

Legislative Analysis



VIDEO LOTTERY TERMINALS AT RACETRACKS

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Senate Bills 397 and 399 as passed by the Senate

Sponsor: Sen. Jim Ananich

House Committee: Regulatory Reform

Senate Committee: Agriculture

Complete to 12-6-21

Analysis available at

<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 397 would add a new Article 2 to the Lottery Act to allow and regulate the operation of video lottery games at licensed racetracks. (The bill would designate the current Lottery Act as Article 1.) The bill would add video lottery to the definition of “lottery” in the Lottery Act and include a legislative determination that video lottery is authorized by section 41 of Article IV of the state constitution and not subject to the Michigan Gaming Control and Revenue Act. Video lottery games would be owned and controlled by the Bureau of State Lottery, but terminals could be operated by licensees as agents of the bureau. A licensee would retain 81% of the gross proceeds, with the rest distributed as provided in the bill. The bill would prescribe certain fees, prohibitions and penalties, and criteria for when a license must be issued. The bill also would provide for occupational, manufacturer, and supplier licenses. The Bureau of State Lottery would have to issue rules concerning video lottery licensing and regulation.

Senate Bill 399 would amend the sentencing guidelines chapter of the Code of Criminal Procedure to add felony violations proposed by SB 397.

Senate Bill 397 would amend the Lottery Act to designate the currently existing provisions of the act as Article 1 and add an Article 2 that deals exclusively with video lottery.

Definitions of key terms

The act currently defines **lottery** and **state lottery** as follows:

Lottery or **state lottery** means the lottery created pursuant to this act and operated exclusively by or under the exclusive control of the Bureau of State Lottery.

The bill would define the term **state lottery** to mean “the lottery created in Article 1.” **Lottery** would be defined as follows:

Lottery means a lottery, which is any game, undertaking, or operation that includes the elements of consideration, prize, and chance, created under this act and operated exclusively or under the exclusive control of the Bureau [of State Lottery]. Lottery includes, but is not limited to, all of the following types of gaming:

- Lotto.
- Instant lottery tickets.
- Keno.
- Beano.
- Club keno.
- Rapid draw keno.
- Pull tabs.
- **Video lottery.**

Video lottery would mean a lottery that allows a **video lottery game** to be played using an electronic computer and an interactive computer terminal device, equipped with a video screen and keys, a keyboard, or other equipment allowing input by a player, into which the player inserts coins, currency, or vouchers for play to be available, and through which the player may receive free games, credit that can be redeemed for cash, annuitized payments over time, a **noncash prize**, or nothing as determined wholly or predominantly by chance. Video lottery would not include a lottery game that merely uses an electronic computer and a video screen to operate a lottery game and communicate the results of the game and that does not use an interactive electronic terminal device allowing input by a player. Video lottery would have to be owned and operated exclusively by and under the exclusive control of the Bureau of State Lottery.

Video lottery game would mean an electronically simulated game of chance that is displayed on a **video lottery terminal** and to which all of the following apply:

- The terminal on which the game is displayed is connected to the **central control system** by an online wired, cable, or wireless communication system.
- The game is initiated by a player's insertion of coins, currency, or vouchers into a video lottery terminal, which causes game play credits to be displayed, each credit entitling a player to choose one or more symbols or numbers or to cause the terminal to randomly select symbols or numbers.
- The game allows a player to win additional game play credits based on rules that establish the random selection of winning combinations of symbols or numbers, or both, and the number of game play credits to be awarded for each winning combination of symbols or numbers, or both.
- The game is based on computer-generated random selection of winning combinations produced totally or predominantly by chance.
- If the video lottery game allows the player an option to select replacement symbols or numbers or additional symbols or numbers after the game is initiated and in the course of play, the game does one of the following before the optional selection by the player of randomly generated replacement or additional symbols or numbers:
 - Signals the player which symbols or numbers should be retained to present the best chance, based on probabilities, that the player may select a winning combination.
 - Signals the player whether additional selection presents the best chance, based on probabilities, that the player may select a winning combination.
 - Randomly generates additional or replacement symbols and numbers for the player after automatically selecting the symbols and numbers that should be retained to present the best chance, based on probabilities, for a winning combination, so that the player is not allowed to benefit from personal skill, based on a knowledge of probabilities, before deciding which optional numbers or symbols to choose in the course of video lottery game play.
- The game allows a player at any time to simultaneously clear all game play credits and print a redemption ticket entitling the player to receive the cash value of the game play credits cleared from the video lottery terminal.

