

**Department of Legislative Services**  
 Maryland General Assembly  
 2026 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 884 (Senator Watson)  
 Budget and Taxation

**Internet Poker Authorization and Regulation Act of 2026**

This bill authorizes the State Lottery and Gaming Control Commission (SLGCC) to license qualified applicants to conduct and operate Internet skill-based gaming in the State. A licensee retains 70% of Internet skill-based gaming proceeds, and, after other specified distributions, the remainder of Internet skill-based gaming proceeds is distributed to the Blueprint for Maryland’s Future Fund (BMFF). **The bill takes effect July 1, 2026.**

**Fiscal Summary**

**State Effect:** Special fund revenues and expenditures increase by \$7.2 million and \$2.1 million, respectively, in FY 2027, with each escalating to \$7.6 million in FY 2031. General fund expenditures for education decrease by \$7.5 million in FY 2028 and by \$4.7 million in FY 2031 while general fund expenditures for the State Lottery and Gaming Control Agency (SLGCA) increase by at least \$1.6 million annually beginning in FY 2028.

| (\$ in millions) | FY 2027 | FY 2028 | FY 2029 | FY 2030 | FY 2031 |
|------------------|---------|---------|---------|---------|---------|
| SF Revenue       | \$7.2   | \$3.9   | \$4.8   | \$6.0   | \$7.6   |
| GF Expenditure   | \$0     | (\$5.9) | (\$1.3) | (\$2.0) | (\$2.9) |
| SF Expenditure   | \$2.1   | \$9.0   | \$4.8   | \$6.0   | \$7.6   |
| Net Effect       | \$5.1   | \$0.8   | \$1.3   | \$2.0   | \$2.9   |

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

**Local Effect:** Internet skill-based gaming distributions to local jurisdictions with video lottery terminal (VLT) facilities increase by approximately \$280,000 in FY 2027, escalating to \$1.7 million in FY 2031.

**Small Business Effect:** Potential meaningful.

## Analysis

**Bill Summary:** A skill-based game is a game where the player's strategy, abilities, and decisions substantially influence the outcome of the game, and it includes poker and any game, such as backgammon or chess, that SLGCC determines is a skill-based game. SLGCC must allow an Internet skill-based gaming licensee to offer poker games. SLGCC must provide notice of its intent to allow an additional type of Internet skill-based game to the Legislative Policy Committee (LPC). SLGCC may allow the additional type of Internet skill-based game on receipt of written comment from LPC or 45 days after the notice was received by LPC.

An Internet skill-based gaming licensee may enter into an agreement with up to one Internet skill-based gaming operator to conduct and operate Internet skill-based gaming on its behalf. Specified video lottery laws generally apply to SLGCC, licensees, and Internet skill-based gaming employees or contractors. The bill specifies who must be licensed, and SLGCC may charge license fees. SLGCC must adopt regulations necessary to carry out the provisions of the bill and must regulate Internet skill-based gaming to the same extent as with VLTs, table games, and mobile sports wagering. SLGCC must annually report to the Governor and the General Assembly on the impacts of Internet skill-based gaming operations in the State. SLGCC must study the impacts of other online forms of unauthorized gaming content that are similar to Internet skill-based gaming and report to the Governor and the General Assembly by December 1, 2029, on its findings and any recommendations.

### *Internet Skill-based Gaming Licensing*

In addition to issuing Internet skill-based gaming licenses to video lottery operators and specified sports wagering facility license holders, SLGCC may issue licenses to applicants that employ at least 100 employees in the State or a majority minority-owned applicant or joint venture. SLGCC must review license applications based on factors specified in the bill.

SLGCC may contract with a consultant to assist with the development of an application and the review of the applicants, and SLGCC must determine whether the issuance of a license to the applicant serves the public interest.

The initial license fee for an Internet skill-based gaming license is \$1.0 million, or \$500,000 for a majority minority-owned applicant or joint venture applicant. The term of an Internet skill-based gaming license is five years. If an Internet skill-based gaming licensee applies for renewal and pays the renewal fee, and complies with all statutory and regulatory requirements, SLGCC must renew the license for five years. The license renewal fee is equal to 1% of the Internet skill-based gaming licensee's average annual proceeds retained

by the licensee for the preceding three-year period. From the license fees collected by SLGCC, the Comptroller must pay (1) an amount to SLGCA to reimburse related expenses; (2) 1% to the Problem Gambling Fund; and (3) the remainder to BMFF.

