



COMPREHENSIVE GAMING INDUSTRY ANALYSIS: STATE OF LOUISIANA

Prepared for State of Louisiana,
Louisiana Department of Economic Development
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Executive Summary

The State of Louisiana, through the Louisiana Department of Economic Development, formally engaged¹ Spectrum Gaming Group (“Spectrum,” “we” or “our”) to undertake a “comprehensive gaming industry analysis” regarding all forms of State-regulated gambling² in Louisiana. The following summarizes our findings and recommendations.

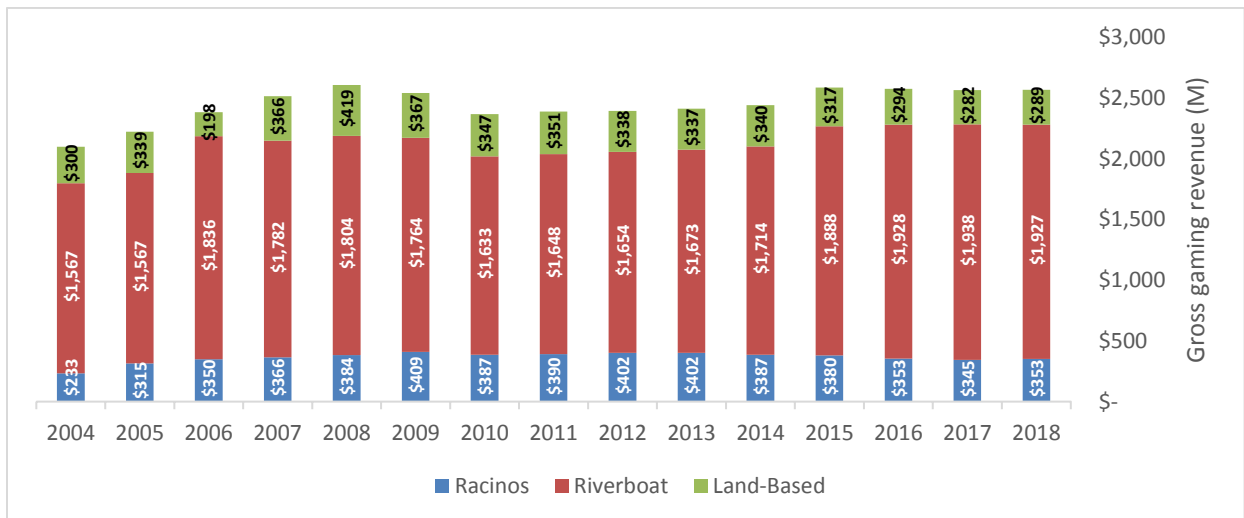
A. Analysis of Revenue by Gaming Sector

In the big picture, the performance of all forms of legalized gambling in Louisiana except the Lottery has been in decline since 2008. The performance of each sector over that period:

- Casino-racino (gross gaming revenue, all sectors combined): - 1.5 percent
- Video poker (gross gaming revenue): - 3.6 percent
- Charitable gaming (contributions): - 36.0 percent
- Lottery (sales): + 31.4 percent
- Pari-mutuel (purses): - 14.7 percent

Casino gaming is the dominant sector of Louisiana’s State-regulated gambling industry. The performance in total and by sector is shown in the following chart.

Louisiana casino gross gaming revenue by sector, 2004-2018



Source: Louisiana Gaming Control Board

During the 2017-2025 period, the 20 State-regulated casinos (riverboat, land-based and racetrack slots combined) are projected to create or support an annual average of:

¹ Spectrum began project work in January 2019.

² Per the RFP issued by LED, this study specifically excludes Native American casinos, which are not regulated by the State of Louisiana and whose performance data are not publicly reported.

- 47,647 total jobs (direct, indirect, induced)
- \$2.8 billion of personal income
- \$3.8 billion of value added
- An additional 1.3 jobs for every one of their workers

The largest contributor to these totals is the riverboat sector, with 75 percent of the employment and value-added impacts.

Beginning in 2020, we assumed certain changes to the Louisiana gaming environment to illustrate the economic impacts of what Spectrum believes would be realistic additional capital investments totaling \$1.28 billion in the industry. They include:

- The development of a \$350 million expansion at Harrah’s New Orleans that includes a second hotel (which the company is, in fact, considering);
- Two riverboat casinos would move on land, one in 2020 and one in 2021;
- One riverboat would relocate to the Northshore of Lake Pontchartrain and one would relocate to the Northeast market area, with construction beginning in 2022; these two boats are assumed to be open in 2023; and
- We further assume that changes in the tax structure encourage additional investment in Louisiana operations, growing revenue at enhanced properties.

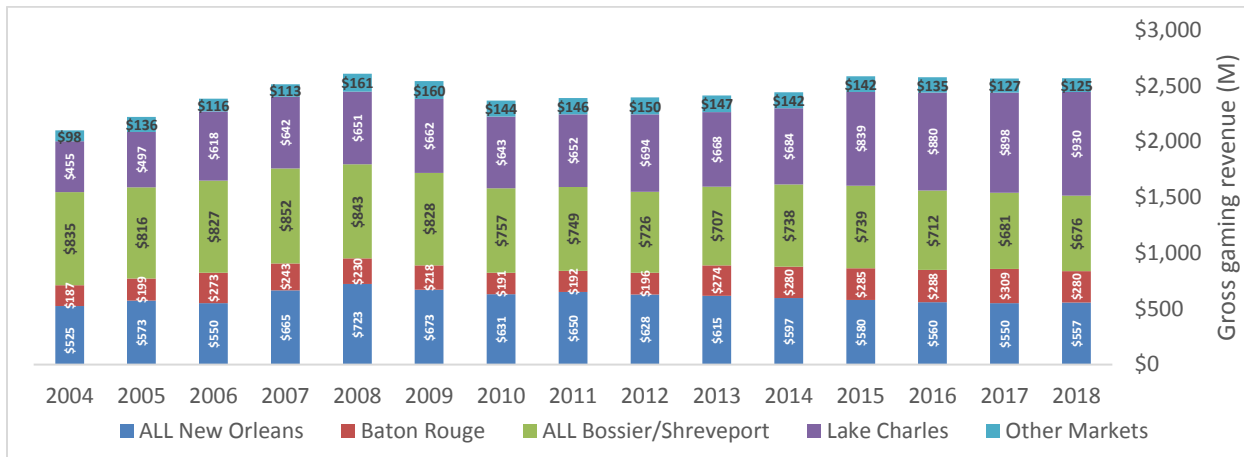
These changes induce increases in employment and revenues and, consequently, taxes and fees. Additionally, the changes envisioned would require both construction spending and purchases of new furniture, fixtures and equipment (“FF&E”) which total \$950 million and \$330 million from 2020 through 2025, respectively.

The changes in the gaming environment result in this scenario diverging from the baseline in 2020. Over the period of divergence (2020-2025) the future scenario creates or supports an annual average:

- 8,964 more jobs
- \$1.3 billion more business revenues
- \$579 million more personal income
- Additional net new economic activity of \$830 million

The 2014 opening of Golden Nugget has made Lake Charles the top-performing casino market in Louisiana, while the Shreveport-Bossier City market has been hurt by the tribal casinos in Oklahoma. The following chart segments the casino industry performance by market.

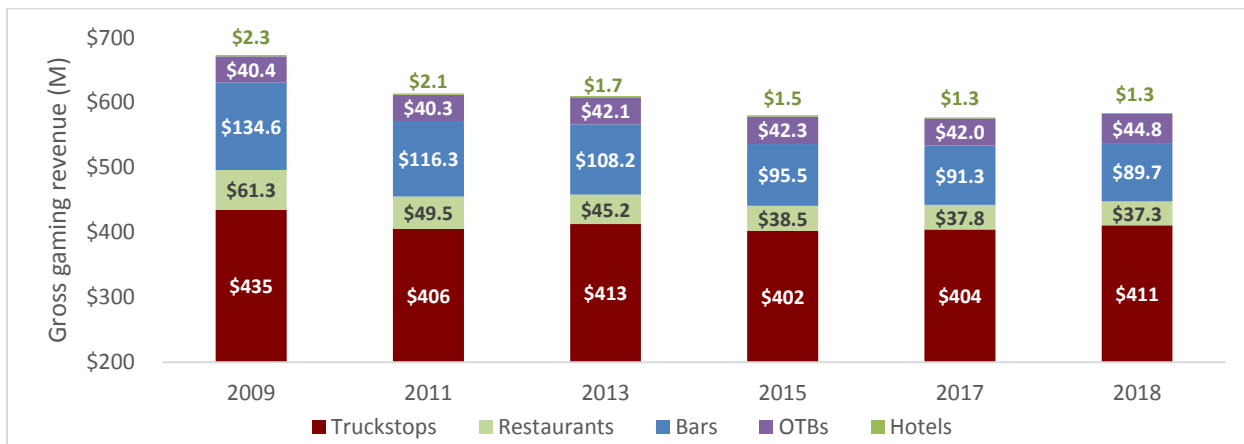
Louisiana casino gross gaming revenue by market, 2004-2018



Source: Louisiana Gaming Control Board

Louisiana’s video poker industry as a whole is in decline since its high point in 2009. While the truckstop and OTB segments have generally held steady, the performance at bars and restaurants has decreased. Smoking bans, more gaming options, and shifting population are causes of declines.

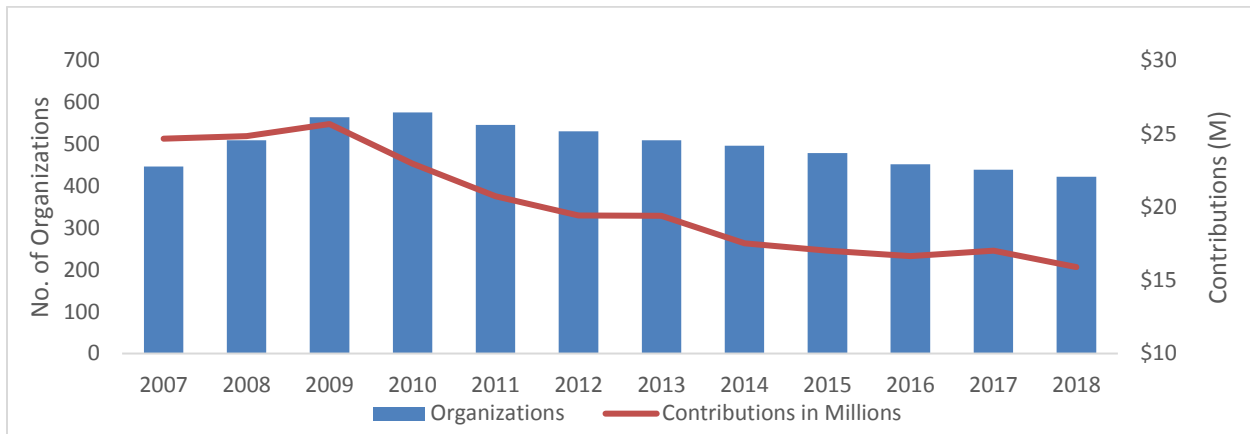
Louisiana video poker revenue by venue type, 2009-2018



Source: Louisiana Gaming Control Board

Charitable gaming contributions to participating organizations, and the number of those organizations benefiting, are in decline. Reasons for this decline include the limited appeal of charitable gaming to younger players, smoking bans, and declining population in some areas where charitable operations exist.

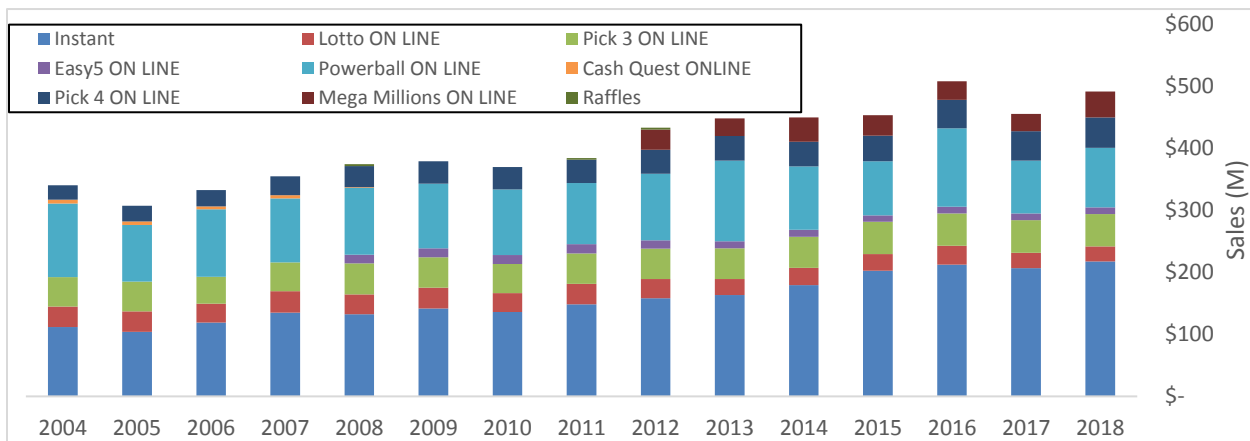
Louisiana charitable organizations and contributions, 2007-2018



Source: Office of Charitable Gaming

Louisiana Lottery sales have continued to grow over time and, as discussed in Chapter IV of this report, have significant upside if the minimum transfer requirement to the State is relaxed.

Louisiana lottery sales, 2004-2018



Source: Louisiana Lottery

Despite the overall decline of the pari-mutuel industry nationwide and in Louisiana, supplements from racetrack slots have enabled the performance of Louisiana’s thoroughbred-racing industry to compare favorably with non-racetrack-slot states and with national trends, except in average purse size.

B. Future Threats that May Impact Louisiana Gaming

Some threats to Louisiana’s gaming industry are societal and others are specific to the industry or the state itself, or both.

Casino operators are concerned about generational change, specifically that their current base of mostly older players will not be replaced by younger players. An analysis of Louisiana demographic trends for the 2020-2030 period shows a drop in the population ages 55-64. The Millennial generation (at the widest range, those born between 1976-2004) has less interest in slots and table games and is more attracted to casinos for the non-gaming entertainment, food and beverage. One survey shows that only

half as many Millennials as Baby Boomers say gambling is an important consideration in planning a night out – the biggest disparity among 28 potential entertainment activities.

Meanwhile, technology is spawning new ways to gamble, including internet gaming, sports betting (including mobile and in-game wagers), and skill-based gaming. This could lead to a diversification of gaming verticals in which the total gambling budgets of consumers are divided among more choices. This could be an opportunity for casinos or it could be a threat, depending on the State's public policy on these emerging forms of gaming and the industry's acceptance of them.

The casino industry continues to consolidate. While consolidation offers greater efficiencies for multi-property, multi-state operators, it also requires such operators to evaluate which properties should receive the most reinvestment dollars. By definition, operators have a responsibility to invest where the potential returns are greatest. This means that Louisiana casinos compete for capital against their sister properties, and Louisiana casinos are not necessarily well positioned to compete in that arena, particularly under current rules.

Of note, Louisiana operators Boyd Gaming, Caesars Entertainment, Churchill Downs, Eldorado Resorts, Landry's, and Penn National also operate properties in Mississippi, which has a lower gaming-tax rate and does not tax free play. The Mississippi casinos benefit from a significantly lower gaming tax rate than in Louisiana; after fees and taxes, a Mississippi casino in Bay St. Louis pays an effective gaming tax of 11.6 percent vs. 26 percent for a representative casino in Louisiana. The net tax advantage means that a multi-property owner making investment decisions has incentive to improve the Mississippi casino over the Louisiana casino, and is similarly incented to market the Mississippi casino to Louisiana residents. After all, the same player with the same gaming budget is simply worth more to the casino operator in Mississippi.

Because casino gaming nationally has become so localized due to proliferation – with roughly 1,000 casinos of some type in 42 states – the marketplace for most casinos is made up of residents within a two-hour drive. As such, the external competitive threats to Louisiana's casino industry are effectively limited to Mississippi and Oklahoma currently and Arkansas and Texas potentially.

The Shreveport-Bossier City market has clearly been hurt by the rise of bigger tribal casinos in Oklahoma that are much closer to the Dallas-Fort Worth market. Texas remains a continual threat to legalize commercial casinos, which if implemented near the Houston market would significantly hurt the Lake Charles market. Mississippi casinos continue to siphon Louisiana gamblers; the Mississippi Gaming Commission estimates that in 2018 there were 3.3 million visits by Louisiana residents to the Gulf Coast casinos and 500,000 to the state's Central Region casinos.

Within Louisiana, the population is shifting toward urban and suburban areas, not unlike the trend in other parts of the country. While it may benefit Louisiana's casino industry, which is well positioned in populated areas, such shifts may prove challenging for rural video poker establishments as the population declines in rural parishes. The video poker industry has been in decline due in part to the statewide smoking ban that went into effect in 2007 that impacted video poker in restaurants; the continuing rollout of localized smoking bans that impact all businesses could further depress the industry.

C. Comparison of Louisiana’s Gaming Tax and Regulatory Framework to Other States

The Louisiana gaming industry is an important economic engine for the State and provides critical tax revenue to the State’s coffers. Consequently, the industry’s continued viability and competitiveness has a significant impact on the prospect of future economic development, especially in areas of the state where casino operators are a top source of jobs, and depends on operators’ ability to mobilize capital, manage costs, and adapt to demographic, market, and technological changes. In this sense, the success of the Louisiana gaming industry is intrinsically linked to Louisiana gaming policy and regulation.

Spectrum’s comprehensive overview of Louisiana gaming policy and regulation focuses on several significant issues that emanate from the State’s gaming tax and regulatory framework, including:

- Taxation of promotional free play
- Regulatory structure, funding and staffing
- Restrictions imposed on gaming operation
- The approval process for new gaming equipment
- Limitations on the number and location of casinos
- The distribution of gaming revenue
- The potential advent of sports betting
- Economic concentration

From our research, we have made a number of significant findings and drawn a number of conclusions. Two key findings:

- Louisiana’s policy of taxing free play puts Louisiana casino operators at a significant disadvantage with respect to operators in neighboring jurisdictions. Free play is an important promotional tool for casino operators looking to draw in patrons to their establishments, but taxing free play increases costs associated with such promotions. This increased cost not only discourages the use of free play, but also encourages multi-jurisdictional operators to direct patrons to out-of-state establishments where such promotions are not taxed. As a result, the taxation of free play likely leads to less gaming revenue for operators, and thereby, less tax revenue for the State. For these reasons, Spectrum recommends the State eliminate the tax on free play, or, alternatively, consider placing a limit on the amount of free play that is taxable as gross gaming revenue.
- The primary regulators of the gaming industry in Louisiana – the Louisiana Gaming Control Board and the Gaming Division of the State Police – have had to perform their regulatory and enforcement functions with restricted staffing levels and aging technology. Although these regulators have done an exceptional job in spite of such limitations, they will be able to more efficiently and effectively perform their functions with increased staff and modern technology. For these reasons, Spectrum recommends the State authorize hiring of certain key positions as well as explore necessary budget allocations for increased staffing levels generally and investments in technology.

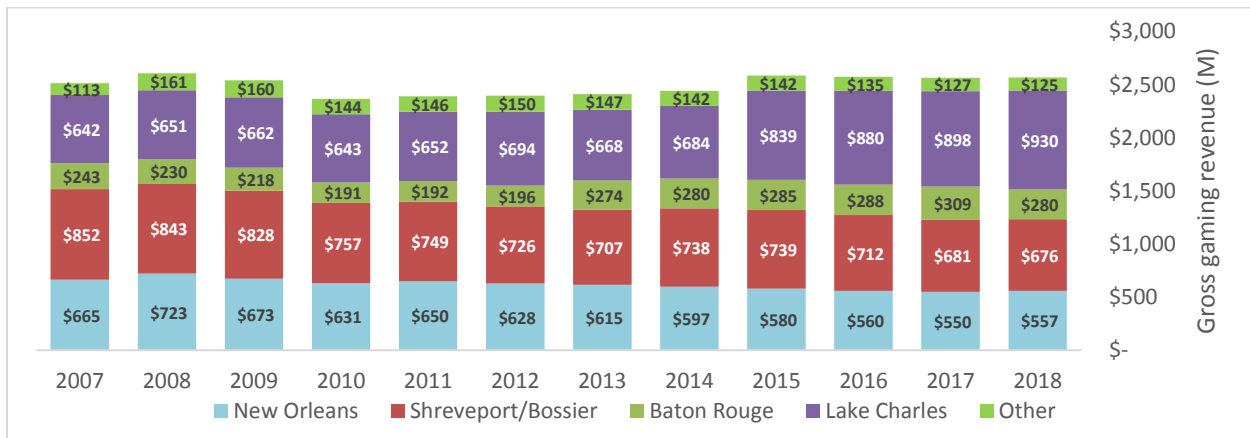
D. Gaming Market Analysis: Over-Saturated vs. Underserved

One of the key aspects for any state seeking to maximize the fiscal and economic benefits of casino gambling is to understand whether the gaming properties are optimally situated and have too much or not enough gaming supply relative to the population. There may be markets that are saturated – i.e., have enough or too much casino supply for the number of customers within their market (typically a two-hour drive) – and there may be markets that are underserved – i.e., areas that have customers who would patronize a casino more often if it were closer or if their local casino(s) were not so crowded.

Spectrum’s key findings of the three largest Louisiana casino markets:

- The New Orleans market is not achieving its potential, with estimated leakage to Mississippi of more than \$255 million.
- The Lake Charles casino market continues to grow and can support more gaming positions. Spectrum estimates Houston, the primary feeder for Lake Charles, to be worth \$1.2 billion in GGR yet Lake Charles’s current out-of-state/market is estimated to be only \$713 million.
- The Shreveport-Bossier City market is down 21 percent since 2007 due to competition from Oklahoma tribal casinos for Dallas-Fort Worth-area patrons.

Louisiana total casino revenue by region



Source: Louisiana Gaming Control Board

The Northshore of Lake Pontchartrain and the Northeast region of Louisiana are underserved markets. Spectrum calculates the potential for the Northshore market is \$133 million in GGR and the Northeast is \$74 million in GGR. Relocating two casinos from Shreveport-Bossier City to these locations – one each to the Northshore and the Northeast – would recapture gambling dollars being exported to Mississippi casinos. Such moves would further strengthen the remaining casino boats in Shreveport-Bossier City.

The following tables illustrate the projected performance and State gaming-tax benefits of moving the two lowest-performing Shreveport-Bossier City casinos to new locations:

Illustrative estimate of moving Boomtown Bossier City to Northshore, DiamondJacks to Northeast

	Boomtown Bossier City: 2018 actual	Northshore Casino: Spectrum est.	Annual Difference
Gross gaming revenue	\$56,500,000	\$100,000,000	\$43,500,000
State gaming tax	\$12,142,000	\$21,500,000	\$9,358,000
	DiamondJacks: 2018 actual	Northeast Casino: Spectrum est.	Annual Difference
Gross gaming revenue	\$38,100,000	\$60,000,000	\$21,900,000
State gaming tax	\$8,184,000	\$12,900,000	\$4,716,000

Source: Louisiana Gaming Control Board, Spectrum Gaming Group

All Louisiana casino markets could receive a boost if the State were to eliminate the tax on free play, as is the case in Mississippi. Spectrum estimates that Louisiana casinos redeem \$250 million in a year in free play. Removing free play from the tax calculation could leave a hole of \$53.75 million in the State budget. To make up for this reduction, the industry would have to generate an additional \$250 million in GGR – and issuing more free play can fill that gap. A review of the performance of free play in states where free play is not taxed, shows that every \$1 of promotional play generates more than \$5 of adjusted gross revenue.

E. Analysis of Potential Impact of Sports Betting, Igaming

On May 14, 2018, the United States Supreme Court struck down the Professional and Amateur Sports Protection Act, a federal law that banned sports betting in most states. This decision enables states to decide whether to legalize sports betting. Currently, eight states offer sports betting and there are about 20 more states that have proposed legislation pertaining to the legalization of sports betting, such that we expect momentum to continue well into 2019. Spectrum analyzed sports betting by focusing on existing trends in mature markets in Europe and what we are seeing in active US states thus far. We drew the following insights from our analysis.

Based on comparisons to the performance in Europe, where sports betting is long established, and based on the higher propensity to gamble in the United States, we believe that across the entire US, sports betting revenue per adult annually will be at the higher end of the range in Europe (\$26 to \$82), at \$50 to \$70 per adult in the US.

The six states (it is also offered at two New Mexico tribal casinos) that authorized sports betting since the Supreme Court decision are showing strong betting volumes such that the two earliest adopters, Delaware and New Jersey, are generating \$27 and \$25 of revenue per adult, respectively, which is well below our estimate for total US (\$50 to \$70). The strong results were generated during football season and basketball season, which are historically the most popular events for sports betting. Football is responsible for 42 percent of betting volume and basketball 28 percent in Nevada.

New Jersey, which commenced sports betting in June 2018, offers the most insight into prospective US performance because it offers both retail and digital (i.e., internet/mobile) sports betting. Digital betting has been a substantial driver of overall betting volume and has been responsible for 66 percent of total wagers in New Jersey thus far. On the digital side, DraftKings has outperformed the market mainly due to its strong brand and large database of daily fantasy sports participants. On the retail side, the Meadowlands Racetrack is generating more wagers than even the casinos in Atlantic City, due largely

to its location in the densely populated Northern New Jersey/New York City region. Retail sports betting is more about convenience and ease of access than overall entertainment experience; proximity to population drives betting volumes.

Spectrum projects that Louisiana could generate between \$237 million and \$332 million in sports betting revenue annually. Our estimates incorporate the significant out-of-state population that visits casinos in Louisiana. According to the Louisiana Gaming Control Board, close to two-thirds of the 22.5 million casino admissions are coming from more than 150 miles away or out of state. Therefore, retail betting could be a substantial majority of total sports betting revenue in state. We estimate digital could generate between \$97 million and \$135 million, mostly generated by Louisiana’s in-state adult population. For context, Louisiana casinos generate \$2.6 billion of land-based GGR. Our sports betting estimate equates to between 9 percent and 13 percent of casino GGR, which is in line relative to other state projections.

Louisiana sports betting projections, low and high scenarios

(Millions)	Low	High
Retail	\$141	\$197
Digital	\$97	\$135
Total GGR	\$237	\$332

Source: Spectrum Gaming Group

Beyond the direct revenues, sports betting can introduce a new, younger demographic to casinos, a cohort that does not typically have a high propensity to gamble at traditional casino games (as noted in Chapter II). Casino operators can incent sports bettors to visit the casino by offering complementary rooms or meals. Assuming these players are not existing customers, any revenue generated while at the casino will likely be incremental. Sports betting also generates incremental visitation during major sporting events including the Super Bowl and the NCAA Final Four. Hotel-room and food and beverage revenue tend to increase 10 percent to 15 percent during these events.

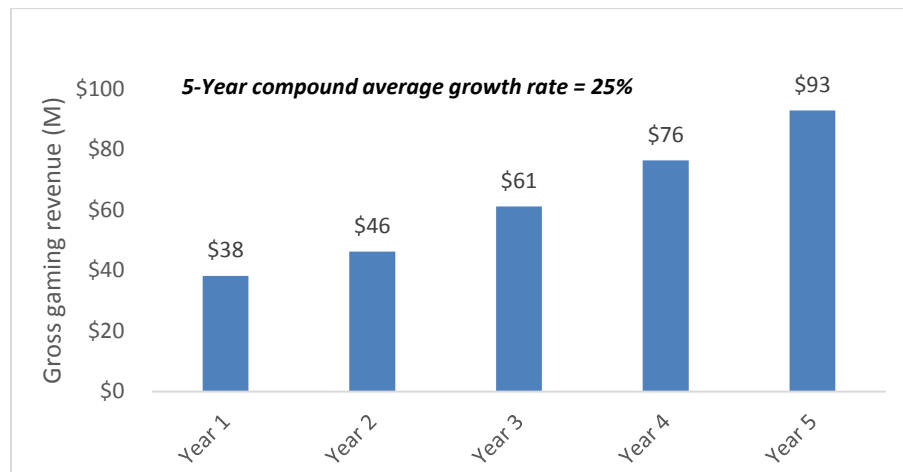
Louisiana also will have to decide whether to allow patrons to place wagers on collegiate athletic events occurring within the state and out-of-state events involving Louisiana universities. Whereas states such as Mississippi, Pennsylvania and West Virginia allow such wagers, New Jersey, Rhode Island and New Mexico do not. Given the popularity, in particular, of Southeastern Conference football in the region, Louisiana would be forsaking a significant revenue stream were it to prohibit wagers on in-state university-related events.

An illegal sports betting market exists in Louisiana that can either continue to grow or shrink as a result of legalized sports betting. In order to curtail the illegal market, Louisiana must ensure that regulated sports betting is taxed at a reasonable rate – 15 percent or less – so that gamblers can be offered attractive enough odds to stay in state. For optimal results, sports betting must also be made as accessible as illegal sports betting, which may require the inclusion of digital wagering, to compete against sites that are presently available for Louisiana residents to place sports bets online.

As the momentum for sports betting legalization continues to accelerate, we expect states will increasingly consider adoption of internet gaming (“igaming”), especially if they legalize sports betting through digital channels. New Jersey is the most advanced igaming state, generating \$299 million in GGR

for 2018, or \$43 per adult. Adjusting for lower household income and adult population, we expect Louisiana could annually generate \$93 million of GGR through each of the next five years.

Projected five-year Louisiana internet gross gaming revenue



Source: Spectrum Gaming Group

F. Analysis of Louisiana’s Lottery System

As noted earlier, the Louisiana Lottery is the only State-regulated gaming sector that has shown growth since 2008, with gross sales up 31.4 percent over that period. However, it is underperforming to its potential due to the statutory requirement that it transfer at least 35 percent of gross revenue to the State. This mandate restricts the type of games and promotions the Lottery may offer. The lottery industry is replete with examples of how higher payouts result in higher sales, which in return makes for greater return to the State.

Comparison of lottery prize payout percentages and government transfer for peer states, 2017

Lottery	Total Prizes (M)	Prize Payout Percentage	Government Transfer %
Arkansas	\$306.4	68.2%	19.0%
Connecticut	\$756.3	62.2%	27.5%
D.C.	\$130.0	59.4%	20.9%
Kentucky	\$628.8	63.7%	25.2%
Louisiana	\$243.0	53.4%	35.0%
Massachusetts	\$3,670.6	72.1%	20.4%
Michigan	\$2,016.5	60.6%	27.8%

Source: La Fleur’s 2018 World Lottery Almanac

It must be noted that in August 2018 Mississippi authorized a lottery, which is to commence later this year. Based on our research, the Mississippi Lottery will not have the same restrictions that Louisiana faces that result in games with lower payouts. This reinforces the need for the State of Louisiana to reduce the mandated transfer requirement and make the other changes to the extent possible before Mississippi starts sales.

The 35 percent mandated transfer is restricting the instant ticket games the Louisiana Lottery may offer in its portfolio. By reducing the guaranteed transfer percentage, the Lottery would be able to raise the payout percentage for games and offer better games with more chances to win for players. Spectrum,

whose Senior Lottery Associates previously directed the highly successful Massachusetts State Lottery, believes that if the guaranteed transfer percentage were reduced, the Louisiana Lottery would be able to double its instant ticket sales within four to five years and increase its revenue return to the State by 30 percent to 50 percent.

The 35 percent mandated State transfer is further restricting the development of monitor and terminal games that could be used to grow the retailer base into the bar and restaurant industry.

Spectrum believes the Lottery should qualify all three instant ticket vendors in the industry, with no guarantee for business. Each vendor would compete for a spot in each instant ticket launch. All instant ticket proposals should be subject to focus group testing. The Lottery staff would then decide which games to print based on past sales experience and how each proposal tests in focus groups.

The Lottery should consider reducing the number of games that it is printing every year. Currently, Louisiana is printing 60 to 70 games per year. If it were to gradually reduce the number of games to about 40, the number of games would allow the Lottery to print games with larger print runs. The increased number of tickets would allow for an increased prize percentage and the ability to increase the top prize and larger callouts on the ticket, which would increase sales.

With the reduced number of games, Spectrum recommends releasing new games at the beginning of each month and putting a coordinated advertising and promotional campaign behind the release to maximize sales. Capitalizing on the excitement that new games generate is critical to game success. We have found that the ideal number of games ranges from three to four games for each release.

Lottery staff members advised Spectrum that few Louisiana restaurants and bars are Lottery retailers. This is an anomaly as compared with other, highly successful state lotteries, such as Michigan, Ohio and Massachusetts, where this sector is a significant sales generator. This is particularly true in the keno and instant-ticket products. We recommend the Lottery develop games to attract bars and restaurants as new Lottery retailers. Developing games like keno and fast-play games will be critical in retailer development. An increase in Lottery retailers would also be expected to increase the sale of traditional Lottery products.

Michigan and Pennsylvania have launched – and other states are considering the launch of – digital platforms, often called an “ilottery.” Such a move must be made with caution, as the online games may compete with, or even play like, online slot machines that could be offered by casinos. In fact, Pennsylvania casinos have sued the Pennsylvania Lottery, claiming they have exclusive province over online gaming. If the Louisiana Lottery pursues a digital platform, Spectrum believes that within four to five years the Lottery could reach \$100 million in online sales, which would result in a return to the State of at least \$25 million (assuming a 25 percent mandated transfer).

G. Other Considerations and Recommendations

Among the findings that have emanated from our research, two are particularly noteworthy:

- Louisiana is not alone in the challenges it will face, and it is arguably in a better position to address those challenges than many other states that also authorize legal gaming.

- The appointed regulators in the State are among the most qualified in the nation, and they operate in cultures that recognize the need to adapt to changes while remaining true to core principles, such as maintaining the integrity of gaming

Those findings, in turn, lead to two particular challenges that policymakers in Louisiana will be required to address:

- Identifying regulatory opportunities that would encourage capital investment, including a review of gaming tax rates
- Identifying which agencies will have responsibility to oversee and nurture emerging forms of gaming, such as sports betting

Tax rates that were established in previous decades cannot be assumed to be optimal in coming years. Consistent with that finding is the notion that operators who hold the privilege of a gaming license also bear responsibility to make an economic case for more sensible tax policies. Any change in tax rates, or other major policy changes, require operators to justify such relief. Will these changes lead to more investment, and if so, to what level with what projected outcomes?

Operators that will be putting their own capital at risk are best positioned to address that question, as well to provide reassurance to Louisiana policymakers that any relief offered by Louisiana will inure to the benefit of Louisiana.

The question as to which agency will have responsibility to oversee future forms of gaming is just as vexing. When the Lottery and the Gaming Control Board were first established, no policymaker could have foreseen that the two groups would one day confront this challenge as to which entity would regulate sports betting or online gaming.

The elected officials who are ultimately responsible for establishing gaming policy can best meet that responsibility by maintaining high standards in future appointments, including the appointment of regulators such as those in office now who are willing to work cooperatively with each other to achieve common goals.

The core recommendation at the heart of this report is: Gaming policy must be established on a foundation of flexibility, adaptability and an adherence to timeless principles, chiefly that a gaming license is a privilege, and the success of gaming depends on public trust.

1. Summary of Key Recommendations

As a result of Spectrum's research and analysis undertaken throughout the eight-week study period that resulted in this report, we developed key recommendations that resulted from our findings – recommendations that are also shaped by our experience working in gaming markets and jurisdictions throughout the country. These key recommendations are offered in their respective chapters in this report, and we are summarizing them here.

For the sake of maximizing the economic impacts of its legal gambling industry, Spectrum recommends that the State of Louisiana consider the following:

- **Relocation of gaming licenses:** Spectrum determined that there is too much gaming capacity in the declining Shreveport-Bossier City market due to the impact of tribal casinos in Oklahoma drawing patrons from the Dallas-Fort Worth area. Allowing two of them to move – one to the Northshore area of Lake Pontchartrain and another to the Northeast region of Louisiana – would help stop the exportation of gaming dollars to Mississippi and would help fill two areas of the state that are underserved with casino gambling based on supply and demand. Our analysis shows the State could realize \$14 million more in gaming tax receipts annually from these moves.
 - **Sale of unused gaming positions:** In 2018, revisions to the gaming laws eliminated the square-footage restrictions on the size of the riverboat gaming floor and replaced them with maximum of 2,365 gaming positions. Therefore, the 15 riverboat casinos could offer a maximum of 35,475 gaming positions. Not every operator or market needs additional positions. But some may want more than the maximum allowed. Allowing operators to trade position permits ensures the optimal number of positions will be available in each market, enabling the casino operators and their partner the State to gain.
- **Sports betting:** As both a major commercial-casino state and one exporting gambling dollars to Mississippi – where sports betting is legal – Louisiana would benefit from this rapidly spreading form of gambling. Spectrum projects the State could realize between \$35 million and \$50 million in gaming taxes from sports betting. Not only would the State and the providers of sports betting benefit directly from the winnings, but the casinos would benefit overall from increased patronage. The State will need to make important policy decisions regarding sports betting, such as which entities will be allowed to offer sports betting, which agency will be the regulator, and whether the online component should be included. At the very least, Spectrum believes sports betting should start with the licensed casino operators. A key policy decision will be whether to allow sports betting on college games.
- **Internet gaming:** Although only three states have commenced internet gaming, it has proven to be particularly successful in New Jersey, where the majority of players are new to the casinos' databases. Allowing this form of gaming to Louisiana casino operators would give them a new revenue stream, a new marketing channel, and new players. Spectrum projects the State could realize \$20 million in igaming tax revenue. Igaming could be authorized in conjunction with the authorization of online sports betting.
 - A cautionary note: Should the Louisiana Lottery also elect to pursue an ilottery option, the Lottery should take specific steps to differentiate its online offering from those of casinos, including ensuring that its online games are an extension of its instant-game offerings, rather than a version of an online slot machine. If the Louisiana Lottery pursues a digital platform, Spectrum believes that within four to five years the Lottery could reach \$100 million in online sales, which would result in a return to the State of at least \$25 million (assuming a 25 percent mandated transfer).
- **Casino free play:** Louisiana treats redeemed promotional gaming credits – commonly known as “free play” – as gross gaming revenue for the purposes of taxation. Some states do not tax free play, some tax it only after a certain amount, and others fully tax it as Louisiana does. Notably, Mississippi does not tax free play, giving its casino operators a substantial marketing advantage over Louisiana's. Given the stagnation of Louisiana casino revenues, Spectrum

believes that removing the tax on free play would result in more effective marketing programs and higher GGR that would be a net positive for the State with respect to gaming-tax receipts.

- **Lottery minimum transfer requirement:** The Louisiana Lottery is underperforming to its potential due to the statutory requirement that it transfer at least 35 percent of gross revenue to the State. This is restricting the instant ticket games the Louisiana Lottery may offer in its portfolio. By reducing the guaranteed transfer percentage, the Lottery would be able to raise the payout percentage for games and offer better games with more chances to win for players. If the guaranteed transfer percentage were reduced, the Louisiana Lottery would be able to double its instant ticket sales within four to five years and increase its revenue return to the State by 30 percent to 50 percent. The State could realize \$30 million from removing or reducing this requirement.
- **Enhancing LGCB regulatory staff:** The Louisiana Gaming Control Board (“LGCB”) and the Gaming Division of the State Police have had to perform their regulatory and enforcement functions with restricted staffing levels and aging technology. Although these regulators have done an exceptional job in spite of such limitations, they would be able to more efficiently and effectively perform their functions with increased staff and modern technology. For these reasons, Spectrum recommends the State authorize hiring of certain key positions, such as in-house counsel for the LGCB, as well as explore necessary budget allocations for increased staffing levels and investments in technology. While current staffers may have the necessary skills and background to meet current needs, the present system does not guarantee that future staffing will be sufficient to meet future needs.

2. For Future Consideration

The RFP for this project directed the selected consultant (i.e., Spectrum) to suggest areas of future consideration that were beyond the study scope. Based on our research, findings and experience, Spectrum suggests that the State also consider:

- **Creating incentives for capital investment:** Creating new casino facilities or added attractions at the casinos should increase revenues – gaming and non-gaming – but amid the stagnating performance overall in Louisiana, many operators may not be able to justify, or be reluctant to, expending major capital on such projects. Developing incentives – such as tax breaks or gaming-position increases – in exchange for certain amounts or types of major capital projects would be a win-win for the State and the gaming operators.
- **Continuing to address problem gambling:** The Louisiana Department of Health stands out for its continuing study of, and awareness campaigns for, problem gambling, a topic that was beyond the scope of this report for Louisiana Economic Development. We note that Louisiana governors have routinely declared March as Problem Gambling Awareness Month, as current Governor John Bel Edwards has done this year. The Department of Health estimates that 280,000 Louisiana adults may have problem-gambling issues.³ With so many forms of legal gambling, including video poker in more than 1,700 locations, it is imperative that State policymakers remain vigilant on this important aspect of gambling.

³ “Louisiana shines a spotlight on the hidden addiction of problem gambling,” Louisiana Department of Public Health, Office of Behavioral Health, March 1, 2019. <http://ldh.la.gov/index.cfm/newsroom/detail/5069>

- **Conduct study of gaming patronage:** Louisiana could enhance the success of all of its forms of legal gambling by conducting a statewide, in-depth study of its citizens' gambling motivations and preferences. This study would provide highly beneficial results that would include length of stay, residence, trip distance, demographic profile, gambling budget, frequency of play, and level of cross-play among the forms of gambling offered, among many other findings. The study results would be a highly valuable tool for the State, for its gaming operators, and for problem-gambling insight.

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Introduction

The State of Louisiana, through the Louisiana Department of Economic Development (“Louisiana Economic Development” or “LED”), on October 26, 2018, issued Request for Proposal (“RFP”) No. 251-18-018 to conduct a statewide gaming industry analysis, summarized as follows:

The Department of Louisiana Economic Development, the Governor’s office, and the Gaming Commission seek a comprehensive examination of the state’s current gaming industry, including how the industry can be improved, and what impacts increased gaming in other states may have on the industry in Louisiana. The comprehensive gaming industry study, assessment and analysis should include all forms of gaming currently allowed in Louisiana.

Spectrum Gaming Group (“Spectrum,” “we” or “our”) was selected to undertake the study based on our RFP response. Specifically, the RFP requires the following:

1. **Analysis of the gaming revenue created by each gaming sector in Louisiana:** What is the revenue for each gaming sector and how has that revenue changed over time?
2. **An analysis of future threats that may change the gaming industry in Louisiana:** Are there potential threats to the gaming industry in Louisiana? Will gaming in other states (e.g., Oklahoma and Mississippi) erode Louisiana’s market share? What steps can/should Louisiana take to ensure the gaming industry remains viable in the State?
3. **A comparison of how Louisiana’s gaming tax and regulatory framework compare to other states:** How does Louisiana’s tax and regulatory framework compare to other states, and what is the right balance between revenue for the State vs. a healthy gaming market? What are the advantages of higher taxes and more exclusivity (e.g., Massachusetts, Maryland) vs. low taxes and little to no exclusivity (e.g., Nevada, Mississippi)?
4. **An analysis of gaming markets within the state to determine markets that are over-saturated vs those that are underserved:** Are the riverboats optimally located in the State? If not, what is the process to relocate a gaming license? And could that process be improved? Also, is the current number of gaming licenses correct or should it be increased or decreased?
5. **Analysis of the potential impact of sports betting for the State:** Should Louisiana implement sports betting? What has the initial impact of sports betting been in other states? What would the potential impacts be if Louisiana chooses not to allow sports betting; how would that impact the current gaming industry in the State?
6. **Analysis of Louisiana’s lottery system:** Should Louisiana evaluate the current lottery system? How does Louisiana’s lottery system compare to other states?
7. **Other pertinent information or recommendation related to the gaming industry:** What other information has the Contractor found or determined would be beneficial to LED that is related to this study, assessment and analysis of the gaming industry? Does the Contractor have any recommendations for LED with regard to the findings in connection with this project?

Notably, the study is limited to State-regulated forms of gambling; per the RFP issued by LED, this study specifically excludes Native American casinos, which are not regulated by the State⁴ of Louisiana and whose performance data are not publicly reported.

⁴ Throughout this report we use State – with an uppercase “S” – when it refers to any aspect of the Louisiana state government.

Spectrum deployed a 16-person team for this project that included 12 Spectrum professionals and associates and four attorneys from the New Orleans office of Stone Pigman Walther Wittmann LLC (“Stone Pigman”). (See Appendix 3 for biographies of project participants.) Stone Pigman provided research and regulatory counsel for this project but was not involved in developing recommendations in the report.

A. Methodology

Spectrum relied on the following primary methods for our research and analysis:

1. **Data collection:** The State of Louisiana stands out among states for the quantity and quality of gaming-related data it publishes on a regular basis. Data used in this study were the latest available.
2. **Interviews:** Spectrum interviewed a total of 43 people in person, by telephone and by email. We endeavored to contact a wide range of stakeholders, whether they worked in the gaming realm or not. (See Appendix 1 for the complete interview list.)
3. **Financial modeling:** Spectrum used a number of analytical tools and models to analyze gaming data, population data, and geography. We further used some of these data as inputs for an input-output economic forecasting model from Regional Economic Models Inc. (see Appendix 2), which measured the economic impacts of Louisiana’s commercial casino industry at status quo and under a second, illustrative scenario.
4. **Field research:** In January and February, Spectrum visited 20 casinos and several video poker facilities and conducted in-person interviews with State officials, regulators, gaming operators, trade associations, lottery officials, and other stakeholders. Our professionals and associates spent a total of 21 people-days in Louisiana, in addition to relying on the native expertise of Stone Pigman.
5. **Our experience:** Spectrum has been providing independent research and professional services related to the gaming industry since 1993, and many of our executives and associates have been gaming regulators, operators or analysts for decades. We have conducted studies or consultations in 38 US states and territories and in 47 countries on six continents, including for numerous state, tribal and national governments. Spectrum professionals participating in this project included experts in financial analysis, economics, finance, gaming law and regulation, casino operations, sports betting analysis, lottery operations, pari-mutuel operations and analysis, public policy, and journalism.

Throughout the course of this project we received a high level of cooperation from our research sources and interview subjects in Louisiana, as they believe this study will be an important educational tool helping state lawmakers – and the general public – better understand the many aspects of legalized gambling and craft public policy that will continue to help gaming be a strong contributor to the state economy.

B. About Spectrum Gaming Group

Spectrum Gaming Group is an independent research and professional services firm founded in 1993 that serves private- and public-sector clients worldwide. We are a non-partisan consultancy that specializes in the economics, regulation and policy of legalized gambling worldwide. We have provided

independent research and professional services to public- and private-sector clients since 1993. We bring wide industry perspective to every engagement, having worked in 38 US states and territories and in 47 countries on six continents. Our principals have backgrounds in operations, economic analysis, law enforcement, regulation and journalism.

Spectrum holds no beneficial interest in any casino operating companies or gaming equipment manufacturers or suppliers. We employ only senior-level executives and associates who have earned reputations for honesty, integrity and the highest standards of professional conduct. Our work is never influenced by the interests of past or potentially future clients.

Each Spectrum project is customized to our client's specific requirements and developed from the ground up. Our findings, conclusions and recommendations are based solely on our research, analysis and experience. Our mandate is not to tell clients what they want to hear; we tell them what they need to know. We will not accept, and have never accepted, engagements that seek a preferred result.

Our 250-plus clients have included government entities of all types, gaming companies (national and international) of all sizes, both public and private. In addition, our principals have testified or presented before the following governmental bodies:

- British Columbia Lottery Corporation
- California Assembly Governmental Organization Committee
- Connecticut Public Safety and Security Committee
- Florida House Select Committee on Gaming
- Florida Senate Gaming Committee
- Georgia House Study Committee on the Preservation of the HOPE Scholarship Program
- Georgia Joint Committee on Economic Development and Tourism
- Illinois Gaming Board
- Illinois House Executive Committee
- Indiana Gaming Study Commission
- Indiana Horse Racing Commission
- International Tribunal, The Hague
- Iowa Racing and Gaming Commission
- Louisiana House and Senate Joint Criminal Justice Committee
- Massachusetts Gaming Commission
- Massachusetts Joint Committee on Bonding, Capital Expenditures, and State Assets
- Michigan Senate Regulatory Reform Committee
- National Gambling Impact Study Commission
- New Hampshire Gaming Study Commission
- New Jersey Assembly Regulatory Oversight and Gaming Committee
- New Jersey Assembly Tourism and Gaming Committee
- New Jersey Senate Legislative Oversight Committee
- New Jersey Senate Wagering, Tourism & Historic Preservation Committee
- New York Senate Racing, Gaming and Wagering Committee
- New York State Economic Development Council
- Ohio House Economic Development Committee
- Ohio Senate Oversight Committee
- Pennsylvania Gaming Control Board
- Pennsylvania House Gaming Oversight Committee
- Puerto Rico Racing Board

- US House Congressional Gaming Caucus
- US Senate Indian Affairs Committee
- US Senate Permanent Subcommittee on Investigations
- US Senate Select Committee on Indian Gaming
- US Senate Subcommittee on Organized Crime
- Washington State Gambling Commission
- West Virginia Joint Standing Committee on Finance
- World Bank, Washington, DC

Disclaimer

Spectrum has made every reasonable effort to ensure that the data and information contained in this study reflect the most accurate and timely information possible. The data are believed to be generally reliable. This study is based on estimates, assumptions, and other information developed by Spectrum from its independent research effort, general knowledge of the gaming industry, and consultations with the State of Louisiana and its representatives. Spectrum shall not be responsible for any inaccuracies in reporting by the State or its agents and representatives, or any other data source used in preparing or presenting this study. The data presented in this study were collected through the cover date of this report. Spectrum has not undertaken any effort to update this information since this time.

Some significant factors that are unquantifiable and unpredictable – including, but not limited to, economic, governmental, managerial and regulatory changes; and acts of nature – are qualitative by nature, and cannot be readily used in any quantitative projections. No warranty or representation is made by Spectrum that any of the projected values or results contained in this study will actually be achieved. We shall not be responsible for any deviations in the project’s actual performance from any predictions, estimates, or conclusions contained in this study.

This study is qualified in its entirety by, and should be considered in light of, these limitations, conditions and considerations.

I. Analysis of Revenue by Gaming Sector

Louisiana is unique in the US legal-gambling landscape: It is the only state with land-based commercial (i.e., state-regulated) casinos, riverboat casinos, racetrack casinos, tribal casinos, distributed gaming,⁵ charitable gaming, lottery, and pari-mutuel wagering. In fact, no state offers more traditional gambling segments than Louisiana, with only cardrooms missing from the mix. With the rise of sports betting and internet gaming across the country, this study – as requested – addresses issues that must be considered if policymakers consider adding these emerging forms of gaming to the existing smorgasbord. (We analyze these new forms of gaming with respect to Louisiana in Chapter V.)

As a widespread form of entertainment easily accessible to all Louisianans in one form or another, legal gambling is an important industry from economic, social and fiscal perspectives, even if it does not have the visibility of more prominent industries in the state, such as oil and gas production and commercial fishing.

The fiscal impacts of gaming are significant, and somewhat surprising, even to those who establish Louisiana’s fiscal policy. At a July 2017 meeting of the Riverboat Economic Development and Gaming Task Force, Senator Ronnie Johns, a member of the Senate Finance Committee, noted that “gaming revenue in our state budget now surpasses the oil and gas revenue in our state.” Johns went on to note that he “never thought [he] would ever say this” but gaming revenue, in all forms including the lottery, accounts for “almost 10 percent of our state general fund revenue right now.”⁶

In the big picture, the performance of all forms of legalized gambling in Louisiana except the Lottery has been in decline since 2008. The performance of each sector over that period was as follows:

- Casino-racino (gross gaming revenue, all sectors combined): - 1.5 percent
- Video poker (gross gaming revenue): - 3.6 percent
- Charitable gaming (contributions): - 36.0 percent
- Lottery (sales): + 31.4 percent
- Pari-mutuel (purses): - 14.7 percent

In this chapter, we analyze the performance for each of the gaming sectors to evaluate the causes of the changes. It is important to analyze each segment because they operate under some significantly different rules and effective gaming-tax rates. For this reason, Louisiana Economic Development in its RFP requested such segmentation.

However, we begin by analyzing Louisiana’s commercial casino industry holistically, because in many respects a casino is a casino, whether it floats or not, whether it has a racetrack or not; they are all large-scale gaming operations and collectively form the Louisiana casino industry.

⁵ “Distributed gaming” is a term for a small number of electronic gaming devices authorized in certain establishments, typically in liquor-licensed businesses and truckstops, which is also called “retail gaming,” “route gaming,” or “video gaming.”

⁶ Comments of Senator Ronnie Johns, at Riverboat Economic Development and Gaming Task Force meeting, July 18, 2017, at 1:05:28. http://senate.la.gov/video/videoarchive.asp?v=senate/2017/07/07182017RIVERBOATECODEV_0

A. Economic Impacts of Commercial Casino Gaming in Louisiana

Louisiana has 24 casinos, 20 of which are regulated by the State through the Louisiana Gaming Control Board (“LGCB”). The sizes of their gaming operations and facilities are shown in the following table.

Figure 1: Size of Louisiana casinos

Casino	Type	Gaming Space (s.f.)	EGDs	Table Games (inc. poker)	Hotel Rooms	F&B Outlets
Amelia Belle	Riverboat	27,928	838	15	0	2
Belle of Baton Rouge	Riverboat	27,830	773	14	288	3
Boomtown New Orleans	Riverboat	29,725	1,196	38	150	5
Boomtown Bossier City	Riverboat	25,635	1,028	16	187	4
Coushatta	Tribal	105,000	2,835	78	1,003	11
Cypress Bayou	Tribal	65,000	988	35	102	4
Delta Downs	Racino	14,689	1,616	-	370	4
Diamond Jack	Riverboat	29,921	827	14	432	3
Eldorado Shreveport	Riverboat	28,190	1,388	60	403	4
Evangeline Downs	Racino	14,027	1,360	-	117	5
Fair Grounds	Racino	15,000	612	-	0	1
Golden Nugget Lake Charles	Riverboat	29,460	1,550	85	1,091	13
Harrah’s New Orleans	Land-Based	125,119	1,523	148	450	9
Hollywood Baton Rouge	Riverboat	28,252	894	12	0	3
Horseshoe Bossier City	Riverboat	28,275	1,182	70	606	5
Isle of Capri Lake Charles	Riverboat	26,248	1,173	45	493	3
Jena Choctaw Pines	Tribal	9,000	702	5	0	2
L’Auberge Baton Rouge	Riverboat	29,876	1,437	56	205	9
L’Auberge Lake Charles	Riverboat	27,065	1,518	103	995	10
Louisiana Downs (Harrah’s)	Racino	9,695	828	-	0	3
Margaritaville Bossier City	Riverboat	26,624	1,217	50	395	5
Paragon	Tribal	72,120	1,168	40	531	9
Sam’s Town Shreveport	Riverboat	29,371	1,012	25	514	4
Treasure Chest	Riverboat	23,680	1,016	28	0	2
Subtotal Commercial Casinos		596,610	22,988	779	6,696	97
Total All Casinos		847,730	28,681	937	8,332	123

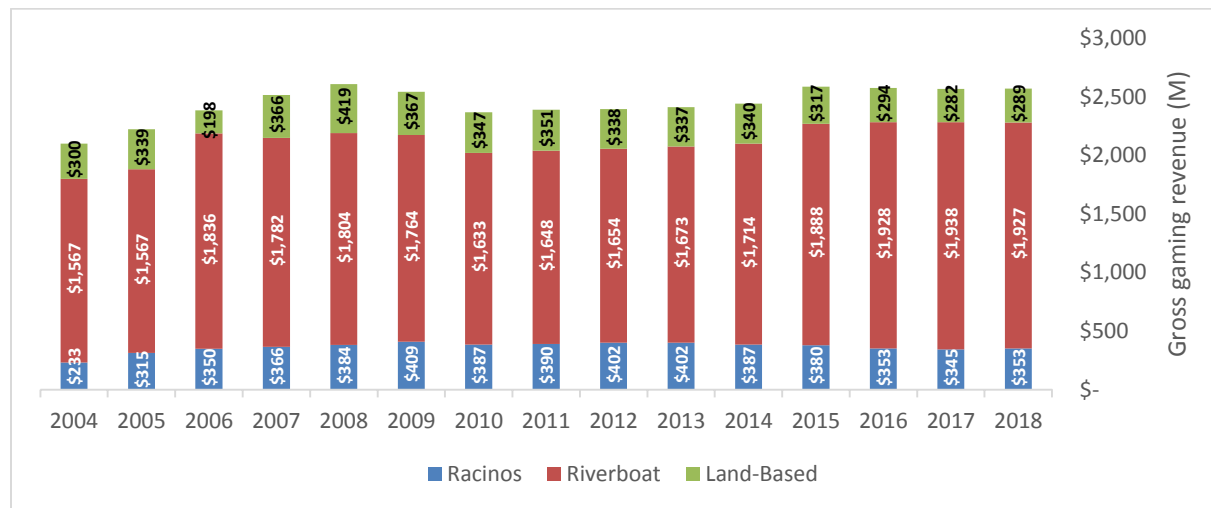
Source: Louisiana Gaming Control Board, Casino City, property websites, Spectrum Gaming Group estimates. Tribal operations are shaded in gray.

The following chart shows the gross gaming revenue (“GGR”) performance of Louisiana’s State-regulated casinos in total by segment over a 15-year span.⁷ Note that the industry’s performance remains slightly below its \$2.6 billion high point in 2008. There are several reasons for the lower performance. The competition for Dallas-area visitors from the Oklahoma tribal casinos has intensified, cutting into the

⁷ All Louisiana gaming revenue data are for fiscal years unless otherwise noted.

Shreveport-Bossier City market. A second source of decline is the 2015 smoking ban implemented in Orleans Parish, which hit revenues at Fair Grounds and Harrah’s. Another factor is the continued investment and improvement of the Mississippi Gulf Coast casinos. As the Gulf Coast casinos rebuilt after Hurricane Katrina, some moved to the land side of US Route 90, affording them with modern facilities that patrons may find more appealing than the older Louisiana riverboats.

Figure 2: Louisiana casino gross gaming revenue by sector, 2004-2018



Source: Louisiana Gaming Control Board

As with any industry, gross revenues are only one indication of economic impact. Louisiana casinos employ more than 18,000 people directly, create indirect and induced employment, and purchase a variety of goods and services, all of which combines to have a material fiscal impact on the State, as well as various communities and parishes.

1. Measuring Industry’s Economic Impacts

The economic impact component of this study includes inputs Spectrum developed based on LGCB data and our own research and estimates for employment, revenues, and taxes. The analysis was separated into evaluations of the baseline (i.e., existing) gaming environment and a potential future gaming environment. In both cases, the analyses were conducted through 2025. Working with the UMass Donahue Institute, we used a Tax-PI model of Louisiana made by Regional Economic Models Inc. (“REMI”) to calculate the economic impacts.

The existing Louisiana casino gaming environment consists of racinos,⁸ riverboat casinos, and the state’s land-based casino: Harrah’s New Orleans. Our analysis began with known data on employment, gross gaming revenue, nongaming revenue, taxes, and fees for each of the casino types. Because the future scenario was going to be run through 2025, the baseline scenario also needed to go out that far. Spectrum forecasted the existing environment into the future using current trends in the market which

⁸ “Racino” is a commonly used portmanteau that combines racing and casino gaming to indicate a single facility that encompasses both forms.

point to mainly flat employment and revenues for gaming in Louisiana. Although the Harrah's New Orleans license ends on July 1, 2024, we assumed that the property's operations would continue uninterrupted and on-trend through our analysis period. Should a new operator take over the property, additional investment in plant and equipment could be expected and the economic impacts would be greater. The baseline scenario for each casino sector was modeled separately and again combined into one total analysis.

The future scenario assumes that some riverboat casinos will be moved onshore and Harrah's will make new investments in its property. These changes result in more employment, revenues, taxes, and construction. All changes are assumed to begin in 2020 (i.e., the future scenario diverges from the baseline scenario in 2020). Unlike the baseline scenario, the future scenario is only presented as one combined analysis rather than in parts and together.

All the economic impact analyses were done using the latest version of Tax-PI (see Appendix 2 for detail). One of the models produced by REMI, Tax-PI is built upon one of the nation's leading economic impact modeling frameworks (described in greater detail in an appendix). REMI models have been used in Louisiana from many years including by various organs of the State government. As a result, the analytical framework used for this analysis is consistent with economic impact studies conducted by the State.

The inputs to Tax-PI were developed from data produced by the Spectrum team. Being a NAICS-based model, all business-level inputs must be entered into the model using the appropriate industry code.⁹ Casinos without hotels are defined as part of the Amusement, Gambling, and Recreation Industries while casinos with hotels, like Harrah's New Orleans, are part of Accommodations. After entering the employment, we adjusted the amount of output to reflect the appropriate level of labor productivity for gaming workers.

The taxes and fees paid by the casinos were assumed to be spent in the year collected. State taxes on GGR were allocated to State government spending while other taxes and fees were modeled in different ways depending on the property type. For the riverboats other taxes and fees were allocated to local government spending. For the racinos, these funds were divided between purse supplements (83 percent) and horse breeding program subsidies (17 percent).

The total value of taxes and fees was removed from casino revenues for modeling purposes. Most business taxes are levied on net income (i.e., profits) while taxes on gaming are levied on revenues. When net income is taxed, every dollar of revenue is available to the business to pay workers and suppliers, service debt, and invest in plant and equipment. The business only pays a tax on the money remaining. However a tax on revenues takes money before it can be used for any of those purposes and therefore renders the taxable share of revenue inaccessible to the business. In a sense, modeling the taxable share

⁹ The North American Industry Classification System ("NAICS") is maintained by the U.S. Census, which describes it as "the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy." <https://www.census.gov/eos/www/naics/index.html>

of GGR as revenues in an economic impact analysis would be akin to counting sales taxes collected by retailers as a part of their revenues.

Lastly, the combined baseline scenario and the future scenario were each run in two different ways to reflect the reallocation of consumer spending toward gaming. Spectrum did not have reliable data on the source of GGR at Louisiana's casinos but we know that some of the money will have to come from in-state residents who, in the absence of casinos, would have spent that money on other in-state activities. This reallocation away from other consumption toward gaming is not new money to the State, so a gaming analysis should include a component that "pays for" increases in GGR with decreases in other consumption. Without knowing the true amount of reallocation, the baseline and future scenarios were run with both no reallocation and 100 percent reallocation to provide stakeholders with a bracketed range for the impacts of gaming on the state. In addition to the cost of reallocation to private businesses, the analysis also estimated the sales tax revenue lost to the State from shifting consumption to gaming.

Economic Concepts Glossary

Employment: Employment is a count of jobs, not people, by place of work. It counts all jobs with the same weight regardless of whether the position is full- or part-time or the labor of a self-employed proprietor. Additionally, jobs are counted as job-years, which are equivalent to one job lasting for one year. This is a similar concept to "person-hours." Jobs often carry over from year to year and therefore the jobs in one year include many of the same jobs as in the previous year. For example, if a new business opens with 10 employees then the host community of that business will have 10 more jobs than it would have had in every future year that the company maintains its workforce. For example, over 5 years, the business will have created 50 job-years (10 jobs at the company x 5 years = 50 job-years) though it is possible that it is not the same 10 people who are working there over time. When reviewing changes in employment across multiple years, knowledge of the concept of job-years is vital to proper interpretation.

Output: Output is the total economic value of production, sales, or business revenues, whether final (i.e., purchased by the end user) or intermediate (used by another business to produce its own output). It includes the value of inputs to production, wages paid to employees, capital expenses, taxes, and profit. It is useful as an indicator of business activity but it should not be construed as net new economic activity.

Personal Income: Personal income is income and benefits from all sources earned by all persons living in an area. It excludes the income earned by non-resident workers who commute into an area but includes the income of residents who commute out.

Value Added: Value added is the value of all final goods and services created in an economy. It represents new economic activity and is also known as gross product or net economic impact. It differs from output by the value of inputs to production. Value added provides a useful summary of the economy which is why all nations and US states report their economic growth in this way, calling it either gross domestic product or gross state product as appropriate. Its usefulness derives from the elimination of the double-counting inherent in output, which stems from the inclusion of inputs. An example of the double-counting of inputs can be found and simplified in the process of making and selling a loaf of bread. A farmer sells wheat to a mill, which then sells flour to a baker, who then sells bread to the final customer.

The sale price of the bread includes the cost of all necessary inputs including growing the wheat, milling the flour, and baking the bread. Value added only counts the sale price of the bread to the final consumer which is the net new value created in the economy. On the other hand, output counts the revenues earned by every business in the supply chain which means that the value of the wheat and flour are counted more than once.

Racinos Baseline

From 2017 through 2025, the racinos in Louisiana are predicted to employ roughly 2,500 workers and generate \$357 million in gross gaming revenues. Nongaming revenues add another \$54 million to racino earnings. We predict that taxes and fees on GGR will generate average annual revenues of \$118 million including \$54 million to the State, \$53 million to purse supplements, and \$11 million to support breeding programs.

When the economic activities of the racinos and the taxes and fees they generate are modeled in Tax-PI, through their ripple effects and economic linkages they create impacts that are larger than themselves. Total employment impacts average 6,386 jobs and range from a maximum of 6,808 in 2019 to a minimum of 5,836 in 2025. About 1,000 of the total jobs are in the public sector with the remaining 5,353 being private non-farm jobs. When all ripple effects are considered, the racinos create or support an additional 1.5 jobs for every one of their workers.

The total employment impacts from the presence of racinos also corresponds to impacts on the production of goods and services. Through their labor, these workers collectively create an annual average of \$779.7 million of output (i.e., business revenues), of which \$492.2 million is value added (also called gross state product or net new economic activity). In exchange, workers in Louisiana earn an average of an additional \$364.9 million of personal income per year.

Figure 3: Summary results of racino baseline analysis (excluding reallocation)

(\$ in nominal M)	2017	2018	2019	2020	2021	2022	2023	2024	2025	Avg.
Employment	6,475	6,777	6,808	6,683	6,499	6,302	6,122	5,969	5,836	6,386
Private Non-Farm Employment	5,551	5,744	5,733	5,601	5,425	5,244	5,085	4,952	4,840	5,353
Output	\$742.4	\$792.2	\$809.7	\$808.6	\$797.3	\$782.8	\$770.2	\$760.2	\$753.4	\$779.7
Personal Income	\$256.1	\$305.1	\$339.9	\$364.4	\$381.1	\$394.1	\$404.1	\$413.7	\$425.8	\$364.9
Value Added	\$460.8	\$493.2	\$506.4	\$508.2	\$503.5	\$496.7	\$490.8	\$486.5	\$483.9	\$492.2

Source: Spectrum Gaming Group, Tax-PI

Riverboat Casinos Baseline

From 2017 through 2025, the riverboat casinos in Louisiana are predicted to employ roughly 16,000 workers and generate \$1.9 billion in gross gaming revenues. Nongaming revenues add another \$407 million to riverboat casino earnings. We predict that taxes and fees on GGR will generate average annual revenues of \$499 million including \$416 million to the State and \$83 million to local governments.

When the economic activities of the riverboat casinos and the taxes and fees they generate are modeled in Tax-PI, through their ripple effects and economic linkages they create impacts that are larger than themselves. Total employment impacts average 35,600 jobs and range from a maximum of 38,161

in 2018 to a minimum of 32,054 in 2025. About 7,100 of the total jobs are in the public sector with the remaining 28,488 being private non-farm jobs. When all ripple effects are considered, the riverboat casinos create or support an additional 1.2 jobs for every one of their workers.

The total employment impacts from the presence of riverboat casinos also corresponds to impacts on the production of goods and services. Through their labor, these workers collectively create an annual average of \$4.6 billion of output (i.e., business revenues), of which \$2.8 billion is value added (also called gross state product or net new economic activity). In exchange, workers in Louisiana earn an average of an additional \$2.1 billion of personal income per year.

Figure 4: Summary results of riverboat baseline analysis (excluding reallocation)

(\$ in nominal M)	2017	2018	2019	2020	2021	2022	2023	2024	2025	Avg.
Employment	38,099	38,161	37,810	37,020	35,910	34,747	33,699	32,815	32,054	35,591
Private Non-Farm Employment	31,258	30,887	30,419	29,637	28,616	27,585	26,692	25,956	25,342	28,488
Output	\$4,620.9	\$4,701.9	\$4,736.9	\$4,716.8	\$4,641.4	\$4,551.5	\$4,474.3	\$4,415.2	\$4,375.2	\$4,581.6
Personal Income	\$1,582.3	\$1,793.3	\$1,964.1	\$2,091.9	\$2,176.2	\$2,240.5	\$2,289.7	\$2,338.6	\$2,401.4	\$2,097.6
Value Added	\$2,809.8	\$2,872.6	\$2,908.1	\$2,908.9	\$2,875.0	\$2,831.2	\$2,794.2	\$2,767.4	\$2,751.5	\$2,835.4

Source: Spectrum Gaming Group, Tax-PI

Harrah’s New Orleans Baseline

From 2017 through 2025, Harrah’s New Orleans – the state’s sole land-based commercial casino – is predicted to employ roughly 2,400 workers and generate \$269 million in gross gaming revenues. Nongaming revenues add another \$38 million to Harrah’s New Orleans’s earnings. We predict that taxes and fees on GGR will generate average annual revenues of \$61 million to the State.

When the economic activities of Harrah’s New Orleans and the taxes and fees it generates are modeled in Tax-PI, through their ripple effects and economic linkages they create impacts that are larger than themselves. Total employment impacts average 5,699 jobs and range from a maximum of 6,338 in 2019 to a minimum of 4,996 in 2025. About 950 of the total jobs are in the public sector with the remaining 4,747 being private non-farm jobs. When all ripple effects are considered, Harrah’s New Orleans creates or supports an additional 1.3 jobs for every one of their workers.

The total employment impacts from the presence of Harrah’s New Orleans also corresponds to impacts on the production of goods and services. Through their labor, these workers collectively create an annual average of \$702 million of output (i.e., business revenues), of which \$449 million is value added (also called gross state product or net new economic activity). In exchange, workers in Louisiana earn an average of an additional \$374 million of personal income per year.

Figure 5: Summary results of Harrah’s New Orleans baseline analysis (excluding reallocation)

(\$ in nominal M)	2017	2018	2019	2020	2021	2022	2023	2024	2025	Avg.
Employment	5,969	6,310	6,338	6,013	5,728	5,501	5,302	5,136	4,996	5,699
Private Non-Farm Employment	5,095	5,304	5,322	5,012	4,744	4,540	4,367	4,227	4,111	4,747
Output	\$716.7	\$753.5	\$768.5	\$743.0	\$715.2	\$687.1	\$662.6	\$642.0	\$625.5	\$701.6
Personal Income	\$277.6	\$329.2	\$363.0	\$377.4	\$387.3	\$396.5	\$403.9	\$411.4	\$421.7	\$374.2
Value Added	\$451.3	\$475.0	\$486.2	\$472.7	\$457.7	\$442.5	\$429.1	\$418.0	\$409.2	\$449.1

Source: Spectrum Gaming Group, Tax-PI

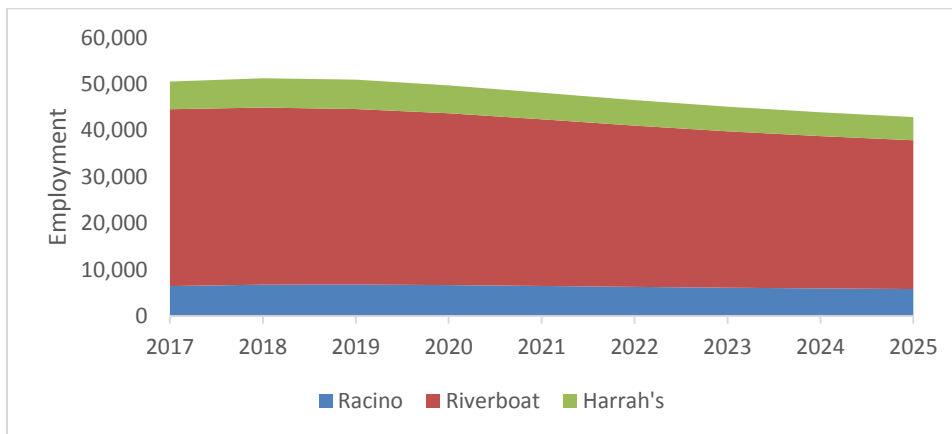
Total Casinos Baseline and Illustrative Future

Taken together, Louisiana’s racinos, riverboat casinos and the Harrah’s land-based casino collectively create or support:

- 47,647 jobs
- \$2.8 billion of personal income
- \$3.8 billion of value added
- An additional 1.3 jobs for every one of their workers

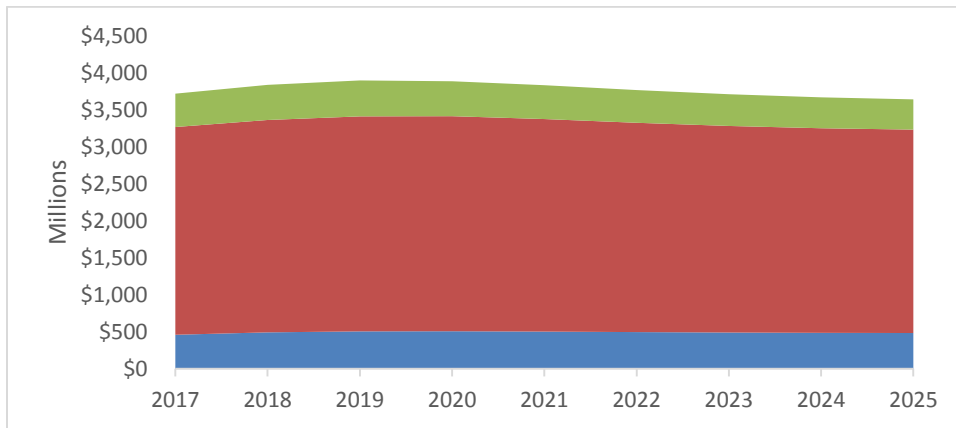
The largest contributor to these totals is the riverboat sector, with 75 percent of the employment and value-added impacts. Our prediction for baseline employment in the gaming industry assumed relatively flat job counts through 2025, but the results of the economic impact modeling show declining total employment impacts over the analysis period. These declines are caused by dynamic effects in the model which increase labor productivity in response to tightening in the labor market. Increased productivity means fewer jobs are needed to produce the same value over time, which can be seen by comparing the results through 2025 for employment, which declines, to value added, which stabilizes.

Figure 6: Total baseline employment by casino sector (excluding reallocation)



Source: Spectrum Gaming Group, Tax-PI

Figure 7: Total baseline value added by casino sector (excluding reallocation)



Source: Spectrum Gaming Group, Tax-PI

Beginning in 2020, we assumed certain changes to the Louisiana gaming environment to illustrate the economic impacts of what Spectrum believes would be realistic additional capital investments totaling \$1.28 billion in the industry. They include:

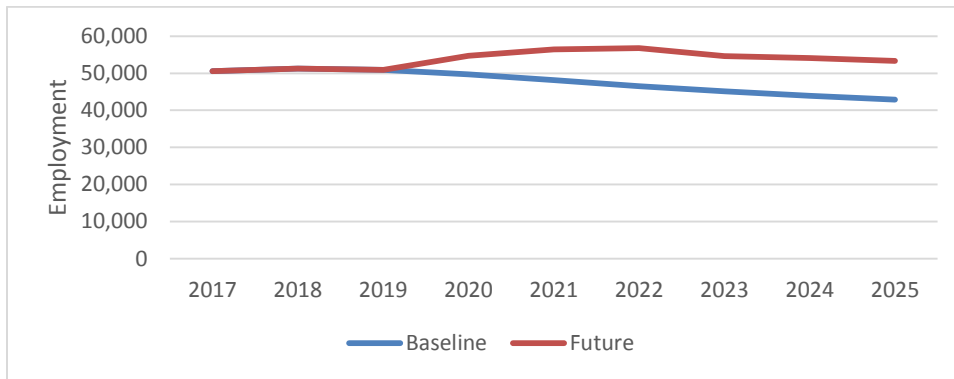
- The development of a \$350 million expansion at Harrah’s New Orleans that includes second hotel (which the company is, in fact, considering);
- Two riverboat casinos would move on land, one in 2020 and one in 2021;
- One riverboat would relocate to the Northshore of Lake Pontchartrain and would relocate to the Northeast market area, with construction beginning in 2022; these two boats are assumed to be open in 2023; and
- We further assume that changes in the tax structure encourage additional investment in Louisiana operations growing revenue at enhanced properties.

These changes induce increases in employment and revenues and, consequently, taxes and fees. Additionally, the changes envisioned would require both construction spending and purchases of new furniture, fixtures and equipment (“FF&E”) which total \$950 million and \$330 million from 2020 through 2025, respectively.

The changes in the gaming environment result in the future scenario diverging from the baseline in 2020. Over the period of divergence (2020-2025) the future scenario creates or supports an annual average of:

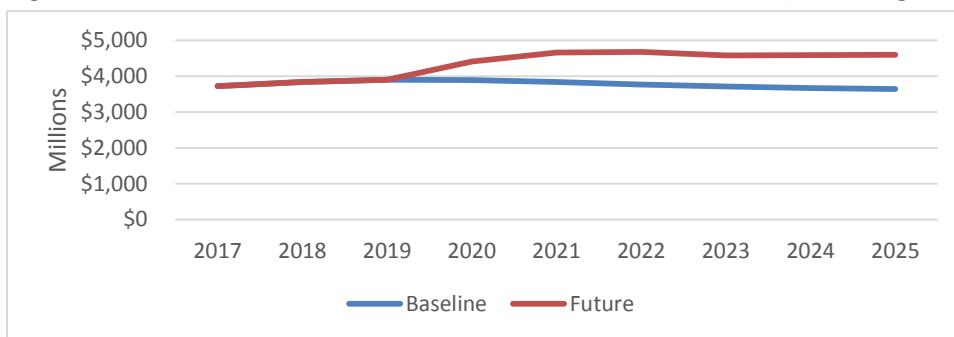
- 8,964 more jobs
- \$1.3 billion more business revenues
- \$579 million more personal income
- Additional net new economic activity of \$830 million

Figure 8: Total employment in the baseline and future scenarios (excluding reallocation)



Source: Spectrum Gaming Group, Tax-PI

Figure 9: Total value added in the baseline and future scenarios (excluding reallocation)



Source: Spectrum Gaming Group, Tax-PI

Up to this point, all results shown have excluded the reallocation of consumer spending away from other purchases and toward gaming. Some of the revenues at Louisiana casinos would have been spent on other in-state purchases in the absence of casinos and therefore do not represent net new spending to the state. To provide some context for what reallocation could mean for the results, we modeled two versions of the baseline and future scenario that include:

- Version 1: No reallocation of casino revenues
- Version 2: 100 percent of casino revenues coming from other in-state sources of consumption.

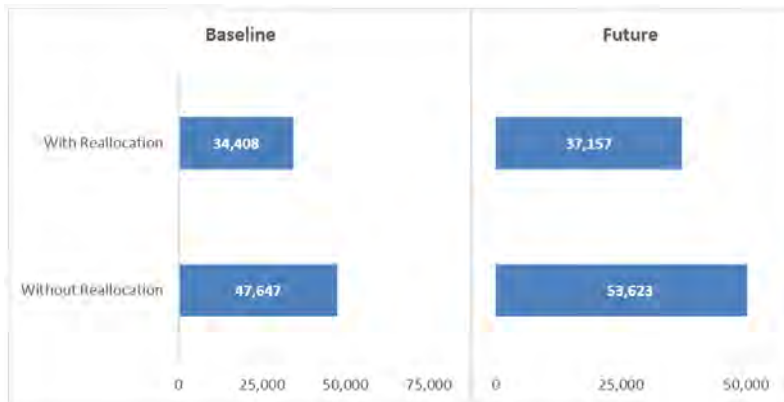
The results for average employment and value added are presented in the following charts.

Average annual baseline employment decreases by 13,240 jobs once reallocation is included, to 34,408 jobs, being either created or supported by gaming. Future employment decreases by 16,460, to 37,157. Similarly, value added (i.e., net new economic activity) decreases by an annual average of \$1.1 billion and \$1.4 billion in the baseline and future cases, respectively.

In all cases, the decrease in the size of the economic impacts is roughly 30 percent once reallocation is factored into the analysis. Because the gaming industry does not rely on either 100 percent net new spending or 100 percent reallocated spending, the true impact of gaming in Louisiana will lie somewhere between these results. This limitation notwithstanding, the results suggest that, even with

100 percent of the casino revenues in Louisiana coming from other in-state sources, the gaming industry is still materially accretive to the state’s economy.

Figure 10: Average annual employment in the baseline and future scenarios with and without reallocation



Source: Spectrum Gaming Group, Tax-PI

Figure 11: Average annual value added in the baseline and future scenarios with and without reallocation



Source: Spectrum Gaming Group, Tax-PI

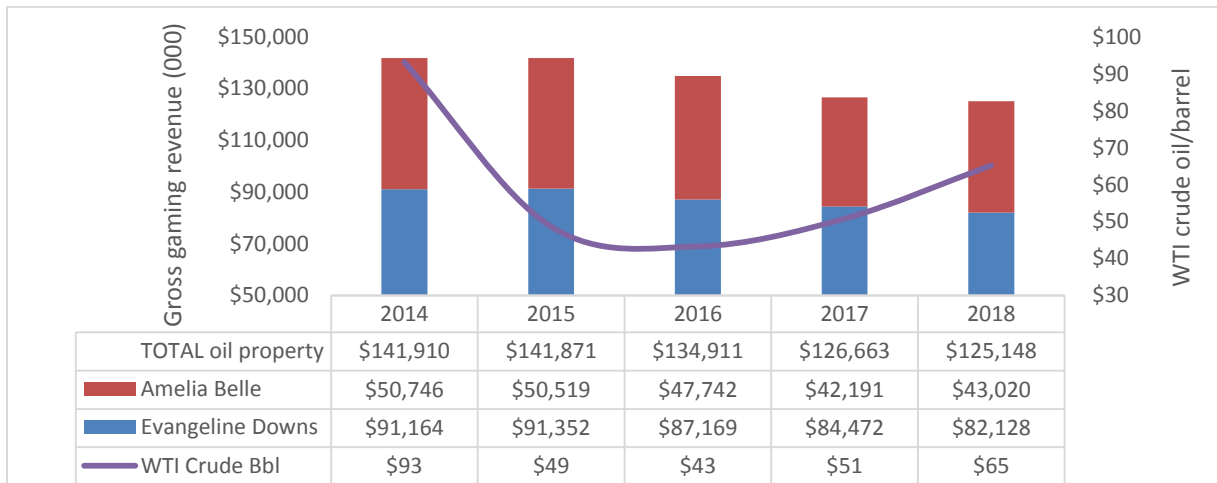
2. Impacts of the Economy on Gaming Performance

Casino gaming is, by definition, a form of entertainment. As such, it is subject to pressures much as any other industry that relies on discretionary spending. Local and national economic cycles can have major impacts on gaming revenues, as seen most prominently during the Great Recession of 2007-2009.

Energy Sector – Local Economy

Louisiana is a major producer of oil and gas, and by any measure, employment in that sector is vital to the state’s economy and thus can have material impacts on gaming. When the price of oil falls, there are layoffs in the industry. Two of the state’s casinos, Evangeline Downs and Amelia Belle, are particularly dependent on oil-field employees for their customer base. During a downturn, employees who used to visit casinos now are on reduced hours or laid off. The following chart correlates the oil prices with the performance of those two casinos.

Figure 12: Price of oil vs. gross gaming revenue at Amelia Belle, Evangeline Downs

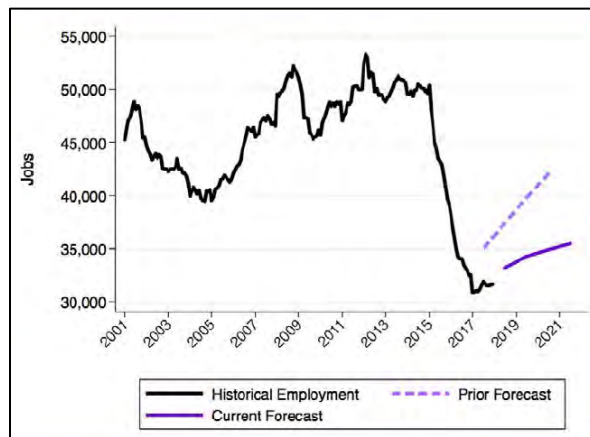


Source: Louisiana Gaming Control Board, U.S. Energy Information Administration, Crude Oil Prices: West Texas Intermediate (WTI) as of February 26, 2019

The GGR impact at these two casinos is clear. As the price of oil rose, GGR began to stabilize but remained 11.2 percent below 2014. Meanwhile, the rest of the Louisiana casino industry was stable through 2017 before experiencing a 4.5 percent decline in 2018 from the 2014 level.

As the chart below indicates, employment in the Louisiana oil and gas industry was decimated, losing approximately 15,000 jobs between 2015 and 2017. There is projected to be a slight increase in employment in the sector over the coming years, but employment is not forecast to return to pre-2015 levels.

Figure 13: Louisiana upstream oil and gas employment forecast



Source: U.S. Bureau of Labor Statistics – Current Employment Statistics, Louisiana State University¹⁰

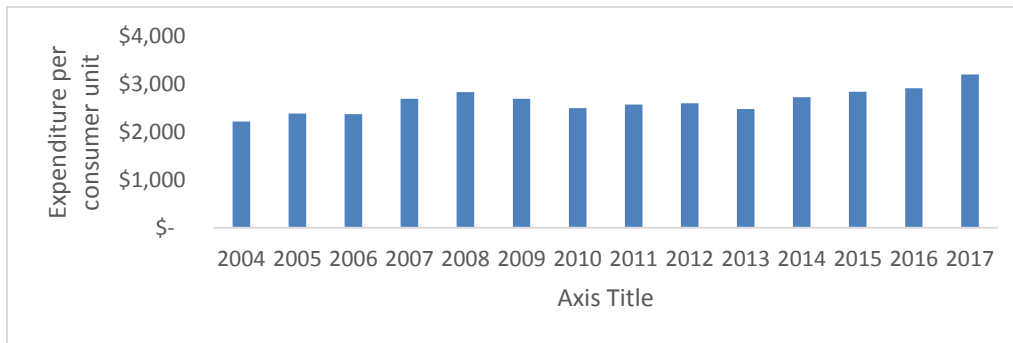
¹⁰ David E. Dismukes, Dek Terrell and Gregory B. Upton, Jr., “Gulf Coast Energy Forecast,” E. J. Ourso College of Business Economics & Policy Research Group and the Center for Energy Studies at Louisiana State University. <https://www.lsu.edu/ces/publications/2018/gceo2019.pdf>

A return to higher oil prices may not lead to a return to the historic levels of gaming revenue. Because gaming is a form of entertainment, players can substitute other amusements for a trip to the casino. As players participated in less gaming during the low-oil-price era, other forms of entertainment may have caught their attention.

National, Regional, Local Factors

On a more macro level, consumer spending on all entertainment declined during and after the Great Recession. It was not until 2015 that entertainment spending finally exceeded its pre-recession level, as show in the following chart.

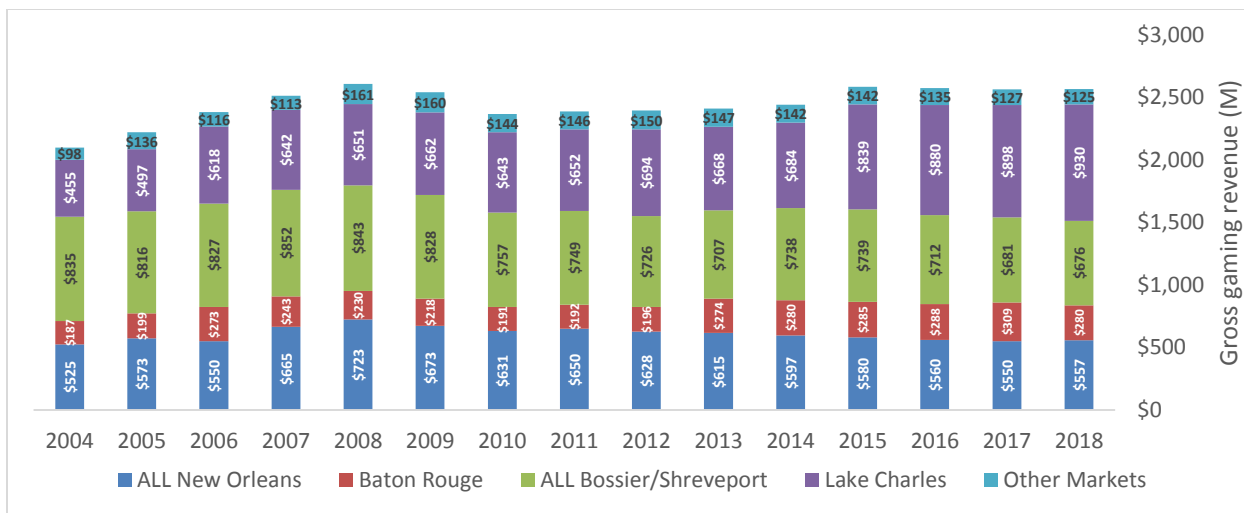
Figure 14: US spending on entertainment, 2004-2017



Source: US Bureau of Labor Statistics. Expenditures are per consumer unit.¹¹

The pattern of gaming revenue in Louisiana bears out the national figures on entertainment spending. Louisiana casino revenue fell during the Great Recession and returned to pre-recession levels in 2016. The following chart shows this trend, segmented by the primary casino markets in the state.

Figure 15: Louisiana casino gross gaming revenue by market, 2004-2018



Source: Louisiana Gaming Control Board

¹¹ Per BLS, "Consumer units include families, single persons living alone or sharing a household with others but who are financially independent, or two or more persons living together who share major expenses."

Many of the Louisiana gaming markets have experienced additional impacts from outside factors. For example, the April 2015 smoking ban in Orleans Parish appears to have benefitted nearby Treasure Chest in Kenner and Boomtown in Harvey. In the 24 months subsequent to that ban, GGR declined more than \$45 million at Harrah’s and \$3.9 million at Fair Grounds, while GGR increased at Boomtown and Treasure Chest in Jefferson Parish by almost \$13 million combined in that same timeframe.

Figure 16: Change in casino GGR for Orleans, Jefferson parishes pre- and post-smoking ban

	2018 vs 2014	2018 vs 17	2017 vs 16	2016 vs 15	2015 vs 14
Harrah’s*	\$(51,612)	\$6,882	\$(12,110)	\$(23,668)	\$(22,716)
Fair Grounds*	\$(3,385)	\$930	\$(423)	\$(3,514)	\$(378)
Boomtown	\$3,686	\$(2,475)	\$1,154	\$2,804	\$2,203
Treasure Chest	\$11,468	\$1,307	\$2,173	\$4,156	\$3,832
TOTAL New Orleans	\$(39,843)	\$6,644	\$(9,206)	\$(20,222)	\$(17,059)

Source: Louisiana Gaming Control Board. *Orleans Parish enacted the Smoke Free Air Act in 2015. These casinos are in Orleans.

Another factor is the growth of tribal gaming in Oklahoma. The myriad casinos on or near the Texas border have attracted players from the Dallas area who used to visit Shreveport-Bossier City (see chapters II and IV for discussion).

Lake Charles is the only market to have experienced significant growth since the Great Recession. The opening of the Golden Nugget in 2014 to meet the untapped demand from the Houston area (which offers a consumer base of nearly 7 million people just over two hours away) fueled this growth (see chapters II and IV for discussion).

3. Beneficiaries of Casino Taxes

In some states, gaming tax revenue has been earmarked for specific programs. For example, the video gaming taxes in Illinois are dedicated to an infrastructure fund, casino taxes in New Jersey benefit senior citizens and disabled residents, and Pennsylvania casino taxes fund property tax relief, tourism programs, the horse racing industry, and local governments. In Louisiana, the gaming taxes from each sector are directed as follows:

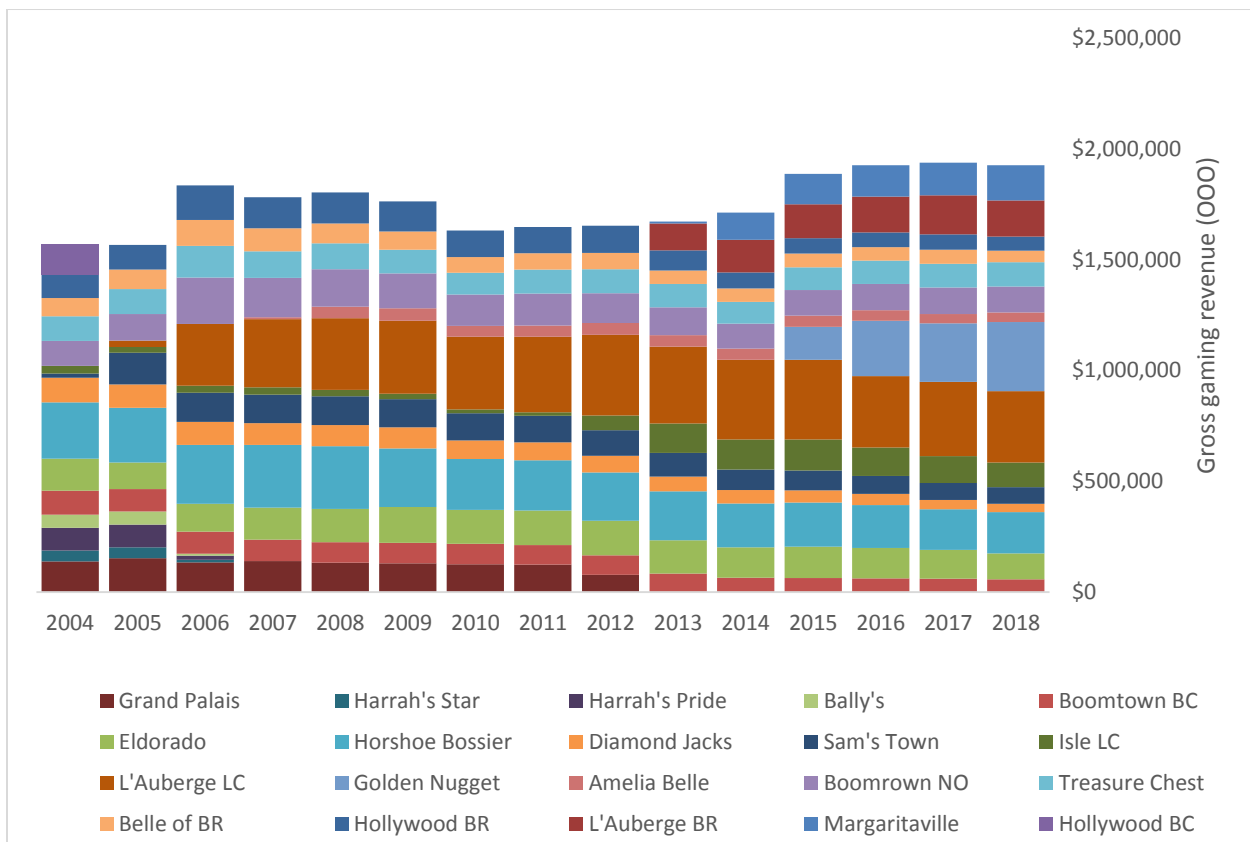
- **Riverboat:** Proceeds from the 21.5 percent gaming tax rate go to the General Fund. In FY 2017, the Louisiana Gaming Control Board reports that more than \$416 million in “franchise tax,” which is the State’s term for taxes on gaming revenue, more than \$83 million in local fees, and \$33 million in local property taxes were generated from the 15 riverboats.
- **Land-based:** Proceeds from the 21.5 percent gaming tax rate go to the General Fund, with a minimum of \$60 million. In 2017, the state’s sole land-based casino paid only the minimum \$60 million, but it again exceeded the minimum in 2018, when it paid \$63.8 million.
- **Racino:** Proceeds from the 18.5 percent gaming tax rate – levied on revenues after the racinos make payments of 15 percent of GGR to purse subsidies and 3 percent of GGR to the horsemen – go to the State’s General Fund. Effectively, the State tax is 18.5 percent on 82 percent of the GGR. The racinos paid \$52.3 million in franchise fees or taxes in FY 2017.