- The game does not display roulette, dice, or baccarat card game themes commonly associated with casino gambling. The game may display symbols that appear to roll on drums or other card or keno game themes.
- The game was authorized by the Bureau of State Lottery before January 1, 2004.

Video lottery terminal would mean a Bureau of State Lottery–approved interactive electronic terminal device that is connected to the central control system; owned, operated, and controlled exclusively by the Bureau of State Lottery; and used to play only video lottery games authorized by the Bureau of State Lottery. A video lottery terminal could simulate the play of one or more video lottery games.

Central control system would mean a computer or computer system provided to and owned, operated, and controlled exclusively by the Bureau of State Lottery that communicates with video lottery terminals to retrieve information and activate and disable the terminals.

Noncash prize would mean merchandise a player may be given the option of receiving instead of cash in exchange for a winning redemption ticket. A noncash prize would have to be assigned a redemption value equal to the actual cost of the merchandise to the license holder.

[Note that the bill also defines the terms **restricted person**, **service technician**, and **associated equipment** but does not use them.]

Bureau of State Lottery responsibilities

Article 2 would require the Bureau of State Lottery to promulgate rules necessary to implement, administer, and enforce the article, which could include rules that do the following:

- Govern, restrict, approve, or regulate video lottery.
- Promote the safety, security, and integrity of video lottery.
- License and regulate persons participating in or involved with video lottery.

The bill also would provide that the Bureau of State Lottery has the powers and duties prescribed in the Lottery Act and must administer the provisions of the act relating to licensing, enforcement, and regulation. The bill would further provide that the Bureau of State Lottery has those additional powers necessary and proper to implement and enforce the Lottery Act and to regulate and maintain jurisdiction over the conduct of each licensee in Michigan where video lottery is allowed to operate. Under the bill, this would include, but not be limited to, the ability to do all of the following:

- Create licenses and permits, investigate applicants, determine their eligibility for a license or permit, grant licenses and permits, and review and decide applications to renew licenses and permits.
- Require a minimum level of investment in buildings, fixtures, equipment, and facilities.
- Require, examine, and audit all necessary financial records.
- Adopt standards for licensing and regulation of all licensees.
- Hold necessary hearings.
- Set and impose fees and fines.
- Suspend, revoke, or restrict licenses for violations.

The bill also would require the Bureau of State Lottery to perform all of the following duties:

- Conduct its public meetings in compliance with the Open Meetings Act.
- Maintain separate and distinct records, including accurate records of all Bureau of State Lottery meetings and proceedings.
- Decide in a reasonable period of time an application for a license or permit.
- Collect all fees imposed under Article 2 and set the fees not set by Article 2.
- Do all of the following, through its employees or agents, the Department of State Police (MSP), or the attorney general, on premises where video lottery is conducted:
 - Certify the revenue from video lottery.
 - Receive complaints from the public.
 - Conduct other investigations into the conduct of video lottery that the Bureau of State Lottery considers necessary and proper, including maintenance of the equipment.
- Provide for the levy and collection of penalties and fines for the violation of Article 2 and the rules promulgated by the Bureau of State Lottery.
- When required or authorized by Article 2 or other law to consider an aspect of an individual's criminal history, take all steps necessary to obtain the available history from MSP and the Federal Bureau of Investigation (FBI).
- Suspend and, if the Bureau of State Lottery determines necessary, revoke a video lottery license if the license holder fails to conduct the number of live race days as allocated to the license holder under the Horse Racing Law unless excused from doing so by that act.
- Review and rule on complaints by video lottery licensees regarding investigative procedures of the Bureau of State Lottery or the state, following a presumption in doing so that there is a need to inspect and requiring a licensee to establish by clear and convincing evidence all of the following:
 - That the licensee's operations were disrupted.
 - That the procedures had no reasonable law enforcement or regulatory purpose.
 - That the procedures were so disruptive as to unreasonably inhibit video lottery operations.
- Review the patterns of wagering and wins and losses by individuals playing video lottery and make recommendations to the governor and legislature in a written annual report and in additional reports as requested by the governor. The annual report would have to include a statement of receipts and disbursements by the Bureau of State Lottery, actions taken by the bureau, and additional information and recommendations that the bureau considers appropriate or the governor requests.
- Take any other action necessary to implement and conduct video lottery in accordance with Article 2 and the welfare of the people of Michigan.

