



PERFORMANCE AUDIT REPORT

Sports Wagering Council

May 2024

Jason E. Mumpower
Comptroller of the Treasury



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JASON E. MUMPOWER
Comptroller

May 9, 2024

Members of the General Assembly
State Capitol
Nashville, Tennessee 37243
and
William Orgel, Council Chair
Mary Beth Thomas, Executive Director
Sports Wagering Council
312 Rosa L. Parks Ave., Tennessee Tower, 8th Floor
Nashville, Tennessee 37243

Ladies and Gentlemen:

We have conducted a performance audit of selected programs and activities of the Sports Wagering Council for the period January 1, 2022, through June 30, 2023, in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States.

Although our audit did not disclose any findings, we detail the results of our audit in the Audit Conclusions.

Sincerely,

A handwritten signature in blue ink that reads "Katherine J. Stickel".

Katherine J. Stickel, CPA, CGFM, Director
Division of State Audit

KJS/gm

SPORTS WAGERING COUNCIL

AUDIT HIGHLIGHTS

Sports Wagering Council’s Mission

To enforce the Sports Wagering Act in a fair, transparent and consistent manner to ensure the integrity of sports wagering, to collect privilege taxes owed to the State, and to protect the public interest of Tennessee

Audit Period

January 1, 2022, through June 30, 2023

Key Audit Conclusions

This audit report contains no findings or observations.

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Introduction

Audit Authority

This is the report on the performance audit of the Sports Wagering Council. Section 8-4-109, *Tennessee Code Annotated*, states the following:

The comptroller of the treasury is hereby authorized to audit any books and records of any governmental entity created under and by virtue of the statutes of the state which handles public funds when such audit is deemed necessary or appropriate by the comptroller of the treasury. The comptroller of the treasury shall have the full cooperation of officials of the governmental entity in the performance of such audit or audits.

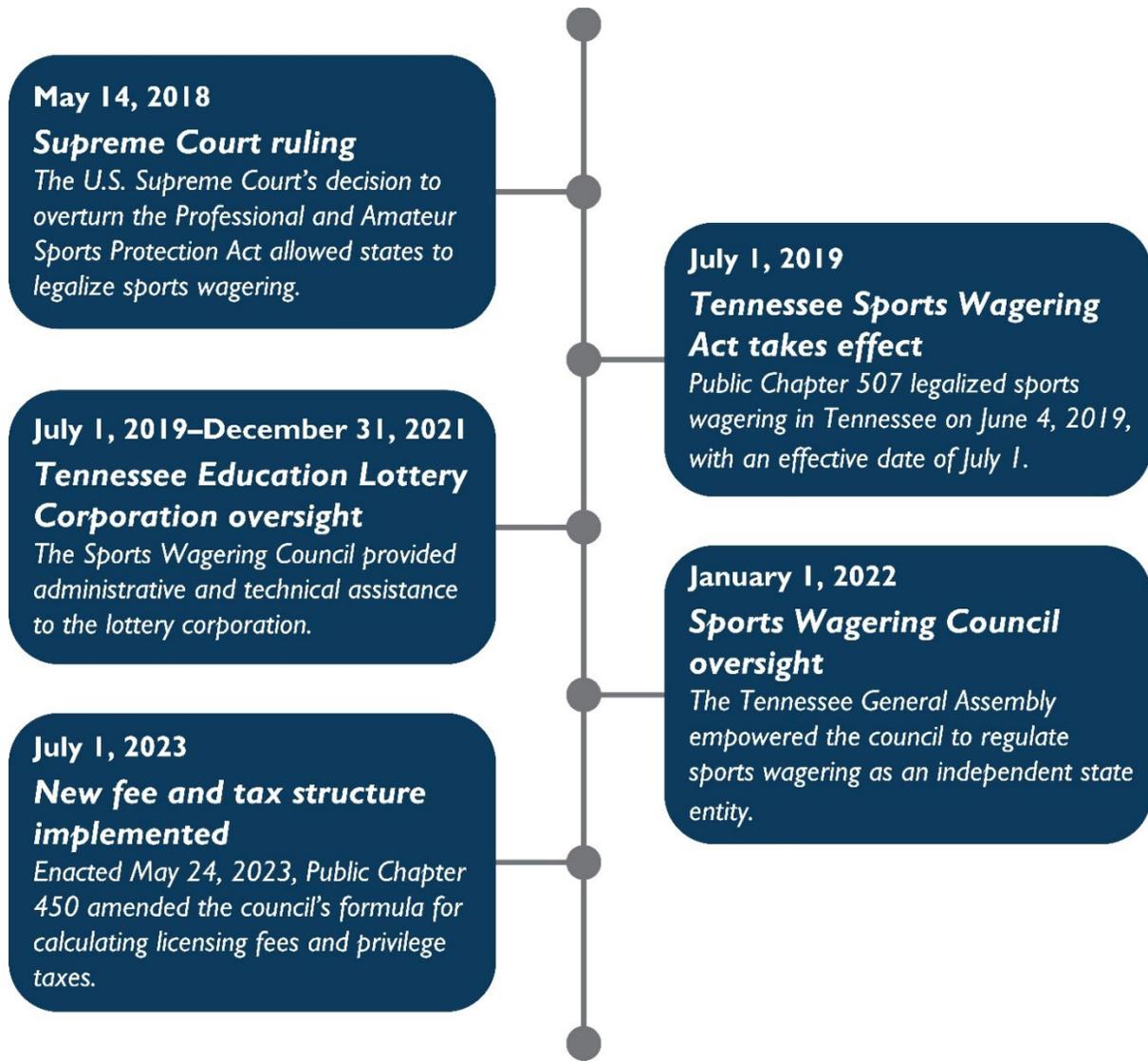
The audit was conducted pursuant to Section 4-3-304, *Tennessee Code Annotated*, which requires the Department of Audit to audit all accounts and financial records of any state department, institution, office, or agency in accordance with both generally accepted auditing standards and procedures established by the Comptroller. An audit may include any or all of the following elements: financial, compliance, economy and efficiency, program results, and program evaluations.

Background

Through the Tennessee Sports Gaming Act,¹ the General Assembly legalized sports wagering in the state effective July 1, 2019. Initially, the Tennessee Education Lottery Corporation regulated sports wagering in the state, with the council serving in an advisory capacity, but effective January 1, 2022, the General Assembly transferred all regulatory powers and duties related to sports wagering in Tennessee to the Sports Wagering Council and made the council an independent state entity. See **Chart 1** for a timeline of the council's legislative history.

1. The Tennessee Sports Gaming Act is available online in Section 4-49-1, *Tennessee Code Annotated*.

Chart 1
Legislative History of the Sports Wagering Council



Source: Auditor review of state and federal sports wagering legislation.

State law requires the Sports Wagering Council to regulate sports wagering in Tennessee² and develop and enforce rules relating to licensure of operators, collection of privilege taxes, and the protection of the citizens of Tennessee by ensuring responsible sports wagering.³

2. Section 4-49-106(a), *Tennessee Code Annotated* instructs the council to “enforce . . . and supervise compliance with laws and rules relating to the regulation and control of wagering on sporting events in this state.”