SLGCC may waive or exempt some or all of the licensing requirements and issue a license to an applicant under specified conditions. Generally, a licensee may not transfer ownership or control of the license for at least three years following the license issuance.

#### *Diversity and Minority Businesses*

The bill expresses the General Assembly's intent to maximize the ability of minorities, women, and minority- and women-owned businesses to participate in the Internet skill-based gaming industry. Within 30 days after issuing an Internet skill-based gaming license, the licensee must submit a diversity plan to SLGCC. Each licensee must make good faith efforts to meet the diversity objectives outlined in the diversity plan and report to SLGCC any necessary metrics to measure progress in meeting those objectives, and SLGCC may make this information public. The State's Minority Business Enterprise (MBE) program requirements apply to the Internet skill-based gaming industry to the extent practicable and permitted by federal law. Within six months of the issuance of an Internet skill-based gaming license, the Governor's Office of Small, Minority, and Women Business Affairs – in consultation with the Office of the Attorney General (OAG) and the licensee – must establish a clear plan for setting reasonable and appropriate MBE participation goals and procedures for the procurement of goods and services related to Internet skill-based gaming.

#### *Distribution of Internet Skill-Based Gaming Proceeds*

Distributions of Internet skill-based gaming proceeds are as follows: 5.5% for local impact grants; 6% to the Purse Dedication Account; 1% to the Racetrack Facility Renewal Account; 1.5% to the Small, Minority, and Women-Owned Businesses Account (SMWOBA); 1% to the Problem Gambling Fund; and the remainder to BMFF.

#### *Multijurisdictional Agreements*

On recommendation of SLGCC, the Governor is authorized to enter into an agreement with other governments allowing participation in multijurisdictional Internet skill-based gaming. SLGCC may adopt regulations regarding the nature of such an agreement.

#### *Penalties*

SLGCC may impose a penalty not exceeding \$1.0 million against any person who knowingly:

- tampers with equipment used to conduct Internet skill-based gaming, to alter the odds, payout, or operation of a game or disable a game; or
- offers or allows to be offered an Internet skill-based game that has been tampered with in the manner described above.

SLGCC may also suspend, for not less than 30 days, the license of an Internet skill-based gaming licensee or other licensed person who engages in the above-listed activities.

### *Problem Gambling*

Internet skill-based gaming licensees must provide certain safeguards, controls, and mechanisms to assist individuals who may have a gambling problem and must prohibit the use of credit cards for any Internet skill-based gaming-related transactions. Licensees must annually report to SLGCC on problem gambling behavior. SLGCC must adopt regulations that are intended to reduce or mitigate the effects of problem gambling. SLGCC generally must provide contact information for individuals on the voluntary exclusion list to the Maryland Center of Excellence on Problem Gambling and may impose sanctions on a licensee if the licensee knowingly fails to exclude individuals on the voluntary exclusion list from engaging in Internet skill-based gaming. The Maryland Center of Excellence on Problem Gambling must report annually to the Governor and the General Assembly relating to Internet skill-based gaming and problem gambling as specified, and Internet skill-based gaming licensees must annually provide transactional data and metrics as specified to Morgan State University and Bowie State University.

### *Live Gaming Studios*

Subject to SLGCC approval, an Internet skill-based gaming licensee may offer authorized interactive games, and an Internet skill-based gaming operator may use live studio dealers to administer these games. A live gaming studio must be located within the State, and if the Internet skill-based gaming licensee is a video lottery operator, must be located within the county which the video lottery facility is located.

**Current Law:** The General Assembly may only authorize additional forms or expansion of gaming if approved through a referendum by a majority of voters in a general election. The State of Maryland has authorized video lottery operation licenses in Allegany, Anne Arundel, Cecil, Prince George's, and Worcester counties and Baltimore City with a maximum number of 16,500 VLTs allotted in the State. Licensees are also authorized to have table games with approval of SLGCC.