Video lottery licenses

The Bureau of State Lottery would have to grant a video lottery license if it determines that the **applicant** satisfies all of the following qualifications:

- The applicant holds a valid race meeting license under the Horse Racing Law.
- The applicant has successfully completed and submitted to the Bureau of State Lottery an application with all necessary supportive documents, application fees, and other requirements as set by the bureau.
- The Bureau of State Lottery has completed a background check and criminal history investigation of an applicant and is satisfied with the results.

- Except for an application to renew a license, the racetrack where the applicant conducts its race meetings is not located within the following distance of a casino where gaming is conducted by a federally recognized Indian tribe:
 - If at the time of the application the tribe is making payments to the state of 8% of the total amount wagered on electronic games of chance at the casino minus the amount paid for winning wagers at the machines, 25 miles.
 - If within three years before the application the tribe has made payments to the state of 8% of the total amount wagered on electronic games of chance at the casino minus the amount paid for winning wagers at the machines, 50 miles.

Applicant would mean a person applying for a **license** or **permit**, including, if the applicant is not an individual, all partners, shareholders who own more than a 1% interest in the applicant, directors, officers, **managerial employees**, members, trustees, or beneficiaries of or persons with an ownership interest in the applicant.

Managerial employee would mean an individual who holds a management, supervisory, or policy-making position.

License would mean authorization granted by the Bureau of State Lottery to a person that holds a race meeting license under the horse racing law, allowing the person to operate video lottery terminals registered and owned by the Bureau of State Lottery as an agent of the bureau.

Permit would mean authorization granted by the Lottery Bureau to a person to function as a manufacturer or supplier.

[Note that, although the bill would define the terms **license** and **permit** as respectively applying to video lottery operators (licenses) and to manufacturers or suppliers (permits), it also would allow manufacturer and supplier *licenses* as described below.]

The Bureau of State Lottery could deny a license for any of the following reasons:

- Criminal history considered relevant by the Bureau of State Lottery.
- Incomplete application or false information.
- Lack of ability to maintain adequate liability or insurance.
- Previous history of regulatory compliance issues.

The Bureau of State Lottery could only issue a video lottery license that allows video lottery to be conducted at licensed race meetings. The Bureau of State Lottery could issue a license to conduct video lottery at licensed race meetings held on public property.

For a video lottery license granted to a race meeting licensee that was first licensed to conduct race meetings after the effective date of the bill, video lottery could not be conducted at the premises until 90 days after the first day of live horse racing conducted by the licensee.

A license would be valid for one year. An application for renewal of a license would have to be submitted by September 1 of each year after the initial license is granted.

License and application fees

An initial application for a license would have to be accompanied by an application fee of \$50,000. A video lottery licensee would have to pay a license fee of \$100,000 to the Bureau of

State Lottery at the time of issuance of the initial video lottery license and \$50,000 each following year. The Bureau of State Lottery could charge a video lottery licensee a one-time charge of up to \$2,500 for each video lottery terminal placed at a racetrack.

Occupational, manufacturer, and supplier licenses

The Bureau of State Lottery could issue an occupational, **manufacturer**, or **supplier** license if it determines that both of the following are met:

- The applicant has successfully completed and submitted to the Bureau of State Lottery an application with all necessary supportive documents, application fees, and other requirements as set by the bureau.
- The Bureau of State Lottery has completed a background check and criminal history investigation of the applicant and is satisfied with the results of that investigation.

Manufacturer would mean a person holding a permit issued by the Bureau of State Lottery to engage in the business of designing, building, constructing, assembling, or manufacturing video lottery terminals, the electronic computer components of video lottery terminals, the random number generator of video lottery terminals, or cabinets in which video lottery terminals are housed, whose products are intended for sale, lease, or other transfer to the Lottery Bureau to be placed at racetracks in Michigan.

Supplier would mean a person the Bureau of State Lottery has identified under rules as requiring a license to provide video lottery license holders with goods or services regarding the realty, construction, maintenance, or business of a proposed or existing video lottery operation or related facility on a regular or continuing basis, such as security businesses, manufacturers, distributors, garbage haulers, maintenance companies, food purveyors, and construction companies.

The Bureau of State Lottery could deny a license for any of the following reasons:

- Criminal history deemed relevant by the Bureau of State Lottery.
- Incomplete application or false information.
- Lack of ability to maintain adequate liability or insurance.
- Previous history of regulatory compliance issues.

