertising, and promotional costs.

Certain prohibitions (described below) regarding development of lodging facilities within 10 miles of the Worcester County VLT facility, either by building new lodging facilities or converting existing property, are repealed.

### **Current Law:**

#### *Video Lottery Terminals*

Generally, the distribution of gross VLT proceeds from a video lottery facility is as follows:

- 1% to SLGCA;
- 5.5% to local impact grants;
- 6% to the Purse Dedication Account (PDA);
- 1% to the Racetrack Facility Renewal Account (RFRA);
- 1.5% to the Small, Minority, and Women-Owned Businesses Account (SMWOBA);
- 6% to the video lottery operation licensee if the video lottery operation licensee owns or leases each VLT device and the associated equipment and software;

- 33% (the amount stated in the accepted video lottery operation license application); and
- the remainder to ETF.

The VLT local impact grants are distributed by the Division of Racing within the Maryland Department of Labor to local governments in which a video lottery facility is operating.

Generally, 82% of the local impact grants must go to the local jurisdictions with video lottery facilities to be used for infrastructure improvements; facilities; public safety; sanitation; economic and community development, including housing; and other public services and improvements primarily in the communities in immediate proximity to the video lottery facilities.

For Anne Arundel and Prince George's counties and Baltimore City, the local impact grants attributable to the 82% must be evenly split between the three jurisdictions. However, Anne Arundel County and Baltimore City may not receive less than the amount they received in the fiscal year before the video lottery operation license for Prince George's County was issued (fiscal 2016). To the extent that this hold harmless provision results in a distribution to Baltimore City or Anne Arundel County that exceeds one-third of the amount to be distributed among the three jurisdictions, the Prince George's County impact grant is reduced by the equivalent amount.

For the first 10 years of operations at a video lottery facility in Allegany County, gross VLT proceeds from the facility are distributed as follows:

- 0.75% to SMWOBA;
- 1% to SLGCA;
- 3.75% to local impact grants;
- 2.5% to PDA;
- 60% to the licensee; and
- the remainder to ETF.

After 10 years of operations, the distribution of VLT proceeds at the facility in Allegany County is generally similar to the distribution at other video lottery facilities, except that the licensee share will be 53% if a 2.5% capital investment requirement is met and the distribution to SLGCA is 2%. Assuming the 2.5% capital investment requirement is met, gross VLT proceeds from the facility are distributed as follows:

- 1.5% to SMWOBA;
- 2% to SLGCA;

- 5.5% to local impact grants;
- 6% to PDA;
- 1.0% to RFRA;
- 53% to the licensee; and
- the remainder to ETF.

Per statute, generally, an individual VLT must have an average payout percentage of at least 87%. SLGCC may by regulation establish an average collective payout percentage of more than 90% but not more than 95% for video lottery operation licensees. However, SLGCC may approve an average collective payout percentage above 95% for VLTs at a facility.

Per regulation, a VLT must have an average payout percentage of at least 87% and no more than 100%; SLGCC permission is required to make available for play a VLT with a payout percentage above 95%. Also per regulation, a VLT facility's gaming floor must be configured to collectively achieve, at all times, an average payout percentage which exceeds 90% but does not exceed 95%.

The VLT licensee in Worcester County or any other person with a direct or indirect legal or financial interest in the Ocean Downs racetrack or video lottery facility may not:

- build any type of hotel, motel, or other public lodging accommodation on or within 10 miles of the property owned by the holder of the license on which the VLT facility is operated;
- convert an existing facility on or within 10 miles of the above described property into any type of hotel, motel, or other public lodging accommodation; or
- build or operate a conference center or convention center, amusement park, amusement rides, arcade, or miniature golf course on or within 10 miles of the above described property.

**Appendix – Maryland Gaming** provides detailed background on gaming in Maryland.

*Distributions from the State Lottery Fund*

Each month, after payments to lottery winners and agents and to the State Lottery for operating expenses, the Comptroller must make payments from the State Lottery Fund to:

- the Maryland Stadium Facilities Fund (an amount not to exceed \$20.0 million in any fiscal year);
- the Baltimore City Public School Construction Financing Fund (an amount equal to \$20.0 million in each fiscal year that bonds are outstanding);

- the Racing and Community Development Fund (\$17.0 million in each fiscal year until bonds issued for a racing facility have matured);
- the Michael Erin Busch Sports Fund (\$1.0 million each fiscal year); and
- the State general fund.

Additionally, the Comptroller must deposit 10% of the money that remains in the State Lottery Fund from the proceeds of ticket sales from instant ticket lottery machines by veterans' organizations into the Maryland Veterans Trust Fund.