3. See Title 4, Chapter 49, *Tennessee Code Annotated*, for detailed information about the council.

In Tennessee, individuals 21 years of age and older may wager online on approved sporting events, as well as approved league events such as all-star contests and qualifying rounds, certain professional league drafts, certain seasonal and post-season awards, and certain collegiate awards. Coaches, players, and employees of professional, collegiate, or Olympic sports teams are ineligible to wager on sporting events overseen by the person's sports governing body; employees and members of the council may not wager on a sporting event in this state.

As of April 4, 2024, the council had 18 staff reporting to the executive director. (See the organizational chart and structure of the council's staff in **Appendix 2**.)

Council Membership and Structure

The Sports Wagering Council is composed of nine members that the state's Governor, Speaker of the Senate, and Speaker of the House of Representatives equally appoint in staggered terms from the three grand divisions of the state. The council is required to meet at least quarterly and may meet more frequently as called by the council chair. See **Appendix 3** for a list of council members as of February 5, 2024.

Because the council hires and fires the executive director and other employees, the council is subject to the requirements of the Audit Committee Act⁴ and must establish an audit committee. Among other responsibilities, the committee should oversee the council's financial reporting; evaluate internal controls; facilitate any audit or investigation of the council; and coordinate the council's responsibility for preventing, detecting, and reporting fraud, waste, and abuse. As of the time of our audit, the council was in the process of establishing an audit committee. Per meeting minutes, the audit committee met for the first time on July 26, 2023, and met thereafter on December 5, 2023, and February 29, 2024.

Audit Scope

We have audited the Sports Wagering Council (the council) for the period January 1, 2022, through June 30, 2023. Our audit scope included assessments of internal controls and compliance with laws, regulations, policies, procedures, and provisions of contracts or grant agreements in the following areas:

- the council's rules and process for **licensing of sports wagering operators**;

4. Compiled in Title 4, Chapter 35, *Tennessee Code Annotated*.

- the council’s rules and processes for **monitoring ongoing compliance** with the Sports Gaming Act by monitoring sports wagering operators;
- the council’s compliance with statutes and rules regarding its responsibilities for collecting and disbursing **taxes and fees**; and
- **council engagement and transparency** as it relates to oversight of staff and compliance with relevant statute and policies.

We present more detailed information about our audit objectives, conclusions, and methodologies in Appendix 1 of this report.

For our sample design, we used nonstatistical audit sampling, which was the most appropriate and cost-effective method for concluding on our audit objectives. Based on our professional judgment, review of authoritative sampling guidance, and careful consideration of underlying statistical concepts, we believe that nonstatistical sampling provides sufficient appropriate audit evidence to support the conclusions in our report. Although our sample results provide reasonable bases for drawing conclusions, any errors identified in these samples cannot be used to make statistically valid projections to the original populations.

We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings, recommendations, and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings, conclusions, and recommendations based on our audit objectives.

The Sports Wagering Council’s management is responsible for establishing and maintaining effective internal controls and for complying with applicable laws, regulations, policies, procedures, and provisions of contracts.

Prior Audit Findings

This is the first audit of the Sports Wagering Council, so it has no prior audit findings.

Audit Conclusions

Licensing of Operators

To assess the Sports Wagering Council's promulgation and following of rules concerning licensing sports wagering operators, we looked at the rules the council had promulgated related to licensing of operators, the council's process for licensing operators, and whether the council licensed operators according to statutory and rule requirements. Our review did not result in any findings or recommendations.

The Sports Wagering Council is responsible for approving applications for sports wagering licenses in Tennessee. Applicants must pay a nonrefundable application fee of \$50,000 and, prior to July 1, 2023, paid a \$700,000 renewal fee, for a total annual fee of \$750,000. Operators now pay a renewal fee based on gross wagers for the immediately preceding 12-month period. See the **Taxes and Fees** section for more information about these fees.

Operators are entities licensed to offer and operate interactive sports wagering in Tennessee.

Requirements

Per the rules promulgated by the council that were in effect prior to July 1, 2023, applicants were required to provide a financial statement audit; an operational assessment; a technology integrity and security assessment; letters of reference; and information about the use of internal controls, security systems, and geolocation. The application required a criminal background check for each principal owner, partner, and board member, and was required to include information to establish their character, financial stability, and ability to perform the scope of services.

Under the rules in effect during our review period, the application required two assessments of the applicant's information technology. An Operational Assessment ensured the sports gaming system met the standards set in the *Rules of the Tennessee Sports Wagering Council*,⁵ provided a description of the software used for online sports wagering; and ensured the software met Tennessee requirements for verifying geolocation, age, and identity. Along with the Operational Assessment, a Sports Gaming System Technology Integrity and Security Assessment verified the overall security of the applicant's infrastructure design. After Public Chapter 450 became effective on July 1, 2023, as mentioned in

5. The *Rules of the Tennessee Sports Wagering Council* may be found online at <https://publications.tnsosfiles.com/rules/1350/1350.htm>.

Chart 1 on page 2, the application still requires both assessments. See **Appendix 4** for legislative changes enacted by Public Chapter 450.

The council must approve or deny license applications within 90 days of receiving a complete application. As of February 5, 2024, there were 13 sports wagering operators licensed in Tennessee. See **Appendix 3** for a list of those operators.

Current Audit

We focused our review on the rules promulgated by the council and the licensing and renewal of sports wagering operators granted from January 1, 2022, through June 30, 2023, to determine if the Sports Wagering Council ensured operators met statutory and rule requirements prior to licensure. Specifically, we looked at whether management had promulgated rules as required by the Sports Gaming Act and whether management had proper controls in place so that it only licensed operators with sufficient financial stability, the required bond to be held in escrow, and internal controls over financial and technological aspects of their businesses. We did not note any issues. See **Appendix 1** for our detailed audit objectives, conclusions, and methodologies.

Ongoing Compliance

To ensure ongoing monitoring of sports wagering operators by the Sports Wagering Council is complete and addresses potential risks to the citizens of Tennessee, we focused on their rules and enforcement, including their responses to player complaints. To determine whether the council promulgated and enforced rules, we examined the rules promulgated by the council, the council's procedures for monitoring operator compliance with the Sports Gaming Act and the council's rules, and the council's procedures for following up on complaints from players. Our review did not result in any findings or recommendations.

The Sports Wagering Council has a framework of rules that govern sports wagering in Tennessee. To enforce these rules, the council relies on voluntary reporting from operators in addition to internal investigations, hearings, and audits. The council's investigators are authorized to inspect operators' locations during business hours for the purposes of inspecting equipment, books, and records, and can refer suspected violations of the Sports Gaming Act or other state or federal laws to the appropriate law enforcement agencies.

