

# **GAMBLING IN ALABAMA**

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## **Governor's Study Group on Gambling Policy**

Submitted to Governor Kay Ivey  
December 18, 2020

This document was created by the members of the Governor's Study Group on Gambling Policy to provide detailed and accurate factual findings to the Governor, the Legislature and the people of Alabama, per Executive Order No. 719.

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## **Letter from the Chairman**

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December 18, 2020

The Honorable Kay Ivey  
Governor of Alabama  
600 Dexter Avenue  
Montgomery, AL 36130

Dear Governor Ivey:

Enclosed with this letter is the final report from the Governor's Study Group on Gambling Policy, which you established by Executive Order No. 719 in February. Your executive order directed the Study Group to produce "detailed and accurate factual findings" regarding the state of gambling policy in Alabama. We believe the enclosed report accomplishes your directive and answers the questions included within the executive order.

The group you selected to complete this task is simply remarkable. The men and women who contributed to this report are undoubtedly some of the best and brightest Alabama has to offer. The Study Group members spent considerable time and effort participating in meetings and calls, conducting research, and speaking to industry experts and others who expressed interest in the topic of gambling in Alabama. Indeed, we have all learned a great deal about our State and about gambling.

It is my hope – and I truly believe – that this report will serve as a guide to you, the Alabama Legislature, and the People of Alabama as future considerations are made regarding gambling in Alabama.

It has been one of my greatest honors to serve as Chairman of your Study Group on Gambling Policy. While the Study Group will officially dissolve at the end of the year, the Members and I will remain ready to support the State's efforts to address gambling policy issues.

On behalf of the entire Study Group on Gambling Policy, thank you for your leadership on this important issue.

Respectfully,

A handwritten signature in black ink, appearing to read "Todd Strange", written in a cursive style.

Todd Strange  
Chairman, Governor's Study Group on Gambling Policy

## **Executive Summary**

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## Executive Summary: Gambling in Alabama

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On February 14, 2020, Alabama Governor Kay Ivey signed Executive Order No. 719, establishing the Governor’s Study Group on Gambling Policy to produce detailed and accurate factual findings to allow the Governor, the Legislature, and the People of Alabama to make informed decisions about the future of gambling in Alabama.

The primary focuses of the Study Group’s report include the history and current status of gambling under Alabama law; Indian gaming under federal law; possible forms of gambling in Alabama; benefits and costs of legalized gambling; revenue derived from gambling; gambling disorder treatment, education, and prevention; and regulatory structures.

While various forms of gambling are currently available and rapidly being expanded and legalized in states around the country, most forms of gambling are constitutionally prohibited in Alabama. However, some gambling – albeit mostly unregulated and untaxed by the State – does exist in Alabama. These forms of gambling primarily include pari-mutuel dog and horse race wagering in four counties, charity bingo in 16 counties, bingo on three tracts of land taken into trust by the federal government for a federally recognized Indian tribe, and betting on fantasy sports statewide.

Gambling issues have been litigated in Alabama courts for decades, and policymakers have attempted to change gambling laws for years. While some statutory changes can be made by the Alabama Legislature, meaningful change would require a vote of the people to approve a constitutional amendment. Alabama voters rejected a proposed education lottery in 1999, and since then, more than 180 gambling bills have been introduced in the Legislature, all the while gambling litigation continues in the courts.

Should Alabama decide to expand its legalized gambling opportunities, there are certain benefits and costs Alabamians and the State would realize.

In addition to providing an entertainment value, the benefits of expanded legalized gambling in Alabama are almost purely economic in the form of job creation and potential economic development opportunities – and fiscal in the form of revenue generation for the State. Ultimately, Alabama could realize 19,000 newly created jobs – many with salary premiums much higher than the State’s current average annual income – and could realize as much as \$710 million in annual revenue, depending on what forms of gambling are legalized. Potential ranges of annual revenue generated by full, competitive, and mature gambling operations are depicted below.

Revenue Source	Revenue Estimate (in millions)
Lottery	\$200 - \$300
Casino Gaming	\$300 - \$400
Sports Betting	\$10
<b>POTENTIAL TOTAL</b>	<b>\$510 - \$710</b>

While there are certainly benefits of expanded legalized gambling, there are also some costs, including government-sponsored treatment, prevention, and education services costs; societal family, economic, and judicial costs; and displaced tax revenue costs. Most of these costs would result from individuals who develop gambling disorders, which is estimated to be as many as 66,375 individuals in Alabama. When considering disordered gamblers in Alabama, there are four concepts to remember: 1) unlike some

benefits of legalized gambling, the complete costs of legalized gambling are difficult to identify and even more difficult to accurately project; 2) the majority of the adult population gambles responsibly; 3) illegal or legal gambling has always and currently does exist in Alabama, and, therefore, problem gambling is not and will not be new to the State; and 4) disordered gamblers put others at risk, in addition to themselves.

While there are costs associated with gambling, the taxation of regulated gambling activities creates an opportunity to dedicate public funds to gambling treatment, prevention, or education services. The best way to avoid or mitigate treatment is prevention, and in the case of legalized gambling, perhaps the most effective prevention measures are education and awareness. There are a variety of best practices observed within gambling industries and other states.

An effective system of gambling will maximize benefits realized by a state, minimize costs associated with gambling, and ensure fair and efficient enforcement of clear rules and laws to regulate gambling. Currently, Alabama does not have a dedicated statewide regulatory entity to accomplish these ideal gambling system characteristics. Therefore, should the State decide to expand legal gambling opportunities, the governing, administering, and overseeing of gambling would be a new function of Alabama state government. Given that Alabama would be one of the last states to establish a state lottery and/or otherwise expand legalized gambling, it has the benefit of considering lessons-learned and implementing best practices from other states.

Several principal characteristics of state gambling regulatory structures have been identified from other states. These principal characteristics include:

- Adaptive to serve as regulator of all forms of permitted gambling in Alabama
- Protective of consumer interests and fair gambling operation
- Responsive to changing technologies and delivery methods and consumer trends
- Competitiveness with other states
- Authority to regulate and ability to enforce statewide
- Highest standard of ethical conduct

To effectively achieve these characteristics, best practices suggest a regulatory entity should be under the control of a Board of Trustees and managed by a chief executive selected by the Board. Above all, effective regulatory entities adhere to the strictest of ethical standards to maintain independence from political favoritism and outside influence to ensure fair practices and preserve public trust.

Ultimately, the State of Alabama has a unique opportunity to address gambling as a matter of public policy. This opportunity can be considered as a variety of options that range from maintaining the status quo to authorizing, regulating, and taxing gambling within the State. Each option would require varying levels of government action to achieve, but meaningful change to Alabama's gambling policy will likely require action by the Legislature and the Governor and a vote of the people of Alabama to amend the state constitution.

**Executive Order No. 719:  
Establishing the Governor's Study Group on Gambling  
Policy**

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## EXECUTIVE ORDER NO. 719

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### ESTABLISHING THE GOVERNOR'S STUDY GROUP ON GAMBLING POLICY

**WHEREAS** the people of Alabama were last given an opportunity to vote on gambling in 1999, when they considered Governor Siegelman's "education lottery" proposal;

**WHEREAS**, since that 1999 vote of the people, over 180 bills have been introduced in the Legislature related to some form of gambling or a lottery;

**WHEREAS**, since the 1999 vote, Alabama's appellate courts have issued no fewer than 18 published decisions reaffirming our state constitution's prohibition on "lotteries" and "gift enterprises," including many forms of casino gambling;

**WHEREAS** the economic, social, and political implications of gambling continue to be debated by proponents and opponents of legalized gambling;

**WHEREAS** all four of Alabama's neighboring States offer one or more forms of gambling, and many Alabamians travel across state lines to participate;

**WHEREAS** these facts demonstrate that, over twenty years following the last vote of the people, the issue of gambling is still a source of economic and political uncertainty for Alabama;

**WHEREAS** I strongly believe that the people of Alabama should have the final say on the future of gambling in our State; and

**WHEREAS**, for the people to make the best decision, they must have all the facts;

**NOW, THEREFORE**, I, Kay Ivey, Governor of the State of Alabama, by the authority vested in me by the Constitution and laws of the State of Alabama,

## EXECUTIVE ORDER NO. 719

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hereby establish the Governor's Study Group on Gambling Policy ("the Study Group") as further set forth below:

1. **Purpose.** The purpose of the Study Group is to produce detailed and accurate factual findings to allow the Legislature and the people of Alabama to make an informed decision about the future of gambling in this State.
2. **Final report.** By December 31, 2020, the Study Group shall submit a final report to the Governor, to the Legislature, and to the people of Alabama as follows:
  - a. **Factual findings.** The report shall contain detailed and accurate factual findings relevant to the Study Group's purpose. Questions the Study Group may address include the following:
    - i. What is the current status of gambling operations in Alabama?
    - ii. What are the possible forms of gambling that could be allowed in Alabama (e.g., casino-style slot machines, casino-style table games, a lottery, a compact, sports betting, etc.)?
    - iii. What are the benefits of allowing gambling—whether economic, fiscal, social, political, or otherwise? For each possible form of gambling identified by the Study Group, how much revenue can the State reasonably expect to receive? In particular, what has been the experience of other States with respect to revenue derived from gambling? Are there factors unique to Alabama that could positively or negatively affect the amount of revenue Alabama could expect to receive from gambling? How do other States spend the revenue they derive from gambling?
    - iv. What are the costs of allowing gambling—whether economic, fiscal, social, political, or otherwise? For each possible form of gambling identified by the Study Group, what costs are unique to that particular form of gambling? What harms, if any, have other States experienced as a

EXECUTIVE ORDER NO. 719

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result of allowing gambling? What factors unique to Alabama could make these costs more or less severe?