Without dedicated projects for this revenue (other than from racinos, which are discussed below) it would be conjecture to assess what projects or programs would be eliminated in the absence of gaming revenue. Still, without the tax revenues from the riverboat casinos, both State and local taxes would need to be raised to maintain the current level of public services.

B. Riverboat Casinos

Riverboat-style casinos account for 15 of the state’s 24 casinos, and in 2018 generated 75 percent of the total GGR among the 20 State-regulated racinos and casinos. The following chart shows the performance of this sector since 2004. Some operations have moved over time and some have changed names. To gain a sense of the overall industry’s economic health over this time period, it is most important to look at the total GGR from all the operators. The following chart shows the performance of the riverboat casino industry, segmented by each property. Note that for 2018 two Lake Charles casinos – L’Auberge and Golden Nugget – each accounted for an outsized share of the industry total at 16.7 percent and 16.2 percent, respectively.

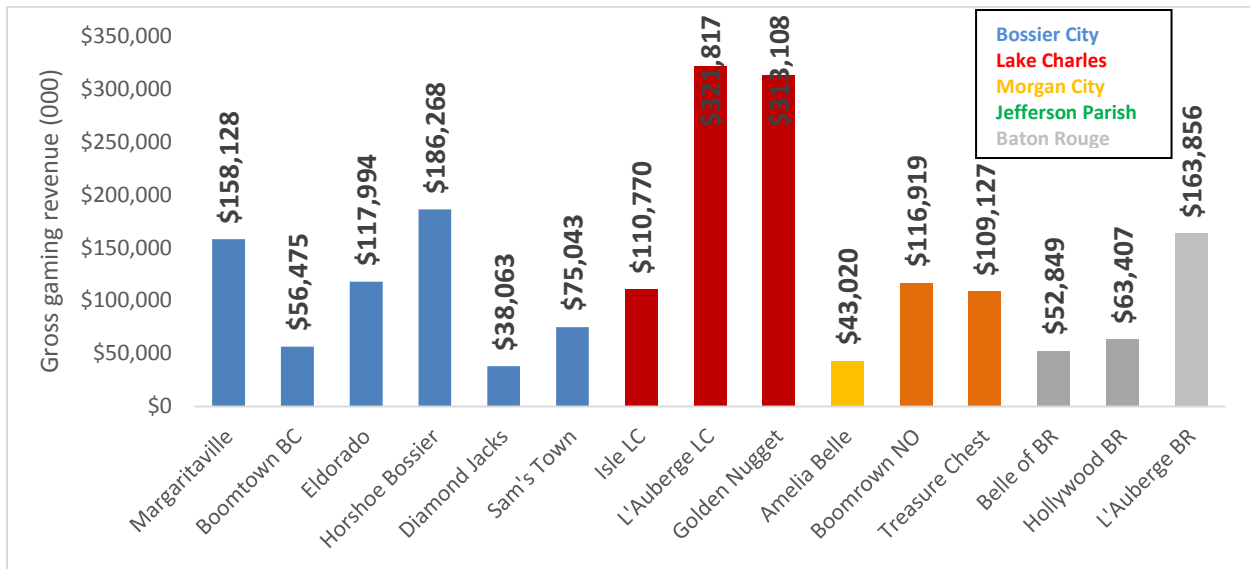
Figure 17: Louisiana riverboat casino gross gaming revenue, 2004-2018



Source: Louisiana Gaming Control Board

The performance of the riverboat casinos varies widely, as shown for 2018 in the following chart.

Figure 18: Louisiana riverboat casino gross gaming revenue by property, 2018



Source: Louisiana Gaming Control Board

1. Impacts of Capital Investment

Louisiana riverboats vary widely in their size, age, quality and arrays of non-gaming offerings. All are required to float on water, which restricts their layout, functionality, overall accessibility and, ultimately, total-revenue potential. (We discuss this regulatory condition in Chapter III.) Some of the casinos have made substantial investments of capital while others have not. The following table provides the GGR performance of riverboat sector (as shown in the figure above) with its cumulative capital investment.

Figure 19: Louisiana riverboat capital investment vs. gross gaming revenue, 2008-2017

	2010	2012	2014	2016	2017
Cumulative Capital Expenditure (000)	\$2,525,780	\$2,544,726	\$3,070,999	\$3,931,359	\$4,036,650
Annual GGR	\$1,632,868	\$1,653,971	\$1,713,537	\$1,927,764	\$1,938,453
Ratio	0.65	0.65	0.56	0.49	0.48

Source: Louisiana Gaming Control Board

The above table shows the declining ratio of revenues relative to cumulative investment in the Louisiana riverboat casino industry. Revenues have not kept pace with the continued investment in enhancements and maintenance capital expenditures. The investment in 2014 by Golden Nugget in the Lake Charles market and Margaritaville in the Shreveport-Bossier City market had different effects on these markets, as discussed below.

There are two primary types of casino-property capital investment: maintenance and enhancement. Routine investment, or “maintenance capital expenditures” (“capex,” for short), is necessary to maintain a property and keep it clean and fresh for guests. This is especially true in regional markets such as those in Louisiana, where patrons visit frequently and stay for short periods – typically for a few hours or, if a hotel is integrated, for one night.

In highly competitive markets such as Baton Rouge, Bossier City and New Orleans, proper maintenance capex is vital to retain existing customers and attract new ones. Casinos typically spend annual amounts equivalent to 3 percent to 5 percent of their GGR on maintenance capex, which can include projects such as new carpeting, repairing and refreshing restrooms, remodeling restaurants, etc.

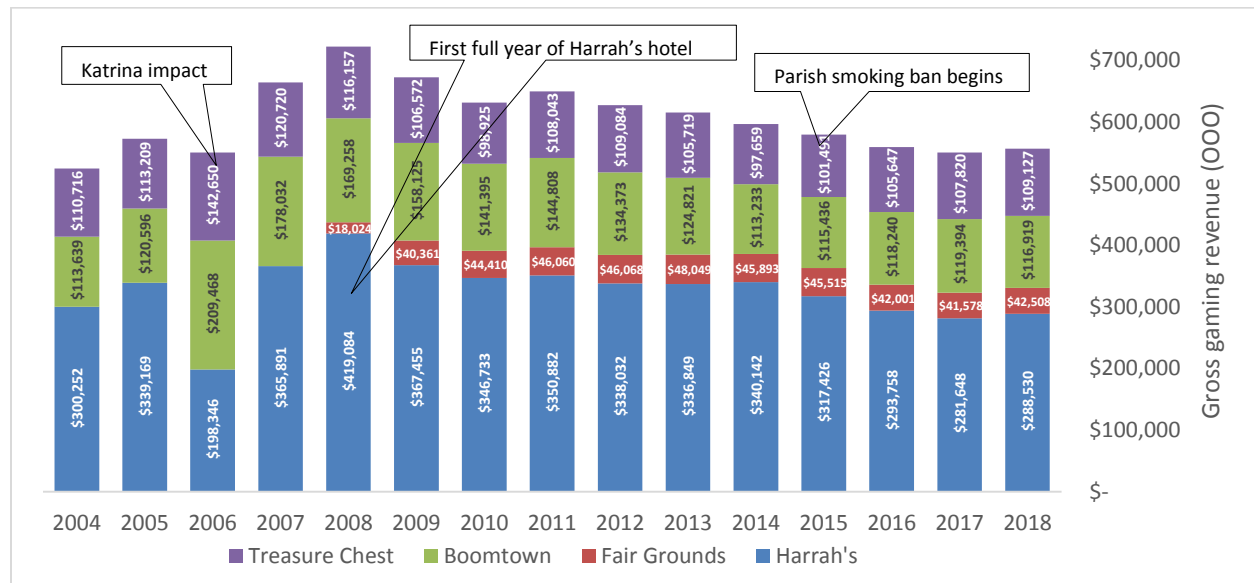
The other type of investment is major capital investment, which includes special, large-scale projects such as adding a hotel, theater or parking garage to enhance the appeal of the property. On an even larger scale, capital investment can take the form of an entirely new casino property – whether an additional competitor or a replacement property (e.g., replacing an aging riverboat casino with a new one). Below, we analyze and illustrate the impacts that major capital investment can have on markets and casino properties.

New Orleans

Although not a riverboat casino, the Harrah’s New Orleans addition of a \$170 million, 450-room luxury hotel in September 2006 shows how adding capital investment in additional amenities can grow the overall market. In FY 2007, the Harrah’s hotel operated for nine months. Gaming revenue for Harrah’s in that fiscal year increased \$26.7 million from 2005, the last full fiscal year prior to Hurricane Katrina. In 2008, the first full fiscal year of the hotel operation, casino revenue totaled \$419 million, an increase of \$80 million from the 2005 level. By adding hotel rooms, Harrah’s was able to cross-market the casino hotel to its nationwide network of players in the Total Rewards loyalty program and attract tourists. The table below shows the revenues in the New Orleans market before and after the addition of the Harrah’s hotel.

Despite having 450 rooms, management at the property noted that there have been more than 100,000 “turnaways” (guests who wanted to book but could not because of capacity) from the hotel since it opened. With the advent of the Orleans Parish smoking ban in April 2015, Harrah’s management believes it has lost a portion of its revenue to the competing nearby riverboats.

Figure 20: New Orleans gross gaming revenue by casino, 2004-2018



Source: Louisiana Gaming Control Board

Lake Charles

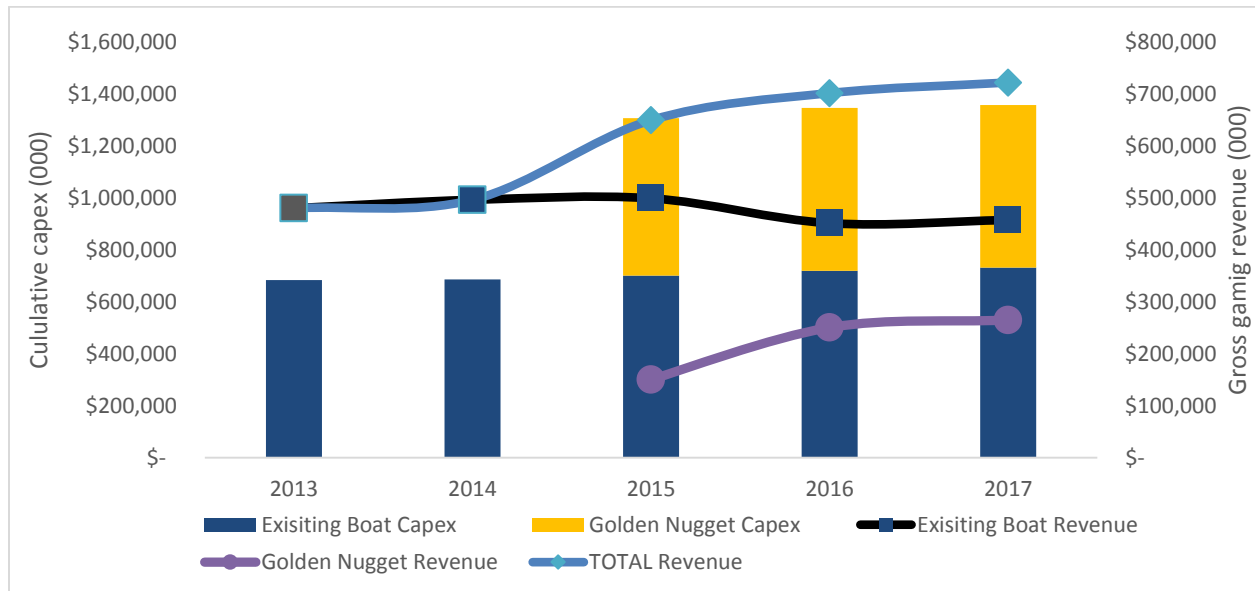
When a property makes a large capital investment, the expected return on that investment can emerge in various forms, including a greater share of GGR in its market, as seen in Lake Charles. The high demand for casino play from the Houston market was not being met by the existing Lake Charles casinos. When Golden Nugget made its initial investment of \$605.2 million to open its new casino in 2015, it not only took share from the existing operators, but grew the market substantially, as the chart below illustrates.

As the chart also shows, the two existing operators, L’Auberge du Lac and Isle of Capri, collectively lost approximately \$50 million in GGR to the newcomer. However, the addition of Golden Nugget expanded the overall market by more than \$200 million. The additional investment generated \$150 million in new revenue that yielded approximately \$32 million in additional gaming tax revenue for the State of Louisiana.

State Senator Ronnie Johns told Spectrum that the recent change in regulation eliminating the need for a paddle wheel freed up space at the Golden Nugget to add 50 seats to the restaurant. That small change in regulation created an opportunity for the expansion of Vic & Anthony’s Steakhouse, and the potential for the property to drive more non-gaming revenue, creating additional jobs.

The chart below presents the cumulative capital investment in Lake Charles and the attendant GGR. The investment by Golden Nugget is represented by the gold bar in the chart.

Figure 21: Lake Charles capital investment and gross gaming revenue



Source: Louisiana Gaming Control Board

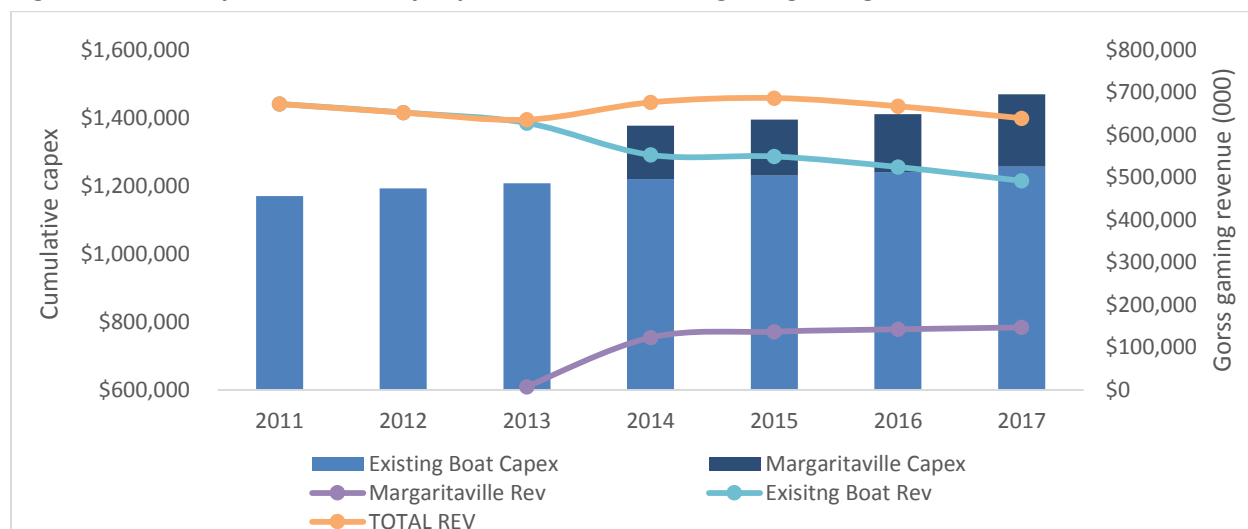
Shreveport-Bossier City

The Shreveport-Bossier City market illustrates what can occur when competitors stand pat in the face of increasing competition – in this case, competition from another state. Both Shreveport-Bossier City and southern Oklahoma compete for casino customers from the Dallas-Fort Worth market. The

Shreveport-Bossier City market has been struggling against the growing tribal gaming industry in Oklahoma. Located just over an hour's drive north of Dallas, the Oklahoma operations have distinct advantages that include proximity and a lower effective gaming tax¹² that allows them to spend more on marketing.

As shown in the following chart, the existing casinos in Shreveport-Bossier City have not made significant capital investment in their properties in recent years. And, unlike with the Lake Charles example above, the opening of a comparatively modest new casino – the Margaritaville in 2014 – merely shifted revenue in a declining market rather than growing it.

Figure 22: Shreveport-Bossier City capital investment and gross gaming revenue



Source: Louisiana Gaming Control Board

Absent the Margaritaville investment, the existing operators would arguably be no worse off than they are currently. However, adding Margaritaville may have made Louisiana better off. From 2011-2013, revenues at the existing operators fell by \$45 million; from 2014-2016 they lost an additional \$103.5 million, bringing the total decline at the pre-Margaritaville operators to \$148 million. Margaritaville revenues in 2016 totaled \$142.8 million. One could see this simply as a transfer from the incumbent boat to Margaritaville, but it may also be that the new property slowed the erosion of the market by the Oklahoma tribal casinos.

The highest-grossing casino in the market is the Horseshoe in Bossier City. Horseshoe is also operated by Caesars Entertainment, which touts its Total Rewards program as the best player-loyalty program in the industry. Two other properties in the market, Sam's Town and Boomtown, have national

¹² Oklahoma casinos with Class III slot machines share gaming revenues generated by those machines with the State of Oklahoma through a negotiated compact. The percentages may vary, but the State's "Model Compact" states a graduated revenue share of 4 percent to 6 percent of GGR, as compared to the Louisiana gaming tax rates of 21.5 percent for riverboats and land-based casino and 36 percent for racetrack casinos. Revenues from tribal casinos' Class II slots (i.e., bingo-based machines) are not subject to revenue sharing. (See "Model Tribal Gaming Compact" at <https://www.ok.gov/OGC/documents/Model%20Compact.pdf>.)

databases as well. Margaritaville Casino does not have a nationwide database of players, yet quickly became the second-highest-grossing operator in the market, a testament to the notion that players appreciate the newer, more land-based style of casino.

Gaming revenues in the market in its entirety from 2013-2017 were essentially flat. This could be interpreted as the State maintaining gaming tax revenue though the Margaritaville investment. However, six casinos are now earning \$34 million less than five properties did in 2011.

Pressure from the Oklahoma casinos is intensifying. Last year, Oklahoma legalized roulette and craps at its casinos, removing one of remaining competitive advantages that Louisiana properties had.

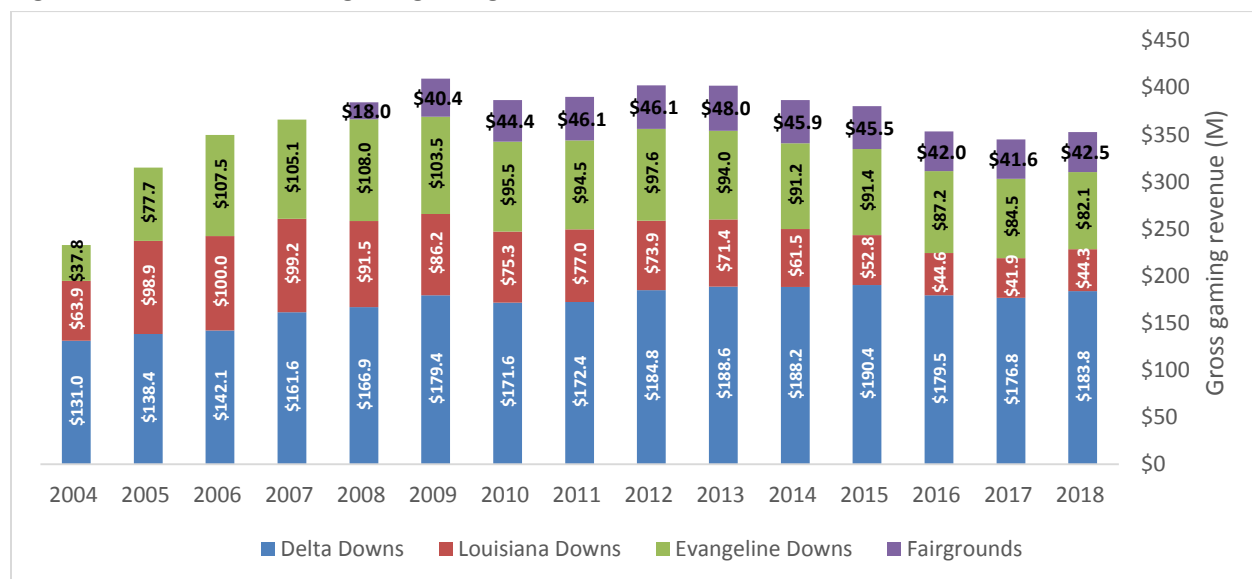
C. Racetrack Slots

Louisiana has four racetrack casinos, or “racinos,” the first of which opened in 2002. Although prohibited from offering live table games, the racinos are major gaming operations and compete directly with full-scale casinos inside and outside of Louisiana. Two of the Louisiana racinos have integrated hotels and another has an independent hotel on its site.

As is the case in other states, gaming drives the racino business; they instantly changed from “racetracks with slots” to “casinos that have a racetrack.” In Spectrum’s experience, few racetracks in the country profit from their pari-mutuel operations. With that in mind, the pari-mutuel industry is divided into two camps: Those that offer slots or casino-style games and those that want them.

The racinos in Louisiana have become fixtures in the state’s gaming industry. The following charts show their GGR performance over the past 15 years.

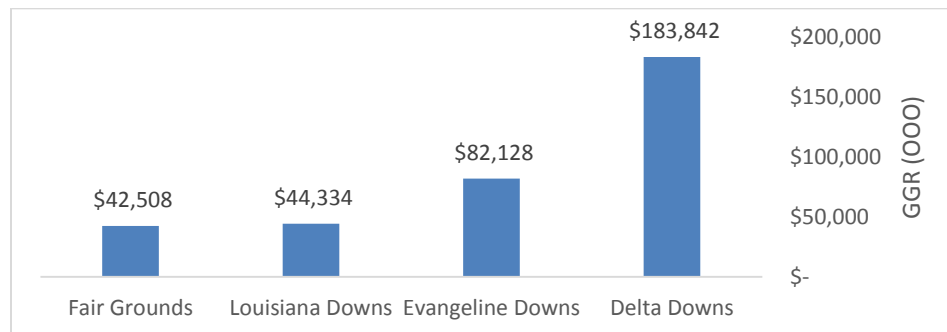
Figure 23: Louisiana racino gross gaming revenue, 2004-2018



Source: Louisiana Gaming Control Board

The performance of the racinos varies considerably, as shown for 2018 in the following chart. Delta Downs in 2018 generated 52 percent of all Louisiana racino GGR; it is located in Vinton, offering Houston players the closest venue to play slots.

Figure 24: Performance of Louisiana racinos by property, 2018



Source: Louisiana Gaming Control Board

1. Impact on the Horse Racing Industry

Louisiana approved slots at racetracks in 1997 for the primary purpose of reviving, or at least sustaining, the state’s horse racing industry, which as in many states had been in a prolonged decline amid changing consumer tastes and the rise of faster-playing casino games. It is therefore important to understand the extent to which the slots have impacted the pari-mutuel industry.

Fifteen percent of the revenue from the racetrack slots is dedicated to purse supplements to foster improvements in Louisiana’s racing industry. Key factors when looking at the economic impact of the horse racing industry are the health and expenditures of both the breeding and racing in a jurisdiction. Some of the key benchmarks that drive economic impact are the foal crop produced in that jurisdiction, the number of horses racing in the jurisdiction, and the purses available. Expenditures on both the racing and breeding businesses ripples out into other sectors of the economy.

Given the readily available data for the thoroughbreds and the fact that Quarter Horses are bred for more purposes than just racing, Spectrum used the thoroughbred data for benchmarking.

Foal Crop Comparison

One measure to evaluate the impact the slots at racetracks has had is to review information on the number of registered foals in Louisiana relative to other states with and without a racino or another similar purse-subsidy program. There are 14 racino states (Delaware, Florida, Indiana, Iowa, Louisiana, Maine, Maryland, Massachusetts, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, West Virginia) and six others that permit historical horse racing (“HHR”) machines (Arkansas, Alabama, Kentucky, Oregon, Virginia, Wyoming). Minnesota has poker rooms at the racetracks and was not used in any comparisons because the magnitude of the supplements is not comparable.

To compare similar jurisdictions to Louisiana, with and without purse supplements, only states with significant breeding programs were considered. Taking the top 10 states by foal crop size in 2016, there are eight with purse supplements from slots: Kentucky, Florida, New York, Louisiana, Maryland,

Pennsylvania, Oklahoma and New Mexico. Maryland was excluded because supplements from slots did not begin until 2010, and the slots are not at the racetracks. We kept Kentucky in the comparison because it is the top state for horse breeding and a good national benchmark. However, it should be noted when examining Kentucky in the comparisons that it was not until 2011 that the HHR machines were introduced at Kentucky Downs and in 2012, 2015 and 2018 at additional Kentucky tracks.

To find a reasonable number of states without any supplements from slots, HHR machines, or poker rooms it was necessary to take at least five states to get a representative sample and the top five of those states based on 2016 foal crops are: California, Texas, Washington, Illinois and Virginia.

The following chart compares the distribution of registered US thoroughbred foal crop for racino states vs. non-racino states. Although the breeding industry has faced challenging times, the distribution of registered US thoroughbred foal crop is markedly better in racino states than in non-racino states.

Figure 25: Distribution of registered US thoroughbred foal crop, racino states vs. non-racino states, 2000-2016

Non-racino states shaded in gray	2000	2010	2012	2014	2016	2000-2016 Change	% Change
New Mexico	470	808	658	583	528	58	12.3%
New York	1556	1378	1395	1524	1518	-38	-2.4%
Louisiana	1,247	2,326	1,677	1,403	1,127	-120	-9.6%
Kentucky*	10,118	8,456	7,137	7,689	8,423	-1,695	-16.8%
Pennsylvania	923	1,523	929	840	634	-289	-31.3%
Oklahoma	1,083	789	664	647	601	-482	-44.5%
Florida	4,551	2,413	2,015	2,212	2,114	-2,437	-53.5%
California	3,618	1,989	1,680	1,748	1,790	-1,828	-50.5%
Illinois	957	630	337	371	382	-575	-60.1%
Washington	981	361	313	214	254	-727	-74.1%
Virginia	513	281	184	132	126	-387	-75.4%
Texas	2,035	865	630	594	450	-1,585	-77.9%
12-State Total	28,052	21,819	17,619	17,957	17,947	-10,105	-36.0%
US Total	34,728	25,809	21,016	21,418	21,024	-13,704	-39.5%
Racino States*	19,948	17,693	14,475	14,898	14,945	-5,003	-25.1%
Non-Racino States	8,104	4,126	3,144	3,059	3,002	-5,102	-63.0%

Source: Source: The Jockey Club The Fact Book. *Kentucky offers HHR machines, with a portion of revenue dedicated to breeding & purses and introduced in 2011.

The table above illustrates the success Louisiana has had in sustaining its thoroughbred breeding industry when compared against states without such a program. The Kentucky foal crop has actually increased 12.7 percent from 2012 to 2016, which most likely is due to the introduction of the HHR machines in 2011.

The Louisiana foal crop was the sixth-largest in 2000 and the fifth-largest in 2016. The Louisiana foal crop has outperformed most states and significantly outperformed in comparison to the 12 states in the table above. The 12 states in the table above represent more than 85 percent of the total 2016 foal crop in the United States. In contrast to the almost 40 percent decline in thoroughbred foals nationwide,

Louisiana has declined less than 10 percent and significantly less than states with no purse supplement programs.

Number of Horses Racing

The number of horses racing in a jurisdiction also has a significant effect on the total impact of the horse racing industry in a jurisdiction. Race horses require substantial expenditures for training, veterinary care, jockey and exercise rider fees, and many other care-related expenses that contribute to the agricultural and overall economy.

Figure 26: Number of races and starters, 2008-2018

Year	Louisiana Races	USA Races	Louisiana Starters	North American Starters	Louisiana Starts	North American Starts	Louisiana Race Days	Louisiana Avg. Field Size	North American Avg. Field Size
2008	3,404	50,120	7,852	72,638	31,782	450,095	339	9.3	8.17
2009	3,554	49,368	8,008	71,662	32,748	446,196	359	9.2	8.24
2010	3,251	46,379	7,581	68,235	29,833	417,192	330	9.2	8.19
2011	3,531	45,417	7,451	64,625	31,590	400,408	354	8.9	8.04
2012	3,355	45,086	7,036	61,863	29,820	389,568	336	8.9	7.89
2013	3,317	43,139	6,539	58,138	28,619	367,567	340	8.6	7.85
2014	3,186	41,276	6,041	55,198	26,799	343,397	336	8.4	7.69
2015	3,076	38,941	6,014	53,365	25,892	329,974	337	8.4	7.82
2016	2,967	38,284	6,100	52,049	24,881	322,878	329	8.4	7.78
2017	2,965	37,628	5,823	50,651	24,064	314,460	331	8.1	7.7
2018	2,961	36,586	5,908	49,390	23,872	303,014	332	8.1	8.28

Source: The Jockey Club Louisiana Fact Book 2019 and The Jockey Club Fact Book 2019

Louisiana compares quite favorably when comparing the state’s thoroughbred racing statistics to the national and North American averages and trends. Total races in Louisiana have declined only 13 percent compared to the US decline of 27 percent. Total starters in Louisiana have decreased 24.8 percent while the North American decline has been 32 percent. The number of race days has remained relatively stable in Louisiana, and the average field size for Louisiana thoroughbred races has exceeded the North American average in every year since 2008, except for 2018.

Because purses are a significant factor in attracting horses to a jurisdiction, one would suspect that the purse supplements have helped Louisiana outperform the trends currently across the country.

Purse Supplements

According to data from the Louisiana Gaming Control Board and The Jockey Club used in this study, well over 50 percent of purses each year for the past 10 years has come from the slots purse supplements. Without those supplements it would be difficult to attract horses to race in Louisiana because purses elsewhere would be significantly more attractive.

Figure 27: Louisiana and US purses, 2008-2018

Year	Louisiana Purses	USA Purses	Louisiana Avg. Purse per Race	USA Avg. Purse per Race
2008	\$86,306,399	\$1,165,000,000	\$25,354	\$23,244
2009	\$89,461,989	\$1,098,200,000	\$25,172	\$22,245
2010	\$76,089,389	\$1,031,300,000	\$23,405	\$22,236
2011	\$86,081,780	\$1,061,200,000	\$24,379	\$23,366
2012	\$81,537,722	\$1,127,800,000	\$24,303	\$25,014
2013	\$79,915,535	\$1,127,200,000	\$24,093	\$26,129
2014	\$75,686,139	\$1,111,700,000	\$23,756	\$26,933
2015	\$74,370,654	\$1,093,700,000	\$24,178	\$28,086
2016	\$73,442,700	\$1,083,700,000	\$24,753	\$28,307
2017	\$67,564,860	\$1,079,700,000	\$22,787	\$28,694
2018	\$73,654,420	\$1,117,700,000	\$24,875	\$30,550
2008-18 change	-14.7%	-4.1%	-1.9%	31.4%

Source: The Jockey Club Louisiana Fact Book 2019 - A Statistical Guide to the Thoroughbred Industry in Louisiana

The one area in which the Louisiana horse racing industry has not remained competitive with national averages is purses. As per the table above, over the last 10 years total purses in Louisiana have declined 14.7 percent, compared to a 4.1 percent decline nationally. Even more concerning is the trend in average purse sizes. While the national average purse has increased 31.4 percent, Louisiana’s average purse has declined slightly. This most likely is due to a number of local and national factors.

One factor for this trend, is as noted above, the number of races in Louisiana has declined only 13 percent compared to the national average of a 27 percent decline. This coupled with the fact that total purses has declined in Louisiana more than the national trend has a significant effect on the average purse size. Put another way, total purses in Louisiana are declining more and race numbers are declining less, making the average purse trend much worse for Louisiana compared to national trends.

Other factors that would affect this are increased competition and the addition of more purse supplements in other states enhancing the national averages. For example, in Kentucky since 2011 when historical horse racing machines were introduced at racetracks more than \$4 billion has been wagered on those machines, with portions dedicated to purses and bred development funds. Also, other states have added more slot supplements to purses in the past 10 years. The tracks in Maryland, New York and Ohio, for example have seen an expansion of purse supplements and tracks with slots.

Quarter Horse Comparison

A large percentage of Quarter Horses raised are not used for racing purposes. Many are used for pleasure horses, show horses, and other competitive and agricultural purposes. Therefore, unlike with thoroughbreds, those statistics do not accurately reflect just the impact of the supplements to purses and the racing industry. The table below provides the past eight years of Louisiana Quarter Horse races and purses.

Figure 28: Louisiana Quarter Horse racing data, 2011-2018

Year	Number of Race Days	Number of Races	Total Purses Awarded	Pari-Mutuel Purses	Slots/Video Poker Purses	Other Purses	Stakes Purses	Total Daily Average	Total Overnight Purses	Overnight Daily Average	Total Average per Race
2018	148	1159	\$20,741,282	\$1,653,839	\$15,819,625	\$3,267,818	\$6,583,912	\$616,610	\$14,157,370	\$95,658	\$17,896
2017	148	1151	\$19,470,745	\$1,228,956	\$15,124,442	\$3,117,347	\$6,302,522	\$580,507	\$13,168,223	\$88,974	\$16,916
2016	148	1172	\$20,928,248	\$1,297,805	\$16,154,023	\$3,476,421	\$6,285,609	\$623,558	\$14,642,640	\$98,937	\$17,857
2015	145	1181	\$21,760,444	\$1,337,910	\$17,053,298	\$3,369,236	\$5,843,406	\$653,313	\$15,917,038	\$109,773	\$18,425
2014	150	1318	\$22,612,484	\$1,493,074	\$18,184,726	\$2,934,684	\$5,926,434	\$640,034	\$16,686,050	\$111,240	\$17,157
2013	152	1356	\$22,738,477	\$1,527,493	\$18,436,094	\$2,774,890	\$5,560,955	\$642,959	\$17,177,522	\$113,010	\$16,769
2012	147	1448	\$22,446,600	\$1,521,907	\$18,188,170	\$2,736,523	\$5,489,723	\$906,155	\$16,956,877	\$115,353	\$15,502
2011	150	1473	\$21,826,990	\$1,411,794	\$18,157,512	\$2,257,684	\$4,980,534	\$615,324	\$16,846,456	\$112,310	\$14,818
8-yr.Ch.	-0.3%	-21.3%	-5.0%	17.1%	-12.9%	44.7%	32.2%	0.2%	-16.0%	-14.8%	20.8%

Source: Louisiana Horsemen’s Benevolent Protective Association

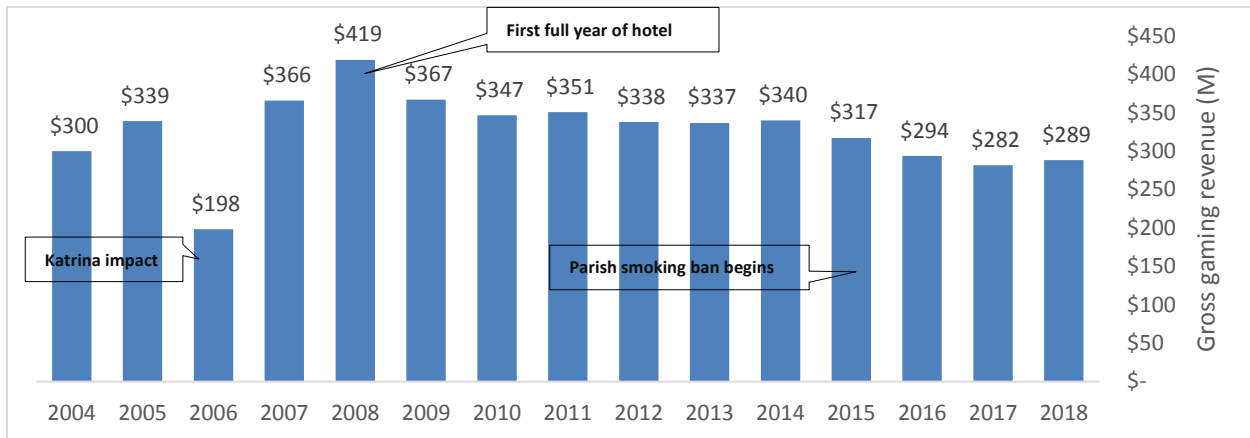
Despite an almost 13 percent decrease in the slots/video poker purse supplements, the Quarter Horse racing industry has done a very good job of increasing purses from pari-mutuels and other sources. Those increases, coupled with a decline in the total number of races, has kept the Louisiana Quarter Horse racing industry competitive.

Total purses have declined only 5 percent, and because of the decreased number of races, the average purse for Quarter Horse races has increased almost 21 percent. When compared to thoroughbred average purses, this has positioned the Louisiana Quarter Horse racing industry in a very good position. Throughout the country, Quarter Horse purses on average are substantially lower than thoroughbred average purses. With the help of the purse supplements and other increases in purses from pari-mutuels and other sources, the Louisiana Quarter Horse industry has positioned its racing to be able to maintain the same number of race days and also be an attractive place to race Quarter Horses compared to many other states.

D. Land-Based Casino

The formal segmentation of “land-based casino” is unique to Louisiana because the authorization to develop a casino in New Orleans was an exception to what had been a riverboat-only gaming industry. Harrah’s New Orleans opened in in 1999 and remains the only formally designated land-based, State-regulated casino in Louisiana. The following chart shows its revenue performance since 2004.

Figure 29: Louisiana land-based casino gross gaming revenue, 2004-2018



Source: Louisiana Gaming Control Board

GGR at Harrah’s New Orleans was fairly stable from 2010 through 2014, averaging \$342 million with a high of \$351 million and a low of \$337 million. The decline since 2015 has been attributed by management to the imposition of the Orleans Parish smoking ban, which may have driven local players to riverboat casinos in nearby Jefferson Parish, where smoking is permitted.

1. Economic Impacts

Caesars Entertainment has continued to invest in Harrah’s New Orleans. It added a 450-room hotel tower in 2006. Total capital investment in the property, which includes the hotel, a parking garage, and redevelopment of Fulton Street, exceeds \$1 billion. It is now considering development of a second, 340-room hotel tower as part of a \$350 million project.¹³

Among the reasons for committing to a land-based casino was the promise of it becoming a major employer. Harrah’s New Orleans committed to employ 2,400 people when it signed its contract with the State. The property now employs more than 2,500, with an annual payroll of more than \$66 million in 2018. Using a 4 percent State income tax rate, employees of the casino paid approximately \$2.6 million in annual State income taxes that year. The company reports that Harrah’s New Orleans spent \$14.8 million with area vendors in 2016.

Each year the casino is required to pay 21.5 percent of GGR – with a minimum of \$60 million – to the State. The table below shows its yearly payment; since 2010 it has paid \$628 million in State taxes. Revenues at Harrah’s were fairly stable from 2010 through 2014 (the last year prior to the smoking ban), averaging \$342 million with a high of more than \$350 million and a low of about \$337 million.

¹³ Jennifer Larino, “Harrah’s wants to add 2nd luxury hotel to its New Orleans casino site,” *The Times-Picayune*, February 14, 2018. https://www.nola.com/business/2018/02/harrahs_new_hotel_new_orleans.html

Figure 30: Harrah’s New Orleans GGR, tax payments and admissions, 2010-2018

Year	GGR	State Tax	Admissions
2008	\$419,084,183	\$90,239,866	5,761,119
2009	\$367,455,437	\$82,056,007	5,496,301
2010	\$346,733,061	\$75,001,146	5,533,105
2011	\$350,881,742	\$75,464,590	5,011,273
2012	\$338,032,156	\$73,413,383	5,057,997
2013	\$336,849,078	\$72,577,346	4,827,329
2014	\$340,142,149	\$72,856,896	5,006,736
2015	\$317,425,803	\$71,445,751	4,847,730
2016	\$293,757,832	\$63,841,869	4,791,171
2017	\$281,648,264	\$60,000,000	4,423,296
2018	\$288,529,625	\$63,753,100	4,222,177

Source: Louisiana Gaming Control Board

2. Tourism Impacts

Tourists visit New Orleans for many reasons. Adding gaming to that mix diversifies the attractions and offers one more reason for people to choose New Orleans. The 2015 *New Orleans Area Visitor Profile Report* found that 23.9 percent of 88,696 tourists surveyed visited Harrah’s, while another 18.9 percent said they participated in gambling without specifying a location.¹⁴ The report cites the total number of visitors to New Orleans in 2015 as 9.78 million.¹⁵ Clearly, casino gaming is a draw for the city. By doing simple math we can estimate that approximately 4.2 million visitors gambled when they were in New Orleans, with more than 2.3 million of them specifying the Harrah’s casino as a destination. The average GGR per admission at Harrah’s for the past decade is about \$67. Using the \$67 figure as a GGR per guest, and the information from the visitors bureau, we estimated that Harrah’s generated almost \$160 million in GGR from tourists that year.

On a broader scale, the 2017 *Louisiana Visitor Profile* notes that 34 percent of visitors come to Louisiana to visit an attraction. Of those, 50 percent – or 17 percent of all visitors – cited gambling as an attraction in which they participated.¹⁶ The report also highlights the metro areas from which visitation originates; the Dallas and Houston areas account for 6.9 percent and 10.4 percent of the trips, respectively.¹⁷

¹⁴ 2015 New Orleans Area Visitor Profile Annual Report, prepared for New Orleans Convention and Visitors Bureau and New Orleans Tourism Marketing Corporation, University of New Orleans Hospitality Research Center, March 2016. <http://wvue.images.worldnow.com/library/8defc313-f6bc-4b3d-b57b-fff7b5cf04c4.pdf>

¹⁵ Ibid.

¹⁶ “Year-End 2017 Visitor Profile. An Inside Look at the Louisiana Travel Market,” D.K. Shifflet & Associates, August 2018. <https://www.crt.state.la.us/Assets/Tourism/research/documents/2017-2018/2017%20Louisiana%20Visitor%20Profile-Final%20Rev%2081418.pdf>

¹⁷ Ibid.

The report divides Louisiana into five regions. Region 5 is made up of Bossier and Caddo parishes. The report states that the Dallas area accounts for 25 percent of visits to Region 5, further emphasizing the importance of the Dallas market to the Shreveport-Bossier City casinos. Houston, according to the report, is responsible for 47 percent of visits to Region 4¹⁸ which includes Calcasieu Parish, home to Lake Charles. Suffice to say, the Texas market is very important to Louisiana tourism in general.

E. Video Poker

The video poker industry in Louisiana operates in 31 parishes. It is segmented into five types, not all of which are available in each parish. More than half of these machines are in truckstop locations, while 8 percent are located at the 14 off-track betting (“OTB”) locations operated by Fair Grounds and Evangeline Downs. The different types pay varying rates of franchise fees – sometimes referred to as gaming tax – to the State, as shown in the table below.

The video poker devices at the OTBs pay the lowest franchise fee. However, the 22.5 percent franchise fee is assessed on revenues after 20 percent of GGR is paid to purse supplements for the horse racing industry. In other words, the OTB operations pay all the first 20 percent of GGR to fund purse supplements, then pay the 22.5 percent franchise fee on the remaining 80 percent of GGR. In sum, OTB operators retain approximately 62 percent of the device revenue.

The daily win per video poker machine (commonly called “win per unit,” or “WPU”) is an industry-standard measure to evaluate the productivity of each gaming position. This measure enables comparison between locations, types of machines and venue type across all forms of gaming. The following table provides the video poker WPU and franchise fees by type.

Figure 31: Louisiana video poker performance, segmentation by type

Type	Units	Establishments	WPU	Fees (000)
Bar	2,902	978	\$85	\$23,313
Restaurant	1,527	536	\$67	\$9,695
Hotel	52	9	\$66	\$326
OTB	1,104	14	\$111	\$8,065
Truckstop	7,905	202	\$142	\$133,465
ALL	13,490	1,739	\$119	\$174,864

Source: Louisiana Gaming Control Board

The WPU at bars and restaurants is much lower than at OTBs or truckstops for several reasons. The OTBs and truckstops have many more machines and dedicated gaming spaces. The other venues have three machines each. Gaming in bars and restaurants is an ancillary rather than primary activity, and thus gamblers are not their primary customer. As such, these venues do not have the same feel as a dedicated gaming space found in the larger OTBs and truckstops. The result is that players spend less time gaming at the devices in bars and restaurants.

¹⁸ Ibid.

While the WPU is low at the bars and restaurants in many cases, the leaders of the two primary video poker trade associations told Spectrum that the additional revenue keeps the doors open for many of these establishments. “Numerous places would be out of business if not for video poker,” said Mona LaCombe, Executive Director of the Louisiana Amusement and Music Operators Association.

Statewide, however, video poker revenue declined during the Great Recession and has never recovered. Overall revenues are down by \$90 million since FY 2009. Since then, more than 1,600 video poker machines have been pulled from the market, with the majority of those coming from the smaller operators at bars and restaurants.

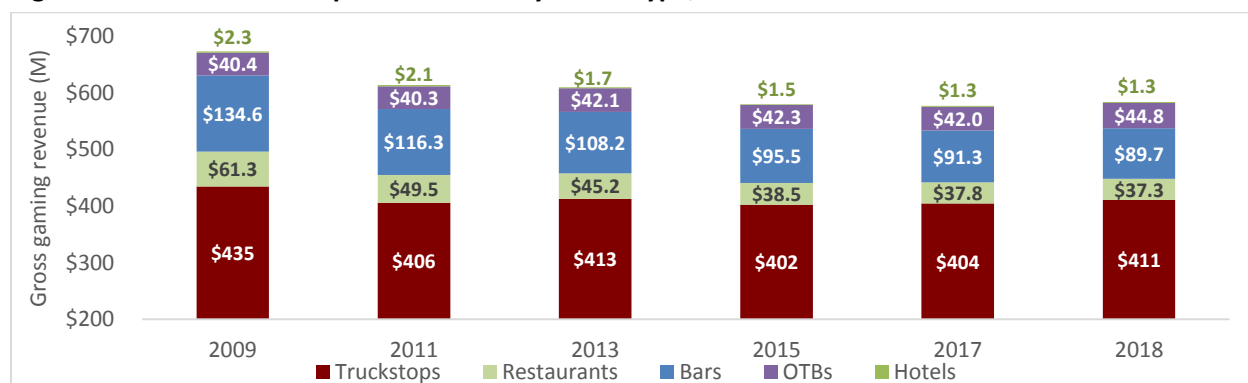
Figure 32: Change in Louisiana video poker devices and establishments by type 2018 vs. 2009

License Type	No. Machines	No. Establishments	No. Machines	No. Establishments	Change in Machines	Change in Establishments
	FY 2018		FY 2009		FY 2018 vs '09	
Bars	2,902	978	3,787	1,259	(885)	(281)
Restaurants	1,527	536	2,427	827	(900)	(291)
Hotels	52	9	60	10	(8)	(1)
OTBs	1,104	14	970	12	134	2
Truckstops	7,905	202	7,327	186	578	16
Totals	13,490	1,739	14,571	2,294	(1,081)	(555)

Source: Louisiana Gaming Control Board

The win per unit overall in the video poker market has held fairly steady over the years at between about \$115 and \$120. Total revenues were fairly stable in the \$600 million range through 2015, when the smoking ban in Orleans Parish hurt revenues at many OTBs and other video poker outlets. From the 2009 peak, video poker revenues have declined 13 percent. Nearly 1,800 machines were removed from bars and restaurants, while truckstops and OTBs grew. A portion of this decline may be the lingering effects of the Louisiana Smoke-Free Air Act, which went into effect January 1, 2007. The act banned smoking at restaurants statewide but not at bars or truckstop gaming parlors. However, truckstop locations did not pick up the loss of high-frequency, low-dollar play from the restaurants because truckstops are not as convenient for a quick trip to have a drink or a bite and play a little video poker. In 2009, bars and restaurants accounted for 29.1 percent of play but by 2018 that had fallen to 21.8 percent.

Figure 33: Louisiana video poker revenue by venue type, 2009-2018



Source: Louisiana Gaming Control Board. Note that hotels barely register in the chart; their performance is in green type on top.

Like the state as a whole, Louisiana’s video poker operations vary by type, size, geography, quality and performance. An important aspect in evaluating the video poker industry is assessing the performance of the operations across differing regions. We allocated each of the 31 parishes into one of three categories: rural, suburban and urban. Our geographic categories are based on a variety of factors including population density and whether the parish was included in a defined metropolitan statistical area. The parishes and Spectrum’s classifications are provided in the following table.

Figure 34: Categorization of video poker parishes

Parish	Classification	Parish	Classification
Acadia	Suburban	Bossier	Urban
Cameron	Suburban	Caddo	Urban
Desoto	Suburban	Calcasieu	Urban
Iberville	Suburban	Orleans	Urban
Jefferson	Suburban	Assumption	Rural
Jefferson Davis	Suburban	Avoyelles	Rural
Lafourche	Suburban	East Carroll	Rural
Plaquemines	Suburban	Madison	Rural
St Bernard	Suburban	Pointe Coupee	Rural
St Charles	Suburban	Red River	Rural
St James	Suburban	St Helena	Rural
St John	Suburban	St Mary	Rural
St Landry	Suburban	Tensas	Rural
St Martin	Suburban	West Feliciana	Rural
Terrebonne	Suburban		
Webster	Suburban		
West Baton Rouge	Suburban		

Source: Spectrum Gaming Group

The following shows that suburban parishes have the highest number of machines and locations and perform at the highest level.

Figure 35: Video poker performance by parish type, 2018

Parish Type	Units	Establishments	WPU	Fees (000)
Rural	1,727	159	\$118	\$23,645
Suburban	8,749	1,042	\$123	\$116,047
Urban	3,014	538	\$105	\$35,173
TOTAL	13,490	1,739	\$119	\$174,864

Source: Louisiana Gaming Group Board, Spectrum Gaming Group. WPU = average daily win per unit.

The location of the video poker establishment as rural, urban or suburban did not have as much of an impact as the type of establishment. The average WPU across the state regardless of the surrounding area was \$119. Urban parishes have the lowest WPU, but riverboat or land-based casinos operate in all of the four urban parishes.

Two of Louisiana’s four racetrack casinos also operate video poker games at their OTB operations. Those operated by Evangeline Downs exhibit relatively low WPU, which may be explained by its presence the Evangeline Downs racino in St. Landry Parish and the fact that there are more than 800 video poker units at 16 truckstop locations in St. Martin Parish, which has an estimated population of 54,171 according to the US Census Bureau’s July 2018 estimate.

Figure 36: Video poker performance at OTBs operated by Evangeline Downs

OTB Site	Parish	Games	Estimated WPU	Estimated Site Revenue
Breaux Bridge	St. Martin	50	\$57	\$1,048,582
St. Martinville	St. Martin	50	\$57	\$1,048,582
Eunice	St. Landry	56	\$50	\$1,012,183
Old Evangeline OTB Video Poker		156		\$3,109,346

Source: Louisiana Gaming Group Board, Spectrum Gaming Group

The Churchill Downs/Fair Grounds OTBs are concentrated in the New Orleans metro area. In contrast to the Evangeline Downs operations, they exhibit much higher WPU, particularly in Jefferson Parish, which is home to both the Treasure Chest and Boomtown casinos. The difference in WPU likely has less to do with other nearby forms of gaming than the household income of the parishes.¹⁹ In the six parishes served by Fair Grounds OTBs, the median household income is more than \$47,000. In the two parishes served by Evangeline Downs, the median household income is about \$35,000.

Figure 37: Video poker performance at OTBs operated by Fair Grounds

OTB Site	Parish	No. Games	Estimated WPU	Estimated Site Revenue
Kenner	Jefferson	93	\$143	\$4,853,293
Gretna	Jefferson	100	\$143	\$5,218,595
Metairie	Jefferson	95	\$143	\$4,957,665
Westwego	Jefferson	90	\$143	\$4,696,735
Harahan	Jefferson	100	\$143	\$5,218,595
Thibodaux	Lafourche	50	\$80	\$1,459,757
Chalmette	St Bernard	126	\$122	\$5,601,779
Destrehan	St Charles	65	\$55	\$1,305,434
Boutte-Luling	St Charles	70	\$55	\$1,405,852
La Place	St John the Baptist	76	\$126	\$3,506,026
Houma	Terrebonne	83	\$115	\$3,469,717
Fair Grounds OTB Video Poker		948	\$120	\$41,693,447

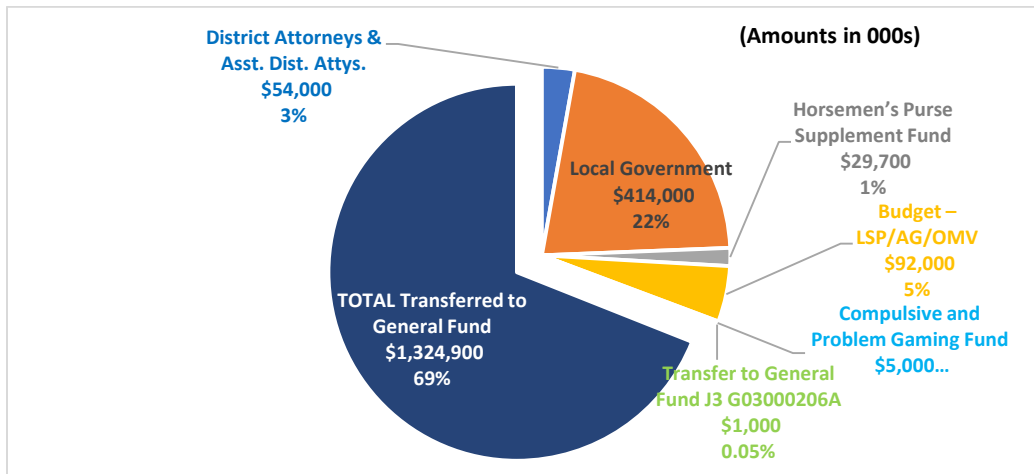
Source: Louisiana Gaming Control Board, Spectrum Gaming Group

1. Video Poker Taxes

The State collected \$174,864,350 in franchise fees, or gaming taxes, from the 1,739 licensed video poker operators in FY 2018. The following table shows the uses of video poker fees for the 10-year period ending FY 2018.

¹⁹ US Census Median Household Income 2012 Estimates. <https://us-places.com/Louisiana/median-household-income-by-Parish.htm>

Figure 38: Uses of video poker fees, FY 2009-FY 2018



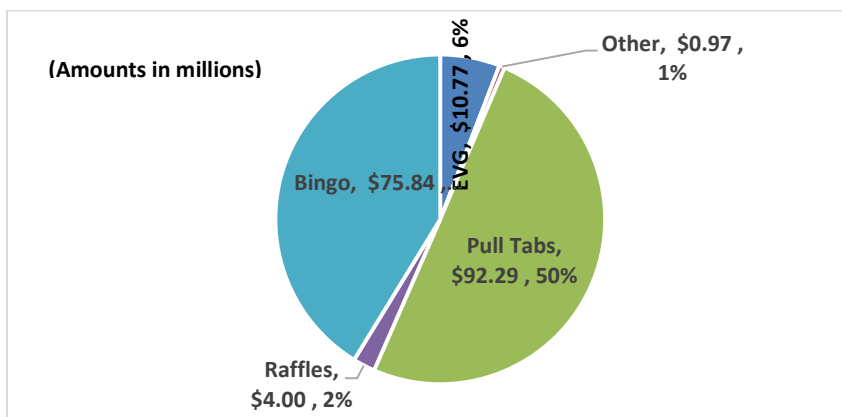
Source: Louisiana Gaming Control Board

As shown above, the bulk of video poker fees is transferred to the General Fund, with local governments receiving 22 percent and other recipients dividing 9 percent.

F. Charitable Gaming

Charitable gaming in Louisiana is regulated by the Department of Revenue, Office of Charitable Gaming (“OCG”). The OCG provided information on the number of charities participating in gaming, overall revenues from charitable gaming, and the amounts available to the charities for pursuing their missions referred to as “contributions” (i.e., the amount available after expenses). Bingo, raffles, pull tabs and keno are authorized games under the charitable gaming rules. Of the \$183.9 million in charitable gaming gross sales, only \$4 million was attributable to raffles.

Figure 39: Charitable gaming gross sales by game type

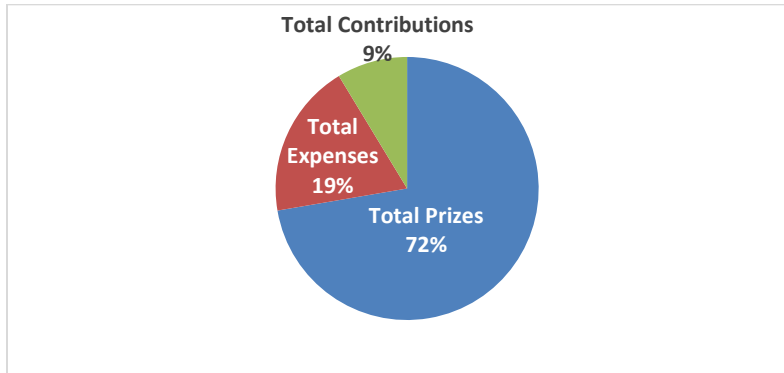


Source: Office of Charitable Gaming

Many charities operate bingo games in dedicated bingo halls. The hall operator owns the hall and the equipment and charges rent to the charity for organizing and hosting but not operating the games. Each charity provides paid workers to operate the games for sessions that benefit that charity.

For FY 2018, charitable gaming paid 72 percent of gross sales back to players in prizes. Approximately 19 percent went to cover the expenses of the hall, bingo supplies, and paying the workers who run the games. Only 9 percent of total sales make it into the hands of the charity operating the game.

Figure 40: Charitable gaming sales breakdown



Source: Office of Charitable Gaming

The OCG lists 39 commercial bingo hall operators on its website. These halls are in 19 parishes. The halls generally host games for several charities, offering multiple sessions a day several days a week. Each hall hosts two-hour bingo sessions that charities operate.²⁰

The weekly schedule from the Gretna Bingo Palace is below. The hall hosts sessions several days a week with multiple sessions each day. Each charity can only operate a session after a 12-hour period between sessions. Thus, the Historical Society can operate a session on Tuesday afternoon, Wednesday morning, Friday afternoon, and Sunday afternoon, leaving time between the sessions they operate. The hall can offer video bingo machines anytime; a bingo session has more than 10 players. The video bingo machines are open 3 p.m. Sunday through Tuesday and 12:10 p.m. Wednesday through Saturday.

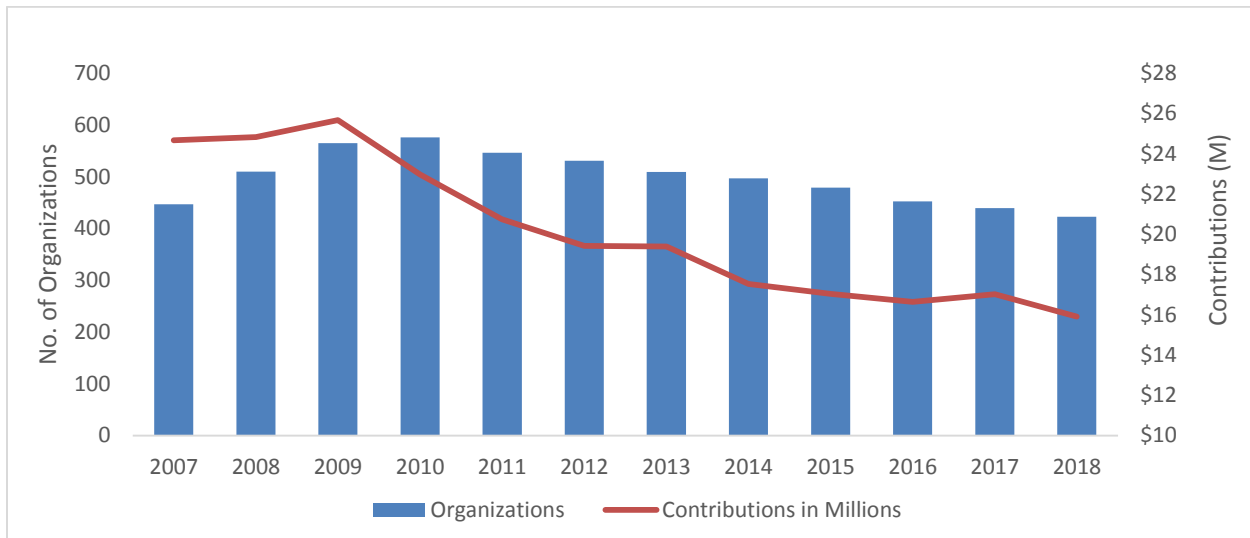
Figure 41: Gretna Bingo Palace calendar

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
	<i>Free Cards On Your Birthday!</i>						
12:10 PM	ATM MACHINE		Gretna Historical Society	David Crockett Fire Co. #1	Gretna Police	KC 1905	///
3PM	Gretna Economic Development	Gretna Historical Society	David Crockett Fire Co. #1	Post Backstage	Gretna Historical Society	Gretna Police	Gre Historical Soc
8PM	German American	Westbank Optimist	Post Backstage	Krewe of Cleopatra	Westbank Optimist (Regular)	Gretna Economic Development	Gre Ecor Develo
10:30 PM	Italian American	Westbank ARC	Westbank ARC	Westbank Rotary	///	German American	Ger Ame
11PM	///	///	///	///	Westbank Rotary	///	///

Source: Gretna Bingo Palace

²⁰ La. Admin. Code tit. 42, § 1703 (“Session - represents authorized games of chance played within a time limit of two consecutive hours, within the same calendar day, with a minimum of 12 hours between sessions ...”).

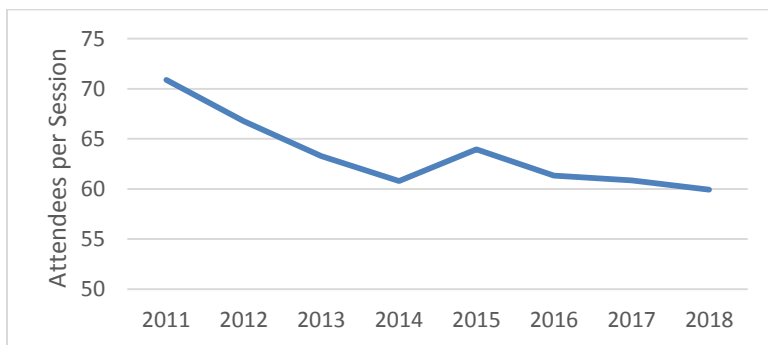
Figure 42: Louisiana charitable organizations and contributions



Source: Office of Charitable Gaming

Data provided by the OCG also showed that participation per charitable gaming session had declined over the past several years. Reasons for this decline include the limited appeal of charitable gaming to younger players, smoking bans, and declining population in some areas where charitable operations exist.

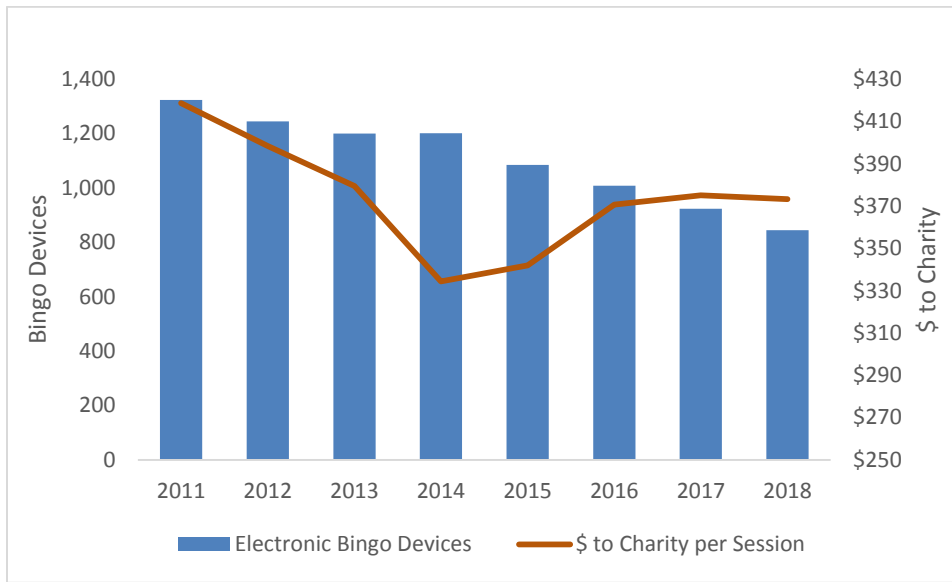
Figure 43: Charitable gaming average attendance per session



Source: Office of Charitable Gaming

In an effort to modernize bingo, many operators have begun offering electronic bingo. Electronic bingo games are designed to look like slot machines. The electronic bingo games play bingo, but the visual displays make them appear like slot machines. These electronic bingo games can be played at commercial bingo halls during live sessions of bingo as long as there are 10 games of live bingo or keno playing in the hall. These games are similar to the Class II slot machines offered at the Jena Choctaw Pines tribal casino in Dry Prong. While the number of devices has fallen recently, the contribution per session has increased. The contribution per session to the charity is the portion of the electronic bingo winnings from all the machines in play while that charity was running them.

Figure 44: Charitable electronic bingo devices and contributions per session

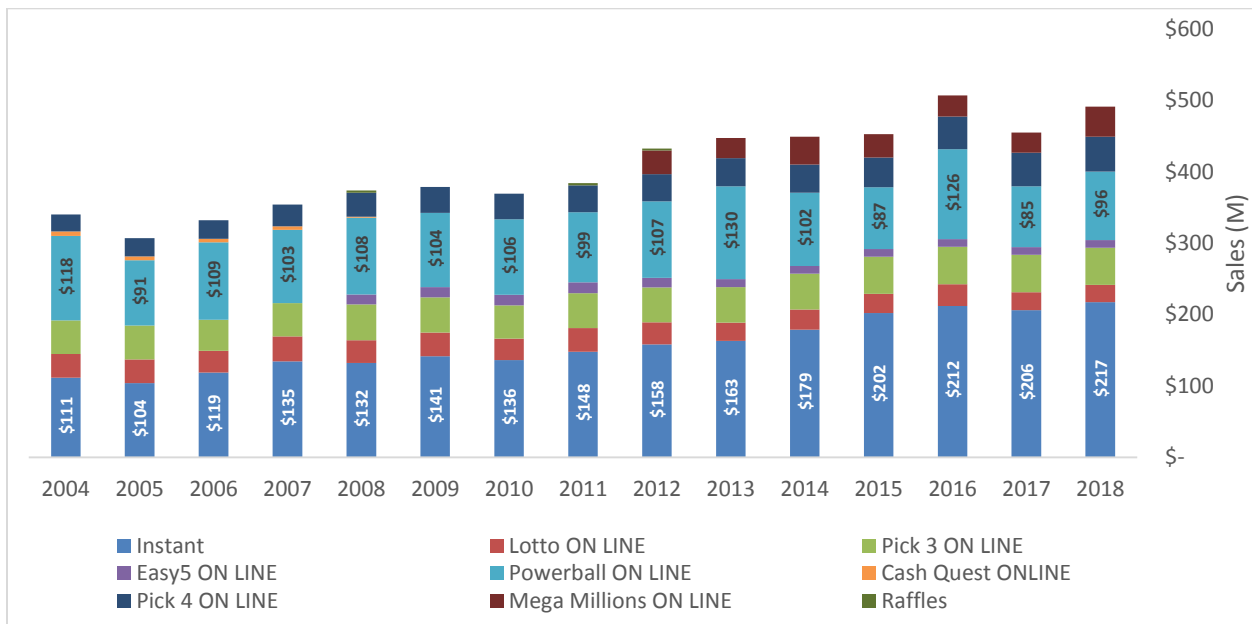


Source: Office of Charitable Gaming

G. Lottery

The Louisiana Lottery has been generally demonstrated consistent growth over time, with gross sales increasing 44.4 percent from 2004 to 2018, as shown in the following chart.) The performance of the Lottery is discussed in detail in Chapter VI of this report.)

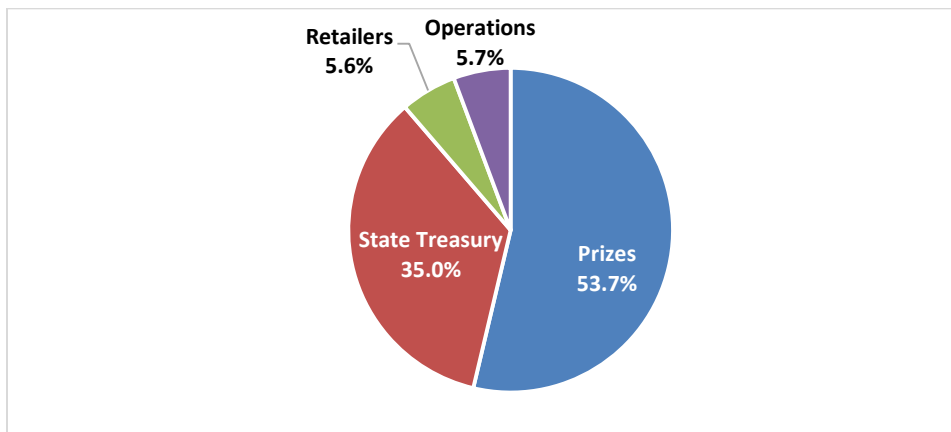
Figure 45: Louisiana lottery sales, 2004-2018



Source: Louisiana Lottery Corporation 2018 CAFR

The Lottery is required to pay 35 percent of its revenues to the State Treasury. Other funds are used to pay prizes, retailers, and fund the operations of the Lottery. The following chart illustrates a breakdown of lottery sales.

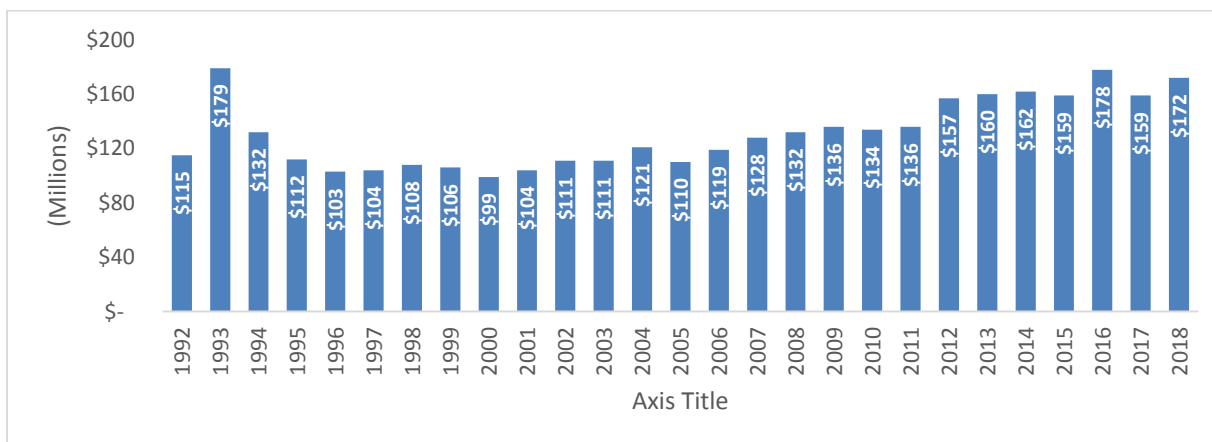
Figure 46: Breakdown of lottery sales proceeds, 2017



Source: Louisiana Lottery

The revenue that is transferred from the Lottery is dedicated to fund the Minimum Foundation Program, which funds public education in Louisiana. The statute establishing the Lottery requires that the Lottery transfer at least 35 percent of its revenue to the State. In FY 2018 the Lottery transferred more than \$171.9 million to the State for education. The following chart illustrates the transfers.

Figure 47: Louisiana Lottery transfers to Treasury, 1992-2018



Source: Louisiana Lottery. For 2014, excludes an additional State transfer of \$9 million to the Louisiana Mega-Project Development Fund per a 2014 legislative act. For 2015, excludes an additional transfer of \$20 million from unclaimed prize funds to the Lottery Proceeds Fund and another \$5.9 million transfer to the Lottery Proceeds Fund per a 2015 legislative act.

H. Conclusion

The performance of all legal gambling sectors in Louisiana except lottery has been stagnant or in decline since the peak of Great Recession of 2008. Based on Spectrum’s analysis and research including

interviews with gaming operators, the primary reasons (as discussed in this chapter and in chapters II and IV of this report) for decline in the casino sector include:

- The rise of large, quality tribal casinos in Oklahoma that draw patrons from the lucrative Dallas-Fort Worth market as well the presence of higher-quality casinos on the Mississippi Gulf Coast
 - Oklahoma and Mississippi casinos have significantly lower effective gaming-tax rates than those in Louisiana and are further not taxed on free play, giving them a significant competitive advantage in marketing and facility reinvestment
- Casino properties that have not modernized, either by lack of adequate capital investment and/or regulatory restrictions
- The continuing improvement of tribal casinos within Louisiana, which are not subject to the same gaming-tax burden and regulations as commercial casinos
- Fluctuating economic conditions in the state

The Louisiana video poker industry has reached a point of stability at about \$580 million in annual revenue. Statewide smoking restrictions have impacted video poker performance at restaurants but not at truckstops and OTBs, whose gaming floors are not subject to the statewide smoking restrictions. However, video poker operators are concerned that future smoking restrictions passed at the parish level may also include the gaming floors at bars, truckstops and OTBs, which would likely hurt their gaming revenues.

The Louisiana Lottery continues to perform relatively well and, as examined in more detail in Chapter VI of this report, has significant upside if the minimum transfer requirement is relaxed.

Although the Louisiana pari-mutuel industry like that of the national industry, the supplements provided from racetrack slots have clearly allowed it to fare well compared to non-racino states and national averages as a whole.

II. Future Threats that May Impact Louisiana Gaming

While the Louisiana gaming industry competes directly with Mississippi to the east for casino patrons – both day-trip and destination players – it has so far been fortunate to have had, and clearly benefited from having, no gaming competition in Texas to the west and only limited, non-factor gaming in Arkansas to the north (the closest of the two limited-service casinos in Arkansas, Oaklawn Racing & Gaming, is 200 miles from the border).

That situation is changing in Arkansas, where voters in November 2018 authorized the development of four full-service casinos – including the conversion of the two existing gaming facilities. The situation in Texas is a seemingly continuous threat to change.

Beyond the border states, there are myriad tribal casinos in Oklahoma situated at or near the Texas border that compete directly with the Shreveport-Bossier City casinos for players in the Dallas-Fort Worth market. The Oklahoma casinos have a sustainable competitive marketing advantage over the Louisiana casinos in that they enjoy a lower effective gaming tax rate.

Examining the potential threats to Louisiana’s gaming industry, however, goes beyond an assessment of the casino landscape. Technology and demographic trends will also shape overall gaming industry in Louisiana – and elsewhere.

A. The Big Picture

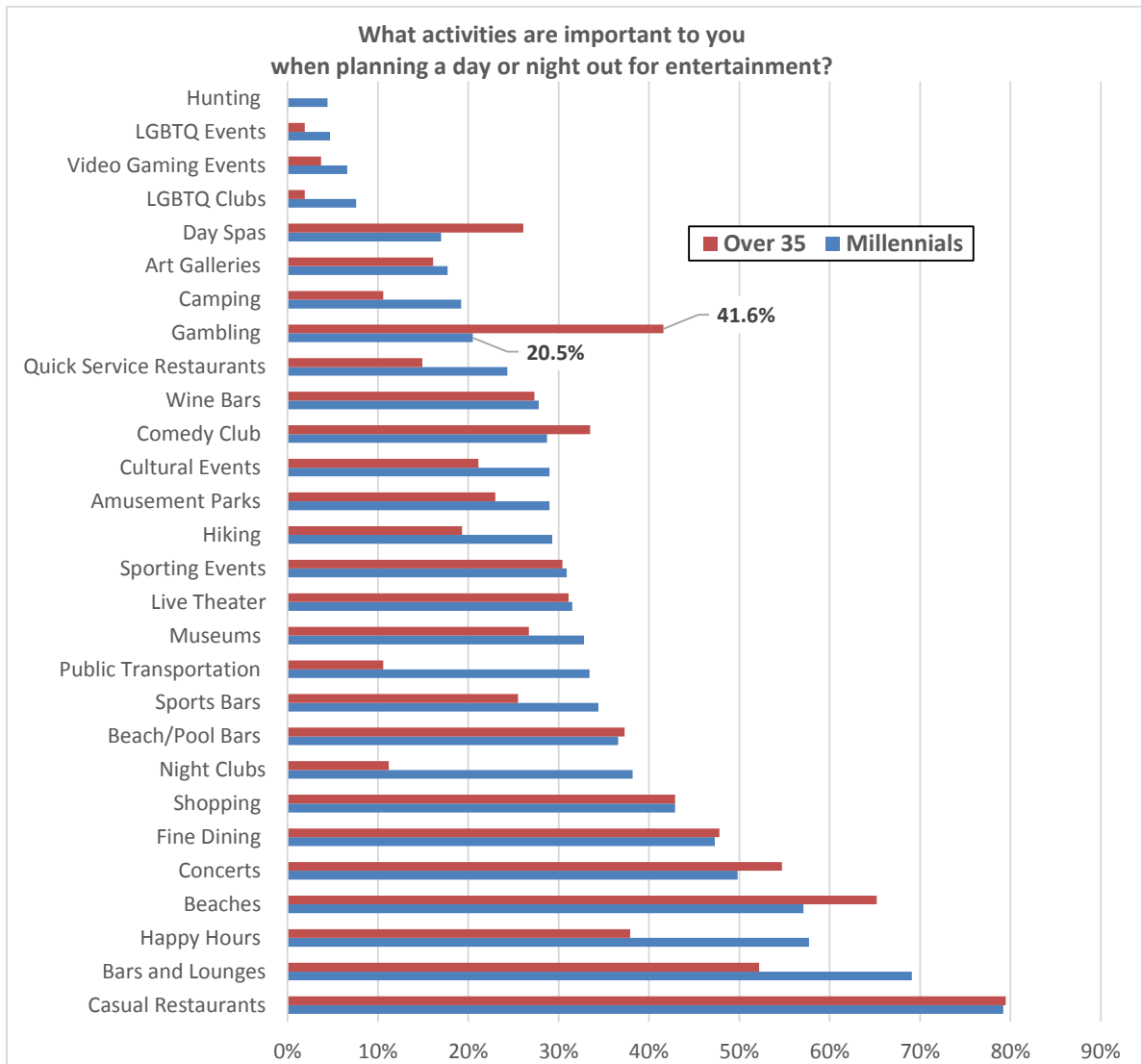
1. Demographic

Casino operators are concerned about generational change, specifically that as their current base of mostly older players dies out they will not be replaced by younger players. The next generation has less interest in slots and table games and is more attracted to casinos for the non-gaming entertainment, food and beverage. Considering that, outside of Las Vegas, casinos typically derive between 80 percent and 95 percent of their total revenue from the gaming floor, these shifting generational tastes are a real concern.

Casino operators and analysts are especially concerned about the Millennial generation, often considered those born between (at the earliest) 1976 and (at the latest) 2004. To wit, it was virtually impossible from 2016-2018 to attend a gaming-industry conference and not be exposed to continual discussion about Millennials and how the industry should adapt.

A 2016 Stockton University survey of entertainment preferences among Millennials and older respondents underscored the concern about this cohort as casino players, as shown in the chart below. Note that the biggest activity disparity among Millennials and older respondents was with gambling – less than half as many Millennials said gambling was important to them in planning a night out.

Figure 48: Surveys of Millennials and over-35 respondents



Source: Millennial Entertainment Preferences Study, Stockton University.²¹ N = 317 Millennials, 161 over-35s.

In general, Millennials seek experiences over possessions. This sentiment bodes well for entertainment experiences, so long as the experience is interesting, engaging and fun. Status is no longer new shoes and a fancy bag, but where have you eaten, what have you seen, where did you bike, trek, scuba-dive or ski? These trends challenge fixed forms of entertainment, including casinos. In many gaming markets, there is not much to differentiate them from each other or interest a millennial. They grew up holding a screen in their hands. Is it illogical to expect them to sit in front of a screen and push a button hoping for a win or a bonus play?

²¹ Jane Bokunewicz, "Millennial Entertainment Preferences Study," Stockton University, July 2016, p. 12. Respondents were from 22 states, with most from New Jersey, New York and Pennsylvania.

<https://stockton.edu/light/documents/millennialentertainmentpreferencesaugust2016.pdf>

Most recently, competition comes in the form of hand-held entertainment devices known as smartphones. In just 10 years these devices have changed the way Americans get their news, and entertainment. For many years seat-back entertainment was a key feature on airplanes. Recently, American Airlines began ordering planes without entertainment components but with braces to hold the passenger’s personal device. This change in entertainment delivery may change the gaming market as well.

Any understanding of Millennials begins by understanding the differences between cohorts. The following table provides a simple comparison of generations.

Figure 49: Adult generational cohorts

GENERATION OVERVIEW [iii]			
GENERATION	BIRTH YEARS	DEFINING EVENTS	GENERATIONAL CHARACTERISTICS
Baby Boomer Generation	1946 - 1964	Jet Age, National TV, Alaska & Hawaii, Civil Rights Movement, Kennedy Assassination, Space Exploration	Economically optimistic, idealist, individualistic, prefer achievement over relations, competitive.
Generation X	1965 - 1976	Martin Luther King Jr. Assassination, Working Mothers, Nixon and Watergate, Vietnam	Homesick, in need of attention but not used to supervision, prefer non-routines, anti-institution.
Millennial Generation	1977 - 2000	AIDS, Iran Hostage Crisis, Space Shuttle Challenger, Fall of Berlin Wall and Soviet Union, Technology Immersion (Email, Texting), Great Recession	Technology reliant, image driven, multitasking, open to change, team-oriented, information rich, impatient, adaptable.

Source: Wide Awake, “The Play for Millennials,” citing “American Millennials” by Boston Consulting Group and Barkley

It has come to the point where the term “gaming” has different meanings for different generations. For those in the casino industry, it means gambling; for the younger generation, it means playing video games. Recognizing this, both casino operators and game manufacturers have sought to appeal to younger players by offering a new generation of games, namely skill-based games that provide experiences similar to those found in video games. As the *New York Times* noted less than three years ago in a story titled, “Casinos Look to Video Games to Draw Millennials”:

Forget slot machines and money wheels. American casinos may soon look more like video game arcades.

In February, Nevada and New Jersey passed legislation allowing for the introduction of skill-based games in casinos as a way to draw in younger players. Imagine Angry Birds and Candy Crush machines next to a high-stakes poker table at Bellagio.

The idea is that one day, different types of skill-based games will exist on casino floors, including games that look and feel more like console video games, from shooters to racing games.²²

While it is too soon to say this effort has failed, it has not gained traction in casinos for several reasons. First, a limited number of casinos offered only a limited number of games and they were not, in Spectrum’s opinion, well marketed or given high visibility on the casino floor. Second, game makers have found it difficult from a math perspective to “gamblify” popular video games. Whereas slot machines play quickly – up to 12 game plays per minute – a video game can last for minutes or even hours. How, then, to profit from a wager on game that takes so long to play yet still offers an expected payout similar to a standard slot machine (90 percent)?

But perhaps the biggest reason is that casinos – despite the Millennials having overtaken Baby Boomers in number – are still profiting from their core base of Baby Boomers and the Silent Generation (those born 1925-1945). Timothy Wilmott, CEO of Penn National Gaming, which operates five Louisiana casinos, argued that it is too early for the casino industry to steer toward Millennials. In displaying the following slide at a gaming industry conference, Wilmott said, “The lower earnings Millennials receive, combined with higher debt relative to the Baby Boomer generation, convinces us the gaming industry should wait another 15 years before focusing a disproportionate amount of energy on Millennials.”

Figure 50: Penn National Gaming’s comparison of Baby Boomers to Millennials

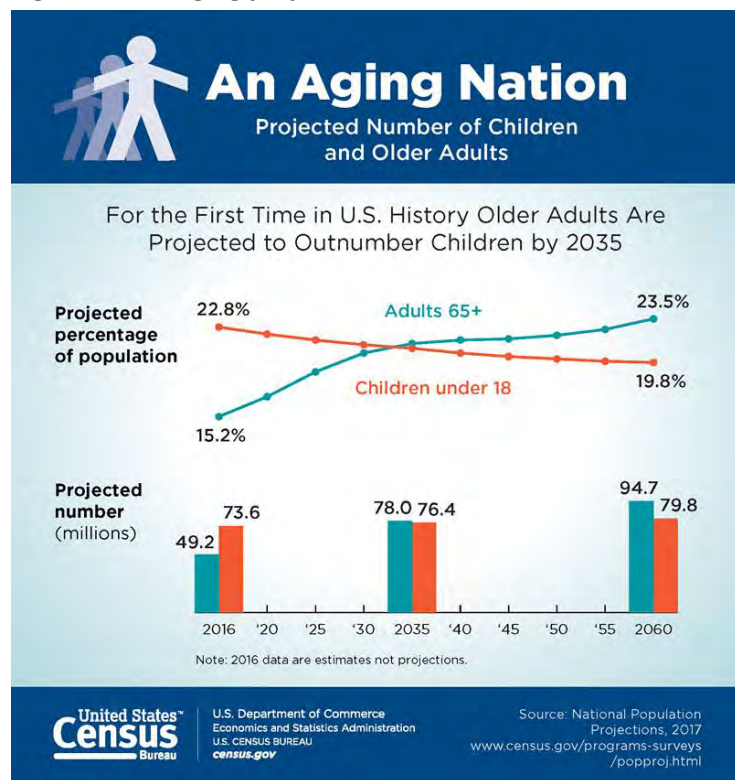
Baby Boomers	Born	Millennials
1946 – 1964		1980 – 2000
52 – 70	Age Today	16 – 36
74.9M	Population Size	75.4M
\$12.5K	Avg. Student Loans*	\$25.5K
\$35.8K	Full Time Earnings*	\$33.9K
22.9%	Live with Parents	30.3%
32	Age when First Purchased Mutual Funds	23
“Wait Another 15 Years”		
<small>* In today's dollars Source: American Council on Education, College Board, Investment Company Institute, U.S. Census Bureau.</small>		

Source: Penn National Gaming CEO Timothy Wilmott presentation to East Coast Gaming Congress, June 2016

In another 15 years, it may be possible that today’s Millennials will, in fact, enjoy playing slot machines or similar games. And with an aging population, as shown in the following chart, it is possible that casinos continue to provide a popular entertainment option for the new older generation.

²² Laura Parker, “Casinos Look to Video Games to Draw Millennials,” *The New York Times*, July 6, 2016. <https://www.nytimes.com/2016/07/07/technology/personaltech/casinos-look-to-video-games-as-a-draw-for-millennials.html>

Figure 51: US aging projections



US Census Bureau, “Older People Projected to Outnumber Children for First Time in U.S. History,” March 13, 2018

2. Technological

Technology per se is not a threat to the future of gaming; quite the opposite. In a narrow sense, it has provided myriad improvements and innovations for casinos, including vastly improved slot games, ticket-in/ticket-out systems that have removed burdensome coin handling from slot machines, improved surveillance systems to prevent cheating, and electronic table games that use virtual dealers, to name but a few technological advances. In the lottery sector, technology has allowed for the evolution of multi-state games Powerball and Mega Millions, online games, jackpot and draw game sales as well as instant-style games offered on a digital platform (internet and mobile), social gaming, instant-win-style games from retailers and self-service terminals, and interactive experiences through lottery VIP clubs.

On a larger scale, and important to public policy, technology gives rise to new forms of gaming that can further divide the gaming-dollars pie and thus present challenges to certain established sectors such as casinos. Internet gaming (“igaming”), sports betting (including on esports), skill-based games and social gaming are providing additional outlets for gaming customers. In essence, technology may be the dawn of the diversification of gaming.

One indication of the result of gaming’s technology-driven diversification may be found on casino floors, as bond rater Fitch Ratings noted in its most recent *Global Gaming Handbook*:

Operators continue to take slots off the floor, particularly in more mature markets. In Nevada, the number of slots declined 2.4 percent in 2017 to 141,636 from 145,113, slightly above the 2 percent average annual

decline over the past decade. As of July 2018 the number is even lower at 140,850. Eventually, as utilization rates increase (as measured by win per unit per day or W/U/D), operators will be less inclined to take slots off the floor. In Nevada 2017 W/U/D is at a recent historic high of \$143 W/U/D. Additionally, operators might be hesitant to leave their floors looking too cavernous. On the whole, operators taking slots off the casino floors, albeit at a decelerated rate; the lack on new openings past 2018; and no apparent technological catalysts to speed up the replacement rate will lead to flat sales.²³

As technology provides more gaming options, combined with the casino saturation in some markets (a critical factor that led to casino closures in Atlantic City, NJ, and Tunica, MS), an important question arises: Which gaming sectors will be growth vehicles and which will not? That, in turn, leads to a critical public policy matter of how state governments respond when tax receipts stagnate or decline in a certain gaming sector. Do states respond by:

- Expanding the number of licenses, or forms of gaming?
- Raising the tax rate?
- Encouraging more gambling?

Historically, examples can be found in all of the above. Pennsylvania exemplifies the attempted maximization of casino penetration. Despite being a relatively late entrant in the US casino industry – its first casino opened in late 2005 – Pennsylvania became the second-highest-grossing casino jurisdiction in the country within 56 months, generating GGR of \$3.46 billion from its 12 casinos spread throughout the state. And despite a pledge not to allow live table games until all 14 allowed casinos were opened, Pennsylvania nonetheless added the tables within 44 months of the first casino opening. Last year, in the wake of flattening casino revenues, the Commonwealth passed an omnibus expansion bill that authorized:

- 10 satellite casinos
- Sports betting
- Internet gaming
- Retail gaming at truckstops (limit of five devices)
- Gaming at airports

A Philadelphia TV station noted at the time that “(Gov. Tom) Wolf, a Democrat, had not been enthusiastic about expanding gambling, but he entertained the idea in dealings with a Republican-controlled Legislature that saw it as a better option to balance the state’s persistent deficits than a tax increase.”²⁴ Indeed, as lotteries have emerged as a material revenue stream for states, it is quite common for lotteries to actively promote their products via advertising, as well as to seek new ways to reach consumers.

That trend itself raises an important related issue: Technology is driving convergence – or collision – among gaming sectors. While lotteries and casinos may have historically operated in their respective silos, with little interaction or competition, that is clearly changing. For example, the Pennsylvania Lottery in 2018 launched its iLottery, which offers games that resemble online slot machines. As we note later on

²³ *Global Gaming Handbook*, Fitch Ratings, p. 36.

²⁴ “Wolf Signs Bill To Allow Online Gambling, Betting In Airports And Truck Stops,” KYW NewsRadio, October 30, 2017. <https://philadelphia.cbslocal.com/2017/10/30/governor-wolf-signs-borrowing-gaming-bills/>

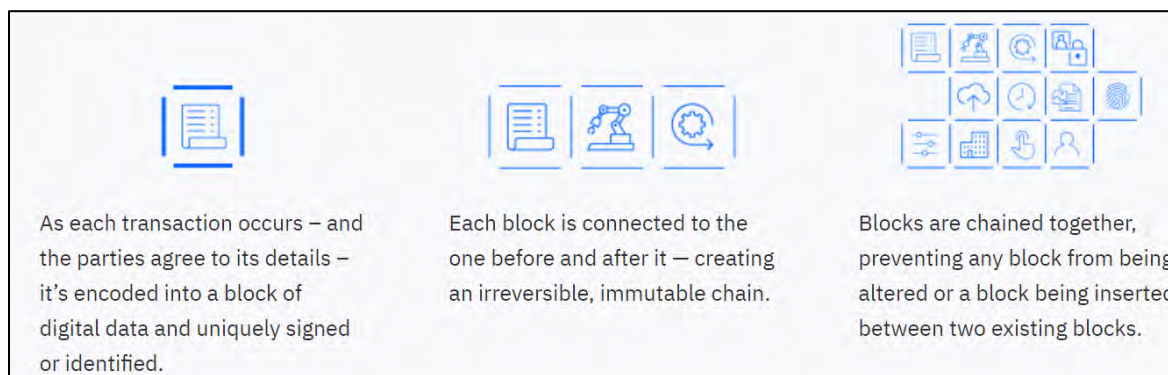
in this report, Pennsylvania casino operators claim that, by law, they are the only authorized provider of online slot machines. A lawsuit is pending.²⁵

With that in mind, should the Louisiana Lottery also elect to pursue an iLottery option, the Lottery should take specific steps to differentiate its online offering from those of casinos, including ensuring that its online games are an extension of its instant-game offerings, rather than a version of an online slot machine.