Voluntary Reporting

Section 4-49-115, *Tennessee Code Annotated*, not only requires the council and other parties involved in sports gaming to cooperate with investigations; it also requires operators to notify the council and applicable sports organizations of

- (4) Conduct that corrupts the betting outcome of a sporting event for purposes of financial gain, including match fixing; and
- (5) Suspicious or illegal wagering activities, including cheating, the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, using agents to place wagers, and using false identification.

Operators must also report any changes in ownership and key personnel in their operations as well as criminal or disciplinary proceedings concerning their business operations.

Council Monitoring and Enforcement

Audits

Council staff perform operator reserve audits to ensure operators' cash, cash equivalents, irrevocable letters of credit, and required bonds are sufficient to cover their outstanding liabilities related to play accounts. Staff also audit operator privilege taxes by comparing the operator's wagering data to the operator's account and the tax calculated. Prior to July 1, 2023, the council required periodic operator reports so staff could make sure operators' adjusted gross income equaled at least 10% of the wagers per calendar year, but these income reports are no longer required after the change in the tax structure.

Staff Investigators

The council's investigations staff review reported suspicious activity such as reports of unlicensed operators accepting wagers; identity theft; an operator allowing minors or out-of-state players to wager; accepting wagers on prohibited events; or extending credit to players. If they determine that the activity is a potential violation of the Sports Gaming Act or other federal or state law, they perform a detailed investigation on the case, present it to upper management, and prepare a package of all information discovered to possibly provide to law enforcement or submit to the council as applicable.

Hearings for Unacceptable Wagers and Unlawful Operators

Section 4-49-127, *Tennessee Code Annotated*, states that the council may investigate through a council hearing process acceptance of wagers from ineligible players (such as minors or persons not physically located in the state) or by unlicensed operators. If, after a hearing, the council determines that violations have occurred, it can impose fines. (See the **Taxes and Fees** section for more information about fine amounts.)

Player Complaints

Players can submit complaints on the council's website, and council staff track and work to resolve the complaints. Most complaints involve interpretation of house rules or operators' anti-money laundering policies, which can result in players' accounts being locked based on suspected suspicious activity. Complaints are required to be made with the operator prior to contacting the council to give the operator the opportunity to address it. When the council receives a complaint, staff gather information from the complainant, then contact the operator to obtain an explanation and any documentation on

file, and staff review the information, rules, and laws. Mediating between the player and operator, staff keep all correspondence and supporting documentation on the council's shared drive.

Current Audit

We focused our review on the rules promulgated by the council and the monitoring of sports wagering operators performed by the council. We performed testwork related to the resolution of player complaints and tested Player Complaint Forms received from January 1, 2022, through June 27, 2023, to determine if the Sports Wagering Council ensured that each player complaint was resolved by examining supporting evidence related to the complaint resolution. We randomly selected 25 complaints and reviewed emails and other supporting documentation to determine if staff followed up on and resolved complaints. We found no errors. See **Appendix 1** for our detailed objectives, methodologies, and conclusions.

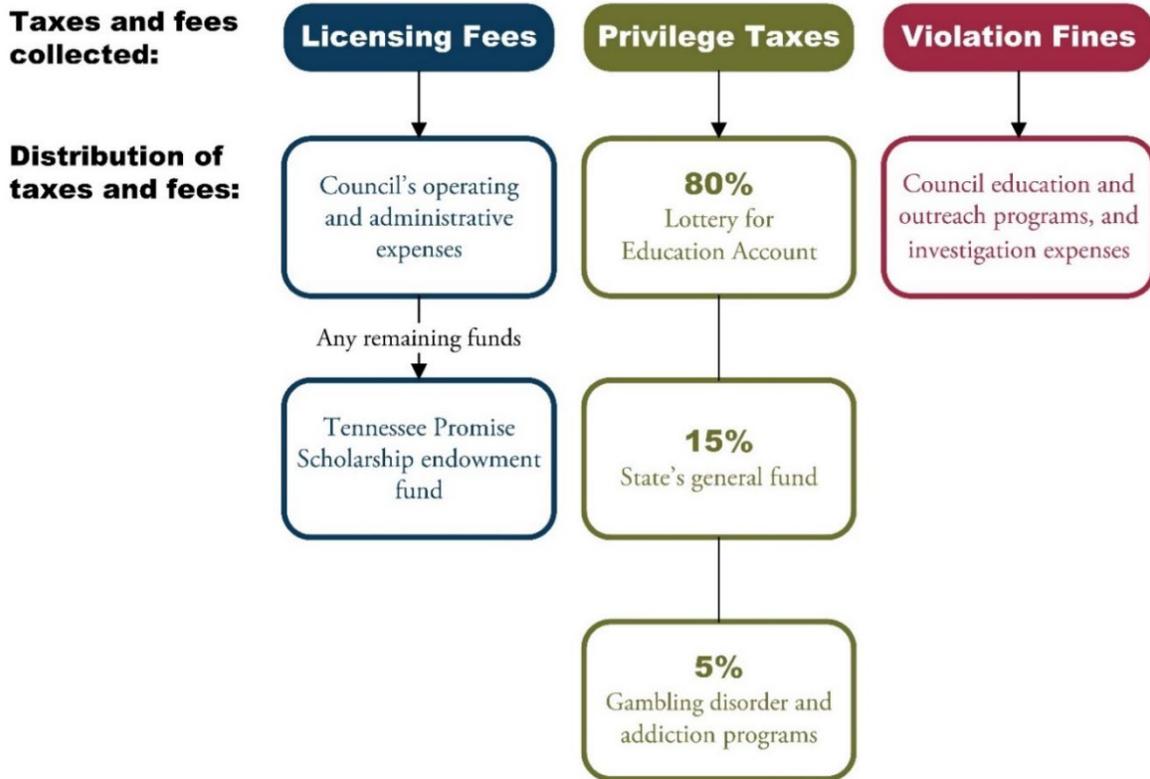
Taxes and Fees

To determine whether the Sports Wagering Council properly charged, collected, and distributed taxes and fees, we looked at its compliance with statutes and rules regarding licensing fees, privilege taxes, and violation fines. Our review did not result in any findings or recommendations.

In accordance with the Tennessee Sports Gaming Act,⁶ the Sports Wagering Council is responsible for ensuring that sports gaming operators properly submit licensing fees, privilege taxes, and violation fines. After collecting the funds, the council must distribute the taxes and fees to the appropriate state agencies. The council has an agreement with the Department of Finance and Administration's Division of Accounts, which performs accounting and reporting functions for the council. See **Chart 2** for an overview of the council's taxes and fees.

6. Compiled in Title 4, Chapter 49, *Tennessee Code Annotated*.

Chart 2
Sports Wagering Council Taxes and Fees



Source: Sports Wagering Council rules.

Licensing Fees

As noted in the **Licensing of Operators** section of this report, the council collects two types of fees: application fees and licensure fees. Application fees are \$50,000; if the council approves the operator, the \$50,000 is deducted from the annual license fee. Before July 1, 2023, the annual license fee was \$750,000 for all operators. Now, it is a variable fee structure based on the operator's gross wagers in the immediately preceding 12-month period.⁷ For both application and renewal fees, the operator must pay the appropriate fee within 10 days of application or renewal approval. See **Chart 3** for an overview of the council's licensing fee structure.