- v. What regulatory structures and practices have other States adopted to maximize the benefits of gambling and minimize the costs of gambling? Taking into account the possible forms of gambling identified by the Study Group, are there other regulatory options uniquely available to Alabama to accomplish this purpose?
  - b. **Recommendations.** The Study Group, or any of its individual members, may, but need not, make recommendations on any question relevant to the Study Group's purpose.
3. **Membership.** The members of the Study Group shall be appointed by, and serve at the pleasure of, the Governor.
  - a. **Ethics pledge.** Each member shall sign a copy of the ethics pledge attached to this order.
  - b. **Compensation and expenses.** The members of the Study Group shall serve without compensation or reimbursement for their expenses.
4. **Chair.** The chair of the Study Group shall be appointed by, and serve at the pleasure of, the Governor. The chair of the Study Group will have the authority to:
  - a. Oversee implementation of this order and the work of the Study Group;
  - b. Convene and preside at meetings; and
  - c. Request technical assistance from the Governor's Office as needed.
5. **Technical assistance.** The Governor's Office will supply legal, clerical, administrative, and other technical assistance as deemed appropriate by the Governor.

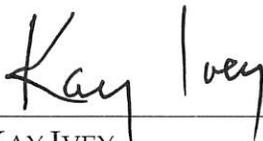
EXECUTIVE ORDER NO. 719

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6. **Meetings.** The Study Group shall hold its first meeting at the call of the Governor. It shall meet periodically thereafter as determined necessary by the chair.
7. **Duration.** The Study Group shall be dissolved effective December 31, 2020.

DONE AND ORDERED this 14th day of February 2020.



  
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KAY IVEY  
Governor

ATTESTED

  
\_\_\_\_\_  
JOHN H. MERRILL  
Secretary of State



**EXECUTIVE ORDER NO. 719**

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**THE GOVERNOR'S STUDY GROUP  
ON GAMBLING POLICY**

**Ethics Pledge**

As a member of the Governor's Study Group on Gambling Policy, I will strive to pursue the Study Group's purpose keeping in mind the interests of the State of Alabama as a whole. I have no known conflicts of interest that would prevent me from performing my duties in this manner, and I have no intent to profit as a result of my service.

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Signature

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Printed Name

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Date

## **Members of the Governor's Study Group on Gambling Policy**

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**Todd Strange (Chair)** of Montgomery is the former mayor of Montgomery. Prior to his tenure as mayor, he served as chairman of the Montgomery County Commission, former president, CEO and co-owner of Blount Strange Automotive group, and former director of the Alabama Development Office (the Alabama Department of Commerce).

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**A.R. "Rey" Almodóvar** of Huntsville is the co-founder and Chief Executive officer of INTUITIVE®. Mr. Almodóvar is a licensed professional engineer (P.E.) and holds a B.S. in Industrial Engineering from the University of Puerto Rico, M.S. in Engineering from the University of Arkansas, and M.S. in Business Administration from Texas A&M University. He is a graduate of Leadership Alabama Class XXVI.

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**Dr. Deborah Barnhart** of Huntsville is the Chief Executive Officer (CEO) Emerita of the U.S. Space & Rocket Center in Huntsville. Previously serving as the Center's CEO and Executive Director, her career spans four decades of service in commercial industry, government, aerospace and defense. A retired Navy Captain, she was one of the first ten women assigned to duty aboard ships and commanded five units in her 26-year career. She received an undergraduate degree from the University of Alabama at Huntsville and a Master of Business Administration from the Massachusetts Institute of Technology-Sloan School of Management and the University of Maryland College Park as well as a Ph.D. from Vanderbilt University.

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**Walter Bell** of Mobile is the past Chairman of Swiss Re, one of the world's largest reinsurers. Prior to his time in the private sector, he served as the Alabama Commissioner of Insurance. He launched the Mobile County Urban League in 1978 and is a member of the Alabama Academy of Honor for his achievement in civil rights, civic leadership and business.



**Dr. Regina Benjamin** of Bayou La Batre, is a physician who served as the 18th Surgeon General of the United States. Prior to her service to our country, she was the former president of the Alabama Medical Association and provided health care to a medically underserved community by founding the Bayou La Batre Rural Health Clinic and the Gulf States Health Policy Center. She received a B.S. from Xavier University of Louisiana, M.D. from the University of Alabama, and an MBA from Tulane University.

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**Young Boozer** of Montgomery currently serves as the Assistant Superintendent of Banking at the Alabama State Banking Department. He is the former Treasurer for the state of Alabama and has extensive experience with numerous banking institutions such as Citibank, Crocker National Bank, and Colonial Bank. Boozer received his B.S. in Economics from Stanford University and a M.S. in Finance from the Wharton School at the University of Pennsylvania.

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**Sam Cochran** of Mobile has been the Sheriff of Mobile County since 2006. He began his law enforcement career with the Mobile Police Department where he spent 31 years working his way through the ranks – serving his last 10 years as Chief of Police. Sheriff Cochran serves the community on numerous agency boards, including the Penelope House, Drug Education Council, Boy Scouts of America, and the Child Advocacy Center.

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**Elizabeth "Liz" Huntley** of Birmingham is a litigation attorney at Lightfoot, Franklin & White LLC. After rising from an unimaginable childhood, she has become a nationally recognized child advocate and serves on numerous boards including the Alabama School Readiness Alliance, the Children's Village Board of Directors, and the Auburn University Board of Trustees.



**Carl Jamison** of Tuscaloosa is a third-generation Shareholder in JamisonMoneyFarmerPC, one of the largest and oldest public accounting firms in the state of Alabama. He primarily works in the areas of tax planning and audit services to clients in the manufacturing, medical, retail, construction, and professional services industries. He received a Bachelor of Science in Accounting from the University of Alabama and is a Certified Public Accountant.

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**Justice James "Jim" Main** of Montgomery is a former Justice on the Supreme Court of Alabama and previously served as a Judge on the Alabama Court of Criminal Appeals. Along with his 30+ years in private legal practice, he served as Finance Director and policy advisor to Governor Bob Riley as well as Legal Advisor to Governor Fob James.

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**Phillip "Phil" Rawls** of Pike Road currently serves as a Lecturer of Journalism for Auburn University. He spent over 35 years working for The Associated Press. His respected career in journalism spanned every Alabama governor from George Wallace to Robert Bentley where he extensively covered government and politics.

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**Bishop B. Mike Watson** of Birmingham is the Bishop in residence at Canterbury United Methodist Church in Birmingham and is currently serving as the Ecumenical Officer of the Council of Bishops. He has served as a minister in Dothan and Mobile. In addition to his work in the ministry, he is a past president of the Mobile County School Board, which is the largest school system in Alabama. He has a Bachelor of Science degree in finance and real estate from The University of Alabama, a Master of Divinity degree from Emory University's Candler School of Theology, and a Doctor of Ministry degree from Vanderbilt University.

## **Members' Working Principles Commitment**

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## WORKING PRINCIPLES FOR THE GOVERNOR'S STUDY GROUP ON GAMBLING POLICY

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As a member of the Governor's Study Group on Gambling Policy, I commit to performing my duties with due regard for both the integrity of the Study Group's private, internal deliberations as well as public transparency in the Study Group's interactions with persons and groups seeking to influence our work. To that end, I commit – to the other members of the Study Group and to Governor Ivey – that I will carry out my duties as a Study Group member in accordance with the following principles:

1. I will not communicate about the substance of the Study Group's work with any person who is not a member of the Study Group except during public sessions of the Study Group or as authorized by the Study Group.
2. I will encourage persons who are not members of the Study Group to communicate with the Study Group through the following email address: *sggp@governor.alabama.gov*.
3. If I receive documents or information relevant to the Study Group's work from any person who is not a Study Group member, I will share it with the Governor's Office staff liaison for distribution to all other members of the Study Group.
4. I will treat all discussions among the members of the Study Group – outside the Study Group's public sessions – as confidential, internal deliberations, conducted for the purpose of developing recommendations to Governor Ivey on pressing matters of public policy.