A license would be valid for one year. An applicant for renewal of a license would have to be submitted by September 1 of each year after the initial license is granted.

Local unit of government

The Bureau of State Lottery could not allow video lottery terminals to be placed at a racetrack unless the legislative body for the local unit of government in which the racetrack is located had adopted an ordinance “authorizing the activities surrounding the conduct of video lottery at the racetrack.”

Responsibilities of license holders and permit holders

A license or permit holder would have to do both of the following:

- Comply with the rules promulgated by the Bureau of State Lottery.
- Monitor video lottery terminals to prevent access to or play at a terminal by an individual who is under 18 years of age or is visibly intoxicated.

Terminals and machines

The holder of a video lottery license could purchase or lease from licensed suppliers or manufacturers video lottery terminals approved for use by the Bureau of State Lottery. The bureau would have to encourage video lottery to be conducted with a video lottery machine that was assembled in Michigan.

State liabilities and prizes of \$1,000 or more

The Lottery Act requires the Bureau of State Lottery, before payment of a prize of \$1,000 or more, to determine all of the following:

- Whether Department of Treasury records show that the lottery winner has a support arrearage or a current liability to the state.
- Whether Unemployment Insurance Agency records show that the lottery winner has any current liability for restitution of unemployment benefits, penalty, or interest under the Michigan Employment Security Act.
- Whether Department of Health and Human Services records show that the lottery winner has any current liability to that department.

If the lottery winner has a liability or support arrearage as described above, the Bureau of State Lottery must determine the amount and pay it to the Department of Treasury to apply to the liability before paying any remaining amount to the lottery winner.

Under the bill, a prize of \$1,000 or more under Article 2 would also be subject to this provision.

Licensee commission

A license holder would retain 81% of the **gross terminal income** generated from video lottery terminals at the license holder's licensed premises as its licensee commission. A license holder would have to pay at least 8.5% of its licensee commission to be apportioned equally to each **certified horsemen's organization** the license holder is contracted with under the Horse Racing Law.

Gross terminal income would mean the total amount of coins, currency, and vouchers inserted into the video lottery terminals, minus the total value of game credits cleared from the video lottery terminals in exchange for winning redemption tickets.

Certified horsemen's organization would mean an organization that, under the Horse Racing Law, is registered with the racing commissioner in a manner and form required by the racing commissioner and that can demonstrate all of the following:

- The organization's capacity to supply horses.
- The organization's ability to assist a race meeting licensee in conducting the licensee's racing program.
- The organization's ability to monitor and improve physical conditions and controls for individuals and horses participating at licensed race meetings.
- The organization's ability to protect the financial interests of the individuals participating at licensed race meetings.

Net terminal income distribution

A license holder would have to remit its net terminal income (the remaining 19% of the gross terminal income after deduction of the licensee commission) to the Bureau of State Lottery by electronic transfer of funds on dates established by the bureau. Net terminal income from all

license holders would have to be combined. The Bureau of State Lottery would have to deduct from it an amount sufficient to reimburse the bureau, MSP, and the Department of the Attorney General for estimated administrative costs. The amount deducted could not include administrative costs paid or reimbursed by license fees. After deducting estimated administrative costs, the Bureau of State Lottery would have to distribute the remaining combined net terminal income as follows:

- 50% to be deposited in the School Aid Fund.
- 25% to the Michigan Strategic Fund.
- 12.5% to the Department of Labor and Economic Opportunity to award Michigan reconnect grants under the Michigan Reconnect Grant Recipient Act.
- 10% to the Michigan Housing and Community Development Fund.
- 2.5% to be apportioned equally to each local unit of government where a racetrack is located.

Administrative costs would mean the costs and expenses incurred by the Bureau of State Lottery in operating and regulating video lottery at the racetrack where a license holder holds race meetings, including both of the following:

- Expenses incurred by the Bureau of State Lottery in performing an investigation of an applicant for a license or a license holder.
- All operating, payroll, and employment expenses attributable to the regulation of video lottery incurred by the Bureau of State Lottery, Department of Attorney General, Department of Treasury, MSP, or racing commissioner.

Confidentiality

The Bureau of State Lottery could not disclose information disclosed by a licensee under the Lottery Act regarding the name, address, or any other personal information, including financial information, of the licensee or any patron of the licensee. All such information provided to the Bureau of State Lottery by a licensee would be considered confidential and would not be subject to disclosure under the Freedom of Information Act (FOIA).