VLT proceeds are generally distributed from the proceeds of VLTs at each facility to a small, minority, and woman-owned business investment account; the State lottery for

administrative costs; local impact grants; horse racing purses, bred funds, and track renewal; licensees; and the Education Trust Fund (ETF).

Licensees receive 80% of table game revenues, 15% is distributed to ETF, and 5% is distributed to local jurisdictions where a VLT facility is located.

Chapter 492 of 2020 authorized sports and event wagering generally, subject to voter referendum, which was approved by Maryland voters in November 2020. The Act also provided that revenues from sports and event wagering must primarily be used for public education. Chapter 356 of 2021 implemented sports and event wagering in the State and provided for regulation of sports wagering by SLGCC. The Act also established the Sports Wagering Application Review Commission to review and award applications for sports wagering facility and mobile sports wagering licensure. Certain revenues under Chapter 356 are distributed to BMFF, the Problem Gambling Fund, and a Small, Minority-Owned, and Women-Owned Business Sports Wagering Assistance Fund. Chapter 604 of 2025 increased the mobile sports wagering tax rate from 15% to 20%. Mobile sports wagering licensees receive 80% of mobile sports wagering proceeds, while all other licensees receive 85% of proceeds from sports wagering and fantasy gaming. Beginning in fiscal 2026, 5% of mobile sports wagering proceeds (*i.e.*, 25% of State mobile sports wagering revenues) is distributed to the general fund and the remainder is distributed to BMFF, which supports public education.

ETF provides funding for education and public schools. After specified allocations for school construction financing under the Built to Learn Act (Chapter 20 of 2020), ETF funds are directed to BMFF.

**Appendix – Maryland Gaming** provides the status of gaming in Maryland as of December 2025. For an overview of the MBE program, please see the **Appendix – Minority Business Enterprise Program**.

The fiscal 2024 budget bill required SLGCA to conduct an iGaming study and submit a report on iGaming to the budget committees. SLGCA engaged the Innovation Group to conduct the study, which was completed in November 2023. Among other topics, the report discusses the current regulatory landscape for iGaming and the estimated market in Maryland; the potential economic impact of legal regulated iGaming on Maryland’s brick-and-mortar casinos, other gaming venues, and the State Lottery; and the experience of other states.

**State Fiscal Effect:** This analysis assumes that:

- this bill is not considered an expansion of gambling requiring a voter referendum;
- SLGCC hires 15 additional employees as of October 1, 2026;

- each of the six video lottery operators in the State apply for Internet skill-based gaming licenses, pay the \$1.0 million license fee, and commence Internet skill-based gaming before the end of fiscal 2027;
- while SLGCC is authorized to award additional Internet skill-based gaming licenses, the license fees coupled with projected profit margins will discourage other applicants from applying;
- it takes about six years to reach Internet skill-based gaming's full annual revenue maturity of over \$33 million annually, with 15% of revenue maturity in fiscal 2027, 47% in fiscal 2028, 58% in fiscal 2029, 73% in fiscal 2030, 93% in fiscal 2031, and full maturity in fiscal 2032; and
- Internet skill-based gaming reduces VLT and table game revenues at casinos by a minimal amount.

Some of the above assumptions rely on the Internet gaming activity in other states. **Exhibit 1** shows the distribution of revenues under the bill. Assuming Internet skill-based gaming commences in spring 2027, Internet skill-based gaming proceeds and license fee revenues increase by \$11.0 million in fiscal 2027, of which \$3.5 million is retained by the Internet skill-based gaming licensee, and \$7.5 million is distributed to the State and counties as shown below. By fiscal 2031, the Internet skill-based gaming market is anticipated to be nearly mature; at that time, Internet skill-based gaming proceeds total \$31.1 million, of which \$9.3 million is distributed to the State and counties as shown below. To the extent that additional Internet skill-based gaming licenses are issued, license fee revenues increase by \$1.0 million for each additional license or \$500,000 for a majority minority-owned applicant.

SLGCC may charge license fees for persons that conduct Internet skill-based gaming, among others, so license fee revenues may increase further. Assuming general compliance with the bill, the bill's fine and penalty provisions do not materially affect general fund revenues.