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Signature

**Gambling in Alabama:**  
**A Report from the Governor's Study Group on Gambling Policy**

## **Gambling in Alabama: A Report from the Governor’s Study Group on Gambling Policy**

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On February 14, 2020, Alabama Governor Kay Ivey signed Executive Order No. 719, establishing the Governor’s Study Group on Gambling Policy. The Study Group’s mission was to produce detailed and accurate factual findings to allow the Legislature and the People of Alabama to make informed decisions about the future of gambling in the State.

In addition to establishing the Study Group, Executive Order No. 719 outlined several specific questions to be answered by the Study Group. Those questions, and their corresponding pages within this report, are as follows:

1. What is the current status of gambling operations in Alabama? [Pages 2-6]
2. What are the possible forms of gambling that could be allowed in Alabama (e.g., casino-style slot machines, casino-style table games, a lottery, a compact, sports betting, etc.)? [Pages 6-10]
3. What are the benefits of allowing gambling – whether economic, fiscal, social, political, or otherwise? For each possible form of gambling identified by the Study Group, how much revenue can the State reasonably expect to receive? In particular, what has been the experience of other States with respect to revenue derived from gambling? Are there factors unique to Alabama that could positively or negatively affect the amount of revenue Alabama could expect to receive from gambling? How do other States spend the revenue they derive from gambling? [Pages 11-21]
4. What are the costs of allowing gambling – whether economic, fiscal, social, political, or otherwise? For each possible form of gambling identified by the Study Group, what costs are unique to that particular form of gambling? What harms, if any, have other States experienced as a result of allowing gambling? What factors unique to Alabama could make these costs more or less severe? [Pages 21-26]
5. What regulatory structures and practices have other States adopted to maximize the benefits of gambling and minimize the costs of gambling? Taking into account the possible forms of gambling identified by the Study Group, are there other regulatory options uniquely available to Alabama to accomplish this purpose? [Pages 26-29]

### **METHOD OF STUDY & RESEARCH**

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In order to make the task more manageable, the Study Group divided itself into four Subject-matter Subcommittees, each with three members, to study specific components laid out by the Executive Order. The four subcommittees were: (1) Possible Gaming Venues & Applicable Federal Law; (2) Benefits of Legalized Gambling; (3) Cost of Legalized Gambling; and (4) Regulatory Structures & Best Practices.

Through the four subcommittees, the Study Group conducted independent research, in which it examined the current status of gambling in Alabama. It also explored practices and policies in other states, including those with mature gambling operations, newly permitted gambling operations, and various forms of permitted gambling; it took into account federal statutes and case law; it considered a variety of studies relating to gambling and commissioned its own studies provided by industry sources, economists, and

state agencies; and it compared and contrasted regulatory structures and other governance practices associated with gambling in other states.

In addition to conducting its own research, the Study Group held a series of public meetings, during which industry experts and advocacy groups presented cases both for and against gambling. The presenters provided local, statewide, and national perspectives on gambling. The Study Group also welcomed public comments.

Ideas and opinions about gambling are seemingly endless, and research on the topic could continue in perpetuity. However, the Study Group thoroughly but succinctly addressed the questions posed by Executive Order No. 719, and through this report, the People of Alabama will be equipped with the facts to make a well-informed decision about the future of gambling in Alabama.

## **HISTORY & CURRENT STATUS OF GAMBLING UNDER ALABAMA LAW**

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Gambling currently exists in Alabama in various forms, but much of it is unregulated and untaxed by the State. The development of Alabama's gambling laws over time has resulted in a patchwork system that allows only limited forms of gambling in limited locations, and often reflects a tension between the intent of Alabama's current gambling laws and the extent to which those laws are capable of being enforced.

### Development of Alabama Gambling Law

To understand gambling law in Alabama, it is first important to reinforce the concepts of how laws are made or changed in Alabama. Some laws are part of the State Constitution, the Alabama Constitution of 1901; other laws are part of the Code of Alabama. To change the Constitution, the Alabama Legislature must approve and propose a constitutional amendment, which must then be ratified by a vote of the people. Changing the Code, on the other hand, requires only legislative approval and does not require a vote of the people.

Alabama's current gambling law is rooted in the Constitution, which specifically prohibits most forms of gambling in Article IV, Section 65:

The legislature shall have no power to authorize lotteries or gift enterprises for any purposes, and shall pass laws to prohibit the sale in this state of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery; and all acts, or parts of acts heretofore passed by the legislature of this state, authorizing a lottery or lotteries, and all acts amendatory thereof, or supplemental thereto, are hereby avoided.

In addition to the lotteries most Alabamians think of today – like Powerball or instant scratch-off games – the term “lottery” in the Constitution includes *any* game where someone buys the right to win a prize awarded primarily based on chance.<sup>1</sup>

Despite this general prohibition against most forms of gambling in the Constitution, limited forms of gambling have been legally allowed in Alabama over the years. Some forms of gambling, which involve more skill than chance and are therefore not constitutionally prohibited, have been legalized in the Alabama Code by statute. Similarly, other forms of gambling predominately based on chance – primarily bingo – have been legalized by constitutional amendment.

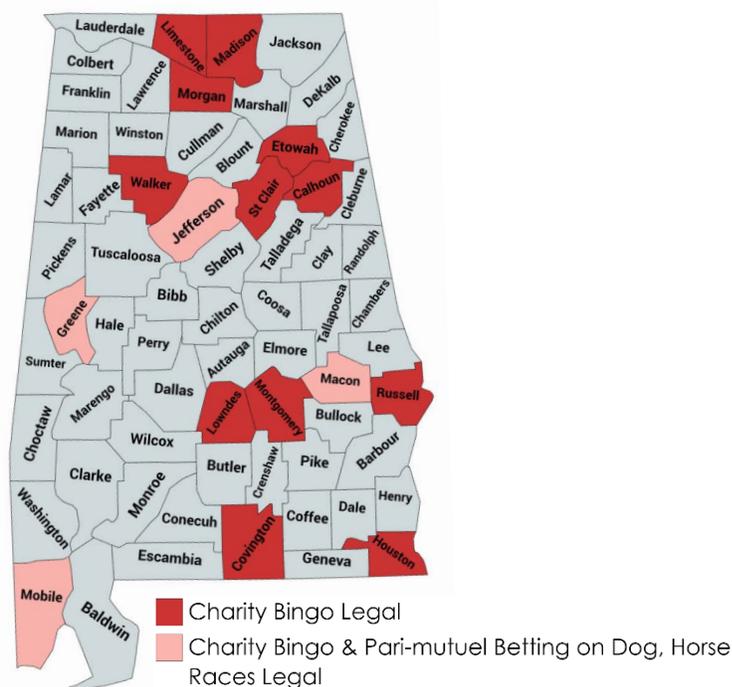
For example, during the 1970s and 1980s, the Alabama Legislature allowed several counties—Greene, Jefferson, Macon, and Mobile—to create “Racing Commissions” to regulate pari-mutuel betting on horse races and dog races, both live and simulcast. “Pari-mutuel” betting is a form of gambling in which the operator takes a commission on all wagered bets and the winnings are paid from the remainder of the pooled bets.

In 1986, the Legislature enacted the statewide “Chuck-E-Cheese law” to authorize “skill-based” games with winnings limited to “noncash merchandise, prizes, toys, gift certificates or novelties, each of which has wholesale value of not more than five dollars (\$5).”<sup>2</sup>

In 2019, the Legislature further expanded legalized “skill-based” games to allow betting on fantasy sports and daily fantasy sports. Of note is the distinction between wagering on fantasy sports, which is legal under the 2019 law, and traditional sports betting, which generally remains illegal. Like the “Chuck-E-Cheese law,” this 2019 law applies statewide.

From 1980 to 2004, voters approved several local constitutional amendments to legalize bingo in 16 Alabama counties, usually to support local nonprofits, religious groups, or educational institutions.

FIGURE 1: ALABAMA COUNTIES WITH LEGALIZED CHARITY BINGO



While these amendments make bingo legal in certain counties, the definition of “bingo” has been a source of litigation for years. In fact, since 2009, the Alabama Supreme Court has issued at least 15 decisions concerning the definition of “bingo.”<sup>3</sup>

Ultimately, the courts ruled that only the game “commonly or traditionally” known as bingo, involving player participation and interaction and, usually, paper cards, is legally permissible.<sup>4</sup> The Alabama Supreme Court even developed a six-part test to determine the legality of bingo in *Barber v. Cornerstone Community Outreach Inc.* In the *Cornerstone* case, which is perhaps the most well-known case in this area,

the Supreme Court said that, to be considered bingo, a game must, at a minimum, include the following six characteristics:

1. Each player must use one or more cards with spaces arranged in five columns and five rows, with an alphanumeric or similar designation assigned to each space;
2. Alphanumeric designations must be randomly drawn and announced one by one;
3. Each player must pay attention to the announced values—and if a match occurs, the player must physically act to mark it on his or her card;
4. A player must be able to lose by not paying attention or not properly marking his or her card;
5. To win, a player must recognize that he or she has a bingo and announce that fact before any other player does so; and
6. The game must be played in a group with multiple players competing against one another.<sup>5</sup>

In sum, gambling in Alabama has evolved over the years to allow fantasy sports betting statewide and pari-mutuel dog and horse race betting as well as bingo in certain counties, but most forms of gambling remain illegal in Alabama. Ultimately, Alabama law on gambling may best be described as a patchwork system in which some forms of gambling are authorized in some locations even though most forms of gambling are constitutionally prohibited statewide.