Similarly, some states are now wrestling with what entities can offer – and which agency should regulate – sports betting, which because of the online/mobile component (which in New Jersey accounts for nearly 70 percent of GGR) has become an attractive avenue for gaming expansion. If a state wants to offer sports betting via casinos, racetrack and lottery, who regulates – the gaming commission, the racing board, or the state’s lottery commission?

Likely further away is the impact that blockchain systems will have on all gaming sectors. An examination of this new transaction technology that could profoundly change how global commerce is conducted is beyond the scope of this study, but in broad terms it is defined as “a system in which a record of transactions made in bitcoin or another cryptocurrency are maintained across several computers that are linked in a peer-to-peer network.”²⁶ A simplified diagram of the blockchain payment system, as illustrated by IBM, is provided below. (An excellent and easy-to-understand video presentation of this technology is provided in more detail by Westpac Group, a major Australian bank, at <https://www.youtube.com/watch?v=J-ab9was1p0&t=1s>.)

Figure 52: How does blockchain work?



Source: IBM²⁷

Experts envision blockchain eventually being used for wagers on the casino floor. DeClub and Wide Rich Global Company Ltd. are attempting to raise up to \$1 billion to develop the world’s first

²⁵ Mark Scolforo, “Casinos ask state court to shut down Pennsylvania’s new iLottery,” *Associated Press*, August 22, 2018. <https://www.mcall.com/business/mc-biz-pa-casinos-sue-state-over-ilottery-20180822-story.html>

²⁶ Oxford Living Dictionaries. <https://en.oxforddictionaries.com/definition/blockchain>

²⁷ “What is blockchain?,” IBM. <https://www.ibm.com/blockchain/what-is-blockchain> (accessed March 6, 2019)

blockchain casino in Macau, the world’s largest gaming jurisdiction.²⁸ Whether this effort succeeds is uncertain, but Spectrum believes that it demonstrates that using blockchain for gaming transactions is more than a distant dream.

Beyond the casino floor, blockchain may become a critical element of gaming regulation, as shown in the following presentation slide from the University of Nevada, Las Vegas Center for Gaming Regulation:

Figure 53: Uses of blockchain in gaming regulation



Source: From presentation by Jennifer Roberts, Associate Director, UNLV International Center for Gaming Regulation & Adjunct Professor, William S. Boyd School of Law, to the American Bar Association Gaming Law Minefield/International Masters of Gaming Law Spring Conference, March 2018

Technology has further given rise to social gaming, a broad-based term for video games that can be played in concert with other users and done so without money or with money (in which users purchase tokens to advance their game play or buy cosmetic enhancements). Although social gaming does not involve actual gambling, one type allows players to play online slot machines for free, as described by Scientific Games, one of the world’s largest suppliers of gaming equipment and technology:

Scientific Games is one of the strongest leaders in the social casino gaming market. With top performing games like Jackpot Party, Quick Hit Slots, Gold Fish Casino Slots, Hot Shot Casino, 88 Fortunes, Bingo Showdown and Monopoly Slots, we are consistently providing social casino gaming fans with a best-in-class channel through which they can enjoy free-to-play slot games from our exclusive library of 1,800 authentic Las Vegas social casino games.

These games are intended for an adult audience (i.e. for use by those 21 or older). The games do not offer “real money gambling” or an opportunity to win real money or prizes. Practice or success at social casino gaming does not imply future success at “real money gambling.”²⁹

²⁸ “DeClub (DEC) Token Sales: Blockchain-Based Tokenization For the Casino Gaming Industry,” DeClub, October 10, 2018. <http://v.fastcdn.co/u/5697f4f8/36371632-0-DEC-WhitePaper-en.pdf>

²⁹ “Social,” Scientific Games. <https://www.scientificgames.com/social/> (accessed March 5, 2019)

In jurisdictions where internet gaming is prohibited, some casinos offer such free-to-play online slots for the purpose of building their brand, capturing customer data and developing marketing relationships through which they can encourage visits to their physical property.

3. Regulatory, Political Trends

Despite continuous cries of “saturation” among both state legislators and casino operators in gaming markets in many parts of the country, the fact remains that gaming expansion remains robust – even with land-based casinos, despite there being roughly 1,000 casinos of all types in 42 states. Legislators and operators believe they can continue to find markets big and small that are underserved. The following slide presented at a gaming-law conference playfully illustrates this mindset.

Figure 54: Illustration of casino-expansion mindset



Source: Spectrum Gaming Group Executive Vice President Joseph Weinert presentation to the American Bar Association Gaming Law Minefield/International Masters of Gaming Law Spring Conference, March 2018

Legalizing or expanding gaming is popular with governments because they can raise fiscal receipts without directly taxing citizens. The American Gaming Association (“AGA”) reported that in 2017 commercial casinos generated \$9.23 billion in direct gaming taxes.³⁰ Further, casinos are prodigious employers and buyers of services, with each property employing hundreds – and in many cases – thousands of residents whose spending creates ripple effects through the economy. The AGA reports that commercial casinos in 2017 directly employed more than 361,000 people who earned more than \$17 billion in wages, benefits and tips.³¹

And, of course, gaming legalization and expansion is important for gaming companies, which are continually seeking opportunities to grow their businesses.

Among the eight states that have no casinos, there are strong efforts to approve legalization in at least three of them:

³⁰ “2018 State of the States,” American Gaming Association, p. 6. https://www.americangaming.org/wp-content/uploads/2018/08/AGA-2018-State-of-the-States-Report_FINAL.pdf

³¹ Ibid.

- Virginia has approved historical horse racing machines, which are slot-like pari-mutuel wagering devices; they will begin operating this year in casino-like settings throughout the state. The commonwealth is also expected to approve a bill this year allowing for three full-services casinos.
- Georgia this month is considering a bill that authorizes a ballot measure to approve casinos.
- In New Hampshire, casino legislation is under consideration. State Senator Lou D’Allesandro, a longtime casino proponent, offered a sentiment heard in other statehouses over the years in advocating for his bill this year: “We are always looking for revenue in a non-tax methodology to support programs in New Hampshire. This not only supports programs in New Hampshire, but it provides construction jobs ... and it provides a series of other taxes to the local communities and to the state.”³²

From a fiscal perspective, however, legal gambling is not a panacea. The Rockefeller Institute at the State University of New York routinely reports on the fiscal impacts of all forms of legalized gambling. The Institute warns in its most recent report that, because there is so much legal gambling in so many states, the long-term benefits of gambling from a fiscal perspective are uncertain. Its most recent summary notes:

States expanded allowable gambling options significantly in the past two decades, particularly in the wake of the Great Recession when more than a dozen states authorized new options in an effort to generate more revenues. Despite these expansions, gambling revenue plays a small role in state budgets, ranging between 2.0 and 2.5 percent of state own-source general revenues in the typical state. Only a few states, including Nevada, Rhode Island, and West Virginia, have much higher reliance on gambling revenue.

State and local government gambling revenues have softened significantly in recent years. States and localities derive the bulk of gambling-related revenues from three major sources — lotteries, accounting for about two-thirds of gambling revenue; commercial casinos; and racinos. Lottery revenue declined by 0.7 percent in real (inflation-adjusted) terms in fiscal year 2015, with twenty-seven states reporting declines. This was the second consecutive decline. Casinos experienced dramatic growth during the 1990s, but that growth slowed over the past decade. In recent years, much of the growth has shifted to racinos — hybrids of casinos and racetracks — as more states have approved such facilities. Revenues from casinos and racinos combined increased by 1.1 percent in real terms in 2015, but that growth is mostly attributable to two states, Maryland and Ohio, which legalized casino/racino operations after the Great Recession and opened more facilities in fiscal year 2015.

The recent geographic expansion of gambling created stiff competition as facilities vie for the same pool of consumers, particularly in the northeastern region of the nation, where weakening growth has been partly attributable to market saturation and industry cannibalization. Between 2008 and 2015, inflation-adjusted tax and fee revenues from commercial casinos grew by more than \$1.3 billion in states with newly authorized casinos, but declined by \$1.4 billion in states with established casinos, for a net decline of 1.5 percent nationally.

State officials considering expansion of existing gambling activities or legalization of new activities should weigh the pros and cons carefully. History shows that in the long run growth in state revenues from gambling activities slows or even reverses and declines, so it’s important to take into consideration market competition within the state and among neighboring states. Officials also should consider social and economic costs associated with gambling, which are hard to measure. Gambling expansion is

³² Ethan DeWitt, “Once a hot ticket, Manchester senator keeping up his fight for legal gambling,” *Concord Monitor*, February 19, 2019. <https://www.concordmonitor.com/Lou-Dallesandro-introduces-NH-casino-bill-again-23595903>

understandably appealing to officials wishing to raise revenue without raising taxes, but the long-term revenue is uncertain and potential economic and social costs require careful consideration.³³

The concern expressed by the Rockefeller Institute appears to be bearing out in California, whose \$8.4 billion³⁴ casino industry (all tribal) trails only Nevada in GGR size. In noting that a proposed ballot measure to allow sports betting in casinos and cardrooms “fizzled out” this year with no fuss, the *Los Angeles Times* reported that, “For voters, that doesn’t square with the promise they believed of easy government money from gambling — often made as part of an effort to balance the books with new ‘sin taxes’ on things that include alcohol and tobacco.” The newspaper further noted:

Nor is there any serious belief that the California Lottery can do much more to boost the bottom line of public schools. Voters embraced the program in 1984, believing it would provide significant money for education and thus free up funds for other government services. [Then-Governor Arnold] Schwarzenegger suggested a securitization plan in 2008, borrowing money against future lottery revenues — an idea swiftly rejected by lawmakers. Today, even after recent improvements to entice more players, the lottery provides only around a penny of every dollar spent on education.³⁵

Of course, a state’s fiscal condition often factors into the gaming-expansion appetite, as the *Los Angeles Times* reported it apparently did in fiscally improving California.

The expansion of gaming across the country coincides with a general loosening of gaming regulations, for two primary reasons: economic and maturity. As states look to protect their gaming-tax-receipt streams from cross-border competition by adding more gaming, they endeavor to reduce or eliminate regulations deemed unnecessary or outdated so as to foster a business climate that allows casinos to maximize their performance.

Contemporaneously, lawmakers and legislators recognize that commercial casino operators have become mainstream entertainment companies over the last three decades and are no longer subject to a “guilty until proven innocent” mindset among regulators that seemed to prevail during the first 20 years of casino expansion outside of Nevada. Most commercial casinos outside of Nevada are operated by companies with multiple properties in multiple states, thus subject to reciprocal regulatory sanctions for significant infractions in just one state. Further, the largest gaming companies are publicly traded on stock exchanges, subjecting them to regulation by the Securities and Exchange Commission.

Examples of regulatory reform in states have included:

- Allowing floating casinos to move on land
- Having state slot-testing labs improve the speed of approvals for new games, or allowing new games to be tested by an approved outside lab
- Increasing reliance on the Multi-Jurisdictional Personal History Disclosure Form, reducing the time and expense for license applicants who must file in multiple states

³³ Lucy Dadayan, “State Revenues From Gambling: Short-Term Relief, Long-Term Disappointment,” *The Blinken Report*, The Nelson A. Rockefeller Institute of Government at the State University of New York, p. iv. https://rockinst.org/wp-content/uploads/2017/11/2016-04-12-Blinken_Report_Three-min.pdf

³⁴ Alan Meister, Indian Gaming Industry Report, 2018.

³⁵ John Myers, “In California, legal gambling’s bets don’t produce big jackpots for state government,” *Los Angeles Times*, March 3, 2019. <https://www.latimes.com/politics/la-pol-ca-road-map-california-gambling-betting-revenues-20190303-story.html>

- Expanding the allowable operating hours for a gaming facility
- Expanding, or removing, the cap on the number of gaming positions
- Expanding, or removing, the cap on the square footage of a casino floor
- Adjusting the tax structure on promotional slot credits (commonly called “free play”) to allow stronger marketing programs
- Adjusting the hours of alcoholic beverage service and/or the provision of complimentary alcoholic beverages for casino players
- Reducing or eliminating advertising restrictions
- Consolidating state regulatory functions so as to reduce the costs that gaming covers through fees and assessments
- Reducing licensing requirements for non-gaming suppliers
- Allowing new games beyond the traditional slots and tables
- Allowing the use of server-based gaming systems
- Elimination or modification of admission fees/taxes

In proposing numerous regulatory amendments for New Jersey in 2017, Division of Gaming Enforcement Director David Rebeck offered a remark that, in Spectrum’s experience, is similar to the sentiment of gaming regulators in many states: “The days when the (regulatory regime) appeared to be punitive and it was not allowing for forward thinking or innovative actions, they’re over.”³⁶

However, it is expected that in states where casino gaming is new the licensing process and regulations will be more demanding so as to ensure public confidence in the industry while also allowing the regulators to become comfortable with their own laws, regulations and procedures.

4. Industry Economic and Business Trends

Legalized casino gaming has taken a step-by-step path to its current status of operations in 42 states. After starting in the Nevada desert in 1931, it emerged in a more controlled form in Atlantic City a half-century later. In the 1990s it expanded into the country’s middle, first on riverboats and later rising near and in big cities. As the business grew in social acceptability, it moved closer to population centers, generating ever greater participation rates.

As the business grew, so did its need for capital. Access to publicly held capital facilitated ever-increasing speed and scale of development. But that access was neither automatic nor easy to achieve. When New Jersey became the second state to legalize casinos via a 1976 referendum, gaming was largely financed by non-traditional sources of capital, such as union pension funds. One critical outgrowth of New Jersey’s efforts to develop, enhance and nurture public confidence in the integrity of gaming was an increase in Wall Street’s comfort level with gaming as a legitimate industry, hence leading to new sources of significant capital.³⁷ As the gaming business expanded geographically, the desire for economies of scale

³⁶ “2018 State of the States,” American Gaming Association, p. 52. https://www.americangaming.org/wp-content/uploads/2018/08/AGA-2018-State-of-the-States-Report_FINAL.pdf

³⁷ Spectrum professionals were directly involved in such efforts in the 1970s through the 1990s through working as regulators, as well as on Wall Street. This historical assertion is directly based on that experience.

(and availability of large pools of capital) led to a wave of consolidation that continues in the present. This consolidation has dragged out due to the step-growth of the industry.

As gaming operating companies have consolidated and grown, they have in turn become more attractive to institutional investors. As cash flows of these businesses became more assured as a result of experience, limitations on competition, and professionalism of management, the more valuable the companies became to investors. This has been reflected in increasing earnings multiples over time.

Accordingly, the biggest US publicly owned gaming operating companies – MGM Resorts International, Las Vegas Sands, Wynn Resorts and Caesars Entertainment – represent the largest concentration of commercial gaming assets and store of value, with the aggregate total enterprise value of these four companies alone totaling more than \$125 billion. The total of the next 10 public operators is less than \$40 billion.

As the growth prospects in the United States slowed due to increasing saturation in many markets, gaming companies sought opportunity abroad. Asia proved the most fertile ground, with Macau alone now generating GGR more than five times that of the Las Vegas Strip. Internationalization of the business has also brought US operators to Europe and Australia, and has brought international operators like Genting to the US. This trend is likely to continue.

The need for capital to build ever-larger gaming and entertainment superstores combined with the institutionalization of the investor base also opened the industry to sophisticated financing approaches like commercial mortgage-backed securities (“CMBS”) and real estate investment trusts (“REITs”). These investment vehicles enabled gaming companies to finance their real estate assets separately from the gaming operations, attracting a broader swath of investors willing to provide capital secured by the properties at lower rates than offered by investors in the overall gaming business. While the application of CMBS has provided a few operators with compelling financing terms, REITs have quickly become one of the main financing sources for gaming companies, especially to facilitate merger and acquisition transactions.³⁸

Three gaming REITs formed specifically to pool capital to fund gaming transactions, Gaming & Leisure Properties (spun off from Penn National), MGM Entertainment Properties (majority owned by MGM), and VICI Properties (spun off from Caesars) collectively have a total enterprise value of over \$35 billion. These companies are expected to grow along with the gaming industry and continue to fund the further development of the business. Other REITs are considering getting involved in the gaming space.

The consolidation trend among gaming operators has also been experienced by gaming technology companies like IGT and Scientific Games that have not only crossed geographies but have bundled differing types of gaming technology businesses. These companies still provide slot machines and table games, but also gaming systems, ranging from lotteries to management and payments. They are also now crossing into igaming, sports and related technologies that they are offering globally.

³⁸ Howard Stutz, “Gaming REITs no longer an oddity, now a factor in \$4 billion of casino acquisition activity,” *CDC Gaming Reports*, August 27, 2018. <https://www.cdcgamingreports.com/gaming-reits-no-longer-an-oddy-currently-a-factor-in-4-billion-of-casino-acquisition-activity/>

Figure 55: Domestic gaming industry mergers & acquisitions, 2014-2019

Completion Date	Target	Acquirer	Deal Price (\$M)
Pending	Majestic Star Casinos	Spectacle Entertainment	n/a
Pending	Greektown Casino Hotel (operations)	Penn National Gaming	\$300
Pending	Greektown Casino-Hotel (real estate)	VICI Properties	\$700
Pending	Rivers Casino Des Plaines (50.1%)	Churchill Downs	\$326
Pending	Sands Casino Resort Bethlehem	Wind Creek Hospitality	\$1,300
Jan-19	Colorado Belle Gaming; Edgewater Gaming	Golden Entertainment	\$190
Jan-19	Margaritaville Bossier City (operations)	Penn National Gaming	\$115
Jan-19	Margaritaville Bossier City (real estate)	Penn National Gaming and VICI Properties	\$261
Jan-19	Presque Isle Casino	Churchill Downs	\$179
Jan-19	Empire City Casino/Yonkers Raceway (operations)	MGM Resorts International,	\$225
Jan-19	Empire City Casino/Yonkers Raceway (real estate)	MGM Growth Properties	\$625
Dec-18	Club Fortune Casino	Truckee Gaming	\$15
Dec-18	Harrah's Philadelphia (real estate)	VICI Properties	\$242
Oct-18	Tropicana Entertainment (operations)	Eldorado Resorts	\$640
Oct-18	Tropicana Entertainment (real estate)	Gaming & Leisure Properties	\$1,210
Oct-18	Pinnacle Entertainment	Penn National Gaming	\$2,760
Sep-18	Valley Forge Casino	Boyd Gaming	\$281
Aug-18	Grand Victoria	Eldorado Resorts	\$328
Jul-18	Hard Rock Rocksinio	MGM Growth Properties	\$1,020
Jul-18	Centaur Gaming	Caesars Entertainment	\$1,700
Jun-18	Lattner Entertainment Group	Boyd Gaming	\$100
Apr-18	Casino Miami	Phil Ruffin	n/a
Mar-18	Hard Rock Las Vegas	Virgin Hotels	n/a
Dec-17	Harrah's Las Vegas	VICI Properties	\$1,136
Oct-17	American Casino & Entertainment Properties	Golden Entertainment	\$850
Sep-17	MGM National Harbor	MGM Growth Properties	\$1,188
Aug-17	Fontainebleau Las Vegas	Steve Witkoff	\$600
May-17	Bally's Tunica (real estate)	Gaming & Leisure Properties	\$83
May-17	SLS Las Vegas	Meruelo Group	n/a
May-17	Isle of Capri Corp.	Eldorado Resorts	\$1,815
May-17	Bally's Tunica (operations)	Penn National Gaming	\$44
Mar-17	Trump Taj Mahal	Hard Rock International	\$50
Mar-17	Lady Luck Marquette	Casino Queen	\$40
Feb-17	Affinity Gaming	Z Capital Partners	\$580
Dec-16	Cannery Casino	Boyd Gaming	\$230
Oct-16	Palms Casino	Red Rock Resorts	\$313
Sep-16	Aliante Casino	Boyd Gaming	\$380
Sep-16	Meadows Casino (real estate)	Pinnacle Entertainment	\$138
Sep-16	Meadows Casino (operations)	GLPI	\$302
Aug-16	Borgata (operations)	MGM Resorts International	\$325
Aug-16	Borgata (real estate)	MGM Growth Properties	\$1,175
May-16	Bronco Billy's	Full House Resorts	\$30
Dec-15	Meadow Racetrack	Gaming & Leisure Properties	\$440
Nov-15	Silver Legacy and Circus Reno	Eldorado Resorts, Inc.	\$211
Aug-15	Golden Gaming	Lakes Entertainment	\$268
Jul-15	Prairie State Gaming	Penn National Gaming	\$55
Apr-15	Tropicana Las Vegas	Penn National Gaming	\$360
Dec-14	Big Fish Games	Churchill Downs	\$485
Nov-14	Bally Technologies	Scientific Games	\$5,100
Jul-14	Shuffle Master	Bally Technologies	\$1,300
Jul-14	IGT	Gtech	\$6,400
Jul-14	VGT	Aristocrat Technologies	\$1,300
Jun-14	Rational Group (PokerStars)	Amaya	\$4,900
May-14	Cosmopolitan	Blackstone Group	\$1,730
Mar-14	Fitzgeralds Casino	Full House Resorts	\$62
Mar-14	Bally's LV, Harrah's NO, Quad, Cromwell	Caesars Growth Partners	\$2,200
Feb-14	Isle of Capri Davenport	Scott County Casino	\$50

Source: Investment bank reports, Spectrum Gaming Group research

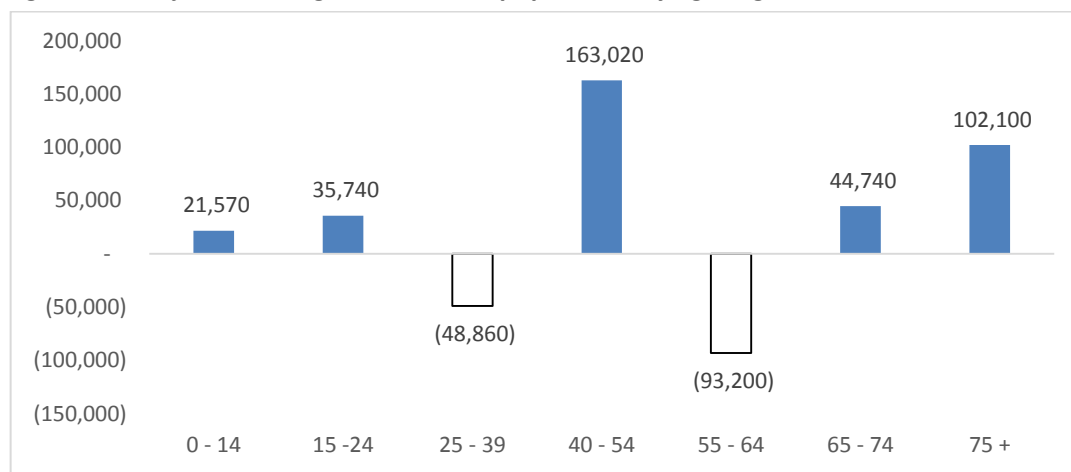
The outlook for the industry is a continuation of the consolidation and internationalization trends, possibly with European gaming operators moving into the US market following the successful entry by

online and sports betting companies like GVC (joint venture with MGM) and Paddy Power Betfair (purchase of FanDuel). Cross-sector mergers between land-based and internet-based businesses are not far away.

B. Analysis of Trends Specific to Louisiana

An analysis of Louisiana demographic trends for the 2020-2030 period shows a drop in the population of adults from 55-64, which could negatively impact the casino industry. This age segment is the core of casino players today. Today’s 55-64 segment will be in the 65-74 segment in 2030. Replacing these players by developing entertainment for people who are now in the 40-54 segment will be essential for success. There will be fewer in the 55-64 segment as the “Baby Bust” of the late 1960s and early 1970s matures.

Figure 56: Projected change in Louisiana population by age segment, 2020-2030



Source: State of Louisiana³⁹

However, the estimates show a great jump in the 40-54 age group. Residents in this group are currently in their mid-30s, an age that, as discussed earlier in this chapter, is not typically attracted to casinos. This age group grew up with the internet, mobile phones and instant entertainment. To attract and retain people in this demographic, casinos may need to reinvent themselves as entertainment centers featuring gaming rather than gaming centers offering entertainment.

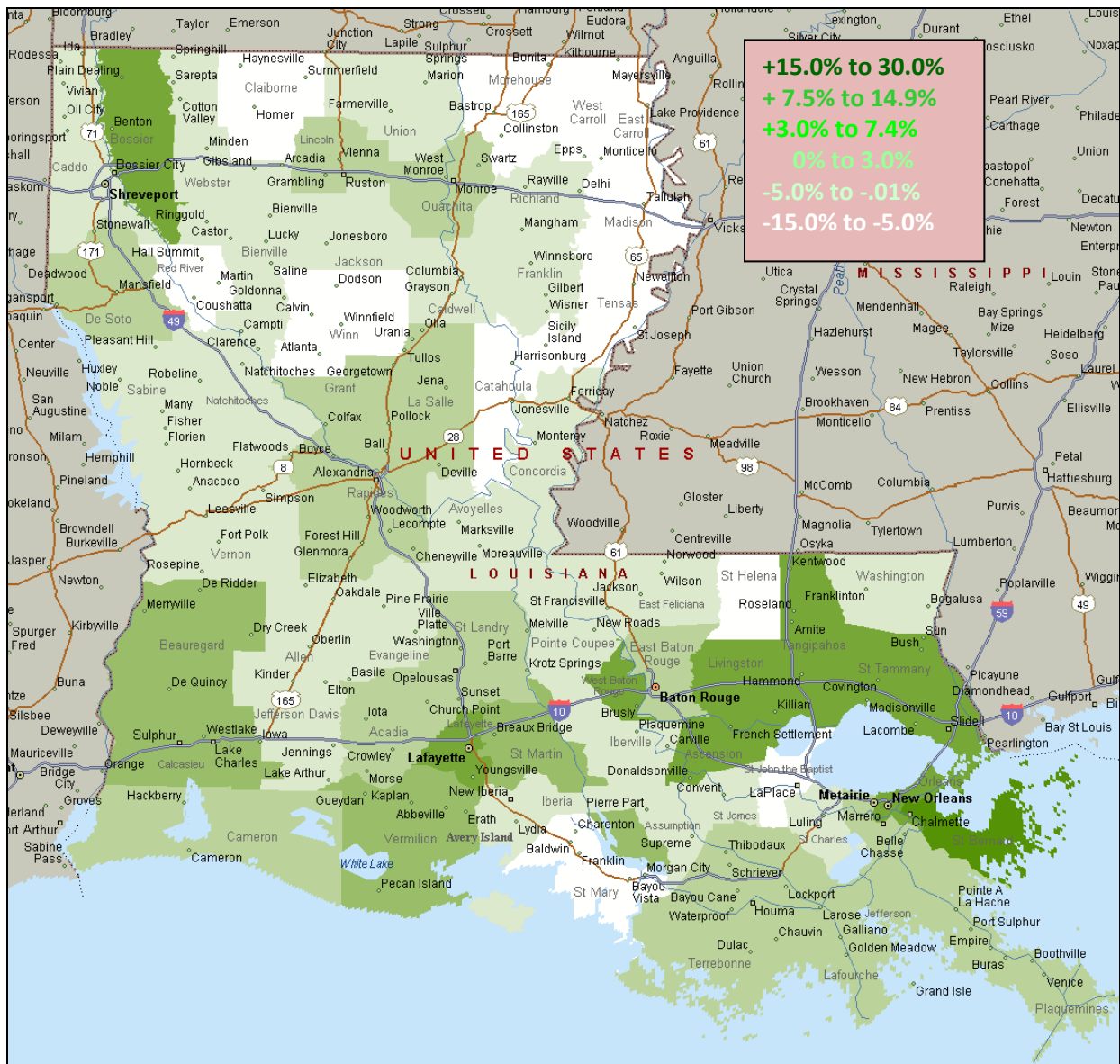
To a certain extent this transformation is already underway. Operators note that many bachelorette parties are hosted at the casinos. The focus of the event is not gaming; rather the partygoers are enjoying cocktails, dining, concerts and the general vibrancy of the environment. Providing these forms of entertainment in addition to gaming will keep the properties busy, even if the gaming floor itself is no longer the primary reason to visit.

³⁹ State of Louisiana, “Louisiana Population Projections.” http://louisiana.gov/Explore/Population_Projections/ (accessed February 20, 2019)

The map below illustrates another trend in Louisiana – the increasing urbanization of the state. The map presents the percentage change in population by parish from the 2010 census to the July 2017 estimates. The map illustrates that the darker the shade of green, the higher the population growth during that period. The parishes with fast growth – St. Bernard, St. Tammany, Orleans, Bossier, Ascension, and West Baton Rouge – are concentrated in metropolitan areas. Those with the greatest declines are in rural sections of the state.

That trend, while national in scope, may benefit Louisiana’s casino industry, which is well-positioned in populated areas. However, such shifts may prove challenging for rural video poker establishments, as the rural parish populations decline.

Figure 57: Louisiana population change, 2010-2017



Source: Microsoft MapPoint, US Census Bureau Estimates of Resident Population Change and Rankings July 1, 2010 to July 1, 2017

C. Competitive Threats

While Louisiana and its casino operators contend with an aging and geographically shifting population, the State must also be mindful of competitive threats, both internal and external. And because of casino industry consolidation, such threats need to be viewed through the same wide prism.

Both in Louisiana and in states and markets elsewhere, the threat of competition causes some operators to be proactive and meet the looming threat with major capital projects to improve their facilities. It causes other operators to prepare for profit-margin contraction by under-investing in their properties, which allows properties to atrophy and become less competitive in the long run.

Of note is that the gaming industry has consolidated considerably in the past several years. Six operators in Louisiana – Boyd Gaming, Caesars Entertainment, Churchill Downs, Eldorado Resorts, Landry’s, and Penn National – have one or more competing casinos in Mississippi. Further, Landry’s and Penn National own interests in Texas, where there is pending legislation to approve casinos.⁴⁰ The following table provides a listing of relevant holdings of these companies in the three states.

Figure 58: Gaming and leisure properties held by Louisiana casino operators

Operator	Louisiana	Mississippi	Texas	
Penn National	L’Auberge Baton Rouge	Ameristar Vicksburg	Retama Park	
	L’Auberge Lake Charles	Hollywood Bay St. Louis	Sam Houston Race Park	
	Boomtown Harvey	Boomtown Biloxi	Valley Race Park	
	Boomtown Bossier	First Jackpot		
	Margaritaville	Resorts Tunica		
			Hollywood Tunica	
Boyd Gaming	Sam’s Town Shreveport	IP Casino Biloxi		
	Treasure Chest	Sam’s Town Tunica		
	Evangeline Downs			
	Delta Downs			
	Amelia Belle			
Eldorado	Belle of Baton Rouge	Tropicana Greenville		
	Eldorado Shreveport	Isle Lula		
	Isle Lake Charles	Lady Luck Vicksburg		
Landry’s	Golden Nugget Lake Charles	Golden Nugget Biloxi	Hilton Galveston	
			Villas at San Luis	
			Holiday Inn Galveston	
			Kemah Inn	
Churchill Downs	Fair Grounds	Harlow’s Greenville		
	Slots at OTBs	Riverwalk Vicksburg		
Caesars	Horseshoe Bossier City	Harrah’s Biloxi		
	Harrah’s New Orleans	Horseshoe Tunica		
	Louisiana Downs			

Source: Spectrum Gaming Group research

⁴⁰ Kimberly Reeves, “New Texas Legislature means new Casino Bills,” *Austin Business Journal*, January 23, 2019.

<https://www.bizjournals.com/austin/news/2019/01/23/new-texas-legislature-means-new-casino-bills.html>

1. External

The extent to which any Louisiana casino operator would support or oppose gaming expansion in Texas, or consider other opportunities in Louisiana or Mississippi, would be the product of internal analyses to determine the extent to which each operator's earnings would be improved or damaged by any such potential development.

Because casino gaming nationally has become so localized due to proliferation – with roughly 1,000 casinos of some type in 42 states – the marketplace for most casinos are residents within a two-hour drive of a casino. As such, the external competitive threats to Louisiana's casino industry are effectively limited to Mississippi and Oklahoma currently and Arkansas and Texas potentially.

Oklahoma

The Oklahoma Indian Gaming Association reports that there are 135 tribal gaming facilities of all types in the state.⁴¹ There are also two racetrack casinos that offer only slots. The tribal casinos in 2016 generated GGR of \$4.4 billion,⁴² powered by large casinos at or near the Texas border that draw from the Dallas-Fort Worth market. The racetrack casinos are located farther north and are irrelevant to Louisiana from a competitive standpoint.

Some of the Oklahoma tribal casinos have grown from small bingo halls into world-class gaming facilities with hotels, a wide variety of restaurants, entertainment pavilions, spas, RV parks, and many other offerings in addition to thousands of slot machines and hundreds of table games. This includes WinStar, the world's largest casino by number of gaming positions (8,800), just three miles past the Texas border.

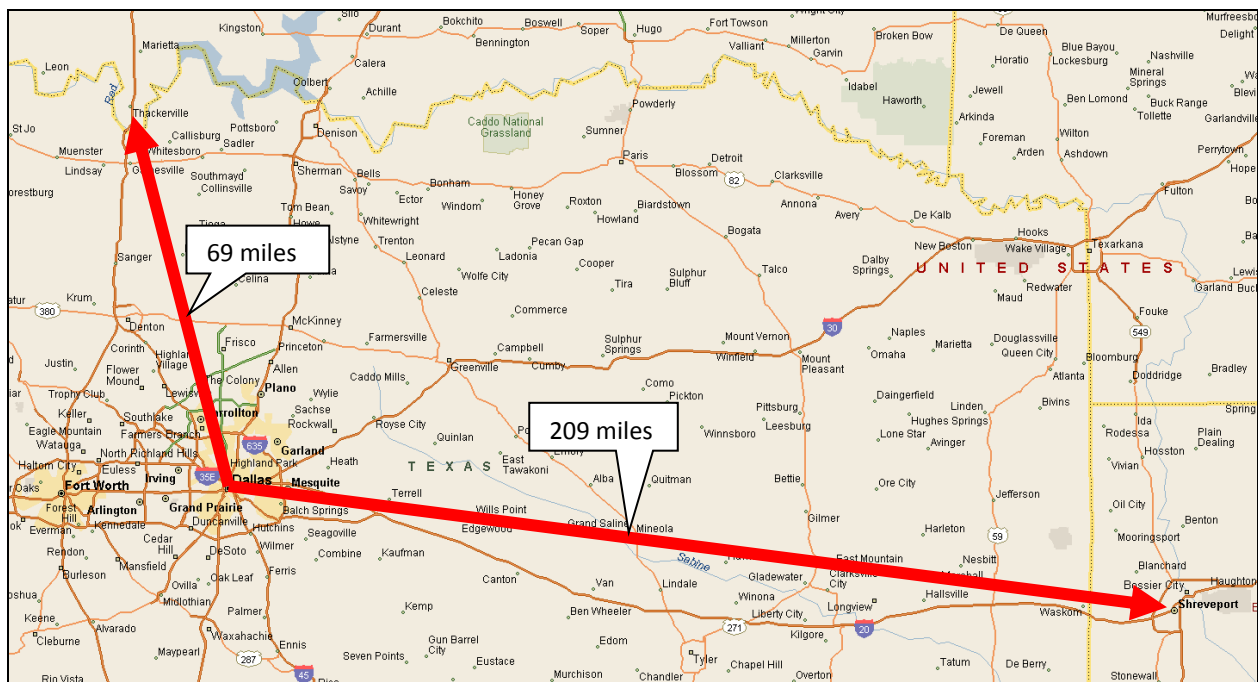
The Oklahoma tribal casinos pay a graduated revenue sharing payment to the State in return for the permission to operate table games and Class III (or Las Vegas-style) slot machines. On the first \$10 million in slot revenue, the tribes pay 4 percent. On the next \$10 million they pay 5 percent and for amounts over 20 million in slot revenue the tribes pay 6 percent. On table game revenues the payment is 10 percent. These rates contrast with the 21.5 percent rate for Louisiana casinos and 18.5 percent for Louisiana racetrack casinos. The racetrack slots also pay 15 percent to purse subsidies and 3 percent to breed organizations to promote racing.

While higher taxes make it more difficult to compete, it is not the tax rate difference that has hurt the properties in Shreveport-Bossier City; it is drive time. The WinStar World Casino in Thackerville and Choctaw Durant Casino are a little more than an hour's drive from the Dallas-Fort Worth metroplex whereas Shreveport is approximately a three-hour drive. These driving distances difference from Dallas-Fort Worth are depicted in the map below.

⁴¹ Oklahoma Indian Gaming Association. <https://oiga.org/about/> (accessed March 7, 2019)

⁴² Latest available figure; via Alan Meister, "Casino City's Indian Gaming Industry Report," 2018 edition.

Figure 59: Map showing distances from Dallas to WinStar Casino and Shreveport-Bossier City casinos



Source: Microsoft MapPoint, Spectrum Gaming Group

Mississippi

Mississippi and Louisiana were early adopters of casino gaming. Louisiana chose to implement a limited-license protocol, whereas Mississippi chose not to limit licenses. The four Mississippi casinos in Vicksburg and the 12 along the Gulf Coast draw heavily from Louisiana.

Mississippi further has an attractive tax and regulatory regime, which has led to an ongoing pipeline of proposed new casino projects. In 2018, Warner Hospitality of Las Vegas and a local developer proposed a casino with a 300- to 500-room hotel in Biloxi's back bay. Also in 2018, a casino was proposed for Long Beach; the site was approved by the Mississippi Gaming Commission in January 2019. Another developer in conjunction with the Mashantucket Pequot tribe of Connecticut proposed a casino in 2016 but has yet to begin the project. This year, another prospective entrant, Cure Land Co., is seeking to build a gaming resort with 1,100 slots, 22 table games and 300 hotel rooms in Clermont Harbor,⁴³ which along with the nearby Silver Slipper would be the most proximate Coast casinos to the Louisiana border.

There is a long way from casino proposal to grand opening, and many proposed Mississippi Coast casinos have never come to fruition. It may be that market forces are restricting new developments, as financing projects becomes more difficult. Nonetheless, it is evident that gaming operators and their investors believe there are ample volumes of GGR to be imported from Louisiana into Mississippi.

⁴³ "Landowner proposes new casino on Mississippi Gulf Coast," Associated Press, March 8, 2019.

<https://www.apnews.com/001edcbe937c4d269bb557adccfea76e>

The Mississippi Gaming Commission (“MGC”) estimates that in calendar year 2018 there were 3.3 million visits by Louisiana residents to the Gulf Coast casinos in Bay St. Louis, Gulfport and Biloxi and that they left an estimated \$389 million in gaming revenue at those casinos.

The Mississippi Gulf Coast casinos benefit from easy access on interstate highways from the New Orleans area. The recent approval of sports betting in Mississippi has drawn additional patronage from Louisiana. Louisiana has avid sports fans of the Saints, LSU and other teams. The MGC estimates that since sports betting was legalized, there were more than 92,000 additional trips from Louisiana than in the prior year at Gulf Coast casinos.

The seven casinos in Mississippi’s Central Region, which encompasses Vicksburg, Lula, Greenville and Natchez, saw an estimated 500,000 visits from Louisiana residents. These visitors lost an estimated \$58 million at the Central River casinos in Mississippi. These casinos target Louisiana visitors from Tallulah, Monroe, and the region north and east of Alexandria. Louisiana’s exported GGR to Mississippi from these areas is lower simply because there is less population in this area of the state.

The Mississippi casinos benefit from a significantly lower gaming tax rate than in Louisiana – just 11.2 percent, which is the third-lowest rate in the country – enabling them to be more competitive. We illustrate the importance of the tax rate in the following analysis.

A sample casino located less than 45 minutes east of Slidell on Interstate 10 in Mississippi earning the same revenue would pay less than half as much in taxes as a casino located in Louisiana. Some argue that this does not matter to the customer. Why would a player care what the house pays in taxes? It matters, because based on the example below the casino in Mississippi is \$14.5 million more profitable than the casino in Louisiana. The additional profit can be reinvested in the property through more marketing offers, better amenities including bigger entertainment acts, and other property improvements. The table below looks at the taxes owed by a casino in Bay St. Louis and an example of a model casino in Louisiana. This is to illustrate the differences in the cost of doing business in the two states.

Figure 60: Comparison of gaming taxes and fees, Bay St. Louis, MS, vs. a Louisiana Model

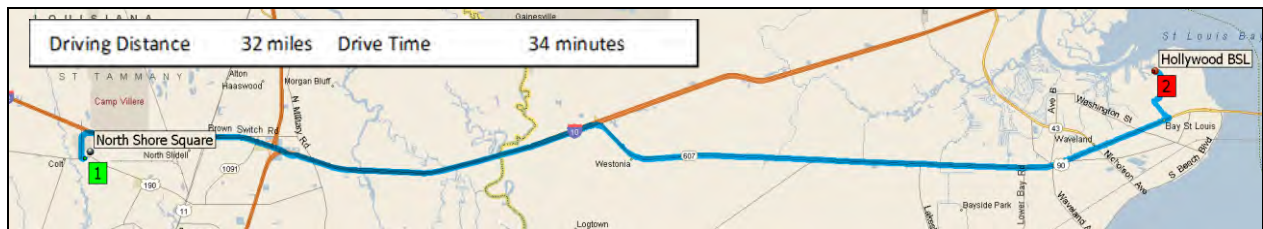
	Amount	Bay St. Louis, MS	Amount	Louisiana Model
Number of Slots		1,100		1,100
Win per Unit		\$250		\$250
Casino Revenue		\$100,375,000		\$100,375,000
State Tax Rate		8.0%		21.5%
State Tax Payment	8.80%	\$8,833,000	21.50%	\$21,580,625
Flat		\$81,200		
Over 35 games		\$106,500		
Bay St. Louis Fee of \$100 per slot	\$100	\$110,000		
County Tax	3.20%	\$3,212,000	4.50%	\$4,516,875
Investigative Fee >1000 Slots		\$225,000		
State License Fee		\$5,000		
TOTAL Taxes & Fees		\$12,572,700		\$26,097,500
% of Gross Gaming Revenue		12.53%		26.00%

Source: Mississippi Department of Revenue, Spectrum Gaming Group, Louisiana Casino Association

The net tax advantage means that a multi-property owner making investment decisions has incentive to improve the Mississippi casino over the Louisiana casino, and incentive to market the Mississippi casino to Louisiana residents. After all, the same player with the same amount to play with is worth more to the casino operator in Mississippi.

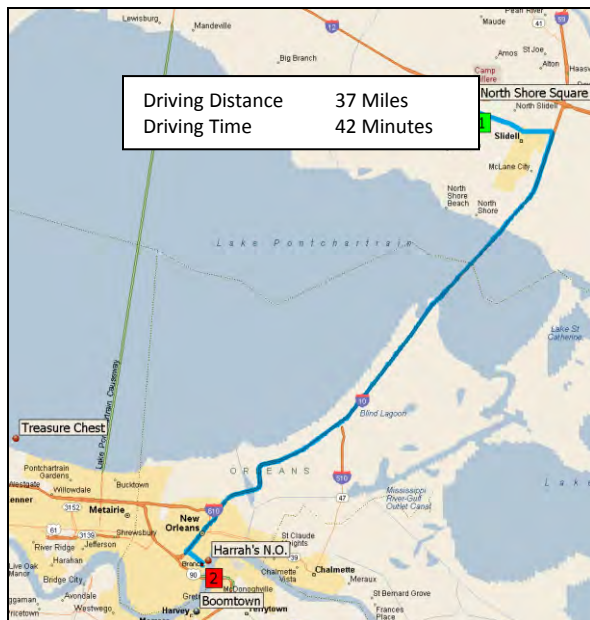
The maps below show the drive times from the North Shore Square shopping area in Slidell to the Hollywood Bay St. Louis casino, and from the same point to Harrah's New Orleans. It is a shorter and arguably easier drive to Bay St. Louis. The trip to Bay St. Louis is on interstate and then four-lane US highway. The drive to Harrah's, while also primarily on interstate, involves city traffic, one-way streets, congestion, and a parking garage. The trip to Bay St. Louis averages 56 mph. The drive to Harrah's averages about 50 mph.

Figure 61: Drive time from Slidell to Bay St. Louis, MS



Source: Microsoft Map Point

Figure 62: Drive time from Slidell to Harrah's New Orleans



Source: Microsoft Map Point

Texas

It seems that for the past 20 years, a gaming bill is introduced in the Texas legislature every session. This session is no different. There are several bills introduced in the Legislature. One calls for seven casinos with minimum investments of \$250 million in the Galveston area and in counties with over

1.5 million population, which would include Houston, Dallas and San Antonio. The Lake Charles and Shreveport-Bossier City casinos are heavily dependent on Texas patrons. Locating a casino in the Houston area or along the Gulf Coast in Texas would significantly hurt the Lake Charles casinos.

Louisiana Senator Ronnie Johns and RB Smith of the Southwest Louisiana Economic Development Alliance both believe the biggest threat to the Lake Charles casinos would be development of gaming in Texas. Both officials said that additional investment in non-gaming amenities to create destinations rather than just casinos is the only way to continue to grow the businesses.

Locals in Lake Charles note the recent addition of a hotel cluster off Interstate 210 on Prien Lake Road as a positive side effect of the casino development. These limited-service hotels are about two miles from the L’Auberge and Golden Nugget. The hotels in the cluster offer lower rates than the casinos and, importantly, availability on weekends when the casino hotels are full. For the casinos, this is a great way to increase overnight capacity without investment. For the community, it is a source of new jobs and tax revenue. Some businesses restrict employees from staying at casino hotels. New non-gaming hotels serve local businesses during the week and the casinos on Friday and Saturday.

The Louisiana Gaming Control Board estimates that more than \$600 million of the \$721 million in GGR at Lake Charles in 2017 came from out-of-state or from greater than 150 miles (collectively “out of market”), generating \$129 million in gaming tax revenue.

Figure 63: Estimated out-of-market visitation and GGR to Lake Charles casinos

FY 2017	GGR (000)	% Out of Market	Estimated OOM GGR	Estimated OOM Taxes
Isle of Capri	\$121,733	77%	\$93,734	\$20,153
Golden Nugget	\$264,538	84%	\$221,418	\$47,605
L’Auberge	\$335,175	85%	\$284,899	\$61,253
TOTAL	\$721,446		\$600,051	\$129,011

Source: Louisiana Gaming Control Board

While the likelihood of Texas approving casinos is not felt to be high, it remains the greatest threat to the Louisiana casino industry and the associated tax revenues for the State.

The State made some accommodations to the industry last year in an effort to encourage further investment and create additional economic development (see Chapter III.B.). Riverboats were allowed to move on land, within 1,200 feet of the dock site. Casinos were allowed to expand their gaming floors by removing the 30,000-square foot maximum and replacing it with a cap of 2,365 gaming positions (that is nearly 200 more than currently used by Golden Nugget, the largest casino by positions at about 2,150 positions). The casinos received waivers on gaming position caps for gaming tournaments. Both the State and industry hope these changes will spur new investment, but all decisions rest on the expected return on investment.⁴⁴ The Lake Charles casinos may be able to develop a critical mass of entertainment options that could stand up to competition, but that investment must pay a return.

⁴⁴Timothy Boone, “Belle of Baton Rouge owners seriously considering moving casino on to land,” *The Advocate*, February 12, 2019. https://www.theadvocate.com/baton_rouge/news/business/article_ee80419e-2ef1-11e9-bd4b-9fb63ea41bd3.html

There is a general belief that it is a question of “when,” not “if,” casinos are legalized in Texas. This is why, for example, Penn National acquired – and continues to own – three racetracks in the state despite the fact that almost all racetracks without slot machines are unprofitable.

However, at least two large entities – including a prominent Texan – may be lobbying to retain the status quo in Texas:

The biggest winners if Texas maintains the status quo are casinos in neighboring Oklahoma and Louisiana, whose operators are major contributors to Texas politicians.

Billionaire Tilman Fertitta, owner of the Golden Nugget casinos, has donated more than \$500,000 to Texas Gov. Greg Abbott. Two Oklahoma casino empires, the Chickasaw Nation and Choctaw Nation, have given more than \$5 million combined to Texas officeholders and candidates since 2006.⁴⁵

Texas does have one casino, the Lucky Eagle Casino operated by the Kickapoo Tribe in Eagle Pass, along the Mexican border 150 miles southwest of San Antonio, and nearly five hours from Houston. Lucky Eagle is a large-scale casino, with a 166,000-square-foot casino with 3,365 slots and 12 poker tables. The property includes a 249-room hotel and six restaurants and four bars.⁴⁶ The casino is a Class II operation, meaning it operates bingo-based slots similar to those offered at bingo halls in Louisiana. For most players the difference is not noticeable. From a regulatory standpoint it is important. The National Indian Gaming Commission has determined that a tribe operating bingo does not need to have a compact with the host state and can operate under federal authority. As a Class II gaming operation, it pays no gaming tax/revenue share with the state.

Arkansas

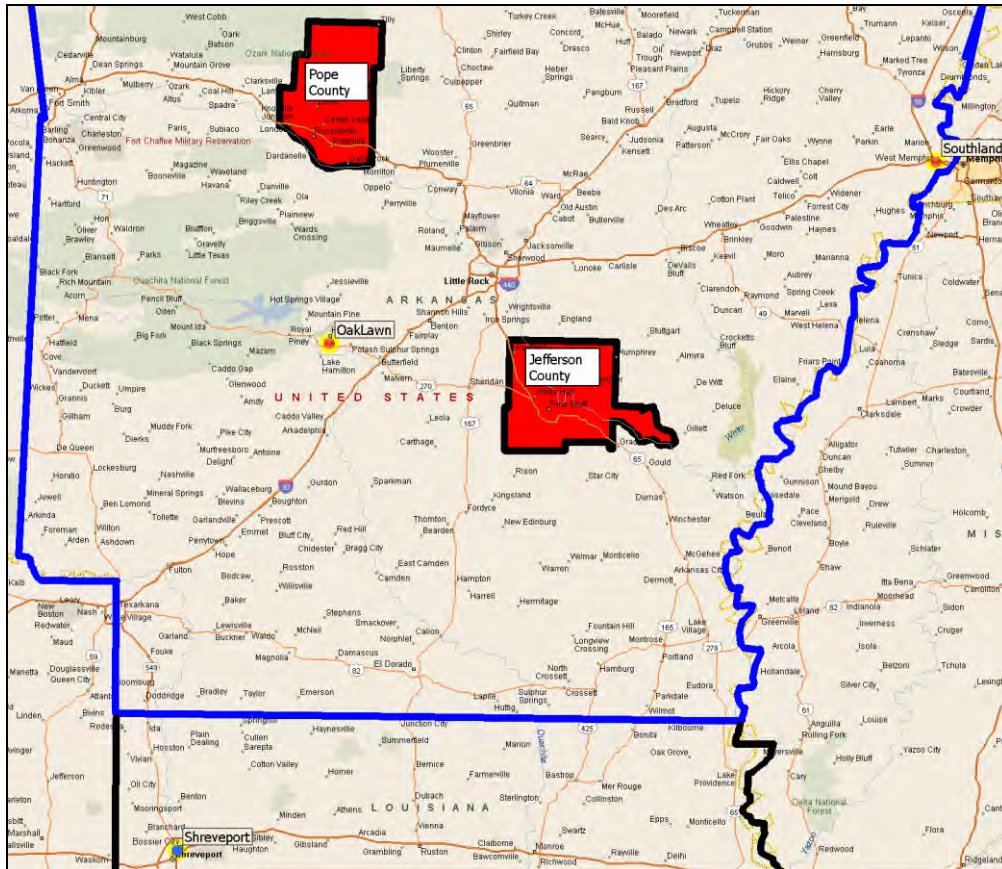
Arkansas legalized casinos at four locations in 2018. Plans are underway to expand the current gaming offerings at Oaklawn Racing & Gaming in Hot Springs and Southland Gaming & Racing in West Memphis and add one casino each in Pope County and Jefferson County. Oaklawn and Southland previously offered only slot-like games that were based on skill and/or historical horse racing; on April 1, 2019, they both began offering live table games, and Southland also began offering bona fide slot machines.

The following map shows the location of the two existing gaming facilities in the state as well as the two counties authorized to host an additional casino each.

⁴⁵ “Legalized Sports Betting Unlikely in Texas, California, Florida,” CBS DFW, March 2, 2019. <https://dfw.cbslocal.com/2019/03/02/legalized-sports-betting-unlikely-texas-california-florida/>

⁴⁶ Casino City. <http://texas.casinocity.com/eagle-pass/kickapoo-lucky-eagle-casino-hotel/> (accessed February 26, 2019)

Figure 64: Map of Arkansas casino sites



Source: Microsoft MapPoint

Southland, situated in the Memphis market, said it will spend \$250 million to create a large-scale casino floor and add a 20-story hotel. Oaklawn said it will spend more than \$100 million to expand the casino, add a 200-room hotel and add numerous non-gaming amenities.

Expansion of Oaklawn into a full casino with a hotel may enable it to draw more players from the Texarkana area. Although Shreveport is closer to Texarkana, players may begin to “split their wallet” between Oaklawn and the Shreveport-Bossier City casinos. In other words, a player in Texarkana who now makes 10 trips a year to Shreveport-Bossier City may in the future make eight trips to Shreveport-Bossier City and two to Oaklawn.

Pope County lies between Fort Smith and Little Rock along Interstate 40. The county as a whole voted against the statewide resolution in the November election. However, the resolution passed with 54 percent statewide. There is controversy about the state referendum overruling the will of the local population. Some in Jefferson County want the license to be shifted to Jefferson. Many believe that because the referendum specified the location, it cannot be moved without another referendum.

Jefferson County is southeast of Little Rock. The largest city in the county is Pine Bluff, which is a 3.5-hour drive from Bossier City. Jefferson County and Pine Bluff officials endorsed a proposal from the Quapaw Tribe of Oklahoma to build a \$240 million commercial casino. The Saracen casino is expected to open in phases. The casino floor and some restaurants are expected to open in late 2019. The 300-room

hotel and spa is expected to open in early 2020. Given the driving distance, and the size of the city, it is unlikely that the Shreveport-Bossier City casinos derive much business from Pine Bluff, but since the expansion of the Oklahoma casinos, any further loss of revenue is difficult to bear.

The new law also changed the tax structure. The two existing racetracks with gaming are currently taxed at 20 percent of GGR. The State keeps 18 percent, with 2 percent for local governments. The tracks also pay 15 percent of GGR to purse subsidies. Under the new law there is a graduated tax rate of 13 percent on the first \$150 million of GGR and 20 percent on GGR over \$150 million.

2. Internal

Views on internal competition vary depending on who is looking. The general manager of a riverboat in New Orleans has a different view on moving a boat to the Northshore than a state legislator. Whereas the general manager is looking at the operations and is concerned that a new operation will take business away from the operators already in the New Orleans market, the legislator needs to look at the value of the casino license for the State. If the State can generate additional tax revenue by moving the license, the legislator is bound to maximize the value of that license for his citizens.

It could be argued that there are seven casinos in the Shreveport-Bossier City market in what should be a five-casino market. It could also be argued that there are three casinos in Lake Charles in what could be a five-casino market. Is the intense local competition in overserved markets good for Louisiana and the industry, or would reallocating these assets to underserved areas better serve the licensees and the state? (Further analysis of this is found in Chapter IV of this report.)

Smoking bans are another internal threat, although not a competitive one. Elsewhere in the country, smoking bans in jurisdictions including Colorado, Delaware and Illinois caused immediate declines in casino GGR. In Louisiana, the April 2015 smoking ban in Orleans Parish appears to have benefitted nearby Treasure Chest in Kenner and Boomtown in Harvey. In the following 24 months, GGR declined more than \$45 million at Harrah's and \$3.9 million at Fair Grounds, which are in Orleans Parish. GGR increased at Boomtown and Treasure Chest in neighboring Jefferson Parish by almost \$13 million combined in that same timeframe, as detailed earlier in this report.

Elsewhere in the state, there was concern that the 2018 smoking restrictions in East Baton Rouge Parish would move players to the video poker outlets in nearby parishes where smoking was still permitted. The data do not bear out this fear, which may suggest that video poker and casino gaming are not competitors despite offering similar products in the gaming space. Stan Guidroz, the President of the Louisiana Video Gaming Association, believes this to be the case. The games are different and appeal to a different player.

Figure 10: Changes in video poker gross gaming revenue for East Baton Rouge parish and nearby parishes

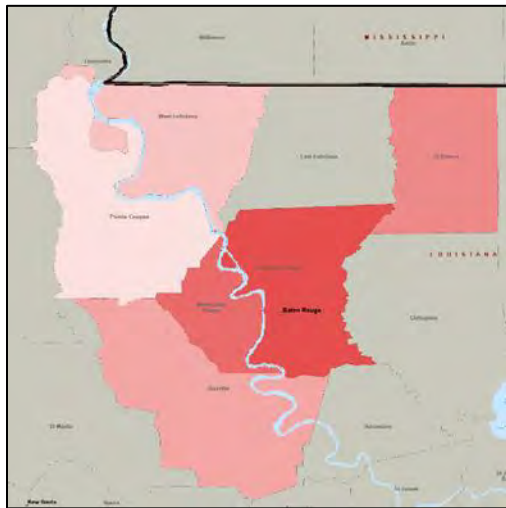
Jun - Dec 2017 vs Jun - Dec 2018	
Parish	Rev Change in (000)
East Baton Rouge	\$(19,377)
Iberville	\$ (357)
Pt. Coupee	\$ (170)
St. Helena	\$(1,599)
West Baton Rouge	\$(1,664)
West Feliciana	\$ (174)
Total Area	\$(23,340)

Source: Louisiana Gaming Control Board

The following map depicts the decline in gaming revenues by parish from the first half of fiscal year 2018 vs. the first half of 2017. The deeper the red, the steeper the decline. Revenues fell most in East Baton Rouge Parish, where the smoking ban was implemented, but there was no offsetting increase in any of the surrounding areas.

In reaction to smoking bans, casino operators have created outdoor gaming patios. Hollywood Casino has a small smoking area with 15 machines and improved ventilation to meet both the law and player wants. L’Auberge Baton Rouge has invested nearly \$4 million to create a space where players will be able to smoke and play. Fair Grounds and Harrah’s New Orleans created similar spaces in response to the Orleans parish smoking ban. Casinos in other states with smoking bans, including Ohio and New York, have developed similar accommodations.

Figure 11: Map of video poker declines in, around East Baton Rouge Parish, 2018 vs. 2017



Source: Louisiana Gaming Control Board, Microsoft MapPoint; for first half of each year. The deeper the shade of red, the steeper the decline.

Another indicator of the complementary rather than competitive nature of the video poker and casino businesses can be found by examining the results at Fair Grounds. In the most recent fiscal year, the slots at the Fair Grounds racino and the video poker operated by Fair Grounds at its OTBs generated almost the same revenue (\$42.5 million vs. \$41.7 million). Fair Grounds offers more video poker games at its OTBs than it has slots at the track. The ease of access from being more broadly dispersed appeals to

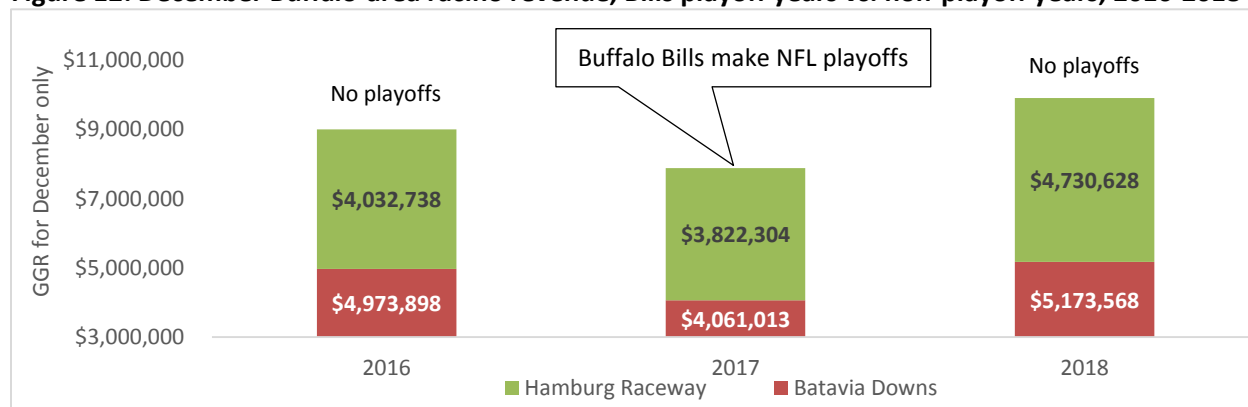
the convenience gamer. Visiting a casino or track is more of an entertainment experience, and generally takes more time and commitment to an experience. There is concern that should gaming be allowed on mobile devices, casino visitation will fall as people choose convenience over experience.

3. Competition from Other Industries that Target Discretionary Spending

Everything that is not a need is discretionary spending, such as dining out, going to a movie, or attending a sporting event. The volume and variety of entertainment has never been greater. As such, competition for attention and the participation in forms of entertainment is fierce – and can come from unexpected sources.

In 2017 the Buffalo Bills made the NFL playoffs for the first time in 16 years. Revenue at the racinos near Buffalo fell by 12.5 percent from December 2016 to December 2017. The weather was not appreciably different, so that was not the factor. For the first time since the racinos opened, there was a Buffalo football team worth watching in December. Some in casino management felt that rather than heading to the casino on Sunday afternoons, neighbors held “watch parties” to see if the Bills would make the playoffs. The following chart shows the decline in racino revenues at the Buffalo area properties in the one year (2017) the Bills made the playoffs, and the subsequent rebound in revenue when the team went 6-10.

Figure 12: December Buffalo-area racino revenue, Bills playoff years vs. non-playoff years, 2016-2018



Source: New York State Gaming Commission

4. Distinguishing Threats from Opportunities

The continuing growth of tribal gaming in Oklahoma has resulted in too much supply for the demand in Shreveport-Bossier City. However, that creates an opportunity for the State to maximize the value of the riverboat casino licenses by potentially opening them to relocation. At the same time, moving boats may increase competition in market areas for incumbent boats in some markets.

Looking at the overall threats to further growth and development in the gaming industry it is important to rank them, which we do as follows based on our interviews with Louisiana stakeholders and our research for this project:

1. **Texas:** Texas opening Las Vegas-style resort casinos near Houston and Dallas would result in potentially major declines in the Lake Charles and Shreveport-Bossier City areas. This would be similar to what happened in Atlantic City after casinos emerged in the Philadelphia and New York City markets last decade. Such expansion is beyond the control of anyone in Louisiana, but the State can develop programs that incentivize operators to make major capital investments in their properties in exchange for lower tax rates, as one example.
2. **Atrophy:** This has already begun to manifest through lack of continued investment by some of the existing licensees, resulting in declining revenues. The lack of investment is caused by lower returns than may be available in other jurisdictions. Some of the causes of atrophy can be addressed by the Legislature, as noted in No. 1 above. Many casinos in Mississippi have “corporate siblings” in Louisiana. Reducing the disincentives to invest in Louisiana properties relative to Mississippi is key to the development of the industry and the economic development that it brings. Measures to begin leveling the playing field can include eliminating the free play tax, opening sportsbooks, making new markets available by authorizing additional eligible sites, and offering reduced property tax rates on new projects or on added amenities to existing casinos.
3. **Online gaming:** In Spectrum’s opinion, this is more of a perceived threat than an actual threat. Online gaming could cause some players to stay home and gamble, ostensibly reducing the need for dealers, cocktail servers and other employment at the physical casinos. The experience in New Jersey so far, however, shows that the land-based casino operators have benefited by attracting overwhelmingly new players to the online space who can then be incented to visit the physical casino, thus the casino operators benefit from the incremental online revenues and the follow up site-visit revenues.

5. Greatest Threats, Risks: Tax and Regulatory Policy

The most serious threats that could undermine Louisiana’s effort to enhance the economic benefits of gaming are:

- A relatively high tax rate
- Out-of-date regulations

Notably, these two factors can be controlled by the State.

The continued consolidation of the industry means national operators including Boyd Gaming, Caesars Entertainment, Eldorado and Penn National will allocate capital across their range of properties to where it will provide the highest return. Inaction in the face of that reality will not increase investment, but will make Louisiana less attractive to investment, and thus less competitive.

Casino gaming came early to Louisiana. But that was 25 years ago. After Hurricane Katrina, Mississippi loosened some of its restrictions on casino location to make them less vulnerable to storms. The changes had the additional benefit of enabling owners to invest in new state-of-the-art facilities with better air handling, less restrictive riverboat floor plates, and overall better integrated resorts.

Despite the restrictions, there have been some significant investments in casinos. The L’Auberge casinos in Baton Rouge and Lake Charles, and the Golden Nugget in Lake Charles, are major investments. The continued strong demand for gaming in Houston drives the Lake Charles market. Recognizing there

was a market, two developers stepped in. In Shreveport-Bossier City, the Margaritaville investment may have slowed the leakage to Oklahoma but did not grow the market.

D. Conclusion

The casino industry and the demographics that support it are changing, both nationwide and in Louisiana. Developing new attractions and amenities at the casino properties will allow the industry to prosper. Enabling the industry to invest to meet these challenges is central to maintaining the economic development benefits of the gaming industry.

The real threat to Louisiana gaming, as noted above, is property atrophy created by underinvestment in a market with low returns to owners. The ever-present threat of Texas gaming is beyond the control of Louisiana. Bolstering the commercial gaming industry by making Louisiana a better business environment can address the atrophy.

Recall that the State of Louisiana is a 21.5-percent partner with its casino operators. It is in the best interest of this governmental partner that the casino industry has enough flexibility to adapt to changes in market preferences and an aging or changing population base. As noted in the following thesis published by the University of Nevada Las Vegas:

Microeconomic theory generally supports the idea of an inverse relationship between taxes and capital investment. The gaming industry, however, does not operate on a free market equilibrium of supply and demand. Regulation and taxation of this industry can distort competitive forces and, as a result, investment decisions. Forces are described herein which either strengthen or weaken this inverse relationship, as well as how they affect the value of the limited number of casino operating licenses which states grant. Higher tax rates are generally shown to result in small-scale properties, which cater to a narrow base of consumers. In contrast, low tax rates are shown to allow operators the flexibility to grow their consumer base, and create broader economic benefits.⁴⁷

Spectrum notes – and will reiterate later in this report – that we are not recommending a wholesale lowering of tax rates in Louisiana. We are rather advocating a thoughtful, reasoned approach to tax policy:

- Rates that were established decades ago may no longer be relevant or productive; and
- Rates should be established to realize economic, not political, goals.

With that in mind, we also caution – as part of a theme that is woven throughout our report – that a gaming license in Louisiana is clearly established as a privilege, not a right. As such, policymakers in Louisiana require certainty that their licensees – which, as noted, mostly operate in multiple markets – should invest any tax relief generated by Louisiana into their Louisiana properties.

Achieving that particular goal of additional capital investment can be furthered by improving the investment climate. But ensuring that any tax relief results in direct reinvestment can only be achieved by requiring operators to make such commitments.

⁴⁷ Jeremy Pollock, “The Effects Of Gaming Taxation On Capital Investment in Gaming Businesses,” University of Nevada Las Vegas, May 2015, p. iii.

<https://digitalscholarship.unlv.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=3606&context=thesesdissertations>

III. Comparison of Louisiana’s Gaming Tax and Regulatory Framework to Other States

A. Introduction

This section of the report offers a comprehensive overview of gaming policy and regulation in Louisiana, and it focuses on several significant issues that emanate from the State’s gaming tax and regulatory framework.

The state’s highly competitive gaming industry has evolved into a material source of revenue for the state. The state’s casinos compete for patronage and gaming revenue with each other, as well as with the state’s three Native American casinos. Moreover, as a group and as separate entities, they must compete with the casinos operating in neighboring states, primarily Mississippi. As duly noted by Caesars Entertainment Corporation in a recent regulatory filing, the gaming operations in Louisiana may be adversely affected by what transpires in Mississippi and the Gulf Coast.⁴⁸

Additionally, the commercial casino industry in Louisiana is dominated by corporations with gaming operations – as well as headquarters – in other states. Louisiana is hardly alone in that regard. The expansion of legal gaming across the United States over the past decades has prompted a similar rise of gaming operations that seek to gain economies of scale, with the goal of efficiently pursuing opportunities in multiple jurisdictions. This is the reality of commercial gaming in Louisiana and the nation at large: Casinos compete against casinos, while corporations compete against corporations, and states compete against states.

The state’s gaming industry needs to be examined and evaluated through this complex prism to determine if there are regulatory and legislative reforms that can be implemented to improve the industry’s competitive position and to enhance the State’s revenue stream without negatively impacting the integrity of gaming operations or the regulatory system.

Notably, gaming regulators in multiple markets “are constantly gauging whether requirements still serve the purposes that first justified them, or whether changing circumstances warrant new approaches.”⁴⁹ As the American Gaming Association declared recently, “for the gaming industry to thrive in today’s accelerating economic world, regulators have to embrace constant review of how regulatory standards and processes can work better to ensure a gaming industry that operates in the public interest while delivering economic success to its communities.”⁵⁰

Indeed, sometimes the changes implemented may even constitute radical revisions to how the industry is to be regulated, such as what transpired in New Jersey in 2011 when the New Jersey Casino

⁴⁸ Annual Report of Caesars Entertainment Corporation, form 10K, filed with the Securities and Exchange Commission, February 22, 2019.

⁴⁹ David O. Stewart, American Gaming Association, “Advancing Regulatory Modernization: Building on a Record of Success,” 2019.

⁵⁰ Ibid.

Control Act “was amended significantly to streamline the regulatory structure and realign the duties of the regulatory agencies.”⁵¹

More often, the regulatory changes may be more modest in scope, such as revisiting the percentage threshold for requiring qualification of institutional investors.⁵² Sometimes the changes contemplated can have wide-ranging implications for expanding the revenue stream. For example, in Pennsylvania, the tax imposed on table games was increased in 2016 from 14 to 16 percent.⁵³ In some respects the revisions under review may have industrywide application. Regulators across the country have recently considered the potential economic benefits and ramifications of introducing new forms of gaming activity such as online gaming and sports betting.

In conducting our research, we had an opportunity to interview several relevant stakeholders, including Ronnie Jones, Chairman of the Louisiana Gaming Control Board; Wade Duty, Executive Director of the Louisiana Casino Association; Major Chuck McNeal, Commander of the Louisiana State Police, Gaming Enforcement Division; Christopher B. Herbert, Director, Gaming Division, State Attorney General’s Office; and several legislators. We also reviewed the meetings of the Riverboat Economic Development and Gaming Task Force and voluminous documents relating to the regulatory systems of various states, such as the annual report of the Louisiana Gaming Control Board, the annual report of the American Gaming Association, the current annual reports of several gaming regulatory agencies, and the various gaming statutes and regulations that authorize gaming operations in Louisiana and other states.

As intended, over a span of 25 years, the gaming industry has become a focal point in Louisiana’s economy, providing a consistent and valuable source of revenue and employment opportunity. From the inception of casino gaming in Louisiana, the State has definitely embraced gaming as a significant part of its economic development and revenue enhancement strategies.

For Louisiana, the implementation of casino gaming was always viewed as an economic tool for the state.⁵⁴ In this vein, the Louisiana Gaming Control Board is committed to “foster a regulatory environment that provides optimum economic opportunity for both gaming operations and the Louisiana citizens who are employed by and/or benefit from this industry.”⁵⁵ The revenue generated from gaming operations funds a number of State programs and is a primary source of funding for the Support Education in Louisiana Fund.⁵⁶

However, it is also undeniable that the state’s gaming industry carries with it a history of significant economic, regulatory and political challenges. For example, the operator of the land-based

⁵¹ 2017 Annual report of the New Jersey Casino Control Commission.

⁵² David O. Stewart, American Gaming Association, “Advancing Regulatory Modernization: Building on a Record of Success,” 2019.

⁵³ Dustin Gouker, “Pennsylvania Raises Taxes On Table Games At Casinos; Online Gambling On Fall Agenda,” PAOnlineCasino.com, July 28, 2016. <https://www.paonlinecasino.com/909/pennsylvania-table-games-tax-and-online-gambling/>

⁵⁴ Interview of Chairman Ronnie Jones, January 23, 2019.

⁵⁵ 2018 Annual report of the Louisiana Gaming Control Board.

⁵⁶ Ibid.

casino in New Orleans has twice filed for bankruptcy. Following its second bankruptcy, the State allowed the New Orleans casino to lower its minimum guaranteed State tax payment to \$60 million, down from the \$100 million it had originally agreed to pay. Former Louisiana Governor Edwin Edwards was convicted in 2000 of extortion in connection with the original riverboat selection and licensing process. Federal investigations into public corruption of the industry also resulted in the conviction of state Senator Larry Bankston, who was the Chairman of the Senate Judiciary Committee that handled gaming legislation.⁵⁷

The video poker industry was embroiled in considerable controversy in the mid-1990s with the convictions of numerous figures linked to the Marcello organized crime family. Most of these individuals pled guilty to racketeering conspiracy by “scheming to infiltrate and skim profits” from the state’s video poker industry, and others were convicted after trial.⁵⁸ The racketeering charges alleged that the Genovese and Gambino crime families aided the Louisiana-based Marcello crime family in establishing and controlling Worldwide Gaming of Louisiana and its subsidiary, Louisiana Route Operators Inc., which distributed video gaming machines. According to the indictment and the reported decision of the Fifth Circuit Court of Appeals, Worldwide Gaming secured the sole rights in Louisiana to video poker machines made by industry leader Bally Gaming Inc., and money from the machines was diverted illegally to the crime families, defrauding Bally Gaming.⁵⁹

In a related criminal case, a state legislator who served on a gaming oversight committee was implicated in helping organized crime infiltrate Louisiana’s video poker industry and ultimately pled guilty. As recently as 2012, the Louisiana Gaming Control Board denied an application for a video gaming license for Frank’s Restaurant, calling the business “the site of illegal gaming activity” and referring to co-owner Frank Gagliano Jr.’s 1997 conviction in an illegal bookmaking scheme. The Board’s order declared that “Mr. Gagliano’s brother and father, Frank Gagliano Sr., were reportedly members of New Orleans organized crime.”⁶⁰

Because of the taint that some in the public may still associate with the gaming industry in Louisiana and elsewhere, it is imperative that the State maintain a regulatory system that is firmly committed to ensuring the integrity of the regulatory process, the exclusion of criminal elements, and the fairness and legitimacy of gaming operations. These time-honored salutary principles cannot be compromised for economic purposes. For this safeguarding purpose, Louisiana utilizes a dual-agency regulatory model for commercial casino gaming, with various responsibilities allocated among two distinct

⁵⁷ Jaquetta White, “Casinos: The Times Picayune Covers 175 Years of New Orleans history,” January 29, 2012.

⁵⁸ “Louisiana ‘Crime Family’ Members Plead Guilty in Video Poker Case,” *Chicago Tribune*, September 12, 1995. <https://www.chicagotribune.com/news/ct-xpm-1995-09-12-9509130211-story.html>; *United States v. Salvatore*, 110 F.3d 1131 (5th Cir. 1997).

⁵⁹ “17 Arrested in Probe of Mob Ties to Louisiana Poker Machines,” Associated Press, June 1, 1994. http://articles.latimes.com/1994-06-01/news/mn-64430_1_poker-machine; Alan Sayre, “Wiretap came between mob, Louisiana gambling,” *Las Vegas Sun*, September 23, 2003. <https://lasvegassun.com/news/2003/sep/23/wiretap-came-between-mob-louisiana-gambling/>; *Salvatore*, 110 F.3d 1131.

⁶⁰ Dan Lawton and Jim Mustian, “‘Assassin’s Van’ suggests organized crime elements,” *The New Orleans Advocate*, July 23, 2014. https://www.theadvocate.com/new_orleans/news/article_ef273eba-b51c-51af-9cfb-bfe3667596f1.html

government departments: the Gaming Control Board and the Louisiana State Police, Gaming Enforcement Division (“Division”).

Within this regulatory structure, primary and ultimate responsibility is entrusted to the Gaming Control Board, which “exercises regulatory authority, control and jurisdiction over all aspects of gaming activities and operations.”⁶¹ The Gaming Control Board operates in a quasi-judicial capacity, with broad adjudicative decision-making and rulemaking authority.⁶² By statute, the Division has significant regulatory and enforcement duties, with responsibility to conduct audits and investigations relating to gaming operations,⁶³ and it works in tandem with the Gaming Control Board to ensure that the gaming industry is properly regulated.⁶⁴ In addition, the Attorney General’s Gaming Division performs certain ancillary regulatory services, including provision of legal advice to the Gaming Control Board as contemplated by statute.⁶⁵

The oversight of the Gaming Control Board extends to the land-based and riverboat casino gaming industry and the video poker industry as well as the slot machines in use at the racetracks.⁶⁶ The Board is comprised of nine members, who are appointed by the Governor and confirmed by the Senate.⁶⁷ All of the Board members serve in a part-time capacity except for the Chairman.⁶⁸ The Board members serve staggered terms of six years.⁶⁹ The Chairman serves as the Chief Executive Officer for the Gaming Control Board and is responsible, with the staff’s assistance, for the conduct and management of daily operations of the agency and the fulfillment of its regulatory responsibilities.⁷⁰

The mission statement of the Gaming Control Board is similar to that developed by other gaming regulatory agencies: “To regulate all gaming activities under its jurisdiction in a manner which instills public confidence and trust that gaming activities are conducted honestly and free from criminal and corruptive elements; to ensure the integrity of individual gaming activities by the regulation of persons, practices, associations and activities within the gaming industry.”⁷¹

Under the current leadership of Chairman Ronnie Jones, the Gaming Control Board strives to fulfill its mission to balance the need for strict regulation of all gaming operations with the full understanding that the gaming industry is vital to the state’s economy. With that balance in mind, Jones has made it clear

⁶¹ Annual report of the Louisiana Gaming Control Board, 2018.

⁶² Interview of Chairman Ronnie Jones, January 23, 2019.

⁶³ La. Rev. Stat. § 27:57.

⁶⁴ Interview of Chairman Ronnie Jones, January 23, 2019.

⁶⁵ Ibid.

⁶⁶ Annual report of the Louisiana Gaming Control Board, 2018

⁶⁷ La. Rev. Stat. § 27:11A.

⁶⁸ La. Rev. Stat. § 27:14.

⁶⁹ La. Rev. Stat. § 27:11A.

⁷⁰ Ibid.; Interview of Chairman Ronnie Jones, January 23, 2019.

⁷¹ Annual report of the Louisiana Gaming Control Board, 2018.

that regulatory efforts should not unduly impede lawful casino operations.⁷² As a result of this concerted effort, and with the contributions of the State Police and the Attorney General's office, a shared vision and cooperative effort has developed between the casino industry and the regulators.⁷³

As noted, the Division of the State Police also provides gaming oversight services. The Division describes its mission as:

[C]ommitted to the strict regulation and control of statutorily authorized gaming entities in conjunction with the Louisiana Gaming Control Board (LGCB). The regulation of gaming and the enforcement of criminal gambling laws promote the public's health, safety and welfare by safeguarding the people of this state against corrupt and dishonest practices. The program also provides professional services in an effective, innovative and fair manner that instills public confidence, while fulfilling duties that ensure accurate revenue collection and reporting from licensees, protect the state's assets, and ensure the integrity of all gaming devices and systems by enforcing compliance with all state laws, regulations, and licensee's internal controls related to legally authorized gaming in Louisiana.⁷⁴

The tax imposed on the casinos is 21.5 percent of net gaming revenue for the riverboats, with additional taxes and fees applied by local governments. These taxes are the same for slot machines and table games at the riverboat and land-based casinos.⁷⁵ The racinos pay an effective tax rate of approximately 36 percent of gaming revenue.⁷⁶ For video poker establishments other than those located at off-track wagering facilities, there is a tax rate ranging from 26.0 to 32.5 percent of gaming revenue, depending on the type of establishment; those located at off-track wagering facilities are taxed at 22.5 percent after deducting a statutorily required 20 percent of net device revenue for purse supplements.⁷⁷ We evaluate the tax structure in this report with respect to the competitive impact it may have on the Louisiana gaming industry.

With that backdrop, the issues that are addressed herein include the following:

1. Taxation of promotional free play
2. Regulatory structure, funding and staffing
3. Restrictions imposed on gaming operations
4. The approval process for new gaming equipment
5. Limitations on the number and location of casinos
6. Distribution of gaming revenue
7. Potential advent of sports betting
8. Economic concentration

⁷² Interview of Chairman Ronnie Jones, January 23, 2019.

⁷³ Interview of Wade Duty, Executive Director of the Louisiana Casino Association, January 23, 2019.

⁷⁴ Gaming Enforcement Division, Louisiana State Police. <http://www.lsp.org/gaming/index.html> (accessed January 26, 2019)

⁷⁵ "2018 State of the States," American Gaming Association. https://www.americangaming.org/wp-content/uploads/2018/08/AGA-2018-State-of-the-States-Report_FINAL.pdf

⁷⁶ Ibid.; "Casino Gaming Taxes," Louisiana Casino Association, July 8, 2016.

⁷⁷ La. Rev. Stat. §§ 27:435, 27:438.

B. Public Policy

Gaming operations in Louisiana are subject to extensive regulation under the Louisiana Gaming Control Law,⁷⁸ which includes the Louisiana Riverboat Economic Development and Gaming Control Act,⁷⁹ the Louisiana Economic Development and Gaming Corporation Law,⁸⁰ the Louisiana Fantasy Sports Contests Act,⁸¹ the Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act,⁸² the Video Draw Poker Devices Control Law,⁸³ and miscellaneous gaming provisions.⁸⁴ As discussed more fully in the subsections that follow, the overarching public policy of the State is to develop a “controlled gaming industry to promote economic development,”⁸⁵ while at the same time protecting the “general welfare” and keeping the “state free from criminal and corrupt elements.”⁸⁶

1. Historical Context

Louisiana history is rich in many respects, and its history with gambling is no exception. The roots of gambling in Louisiana have been traced to the French Louisianans, who built cabarets and billiard halls in New Orleans even before building their church.⁸⁷ Once the church was built, some continued to gamble on Sundays. In response, Louisiana officials adopted ordinances prohibiting gambling and other vices during religious services and ultimately prohibited gambling altogether.⁸⁸ When these ordinances did not deter illegal gambling, Governor Louis Billouart de Kerlérec opened a government-run casino in New Orleans in 1753.⁸⁹ Thereafter, gambling continued to thrive during the Spanish regime following the French and Indian War.⁹⁰

⁷⁸ Ibid. § 27:1.

⁷⁹ Ibid. § 27:2.

⁸⁰ Ibid. §§ 27:41, *et seq.*

⁸¹ Ibid. §§ 27:301, *et seq.*

⁸² Ibid. §§ 27:351, *et seq.*

⁸³ Ibid. §§ 27:401, *et seq.*

⁸⁴ Ibid. §§ 27:501, *et seq.*

⁸⁵ Ibid. § 27:2.

⁸⁶ Ibid. § 27:2.

⁸⁷ Jay Precht, “Legalized Gambling,” 64parishes.org, November 16, 2011. <https://64parishes.org/entry/legalized-gambling>. The French Louisianans completed construction of the St. Louis Church, now known as the St. Louis Cathedral, in 1727. *ibid.*

⁸⁸ *Ibid.*

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*

Gambling remained after Louisiana became a territory in 1803, but in 1812 the State banned gambling – exempting New Orleans.⁹¹ Louisiana subsequently went through a period in which casinos alternately were legalized and banned, but legalized gambling resumed after the Civil War.⁹²

The first State lottery was created by the Louisiana State Legislature in 1868.⁹³ The Louisiana Lottery Corporation operated “one of the largest and most financially successful lotteries in the United States” between 1868 and 1893.⁹⁴ An attempt in 1879 to abolish the lottery legislatively failed, and it operated successfully throughout the country until the late 19th Century, when corruption scandals caused opposition began to grow.⁹⁵ In 1898, during the term of “anti-lottery governor”⁹⁶ Murphy James Foster, the Louisiana Constitution was amended to prohibit lotteries.⁹⁷ This prohibition continued almost 100 years, until the Louisiana Constitution was amended in 1990 to permit lotteries once again.⁹⁸

In contrast to the Constitutional provisions expressly prohibiting lotteries, “no self-operating provision or mandatory prohibition” regarding gambling has ever appeared in the State’s constitution.⁹⁹ Instead, the Louisiana Constitution of 1879 declared “gambling” to be a “vice” and directed the legislative body (then, the General Assembly) to “enact laws for its suppression.”¹⁰⁰ The Constitutions of 1898, 1913 and 1921 similarly declared gambling a “vice” to be “suppressed” by the Legislature.¹⁰¹ This declaration remained in place until 1974, when Louisiana voters approved a revision to the Constitution that removed the condemnation of gambling as a “vice” and provided that “[g]ambling shall be defined and suppressed by the legislature.”¹⁰²

⁹¹ See *Latour v. State*, 00-1176, p.8 (La. 01/29/01), 778 So. 2d 557, 562.

⁹² See La. Const. of 1864, art. 116 (authorizing legislature to “license the selling of lottery tickets and the keeping of gambling houses”); see also Precht, *supra* note 87.

⁹³ Ronnie Jones, Louisiana Gaming Control Board Chairman, “Riverboat Gaming in Louisiana—Changes on the Horizon?,” *American Gaming Lawyer*, Spring 2017.

https://www.imgl.org/sites/default/files/media/publications/riverboatgamblinginlouisiana_jones_agl_spring2017.pdf

⁹⁴ J. Paul Leslie, “Louisiana Lottery,” 64parishes.org, August 18, 2011. <https://64parishes.org/entry/louisiana-lottery>. As Chairman Jones noted, the early lottery, “nicknamed the Golden Octopus . . . sold 90% of its tickets to residents outside of” Louisiana, was “corrupt from the outset,” and “was so successful that extra train cars had to be added to move tickets and money in and out of the New Orleans-based offices.” Jones, *supra* note 93.

⁹⁵ Precht, *supra* note 87; see also *Polk v. Edwards*, 626 So. 2d 1128, 1138 n.9 (La. 1993) (noting that lotteries have been prohibited by the Louisiana Constitution since 1845, except during the period from 1864 to 1895 and since 1990).

⁹⁶ Precht, *supra* note 87.

⁹⁷ La. Const. of 1898, art. 178 (“Lotteries, and the sale of lottery tickets, are prohibited in this State.”).

⁹⁸ 1990 La. Acts, No. 1097 (amending Article 12, Section 6(A) of the Constitution to allow the legislature to “provide for the creation and operation of a state lottery”).

⁹⁹ *Polk*, 626 So. 2d at 1138.

¹⁰⁰ La. Const. of 1879, art. 172.

¹⁰¹ La. Const. of 1898, art. 188; La. Const. of 1913, art. 188; La. Const. of 1921, art. 19, §8; see also *Polk*, 626 So. 2d at 1137; *Latour v. State of Louisiana*, 00-1176, p.8 (La. 01/29/01), 778 So. 2d 557, 562.

¹⁰² La. Const. of 1974, art. 12, § 6; see also Lee Hargrave, “Statutory” and “Hortatory” Provisions of the Louisiana Constitution of 1974, 43 La. L. Rev. 647, 678 (1983) (discussing the “non-self-executing” nature of this provision, “which leaves the legislature free to work its will with respect to the definition and mode of suppression”).

Louisiana first authorized pari-mutuel betting on horse races at the New Orleans Fair Grounds in 1902.¹⁰³ Although this was the only officially sanctioned form of gambling in Louisiana at that time, operation of illegal casinos continued.¹⁰⁴

Other forms of legal gaming began its return to Louisiana in 1986, when then-Governor Edwin Edwards proposed authorizing statewide lottery and casino gaming in the New Orleans area to bolster revenue and create jobs during a time of high unemployment in the state.¹⁰⁵ Although those efforts failed, the Legislature proposed a constitutional amendment to allow a state lottery during the tenure of Governor Charles “Buddy” Roemer.¹⁰⁶ Louisiana voters approved that amendment, which resulted in the authorization of the lottery in September 1991.¹⁰⁷

After that, with a thriving Florida lottery drawing revenue from Louisiana, coupled with the approval of casino gaming in Mississippi in 1991,¹⁰⁸ the Louisiana Legislature, supported by Governor Roemer, first approved riverboat gaming in 1991,¹⁰⁹ and the first riverboat casino began operations in 1994.¹¹⁰ Louisiana’s Gaming Control Law was enacted in 1996,¹¹¹ during the third term of Governor Edwin Edwards.

The original Louisiana Riverboat Economic Development and Gaming Control Act “vested two separate bodies, the Riverboat Gaming Commission and the State Police Gaming Enforcement Division, with distinct powers.”¹¹² But with the adoption of the Louisiana Gaming Control Law in 1996, the Legislature abolished the Riverboat Gaming Commission and created the Louisiana Gaming Control Board as “the sole and exclusive regulatory and supervisory board for gaming operations and activities” in Louisiana, including “all regulatory, enforcement, and supervisory authority which exists in the state as to gaming on Indian lands[.]”¹¹³ In addition, the Legislature declared that “[t]he attorney general or his designee shall be the legal advisor and legal representative to the board, chairman, and office of state

¹⁰³ 1902 La. Acts, No. 223.

¹⁰⁴ Precht, *supra* note 87.

¹⁰⁵ Kevin McGill, “Acquitted Louisiana Governor Getting It Together Again,” *Associated Press*, May 12, 1986. <https://www.apnews.com/3dc9c07c03b67ecdce937216a2f03db0>.

¹⁰⁶ 1990 La. Acts, No. 1097.

¹⁰⁷ Precht, *supra* note 87.

¹⁰⁸ *Ibid.*

¹⁰⁹ 1991 La. Acts, No. 753; see also *Latour v. State*, 00-1176, p.8 n.8 (La. 01/29/01), 778 So. 2d 557, 562 (providing an account of the enactment of subsequent gaming laws).

¹¹⁰ For a helpful discussion of the history of riverboat gaming in Louisiana from a legal/regulatory standpoint, see the presentation of Trudy Smith, Louisiana Gaming Control Board Confidential Assistant, at Riverboat Economic Development and Gaming Task Force meeting, September 13, 2016. http://senate.la.gov/video/videoarchive.asp?v=senate/2016/09/091316RIVERBOAT_0

¹¹¹ 1996 La. Acts, No. 7 (eff. May 1, 1996).

¹¹² *Metro Riverboat Assocs. v. La. Gaming Control Bd.*, 01-0185, p.5 n.5 (La. 10/16/01), 797 So. 2d 656, 660.

¹¹³ La. Rev. Stat. § 27:31(A); see also *ibid.* § 27:15(B).

police relative to all gaming matters under the board’s jurisdiction, and in all legal proceedings.”¹¹⁴ The Legislature charged the Office of State Police with responsibility for conducting investigations and preparing investigative reports related to suitability determinations, overseeing compliance with gaming laws and regulations, and issuing certain licenses and permits in accordance with the Board’s rules.¹¹⁵

2. Current Legislative Public Policy Objectives

Louisiana Gaming Control Law is based upon public policy declarations that the development of a controlled gaming industry to promote economic development requires thorough and careful exercise of legislative power to protect the general welfare of the people by keeping the state free from criminal and corrupt elements.¹¹⁶ That law thus seeks, among other things, to:

- Prevent unsavory or unsuitable persons from having any direct or indirect involvement with gaming at any time or in any capacity;¹¹⁷
- Establish and maintain responsible accounting practices and procedures;¹¹⁸
- Maintain effective control over the financial practices of licensees, including establishing procedures for reliable record keeping and making periodic reports to the Board;¹¹⁹
- Prevent cheating and fraudulent practices;¹²⁰
- Develop and implement comprehensive compulsive and problem gambling programs;¹²¹
- Provide a source of state and local revenues through fees;¹²²
- Ensure that gaming licensees utilize Louisiana resources, goods and services in the operation and construction of riverboats to the extent allowable by law;¹²³ and
- Ensure that gaming licensees recruit, train and upgrade minorities in all employment classifications and provide for the inclusion of minority-owned businesses to the maximum extent practicable.¹²⁴

¹¹⁴ Ibid. § 27:19.

¹¹⁵ Ibid. § 27:20.

¹¹⁶ Ibid. § 27:2(A).

¹¹⁷ Ibid. § 27:28.

¹¹⁸ La. Admin. Code tit. 42, §§ 2701, *et seq.*

¹¹⁹ La. Rev. Stat. § 27:61; see also La. Admin. Code tit. 42, §§ 2703 to 2711.

¹²⁰ La. Admin. Code tit. 42, §§ 2715 to 2731.

¹²¹ La. Rev. Stat. § 27:27.1(A); La. Admin. Code tit. 42, §§ 301, *et seq.*

¹²² La. Rev. Stat. §§ 27:91 to 27:93.

¹²³ Ibid. § 27:42(A)(1).

¹²⁴ Ibid. § 27:70(7).

Moreover, a gaming license is deemed to be a pure and absolute revocable privilege under the Louisiana Act, and not a right.¹²⁵ As such, a gaming license may be denied, revoked, suspended, conditioned or limited at any time by the Board.¹²⁶

In addition, consistent with the public policy of protecting the general welfare of the state’s people and the policy that parents should provide financial support of their minor children, the State will enforce child-support orders and collect child support by seizing a parent’s gaming winnings to be applied to outstanding child-support obligations.¹²⁷

3. Key Stakeholders

As the public policies detailed in the previous section suggest, the Louisiana gaming industry involves numerous stakeholders (in addition to individual gaming operator licensees), including government agencies, industry groups, participating individuals and businesses, and the broader public. Importantly, these stakeholders have a variety of interests and perspectives. The following table (spread over three pages) lists some of the key stakeholders in the Louisiana gaming industry, along with a description of their respective missions.