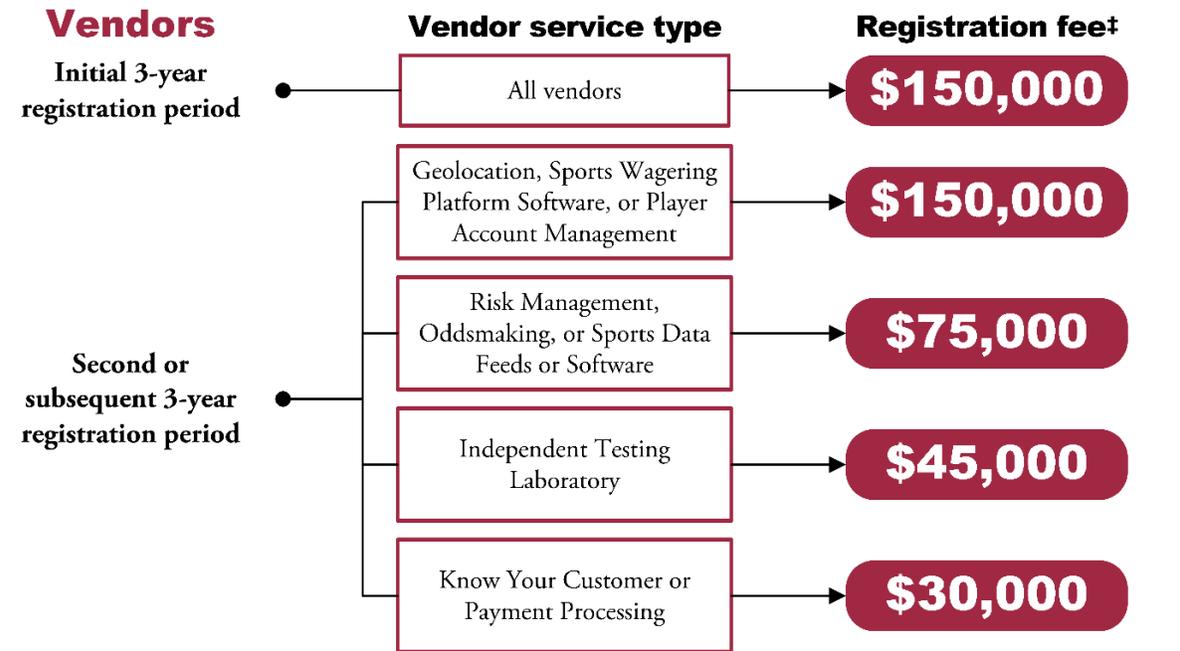
7. Per Public Chapter 450, which also establishes a vendor registration fee of \$150,000 for the first three-year period of registration and a renewal fee in an amount prescribed by rule for the second or subsequent period of registration. See Rule 1350-01.04(2)(g). Prior to this, vendors were not required to pay any fees or fines. Vendor license fees were not considered during this audit due to the timing of audit fieldwork and populations for testwork.

Chart 3
Sports Wagering Council Licensing and Registration Fee Structure

Fees before July 1, 2023



Fees after July 1, 2023



Source: Section 4-49-117(b), *Tennessee Code Annotated* and Rule 1350-01.04(2)(g).
 * The application fee is applied toward the license fee upon approval of the application.
 † Gross annual wagers are calculated as of the immediately preceding 12-month period.
 ‡ Vendor registration fees are payable in equal annual installments over the three-year registration period.

Statute requires the council to distribute revenue from licensing fees first to the council's operating and administrative expenses. Any remaining revenues must be distributed to the State Treasurer for deposit into the Tennessee Promise scholarship endowment fund. In fiscal year 2023, the council had expenses totaling \$2,859,247.60 and submitted \$7,600,289.75 to the Tennessee Promise endowment fund.

Privilege Taxes

Before July 1, 2023, each operator was required to pay a privilege tax of 20% of its adjusted gross income.⁸ Public Chapter 450 changed the privilege tax to 1.85% of an operator's gross handle.⁹ To ensure the security of funds due to the state, operators are required to set up a separate account to hold the privilege tax until payment is made. Privilege tax payments are due to the council no later than the fifth business day of the following month, and operators must also submit a privilege tax calculation report.¹⁰

According to statute, the collected privilege tax must be distributed as follows: 80% to the Lottery for Education account, 15% to the state's General Fund, and 5% to the Department of Mental Health and Substance Abuse Services.¹¹

Violation Fines

If the council determines that an operator (and after July 1, 2023, a vendor) has violated any part of the Tennessee Sports Gaming Act, it may impose an administrative fine up to \$25,000 per violation,¹² depending on the seriousness of the violation. Specific violations include, but are not limited to, accepting wagers from minors or other ineligible people, unlawfully accepting wagers without a license, failing to report illegal or suspicious conduct, not cooperating with council investigations or audits, and offering unapproved events or wagers. When a violation is discovered, legal staff prepare a report that includes the details of the violation and a suggested fine amount to present to the council, which votes to approve the proposed fine. If approved, staff notify the operator of the violation, the fines due, and the operator's right to request a hearing to contest the fine. Fines collected must be accounted for separately and are intended for the council to use in accordance with its rules.

For fiscal year 2023, the council collected revenues of approximately \$93 million from these taxes and fees. See **Chart 4** for the council's taxes and fees collections since they took over regulation on January 1, 2022, through December 31, 2023.

8. At the time, statute defined "adjusted gross income" as the operator's total bets collected minus the total amount paid out to winners over a specified period.