Current projections indicate that, under current law, revenues in BMFF, including prior-year fund balances, will be less than the required increases to annual expenditures under the Blueprint for Maryland's Future beginning in fiscal 2028. It is, therefore, assumed that BMFF special fund revenues in fiscal 2027 are expended in fiscal 2028 rather than being used for other BMFF costs before then. Thus, in fiscal 2028, special fund expenditures increase by \$7.5 million, while general fund expenditures correspondingly decrease. Beginning in fiscal 2029, general fund expenditures for education decrease to the same extent that any BMFF revenues and expenditures increase under the bill.

**Exhibit 1**  
**Revenue Effects under the Bill**  
**Fiscal 2027-2031**  
**(\$ in Millions)**

|                                     | <u>FY 2027</u> | <u>FY 2028</u> | <u>FY 2029</u> | <u>FY 2030</u> | <u>FY 2031</u> |
|-------------------------------------|----------------|----------------|----------------|----------------|----------------|
| <b>iGaming Skill-Based Revenues</b> |                |                |                |                |                |
| iGaming Licensees                   | \$3.5          | \$11.1         | \$13.7         | \$17.2         | \$21.8         |
| SLGCA                               | 1.6            | 0.0            | 0.0            | 0.0            | 0.0            |
| Problem Gambling Fund               | 0.1            | 0.2            | 0.2            | 0.2            | 0.3            |
| Local Impact Grants                 | 0.3            | 0.9            | 1.1            | 1.4            | 1.7            |
| SMWOBA                              | 0.1            | 0.2            | 0.3            | 0.4            | 0.5            |
| Purse Dedication Account            | 0.3            | 0.9            | 1.2            | 1.5            | 1.9            |
| Racetrack Facility Renewal Account  | 0.1            | 0.2            | 0.2            | 0.2            | 0.3            |
| BMFF (Remainder)                    | 5.1            | 2.4            | 2.9            | 3.7            | 4.7            |
| <b>Total Revenues</b>               | <b>\$11.0</b>  | <b>\$15.8</b>  | <b>\$19.5</b>  | <b>\$24.6</b>  | <b>\$31.1</b>  |

BMFF: Blueprint for Maryland’s Future Fund

SLGCA: State Lottery and Gaming Control Agency

SMWOBA: Small, Minority, and Women-owned Businesses Account

VLT: video lottery terminals

Source: Department of Legislative Services

*State Lottery and Gaming Control Agency Expenditures*

SLGCA advises that it requires an additional 15 positions in order to oversee Internet skill-based gaming, thus special fund expenditures for SLGCA increase by approximately \$1.6 million, which accounts for a 90-day implementation delay from the bill’s July 1, 2026 effective date. This estimate includes associated costs, such as a software expense of \$306,000. License fee revenues realized during certain years under the bill are assumed to be sufficient to cover this level of staffing costs in those years, while in years that do not realize license fee revenues, general funds are utilized to cover SLGCA expenditures.

|   |                    |
|---|--------------------|
| Positions                               | 15.0               |
| Salaries and Fringe Benefits            | \$1,138,784        |
| Software and Licensing Expenses         | 306,000            |
| Other Operating Expenses                | <u>137,111</u>     |
| <b>Total FY 2027 SLGCA Expenditures</b> | <b>\$1,581,896</b> |

The bill authorizes SLGCC to contract with a consultant to assist SLGCC with developing a license application and reviewing applicants. To the extent that SLGCC opts to do this, expenditures for SLGCA increase further, potentially by up to \$600,000. Additionally, if

SLGCA needs to procure a central monitor system, special fund and/or general fund expenditures for SLGCA increase significantly, potentially by \$7.1 million on an annual basis for seven years. Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Other impacts of implementation can likely be handled with existing resources for State agencies, such as the Department of Social and Economic Mobility (which administers the MBE program for the State), OAG, and the Comptroller's Office.

**Local Fiscal Effect:** The bill specifies that 5.5% of Internet skill-based gaming proceeds must be distributed to jurisdictions with video lottery facilities based on each jurisdiction's percentage of overall gross VLT revenues for the same purpose as local impact grants. Thus, revenues to local jurisdictions increase by approximately \$280,000 in fiscal 2028, escalating up to \$1.7 million in fiscal 2031, as shown in Exhibit 1.