Figure 65: Key stakeholders in Louisiana gaming industry

<p>Louisiana Gaming Control Board</p>	<p>The Louisiana Gaming Control Board states its mission as follows: “To regulate all gaming activities under its jurisdiction in a manner which instills public confidence and trust that gaming activities are conducted honestly and free from criminal and corruptive elements; to ensure the integrity of individual gaming activities by the regulation of persons, practices, associations and activities within the gaming industry.”¹²⁸</p>
<p>Louisiana State Police, Gaming Enforcement Division</p>	<p>The Gaming Enforcement Division states its mission as follows: “The Gaming Enforcement Division is committed to the strict regulation and control of statutorily authorized gaming entities in conjunction with the Louisiana Gaming Control Board. The regulation of gaming and the enforcement of criminal gambling laws promote the public’s health, safety, and welfare by safeguarding the people of this state against corrupt and dishonest practices. The program also provides professional services in an effective, innovative, and fair manner that instills public confidence, while fulfilling duties that ensure accurate revenue collection and reporting from licensees, protect the state’s assets, and ensure the integrity of all gaming devices and systems by enforcing compliance with all state laws, regulations, and licensee’s internal controls related to legally authorized gaming in Louisiana.”¹²⁹</p>

¹²⁵ Ibid. §§ 27:70(7), 27:29(C), 27:42(B); La. Admin. Code tit. 42, § 2103.

¹²⁶ La. Rev. Stat. §§ 27:75(A), 27:58(1).

¹²⁷ Ibid. § 27:2(C).

¹²⁸ “22nd Annual Report to the Louisiana State Legislature,” Louisiana Gaming Control Board, 2018, p. i. http://lgcb.dps.louisiana.gov/docs/2018_Annual_Report.pdf; see also “Mission Statement,” Louisiana Gaming Control Board. <http://lgcb.dps.louisiana.gov/>

¹²⁹ “Mission,” La. State Police Public Safety Services. <http://www.lsp.org/gaming/>

<p>Louisiana Attorney General, Gaming Division</p>	<p>The Gaming Division states its mission as follows: “The mission of the Gaming Division is to serve the state and its client agencies in a manner which creates a superior regulatory atmosphere for licensed gaming and which instills public confidence and trust that gaming activities are conducted honestly and free from criminal and corruptive elements. The division represents the state and all agencies and boards with jurisdiction over gaming matters and regulation.”¹³⁰</p>
<p>Louisiana Lottery Corporation</p>	<p>The mission of the Louisiana Lottery Corporation is “[t]o generate the maximum revenue for the state of Louisiana while upholding the highest standards of integrity and public trust.”¹³¹ Operations of the Louisiana Lottery Corporation are overseen, to varying degrees, by the Governor, the Joint Legislative Committee on the Budget, the Senate Judiciary B Committee, the House Committee on Administration of Criminal Justice, the Attorney General, and the Corporation’s Board of Directors.¹³²</p>
<p>Louisiana State Racing Commission</p>	<p>“The Racing Commission’s legal mandate is the forceful and honest statewide control of horse racing for the public health, safety, and welfare by safeguarding the citizens of Louisiana against corrupt, incompetent, dishonest and unprincipled horse racing practices.”¹³³</p>
<p>Louisiana Department of Revenue, Office of Charitable Gaming</p>	<p>The Office of Charitable Gaming “license[s], monitor[s] and regulate[s] the charitable gaming industry in the State of Louisiana....The Office is dedicated to serving the industry to the best of its ability and continues to give the charitable gaming organizations as many options as necessary to operate a successful game.”¹³⁴</p>
<p>Louisiana Casino Association</p>	<p>The Casino Association’s mission is “to promote the common business interest and general welfare of the Louisiana casino gaming industry; to cooperate with government officials in advancing these interests; to increase awareness of the Louisiana casino gaming industry and its related economic benefits through aggressive education programs designed to bring its message to targeted audiences as well as the public; and to monitor issues and regulations on behalf of LCA members and to represent LCA interest[s] during the development of State laws and regulations.”¹³⁵ Its members include the 15 riverboats licensed by the State, the land-based casino in New Orleans, and three of the four licensed racinos.</p>
<p>Louisiana Video Gaming Association</p>	<p>The Association’s stated purpose is as follows: “LVGA’s purpose is to serve the interest of video gaming and poker operators throughout Louisiana. It was formed to improve communication among gaming industry members while monitoring legislation affecting its industry.”</p> <p>“LVGA strives to help efficiently increase the industry’s revenue in Louisiana. The association is open to active professionals in the video gaming and video poker industry. LVGA represents the entire industry. Every member is given an equal voice and encouraged to participate at all levels.”¹³⁶</p>

¹³⁰ “Gaming,” Dep’t of Justice, State of La. <https://www.ag.state.la.us/Gaming>

¹³¹ “What is the Lottery’s mission statement?,” La. Lottery Corp. <https://louisianalottery.com/faq/about-the-lottery#48>

¹³² “About the Louisiana Lottery,” La. Lottery Corp. <https://louisianalottery.com/about>

¹³³ “About the Louisiana Racing Commission,” La. Racing Comm’n. <http://horseracing.louisiana.gov/about.html>

¹³⁴ La. Dep’t Revenue. <http://www.ocg.louisiana.gov/>

¹³⁵ “About Us,” LCA. <https://www.casinosofla.com/about-us.asp>

¹³⁶ “About Us,” LVGA. <https://www.lvgaweb.org/aboutus>

	Members include video device owners, venue owners who house video gaming devices; professional companies who service the video poker industry; any licensed distributor or manufacturer who makes or sells video gaming devices.
Louisiana Family Forum	Louisiana Family Forum is an organization “committed to defending faith, freedom and the traditional family in the great state of Louisiana!” ¹³⁷ Its mission is “[t]o persuasively present biblical principles in the centers of influence on issues affecting the family through research, communication, and networking.” ¹³⁸ The Forum has regularly expressed concerns regarding what it perceives to be expansions of gaming in Louisiana.
Louisiana Association on Compulsive Gambling	“The Louisiana Association on Compulsive Gambling is a non-profit organization dedicated to advocating for and providing cost effective quality assistance for all individuals in the state of Louisiana who may be affected by gambling problems. The organization further promotes the development of educational programs and professional resources for problem gambling assistance.” ¹³⁹

Source: Spectrum Gaming Group research, Louisiana State agencies and organizations

C. Illegal and Legal Gaming

Louisiana’s gambling law is broad in scope and covers a wide variety of gaming activities. The Legislature, in accordance with its constitutional mandate to define and suppress gambling,¹⁴⁰ generally has passed laws to prohibit gambling but, over time, has carved out significant exceptions to that prohibition. As a result, numerous laws, regulations and ordinances govern the various types of legal gaming activities in Louisiana¹⁴¹ as well as related industries.¹⁴² New forms of gaming require legislative action and parish referendum elections.¹⁴³ This section provides a brief overview of illegal gambling and legal gaming in Louisiana, with comparisons to other states for key issues related to economic development. This section provides a brief overview of illegal gambling and legal gaming in Louisiana.

1. General Prohibitions on Gambling and Related Activities

Louisiana generally prohibits activities that meet the definition of gambling,¹⁴⁴ unless some statutory exception applies¹⁴⁵ and (in some cases) the excepted form of gaming has been approved by a

¹³⁷ “Who We Are,” La. Family Forum. <https://www.lafamilyforum.org/about/>

¹³⁸ Ibid.

¹³⁹ “About Us,” LCGA. <http://www.helpforgambling.org/about-us>

¹⁴⁰ La. Const. art. XII, § 6(B).

¹⁴¹ See Louisiana Gaming Control Law, La. Rev. Stat. §§ 27:1, *et seq.*; Louisiana Riverboat Economic Development and Gaming Control Act, La. Rev. Stat. §§ 27:41, *et seq.*; Louisiana Economic Development and Gaming Corporation Act, La. Rev. Stat. §§ 27:201, *et seq.*; Video Draw Poker Devices Control Law, La. Rev. Stat. §§ 27:401, *et seq.*; Louisiana Fantasy Sports Contests Act, La. Rev. Stat. §§ 27:301, *et seq.*; Louisiana Lottery Corporation Law, La. Rev. Stat. §§ 47:9000, *et seq.*; Charitable Raffles, Bingo and Keno Licensing Law, La. Rev. Stat. §§ 4:701, *et seq.*; Pari-mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act, La. Rev. Stat. §§ 27:351, *et seq.*

¹⁴² See, e.g., La. Rev. Stat. §§ 4:141, *et seq.* (business of horse racing and breeding).

¹⁴³ La. Const. art. XII, § 6(C).

¹⁴⁴ La. Rev. Stat. § 14:90(A).

¹⁴⁵ La. Const. art. XII, § 6.

referendum in applicable parishes.¹⁴⁶ Specifically, the Louisiana Constitution requires a referendum election in each parish before new forms of “gaming, gambling, or wagering” will be “licensed or permitted.”¹⁴⁷ In addition, Louisiana prohibits other activities related to legal gaming and legal gaming operators. Violations of these prohibitions typically are framed as criminal offenses and may involve monetary fines and incarceration. Section III.C below discusses Louisiana’s prohibitions on gambling and related activities, with comparisons to other states for key issues related to economic development.

2. Illegal Gambling in Louisiana

Louisiana law generally prohibits conducting gambling activities as a business and participating in gambling in public.¹⁴⁸ Specifically, Louisiana Revised Statutes § 14:90(A) makes it a crime to conduct, assist in conducting or otherwise have an interest in, as a business, “any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit,”¹⁴⁹ and Louisiana Revised Statutes § 14:90.2(A) makes it a crime to aid, abet or participate in such gambling in public.¹⁵⁰ These general prohibitions are in line with the stated Louisiana public policy against gambling, but they are subject to numerous exceptions intended to facilitate economic development or support strategic industries. This approach of generally prohibiting gambling subject to explicit exceptions is common among other states.¹⁵¹

In addition to the general prohibitions on gambling, Louisiana law criminalizes specific gambling activities that are not subject to statutory exceptions, including “any gambling by computer” (other than fantasy sports contests once they are authorized and advance deposit wagering),¹⁵² gambling through electronic sweepstakes devices,¹⁵³ and gambling by persons under the age of twenty-one.¹⁵⁴ Such prohibitions practically limit the scope of legal gaming activities by banning licensed operators from offering new forms of gaming, utilizing new gaming platforms, or accessing new market segments. These

¹⁴⁶ La. Const. art. XII, § 6(C) (“No law authorizing a new form of gaming ... shall be effective nor shall such gaming ... be licensed or permitted to be conducted in a parish unless a referendum election on a proposition to allow such gaming ... is held in the parish and the proposition is approved by a majority of those voting thereon.”).

¹⁴⁷ *Ibid.*

¹⁴⁸ La. Rev. Stat. §§ 14:90(A), 14:90.2.

¹⁴⁹ *Ibid.* § 14:90(A).

¹⁵⁰ *Ibid.* § 14:90.2(A) (“Gambling in public is the aiding or abetting or participation in any game, contest, lottery, or contrivance, in any location or place open to the view of the public or the people at large, such as streets, highways, vacant lots, neutral grounds, alleyway, sidewalk, park, beach, parking lot, or condemned structures whereby a person risks the loss of anything of value in order to realize a profit.”).

¹⁵¹ See, e.g. (N.J.S.A. 2C:37-1 and N.J.S.A. 2A:40-1 et seq; Florida, (Chapter 849, F.S.).

¹⁵² La. Rev. Stat. § 14:90.3. Fantasy sports contests are authorized by Louisiana Revised Statutes §§ 27:301, *et seq.* (to be conducted in those parishes approving same in the November 6, 2018 election), while advance deposit wagering is authorized by Louisiana Revised Statutes § 4:149.5.

¹⁵³ La. Rev. Stat. § 14:90.7.

¹⁵⁴ See, e.g., *ibid.* §§ 14:90.4 (video draw poker), 14:90.5 (casino games).

limitations evolve from various economic, political and social concerns, and important lessons for addressing those concerns can be drawn from other states.

3. Comparison: Illegal Gambling and Approval of New Forms of Gaming in Other States

Other states take the approach of generally prohibiting gambling while allowing certain forms of gaming through statutory exceptions.¹⁵⁵ An illustrative example is Florida. Pursuant to statute, gambling is generally illegal in the state unless the gaming activity is expressly permissible by statute. However, various exceptions are carved out to authorize gaming activity.¹⁵⁶

Yet Florida, like Louisiana and other states, has developed significant economic and political means to authorize gaming, despite such roadblocks. Spectrum noted the following in a 2013 report prepared for the Florida Legislature:

Florida's convoluted gambling laws ... have allowed an expansion of gambling to occur that the Legislature may never have intended. Rulings in recent years by the state's regulatory agency, the Division of Pari-Mutuel Wagering ("PMW"), have allowed what critics call an "exploitation" of current gaming laws. As Kent Stirling, executive director of the Florida Horsemen's Benevolent and Protective Association, told the *Tampa Bay Times*, "If the law doesn't specifically say no, the answer from the department seems to be, always, yes."¹⁵⁷

Like Louisiana, other states require some form of electoral or municipal approval in addition to legislative approval for new forms of gaming activities and operations licenses. For example, in November 2018, Florida voters approved an Amendment to the Constitution that provides for voter approval before any new form of gaming can be introduced, which may seriously hinder any efforts by casino expansion proponents.¹⁵⁸

Other states such as Ohio may make it more politically challenging to approve new gaming by requiring a constitutional amendment. By definition and by intent, constitutional changes are often the most difficult to implement, as well as to amend. For example, Ohio endured four failed referenda before voters successfully approved a 2009 ballot initiative that authorized casinos at four precisely defined locations.¹⁵⁹ The Ohio situation was succinctly summed up in a 2010 article by gaming attorney Michael Zatezalo, a former president of the International Masters of Gaming Law:

It took a struggling Ohio economy; a nearly \$900 billion state budget deficit; a well-funded and well-run campaign by the casino gaming sponsors; the governor proposing the expansion of state-run gaming at racetracks and in bars and taverns; and the reality that Ohio is now surrounded by states with legalized

¹⁵⁵ See, e.g., (N.J.S.A. 2C:37-1 and N.J.S.A. 2A:40-1 et seq; Florida, (Chapter 849, F.S.).

¹⁵⁶ Florida (Chapter 849 F.S.).

¹⁵⁷ "Gambling Impact Study," Spectrum Gaming Group, October 28, 2013, p. 8. http://www.leg.state.fl.us/GamingStudy/docs/FGIS_Spectrum_28Oct2013.pdf

¹⁵⁸ Samantha Gross, "Florida voters pass Amendment 3, say we want to decide on gambling," *Miami Herald*, November 7, 2018. www.miamiherald.com

¹⁵⁹ Michael Zatezalo, "The Perfect Storm: Ohio's Entry into Legalized Gaming," *Casino Enterprise Management*, October 2010, p. 1. <https://www.keglerbrown.com/content/uploads/2013/05/CasinoEnterpriseManagement-January2010.pdf>

gambling and Ohioans are traveling to these states in large numbers to gamble to create the perfect storm and convince Ohio voters to bring casino gaming to their state.¹⁶⁰

Other states' approaches to approving new forms of gaming activities and operations licenses have economic development implications for Louisiana primarily because:

- The approach may determine the likelihood that adjacent states will allow for new forms of gaming and effectively cut off large out-of-state metropolitan areas from Louisiana's gaming markets; and
- The approach may make the applicable state relatively adaptable to demographic and technological developments and disruptions in the national gaming market and, thus, provide its operators competitive advantages over Louisiana operators.

For these reasons, it is important to analyze the different approaches some states take to approving new gaming.

States initiating casino gaming have addressed constitutional constraints in different ways. In New Jersey, Ohio, Colorado and Missouri, state constitutions were amended to authorize casino gaming operations in their respective states. In each of these states, voter-approved constitutional amendments authorized a limited form of casino gambling, while maintaining broader prohibition language. New Jersey's amendment restricts casino gambling to the small resort community of Atlantic City,¹⁶¹ while Ohio specified four precise locations in different cities.¹⁶² Colorado specifies that casino gambling may be conducted in three named towns.¹⁶³ Missouri, in two separate amendments, authorized riverboat gaming on or adjacent to the Mississippi and Missouri Rivers.¹⁶⁴

The legislatures in some jurisdictions have bypassed constitutional prohibitions with statutory language or initiatives endorsed by the electorate. In Mississippi, "gambling" was defined as the conduct of a "lottery" and the conduct of casino games was excluded from the definition of "gambling."¹⁶⁵ The Mississippi Act provides for legalized riverboat gaming in the 14 counties that border the Gulf Coast or the Mississippi River, but only if the voters in these counties have not voted to prohibit gaming in that county.¹⁶⁶ Subsequent to Hurricane Katrina, changes to the law became effective that allowed gaming facilities to be constructed on land in the three Gulf Coast counties, under certain specified conditions.¹⁶⁷

¹⁶⁰ Ibid.

¹⁶¹ New Jersey Casino Control Act, N.J.S.A.5:12-1 et seq.

¹⁶² Ohio Casino Control Commission. <https://casinocontrol.ohio.gov/Legal/ConstitutionalAmendment.aspx> (accessed February 27, 2019)

¹⁶³ Colorado Limited Gaming Act of 1991, Article 30. <https://www.colorado.gov/pacific/sites/default/files/Act%20Book%202018%20DR%209100.pdf> (accessed February 27, 2019)

¹⁶⁴ Michael Belletire, "Legislating & Regulating Casino Gaming: A View From State Regulators," March 1, 1999.

¹⁶⁵ Ibid.

¹⁶⁶ Deanne S. Nuwer, "Gambling in Mississippi: Its Early History," Mississippi History Now. <http://mshistorynow.mdah.state.ms.us/articles/80/gambling-in-mississippi-its-early-history> (accessed February 28, 2019)

¹⁶⁷ "Mississippi Approves Onshore Gambling as Biloxi Looks to Rebuild," PBS News Hour, October 17, 2005. https://www.pbs.org/newshour/world/weather-july-dec05-rebuilding_biloxi

New Jersey, Pennsylvania, Rhode Island and Mississippi were among the states that recently enacted legislation that authorized sports betting as a new form of authorized gaming activity. New Jersey had already received voter approval for sports betting in anticipation of the activity being made legal. These states were able to move relatively swiftly after the United States Supreme Court ruled last year that states could legally offer sports betting.¹⁶⁸ In Arkansas, the state’s voters approved a constitutional amendment that will bring expanded gambling, including sports betting, to four counties in the state.¹⁶⁹ Under the ballot measure, “accepting wagers on sporting events” was specifically included under the definition of permissible casino gaming.¹⁷⁰

Common Threads

While each state has its own political and economic landscape that has unique aspects, common themes have emerged as gaming has expanded nationwide. Such themes, which are clearly recognizable in Louisiana, include:

- As gaming expands and is authorized in one state, pressures often increase in neighboring states. This is particularly true if a neighboring state is a feeder market to casinos, lotteries or other forms of gaming.
- Economic and fiscal considerations often rise to the fore in both legislative debates and campaigns to change public opinion and secure voter approval.
- The decline in both the appeal and profitability of pari-mutuel racing has given rise to the concept of “racinos,” a significant subset of the gaming industry that combines racing and casinos into one facility.
- The expansion of tribal gaming – which has largely occurred concurrently with the expansion of commercial gaming – has been a major expansion stimulus.

These stimuli can be cited from coast to coast, from New York to Florida to California, and have held true from the authorization of lotteries, starting in the 1960s, through the current expansion of sports betting.

Just as important, the expansion of gaming has itself given birth to a related series of legislative, regulatory and political realities that are also common nationwide, including:

- The expansion of gaming has fueled its own growth to a great degree, as the public has grown accustomed to casinos and other forms of gaming as a legitimate, regulated form of entertainment.
- Gaming – from commercial casinos to lotteries – is a critical fiscal stimulus for states. This is most notable in Nevada, the first state to authorize legal casinos. In FY 2018, gaming taxes in

¹⁶⁸ *Murphy v. NCAA*, 138 S. Ct. 1461 (2018).

¹⁶⁹ Jill Dorson, “Arkansas Becomes 8th State to Legalize Sports Betting, 2 Licenses Will Be Automatically Granted,” February 19, 2019. <https://sportshandle.com/arkansas-legalizes-sports-betting-via-ballot-referendum-first-casino-licenses-issued/>

¹⁷⁰ Ryan Rodenburg, “State-by-state sports betting bill tracker,” February 13, 2019. http://www.espn.com/chalk/story/_/id/19740480/gambling-sports-betting-bill-tracker-all-50-states (accessed March 4, 2019)

Nevada were \$711.3 million, while the overall hospitality industry (dominated by gaming) generated nearly \$1.5 billion, which represented nearly 40 percent of Nevada’s entire tax base.¹⁷¹

- Once authorized and operating, gaming cannot be easily unwound or undone. As capital investment is made, jobs are created, and local and state tax revenues are generated, the policy decisions are largely set in stone.
- The casino industry has been embraced by the financial markets on Wall Street, with a proliferation of private equity firms and institutional investors securing ownership interests.

Still, the most significant common thread in states that authorize legal gaming was referenced earlier in this report citing Louisiana’s governing statute, which refers to a gaming license as a “pure and absolute revocable privilege and not a right.”¹⁷²

The importance of that provision cannot be overstated, and is the basis – in Louisiana and other gaming states – for all of the aforementioned stimuli that have fueled gaming’s expansion. Absent that provision, gaming loses its public support. Without such support, the industry’s ability to generate employment and fund state budgets would dramatically diminish.

4. Exceptions to General Prohibitions on Gambling

Louisiana law provides certain statutory exceptions to the general prohibition on gambling.¹⁷³ Although these exceptions typically require a prospective operator to obtain a license or permit from one or more Louisiana agencies, some forms of gaming are either operated by a quasi-State entity or deemed excluded from the definition of gambling altogether.¹⁷⁴ Such differences underscore the complexity of legal gaming in Louisiana. To alleviate this complexity and analyze the economic development implications of Louisiana gaming law, legal gaming generally can be classified as follows:

- Casino gaming conducted by licensed operators
- Charitable gaming conducted by charitable organizations
- Pari-mutuel wagering on horse races conducted by licensed operators
- The state lottery
- Gaming that does not require a license

This section discusses these categories of legal gaming activities as well as the forthcoming enablement of fantasy sports contests, with comparisons to other states for key issues related to economic development.

¹⁷¹ Nevada Resort Association, “How Gaming Benefits Nevada.” <http://www.nevadaresorts.org/benefits/taxes.php> (accessed March 13, 2019)

¹⁷² La. Rev. Stat. §§ 27:29(C), 27:42(B); La. Admin. Code tit. 42, § 2103(A).

¹⁷³ La. Rev. Stat. § 14:90(B), (C).

¹⁷⁴ *Ibid.* § 14:90(B) (commercial cruise ships while sailing).

Casino Gaming Conducted by Licensed Operators

One type of authorized gaming in Louisiana is casino gaming, which may be broadly defined as banking or percentage games played with cards, dice, or any device or machine.¹⁷⁵ This type of gaming is limited to licensed operators in permitted facilities.¹⁷⁶ These operators may either:

- Be licensed to conduct a full range of casino gaming activities at their facilities, as is the case for riverboat casinos and a single land-based casino; or
- Be licensed to conduct only a partial range of casino gaming activities, as is the case for operators only permitted to conduct video draw poker or slot machine gaming.

This section of the report provides a brief overview of the various types of authorized casino gaming in Louisiana, with comparisons to other states for key issues related to economic development.

Casino Gaming Licenses

One category of Louisiana operators is licensed to conduct a full range of casino gaming activities, including table games, video draw poker, and slots.¹⁷⁷ This category includes operators of riverboat casinos and a single land-based casino. In addition, although not licensed by the state in the same way, Louisiana law permits a full range of casino gaming on commercial cruise ships (when sailing) and in tribal casinos pursuant to tribal compacts. The following provides an overview of both licensed and unlicensed facilities that lawfully conduct a full range of casino gaming activity in Louisiana.

Riverboat Casinos

Louisiana law provides for 15 licenses to operate a full range of casino gaming activities on riverboats, only six of which may be located on the same designated waterway.¹⁷⁸ Such gaming must take place within the designated gaming area¹⁷⁹ located on a riverboat¹⁸⁰ or – pursuant to legislation enacted

¹⁷⁵ La. Rev. Stat. § 27:44(10) (“‘Game’ means any banking or percentage game which is played with cards, dice, or any electronic, electrical, or mechanical device or machine for money, property, or any thing of value.”); *accord* *ibid.* § 27:205(12). Certain types of games that are either prohibited or regulated under different statutory regimes are expressly excluded from this definition. *Ibid.* § 27:44(10) (“‘Game’ does not include a lottery, bingo, pull tabs, raffles, electronic video bingo, cable television bingo, dog race wagering, or any wagering on any type of sports event, including but not limited to football, basketball, baseball, hockey, boxing, tennis, wrestling, jai alai, or other sports contest or event. Game shall also include racehorse wagering.”); *accord* *ibid.* § 27:205(12).

¹⁷⁶ See, e.g., *ibid.* § 27:47.

¹⁷⁷ See *ibid.* §§ 27:44(10) (defining “game” in context of riverboat gaming), 27:205(12) (defining “game” in context of land-based casino operations).

¹⁷⁸ *Ibid.* §§ 27:43, 27:65(A).

¹⁷⁹ *Ibid.* §§ 27:44(4), 27:65(B)(6).

¹⁸⁰ *Ibid.* §§ 27:44(24) (defining “certificated” riverboat), 27:44.1 (defining “non-certificated” riverboat); see also La. Admin. Code tit. 42, § 2117. All of the licensed riverboats in Louisiana are now “non-certificated,” i.e., they are not inspected by the United States Coast Guard but instead are inspected by a third-party inspector approved by the Board (currently ABS Consulting).

in 2018¹⁸¹ – in a “facility” located within 1,200 feet of the riverboat’s licensed berth.¹⁸² The designated gaming area may not have more than 2,365 gaming positions,¹⁸³ and the licensee must otherwise comply with terms and conditions of its license and applicable rules and regulations.

Although termed “riverboat” casinos, all of the vessels have been exclusively dockside (but still on water) since 2001. They originally were required to “replicate as nearly as practicable historic Louisiana river borne steamboat passenger vessels of the nineteenth century era” and to be “paddlewheel driven.”¹⁸⁴ The legislative and regulatory trend in recent years, however, has been to move away from requirements ensuring that “gaming activities” are, in fact, conducted aboard functional riverboats with marine equipment and a full complement of maritime personnel. In 2018, for example, following the recommendation of the Louisiana Economic Development and Riverboat Gaming Task Force, the requirement that the riverboat be paddlewheel-driven, or have an operable paddlewheel, was eliminated and the above-referenced authorization for moving to a “facility” within 1,200 feet of the licensed berth was enacted.¹⁸⁵ Even before these changes, sailing requirements had long been abolished (in 2001), and while many of the riverboat casinos were (and still are) traditional freestanding vessels, some of them no longer resembled riverboats at all – despite still having the requisite functional paddlewheel. Several newer generation vessels were built on-site (not in a shipyard) with concrete hulls and were permanently moored in water-filled coffer cells.

Despite recent changes, some practical and legal requirements that are realities of the marine environment remain, and these are associated with higher costs. These include the need to retain certain levels of marine personnel, to monitor river water levels and traffic, to monitor mooring systems and vessel ballast conditions, and, as applicable, to ensure that ramps and hulls are maintained in accordance with prudent marine practices. Thus, while the recent departures from the riverboat fiction are a positive development – representing modernization and enhanced ability to compete with casinos in other jurisdictions – continuing to maintain portions of that fiction may be seen as involving unnecessary costs that stifle future investment for more productive economic uses.

¹⁸¹ La. Rev. Stat. § 27:44(24).

¹⁸² *Ibid.* §§ 27:44(24)(e) (defining “facility”); 27:67(A); see also *Ibid.* § 27:67(B) (setting out requirements for licensee’s application to relocate gaming operations to a “facility”); La. Admin. Code tit. 42, § 2401 (providing procedure for seeking relocation of gaming operations to a “facility”). By Notice of Intent published in the February 2019 Louisiana Register, the Board modified Section 2401 to provide that for certain riverboat projects substantially completed after January 1, 2005 with a “minimum monetary investment of \$200 million,” the Board “may allow not more than 6% of the [2365] gaming positions . . . [to] be located in an existing structure which is part of the approved project.” La. Admin. Code tit. 42, § 2401. That provision would seem to apply to four of the current riverboat casino licensees, i.e., Golden Nugget, L’Auberge Lake Charles, L’Auberge Baton Rouge, and Margaritaville.

¹⁸³ La. Rev. Stat. § 27:44(4). In contrast, in Mississippi there is no limit to gaming positions, so an operator can bring in one of the larger machines now in vogue without risk of overstepping a square footage (or gaming position) limit. Presentation of Allen Godfrey, Executive Director, Mississippi Gaming Commission, at Riverboat Economic Development and Gaming Task Force meeting, October 18, 2016, at 1:42:15. http://senate.la.gov/video/videoarchive.asp?v=senate/2016/10/101816RIVERBOAT_0

¹⁸⁴ La. Rev. Stat. § 27:44(23)(d), (3) (1996).

¹⁸⁵ 2018 La. Acts, No. 469.

Land-Based Casino

Louisiana law also provides for a single contract between the State and a “casino operator” to conduct casino gaming operations at a single land-based “official gaming establishment” located in Orleans Parish.¹⁸⁶ Although the casino-operating contract has certain statutory requirements, and new operating contracts (including any renewals beyond the initial term and renewal option) require Legislative approval,¹⁸⁷ the scope of permitted casino gaming activities largely is left to the discretion of the Louisiana Gaming Control Board, which is authorized to issue bids for, enter into, and oversee the casino operating contract.¹⁸⁸

Jazz Casino Company, LLC d/b/a Harrah’s New Orleans, an affiliate of Caesars Entertainment Corporation (“Harrah’s”), currently holds the contract for operating the land-based casino, which expires in July 2024. That contract requires payments to the State in the amount of \$60 million annually or 21.5 percent of gross gaming revenue, whichever is higher.¹⁸⁹ During the 2018 session, the Louisiana Legislature considered a proposal that would have extended Harrah’s contract for 30 years beyond 2024, would have increased payments due the State and the City of New Orleans, and would have required an additional \$350 million investment into the facility.¹⁹⁰ Legislators were unable to reach agreement on proposed legislation before the 2018 regular session ended,¹⁹¹ and the State contracted with a consulting firm to provide an independent evaluation of the value of the Harrah’s contract.¹⁹²

Other Forms of Casino Gaming

Louisiana law permits a full range of casino gaming on commercial cruise ships (when sailing)¹⁹³ and in tribal casinos pursuant to tribal compacts, but exercises only limited regulatory authority over such

¹⁸⁶ La. Rev. Stat. §§ 27:202(D), 27:203, 27:241, 27:269.

¹⁸⁷ *Ibid.* §§ 27:241(A), 27:224(E); see also *Jordan v. La. Gaming Control Bd.*, 98-1122, pp.12-17 (La. 05/15/98), 712 So. 2d 74, 82-85.

¹⁸⁸ See La. Rev. Stat. § 27:31; see also *ibid.* §§ 27:220(B), 27:231, 27:241.

¹⁸⁹ Notably, by statute the minimum compensation to be paid by Harrah’s is the greater of 18.5 percent of gross revenues or \$60 million, *ibid.* § 27:241.1, but by contract Harrah’s agreed to pay the greater of 21.5 percent of gross revenues or \$60 million.

¹⁹⁰ Julia O’Donoghue, “Harrah’s New Orleans Expansion Gets Louisiana House Approval,” *The Times-Picayune*, March 29, 2018. https://www.nola.com/politics/2018/03/harrahs_expansion_louisiana.html.

¹⁹¹ Tyler Bridges, “Harrah’s New Orleans Casino Extension Dies after House and Senate Negotiators Fail to Settle on Final Deal,” *The Advocate*, May 18, 2018. https://www.theadvocate.com/baton_rouge/news/politics/legislature/article_8571e600-5ab0-11e8-86cf-77b804b4bdb7.html

¹⁹² Tyler Bridges, “What’s Best Deal for Louisiana in Harrah’s License Renewal? Study to Determine Value Authorized,” *The Advocate*, January 16, 2019. https://www.theadvocate.com/acadiana/news/article_abc9a07a-19e3-11e9-a621-d78a9e450909.html

¹⁹³ La. Rev. Stat. § 14:90(B) (“The conducting, or directly assisting in the conducting, as a business, of any game, contest, lottery, or contrivance on board a commercial cruise ship used for the international carriage of passengers whereby a person risks the loss of anything of value in order to realize a profit is not gambling and shall not be suppressed by any law enforcement officer of the state of Louisiana or any of its political subdivisions. This Subsection shall apply only to commercial cruise ships for the carriage of passengers which are sailing from a port outside the continental limits of the United States to a port in any municipality of this state having a population of more than three hundred thousand or any such ship which is sailing from a port in such a municipality to a port outside the continental limits of the United States, provided that the ship is not docked or

gaming activities. Although the State does not fully regulate these operators, the operations of tribal casinos in particular are competitive with and have an economic impact on regulated casino gaming in Louisiana. Consequently, tribal gaming should be taken into account along with commercial casino gaming in other states to comprehensively describe the market environment for Louisiana’s land-based and riverboat casinos.

Comparisons

Other states allow operators to conduct a full range of casino gaming activities in different settings. Like Louisiana, such settings may include land-based casinos, riverboat casinos, tribal casinos, and/or commercial cruise ships. Another state’s particular gaming offerings may be especially significant to Louisiana if that state’s gaming activities compete – or have the potential to compete – with Louisiana’s gaming activities for patrons in nearby major metropolitan areas, as noted in the following examples of states that border or potentially compete against Louisiana:

- Mississippi offers both multiple commercial casino venues and three tribal casinos, and it has recently introduced sports betting.¹⁹⁴
- In Arkansas, a new constitutional amendment allows for casino games to be offered at the two existing racetrack casinos (in West Memphis and Hot Springs), along with sports wagering, and also authorizes casinos in two other counties, subject to a permitting process.¹⁹⁵
- Texas law does not currently allow for commercial casinos; although the state has often considered whether to authorize casinos. There is one Native American tribal casino.¹⁹⁶
- Florida provides considerable casino options with their large-scale tribal casinos.¹⁹⁷ The state also offers various forms of gaming activity at a licensed pari-mutuel facility, including horse racing, harness horse racing, quarter horse racing, greyhound racing, jai alai games and cardroom poker games. In addition, slot machines at pari-mutuel facilities are authorized in Broward and Miami-Dade counties.¹⁹⁸

anchored but is navigating en route between such ports.”); see also *ibid.* § 27:111 (exempting commercial cruise ships from riverboat casino license requirements).

¹⁹⁴ “Mississippi Casinos and Mississippi Gambling,” <http://mississippi.casinocity.com/> (accessed March 1, 2019)

¹⁹⁵ “Arkansas residents vote to legalize casinos,” WMC5, November 7, 2018.

<http://www.wmcactionnews5.com/2018/11/07/arkansas-residents-vote-legalize-casinos/>

¹⁹⁶ It has also been reported that Texas has illegal casinos in operation. Manny Fernandez, “A Texas Ban on Gambling That Doesn’t Quite Work,” *New York Times*, March 31, 2015. <https://www.nytimes.com/2015/04/01/us/texas-slot-machines-ring-up-big-business-in-a-legal-gray-area.html>

¹⁹⁷ “2018 State of the States,” American Gaming Association. https://www.americangaming.org/wp-content/uploads/2018/08/AGA-2018-State-of-the-States-Report_FINAL.pdf

¹⁹⁸ The Florida Senate Interim Report 2011-133, “Review Expansion of Casino Gaming In Other States,” October 2010.

- In Oklahoma, racinos recently were granted approval to conduct gaming on a 24-hour basis on any day they are either conducting live racing or accepting wagers on simulcast races.¹⁹⁹ Oklahoma also has approximately 135 tribal gaming facilities of all types.²⁰⁰

All of these nearby states offer diverse opportunities for the gambling customer and therefore present competitive pressures upon Louisiana’s gaming industry.

Limited Gaming Licenses

A second category of Louisiana operators is licensed to conduct only one type of gaming, namely video draw poker or slot machine gaming. While licensed racetracks have the option to conduct either video draw poker or slot machine gaming,²⁰¹ off-track wagering facilities, qualified truckstop facilities and certain businesses permitted to sell alcoholic beverages for on-premises consumption may only obtain a license to conduct video draw poker.²⁰² The following discussion briefly summarizes each of these forms of limited gaming and the types of facilities that may apply for related licenses.

Video Draw Poker Devices at Certain Facilities

Louisiana law permits video draw poker²⁰³ in licensed establishments, including: (1) certain businesses permitted to sell alcoholic beverages for on-premises consumption (“Class A Facilities”); (2) qualified truckstop facilities (“Truckstop Facilities”); and (3) racetracks and off-track wagering facilities (“OTBs”).²⁰⁴ These types of licensed establishments each are subject to different requirements and restrictions.²⁰⁵

Class A Facilities, which include certain restaurants, bars, taverns and lounges, may receive a license to operate up to three video draw poker devices.²⁰⁶ To avoid circumventing this quantity limitation, there are special rules regarding Class A Facilities under common ownership or located in the same general

¹⁹⁹ “2018 State of the States,” American Gaming Association. https://www.americangaming.org/wp-content/uploads/2018/08/AGA-2018-State-of-the-States-Report_FINAL.pdf

²⁰⁰ See, *supra*, Chapter 1.

²⁰¹ Although permitted to conduct video draw poker generally, La. Rev. Stat. §§ 27:403(A), 27:415(A), licensed racetracks are not permitted to conduct both slot machine gaming and video draw poker in designated slot machine gaming areas, *ibid.* §§ 27:371, 27:372(B). The four licensed racetracks have all opted to offer slot machine gaming, rather than video draw poker. Louisiana Gaming Control Board, *supra* note 128.

²⁰² La. Rev. Stat. § 27:403.

²⁰³ *Ibid.* §§ 27:403(A), 27:412. “Video draw poker” is defined as “any card game approved by the division that utilizes one deck of cards per hand with multiple hands permitted per game.” *Ibid.* § 27:402(18). A “video draw poker device” is defined as “any unit, mechanism, or device authorized pursuant to the provisions of this Chapter, that, upon insertion of a ticket voucher or cash, is available to play or simulate the play of the game of draw poker, or other card games approved by the division utilizing a video display and microprocessors in which the player may win games or credits that can be redeemed for cash only,” and does not include devices authorized to be used in charitable gaming or any slot machine as defined in Louisiana Revised Statutes § 27:353(14). *Ibid.* § 27:402(17).

²⁰⁴ *Ibid.* §§ 27:402(10), 27:403, 27:412.

²⁰⁵ There are five types of licensed video poker establishments as follows: Type 1 (bars and lounges); Type 2 (restaurants); Type 3 (hotels); Type 4 (racetracks and OTBs); and Type 5 (truckstops). See Louisiana Gaming Control Board, *supra* note 128, at 21, 24.

²⁰⁶ La. Rev. Stat. §§ 27:412(B)(1), 27:413.

vicinity, such as facilities located in the same hotel or motel complex.²⁰⁷ As of the date of its 2018 Annual Report to the Legislature, the Gaming Control Board reported that there were 1,532 Class A Facilities throughout the state operating 4,366 video draw poker devices.²⁰⁸

Truckstop Facilities may receive a license to operate up to 50 video draw poker devices, depending on their respective average monthly fuel sales.²⁰⁹ In addition to adequate fuel sales, the Truckstop must satisfy certain statutory criteria (including location, hours of operation, and parking areas) and provide certain amenities to qualify for and maintain a video draw poker license.²¹⁰ As of 2018 there were 202 truckstops throughout the state operating 13,091 video draw poker devices.²¹¹

Racetracks and OTBs may receive a license to operate unlimited video draw poker devices.²¹² Only five such licenses may be granted in Jefferson Parish.²¹³ Otherwise, all other racetracks and OTBs are eligible to apply for a video draw poker license. As of the date of its 2018 Annual Report to the Legislature, the Gaming Control Board reported that there were 202 truckstops throughout the state operating 13,091 video draw poker devices.²¹⁴

Regardless of the type of facility, each video draw poker device must meet certain technical specifications under applicable statutes²¹⁵ and regulations,²¹⁶ which are designed, among other things, to safeguard the game's integrity, enhance the device's security, and facilitate regulatory oversight. In addition, each device must have an expected payback value for each credit played to be at least eighty percent of the value of a credit²¹⁷ and may not allow more than four dollars to be placed on a game or award credits in excess of one thousand dollars.²¹⁸ To ensure compliance with such specifications, the State Police Gaming Enforcement Division certifies and periodically inspects video draw poker devices located in the state.²¹⁹

²⁰⁷ Ibid. §§ 27:413(B)-(D), 27:414.

²⁰⁸ These numbers are based on the assumption that the statutorily-defined "Class A Facilities" correspond to Louisiana Gaming Control Board's Types 1 and 2. See Louisiana Gaming Control Board, *supra* note 128, at 21.

²⁰⁹ La. Rev. Stat. §§ 27:412(B)(2), 27:416(C)(2). In 2018, the Legislature added a provision applicable to qualified facilities after ten years of operation, which allows retention of up to 40 devices based on a reduced minimum monthly fuel sales requirement. Ibid. § 27:416(3)(b).

²¹⁰ Ibid. § 27:417, 27:418, 27:422.

²¹¹ Louisiana Gaming Control Board, *supra* note 128, at 21.

²¹² La. Rev. Stat. §§ 27:412(B)(3), 27:415(A).

²¹³ Ibid. § 27:415(B).

²¹⁴ Louisiana Gaming Control Board, *supra* note 128, at 21.

²¹⁵ La. Rev. Stat. §§ 27:405, 27:406, 27:407, 27:409, 27:410, 27:411.

²¹⁶ See La. Admin. Code tit. 42, § 2413.

²¹⁷ La. Rev. Stat. § 27:411.

²¹⁸ Ibid. § 27:410.

²¹⁹ Ibid. § 27:405(A).

Slot Machines at Racetracks

To counter the detrimental impacts of other forms of gaming on live horse racing and related industries in the state,²²⁰ Louisiana law permits slot machine gaming²²¹ in eligible live-racing facilities.²²² Four Louisiana parishes have such facilities:

- Bossier Parish (Harrah's Louisiana Downs)
- Calcasieu Parish (Delta Downs)
- Orleans Parish (Fair Grounds)
- St. Landry Parish (Evangeline Downs)²²³

Slot machines must be located within these eligible facilities²²⁴ in designated slot machine gaming areas.²²⁵ The designated slot machine gaming areas may not contain more than 700 slot machines²²⁶ in Orleans Parish²²⁷ and not more than 1,632 gaming positions (*i.e.*, slot machine seats) in other parishes.²²⁸ In addition to these numerical limitations, slot machines must satisfy certain technical requirements.²²⁹

Charitable Gaming Conducted by Charitable Organizations

A relatively small but still noteworthy form of authorized gaming in Louisiana is charitable gaming conducted by charitable organizations, which must be 501(c)(3) non-profits domiciled in Louisiana.²³⁰ Charitable organizations typically must be licensed both by the Office of Charitable Gaming within the Louisiana Department of Revenue and by the governing authority of the applicable municipality or

²²⁰ Ibid. § 27:352.

²²¹ Ibid. §§ 27:361(A), 27:374. "Slot machine gaming" is defined as "the use, operation, offering, or conducting of slot machines at an eligible facility in accordance with the provisions of [Louisiana Pari-mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act, La. Rev. Stat. §§ 27:351, *et seq.*]." Ibid. § 27:353(12). A "slot machine" is defined as "any mechanical, electrical, or other device, contrivance, or machine which, upon insertion of a coin, token, or similar object therein or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner." Ibid. § 27:353(14). Although permitted to conduct video draw poker generally, *ibid.* §§ 27:403(A), 27:415(A), licensed racetracks are not permitted to conduct both slot machine gaming and video draw poker in designated slot machine gaming area, *ibid.* §§ 27:371, 27:372(B). The four licensed racetracks have all opted to offer slot machine gaming, rather than video draw poker. Louisiana Gaming Control Board, *supra* note 128, at 49.

²²² La. Rev. Stat. §§ 27:353(4), 27:415(A).

²²³ Louisiana Gaming Control Board, *supra* note 128, at 49.

²²⁴ La. Rev. Stat. § 27:353(4).

²²⁵ Ibid. § 27:353(2).

²²⁶ Ibid. § 27:372(C).

²²⁷ Ibid. § 27:372.1.

²²⁸ Ibid. § 27:372(A).

²²⁹ See *ibid.* 27:355.

²³⁰ La. Rev. Stat. §§ 4:703(1)(a), 4:723.

parish.²³¹ Licenses may only be granted to operate raffles,²³² bingo (including electronic bingo and cable television bingo),²³³ keno,²³⁴ pull-tabs (including electronic pull-tabs),²³⁵ and Casino Night fund-raisers.²³⁶ In addition, each session²³⁷ must be conducted by certain individuals at qualified facilities,²³⁸ the total amount of prizes for the session typically cannot exceed \$4,500,²³⁹ and all proceeds must be used exclusively for educational, charitable, patriotic, religious or public spirited purposes.²⁴⁰

Pari-Mutuel Wagering on Horse Races Conducted by Licensed Operators

A third type of authorized gaming in Louisiana is pari-mutuel wagering on horse races conducted by licensed operators at eligible facilities (e.g., licensed racetracks and off-track wagering facilities).²⁴¹ Although wagering must technically take place within the grounds of the eligible facility, patrons may wager “off-site” by utilizing advance deposit accounts held at eligible facilities.²⁴² Payouts for pari-mutuel wagering are limited practically by how such wagering operates, withholding requirements for awards and purses,²⁴³ and deductions for commissions.²⁴⁴ Otherwise, much of the rules and regulations affecting this type of gaming are centered on the horse races, themselves.

The State Lottery

A fourth type of authorized gaming in Louisiana is the State lottery, administered by the Louisiana Lottery Corporation.²⁴⁵ The Louisiana Lottery Corporation’s board of directors has broad authority to adopt rules for the conduct of lottery games (e.g., instant lotteries, on-line games, and other games traditional to the lottery) and lottery operations.²⁴⁶ However, statutory requirements apply to particular

²³¹ Ibid. §§ 4:706(C)(2), 4:707.

²³² Ibid. § 4:707(A)(1).

²³³ Ibid. §§ 4:707(A)(2), 4:707(A)(4), 4:724, 4:731.

²³⁴ Ibid. § 4:707(A)(2).

²³⁵ Ibid. §§ 4:707(A)(3), 4:725, 4:25.1.

²³⁶ Ibid. §§ 4:707(A)(5), 4:729.

²³⁷ Ibid. § 4:740(A) (“A session represents authorized games of chance played within a time limit not to exceed six consecutive hours, with a minimum of twelve hours between sessions. A session of keno or bingo when the licensee possesses a special license is limited to six consecutive hours. Sessions are limited to not more than one session per calendar day per licensee. Organizations are not allowed to begin their session until the stated time on their license issued by the office.”).

²³⁸ Ibid. § 4:715.

²³⁹ Ibid. § 4:714(B); but see *ibid.* §§ 4:707(A)(1) & 5, 4:710, 4:724, 4:725, 4:725.1, 4:732.

²⁴⁰ Ibid. §§ 4:707(C), 4:735(B)(9).

²⁴¹ Ibid. §§ 4:149, 4:149.2 (other track wagering), 4:149.3 (common pools), 4:213 (off-track wagering).

²⁴² Ibid. § 4:149.5.

²⁴³ Ibid. § 4:165.

²⁴⁴ Ibid. §§ 4:166 to 4:166.4.

²⁴⁵ Ibid. § 47:9003(A).

²⁴⁶ Ibid. § 47:9008(A); but see *ibid.* § 47:9020 (prohibition on bulk sales of tickets).

issues, such as retailer qualifications, prize payments, and proceeds usage.²⁴⁷ Most notably, the Louisiana Lottery Corporation is required to transfer at least 35 percent of gross revenues to the State treasury each year.²⁴⁸ This and other statutory requirements may hinder the Louisiana Lottery Corporation's ability to maximize revenues to the State²⁴⁹ and to compete with lotteries in other states.²⁵⁰

Gaming that Does Not Require a License

A fifth type of authorized gaming in Louisiana is limited gaming activities that do not require a license or otherwise fit in one of the above categories. Such activities include raffles under \$250²⁵¹ and certain political fund-raisers.²⁵² A detailed account of these activities is beyond the scope of this Report.

Fantasy Sports Contests

A new type of authorized gaming in Louisiana that is awaiting enabling legislation and regulations is fantasy sports contests.²⁵³ Fantasy sports contests are defined as

[A]ny fantasy or simulation sports game or contest played through the internet or mobile device with all of the following elements: (a) Participants create a simulation sports team based on the current membership of actual amateur or professional sports organizations[;] (b) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest, and the value of the prizes or awards is not determined by the number of participants or the amount of any fees paid by those participants[;] (c) All winning outcomes reflect the relative knowledge and skill of the participant and are predominantly determined by accumulated statistical results of the performance of the individuals, including athletes in the case of sporting events[;] [and] (d) No winning outcome is based on either of the following: (i) On the score, point-spread, or any performance or performances of any single real-world team or any combination of such teams[,] [or] (ii) Solely on any single performance of an individual athlete in any single real-world sporting or other event.²⁵⁴

²⁴⁷ *Ibid.* §§ 47:9025, 47:9029, 47:9050(B).

²⁴⁸ *Ibid.* § 47:9029(A)(3).

²⁴⁹ See *ibid.* § 47:9009(A) (“The corporation shall conduct and administer lottery games which will result in maximization of revenues to the state of Louisiana . . .”).

²⁵⁰ Other states’ lotteries have economic implications for Louisiana, because states often compete for patrons who live near their borders.

²⁵¹ La. Rev. Stat. § 27:502 (“A. Notwithstanding any provision of law to the contrary, a raffle or raffles may be conducted by any person twenty-one years of age or older for any purpose provided that the value of the prize played for does not exceed two hundred fifty dollars. B. For purposes of this Section, ‘raffle’ or ‘raffles’ means any game of chance played by drawing for prizes or the allotment of prizes by chance, by the selling of shares, tickets, or rights to participate in such game or games, or by conducting the game or games accordingly.”).

²⁵² La. Rev. Stat. § 4:734 (“Notwithstanding any provision of this Chapter to the contrary, a candidate for public office, as provided for in [Louisiana Revised Statutes §] 18:1483(3), or his principal campaign committee, as provided for in [Louisiana Revised Statutes §] 18:1483(15), may conduct a fund-raising activity involving the sale of tickets which afford the purchaser an opportunity to win a door prize, raffle, or similar gift or prize.”).

²⁵³ La. Rev. Stat. § 27:303. Voters in 47 of Louisiana’s 64 parishes approved fantasy sports contests in the November 6, 2018 referendum election. The legislature also amended Louisiana Revised Statutes § 14:90.3 to exempt fantasy sports contests from the prohibition on “gambling by computer.”

²⁵⁴ *Ibid.* § 27:302(2).

There are many outstanding issues regarding how this type of gaming will be regulated in Louisiana, because the enabling legislation and regulations are still forthcoming. We discuss these issues further below and discuss its relevance to sports betting in Chapter V of this report.

D. Casino Gaming Regulations

As discussed in the section above, Louisiana law carves out exceptions to its general prohibition against gambling, including exceptions for the largest segment of Louisiana’s gaming market – casino gaming conducted by licensed operators. Licensed operators of casino gaming in Louisiana must obtain a gaming license or contract, which implicates statutory and regulatory provisions regarding everything from operator suitability criteria to State revenue allocation requirements. These comprehensive provisions are overseen by a multi-faceted regulatory regime. This section provides a brief overview of the regulatory framework and key provisions governing gaming licenses and contracts in Louisiana, with comparisons to other states for key issues related to economic development.

1. Regulatory Framework

Regulation of the Louisiana gaming industry involves several agencies and actors. The Louisiana Gaming Control Board is the sole and exclusive adjudicatory and rulemaking agency for gaming operations and activities in Louisiana and has authority and direct responsibility for overseeing operators and vendors.²⁵⁵ This includes regulatory authority over riverboat casinos, the land-based casino, racinos, video poker, and to the extent the State has authority, tribal casinos. Other agencies perform certain ancillary functions related to governmental enforcement, investigation, and oversight.²⁵⁶ This organizational structure may create regulatory inefficiencies, which in turn may be exacerbated by limitations on regulators’ personnel and resources. This section provides an overview of the Louisiana regulatory framework governing the casino gaming industry and discusses features that may contribute to regulatory inefficiencies.

Organizational Approach to Gaming Regulations

The legalization of casino gaming is accompanied by a corresponding regulatory structure designed to oversee and regulate the industry. It is axiomatic that the casino gaming industry needs to have strong regulatory oversight and vigilance to ensure public confidence and trust in the regulatory process and in casino operations. The Louisiana regulatory framework governing the gaming industry in general is characterized by a multifaceted organization of regulators. However, for casino gaming in particular, the Louisiana Gaming Control Board is the primary regulator.

Other states may take different approaches to regulating gaming in general and casino gaming in particular. Most notably, some states have a single agency tasked with the primary responsibility of

²⁵⁵ See *ibid.* §§ 27:31(A) (establishing the sole and exclusive authority of the Louisiana Gaming Control Board), 27:15 (defining the Board’s authority and responsibilities).

²⁵⁶ See, e.g., *ibid.* §§ 27:19 (Attorney General), 27:20 (Department of Public Safety and Corrections, Office of State Police), 27:261(C) (Board of Ethics).

regulating all aspects of gaming (casino gaming or otherwise). For example, New York merged gaming regulatory agencies and created a single umbrella agency, the New York State Gaming Commission, with oversight responsibilities over all aspects of authorized gaming in the state, including horse racing and pari-mutuel wagering, Class III tribal gaming, the state lottery, including video lottery terminals, commercial casino gaming and charitable gaming.²⁵⁷ By consolidating various regulatory functions into one oversight body with broad powers, the New York State Gaming Commission seeks to ensure fair and strict regulation of all gaming activity while reducing costs and regulatory burdens to the gaming industry.²⁵⁸ A similar proposed regulatory structure that would have transferred the regulation of gaming to a new Department of Gaming Control was considered in Florida in 2008, but was ultimately rejected by the legislature.²⁵⁹

The Massachusetts Gaming Commission has regulatory authority over casino gaming and the horse racing industry, but lottery operations are overseen by a separate lottery commission.²⁶⁰ The Division of Pari-Mutuel Wagering in Florida has jurisdiction over all forms of gaming activity in the state except for lottery, bingo and the “cruises to nowhere.”²⁶¹ The Florida Lottery regulates lottery operations.²⁶² Counties that permit bingo have their own individual ordinances that govern their operation.²⁶³ Iowa, Kansas, Michigan, Nevada and South Dakota are other examples of states that combine all of their gaming and pari-mutuels regulation and enforcement responsibility into one agency.²⁶⁴ Michigan, Nevada and South Dakota also include their oversight responsibilities under the states’ tribal gaming compact in the same agency that is responsible for the regulation of the commercial casinos and the pari-mutuels.²⁶⁵ Maryland combines the oversight of lottery operations and casino gaming into one agency, the Maryland Lottery and Gaming Control Agency,²⁶⁶ but leaves the regulation of horse racing and off-track betting to another governmental agency, the Maryland Racing Commission.²⁶⁷

Most states with commercial casinos and racinos provide for the regulation of the casino operations at the racino facilities by the same agency responsible for casino regulation and not by the pari-mutuel regulator. Ohio is the rare exception. That state has commercial casino gaming at four land-based casinos, each of which operates gaming machines and table games, and at seven racinos, which

²⁵⁷ Annual report of the New York State Gaming Commission, 2018.

²⁵⁸ Ibid.

²⁵⁹ The Florida Senate Interim Report 2011-133, “Review Expansion of Casino Gaming In Other States,” October 2010.

²⁶⁰ Massachusetts Gaming Commission. <https://massgaming.com/>

²⁶¹ Spectrum Gaming Group, “Gambling Impact Study,” October 28, 2013.

²⁶² Ibid.

²⁶³ Ibid.

²⁶⁴ The Florida Senate Interim Report 2011-133, “Review Expansion of Casino Gaming In Other States,” October 2010.

²⁶⁵ Ibid.

²⁶⁶ Maryland Lottery and Gaming Control Agency. <http://www.naspl.org/nasplmembers/Maryland>

²⁶⁷ Maryland Racing Commission. <https://www.dlir.state.md.us/racing/>

only offer gaming machines. The land-based casinos are regulated by the Ohio Casino Control Commission, and the racinos are regulated by the Ohio Lottery Commission.²⁶⁸

Some states take a more piecemeal approach by dividing responsibilities among various agencies. In New Jersey and Ohio, for example, separate and independent agencies regulate casino gaming, horse racing and lottery operations.²⁶⁹ Overall, the states' organizational approaches to gaming regulations lie on a spectrum ranging from a complete horizontal distribution of regulatory functions to a more consolidated vertical structure.

Louisiana utilizes a dual agency model for regulating the gaming industry. In this regulatory scheme, one agency operates in a quasi-judicial capacity (Gaming Control Board) while the other serves as the investigative, enforcement and prosecutorial arm (Gaming Enforcement Division of the State Police).²⁷⁰ In this regard, Louisiana adheres to the precedent established by Nevada and New Jersey.²⁷¹ The audit and investigations functions are performed by the Gaming Enforcement Division of the State Police.²⁷² Other states employ a single agency model which includes the investigative duties within the same agency. Examples of states that have adopted this approach include Mississippi, Massachusetts, Ohio, Pennsylvania and Maryland.²⁷³

An important consideration in the regulation of different gaming activities by a single agency is whether to separate the enforcement functions within the agency. Of the states with a single agency for the regulation of all casino gaming and pari-mutuels in the state, Iowa is the only state that does not separate its enforcement activities within that agency. Some of Iowa's pari-mutuel inspectors also serve as on-sight inspectors at the casinos.²⁷⁴

Conversely, in Florida, the Division of Pari-Mutuel Wagering separates the division's racino slot machine enforcement responsibilities from its pari-mutuel enforcement responsibilities. The division's oversight responsibilities under the compacts with Native American tribes are also performed by division personnel who are not involved in the division's pari-mutuel and racino slot machine regulation and enforcement functions. The division's use of personnel who only perform the division's duties under the

²⁶⁸ Ohio Casino Control Commission. <https://casinocontrol.ohio.gov/>; Ohio Lottery Commission. <https://www.ohiolottery.com/About/Index/History-and-Facts>

²⁶⁹ Casino gaming in New Jersey, N.J.S.A. 5:12-1 et seq.; horse racing in New Jersey, Title 13, Chapters 70, 71, 72, 73, 74, 74A and 74B, and 74C; lottery operations in New Jersey, State Lottery Law, TN.J.S.A. 5:9-1 et seq; casino gaming in Ohio, Ohio Rev Code Chapter 3772; horse racing in Ohio, Ohio revised Code Chapter 3769; lottery operations in Ohio, Ohio Rev Code Chapter 3770.

²⁷⁰ Annual report of the Louisiana Gaming Control Board, 2018.

²⁷¹ N.J.S.A. 5:12-1 et seq.; Nevada Gaming Control Board and Nevada Gaming Commission. <https://gaming.nv.gov/index.aspx?page=75>

²⁷² Louisiana Gaming Enforcement Division. <http://www.lsp.org/gaming/>

²⁷³ The Florida Senate Interim Report 2011-133, "Review Expansion of Casino Gaming In Other States," October 2010; Massachusetts Expanded Gaming Act, Chapter 194 of the Acts of 2011. <http://massgaming.com/about/expanded-gaming-act;>

²⁷⁴ Ibid.

compact is intended to address the tribes' concern that the division's regulatory approach to pari-mutuel and racino issues might conflict with the non-regulatory, oversight duties under the compact.²⁷⁵

Some observers believe that one advantage of having separate personnel for the pari-mutuel wagering regulation and casino regulation is that the personnel develop and focus on a single area of expertise. Another advantage of separating the regulatory and enforcement functions is that the agency is able to ensure that the fees and taxes paid for one gambling activity are not used to regulate another activity.²⁷⁶

Another variation involves whether the state should use an independent commission to review and select applicants for a casino license. In that scenario, the agency that reviews and selects applicants for a casino license can be a separate agency from the regulator and enforcer of the activity. For example, in Kansas, the Lottery Gaming Facility Review Board within the Kansas Lottery Commission is responsible for the review and selection of casino manager applicants even though the Kansas Lottery Commission is responsible for the oversight and regulation of the casinos.²⁷⁷

The composition of the regulatory agency varies among the states. For example, New Jersey has three commissioners, Ohio has seven, Massachusetts has five, and Louisiana has the largest complement with nine.²⁷⁸

In Louisiana, the Gaming Control Board members other than the Chairman serve in part-time capacities. Ohio, Illinois, Missouri, Indiana, Iowa and Colorado are examples of other states that use part-time gaming commissioners, who are compensated on a per diem basis or by virtue of a stipulated annual salary.²⁷⁹ By contrast, New Jersey and Massachusetts have full-time commissioners, with annual salaries set by statute.²⁸⁰

Louisiana has specific criteria for selecting members of the Gaming Control Board. At least one member must have expertise in finance; one must have expertise in investigations and law enforcement;

²⁷⁵ Spectrum Gaming Group, "Gambling Impact Study," October 28, 2013. http://www.leg.state.fl.us/GamingStudy/docs/FGIS_Spectrum_28Oct2013.pdf

²⁷⁶ The Florida Senate Interim Report 2011-133, "Review Expansion of Casino Gaming In Other States," October 2010.

²⁷⁷ Kansas Racing and Gaming Commission. <https://www.krgc.ks.gov/index.php/overview/lottery-gaming-facility-review-board>

²⁷⁸ Annual report of New Jersey Casino Control Commission, 2017. https://www.nj.gov/casinos/about/reports/pdf/2017_ccc_annual_report.pdf; Ohio Casino Control Commission, <https://casinocontrol.ohio.gov/>; Massachusetts Gaming Commission. <https://massgaming.com/>; Annual report of the Louisiana Gaming Control Board, 2018. http://lgcb.dps.louisiana.gov/docs/2018_Annual_Report.pdf

²⁷⁹ Ohio Casino Control Commission. <https://casinocontrol.ohio.gov/>; Annual report of Illinois Gaming Board, 2018. <http://www.igb.illinois.gov/AnnualReport.aspx>; Annual report of Missouri Gaming Commission, 2018. http://www.mgc.dps.mo.gov/annual_reports/ar_main.html; Annual report of Indiana Gaming Commission, 2018. <https://www.in.gov/igc/2362.htm>; Iowa Racing and Gaming Commission. <https://irgc.iowa.gov/publications/annual-reports>; Colorado Limited Gaming Commission, <https://www.colorado.gov/pacific/enforcement/node/37711>

²⁸⁰ N.J.S.A.5:12-1 et seq; Massachusetts Gaming Commission. <https://massgaming.com/about/expanded-gaming-act/>

one must be a lawyer licensed to practice in Louisiana with a minimum of five years' experience; and one must have experience as an economic planner or community planner.²⁸¹

Ohio is another state that has explicit requirements for the selection of its commissioners. In Ohio, there are seven commissioners appointed by the Governor. No more than four commissioners can be members of the same political party and all must be Ohio residents. At least one commissioner must have experience in each of the following areas: law enforcement and criminal investigation, certified public accounting with auditing, or hold an Ohio law license. In addition, at least one commission member must reside in a county with a casino.²⁸²

A state's organizational approach to gaming regulations ultimately affects its regulatory efficiency from both government and industry perspectives. In this sense, the regulatory efficiency measures the relative cost of regulatory functions to government and the relative cost of regulatory compliance to industry. Accordingly, greater consolidation of regulatory functions in a vertical structure may improve regulatory efficiency by avoiding overlapping responsibilities and associated redundancies, promoting collaboration across departments, assuring procedural consistency and predictable policies, and facilitating the strategic allocation of resources. However, such consolidation is not without its disadvantages, including decreased political insulation and diffused institutional expertise. Thus, striking the right balance in this regard involves a complex array of economic, organizational and political factors.

Available Personnel and Resources

Louisiana's organizational approach to gaming regulation is not the only factor that may impact its regulatory efficiency. A gaming regulator's ability to perform its regulatory functions efficiently and to facilitate regulatory compliance often depends on the personnel and resources at its disposal. For example, adequate staff and the use of labor-saving technologies help regulators process and approve licenses, conduct inspections, provide necessary audit and financial functions, and respond to inquiries, all in a timely and cost-effective manner.

As previously noted, in Louisiana, the Gaming Control Board is entrusted with regulatory oversight. Our evaluation notes that there is a respectful and trusting working relationship between the Gaming Control Board and the gaming operators, as one would reasonably expect to find with a mature gaming industry. However, we did find certain issues pertaining to the regulatory structure.

Staffing Restrictions and Limitations

One significant practical concern involving the regulatory apparatus involves the restrictions imposed on the staffing of the Gaming Control Board. Since its inception, the Gaming Control Board has operated with a small staff complement that is, in our experience, in contrast to other gaming regulatory agencies. As a result, the Gaming Control Board relies to a great extent upon the services and advice of designated representatives from the Division and, for legal services, the Attorney General's office.

²⁸¹ La. Rev. Stat. § 27:11.

²⁸² 2018 Annual Report of the Ohio Casino Control Commission.
<https://casinocontrol.ohio.gov/Portals/0/Communications/2018%20OCCC%20Annual%20Report%20-%20web%20version.pdf>;
Ohio Revised Code, Chapter 3772.02(B).

Regardless of the high quality services provided by these other agencies, in our experience, they cannot substitute for the ability of regulators to call upon an internal staff under their direction on a daily basis. It is undeniable that there is an inherent benefit of having the consistency and familiarity of an internal staff.

At the present time, there are four staff members (one of whom is on loan from the Attorney General's office) to carry out the myriad functions of the agency. However, to have a thorough understanding of the available personnel devoted to gaming regulatory functions, it is necessary to account for the staff of the State Police Gaming Enforcement Division and the Attorney General's Gaming Division office assigned to regulatory tasks.

Chairman Jones indicated that he is very fortunate to have these extremely talented, dedicated, and experienced employees for day-to-day operations, but the realities related to such restrictions should be noted. These employees have become virtually indispensable, and serious questions would arise as to how the Gaming Control Board could function effectively if any of them were to leave the agency or be unavailable for an extended period.²⁸³ Their institutional knowledge is irreplaceable. While all regulatory agencies must necessarily confront the inevitability of staff turnover, the reality is that it becomes extremely difficult to proceed and plan for an orderly transition when working with a small staff.

Compounding the challenge is that the Gaming Control Board does not have its own in-house legal counsel; rather, by statute, the Attorney General's office is the legal advisor to the Board and its Chairman. In our experience, that situation is certainly not ideal, although Chairman Jones emphasized that the Attorney General's office provides quality legal advice on a timely basis. He did not disagree with the proposition that, in a perfect world, it would be preferable to have the benefit of in-house counsel at his immediate call. Moreover, during the appeal process of contested cases before the Board, the Attorney General's office serves as the prosecutor and does not provide any legal counsel to the Board. Chairman Jones also advised that he would be receptive to having an in-house employee who was knowledgeable in financial matters to provide needed advice on important fiscal and regulatory matters.²⁸⁴ In New Jersey, even with the dramatic shift in regulatory responsibilities from the Casino Control Commission to the Division of Gaming Enforcement, the Casino Control Commission continues to maintain its own legal counsel for myriad duties.²⁸⁵ As a result of staffing restrictions, the oversight responsibilities normally given to a casino regulator are quite limited. For example, the Gaming Control Board does not conduct audits of the casinos, deferring to the Division for this critical function.²⁸⁶

Clearly, the Gaming Control Board and its staff are capable of fulfilling their responsibilities as gaming regulators. However, the stark reality is that the agency, no matter how dedicated the staff may be, cannot operate at optimum efficiency as presently constituted.

²⁸³ Ibid.

²⁸⁴ Ibid.

²⁸⁵ Annual report of the New Jersey Casino Control Commission, 2017.
https://www.nj.gov/casinos/about/reports/pdf/2017_ccc_annual_report.pdf

²⁸⁶ Ibid.

Based on our research, it appears that Louisiana may stand alone in operating under such staffing constraints. The importance of proper regulatory oversight cannot be overstated, and the needs of the regulator in terms of staffing and technology to perform their functions should not be ignored.

In our experience, the vast majority of gaming regulatory agencies in the country have the benefit of separate in-house legal counsel, (although we note that the Mississippi Gaming Commission utilizes attorneys from the Mississippi Attorney General's Office)²⁸⁷ as well as ample staffing levels to fulfill their myriad oversight responsibilities. For example, the Michigan Gaming Control Board employs 146 people;²⁸⁸ the Ohio Gaming Commission employs about 100 people;²⁸⁹ and the Massachusetts Gaming Commission employs 68.²⁹⁰ All of these are examples of single-agency regulatory models, where the investigative and enforcement functions are combined with adjudicatory responsibilities into a single gaming board or commission.

The challenges faced by the Louisiana Gaming Control Board relating to staffing restrictions are exacerbated by similar constraints faced by the State Police. Louisiana regulators have noted the decrease in personnel within the Division over the past 10 to 15 years. Major Chuck McNeal, who currently commands the Division, joined the Louisiana State Police in 1995 and worked his way up through the ranks over his 23-year career. After a 10-year absence from the Division, Major McNeal noted upon his return in August 2018 that staffing in the Division had declined from approximately 300 to 165 while the mission remained unchanged, and arguably some of the duties had expanded.²⁹¹

Similarly, during the Riverboat Gaming Task Force hearings Board Chairman Ronnie Jones noted a "significant erosion" had occurred in staffing at State Police, specifically as to the number of troopers, technicians and auditors available to the casino operators.²⁹² Major Michael Noel (now a Lt. Colonel and the Assistant Superintendent/Chief of Staff of State Police) also recalled that the staffing of the Division in September 2016 was "about half" of the number that he remembered from 2004.²⁹³ Then, Major Noel further stated that when gaming began in Louisiana, the idea was to have a trooper always present at

²⁸⁷ Mississippi Gaming Commission. <http://www.msgamingcommission.com/>

²⁸⁸ Annual report of Michigan Gaming Control Board 2017. https://www.michigan.gov/documents/mgcb_old/2017_MGCB_Annual_Report_Public_version_Final_4.12.18_620522_7.pdf

²⁸⁹ Annual report of the Ohio Casino Control Commission, 2018. <https://casinocontrol.ohio.gov/Portals/0/Communications/2018%20OCCC%20Annual%20Report%20-%20web%20version.pdf>

²⁹⁰ Annual report of the Massachusetts Gaming Commission, 2018. <https://massgaming.com/news-events/article-type/reports-publications/>

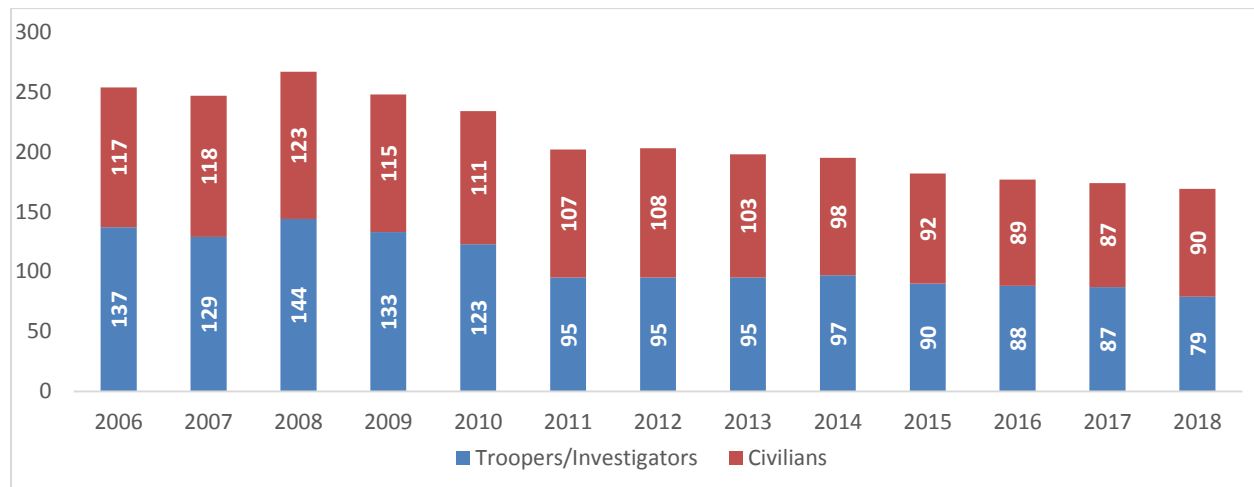
²⁹¹ Interview of Major Chuck McNeal, January 24, 2019.

²⁹² See Riverboat Economic Development and Gaming Task Force meeting, October 18, 2016, at 1:15:58. http://senate.la.gov/video/videoarchive.asp?v=senate/2016/10/101816RIVERBOAT_0. In response to the Chairman's inquiry regarding impact of the reduced regulatory staffing on the industry, a Boyd executive explained that the greatest impact for an operator has been a lack of ready availability of slot technicians, affecting the ability to get games back in play when they are down, which in turn adversely affects revenue. Ibid. at 1:16:34.

²⁹³ See Riverboat Economic Development and Gaming Task Force meeting, September 16, 2016, at 1:09:00. http://senate.la.gov/video/videoarchive.asp?v=senate/2016/09/091616RIVERBOAT_0

each casino, but that goal is simply not workable today.²⁹⁴ Division personnel census data from 2006 to 2018, provided by the Louisiana State Police Gaming Enforcement Division, is depicted in the chart below:

Figure 66: Louisiana Gaming Enforcement personnel by type, 2006-2018



Source: Louisiana State Police Gaming Enforcement Division

As a related matter, the Attorney General’s Gaming Division maintains activity reports regarding casino gaming and video poker matters that it receives from the Division. These reports generally reflect a decline in the number of “activities” – both approvals and adverse actions – over the same timeframe in which the State Police personnel has been declining. The decline in these activities, according to data provided by the Louisiana Attorney General’s Office, Gaming Division, is depicted in the tables below:

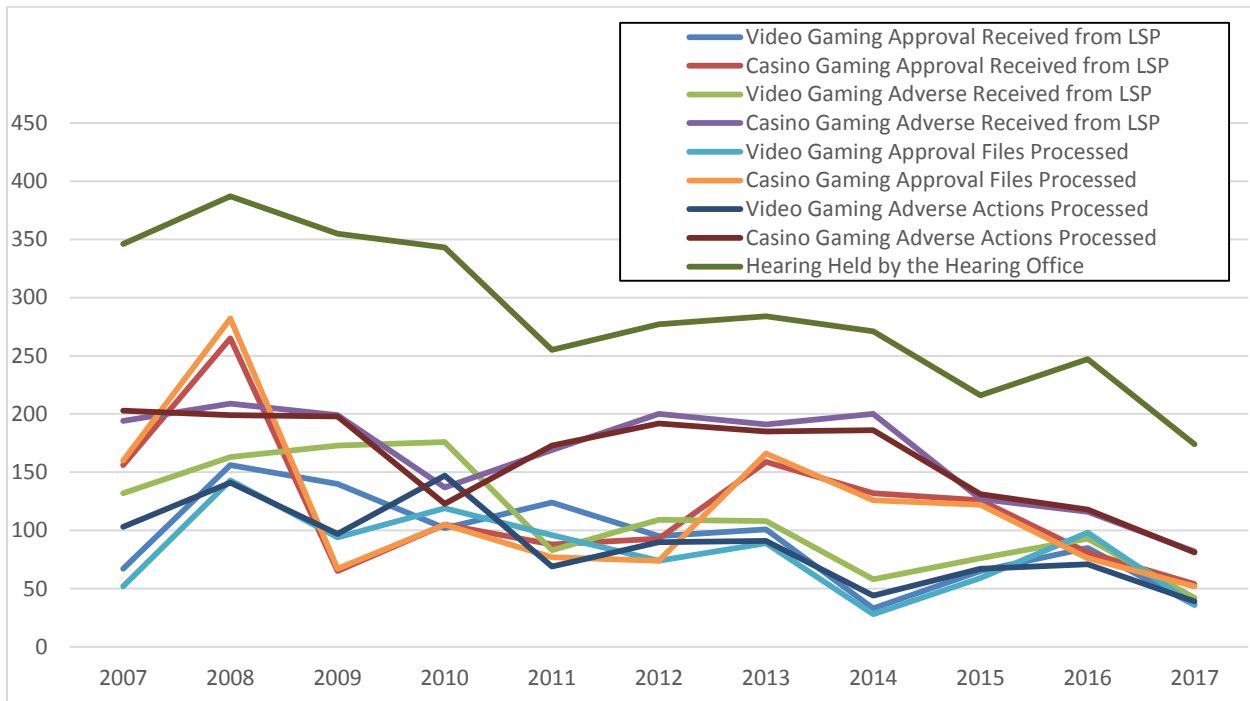
Figure 67: Table of types of cases received, processed from Louisiana State Police

	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Video Gaming Approval	67	156	140	102	124	95	101	33	65	85	36
Casino Gaming Approval	156	265	65	105	88	93	159	132	126	81	54
Video Gaming Adverse	132	163	173	176	83	109	108	58	76	93	42
Casino Gaming Adverse	194	209	199	137	169	200	191	200	127	116	82
Video Gaming Approvals (processed)	52	143	94	119	96	74	89	28	59	98	36
Casino Gaming Approvals (processed)	160	282	67	105	77	74	166	126	122	76	52
Video Gaming Adverse Actions (processed)	103	141	97	147	69	90	91	44	67	71	39
Casino Gaming Adverse Actions (processed)	203	199	198	123	173	192	185	186	131	118	81
Hearings Held by the Hearing Office	346	387	355	343	255	277	284	271	216	247	174
TOTAL FILES RECEIVED FROM LSP	549	793	577	520	464	497	559	423	394	375	214
Approval Files Received From LSP	223	421	205	207	212	188	260	165	191	166	90
Negative Action Files Received From LSP	326	372	372	313	252	309	299	258	203	209	124

Source: Louisiana State Police

²⁹⁴ Ibid. at 1:10:03.

Figure 68: Chart of types of cases received, processed from Louisiana State Police



Source: Louisiana State Police

Investments in Technology

Major McNeal also noted after his return that the Division was using the same technology that had been deployed ten years earlier. That technology, developed in-house, is known as the Louisiana Integrated Gaming History Tracking (LIGHT) system.²⁹⁵ Effectively, the licensing side of the Division is still relying on technology first deployed in 2005. Jeff Traylor, who has been with State Police for 25 years and has been the Division's Audit Director since 2005, notes that the system on the revenue side is even older, going back to 2000.²⁹⁶ The LIGHT system appears to suffer from two central flaws:²⁹⁷

- LIGHT had arguably never been state-of-the-art and is now, by any measure, seriously out of date, as all data must be input manually and electronic storage of licensing records is limited.
- As LIGHT was developed in-house, the staff that built it and managed it has eroded through attrition over the years, thus depriving the Division of institutional knowledge to correct problems that inevitably occur.

The problems this out-of-date technology causes are varied and serious, ranging from the requirement that all reports on video poker must be submitted in hard copy, to the use of MS-DOS technology (an outdated Microsoft operating system that pre-dated Windows) to monitor tribal gaming.

²⁹⁵ Ibid.

²⁹⁶ Interview with Jeff Traylor, February 21, 2019.

²⁹⁷ Ibid.

According to Major McNeal, a complete replacement of LIGHT would be helpful to the regulatory process, including reporting to the Board, but the State thus far has not budgeted for a new system.²⁹⁸ The importance of proper regulatory oversight cannot be minimized, and the needs of the regulators in terms of adequate staffing and enhanced technology to perform their critical functions should not be ignored or shortchanged.

Relatively small investments in staff and technology would likely provide material financial returns to gaming regulators and the State, because net revenues from associated fees and taxes may rise as gaming operators would be able to mobilize capital without unnecessary delays. In contrast, budgetary limitations may cause understaffing or underinvestment in technology that hinder economic development and, thereby, decrease net revenues.

Neither gaming operators nor regulators operate in a static environment. Rather, the environment in Louisiana and other states is characterized by a series of rapid changes in response to economic, demographic and technological developments. Thus, it is important to evaluate gaming regulators' budgets over time as the gaming industry evolves to make sure those regulators have the resources they need to continue to operate efficiently.

Regulator View of Relationship with the Gaming Industry

The leaders of the Louisiana Gaming Control Board ("LGCB") and the State Police Gaming Enforcement Division acknowledge that the relationship between the State and the industry it regulates has evolved significantly over the years.²⁹⁹ Their views were echoed by Wade Duty, Executive Director of the Louisiana Casino Association.³⁰⁰ The regulators fully acknowledge that the initial policy goal of authorizing gaming in Louisiana was economic development.

LGCB Chairman Ronnie Jones, who also chaired the Louisiana Riverboat Economic Development Task Force, wrote in 2017 that "We know that the primary reason for legalization of riverboat casinos was economic development, and no one can deny that the goal has been accomplished."³⁰¹

Jones went on to write:

A longtime friend (journalist and author) questioned my leadership role on the Task Force, suggesting that as the Gaming Control Board chairman, I should just 'just regulate based on current law.' While I agree that I must fulfill my fundamental responsibility as regulator, I also know that if in fact riverboat gaming is about economic development, I believe I can ethically navigate the role of regulator and that of facilitator of the Task Force's deliberations.³⁰²

²⁹⁸ *Ibid.*

²⁹⁹ Interview of Chairman Ronnie Jones, January 23, 2019; Interview of Major Chuck McNeal, January 24, 2019; Presentation of then-Major Michael Noel, at Riverboat Economic Development and Gaming Task Force Meeting, September 16, 2016. http://senate.la.gov/video/videoarchive.asp?v=senate/2016/09/091316RIVERBOAT_0

³⁰⁰ Interview of Wade Duty, January 23, 2019.

³⁰¹ Jones, *supra* note 93, at 11.

³⁰² *Ibid.*

Major McNeal holds similar views as to the relationship between the State and the industry. He notes that, when it comes to new hires within the State Police for gaming-regulatory duties, he does not seek recruits who were newly graduated from the State Police Academy, but rather prefers seasoned troopers who would more likely adopt a mature, nuanced approach to their tasks.

“Gaming is an administrative position,” he said. “Put your handcuffs away.”³⁰³

Duty has seen the evolution over time from the industry’s perspective, and Major McNeal firmly believes the current relationship is excellent, which allows the industry to operate in a cooperative regulatory environment.³⁰⁴ Duty did not opine that the industry was being “over regulated.”³⁰⁵

Spectrum did not identify any areas of concern relating to the current relationship between the regulators and the gaming industry in Louisiana.

Regulatory Costs and Fees

Experience in other states shows that effective regulation of casino gaming is very costly. A standard approach used in other states is for the costs of regulation to be borne entirely by the casino industry. Application fees, license fees, license renewal fees and other fees are set so that the sum total of the fees pays for the costs of the regulatory agencies. The largest regulatory expenditure arises from the investigative costs for casino license applicants.

In Louisiana, gaming taxes in full go into the general State budget, and all regulatory costs are assumed to be built into those gaming taxes. As a result, the Legislature appropriates all regulatory spending. Funding for the Gaming Control Board emanates from statutory dedicated funds from the Riverboat Gaming Enforcement Fund and the Pari-mutuel Live Racing Facility Gaming Control Fund.³⁰⁶

Other states, most notably New Jersey (which established this model in 1978), require that the gaming industry pays separate fees for the cost of regulation.

In New Jersey, the revenue needed to fund casino regulation comes from fees charged for casino licenses and other forms of licensure or approval and an annual \$500 per machine slot machine assessment. In addition, if revenues from the preceding sources are not sufficient to cover all expenditures, the State allocates the remaining costs among the casinos for payment. The money collected is deposited into the State of New Jersey Casino Control Fund, from which funds are appropriated to pay for the operations of the dual regulatory agencies: the Casino Control Commission and the Division of Gaming Enforcement. Thus, New Jersey primarily uses a dedicated funding source, rather than relying upon distributions from the general state fund. In addition, each casino licensee is

³⁰³ Interview of Major Chuck McNeal, January 24, 2019.

³⁰⁴ Interview of Wade Duty, January 23, 2019.

³⁰⁵ Ibid.

³⁰⁶ Annual report of the Louisiana Gaming Control Board, 2018. http://lgcb.dps.louisiana.gov/docs/2018_Annual_Report.pdf

responsible for the payment of investigative costs directly attributable to that casino licensee. Notably, the state's taxpayers do not accrue any costs for the regulation of casino gaming in New Jersey.

The New Jersey model offers several advantages:

- Regulatory costs are not directly subject to economic and budgetary vicissitudes, meaning that reducing or increasing such costs will not affect budgetary deficits or surpluses in any way.
- The costs are not distributed evenly among all applicants or operators, insofar that regulatory costs are largely apportioned to the entities that cause the state to incur any definable costs. For example, the cost of investigating an applicant or a potential violation is borne by that applicant or operator (as regulators use a billing model, based on hourly work, similar to how law firms operate in the private sector).
- Regulatory budgets, in turn, are established to meet the needs of regulators and the regulated.

Notably, such a system does not in any sense diminish the authority or role of legislators who still must establish and approve regulatory budgets. The system simply establishes a wall between regulatory budgets and larger economic or fiscal issues.

If the Louisiana Legislature were to consider such a system, such a change would not necessarily mean an increase in taxes or fees paid by the gaming industry. One potential solution would be to reduce the gaming tax by an amount roughly equivalent to the current cost of regulation, allowing the State to migrate to a new budgetary system that would, in theory, not increase the net cost of regulation for the State.

By contrast, Nevada utilizes a system similar to that of Louisiana. Nevada imposes various fees on its gaming industry. These fees are a source of revenue for the state, and the cost of the regulatory program is then funded from the state's general fund.³⁰⁷

The Pennsylvania Gaming Control Board's funding comes from several sources, none directly from taxpayers. The largest funding mechanism is from slot machine revenues, but only after deduction of appropriate taxes that are transferred to a number of recipients:

- The local and county governments that host a facility;
- The horse racing industry;
- Economic development and tourism efforts; and
- A State Gaming Fund that primarily provides revenues to school districts which, in turn, use the money to reduce local property taxes.

³⁰⁷ Nevada Gaming Control Board and Nevada Gaming Commission. <https://gaming.nv.gov/index.aspx?page=94>

In addition, the PGCB bills applicants for investigative costs associated with securing any type of license and manufacturers of slot machines and related goods who seek approval of equipment to be utilized in casinos.³⁰⁸

The Ohio Casino Control Commission's primary funding source is 3 percent of the revenue from the tax on gross casino revenue.³⁰⁹ Prior to the opening of the first casino, the Commission required a separate emergency appropriation from the State Treasury to be able to conduct daily business operations.

The Massachusetts Gaming Commission is funded through an annual fee per slot machine (set forth in the Gaming Act at \$600 per slot) as well as additional assessments and fees to licensees and applicants. The Commission is not funded with tax-payer monies, or through state appropriations.³¹⁰

2. Gaming Operations Licenses and Contracts

The Louisiana gaming regulators are tasked with administering policies and procedures regarding gaming licenses and contracts. These policies and procedures typically specify for each type of gaming license or contract (among other things): (i) its application requirements and approval criteria; (ii) its application and approval process; (iii) its defined term and renewal criteria; (iv) its application fees; (v) its maintenance requirements; and (vi) special requirements designed to promote economic development. This section discusses each of these categories of policies and procedures for authorized forms of gaming in Louisiana.

Application Requirements and Approval Criteria

In Louisiana, a gaming license is deemed by law to be a pure and absolute revocable privilege and not a right.³¹¹ As such, a gaming license may be denied, revoked, suspended, conditioned, or limited at any time by the Board.³¹² To issue a license, the Board must find that the applicant has demonstrated by clear and convincing evidence that such applicant is suitable,³¹³ which requires submission of detailed personal and financial information³¹⁴ followed by a thorough investigation.³¹⁵ In addition, each licensee must maintain suitability throughout the term of the license and any renewal term.³¹⁶

³⁰⁸ Annual report of the Pennsylvania Gaming Control Board, 2017-2018.

https://gamingcontrolboard.pa.gov/files/communications/2017-2018_PGCB_Annual_Report.pdf

³⁰⁹ Ohio Legislative Service Commission, Analysis of Enacted Budget for Casino Control Commission, August 2017.

<https://www.lsc.ohio.gov/documents/budget/132/MainOperating/greenbook/CAC.PDF>

³¹⁰ Massachusetts Gaming Commission. <https://massgaming.com/the-commission/budget/>

³¹¹ La. Rev. Stat. §§ 27:29(C), 27:42(B); La. Admin. Code tit. 42, § 2103(A).

³¹² La. Rev. Stat. §§ 27:75(A), 27:58(2).

³¹³ La. Rev. Stat. § 27:28(A); La. Admin. Code tit. 42, §§ 2109, 2113(A).

³¹⁴ La. Admin. Code tit. 42, § 2107. Additional specific requirements for the initial issuance of a license are contained in Louisiana Revised Statutes §§ 27:70-71 and in Louisiana Administrative Code title 42, §§ 2103, 2107, 2110, 2113(B), 2114, 2115, 2121, 2123, and 2137.

³¹⁵ La. Admin. Code tit. 42, § 2105.

³¹⁶ La. Rev. Stat. § 27:28(F).

Other persons also may be subject to a suitability determination, including without limitation the following: (i) certain of a licensee's officers, directors, shareholders, key gaming employees, and non-key gaming employees;³¹⁷ (ii) persons who manufacture any gaming device, supplies, or equipment for use in Louisiana;³¹⁸ (iii) persons who supply, sell, lease, or repair, or contract to supply, sell, lease, or repair gaming devices, equipment, and supplies to a licensee;³¹⁹ and (iv) subject to certain exemptions, persons who furnish nongaming services or goods to a licensee and receive compensation or remuneration equal to or greater than five hundred thousand dollars per calendar year for such goods or services.³²⁰ The Board in its discretion, however, may require additional persons to file applications for permits or findings of suitability.³²¹

Each form of gaming license or contract involves explicit application requirements and approval criteria. These requirements and criteria specify both (a) who is eligible to hold a gaming license or contract and (b) what actions must be taken in conjunction with the relevant application or bid. This section summarizes each of these types of application requirements and approval criteria, in turn.

Eligibility

One set of application requirements and approval criteria set limits as to who may obtain a casino gaming operator license and who may invest in casino gaming operators.³²² These requirements and criteria are designed to maintain public confidence in the integrity of the gaming industry by thwarting corruption and fraud. Accordingly, some persons are categorically prohibited from acting as or investing in gaming operators,³²³ while others must meet prescribed suitability criteria.³²⁴

Persons categorically excluded from gaming in any capacity include those who have been convicted of or have pled guilty or no contest to crimes subject to a prison term of more than one year; crimes involving fraud or false statements; crimes involving theft, possession of stolen things, or misappropriation; crimes of violence; and illegal gambling.³²⁵

Fitness

A second set of application requirements and approval criteria aims to have each applicant demonstrate its fitness to conduct the contemplated gaming activities and related business enterprise.³²⁶ Accordingly, an applicant must disclose information, adopt policies and pursue risk mitigation measures

³¹⁷ Ibid. §§ 27:29.4, 27:84; La. Admin. Code tit. 42, §§ 2109, 2113, 2159.

³¹⁸ La. Rev. Stat. § 27:29.1.

³¹⁹ Ibid. § 27:29.2.

³²⁰ Ibid. § 27:29.3; La. Admin. Code tit. 42, § 2108.

³²¹ La. Admin. Code tit. 42, § 2101(A).

³²² See, e.g., La. Rev. Stat. §§ 27:70 (riverboat operator's license), 27:235 (land-based casino operating contract).

³²³ See, e.g., *ibid.* §§ 27:28(B),(C), 27:235(3)-(6).

³²⁴ See, e.g., *ibid.* §§ 27:28(A),(D), 27:235(1).

³²⁵ Ibid. §§ 27:28(B); 27:235(3)-(6).

³²⁶ See, e.g., *ibid.* §§ 27:70, 27:242.

that signal it has the necessary capacity, character, experience, and financial stability to conduct the operations for which it is licensed.³²⁷ Because the factors weighing on an applicant’s fitness are so varied, the fitness requirements for gaming operations licenses and contracts are extensive. This stringent practice is consistent with industry practices throughout the nation.

Application and Approval Process

In Louisiana, each gaming license or contract involves a multi-step application and approval process. This process varies based on the type of license or contract sought. On the one hand, riverboat casino licenses and the land-based casino contract have the most rigorous application and approval processes, which is likely due in part to the scale of and limited competition for such enterprises. On the other hand, limited gaming licenses are relatively less rigorous, which is likely due in part to operators’ limited technical control over, and the direct regulation of the manufacturers and suppliers of, electronic gaming devices. These generalizations suggest some trends in application and approval processes, but within each category there is significant variation.

Louisiana applies a competitive bid process for the issuance of casino licenses. Illinois, Indiana, Iowa, Kansas, Michigan, Massachusetts and Pennsylvania all award casino licenses through a competitive bid process. These states also limit the number of casino licenses, similar to Louisiana. The following states with commercial casinos use an application process that does not rely on competitive proposals or bids to award a casino license: Colorado, Mississippi, Missouri, Nevada, New Jersey, and South Dakota. These states do not limit the number of commercial casinos.³²⁸

The following table sets forth how the various states consider casino license applications.

Figure 69: Competitive treatment of casino licenses, selected states

Competitive Bidding	Non-Competitive Bidding
Louisiana	Colorado
Illinois	Mississippi
Indiana	Missouri
Iowa	Nevada
Kansas	New Jersey
Michigan	Ohio
Massachusetts	South Dakota
Pennsylvania	

Source: Spectrum Gaming Group research

Term and Renewal

In Louisiana, each gaming license and contract is entered into for a defined term, subject to renewal provisions. The defined term and renewal provisions vary from license to license, depending on the scale of the gaming enterprise. An initial license to conduct riverboat gaming operations is valid for a

³²⁷ Ibid.

³²⁸ Florida Senate report “Review expansion of gaming in other states,” October 2010, <https://www.flsenate.gov/UserContent/Session/2011/Publications/InterimReports/pdf/2011-133ri.pdf>

term of five years³²⁹ with renewals every five years thereafter.³³⁰ Louisiana gaming law provides that a renewal application for the period succeeding the initial five-year term of an operator's license must be made to the Louisiana Gaming Control Board and must include a statement under oath of any and all changes in information, including financial information, provided in the previous application.