#### Enforcement Challenges

Despite the legal forms of gambling in Alabama, several constitutional and statutory prohibitions against gambling remain intact. However, there is no statewide regulatory entity dedicated to overseeing gambling in Alabama as there is in most other states. The resulting system makes statewide enforcement of gambling law challenging for the State.

Over the years, several attempts have been made by the State to exert some degree of uniform enforcement of Alabama's gambling laws. Indeed, many Alabamians will recall high-profile news stories relating to these efforts. Again, with no statewide regulatory entity, most of the State's efforts to enforce its gambling laws have proven largely ineffective, and many remain pending in the courts after years of litigation.

#### Attempts to Change Alabama Gambling Law

As previously mentioned, meaningful change to Alabama's gambling law would require a vote of the people on a proposed constitutional amendment. In 1999, the people of Alabama indeed had the opportunity to vote on a proposed education lottery, which was defeated by a vote of 54 to 46 percent.

Since that vote, gambling has remained a subject of debate in Alabama – both among the general public and within all three branches of government. Numerous lawsuits have been filed; at least eight gubernatorial executive orders have been issued; and more than 180 bills have been introduced in the Legislature – including at least five bills during the 2020 Regular Session – all in an attempt address gambling in some way.

Until an efficient and effective statewide remedy is approved, it can reasonably be concluded that the State of Alabama will continue to expend considerable time and money attempting to address the issue of gambling. This remedy – if agreed upon – will likely result in a fairly regulated and fairly taxed system of gambling, bringing Alabama on par with most other states.

## INDIAN GAMING UNDER FEDERAL LAW

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The issue of Indian gaming introduces another important legal facet of gambling in Alabama. The regulation of Indian gaming involves concepts federal law, not just state law.

### The Indian Gaming Regulatory Act

The Indian Gaming Regulatory Act (IGRA), which was enacted in 1988, is the federal law that governs gambling on “Indian lands,” which generally refers to Indian reservations or lands held in trust by the federal government. In addition to providing a statutory authorization for Indian tribes to conduct gaming on Indian lands, IGRA outlines a framework for regulating Indian gaming. IGRA was intended to balance the interests of the tribes, the states, and the federal government in regard to Indian gaming.<sup>6</sup>

To achieve this careful balance, IGRA divides gaming on Indian lands into three classes – class I, class II, and class III – and provides a different regulatory procedure for each class. Therefore, according to IGRA, the class of gambling determines the extent to which a state or the federal government may regulate that type of gambling. Below is a brief description of each gaming class and its corresponding regulatory procedure:

- **Class I gaming.** Class I gaming, which consists primarily of traditional Indian games played as part of tribal ceremonies, may be played on Indian lands subject to regulation only by the tribe.<sup>7</sup> Neither the federal government nor a state may interfere with the regulation of class I gaming.
- **Class II gaming.** Class II gaming, which consists of bingo and certain card games, may be played on Indian lands only if the state also allows “such gaming.”<sup>8</sup> In that event, the class II gaming activity is subject to federal regulation by the National Indian Gaming Commission, and the state may not interfere.<sup>9</sup>
- **Class III gaming.** Class III gaming, which is defined as all forms of gaming that are *not* class I or class II gaming, is similar to class II gaming in that it may be played on Indian lands only if the state also allows “such gaming.”<sup>10</sup> In that event, the class III gaming activity is subject to regulation through a federally approved agreement between a tribe and a state known as a tribal-state compact.<sup>11</sup>

The combined effect is that states have no regulatory control over class I gaming on Indian lands; states have only indirect control over class II gaming on Indian lands; and class III gaming may occur on Indian lands, but only if the state allows “such gaming” *and* agrees to a compact with the tribe regarding the terms of regulation of that gaming on Indian lands.

In addition to establishing terms under which the class III gaming activities on Indian lands would be regulated, a tribal-state compact could contain other provisions, such as, providing for the reimbursement of costs associated with that regulation.<sup>12</sup> Furthermore, a compact could allow the state to share in the tribe’s gambling revenues if a provision in the compact gives the tribe an “economically valuable concession” as determined by the federal government.

Should Alabama decide to enter a compact to allow, and thus regulate, class III gaming on Indian lands, the State must first determine which forms of class III gaming to allow under its own state laws. Only after “such gaming” is allowed under Alabama law, may the State proceed with compact negotiations.

In sum, federal law establishes a hierarchy of Indian gaming and Indian gaming regulation. This federal regulatory structure creates legal interaction between state and federal law that can become complex and legally technical but which must be given full consideration.

## **POSSIBLE FORMS OF GAMBLING IN ALABAMA**

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Should Alabama expand the legal forms of gambling, a variety of gambling options are available. Essentially, lotteries and all forms of traditional “casino-style” games are not currently permissible in Alabama, although these types of games could be permitted upon approval of a constitutional amendment. With the limited exception for betting on fantasy sports and daily fantasy sports, sports betting is also prohibited in Alabama. These types of gambling could be legally permitted within the State, or the State could move to allow specific forms of these types of gambling, while explicitly prohibiting others.

Forms of gambling allowed in other states, which Alabama could consider legalizing include:

- **Banked card games:** Any game of chance that is played with the house as a participant where the house takes on all players, collects from all losers and pays all winners, and the house can win.
- **Card rooms:** A facility where the public is invited to play authorized card games, usually poker, for money or anything of value. The operator charges a fee for participation and is not a participant in the games.
- **Full service commercial or tribal casinos:** Privately operated gaming facilities that generally offer a wide range of gambling options including slot machines and other electronic gaming machines, banked card games, ball games (such as roulette) and dice games. Some states limit the operations to slot machines and/or other electronic gaming machines, but they allow the businesses to advertise as “casinos.”
- **Jai alai:** Wagering on a court game somewhat like handball played usually by two or four players with a ball and a long-curved wicker basket strapped to the wrist.<sup>13</sup>
- **Single-game sports betting:** Existing gambling operations and, in some states, online sports betting operators accept wagers on the outcome of individual sports events, both professional and college.
- **State lottery:** A game of chance operated by a state government, with customers paying a small amount for the chance to win a large sum. A lottery’s winning number or numbers are chosen in a drawing. Lotteries come in different types. Instant lotteries offer immediate prizes and consist of scratch-off tickets and pull tabs. Other lottery games may last a few days or a week. Not all games have winners because the winning numbers may not be held by any customer. If no customer wins, the cash prize rolls over to the next drawing. Some states allow only paper lottery tickets purchased at retailers, and others allow online sales.
- **Multi-jurisdiction lottery:** Lottery games that are offered in more than one jurisdiction, allowing lotteries to generate larger jackpots than they could individually. Jackpots may be paid in lump sums or annuities. The prize pool is shared by all participating lotteries. Examples include Powerball, Mega Millions, Hot Lotto, Tri-State Megabucks, Cash4Life and Lucky for Life.<sup>14</sup>

Each of the aforementioned gambling venues or forms of gambling are legal in the United States, within certain states. For comparison, a breakdown of gambling offered in states neighboring Alabama is below.

#### Florida

- Jai alai
- Pari-mutuel betting on horse races and dog races (with live greyhound racing being phased out by the end of 2020)
- Card Rooms
- Commercial casinos (essentially electronic gambling facilities at jai alai and pari-mutuel facilities, with house-banked card games and ball and dice games prohibited)
- Tribal casinos (house-banked card games allowed, but ball and dice games, such as roulette and craps, prohibited.)
- State lottery without online sales
- Multi-jurisdiction lottery

#### Georgia

- State lottery with online sales
- Multi-jurisdiction lottery

#### Mississippi

- Commercial casinos with a full range of gambling options
- Tribal casinos with a full range of gambling options
- State lottery without online sales
- Multi-jurisdiction lottery
- Sports betting at tribal and commercial casinos

#### Tennessee

- State lottery without online sales
- Multi-jurisdiction lottery
- Sports betting online only

#### Gambling During the 2020 Election Cycle

Gambling was a featured ballot initiative in six states during the November 3, 2020 elections, and voters in all six states approved measures to expand gambling.