**Small Business Effect:** Some small businesses, including minority and women-owned businesses, may benefit from Internet skill-based gaming.

**Additional Comments:** This analysis assumes that the bill is not an expansion of commercial gaming. However, DLS advises that additional guidance from OAG on whether this bill constitutes an expansion of commercial gaming is warranted. If the bill is considered an expansion of commercial gaming, a referendum is needed, and the bill has no fiscal impact until voters approve the expansion of commercial gaming.

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### Additional Information

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Department of Social and Economic Mobility; Department of Commerce; Office of the Attorney General; Comptroller's Office; Maryland Department of Health; Maryland Department of Labor; Maryland Department of Transportation; Maryland State Board of Elections; Morgan State University; University System of Maryland; Maryland State Lottery and Gaming Control Agency; Department of Legislative Services

**Fiscal Note History:** First Reader - March 9, 2026  
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Analysis by: Heather N. MacDonagh

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510

## 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 (VLTs) allotted in the State. The opening date and the number of VLTs and table games in operation for each facility as of December 2025 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      | 654         | 18                 |
| Ocean Downs         | Worcester       | January 2011        | 900         | 18                 |
| Maryland Live!      | Anne Arundel    | June 2012           | 3,878       | 179                |
| Rocky Gap Casino    | Allegany        | May 2013            | 628         | 12                 |
| Horseshoe Casino    | Baltimore City  | August 2014         | 1,365       | 115                |
| MGM National Harbor | Prince George’s | December 2016       | 2,268       | 214                |

VLT: video lottery terminal

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

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### *Video Lottery Terminals and Table Game Revenues*

The estimated revenues from VLTs and table games in fiscal 2027 through 2031 are shown in **Exhibit 2**. A total of \$2.0 billion in gross gaming revenues is projected in fiscal 2027, including \$607.4 million to be distributed to the Education Trust Fund.

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

|                                   | <u>FY 2027</u>   | <u>FY 2028</u>   | <u>FY 2029</u>   | <u>FY 2030</u>   | <u>FY 2031</u>   |
|-----------------------------------|------------------|------------------|------------------|------------------|------------------|
| <b>VLTs Distribution</b>          |                  |                  |                  |                  |                  |
| Education Trust Fund              | \$517.7          | \$523.4          | \$533.5          | \$538.8          | \$544.9          |
| Lottery Operations                | 13.6             | 13.8             | 13.9             | 14.0             | 14.2             |
| Purse Dedication Account          | 81.8             | 82.7             | 83.5             | 84.2             | 85.0             |
| Racetrack Renewal Account         | 12.0             | 12.2             | 6.9              | 6.5              | 5.3              |
| Local Impact Grants               | 75.0             | 75.8             | 76.5             | 77.2             | 77.9             |
| Business Investment               | 20.5             | 20.7             | 20.9             | 21.1             | 21.2             |
| Licensees                         | 643.2            | 650.1            | 655.9            | 661.8            | 667.8            |
| <b>Total VLTs</b>                 | <b>\$1,363.9</b> | <b>\$1,378.7</b> | <b>\$1,391.1</b> | <b>\$1,403.6</b> | <b>\$1,416.2</b> |
| <b>Table Games Distribution</b>   |                  |                  |                  |                  |                  |
| Education Trust Fund              | \$89.7           | \$90.4           | \$91.0           | \$91.7           | \$92.4           |
| Local Impact Grants               | 29.9             | 30.1             | 30.3             | 30.6             | 30.8             |
| Licensees                         | 478.4            | 482.0            | 485.6            | 489.2            | 492.9            |
| <b>Total Table Games</b>          | <b>\$598.0</b>   | <b>\$602.4</b>   | <b>\$607.0</b>   | <b>\$611.5</b>   | <b>\$616.2</b>   |
| <b>Total VLTs and Table Games</b> | <b>\$1,961.8</b> | <b>\$1,981.1</b> | <b>\$1,998.0</b> | <b>\$2,015.1</b> | <b>\$2,032.4</b> |
| <b>Total Education Trust Fund</b> | <b>\$607.4</b>   | <b>\$613.8</b>   | <b>\$624.5</b>   | <b>\$630.5</b>   | <b>\$637.3</b>   |

VLT: video lottery terminal

Note: Numbers may not sum to total due to rounding.