The defined term and renewal provisions for a particular license are important for gaming operators to consider when making long-term capital investments. The length of the applicable term (initial or renewal) and the certainty of renewal determines the operator's ability to amortize fixed capital investments and to maximize returns on such investments over time. In contrast, relatively short terms and increased uncertainty regarding renewal may make certain investments infeasible in light of an operator's risk tolerance. Thus, Louisiana's ability to attract major investments to its gaming industry is somewhat dependent on the competitiveness of its license terms relative to other states.

License terms vary widely among the states. In Mississippi, the casino licenses are valid for three years, but are subject to an annual fee of \$5,000 and an annual fee per number of games.³³¹ In Colorado there is a two-year license term³³² while in Illinois there a four-year duration.³³³ Even in jurisdictions that have recently authorized casino gaming, the prescribed license terms are markedly different. In Ohio the casino licenses are valid for three years,³³⁴ whereas in Massachusetts they are valid for 15 years.³³⁵ In 2011, New Jersey changed the term for casino licenses from five years to an indefinite period.³³⁶

Application Fees

In Louisiana and other states, each gaming license and contract involves application fees, which are designed to compensate the applicable regulator for its application processing costs. These fees vary from license to license, depending on the type of gaming license, and from state to state.

Maintenance Requirements

Once a gaming operator is granted the appropriate Louisiana license or contract, it must continue to satisfy maintenance requirements mandated by statute, regulations, and the terms of its license or

³²⁹ La. Rev. Stat. § 27:74.

³³⁰ La. Rev. Stat t. § 27:75.

³³¹ "2018 State of the States," American Gaming Association. https://www.americangaming.org/wp-content/uploads/2018/08/AGA-2018-State-of-the-States-Report_FINAL.pdf.

³³² Colorado Limited Gaming Act, 44-30-101. <https://www.colorado.gov/pacific/sites/default/files/Act%20Book%202018%20DR%209100.pdf>

³³³ Annual Report of Illinois Gaming Board, 2018. <http://www.igb.illinois.gov/FilesAnnualReport/2018IGBAnnualReport.pdf>

³³⁴ "2018 State of the States," American Gaming Association. https://www.americangaming.org/wp-content/uploads/2018/08/AGA-2018-State-of-the-States-Report_FINAL.pdf

³³⁵ Section 19A of Massachusetts Expanded Gaming Act. <https://malegislature.gov/Laws/SessionLaws/Acts/2011/Chapter194>

³³⁶ New Jersey Senate Bill S12, signed into law on February 1, 2011. <http://openstates.org/nj/bills/214/S12/documents/NJD00021986>

contract. Such requirements typically include, among other things, (a) mandatory measures taken to supervise gaming activities and (b) mandatory reporting to applicable regulators.

Supervision of Gaming Activities

One set of maintenance requirements for gaming operators requires them to take certain measures to supervise gaming activities. Such measures include, among other things:

- Appointing supervisory personnel;³³⁷
- Remote monitoring of electronic gaming devices through a central computer system;³³⁸
- Installing and maintaining surveillance equipment;³³⁹
- Developing a security plan;³⁴⁰ and
- Implementing other internal controls.³⁴¹

Although many of these required measures are in line with sound gaming business practices, gaming operators may find certain aspects of these measures needlessly inefficient when, for example, they are effectively prohibited from taking advantage of economies of scale across gaming establishments.

One issue that recently has received attention from regulators and licensees in this regard is supervisory personnel requirements that target upper-level management. Some operators argue that modern technology and transportation make it possible to manage certain functions of numerous gaming establishments from a single location and, thus, on-site personnel are not required at all times at every establishment. Thus, such operators may view upper-level management requirements for each establishment as an unnecessary expense. In contrast, the State may have economic development and operational justifications for such a requirement, because upper-level management typically command relatively high salaries and those responsible for, and officed at, a single property will be in a better position to respond to incidents than someone who must prioritize her time among more than one facility.

This issue has received recent attention from regulators and industry leaders, in large part due to recent acquisitions and business combinations in the gaming industry that have resulted in fewer companies controlling the 15 available Louisiana riverboat gaming licenses.

Currently 80 percent of the riverboat casino licensees are under the control of four companies, with one owning five such properties and two others each owning three.³⁴² As a result of this

³³⁷ See, e.g., La. Admin. Code tit. 42, § 4001.

³³⁸ Ibid. § 4201, see also *ibid.* § 2821.

³³⁹ Ibid. § 3301.

³⁴⁰ Ibid. § 3403.

³⁴¹ Ibid. §§ 2717 to 2729.

³⁴² Penn National Gaming, Inc. directly or indirectly owns a majority interest in licensees: (1) PNK (Baton Rouge) Partnership d/b/a L'Auberge Casino & Hotel Baton Rouge, (2) PNK (Bossier City), Inc. d/b/a Boomtown Bossier City, (3) PNK (Lake Charles), LLC d/b/a L'Auberge Lake Charles, (4) Louisiana I Gaming L.P. d/b/a Boomtown New Orleans, and (5) Bossier Casino Venture, LLC d/b/a Margaritaville Bossier City. Boyd Gaming Corporation directly or indirectly owns a majority interest in licensees: (1)

consolidation, casino operators under common ownership have sought to take advantage of economies of scale by staffing certain positions with responsibilities across multiple properties. Regulators, on the other hand, have expressed a concern about consolidation and relocation of back office and executive level positions, citing both economic and supervisory issues that could result.³⁴³ This issue is expected to be the subject of continued dialogue between industry and the regulators in the coming months, as proposed regulations addressing this topic are finalized.

Mandatory Reporting

A second set of maintenance requirements for gaming operators requires them periodically to report certain information to applicable regulators. These reporting requirements vary in content and frequency depending on the type of gaming.³⁴⁴

Restrictions on Operations

A significant restriction imposed upon the location of riverboats in the state was recently lifted through legislation. The Riverboat Economic Development and Gaming Task Force recommended lifting the restrictions on the location of riverboats to allow them to move to larger, land-based facilities provided those facilities are located within a short distance of their original vessels and the plans are approved by the Gaming Control Board. Any casinos remaining as riverboats would also no longer be legally required to have an operating paddlewheel. The new legislation enacted last year adopted that recommendation.³⁴⁵

A second recommendation of the Task Force was to repeal legal provisions that restrict the size of riverboat casino floors to no more than 30,000 square feet. The Task Force suggested that operators should be limited only as to the number of gaming positions they can offer. Such a change would potentially free up floor space for the installation of more gaming machines or tables, or certain preferred gaming equipment.³⁴⁶ Legislation reflecting the Task Force's recommendation was passed last year.³⁴⁷

Red River Entertainment of Shreveport, LLC d/b/a Sam's Town Hotel and Casino), (2) Treasure Chest Casino, LLC d/b/a Treasure Chest Casino, and (3) Belle of Orleans, LLC d/b/a Amelia Belle Casino, as well as the racinos at Delta Downs and Evangeline Downs. El Dorado Resorts, Inc. directly or indirectly owns a majority interest in licensees: (1) Catfish Queen Partnership in Commendam d/b/a Belle of Baton Rouge, (2) Eldorado Casino Shreveport Joint Venture d/b/a Eldorado Resort Casino Shreveport, and (3) St. Charles Gaming Company, Inc. d/b/a Isle of Capri Hotel Lake Charles. Caesars Entertainment Corporation directly or indirectly owns a majority interest in licensee Horseshoe Entertainment, L.P. d/b/a Horseshoe Bossier City Casino & Hotel - Bossier City, as well as the land-based casino gaming operator, Jazz Casino LLC d/b/s Harrah's New Orleans, and the racino at Louisiana Downs. See "Central Gaming Registry/Ownership Organizational Charts of Casino Licenses," Louisiana Gaming Control Board. [http://dpsweb.dps.louisiana.gov/wcgr.nsf/\\$Chart](http://dpsweb.dps.louisiana.gov/wcgr.nsf/$Chart).

³⁴³ Interview with Chairman Ronnie Jones, January 23, 2019; August 21, 2018 letter from Chairman Ronnie Jones to riverboat casino licensee executives; presentation of Chairman Jones, at Senate Committee on Judiciary B Meeting, October 24, 2018 at 2:09:55. (available at http://senate.la.gov/video/videoarchive.asp?v=senate/2018/10/102418JUDB_0)

³⁴⁴ See, e.g., La. Rev. Stat. §§ 27:21.1, 27:46, 27:61.

³⁴⁵ 2018 La. Acts no. 469 (effective May 23, 2018).

³⁴⁶ "2018 State of the States," American Gaming Association. https://www.americangaming.org/wp-content/uploads/2018/08/AGA-2018-State-of-the-States-Report_FINAL.pdf.

³⁴⁷ 2018 La. Acts no. 469 (Effective May 23, 2018).

Another legitimate concern for casino operators pertains to the restrictions placed upon them relating to maintaining employment totals. Casino operators with multiple properties may seek to consolidate functions and thereby reduce operating expenses. In this regard, the Executive Director of the Louisiana Casino Association, Wade Duty, indicated that the casinos are not permitted to reduce their employment levels to reduce operating costs.³⁴⁸

The consolidation of job functions may have other limitations besides the reduction in jobs. For example, the notion advanced within the industry that a single chief executive could preside over multiple properties may have practical implications for ensuring proper oversight over each property. Chairman Ronnie Jones stated that he would be proposing a regulation that requires each casino property to maintain its own chief executive, to ensure accountability of the casino operator. In his judgment, the requirement is absolutely essential for proper regulatory oversight.³⁴⁹

There are a number of operational restrictions applied generally to casino gaming. These factors include restrictions on the hours of operation, minimum age limit of patrons, maximum limits on bets and loss limits, minimum slot payout ratios, limitations on credit, and whether a patron exclusion list is maintained. All states impose an age restriction on gambling patrons. Generally, the age limit is 21; however, Iowa and Montana have established an age limit of 18. Another frequently used restriction is the exclusion list which is present in every state with the single exception of Montana. The exclusion list is an official list of patrons that are excluded from the gaming premises due to a criminal record or other undesirable background factors. Many states, including Louisiana, also require compliance with a voluntary self-exclusion list.

Another restriction imposed on gaming operations in Louisiana pertains to the number of casinos and racinos permitted in Louisiana. The State is restricted to having only one land-based casino, and that casino must be located in New Orleans on a designated site location. In addition, by law, there may be 15 riverboats and 4 racinos. The location of the riverboats is limited to certain prescribed waterways.

Some states such as Nevada, New Jersey, Mississippi, Colorado, Missouri, Iowa and South Dakota permit an infinite number of casinos, while others such as Massachusetts, Illinois, Delaware, Indiana, Ohio, New York, Oklahoma, Pennsylvania and Maryland have placed limits on the number of casinos, as Louisiana does. In addition to limiting the total number of authorized licenses, some states also limit the types of casino licenses. Louisiana adheres to this approach, expressly limiting the number of riverboats and racinos. In Pennsylvania, the state has authorized a total of 14 casinos but has limited the type of casinos that may be licensed. For example, seven casinos may be authorized for horse racing pari-mutuels, five may be authorized for free standing facilities, and two may be authorized for hotel-resorts.

The following table shows how the various states deal with this topic. (This section uses the term “casino” to include racinos, whereas the rest of this chapter uses that term in a more restrictive sense.)

³⁴⁸ Interview of Wade Duty, January 23, 2019.

³⁴⁹ Interview of Chairman Ronnie Jones, January 23, 2019.

Figure 70: Number of commercial casino licenses allowed, selected states

Unlimited Number of Commercial Licenses	Limited Number of Commercial Licenses	Number of Licenses Authorized
Nevada	Arkansas	4
New Jersey	Delaware	3
Mississippi	Florida	8
Iowa	Illinois	10
Missouri	Indiana	13
Colorado	Kansas	7
	Louisiana	20
	Maine	2
	Maryland	6
	Massachusetts	4
	Michigan	3
	New York	13
	Ohio	11
	Oklahoma	2
	Pennsylvania	13
	Rhode Island	2
	West Virginia	5

Source: Spectrum Gaming Group research

As the table demonstrates, Louisiana has more commercial casinos and racinos than every state except for Nevada, Colorado, Mississippi and South Dakota.

There may also be restrictions on where the casinos can be located. For example, in Ohio, the constitutional referendum authorizing casino gaming expressly designated the zoned regions where the casinos could be constructed. The owners of the designated land were Rock Gaming and Penn National. As a result only those casino operating companies were eligible to apply for gaming licenses in Ohio.³⁵⁰

In Massachusetts and Maryland, the casinos must be constructed in certain designated regions in the state. Colorado limits casinos to the central business districts of three small towns: Black Hawk, Cripple Creek and Central City. New Jersey allows casinos only in Atlantic City and South Dakota restricts casinos to Deadwood. In Kansas, one casino may be located in each of four gaming zones. Michigan’s three casinos must all be located in the City of Detroit, while Mississippi, Iowa, Illinois, Indiana and Missouri each limit casinos to locations along waterways.³⁵¹

In some states, there is a competitive bidding process for a limited number of casinos. In Massachusetts, two separate regions were designated as approved locations for casinos. Several applicants then sought to be selected as the winning bidder. They needed to be found suitable after due

³⁵⁰ 2018 Annual report of the Ohio Casino Control Commission.
<https://casinocontrol.ohio.gov/Portals/0/Communications/2018%20OCCC%20Annual%20Report%20-%20web%20version.pdf>

³⁵¹ The Florida Senate Interim Report 2011-133, “Review Expansion of Casino Gaming In Other States,” October 2010.

diligence investigations were conducted. The applicants then proceed to a second phase of the application process whereby they attempted to persuade the gaming regulators that their project was best suited.³⁵²

There may be advantages and disadvantages in limiting the number and placement of licenses. It could be considered an advantage to limit the total number of casino licenses because there is less competition when there are fewer licensees. Grouping the casinos together such as in New Jersey creates a gaming destination in the state, while spreading them apart may lessen the competition for each individual casino, and thereby give each casino some geographical exclusivity.³⁵³

Approval Process for New Games and Gaming Equipment

New games are developed rapidly in the current technology-driven environment. Casino game manufacturers regularly strive to develop, test, and get to the gaming floor a wide range of new games. Casino patrons who learn of new games and are interested in them likely want to see those games on the floors of the casinos they visit. The ability of a casino operator to provide the newest games to its patrons depends in part upon the gaming jurisdiction's requirements for adding them to the floor. The more efficient and less time-consuming the process for testing and approval, the quicker a casino can provide the new games that some of its customers seek.

Review and approvals for new games, gaming devices, and equipment are handled by the Division's Gaming Technology Committee and the New Games and Equipment/Internal Controls group within the Audit Operations Unit. The gaming regulatory requirements for bringing a new game to the casino floor in Louisiana include gaming permits for the manufacturer and supplier, including related suitability determinations. The cost of the manufacturer's permit for slot machines and video poker machines currently is a license fee of \$15,000 per year, which must be submitted with the application and on each anniversary of permit issuance.³⁵⁴ Manufacturers of other gaming equipment pay an annual license fee of \$7,500.³⁵⁵

Apart from the required permit for the manufacturer, any electronic gaming device that would be introduced into the Louisiana market must satisfy the criteria set forth in the regulations.³⁵⁶ The device must be tested and approved by one of the State's Designated Gaming Laboratories (most often Gaming Laboratories, Inc., ("GLI")) before it is submitted to the Division for review and approval.³⁵⁷ The review process includes review of manufacturer manuals as well as proposed internal controls and rules of play; as necessary, there must be appropriate updates and cures of noted deficiencies in the internal controls.

³⁵² Massachusetts Expanded Gaming Act.

³⁵³ Florida Senate, "Review Expansion of Gaming in Other States," October 2010.

³⁵⁴ La. Rev. Stat. § 27:29.1(D).

³⁵⁵ Ibid. § 27:29.1(E).

³⁵⁶ La. Admin. Code tit. 42, §§ 4201 to 4216.

³⁵⁷ Interview of J'Nelle West, February 27, 2019; interview of Steve Loska, February 28, 2019; see also "Gaming Technology Committee Minimum Internal Control Standards." <http://dpsweb.dps.louisiana.gov/gamingforms.nsf/d27a8505941b829f8625732900551963/c0b6672aa36dd92c862573fa00753a7f?OpenDocument>

The Division specifically requests information regarding other U.S. locations where the new games or equipment are currently or were previously in operation. Once authorized, there is a requisite 90-day trial period during which time the new game or device is on the floor, in service, and generating revenue. As to slot machines, the Designated Gaming Lab must approve any new software.

When asked by Spectrum about the licensee perspective on the process of deployment of new games to the casino floor, Wade Duty, Executive Director of the Louisiana Casino Association, remarked that there can be delays in the approval process that seem to stem from staffing decreases in the State Police personnel assigned to gaming.³⁵⁸ Duty observed that tribal casinos in the state are not subject to the same approval process for new gaming equipment and therefore are able to utilize new devices on an expedited basis, which creates an inherent competitive advantage for those casinos in marketing new products to prospective patrons.³⁵⁹

A few states such as New Jersey, Michigan and Mississippi utilize their own testing laboratories for new gaming equipment certifications and do not utilize the expert services provided by GLI. However, the predominant methodology used nationwide is to rely upon the expertise of GLI. We see no reason to deviate from that practice in Louisiana. However, consideration should be given to improving the efficiency of getting new gaming equipment onto the casino floor, perhaps by expediting the secondary review conducted by the Division by designating and training sufficient staff to carry out this function.

The Gaming Laboratory Division for the Mississippi Gaming Commission is charged with the approval of all electronic gaming devices, programs, associated equipment and firmware used in those devices.³⁶⁰ The Gaming Laboratory Division establishes maintenance procedures for machine field testing, certification and jackpot verification. The Laboratory trains agents on machine testing and jackpot verification procedures. The Laboratory is also equipped to evaluate electronic devices involved in alleged cheating incidents and gaming devices involved in player disputes.³⁶¹

In addition to its approval responsibilities, the Mississippi Gaming Laboratory Division provides technical consultation to other divisions of the agency regarding electronic gaming equipment, electronic gaming devices involved in patron disputes, and the seizure of illegal gaming devices statewide. It also assists the Legal Division in cases involving illegal gaming devices.³⁶²

Since its inception, the Gaming Laboratory Division has maintained an extensive database which serves as a basis for all field inspections conducted by the Enforcement Division. This information is used to verify gaming devices in the field prior to the games being offered for play to the public.³⁶³

³⁵⁸ Interview of Wade Duty, January 23, 2019.

³⁵⁹ Ibid.

³⁶⁰ Mississippi Gaming Commission. <http://www.msgamingcommission.com/>

³⁶¹ Ibid.

³⁶² Ibid.

³⁶³ Ibid.

Data from the most recent annual report of the Michigan Gaming Control Board reveals that their gaming testing laboratory in 2017 completed 1,075 gaming product evaluations, of which 1,011 were for new game software and 64 were for new gaming hardware. The laboratory performed 993 unique tests on new product submissions. The laboratory also processed 43 revocations of previously approved product submissions.³⁶⁴ The agency's annual report stated that "the staff also performs forensic evaluations, reviews progressive liability transfers by the casinos, processes malfunction occurrences and manufacturer notifications, researches emerging gaming technologies, drafts rule waivers, creates policies and assists in addressing patron complaints."³⁶⁵

Notably, other states recently have taken measures to reduce the time it takes to have the gaming equipment operational. In New Jersey, the state Division of Gaming Enforcement ("DGE") has its own testing laboratory for new gaming equipment. They have implemented a New Jersey First Program designed to ensure that gaming equipment gets to the gaming floor in New Jersey on an expedited basis. Under this program, a gaming equipment manufacturer or distributor advises the DGE that the new gaming equipment has been submitted simultaneously to another jurisdiction and/or independent testing laboratory, or has not yet been submitted for testing to another jurisdiction and/or independent testing laboratory. If the Division has not completed its review within 14 days of receiving a New Jersey First submission, the Division will issue a field trial approval on or before the 14th day, thereby guaranteeing that the new gaming equipment will be conditionally available on the casino floor within the 14-day period.³⁶⁶

Nevada has implemented a "fast track" for new gaming devices. Prior to a gaming device being given final approval by the Nevada Gaming Commission, the device must successfully pass a "field trial." As in Louisiana, this field trial allows the gaming equipment to be used in a casino. Upon the successful completion of the field trial, the Nevada Gaming Commission will consider granting final approval of the gaming equipment. The field trial process serves two primary functions:

- It allows the Nevada Gaming Control Board's Technology and Enforcement Divisions to observe the device in a "real-life setting" and determine if there are any items to address that were not previously detected during laboratory tests.
- It allows the gaming device manufacturer to evaluate how a new gaming device performs on the casino floor before it becomes fully operational, including how patrons react to the gaming device.

After various consultations with the Nevada gaming industry, the Nevada Gaming Commission adopted amendments to Regulation 14 to streamline the field trial and gaming device approval process. The amendments incorporate a "New Innovation Beta" process, pursuant to which manufacturers can

³⁶⁴ Annual Report of the Michigan Gaming Commission, 2017.

³⁶⁵ Ibid.

³⁶⁶ New Jersey Division of Gaming Enforcement. https://www.nj.gov/oag/ge/tsb_njfirst.html

offer their gaming devices in a limited field trial while the regulatory approval/review process is pending.³⁶⁷

Pennsylvania also recently addressed the approval process for new gaming equipment. The state's 2017 gaming-expansion bill featured provisions intended to expedite approval processes for Pennsylvania-licensed gaming equipment manufacturers, including language allowing such manufacturers to use private labs to test gaming machines and table games.³⁶⁸

The experience of these gaming jurisdictions demonstrates the importance of securing expeditious approvals of new gaming equipment. Such approval serves as a significant marketing tool and a competitive necessity.

Another aspect of the issue relating to getting new gaming equipment onto the casino floor that has garnered attention recently involves the process for shipping gaming equipment. The American Gaming Association applauded Ohio and Michigan recently for eliminating long-standing regulations pertaining to the shipment of gaming machines," recognizing that the rules increased costs without serving their regulatory priorities."³⁶⁹ Ohio's new procedures permit "plug-and-play" shipment of electronic gaming machines, eliminating the requirement that machines be shipped in an inoperable condition. The expectation is that the plug-and-play revision should encourage the deployment in Ohio casinos of the most advanced gaming machines. That will improve the competitive position of Ohio's casinos, thereby increasing the state's gaming revenues.³⁷⁰

Another measure, adopted by both Ohio and Michigan, eliminates the requirement for having a gaming agent present when a machine arrives at a gaming venue, while Michigan no longer requires notice of those shipments to regulators. All of these revisions are designed to streamline the delivery of new games to the casino floor.³⁷¹

3. Permits

In Louisiana, individuals and companies that do business with gaming operators are often required to obtain and maintain permits from one or more government agencies. This requirement applies to some employees,³⁷² gaming vendors³⁷³ and non-gaming vendors, depending on the applicable gaming operator.

³⁶⁷ Greenberg Traurig, LLP, "Nevada's 'Fast Track' for New Gaming Devices," November 2016. https://www.gtlaw.com/-/.../031226_gt-alert_nevadas-fast-track-for-new-gaming-devi

³⁶⁸ AGA 2018 Gaming Survey.

³⁶⁹ David O. Stewart, American Gaming Association, "Advancing Regulatory Modernization: Building on a Record of Success," 2019.

³⁷⁰ Ibid.

³⁷¹ Ibid.

³⁷² See, e.g., La. Rev. Stat. § 27:84.

³⁷³ See, e.g., ibid. § 27:29.2.

Although the above permit requirements are rooted in policies underlying a controlled gaming industry, that connection is arguably more tenuous for non-gaming vendors conducting arms-length transactions with operators in the ordinary course. In addition, non-gaming vendors may not have the scale or resources to justify fixed costs associated with the permit approval and maintenance process, which may disproportionately affect area small businesses. For these reasons, non-gaming vendor permit requirements present significant economic development concerns.³⁷⁴ Among these are the potential unwillingness of vendors not in the gaming industry to submit to the extensive application and suitability process that is required in a gaming licensing environment,

4. Taxes and Periodic Fees

Louisiana law sets varying tax rates and periodic fees for gaming licenses and contracts as well as non-gaming permits. These tax rates and periodic fees are a significant cost for gaming operators and, thus, may influence their decision to pursue a gaming business in the state or to make continued investments in existing gaming establishments in the state. For this reason, when taxes and fees are high relative to those in competing states, the Louisiana gaming industry may suffer from stifled competition and underinvestment. However, taxes and fees should be considered in the context of a particular operator's insulation from competition through license limitations.

Louisiana has a flat tax rate of 21.5 percent for its riverboat casinos. For racinos, the effective tax rate is 36 percent. The tax rates vary widely in the industry. Some states use the same flat tax methodology as Louisiana while others have implemented a graduated tax rate dependent upon the gaming revenue generated. Some states have different flat tax rates for casinos and racinos, similar to Louisiana. For example, in Massachusetts, commercial casinos are taxed at a rate of 25 percent of gross gaming revenue for both slots and tables while the slots-only racino is taxed at 49 percent of its gross gaming revenue.³⁷⁵

The tax rates in Louisiana are the same for slot machines and table games. This model is similar to that used in Mississippi, New Jersey, Nevada and Ohio. Some states have different tax rates for table games compared to slot machines. For example, in Pennsylvania, the tax on table games is 16 percent and the tax on slot machines is 54 percent. In Maryland the tax on table games is 20 percent and the tax on slot machines varies between 50 percent and 62 percent of gaming revenue.³⁷⁶

³⁷⁴ See, e.g., *ibid.* § 27:29.3; La. Admin. Code tit. 42, § 2108. In 2018, the legislature amended the non-gaming supplier statute to remove the \$200,000 statutory threshold requirement for non-gaming supplier permits, replacing the statutory threshold with a provision directing the Louisiana Gaming Control Board to “promulgate rules establishing the threshold amount of goods and services for which a non-gaming supplier permit is required.” By Notice of Intent published in the February 2019 Louisiana Register, the Board noted its intent to amend Section 2108 to provide that “[a] non-gaming supplier shall not apply for a non-gaming supplier permit unless it reasonably foresees supplying goods or services and/or receiving payment for goods or services from a licensee or casino operator for an amount equal to or greater than five hundred thousand dollars per calendar year.” La. Admin. Code tit. 42, § 2108.

³⁷⁵ Massachusetts Expanded Gaming Act, Chapter 194 of the Acts of 2011. <https://massgaming.com/about/expanded-gaming-act/>

³⁷⁶ “2018 State of the States,” American Gaming Association. https://www.americangaming.org/wp-content/uploads/2018/08/AGA-2018-State-of-the-States-Report_FINAL.pdf.

Graduated tax rates for casino gaming exist in Colorado, Illinois, Indiana, Iowa and Nevada. Some states have two different tiers of graduated taxation for pari-mutuel racino activity and commercial gaming activity. For example, in Iowa, the graduated tax rate for casinos ranges from 10 percent to 22 percent, while the tax rate for racinos may range as high as 24 percent. Flat tax rates exist in Louisiana, Ohio, Michigan, Missouri, New Jersey, Pennsylvania and South Dakota. The rates vary in each state. For example, New Jersey has a rate of 8 percent; Missouri has a flat tax of 21 percent; Pennsylvania has a flat tax of 55 percent; Ohio has a rate of 33 percent; and South Dakota has a flat tax of 9 percent.

Nevada is an example of a state that has a tax on each gaming device or table. The per-game or table tax is on top of the gaming tax on gross receipts. South Dakota also charges a device fee. Instead of multiple fees per year like Nevada, South Dakota casinos must pay an annual license fee of \$2,000 per device.³⁷⁷ The following table demonstrates how the various states tax the casino gaming industry.

³⁷⁷ Ibid.

Figure 71: Gaming-tax rates for commercial casino jurisdictions

State	Tax Rate	Flat or Graduated Tax
LA	Riverboat casinos: 21.5% of gaming revenue, with additional taxes and fees applied by local governments. Land-based casino: either a 21.5% tax on gaming revenue or an annual fee of \$60 million, whichever is greater, ³⁷⁸ plus rent and various other payments to local authorities.	Flat
CO	Graduated rate ranging from 0.25% on gaming revenue up to \$2 million to 20% on gaming revenue of more than \$13 million	Graduated
DE	58% effective rate on gaming machine revenue; 33.9% effective tax rate on gross table game revenue.	Flat
FL	35%	Flat
IL	Graduated rate ranging from 15% on gaming revenue up to \$25 million to 50% on gaming revenue of more than \$200 million.	Graduated
IN	Riverboat casino: Graduated rate ranging from 15% on gaming revenue of up to \$25 million to 40% on gaming revenue of more than \$600 million.	Graduated
IA	Riverboat and land-based casinos: Gaming revenue of up to \$1 million is taxed at 5%; revenue of between \$1 million and \$3 million is taxed at a rate of 10% All revenue in excess of \$3 million is taxed at 22%.	Graduated
KS	27%	Flat
ME	39-46% gaming machine revenue; 16% table game revenue	Flat for table games; graduated for slot machines
MD	50-62% gaming machine revenue; 20% table game revenue	Flat for table games; graduated for slot machines
MA	25% casino gaming revenue; 49% slot parlor gaming revenue	Flat
MI	19%	Flat
MS	11.2%	Flat
MO	21%	Flat
NV	6.75%	Flat
NJ	Effective rate of 9.25 8% on gross gaming revenue; plus a community investment alternative tax on gross gaming revenue of 1.25%	Flat
NM	46.25%	Flat
NY	Casinos: 37%-45% gaming machine revenue; 10% table game revenue	Flat for table games; graduate for slot machines
OH	33%	Flat
OK	Rates range in a graduated scale from 35 percent on revenue up to \$10 million, to 50 percent on revenue of more than \$70 million	Graduated
PA	54% gaming machine revenue; 35% electronic table game revenue; 16% table game revenue	Flat
RI	Gaming operators retain between 26 and– 28.85% of gaming machine revenue; effective rate of 17%-19% on table game revenue	Graduated
SD	9%	Flat
WV	53.5% gaming machine revenue; 35% table game revenue	Flat

Source: American Gaming Association State of the States, Spectrum Gaming Group

Importantly, the calculation of taxes and fees on gaming operations depends on the treatment of adjusted gross revenue, which is broadly defined as gaming revenues minus sums paid to winning patrons.³⁷⁹ In this context, the meaning of gaming revenues is particularly important given the gaming industry’s reliance on promotional credits to draw in and compete for patrons. Unlike some other states, Louisiana treats promotional credits as taxable gaming revenue.³⁸⁰ This treatment may put Louisiana at a competitive disadvantage with respect to competing jurisdictions (including tribal casinos) that do not tax

³⁷⁸ Notably, by statute the minimum compensation to be paid by Harrah’s is the greater of 18.5 percent of gross revenues or \$60 million, La. Rev. Stat. § 27:241.1, but by contract Harrah’s agreed to pay the greater of 21.5 percent of gross revenues or \$60 million.

³⁷⁹ See La. Admin. Code tit. 42, § 2735.

³⁸⁰ See *ibid.* § 2736.

promotional credits, because such taxation disincentives multi-state operators from directing out-of-state patrons to Louisiana establishments.

Taxation of Free Play

Promotional credits that provide free play are widely used in casinos in the United States. They are viewed as significant casino marketing tools to induce customers to frequent the casinos. The premise is that free play will enhance gaming revenue by increased spend-by-trip and increased visitations. As gaming has expanded exponentially throughout the country in recent years, many operators have increased their reliance on free-play offers to combat increased competition.³⁸¹ (The issue of free play is also discussed from an operational perspective in Chapter IV.)

The core principal behind the use of free play vouchers, which cannot be redeemed for cash, is to provide players with more time at the game “on the house.” Offers are typically based on the value of the play the customer brings to the property. A player with a daily value to the casino of \$250 likely gets more offers than a \$50 player. These offers are designed to instill loyalty to the property and encourage the player to return. In many ways they are a marketing tool similar to frequent flyer miles or frequent diner discounts.

Casino operators in Mississippi and the tribal casinos in Oklahoma and Louisiana do not pay taxes on promotional play. Other Louisiana casinos pay taxes on the promotional play given to patrons. The Louisiana Casino Association estimates that in 2018 there was about \$250 million in promotional play offered to casino guests. That means the casinos in Louisiana paid \$53.75 million more in taxes than they would have in Mississippi, or if they operated under the same rules as their in-state and out-of-state tribal competitors. State legislators interviewed by Spectrum understand the issue this disparity creates for Louisiana operators and are interested in addressing it.

The issue relating to the taxation of promotional free play is of paramount concern to the casino operators in Louisiana, as represented by Wade Duty, Executive Director of the Louisiana Casino Association, during our interview.³⁸² The Riverboat Economic Development and Gaming Task Force (the “Task Force”) was established by a 2016 resolution of the State Legislature with a mandate to make recommendations that would “make Louisiana riverboat casinos more competitive with gaming enterprises in nearby jurisdictions.”³⁸³ A specific area considered for possible regulatory reform by the Task Force was the method by which Louisiana taxes promotional free-play credits that casinos give to patrons.³⁸⁴

Under current law, free play offered by the casinos is taxed as normal gaming revenue. Duty noted that casino executives believe this taxation policy places the state’s gaming industry at a significant

³⁸¹ Anthony Lucas and Kathryn Spilde, “The Free-Play Tax Deduction Debate: How Academic Research Can Help,” UNLV Gaming Research & Review Journal Volume 21 Issue 1 (2017).

³⁸² Interview of Wade Duty, January 23, 2019.

³⁸³ American Gaming Association 2018 Survey of the Commercial Gaming Industry.

³⁸⁴ *Ibid.*

competitive disadvantage relative to gaming operations in neighboring states, including Mississippi and Oklahoma, which do not tax free play. In addition, tribal casinos in Louisiana do not tax free play. It is also untaxed in a number of other significant jurisdictions, including Nevada, Pennsylvania, Ohio and Florida.³⁸⁵

Numerous industry leaders who made presentations at the Task Force identified taxation of free play as an issue that they believe creates an uneven playing field for Louisiana operators against competitors.³⁸⁶ The casino operators asserted that the current structure, which imposes a fee for using the marketing tool of promotional play, is “a huge disadvantage” to a business seeking to bring customers into the state.³⁸⁷ Duty characterized it as “a demonstrated handicap” in the competition against neighboring Mississippi.³⁸⁸ Duty emphasized that the usage of free play was impeded in the state by the tax constraints, whereas conversely, Mississippi was able to use increased free play as a significant marketing tool to attract patrons.³⁸⁹

Notwithstanding the position advanced by the casinos, Task Force members declined in January 2018 to recommend changes to Louisiana’s tax treatment of free play, primarily because it was considered unlikely that the Legislature would approve such changes at a time when the State was facing a projected budget shortfall.³⁹⁰ There seems to be a consensus among stakeholders, including lawmakers, regulators, and industry leaders, that the taxation of free play in Louisiana presents a competitive disadvantage, and there seems to be a willingness to continue considering ideas to address the matter. Despite this consensus, however, the political will to enact that change has yet to emerge.

As a practical matter, while eliminating tax on free play could be a positive in terms of total gaming revenue received in the long run, elimination of that tax would likely be a difficult political proposition in the short term due to the anticipated immediate negative impact on state gaming revenue. It is recognized that the Legislative Fiscal Office, which writes a tax note for every bill, would likely write a “negative fiscal note” to reflect the immediate/short-term impact on State revenue. Thus, while the concept of eliminating the tax on free play is certainly deserving of consideration, we can understand the hesitancy to move forward with this initiative. Senator Ronnie Johns, who has expressed an interest in addressing the issue legislatively if it can be done in a “revenue-neutral” way, recently commented that legislative

³⁸⁵ Interview of Wade Duty, January 23, 2019; presentation of Tilman Fertitta, Landry’s Inc./Golden Nugget, at Riverboat Economic Development and Gaming Task Force meeting, August 15, 2017, at 22:16. (http://senate.la.gov/video/videoarchive.asp?v=senate/2016/10/101816RIVERBOAT_0)

³⁸⁶ See, e.g., Presentation of Brent Stevens, Peninsula Pacific, at Riverboat Economic Development and Gaming Task Force meeting, October 17, 2017, http://senate.la.gov/video/videoarchive.asp?v=senate/2017/10/101717RIVERBOAT_0; Presentation of Geoff Freeman, American Gaming Association, at Riverboat Economic Development and Gaming Task Force meeting, January 17, 2017, at 8:32, http://senate.la.gov/video/videoarchive.asp?v=senate/2017/01/011717RIVERBOAT_0; Presentation of Tilman Fertitta, Landry’s Inc./Golden Nugget, at Riverboat Economic Development and Gaming Task Force meeting, August 15, 2017, at 22:16, http://senate.la.gov/video/videoarchive.asp?v=senate/2017/08/081517RIVERBOAT_0

³⁸⁷ See Presentation of Tilman Fertitta, *supra*, at 23:20.

³⁸⁸ Interview of Wade Duty, January 23, 2019.

³⁸⁹ *Ibid.*

³⁹⁰ Comments of Chairman Jones, Senator Johns, and Senator Martiny, at Riverboat Economic Development and Gaming Task Force meeting, January 16, 2018. http://senate.la.gov/video/videoarchive.asp?v=senate/2016/10/101816RIVERBOAT_0

change on free play likely is “not in the cards for this year [2019 legislative session].”³⁹¹ Nevertheless, despite what seems to be the current prevailing outlook, in our judgment, it would be prudent to pursue this matter to effect meaningful change in the tax system to increase the industry’s ability to compete on equal footing with Mississippi.

Spectrum conducted a study of taxation of free play in 2017.³⁹² Our research revealed that policies and regulations relating to the tax deductibility of free-play offers vary among the states. Some taxing authorities allow operators to reduce their taxable win by the face value of the free-play offer, while others limit or cap such deductions by a percentage of win or a flat dollar amount. Some states do not allow any deductions for free play. The following table from our 2017 report depicts the various states’ policies on the issue of taxation of free play offered by its casinos.³⁹³

Figure 72: States’ treatment of free play for commercial casinos, 2017

AR	Taxed as GGR	MI	Taxed as GGR
CO	Taxed as GGR	MO	Taxed as GGR
CT*	First 11% of GGR exempt	MS	Exempt
DE	First 20% of GGR exempt	NJ	First \$90M industrywide taxed, remainder exempt
FL	Exempt	NM	Calculated by 1 of 4 different methods
IA	First \$28.3M industrywide taxed, remainder exempt	NV	Exempt
IL	Taxed as GGR	NY	First 15% of GGR exempt
IN	First \$7M of GGR exempt	OH	Exempt
KS	Exempt	OK	Taxed as GGR
KY	Taxed as GGR	PA	Exempt
LA	Taxed as GGR	RI	Exempt
MA	Exempt	SD	Taxed as revenue on 10% of slot hold
MD	First 20% of GGR exempt	WV	First 2% to 3% of slot revenue exempt
ME	Exempt		

Source: State gaming commissions, Spectrum Gaming Group research. * For tribal casinos, via compact with state

Based on our research, Spectrum found that casinos incorporate promotional free play as an integral component of their marketing programs to attract patrons and to extend their gaming experience. The extent of how much casinos will offer free play as inducements to participate in casino gaming is impacted by whether the free play is taxed as gaming revenue or is made exempt from gross revenue and is deemed non-taxable.

Spectrum found that taxing free slot play significantly reduces margins on revenue generated from slot play offers, often making it cost prohibitive. Notably, our analysis showed that taxing free play will reduce its usage by operators, resulting in fewer trips by customers and shorter duration of play, yielding lower gross gaming revenue for casino operators and lower tax revenues for the State. Our research also revealed that in states such as Indiana, which taxes free play after exempting the first \$7 million, free play

³⁹¹ See comments of Senator Ronnie Johns, at Riverboat Economic Development and Gaming Task Force meeting, January 16, 2018, at 27:10; Interview of Senator Johns, February 20, 2019.

³⁹² Spectrum Gaming, “Free Play as Marketing Tool: What You Need to Know,” 2017.

³⁹³ Ibid., p. 6.

is not widely used as a marketing tool due to the tax constraints.³⁹⁴ As with the case in Louisiana, the casinos in that state have urged for modifications in how free play is taxed, citing competitive pressures from Ohio's emerging casino industry.³⁹⁵ The issue is under review by the state legislature.

In Louisiana, promotional free play is considered as taxable gaming revenue for the casinos. The amount of free play revenue is included in calculating the gross gaming revenue generated by the casinos. A casino may choose to limit the amount of free play that it offers, which would reduce its gross gaming revenue and reduce its tax exposure. However, limiting free play likely results in less gaming revenue due to a reduction in patronage and a decrease in the duration of gaming and therefore creates a smaller tax base for the State. In that event, lower gaming revenues limit opportunities for capital investment.³⁹⁶

In an environment in which free play is taxed, the operator may be discouraged from using a marketing tool that is effectively designed to encourage visitation. If free play is taxed, operators may tend to use less free play, thus generating less revenue. From the operator's standpoint, a tax on free play equates to a tax on gaming revenue; however, a key difference is that free play taxes can be reduced or avoided by offering less free play to potential patrons. That may ultimately result in less gaming revenue to the operator as well as the State.

Notably, an operator with properties in both Mississippi and Louisiana would find it more attractive to offer a customer a free-play coupon to be used in Mississippi, where the operator's "spend" will not be taxed. Such a choice made by the operator drives the patron who might otherwise come to Louisiana into a different jurisdiction, thus losing for Louisiana not only the immediate spend in the casino, but the opportunity to benefit from the other spending that would occur if that same customer came to a Louisiana casino rather than the competing jurisdiction.³⁹⁷

In 2008, New Jersey modified its approach to the taxation of promotional free play. Whereas promotional free play was previously fully taxable as gross gaming revenue, the new legislation allowed casinos, after they reached a \$90 million threshold, to deduct promotional gaming credits before determining taxable gross revenue. The rationale for the change in taxation policy after 30 years of authorized casino gaming was that it positioned the state's casinos to better compete against casinos in surrounding jurisdictions, such as Pennsylvania which does not tax promotional free play.³⁹⁸

In Ohio, when casino gaming was first authorized in 2009, free play was not subject to taxation. In 2015, a bill was introduced in the Ohio legislature to tax promotional free play as part of the taxation on adjusted gross gaming revenue once the amount of free play exceeded \$5 million for a casino or racino in a given year. That approach would mirror the system employed in nearby Indiana. The intent ostensibly was to generate increased revenue for local governments and schools. Statistics showed that Ohio's four

³⁹⁴ Ibid., p. 37

³⁹⁵ Zack Osowski, "Legislators want to further study casinos' free play promotions," *Herald Bulletin*, November 3, 2014. <https://indianaeconomicdigest.com/main.asp?SectionID=31&subsectionID=135&articleID=76996>

³⁹⁶ Spectrum Gaming, "Free Play as Marketing Tool: What You Need to Know," 2017, p. 37.

³⁹⁷ Interview of Wade Duty, January 23, 2019.

³⁹⁸ "A Brief History of the Casino Control Commission." <https://www.state.nj.us/casinos/about/history/>

casinos reported \$103 million in free play for 2014 just prior to when the legislation was under consideration. On the surface, it would appear to the uninitiated that taxing free play would increase State revenue attributed to the casinos. However, as discussed above, that would not necessarily be the case.³⁹⁹

In response to the proposed legislation to institute a tax on free play, the casinos in Ohio persuasively argued that the amount of free play offered would be reduced if it were to be taxed at the 33 percent tax rate, and that the amount of gaming revenue would actually be reduced. They maintained that the incentive to offer promotional free play would be decreased if it were to be made taxable. Eric Shippers, senior vice president for public affairs at Penn National Gaming, called the idea “ill-conceived and misguided” and added that if implemented it would produce the opposite result of what was intended. He further stated:

Eliminating or reducing the discount on promotional credits would nullify one of the very weapons the state needs to help keep Ohio competitive in the ongoing regional gaming arms race.⁴⁰⁰

The casinos’ argument proved successful, and the legislation never passed. As a result, Ohio presently does not impose a tax on promotional free play, and the state continues to enjoy a competitive advantage over Indiana.

The issue has been revisited as well in Indiana. Currently in Indiana, free play is partially taxed as gross gaming revenue. In 2014 an interim study committee examined the usage of free play in the casinos and recommended that the Indiana General Assembly look at ways to improve the free play promotion used by all casinos to attract new business.⁴⁰¹ As of this date, the tax treatment of free play in Indiana remains unchanged. However, on February 27, 2019, the Indiana Senate passed a bill that raises the amount of free play Indiana casinos can offer their customers in order to compete with the casinos in Ohio. The bill is pending.⁴⁰²

The examples cited for New Jersey and Ohio are illustrative of how free play can be a significant competitive aspect of casino gaming. Both states took action or maintained the status quo to place their casino operators in a better competitive stance with respect to surrounding states that do not impose a tax on promotional free play.

History, Value of Free Play

An understanding of the policy implications regarding free policy requires an understanding of the history of such promotional items. In the pre-digital era – when slot machines were coin-operated, email addresses were not ubiquitous and the internet was just forming – casinos would historically attract patrons with actual cash, or with match-play coupons.

³⁹⁹ Brian Kollars, “Gambling Bill calls for taxing ‘free play,’” *Dayton Daily News*, March 31, 2015.

⁴⁰⁰ Ibid.

⁴⁰¹ Zach Osowski, “Legislators want to further study casinos’ free play promotions,” *Herald Tribune*, November 3, 2014. <https://indianaeconomicdigest.com/main.asp?SectionID=31&subsectionID=135&articleID=76996>

⁴⁰² Mike Perleberg, “Modified Casino Relocation, Sports Betting Bill Passes Senate,” *Eagle Country 99.3 FM*, February 27, 2019. <https://www.eaglecountryonline.com/news/local-news/modified-casino-relocation-sports-betting-bill-passes-senate/>

In Atlantic City, for example, busing programs were established in which patrons would receive rolls of quarters upon entering the casino. These rolls of 40 quarters, with a value of \$10, were distributed under the assumption that patrons would use those coins in the slot machines of the host casino.

Whether or not that took place was largely built on educated guesswork. It would not be unusual, for example, for casino general managers or other high-level executives to visit their own or other casino floors to examine the casino markings on discarded rolls.

If they found their own coin wrappers on slot bases in competing casinos, it would be viewed negatively, but if other casinos' wrappers were found on their floors, it generated positive notice. Moreover, some casino patrons who arrived by bus would simply pocket the entire roll and return home with the feeling that they were \$10 ahead, without having had to risk any money.

Current technology eliminates such unknowns and downsides, and the careful use of free play allows casino operators to know precisely how their promotions are being used, from who is spending the money, when and in what machines.

With that in mind, promotional free play is now a significant marketing tool used by casino operators to attract patrons. In our judgment, the casinos in Louisiana currently operate at a competitive disadvantage with respect to Mississippi, which does not treat promotional credits as revenue subject to taxation. Mississippi is able to offer more free play and use this inducement as a marketing tool. Louisiana may want to follow New Jersey's example and consider similar changes to how it taxes promotional free play as it competes with Mississippi. The State could eliminate the tax altogether or adopt the compromise position of placing a limit on the amount of free play that is taxed.

In addition to the competition argument, there is also an argument to be made that the face value of free play is not actual revenue for the casino operator and therefore should not be taxable. For example, consider a situation where a player wagers \$20 in free-play in a slot machine and eventually loses all \$20. The coin-in for this game would be \$20 greater than the coin-out, resulting in a casino "win" of \$20. The operators would claim that this \$20 is not revenue. Specifically, if they were to include the face value of the free-play coupon in coin-in, they would be paying taxes on \$20 of win that they never collected.⁴⁰³

We note that proponents for eliminating taxes on free play often cite the fact that other industries are not subject to taxation for issuing complimentary to their patrons. Examples include grocery store coupons and nontaxable benefits from hotel, airline, and rental car loyalty clubs, such as earned room nights, tickets and upgrades/rentals. In all of these cases, the face value of the redeemed benefits is not included in the calculation of taxable sales. Deductibility proponents argue that based on precedent established in other industries, free-play should be afforded the same treatment.⁴⁰⁴

Finally, we emphasize that gaming jurisdictions must continually evaluate their methodology for taxation of the casino industry to determine if there are concrete ways to make the industry more

⁴⁰³ Lucas and Spilde, *supra* note 381, at 29.

⁴⁰⁴ *Ibid.*

competitive without sacrificing revenue. Indiana is an example of a state that recently enacted changes to the method used for taxing casinos in light of competition from other markets. Their legislative changes will gradually phase out an add-back tax over an eight-year period. In addition, the new taxation policy will shift riverboat casinos from an admissions tax to a supplemental wagering tax, which is based on a percentage of their adjusted gross receipts. The supplemental wagering tax will be capped at 4 percent of a riverboat's adjusted gross receipts from July 2018 and at 3.5 percent of its adjusted gross receipts from July 2019.⁴⁰⁵

As noted by the American Gaming Association, the tax reforms in Indiana were under consideration for several years and passed with support from the Indiana casino industry, which argued the changes were necessary to make the state's tax policies more compatible with those of nearby gaming jurisdictions. The reforms are designed to allow the state's casinos to compete more effectively with rival gaming operations in neighboring states such as Illinois and Ohio, where supply has markedly increased in recent years.⁴⁰⁶

Spectrum encourages Louisiana to employ this same type of progressive reasoning to place its casinos in the best possible competitive position by revising its position on the taxation of free play.

5. Economic Concentration

In Louisiana, there is no limit on the number of casinos that may be owned by one operator. There is also no set percentage of the market that cannot be controlled by a single company. In determining whether economic concentration exists, some of the pertinent factors to be evaluated include the percentage of business controlled, the strength of the remaining competition, the probable development of the industry, consumer demands, entry barriers and other characteristics of the market.⁴⁰⁷ The issue is particularly significant in the state because there are only a finite number of casino licenses that may be issued. A potential domination of the market can impede competition. Chairman Ronnie Jones expressed serious concern regarding another aspect of the issue concerning ownership of multiple properties, observing that an operator had great latitude in investing in one property while ignoring the needs of another property.⁴⁰⁸

In an effort to curtail economic concentration, some jurisdictions limit the number of gaming licenses in which a person may hold an ownership interest. For example, in Indiana, a person may not have an ownership interest in more than two Indiana riverboat owner's licenses,⁴⁰⁹ and in Maryland, an

⁴⁰⁵ "2018 State of the States," American Gaming Association. https://www.americangaming.org/wp-content/uploads/2018/08/AGA-2018-State-of-the-States-Report_FINAL.pdf

⁴⁰⁶ Ibid.

⁴⁰⁷ See Opinion of the New Jersey Casino Control Commission, In the Matter of the Sale of Certain Shares of Class B Common Stock of Resorts International, Inc., PRN No. 096701 (October 20, 1987).

⁴⁰⁸ Interview of Chairman Ronnie Jones, January 23, 2019.

⁴⁰⁹ Lindsey Erdody, "Gambling bill would allow Terre Haute casino, accelerates timeline for live games at racinos," *Indianapolis Business Journal*, January 17, 2019. <https://www.ijb.com/articles/72071-gambling-bill-would-allow-terre-haute-casino-accelerates-timeline-for-live-games-at-racinos>

individual or business entity may not own an interest in more than one video lottery facility.⁴¹⁰ A bill is pending in Indiana that would lift the two license restriction In Indiana.⁴¹¹

In New Jersey, the enabling casino legislation expressly empowered the Casino Control Commission to “regulate, control and prevent economic concentration in casino operations ... and to encourage and preserve competition.”⁴¹² The New Jersey Casino Control Act initially imposed a three-license rule, effectively prohibiting a single owner from owning more than three casinos.⁴¹³ This provision was intended to combat economic concentration, as set forth in the statute.⁴¹⁴ The Casino Control Act was subsequently amended to delete this express prohibition.⁴¹⁵ In its place, the Casino Control Commission was entrusted with the discretionary authority to prevent economic concentration before issuing more than one license to an operator.⁴¹⁶ Certain criteria were included in the revised Casino Control Act as guidelines for the Commission when addressing the issue.⁴¹⁷ However, there is no precise numerical amount that establishes impermissible economic concentration.⁴¹⁸

The issue of undue economic concentration is especially important because all casinos are concentrated in a geographically small island city (Atlantic City). When one casino owner owns multiple properties, he can potentially exert undue influence upon the regulators, even unintentionally. In a worst-case scenario, the regulator may be reluctant to revoke an operator’s license for regulatory infractions for fear that the outcome will be unsettling and detrimental for the jurisdiction’s gaming industry as a whole. Under these circumstances, the “too big to fail” maxim is evident.

In 2014, New Jersey State Senator James Whelan expressed his concern to New Jersey’s casino regulators and Governor Chris Christie’s office that the potential sale of Revel Casino Hotel to Caesars Entertainment would violate a provision of New Jersey law prohibiting one company from owning too much of the casino market. At the time, Caesars owned four of the city’s 11 casinos. Whelan noted that, “the whole idea is to have various different owners in the market, with diversity in Atlantic City, and not have the market dependent on the rise or fall of one particular company.”⁴¹⁹

⁴¹⁰ John Wagner, “Penn National Gaming could buy stake in Maryland Live! Casino,” *Washington Post*, September 25, 2012. https://www.washingtonpost.com/blogs/maryland-politics/post/penn-national-gaming-could-buy-stake-in-maryland-live-casino-at-arundel-mills/2012/09/25/fae1ccc4-073d-11e2-afff-d6c7f20a83bf_blog.html?noredirect=on&utm_term=.21a818cc474f

⁴¹¹ Mike Perleberg, “Modified Casino Relocation, Sports Betting Bill Passes Senate,” *Eagle Country* 99.3 FM, February 27, 2019. <https://www.eaglecountryonline.com/news/local-news/modified-casino-relocation-sports-betting-bill-passes-senate/>

⁴¹² N.J.S.A. 5:12-1(b)(12).

⁴¹³ N.J.S.A. 5:12-82(e), since amended.

⁴¹⁴ N.J.S.A. 5:12-1(b)(12).

⁴¹⁵ N.J.S.A. 5:12-82(e)

⁴¹⁶ *Ibid.*

⁴¹⁷ *Ibid.*

⁴¹⁸ See Opinion of the New Jersey Casino Control Commission, In the Matter of the Sale of Certain Shares of Class B Common Stock of Resorts International, Inc., PRN No. 096701 (October 20, 1987).

⁴¹⁹ Associated Press, “NJ pol: Don’t let Caesars buy Revel casino,” January 30, 2014.

While Caesars ultimately withdrew from consideration, rendering the issue moot, the underlying concerns have not dissipated in New Jersey or other states. Clearly, this is an issue that warrants monitoring by the Louisiana Gaming Control Board. The controlling question is: Can any individual licensee become either too large or too intrinsic to the regional or state economy to the point where it can no longer be effectively regulated?

Such questions largely defy quantitative solutions, and economic concentration may ultimately prove unavoidable. A limit on the number of licenses in any given state is also a factor. For example, Massachusetts regulators have been forced to grapple with a particularly thorny issue as one of its designated licensees – Wynn Resorts – has been forced to confront suitability issues stemming from sexual misconduct allegations against its founder and then-principal officer and shareholder, Steve Wynn.⁴²⁰

This report does not suggest increasing the number of available licenses in Louisiana, but we simply note that such limits enhance the challenges for regulators.

New Jersey has endeavored to address this issue through the appointment of conservators, who would take over the operation of a casino in which management was found to be unsuitable, and would position the property for sale while the operation continued, thus ensuring that employees, suppliers and customers are not adversely affected by the disruption. The New Jersey statute notes:

Notwithstanding any other provision of the Act, upon the revocation of a casino license or upon, in the discretion of the Commission, the suspension of a casino license or operation certificate for a period of in excess of 120 days and notwithstanding the pendency of any appeal therefrom, the Commission shall appoint and constitute a conservator to, among other things, take over and into his or her possession and control all the property and business of the licensee relating to the casino and the approved hotel.⁴²¹

Such an approach would be more sensible for Louisiana as an effective means of addressing issues related to economic concentration.

6. Allocation of Gaming Tax Revenue

Louisiana law allocates revenues from gaming taxes and fees to different funds, some of which support particular regulatory functions or State programs. In addition, Louisiana law sometimes requires municipal governments to allocate revenue from authorized taxes and fees to specific purposes.⁴²² Such State revenue allocations and municipal revenue allocation requirements are based on a variety of policy goals, including mitigating gaming externalities,⁴²³ supporting important constituencies,⁴²⁴ and funding applicable regulatory functions.⁴²⁵

⁴²⁰ Erik Gibbs, “Massachusetts wraps up Steve Wynn sexual misconduct probe,” *Calvin Ayre*, January 11, 2019, <https://calvinayre.com/2019/01/11/casino/massachusetts-wraps-up-steve-wynn-sexual-misconduct-probe/>

⁴²¹ N.J.S.A. 19:43A-8.2

⁴²² See, e.g., La. Rev. Stat. § 27:93.

⁴²³ See, e.g., *ibid.* § 27:92(B)(2)(a)(i) (compulsive gaming).

⁴²⁴ See, e.g., *ibid.* § 27:439 (horse race purses).

⁴²⁵ See, e.g., *ibid.* § 27:92(B)(2)(c), (C) (riverboat gaming enforcement).

The revenue generated from each type of casino gaming establishment in Louisiana – riverboat casinos, and the New Orleans land-based casino – is subject to different tax requirements. Riverboat casino revenue is subject to a State tax of 21.5 percent, with additional taxes and fees applied by local governments. Racino revenue is taxed at an effective rate of around 36 percent. That rate comprises an 18 percent contribution to the Louisiana horse racing industry, with remaining revenue subject to a State tax of 18.5 percent and local taxes of 4 percent. The New Orleans land-based casino pays either a 21.5 percent tax on revenue or an annual fee of \$60 million, whichever is greater.⁴²⁶ The land-based casino must also remit rent and various other payments to local authorities, as established under its operating contract.⁴²⁷ The tax for video poker ranges from 26.0 percent to 32.5 percent.⁴²⁸

In accordance with Louisiana law, the majority of gaming tax revenue is remitted to the State’s general fund. Monies are appropriated from the fund each year at the direction of the legislature and used to pay for public education, public retirement systems and State capital improvements. Accordingly, taxable revenue generated from gaming operations funds various programs in the State. The Gaming Control Board notes that this taxable gaming revenue is a primary source of funding for Support Education in Louisiana Fund.⁴²⁹

We reviewed how other gaming jurisdictions distribute the taxable gaming revenue to offer some perspective on the process being utilized in Louisiana. As will be demonstrated, each state has adopted its own regulatory framework for the distribution of gaming revenue. In some states, the money is specifically allocated for certain purposes, while in others the money goes into a general fund for distribution based on the discretionary decisions of fund overseers or legislators.

Like Louisiana, several states have supported their decision to authorize casino gambling as a means of enhancing economic development. Nevada’s statute, for example, declares as public purpose that, “the gaming industry is vitally important to the economy of the state and the general welfare of the inhabitants.” Other states cite a more targeted economic purpose. New Jersey statutes endorse the promotion of the “tourism, resort and convention industry” as the basis for supporting casinos in Atlantic City. Illinois cites a purpose of tourism and economic development and expressly limits casino gambling to river towns, giving preference in licensure to “economically depressed areas of the state.”

By reference or inference, several states have adopted casino gaming legislation to generate new revenues. Many states earmark these revenues for specific purposes – typically education, social services or local government assistance.

Colorado

Colorado applies a graduated tax to casino gaming revenue, ranging from 0.25 percent on gaming revenue up to \$2 million, to 20 percent on gaming revenue of more than \$13 million. Unlike many other jurisdictions, Colorado’s gaming regulator is responsible for establishing the applicable tax rate on an annual

⁴²⁶ Notably, by statute the minimum compensation to be paid by Harrah’s is the greater of 18.5% of gross revenues or \$60 million, *ibid.* § 27:241.1, but by contract Harrah’s agreed to pay the greater of 21.5% of gross revenues or \$60 million.

⁴²⁷ American Gaming Association 2018 survey.

⁴²⁸ La. Rev. Stat. § 27:435(d).

⁴²⁹ 2018 Annual Report of the Louisiana Gaming Control Board.

basis. However, the Colorado Constitution provides that if the Limited Gaming Control Commission decides to raise tax rates higher than the maximum 20 percent rate in place on July 1, 2008, voters statewide would need to approve the increase.⁴³⁰

After accounting for gaming oversight and other costs, the state government distributed more than \$100 million in commercial casino tax revenue to specific causes, including the Colorado Travel and Tourism Promotion Fund and the State Historical Fund. The historical fund, which was created by the 1990 constitutional amendment that first authorized casino gaming in Colorado, allocates monies annually for the restoration and preservation of historic sites throughout the state.⁴³¹

Florida

Florida commercial gaming operations are taxed at a rate of 35 percent of gaming machine revenue. Gaming machine revenue was originally taxed at a 50 percent rate, but the rate was lowered to 35 percent in 2010 when Florida agreed to a tribal gaming compact with the Seminole Tribe.⁴³² In recent years, lawmakers have also discussed lowering the rate to 30 or 25 percent as part of legislation to expand gaming outside of Miami-Dade and Broward counties.⁴³³

All tax revenue from commercial gaming machines is distributed to Florida's Educational Enhancement Trust Fund. The fund was established in 1986 to receive revenue from the then-newly created Florida Lottery and distribute monies annually to Florida school districts, public colleges and universities. Additional sums are also used to provide financial aid to Florida students.⁴³⁴

Mississippi

Mississippi commercial casinos with gaming revenue exceeding \$134,000 per month are taxed at an effective rate of 11.2 percent. Gaming revenue is taxed at 8 percent (with lower rates applying to revenue below that threshold), while each of the local Mississippi municipalities with gaming charge an additional annual license fee equal to 3.2 percent of casino gaming revenue. The majority of the taxable revenue is distributed to the state's General Fund, while certain amounts are allocated for specific purposes. Monies in the fund are appropriated annually to support various state budgetary needs, including education programs and social welfare initiatives. A further \$36 million in gaming tax revenue was allocated to Mississippi's Special Bond Sinking Fund and used to pay down certain state debts incurred through infrastructural spending programs. In accordance with a 2015 state law, a total of \$6 million was used in 2017 to help fund the

⁴³⁰ "Colorado Gaming Tax," Colorado General Assembly Legislative Council Staff. <https://leg.colorado.gov/agencies/legislative-council-staff/gaming-tax> (accessed March 4, 2019)

⁴³¹ Ibid.

⁴³² "Florida Gaming Revenue," Florida Legislature Office of Economic and Demographic Research, March 26, 2015. http://edr.state.fl.us/content/presentations/gaming/GamingRevenueOverview_3-26-15.pdf (accessed March 4, 2019)

⁴³³ Mary Ellen Klas and Jeremy Wallace, "Florida pari-mutuel industry's slot machine gambit is no sure bet," *Miami Herald*, February 19, 2016. <https://www.miamiherald.com/news/politics-government/state-politics/article61344152.html>

⁴³⁴ "2018 State of the States," American Gaming Association. https://www.americangaming.org/wp-content/uploads/2018/08/AGA-2018-State-of-the-States-Report_FINAL.pdf.

development of a new aquarium in Gulfport. In 2017, approximately \$84.3 million in gaming tax revenue was directed to cities and counties that host casinos.⁴³⁵

New Jersey

The casinos in New Jersey pay a tax of 8 percent of gross gaming revenue. The amount is distributed to the Casino Revenue Fund, which was created with the enactment of the Casino Control Act authorizing casino gaming in the state. The Casino Revenue Fund is to be used solely for programs benefitting senior citizens and persons with disabilities. The Casino Revenue Fund was to benefit “reductions in property taxes, rentals, telephone, gas, electric, and municipal utilities charges for eligible senior citizens and disabled residents of the State.” In 1981 the State Constitution was again amended to emphasize the sole use of the Casino Revenue Fund “for additional or expanded health services or benefits or transportation services or benefits to eligible senior citizens and disabled residents, as shall be provided by law.”⁴³⁶

In 1992 the Casino Revenue Fund Advisory Commission was created to provide recommendations to the Legislature concerning the Casino Revenue Fund utilization. The Commission consists of 15 members, including four ex-officio members, one casino industry representative, four members of the legislature and six public members, two each appointed by the Governor, Senate President and Assembly Speaker. Three public members are senior citizens and three are persons with disabilities.⁴³⁷

New York

In 2017, New York’s commercial casinos generated approximately \$1.02 billion in gaming tax revenue. Of that amount, approximately \$917.4 million was distributed to the state’s Education Fund. Money in the Education Fund is used to provide aid for local school districts in New York and is disbursed annually at the direction of the state legislature and Comptroller’s Office. The remainder of the gaming tax revenue was shared by local municipal and county governments.⁴³⁸

Nevada

In accordance with state law, the vast majority of tax revenue from gaming is directed to Nevada’s General Fund; it is then redistributed on a biennial basis, at the direction of the legislature, for purposes including statewide education programs, transportation services and general budgetary needs. Additional monies are funneled to local school systems and county governments.⁴³⁹

Ohio

Ohio casinos are taxed at a rate of 33 percent on Gross Casino Revenue. The state disburses the tax revenue to the following funds: 51 percent is directed to the County Fund, 34 percent to the Student Fund, 5 percent to the Host City Fund, 3 percent each to the Ohio State Racing Commission and the Ohio

⁴³⁵ Ibid.

⁴³⁶ New Jersey Casino Revenue Fund Advisory Commission. <https://www.nj.gov/casinorevenue/>

⁴³⁷ Ibid.

⁴³⁸ “2018 State of the States,” American Gaming Association. https://www.americangaming.org/wp-content/uploads/2018/08/AGA-2018-State-of-the-States-Report_FINAL.pdf

⁴³⁹ Ibid.

Casino Control Commission and 2 percent each to the Law Enforcement Training Fund and the Problem Gambling and Addictions Fund.⁴⁴⁰

Special Policies for Problem Gambling

Louisiana law, like other states, recognizes that gaming may be associated with negative externalities that require special attention, many of which are derived from problem gambling.⁴⁴¹ For instance, compulsive and problem gambling (1) may render some patrons incapable of fulfilling financial obligations to creditors or caring for dependents; (2) may be linked to other forms of addiction that have added economic and social costs; and (3) may incentivize criminal activity as afflicted patrons seek to finance their compulsive and problem gambling behaviors. For these reasons, Louisiana has enacted policies that address compulsive and problem gambling through prevention, mitigation, and intervention, including a self-exclusion program administered by the Gaming Control Board.⁴⁴²

By any reasonable measure, issues related to problem gambling – and to the establishment and maintenance of responsible-gaming policies – are universal, in that every gaming operator and lottery is required to address those goals, either by statute or simply by corporate policy. This is reflected in policies, both voluntary and mandated, that govern advertising practices.

The American Gaming Association adopted a Code of Conduct for Responsible Gaming in 2017 that sets standards for advertising and related areas.⁴⁴³ The code was summarized in the following *Associated Press* account at the time of its release:⁴⁴⁴

The code of the American Gaming Association calls on casino operators to be more transparent with patrons and provide training to employees. Its announcement in Las Vegas came within months of two high-profile criminal cases that drew attention to the effects of compulsive gambling as authorities believe the perpetrators were problem gamblers.

“(Responsible gaming) is an everyday, year-round responsibility that we have to every player that walks through our doors and onto our casino floors,” said Elizabeth Cronan, the association’s senior director of gaming policy. “... We appreciate that this is an issue that must be top-of-mind industry-wide for all employees, from those that interact daily with consumers on the gaming floor to the senior executive leadership and the boards of directors.”

The new code calls on casino operators to generally explain patrons the odds of winning or losing at various games and to not use advertising that contains claims that gambling activity will guarantee a person’s social,

⁴⁴⁰ Annual report of Ohio Casino Control Commission, 2018.

<https://casinocontrol.ohio.gov/Portals/0/Communications/2018%20OCCC%20Annual%20Report%20-%20web%20version.pdf>

⁴⁴¹ See generally “Responsible Gaming Regulations & Statutes,” American Gaming Association, August 2016.

<https://www.americangaming.org/wp-content/uploads/2019/01/Responsible-Gambling-Regulations-WEB.pdf>

⁴⁴² See, e.g., La. Rev. Stat. §§ 27:27.1, 27:92; La. Admin. Code tit. 42, §§ 118, 301, 304.

⁴⁴³ “AGA Code of Conduct for Responsible Gaming,” American Gaming Association, February 2017.

https://www.americangaming.org/sites/default/files/AGA%20Code%20of%20Conduct%20for%20Responsible%20Gaming_Final%207.27.17.pdf

⁴⁴⁴ Regina Garcia Cano, “Casino industry in US has new rules for responsible gaming,” *Associated Press*, August 3, 2017.

<https://www.businessinsider.com/ap-casino-industry-in-us-has-new-rules-for-responsible-gambling-2017-8>

financial or personal success. It also includes training requirements for employees on procedures for dealing with underage gambling and other issues.

Rules related to gaming-related advertising are particularly critical because of the need to maintain responsible-gaming practices, while also being truthful, and are extending beyond land-based casinos and lotteries to online forms of betting.

The Nevada Gaming Control Board, for example, in promulgating rules that govern interactive gaming, has made it clear that “An operator, including its employees or agents, shall be truthful and non-deceptive in all aspects of its interactive gaming advertising and promotions. An operator which engages in any promotion related to interactive gaming shall clearly and concisely explain the terms of the promotion and adhere to such terms.”⁴⁴⁵

Louisiana is one of many states that requires all advertising and promotion to include references for assistance for problem gambling. The rules in Louisiana are:⁴⁴⁶

A. The (Louisiana Gaming Control) board may establish procedures for the regulation of advertising of licensed gaming activities. The board may require a licensee or casino operator to advertise or publish specified information, slogans and telephone numbers relating to avoidance and treatment of compulsive or problem gambling or gaming. Each licensee and casino operator shall immediately comply with any order of the board issued pursuant to this regulation.

B. All letters accompanying the toll-free telephone number shall be in capital letters and the same size as the toll-free telephone number. The toll-free telephone number and letters shall appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed material on the advertisement.

C. Exterior print advertising including, but not limited to, billboards, shall display the toll-free telephone number and all accompanying letters in a rectangle. The rectangle shall comprise an area equal to 1/10 of the entire advertisement’s height and extend across the entire width of the advertisement. The toll-free telephone number and accompanying letters must be sized to utilize the entire area within the rectangle. In the case of billboards, the rectangle containing the toll-free telephone number shall be a part of the billboard itself and not a separate add-on to the frame.

D. Signs displaying the toll-free number shall be posted at each public entrance to the designated gaming area and at each public entrance into the casino. The toll-free telephone number and accompanying letters must be sized to utilize the entire area within a rectangle with a height of at least 8 1/2 inches and length of at least 11 inches and the characters shall be of a contrasting color from the background color of the sign. The signs may be either wall mounted or free standing. A licensee or casino operator may include the toll-free telephone number on other interior signage in locations other than the required areas in this subsection in a style and size of its choosing.

E. Print advertising which is handheld or which is customarily viewed by the person holding the advertisement including, but not limited to, newspapers, flyers, coupons and other forms of advertising shall display the toll-free telephone number and all accompanying letters in a rectangle. The rectangle shall comprise an area equal to 1/20 of the entire advertisement’s height and extend across the entire width of the advertisement. The toll-free telephone number and accompanying letters must be sized to utilize the entire area within the rectangle

⁴⁴⁵ Nevada Regulation 5A: Operation of Interactive Gaming
<https://www.gaming.nv.gov/modules/showdocument.aspx?documentid=14303>

⁴⁴⁶ La. Admin. Code tit. 42, § 2927.

F. A licensee or casino operator which is required to display the toll-free telephone number may seek approval from the division for particular forms of print advertising on an individual basis. In those instances where the licensee or casino operator seeks approval, the division may in its discretion, approve the print advertisement in writing. The advertisement shall conform to the division's written approval.

Louisiana requires that each licensee submit to the Board policies and procedures that, among other things, are designed to "prevent[] any person identified on the self-exclusion list from receiving any advertisement, promotion, or other targeted mailing after 90 days of receiving notice from the board that the person has been placed on the self-exclusion list."⁴⁴⁷

Gaming operators that have taken the lead in developing effective advertising and responsible-gaming programs include the British Columbia Lottery Corp. ("BCLC") and MGM Resorts International. BCLC developed GameSense, a comprehensive program that trains casino employees and creates a variety of "touch points" through which employees understand what resources are available, and to make such resources available to players in what has been termed a "non-intrusive" manner. BCLC has licensed the program to MGM, which is presently rolling it out nationwide at all of its properties.

MGM Executive Vice President Alan Feldman, who was elected Chairman of The Nevada State Advisory Committee on Problem Gambling, has said: "We should be in the forefront of defining and promoting responsible gaming. I'm not suggesting that we don't want to help anyone who's in crisis because clearly we do. But defining what someone's problem is can't possibly be the realm of casino employees. It's just not right. This is a tough enough thing to define and to diagnose if you're a trained therapist, counselor, psychologist or even psychiatrist. This is a very tough subject to face."⁴⁴⁸

E. Tribal Gaming

The Indian Gaming Regulatory Act ("IGRA") of 1988⁴⁴⁹ contains a regulatory scheme designed to provide different levels of jurisdiction depending upon the type of gambling that is occurring on Indian lands. The legislation recognizes primary tribal jurisdiction over bingo and card parlor operations although oversight and certain other powers are vested in a federally established National Indian Gaming Commission. For Class III casino, pari-mutuel and slot machine gaming, the bill authorizes tribal governments and State governments to enter into tribal-State compacts to address regulatory and jurisdictional issues.⁴⁵⁰ IGRA divides gambling into three types and establishes a regulatory scheme for each:

- Class I gaming is described as "social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in as part of, or in connection with, tribal

⁴⁴⁷ La. Rev. Stat. § 27:27.1(C)(7).

⁴⁴⁸ Richard N. Velotta, "MGM Resorts takes on problem gambling with new program," *Las Vegas Review-Journal*, August 15, 2017. <https://www.reviewjournal.com/business/casinos-gaming/mgm-resorts-takes-on-problem-gambling-with-new-program/>

⁴⁴⁹ 25 U.S.C. §§ 2701, et seq.

⁴⁵⁰ *Ibid.* § 2710(d).

ceremonies or celebrations.”⁴⁵¹ Class I gaming is under the exclusive jurisdiction of Indian tribes and is not subject to the provisions of IGRA.⁴⁵²

- Class II gaming is defined as “the game of chance commonly known as bingo ... including (if played at the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo and other games similar to bingo.”⁴⁵³ Bingo games may also be conducted with “electronic, computer or other technologic aids, but IGRA specifically excludes “electronic or electromechanical facsimiles of any game of chance or slot machine of any kind” from Class II gaming.⁴⁵⁴ Non-banking card games are permissible under Class II gaming unless they are specifically prohibited by state law. Class II gaming is under tribal jurisdiction, subject to the provisions of IGRA and oversight of the National Indian Gaming Commission. States are not permitted to regulate any Class II gaming activity.⁴⁵⁵
- Class III gaming is defined as all other types of gambling, including banked card games (e.g., roulette, craps and blackjack), slot machines, pari-mutuel wagering and jai alai. Electronic games of chance such as video poker, are considered Class III.⁴⁵⁶ Under IGRA, Class III gaming may only be conducted pursuant to the terms of a compact between a tribe and the state in which its lands are located.⁴⁵⁷

Three tribes in Louisiana operate Class III⁴⁵⁸ gaming activities on tribal lands pursuant to compacts entered between each tribe and the State:

- The Chitimacha Tribe of Louisiana, which operates the Cypress Bayou Casino and Hotel in Charenton (St. Mary Parish)
- The Coushatta Tribe of Louisiana, which operates the Coushatta Casino Resort in Kinder (Allen Parish)
- The Tunica-Biloxi Tribe of Louisiana, which operates the Paragon Casino Resort in Marksville (Avoyelles Parish).

⁴⁵¹ Ibid. § 2703(6).

⁴⁵² “Native Americans and Gambling in New York State,” New York Gaming Commission. www.gaming.ny.gov

⁴⁵³ 25 U.S.C. § 2703(7).

⁴⁵⁴ Native Americans and Gambling in New York State,” New York Gaming Commission. www.gaming.ny.gov

⁴⁵⁵ 25 U.S.C. § 2703(7).

⁴⁵⁶ Ibid. § 2703(8).

⁴⁵⁷ Ibid. § 2710(d).

⁴⁵⁸ Class III gaming includes “any house banking game” (including card games and casino games), slot machines, sports betting and pari-mutuel wagering, and lotteries. 25 C.F.R. § 502.4. Although sports betting is included within the definition of Class III gaming activities, tribes conducting gaming operations in Louisiana cannot currently offer sports betting, since sports betting has not been authorized in Louisiana and the compacts between the tribes and the State do not otherwise allow for it. See, e.g., *Cheyenne River v. State of South Dakota*, 3 F.3d 273, 279 (8th Cir. 1993) (stating that IGRA “does not require the state to negotiate with respect to forms of gaming it does not presently permit”); see also Op. Att’y Gen. Fla. 2007-36, 2007 Fla. AG LEXIS 72 (“It is, therefore, my opinion, in light of the greater weight of federal case law and the Department of the Interior’s interpretation of IGRA, that Class III gaming activities subject to mandatory negotiations between a state and an Indian tribe do not include those specifically prohibited by state law.”). Of course, should Louisiana approve sports betting in any form, the tribal casinos will be allowed to offer that as a gaming activity.

The Chitimacha Tribe originally entered a compact with the State to conduct Class III gaming on its lands in July 1993. In March 2001, the Tribe and the State entered an amended and extended compact, which automatically renews pursuant to its terms every seven years (unless either party provides written notice of non-renewal as provided in the compact).⁴⁵⁹ The Chitimacha Tribe's compact provides that its Tribal Gaming Commission and the State shall conduct an annual compliance inspection to ensure that the Tribe is conducting its gaming operations and facilities in accordance with the terms of the compact. The compact further defines the procedures to be employed if the State determines that gaming facilities or operations do not comply with the compact and sets out the procedure for the Tribe and State to resolve their differences. The Chitimacha Tribe's compact requires it to reimburse the State for expenses actually incurred by the State in carrying out its obligations under the compact, but it does not otherwise define, quantify, or describe the expenses to be reimbursed.⁴⁶⁰ The compact is silent as to any sharing between the State and the Tribe of revenue from Class III gaming activities.⁴⁶¹

The Coushatta Tribe originally entered a compact with the State to conduct Class III gaming in November 1992. In July 2001, the Tribe and the State entered an amended and extended Compact, which automatically renews pursuant to its terms every seven years (unless either party provides written notice of non-renewal as provided in the compact).⁴⁶² The Coushatta Tribe's compact requires it to reimburse the State for expenses actually incurred by the State in carrying out its obligations under the Compact. The compact also is silent as to any sharing between the State and the Tribe of revenue from Class III gaming activities.

The Tunica-Biloxi Tribe of Louisiana operates the Paragon Casino Resort in Marksville, Louisiana (Avoyelles Parish). The Tribe originally entered a compact with the State to conduct Class III gaming in November 1992. In August 2001, the Tribe and the State entered an amended and extended Compact, which automatically renews pursuant to its terms every seven years (unless either party provides written

⁴⁵⁹ See Tribal-State Compact for the Conduct of Class III Gaming Between the Chitimacha Tribe of Louisiana and the State of Louisiana. <https://www.bia.gov/sites/bia.gov/files/assets/as-ia/oig/oig/pdf/idc-038278.pdf>.

⁴⁶⁰ As explained by Louisiana State Police Captain Kenny Van Buren, Commander of the Administrative Support and Indian Gaming Section, the Tribal-State compacts require the Tribes to reimburse actual expenses incurred by the State for monitoring, investigative, intelligence, processing, and safety costs (offset by the amount of State Certification fees received from the Tribes). According to Captain Van Buren, such expenses include salaries (regular and overtime), benefits (retirement, Medicare, group insurance, taxable fringe benefits), travel, operating services (e.g., printing, dues and subscriptions, building and equipment rental, postage, and data maintenance), supplies (e.g., office, computer, clothing/uniform, and automotive), professional services, interagency transfers (e.g., personal services to the Attorney General's office, telephone, training), acquisitions (office, computer, computer upgrades, automotive), and other expenses (e.g., investigative expenses, FBI background checks). Email exchange on February 21, 2019.

⁴⁶¹ Section 2710(d)(4) of the Indian Gaming Regulatory Act ("IGRA") prohibits States from "impos[ing] any tax, fee, charge, or other assessment upon an Indian tribe to engage in a class III activity." 25 U.S.C. § 2710(d)(4). Nonetheless, the Department of the Interior has approved revenue sharing between tribes and states in some compacts, when the state has offered "meaningful concessions," such as "secur[ing] a zone of substantial gaming exclusivity, and limited non-tribal gaming in the Tribe's gaming market." See, e.g., July 6, 2010 Gaming Compact Between the Seminole Tribe of Florida and the State of Florida. <https://www.bia.gov/sites/bia.gov/files/assets/as-ia/oig/oig/pdf/idc1-026001.pdf> (at p. 2 of June 24, 2010 letter to the Chairman of the Seminole Tribe)

⁴⁶² See Tribal-State Compact for the Conduct of Class III Gaming Between the Coushatta Tribe of Louisiana and the State of Louisiana. <https://www.bia.gov/sites/bia.gov/files/assets/as-ia/oig/oig/pdf/idc1-025952.pdf>

notice of non-renewal as provided in the compact).⁴⁶³ The Tunica-Biloxi Tribe's compact requires it to reimburse the State for expenses actually incurred by the State in carrying out its obligations under the compact. Unlike the other two compacts, the Tunica-Biloxi compact also requires the Tribe to make quarterly financial contributions to the State of six percent (6%) of the net revenues from the conduct of Class III gaming, which funds are to be used to offset the expenses incurred by Avoyelles Parish as a result of Class III gaming.⁴⁶⁴

Each of the Compacts authorizing the Tribes to conduct Class III gaming also contains provisions requiring certain other persons and entities to be licensed by the Tribe and certified by the State. For example, providers of non-gaming supplies in excess of \$50,000 in a twelve-month period must be licensed and certified prior to providing such supplies in the subsequent year. Such licenses must be renewed bi-annually.⁴⁶⁵

In addition to the three Tribes offering Class III gaming in the state, the Jena Band of Choctaw Indians operates the Jena Choctaw Pines Casino in Dry Prong, Louisiana (Grant Parish). The Jena Band operates the only Class II gaming⁴⁶⁶ facility in Louisiana. It does not have a compact with and is not otherwise licensed by the State of Louisiana. Nor does the State have or exercise any regulatory authority over the operations of the Jena Band's casino.⁴⁶⁷

F. Emerging Forms of Gaming

With the vast majority of parishes in Louisiana having already approved the legalization of daily fantasy contests⁴⁶⁸ and discussion regarding the legalization of traditional sports betting and igaming likely to be raised at forthcoming legislative sessions, it bears examining what lessons Louisiana should draw from how other states have implemented these emerging forms of gaming. This part summarizes the diverging (and overlapping) approaches of those states that have legalized and are actively regulating these types of gaming.

⁴⁶³ See Tribal-State Compact for the Conduct of Class III Gaming Between the Tunica-Biloxi Indian Tribe of Louisiana and the State of Louisiana. <https://www.bia.gov/sites/bia.gov/files/assets/as-ia/oig/oig/pdf/idc1-024678.pdf>

⁴⁶⁴ Section 2710(d)(3)(C)(iii) of IGRA permits the State to assess tribal gaming "activities in such amounts as are necessary to defray the costs of regulating such activity."

⁴⁶⁵ See, e.g., Chitimacha Compact at Section 6(E).

⁴⁶⁶ Class II gaming includes bingo, lotto, and "nonbanking card games." 25 C.F.R. § 502.3. Class II gaming on Indian lands falls within the jurisdiction of the Indian tribe and is subject to the provisions of Chapter 29 (Indian Gaming Regulation) of the United States Code. See 25 U.S.C. § 2710(a)(2).

⁴⁶⁷ 25 U.S.C. § 2710(b); see also *United States v. 162 Megamania Gambling Devices*, 231 F.3d 713, 718 (10th Cir. 2000) ("Class II games are regulated by the National Indian Gaming Commission . . . and can be operated on Indian lands without a tribal-state compact.").

⁴⁶⁸ Melinda Deslatte, "Louisiana Parishes Overwhelmingly Back Fantasy Sports Gaming," *Associated Press*, November 7, 2018. <https://www.apnews.com/4c4ec928b7aa489695fa48da48f1b189>

1. Fantasy Sports Contests

As explained above, the Louisiana Legislature has not yet enacted laws “for the licensing, regulation, and taxation” of fantasy sports contests, and the Louisiana Gaming Control Board has not yet adopted rules “necessary to implement, administer, and regulate” them.⁴⁶⁹ Thus, even though 47 of Louisiana’s 64 parishes have voted to permit the legalization of such contests within the parish, the specific requirements to which operators and participants in the state must adhere have not yet been promulgated, and fantasy sports contests are not yet authorized under the terms of the legislative act. Given that the matter is expected to be addressed during the 2019 legislative session, insight into how other states comparable to Louisiana have regulated fantasy sports contests is timely and relevant.

Most of the states that have passed legislation authorizing fantasy sports contests have opted to establish extensive regulatory frameworks.⁴⁷⁰ Mississippi’s Fantasy Contest Act of 2017 renders Louisiana’s eastern neighbor one of these states. To obtain a three-year license to conduct fantasy sports contests in Mississippi, operators must demonstrate “adequate business probity, competence, and experience,” fund their operation sufficiently, and pay a \$5,000 application fee.⁴⁷¹ Licensees are further required to pay up to 8 percent of their net Mississippi revenues to the Mississippi Department of Revenue⁴⁷² and submit to an annual third-party audit.⁴⁷³ Only persons aged 18 or older can enter most fantasy contests.⁴⁷⁴ Mississippi further allows casinos licensed under Mississippi’s Gaming Control Act to

⁴⁶⁹ La. Rev. Stat. §§27:303(C)(2), 27:304.

⁴⁷⁰ “Legislative Tracker: Daily Fantasy Sports,” Legal Sports Report. <https://www.legalsportsreport.com/dfs-bill-tracker/> (accessed February 5, 2019); Alicia Jessop, *21st Century Stock Market a Regulatory Model for Daily Fantasy Sports*, 28 J. Leg. Aspects of Sport 39, 45-54 (2018) (summarizing state regulations). Louisiana’s neighbor to the north, Arkansas, is a notable exception. Arkansas law delineates no licensing or operational requirements, nor any restrictions whatsoever on who within the state can participate in paid fantasy contests. The sole obligation of fantasy sports operators who wish to offer contests within Arkansas is to pay a “special privilege tax” amounting to 8 percent of the operator’s gross paid fantasy sports game revenues from the previous state fiscal year. Ark. Code § 23-116-104. Likewise, Kansas merely excluded “fantasy sports league” from the definition of illegal gambling without promulgating any regulations governing operation of and participation in fantasy sports leagues within the state. Kan. Stat. § 21-6403.

⁴⁷¹ Miss. Code § 97-33-307(4), (6). Colorado, Indiana, Maine, Missouri, New Jersey, Ohio, Pennsylvania, Vermont and Virginia similarly require operators to pay application or registration fees. The respective \$50,000 fees required to operate in Indiana and Virginia qualify as the highest. Jessop, *supra* note 470, at 45-54 (summarizing state regulations); Ohio Rev. Code § 3774.02.

⁴⁷² Miss. Code § 97-33-317. Net Mississippi revenue is defined as “the amount equal to the total of all fantasy contest entry fees that an operator collects from all players, less the total of all sums paid out as cash prizes to all fantasy contest players, multiplied by the location percentage [entry fees collected in Mississippi divided by total entry fees from all players].” Miss. Code § 97-33-317(2). In addition to Mississippi and Arkansas, Connecticut, Delaware, Indiana, Maine, Missouri, New Jersey, New York, Pennsylvania, Tennessee and Vermont have implemented or planned the implementation of a recurring tax on operators’ revenues. Jake Lestock, “Tackling Daily Fantasy Sports in the States,” Nat. Conf. State Legis., January 2018. <http://www.ncsl.org/research/civil-and-criminal-justice/tackling-daily-fantasy-sports-in-the-states.aspx>

⁴⁷³ Miss. Code § 97-33-305. States with some form of an annual audit requirement include Colorado, Indiana, Maine, Maryland, Missouri, New Hampshire, Pennsylvania, Tennessee, Vermont, and Virginia. Jessop, *supra* note 470, at 45-54. Ohio requires operators to “conduct sufficient auditing as determined by the [gaming] commission.” Ohio Rev. Code § 3774.05.

⁴⁷⁴ Miss. Code § 97-33-305(2)(d). Colorado, Delaware, Indiana, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Vermont, and Virginia have implemented age restrictions. Jessop, *supra* note 470, at 45-54.

offer “on-premises” contests to players aged 21 or older.⁴⁷⁵ Finally, under Mississippi law, operators must segregate players’ entry fees from the operating funds of the company.⁴⁷⁶

Figure 73: Daily fantasy sports legal status, by state

ST	License requirement	License Fee	Tax	Audit Requirement	Age limit?
MS	Must apply for three-year license (Miss CODE § 97-33-307(6))	\$5,000 application fee ((Miss CODE § 97-33-307(6))	8 percent of annual net revenue (Miss CODE § 97-33-317)	Annual third-party audit (Miss CODE § 97-33-305)	18 years of age for most contests; 21 for “on-premises” contests conducted by licensed casinos (Miss CODE § 97-33-305(2)(d)); Miss CODE § 97-33-307(5))
AR	n/a	n/a	8 percent of gross paid fantasy sports game revenues (ARK. CODE § 23-116-104)	n/a	n/a
CO	Small operators (<7,500 players statewide) must apply for registration; large operators (>7,500) must apply for licensure (4 COL. CODE REG. 751-1)	Fees set by the Director of the Division of Professions and Occupations, Department of Regulatory Agencies (4 COL. CODE REG. 751-1)	n/a	Annual third-party audit (COL. REV. STAT. §12-15.5-106(2))	18 years of age (COL. REV. STAT. §12-15.5-106(1)(c))
DE	Must apply for three-year registration (29 DEL. CODE § 4863)	\$50,000 (30 DEL. CODE § 2301(a)(27).	15.5 percent of gross receipts generated within the state, or the highest rate adopted by another state (30 DEL. CODE § 2301(d)(3).	Director of Division of Gaming Enforcement authorized to conduct audit at any time (29 DEL. CODE § 4867(b)).	18 years of age (29 DEL. CODE § 4862).
IN	Must register with state (IND. CODE § 4-33-24-15)	Initial application fee of \$50,000; annual renewal fee of \$5,000 (IND. CODE § 4-33-24-15)	n/a (IND. CODE § 4-33-24-27)	Annual third-party audit by CPA (IND. CODE § 4-33-24-25)	18 years of age (IND. CODE § 4-33-24-19)
ME	Must apply for license and renew annually (MAINE REV. STAT. § 8:1103)	\$2,500 for fantasy contest operator that had gross fantasy contest revenues greater than or equal to \$100,000 (MAINE REV. STAT. § 8:1103(6))	10 percent of gross fantasy contest revenues within state for licensees with revenues of \$100,000 or greater (MAINE REV. STAT. § 8:1105(2))	Annual third-party audit by CPA (MAINE REV. STAT. § 8:1104(4))	18 years of age (MAINE REV. STAT. § 8:1104(1)(E))
MD	Operators must notify Lottery and Gaming Commission that it is qualified to do business in state (COMAR 36.09.01.12)	n/a	n/a	Operator must have third-party CPA conduct annual audit (COMAR 36.09.01.13)	18 years of age (COMAR 36.09.01.02)
MA	n/a (940 CODE MASS. REG. 34.00 et seq.)	n/a (940 CODE MASS. REG. 34.00 et seq.)	n/a (940 CODE MASS. REG. 34.00 et seq.)	n/a (940 CODE MASS. REG. 34.00 et seq.)	21 years of age (940 CODE MASS. REG. 34.03 (defining minor as person under 21 years of age), 34.04)

⁴⁷⁵ Miss. Code § 97-33-307(5). Mississippi is the only state that appears to have created a distinct category of casino “on premises” contests with a different minimum age from other contests. No Mississippi casino currently offers such contests.

⁴⁷⁶ Miss. Code § 97-33-305(2)(k). Colorado, Delaware, Indiana, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Vermont and Virginia similarly mandate that operators segregate player and operational funds. Jessop, *supra* note 470, at 45-54.