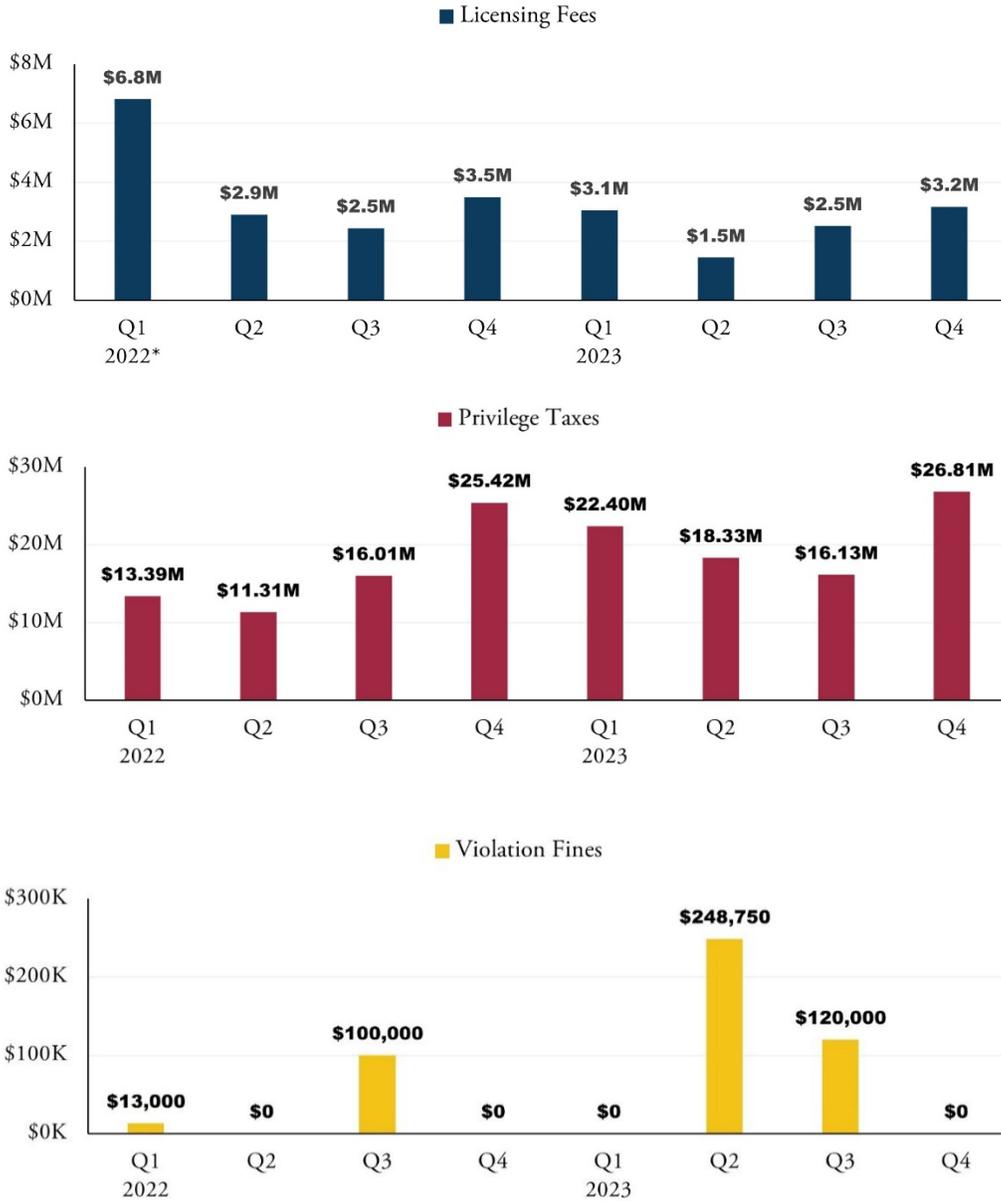
9. "Handle" is "the amount of dollars wagered that a sportsbook or a casino has accepted from its bettors" (<https://www.fantasylife.com/articles/betting/what-is-the-handle-in-sports-betting>).

10. According to the *Rules of the Tennessee Sports Wagering Advisory Council*.

11. According to Section 4-49-119, *Tennessee Code Annotated*, the money distributed to the Department of Mental Health and Substance Abuse Services is to be used "primarily, to address problem gambling and gambling disorders . . . and secondarily, to address juvenile addiction and mental health disorders."

12. Per Section 4-49-129, *Tennessee Code Annotated*, the council may impose an additional civil penalty of up to \$5,000 per violation and up to a total of \$50,000 against any licensee, registrant, or other person.

Chart 4
Sports Wagering Council Quarterly Revenues, Calendar Years 2022-2023



Source: Sports Wagering Council revenues obtained from Edison, the state’s enterprise resource planning system.
 * Licensing fees in quarter 1 of calendar year 2022 were abnormally high due to the Lottery transferring previously received but unearned fees to the newly formed council.

Current Audit

We performed testwork of taxes and fees billed and/or received by the state from January 1, 2022, through June 30, 2023, to determine if the Sports Wagering Council properly charged, collected, and distributed taxes and fees. We reconciled total tax billings in the state’s accounting system to internal

privilege tax logs and randomly selected a sample of 25 tax billings. We tested whether council staff calculated the tax accurately, whether the tax sent to the department of revenue included the taxes as calculated, and whether the memo apportioned the taxes correctly. We also tested all fees collected from operators to determine whether those fees were in the appropriate amount and were either collected timely or followed up on by council staff. We found no errors. See **Appendix 1** for our detailed objectives, methodologies, and conclusions.

Council Engagement and Transparency

To assess the Sports Wagering Council’s transparency and engagement, we reviewed minutes of the council meetings, looked at the council’s oversight of staff as well as compliance with the council’s defining statute, the Open Meetings Act, and the council’s policies and procedures. Our review did not result in any findings or recommendations.

As the sole regulatory body of the sports wagering industry in Tennessee, the Sports Wagering Council is obligated to protect both the industry’s integrity and the state’s public interest. The nine-member council, given regulatory authority in January 2022,¹³ is responsible for enforcing the Tennessee Sports Gaming Act,¹⁴ supervising compliance with sports wagering laws and regulations, and controlling wagering on sporting events in Tennessee.

To demonstrate its engagement and transparency, the council must meet statutory and policy requirements for conducting meetings, mitigating conflicts of interest, overseeing council staff, and establishing an audit committee.

Meeting Requirements

Per statute,¹⁵ the council must meet at least quarterly, and the members are reimbursed for per diem and travel expenses. Five of the nine council members must be present to establish a quorum for voting and conducting council business. Based on our review of the council’s meeting minutes, during our audit scope, the council met both requirements.

13. Per Public Chapter 593, the council took over as the primary sports wagering regulatory body from the Tennessee Education Lottery at this time.

14. Compiled in Title 4, Chapter 49, *Tennessee Code Annotated*.

15. Section 4-49-105, *Tennessee Code Annotated*.

The council is required to comply with the Open Meetings Act¹⁶ for all regularly scheduled meetings and any emergency virtual meetings.¹⁷ Statute requires governing bodies to provide adequate public notice before meetings and to record meeting minutes that are open for public inspection. For virtual meetings, recordings must be posted online within three days and remain on the entity's website for three years. Based on our review of the council's meeting minutes and recordings, the council met all applicable requirements of the Open Meetings Act during our audit scope.

Conflict-of-Interest Policy

One way that the council establishes key controls over engagement and transparency is through its conflict-of-interest policy. As part of the policy, council members sign statements that disclose any personal conflicts between private interests and council members' duties. When conflicts are noted, the council members should recuse themselves from participating in any related discussions or decisions.

According to the General Counsel, the conflict-of-interest policy was implemented in February 2023, when council members received and returned signed conflict-of-interest statements. In the future, the General Counsel will request council members to sign new forms annually, as well as when a new appointee joins the council. Based on our review of the conflict-of-interest forms, all council members through June 30, 2023, complied with the council's conflict-of-interest policy.