**State Fiscal Effect:** According to a January 2021 SLGCA report, the average VLT facility payouts in calendar 2020 ranged from 90.35% in Cecil County to 91.16% in Baltimore City, with average percentages close to 91.0% for the other four facilities in the State. Because Maryland facilities exhibit collective payout percentages that are somewhat above the required minimum, this analysis does not assume that the bill will significantly alter current practice regarding payout percentages. To the extent that payout percentages are reduced, patronage may be somewhat reduced while proceeds per play on VLTs increase. The net impact of these counteracting effects may alter the amount of proceeds to be distributed under the bill, but the magnitude of any such impact is unknown.

**Exhibit 1** shows the estimated changes in VLT and other revenues under the bill, as discussed below. The impact of the hold harmless provision for local impact grants and, therefore, on the general fund, commences in fiscal 2022. Since the video lottery facility in Allegany County opened in May 2013, the changes specific to Allegany County distributions commence in May 2023, toward the end of fiscal 2023. The impact of altering licensee distributions from the Baltimore City and Cecil County facilities begins July 1, 2023, or the beginning of fiscal 2024. The analysis accounts for the respective start dates for various changes under the bill and the net impact of those changes.

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**Exhibit 1**  
**Revenue Effect of the Legislation**  
**Fiscal 2022-2026**

	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
ETF	\$0	(\$237,900)	(\$5,559,600)	(\$5,637,900)	(\$5,676,500)
Local Impact Grants	3,907,900	3,716,800	3,261,000	3,061,700	2,859,500
General Fund	(3,907,900)	(3,716,800)	(3,261,000)	(3,061,700)	(2,859,500)
SLGCA	0	(59,500)	(547,600)	(552,500)	(557,500)
Licenses	0	297,400	6,147,200	6,190,400	6,234,100

ETF: Education Trust Fund

SLGCA: State Lottery and Gaming Control Agency

Source: Department of Legislative Services

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In fiscal 2016, the fiscal year before the video lottery operation license for Prince George’s County was issued, Anne Arundel County received \$18.4 million and Baltimore City received \$7.6 million in local impact grants attributable to the 82% distribution. Thus, the hold harmless provision guarantees that Anne Arundel County and Baltimore City annually receive no less than those amounts.

Since fiscal 2017, the one-third split has resulted in substantially more local impact grant funding for Baltimore City than it received in fiscal 2016, meaning that Prince George’s County’s local impact grants are not affected by Baltimore City local impact funding results. However, the hold harmless provision does result in annual impact grant funding for Anne Arundel County that exceeds its otherwise one-third split. Thus, the one-third split for Prince George’s County is reduced by an equivalent amount each year. In fiscal 2022, this amount is estimated to be \$3.9 million. Over time, the effect of the hold harmless provision will decrease as VLT proceeds and, thus, local impact grant funding, increase. By fiscal 2026, for example, the equal and opposite impact on Anne Arundel County and Prince George’s County is estimated at \$2.9 million. It is also estimated that the hold harmless provision will no longer impact distributions among the three jurisdictions by fiscal 2039.

The bill requires local impact grants distributed to Anne Arundel County as a result of the hold harmless provision to be distributed from the State Lottery Fund, instead of being allocated from Prince George’s County’s local impact grants. Thus, this provision of the bill (1) increases the distribution to Prince George’s County of \$3.9 million of VLT revenues in fiscal 2022 and \$2.9 million by fiscal 2026 and (2) offsets the equivalent annual

decreases in VLT distributions to Anne Arundel County with distributions from the State Lottery Fund. The distributions from the State Lottery Fund effectively result in a decrease in general fund revenues.

As discussed further below, VLT revenue increases to licensees are offset by decreases in Allegany County VLT revenues to cover SLGCA administrative costs and decreases in ETF revenues. **Exhibit 2** shows by jurisdiction the change in distribution of VLT proceeds to the video lottery operation licensees under the bill.

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**Exhibit 2**  
**Change in Licensee Share of VLT Proceeds under the Bill**

<u>Licensee</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
Allegany	\$0	\$297,400	\$2,738,100	\$2,762,700	\$2,787,600
Baltimore City	0	0	1,342,800	1,342,800	1,342,000
Cecil	0	0	2,066,300	2,084,900	2,103,700
<b>Total</b>	<b>\$0</b>	<b>\$297,400</b>	<b>\$6,147,200</b>	<b>\$6,190,400</b>	<b>\$6,234,100</b>

Source: Department of Legislative Services

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ETF revenues decrease by \$237,900 in fiscal 2023 due to the redistribution of Allegany County VLT revenues in that year. ETF revenues decrease by over \$5.5 million annually beginning in fiscal 2024, due to annualization of the increased share for the Allegany County licensee and commencement of the increased shares for the Baltimore City and Cecil County licensees.