ST	License requirement	License Fee	Tax	Audit Requirement	Age limit?
MO	Must obtain annual license from Gaming Commission (REV. STAT. MO. § 313.970(1))	Annual application fee of \$10,000 or 10 percent of applicant's net revenue from previous calendar year, whichever is lower. (REV. STAT. MO. § 313.970(1)). If Gaming Commission conducts an investigation of applicant, applicant must pay cost of investigation up to \$50,000. (REV. STAT. MO. § 313.970(2))	11.5 percent of annual revenue from previous calendar year (REV. STAT. MO. § 313.970(3))	Operator must have third-party CPA conduct annual audit (REV. STAT. MO. § 313.990)	18 years of age REV. STAT. MO. § 313.910)
NH	Must register with Gaming Commission (NEW HAMP. REV. STAT. §287-H:2)	n/a	n/a	Annual third-party audit by CPA (NEW HAMP. REV. STAT. §287-H:3)	18 years of age (NEW HAMP. REV. STAT. §287-H:3)
NJ	Must apply to Division of Consumer Affairs in the Department of Law and Public Safety for Permit (N.J. REV. STAT. §5:20-2(b))	"Permit fee" in amount "sufficient to cover the division's cost in issuing fantasy sports permits and overseeing the conduct of such activities." (N.J. REV. STAT. §5:20-2(b))	"Operations fee" of 10.5 percent of fantasy sports gross revenue for each quarter (N.J. REV. STAT. §5:20-2(g))	Annual third-party audit by CPA(N.J. REV. STAT. §5:20-2(f))	18 years of age (N.J. REV. STAT. §5:20-2(f))
NY	Must register with state (N.Y. CLS RACING & WAGERING § 1402)	n/a	15 percent of interactive fantasy sports gross revenue generated within the state; additional 0.5 percent tax on revenue, not to exceed \$50,000 annually (N.Y. CLS RACING & WAGERING § 1407)	Commission authorized to conduct audit of registrant at any time (N.Y. CLS RACING & WAGERING § 1406)	18 years of age (N.Y. CLS RACING & WAGERING § 1404)
OH	Must obtain three-year license from state (OHIO REV. CODE § 3774.02)	Must pay "nonrefundable license fee" (OHIO REV. CODE § 3774.02); fee shall not exceed \$10,000 per year or \$30,000 for a three-year license	n/a	Operator shall conduct "sufficient auditing as determined by the commission" (OHIO REV. CODE § 3774.05)	18 years of age (OHIO REV. CODE § 3774.03(A)(2)(a))
PA	Must obtain license (4 PA. CONS. STAT. § 322); valid for five years (4 PA. CONS. STAT. § 324)	\$50,000 license fee due within 30 days of issuance of license (4 PA. CONS. STAT. § 323(d))	15 percent of monthly fantasy contest adjusted revenues (4 PA. CONS. STAT. § 331)	Operators can be required annually to have independent CPA conduct audit (4 PA. CONS. STAT. § 311(b)(10))	18 years of age (4 PA. CONS. STAT. § 325(2))
TN	Must obtain license from Secretary of State (TENN. CODE § 47-18-1603)	\$75,000 for operators with annual adjusted revenue greater than or equal to \$2 million; \$50,000 for operators with annual adjusted revenue greater than or equal to \$1 million but less than \$2 million; \$22,500 for operators with annual adjusted revenue greater than or equal to \$500,00 but less than \$1 million; \$10,000 for operators with annual adjusted revenue greater than or equal to \$100,000 but less than	6 percent of adjusted revenues generated within state (TENN. CODE § 67-4-903)	Annual independent audit (TENN. CODE § 47-18-1604)	18 years of age (TENN. CODE § 47-18-1605)

ST	License requirement	License Fee	Tax	Audit Requirement	Age limit?
		\$500,000; \$5,000 for operators with annual adjusted revenue greater than or equal to \$50,000 but less than \$100,000; \$2,500 for operators with annual adjusted revenue greater than or equal to \$10,000 but less than \$50,000; \$1,000 for operators with revenues less than \$10,000 (TENN. COMP. R. & REGS. 1360-03-05.05)			
VT	Must file annual registration with Secretary of State (9 VERMONT STAT. § 4189)	Annual fee of \$5,000 (9 VERMONT STAT. § 4189)	n/a	Annual third-party audit by CPA (9 VERMONT STAT. § 4186)	18 years of age (9 VERMONT STAT. § 4186)
VA	Must register with state (VA. CODE § 59.1-557)	\$50,000 (VA. CODE § 59.1-557)	n/a	Annual independent audit (VA. CODE § 59.1-559)	18 years of age (VA. CODE § 59.1-557)

Source: State statutes, Spectrum Gaming Group research

Once they become authorized through enactment of the statutory and regulatory scheme, fantasy sports contests will constitute an exception to the general prohibition on gambling, akin to licensed casino gaming, pari-mutuel wagering, video poker, and other exceptions to Louisiana’s general prohibition.⁴⁷⁷ Because the Louisiana Fantasy Sports Contests Act specifically contemplates “the licensing, regulation, and taxation” of fantasy sports contests,⁴⁷⁸ it is assumed that Louisiana, similar to Mississippi and most other states that have legalized the practice, will establish a multifaceted regulatory and taxation framework to govern operation of and participation in fantasy sports contests.

Some of the regulations and provisions adopted in other states are self-evident in their necessity. For example, Louisiana may create a regulatory system requiring applicants and licensees to meet the same or similar suitability requirements.⁴⁷⁹ Mandating the segregation of operational funds from winnings from players’ entry fees serves as a straightforward safeguard against operators defaulting on winning payments.⁴⁸⁰ Moreover, Louisiana can be expected to require operators to implement a geo-fencing system and protocol to ensure participation does not occur within one of the 17 parishes that declined to approve fantasy sports contests in the November 2018 election.⁴⁸¹

⁴⁷⁷ Chapter III.C.4, *supra*.

⁴⁷⁸ See, e.g., La. Rev. Stat. § 27:303(C)(2).

⁴⁷⁹ La. Rev. Stat. §27:28.

⁴⁸⁰ See *supra* note 476; Marc Edelman, *Regulating Fantasy Sports: A Practical Guide to State Gambling Laws, and a Proposed Framework for Future State Legislation*, 92 Ind. L. J. 653, 689-90 (2017).

⁴⁸¹ In the wake of the November 2018 election, both Louisiana Gaming Control Board Chairman Ronnie Jones and FanDuel representative Cory Fox indicated that they do not expect the implementation of a geo-fencing system to cause any problems. Julia O’Donoghue, “Will Louisiana Treat Daily Fantasy Sports like Other Gambling?,” NOLA.COM, November 12, 2018.

<https://www.nola.com/news/2018/11/will-louisiana-treat-daily-fantasy-sports-like-other-gambling.html>

Decisions on whether and how to adopt other regulations demand more of a balancing act.⁴⁸² For instance, although imposing high license application or renewal fees and a high tax on operators' annual revenues could supply the state with significant tax revenue, high fees also function as a barrier to entry for smaller operators⁴⁸³ and could stifle marketing investment within the state.⁴⁸⁴ In addition, whereas the tax rates on other forms of commercial gaming in Louisiana range from approximately 21.5 percent of revenues (casinos) to 32.5 percent (video poker operators at truckstops), tax rates across other states on fantasy sports revenues range from 6 to 15.5 percent.⁴⁸⁵ Does Louisiana want to shatter the previous high-water mark tax rate for fantasy contests, at the risk of alienating operators, or adopt a tax rate within the range of other states, at the risk of alienating other gaming interests in Louisiana? Other determinations – such as whether to set an age limit of 18 or 21,⁴⁸⁶ what disclosures an operator must make, the duration of a license, non-age related restrictions on participation, and others – similarly will have to reconcile an array of interests.

The challenge facing legislators and regulators, then, lies in enacting a framework that encourages the industry's growth in the state without forsaking the overarching goals of Louisiana gaming law or rankling the state's other gaming interests.

2. Sports Betting

Chapter V of this report analyzes the potential economic ramifications the implementation of sports betting could wield in Louisiana. This section more briefly discusses the regulatory insights Louisiana could glean from Mississippi's and other states' initial experiences with the legalization of sports betting in the past year in conceiving of its own regulatory framework.

In May 2018, the United States Supreme Court struck down as unconstitutional the federal ban on state-sanctioned sports betting set forth in the Professional and Amateur Sports Protection Act of 1992 (PASPA), enabling states to legalize intrastate sports wagering.⁴⁸⁷ The Wire Act (18 USC. § 1081, 1084),

⁴⁸² See O'Donoghue, *supra* note 481.

⁴⁸³ DraftKings and FanDuel already maintain the vast majority of the daily fantasy market share. The two companies abandoned a plan to join forces in 2017 after the Federal Trade Commission challenged the merger on antitrust grounds. See generally Ryan Quillian and Mark Seidman, "DraftKings/FanDuel: Adventures in Challenging a Merger Using an Effects-Driven Approach," *The Antitrust Source*, December 2018. https://www.americanbar.org/content/dam/aba/publishing/antitrust_source/2018-2019/atsource-december2018/dec18_quillian_12_17f.pdf

⁴⁸⁴ See Edelman, *supra* note 480, at 684.

⁴⁸⁵ See O'Donoghue, *supra* note 481; Lestock, *supra* note 472.

⁴⁸⁶ While a person must be 21 to participate in any form of casino gaming in Louisiana aside from pari-mutuel betting, most states have set the minimum age requirement for participation in fantasy sports contests at 18. See O'Donoghue, *supra* note 481; Lestock, *supra* note 472.

⁴⁸⁷ *Murphy v. NCAA*, 138 S. Ct. 1461 (2018). Thanks to "grandfather" provisions in PASPA that allowed states to retain existing sports gambling laws, sports wagering remained legal in Nevada; and Oregon, Delaware, and Montana were allowed to continue conducting limited sports betting contests during the time between PASPA's enactment and the *Murphy* decision. *Ibid.* at 1471.

however, still prohibits the transmission of sports-related “bets or wagers” across state lines.⁴⁸⁸ Although the Louisiana legislature declined to approve traditional sports betting in the 2018 session,⁴⁸⁹ several other states – including next-door neighbor Mississippi – anticipated the Supreme Court’s decision and have begun allowing sports wagering in the past year. New Jersey, Pennsylvania, Rhode Island, New Mexico, West Virginia and Arkansas also began actively permitting and regulating sports wagering in the wake of *Murphy*. Several other states have considered legislation, but have not yet enacted laws permitting sports betting.

The table below (following page) summarizes the sports-betting regulations in approved states.

⁴⁸⁸ See generally Mark Hichar, “US States May Now Legalise Sports Betting – But the Federal Wire Act Affects State Implementation,” ICLG, November 20, 2018. <https://iclg.com/practice-areas/gambling-laws-and-regulations/2-u-s-states-may-now-legalisesports-betting-but-the-federal-wire-act-affects-state-implementation>. In an advisory opinion released to the public in January 2019, the Department of Justice articulated its position that the Wire Act criminalizes all forms of interstate gaming via wire communication. See *Reconsidering Whether the Wire Act Applies to Non-Sports Gambling*, DOJ Slip Op., November 2, 2018. <https://www.justice.gov/olc/file/1121531/download> [hereinafter “DOJ Opinion”].

⁴⁸⁹ See La. S.B. 266 (2018); La. S.B. 398 (2018); La. H.B. 245 (2018).

Figure 74: Sports betting regulation in legal states

State	License/Registration Requirement	Where wagering is allowed	Taxation	Cap on Bets
MS	No person or entity may operate a sports pool unless that person holds a gaming license and has received permission from the Executive Director (13-9 MISS. CODE R. § 2.1)	Only via betting stations, kiosks/terminals, and on-site computerized systems on licensed casino premises or on mobile apps used on casino premises (13-9 MISS. CODE R. §§ 3.4(b), 3.15)	Up to 8 percent of revenues to state; up to 4 percent of revenues to municipalities. See MISS CODE § 75-76-177; MISS CODE § 75-76-195; <i>Gaming Taxes and Rates</i> , MISS. DEP'T. OF REV., https://www.dor.ms.gov/Business/Pages/Gaming-Taxes.aspx	Licensee must obtain name, permanent address, social security number, ID of patrons betting or winning more than \$10,000 (13-9 MISS. CODE R. § 3.5)
NJ	Casinos and racetracks can obtain licenses to operate sports pools and online sports pools (N.J. STAT. § 5:12A-11)	Casinos, racetracks, and online throughout the state (N.J. STAT. § 5:12A-11)	8.5 percent of sums received from sports wagering, less the total of all sums actually paid out of winnings, at casinos and racetracks; 13 percent of internet revenues to Casino Revenue Fund, 1.25 percent to State Treasurer to be remitted for marketing and promotion of Atlantic City (N.J. STAT. § 5:12A-16)	n/a
NV	Licenses required (NEV. REV. STAT. § 463.160)	Casinos, racetracks, online/mobile throughout the state (NEV. REV. STAT. § 463.160)	6.75 percent of monthly gross revenues (NEV. REV. STAT. § 463.770)	n/a
PA	Slot machine licensees may obtain licenses to conduct sports wagering (4 PA. CONS. STAT. § 13C11)	At licensed facility; temporary facility adjacent to licensed facility; or through an internet-based system (4 PA. CONS. STAT. § 13C21)	34 percent of daily gross sports wagering revenue (4 PA. CONS. STAT. § 13C62); \$10 million one-time authorization fee (4 PA. CONS. STAT. § 13C61)	n/a
RI	Licenses issued to Twin River and Twin River-Tiverton gaming facilities (R.I. GEN. LAWS. §42-61.2-2.4)	Twin River and Twin River-Tiverton facilities only R.I. GEN. LAWS. §42-61.2-2.4)	51 percent of sports wagering revenue to state; 32 percent to state's "authorized sports-wagering vendor" R.I. GEN. LAWS. §42-61.2-5)	n/a
DE	Licenses issued to qualified sports lottery agents (29 DEL. CODE § 4825)	At property of licensed sports lottery agent (29 DEL. CODE § 4819); currently, three casinos/racinos and 102 retail locations offer sports lottery games (https://www.delottery.com/Sports-Lottery)	50 percent of total revenue generated by casinos/racinos, less player winnings and vendor's fees, returned to state; all such proceeds generated by retail locations kept by state (29 DEL. CODE § 4815(c))	DE Lottery reserves the right to determine the minimum and maximum wagers on all sporting Events (Sportsbook Wagering Rules, Rule 1.1)
NM	Allowed only at Santa Ana Star casino as authorized Class III Tribal Gaming (2015 Compact with State)	Santa Ana Star Casino	n/a	n/a
AR	*Proposed* No person may operate or own any interest in a sports pool in Arkansas unless that person holds a Casino license (Proposed Casino Gaming Rule 20.020)	*Proposed* Patrons must be on licensed premises (Proposed Casino Gaming Rule 20.055)	*Proposed* 13 percent on first \$150 million in revenue; 20 percent thereafter. Adam Candee, <i>Arkansas Sports Betting Closer To Reality After Voters Approve Constitutional Amendment</i> , LEGAL SPORTS REPORT (Nov. 7, 2018, 1:52 PM), https://www.legalsportsreport.com/25707/arkansas-sports-betting-measure-approved/	*Proposed* Licensee must obtain name, permanent address, social security number, ID of patrons betting or winning more than \$10,000. Proposed Casino Gaming Rule 20.061.
WV	Operator, supplier, management services provider, and occupational licenses required (W. VA. CODE § 29-22D-5)	Four racetracks, historic resort hotel; mobile application or digital platforms (W. VA. CODE § 29-22D-6)	10 percent of gross sports wagering receipts (W. VA. CODE § 29-22D-16)	Operators must "conspicuously" post minimum and maximum bets allowed at their respective locations (W. VA. CODE § 29-22D-13)

Source: State statutes, Spectrum Gaming Group research

Two casinos owned by MGM Resorts booked their first sports bets in Mississippi on August 1, 2018. Mississippi enacted a new law in 2017 that allowed for sports betting pending a favorable decision by the Supreme Court.⁴⁹⁰ In June 2018, the Mississippi Gaming Commission adopted implementing regulations that require all betting to take place in-person, with mobile wagering to be considered later.⁴⁹¹

On November 6, 2018, Arkansas voters approved Issue 4, a constitutional amendment that will bring expanded gambling – including sports betting – to four counties in the state.⁴⁹² Under the ballot measure, “accepting wagers on sporting events” was specifically included under the definition of permissible casino gaming. The Arkansas Racing Commission will oversee licensing at the four locations, a process that could take months.⁴⁹³

Numerous industry leaders and regulators have noted the proximity of legal sports betting in Mississippi and Arkansas, and there seems to be a growing consensus that the issue should be considered in Louisiana.

The policy implications and revenue potential of sports betting in Louisiana is addressed in Chapter V.

3. Esports

Should Louisiana authorize sports betting in the near future, legislators and regulators should expect to address the issue of esports wagering. A blossoming betting market already exists for esports, roughly defined as events in which professional video game players compete in organized leagues or for cash prizes.⁴⁹⁴ Players wager either cash, cryptocurrency, or “skins” (in-game trophies).⁴⁹⁵ According to one report, approximately \$5.5 billion was wagered on esports titles in 2016, with \$12.9 billion expected to be wagered by 2020.⁴⁹⁶

Goldman Sachs published a 2018 report that noted: “With one of the fastest growing fan bases in pro sports, a youthful global audience that’s already larger than Major League Baseball’s and top players

⁴⁹⁰ Miss. H.B. 1967 (2017). Compare Miss Code § 75-76-33 (2018), with 2015 Miss. Code Ann. § 75-76-33 (2019).

⁴⁹¹ 13-9 Miss. Code R. §§1-3; Jill R. Dorson, “Mississippi Rolls Out Regs: No ‘Integrity Fee,’ OK to Bet on Mississippi College Teams,” SportsHandle, June 21, 2018. <https://sportshandle.com/mississippi-rolls-out-regs-no-integrity-fee-ok-to-bet-on-mississippi-college-teams/>.

⁴⁹² Michael R. Wickline, “Casino Measure Wins Arkansas Voters’ Support,” *Arkansas Democrat Gazette*, November 7, 2019. <https://www.arkansasonline.com/news/2018/nov/07/casino-measure-wins-voters-support-2018/>

⁴⁹³ Adam Candee, “Arkansas Sports Betting Rules Clear Key Hurdle As State Inches Toward Launch,” *Legal Sports Report*, February 22, 2019. <https://www.legalsportsreport.com/29465/arkansas-sports-betting-rules-approved/>

⁴⁹⁴ See generally “Esports Betting – Overview of the Esports Gambling Vertical,” *Legal Sports Report*. <https://www.legalsportsreport.com/esports-betting/> (accessed February 14, 2019); *Best Esports Betting Sites for United States*, eSportsBet.com. <https://esportbet.com/united-states/> (accessed February 14, 2019) (listing offshore sites that take esports bets).

⁴⁹⁵ Esports Betting – Overview of the Esports Gambling Vertical,” *Legal Sports Report*. <https://www.legalsportsreport.com/esports-betting/> (accessed February 14, 2019).

⁴⁹⁶ Eilers & Krejcik Gaming, “ESports & Gambling: Where’s the Action?,” August 15, 2016.

who are quickly joining the ranks of millionaires, esports have entered the mainstream.”⁴⁹⁷ The report projects that the monthly audience for esports will expand from 167 million in 2018 to 276 million by 2022.⁴⁹⁸

In 2018, Spectrum published an analysis that included the following guidelines for operators seeking to enter this emerging field:

- Rule 1: Leave your present conception of eSports at the door.
- Rule 2: Esports can serve multiple functions, including serving as a marketing tool that relies on a rifle-like approach, rather than a shotgun approach. In other words, offerings can be tweaked to target groups ranging from the oft-cited Millennials to their grandparents, and to every group in between.
- Rule 3: Be creative in your approach, and think outside the proverbial box (in other words, when in doubt, see Rule 1 above).
- Rule 4: Do something.

The world is changing, and the traditional gaming industry must change with it. It is easy and simple to stick with existing formulas. That is the working model that served so many leading companies for so many years, from Kodak and Xerox to Sears and K-Mart.⁴⁹⁹

Although the Supreme Court’s decision in *Murphy* authorizes the state-by-state legalization of esports betting, the market for US-based esports book remains in its embryonic stages. However, after Nevada passed a bill that broadly authorized wagers on “other events” in 2017, the Nevada Gaming Control Board recently clarified the definitions for “amateur sport or athletic” events and “virtual” events, and “other events” to cover esports competitions.⁵⁰⁰ In addition, New Jersey’s Division of Gaming Enforcement clarified that betting on esports competitions is permitted except for high school events and events involving participants under the age of 18.⁵⁰¹ Worldwide esports platforms, however, remain loath to allow third-party spectators to bet on esports competitions in the United States. In October 2018, industry leader Unikrn announced its intent to allow esports players in 41 states to bet on themselves – but not spectator betting – on the basis that player wagering is inherently skill-based.⁵⁰²

As esports continue to gain prominence across the United States and the largely off-shore betting market continues to prosper, states will need to brace for some of the unique challenges esports betting

⁴⁹⁷Goldman Sachs Investment Research, NewZoo survey (2018 Global Esports Market Report). <https://www.goldmansachs.com/insights/pages/infographics/e-sports/index.html?cid=sch-pd-bing-esportshub-searchad-201810-----&mkwid=FQzOon5B>

⁴⁹⁸ Ibid.

⁴⁹⁹ Michael Pollock, “Esports for Everyone,” *iGaming Business Magazine*, November 6, 2018. <https://www.igamingbusiness.com/analysis/esports-everyone>

⁵⁰⁰ Devin O’Connor, “Nevada Sports Betting Regulations Amended by State Gaming Commission,” *Casino.org*, January 25, 2019. <https://www.casino.org/news/nevada-sports-betting-regulations-amended-by-gaming-commission>

⁵⁰¹ Roger Quiles, “New Jersey Adjusts Course, Welcomes Esports to Be Wagered On,” *Front Office Sports*, June 20, 2018. <https://frntofficesport.com/new-jersey-adjusts-course-welcomes-esports-to-be-wagered-on/>. New Jersey’s limited, age-based prohibition does prevent operators from offering wagers on the substantial number of professional events featuring players under 18. Ibid.

⁵⁰² Brittany Shoot, “How’s Your Fortnite Game? Esports Betting Platform Approved, Letting Video Gamers Gamble Worldwide,” *Fortune*, October 23, 2018. <http://fortune.com/2018/10/23/fortnite-esports-betting-video-game-gambling/>

poses – including traditional bookmakers’ lack of familiarity with esports⁵⁰³ and whether the intermediate routing of online bets on esports across state lines violates the Wire Act.⁵⁰⁴

As esports continues to expand and efforts to merge gaming and esports intensify, regulators in Louisiana, along with their counterparts elsewhere, will have to grapple with some basic questions:

- Should esports serve as an amenity, similar to boxing or entertainment, that is offered as a promotion to increase attendance?
- Should betting be allowed on an activity that appears to have no effective governing bodies, thus raising the specter of match-fixing and disputes that would be difficult to resolve?
- Is the potential audience too young for participation in legal, adult-oriented gaming venues?

Ultimately, Louisiana may decline to wholesale copy another state’s approach. Rather, legislators and regulators might adopt the practices from states such as Mississippi and New Jersey that best suit the Louisiana gaming industry and serve the goals of legalization.⁵⁰⁵

4. Internet Gaming

In 2018, the Louisiana Senate Committee on Judiciary B considered but declined to advance an internet gaming (“igaming”) bill, ultimately deciding to explore the matter further before moving forward with proposed legislation.⁵⁰⁶ Since the 2018 legislative session, however, the US Department of Justice fostered uncertainty regarding the authorization of igaming. In an advisory opinion released to the public in January 2019, the Office of Legal Counsel of the DOJ articulated its position that the federal Wire Act criminalizes all forms of interstate gaming via wire communication.⁵⁰⁷ Relying on a different statutory interpretation,⁵⁰⁸ this opinion reversed course from the DOJ’s 2011 opinion, which concluded that the

⁵⁰³ See Maddy Myers, “How Esports Gambling Works,” *Compete/Kotaku*, March 21, 2018. <https://compete.kotaku.com/how-esports-gambling-works-1823959797> (describing the challenges esports book Unikrn faced in setting and calculating odds given the lack of institutional knowledge regarding e-gaming)

⁵⁰⁴ See Hichar, *supra* note 488.

⁵⁰⁵ See IAGA Webinar, 53:45-56:55 (Rebuck) (“You try to take what we thought were the best operations and best models that many jurisdictions had and roll it into a new series of regulations that we could start fresh without just copying . . . what existed in one jurisdiction.”).

⁵⁰⁶ La. S.B. 322 (2018); Eric Ramsey, “Louisiana Shuts Down Online Gambling Bill For Now, Advances Sports Betting,” *Online Poker Report*, April 3, 2018. <https://www.onlinepokerreport.com/29705/louisiana-online-gambling-bill-dead-2018/>

⁵⁰⁷ See DOJ Opinion.

⁵⁰⁸ The language of the Wire Act at issue prohibits the interstate transmission of “information assisting in the placing of bets or wagers on any sporting event or contest,” as well as the transmission of “a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or assisting in the placing of bets or wagers.” In 2011, the DOJ interpreted the phrase “on any sporting event or contest” to apply to the entire prohibition, noting the absurdity that would result from specifically prohibiting the transmission of “information” regarding sporting wagers but also generally prohibiting interstate transmissions of bets. However, relying on a doctrine of interpretation called the “last antecedent rule,” the 2019 DOJ Opinion concluded that the phrase “on any sporting event or contest” applied *only* to the word “wagers” in front of it. As a result, the DOJ deems the Wire Act to prohibit transmission of all wagers; that Congress would specifically ban “sport wager” information in a general prohibition was “improbable” but not absurd. DOJ Opinion; see also Scott Balber & Steven Jacobs, “DOJ Goes All-In Against Online Gambling, But Can Wire Act Opinion Withstand Scrutiny?,” *Legal Sports Report*, January 28, 2019. <https://www.legalsportsreport.com/28179/doj-wire-act-opinion-scrutiny/>.

Wire Act’s prohibition applied only to sports wagering.⁵⁰⁹ On January 15, 2019, the Department of Justice gave businesses a “90-day window” to ensure compliance with its new interpretation of the Wire Act.⁵¹⁰ The DOJ subsequently extended this compliance window by 60 days, through June 14, 2019.⁵¹¹

For the most part, the gaming industry has reacted with a combination of bemusement and outrage. In a recent IAGA panel, top regulators from Mississippi, New Jersey, Pennsylvania, Nevada and Louisiana uniformly condemned the opinion as confusing in scope—given that it does not divulge particulars as to what will and will not be legal under the new interpretation – and overreaching.⁵¹² Gaming industry executives and state government officials have agreed, criticizing the opinion as inimical to the gaming industry.⁵¹³ Proponents of the opinion, on the other hand, have hailed it as a necessary impediment to the proliferation of illegal underage gambling.⁵¹⁴

The opinion has already created ripples within the gaming community. On February 15, 2019, the New Hampshire Lottery Commission (“NHLC”) sued Attorney General Bill Barr and the Department of Justice to (*inter alia*) enjoin the DOJ from enforcing the Wire Act opinion as set forth in its recent opinion.⁵¹⁵ In both its Complaint and an accompanying Motion for Summary Judgment, the NHLC cites decisions by both the First and Fifth Circuit Courts of Appeal restricting the scope of the Wire Act to the transmission of sports wagers across state lines.⁵¹⁶ Pennsylvania has instructed operators to move any

⁵⁰⁹ See DOJ Opinion.

⁵¹⁰ Letter from the Deputy Attorney General re: Applicability of the Wire Act, 18 U.S.C. § 1084, to Non-Sports Gambling, Jan. 15, 2019. A February 28, 2019 report from Online Poker Report indicated that the DOJ will extend the non-prosecution period for an additional 60 days. Chris Grove, “DOJ Set To Extend Wire Act Window for An Additional 60 Days,” *Online Poker Report*, February 28, 2019.

⁵¹¹ Steve Ruddock, “Wire Act Enforcement Postponed Until June; Here’s What You Need To Know,” *Online Poker Report*, March 5, 2019. <https://www.onlinepokerreport.com/35709/wire-act-enforcement-postponed/>.

⁵¹² See IAGA Webinar, 0:00-51:00.

⁵¹³ See Balber and Jacobs, *supra* note 508; Steve Ruddock, “Gambling States And Stakeholders Join Chorus Of Opposition To Wire Act Opinion,” *Online Poker Report*, February 13, 2019, <https://www.onlinepokerreport.com/35219/doj-wire-act-opinion-opposition/>; Jessica Welman, “PA Attorney General One of Several Attacking New Wire Act Opinion,” *PlayPennsylvania*, Feb. 14, 2019, <https://www.playpennsylvania.com/doj-wire-act-opinion-opponents/>. But see Eric Raskin, “Industry Expert on Wire Act Reversal: This Is Not Another UIGEA,” *UsBets*, January 24, 2019, <https://www.usbets.com/joe-brennan-interview-wire-act-uigea/> (interview with gaming executive Joe Brennan in which he downplayed significance of opinion for legal intrastate businesses).

⁵¹⁴ See John Kindt, “DOJ Opinion Will Help Protect Kids from Dangers of Online Gambling,” *The Hill*, January 23, 2019. <https://thehill.com/opinion/criminal-justice/426584-doj-opinion-will-help-protect-kids-from-dangers-of-online-gambling>

⁵¹⁵ *NH Lottery Comm. v. Barr*, No. 1:19-cv-00163-PB (D.N.H. Feb. 15, 2019).

⁵¹⁶ See *ibid.*; *United States v. Lyons*, 740 F.3d 702, 718 (1st Cir. 2014) (“The Wire Act applies only to ‘wagers on any sporting event or contest,’ that is, sports betting.”) (quoting 18 U.S.C. § 1084(a)); *In re MasterCard Int’l Inc.*, 313 F.3d 257, 263 (5th Cir. 2002) (“Because the Wire Act does not prohibit non-sports internet gambling, any debts incurred in connection with such gambling are not illegal.”). But see John Holden, “Temper Those Expectations: NH Wire Act Lawsuit Faces Uphill Battle,” *Legal Sports Report*, February 19, 2019. <https://www.legalsportsreport.com/29321/holden-nh-wire-act-lawsuit/> (discussing potential challenges NHLC could face in prevailing on its suit, including whether the case is ripe given that the DOJ has yet to move against state-licensed operators).

equipment involved in potential online gaming within state borders.⁵¹⁷ Regulators are further uncertain of the continuing legality of a shared pooling agreement between New Jersey, Nevada and Delaware allowing players from the three states to play each other in online poker.⁵¹⁸ In denouncing the opinion as “perplexing,” MGM CEO Jim Murren even suggested that under a strict interpretation of the opinion, Powerball would no longer be legal.⁵¹⁹ The West Virginia legislature has delayed an igaming bill in the wake of the opinion.⁵²⁰

Louisiana regulators thus will need to closely monitor developments regarding the Wire Act to determine its effect on igaming. Nonetheless, an examination of existing regimes is instructive. Four states currently allow internet gambling on games such as poker and blackjack:⁵²¹ Delaware, New Jersey, Nevada and Pennsylvania. The first state to legalize igaming, Delaware allows persons within the state to participate in online lottery, table games, and “ticket games.”⁵²² Websites operated through three horse track casinos – Dover Downs, Delaware Park, and Harrington Raceway – offer a variety of games such as Blackjack, Roulette, Video Slots, and Video Poker.⁵²³ Persons 18 or older can participate in lottery ticket games, and persons 21 years or older can participate in internet lottery and table games.⁵²⁴ Players wishing to play for money are required to provide, at minimum, their full name, address, mobile phone number, email address, date of birth, and social security number.⁵²⁵ Identity and age verification is required for players older than 21.⁵²⁶ Delaware taxes igaming revenues at a rate of 49.5 percent.⁵²⁷

New Jersey allows casinos to apply for a permit and collaborate with one or more igaming software providers or operators.⁵²⁸ Currently, seven Atlantic City casinos operate 18 total online casinos

⁵¹⁷ Eric Ramsey, “Regulators to Pennsylvania Online Gambling Operators: ‘Comply with Wire Act,’” *Online Poker Report*, January 18, 2019. <https://www.onlinepokerreport.com/34501/pa-online-gambling-wire-act-compliance/> (attaching memo from Pennsylvania Gaming Commissioner Executive Director Kevin F. O’Toole)

⁵¹⁸ See “Multi-State Legal Online Poker,” *Online Poker Report*. <https://www.onlinepokerreport.com/multi-state-poker/> (accessed February 15, 2019)

⁵¹⁹ Eric Ramsey, “MGM CEO: ‘Powerball Isn’t Legal Anymore’ under Strict Reading of Controversial Wire Act Opinion,” *Online Poker Report*, February 13, 2019. <https://www.onlinepokerreport.com/35254/mgm-ceo-reacts-to-wire-act/>

⁵²⁰ “West Virginia Delays Online Gambling Bill,” *PokerNewsReport*, January 24, 2019. <https://www.pokernewsreport.com/west-virginia-delays-online-gambling-bill-23073>

⁵²¹ The Louisiana bill drafted by Senator Danny Martiny broadly defined “internet gaming” as “any variation or composite of an authorized game that is offered through the internet, provided that such games, or variations or composites, are found suitable for use by the board and any other game which is determined to be suitable by the board.” La. S.B. 322 (2018).

⁵²² 29 Del. Code § 4801(c).

⁵²³ Louisiana Gaming Control Board, *supra* note 575, at 11; “Legal US Online Gambling Guide,” *PlayUSA*. <https://www.playusa.com/us/> (accessed February 15, 2019)

⁵²⁴ 29 Del. Code § 4810(a).

⁵²⁵ 206 Delaware State Lottery Office Internet Lottery Rules and Regulations § 13.4.

⁵²⁶ *Ibid.* § 13.5.

⁵²⁷ Louisiana Gaming Control Board, *supra* note 575, at 20.

⁵²⁸ N.J. Stat. § 5:12-95.21.

in New Jersey, offering a variety of games.⁵²⁹ License applicants must pay \$400,000 for the license as well as \$250,000 to renew the license each year.⁵³⁰ The Division of Gaming Enforcement’s “Know Your Customer” (KYC) process serves to validate the identities and ages of participants, and its geo-fencing technology ensures that players participate within state borders.⁵³¹ Gaming operators must pay 15 percent of their annual online revenues to New Jersey.⁵³²

In contrast to Delaware and New Jersey, Nevada restricts its online offerings to poker.⁵³³ The World Series of Poker (WSOP.com) operates the only currently active site.⁵³⁴ Online poker revenues are subject to a 3.5 percent tax on revenue not exceeding \$50,000 per month; 4.5 percent of monthly revenue between \$50,000 and \$134,000; and a 6.75 percent tax for revenue exceeding \$134,000.⁵³⁵ Prior to registering with a poker operator in Nevada, players must provide a date of birth, address, and social security number, and prove that they are not on a list of excluded players.⁵³⁶

Although Pennsylvania has legalized online gaming, no operators are currently active.⁵³⁷ Operators are preparing for this, however, and are presently engaged in litigation with the Pennsylvania Lottery, which has developed an online iLottery offering.⁵³⁸

⁵²⁹ “Best Legal NJ Online Casinos,” *PlayNJ*. <https://www.playnj.com/> (accessed February 15, 2019)

⁵³⁰ N.J. Stat. § 5:12-95.29.

⁵³¹ Louisiana Gaming Control Board, *supra* note 575, at 14-15.

⁵³² N.J. Stat. § 5:12-95.19.

⁵³³ Nev. Reg. § 5A.140.

⁵³⁴ “Nevada Online Poker: Latest News & Analysis,” *Online Poker Report*. <https://www.onlinepokerreport.com/us/nv/> (accessed February 15, 2019).

⁵³⁵ Nev. Reg. § 5A.170 (citing NRS 463.370).

⁵³⁶ *Ibid.* §5A.110.

⁵³⁷ “Pennsylvania Online Gambling,” *PlayPennsylvania*. <https://www.playpennsylvania.com/online-gambling/> (accessed February 15, 2019)

⁵³⁸ Mark Scolforo, “Casinos ask state court to shut down Pennsylvania’s new iLottery,” *Associated Press*, August 22, 2018. <https://www.mcall.com/business/mc-biz-pa-casinos-sue-state-over-ilottery-20180822-story.html>

Figure 75: Internet gaming status, regulation by state

State	Games Allowed	Tax	Age Limit	Part of Interstate Pooling Agreement?
DE	Internet lottery, table games, and ticket games (29 DEL. CODE §4810(a))	First \$3.75 million of gross revenue in each fiscal year to state; of remaining proceeds, 42.5 percent tax on revenue of internet video lottery games, 15.5 percent of revenue from sales of internet table games (29 DEL. CODE §4815(e))	18 for “internet ticket” games, 21 for internet table games or internet video lottery (29 DEL. CODE §4810(a))	Yes
NJ	Authorized casino games (N.J. STAT. § 5:12-28.1)	15 percent of their annual online revenues (N.J. STAT. §5:12-95.19); operators must additionally pay an initial \$400,000 for the license as well as a \$250,000 renewal fee (N.J. STAT. §5:12-95.29)	21 years of age (N.J. STAT. § 5:12-119)	Yes
NV	Poker only (NEV. REG. §5A.140)	3.5 percent tax on revenue not exceeding \$50,000 per month; 4.5 percent of monthly revenue between \$50,000 and \$134,000; and a 6.75 percent tax for revenue exceeding \$134,000 (NEV. REG. §5A.170 (citing NRS 463.370))	21 years of age (NEV. REG. §5A.110)	Yes
PA	Authorized interactive games (4 PA. CONS. STAT. § 13B11)	14 percent of daily gross interactive gaming revenue from peer-to-peer games and non-peer-to-peer games that simulate table games; 52 percent of revenue generated by online slot machines ((4 PA. CODE STAT. § 13B52); \$10 million authorization fee (4 PA. CONS. STAT. § 13B51)	21 (4 PA. CONS. STAT. § 13B11(b))	No

Source: State statues, Spectrum Gaming Group research

IV. Gaming Market Analysis: Over-Saturated vs. Underserved

One of the key aspects for any state seeking to maximize the fiscal and economic benefits of casino gaming is to understand whether the gaming properties are optimally situated and have too much or not enough casino supply relative to the population. There may be markets that are over-saturated – i.e., have too much casino supply for the number of customers within their market (typically a two-hour drive) – and there may be markets that are underserved – i.e., areas that have customers who would patronize a casino more often if it were closer or if their local casino(s) weren't so crowded.

Casinos in most state-regulated jurisdictions are geographically spread out and located in or near key population centers. As such, they are reasonably accessible to most of their populace. This, however, does not mean that the existing licensees are optimally located or that the markets are optimally supplied by number of gaming positions.⁵³⁹

The primary factors in assessing whether a state is optimizing its casino gross gaming revenue (“GGR”) are location, population and performance.

A. Assessing Supply and Demand in Other States

Before considering the situation in Louisiana, Spectrum believes it is helpful to analyze what has happened in other markets when additional competitors enter the marketplace. We analyzed markets in the Midwest and Northeast, two regions that have experienced a substantial increase in number of casinos. In each market analyzed, the new casino competition led to a reduction in incumbent casino GGR.

We note that in most cases it is difficult to attribute 100 percent of the GGR declines to new casino competition. However, where there is a newer, more attractive casino that is either more convenient or as conveniently accessed by the local population, it is likely to take market share from existing casinos. New casinos can also have a positive impact in that they can grow the GGR for the whole market. We analyzed five markets to illustrate these impacts.

1. Washington-Baltimore

The Washington-Baltimore market was served by two large casinos – Maryland Live and Horseshoe Baltimore – from 2012-2016. MGM National Harbor (“MGM”) opened a \$1.3 billion gaming resort in December 2016 and provided significant competition for the two incumbents, as MGM is significantly larger and has more amenities than those casinos.

As illustrated in the table below, during the two-year period following the opening of MGM National Harbor, combined GGR for Maryland Live and Horseshoe Baltimore GGR declined 14 percent. However, in terms of the market as a whole, GGR increased from \$965 million in the 12-month period ended July 2016 to \$1.55 billion for the 12-month period ended January 2019, an increase of 60 percent. Such a substantial increase suggests that the market was underserved. MGM is situated closer to the

⁵³⁹ One gaming position equals one slot machine or one seat at a gaming table. We assume six positions per table game.

Washington-area population, which is large and relatively wealthy. Maryland Live recently added a 300-room hotel to enable it to compete better with MGM; Horseshoe Baltimore continues to struggle and in November 2018 recorded its worst month since opening in terms of GGR, generating only \$19.4 million.

Figure 76: 12-month GGR performance for Washington-Baltimore market July 2013-January 2019

(\$in M)	Opening	Jul-13	Jul-14	Jul-15	Jul-16	Jul-17	Jan-19
Maryland Live	Jun-12	\$525	\$660	\$624	\$654	\$578	\$578
Horseshoe Baltimore	Aug-14	\$0	\$0	\$260	\$311	\$302	\$260
<i>Subtotal</i>		\$525	\$660	\$884	\$965	\$880	\$838
<i>Y/Y Growth</i>			26%	34%	9%	-9%	-5%
National Harbor	Dec-16	\$0	\$0	\$0	\$0	\$389	\$711

Source: Maryland Lottery Commission, Spectrum Gaming Group. For 12-month periods.

2. Detroit

Hollywood Casino Toledo, located 65 miles south of Detroit's three commercial casinos, opened in May 2012. GGR from Detroit's three commercial casinos declined \$84 million, or 6 percent, during the first two years after Hollywood Toledo opened. We note five additional casinos and racinos also opened in Ohio during 2012 and early 2013, but those were much farther from Detroit (at least 170 miles away), making their impact on Detroit-area casinos marginal. Looking at these four casinos as one market, GGR increased to \$1.52 billion in 2014, which is only 7 percent higher than in 2011 when Detroit's three casinos generated \$1.43 billion. This suggests that Hollywood Toledo did not grow the market significantly but took share from the incumbents. It is less likely that the market was underserved.

Figure 77: GGR for Detroit Market and Hollywood Toledo 2009-2015

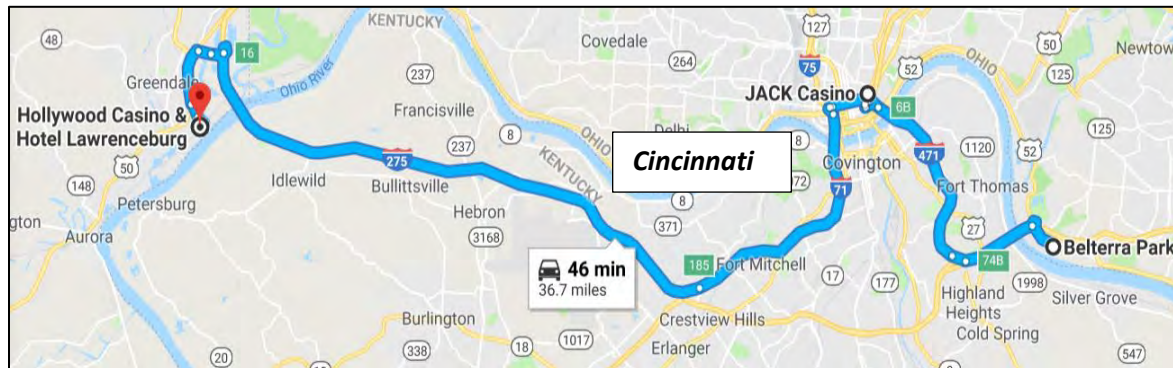
(\$in M)	2009	2010	2011	2012	2013	2014	2015
Greektown	\$346	\$350	\$353	\$352	\$328	\$327	\$330
MGM Grand	\$548	\$582	\$600	\$605	\$567	\$561	\$582
MotorCity	\$446	\$446	\$472	\$460	\$454	\$445	\$464
Total Detroit	\$1,340	\$1,378	\$1,425	\$1,417	\$1,349	\$1,333	\$1,376
Change				-1%	-5%	-1%	3%
Hollywood Toledo				\$2	\$200	\$191	\$197

Source: State Gaming Commissions, Spectrum Gaming Group

3. Cincinnati

For many years Hollywood Casino in Lawrenceburg, IN, benefited from relatively little competition. It was the closest and most convenient casino option to the densely populated Cincinnati area, only 30 miles away. From 2006-2012, Hollywood's annual GGR averaged \$418 million. New casinos Jack Cincinnati and Belterra Park opened in 2013 and 2014, respectively, as much more convenient gaming options for Cincinnati-area residents.

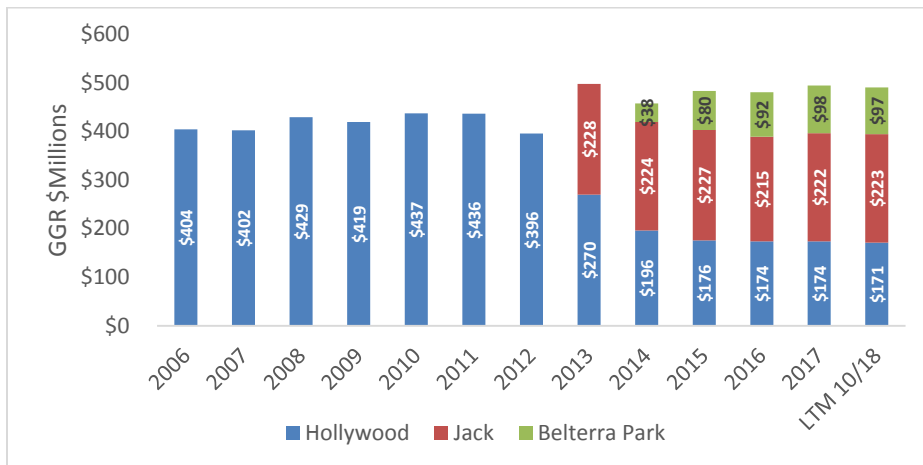
Figure 78: Map of casinos in the Cincinnati market



Source: Google Maps

Since the two competitors opened, Hollywood’s average annual GGR has declined by 56 percent, to \$180 million. In 2017, the Cincinnati market generated \$495 million in GGR, which is only 13 percent higher than Hollywood’s peak year of \$437 million in 2010. Because the decline to Hollywood was so much more than the growth after Jack and Belterra opened, it is more likely that the new casinos simply took market share and that the market was not underserved prior to these new properties opening.

Figure 79: Cincinnati market gross gaming revenue, 2006-2018



Source: State gaming commissions, Spectrum Gaming Group. LTM = last 12 months.

4. Chicago

The \$445 million Rivers Casino Des Plaines opened in July 2011. It is four miles from Chicago O’Hare International Airport and is the closest casino to downtown Chicago. In the two years prior to Rivers’ opening (2009-2010), while coming out of the Great Recession, the Chicago-area casinos’ (including some in Northwest Indiana) collective GGR declined 4.8 percent and 4.5 percent, respectively. Following the opening of Rivers, the market declines almost doubled to 7.1 percent in 2012 and 7.3 percent in 2013.

Figure 80: GGR for Chicago-area casinos, 2010-2015

Chicagoland GGR (\$M)	2010	2011	2012	2013	2014	2015
Grand Victoria (Elgin)	\$287	\$257	\$212	\$194	\$172	\$171
Harrah's (Joliet)	\$246	\$224	\$212	\$202	\$198	\$187
Hollywood (Aurora)	\$181	\$173	\$152	\$142	\$127	\$120
Horseshoe Hammond	\$178	\$173	\$175	\$159	\$156	\$160
Empress (Joliet)	\$143	\$146	\$142	\$131	\$123	\$124
Ameristar East Chicago	\$247	\$247	\$236	\$217	\$221	\$228
Majestic Star Casino	\$113	\$112	\$109	\$102	\$95	\$89
Subtotal - Same Store	\$1,396	\$1,333	\$1,238	\$1,148	\$1,091	\$1,079
<i>Y/Y Same Store Growth</i>	-4.8%	-4.5%	-7.1%	-7.3%	-4.9%	-1.1%
Rivers Casino (Des Plaines)	\$0	\$177	\$417	\$419	\$425	\$425
Total		\$1,509	\$1,654	\$1,566	\$1,516	\$1,504

Source: State gaming commissions, Spectrum Gaming Group

We note that video gaming terminal (“VGT”) gaming in retail locations commenced in Illinois (but not Chicago) in 2013, generating \$300 million in its first year and growing to \$1.2 billion after five years. This is partially responsible for the casino declines of 2013 and thereafter. However, the declines in 2011 and 2012 can be mostly attributed to Rivers opening closer to the densely populated Chicago area.

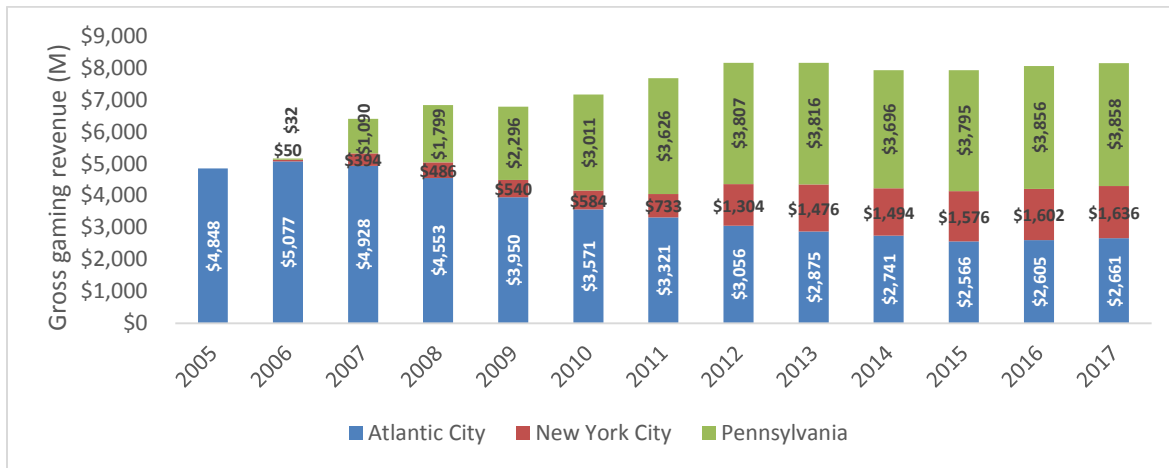
5. Atlantic City

Perhaps the most prominent example of the adverse impact of casino competition is Atlantic City, NJ. Atlantic City benefitted from having little to no nearby casino competition from 1978-2006. It was both a destination and a regional market, in that it offered a cluster of large casino resorts with a substantial supply of hotel rooms as well as convenience from key feeder markets including New York City, northern New Jersey and eastern Pennsylvania.

In 2006, not coincidentally the all-time peak year for Atlantic City casino revenue, the competitive landscape changed drastically with the expansion of casino gaming into Pennsylvania and the legalization of slot machines in New York. Several Pennsylvania casinos were positioned near the New Jersey border specifically to cut off residents crossing into New Jersey on their way to Atlantic City. Additional competition came in 2010, when Pennsylvania legalized table games at its 12 casinos, and in 2011, when Resorts World Casino New York City opened in Queens. Resorts World was an immediate success and is now the highest-grossing slots-only casino in the country.

The introduction of this new competition significantly impacted Atlantic City’s GGR. From 2006 to 2017, Atlantic City’s GGR declined 50 percent from \$5.2 billion to \$2.6 billion; the market supported 11 casinos in 2006, but could only support eight by 2014 as market competition forced the closure of four casinos (a new property, Revel, opened in 2012, filed for bankruptcy protection, and closed in October 2014).

Figure 81: GGR for Atlantic City, Pennsylvania and New York City casinos 2005-2017

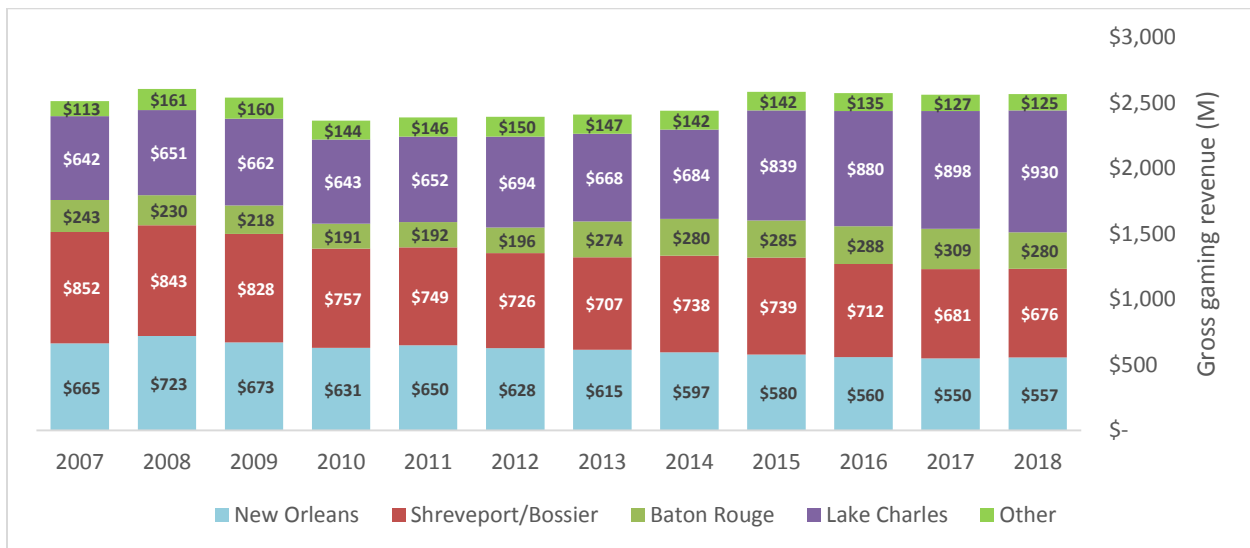


Source: State Gaming Commissions, Spectrum Gaming Group

B. Louisiana Gaming Market Analysis

Louisiana has four primary casino gaming markets: New Orleans, Baton Rouge, Shreveport-Bossier City, and Lake Charles. There is also a riverboat casino in Morgan City and a racino in Opelousas, as well as four tribal casinos situated in more rural areas. The following chart shows commercial casino revenue by market. Revenue figures are for all three commercial casino sectors combined – riverboat, land-based and racetrack slots.

Figure 82: Louisiana total casino revenue by region



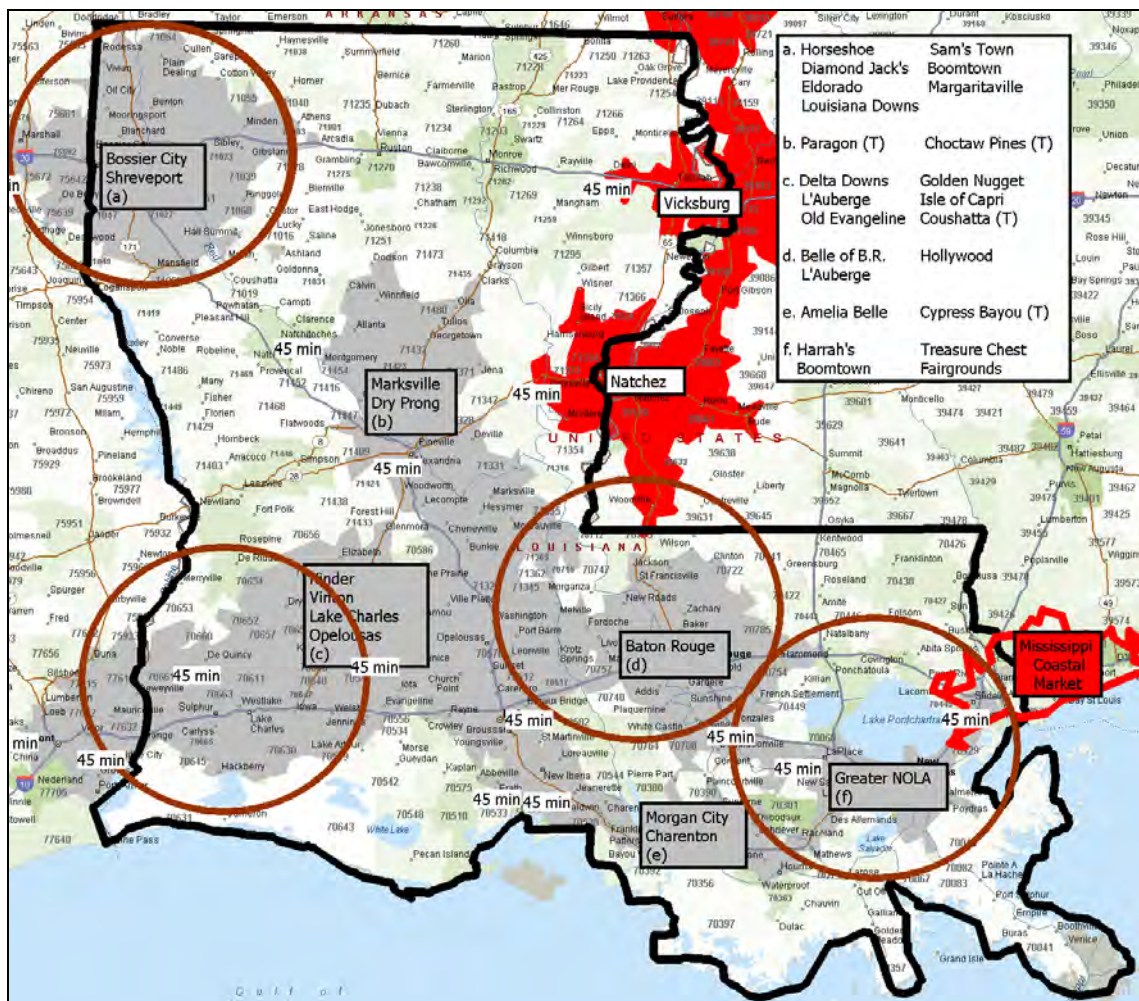
Source: Louisiana Gaming Control Board

The following map illustrates the markets for the Louisiana casinos, using 45-minute drive times as the primary market for each. The Louisiana primary markets are shown in gray. The overlap of the drive times results in a continuous area covering almost half the state in which one is never more than 45 minutes from a casino. As the map indicates, there are few highly populated areas that are not in one of

the market areas. Two notable exceptions are the Northshore of Lake Pontchartrain (“Northshore”) and the Northeast region.

Note that the market for the Mississippi coastal casinos, which is shown outlined in red to emphasize the overlap with the New Orleans casino market, reaches into Louisiana’s Northshore, and that the Vicksburg market shown in red extends into Louisiana as well. Data from the Mississippi Gaming Commission leads to an estimate that Gulf Coast Mississippi casinos earn more than \$350 million in GGR from Louisiana residents every year, and an estimated \$58 million in the Central River Market each year.⁵⁴⁰ It seems logical that most of that revenue is generated, respectively, from the Northshore and the Northeast region near Monroe, as no Louisiana casinos are situated in these areas. For residents in those areas, the closest casinos are in Bay St. Louis and Vicksburg, respectively.

Figure 83: Map of primary Louisiana casino markets



Source: Microsoft MapPoint, Spectrum Gaming Group. Note: Shading shows 45-minute drive-time markets – Louisiana markets in gray, Mississippi markets in red. Louisiana’s four primary markets are circled.

⁵⁴⁰ Mississippi Gaming Commission Regional Data Monthly Report.

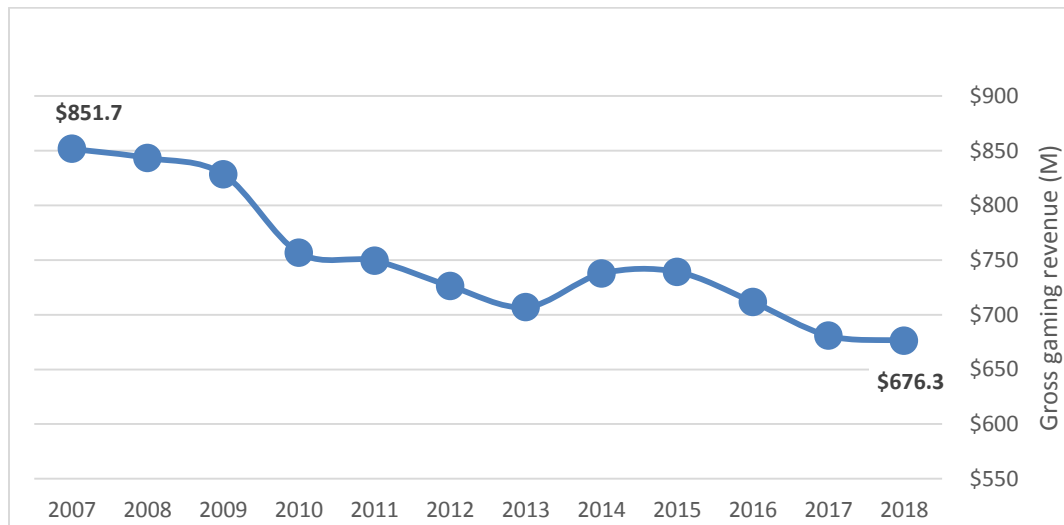
http://www.msgamingcommission.com/files/quarterly_reports/RegionalReport01.2019.pdf

1. Shreveport-Bossier City Market

The Shreveport-Bossier City market is home to six riverboat casinos and the Harrah's Louisiana Downs racino just east of Bossier City. The market was the strongest of any region for the first 15 years of gaming in Louisiana. Texans poured across the border from the Dallas-Fort Worth area to enjoy the casinos in the market. Beginning in 2002, Indian tribes in Oklahoma began to develop casinos along the Texas border. The two largest such Oklahoma casinos, WinStar and Choctaw Durant, have become full-fledged gaming resorts featuring hotels, spas, restaurants and other amenities. At over 8,200 slots and 100 table games, Winstar is the largest casino in the world by number of gaming positions (8,800 positions). Both of these properties cater to the Dallas-Fort Worth market. Each is less than a two-hour drive from downtown Dallas, whereas Shreveport is three hours from Dallas.

The graph below shows the change in Shreveport-Bossier market GGR, with the market down 21 percent since 2007. Some of the decline was due to the Great Recession, but the long and continuing growth of the Oklahoma properties has left the market overserved by casinos. In 2007 there were seven operators generating \$852 million in GGR, or an average of \$121.7 million per operator. In 2018 the revenue per operator averaged \$96.6 million.

Figure 84: Shreveport-Bossier City gross gaming revenue, 2007-2018



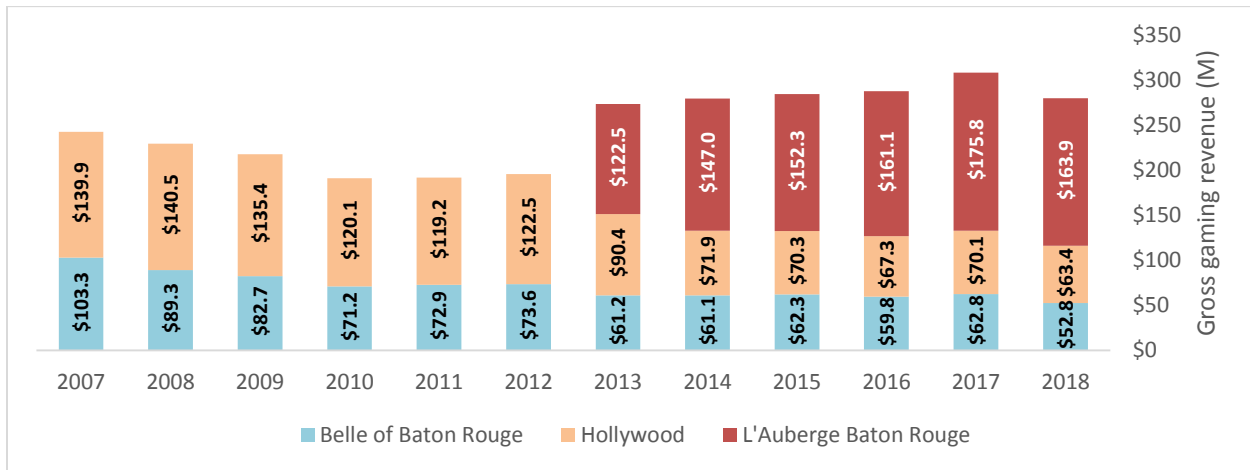
Source: Louisiana Gaming Control Board

2. Baton Rouge

The Baton Rouge market is served by three riverboat casinos. Two of the boats, Belle of Baton Rouge and Hollywood, have been in the market since the mid-1990s and are located near downtown. The third and newest property, L'Auberge, is located south of downtown. The downtown properties were state-of-the-art when built. However, they were designed as – and remain – boats with long boarding ramps and multiple gaming levels. The properties are well maintained but have lost luster over the years. Into this market stepped L'Auberge. Opened in September 2012, the L'Auberge property is styled with a craftsman lake lodge theme. It features a modern, four-diamond hotel and a virtually seamless transition from the gaming floor to the landside amenities. It quickly became the dominant property in the market.

While the new property did cannibalize some revenue from the incumbent operators, overall the market grew.

Figure 85: Baton Rouge market gross gaming revenue, 2007-2018

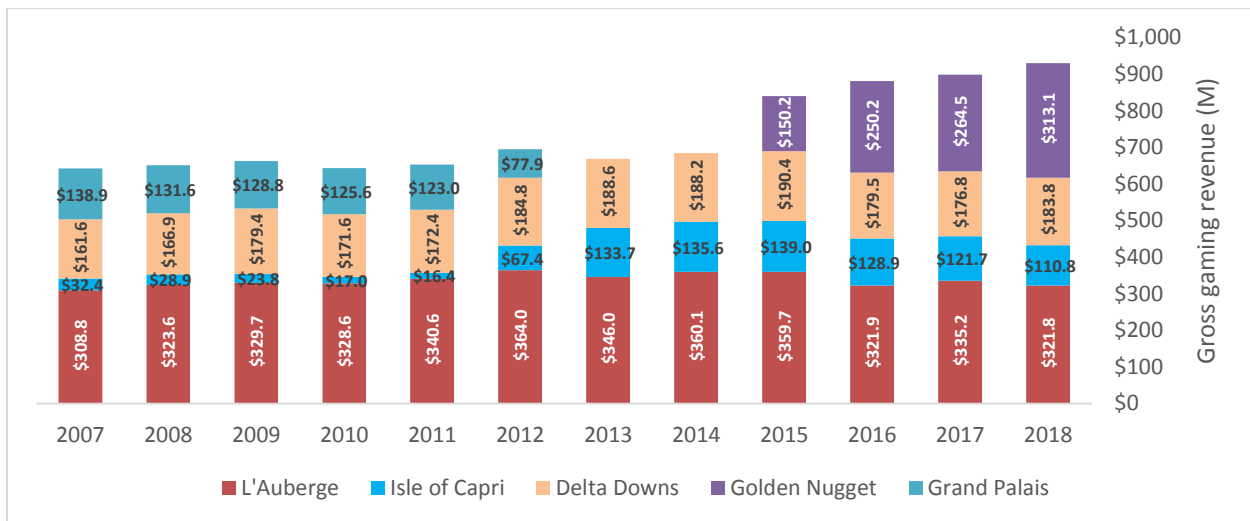


Source: Louisiana Gaming Control Board

3. Lake Charles

An estimated three-quarters of the Lake Charles market comes from the Houston-Beaumont area of Texas. Three riverboat operators (Isle of Capri, L'Auberge and Golden Nugget) and a racino (Delta Downs) serve the market.

Figure 86: Lake Charles market gross gaming revenue, 2007-2018

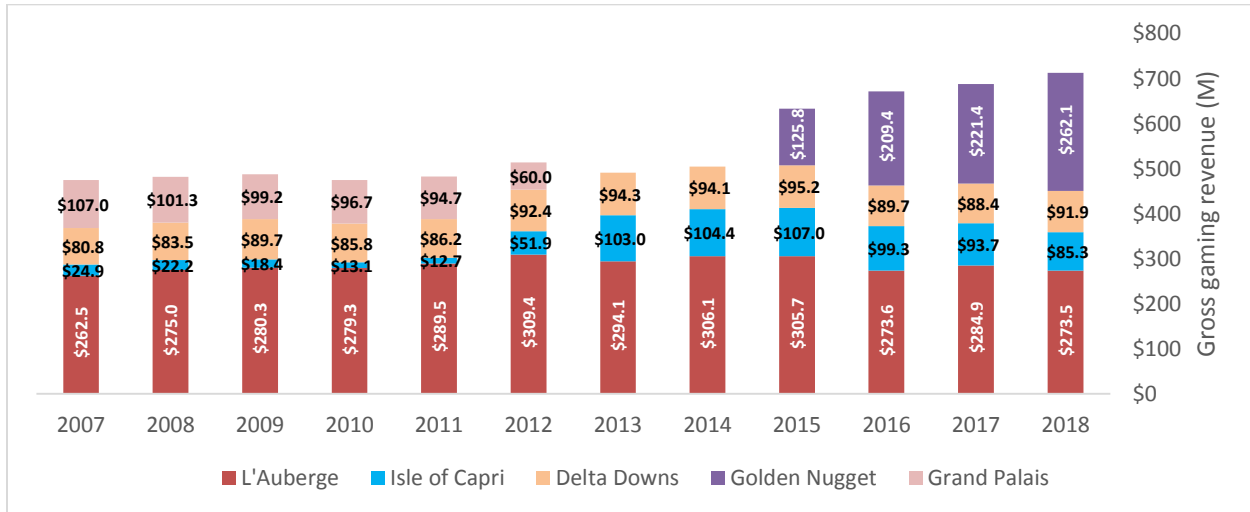


Source: Louisiana Gaming Control Board

The LGCB provided estimates of GGR generated by out-of-state visitors plus visitors who arrive from anywhere beyond 150 miles (collectively “out-of-market”). Estimates for the three riverboat casinos are 77 percent for Isle of Capri, 85 percent for L'Auberge, and 83.7 percent for the Golden Nugget. Delta Downs does not estimate the out-of-state portion of revenue, but Spectrum believes the percentages are

similar to those of the riverboats, as noted above. The following chart presents the out-of-market revenues by property if one estimates that Delta Downs attracts only 50 percent of its revenue from out of state.

Figure 87: Estimated Lake Charles GGR from out-of-market players, 2007-2018



Source: Louisiana Gaming Control Board, Spectrum Gaming Group

The Lake Charles market absorbed the late 2014 addition of Golden Nugget. Revenues at the incumbent properties fell by less than the market grew, as the chart indicates. The addition of the Golden Nugget was a net positive for the market and for Louisiana, which is now earning more tax revenue from the Lake Charles market than it did before Golden Nugget opened. Houston is the primary driver of the Lake Charles market demand. The following table illustrates Spectrum’s estimated potential demand from within the Houston market.

Figure 88: Estimate of Houston MSA potential gaming demand

Houston MSA population		6,890,000
Over 21	70%	4,823,000
Casino players	27%	1,302,000
Trips per year	10	13,020,000
Spend per trip at \$95 per person		\$1,236,900,000

Source: US Census Bureau American Fact Finder, Spectrum Gaming Group

By using population and gaming participation numbers, Spectrum can derive the potential gaming revenue in a market. Participation and visitation are higher for areas closer to casinos. Although markets that are more distant from casino participation and visitation are lower, the spend per trip is usually higher. Given that nearly 80 percent of the GGR in Lake Charles is believed to be derived from out-of-state or more than 150 miles away, using the 2018 average GGR per visit at Lake Charles of \$95 seems appropriate.

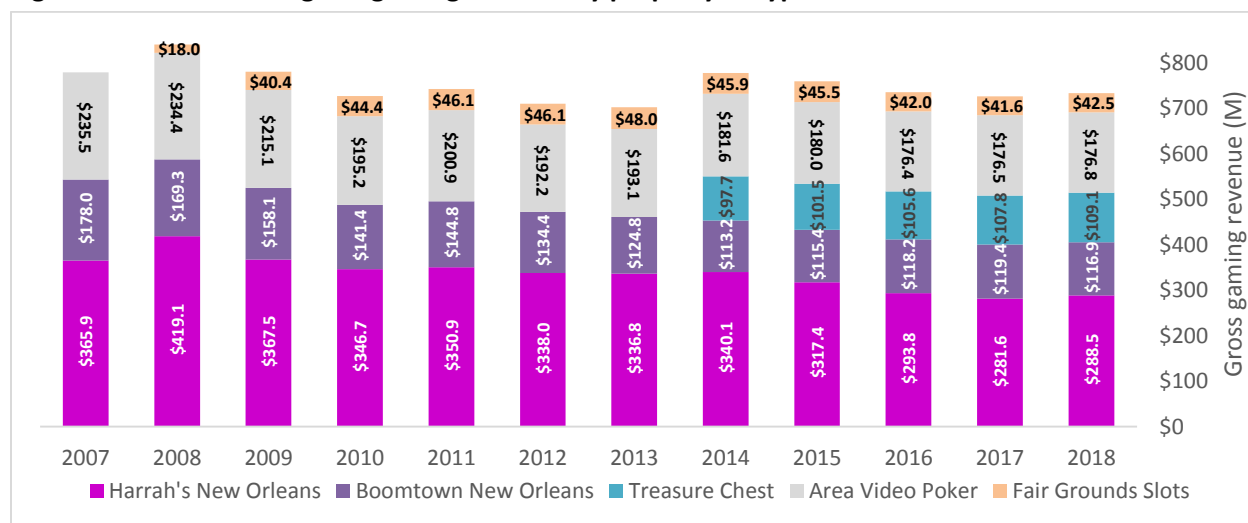
With out-of-market revenues currently captured in Lake Charles estimated at \$713 million, Spectrum found that nearly half the market potential of Houston is untapped. As such, the Lake Charles market is underserved and could absorb more gaming positions. The previous square-footage limit of

30,000 on the gaming floor had the effect of constraining gaming availability. While the new position limit of 2,365 is also a constraint, the ability for each property to add positions is a great help when combined with the provision for moving to within 1,200 feet of the dockside enables additional gaming capacity – which is needed for this market to meet demand.

4. New Orleans

The New Orleans market is unique in Louisiana. It hosts one land-based casino, two riverboat casinos, a racino, OTBs offering video poker, and other video poker operations. The table below shows commercial casino revenues by operator as well as gaming revenues for all forms of video poker. For the purpose of this analysis, the video poker operations in Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James and St. John parishes are included.

Figure 89: New Orleans gross gaming revenue by property or type



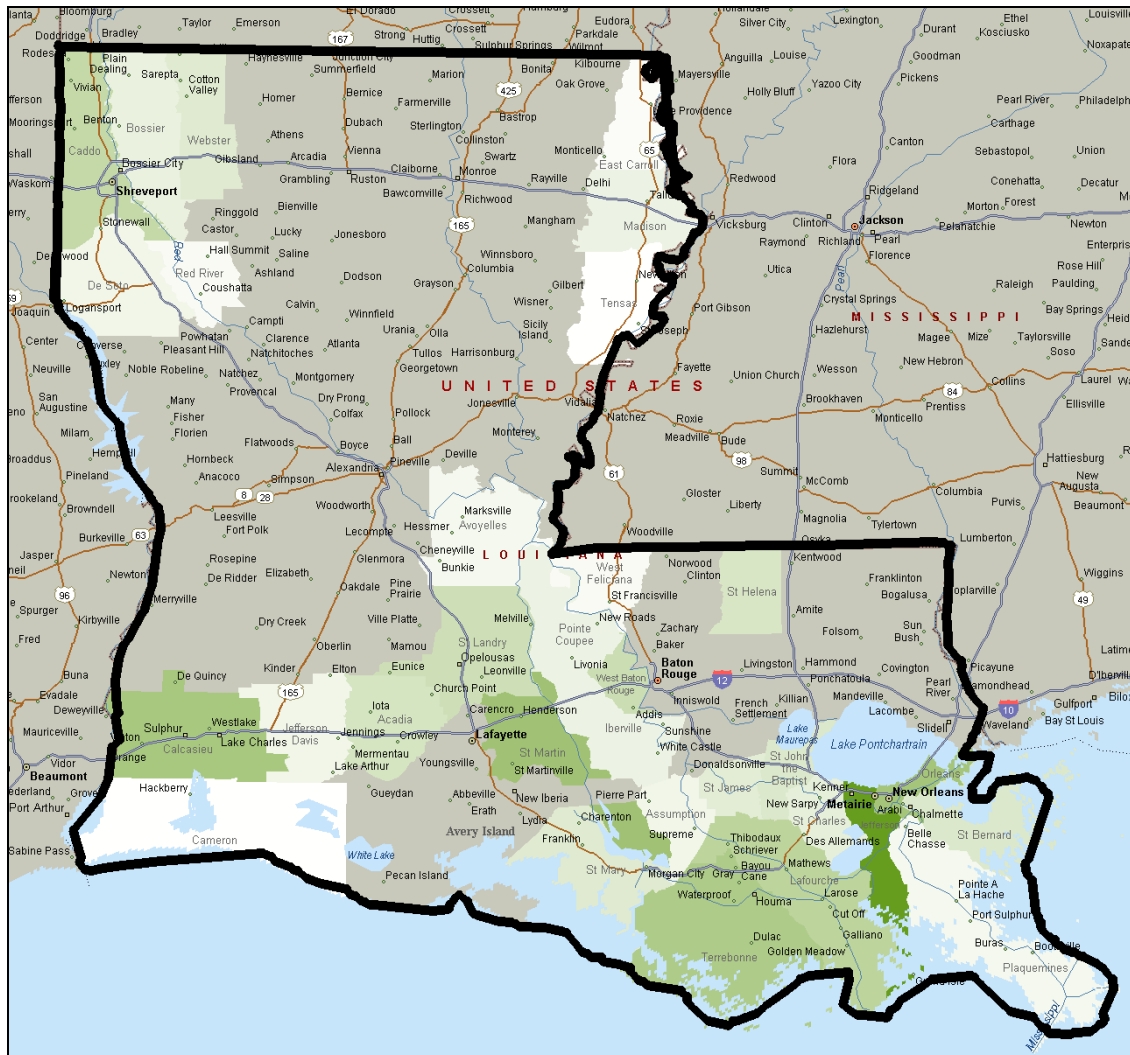
Source: Louisiana Gaming Control Board

The market shifted slightly when Orleans Parish implemented a smoking ban. Revenues at Harrah's decreased while revenues at the two riverboats in Jefferson Parish, where there was no smoking ban, increased. Overall, revenues in the market fell \$45 million from 2014 to 2018, which may be due to the smoking ban in Orleans Parish. Video poker revenue in Orleans Parish fell from \$37.8 million in FY 2015 to \$31.6 million the following year, and to \$30.2 by 2018. The New Orleans-area market including the surrounding parishes has been fairly stable since the smoking ban.

C. Louisiana Video Poker

The following map illustrates the concentration of video poker devices in each parish. The deeper the shade of green, the more devices are in the parish. The gray parishes are those that do not permit video poker. There is a concentration of video poker across the southern portion of the state and as well as regions in the Northwest and the Northeast. The Northwest area includes Shreveport-Bossier City. The Northeast section hugs the Mississippi River and includes Tallulah.

Figure 90: Distribution of video poker games

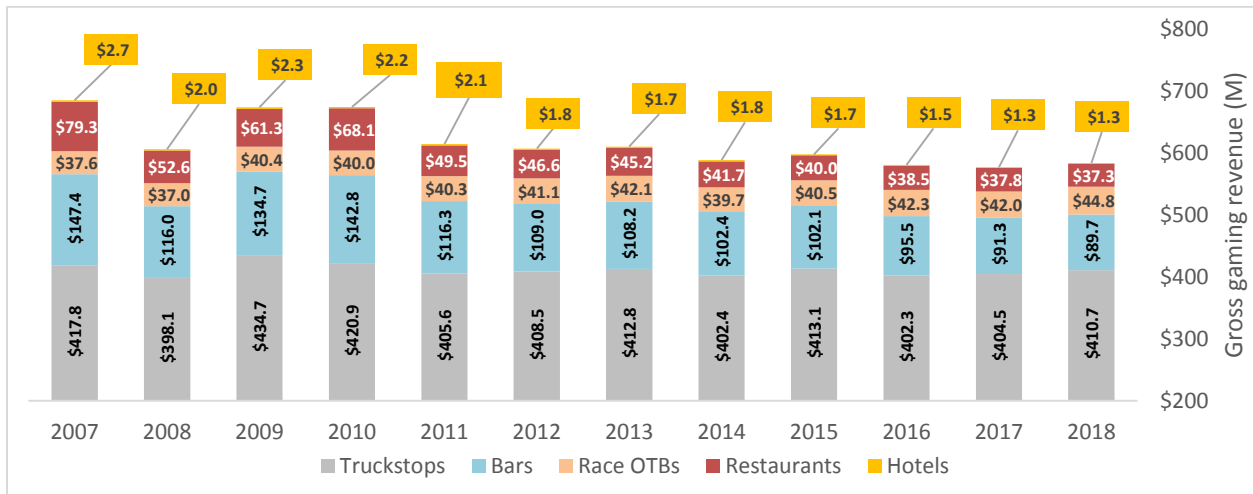


Source: Microsoft MapPoint, Louisiana Gaming Control Board, Spectrum Gaming Group. Darker shades of green illustrate more devices. Gray = parishes with no video poker.

In parishes that offer both video poker and casino gaming, the two forms of slot-style gaming can complement each other rather than compete against each other. Jefferson Parish, the parish with the highest number of video poker games, is home to two riverboat casinos. The casinos offer an array of game choices among their slot machines, whereas the video poker venues specialize in, and are restricted to, poker-based games.

The chart below displays statewide video poker GGR by type since 2007. The impact of the Great Recession in 2008 stands out. Since 2008, more than 1,700 video poker machines have been pulled from the market, with the majority of those coming from the smaller operators at bars and restaurants. The win per unit overall in the video poker market has held fairly steady over the years at between about \$115 and \$120. Revenues were fairly stable in the \$600 million range through 2015, when the smoking ban in Orleans Parish hit revenues at many OTBs and other video poker outlets. From the 2009 peak, video poker revenues have declined 13 percent.

Figure 91: Video poker gross revenue by type, 2007-2018



Source: Louisiana Gaming Control Board

Initially, the truckstop portion of the State’s video poker scheme was envisioned as locating machines along highways so that interstate travelers and truckers could take a break from the road and play some video poker. That is the genesis of the lot-size requirements, the gallonage requirements, and other interstate highway service amenities that are written into the law. The industry believes these restrictions are outdated with the reality of the industry as it operates in Louisiana.

Video poker operators received some regulatory relief last year. Stan Guidroz, president of the Louisiana Video Gaming Association, told Spectrum that other restrictions are holding back the business. The industry believes that the restriction on locating a truckstop within one mile of a residence makes the fuel gallonage requirement redundant. If the goal is to keep video poker in existing locations rather than spreading to other areas, the mileage restriction meets that goal. There is a minimum restriction on the size of the lot which in and of itself is not an issue. However, should an operator have a larger lot than is required and wish to sell a portion, it is difficult to do so.

Changing the lot size is treated by the regulators as a new license. If a 10-acre site is in a location ripe for other development, the operator has to go through the process of re-permitting and re-licensing even though the only change is to the size of the land being permitted. This restriction limits operators from disposing of an unneeded asset and stifles the opportunity for additional businesses to develop. The site may be a good location for a hotel, grocery store, or miniature golf course, but the truckstop operator is not in that business. The inability to sell a surplus portion of the defined lot reduces the value of the site and may be holding back economic development in some cases.

For establishments such as bars and restaurants, Guidroz and Mona LaCombe, Executive Director of the Louisiana Amusement & Music Operators Association, as well as Senators Gary Smith Jr. and Ronnie Johns, told Spectrum that video draw poker devices are a lifeline for many of these establishments. The revenue from the video poker in many cases made the difference between staying open and closing. Senator Smith noted that the small operators are the local folks, not big casino companies with corporate offices out of state.

D. Key Issues for Louisiana Casino Operators

As part of this study, Spectrum visited 14 riverboat casinos, the land-based casino in New Orleans, all four racinos and the four tribal casinos in the state. We further visited several video poker truckstop operations and OTBs, along with liquor-licensed establishments that have video poker machines. At each property we observed the condition of the property, the overall feel of the property and the amenities available to guests. During these visits there were opportunities to meet with management to discuss the challenges facing the industry and opportunities to improve the business environment and increase the economic impact of the commercial gaming industry.

In conversations, casino executives expressed concern about the gaming-tax rates in Louisiana relative to Mississippi, Oklahoma and Arkansas. They believe that it put the Louisiana operators at a disadvantage to out-of-state competitors. As noted in other sections of this report, the effective gaming taxes in each of the states are:

- Louisiana: 21.5 percent State and about 4.5 percent local
- Mississippi: 8 percent State and about 3 percent local, but device fees vary
- Oklahoma (tribal): 6 percent on slot revenue over \$20 million; 10 percent on tables
- Arkansas: 13 percent on the first \$150 million then 20 percent

A related concern is the tax treatment of promotional slot credits, commonly called “free play” (which is analyzed further in Section E.4 below, and in Chapter III from a regulatory/legal and policy perspective).

Other key issues of importance to Louisiana casino operators:

- **Sports betting:** Casino operators believe sports betting should be implemented in sports-mad Louisiana. They, along with legislators and regulators interviewed by Spectrum, said the Gaming Control Board should be the regulator of sports betting. Some legislators expressed concern about the accessibility to minors if online books were permitted. Some believe this matter could be mitigated by requiring a bettor to visit a casino to establish an account and a requirement that winnings be collected in person rather than online.
- **Impacts of oil and gas pricing:** Because of its importance to the Louisiana economy, operators said the impacts of oil and natural gas pricing – and what it does to employment – is always on their minds, although they recognize there is little they can do about it. When petroleum and natural gas prices are high, that sector is strong and its workers have more disposable income to visit casinos. But for the rest of the state high gasoline prices erode disposable income.
- **Finding skilled hospitality employees:** As the industry shifts into more resort-style properties, finding talented hospitality personnel has become more challenging. When asked about this, RB Smith, Vice President of Business and Workforce Development at the of the Southwest Louisiana Economic Development Alliance, noted that McNeese University in Lake Charles has

received a \$10 million grant to develop a culinary, gaming and hospitality complex. Highlights of the program were featured in a local article.⁵⁴¹

E. Analysis of Action to Address Potential Threats

Having identified threats and issues that may be impeding further development and growth, thought needs to be given to how to address or mitigate these barriers for commercial casinos. Some barriers can be dealt with only through legislation while others require regulatory changes.

Casino operators clearly understand – and welcome – the need for regulation. However, from the operators’ perspective, the State is a 21.5 percent partner with the casinos. Operators believe their partner should continue to work with them to grow the industry responsibly and in a regulated way.

1. Political, Legislative

Portions of the commercial gaming industry can make donations to political parties and officeholders. Video poker operators, racetrack operators and horsemen can make political donations. Even the Indian nations within the borders of Louisiana make political donations to State officeholders.⁵⁴² Riverboat and land-based casino operators, however, cannot make political donations, which they believe makes it more difficult for their voices to be heard. As an industry that employs more than 17,000 people directly and pays more than \$400 million in gaming taxes (2018), the industry believes it should be allowed to contribute to political campaigns like other industries do.

Based on our research and analysis for this study, Spectrum believes the State may be better served by reallocating its casino assets. (See analysis in Section E.3 below). We note that the industry itself does not seek expansion, and Spectrum believes the number of licenses is sufficient for the state. As it stands, some rivers in the state are not approved as riverboat gaming sites.⁵⁴³ At the time the legislation was originally enacted, some exclusions based on navigability or other considerations may have been necessary. With the changes made to permit casinos to remove paddlewheels and maritime crews, and to move on land, more areas should be opened for casino development. Additional sites may make it possible for an operator in an overcrowded market such as Bossier City to move the casino to an underserved area of the state, namely the Northeast, or an area where there is significant leakage of gaming revenues to Mississippi, namely the Northshore of Lake Pontchartrain.

2. Regulatory

The gaming industry has evolved in the 25 years since the first Louisiana casino opened in Shreveport. Initially there was such a demand for gaming that the first properties offered little more than

⁵⁴¹ Marlisa Harding, “Sowela’s \$10.2M game plan,” *American Press*, August 9, 2018.

https://www.americanpress.com/news/sowela-s-m-game-plan/article_b827dc54-9beb-11e8-b77a-8759b0f2b69c.html

⁵⁴² See OpenSecrets.org, “Tunica-Biloxi Tribe of Louisiana: Profile for 2016 Election Cycle.”

<https://www.opensecrets.org/orgs/summary.php?id=D000029534&cycle=2016>

⁵⁴³ La. Rev. Stat. § 27:43(B)(1).

“a boat and buoy,” as some said at the time. Jack Binion was among the first to realize that additional investment would make the property more attractive to players. His Horseshoe developed more than 600 hotel rooms, several restaurants and other amenities to appeal to the patrons driving in from Dallas. The property has been the top-grossing property in the market since opening.

The Louisiana gaming market continues to evolve in the direction of entertainment and experiences. The regulatory environment needs to be receptive to the needs of the industry. Although the industry has grown and expanded, certain issues remain unchanged. A 2003 Associated Press story about the 10-year anniversary of casinos in Louisiana noted that:

While the state was preoccupied with gambling, the 1990s economic boom across the United States largely bypassed Louisiana, which lost thousands of manufacturing and oil jobs and now finds itself in an almost-desperate game of catch-up with other states in attracting new business in a much-slower environment.

Industry analysts have said Louisiana took a wrongheaded approach, first by limiting the number of riverboat casinos, which made the licenses themselves valuable and subject to corruption, and then restricting land-based gambling in New Orleans.

During the same time, Mississippi took a market-based approach to dockside gambling, rather than limiting the number of licenses. The Louisiana projects had to have local investors, some of which sold out for millions even before the wagering began. Gus Mijalis, a longtime crony of former Gov. Edwin Edwards, got a small share of a New Orleans boat that he eventually sold for \$26 million.

As a result, Mississippi’s industry boomed while Louisiana’s often staggered. Four riverboats in New Orleans either failed or were canceled. A downtown casino in New Orleans went bankrupt twice. And [Governor Edwin] Edwards himself went down, now serving a 10-year federal prison sentence for extorting riverboat applicants.⁵⁴⁴

The industry has consolidated, and as such there may be economies of scale among multi-property owners in Louisiana by consolidating some back-of-house operations including human resources, marketing, finance and purchasing. Many of these roles can be centralized to offer better nationwide pricing and coordination of policies. However, there is concern among regulators and legislators that off-siting some management and administration functions will reduce employment. It may, in fact, do just that, but casino operators need to operate their businesses efficiently. Making the casinos more profitable through lowered costs may encourage additional investment in the properties.

In 1993 when the casino industry first opened in Louisiana, there was no truly functional internet, slot machines were just adding bill validators, and ticket-in/ticket-out was a dream. Yet the operators in some cases still have employment requirements based on the state of the industry 25 years ago. At that time, much of the daily accounting and auditing had to be performed on site. That is where the coins were counted and bagged so they could go back into the hoppers for the next day. Today, much of the accounting function could be performed off site. Moving offices off a property’s footprint would free space at the properties for more customer-facing options.

Boyd Gaming, Caesars Entertainment, Eldorado Resorts and Penn National Gaming each have multiple properties in the state. Centralizing these back-of-house functions to a location in the state but

⁵⁴⁴ Associated Press, “Ten years later, casino expectations unfulfilled,” November 2, 2003, via CasinoNews365.com. <http://www.casinonews365.com/2227/ten-years-later-casino-expectations-unfulfilled/>

away from the properties could improve efficiency – as well as oversight. Operators believe that savings from consolidation could be reinvested in their gaming properties.

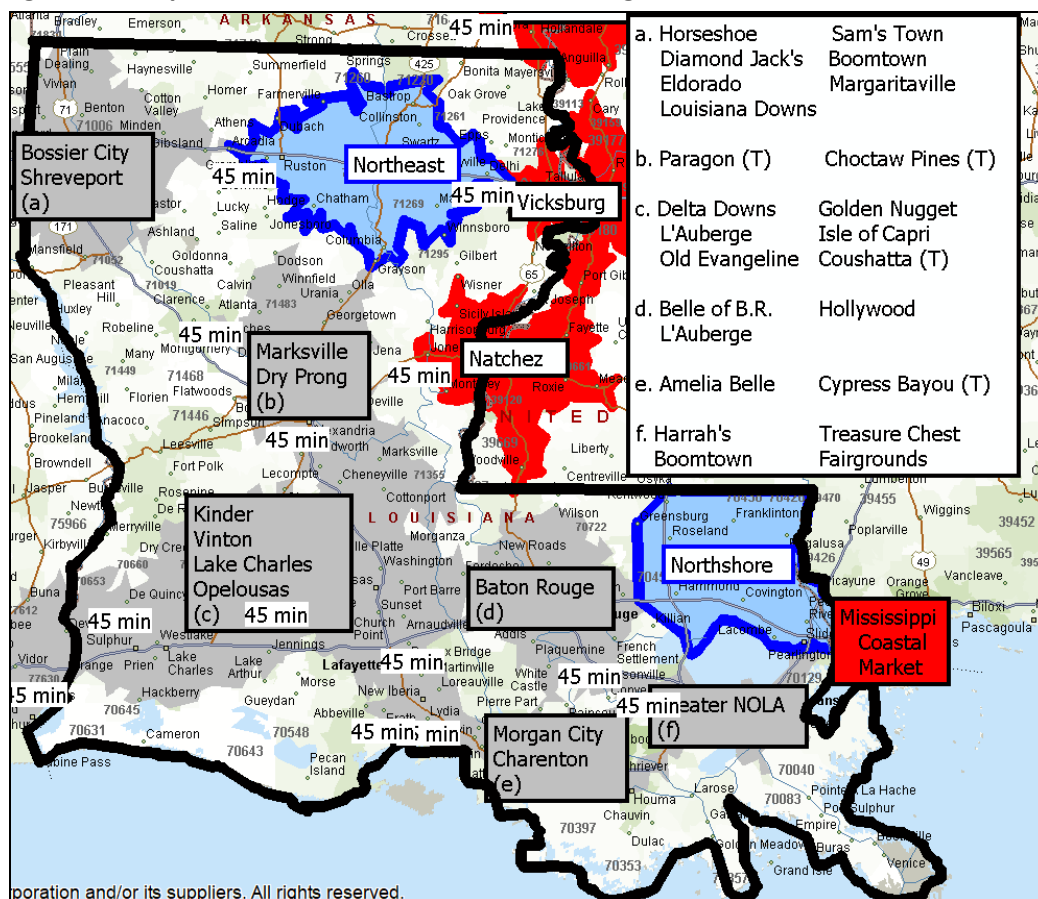
3. Market Changes

Regulatory changes are one step toward bolstering Louisiana’s casino industry. Market changes are wholly another. In this section, we examine the market to determine whether it makes sense to relocate one or more casinos for optimal benefit for the State.

The map below of the state’s current primary market catchment reveals two areas (shown in blue) that Spectrum found to be underserved (i.e., there is more demand than supply). They are the Northshore of Lake Pontchartrain (“Northshore”) and the northeast section near Monroe and Tallulah (“Northeast”). When considering relocating a casino, the size of the market and the potential impacts on other casinos must be considered.

Our analysis examines the potential gaming revenue, the market and, importantly, the State gaming-tax impacts of moving one riverboat casino each to the Northshore and the Northeast.

Figure 92: Map of Louisiana casino markets showing underserved areas



Source: Microsoft MapPoint, Spectrum Gaming Group

State legislators, regulators and economic development officers are tasked with using the available resources of Louisiana to better the welfare of the people. From the analysis of the Shreveport-

Bossier City market, it appears that there are too many of the State’s valuable casino licenses in that area. This over-capacity hurts all operators by increasing competitive pressures and it hurts the citizens of the State by not optimizing tax receipts.