Sports betting was approved statewide by voters in Maryland and South Dakota. Louisiana voters were also presented with the opportunity to approve sports betting on a parish-by-parish basis – 56 of the State's 64 parishes approved the measure. It is now up to lawmakers in each of these states to establish regulatory procedures before sports betting will become active.

Casino gambling was on ballots in Virginia after the State's General Assembly passed a measure earlier in the year to allow casinos to be built in five cities. Voters in four of those cities approved their ballot initiatives, while the fifth local referendum will appear on a future ballot.

Voters in Colorado, which previously allowed casinos in only three cities, approved an initiative to expand its legal casino gambling activities. A cap limiting wagers to \$100 was removed, and additional types of gambling were approved.

Finally, voters in Nebraska approved three statewide gambling measures – one constitutional and two statutory. The constitutional amendment legalizes casino gambling at racetracks in five Nebraska cities, while the two statutory referendums address the regulation and taxation of casino gambling.

Comparisons of State Gambling Venues

The following table and maps depict the state of legal gambling venues and operations across the United States, Alabama excluded, according to the American Gaming Association.

TABLE 1. LEGALIZED GAMBLING BY STATE

	Commercial and/or Tribal Casinos <sup>15</sup>	Commercial Casinos <sup>16</sup>	Tribal Casinos <sup>17</sup>	Lottery <sup>18</sup>	Sports Betting <sup>19</sup>
Alaska	✓		✓		
Arizona	✓		✓	✓	
Arkansas	✓	✓		✓	✓
California	✓		✓	✓	
Colorado	✓	✓	✓	✓	✓
Connecticut	✓		✓	✓	
Delaware	✓	✓		✓	✓
Florida	✓	✓	✓	✓	
Georgia				✓	
Hawaii					
Idaho	✓		✓	✓	
Illinois	✓	✓		✓	✓
Indiana	✓	✓	✓	✓	✓
Iowa	✓	✓	✓	✓	✓
Kansas	✓	✓	✓	✓	
Kentucky				✓	
Louisiana	✓	✓	✓	✓	✓
Maine	✓	✓		✓	
Maryland	✓	✓		✓	✓
Massachusetts	✓	✓		✓	
Michigan	✓	✓	✓	✓	✓
Minnesota	✓		✓	✓	
Mississippi	✓	✓	✓	✓	✓
Missouri	✓	✓		✓	
Montana	✓		✓	✓	✓
Nebraska	✓	✓	✓	✓	
Nevada	✓	✓	✓		✓
New Hampshire				✓	✓
New Jersey	✓	✓		✓	✓
New Mexico	✓	✓	✓	✓	✓





## **BENEFITS OF LEGALIZED GAMBLING IN ALABAMA**

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In addition to providing an entertainment value, the benefits of expanded legalized gambling in Alabama are almost purely economic in the form of job creation and potential economic development opportunities – and fiscal in the form of revenue generation for the State. While the prospect of future economic development opportunities is nearly certain, it is also somewhat speculative. On the other hand, the fiscal benefits and revenue generation can be estimated with a higher degree of certainty using state comparison data, modelling, and projection methods. Three forms of gambling – lottery, casino-style gambling, and sports betting – were studied to estimate their potential benefit to the State of Alabama in terms of revenue generated to the State should Alabama decide to expand legalized gambling to include one or more of these gambling options.

### Lottery

Alabama is one of five states – along with Alaska, Hawaii, Nevada, and Utah – that does not allow operation of a state lottery. The other 45 states allow and currently operate lotteries. States develop and administer their own form of lottery games – including various scratch-off, draw, or instant games – that are unique to that state. Each of the 45 states that offer lottery games also allow play of multi-state lotteries, including Mega Millions and Powerball, and some states participate in smaller, regional multi-state lotteries. Additional variations of lottery play options offered by different states can be found according to those that allow online or electronic lotteries.

A primary methodology used to compare lottery efficiencies and project lottery revenue generation is the per capita method. The per capita method is considered the industry standard for lottery analysis as population is considered the best predictor of total lottery sales. States, vendors, associations, and researchers typically use per capita data analysis to evaluate future operations of existing lotteries, new lottery launches, and how various factors, components, or changes may influence lotteries.

Two key elements to be considered regarding a lottery are revenues and expenses. Specifically, the following questions should be answered:

- What percentage of sales will be designated for prizes?
- What percentage of sales will be paid to the state?
- What percentage of sales will be used for lottery operation costs?

A state should have confident revenue estimates to best answer these questions. To project potential lottery revenue in Alabama, the Study Group examined a variety of reports, data, and presentations, including:

- *Analysis of Potential Gaming Revenue*, Public Affairs Research Council of Alabama (PARCA), May 2020<sup>23</sup>
- *Summary of Potential Alabama Gaming Revenues*, Alabama Department of Revenue, April 2020<sup>24</sup>
- *An Economic Analysis of a Lottery in Mississippi*, Mississippi Institutions of Higher Learning University Research Center, November 2017<sup>25</sup>
- *Alabama Lottery Launch*, Scientific Games Corporation, 2020<sup>26</sup>

- *Common Questions When Considering a State Lottery*, New Mexico Lottery Authority, May 2020<sup>27</sup>

In addition to reviewing revenue projection reports submitted to the Study Group, the Group developed its own revenue projections based on the per capita model. Estimated lottery revenues (in millions) to the State of Alabama according to the various aforementioned sources are below in Table 2.

TABLE 2. ANNUAL STATE REVENUE ESTIMATES FROM LOTTERY

Source	Revenue Estimate (in millions)
PARCA	\$270 - \$386
Alabama Department of Revenue	\$286 - \$407
Mississippi University Research Center	\$161 - \$186
Scientific Games Corporation	\$277
New Mexico Lottery Authority	\$280
Governor’s Study Group on Gambling Policy	\$200 - \$300

In addition to examining other states to help project potential state revenues, the Study Group gathered information on how other states allocate the total lottery sales revenue. As a percentage of total lottery sales, most lottery revenues can be divided into the following ranges:

- 55%-65% of lottery sales are designated for prize payments
- 20%-30% of lottery sales are paid to the state
- 10%-15% of lottery sales are used for lottery operations costs

For comparison of Alabama border states, Table 3 below illustrates the percentage of total lottery sales allocated to prizes, beneficiary transfers, and operations as stated within their annual reports for Fiscal Year 2019.

TABLE 3. PERCENT ALLOCATION OF TOTAL LOTTERY SALES

	Prizes	State Beneficiaries	Operations
Florida	65%	27%	8%
Georgia	63%	27%	10%
Mississippi	Data Not Available		
Tennessee	64%	26%	10%

Given the data collected from other states, it can be reasonably concluded that the lottery business model works to the fiscal benefit of states. In all instances, states with lotteries – and their designated causes, initiatives, and programs – benefit from lottery activity.

In Alabama, it is a reasonable expectation that a lottery – properly structured and operated like a business – could generate approximately \$200 million to the State annually during its early years and grow to approximately \$300 million or more as it matures. One observed characteristic of state lotteries is that revenues typically grow quickly, plateau, and then grow long-term at the rate of growth of the state.

Another characteristic of lotteries is that they are competitive in nature – a state must make its lottery attractive to the consumer in comparison to lotteries in other states. It has been observed that a lower percentage of prize payouts results in lower lottery participation.

For example, Louisiana Lottery President & Chief Executive Officer Rose J. Hudson recently stated that the 1991 legislation creating the Louisiana lottery mandated 35 percent of sales revenue be transferred to the State. Louisiana was one of only two states with a transfer mandate, and its mandate was the highest in the United States. According to Hudson, the transfer mandate prevented the Louisiana Lottery from offering more popular games and higher payout games, which are successful in other states. Hudson argued that with more flexibility, the Louisiana Lottery could increase its revenue generated to the State through increased sales despite paying the State a smaller percentage of total lottery sales. During a 2020 legislative session, the Louisiana legislature lowered the minimum percentage of revenue required to be transferred from the Lottery to the State from 35 percent to 25 percent, with the expectation of increasing state revenue.

Oklahoma's lottery history depicts a similar situation. Since its inception in 2004, the Oklahoma lottery routinely and significantly underperformed its projections of \$150-\$300 million per year to help fund education, never surpassing \$72 million. Lottery officials noted multiple reasons for the lack of sales. Primarily, 35 percent of sales went to education, while only 52 percent of sales went to prize payouts. During 2017, the Oklahoma Legislature reformed the lottery payout system and removed the state percentage requirement.<sup>28</sup> Following the passage of the legislation, Oklahoma's total lottery ticket sales revenue increased from roughly \$151 million during 2017 to \$221 million during 2018; its total sales increased by more than \$69.5 million, its prize payouts increased by more than \$56.2 million, and its education contribution increased by more than \$10.9 million.<sup>29</sup>

With this in mind, best practices suggest that flexibility and adaptability are key elements to the success and competitiveness of state lotteries. To maximize revenue, state lotteries require the freedom to operate like a professional business but must still maintain governmental oversight. Other observed characteristics essential to a successful lottery are initial leadership and management, integrity and transparency, and a worthy beneficiary or beneficiaries.