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

Chapter 492 of 2020, a constitutional amendment approved by the voters at the November 2020 general election, authorized sports and event wagering, contingent upon implementation legislation passed by the General Assembly. Chapter 356 of 2021 implemented sports wagering in the State and provides for regulation of sports wagering and fantasy gaming competitions. Chapter 604 of 2025 increased the mobile sports wagering tax rate from 15% to 20%. Mobile sports wagering licensees receive 80% of mobile sports wagering proceeds, while all other licensees receive 85% of proceeds from SB 884/ Page 11

sports wagering and fantasy gaming. Beginning in fiscal 2026, 5% of mobile sports wagering proceeds (*i.e.*, 25% of State mobile sports wagering revenues) is distributed to the general fund and the remainder is distributed to the Blueprint for Maryland’s Future Fund, which supports public education. State revenues from sports wagering and fantasy gaming and their distributions in fiscal 2027 through 2031 are shown in **Exhibit 3**.

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**Exhibit 3**  
**Distribution of Estimated State Sports Wagering and Fantasy Competition Revenues**  
**Current Law**  
**(\$ in Millions)**

|   | <u>FY 2027</u> | <u>FY 2028</u> | <u>FY 2029</u> | <u>FY 2030</u> | <u>FY 2031</u> |
|---|----------------|----------------|----------------|----------------|----------------|
| <b>State Revenues</b>                             |                |                |                |                |                |
| Sports Wagering – Retail                          | \$2.1          | \$2.1          | \$2.1          | \$2.0          | \$2.0          |
| Sports Wagering – Mobile                          | 113.9          | 117.0          | 119.0          | 120.8          | 122.6          |
| Sports Wagering License Fees                      | 4.0            | 0.0            | 0.0            | 0.0            | 0.0            |
| Fantasy Competition                               | 1.1            | 1.1            | 1.1            | 1.1            | 1.1            |
| <b>Total</b>                                      | <b>\$121.1</b> | <b>\$120.2</b> | <b>\$122.2</b> | <b>\$123.9</b> | <b>\$125.7</b> |
| <b>Distribution</b>                               |                |                |                |                |                |
| Blueprint for Maryland’s Future Fund <sup>1</sup> | \$92.7         | \$91.0         | \$92.4         | \$93.8         | \$95.1         |
| General Fund                                      | 28.5           | 29.2           | 29.7           | 30.2           | 30.6           |
| SMWOBSWA Fund <sup>2</sup>                        | 0.0            | 0.0            | 0.0            | 0.0            | 0.0            |
| Problem Gambling Fund <sup>3</sup>                | 1.4            | 1.3            | 1.3            | 1.3            | 1.3            |

SMWOBSWA: Small, Minority-Owned, and Women-Owned Business Sports Wagering Assistance

<sup>1</sup> The Blueprint for Maryland’s Future Fund is intended to assist in providing adequate funding for early childhood education and primary and secondary education to provide a world-class education to students in Maryland.

<sup>2</sup> Five percent of the class A-1 license fees (\$2.0 million each) and of the class A-2 license fees (\$1.0 million each) are paid into the SMWOBSWA Fund. Five percent of renewal fees are transferred to the SMWOBSWA Fund.

<sup>3</sup> Player winnings not claimed within 182 days are distributed to the Problem Gambling Fund.

Note: Numbers may not sum to total due to rounding.

Source: Board of Revenue Estimates; Department of Legislative Services

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## Appendix – Minority Business Enterprise Program

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The State’s Minority Business Enterprise (MBE) program requires that a statewide goal for MBE contract participation be established biennially through the regulatory process under the Administrative Procedure Act. The biennial statewide MBE goal is established by the Special Secretary for the Office of Small, Minority, and Women Business Affairs (OSBA, now housed within the Department of Social and Economic Mobility or DoSEM), in consultation with the Secretary of Transportation, the Chief Procurement Officer, and the Office of the Attorney General (OAG). In a year in which there is a delay in establishing the overall goal, the previous year’s goal applies. The Special Secretary is also required to establish biennial guidelines for State procurement units to consider in deciding whether to establish subgoals for different minority groups recognized in statute. In a year in which there is a delay in issuing the guidelines, the previous year’s guidelines apply.