Oversight of Staff

The council is responsible for hiring an executive director, who oversees the council's daily operations and management of sports wagering in the state, as well as other employees as deemed necessary.¹⁸ Based on our discussions with three council members, they discuss items as needed with staff and receive necessary materials for meetings ahead of time. As a demonstration of the council's oversight, they completed a performance evaluation of the executive director during our audit period in December 2022.

Current Audit

We tested the council's compliance with meeting and quorum requirements as well as compliance with its conflict-of-interest policy, as discussed above. We noted no issues. See **Appendix 1** for our detailed objectives, methodologies, and conclusions related to the council's engagement and transparency.

16. Compiled in Title 8, Chapter 44, Part 1, *Tennessee Code Annotated*.

17. According to the General Counsel, the council has not had any meetings that would constitute the statute's definition of emergency meetings.

18. Section 4-49-105, *Tennessee Code Annotated*.

Appendices

Appendix 1: Objectives, Conclusions, and Methodologies

Licensing of Operators

1. Audit Objective: Did the council promulgate rules representing criteria by which to determine whether sports wagering operators should be licensed in the state of Tennessee, which satisfied the requirements of Title 4, Chapter 49, Part 1, *Tennessee Code Annotated*?

Conclusion: Based on our review, the council has promulgated rules by which to determine whether sports wagering operators should be licensed in Tennessee, which satisfied the requirements of Title 4, Chapter 49, Part 1, *Tennessee Code Annotated*.

2. Audit Objective: Did the council ensure it licensed only those sports wagering operators who met the requirements set forth in its rules and Title 4, Section 49, Part 1, *Tennessee Code Annotated*?

Conclusion: Based on our review and testwork, the council ensured it licensed only operators who met the requirements set forth in its rules and Title 4, Section 49, Part 1, *Tennessee Code Annotated*.

Methodology to Address the Audit Objectives

To address our audit objectives, including gaining an understanding of the licensure process and obtaining an understanding of internal control significant to our audit objectives and to assess management's design and implementation of internal controls, we interviewed the Executive Director, the General Counsel, the Chief Financial Officer, the Financial Compliance and Licensing Auditor, the Director of Investigations and Sports Integrity, the Senior Investigative Analyst, the Chief Information Officer, the Senior IT Compliance and Licensing Specialist, the Assistant Director of Administration, the Licensing Analyst, and the Director of Regulatory Policy and Senior Counsel. To identify requirements for rule promulgation and licensure, we reviewed Title 4, Chapter 49, Part 1, *Tennessee Code Annotated*, as effective prior to July 1, 2023. We reviewed the rules promulgated by the council, template reports for licensures, council meeting materials and completed licensure reports, documentation submitted by license applicants, and documentation of work performed by council staff. We performed walkthroughs of the licensure process performed by council staff, including the financial review and working group meetings.

To determine whether the council licensed only operators who met the requirements set forth in its rules and Title 4, Section 49, Part 1, *Tennessee Code Annotated*, as effective prior to July 1, 2023, we

Appendix 1 (Continued)

obtained a population of licenses granted between January 1, 2022, and June 30, 2023. We selected a nonstatistical, random sample of 5 operator licensures out of the total 19 licenses and renewals granted and tested whether the requirements for documentation submission, bonds, escrow accounts, insurance, house rules, internal controls, responsible gaming plan, consideration of financial stability, independent assessments, and background reports were met for the applicant granted a license.

Ongoing Compliance

1. Audit Objective: Did the council promulgate rules to ensure ongoing monitoring of sports wagering operators is complete and addresses potential risks to the citizens of Tennessee, which satisfied the requirements of Title 4, Chapter 49, Part 1, *Tennessee Code Annotated*?

Conclusion: Based on our review, the council has promulgated rules to ensure ongoing monitoring of sports wagering operators is complete and addresses potential risks to the citizens of Tennessee.

2. Audit Objective: Did the council ensure licensed sports wagering operators complied with the requirements set forth in its rules and Title 4, Section 49, Part 1, *Tennessee Code Annotated*?

Conclusion: Based on our review, the council ensured operators complied with the requirements set forth in its rules and Title 4, Section 49, Part 1, *Tennessee Code Annotated*.

3. Audit Objective: Did the council follow up on complaints from players as required in Rule 1350-02-.09?

Conclusion: Based on our review and testwork, the council ensured that complaints from players are followed through to resolution as required in Rule 1350-02-.09.

Methodology to Address the Audit Objectives

To address our audit objectives, including gaining an understanding of the ongoing monitoring process related to sports wagering operators and obtaining an understanding of internal control significant to our audit objectives and to assess management's design and implementation of internal controls, we interviewed the Executive Director, the Director of Investigations and Sports Integrity, the Chief Information Officer, the Senior IT Compliance and Licensing Specialist, the Director of Regulatory Policy and Senior Counsel, the Chief Financial Officer, and the Financial Compliance and Licensing Auditor. To identify requirements for rule promulgation and ongoing monitoring, we reviewed Title 4, Chapter 49, Part 1, *Tennessee Code Annotated*, as effective prior to July 1, 2023. We reviewed the rules promulgated by the council; examples of reports submitted by operators to the council related to annual requirements, changes, and suspicious activity; reports submitted to law

Appendix 1 (Continued)

enforcement by council staff; the spreadsheet used to track player complaints; the draft procedure manual for the council's investigations team; example audits of operator reserves and privilege tax calculations; and email correspondence related to player complaints. We observed council dashboards used to monitor real-time betting information. We performed a walkthrough of the player complaint process.

To determine whether council staff followed up on player complaints, we obtained a population of player complaints from the Director of Regulatory Policy and Senior Counsel. We selected a nonstatistical, random sample of 25 player complaints and determined whether each complaint had been followed up on by council staff to resolution by reviewing the complaint form, communications between the council staff and the complainant, communications between council staff and the operator, and relevant supporting documentation as applicable such as house rules of the operator, council rules, or operator promotions.

Taxes and Fees

1. Audit Objective: Did the council charge, collect, and distribute taxes and fees due from operators as required by Title 4, Section 49, Part 1, *Tennessee Code Annotated*?

Conclusion: Based on our review and testwork, management charged, collected, and distributed taxes and fees due from operators as required by Title 4, Section 49, Part 1, *Tennessee Code Annotated*.

Methodology to Address the Audit Objective

To address our audit objective, including gaining an understanding of the taxes and fee payment processes and the process of remitting moneys to the appropriate recipients and obtaining an understanding of internal control significant to our audit objectives and to assess management's design and implementation of internal controls, we interviewed the Licensing Coordinator, the Chief Financial Officer, and the Executive Director. To identify requirements for taxes and fees paid by operators and their subsequent dispersal, we reviewed Title 4, Chapter 49, Part 1, *Tennessee Code Annotated*, as effective prior to July 1, 2023. We reviewed the agreement between the council and the Department of Finance and Administration's Division of Accounts, reports submitted by operators, reports created by the council, internal financial statements created by the council, memos between the council and the Department of Revenue, and entries and support within the state's accounting system. We performed a walkthrough of the taxes and fee payment process and the process of remitting moneys to the appropriate recipients.