### Casino-style Gambling

Casino-style gaming is the second component of this gambling analysis. Casino-style games are those offered by full-service casinos, including slot machines, table games, dice games, and card games. Generally, there are two types of casino operations, commercial casinos and tribal casinos. One important distinction to keep in mind when considering gambling is that lotteries are often operated or administered by a state, while casinos are operated privately, but regulated by the state in which they operate.

Alabama is one of nine states that does not allow class III tribal or commercial full-service casino-style games. Of the 41 states that allow class III tribal or commercial full-service casino-style games, 29 states have tribal casinos, and 27 states have commercial casinos. Fifteen states have both tribal and commercial casinos.

Another aspect of casino-style gambling operations is the type of gambling options available to the consumer. For example, either by statute, regulation, or operator choice, a casino may only operate electronic games like slot machines and video card games, or a casino may operate card, dice, and table

games, or it may offer a combination of all casino-style gaming. According to the Alabama Department of Revenue, about 74 percent<sup>30</sup> of casino revenue is derived from slot machines, meaning only about 26 percent of casino revenue is derived from other casino games.

When considering gambling expansion policies and the potential benefit to a state, it is important to first determine confident gambling tax revenue estimates. The Study Group developed its own projections and also considered the following three estimates:

- *Analysis of Potential Gaming Revenue*, Public Affairs Research Council of Alabama (PARCA), May 2020
- *Summary of Potential Alabama Gaming Revenues*, Alabama Department of Revenue, April 2020
- *Winning for Alabama*, Porch Band of Creek Indians<sup>31</sup>

Estimated annual gambling tax revenues (in millions) to the State of Alabama from the various aforementioned sources are seen in Table 4 below.

TABLE 4. ANNUAL STATE REVENUE ESTIMATES FROM CASINOS

Source	Revenue Estimate (in millions)
PARCA	\$398 - \$423
Alabama Department of Revenue	\$311 - \$388
Porch Band of Creek Indians	\$350
Governor's Study Group on Gambling Policy	\$300 - \$400

In conclusion, it can be reasonably assumed that expanded casino-style gambling offerings in Alabama would provide a positive fiscal impact to the State in the form of annual casino gambling taxes. However, revenue may vary depending on the number and location of casinos permitted and the presence of casinos will add an element of consumer competition to a state lottery.

### Sports Betting

Sports betting is the final component of gambling studied by the Study Group. Generally, sports betting is considered a relatively small segment of the gambling industry, but it is growing rapidly, especially with the introduction and popularity of online and mobile access to sports wagering. As previously mentioned, it is important to distinguish between traditional sports betting, which remains illegal in Alabama, and betting on fantasy sports and daily fantasy sports, which the Alabama Legislature authorized in 2019.

Until 2018, a federal statute prohibited most states from legalizing sports betting. In 2018, however, the Supreme Court of the United States decided the landmark case *Murphy v. National Collegiate Athletic Association*<sup>32</sup> in which it struck down that federal statute. Now, 25 states and the District of Columbia have legalized sports betting.

Even among states that actively allow sports betting, consumer delivery options vary. Some states offer sports betting only in physical sportsbook facilities, while others offer full or partial mobile or online sports

betting; still others require consumer registration at a physical sportsbook facility before permitting mobile sports betting.

Sports betting bears an inherent risk of loss assumed by the operator, and legal sports betting operations are conducted by vendors or contractors. In exchange for market access within a state, sports betting operators may pay a license fee to the state and/or remit taxes on sales. Like lottery prize payments, it is important that a state maintain competitiveness with other states – and even illegal sports betting outlets – regarding fee and tax schedules. For comparison, Mississippi’s sports betting tax rate is 11 to 12 percent (eight percent state tax and three to four percent local tax).<sup>33</sup>

To better understand what positive fiscal impact legalized sports betting may have on the State of Alabama, the Study Group developed its own revenue estimates and studied estimates from the following sources:

- *Analysis of Potential Gaming Revenue*, Public Affairs Research Council of Alabama (PARCA), May 2020
- *Summary of Potential Alabama Gaming Revenues*, Alabama Department of Revenue, April 2020
- *Economic Impact of Legalized Sports Betting*, Oxford Economics, May 2017<sup>34</sup>

Estimated annual revenues (in millions) to the State of Alabama from the aforementioned sources are seen in Table 5 below.

TABLE 5. ANNUAL STATE REVENUE ESTIMATES FROM SPORTS BETTING

Source	Revenue Estimate (in millions)
PARCA	\$6
Alabama Department of Revenue	\$10
Oxford Economics	\$17 - \$35
Governor’s Study Group on Gambling Policy	\$10

It should be noted here that the PARCA and Department of Revenue projections are very conservative. By comparison, the Oxford Economics projection is much higher, with a very broad range. This is reflective of the ongoing evolution of online and mobile sports betting and its anticipated increased revenue generation.

In conclusion, sports betting could be an important component of gambling in Alabama, should the State approve expanded gambling offerings, as it should generate significant fiscal benefit. Anecdotally, Alabama is said to have one of the highest rates of illegal sports betting, and it is believed that the introduction of legal, regulated sports betting will curb illegal activity, which could be an added social benefit of legalized gambling.

#### Summary of Fiscal Benefits of Legalized Gambling in Alabama

The Study Group studied three components of gambling – lottery, casino-style gaming, and sports betting – and estimated their potential benefit to the State of Alabama in terms of annually generated state

revenue. The annual revenue estimates as depicted below (in millions) reflect potential ranges of full, competitive, and mature gambling operations.

TABLE 6. TOTAL ANNUAL STATE REVENUE ESTIMATES FROM GAMBLING

Revenue Source	Revenue Estimate (in millions)
Lottery	\$200 - \$300
Casino Gaming	\$300 - \$400
Sports Betting	\$10
<b>POTENTIAL TOTAL</b>	<b>\$510 - \$710</b>

## OTHER BENEFITS OF LEGALIZED GAMBLING

In addition to actual gambling revenue generated by lottery sales, casino play, and wagering, the introduction of legalized gambling would produce other benefits as well. These secondary benefits are likely to include job creation; the curbing of illegal gambling activities; and new economic development opportunities, which would lead to increased state and local revenue in the form of taxes from employment, lodging, food, entertainment, and capital projects.

### Job Creation

The introduction of legalized gambling in Alabama would create new jobs, both through direct and indirect employment. According to a cost-benefit economic analysis,<sup>35</sup> Alabama could realize more than 19,000 newly created jobs with the introduction of a lottery and casino gambling. In fact, the same report estimated that each new casino would employ 766 people with an average annual salary of \$50,015. It should be noted that the average annual income earned by casino employment represents a significant income premium compared to Alabama's current average annual income of \$26,846.<sup>36</sup>

Perhaps most quantifiable is the projection of jobs created by a gambling regulatory entity and state lottery staff. By using a per capita method of examining comparable southeastern states, it can be reasonably estimated that Alabama would realize an additional direct 114 jobs by way of state lottery staff. A comparison table of similar states illustrates this conclusion.

TABLE 7. LOTTERY ADMINISTRATION STAFF

	Population <sup>37</sup>	Staff <sup>38</sup>
Tennessee	6,829,174	175
Missouri	6,137,428	153
South Carolina	5,148,714	121
Alabama	4,903,185	114*
Louisiana	4,648,794	107
Kentucky	4,467,673	158
Arkansas	3,017,804	63
Mississippi	2,976,149	data not available

\*Estimate based on per capita analysis

### Impact on Illegal Gambling

Another secondary benefit of legalized gambling is its potential impact on illegal gambling activities. As mentioned earlier, Alabama’s current patchwork gambling system does not include a statewide regulatory entity dedicated to enforcing gambling law. Research indicates that the presence of legal gambling – especially when coupled with clear laws, regulations, and explicit jurisdictional enforcement authority – diminishes the prevalence of illegal gambling activities. In fact, a recent study found that during 2019, sports bettors reduced their wagering with illegal bookies by 25 percent in states with legal sports betting.<sup>39</sup> Furthermore, in contrast to unregulated illegal gambling, legal gambling with well-enforced regulations ensures fair play for consumers and generally creates greater access to treatment for disordered gamblers.

### **REVENUE DERIVED FROM GAMBLING**

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The generation of state revenue is a primary motivator for states to legalize gambling activities. According to one report, “the factors that have the strongest impact on gambling legalization are efforts to raise revenue in response to poor state fiscal conditions, efforts to stimulate economic development, an alignment of political interests in support of gambling, and efforts to counteract interstate competition for gambling revenue.”<sup>40</sup>

With this in mind, it is important to know how much money states actually derive from gambling operations. Furthermore, a state considering gambling expansion may benefit by understanding how other states allocate or spend their gambling revenues. As previously reviewed, three primary sources of gambling monies are derived from lotteries, casinos, and sports betting. This analysis will focus on lotteries and casinos as they are the most significant generators of state funds.