Penalty provisions

A person that does any of the following would be guilty of a felony punishable by imprisonment for up to 10 years or a fine of up to \$100,000, or both, and would have to be barred from receiving or holding a license, permit, or occupational license:¹

- Conducts a video lottery operation without a license.
- Conducts video lottery in a manner that violates the bill.
- Knowingly makes a false statement on an application for a license, permit, or occupational license.
- Knowingly provides false testimony under oath to the Bureau of State Lottery or its authorized representative.
- Willfully fails to report, pay, or truthfully account for a fee imposed by the bill or willfully attempts to evade or defeat a fee or payment. (A person convicted under this provision would also be subject to a penalty of three times the amount of the license fee or tax not paid.)

¹ These provisions appear to use the term ***permit*** to indicate an authorization for manufacturers and suppliers, which is how the term is defined. The bill provides for manufacturer and supplier licenses. See “Video lottery licenses” and “Occupational, manufacturer, and supplier licenses,” above.

A person that does any of the following would be guilty of a felony punishable by imprisonment for up to 10 years or a fine of up to \$100,000, or both, and would have to be barred for life from any video lottery operation under the jurisdiction of the Bureau of State Lottery:

- Offers, promises, or gives anything of value to a person connected with a license or permit holder or **affiliate** to influence the person to affect or attempt to affect the outcome of a video lottery game or influence official action of a member of the Bureau of State Lottery.
- Solicits or knowingly accepts or receives a promise of anything of value while employed by or connected with a license or permit holder with the intent that the promise or thing of value will influence the person to affect or attempt to affect the outcome of a video lottery game.
- Offers, promises, or gives anything of value to a member, employee, or agent of the Bureau of State Lottery or an official of any state or local agency or governmental body in order to influence the person in administering, licensing, regulating, or enforcing the Lottery Act.
- Solicits or knowingly accepts or receives a promise of anything of value while a member, employee, or agent of the Bureau of State Lottery, or an official of any state or local agency or governmental body, with the intent that the promise or thing of value will influence the official action of the member, employee, or agent of the bureau or official of the state or local governmental body in enforcing the Lottery Act.
- Cheats at a video lottery game.
- Manufactures, sells, or distributes a device that is intended to be used to violate the Lottery Act. (The possession of more than one such device would raise a rebuttable presumption that the possessor intended to use the devices for cheating.)
- Claims, collects, takes, or attempts to claim, collect, or take money or anything of value in or from a video lottery game with the intent to defraud, without having made a **wager** contingent on winning the video lottery game.
- Claims, collects, or takes an amount of money or thing in or from a video lottery game that is of greater value than the amount won.
- Uses counterfeit vouchers in a video lottery game.
- Unless the person is an employee of the holder of the license or of the Bureau of State Lottery acting within the scope of his or her employment, possesses a key or device designed to open, enter, or affect the operation of a video lottery machine or remove coins or other contents of a video lottery machine.

Affiliate would mean a person that, directly or indirectly, **controls**, is controlled by, or is under common control with; is in a partnership or joint venture relationship with; or is a coshareholder of a corporation, a comember of a limited liability company, or a copartner in a limited liability partnership with a person that holds or applies for a license under Article 2.

Control would mean, as to the relationship between two persons, that one of the persons has a greater than 15% direct or indirect **pecuniary interest** in the other person.

Pecuniary interest would mean an ownership or other financial interest, the interest of a beneficiary in a trust, a shareholder or director in a corporation, a partner, general or limited, in a partnership, or a member in a limited liability company. Pecuniary interest

would not include the interest of an individual whose only financial interest in a person is the payment of wages and fringe benefits, unless a fringe benefit is the receipt of an ownership or equity interest.

Wager would mean a thing of value, such as money, credit, vouchers, or property, risked on an uncertain occurrence in connection with the operation of video lottery under Article 2.

A person that does any of the following would be guilty of a misdemeanor punishable by imprisonment for up to one year in a county jail or a \$10,000 fine, or both:

- Knowingly makes a wager on a video lottery game if he or she is under 18.
- Allows a person under 18 years of age to make a wager on a video lottery game.
- Willfully fails to appear before or provide an item to the Bureau of State Lottery at the time and place specified in a subpoena or summons issued by the Bureau of State Lottery or executive director. [Note that “executive director” is not defined in the bill or the act.]
- Willfully refuses, without just cause, to testify or provide items in answer to a subpoena, subpoena duces tecum, or summons issued by the Bureau of State Lottery or executive director. [Note that “executive director” is not defined in the bill or the act.]
- Conducts or allows a person that is not licensed to conduct activities required to be licensed under Article 2 or rules promulgated by the Bureau of State Lottery.
- Leases, pledges, borrows, or loans money against a license, permit, or occupational license.