To test whether management had charged, collected, and distributed taxes due from operators, we obtained a population of taxes billed from the state's accounting system for the period of January 1, 2022, through June 30, 2023. We reconciled this population of tax billings with internal privilege tax logs created by council staff. We then selected a nonstatistical, random sample of 25 tax billings and tested whether the council staff calculated the tax calculation accurately, whether the memo for the

Appendix 1 (Continued)

month accurately included the taxes billed, and whether the memo for the month accurately apportioned each recipient's amount based on the amount billed.

To test whether management had charged, collected, and remitted fees due from operators, we obtained a population of fees collected from the state's accounting system for the period of July 1, 2022, through June 30, 2023. We tested whether the population of fees were for the appropriate amount and were received within the appropriate timeframe or were followed up on by council staff.

Council Engagement and Transparency

1. Audit Objective: Did the council demonstrate transparency by complying with the Open Meetings Act and Section 4-49-105, *Tennessee Code Annotated*?

Conclusion: Based on our testwork, the council demonstrated transparency by complying with the Open Meetings Act and Section 4-49-105, *Tennessee Code Annotated*, which includes requirements related to public notice, emergency meetings, and meeting minutes, as well as complying with their conflict-of-interest policy.

2. Audit Objective: Did council members demonstrate engagement by attending meetings and directing and overseeing staff to ensure the enforcement of Title 4, Section 49, Part 1, *Tennessee Code Annotated*?

Conclusion: Based on our review and testwork, the Sports Wagering Council (the council) demonstrated engagement by attending meetings as required, attending meetings, and overseeing staff.

Methodology to Address the Audit Objectives

To address our audit objectives, including gaining an understanding of the meeting process, public notice, emergency meetings, and meeting minute creation process, as well as the audit committee and conflict-of-interest policy, and obtaining an understanding of internal control significant to our audit objectives and to assess management's design and implementation of internal controls, we interviewed the council's Executive Director and General Counsel, as well as three council members. To gain an understanding of the oversight process, we interviewed council members. To identify the requirements for the council for public notice, emergency meetings, and meeting minutes, we reviewed Title 8, Chapter 44, Part 1, *Tennessee Code Annotated*, and Section 4-49-105, *Tennessee Code Annotated*. To identify requirements for council engagement, we reviewed Section 4-49-105, *Tennessee Code Annotated*. To identify requirements for an audit committee in relation to the council, we reviewed Section 4-35-102, *Tennessee Code Annotated*. To identify the requirements of the council's conflict-of-interest policy, we reviewed that policy. We reviewed the meeting minutes as recorded by the Executive Director and General Counsel and approved by the council. We discussed the conflict-of-interest policy with council members. We performed a walkthrough of the meeting process, the meeting

Appendix 1 (Continued)

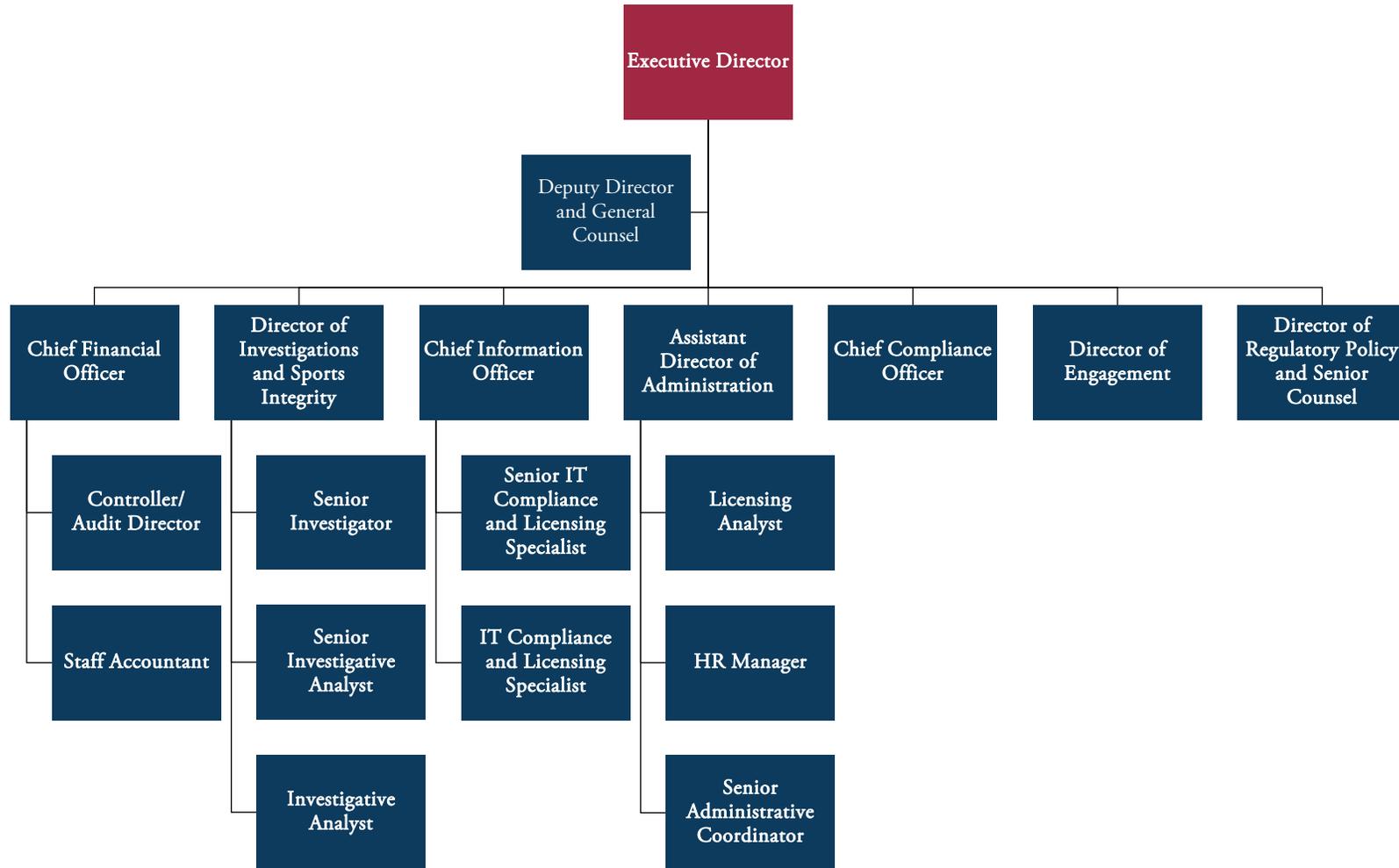
minutes creation process, and the conflict-of-interest form process with the General Counsel. We performed a walkthrough of the oversight of the Executive Director with council members.

To test compliance with the Open Meetings Act and Section 4-49-105, *Tennessee Code Annotated*, we obtained a list of council meetings from the council's website, watched the meeting recordings on the council's website, and reviewed the meeting minutes of each council meeting.