The table below depicts the portion of Fiscal Year 2019 lottery sales transferred to state beneficiaries<sup>41</sup> and the designated lottery beneficiaries which received the transfers during fiscal year 2016,<sup>42</sup> as specified by the North American Association of State and Provincial Lotteries. Of the 45 states, 20 designated just one beneficiary, while the remaining 25 states designated two or more lottery proceed beneficiaries. Also notable, at least 28 of the states dedicated some or all lottery proceeds to education initiatives.

*TABLE 8. STATE LOTTERY TRANSFERS TO BENEFICIARIES*

	<b>Total Transfer to Beneficiaries</b>	<b>Beneficiaries</b>
Arizona	\$230,361,078	Heritage Fund Commerce Authority Arizona Competes Fund Mass Transit Healthy Arizona General Fund (by Category) Court Appointed Special Advocate Fund (Unclaimed prizes) Homeless Shelters Department of Gaming University Bond Fund Internet Crimes Against Children Victims

		Tribal College Dual Enrollment Program
Arkansas	\$98,411,747	Educational Trust Fund
California	\$1,847,063,359	Education
		Division of Parks and Wildlife
Colorado	\$166,461,160	Conservation Trust Fund
		Great Outdoors Colorado Trust Fund
		School Fund
Connecticut	\$372,300,000	General Fund
Delaware*	\$215,555,482	General Fund
		Health & Social Services-Problem Gambler Programs
Florida	\$1,927,000,000	Education Enhancement Trust Fund
Georgia	\$1,207,768,766	Lottery for Education Account
Idaho	\$60,000,000	Public Schools (K-12)
		Public Buildings
		Illinois Common School Fund (K-12)
		Illinois Veterans Assistance Fund
Illinois	\$735,513,905	Ticket For The Cure Fund
		Quality of Life Endowment Fund
		Multiple Sclerosis Research Fund
		Special Olympics Fund
		Build Indiana Fund
Indiana	\$312,223,309	Teachers Pension Fund
		Police & Firefighters Pension Fund
Iowa	\$92,864,965	General Fund
		Veterans Trust Fund
Kansas	\$74,909,328	Transfers to the State
Kentucky	\$283,611,000	Post-Secondary & College Scholarships
		Literacy Programs & Early Childhood Reading
Louisiana	\$184,318,132	Transfers to State
		Problem Gambling
Maine	\$63,201,732	General Fund
		Maine Outdoor Heritage Fund
		Maryland General Fund - Lottery Profit
		Baltimore City Schools - Lottery Profit
		Maryland Stadium Authority - Lottery Profit
		Education Trust Fund - VLT and Table Game Proceeds
Maryland*	\$1,201,675,757	Local Impact Grants - VLT Proceeds
		Horse Racing Industry - VLT Proceeds
		Small, Minority, and Women-Owned Businesses - VLT Proceeds
		Responsible Gaming - VLT and Table Game Assessments
Massachusetts	\$1,104,220,000	Cities and Towns
		Arts Council

		General Fund
		Compulsive Gamblers
Michigan	\$1,071,639,555	Education (K-12)
		Health and Human Services
		General Fund
Minnesota	\$153,194,906	General Fund
		Environmental and Natural Resources Trust Fund
		Game & Fish Fund
		Natural Resources Fund
		Compulsive Gambling
Mississippi	Data not available	Infrastructure
		Education
Missouri	\$346,717,413	Public Education in Missouri
Montana	\$12,200,000	State of Montana General Fund
		Compulsive Gamblers Assistance Fund
		Education Innovation Fund
Nebraska	\$46,567,592	Environmental Trust Fund
		State Fair Support & Improvement Fund
		Nebraska Opportunity Grant Fund
New Hampshire	\$105,605,565	Education
New Jersey	\$1,105,000,000	Education and Institutions
New Mexico	\$43,110,000	Lottery Tuition Fund
New York*	\$3,474,041,000	Education
		Education
North Carolina	\$710,195,000	Alcohol Law Enforcement
		NC Problem Gambling
		Compulsive Gambling Fund
North Dakota	\$9,342,500	State General Fund
		Drug Task Force
Ohio*	\$1,153,932,000	Education
		Education
Oklahoma	\$67,554,285	Mental Health
		Economic Development
		Public Education
Oregon*	\$730,143,179	Parks and Natural Resource Programs
		Gambling Addiction Prevention & Treatment Programs
Pennsylvania	\$1,143,225,749	Older Pennsylvanians
Rhode Island*	\$397,320,920	General Fund
South Carolina	\$488,091,540	Education Lottery Fund
		General Fund
South Dakota*	\$129,754,207	Capital Construction Fund
		Grant to Human Services
Tennessee	\$447,185,000	Lottery for Education Account

		After School Program
Texas	\$1,636,590,465	Foundation School Fund Multicategorical Teaching Hospital Texas Veterans Commission (Veterans Assistance Fund)
Vermont	\$29,095,062	Education Fund
Virginia	\$649,703,969	Public Education K-12
Washington	\$215,782,133	Washington Opportunity Pathways Account King County Stadium and Exhibition Center (Qwest Field) Economic Development Strategic Reserve Problem Gambling General Fund
West Virginia*	\$495,141,920	Education Senior Citizens Tourism Other
Wisconsin*	\$235,275,988	Public Benefit - Total Available for Property Tax Relief
Wyoming	\$6,619,646	Cities, Town, and Counties
*Transfer to beneficiaries may include other revenue in addition to traditional lottery sales		

Casino taxes and fees are another significant source of revenue for many states in which that type of gambling is permitted. The tax and fee structure from which states derive casino revenue is typically more complex than the lottery revenue, and it tends to vary dramatically from state to state. Many states, for example, have graduated tax schedules with rates ranging from 0.25 percent to 40 percent, while other states have a flat tax rate, in some instances, as low as 9 percent or as high as 67 percent.<sup>43</sup> Additional variations can be found as some states tax individual casino facilities at different rates, while others assess or allow assessment of local taxes.

In addition to taxing casino revenue, some states also impose various fees. Like tax rates and structures, casino fees also vary from state to state. Examples of fees collected by different states include fees on individual gambling machines, admission fees, and various local fees.

Like lottery revenue, state gambling revenue is typically dedicated to specific beneficiaries within state government.

## **COSTS OF GAMBLING IN ALABAMA**

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Unlike some benefits of legalized gambling – which can be reasonably quantified and estimated – the complete costs of legalized gambling are difficult to identify and even more difficult to accurately project. It can be determined, however, that three primary costs are likely to be realized:

1. Services costs (government-sponsored treatment, prevention, and education)
2. Social costs (society and family, economic, and judicial)
3. Lost revenue costs (taxes)

When considering potential costs of legalized gambling, it is important to understand that these are primarily a result of individuals with a gambling disorder, otherwise known as problem gamblers, pathological gamblers, or compulsive gamblers. According to the American Psychiatric Association (APA), which publishes the *Diagnostic and Statistical Manual of Mental Disorders*, a gambling disorder involves repeated problematic gambling behavior that causes significant problems or distress. The latest version of this manual, *DSM-5*, replaces previously-used diagnoses, including problem gambling, pathological gambling, and compulsive gambling, with the term “gambling disorder” and suggests diagnosis of this disorder on a spectrum from mild to severe.<sup>44</sup>

Furthermore, gambling disorder was reclassified under Substance-Related and Addictive Disorders as a Non-Substance Related Disorder. This reclassification coincides with research indicating a strong correlation between gambling addiction and other addictions, including drugs and alcohol. In fact, a 2010 comorbidity study revealed that roughly 50 percent of individuals with a gambling disorder receive treatment for another mental health or substance abuse problem.<sup>45</sup>

#### Potential Problem Gamblers in Alabama

When identifying the number of potential disordered gamblers Alabama can reasonably expect, it is important to note that the majority of the adult population gambles responsibly. In fact, it is estimated only 2.3 percent of gamblers in the United States will be problem gamblers, and fewer than 1 percent (0.6 percent) will be pathological gamblers.<sup>46</sup> Although Alabama does not legally permit a full range of gambling options, gambling has always and currently does exist. Therefore problem gambling is not and will not be new to the State, as it has always and currently does exist in Alabama.

To identify the number of potential disordered gamblers Alabama can reasonably expect – and thus estimate a potential cost of legalized gambling in Alabama – national statistics can easily be applied to Alabama’s population.