Special fund revenues and expenditures for SLGCA decrease by \$59,400 in fiscal 2023, and by over \$547,000 annually by fiscal 2024, accounting for the impact of decreasing the SLGCA share of Allegany County facility proceeds from 2% to 1% beginning in late fiscal 2023. This 1% share is the same as the SLGCA share from Allegany County facility proceeds in the first 10 years of operations and aligns with the SLGCA share for other VLT facilities in the State. The decreases in special fund expenditures for SLGCA are assumed to be offset by increases in general fund expenditures. It is also assumed that SLGCA can produce the required report using existing resources.

**Local Fiscal Effect:** Local revenues for Prince George’s County increase by \$3.9 million in fiscal 2022 and by \$2.9 million in fiscal 2026. These revenues must be spent as local impact grants on infrastructure improvements; facilities; public safety; sanitation; economic and community development, including housing; and other public services and

improvements in the communities in immediate proximity to the video lottery facility in Prince George's County.

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### **Additional Information**

**Prior Introductions:** SB 338 of 2020 passed the Senate with amendments and was referred to the House Ways and Means Committee. Its cross file, HB 435, received a hearing in the House Ways and Means Committee. No further action was taken on either bill.

**Designated Cross File:** SB 452 (Senator Edwards) - Budget and Taxation.

**Information Source(s):** Comptroller's Office; Maryland State Lottery and Gaming Control Agency; Department of Legislative Services

**Fiscal Note History:** First Reader - January 26, 2021  
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## Appendix – Maryland Gaming

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The State of Maryland has authorized and awarded six video lottery operation licenses in Baltimore City and Allegany, Anne Arundel, Cecil, Prince George’s, and Worcester counties with a maximum number of 16,500 video lottery terminals (VLT) allotted in the State. The opening date and the number of VLTs and table games in operation for each facility as of December 2020 are shown in **Exhibit 1**.

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### Exhibit 1 Number of VLTs and Table Games in Maryland

<u>Casino</u>	<u>County</u>	<u>Opening Date</u>	<u>VLTs</u>	<u>Table Games</u>
Hollywood Casino	Cecil	September 2010	502	16
Ocean Downs	Worcester	January 2011	601	18
Maryland Live!	Anne Arundel	June 2012	2,614	184
Rocky Gap Casino	Allegany	May 2013	405	16
Horseshoe Casino	Baltimore City	August 2014	817	152
MGM National Harbor	Prince George’s	December 2016	1,519	204

VLT: video lottery terminal

Source: State Lottery and Gaming Control Agency; Department of Legislative Services

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### *VLT and Table Game Revenues*

The estimated revenues from VLTs and table games in fiscal 2022 through 2026 are shown in **Exhibit 2**. A total of \$1.8 billion in gross gaming revenues is projected in fiscal 2022, including \$543.9 million to be distributed to the Education Trust Fund.

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**Exhibit 2**  
**Distribution of Estimated VLT and Table Game Revenues in Maryland**  
**Current Law**  
**(\$ in Millions)**

	<u><b>FY 2022</b></u>	<u><b>FY 2023</b></u>	<u><b>FY 2024</b></u>	<u><b>FY 2025</b></u>	<u><b>FY 2026</b></u>
<b>VLTs Distribution</b>					
Education Trust Fund	\$449.0	\$454.6	\$459.8	\$465.7	\$471.6
Lottery Operations	11.7	11.9	12.6	12.7	12.9
Purse Dedication Account	68.6	69.5	72.3	73.2	74.1
Racetrack Renewal Account	11.2	11.4	12.0	12.2	12.4
Local Impact Grants	63.6	64.5	66.2	67.1	67.9
Business Investment	17.2	17.4	18.1	18.3	18.5
Licensees	553.0	560.1	563.4	570.6	577.9
<b>Total VLTs</b>	<b>\$1,174.4</b>	<b>\$1,189.3</b>	<b>\$1,204.4</b>	<b>\$1,219.7</b>	<b>\$1,235.3</b>
<b>Table Games Distribution</b>					
Education Trust Fund	\$94.9	\$96.1	\$97.4	\$98.6	\$99.9
Local Impact Grants	31.6	32.0	32.5	32.9	33.3
Licensees	506.3	512.8	519.4	526.0	532.8
<b>Total Table Games</b>	<b>\$632.8</b>	<b>\$641.0</b>	<b>\$649.2</b>	<b>\$657.6</b>	<b>\$666.0</b>
<b>Total VLTs and Table Games</b>	<b>\$1,807.2</b>	<b>\$1,830.2</b>	<b>\$1,853.6</b>	<b>\$1,877.3</b>	<b>\$1,901.3</b>
<b>Total Education Trust Fund</b>	<b>\$543.9</b>	<b>\$550.8</b>	<b>\$557.2</b>	<b>\$564.3</b>	<b>\$571.5</b>

VLT: video lottery terminal

Source: Board of Revenue Estimates; Department of Budget and Management; Department of Legislative Services

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