Reallocating the licenses to underserved areas holds the promise of additional economic development and increased tax revenues. Such a reallocation would also strengthen the operators remaining in the Shreveport-Bossier City market. With fewer operators, each in the market would be more profitable and be better able to reinvest in their properties. The LGCB publishes estimates of the number of visitors who go to a casino from out of state or from farther than 150 miles away. Using this information it is possible to estimate the local contribution of the marketplace. This is essential when evaluating a level of market saturation, calculating the potential of the market, and identifying underserved areas.

Northshore Casino

First we analyze the potential of relocating a casino to the Northshore of Lake Pontchartrain. The following table shows the estimated local casino gaming revenue in the New Orleans market.

Figure 93: Estimated New Orleans casino gross gaming revenue generated by local players, 2018

Total Gaming Revenue (000)	2018
Boomtown New Orleans	\$116,919
Treasure Chest	\$109,127
Harrah’s New Orleans	\$288,530
Market Revenue (000)	\$514,576
Total Visits	2018
Boomtown New Orleans	1,115,804
Treasure Chest	1,009,494
Harrah’s New Orleans	4,222,177
Market Visitation	6,347,475
Win/Visit	2018
Boomtown New Orleans	\$105
Treasure Chest	\$108
Harrah’s New Orleans	\$68
Market win per Visit	\$81
% Outer Visits	2018*
Boomtown New Orleans	14.6%
Treasure Chest	17.4%
Harrah’s New Orleans	40.0%
Market Total	31.9%
Estimated Local Visits	2018
Boomtown New Orleans	953,000
Treasure Chest	834,000
Harrah’s New Orleans	2,533,000
TOTAL Estimated Local Visits	4,320,000
Estimated Local Revenue (000)	2018
Boomtown New Orleans	\$99,860
Treasure Chest	\$90,160
Harrah’s New Orleans	\$173,100
Total Estimated Casino Local Revenue	\$363,120

Source: Louisiana Gaming Control Board, Spectrum Gaming Group, company correspondence. * 2018 is average of prior years.

Using this method, it appears that 70 percent of casino revenues in New Orleans are generated by locals. However, the three casinos are not the only forms of gaming in the New Orleans area. There are

many video poker establishments and the Fair Grounds racetrack with slot machines. Deriving the total estimate of the local market requires adding in these numbers as well. Neither video poker nor the Fair Grounds slots are major tourist draws. For the purposes of estimating the local New Orleans market, we have treated all the revenues at these venues as local.

Figure 94: New Orleans casino + video poker local gross gaming revenue, 2018

Total Gaming Revenue (000)	2018
Fair Grounds Slots	\$42,508
Area Video Poker	\$176,837
Boomtown New Orleans	\$116,919
Treasure Chest	\$109,127
Harrah's New Orleans	\$288,530
Market Revenue (000)	\$733,921
Estimated Local Revenue	2018
Fair Grounds Slots	\$42,508
Area Video Poker	\$176,837
Boomtown New Orleans	\$99,860
Treasure Chest	\$90,160
Harrah's New Orleans	\$173,100
Total Est. Local Rev	\$582,465

Source: Louisiana Gaming Control Board, Spectrum Gaming Group

Once we have estimated the GGR from locals, we need to estimate the total market potential for commercial gaming in the New Orleans area. We can do this using two methods: The first is population based and the second is based on per-capita win.

The population method examines the number of adults in the area, the likely propensity to gamble, the frequency and the spend per trip. Some of these numbers are known; others we can estimate based on industry standards and experience. In markets such as Louisiana where casinos have been established for a long time, gaming participation rates tend to be higher and visitation more frequent than the national averages. The analysis below reflects that trend.

Figure 95: Estimated New Orleans MSA gaming market potential

Estimated Market Potential	Spend/Trip	Estimated Annual Trips	Estimated Players	Estimated % Participation	Population Over 21
\$705,960,000	\$106	18	370,000	39.0%	949,417

Source: US Census Bureau, Spectrum Gaming Group

The market potential estimate exceeds even the estimate of local revenue. This may be due to the leakage from the New Orleans area to out-of-state casinos, specifically to those in Mississippi.

The actual local per-capita win is approximately \$1,575 per player, which is higher than the national average of \$952.⁵⁴⁵ That level may be caused by several factors, including the number of gaming venues creating more places to play, and the New Orleans area's exposure to casino gaming for a long time, increasing the propensity and frequency of play. The higher level does not seem out of bounds.

⁵⁴⁵ Spectrum Gaming Group, "Challenges Facing Indiana's Commercial Gaming Industry, including Planned Indian Casino in South Bend," prepared for the Casino Association of Indiana, December 6, 2016.

http://media.wix.com/ugd/b78788_795a4c4085da46b2970d80491400a1fd.pdf

However, that is merely an estimate of the local commercial gaming market based on LGCB visitation origin data.

Using the same methodology as in the above estimate but with slightly lower numbers for participation, trips and spend, Spectrum calculates the potential for the Northshore market is just under \$133 million in gross gaming revenue.

Figure 96: Estimated Northshore gaming market potential, by parish

	Estimated Market Potential	Spend/ Trip	Estimated Annual Trips	Estimated Players	Estimated % Participation
Livingston Parish	\$56,000,000	\$100	16	35,000	37%
Washington Parish	\$19,200,000	\$100	16	12,000	37%
St. Helena Parish	\$4,800,000	\$100	16	3,000	37%
Tangipahoa Parish	\$52,800,000	\$100	16	33,000	37%
Northshore total	\$132,800,000	\$100	16	83,000	37%

Source: US Census Bureau American Fact Finder, 2017 population estimates; Spectrum Gaming Group

Recall that the estimated market size for New Orleans local gaming is almost \$706 million, which is for the parishes in the New Orleans–Metairie Metropolitan Statistical Area (“MSA”). The four parishes in the Northshore are not included in the MSA. Adding this to the market potential drives the estimated market to \$838 million. With a local New Orleans capture of an estimated \$582.5 million, there appears to be unmet demand in the market, or leakage to Mississippi of more than \$255 million.

The Mississippi Gaming Commission (“MGC”) does not distribute revenue and admission numbers by property. Rather, it groups the area into three regions: Coastal, Central and North. The relevant area for this discussion is Coastal.

The MGC provides information on total visitation and revenues, along with estimates of visitation by state.⁵⁴⁶ By dividing revenue by visits, one arrives at a win per visit, and by multiplying the estimated Louisiana visits by the average win, we can estimate the leakage from Louisiana. For calendar year 2018, the MGC estimates there were approximately 3.3 million visits to Mississippi Coastal casinos from Louisiana, with an average trip worth of \$118. Using these two data points generates an estimate that there was more than \$380 million in leakage from Louisiana to Coastal casinos in the past 12 months.

From a fiscal and economic impact perspective, it makes sense for Louisiana to try to repatriate this leakage from Mississippi. One means would be to relocate one casino from the overcrowded Shreveport-Bossier City market to the Northshore. Two possible candidates for such a move are DiamondJacks and Boomtown Bossier City. DiamondJacks, the licensee with the lowest revenue in Shreveport-Bossier City, generated GGR of just \$38 million in 2018. Boomtown, the second-lowest performer, generated just \$56.5 million that year. Moving one or both of these licenses to the underserved Northshore would strengthen the remaining boats in the Shreveport-Bossier City area while providing incremental tax receipts to the State, as illustrated in the following table.

⁵⁴⁶ Mississippi Gaming Commission Monthly Regional Data Reports, December 2018.
http://www.msgamingcommission.com/files/quarterly_reports/RegionalReport12.2018.pdf

Figure 97: Illustrative estimate of moving Boomtown Bossier City to Northshore

(All amounts 000)	Boomtown Bossier City: 2018 actual	Northshore Casino: Spectrum est.	Annual Difference
GGR (000)	\$56,500	\$100,000	\$43,500
Gaming Tax (000)	\$12,142	\$21,500	\$9,358

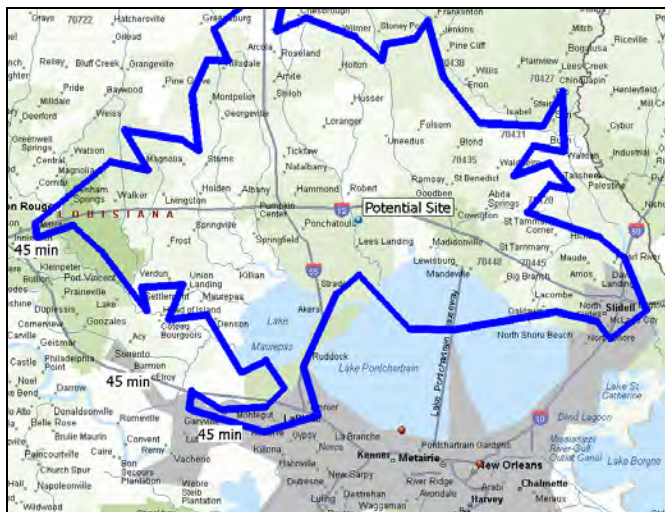
Source: Louisiana Gaming Control Board, Spectrum Gaming Group

If the new Northshore casino were to grow the market by \$100 million by offering a new, more convenient casino for people on the Northshore of Lake Pontchartrain, the State would benefit by more than \$9 million in direct gaming taxes alone.

However, there would likely be cannibalization of the existing casinos in the New Orleans market. But, as shown in the evaluation two tables above, the market potential exceeds the actual market captured by the Louisiana properties including the video poker and racetrack slots, and thus we believe cannibalization would be minimal.

Spectrum assumes no specific site for such a Northshore casino, but there are important considerations in siting it. The map below shows the 45-minute drive time from Harrah’s and Treasure Chest in gray, and a potential Northshore site near Highway 445 outlined in blue. For being so close geographically there is little overlap when drive times are considered. Approximately 50,000 people live in the overlapping areas, meaning a potential overlapping market of less than \$25 million in GGR.

Figure 98: Map of prospective Northshore casino primary catchment areas



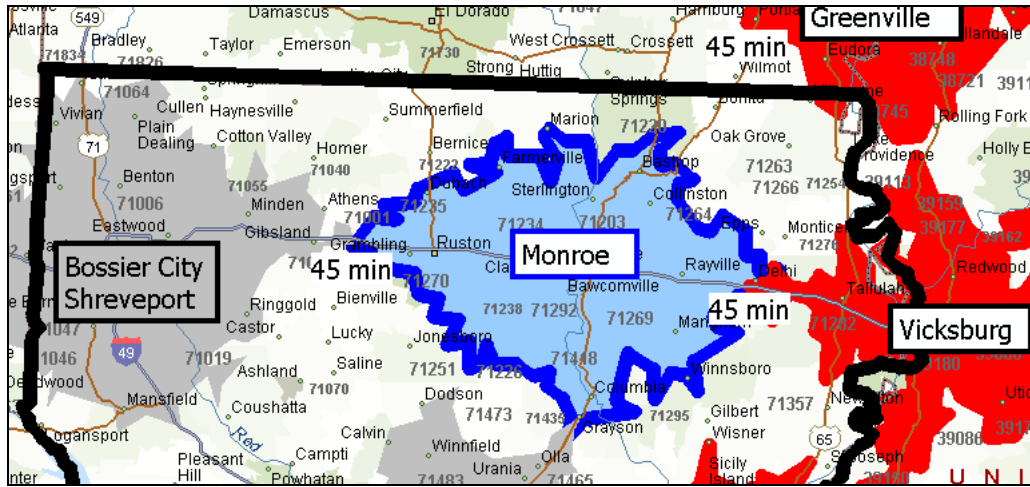
Source: Microsoft MapPoint, Spectrum Gaming Group

Northeast Casino

A second area of the state that appears underserved in gaming, and likely has significant leakages to Mississippi, is the northeast section of Louisiana. The Monroe area has some charity bingo halls but no other legalized gaming in Louisiana within a 60-minute drive. Vicksburg, MS, is the closest gaming destination. The blue area on the map represents a 45-minute drive time from Monroe and encompasses

a population of approximately 270,000. As shown on the map, there is no local-market overlap of Louisiana casinos in this region.

Figure 99: Map of a prospective Monroe casino primary catchment area



Source: Microsoft MapPoint, Spectrum Gaming Group

Figure 25: Projected gross gaming revenue for new casino in or near Monroe

Est. Area population	270,000
Over age of 21	70%
Participation rate	33%
No. annual visits	14
Average spend per visit	\$85
Estimated gross gaming revenue	\$74,220,000

Source: Spectrum Gaming Group

Here, too, there is a gain for the State. If a casino in the Northeast area were to capture just \$60 million of the estimated \$74 million, State gaming tax revenues would increase by nearly \$5 million. Moving a license from the Shreveport-Bossier City market to Monroe may increase statewide revenues by repatriating players who currently visit Mississippi casinos. Unlike in the New Orleans analysis above, there would be little to no issue of cannibalization. Monroe is approximately 100 miles east of Shreveport, but only 75 miles west of Vicksburg.

Figure 100: Illustrative estimate of moving DiamondJacks in Bossier City to Northeast

	DiamondJacks: 2018 actual	Northeast Casino: Spectrum est.	Annual Difference
GGR (000)	\$38,100	\$60,000	\$21,900
Gaming Tax (000)	\$8,184	\$12,900	\$4,716

Source: Louisiana Gaming Control Board, Spectrum Gaming Group

Moving a casino license, however, is not a simple matter. Two issues must be tackled. First, there must be a local referendum passed by the citizens of the parish to allow casino gaming in the parish. Second, a waterway in the area must be designated as suitable for a casino. It appears this requires

changing the Louisiana Economic Development and Gaming Control Act.⁵⁴⁷ But Spectrum believes that the name of the Act speaks volumes about the necessity of authorizing additional rivers as potential gaming sites. Economic development is the center of the Act. To maximize the potential and the value of the licenses, the State should permit licensees to move to a parish with the consent of the local population.

Increase Gaming Capacity in Lake Charles

Another potential opportunity is to add additional casino capacity to Lake Charles. As noted earlier in this chapter, with out-of-state/market revenues currently captured in Lake Charles estimated at \$713 million, Spectrum found that nearly \$500 million of the market potential of Houston is untapped. As such, the Lake Charles market is underserved and could easily absorb more gaming positions.

There are some risks to this, as it increases the investment on the Texas side of the state, and on the reliance on Texans for revenue. If Texas ever were to authorize gaming, as discussed elsewhere in this report, the Lake Charles market would be in danger.

The safer bet would be to locate additional properties on the east side of the state. In this area competition is already established. Additionally, Spectrum found that based on our analysis of Mississippi Gaming Commission data, Louisianans are spending over \$400 million in GGR each year at Mississippi casinos. Repatriating these dollars is a big win for Louisiana.

4. Eliminate Tax on Promotional Play

As discussed earlier in this chapter (as well as in Chapter III), free play is a marketing tool used across the country at casinos as both a reward for loyal play and as a coupon to encourage a visit, much like supermarkets do.

Unlike some states, Louisiana does not deduct promotional free play from gross gaming revenue to arrive at a taxable adjusted gross revenue (“AGR”) number. Many states, including Mississippi, use the after-free-play deduction of the adjusted gross revenue as the basis for taxing casinos. This practice puts Louisiana casinos at a disadvantage to Mississippi properties. Wade Duty, Executive Director of the Louisiana Casino Association (“LCA”), explained it this way to Spectrum: “I go into Target to get a new coffee maker because I have a 20 percent off coupon. I find one that costs \$100. I take it to the cashier. She rings it up at \$100. I give her my 20 percent off coupon and the price adjusts to \$80. The sales tax is now calculated on the \$80 not the \$100.”

But that is not the way it works in Louisiana casinos. If a patron enters a casino with a \$20 free play offer and \$80 in cash and completely expends both, the casino has won \$80 from the player. That is bankable money. However, the casino must pay a tax of 21.5 percent on the \$80 in cash *and* the \$20 in free play, for a taxable total of \$100. So the casino ends up paying \$21.50 on \$80 of revenue, or an equivalent tax rate of 26.9 percent.

⁵⁴⁷ La. Rev. Stat. § 27:43(B)(1), (B)(2)(a).

Based on data provided by LCA through its members, Spectrum estimates that Louisiana casinos redeem \$250 million in a year. Removing free play from the tax calculation could would leave a hole of \$53.75 million in the State budget. To make up for this reduction, the industry would have to generate an additional \$250 million in GGR – and issuing more free play can do just that.

A review of the performance of free play in states where it is disclosed, and where free play is not taxed, shows that there is more than \$5 of adjusted gross revenue for every \$1 of free play. The following chart shows the ratios of gaming revenue to free play in four relevant jurisdictions.

Figure 101: Ratio of casino win to free play in New York, Ohio, Pennsylvania

	Casino Win (AGR)	Free Play	Win per \$ Of Free Play
New York Racinos	\$1,886,387,825	\$249,068,803	\$7.57
New York Casinos	\$440,155,126	\$81,611,628	\$5.39
Ohio Casinos	\$837,482,101	\$113,598,129	\$7.37
Pennsylvania Casinos	\$1,543,566,505	\$401,898,418	\$3.84
Totals	\$4,707,591,557	\$846,176,979	\$5.56

Source: State gaming commissions, Spectrum Gaming Group

Promotional play is a successful marketing tool, one relied upon by Louisiana casino operators. With industrywide GGR of \$2.57 billion and “cash GGR” of \$2.32 billion, this means Louisiana casinos generated more than \$9 per dollar of promotional allowances redeemed. In the states highlighted above, promotional play yields only \$5.56 per dollar spent. This indicates that promotional credits are used less in Louisiana than in other states. The tax on free play may be holding them back from using this tool more aggressively.

Spectrum believes that casinos could profitably add \$50 million to the promotional credits offered to players and generate significant additional revenues as a result. Using a \$7-to-\$1 ratio, higher than in other states (as shown in the table above) but lower than in Louisiana, Louisiana casinos could generate \$300 million in additional “cash GGR.”

Figure 102: Example of how tax-free play could generate higher GGR and tax receipts

(\$ in M)	Current: With Free Play Taxed as GGR	Future: No Tax On Free Play	Change
2018 Casino/Racino GGR	\$ 2,568	\$2,918	\$350
Estimated Free Play	\$250	\$300	\$50
GGR Tax on Free Play @ 21.5%	\$54	0	\$(54)
GGR excluding Free Play; i.e., “Cash GGR”	\$2,318	\$2,618	\$ 300
Total GGR Taxes @ 21.5%	\$552	\$563	\$11
Ratio of “Cash GGR” to Free Play	9.27	8.73	(0.55)

Source: Spectrum Gaming Group

Applying the 21.5 percent gaming-tax rate yields \$563 million in tax revenue on the increase in GGR, an amount which exceeds the estimated \$552 million in taxes under the existing formula in free play currently being issued by Louisiana casinos. Eliminating the tax on free play will empower the operators to offer more promotional play, which should drive additional revenue.

5. Allow Sale or Lease of Unused Position Capacity

In 2018, revisions to the gaming laws eliminated the square footage restrictions on the size of the gaming floor and replaced them with a restriction on the number of positions. The maximum positions are 2,365, which is more than the largest operator currently. The 15 casinos could offer a maximum of 35,475 gaming positions. Not every operator or market needs additional positions. But some may want more than the maximum allowed.

The State may benefit by allowing operators who are not using the additional machines to sell or lease the available positions to another operator. Swapping or trading gaming positions would allow operators in Lake Charles, for example offer larger gaming floors to meet the demand from the Houston market. Larger floors may also mean a change in how the floor is managed. If an operator has a limited number of spaces, they need to maximize the value of that position.

Gaming operators “yield manage” the table games by changing the limits on tables in high-demand periods. A seat at a blackjack table is a limited commodity, and the manager needs to maximize the value. Raising limits pushes lower-end play away during high demand periods such as Friday and Saturday night.

Allowing operators to trade position permits ensures the optimal number of positions will be available in each market, enabling the casino operators and their partner the State of Louisiana to gain.

F. Recommendations

Based on competitive conditions – namely the leakage of revenues to Mississippi and the rise of tribal casinos in Oklahoma – the State of Louisiana should allow the casino industry to balance itself by allowing, or even encouraging, the relocation of two licensees from the declining Shreveport-Bossier City market to the Northshore of Lake Pontchartrain and the Northeast region of the state. This would further strengthen the remaining casinos in Shreveport-Bossier City.

As discussed in Chapter III, the State should eliminate the tax on casino free play to make its casinos more competitive with those in neighboring Mississippi, or place a limit on the amount of free play that is taxable as gross gaming revenue. This would allow casino operators to more effectively penetrate their respective markets and reduce the exportation of gaming dollars to Mississippi and Oklahoma.

V. Analysis of Potential Impact of Sports Betting, I gaming

This chapter addresses the critical issues that Louisiana policymakers will confront as they grapple with the potential of offering legal sports betting, which at the federal level received the green light on May 14, 2018, when the United States Supreme Court struck down the Professional and Amateur Sports Protection Act (“PASPA”). This decision enables states to decide whether to legalize sports betting. According to the American Gaming Association, approximately \$150 billion is wagered illegally on sports in the US, approximately \$7.5 billion to \$9 billion of gross gaming revenue. Given the size of the illegal market estimates, we believe the legal regulated market will be substantial.

Six states⁵⁴⁸ have commenced legal sports betting since the PASPA repeal. Spectrum believes another seven states could authorize sports betting this year and perhaps another 12 could do so in the next three years.

Louisiana is one of the “likely” states for sports-betting legalization and, as such, will have numerous issues to confront. With that in mind, our analysis begins by quoting our own 2018 testimony before the Illinois Joint House Revenue and Finance Sales and Other Taxes Subcommittee and House Executive Gaming Subcommittee:

When it comes to the authorization of legal sports betting or any other expansion of gaming, the legislators we have met from various states range from those who are eager to do it right, to those who are eager to do it in time for the beginning of the next football season, or by the next fiscal year. While those goals are not necessarily mutually exclusive, the priority should be the former, not the latter.⁵⁴⁹

That same testimony concludes with the clear warning that there are no do-overs in gaming law, and we have cautioned policymakers across the breadth of the United States to proceed with due caution.

In this chapter we make reference to certain terms that are relevant to sports betting, including:

- **Handle** – The total amount of money wagered
- **Hold percentage** - The percentage of money the bookmaker, or house, holds onto after all bets have been settled
- **Gross gaming revenue (“GGR”)** – The amount of money players wager minus the amount players win (handle x hold percentage = GGR)
- **Digital** – Betting on sports via mobile devices or online

A. Europe as Comparison to US

Sports betting in many large European countries has been regulated for more than a decade. Spectrum analyzed the largest mature markets for insight into the potential size of the US market and, in turn, state-by-state potential. Additionally, because many of these markets established digital betting

⁵⁴⁸ Excluding New Mexico, which has not authorized sports betting at the State level but which has commenced at tribal casinos.

⁵⁴⁹ Spectrum Gaming Group Managing Director Michael Pollock, testimony before Illinois Joint House Revenue and Finance Sales and Other Taxes Subcommittee and House Executive Gaming Subcommittee, October 17, 2018.

when internet usage became more widespread (the late 2000s), we can further estimate the impacts of digital betting via online and mobile devices.

For purposes of this analysis we reviewed the top 10 sports betting markets by GGR to draw insight. The following table illustrates various metrics we will apply throughout this section to derive insight into the size of the US market, for both retail and digital sports betting.

Figure 103: Top betting markets in Europe, 2017

Jurisdiction	Sports Betting GGR (M)			Physical Casino GGR (M)	GDP (\$B)	Adult Pop. (M)	Physical GGR/GDP (%)	Tax Rate Ret./Dig.	Per Adult		Sports-Betting Per Adult Adjusted for GDP ⁽¹⁾		
	Retail	Digital	Total						GDP	Physical Casino GGR		Annual Sports Betting Per Adult	
United Kingdom	\$1,026	\$2,089	\$3,115	\$5,835	\$2,659	55	0.22%	15%	\$48,472	\$106	\$57	\$84	
France	597	550	1,147	2,661	2,661	54	0.10%	8.5%	\$49,481	49	\$21	\$31	
Italy	1,178	663	1,840	13,022	1,993	52	0.65%	18%/22%	\$38,430	251	\$35	\$66	
Germany	93	1,290	1,383	8,966	3,805	73	0.24%	20%	\$52,289	123	\$19	\$26	
Sweden	110	624	734	295	514	8	0.06%	NA ⁽¹⁾	\$62,999	36	\$90	\$102	
Spain	352	448	800	4,072	\$1,351	38	0.30%	25%	\$35,156	106	\$21	\$42	
Greece	397	207	604	361	206	10	0.18%	35%	\$21,657	38	\$63	\$209	
Denmark	126	255	381	319	334	5	0.10%	20%	\$72,157	69	\$82	\$81	
Belgium	195	168	363	573	\$508	9	0.11%	11%	\$55,436	63	\$40	\$51	
Ireland	125	161	287	427	341	4	0.13%	15%	\$78,774	99	\$66	\$60	
United States	NA	NA	NA	73,700	18,227	255	0.40%	NA	\$71,351	289			
							Low	0.06%	8.5%	\$35,156	\$36	\$19	\$26
							Median	0.17%	15.0%	\$52,289	\$99	\$40	\$60
							High	0.65%	25.0%	\$78,774	\$251	\$90	\$82 ⁽²⁾

(1) Adjusted for GDP/Capita using US as the index

(2) Greece and Sweden are excluded as "outliers"

Source: H2 Gambling Capital, Spectrum Gaming Group

The sports betting landscape in Europe has similar characteristics to the existing and on-going rollout across US states. The top 10 European markets have tax rates ranging from 8.5 percent in France to as high as 35 percent in Greece. Comparably, the six newly active US sports betting states that are currently active have tax rates ranging from 8.5 percent to 61 percent. Proposed legislation across approximately 20 states has tax rates ranging between 6.25 percent and 30 percent.⁵⁵⁰

A review of the physical gaming industry in the United States compared to European markets suggests US gamblers have higher propensity to gamble as measured by physical casino GGR to the gross domestic product ("GDP") percentage. The median GGR/GDP percentage for Europe is 0.17 percent and the US ratio is 0.40 percent, more than double that of Europe. Physical GGR for the US was about \$74 billion (both commercial gaming and Native American)⁵⁵¹ in 2017, or \$289 per US adult. Higher propensity to gamble in the United States can be attributed to the widespread availability of physical gaming at about 1,000 full-scale casinos in 42 states. By comparison, the largest physical casino market in Europe is in the United Kingdom, with about 150 physical casinos serving 54 million adults.⁵⁵² We note that the United Kingdom has approximately 8,000 betting shops, but compared to the physical casinos throughout the United States these are much smaller and less attractive entertainment venues. When analyzing physical casino spending in the United States one key conclusion is that if gaming, and in turn sports betting, is made widely available, the spend/adult is likely to outpace European markets.

⁵⁵⁰ U.S. Sports Betting Market Tracker. <http://www.spectrumgamingcapital.com/us-sports-betting/>

⁵⁵¹ State Gaming Commissions, National Indian Gaming Commission.

⁵⁵² H2 Gambling Capital.

1. Range of Sports Betting GGR per Adult

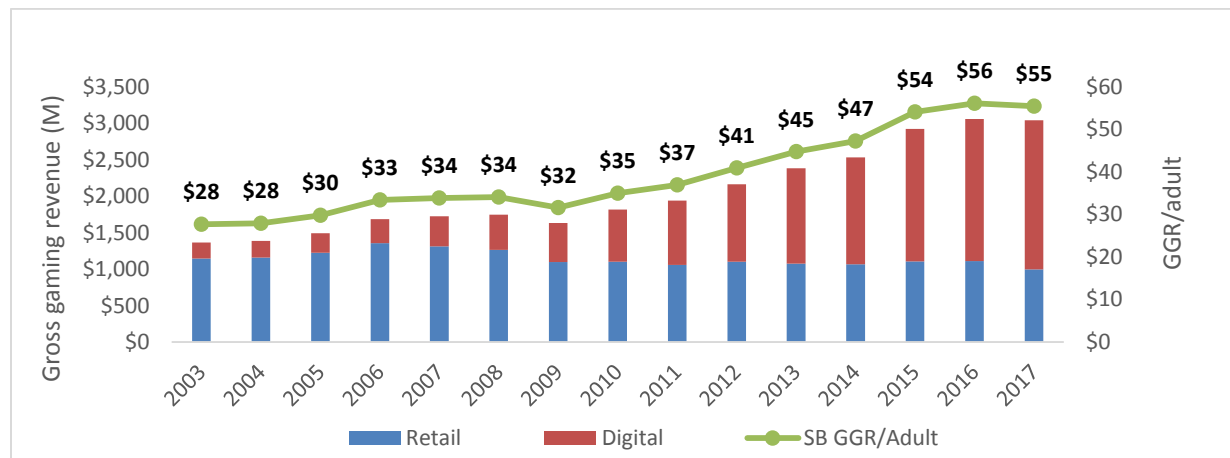
As adjusted for GDP per adult, the top 10 sports betting markets in Europe generate a wide range of GGR per adult – between \$26 and \$82. That would translate to a very wide range of \$6.6 billion to \$20.9 billion of GGR for all of the United States (approximately 255 million adults). Given the higher propensity to gamble in the United States, we believe sports betting GGR per adult will be at the higher end of the range, at least \$50 to \$70 per US adult.

We note that both Sweden and Greece are generating significantly higher sports betting GGR per capita at \$102 and \$209, respectively, however we classify these two countries as outliers because the physical gaming options there are limited. Greece has only nine physical casinos serving a population of 10 million; Sweden has only four serving a population of 8 million. Sports betting has become a popular alternative to casino gaming in these two countries.

2. United Kingdom Provides Deeper Insight

The United Kingdom is the largest sports betting market in Europe. The UK Gambling Commission has encouraged a free market to develop, leading to a highly competitive environment. Consumer betting choice is wide, and competition has prompted innovations such as in-play betting and cash-out functionality.⁵⁵³ The UK Gambling Commission has strong power applicable when licensees transgress rules and regulations, such that there is virtually no illegal betting market. Lastly, there is more detailed and publicly available information from which to gain insight. Many of the largest operators in the United Kingdom are either active in the United States or have plans to be, including: William Hill, BetStars, GVC, Bet365, and Paddy Power Betfair, among others.

Figure 104: UK sports betting GGR, retail and digital, 2003-2017



Source: H2 Gambling Capital

The chart above illustrates GGR from retail and digital as well as GGR per adult from 2003-2017. GGR per adult peaked at \$56 in 2016. From 2003-2009, digital betting accounted for just about 20 percent of total GGR. Since 2010, however, GGR from digital betting has grown significantly such that it now

⁵⁵³ Cash-out functionality allows players to either lock in a profit or mitigate a loss on an in-play bet.

accounts for two-thirds of total sports betting GGR. The introduction and proliferation of mobile devices enabled the digital sports betting market to outpace the retail market. In US states where digital betting will be legalized, it is very likely that digital will account for at least two-thirds of total GGR and could account for an even higher share.

B. Analysis of Active US States

Since the Supreme Court ruling invalidating PASPA last year, six states have commenced sports betting as an added amenity to their existing gaming industry. Delaware and New Jersey were the first states to rollout, commencing in June. Mississippi was the next state to activate, followed by West Virginia, Rhode Island and Pennsylvania.⁵⁵⁴ Each state operates with differing business models and under varying tax rates. We view adult population size, household income and number of local pro sports teams as the key influencing characteristics to estimate the potential size of the sports betting industry in each state. As the table below provides, state tax rates in active states range from as low as 8.5 percent to as high as 61 percent.

Figure 105: Summary of demographics, regulations and tax rates – newly active states

State	Adult	Household	Modality	Start Date		Tax Rate	
	Pop. (M)	Income		Retail	Digital	Retail	Digital
New Jersey	7.0	\$76,475	Retail & Digital	Jun-18	Aug-18	8.5%	13%
Delaware	0.8	\$63,036	Retail Only	Jun-18	NA	50%	
Mississippi	2.3	\$42,009	Retail Only	Aug-18	NA	12%	
West Virginia	1.4	\$44,061	Retail & Digital	Sep-18	Jan-19	10%	10%
Rhode Island	0.9	\$61,043	Retail Only	Nov-18	NA	51%	
Pennsylvania	10.1	\$56,951	Retail & Digital	Nov-18	TBD	36%	36%

Source: State gaming commissions

Spectrum notes that varying tax rates across states can have significant influence on sports betting volumes. Sports betting operators in high-tax-rate jurisdictions are less likely to offer attractive promotions and better odds to players, whereas low-tax-rate environments do allow for more aggressive promotional activity and better odds for players. Although difficult to quantify, we believe tax rates have a degree of influence on overall betting volume.

In Nevada, which is the longest-running active sports betting state, football accounts for 42 percent of the handle (professional and college), and basketball (professional and college) accounts for 28 percent. Baseball is in third position at 22 percent, with parlay,⁵⁵⁵ hockey, and other sports, such as tennis, accounting for the remaining 8 percent.⁵⁵⁶

The states that activated sports betting in time for the start of football season – early September – are performing very well. As shown in the table below, New Jersey and Delaware are already generating

⁵⁵⁴ Analysis of existing active sports betting states excludes Nevada, which has been active for over 50 years because it is mostly a destination market, and New Mexico, where tribal casino Santa Ana Star offers retail sports betting but does not disclose performance.

⁵⁵⁵ A single bet that links together two or more individual wagers and is dependent of all the wagers winning together.

⁵⁵⁶ Nevada Gaming Control Board-Revenue Reports. <https://gaming.nv.gov/index.aspx?page=149>

\$25 and \$27 of GGR/adult, or half the low range of our estimates for the United States as a whole. Mississippi and West Virginia are generating \$16 and \$14 per adult, which is likely due to their later start date. A review of handle, which is a measure of overall betting volume, shows that once football season started, handle either doubled or tripled. Spectrum believes these betting volumes will continue to grow through at least March during the NCAA college basketball tournament. After reviewing and analyzing these numbers, we remain confident in our estimate of \$50 to \$70 GGR per adult, which might even be conservative considering the market is in its early stages.

Figure 106: Sports betting performance for newly active states

	June	July	Aug	Sept	Oct	Nov	Dec	Jan	YTD
New Jersey (7M Adults)									
Retail	3.5	3.8	6.1	11.4	2.8	6.8	6.2	3.2	43.8
Mobile	0.0	0.0	3.1	12.6	8.8	14.4	15.5	15.5	70.0
Total GGR(\$M)	3.5	3.8	9.2	24.0	11.7	21.2	21.7	18.8	113.8
Handle (\$M)	16.4	40.7	95.6	183.9	260.7	330.7	319.2	385.3	1,632.6
Hold %	21%	9%	10%	13%	4%	6%	7%	5%	7%
GGR/Adult, annualized	\$11	\$6	\$15	\$42	\$20	\$37	\$36	\$31	\$25
Delaware (0.8M Adults)									
Total GGR(\$M)	1.0	0.5	0.8	3.6	0.5	1.3	2.5	1.6	11.8
Handle (\$M)	7.0	8.2	7.7	16.8	14.7	16.4	16.1	11.9	98.9
Hold %	14%	6%	10%	21%	3%	8%	15%	14%	12%
GGR/Adult, annualized	\$27	\$8	\$16	\$56	\$10	\$25	\$38	\$32	\$27
Mississippi (2.3M Adults)									
Total GGR(\$M)			0.6	5.5	1.2	1.7	6.2	2.8	18.0
Handle (\$M)			7.7	31.8	32.8	44.5	40.8	35.2	192.8
Hold %			8%	17%	4%	4%	15%	8%	9%
GGR/Adult, annualized			\$3	\$29	\$6	\$9	\$33	\$15	\$16
West Virginia (1.4M Adults)									
Total GGR(\$M)				2.1	1.0	0.6	2.8	1.7	8.3
Handle (\$M)				7.3	9.7	12.6	16.8	22.4	68.8
Hold %				29%	10%	5%	17%	8%	12%
GGR/Adult, annualized				\$19	\$8	\$6	\$23	\$15	\$14
Pennsylvania (10M Adults)									
Total GGR(\$M)						\$0.5	\$2.0	\$1.2	\$3.8
Handle (\$M)						\$1.4	\$16.2	\$25.2	\$42.7
Hold %						36%	12%	5%	9%
GGR/Adult, annualized						\$1	\$2	\$1	\$1
Rhode Island (0.9M Adults)									
Total GGR(\$M)						\$0.1	\$1.0		\$1
Handle (\$M)						\$0.7	\$13.1		\$14
Hold %						11%	7%		7%
GGR/Adult, annualized						\$1	\$13		\$7

Source: State gaming, lottery commissions

New Jersey offers the greatest insight into the impact of sports betting, as that state was an early adopter of both retail and digital sports betting. Additionally, New Jersey has an adult population of 7 million adults, and that number is augmented as a result of the large metropolitan populations along its borders that can place bets when they physically cross the border into New Jersey. Also, household income is \$76,000, much higher than the US average of \$57,000. Therefore, despite the relative newness of the sports betting industry, New Jersey provides the most robust data at this early stage.

Last year, New Jersey legislators legalized sports betting at casinos and racetracks, thereby enabling accessibility of retail sports betting throughout the state. New Jersey's casinos are all located in

Atlantic City, which is easily accessible for residents of the southern part of the state, while it is a two-hour drive from the densely populated New York City and Northern New Jersey metropolitan region.

By allowing sports betting at racetracks including the Meadowlands, which is in northern New Jersey, and Monmouth Park, which is more centrally located, more of the population could access retail sports betting. The table below provides the market share results and impact of making retail sports betting more accessible to more of the population. Through eight months of operations, the Meadowlands plus Monmouth Park generated 61 percent of retail GGR, while all eight Atlantic City casinos combined only accounted for 38 percent. We expect that during the peak summer season, when the number of visitors to Atlantic City increases significantly, its share of retail GGR will increase. However, during the peak season for sports betting – fall and winter – retail locations in the middle and northern part of the state performed very well. This suggests that accessibility and convenience of sports betting, just like casino gaming, has a direct impact on GGR results.

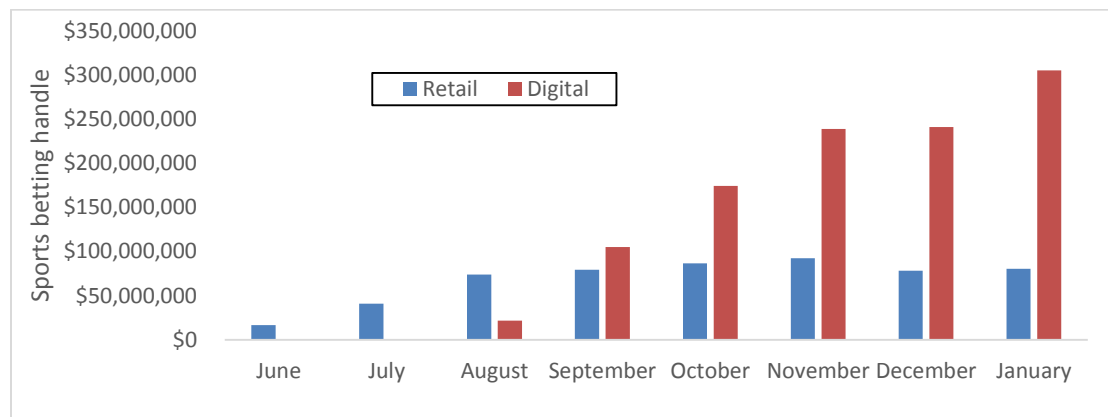
Figure 107: Retail sports betting gross gaming revenue in New Jersey, June- January

(\$M)	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Total
Meadowlands	0.0	1.4	3.1	4.4	1.1	2.6	3.6	1.2	17.3
Monmouth Park	2.3	0.9	0.9	2.1	0.6	1.2	1.0	0.8	9.8
Atlantic City Casinos	<u>1.2</u>	<u>1.6</u>	<u>2.1</u>	<u>4.9</u>	<u>1.1</u>	<u>3.0</u>	<u>1.6</u>	<u>1.2</u>	<u>16.7</u>
Total Retail	3.5	3.8	6.1	11.4	2.8	6.8	6.2	3.2	43.8
Retail Share									
Meadowlands	0%	36%	51%	38%	39%	38%	58%	36%	39%
Monmouth Park	66%	22%	15%	19%	21%	17%	17%	26%	22%
Atlantic City Casinos	34%	42%	35%	43%	40%	45%	25%	38%	<u>38%</u>

Source: New Jersey Division of Gaming Enforcement

Although retail betting in New Jersey commenced in the middle of June, digital did not go live until August. Since its start, digital betting is continuing to outpace the growth of retail significantly. To date, retail has generated a total of \$550 million in wagers over eight months, and digital generated almost \$1.1 billion in just over six months. Since sports betting started, digital continues to account for an increasing share of GGR and through January accounted for 62 percent of total GGR in New Jersey. We believe across the US states that legalize digital betting, the outcome will be similar to what we are seeing in New Jersey (and Europe). The results of digital betting is graphically illustrated in the following chart.

Figure 108: Analysis of retail vs. digital sports betting handle in New Jersey



Source: New Jersey Division of Gaming Enforcement

1. Impact of Daily Fantasy Sports in Sports Betting

The most prominent providers of digital betting in New Jersey are the leading daily fantasy sports (“DFS”) operators, DraftKings and FanDuel. Each DFS operator is new to the sports betting business, but through their significant databases of sports enthusiasts who have “wagered” on sports,⁵⁵⁷ they have performed better than their casino competitors. Although not reported publicly, through our channel checks we estimate that DraftKings has a DFS database of more than 10 million users, and FanDuel has more than 8 million. Although these users consist of players across the United States, the results in New Jersey clearly reflect the strength of these two brands and the crossover between DFS and sports betting.

The table below illustrates GGR performance of FanDuel, which operates using the Meadowlands license, and DraftKings, which operates using the Resorts Digital license.⁵⁵⁸ Combined, FanDuel and DraftKings are generating more than 80 percent of digital GGR through January. Both companies are targeting casino companies in prospective sports betting states to partner. Draft Kings is operational in West Virginia and Mississippi, and FanDuel plans to enter the New York market when it goes online.⁵⁵⁹

Figure 109: New Jersey gross gaming revenue via digital, June 2018 through January 2019

Digital GGR - NJ (\$M)	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Total
Meadowlands (FanDuel)	0.0	0.0	0.0	2.9	2.4	4.4	5.5	5.9	21.1
Resorts Digital (DraftKings)	0.0	0.0	3.0	8.5	5.1	7.2	6.7	6.9	37.3
Others ¹	<u>0.0</u>	<u>0.0</u>	<u>0.2</u>	<u>1.2</u>	<u>1.3</u>	<u>2.8</u>	<u>3.3</u>	<u>2.8</u>	<u>11.6</u>
Total Digital	0.0	0.0	3.1	12.6	8.8	14.4	15.5	15.5	70.0
Digital Share									
Meadowlands (FanDuel)			0%	23%	27%	31%	36%	38%	30%
Resorts Digital (DraftKings)			95%	68%	58%	50%	43%	44%	53%
Others ¹			<u>5%</u>	<u>10%</u>	<u>15%</u>	<u>20%</u>	<u>21%</u>	<u>18%</u>	<u>17%</u>
Total			100%	100%	100%	100%	100%	100%	100%

Source: New Jersey Division of Gaming Enforcement. ¹ Other Atlantic City casinos plus Monmouth Park

The DFS companies would also play a relevant role if Louisiana were to legalize sports betting, just as they have in the effort to legalize DFS. Both companies contributed \$1 million to the political action committee Fairness for Fantasy Sports Louisiana that successfully lobbied for the legalization of daily fantasy sports in 47 of the 64 parishes in the state.⁵⁶⁰ Just as FanDuel and DraftKings figured prominently in the DFS debate, they are likely to seek involvement in a potential Louisiana sports betting market, and that could bode well for the state’s sports betting performance.

⁵⁵⁷ Daily fantasy sports is a subset of fantasy sports, in which players compete against other (for real money) by building a team of pro athletes and earning points based on those athletes’ statistical performance.

⁵⁵⁸ In New Jersey, each land-based licensee (casinos or racetracks) is permitted to avail up to three digital skins to third-party operators.

⁵⁵⁹ FanDuel made a partnership with Tioga Downs Casino Resort, which is in Nichols, NY.

⁵⁶⁰ Brett Smiley, “Daily Fantasy Sports Coming to (Most of) Louisiana After Voters Approve Ballot Measure,” *Sports Handle*, February 19, 2019. <https://sportshandle.com/louisiana-daily-fantasy-sports-voters-approve-ballot-measure/>

2. Projected Tax Revenue for States

To estimate sports betting GGR at stabilization we applied the \$50 to \$70 per adult estimate across the United States and adjusted for each state's level of household income. For example, average US household income is \$57,600, so for states that have household income above the US average, GGR per adult will be adjusted higher than \$50 to \$70, and vice versa. Next, we adjusted the GGR estimate for states that do not offer digital betting (Delaware, Mississippi and Rhode Island) by reducing GGR/adult by half. In a full-sports-betting scenario, we would assume digital accounts for two-thirds of total GGR; however, in cases where retail is the only sports betting option, we assume it would achieve 50 percent of our estimates. The results of our analysis are illustrated in the following table.

Figure 110: Projected sports betting GGR and tax revenue at stabilization, at \$50-\$70 per adult, newly active states

State	Population (M)		Household Income	GGR/Adult		Total GGR		Est. Tax Rev (mdpt.)
	Total	Adults		Low	High	Low	High	
New Jersey	9.0	7.0	\$76,475	\$66	\$93	\$466	\$652	\$64
Delaware	1.0	0.8	\$63,036	\$27	\$38	\$21	\$29	\$12
Mississippi	3.0	2.3	\$42,009	\$18	\$26	\$41	\$58	\$6
West Virginia	1.8	1.4	\$44,061	\$38	\$53	\$55	\$77	\$7
Rhode Island	1.1	0.9	\$61,043	\$26	\$37	\$23	\$32	\$14
Pennsylvania	12.8	10.1	\$56,951	\$49	\$69	\$501	\$701	\$216
Total US Retail + Digital	325.7	252.1	\$57,652	\$50	\$70	\$12,605	\$17,647	

Source: Spectrum Gaming Group, US Census Bureau

3. Other Impacts

Other positive impacts for physical casinos can be expected from the introduction of sports betting. Sports betting can introduce a new, younger demographic to casinos, a cohort that does not typically have a high propensity to gamble at traditional casino games. For sports bettors who do so digitally, physical casinos have the opportunity to incent players by enrolling them in loyalty programs where such players can earn points to be redeemed at casinos. Such programs create marketing opportunities for casinos to encourage a new demographic to visit the casino by offering complimentary rooms or meals. Assuming these players are not existing customers, any revenue generated while at the casino will be incremental. The following table illustrates the concept of generating incremental revenue via comping of sports bettors.

Figure 111: Illustration of incremental revenue via sports betting

Assumptions – New Jersey	
SB GGR/Adult	\$50
% of Total Adults that Bet	15%
% of Bettors that are New Gamers	50%
Casino Promotions Reinvestment Rate	20%
Physical (“LB”) Capture Rate (New Players)	15%
Induced LB GGR	\$125
Induced LB Non-Gaming	\$100
Incremental Revenue Illustration	
NJ Adults	7,100,000
Total SB GGR	\$355,000,000
Number of Bettors	1,065,000
# of New Players	532,500
GGR/Player	\$333
Promotional Investment	\$67
Land Based Capture of New Players	79,875
Induced LB GGR - Total	\$9,984,375
Induced LB Non-Gaming-Total	\$7,987,500
Total Incremental Revenue	\$17,971,875
Incremental Revenue/Total SB GGR	5%

Source: Spectrum Gaming Group

Impacts can be even more pronounced during the major sporting events such as the Super Bowl and college basketball Final Four, during which room and food and beverage revenue tends to increase. We spoke with a major casino resort operator in Las Vegas who estimated food and beverage revenue increases 10 percent to 12 percent and room revenue 10 percent to 15 percent during those events. Another company that owns and operates regional casinos highlighted the positive impacts that retail sports betting can generate on Saturdays and Sundays during football season. Specifically, players who are accustomed to staying home to watch football games might instead prefer to go to the casino so that they can place bets.

Most recent commentary on the impact that sports betting is having on physical casinos is sourced from the fourth quarter 2018 earnings calls of the large public gaming companies. For the first full month of sports betting in West Virginia, Penn National, which operates the Hollywood Casino, experienced almost 10 percent growth in both table games and poker GGR compared to the prior period, suggesting that sports betting is bringing new players into the casino. Caesars Entertainment, which is operating sports betting in New Jersey and Mississippi, believes that the introduction of retail sports betting resulted in an increase of between 10 percent and 20 percent of revenues across bars, restaurants, and physical gaming.⁵⁶¹

Although the impact of sports betting will vary across different states and jurisdictions, most of the prominent physical casino operators are benefitting because sports betting is proving to be significantly accretive to their overall casino offering.

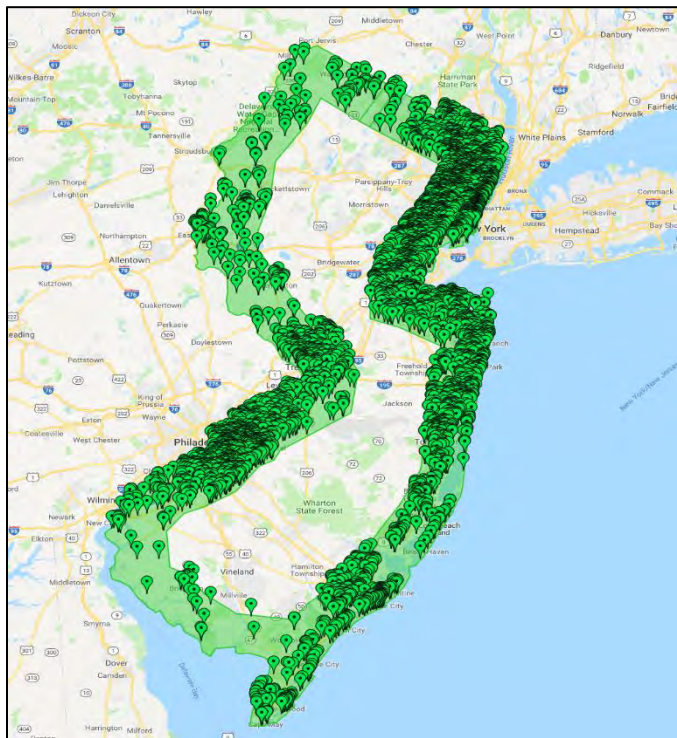
⁵⁶¹ Earnings commentary of Penn National and Caesars Entertainment for the fourth quarter of 2018.

4. Considerations for Louisiana

For the Louisiana gaming industry to stay competitive with Mississippi's, policymakers need to consider sports betting legalization. Clearly, the South has a strong appetite for college and pro sports, with major teams that have a large following including the New Orleans Saints, LSU Tigers, and New Orleans Pelicans. The college and pro teams in neighboring Texas also provide heightened interest for potential sports bettors.

If Louisiana chooses not to legalize sports betting, the resulting lost revenue from its residents who travel to neighboring states to place bets could be substantial. As we mentioned above when discussing the success of the retail sportsbook at the Meadowlands in New Jersey, part of that success can be attributed to nearby New Yorkers who visit the Meadowlands to place bets, or simply log on to legal online sites once they are in New Jersey. A chief motivating factor for such actions: Sports betting is currently illegal in their home state.

Figure 112: Snapshot of New Jersey's online traffic – sports betting and igaming



Source: GeoComply

As with retail sports betting, we are seeing significant border activity that suggests neighboring state residents are commuting to New Jersey to engage in digital betting. GeoComply, a leading provider of geo-location technology to various sports betting operators in New Jersey, provided an illustrative snapshot (above) of online traffic in the state. The image shows significant online gaming activity at or near New Jersey's borders. This suggests that people are commuting from out of state to engage in online gaming and sports betting within the New Jersey border. A similar relationship likely exists for Louisiana, where residents who want to engage in sports betting travel to Mississippi to do so. We believe that the

lost revenue is small because Mississippi does not offer digital betting and the retail-only market is still in its early stages.

Louisiana's neighboring states are considering sports betting, including in Arkansas and Oklahoma. In November 2018, voters in Arkansas approved a constitutional amendment to legalize sports wagering at four locations in the state (in addition to full-scale gaming at the same four locations). The approved measure also stipulates that state regulators are required to accept sports betting applications by June 2019. Regulations have yet to be drafted and whether to include digital betting has not been decided.⁵⁶²

The Oklahoma state legislature proposed one bill, HB3375, that would allow sports wagering to be conducted by in-state tribal entities with a 10 percent tax rate. We expect Arkansas to commence sports betting in 2019 or 2020 and view Oklahoma more as a longer-term competitive threat to Louisiana in this regard.

There also exists an illegal market that can either continue to grow or shrink as a result of legalized sports betting in Louisiana. In order to curtail the illegal market, Louisiana must ensure that regulated sports betting is taxed at a reasonable rate – 15 percent or less – so that gamblers can be offered attractive enough odds to stay in state. For optimal results, sports betting must also be made as accessible as illegal sports betting, which may require the inclusion of digital as there are sites that are available for Louisiana residents to place sports bets online.⁵⁶³

C. Impact and Estimates of Legal Sports Betting in Louisiana

Next, we analyze the potential size of the sports betting market in Louisiana. Spectrum's analysis and assumptions substantially rely on benchmarking Louisiana demographics against what is observed in other mature markets. We also included analysis as to the size of the illegal market in the United States and extrapolate those to Louisiana. We note that the Louisiana casino market is unique in that it relies significantly more on out-of-state visitation, as compared to other regional markets, specifically population coming from Houston and Dallas. Therefore, to estimate GGR we employed two methodologies, as follows:

- Market analysis based solely on the adult population of Louisiana
- Market analysis based on total admissions to Louisiana casinos (data provided by the Gaming Control Board)

We tabulated the estimates for the size of the nationwide illegal market, which ranges from \$2.8 billion to \$10.4 billion of GGR, to estimate illegal GGR currently generated in Louisiana as a baseline. These estimates are sourced from industry experts and were issued in 2016 and 2017. Perhaps the most notable of these is that of the American Gaming Association, which estimates approximately \$150 billion of handle, which equates to \$8.25 billion in GGR (based on 5.5 percent hold). The average of the four

⁵⁶² Adam Candee, "Arkansas Sports Betting Closer to Reality After Voters Approve Constitutional Amendment," *Legal Sports Report*, November 7, 2018. <https://www.legalsportsreport.com/25707/arkansas-sports-betting-measure-approved/>

⁵⁶³ US Gambling Laws. www.usagamblinglaws.com/state-gambling-laws/louisiana-gambling-laws.html

estimates is \$127 billion in handle, which equates to approximately \$7 billion of GGR, or \$28 of GGR per US adult. This per-adult estimate compares to \$289 GGR/adult for legal physical gaming, or about 10 percent. Applying this estimate to the adult population of Louisiana and adjusting for household income against the US average suggests \$80 million of GGR is currently generated from unregulated sports betting in Louisiana.

Figure 113: Summary of illegal sports betting estimates for total US

US Adult Population (M)	252				
Household Income	\$57,652				
(\$M, except per capita)	Eilers	E&Y	AGA	H2GC	Avg.
Illegal Sports Betting Handle	\$55,000	\$107,000	\$150,000	\$196,000	\$127,000
Hold Percentage	5.0%	6.0%	5.5%	5.3%	5.5%
Sports Betting GGR	2,750	6,420	8,250	10,388	6,952
SB GGR/US Adult	\$11	\$25	\$33	\$41	\$28
Casino gross gaming revenue					
Commercial Casinos	41,200				
Native American	32,500				
Total US	73,700				
GGR/Adult	\$292				
Illegal sports betting estimates – Louisiana					
Total Population	4.7				
Adult Population	3.6				
Household Income	\$46,710				
SB GGR/Adult	\$22				
Illegal SB GGR	\$80				

Source: American Gaming Association, Eilers & Krejcik, H2 Gambling Capital, Spectrum Gaming Group

1. Projections Based on Louisiana Adult Population

Spectrum adjusted the GGR per adult estimate across the United States of \$50 to \$70 for the lower household income (“HHI”) and adult population in Louisiana to arrive at this range of estimates. If the Louisiana market were to behave like New Jersey thus far (and European markets), digital betting would account for at least two-thirds of total GGR. The results of our analysis are illustrated below.

Figure 114: Louisiana sports betting estimates based on adult population

State Demographics		
Population (M)	4.7	
Adult Population (M)	3.6	
Household Income	\$46,710	
GGR Estimate	Low Case	High Case
GGR/Adult ¹	\$41	\$57
Retail (M)	\$48	\$68
Digital (M)	\$97	\$135
Statewide GGR (\$M)	\$145	\$203

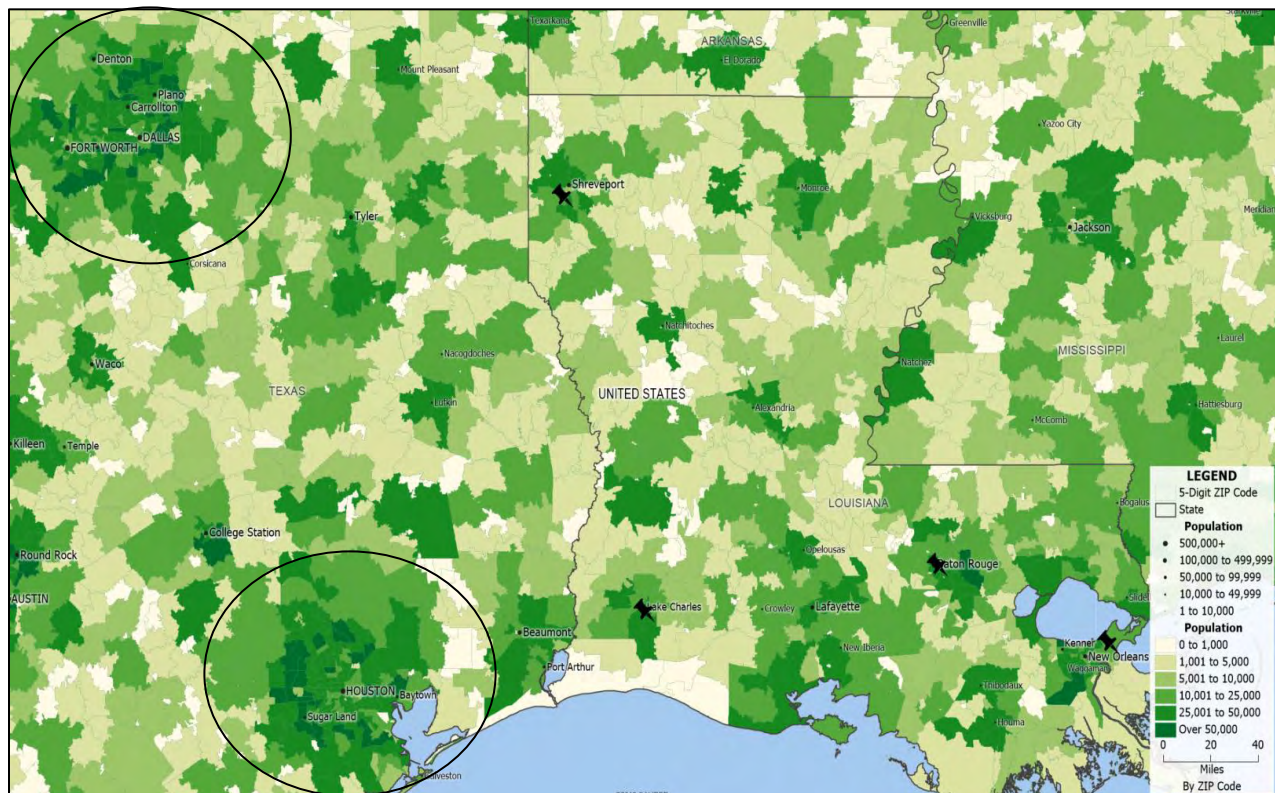
Source: Spectrum Gaming Group; ¹ Adjusted downward to reflect lower HHI than US

Louisiana benefits substantially from having Texas, a state that does not offer casino gaming, as its westerly neighbor. Texas has desirable demographics, including an adult population of 21 million – about six times the size of the Louisiana adult population – and household income of \$57,000, which is in line with the US average but 22 percent higher than Louisiana.⁵⁶⁴ Historically the substantial population

⁵⁶⁴ United States Census Bureau. <https://www.census.gov/quickfacts/fact/table/tx/PST045217>

located in Houston and Dallas have been important feeder markets to Louisiana’s casino markets, including Lake Charles and Shreveport-Bossier City. The map below shows the particularly dense population in Dallas and Houston to the west of these markets.

Figure 115: Map showing population density of Louisiana and East Texas



Source: Maptitude

In its 2018 annual report, the Louisiana Gaming Control Board (“LGCB”) estimated that of the 22.5 million admissions to its casinos approximately 13.9 million were generated from patrons who are classified as “out of area.” The LGCB defines “out of area” as people visiting Louisiana casinos from more than 150 miles away or from out of state. Houston is approximately 145 miles from Lake Charles, and Dallas is approximately 190 miles from Shreveport. Because of the substantial percentage of admissions generated from Texas, this market must be accounted for in our sports betting estimates.

2. Projections Based on Louisiana Casino Admissions

Using a different methodology to project sports betting revenue for Louisiana, Spectrum used GGR based on the number of total admissions to Louisiana casinos, about 22.5 million. We made capture-rate assumptions for percentage of total casino admissions that would engage in sports betting – between 20 percent and 30 percent, or one out of four gamblers. We then applied GGR/adult estimate of \$25 to \$35 per adult, which is half the GGR per adult estimate for the total United States. In this analysis we use half the total spend per adult (\$50-\$70) estimate because all of these patrons are coming to Louisiana casinos and therefore are all considered retail sports bettors. (Retail accounts for only one-third of betting in Europe, we assume for this analysis it accounts for one-half) This analysis does not account for GGR

generated by digital because it is based on total admissions to Louisiana casinos. The results are illustrated in Figure 116.

Figure 116: Louisiana sports betting estimates based on casino admissions

Admissions-LA Casinos	22,507,662	22,507,662	22,507,662
Capture Rate	20%	25%	30%
Sports Bettors	4,501,532	5,626,916	6,752,299
Spend-Low	\$25	\$25	\$25
Spend-High	\$35	\$35	\$35
GGR - Low	\$112,538,310	\$140,672,888	\$168,807,465
GGR-High	\$157,553,634	\$196,942,043	\$236,330,451

Source: Spectrum Gaming Group, Louisiana Gaming Control Board. Spectrum assumptions in blue

We note this methodology suggests that retail sports betting could be two to three times the size of retail sports betting GGR generated using our first methodology earlier (based on adult population). Our estimates comport with the LGCB admissions estimate, which suggests that almost two-thirds of the casino admissions are generated from people coming from 150 or more miles away or from out of state.

3. Summary of Louisiana Projections

Spectrum believes the retail estimate generated using casino admissions more closely aligns with overall visitation patterns in the Louisiana casino market. It is critical that the out-of-state population be incorporated into these estimates, especially if Texas does implement sports betting. Therefore, we estimate retail sports betting could generate between \$140 million and \$197 million of GGR.

If Louisiana were to allow digital betting, the market size would increase significantly. For digital projections we cannot adequately account for the number of out-of-state players who would travel into Louisiana just to place sports bets on their mobile device (as opposed to going to the casinos). Therefore, we believe it is most reasonable to apply the digital betting estimates to the resident adult population in-state, which is part of our first methodology above using adult population. Digital betting could generate \$97 million to \$135 million based on the in-state adult population of 3.6 million. Our results are illustrated the table below.

Figure 117: Louisiana sports betting projections, low and high scenarios

(Millions)	Low	High
Retail	\$141	\$197
Digital	\$97	\$135
Total GGR	\$237	\$332

Source: Spectrum Gaming Group

For context, Louisiana casinos generate \$2.6 billion of physical GGR. Our sports betting estimate equates to between 9 percent and 13 percent of casino GGR, which is in line relative to other state projections. Sports betting GGR could fall closer to the \$237 million estimate if the capture rate of 20 percent to 30 percent of admissions is too high of an estimate relative to the actual number of gamblers who participate in sports betting. On the other hand, sports betting GGR could be closer to the \$332 million estimate if sports betting attracts additional visits to Louisiana casinos by out-of-state people who are not traditional casino players, and/or if digital sports betting attracts new players both in-state and out-of-state.

D. Impacts and Estimates of Legal Internet Gaming in Louisiana

Internet gaming (“igaming”) in the United States exists in just three states: New Jersey, Delaware and Nevada. Delaware and Nevada offer internet poker, while New Jersey offers casino gaming and poker online. Each of these three jurisdictions legalized internet gaming in late 2013. Pennsylvania is the only state to legalize since; it is expected to commence later this year.

1. Results in New Jersey

Similar to sports betting, New Jersey represents the most advanced market from which to draw insight into igaming. Since coming online in November 2013, igaming has grown at a compound annual growth rate of 104 percent and is currently a \$300 million business, approximately 10 percent of physical gaming.

The following table illustrates individual licensee performance since 2013. Each casino licensee is able to operate or form a joint venture with up to five individual skins,⁵⁶⁵ such that each licensee GGR is an aggregate of all skins operating under that license. Golden Nugget is, by far, the best performer in the online market, whereas Borgata has been the market leader in physical gaming since it opened in 2003. Caesars, which owns three casinos in Atlantic City, is in third place in terms of online market share, however Resorts is rapidly growing and could overtake Caesars soon. The performance of Golden Nugget and Resorts online illustrates that physical performance and brand strength does not necessarily correlate to online performance.

Figure 118: New Jersey internet gross gaming revenue, 2013-2018

Operator	2013 ⁽¹⁾	2014	2015	2016	2017	2018	Share	CAGR	Physical
Golden Nugget	\$0	\$11	\$31	\$42	\$69	\$105	35%	76%	\$328
Borgata	\$4	\$44	\$46	\$47	\$49	\$54	18%	71%	\$774
Caesars	\$2	\$33	\$33	\$39	\$43	\$46	15%	80%	\$327
Resorts	\$0	\$0	\$7	\$32	\$43	\$45	15%	88%	\$260
Tropicana	\$1	\$23	\$33	\$37	\$43	\$41	14%	123%	\$381
Hard Rock ⁽²⁾	\$0	\$0	\$0	\$0	\$0	\$5	2%	NA	\$167
Ocean ⁽²⁾	\$0	\$0	\$0	\$0	\$0	\$3	1%	NA	\$101
Trump Properties ⁽³⁾	<u>\$1</u>	<u>\$12</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	0%	NA	\$0
Total Igaming	\$8	\$123	\$149	\$197	\$246	\$299	100%	104%	
Casino	\$5	\$94	\$125	\$170	\$221	\$277			
Poker	\$3	\$29	\$24	\$27	\$22	\$21			
Igaming Revenue/Adult		\$17	\$21	\$28	\$35	\$43			

Source: New Jersey Division of Gaming Enforcement, Spectrum Gaming Group, (1) Commenced November 26, 2013. (2) Commenced operations July 2018. (3) Closed in October 2014

GGR per adult in New Jersey has already reached \$43 and exceeds the GGR/adult recorded in long-established markets in Europe, including the United Kingdom, France, Italy and Spain. These markets have offered igaming since the early 2000s during the rise in popularity of internet poker. Toward the end of the 2000s, coinciding with the prevalence of mobile devices, the industry continued to evolve and

⁵⁶⁵ A “skin” refers to a sports betting or internet gaming website, which is unique to a sports betting operator in its appearance, but the underlying operating technology could be the same for various websites – in this case one casino licensee can rent its technology to multiple skins

advance technologically, in terms of player experience and gaming options. The European markets have had a 15-year head start on igaming, which makes the results in New Jersey, after only five years, most impressive.

Figure 119: Internet gross gaming revenue per adult comparison, New Jersey and Europe

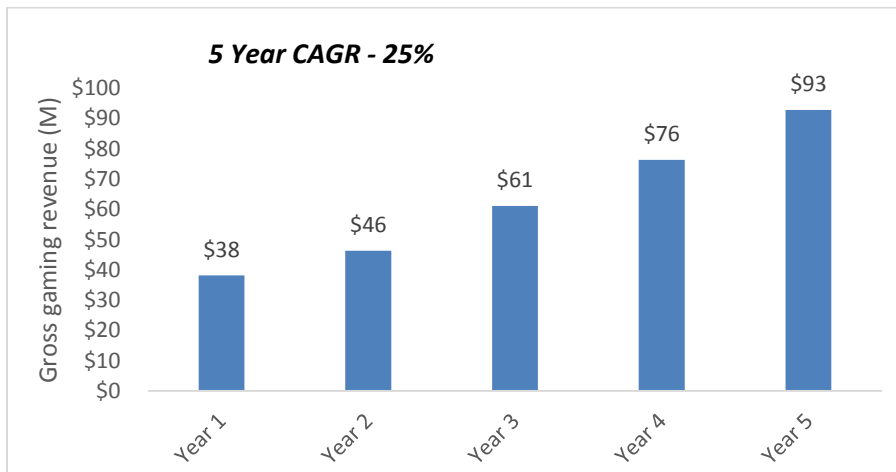
	2014	2015	2016	2017	2018
NJ GGR	\$123	\$149	\$197	\$246	\$299
GGR/Capita	\$18	\$21	\$28	\$35	\$43
Y/Y Growth %		21%	32%	25%	22%
Europe					
UK	\$2,804	\$3,240	\$3,605	\$3,990	\$4,275
France	605	616	631	687	745
Italy	806	809	865	952	1,116
Spain	<u>349</u>	<u>338</u>	<u>367</u>	<u>417</u>	<u>499</u>
Total	\$4,563	\$5,003	\$5,468	\$6,046	\$6,635
GGR/Capita	\$23	\$26	\$28	\$30	\$33
Y/Y Growth %		9%	9%	10%	9%

Source: H2 Gambling Capital, New Jersey Division of Gaming Enforcement

2. Louisiana Internet Gaming Projections

To estimate igaming GGR in Louisiana, Spectrum used New Jersey’s five-year performance as a benchmark. We adjusted the GGR/adult in New Jersey for household income (\$76,000 in New Jersey vs \$47,000 in Louisiana) to estimate GGR/adult. We then multiplied GGR/adult by the adult population in Louisiana, approximately 3.6 million. The results of this analysis are illustrated in the following table.

Figure 120: Projected five-year Louisiana internet gross gaming revenue



Source: Spectrum Gaming Group

Internet Gaming and Physical Casinos

Igaming players typically fall into a different demographic than regular casino players in that they are younger and are not as likely to visit physical casinos. Online gamblers tend to share similar characteristics to sports bettors, but we believe they are more attracted to traditional casino games. It is therefore more probable that online gamblers can be incited to visit a physical casino with the intention of gambling. One New Jersey operator stated that of its online customer base, 50 percent are new

players.⁵⁶⁶ Golden Nugget disclosed in 2017 that 89 percent of customers who registered for online accounts were not already in their physical customer database.⁵⁶⁷ Additional benefits of online gaming cited by physical casinos in New Jersey are summarized as follows:

- New customers are creating the bulk of online accounts
- Online gaming has helped casinos re-engage with lapsed customers who were inactive for a year or more
- Active customers who register an online account do not decrease their physical spend or visitation frequency

These statistics and anecdotes suggest that online gaming is a complement to physical casino gaming as opposed to a competitor.⁵⁶⁸

E. Sports Betting Regulatory, Policy Issues

Before sports betting is allowed as a form of gaming in Louisiana, of course, the Legislature must pass authorizing legislation. It is generally recognized that, as with fantasy sports contests, any law authorizing sports betting as a “new form of gaming, gambling, or wagering” to be conducted in a parish will require majority approval via referendum election in that parish before it can go into effect.⁵⁶⁹ Any legislation therefore is expected to include a call for an election in any parish in which sports betting would be conducted.

Should sports betting become legal in one or more parishes, the Louisiana Legislature will face a variety of decisions regarding how sports betting in Louisiana will function and how it will be regulated.⁵⁷⁰ Chief among these is whether the state would issue sports betting licenses solely to licensed casino operators or allow sports betting at racetracks, licensed video draw poker establishments, or even on mobile devices. The experiences of two states situated on different sides of this spectrum are instructive.

⁵⁶⁶ Jacob Oberman of MGM Resorts International, which owns and operates Borgata in Atlantic City.

⁵⁶⁷ Steve Rudock, “Golden Nugget’s Data Blasts a Hole In Online Gambling Cannibalization Arguments,” *Online Poker Report*, March 14, 2017. <https://www.onlinepokerreport.com/24404/online-casino-myth-golden-nugget/>

⁵⁶⁸ Steve Ruddock, “Five out of Five New Jersey Casino Operators Agree: Regulated Online Gambling is Good for Business,” *Online Poker Report*, May 8, 2017. <https://www.onlinepokerreport.com/25201/online-gambling-helping-nj-casinos/>

⁵⁶⁹ La. Const. art. XII, § 6(C). In a 2018 hearing before the Louisiana Senate Committee on Judiciary B, Gaming Control Board Chairman Ronnie Jones suggested that, should sports betting be allowed only within certain establishments such as casinos, a referendum would only need to occur “in those parishes where those licensed activities take place” as opposed to statewide. See Senate Judiciary B Hearing, October 24, 2018, at 1:06:31-1:07:08 (exchange between Senator John Alario and Jones), http://senate.la.gov/video/videoarchive.asp?v=senate/2018/10/102418JUDB_0

⁵⁷⁰ In December 2018, Senators Orrin Hatch and Chuck Schumer introduced a bill in the US Senate that would have compelled states to adhere to certain requirements – such as the prohibition of wagers on amateur events other than the Olympics and college sports and the use of data provided by sports organizations – in authorizing sports betting. See Adam Candee, “Hatch, Schumer Preparing To Drop Federal Sports Betting Bill In Senate,” *Legal Sports Report*, December 19, 2018. <https://www.legalsportsreport.com/26901/federal-sports-betting-bill-drop/>. Although the bill failed to gain any traction, states such as Louisiana should anticipate the possibility that the federal government passes legislation outlining, in some way, the manner in which states must regulate sports betting should they choose to allow it.

Mississippi permits only casino operators to offer what they call “sports pools” at their premises upon receiving approval from the Executive Director of the Gaming Commission.⁵⁷¹ Licensed sports book operators “shall accept wagers only on its licensed premises” and only via betting stations, kiosks/terminals, on-site computerized systems, or (upon approval by the Executive Director) a mobile device application used on casino premises.⁵⁷²

By limiting sports books to casinos, Mississippi was able to seamlessly mesh the regulatory framework governing sports betting with the frameworks already in place to govern existing forms of casino gaming. For example, casino operators need only amend their license application to include a request for a sports book,⁵⁷³ and Mississippi did not need to pass new legislation to subject sports betting revenues to the same roughly 12.0 percent tax – 8.0 percent to the state, 4.0 to the casino’s local municipality – that governs all other forms of gaming revenue in the state.⁵⁷⁴ Some have observed that Mississippi’s refusal to allow wagers throughout the state on mobile apps or anywhere aside from casino premises has deprived the state of the additional revenue it would have realized from allowing non-casino patrons – many of whom may continue to utilize illegal and unregulated offshore sites – to participate.⁵⁷⁵

New Jersey, as noted, sanctions sports betting at casinos, racetracks, and online throughout the state.⁵⁷⁶ New Jersey requires online sports books and app providers to align with state-based sports books to be able to tax the online revenue generated within the state.⁵⁷⁷ Online books are hauling in most of the overall revenue, with the sports books located at the Meadowlands and Monmouth Park racetracks outperforming those at casinos.⁵⁷⁸

Like New Jersey, Louisiana already features a variety of gaming options and gaming-related venues – and thus several options for where and on what platforms sports betting could be authorized. With additional options, however, come additional regulatory headaches – particularly if Louisiana allows

⁵⁷¹ 13-9 Miss. Code R. § 2.1.

⁵⁷² 13-9 Miss. Code R. §§ 3.4(b), 3.15. So far, only one Mississippi casino, the tribal-run Pearl River Resort, has announced a plan to introduce a mobile application permitting patrons to wager on its premises. See Bart Shirley, “Pearl River Resort Plans to Launch First Mississippi Sports Betting App,” *Legal Sports Report*, January 22, 2019. <https://www.legalsportsreport.com/27689/pearl-river-resort-sports-app/>

⁵⁷³ 13-9 Miss. Code R. § 2.1.

⁵⁷⁴ See Miss. Code §§ 75-76-177, 75-76-195; “Gaming Taxes and Rates,” Miss. Dep’t. of Rev., <https://www.dor.ms.gov/Business/Pages/Gaming-Taxes.aspx>; Dorson, *supra* note 491.

⁵⁷⁵ See generally Charles Gillespie, “Mississippi Sports Betting Must be Mobile,” *Clarion Ledger*, July 19, 2018. <https://www.clarionledger.com/story/opinion/columnists/2018/07/19/mississippi-sports-betting-must-mobile/799983002/>. “The American Gaming Association estimates that Americans placed nearly \$155 billion in illegal sports bets in 2016, including \$90 billion on college and NFL football,” Louisiana Gaming Control Board, “Annual Report to the Legislature on Gaming Technology,” 2018, at p. 9.

⁵⁷⁶ N.J. Rev. Stat. §§ 5:12A-10, *et seq.*; “New Jersey Sports Betting,” *Legal Sports Report*, <https://www.legalsportsreport.com/nj/> (accessed February 14, 2019).

⁵⁷⁷ N.J. Rev. Stat. § 5:12A-11; Nick Corasaniti, “‘Gold Mine’: Why New Jersey Is Suddenly Challenging Nevada as a Sports Betting Hub,” *New York Times*, October 19, 2018. <https://www.nytimes.com/2018/10/19/nyregion/new-jersey-sports-betting.html>

⁵⁷⁸ See David G. Schwartz, “Did New Jersey Fumble Sports Betting In September?,” *Forbes*, October 22, 2018. <https://www.forbes.com/sites/davidschwartz/2018/10/22/did-new-jersey-fumblesports-betting-in-september/#16863234a2ca>

statewide online or mobile betting.⁵⁷⁹ Technological snafus have accompanied the rollout of online sports wagering in New Jersey, including a high-profile gaffe by FanDuel that resulted in the company paying out bets made at erroneously inflated odds.⁵⁸⁰ Other policy implications, such as the interest in incentivizing patrons to visit physical venues and thereby generate revenue in other ways, could militate against the expansion of sports betting options.⁵⁸¹

Regulatory Issues

Determining the tax rate on sports betting will present another dilemma. As discussed above, the tax rates on other forms of gaming in Louisiana range from approximately 21.5 percent to 32.5 percent. Although a tax on sports betting revenue within this range would not qualify as the highest in the country, it would be higher than most other states that have legalized sports betting – and would at least almost double the rate in Mississippi.⁵⁸² Whereas a tax rate of at least 21.5 percent would ensure Louisiana sees a significant portion of sports betting revenue and bring sports betting in lockstep with other forms of gaming, it could hinder the ability of operators to compete with Mississippi or operators on the illegal market.⁵⁸³ As noted earlier in this chapter, a tax rate of 15 percent or lower would allow its sports book operators to be competitive with other markets.

Louisiana also will have to confront the question of how to regulate the relationship between operators and the leagues on which patrons would be betting. For example, professional leagues and the NCAA continue to push states to adopt the so-called “integrity fee,” which would require operators to pay a percentage of sports betting revenues to leagues for providing data and ensuring the integrity of competitions.⁵⁸⁴ Louisiana also will have to decide whether to allow patrons to place wagers on collegiate athletic events occurring within the state and out-of-state events involving Louisiana universities. Whereas states such as Mississippi, Pennsylvania, and West Virginia allow such wagers,⁵⁸⁵ New Jersey,

⁵⁷⁹ For mobile or online sports betting to occur, Louisiana Revised Statute §14:90.3 will have to be amended to exempt online and mobile sports betting from the prohibition on “gambling by computer,” just as it was to allow participation in fantasy sports contests.

⁵⁸⁰ John Brennan, “FanDuel Trying to Solve Online Sports Betting Crashing Issues Before Super Bowl,” *Online Gambling*, January 22, 2019. <https://www.njonlinegambling.com/fanduel-onlinesports-betting-crashing-issues/>; see also, “FanDuel will Pay out \$82K to N.J. Man who Won on Big Mistake,” *Associated Press*, September 20, 2018. https://www.nj.com/essex/index.ssf/2018/09/fanduel_to_pay_out_disputed_82k_nfl_bet_to_nj_man.html.

⁵⁸¹ Kevin Braig, et al., “Legal Sports Betting in the United States: How Can it Evolve? How Should it Evolve?,” *Spectrum Gaming Group*, September 2017.

⁵⁸² “US Sports Betting,” *Spectrum Gaming Capital*. <http://www.spectrumgamingcapital.com/us-sports-betting/> (accessed February 14, 2019)

⁵⁸³ See Elizabeth Crisp, “Support Builds around Legalizing Sports Betting in Louisiana, but it’s not a Slam Dunk,” *The Advocate*, January 12, 2019. https://www.theadvocate.com/baton_rouge/news/politics/legislature/article_f8af8590-1604-11e9-ae5f-4b4ed292a2b9.html

⁵⁸⁴ Crisp, *supra* note 583; Louisiana Gaming Control Board, *supra* note 575, at 9. Although no state has yet adopted an “integrity fee,” the leagues remain undeterred in attempting to convince state legislatures to break the mold. E.g., Matthew Kredell, “New Connecticut Sports Betting Bill Puts A Twist On The Integrity Fee,” *Legal Sports Report*, March 6, 2019.

⁵⁸⁵ Dorson, *supra* note 491; Ed Barkowitz, “Sports Betting: Unlike New Jersey, Pennsylvania Sportsbooks Have Gambling on College Games,” *The Inquirer*, October 4, 2018. <https://www.philly.com/philly/sports/eagles/pennsylvania-sports-betting-college-football-basketball-new-jersey-gambling-20181004.html>; Dustin Gouker, “First College Football Saturday Of West

Rhode Island, and New Mexico do not.⁵⁸⁶ Given the popularity, in particular, of Southeastern Conference football in the region, Louisiana would be forsaking a significant revenue stream were it to prohibit wagers on in-state university-related events.⁵⁸⁷

Louisiana will also have to determine whether to set a cap on wagers, or else enact special practices for when wagers or award payouts exceed a certain dollar amount. Before accepting any sports wager or making a payout in excess of \$10,000, a licensee in Mississippi must obtain and record extensive information about the wagering patron, including the patron's name, permanent address, social security number, and an identification credential such as a driver's license or passport.⁵⁸⁸ New Jersey is considering a \$5 million cap on sports wagers, even though no single bet has exceeded that figure.⁵⁸⁹

During a recent webinar entitled "The US PASPA Repeal from the Regulator Perspective," Allen Godfrey, Executive Director of the Mississippi Gaming Commission, and David Rebeck, Director the New Jersey Division of Gaming Enforcement, each indicated that the respective rollouts of legal sports betting in their states has proceeded relatively smoothly.⁵⁹⁰ However, each cited a specific challenge: ensuring that operators without previous experience in Nevada or new to the United States altogether conform to stringent federal and state regulatory requirements.

As Godfrey explained with respect to foreign or inexperienced operators, "I'm finding that you really have to get on them pretty hard and make certain they're well aware that we mean business when we tell them they have to operate in a certain manner."⁵⁹¹ Rebeck concurred: "They're not used to how gambling is regulated in the United States differently from, say, the United Kingdom or Australia or some other foreign country. Our laws are so much more strict when it comes to consumer protection laws ... or licensing requirements to engage in this regulated profession."⁵⁹² Louisiana regulators should be prepared

Virginia Sports Betting: \$340,000 Wagered," *Legal Sports Report*, September 2, 2018.
<https://www.legalsportsreport.com/23535/vv-sports-betting-handle-first-saturday/>

⁵⁸⁶ N.J. Rev Stat. § 5:12A-10 (defining "prohibited sports event" as any collegiate sport or athletic event that takes place in New Jersey or a sport or athletic event in which any New Jersey College team participates"); R.I. Gen. Laws. §42-61.2-1; Nicholas Garcia, "New Mexico Becomes Sixth State with Legal Sports Betting," PlayUSA, October 17, 2018.
<https://www.playusa.com/new-mexico-legal-sports-betting/>. The New Jersey Division of Gaming Enforcement fined the Golden Nugget Atlantic City and Caesars Entertainment Corp. for illegally accepting bets on a September 2018 Rutgers-Kansas college football game. Bob Jordan, "NJ Sports Betting: Atlantic City Casinos Fined for Illegal College Football Bets," APP, December 28, 2018. <https://www.app.com/story/sports/2018/12/28/nj-sports-betting-atlantic-city-casinos-fined-illegal-college-bets/2429415002/>

⁵⁸⁷ David Purdum, "'Roll Tide': A Successful CFB Season for Mississippi Sports Betting," ESPN, January 16, 2019.
http://www.espn.com/chalk/story/_/id/25777538/what-was-mississippi-sportsbooks-national-championship-game-alabama-clemson.

⁵⁸⁸ 13-9 Miss. Code R. § 3.5. Mississippi further requires licensees to counter-act attempted circumvention of the Rule 3.5 reporting requirements by aggregating multiple smaller bets or structuring bets. E.g., 13-9 Miss. Code R. §§ 3.6, 3.7.

⁵⁸⁹ Brian Pempus, "New Jersey Considers \$5 Million Sports Bet Ceiling," Online Gambling, January 21, 2019.
<https://www.njonlinegambling.com/new-jersey-5-million-sports-bet-limit/>.

⁵⁹⁰ IAGA Best Practices Webinar Online Education Series: The US PASPA Repeal from the Regulator Perspective (BrightTALK), 51:45-53:18 (Godfrey), 53:45-56:55 (Rebeck) ["IAGA Webinar"].

⁵⁹¹ IAGA Webinar, 51:45-53:18 (Godfrey).

⁵⁹² IAGA Webinar, 53:45-56:55 (Rebeck).

to facilitate as seamless a transition as possible for potential sports betting operators with a dearth of experience in either the US or Louisiana gaming markets.

F. Conclusion and Recommendations

The rollout of internet gaming across the United States has been far slower than the ongoing rollout of sports betting. Online wagering started in November 2013 in Nevada, Delaware and New Jersey. Since then, only Pennsylvania has legalized internet gaming and is expected to roll it out later this year. By comparison, PASPA was invalidated in May 2018 and by November 2018 six additional states became active in sports betting.

However, as the momentum for sports betting legalization continues to accelerate, we expect states will increasingly consider adoption of internet gaming if they legalize sports betting through digital channels. As illustrated through New Jersey's early results, digital betting can be a game changer for overall sports betting volume. We believe New Jersey also serves as model for a successful internet gaming industry, one that states are going to be increasingly comfortable with as they consider digital sports betting.

Based on the expected widespread rollout of sports betting nationwide – including the 2018 launch in neighboring Mississippi and the launches in six other casino states – Spectrum recommends that the State of Louisiana authorize sports betting. This will help to stem the exportation of gaming dollars to Mississippi – which commenced sports betting in 2018 – and generate incremental revenues for authorized sports betting facilities, as well as incremental gaming tax receipts for the State of Louisiana.

Based on the impressive and largely accretive results in New Jersey, and on the largely stagnating results in Louisiana's casino industry (as analyzed in Chapter I), Spectrum recommends the State of Louisiana approve internet gaming as part of any legislation that also authorizes sports betting through internet/mobile channels.

The most critical consideration involved in the potential adoption of legal sports betting is the determination as to which entity should be entrusted with its regulation. On one level, the answer is relatively straightforward: If casino licensees are allowed to offer sports betting, the regulatory responsibilities will belong to the Louisiana Gaming Control Board. In Spectrum's opinion, sports betting should at least start with the state's casinos, which as heavily regulated businesses can easily and quickly bring sports betting into their fold and which as a major state industry whose gaming revenues have been stagnating could use this important new form of wagering to boost their receipts.

Looking ahead, Louisiana may be forced to confront a more vexing question: Will lottery retailers and other third parties be allowed to offer sports betting? At that point, the answer is less clear. Effective regulation would require significant coordination between the Gaming Control Board and the Louisiana Lottery Corporation.

Like other states that have both lotteries and casinos – from Ohio to New Jersey to Massachusetts – Louisiana lawmakers will be forced to confront a new reality: Lotteries and casinos have long operated in their own lanes, with little need or pressure to work with each other. In sports betting – and online gaming – that system will likely prove to be inadequate.

VI. Analysis of Louisiana’s Lottery System

Spectrum’s senior lottery associates analyzed the performance of the Louisiana Lottery (the “Lottery”) and also met with President Rose Hudson and staff to assess the operations of the Lottery. We compared operations in other states to determine what changes would possibly succeed in Louisiana. We have used available empirical data to project the gains Louisiana would realize should it implement our recommendations. While these are projections and not guarantees, Spectrum is highly confident that, given the staffing at the Lottery and the significant structural impediments to growth, if the Louisiana State Legislature and Louisiana Lottery implement our recommendations, the growth in sales revenue and the growth in transfers to the State would increase dramatically. This is particularly true given the Lottery’s financial performance over the last several years.

Spectrum reviewed the following key areas in reaching its findings and recommendations:

- **Governance:** Spectrum met with relevant members of the Lottery’s senior staff, including the Executive Director. We reviewed applicable statutes, rules, regulations, practices and policies regarding oversight of Lottery operations.
- **Management Structure and Staffing:** Spectrum reviewed relevant workflow and policies or procedures, job descriptions, and organization charts.
- **Third-Party Management Agreements:** Spectrum reviewed the gaming-system provider relationship. We interviewed Intralot senior management and staff as well as members of the Louisiana Lottery’s Information Technology Department.
- **Traditional Lottery Product Analysis:** Spectrum assessed the development and marketing of the traditional product portfolio. We met with Lottery staff responsible for the development, sales, and marketing of the instant ticket product to discuss the game concept process, production and release practices, and marketing approach.
- **Retailers:** Spectrum reviewed the Lottery’s relationship with its retailers from a contractual basis as well as from a marketing and service standpoint. We further examined how the Lottery staff can better serve retailers, the types of retailers, the recruitment of new retailers, and methods to maximize sales at existing retailers. The team visited several retail locations in and around Baton Rouge as part of its site visit. We gathered relevant retailer-related information from Lottery staff including, but not limited to:
 - Commission structure and amount
 - Retailer demographics (e.g., size and types of businesses)
 - Existence of non-traditional Lottery retailers
 - Product inventory for retailers
 - Current equipment
 - Future needs
- **Marketing and Advertising:** Spectrum met with the internal marketing staff to ascertain the methods employed by the Lottery to promote its products. We examined the various marketing channels employed by the Lottery to promote Lottery products. We reviewed the use of point-of-sale materials, in-field promotions, and the development of cross-marketing promotional opportunities.

- **Game Platforms:** Spectrum reviewed efforts to leverage non-traditional platforms, such as online and digital platforms. We interviewed the sales and marketing staff regarding the online and digital player’s club/lottery reward programs.
- **Financial Structure and Analysis:** Spectrum met with the Director of Finance to review policy and procedures for the finance department. The teams reviewed the performance audit and certified financial statements. The team reviewed the retailer settlement practices and prize-cashing policies.
- **Procurement Practices:** Spectrum engaged in interviews and discussions with Lottery staff to determine the efficiency of the procurement process to achieve the best value for the Lottery through the use of competitive bidding.

A. Overview

1. Lottery Background

In 1990, the Louisiana Legislature approved an act to amend the State Constitution to create the Louisiana Lottery Corporation. On October 6, 1990, voters passed the referendum amending the State Constitution to create the Lottery. In September 1991, the Louisiana Lottery sold its first ticket.⁵⁹³ The Louisiana Lottery is organized as a quasi-public corporation governed by a board of directors and a president who oversees the day-to-day operations of the Lottery. The Lottery’s purpose is to provide enjoyable and secure Lottery games while maximizing revenues returned to the State.⁵⁹⁴

The Lottery operates independently but has oversight by the Governor and the Legislature, and it is subject to periodic State audits. The Lottery submits its annual fiscal year budget to the Joint Committee on the Budget for approval. Additionally, the Board of Directors is appointed by the Governor with the consent of the Legislature.⁵⁹⁵

The Lottery is subject to two substantial fiscal requirements:

- The Lottery is mandated to transfer a minimum of 35 percent of its gross revenue to the State to support its good causes.⁵⁹⁶ As discussed later, this 35 percent requirement is a major obstacle to the Lottery maximizing sales and return to the State. This requirement is causing the Lottery to refrain from offering games, and it limits the promotion of its products due to budget constraints.
- The retailers’ sales commissions are at a minimum of 5 percent of gross revenue.⁵⁹⁷ This requirement does not constrain the Lottery as it matches what industry standard is with

⁵⁹³ “Lottery History FAQ,” Louisiana Lottery Corporation. <https://louisianalottery.com/fag/lottery-history#17> (accessed March 6, 2019)

⁵⁹⁴ Karen B. Fournet, “Louisiana Lottery Corporation: A Component Unit of the State of Louisiana Comprehensive Annual Financial Report for the Fiscal Years Ended June 30, 2018 and 2017,” September 18, 2018.

⁵⁹⁵ Ibid.

⁵⁹⁶ Ibid.

⁵⁹⁷ Ibid.

respect to Lottery retailer commission rates. If the Lottery were to offer a smaller percentage of sales to retailers, the initiative may not be significant enough to encourage retailers to sell and market the Lottery's products.

The Lottery's performance over the last three fiscal years is provided in the following table.