To test engagement, we reviewed meeting minutes to determine whether council meetings had been held at least quarterly, whether individual council members attended at least half of the meetings held, and whether each meeting had a quorum of council members with which to make decisions.

Appendix 2: Council’s Organizational Chart and Structure

Chart 5
Sports Wagering Council Organizational Chart as of February 26, 2024



Source: Council management.

Appendix 2 (Continued)

The Deputy Director and General Counsel¹⁹ assists the Executive Director with daily management and overall performance of the agency and is responsible for leading legislative and rulemaking initiatives; overseeing council meeting decorum, public records requests, and legal review of operator change submissions for wager types, house rules, and terms and conditions; and reviewing legal aspects of licensure applications.

The Chief Financial Officer is responsible for managing the council's fiscal processes, including the collection of privilege taxes and fees as well as the creation of internal financial reports; overseeing the financial review during the licensure process; and assessing risk and developing internal controls relevant to these areas.

The Director of Investigations and Sports Integrity is responsible for overseeing background checks of key personnel during the licensure process; investigating operator-reported suspicious activity or items noted by staff; developing a referral network; and identifying emerging sports wagering integrity threats.

The Chief Information Officer is responsible for managing technological vendor relationships; working with Strategic Technology Solutions to plan, implement, and manage the council's information system; and overseeing the maintenance of the self-excluded player registry, the change management review process for operators' and vendors' systems, and the technological assessment of operators during the licensure process.

The Assistant Director of Administration is responsible for assisting the Executive Director with daily management and performance of the overall office; interacting with other state agencies; overseeing the overall licensing process for operators and vendors; and managing the human resources function.

The Chief Compliance Officer is responsible for advising the audit and compliance team on developing and implementing external audits of operators and vendors as well as internal audits of privilege tax collections; serving as counsel to the council's audit committee; serving as counsel to the investigatory staff; interacting with stakeholders during the investigative and referral process; and providing ad hoc legal advice regarding compliance and violations of the Sports Gaming Act.

The Director of Engagement is responsible for implementing outreach and educational initiatives about the sports wagering statute and its requirements and prohibitions; developing communications strategies as well as presentations for legislative and external meetings; interacting with media; and collaborating with the Department of Mental Health on responsible gaming initiatives.

The Director of Regulatory Policy and Senior Counsel is responsible for researching and providing recommendations for best regulatory practices; reviewing proposed promotions, terms and conditions, house rules, and wagering requests from operators; and overseeing resolution of player complaints.

19. The Deputy Director also serves as General Counsel.

Appendix 3: Operators and Council Members

Sports Wagering Operators as of February 5, 2024

Operator	Most Recent Licensure/Renewal Date
American Wagering, Inc (dba Caesars Sportsbook)	7/27/2023
Bally Bet	3/1/2023
Betfair Interactive US LLC (dba FanDuel)	10/24/2023
BetMGM, LLC	10/24/2023
Crown TN Gaming, LLC (dba DraftKings)	10/24/2023
FBG Enterprises Opco, LLC (dba Fanatics Sportsbook)	3/1/2023
Gamewise (branded as Betly)	3/1/2023
KeyStar TN, LLC (dba ZenSports)	5/24/2023
Penn Sports Interactive, LLC (branded as ESPN BET)	9/7/2023
Seminole Hard Rock Digital, LLC	7/26/2023
SBOpco, LLC (branded as Superbook)	3/1/2023
Tennessee Action 24/7 LLC	10/24/2023
WSI US, LLC (dba WynnBET)	5/25/2023

Source: Auditor created based on the council's website and meeting minutes.

Sports Wagering Council Members as of February 5, 2024

Name	Appointing Body	Grand Division	Term
Billy Orgel, Chairman	Governor	Western	7/1/2023 – 6/30/2027
Kevin Carroll, Vice Chairman	Governor	Middle	7/1/2022 – 6/30/2026
Brian Fazenbaker, Audit Committee Chair	Senate Speaker	Middle	7/1/2022 – 6/30-2026
Michael Keeney, Audit Committee Vice Chair	House Speaker	Western	7/1/2021 – 6/30/2025
Samuel Lee	Senate Speaker	Eastern	7/1/2023 – 6/30/2027
Tom Flynn	House Speaker	Middle	7/1/2023 – 6/30/2027
Kandace Stewart	Senate Speaker	Western	8/3/2019 – 6/30/2021*
Hanes Torbett, Secretary	Governor	Eastern	10/2/2019 – 6/30/2024
John Valliant	House Speaker	Eastern	8/1/2019 – 6/30/2022*

Source: Council website and Secretary of State website.

* Section 4-49-105(f), *Tennessee Code Annotated*, states that a member continues to serve until a replacement is appointed. As of February 5, 2024, these members continued to serve.

Appendix 4

Legislative Changes Enacted by Public Chapter 450 as of July 1, 2023



Name Change

Renamed the council from Sports Wagering Advisory Council to Sports Wagering Council.



Ineligible Bettors

- Removed the requirement to maintain a confidential registry of those ineligible to place a wager. Instead, the council must post categories of ineligible bettors on its website.
- Expanded those who may request to prohibit a type or form of wagering or a category of persons from wagering to include any sports team and not only professional sports teams.



Investigations

- Permitted council employees to place a nominal wager as part of an investigation or audit on behalf of the council.
- Changed the requirement for the council to investigate wagers from minors or unlicensed operators to the authority to conduct such investigations.



Vendors

Identification and Applicability

- Expanded the definition of “vendor” to specify types of vendor services.
- Added applicability of all provisions of Tennessee Sports Gaming Law to vendors.

Registration

Added a vendor registration section with requirements for their application or renewal of a registration. Vendor registration lasts for three years and is paid in yearly installments, totaling \$150,000 in the first year, and then is set by rule of the council for subsequent years.



Operators

Licensing Requirements

- Amended licensing requirements relating to identification of key personnel and disclosure of civil judgements.
- Removed requirement to provide letters of reference from law enforcement agencies and applicable regulatory bodies.
- Added requirement for newly formed businesses to establish that they have sufficient funding arrangements.

Licensing Fees

- Amended the licensing fee for operators for subsequent years to a tiered amount based on gross wagers received by the licensee in the preceding year.
- Authorized the council to retain 10% of the remaining balance after applying registration fees to operational and administrative costs.

Gaming Operations

- Removed requirement for operators to use official league data for live betting.
- Defined the gaming terms “cancelled wager”, “resettled wager”, “voided wager”, “gross handle”, “gross wager”, “promotional payout”, and “promotional wager”.

Privilege Tax

Changed sports gaming privilege tax from 20% of adjusted gross income to 1.85% of gross handle after deducting federal excise tax paid.

Reporting

- Extended time to report key personnel changes to the council to 1-3 business days.
- Removed requirement for a licensee to report certain conflicts of interest to the council.
- Removed requirement for a licensee to report total wagers received and adjusted gross income at the end of each calendar year.

Source: Auditor review of Public Chapter 450.