In August 2013, OSBA announced a new statewide goal of 29% MBE participation that applied to fiscal 2014 and 2015; as no new goal has been established, the 29% goal remains in effect for fiscal 2026. OSBA issued subgoal guidelines in July 2011 and then updated them effective August 2020, as summarized in **Exhibit 1**. The guidelines state that subgoals may be used only when the overall MBE goal for a contract is greater than or equal to the sum of all recommended subgoals for the appropriate industry, plus two. MBE prime contractors may count their own work for up to 50% of a contract’s MBE goal and up to 100% of any contract subgoal. Their full participation counts toward the State’s 29% goal.

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### Exhibit 1 Subgoal Guidelines for Minority Business Enterprise Participation

|                  | <u>Construction</u> | <u>Architectural/<br/>Engineering</u> | <u>Maintenance</u> | <u>Information<br/>Technology</u> | <u>Services</u> | <u>Supplies/<br/>Equipment</u> |
|------------------|---------------------|---------------------------------------|--------------------|-----------------------------------|-----------------|--------------------------------|
| African American | 8%                  | 7%                                    | 9%                 | 10%                               | -               | 6%                             |
| Hispanic         | -                   | -                                     | 3%                 | -                                 | 2%              | 2%                             |
| Asian            | -                   | -                                     | 2%                 | -                                 | 3%              | -                              |
| Women            | 11%                 | 10%                                   | -                  | 10%                               | 10%             | 8%                             |
| <b>Total</b>     | <b>19%</b>          | <b>17%</b>                            | <b>14%</b>         | <b>20%</b>                        | <b>15%</b>      | <b>16%</b>                     |
| <b>Total + 2</b> | <b>21%</b>          | <b>19%</b>                            | <b>16%</b>         | <b>22%</b>                        | <b>17%</b>      | <b>18%</b>                     |

Source: Office of Small, Minority, and Women Business Affairs

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There are no penalties for agencies that fail to reach the statewide target. However, Chapters 155 and 156 of 2022 require OSBA to refer prime contractors that persistently fail to meet MBE participation goals on their contracts to OAG for debarment for up to three years.

### *History and Rationale of the Minority Business Enterprise Program*

In 1989, the U.S. Supreme Court held in the *City of Richmond v. J.A. Croson Co.* that state or local MBE programs using race-based classifications are subject to strict scrutiny under the equal protection clause of the Fourteenth Amendment to the U.S. Constitution. In addition, the ruling held that an MBE program must demonstrate clear evidence that the program is narrowly tailored to address actual disparities in the marketplace for the jurisdiction that operates the program. As a result, the State periodically conducts a disparity study to determine whether there is continued evidence that MBEs are underutilized in State contracting.

The most recent disparity study, completed in September 2025, identified continued and ongoing disparities in annual wages, business earnings, and business ownership rates for minority- and women-owned businesses when compared to nonminority and male-owned businesses. The study found that minority-owned businesses in the Maryland Marketplace made up 47.4% of all businesses but captured only 17.6% of total sales, while nonminority male-owned businesses accounted for 29.9% of businesses and 66.7% of total sales. The study likewise identified disparities in the State's contracting with minority- and women-owned businesses, finding that these firms were consistently underutilized relative to their availability to perform State contracts. For instance, minority-owned businesses overall had an availability rate of 26.1% but were awarded contracts valued at only 15.2% of the total contract value awarded by the State. Nonminority women-owned businesses had an availability rate of 13.7% but were awarded contracts valued at only 7.1% of the total contract value awarded by the State. According to the analysis, these differences are large and statistically significant.

The MBE program is scheduled to terminate July 1, 2026; Chapters 620 and 621 of 2025, which reauthorized the program, also extended the due date for the new disparity study to September 2025 to inform the subsequent reauthorization process. As previously noted, this study was completed and published by the due date and is expected to serve as the empirical basis for the program's reauthorization. **Exhibit 2** provides MBE participation rates for major Executive Branch agencies based on contract awards made during fiscal 2023 and 2024, the most recent data available; as the exhibit shows, rates can vary considerably from year to year.