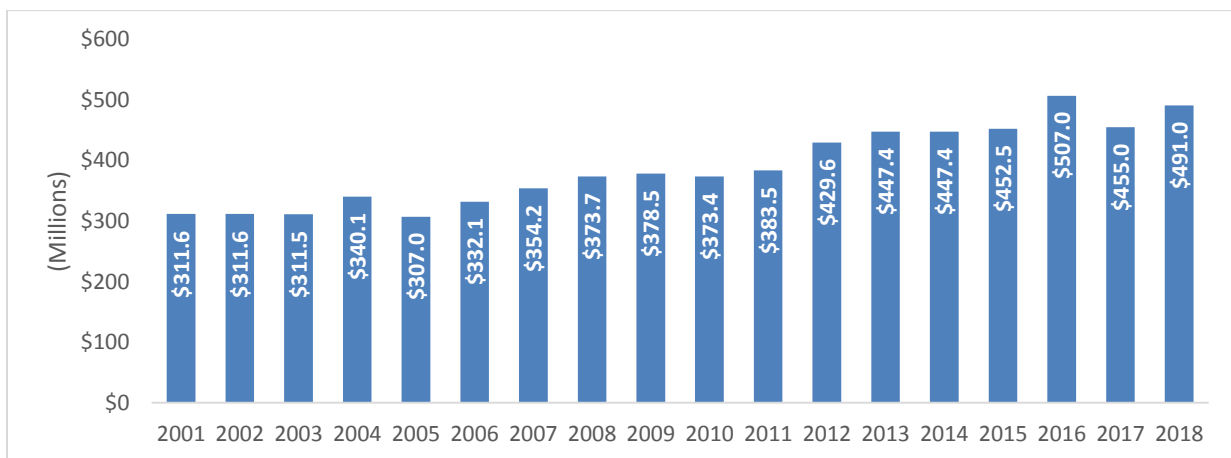
Figure 121: Louisiana Lottery performance, 2016-2018

	FY 2018	FY 2017	FY 2016
Operating revenues			
Instant ticket sales	\$217,150,430	\$206,293,946	\$212,153,131
Online sales	273,824,668	248,672,271	294,882,956
Allowance for uncollectible accounts	(28,177)	(20,222)	(19,287)
Other operating revenues	10,910	11,005	9,966
Total operating revenues	490,957,831	454,957,000	507,026,766
Non-operating revenues, investment and other income	319,749	(140,944)	1,341,164
Total revenues	491,277,580	454,816,056	508,367,930
Operating expenses			
Direct costs:			
Prize expense	263,606,902	242,945,296	272,926,177
Retailer commission and incentives	27,496,227	25,483,326	28,188,671
Other direct costs	9,228,815	8,177,921	9,521,967
Total direct costs	300,331,944	276,606,543	310,636,815
Administrative expenses	18,869,318	18,841,931	18,784,443
Total operating expenses	319,201,262	295,448,474	329,421,258
Non-operating expenses:			
Payments to State Treasury	171,955,980	159,191,670	177,934,550
Total expenses	491,157,242	454,640,144	507,355,808
Change in net position	\$120,338	\$175,912	\$1,012,122
Ending net position	13,213,164	\$13,092,826	\$12,916,914

Source: Louisiana Lottery

The Lottery's sales performance has grown minimally because, in Spectrum's opinion, of the 35 percent mandate that restricts everything from game development and marketing of the games to retailer development and recruitment.

Figure 122: Louisiana Lottery total sales, 2002-2018



Source: Louisiana Lottery

B. Peer-Group Comparison

The most accurate, telling comparison of US lotteries for the purposes of this discussion is looking at the per-capita sales for traditional lottery products. These allow for an apples-to-apples comparison by eliminating differences in population and differences in product portfolio.

The following table, which tracks data through FY 2017, provides annual per-capita sales data for US lotteries. The chart shows six other lotteries selected for comparison. In reviewing these data, Louisiana's per-capita sales figure is in the lower half of all state lotteries. Massachusetts is at the top with \$750 per capita annually. Louisiana Lottery's per capita annual sales is \$97.⁵⁹⁸ Of note, all of the jurisdictions below except the Washington, DC, also have multiple casinos of some type. Our discussion will focus on growth comparisons based on this type of information to minimize differences due to population.

Figure 123: Lottery performances among peer states, 2017

	Total Sales Revenue (M)	Government Transfer (M)	Annual Per Capita Sales	Government Transfer %
Arkansas	\$449.1	\$85.2	\$150	19.0%
Connecticut	\$1,216.3	\$335.0	\$338	27.5%
District of Columbia	\$218.7	\$45.6	\$312	20.9%
Kentucky	\$987.0	\$248.6	\$219	25.2%
Louisiana	\$445.0	\$159.2	\$97	35.0%
Massachusetts	\$5,087.9	\$1,039.7	\$737	20.4%
Michigan	\$3,329.8	\$927.0	\$333	27.8%

Source: La Fleur's 2018 World Lottery Almanac

Clearly, the Louisiana Lottery is lagging significantly behind the other listed lotteries in per capita sales. It also has the highest percentage of revenue that is transferred to the government. However, when compared with Kentucky, a state with a similar population, the gross amount transferred is almost \$100 million less. Spectrum believes this performance is linked to the mandated government transfer restriction and the limitations it places on the Lottery to offer more appealing games and engage in more effective promotion of its product.

C. Findings and Recommendations

1. Mandated 35 Percent Return to State

Pursuant to Louisiana law, the Lottery is required to transfer a minimum of 35 percent of total revenues to the State. Additionally, the Lottery is required to pay its retailer a minimum commission of 5 percent of total sales. These two mandates leave the Lottery with a mere 60 percent of total sales to award to prizes and pay the administrative costs of the Lottery. This is very difficult considering the average payout among lotteries across the country.

The following table compares prize payout percentage for FY 2017 among the peer lotteries listed above.

⁵⁹⁸ LaFleur's 2018 World Almanac, 26th Edition, edited by Terri Markle, Bruce LaFleur and Byron LaFleur, 2018.

Figure 124: Comparison of lottery prize payout percentages, government transfer for peer states, 2017

Lottery	Total Prizes (M)	Prize Payout Percentage	Government Transfer %
Arkansas	\$306.4	68.2%	19.0%
Connecticut	\$756.3	62.2%	27.5%
District of Columbia	\$130.0	59.4%	20.9%
Kentucky	\$628.8	63.7%	25.2%
Louisiana	\$243.0	53.4%	35.0%
Massachusetts	\$3,670.6	72.1%	20.4%
Michigan	\$2,016.5	60.6%	27.8%

Source: La Fleur's 2018 World Lottery Almanac

There is a correlation between overall performance and prize payout percentage. Lotteries that provide more variety and better odds of winning see better sales. These factors, combined with a prize payout percentage that is varied among games (draw and jackpot versus the different price points in the instant game), lead to not only higher sales but higher transfers to the State.

There are several ways that Spectrum observed the 35 percent mandated transfer restricting the Lottery in engaging in typical lottery games or other marketing efforts. Some of the ways this has had a negative effect include:

1. Restricting the higher price point instant games due to its higher prize payout;
2. The Lottery does not purchase point-of-sale promotions for new instant game releases;
3. To save on costs, the Lottery does not issue new instant games to all retailers; and
4. The Lottery does not contract for market research; i.e., customer segmentation studies.⁵⁹⁹

This restriction has forced the Lottery to use the unclaimed prize fund to allow it to meet its 35 percent transfer obligation and allow it to offer the consumer more to at least maintain its current level of sales. In addition, the Legislature in recent years has appropriated portions of the unclaimed prize fund for non-Lottery purposes. This appropriation has left the Lottery with no reserve to try to maintain sales.⁶⁰⁰

In 2015, the Louisiana Legislative Auditor conducted an audit in which the Auditor considered questions about the mandatory transfer requirement, the use of the unclaimed prize fund, and maximizing the return to the State. The reports say that the State has two options with respect to maximizing Lottery revenues.

⁵⁹⁹ Interviews with Rose Hudson, Karen Fournet, Brad Menard, James Goodrum, Quinn Dossett and Susan Clayton of the Louisiana Lottery, January 23, 2019.

⁶⁰⁰ Ibid.; see also "Louisiana Lottery Corporation House Concurrent Resolution No. 116 2014 Regular Session," Louisiana Audit Services, March 11, 2015.

Figure 125: Legislative Auditor’s 2015 summary of options for Lottery and legislative consideration

	Description	What State Mandate Would Need to Be	Prize Payout Percentage for Scratch-Off Games	Additional Recurring Revenue to State from Increased Sales (by FY 2020)
Option 1	State receives \$27.6 million from unclaimed prize balance immediately , State <u>receives new</u> unclaimed prize revenue	Decreased to 25%	Increased to 70%*	\$3.8 million gain in annual recurring revenue for K-12 education
Option 2	State receives \$27.6 million from unclaimed prize balance immediately , State <u>receives new</u> unclaimed prize revenue, State does not decrease 35% mandate	Remains at 35%	Decreased to 50.7%	(\$16 million)** loss in annual recurring revenue for K-12 education

*In order to maximize transfers to the State, the Lottery would need to increase the prize payout percentage incrementally along with the decrease in the State’s mandated transfer percentage. Our analysis is based on incrementally increasing the prize payout percentage to 70% over a five-year period.

**If the State takes the \$27.6 million the Lottery projects to have in unclaimed prizes by June 30, 2015, the Lottery would then have to decrease the prize payout percentage because they would not have the money to cover all of the variable costs associated with its current percentage or any increase in percentage.

Source: “Louisiana Lottery Corporation House Concurrent Resolution No. 116 2014 Regular Session,” Louisiana Audit Services, March 11, 2015

It appears that the State has appropriated the unclaimed prize fund for use outside the Lottery without decreasing the mandated transfer percentage. While Spectrum agrees with the premises of the Audit Report, it believes its estimates are too low for the impact of lowering the mandated transfer percentage. The Oklahoma Lottery provides an excellent example of what could happen if Louisiana lowered the mandated transfer percentage to 25 percent or less. Oklahoma had the same mandated transfer percentage of 35 percent.⁶⁰¹ The total sales in Oklahoma had dropped to \$151 million in 2017, with a total government transfer of \$53.8 million.⁶⁰² In 2018, Oklahoma changed the formula to benefit education by eliminating the 35 percent mandated transfer and replacing the requirement with the Lottery committing to transfer a fixed sum to support education. In the first year after the change, the increases to sales and the amount transferred to education have been impressive. In July 2018, it was reported that the Oklahoma Lottery transferred \$63.2 million to education causes, an increase of 19 percent.⁶⁰³

The Louisiana Legislative Auditor’s estimated increase over several fiscal years amounts to little more than an increase of three percent over several fiscal years. Spectrum believes that this projected increase is low. A similar 19 percent increase as seen in Oklahoma provides solid, experiential evidence of the upside of making this change in Louisiana. The increase could be even larger if Louisiana improves the instant ticket offering, expands the retailer base, and offers keno. These other changes could allow the Lottery revenue to grow by as much as 50 percent over a few fiscal years. In any event, a 19 percent

⁶⁰¹ Dale Denalt, “Boosted Oklahoma Lottery sales means more cash for education,” *The Oklahoman*, July 28, 2018. <https://newsok.com/article/5602910/boosted-oklahoma-lottery-sales-means-more-cash-for-education>

⁶⁰² LaFleur’s 2018 World Almanac.

⁶⁰³ Denalt.

increase in a two-fiscal-year period would result in an increase of almost \$30 million annually to the amount transferred to the State of Louisiana.

2. Instant Tickets

The 35 percent mandated revenue transfer is severely restricting the types of instant games the Louisiana Lottery may offer. As stated above, after the 40 percent mandated expenditures (State transfer plus retailer commission), the Lottery is left with 60 percent of total revenue to pay costs and pay prizes. In the lottery industry, the higher the price point for an instant game, the greater the prize payout percentage and the larger the top prizes. Massachusetts is one of the leaders of all US lotteries in terms of instant ticket sales. In 2017, the Massachusetts instant ticket sales represented more than 60 percent of the total sales. In Illinois and Connecticut, instant ticket sales represent more than half of total sales. In Louisiana, instant tickets sales in 2017 were less than half of total sales.⁶⁰⁴ Louisiana lags behind in instant ticket sales because it does not offer higher price points and does not promote tickets with point-of-sale materials that would boost initial sales of new instant games among other things.⁶⁰⁵

The Louisiana Lottery offers instant tickets priced at \$1, \$2, \$3, \$5, and \$10.⁶⁰⁶ Most lotteries also offer instant tickets at a price point of \$20 and \$30. In order to offer these price points, the Louisiana Lottery needs relief from the 35 percent mandated State transfer requirement. By eliminating or reducing the guaranteed transfer percentage, the Lottery would be able to offer higher price point games, which would result in increased sales and increased net return to the State.

In addition, the Lottery is selling instant tickets with a lower prize percentage than other lotteries in the industry. The table below compares the prize percentages in selected games offered in Louisiana to those with matching price points offered in Massachusetts, which is recognized as the leading lottery in instant ticket sales and development.

Figure 126: Louisiana instant-ticket prize percentages by price point

Price Point	\$1	\$2	\$5	\$10
Massachusetts	69.96%	72.89%	76.5%	80.19%
Louisiana	57.02%	61.51%	66.13%	68.75%

Source: Massachusetts Lottery, Louisiana Lottery

A lower prize payout percentage also results in a lower top prize and callout on the ticket. For instance, the \$10 “\$4,000,000 Gold Rush” ticket in Massachusetts has a top prize of \$4,000,000. The \$10 “50X” ticket in Louisiana offers a top prize of \$200,000.⁶⁰⁷ The lower top prize in an instant game is another contributing factor in limiting sales and growth.

⁶⁰⁴ LaFleur’s 2018 World Almanac.

⁶⁰⁵ Interview with Rose Hudson, et. al, January 23, 2019.

⁶⁰⁶ “Louisiana Lottery Corporation – Scratch-offs.” <https://louisianalottery.com/scratch-offs>

⁶⁰⁷ “Massachusetts State Lottery-Instant Games,” www.masslottery.com. SG Lottery Game Specifications for Game 1163 “50X,” dated July 3, 2018; Game 1161 “10x” dated July 3, 2018; Game 1185 “Silver and Gold Crossword” dated September 12, 2018; Game 1162 “20x,” dated July 3, 2018; Game 1160 “5x,” dated July 3, 2018.

The following table provides the instant ticket sales (in millions) by price point for selected lotteries for 2017:

Figure 127: Comparison of lottery instant ticket sales for peer states, 2017

(Millions)	\$1	\$2	\$3	\$5	\$10/\$15	\$20+
Arkansas	\$17.2	\$77.1	\$26.3	\$131.8	\$152.2	\$228.1
Connecticut	\$26.2	\$41.2	\$67.5	\$161.9	\$232.1	\$191.7
District of Columbia	n/a	n/a	n/a	n/a	n/a	n/a
Kentucky	\$31.1	\$61.4	\$32.7	\$171.0	\$151.8	\$155.8
Louisiana	\$38.2	\$46.8	\$15.4	\$55.6	\$50.2	n/a
Massachusetts	\$106.2	\$410.3	n/a	\$949.3	\$976.2	\$1,076.2
Michigan	\$57.7	\$183.2	\$28.9	\$288.5	\$288.3	\$475.0

Source: La Fleur's 2018 World Lottery Almanac

It is clear that the Louisiana Lottery is missing out on considerable sales and revenue to the State due to the limitations it has on what price points it can sell.

If the mandated revenue return percentage is lowered or eliminated, we anticipate the Lottery will be able to take all necessary steps mentioned in this report that should allow for significant sales growth over the next four to five years. The projected revenue return to the State would possibly increase by anywhere from 30 percent to 50 percent. Increased sales are a benefit not only to the State, but also to retailers. Retailers would benefit because retail commissions would increase and increased foot traffic in their stores would produce ancillary sales.

Based on our discussions with staff, Spectrum recommends the following in the instant area:

- 1. Instant Ticket Development.** We recommend the Lottery qualify all three instant ticket vendors in the industry with no guarantee for business. Each vendor would compete for a spot in each instant ticket launch. All instant ticket proposals would be subject to focus group testing. The Lottery staff would then decide which games to print based on past sales experience and how each proposal tests in focus groups. This methodology would provide a greater selection of games to choose from, and the Lottery would be able to gauge what tickets are selling well in the industry. Competition between vendors would produce better Instant tickets for the State. This process has done quite well in other states, including Massachusetts and Connecticut. Michigan Lottery has adopted this methodology, and its instant ticket sales have increased dramatically.
- 2. Instant Ticket Inventory.** The Lottery should reduce the number of games it is printing every year. Currently, Louisiana is printing between 60 and 70 games a year. We recommend that the Lottery gradually reduce the number of games to about 40. The reduced number of games would allow the Lottery to print games with larger print runs of their games. The increased number of tickets would allow for an increased prize percentage and the ability to increase the top prize and larger callouts on the ticket, which would increase sales.
- 3. Game Releases.** With the reduced number of games, we would recommend releasing new games at the beginning of each month and putting a coordinated advertising and promotional campaign behind the release to maximize sales. Capitalizing on the excitement that new games generate is critical to game success. We recommend that the ideal number of games range from three to four games for each release.

3. Monitor and Draw Games

The 35 percent mandated State transfer is restricting the development of monitor games that could be used to grow the retailer base into the bar and restaurant industry. The Louisiana Lottery would be able to implement the following games:

1. Keno is the second-highest revenue-producing game in Massachusetts. The game carries a 70 percent prize payout percentage on average.⁶⁰⁸ Based on the keno sales in Arkansas, Louisiana could expect to maximize keno sales at \$324.4 million based on the same \$32 per capita.⁶⁰⁹
2. The Lottery could also participate in games like Lucky 4 Life, which has a payout of 60 percent and is sold in 18 states. This would allow the Lottery to generate even more income for the State.⁶¹⁰
3. The pouring establishments could add Fast Play game machines, which do well in pouring establishments as well as traditional retailers. Fast Play games are instant tickets that are played on a self-service terminal and play like a digital instant ticket.⁶¹¹ The payout percentages are generally higher than instant tickets to allow for repeated plays. The Lottery's current vendor has a robust portfolio of these games. Louisiana could expect to realize \$10 million in sales in the first year Fast Play games are implemented. That number could increase to \$43 million at full maturity.⁶¹²

4. Retailer

In discussions with the Lottery staff, Spectrum learned that few Louisiana restaurants and bars are Lottery retailers. This is an anomaly as compared with other state lotteries, such as the successful lotteries in Michigan, Ohio and Massachusetts, where this sector is a significant sales generator. This is particularly true in the keno and instant ticket products. Obviously, an increase in Lottery retailers would also be expected to increase the sale of Lottery products. The following chart breaks down the percentage of 2017 Lottery sales in Louisiana by different types of retailers.

Figure 128: Louisiana Lottery sales by retailer type, 2017

Supermarkets	7.2%
C-Stores	6.7%
Gas C-Stores	82.1%
Restaurants/Bars	0.2%
Drug Stores	0.1%
Liquor Stores	1.6%
Merchandise Stores	0.5%
Smoke Shops	1.2%

Source: La Fleur's 2018 World Lottery Almanac

⁶⁰⁸ Massachusetts Lottery.

⁶⁰⁹ Interview with Nick Papadoglou, Chief Commercial Officer, Intralot, February 18, 2019.

⁶¹⁰ Massachusetts Lottery.

⁶¹¹ Pennsylvania Lottery

⁶¹² Papadoglou interview.

If the Lottery can offer games such as keno, while offering sports betting and Fast Play games, the bar and restaurant sector would be a source of significant sales growth. In New Orleans alone, there are more than 1,300 restaurants and bars.⁶¹³ Recruiting half of New Orleans' restaurants and bars would possibly generate more than \$32 million in sales if each retailer sold \$50,000 in sales annually. This would translate into more than \$8 million returned to the State if the mandated transfer amount was reduced to 25 percent.

5. Game Platforms

The Michigan Lottery has one of the most successful iLottery platforms in the US. Spectrum in its 2016 business assessment of the Ohio Lottery recommended that the Ohio Lottery adopt the Michigan strategy if it chooses to explore the development of a digital platform (internet and mobile sales platform). We are making the same recommendation to Louisiana.

The following excerpt, paraphrased from our Ohio report, describes the Michigan history and strategy.⁶¹⁴

In 2014, the Michigan Lottery began the process by contracting with an outside vendor to manage the development of its digital presence.⁶¹⁵ The vendor, NeoPollard Interactive LLC, took on the responsibility to develop both web and mobile portals, game styles, and graphics, and to include geo-location technology, identity-verification technology and player single-sign-on.⁶¹⁶ NeoPollard is also responsible for the physical portions of the operation, such as the data centers, hardware, call center, and banking agreements.⁶¹⁷

In a 2015 press release, NeoPollard effectively summarized the early success of Michigan's online effort:

NeoPollard Interactive LLC ("NeoPollard Interactive") congratulates the Michigan Lottery on the successful launch of its online game services portfolio. The online game services — developed, implemented, and supported by NeoPollard Interactive — allow Michigan residents to play interactive instant games and a version of keno over the internet on personal computers, tablets, and smart phones. The Michigan Lottery estimates the online games will increase the revenues it provides to the state's schools by approximately \$480 million over the next eight years.

A soft launch ... came after a "beta test" period that began in August. The testing wasn't supported by traditional media, promotions, or incentives. Rather, visitors to the [Michigan] Lottery's website were introduced to the online games option by a "buy online" tab added to the Michigan Lottery's homepage. The soft launch included a variety of promotional programs. Since the soft launch, online game services sales have grown steadily with February sales contributing \$0.30 per capita per week on average to overall Lottery sales. Online game sales in February represented approximately 10 percent of comparative retail category sales of instant tickets and club games.

⁶¹³ Ian McNulty and Jeff Adelson, "How many restaurants does New Orleans have? We counted, counted and counted," *New Orleans Advocate*, June 16, 2018.

<https://www.theadvocate.com/new-orleans/entertainment-life/food-restaurants/article-6662f190-700f-11e8-ae8f-93e87b5d5d60.html>

⁶¹⁴ "Ohio Lottery: Identifying Opportunities, Generating Growth," prepared for Ohio Department of Administrative Services, September 28, 2016. <http://spectrumgaming.com/wp-content/uploads/2018/04/spectrumreportforohiodas.pdf>

⁶¹⁵ "iLottery Two Year Performance Review," Michigan Lottery, August 31, 2016.

⁶¹⁶ Ibid.

⁶¹⁷ Ibid.

That level is more than triple the percentage representation expected in the Lottery's first-year projections.

Currently, Michigan Lottery players may choose from 15 online games with eight games optimized for mobile device play. NeoPollard Interactive champions the importance of having an omni-channel presence, and the growing positive response to the Michigan Lottery's online games portfolio supports this strategy. Preliminary results show the average online game player in Michigan is younger than the average player who buys instant games at retail. Also, about 40 percent of the online game players use mobile devices, underscoring the importance of offering multiple sales channels. While online games broaden the Michigan Lottery's player base, retail channels are experiencing concurrent growth.

"NeoPollard Interactive is proud to be a part of the online game services initiative in Michigan," said Doug Pollard, Co-Chief Executive Officer, NeoPollard Interactive. "In addition to increased revenues for the state's School Aid Fund, the new services also have created 40 new jobs for Michigan residents, and this number is expected to grow."

"We are delighted to be a part of the most successful online gaming venture in the United States to date. The Michigan Lottery's beta test strategy followed by a soft launch and their combined success demonstrate how a strategic approach and a strong vendor relationship can propel sales forward," noted Ilan Rosen, Co-Chief Executive Officer, NeoPollard Interactive. "We look forward to continuing to work with the Lottery to further optimize sales across all available channels by offering Michigan residents more entertainment opportunities to support public education in the state."⁶¹⁸

The Michigan Lottery's online effort was successful in integrating this digital portal into its existing website as a new content area.⁶¹⁹ Players could access either internet or mobile portals by registering online. Existing members of the Player's Club loyalty program could access the online ticket purchase features.

Michigan's online sales program launched in August 2014 as a soft launch without marketing support.⁶²⁰ An initial set of nine scratch games and one keno game were offered on the internet portal. Additionally, five instant games and the one keno game were offered on the mobile platform at the time of launch.

Starting on August 11, 2014, the Michigan Lottery launched one new game per month. This rollout strategy was designed to maintain interest from existing players, while also attracting new players.⁶²¹ Following the soft launch, the Michigan Lottery used the monthly releases to collect play pattern data to prepare for the full launch. Mobile sales grew each month, with nearly 30 percent of digital sales coming through the mobile platform.

The Michigan Lottery incurred expenses of approximately \$6.5 million in FY 2015 related to launching its new digital platform. There were additional costs incurred with respect to the re-design of the digital platform to transform it into an e-commerce platform.⁶²² Other costs leading up to the full launch included paid media aimed at both general and target audiences. Michigan engaged in other marketing efforts, including direct mail campaigns, to attract more players.

⁶¹⁸ World Lottery Association, "NeoPollard Interactive congratulates the Michigan Lottery on successful launch of online games," March 18, 2015. http://www.world-lotteries.org/cms/index.php?option=com_content&view=article&id=5334%3Aneopollard-interactive-congratulates-the-michigan-lottery-on-successful-launch-of-online-games&catid=21&Itemid=100215&lang=en

⁶¹⁹ "iLottery Two Year Performance Review," Michigan Lottery, August 31, 2016.

⁶²⁰ Ibid.

⁶²¹ Ibid.

⁶²² Ibid.

In an effort to offer a new payment method and to drive business to brick-and-mortar retailers, the Michigan Lottery launched an Online Game Card sold through its retailer network.⁶²³ Retailers earn commissions from online sales stemming from the Online Game Card.

The Michigan Lottery launched the online game card program in the summer of 2015. When the program launched, online games relied on traditional retail price points between \$1 and \$20 per ticket.⁶²⁴

Smaller price points were introduced such as \$.05, \$.10 and \$.25 on the majority of online games.⁶²⁵ The Michigan Lottery closed out FY 2015 with approximately \$147 million in ticket sales and a database of approximately 40,000 online players.

In January 2016, Michigan added to its digital product portfolio by offering four draw-based games: Lotto 47, Fantasy 5, Mega Millions, and Powerball.⁶²⁶ This product offering generated more than \$6 million in sales, accounting for about 2.5 percent of total dollars wagered online.⁶²⁷ As fiscal year FY 2016 ended, Michigan's sales on this platform reached \$350 million in ticket sales, \$58 million in deposits, with nearly 90,000 depositing online players.⁶²⁸

The Louisiana Lottery should be authorized to develop a digital platform using the same strategy employed by the Michigan Lottery. If the Lottery pursues a digital platform, it is reasonable to predict that within four to five years after starting sales, the Lottery could reach the \$100 million sales threshold, which would result in a return to the State of at least \$25 million pursuant to a 25 percent mandated transfer.

6. Sports Betting

The District of Columbia is the first US jurisdiction to authorize its lottery to act both as a regulator and operator of its own sportsbook. Sports betting could begin later this year.

If Louisiana decides to authorize sports betting (see Chapter V of this report), State policymakers will have to determine whether the Lottery should be a participant, either via its own sportsbook through a digital platform or through its retailers. It is critical, however, that if the Lottery is going to be successful in the operation of sports betting that the mandated revenue return be reduced or even eliminated for the sports betting product.

Louisiana's gaming system provider, Intralot, believes there is a strong case to be made that sports betting offered through Lottery retailers would attract the more casual player as compared to the more serious sports bettor who would shop odds at competing casinos (retail or digital) before placing a wager.⁶²⁹ This retailer-based sports wagering is typical in Europe and has found success.⁶³⁰

⁶²³ Ibid.

⁶²⁴ Ibid.

⁶²⁵ Ibid.

⁶²⁶ Ibid.

⁶²⁷ Ibid.

⁶²⁸ Ibid.

⁶²⁹ Interview with Nick Papadoglou, Chief Commercial Officer, Intralot, December 6, 2018.

⁶³⁰ Ibid.

7. Response to Mississippi

In August 2018, Mississippi enacted legislation that would start a lottery. It is anticipated that the Mississippi Lottery will start operation sometime this fall.⁶³¹ Based on our research, the Mississippi Lottery will not have the same restrictions that Louisiana has, which result in games with lower payouts. Accordingly, Spectrum strongly recommends that the Louisiana State Legislature reduce the mandated transfer requirement and make the other changes to the extent possible before Mississippi starts sales.

We recommend taking these steps because loss of border sales is significant, and a percentage of these sales would not be recovered. In its District of Columbia report on sports gaming, Spectrum projected the loss to border sales if D.C. was not a first mover to be irreparable. Given the restrictions placed on the Louisiana Lottery, it could be at a distinct competitive disadvantage in the part of the state closest to Mississippi.

Based on data provided to Spectrum by the Louisiana Lottery, sales for FY 2018 along the Mississippi border total \$43.6 million.⁶³² If the Lottery does not overcome this competitive disadvantage, we believe it could lose 10 percent to 15 percent of its sales along the Mississippi border.

⁶³¹ Mary Perez, "Mississippi Lottery could start by the end of 2019, here is where it stands now," *SunHerald*, March 1, 2019. <https://www.sunherald.com/news/business/article226861724.html>

⁶³² Untitled excel spreadsheet sent from Rose Hudson by email, February 18, 2019.

VII. Other Considerations and Recommendations

The history of legal casinos in Louisiana can be effectively characterized as a series of paradoxes and contradictions:

- Although Louisiana was one of the first states to authorize legal casinos in 1991, it did so reluctantly, with one eye on authorizing gaming as an economic engine and another on limiting its size, locations and effectively its economic impact.
- While Louisiana has managed to attract capital investment from many of the nation’s largest public gaming companies, the State has exhibited significant reluctance over the years to nurture that investment or encourage further investment.
- Despite its initial reluctance to authorize gaming or encourage operators to invest significant sums of capital, Louisiana has still managed to offer a wide range of gaming. The state offers commercial casinos in land-based, floating and racetrack formats; tribal casinos; a lottery; video poker; and charitable gaming. And now it is considering adding legal sports betting to its portfolio.
- Louisiana lawmakers, regulators and indeed operators recognize the importance of effective regulation as a key component of gaming policy, but regulators still struggle under budgetary and related constraints that limit their ability to achieve optimal performance.

The initial paradox was noted quite effectively by Louisiana State University Professor James A. Richardson, who told Spectrum: “We started this (legal gambling) in the ‘90s under a governor who was opposed to gaming,” referring to former Gov. Buddy Roemer who served from 1988 to 1992.⁶³³ Richardson, an academic of national renown who serves as John Rhea Alumni Professor of Economics and Director of the Public Administration Institute in the E.J. Ourso College of Business Administration at LSU, made clear that the effects of that political dichotomy still resonate in Louisiana’s gaming policy.

That point was also made by LGCB Chairman Ronnie Jones, who penned an influential 2017 analysis, cited earlier in this report, that noted:

Present day legislative proponents of gaming understood the reticence of some of their colleagues. They knew they had to package the product in a way that made it attractive to the state’s citizens.

Perhaps more importantly, they had to provide fellow legislators with political cover. Gambling lobbyists had to pivot from the good versus evil argument to one of economic development. This had to be about jobs and trickle-down opportunities. The strategy the proponents had settled on was a template used in other jurisdictions – riverboats. It was left to (the sponsors) to paint a romanticized picture of gaming – reminiscent of hoop skirts, moss-draped trees and the genteel old South.⁶³⁴

Jones developed a colorful analogy to characterize the initial efforts to establish effective regulation of gaming, writing that “those early years have been variously described by participants and observers. Perhaps the most accurate description from my view on the inside was that it was a slow-

⁶³³ Interview with James A. Richardson at LSU, January 24, 2019.

⁶³⁴ Ronnie Jones, “Riverboat Gaming in Louisiana – Changes on the Horizon?” *American Gaming Lawyer*, Spring 2017, p. 7.

motion train wreck.” Jones cited the “convoluted” licensing process and the seemingly unnecessary, difficult maritime rules that accompanied the riverboat operations.⁶³⁵

While the lingering effects of the initial political paradox remain, there are reasons to be optimistic:

- Louisiana is hardly alone in endeavoring to balance political and social reluctance with a desire to maximize the economic benefits of gaming. Other states have wrestled with the same contradictions, and offer some relevant lessons.
- Tangible signs can be cited that demonstrate a material shift in attitude toward gaming as a potential economic engine.
- While considering efforts to encourage investment and economic growth in the gaming sector, the State is hardly abandoning consideration of improving its responsible-gaming policies and programs designed to address problem-gambling issues.

The very existence of this report, commissioned a quarter-century after the opening of the first riverboat casinos in Louisiana, is itself a testament to the State’s increasing willingness to continue finding ways to further to develop an effective gaming policy. Indeed, we note that the study was commissioned by the Louisiana Department of Economic Development, a State agency with the clear goal of attracting investment and growing the state’s economy.

At the same time, we note that other State agencies and organizations maintain a focus on related policy issues. For example, a 2017 study prepared for the Louisiana Department of Health, Office of Behavioral Health, by the University of Louisiana at Lafayette made a series of recommendations that should be considered vital to any existing or future gaming policies. The detailed recommendations include the following:

- As three tribal casinos and over 8,000 devices currently operate in the state, it is essential to access accurate data on these venues for inclusion in future reports. In addition to venues and devices, Tribal casinos provide unique supports to Tribal communities, some of which may include services for problem gamblers and other addictive disorders, which should be included in the analysis of treatment services.
- As indicated in 2008, we recommend that prevalence studies be conducted at five-year intervals to track accurate trends on salient factors of interest to the state. In addition, smaller, biennial studies of stratified samples may be conducted in even years to clearly identify communities requiring rapid intervention related to information, service and treatment centers.
- As gambling is evolving beyond traditional forms. (e.g., cyber gambling, fantasy football, online poker, video gaming), inclusion of these games is likely warranted in future reports or a separate study of the topic may be warranted in which baseline information is generated on gambling by individuals in comfort of home grows in popularity.⁶³⁶

⁶³⁵ Ibid.

⁶³⁶ “The Impact of Gambling in Louisiana,” University of Louisiana at Lafayette Cecil J. Picard Center for Child Development & Lifelong Learning, p. 17.

Clearly, as the gaming industry in Louisiana and other states matures, several outcomes are already clear:

- Addressing problem-gambling and responsible-gaming practices is neither window dressing, nor is it the antithesis of maximizing profitability. Profitable gaming operators – particularly those that have gained the attention and respect of state regulators, of Wall Street and of the gaming public – do not seek to profit from those who have gambling problems, and such operators’ reputations, as well as their licenses, rest on the foundation of carrying out such policies.
- Both regulators and the regulated increasingly recognize that they are not adversaries, nor do they desire different outcomes. In Louisiana, as in many other states, they are moving slowly toward a posture of partnership.

That latter point is a particularly delicate balancing act, and indeed would likely have not been broached or recommended a quarter-century ago. It’s a reflection of both a maturation and an increasing comfort level as regulators and those whom they regulate recognize common interests.

In the aforementioned article in *American Lawyer* magazine, Chairman Jones wrote about the considerations he had to make when he was appointed Chair of the Louisiana Riverboat Economic Development Task Force in 2016, and how he endeavored to strike a successful balance:

Philosophically, I brought to this position a belief that if regulation is carried out in a fair and transparent manner, and licensees understand what the rules are and follow the law, we can create a regulatory environment that promotes not only the state’s economy, but the industry as well. In the end, the state’s citizens can rely on my vigilant oversight as a regulator.⁶³⁷

In making what we believe to be a difficult yet prudent decision, Chairman Jones was traveling a somewhat familiar path blazed by other regulators.

New Jersey offers a particularly telling example.⁶³⁸ When New Jersey voters approved a 1976 referendum to authorize casinos in the once-thriving resort of Atlantic City, casinos were illegal in 49 states and no state had yet deemed it appropriate to follow Nevada’s lead. As casinos were widely viewed as susceptible to corruption and organized-crime influence, New Jersey’s legislators and regulators adopted a strict model of regulation that took hold in 1978, when the first casino opened, and remained in place until mid-1990. Steven P. Perskie, the former legislator who was chief architect of the New Jersey Casino Control Act, was appointed in 1990 as chair of the New Jersey Casino Control Commission, taking the reins of a regulatory process that he had helped create. At the time, the Atlantic City casino industry was clearly stagnating and in need of regulatory reform and capital investment. Perskie led the reform effort as chief regulator, and also played a prominent role in various decisions designed to promote the health of the gaming industry and encourage capital investment.

⁶³⁷ Ronnie Jones, “Riverboat Gaming in Louisiana – Changes on the Horizon?” *American Gaming Lawyer*, Spring 2017, p. 11.

⁶³⁸ Current management and staff of Spectrum Gaming Group played prominent roles in this chapter of New Jersey gaming history. Managing Director Michael Pollock was Public Information Officer and directed the Office of Communications for the Casino Control Commission, reporting directly to the chair. His particular charge included ensuring that public confidence in the regulatory process was maintained in the face of dramatic regulatory changes. Other Spectrum personnel played key roles as regulators for the Commission and the New Jersey Division of Gaming Enforcement.

As the New Jersey Casino Control Commission notes on its website:

Starting in 1991 and continuing for the next several years, the Commission focused on redefining the agency after a series of legislative changes. For example, the legislature eliminated facilities requirements in 1991, permitted three new games, made it easier for institutional investors to invest in casino stocks and gave the Commission the power to approve 24-hour gambling on weekends, holidays and other special occasions.

In 1992, the legislature permitted the Commission to authorize 24-hour gambling all year if it would have an economic impact on the city. The Commission promptly decided it would have an impact and casinos have been open around the clock ever since. The legislature also gave casino employees the right to gamble and the Commission the power to approve new games for casinos. Lawmakers also approved simulcasting of horse races to casinos.

Changes to the act continued in 1993, and the Commission started using its power to approve new games. Poker and simulcasting both started in the spring and work started on offering keno, although that game didn't debut until the following year. The Commission also overhauled its affirmative action requirements for casinos and required casinos to develop Equal Employment/Business Opportunity Plans.⁶³⁹

For purposes of this analysis, such examples are particularly telling as they show that the efforts put forth by Chairman Jones to advance economic policy while maintaining regulatory standards are not antithetical, but can be mutually supportive.

From a legislative standpoint, the challenges are similarly vexing, particularly as Louisiana has become critically dependent on gaming as a material source of revenue. As Sen. Ronnie Johns has noted, gaming in all forms accounts for approximately 10 percent of State revenue.⁶⁴⁰

When gaming revenue reaches such levels, the relationship between the government and the government becomes one of mutual dependency. The challenge for policymakers is to ensure that investment in gaming is encouraged without sacrificing other policy goals, such as an unwavering commitment toward maintaining responsible-gaming standards.

A. Identifying, Confronting Trends

In many respects, the gaming industry in Louisiana has not changed much in the quarter-century since its dawning. The business model, the tax rate and the gaming locations remain largely as they were. Yet amidst that constancy, the larger gaming world is being roiled by a number of relevant trends that range from the expected to the surprising. Such trends include:

- The demographics of traditional gaming operators, pari-mutuels and lotteries are largely aging, a sign that the appeal of such offerings is waning among emerging demographic groups, requiring significant changes in the business models.

⁶³⁹ "A Brief History of the Casino Control Commission." <https://www.state.nj.us/casinos/about/history/> (accessed March 2, 2019)

⁶⁴⁰ Comments of Senator Ronnie Johns, at Riverboat Economic Development and Gaming Task Force meeting, July 18, 2017 at 1:05:28. http://senate.la.gov/video/videoarchive.asp?v=senate/2017/07/07182017RIVERBOATECODEV_0

- The gaming industry itself is maturing, and as is the case with many maturing industries, growth comes not from expansion (as new geographic opportunities are limited) but from mergers and acquisitions.
- Technology is creating new opportunities and challenges for gaming operators. The growth of sports betting is one example of this, as more states are lured by the fiscal opportunities that could emanate from the potential of mobile betting in online and sports betting.
- Lotteries and commercial gaming operators, which have traditionally not competed against each other and have operated in their respective silos, are finding themselves entering each other's traditional turf, based in part on the expectation that both forms of gaming will seek similar opportunities in online and mobile wagering.

These trends, in turn, will lead to new challenges and pressures on legislators and regulators to keep pace. For example, as lotteries look to new opportunities, sports-betting will doubtless be on their radar, as it already is with commercial casino operators. Or, at the very least, it will be on the radar of third parties looking to enter this emerging field.

This is already leading to new entrants, such as sports bars and taverns, that may look to lotteries as an entry point to offer sports betting to their customers. The District of Columbia – which operates a lottery, but has no commercial casinos – is already considering such plans.

This trend has the potential for national expansion. Consider the following insight from ESPN:

Wings. Beer. Sports. And bets? Buffalo Wild Wings is looking to get into the bookmaking game. The popular sports bar chain, which operates in all 50 states and internationally, says it is exploring the newly expanded sports betting space in the U.S.

“As the largest sports bar in America, we believe Buffalo Wild Wings is uniquely positioned to leverage sports gaming to enhance the restaurant experience for our guests,” a Buffalo Wild Wings spokesperson said in a statement to ESPN. “We are actively exploring opportunities, including potential partners, as we evaluate the next steps for our brand.”⁶⁴¹

From the standpoint of regulators, lotteries and operators, the interest of Buffalo Wild Wings and a plethora of other restaurants and taverns to become gaming providers will translate into lobbying pressures, both for and against such efforts. This will put a heavy burden on policymakers to address that trend, and to help ensure a level playing field. From the particular standpoint of Louisiana – as well as other states that offer both commercial gaming and lotteries – it means addressing the need to provide a level playing field. Would a sports bar that offers sports betting be regulated to the level of a commercial casino or to that of a lottery retailer?

Legislators will face a variety of conflicting pressures when developing such policies.

B. Blueprint for Future Policy Changes

This report has identified steps, such as eliminating the tax on casino promotional play or investing in technology to help regulators work more efficiently, that can be implemented with relative ease that

⁶⁴¹ David Purdum, “Buffalo Wild Wings explores adding sports betting,” *ESPN*, August 9, 2018.
http://www.espn.com/chalk/story/_/id/24324260/buffalo-wild-wings-exploring-sports-betting-restaurants

would not materially change gaming policy in Louisiana and would collectively improve the investment climate for gaming in Louisiana. More substantive changes would require a more substantive process, based largely on experience.

For example, the understanding that advancing public policy without sacrificing regulatory standards has evolved over time, a byproduct of experience in multiple states. Experience has also demonstrated the existence of other factors that either should not be changed, or in certain instances, cannot be changed.

In the latter category is the understanding that the legal gaming industry in the United States owes its very existence, including its continuing ability to operate, to the political process. Louisiana was one of the first states to introduce gaming as an economic tool, but as history has shown, the process had its detractors and skeptics at the time. Steps were taken, as detailed by Chairman Jones, to mollify or neutralize opposition.

A quarter century later, the DNA of those steps remains in place. If Louisiana seeks to unleash the full economic potential of the gaming industry, those steps must be identified and addressed. As this report makes clear, the original efforts to limit commercial gaming to riverboats in specific locales remains effectively in place.

To be clear, this report was not commissioned to suggest that such core policy decisions be discarded or changed in any way. Policy decisions must remain in the hands of elected policymakers. Rather, this report suggests processes that can be incorporated when such policy decisions are being reviewed.

The first suggestion is to recognize that certain standards of regulatory policy are universal, timeless and should be inviolable. The most important standard is that no individual or entity possesses a right to offer commercial gaming. Rather, the ability to participate in commercial gaming is a privilege that is earned by those who demonstrate that they possess the requisite good character, honesty and integrity required by statute and by tradition.

All other decisions emanate from maintaining that standard. If the Louisiana Legislature seeks to alter gaming policy in any significant way – by offering sports betting, by allowing licensees to relocate, by changing tax rates or similar steps – the burden should be on licensees to demonstrate how such policy changes will lead to economic growth.

As noted, Louisiana has attracted investment from public companies that operate in multiple states, including states that compete directly with Louisiana. Other states are similarly situated, with licensees that operate in competing states. The goal in such states is to strike a delicate balance: Provide regulatory relief and improve the investment climate, while seeking to ensure that the relief provided inures to the benefit of that state.

In 2016, Spectrum developed a report for the Casino Association of Indiana to suggest ways to encourage investment. The report noted that “Indiana’s casino industry is mired in the doldrums, in which the status quo is serving neither the industry nor the State well.”⁶⁴²

That report went on to suggest policy changes that needed to be implemented carefully. The goal was to provide relief and, in turn, channel that relief into new investments:

Capital investment is key to the future of Indiana’s casino industry; its importance cannot be over-emphasized. From the standpoint of gaming operators, the level and quality of capital investment can help determine everything from the type of business model that can be deployed to the geographic and demographic reach of a gaming property to the average length of stay and the spending patterns of visitors. Without capital investment, the casino industry risks “disinvestment,” in which existing attractions are not maintained, refreshed or replaced, leading to a vicious circle that will negatively impact the industry and the State. ...

Spectrum recognizes that such changes cannot be implemented in a vacuum, nor should the State of Indiana make significant regulatory changes in the absence of a quid pro quo from gaming operators. Indiana casino operators have a concomitant obligation to the State that should be met before Indiana lawmakers agree to any material changes to tax rates or regulatory requirements.

In practice, this means that each casino operator seeking relief should present a detailed plan to regulators that, among other things, outlines the specific plans and goals that it would develop in response to regulatory relief. For example, if a casino seeks a reduction in gaming taxes, it should demonstrate:

- Why the current rules limit its ability to market its product, or to optimize revenue and profitability;
- How it would develop a more robust, effective business under new, relaxed rules; and/or
- What the overall impact would be to the state, and to what degree any increased economic activity – including increased employment – would offset the direct loss to the state of revenue from eliminating the admissions tax.

In the absence of such a requirement, Indiana would be undertaking a significant, unnecessary risk that it would lower the operating costs of casinos, simply to have those operators invest elsewhere. That risk would be eliminated by requiring operators to put forth investment plans that would leverage those lower costs. The overarching goal should be to encourage new investment in Indiana’s commercial casinos to make them more competitive and to advance public policy.⁶⁴³

Indiana holds remarkable similarities to Louisiana that range from a heavy reliance on riverboats to in-state competition from tribal gaming to a need to encourage capital investment. With that in mind, the following goal is also common (and is arguably universal): Improve the investment climate while keeping future investments in-state.

Louisiana’s commercial operators understand this shared goal, as evidenced in the following 2016 summary presented by the Louisiana Casino Association to the Riverboat Task Force:

- The state is already the largest beneficiary or “economic partner” of revenue from gaming due to state gaming taxes being calculated on gross revenue.

⁶⁴² “Market Assessment: Challenges Facing Indiana’s Commercial Gaming Industry, including Planned Indian Casino in South Bend,” Spectrum Gaming Group, December 9, 2016, p. ii.
http://media.wix.com/ugd/b78788_795a4c4085da46b2970d80491400a1fd.pdf

⁶⁴³ *Ibid.*, pp. viii-ix.

- The gaming industry pays state & local gaming taxes and these are in addition to every other tax paid by businesses in Louisiana
- Tax increases in other areas also affect gaming i.e., sales taxes, tobacco, alcohol
- Gaming taxes (including video poker and lottery receipts) account for approximately 10 percent of the state's current budget estimate.
- Unlike retail or manufacturing there is no practical means to offset increases in gaming taxes by passing increased costs on to the consumer
- Though slowly improving, casino revenues and therefore state gaming tax receipts have not yet returned to pre-recession levels when examined property by property.⁶⁴⁴

Clearly, public companies, in particular, that hold multiple licenses understand – and are fully comfortable with – the principle that a gaming license is a privilege. They recognize that such privileges require a demonstration that regulatory and statutory relief should inure to the benefit of the state providing such relief.

The goal then is to harness that understanding to the equally important understanding that rules that might have made sense in political and practical terms in the 1990s may no longer make sense in 2019, 2020 and beyond.

C. Conclusion: Justified Optimism

Louisiana can take comfort in two core findings from our research:

- The state is hardly alone in the challenges it will face, and is arguably in a better position to address those challenges than many other states that also authorize legal gaming.
- The appointed regulators in the state are among the most qualified in the nation, and operate in cultures that recognize the need to adapt to changes while remaining true to core principles, such as maintaining the integrity of gaming

While challenges cannot easily be ranked in a hierarchy of which is most important or most vexing, clearly two candidates for such rankings would be:

- Identifying regulatory opportunities that would encourage capital investment, including a review of gaming tax rates
- Identifying which agencies will have responsibility to oversee and nurture emerging forms of gaming, such as sports betting

As noted in various points throughout our report, tax rates that were established in previous decades cannot be assumed to be optimal in coming years. Concomitant to that finding is the notion that operators who hold the privilege of a gaming license also bear responsibility to make an economic case for more sensible tax policies. Any change in tax rates, or other major policy changes, require operators to justify such relief. Will these changes lead to more investment, and if so, to what level with what projected outcomes?

⁶⁴⁴ "Casino Gaming Taxes," Louisiana Casino Association, July 8, 2016, p. 10.

Operators that will be putting their own capital at risk are best positioned to address that question, as well to provide reassurance to Louisiana policymakers that any relief offered by Louisiana will inure to the benefit of Louisiana.

The question as to which agency will have responsibility to oversee future forms of gaming is just as vexing. When the Lottery and the Gaming Control Board were first established, no policymaker could have foreseen that the two groups would one day confront this challenge as to which entity would regulate sports betting or online gaming.

This dilemma is even more acute in other states. In Massachusetts, for example, the members of the Massachusetts Gaming Commission are appointed by the governor, who holds the chief responsibility of establishing and carrying out gaming policy. At the same time, the Massachusetts Lottery is under the purview of the Treasurer's Office, and the Treasurer is elected independently of the governor. Any cooperation between the two entities would be based solely on goodwill, rather than through reporting lines.

Louisiana's situation is less complex, and is further eased by the experience and views of the State's top regulators. Lottery President Rose Hudson, Gaming Control Board Chair Ronnie Jones and Major Chuck McNeal of the Louisiana State Police are leaders with national stature who can be expected to work cooperatively with each other and with those whom they regulate. The elected officials who are ultimately responsible for establishing gaming policy can best meet that responsibility by maintaining high standards in future appointments.

In October 2018, Spectrum made the following point in testimony to a legislative committee in Illinois:

(Legislators need to) abide by an existing law that no government has the authority to amend, overturn or veto. That is the law of unintended consequences. We simply do not know how technology, player preferences, business pressures or other forces will precisely interact in coming years, and it would be a foolish exercise to build a policy that is frozen in the present, without the ability to adapt to the future.

A corollary to this recommendation is rather simple: Empower your regulators as much as possible to make decisions in response to changing circumstances. If you trust your regulators ... then empower them to act appropriately, within the broad guidelines of the policies that elected officials establish.⁶⁴⁵

That same recommendation is at the heart of this report: Gaming policy must be established on a foundation of flexibility, adaptability and an adherence to timeless principles, chiefly that a gaming license is privilege, and the success of gaming depends on public trust.

D. Summary of Recommendations

As a result of Spectrum's research and analysis undertaken throughout the eight-week study period that resulted in this report, we developed key recommendations that resulted from our findings – recommendations that are also shaped by our experience working in gaming markets and jurisdictions

⁶⁴⁵ Testimony of Spectrum Gaming Group Managing Director Michael Pollock to the Illinois Joint House Revenue and Finance Sales and Other Taxes Subcommittee and House Executive Gaming Subcommittee, October 17, 2018.

<https://spectrumgaming.com/wp-content/uploads/2018/10/pollock-illinois-testimony-10-17-18.docx.pdf>

throughout the country. These key recommendations are offered in their respective chapters in this report, and we are summarizing them here.

For the sake of maximizing the economic impacts of its legal gambling industry, Spectrum recommends that the State of Louisiana consider the following:

- **Relocation of gaming licenses:** Spectrum determined that there is too much gaming capacity in the declining Shreveport-Bossier City market due to the impact of tribal casinos in Oklahoma drawing patrons from the Dallas-Fort Worth area. Allowing two of them to move – one to the Northshore area of Lake Pontchartrain and another to the Northeast region of Louisiana – would help both stop the exportation of gaming dollars to Mississippi and fill two areas of the state that are underserved with casino gaming based on supply and demand. Our analysis shows the State could realize \$14 million more in gaming taxes from these moves.
 - **Sale of unused gaming positions:** In 2018, revisions to the gaming laws eliminated the square footage restrictions on the size of the riverboat gaming floor and replaced them with maximum of 2,365 gaming positions. Therefore, the 15 riverboat casinos could offer a maximum of 35,475 gaming positions. Not every operator or market needs additional positions. But some may want more than the maximum allowed. Allowing operators to trade position permits ensures the optimal number of positions will be available in each market, enabling the casino operators and their partner the State to gain.
- **Sports betting:** As both a major commercial-casino state and one exporting gaming dollars to Mississippi – where sports betting is legal – Louisiana will benefit from this rapidly spreading form of gaming. Not only would the State and the providers of sports betting benefit directly from the winnings, but the casinos would benefit overall from increased patronage. The State will need to make important policy decisions regarding sports betting, such as which entities will be allowed to offer sports betting, which agency will be the regulator, and whether the online component should be included. At the very least, Spectrum believes sports betting should start with the licensed casino operators. A key policy decision will be whether to allow sports betting on college games.
- **Internet gaming:** Although only three states have commenced internet gaming, it has proven to be particularly successful in New Jersey, where the majority of players are new to the casinos' databases. Allowing this form of gaming to Louisiana casino operators would give them a new revenue stream, a new marketing channel, and new players. Igaming could be authorized in conjunction with the authorization of online sports betting.
- **Casino free play:** Louisiana treats redeemed promotional gaming credits – commonly known as “free play” – as gross gaming revenue for the purposes of taxation. Some states do not tax free play, some tax it only after a certain amount, and others fully tax it as Louisiana does. Notably, Mississippi does not tax free play, giving its casino operators a substantial marketing advantage over Louisiana. Given the stagnation of Louisiana casino revenues, Spectrum believes that removing the tax on free play would result in more effective marketing programs and higher GGR that would be a net positive for the State with respect to gaming-tax receipts.
- **Lottery minimum transfer requirement:** The Louisiana Lottery is underperforming to its potential due to the statutory requirement that it transfer at least 35 percent of gross revenue to the State. This is restricting the instant ticket games the Louisiana Lottery may offer in its portfolio. By reducing the guaranteed transfer percentage, the Lottery would be able to raise the payout percentage for games and offer better games with more chances to win for

players. If the guaranteed transfer percentage were reduced, the Louisiana Lottery would be able to double its instant ticket sales within four to five years and increase its revenue return to the State by 30 percent to 50 percent.

- **Enhancing LGCB regulatory staff:** The Louisiana Gaming Control Board and the Gaming Division of the State Police have had to perform their regulatory and enforcement functions with restricted staffing levels and aging technology. Although these regulators have done an exceptional job in spite of such limitations, they will be able to more efficiently and effectively perform their functions with increased staff and modern technology. For these reasons, Spectrum recommends the State authorize hiring of certain key positions as well as explore necessary budget allocations for increased staffing levels generally and investments in technology.

1. For Future Consideration

The RFP for this project directed the selected consultant (i.e., Spectrum) to suggest areas of future consideration that were beyond the study scope. Based on our research, findings and experience, Spectrum suggests that the State also consider:

- **Creating incentives for capital investment:** Creating new casino facilities or added attractions at the casinos should increase revenues – gaming and non-gaming – but amid the stagnating performance overall in Louisiana, many operators may not be able to justify, or be reluctant to, expending major capital on such projects. Developing incentives – such as tax breaks or gaming-position increases – in exchange for certain amounts or types of major capital projects would be a win-win for the State and gaming operators.
- **Continuing to address problem gambling:** The Louisiana Department of Health stands out for its continuing study of, and awareness campaigns for, problem gambling, a topic that was beyond the scope of this report for Louisiana Economic Development. We note that Louisiana governors have routinely declared March as Problem Gambling Awareness Month, as current Governor John Bel Edwards has done this year. The Department of Health estimates that 280,000 Louisiana adults may have problem-gambling issues.⁶⁴⁶ With so many forms of legal gambling, including video poker in more than 1,700 locations, it is imperative that State policymakers remain vigilant on this important aspect of gambling.
- **Conduct study of gaming patronage:** Louisiana could enhance the success of all of its forms of legal gambling by conducting a statewide, in-depth study of its citizens' gambling motivations and preferences. This study would provide highly beneficial results that would include length of stay, residence, trip distance, demographic profile, gaming budget, frequency of play, and level of cross-play among the forms of gaming offered, among many other findings. The study results would be a highly valuable tool for the State, for its gaming operators, and for problem-gambling insight.

⁶⁴⁶ "Louisiana shines a spotlight on the hidden addiction of problem gambling," Louisiana Department of Public Health, Office of Behavioral Health, March 1, 2019. <http://ldh.la.gov/index.cfm/newsroom/detail/5069>

Appendix 1: Individuals Interviewed

Spectrum interviewed the following individuals for this study, either in person, by telephone or by email. Many of the individuals were interviewed more than once and by multiple project team members.

Last	First	Affiliation	Title
Alario	John	Louisiana State Senate	Senate President
Busada	Ashley	North Louisiana Economic Partnership	Vice President, Government Relations & Business Development
Carruth	John	Louisiana Lottery	General Counsel
Chabert	Norbert	Louisiana Senate	Senator
Chappell	James	Louisiana Economic Development	Executive Director
Clayton	Susan	Louisiana Lottery	Director, Products
Darouse	Brian	Louisiana Lottery	Vice President, MIS
Dossett	Quinn	Louisiana Lottery	Vice President, Marketing
Duty	Wade	Louisiana Casino Association	Executive Director
Fenasci	Edwin	Louisiana Horsemen's Benevolent and Protective Association	Executive Director
Fournet	Karen	Louisiana Lottery	Secretary Treasurer
Godfrey	Allen	Mississippi Gaming Commission	Executive Director
Gomes	Aaron	JNB Gaming	Chief Operations Office
Goodrum	James	Louisiana Lottery	Vice President, Finance
Guidroz	Stan	Jacobs Gaming (Cash Magic)	Vice President
Hayden	Anne-Marie	Louisiana Lottery	Region 2, Manager
Hebert	Christopher	Louisiana Department of Justice, Office of the Attorney General, Gaming Division	Director
Himel	Dawn	Louisiana Department of Justice, Office of the Attorney, General, Gaming Division	Interim Deputy Director
Hudson	Rose	Louisiana Lottery	President
Johns	Ronnie	Louisiana State Senate	Senator
Jones	Ronnie	Louisiana Gaming Control Board	Chairman
LaCombe	Mona	Louisiana Amusement and Music Operators Association	Executive Director
Lambert	Brad	Louisiana Economic Development	Deputy Secretary
Legendre	Michael	Louisiana Department of Revenue	Charitable Gaming Director
Loska	Steve	Louisiana State Police, Gaming Enforcement Division	Supervisor, Gaming Technical Compliance
Martiny	Danny	Louisiana State Senate	Senator
McNeal	Chuck	Louisiana State Police, Gaming Enforcement Division	Major; Command Inspector
McPherson	Tom	Boyd Gaming Corp.	Vice President, Government Affairs
Menard	Brad	Louisiana Lottery	Vice President, Sales

Last	First	Affiliation	Title
Papadoglou	Nick	Intralot	Chief Operating Officer
Real	Dan	Caesars Entertainment	Regional President, South
Richardson	Jim	Louisiana State University	Economist
Schmitt	Stanley	Louisiana Racing Commission	Audit Supervisor
Schwartz	Vince	Boyd Gaming Corp.	Senior Vice President of Operations
Smith	Trudy	Louisiana Gaming Control Board	Confidential Assistant
Smith	James	Louisiana Department of Justice, Office of the Attorney General, Gaming Division	Indian Gaming
Smith	Gary	Louisiana State Senate	Senator
Stevens	Derek	Peninsula Pacific	Associate
Tarver	Greg	Louisiana State Senate	Senator
Traylor	Jeff	Louisiana State Police, Gaming Enforcement Division	Audit Director
Van Buren	Kenny	Louisiana State Police, Gaming Enforcement Division	Captain; Commander, Administrative Support & Indian Gaming Section
Vanichchagorn	Tina	Office of the Governor	Deputy Executive Counsel
West	J'Nelle	Louisiana State Police, Gaming Enforcement Division	Auditor Supervisor, New Games and Equipment/Internal Controls

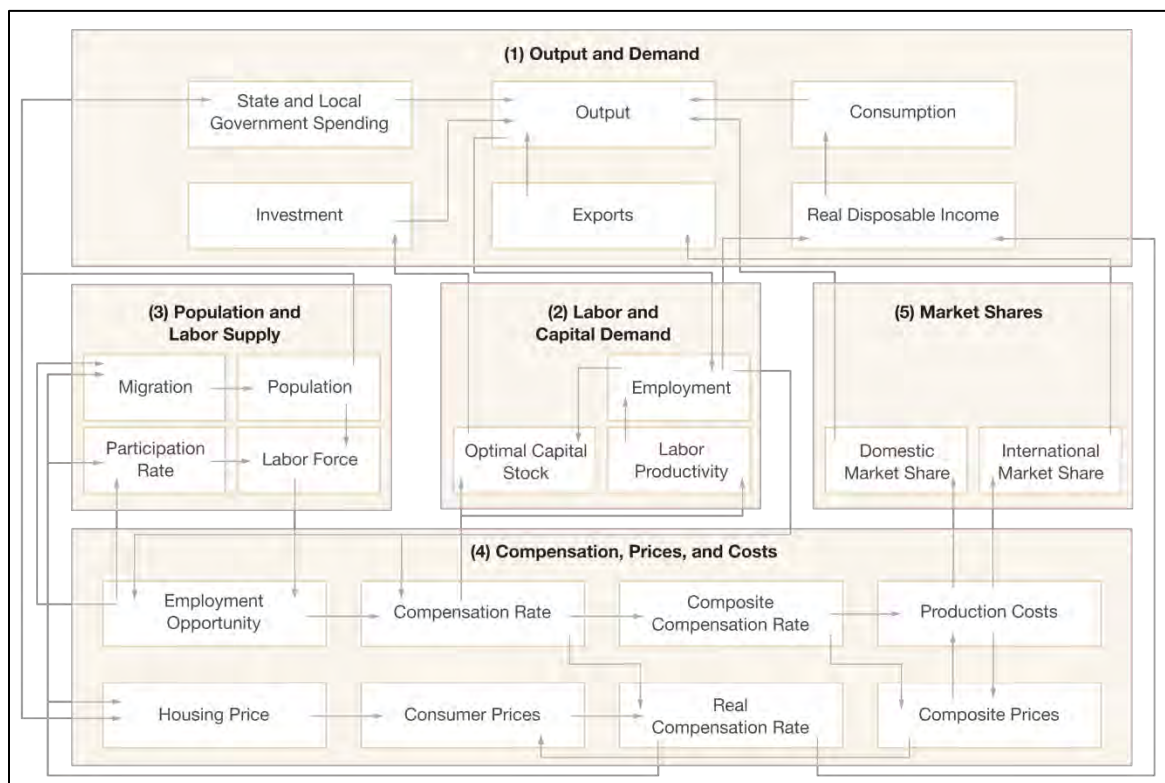
Source: Spectrum Gaming Group

Appendix 2: Regional Economic Models Inc. Tax-PI Model

To forecast the economic impacts of the Louisiana casino industry, as provided in Chapter I of this report, Spectrum worked with the UMass Donahue Institute, which employed the Tax-PI model from Regional Economic Models Inc. (“REMI”). Tax-PI is a structural economic forecasting and policy analysis model. It integrates input-output, computable general equilibrium, econometric and economic geography methodologies. The model is dynamic, with forecasts and simulations generated on an annual basis and behavioral responses to compensation, price, and other economic factors.

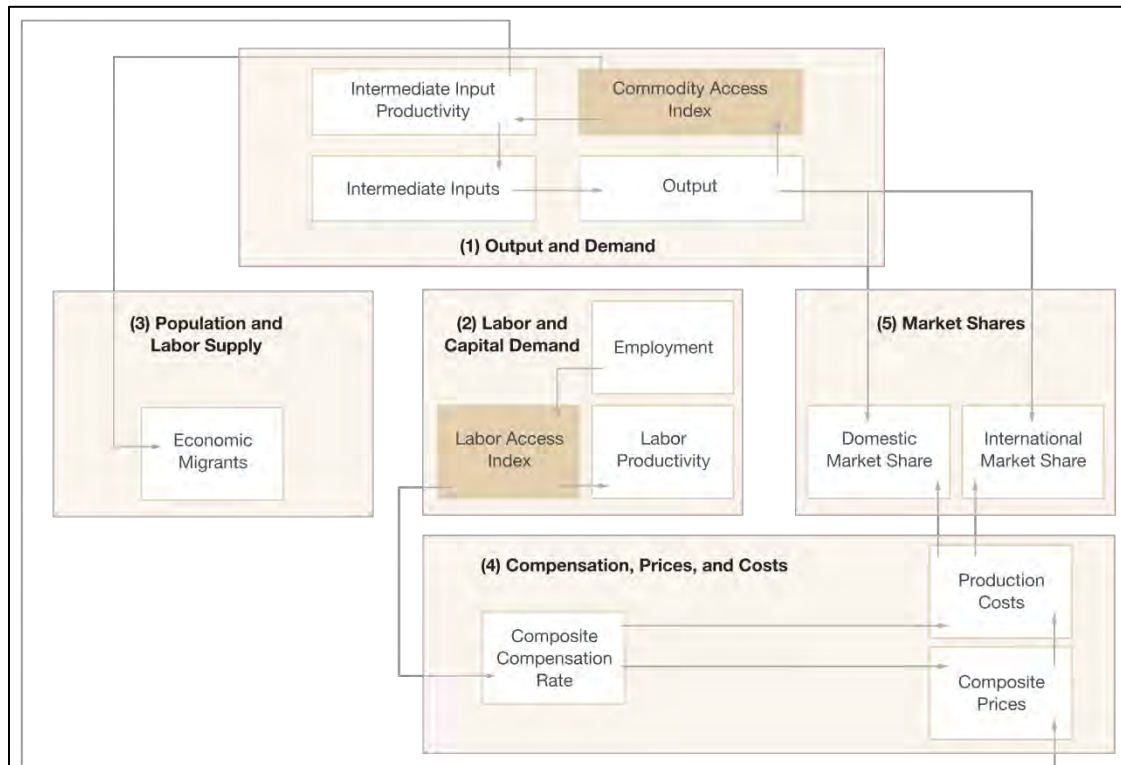
The model consists of thousands of simultaneous equations with a structure that is relatively straightforward. The exact number of equations used varies depending on the extent of industry, demographic, demand, and other detail in the specific model being used. The overall structure of the model can be summarized in five major blocks: (1) Output and Demand, (2) Labor and Capital Demand, (3) Population and Labor Supply, (4) Compensation, Prices, and Costs, and (5) Market Shares. The blocks and their key interactions are shown in Figure 129 and Figure 130.

Figure 129: REMI model linkages (excluding economic geography linkages)



Source: Regional Economic Models Inc.

Figure 130: Economic geography linkages



Source: Regional Economic Models Inc.

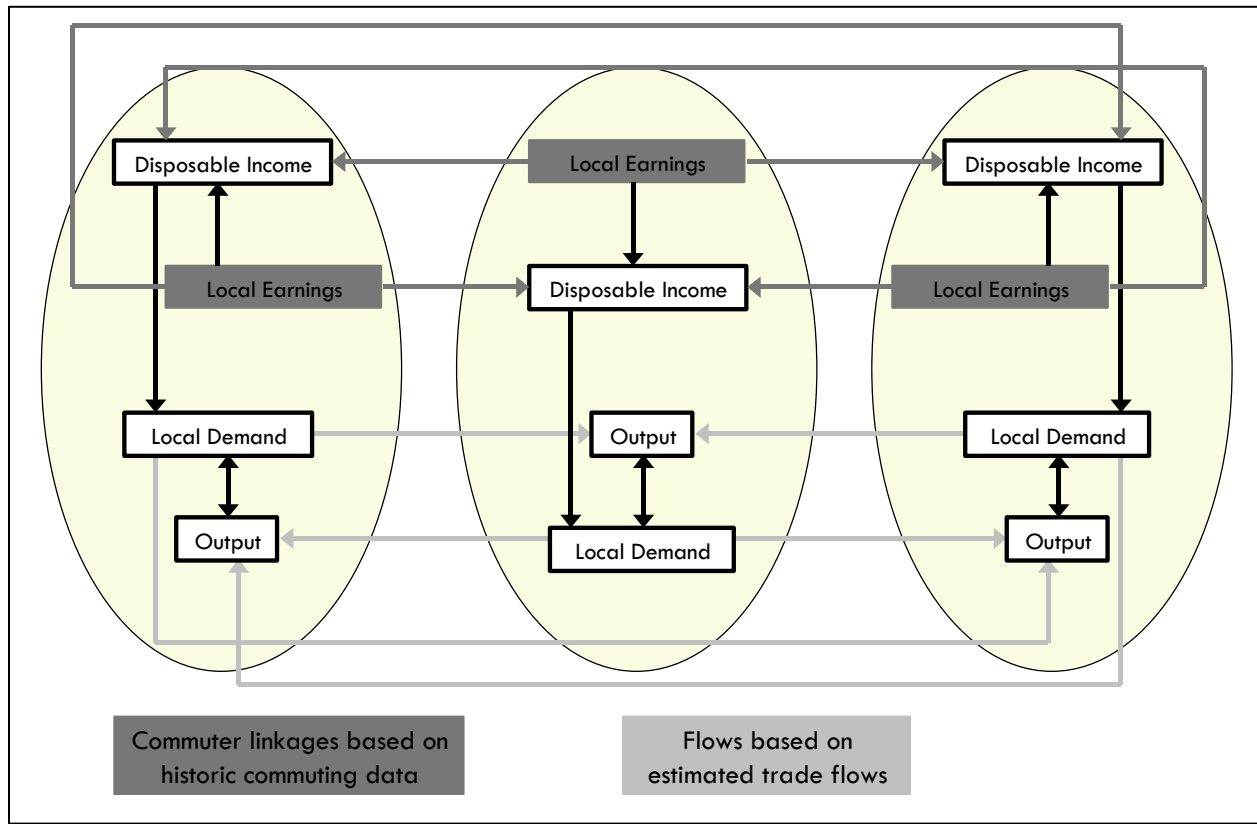
The Output and Demand block consists of output, demand, consumption, investment, government spending, exports, and imports, as well as feedback from output change due to the change in the productivity of intermediate inputs. The Labor and Capital Demand block includes labor intensity and productivity as well as demand for labor and capital. Labor force participation rate and migration equations are in the Population and Labor Supply block. The Compensation, Prices, and Costs block includes composite prices, determinants of production costs, the consumption price deflator, housing prices, and the compensation equations. The proportion of local, inter-regional, and export markets captured by each region is included in the Market Shares block.

Models can be built as single region, multi-region, or multi-region national models. A region is defined broadly as a sub-national area, and could consist of a state, province, county, or city, or any combination of sub-national areas.

Single-region models consist of an individual region, called the home region. The rest of the nation is also represented in the model. However, since the home region is only a small part of the total nation, changes in the home region do not have an endogenous effect on the variables in the rest of the nation.

Multi-regional models have interactions among regions, such as trade and commuting flows. These interactions include trade flows from each region to each of the other regions. These flows are illustrated for a three-region model in Figure 131.

Figure 131: Trade and commuter flow linkages



Source: Regional Economic Models Inc.

Multiregional national models also include a central bank monetary response that constrains labor markets. Models that only encompass a relatively small portion of a nation are not endogenously constrained by changes in exchange rates or monetary responses.

Block 1: Output and Demand

This block includes output, demand, consumption, investment, government spending, import, commodity access, and export concepts. Output for each industry in the home region is determined by industry demand in all regions in the nation, the home region's share of each market, and international exports from the region.

For each industry, demand is determined by the amount of output, consumption, investment, and capital demand on that industry. Consumption depends on real disposable income per capita, relative prices, differential income elasticities, and population. Input productivity depends on access to inputs because a larger choice set of inputs means it is more likely that the input with the specific characteristics required for the job will be found. In the capital stock adjustment process, investment occurs to fill the difference between optimal and actual capital stock for residential, non-residential, and equipment investment. Government spending changes are determined by changes in the population.

Block 2: Labor and Capital Demand

The Labor and Capital Demand block includes the determination of labor productivity, labor intensity, and the optimal capital stocks. Industry-specific labor productivity depends on the availability of workers with differentiated skills for the occupations used in each industry. The occupational labor supply and commuting costs determine firms' access to a specialized labor force.

Labor intensity is determined by the cost of labor relative to the other factor inputs, capital and fuel. Demand for capital is driven by the optimal capital stock equation for both non-residential capital and equipment. Optimal capital stock for each industry depends on the relative cost of labor and capital, and the employment weighted by capital use for each industry. Employment in private industries is determined by the value added and employment per unit of value added in each industry.

Block 3: Population and Labor Supply

The Population and Labor Supply block includes detailed demographic information about the region. Population data is given for age, gender, and race, with birth and survival rates for each group. The size and labor force participation rate of each group determines the labor supply. These participation rates respond to changes in employment relative to the potential labor force and to changes in the real after-tax compensation rate. Migration includes retirement, military, international, and economic migration. Economic migration is determined by the relative real after-tax compensation rate, relative employment opportunity, and consumer access to variety.

Block 4: Compensation, Prices and Costs

This block includes delivered prices, production costs, equipment cost, the consumption deflator, consumer prices, the price of housing, and the compensation equation. Economic geography concepts account for the productivity and price effects of access to specialized labor, goods, and services.

These prices measure the price of the industry output, taking into account the access to production locations. This access is important due to the specialization of production that takes place within each industry, and because transportation and transaction costs of distance are significant. Composite prices for each industry are then calculated based on the production costs of supplying regions, the effective distance to these regions, and the index of access to the variety of outputs in the industry relative to the access by other uses of the product.

The cost of production for each industry is determined by the cost of labor, capital, fuel, and intermediate inputs. Labor costs reflect a productivity adjustment to account for access to specialized labor, as well as underlying compensation rates. Capital costs include costs of non-residential structures and equipment, while fuel costs incorporate electricity, natural gas, and residual fuels.

The consumption deflator converts industry prices to prices for consumption commodities. For potential migrants, the consumer price is additionally calculated to include housing prices. Housing prices change from their initial level depending on changes in income and population density.

Compensation changes are due to changes in labor demand and supply conditions and changes in the national compensation rate. Changes in employment opportunities relative to the labor force and occupational demand change determine compensation rates by industry.

Block 5. Market Shares

The market shares equations measure the proportion of local and export markets that are captured by each industry. These depend on relative production costs, the estimated price elasticity of demand, and the effective distance between the home region and each of the other regions. The change in share of a specific area in any region depends on changes in its delivered price and the quantity it produces compared with the same factors for competitors in that market. The share of local and external markets then drives the exports from and imports to the home economy.

Appendix 3: Biographies of Project Participants

Following are biographies (in alphabetic order) of the professionals who participated in this project for Louisiana Economic Development. Spectrum Managing Director Michael Pollock served as chief executive of this project and Executive Vice President Joseph Weinert was project director.

Richard Doss, Marketing and Events Coordinator

- *Conducted legislative interviews*

Richard Doss joined Spectrum in 2018 after working for four years in the Louisiana casino industry, first as Marketing Coordinator at Isle of Capri Lake Charles and then as Special Events and Promotional Coordinator at Golden Nugget Lake Charles. Doss began his career as a journalist, working as a video photographer with KBMT news, an ABC-NBC affiliate based in Beaumont, TX.

Doss earned a B.A. in Mass Communication from McNeese State University.

William Egan, Senior Lottery Associate

- *Task co-leader for Chapter VI*

Bill Egan has more than 10 years of experience in the lottery and gaming industry. He spent five years as the General Counsel for the Massachusetts State Lottery Commission. His experience touches on numerous areas, including, but not limited to, technology, game and concept development, marketing and sales trends, finance, compliance and strategic planning.

His experience extends well beyond the legal underpinnings of the lottery and gaming industries. Egan played a strategic role in maintaining the Massachusetts Lottery's portfolio of products as well as devise sales strategies around new products and new games. He was effective in moving one of the most successful Lotteries in the country toward its next iteration by establishing the structure to constant upgrade of its technology in a changing legal landscape. In doing so, he assisted the Massachusetts Lottery in modifying its already successful business model while complying with state procurement laws, bonding requirements and intellectual property restrictions. During Egan's tenure as General Counsel, the Massachusetts Lottery enjoyed five consecutive record breaking years in either gross sales or profits. In FY 2015, the Massachusetts Lottery topped the \$5 billion mark in gross sales for the first time in its history.

Egan was also a member of Massachusetts Treasurer's Online Task Force. He was responsible for identifying all legal and operational issues related to gaming on multiple platforms. He also has experience in the game development and marketing where advised the client on both legal and business strategy.

Egan earned his J.D. with honors from Suffolk University Law School and a B.A. from Bridgewater State University.

Robert Heller, President & CEO, Spectrum Gaming Capital

- *Contributor to Chapter II*

Robert Heller is co-founder and CEO of Spectrum Gaming Capital. He joined Spectrum from UBS Investment Bank, where he was responsible for coordinating the bank's gaming franchise globally. Previously, he was president of Heller Gaming & Leisure, a boutique investment banking and advisory firm specializing in casinos, hotels and resorts, operating since 2003. Prior to that, Heller spent 23 years in investment banking, having established and managed teams as a Managing Director of Lehman Brothers and Bear Stearns, and at Salomon Brothers.

In his work at UBS, domestically, Heller arranged transactions for MGM Resorts International, Las Vegas Sands, Wynn Resorts, Penn National, Pinnacle Entertainment, Tropicana Entertainment, Boyd Gaming, Mohegan Sun and others. Internationally, he worked on transactions in Macau, the Philippines, Mexico and India. Other prior prominent clients in gaming, lodging and leisure included Harrah's Entertainment, Starwood Hotels & Resorts, Stations Casinos, IGT and Vail Resorts. Notable past transactions include the merger of Penn National and Hollywood Casino Corp., the sale of Caesars World Resorts, construction financing for Borgata Hotel Casino & Spa, the initial public offering for Vail Resorts, development financings for Mohegan Sun and Isle of Capri, the sales of Breckenridge and Steamboat ski resorts, the first commercial paper offering for Foxwoods, and the first public project financing for a riverboat casino (Hollywood Casino in Aurora, IL). In his boutique, Heller performed restructuring advisory work for institutional investor clients including Harbinger Capital and the Committee of Independent Lenders to Station Casinos.

As part of his efforts at Heller Gaming & Leisure, from 2004-2006, Heller was founding President and CFO of Baha Mar Resorts Ltd., owner of the Cable Beach Resort in Nassau, Bahamas, a 2,000 room, three-hotel, golf resort complex with the Caribbean's second largest casino. Heller coordinated the Baha Mar project at its onset including land assemblage, hotel acquisitions, operations, pre-development, arranged joint ventures, and raised almost \$500 million in initial financings for the project.

Heller is a graduate of the City University of New York and began his career as a CPA with Price Waterhouse & Company. He is a frequent speaker at global industry events and has made presentations at gaming industry conferences throughout North America and in Europe, Asia and the Middle East. Heller is a former board member of the American Gaming Association, and has lectured at the NYU Real Estate Institute and at the Cornell Hotel School.

Steven M. Ingis, Vice President, Legal and Regulatory Services

- *Task co-leader for Chapter III*

Steve Ingis is an attorney with 36 years of experience in casino gaming regulation. During his tenure with Spectrum, Ingis has been the supervising attorney for investigative services on behalf of casino regulatory agencies in Ohio, Massachusetts, Maryland, Maine, Jamaica, Virgin Islands and Puerto Rico. He has testified before legislative bodies in Pennsylvania and New Hampshire regarding casino gaming regulatory issues. Ingis also assisted in the drafting of table games legislation in Delaware and the promulgation of regulations for the Ohio Casino Control Commission. In addition, he recently assisted in drafting the enabling legislation implementing casino gaming in Bermuda and proposed regulations for Massachusetts' fledgling casino gaming industry.

Prior to joining Spectrum, he was employed by the New Jersey Casino Control Commission from 1982 until retiring in September 2008. As Assistant General Counsel for the Commission, Ingis managed the Licensing Unit in the Office of the General Counsel, and was responsible for all casino employee and entity licensing matters.

Ingis advised the Commission in many of its most notable licensing matters and represented the Commission in numerous court cases, including the 2007 denial of Tropicana Casino Hotel's license renewal application. In this regard, he successfully argued the appeal from the Commission's decision in the New Jersey Appellate Division.

Prior to joining the Casino Control Commission, Ingis served as an Assistant Morris County (NJ) Prosecutor and a Deputy Attorney General in the New Jersey Division of Criminal Justice, in addition to being employed in private practice.

Ingis earned his B.A. in History with honors from Stony Brook and a law degree from New York University.

David Isaacson, Vice President, Spectrum Gaming Capital

- *Task leader for Chapter V*

David Isaacson is Vice President of Spectrum Gaming Capital. Isaacson has been analyzing the gaming industry since 2010. At SGC he works on a broad range of projects, including strategic advisory engagements, market analyses, litigation support, valuation and digital gaming, among other areas.

He joined Spectrum Gaming Capital from Moody's Investors Service, the top rating agency, where he covered a portfolio of high yield gaming, lodging and cruise companies. In his work at Moody's, Isaacson was responsible for assigning rating recommendations, monitoring ratings and drafting credit related research on a portfolio of gaming and leisure companies and the industry as a whole. He is particularly skilled at analyzing gaming bank loans, high yield and other forms of corporate debt. Prior to covering the gaming and leisure industry, Isaacson worked for Moody's Analytics as a Structured Finance Analyst.

Isaacson has an MBA from NYU's Stern School of Business with a concentration in Corporate Finance and Accounting and a Bachelor's from Yeshiva University, where he majored in Economics and graduated with honors.

Kathryn M. Knight, Attorney, Stone Pigman Walther Wittmann

- *Legal and regulatory research, counsel and contributions for chapters III and V*

Kathryn Knight concentrates her practice in gaming law, employment law, business litigation, complex litigation and appellate work. She has ongoing representation of a riverboat casino owner, operator, and developer and its licensed subsidiaries in regulatory matters before the Louisiana Gaming Control Board and in a wide variety of administrative proceedings and litigation matters. She has also provided consultation and advice regarding licensing, permitting, and compliance issues under the Louisiana Gaming Control Law and Regulations, including representation of riverboat and video poker operators, suppliers, and lenders before, and in coordination with, Louisiana State Police, Attorney General's office and Gaming Control Board.

Knight earned her J.D. from Loyola University from New Orleans College of Law, B.S. in Merchandising from Louisiana State University, and B.S. in Paralegal Studies from University of Southern Mississippi.

Fritz Metzinger, Associate, Stone Pigman Walther Wittmann

- *Legal and regulatory research, counsel and contributions for chapters III and V*

Fritz Metzinger is an associate in the Litigation Section of Stone Pigman Walther Wittmann. He concentrates his practice on general business litigation and currently assists businesses and individuals with a variety of simple and complex legal matters. He also works with the firm's gaming law practice group.

He earned his J.D. from Tulane University School of Law and B.A. in History and Economics from University of Virginia College of Arts and Sciences.

Rod Motamedi, Research Manager, University of Massachusetts Donahue Institute

- *Analysis and contributor to Chapter I*

Rod Motamedi is a Research Manager at the University of Massachusetts Donahue Institute with over eight years of experience conducting economic and policy impact analyses, economic development and regional competitiveness assessments, and industry footprint studies. Prior to joining the Donahue Institute, Motamedi was a senior economic associate at Regional Economic Models, Inc. where he led client training and support, business development, and consulting projects. He is an expert in the

application of economic models to high-visibility issues around the U.S. and internationally. Examples of his previous work include the economic impact of casinos, national immigration reform, film tax incentives, and higher education. His current projects include a market analysis of offshore wind, the introduction of casinos to Massachusetts, and the economic and land-use impacts of a highway redesign.

Motamedi received his B.A. in Economics from the University of Massachusetts Amherst.

C. Lawrence Orlansky, Attorney, Stone Pigman Walther Wittmann

- *Legal and regulatory research, counsel and contributions for chapters III and V*

Larry Orlansky concentrates his practice in the areas of business litigation, gaming law, and professional liability and ethics. He chairs the firm's Gaming Practice Group, is a member of the firm's Management Committee, and serves as the firm's loss prevention and ethics counsel. He has been counsel in the defense of casino owner, operator and developer in federal and state court litigation relating to the licensing of riverboat gaming in Louisiana, obtaining dismissal of the federal claims and thereafter favorably settling the remaining state law claims.

Orlansky has also provided consultation and advice regarding licensing and permitting and compliance issues under the Louisiana Gaming Control Law and Regulations, including representation of riverboat and video poker operators, suppliers, and lenders before, and in coordination with, Louisiana State Police, Attorney General's office and Gaming Control Board. He has also represented a riverboat casino owner, operator and developer and its licensed subsidiaries in regulatory matters before the Louisiana Gaming Control Board and in a wide variety of administrative proceedings and litigation matters.

He is a member of the Board of Trustees of the International Association of Gaming Advisors.

Orlansky received J.D. from Paul M. Hebert Law Center at Louisiana State University and B.A. in Political Science from Louisiana State University.

Michael J. Pollock, Managing Director

- *Chief executive and co-leader for Chapter III*

Michael Pollock oversees a broad portfolio of Spectrum services, including policy and impact studies for country, state and local governments, and financial and market studies for private-sector clients.

He is also a principal in Spectrum eSports Advisors and the Spectrum Gaming Sports Group.

Pollock began analyzing the casino industry in 1978 and served as spokesman for the New Jersey Casino Control Commission from 1991 through 1996. He was a close advisor to the chairman, and he oversaw the Office of Legislative Liaison. During this period of rapid deregulation, his charge was to maintain public confidence in the integrity of the regulatory system.

Pollock is the author of the award-winning book *Hostage to Fortune: Atlantic City and Casino Gambling*, published by the Center for Analysis of Public Issues in Princeton. The book examines the impact of casinos on Atlantic City and New Jersey. He has testified before the International Tribunal at The Hague, the World Bank in Washington DC, the US Senate Indian Affairs Committee and the US Senate Select Committee on Indian Gaming, and has been a featured speaker at the Congressional Gaming Caucus, a group of US House of Representatives members from gaming jurisdictions. He has also testified before numerous legislative committees throughout the United States.

He has led Spectrum economic analyses in markets throughout North America, as well as in Latin America, Guam and Korea.

Pollock has won 20 journalism awards, and is the former editorial page editor of *The Press of Atlantic City*. Pollock is often cited by national media outlets, including *The New York Times*, *Star-Ledger*, BBC, MSNBC, ABC News and National Public Radio.

Pollock earned his MBA, with high honors, from Rutgers University, and has served as a member of the adjunct faculty of New York University, Rutgers University and Stockton University.

Doug Reed, Senior Pari-Mutuel Associate

- *Contributor to Chapter I*

Doug Reed is a renowned authority in the horse racing industry, and is also active in the evolution of the racino industry. He is Director Emeritus of the University of Arizona Race Track Industry Program (“RTIP”) and has extensive experience as a racing official, track executive and racing and gaming industry consultant. He also is involved at the intersection of eSports and gaming with his partnership with Spawn Point, a strategic partnership to utilize eSports to enhance and invigorate gaming properties.

He was affiliated with the RTIP for 20+ years and responsible for all aspects of the racing program, including administration, instruction, promotion and fundraising. He was also director of the RTIP’s annual Global Symposium on Racing & Gaming, North America’s largest pari-mutuel racing conference.

Prior to joining the University of Arizona, Reed was vice president of Santa Fe Racing, Inc., which operated two pari-mutuel tracks in New Mexico. He also spent many years as a racing official, including serving as racing secretary at Arlington Park, Oaklawn Park and Rockingham Park.

Reed has been a featured speaker and presenter at a variety of industry conferences, seminars and events, including events hosted by the Asian Racing Conference, Association of Racing Commissioners International, Harness Horsemen International, International Simulcast Conference, National Council for Legislators from Gaming States and the International Conference of Gambling & Risk Taking.

Highly regarded on the international racing scene, Reed has ties to many international racing jurisdictions, including Japan, Hong Kong, Singapore, Canada, New Zealand, Australia, Ireland, United Kingdom, France, Sweden, South Africa and Korea.

He received his undergraduate degree in mathematics from Albright College, and an MBA from the University of Arizona, Eller School of Management.

Matthew Roob, Senior Vice President, Financial Analysis

- *Leader and principal analyst for chapters I, II and IV*

Matthew Roob joined Spectrum after seven years at Seneca Gaming Corp., where he most recently served as Executive Director of Financial Planning and Analysis. At Seneca, he worked with the executive team in overseeing three successful casinos in Western New York

Roob is a strategic and financial analyst experienced in financial markets and management consulting. He applies his experience to Spectrum engagements that include gaming market analysis, feasibility study, strategic planning, development consulting, sports betting analysis, and related analysis.

Roob’s experience in casino development and other gaming jurisdictions began in 1995, when he worked with Casino Magic, Ameristar and Isle of Capri on developments in the Southeast and Midwest. His work for these clients led him to KPMG where he was focused on casino valuation and development. Roob led a team to value Alliance Gaming’s casino operations in Mississippi and Nevada for a possible sale. The result of the valuation encouraged Alliance to continue to operate the properties and more fully develop them for many years prior to the sale.

Roob's first casino-company experience came in 1998, when he left public consulting to become the Manager of Planning & Analysis for the riverboat casino operator Empress Entertainment. As the internal consultant for the ownership group, Roob was active in evaluating the market potential for placing slots at the Woodlands Raceway in Kansas City, KS, and developing the valuation and the bid for a riverboat in Missouri. He also evaluated Empress's competition and marketing strategies helping shape the plan that raised EBITDA and led to the eventual sale of Empress to Horseshoe Gaming.

At Merit Management, Roob worked in casino development and operating consulting. He developed economic impact models, market cannibalization and the financial models for casinos in Vicksburg, MS, and French Lick, IN. His domestic casino work ranges from developing a valuation and operating plan for a casino cruise line in Florida, to market analyses of Cripple Creek and Black Hawk, CO, as well as work with cardrooms and tribal casinos in Washington State.

While his primary responsibilities with Seneca Gaming were overseeing the budget process and the analytics of the gaming, hospitality and marketing programs, the Nation was interested in expanding its operations, and fending off competitors. He again stepped into casino development and market evaluation mode. The Nation expanded its Buffalo Creek Casino from 457 slots and a snack bar to a full casino with 1,100 slots, 30 tables, three restaurants and a sports bar. Balancing sizing of the new project to maximize the market without eroding the Seneca Niagara Falls Casino was the prime challenge. The project has expanded the overall market without impairing the Niagara Falls operation.

In this development analytics role, Roob was also responsible for developing the financial model for a fourth tribal casino in the Rochester suburb of Henrietta, NY, which included identifying the level of penetration by existing operators and the underserved nature of the market, a detailed five-year financial model, and presenting the economic impact and employment estimates to the Henrietta City Council.

Roob earned an MBA from the University of Chicago and B.A. degrees in Economics and History from Kenyon College.

Parker Smith, Associate, Stone Pigman Walther Wittmann

- *Legal and regulatory research, counsel and contributions for chapters III and V*

Parker Smith is an associate in the Business Section of Stone Pigman Walther Wittmann L.L.C. He concentrates his practice in the areas of intellectual property, commercial transactions, and compliance, including compliance with gaming laws and regulations. He also works with the firm's gaming law practice group.

He earned his J.D./D.C.L. from Paul M. Hebert Law Center at Louisiana State University, and B.A. in Philosophy and Political Science and B.S. Economics from Tulane University.

Paul Sternburg, Senior Lottery Associate

- *Task co-leader for Chapter VI*

Paul R. Sternburg brings 25 years of marketing, sales and management expertise as a senior consultant to Spectrum. Having spent the past three years as the leader of the most successful lottery in the United States, he distinguished himself as one of the industry's most imaginative and knowledgeable voices.

Sternburg was appointed Executive Director of the Massachusetts State Lottery in January 2011 where his leadership was essential to the organization's record-breaking success. Under his leadership, the Lottery posted two consecutive years of record sales and two highest net returns in its 41 year sales history.

Sternburg, who has 17 years of experience with state lotteries, believes the industry is on the cusp of major innovation and change and is working with a talented industry to leverage technology and partnerships to help deliver revenue to good causes and facilitate responsible growth

Sternburg earned his B.A. in Business from the University of Rhode Island.

Charles Towns, Copy Editor Associate

- *Edited report content*

Chip Towns has spent 33 years as an editor for metropolitan daily newspapers in Ohio and Virginia. In addition to editing and trimming stories, he wrote headlines, designed pages, chose photos and graphics, and supervised reporters and other editors. His career included extensive experience in the business, sports, and national/international news sections of his newspapers.

Towns began and ended his journalism career at the *The (Toledo) Blade*, where he worked in the business section, sports section, and on the news copy desk. In between stints at *The Blade*, he served as a sports layout and copy editor for *The Virginian-Pilot*. Since retirement he has been a consultant helping organizations with internal and external communications.

Towns graduated from Ohio Wesleyan University with a B.A. in journalism.

Joseph Weinert, Executive Vice President

- *Project director and task leader for Chapter VII*

Joe Weinert has been analyzing the gaming industry since 1996. At Spectrum, he is a project director and researcher for studies for private- and public-sector clients worldwide. He has directed numerous projects throughout North America, as well as in the Czech Republic, Russia, Slovak Republic, Spain and United Kingdom.

Weinert works on a broad range of projects, including market analyses, economic-impact studies, reasonableness analyses, litigation support, strategic planning, regulatory services, due diligence investigations, and Internet gambling, among other areas. He also serves on the Advisory Board of the Eastern European Gaming Summit, held annually in Sofia.

Weinert came to Spectrum after 18 years at *The Press of Atlantic City*, where for his last eight years he was responsible for the newspaper's intensive coverage of the casino industry. He has been a panelist, presenter or moderator at more than 70 industry conferences worldwide and has been quoted in prominent media outlets, including *The Wall Street Journal*, *Financial Times*, *Barron's*, *Forbes*, *New York Times*, *Washington Post*, *USA Today* and CNN, among many others. He has been published in *Casino Executive*, *Casino Journal*, *Gaming Industry Observer*, *Gaming Law Review*, *International Gaming and Wagering Business*, and the *Las Vegas Review-Journal*. In addition, he has testified before legislative committees in Illinois, Massachusetts, New Jersey and Pennsylvania and has served as an expert witness in Puerto Rico.

Weinert graduated from Ohio Wesleyan University with a B.A. in Journalism.