An action to prosecute a crime described above could be filed in the county where the crime occurred or in Ingham County, at the discretion of the attorney general or prosecuting attorney.

Legislative determination

The bill would include a determination by the legislature of both of the following:

- Video lottery gaming constitutes the operation of a lottery as previously authorized by section 41 of Article IV of the state constitution and the Lottery Act.²
- Video lottery gaming is exempt from the application of the Michigan Gaming Control and Revenue Act by section 3(2)(b) of that act.³

The bill states that it is not the intent or purpose of the legislature to amend the Michigan Gaming Control and Revenue Act by enacting Article 2 of the Lottery Act.

MCL 432.3 et seq. and proposed MCL 432.2 et seq.

² Section 41 of Article IV of the state constitution reads: “The legislature may authorize lotteries and permit the sale of lottery tickets in the manner provided by law. No law enacted after January 1, 2004, that authorizes any form of gambling shall be effective, nor after January 1, 2004, shall any new state lottery games utilizing table games or player operated mechanical or electronic devices be established, without the approval of a majority of electors voting in a statewide general election and a majority of electors voting in the township or city where gambling will take place. This section shall not apply to gambling in up to three casinos in the City of Detroit or to Indian tribal gaming.”

³ Section 3(2)(b) of the Michigan Gaming Control and Revenue Act provides that lottery games authorized under the Lottery Act are not subject to the Michigan Gaming Control and Revenue Act.

Senate Bill 399 would amend Chapter XVII of the Code of Criminal Procedure to provide that “manipulating outcome or payoff of video lottery game” under section 61 of the Lottery Act is a crime against the public trust with a statutory maximum of 10 years under the sentencing guidelines. (See “Penalty provisions,” above.) The bill would not ascribe a class to this felony or group of felonies.

MCL 777.14d

FISCAL IMPACT:

Senate Bill 397 would have a fiscal impact on state government and on any local units of government that have an operating horse racetrack located within their boundaries. The Bureau of State Lottery would incur added administrative expenses related to additional responsibilities under the provisions of the bill, but would be reimbursed from the net income from the gaming terminals, along with license fees. These additional administrative expenses would include overseeing the video lottery gaming, promulgating rules, approving and regulating the video lottery, licensing and regulating persons involved, granting licenses and permits, collecting fees, and collecting the revenue from the live lottery terminals. Any administrative costs incurred by the Bureau of State Lottery, the Michigan State Police, and the Department of the Attorney General (DAG) would be reimbursed from the net terminal income.

The bill allows a video lottery license holder to retain 81% of the gross terminal income from the video lottery terminals located on its licensed premises. Of that amount, the license holder must pay 8.5% to a contracted certified horsemen's organization. The remaining 19% of the gross terminal income must be remitted to the Bureau of State Lottery. After the Bureau deducts the estimated administrative costs for the Bureau of State Lottery, the MSP, and the DAG, the remaining funding shall be distributed as shown in the following chart:

Distribution of Remaining Gross Terminal Income	
Agency or Fund	Percentage Awarded
School Aid Fund	50.0
Michigan Strategic Fund	25.0
Michigan Reconnect Grants	12.5
Michigan Housing and Community Development Fund	10.0
Local Units of Government with Racetracks (divided equally)	2.5
TOTAL	100.0

The amount of any additional revenue generated by the new video lottery terminal program would depend upon the number of local units of government that adopt an ordinance authorizing the use of video lottery at the racetrack within their borders and the number of video lottery terminals that are licensed by the Bureau of State Lottery.

With regard to its penalty provisions, Senate Bill 397 would have an indeterminate fiscal impact on the state and on local units of government. The number of convictions that would result under provisions of the bill is not known. Violations could be either misdemeanors or felonies, depending on the circumstances.

New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction.

New felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2020, the average cost of prison incarceration in a state facility was roughly \$42,200 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$4,300 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue.

The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases.

Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

Senate Bill 399 is a companion bill to Senate Bill 397 and amends sentencing guidelines to include manipulating the outcome or payoff of video lottery games. The bill would not have a direct fiscal impact on the state or on local units of government.

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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.