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**Exhibit 2**  
**Minority Business Enterprise Participation Rates, by Agency**  
**Fiscal 2023 and 2024**

| <u>Cabinet Agency</u>                         | <b>% MBE Participation</b> |                       |
|---|----------------------------|-----------------------|
|   | <b><u>FY 2023</u></b>      | <b><u>FY 2024</u></b> |
| Aging   | 1.2%                       | 11.2%                 |
| Agriculture                                   | 3.2%                       | 6.2%                  |
| Budget and Management                         | 32.9%                      | 3.0%                  |
| Commerce                                      | 53.8%                      | 77.5%                 |
| Education                                     | 11.5%                      | 21.9%                 |
| Environment                                   | 37.9%                      | 17.5%                 |
| Executive Department                          | 4.6%                       | 2.2%                  |
| General Services                              | 19.5%                      | 21.4%                 |
| Health  | 8.4%                       | 12.8%                 |
| Higher Education Commission                   | 3.0%                       | 20.9%                 |
| Housing and Community Development             | 48.5%                      | 40.4%                 |
| Human Services                                | 10.5%                      | 38.9%                 |
| Information Technology                        | 14.4%                      | 23.7%                 |
| Juvenile Services                             | 6.5%                       | 15.5%                 |
| Labor   | 18.6%                      | 3.7%                  |
| Military                                      | 22.3%                      | 27.5%                 |
| Natural Resources                             | 10.2%                      | 5.9%                  |
| Planning                                      | 0.0%                       | 3.9%                  |
| State Police                                  | 20.9%                      | 12.7%                 |
| Public Safety and Correctional Services       | 6.2%                       | 28.5%                 |
| Transportation – Aviation Administration      | 22.1%                      | 20.4%                 |
| Transportation – Motor Vehicle Administration | 20.2%                      | 25.1%                 |
| Transportation – Office of the Secretary      | 48.5%                      | 21.0%                 |
| Transportation – Port Administration          | 13.1%                      | 16.4%                 |
| Transportation – State Highway Administration | 21.7%                      | 27.0%                 |
| Transportation – Transit Administration       | 12.0%                      | n/a                   |
| Transportation – Transportation Authority     | 19.4%                      | 19.8%                 |
| <b>Statewide Total<sup>1</sup></b>            | <b>17.9%</b>               | <b>22.0%</b>          |

MBE: Minority Business Enterprise  
n/a: not available

<sup>1</sup> Includes the University System of Maryland, Morgan State University, St. Mary’s College of Maryland, and non-Cabinet agencies.

Source: Office of Small, Minority, and Women Business Affairs

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## *Requirements for Minority Business Enterprise Certification*

An MBE is a legal entity, other than a joint venture, that is:

- organized to engage in commercial transactions;
- at least 51% owned and controlled by one or more individuals who are socially and economically disadvantaged; and
- managed by, and the daily business operations of which are controlled by, one or more of the socially and economically disadvantaged individuals who own it.

A socially and economically disadvantaged individual is defined as a citizen or legal U.S. resident who is African American, Native American, Asian, Hispanic, physically or mentally disabled, a woman, or otherwise found by the State's MBE certification agency to be socially and economically disadvantaged. An MBE owned by a woman who is also a member of an ethnic or racial minority group may be certified as being owned by both a woman and by a member of a racial or ethnic minority, but for the purpose of participating on a contract as an MBE, it can only be counted as one or the other.

A "socially disadvantaged individual" is someone who has been subject to racial or ethnic prejudice or cultural bias within American society because of his or her membership in a group and without regard to individual qualities. An "economically disadvantaged individual" is someone who is socially disadvantaged whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities compared with those who are not socially disadvantaged. An individual with a personal net worth in excess of \$1.5 million, adjusted annually for inflation, is not considered economically disadvantaged. The inflation-adjusted limit for calendar 2026 is \$2,192,035.

The Office of Minority Business Enterprise (OMBE) handles MBE certification for the State. Chapter 605 of 2025 transferred OMBE from the Maryland Department of Transportation (MDOT), which had been the State's certification agency, to the new DoSEM. However, as procurement regulations have not been updated to reflect this transfer, MDOT is still designated as the MBE certification agency in regulations.