Legal gambling ages across the United States vary, with most states setting the minimum age at either 18 or 21 years old. Though not absolute, generally, most states restrict casino play to individuals 21 years or older, while bingo, pari-mutuel wagering, and lottery participation is often allowed to individuals 18 years or older. In Alabama, there is no consistent statewide age restriction on gambling. Depending on the specific county (of the 16 counties that allow bingo), bingo in Alabama is limited to individuals 19 years or older, 19 years or older unless accompanied by a parent or guardian, or 18 years or older. Meanwhile, dog and horse race wagering is limited to individuals 19 years or older in Jefferson<sup>47</sup> and Macon<sup>48</sup> Counties and 18 years or older in Greene County.<sup>49</sup> There is no statutory age restriction on dog and horse race wagering in Mobile County.

Of Alabama’s current population of roughly 4,903,185 people, 77.8 percent of Alabamians are 18 years or older, meaning Alabama’s total potential age-eligible gambling population is approximately 3,814,678.<sup>50</sup> Nationally, 60 percent of Americans are estimated to have gambled during the past year,<sup>51</sup> so applying this national incidence rate to Alabama’s population, it can be projected that 2,288,807 Alabamians would regularly engage in some form of gambling if expanded gambling options were to be readily accessible. Considering the aforementioned statistics, a breakdown of potential Alabama gamblers by population follows in Table 9.

TABLE 9. POTENTIAL ALABAMA GAMBLERS BY POPULATION

Alabama Population	4,903,185
Eligible Gambling Population, 18+ (77.8%)	3,814,678
Likely Gambling Population (60%)	2,288,807
Potential Problem Gamblers (2.9%)	66,375
Potential Compulsive Gamblers (0.6%)	13,733

While statistics suggest up to 66,375 Alabamians could exhibit a gambling disorder, the National Council on Problem Gambling estimates that only 8 percent of problem gamblers – or 5,310 individuals in this instance – would seek treatment.<sup>52</sup>

#### Gambling Disorder Services Costs

Some argue that a state has an obligation to provide gambling treatment, prevention, and education programs or services. In fact, many states require advertisement of gambling disorder treatment programs and dedicate funds to gambling disorder treatment services. As of 2016, 40 states reported to have publicly funded problem gambling services.<sup>53</sup> According to the same study, of the 40 states publicly funding problem gambling services, per capita funding ranged from \$0.01 to \$1.46, with an average per capita funding \$0.37 dedicated to problem gambling services. If that statistic were applied to Alabama's population, the State would dedicate roughly \$1,814,000 to problem gambling or gambling disorder services per year to be consistent with the national average.

The question remains: How much does it cost to treat a problem gambler?

Like many medical conditions, there exists a spectrum of gambling disorders with a continuum of treatment possibilities, each with varying costs. For example, one counselling session may be sufficient for some gamblers, while others may require a lifetime of treatment. With this in mind, it is nearly impossible to estimate the true cost of gambling disorder treatment.

#### Social Costs

Perhaps the most difficult costs of gambling to identify and quantify are the interpersonal and social costs. This is partially true because disordered gamblers put others at risk, in addition to themselves. Examples of social cost categories identified by researchers include:<sup>54</sup>

- Crime, including law enforcement, corrections, and judicial costs;
- Business and employment, including displaced workers, lost productivity, and unemployment costs;
- Bankruptcy;
- Illness and suicide;
- Social services and regulatory costs;
- Family costs, including divorce, domestic violence, and child abuse and neglect;
- Abused dollars, which is often a cost associated with unreported theft;
- Political costs, which could be manifested in the form actual or perceived undue political influence.

It can be concluded that in addition to harming themselves, a disordered gambler’s family, employer, and creditors may also be impacted, as well as potential victims of crime. In short, the costs created by one disordered gambler can be borne by other individuals and/or by society as a whole.

Displaced Revenue

Displaced revenue is another cost of expanded legalized gambling. It is not feasible to assume that money spent on legal gambling activities is sourced strictly from individual or household “entertainment budgets.” Therefore, not only might families potentially be negatively impacted, but so might businesses and local governments as consumer funds are spent on gambling rather than on routine living expenses and savings.

Types of Gambling and Associated Costs

Given that Alabama currently offers only limited legalized gambling, it should be contemplated how different types of gambling activities impact potential costs. For instance, research shows a positive correlation between proximity to a casino and the prevalence of gambling disorders. In fact, one study notes that the number of problem gamblers doubles when a casino is located within 50 miles.<sup>55</sup>

Lottery purchases, on the other hand, are typically accessible by virtually all citizens. This level of access and exposure leads many to argue that lotteries present a regressive system of “taxation.” A regressive tax is a fixed tax applicable at all income levels, which therefore, taxes low-income earners at a higher rate. For example, the median household income in Alabama is \$48,468.<sup>56</sup> If individuals in a median-income household choose to purchase \$1,000 in lottery tickets, that equates to 2 percent of their income, which some may describe as a 2 percent tax. By comparison, a household earning \$150,000 may choose to spend the same amount on lottery tickets and only be “taxed” at a 0.7 percent rate.

With far more people having easy access to lottery participation, lotteries are inherently more regressive in terms of socioeconomic impacts as lotteries have a broader participation rate than any other form of commercial gambling.

While lotteries are often considered regressive in nature, lottery participation is shown to be rather evenly distributed and lowest among low-income earners in the United States. Table 10 and Table 11 illustrate the results from a 2016 poll identifying lottery participants.<sup>57</sup>

*TABLE 10. LOTTERY PARTICIAPTION BY INCOME*

<b>Annual Household Income</b>	<b>Lottery Participation Rate</b>
Less than \$36,000	40%
\$36,000 to \$89,999	56%
\$90,000+	53%

*TABLE 11. LOTTERY PARTICIAPTION BY EDUCATION*

<b>Annual Household Income</b>	<b>Lottery Participation Rate</b>
High school or less	47%
Technical degree or some college	53%
College degree	53%
Postgraduate education	45%

### Summary of Costs of Legalized Gambling

There are certainly costs associated with gambling, which, as research suggests, primarily include services costs, social costs, and revenue displacement costs. While these costs are real, they are not new, as some limited forms of legal gambling and illegal gambling already exist in Alabama. It is important to note, however, that while there are costs associated with gambling, the taxation of regulated gambling activities creates an opportunity to dedicate public funds to gambling treatment, prevention, or education services.

### **TREATMENT, PREVENTION & EDUCATION**

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States that choose to support gambling disorder treatment services have options on how to deliver such services. Many states provide services through non-profit organizations, while others choose to provide services through state agencies. As previously mentioned, as of 2016, at least 40 states use public funds to support gambling disorder services.

Currently, in Alabama, the primary sources for gambling treatment are non-profit organizations, including the Alabama Council on Compulsive Gambling (ACCG), the National Council on Problem Gambling (NCPG), and Gamblers Anonymous. The ACCG is one of 35 state affiliate organizations of the NCPG.

An additional option for Alabama to expand gambling disorder services is through a state agency. The Alabama Department of Mental Health or the Alabama Department of Public Health are two existing Alabama state agencies that are most similar to gambling disorder service provider agencies in other states. Still, another possible option is the Alabama Medicaid Agency. In fact, Medicaid currently recognizes pathological gambling as a covered condition.

State-funded gambling treatment services to be provided by the Alabama Medicaid Agency may be an attractive option to some because the State's investment would be magnified by the federal government. For every dollar a state spends on Medicaid, the federal government will match it at a rate that varies year to year according to the Federal Medical Assistance Percentages (FMAPs), which is used to determine the amount of federal matching funds for state expenditures on assistance payments for certain services and medical expenditures.<sup>58</sup> Because Alabama's poverty level is 16.8 percent compared to the national average of 13.1 percent,<sup>59</sup> the State's federal match is relatively high. For Fiscal Year 2020, the rate for Alabama is 1:2.65, or 72.5 percent. So, for each state dollar dedicated to Medicaid, the Federal Government will contribute \$2.65, which could substantially increase treatment funding.

### Prevention & Education

As with other disorders, prevention is often the best way to avoid or mitigate treatment. In the case of legalized gambling, perhaps the most effective prevention measures are education and awareness.

According to a *Journal of Gambling Studies* publication, "Any responsible gambling program rests upon two fundamental principles: (1) the ultimate decision to gamble resides with the individual and represents a choice, and (2) to properly make this decision, individuals must have the opportunity to be informed."<sup>60</sup> The National Center for Responsible Gaming reinforces this notion, stating, "The industry and government regulators are responsible for providing information to consumers, while the ultimate decision to gamble always resides with the consumer."<sup>61</sup>

Advertising regulations and prevention campaigns may be a significant component of gambling disorder prevention and odds awareness. The North American Association of State and Provincial Lotteries (NASPL)

has approved advertising guidelines, to which it encourages its members to adhere.<sup>62</sup> In part, the guidelines state that “advertising should not encourage people to play excessively nor beyond their means.” The guidelines also encourage clear, public, and readily available odds of winning, while also dissuading the misrepresentation of a player’s chance of winning. The targeting of minors through advertising is also discouraged.

Industry and advocacy groups also participate in public awareness campaigns. For example, the month of March is Problem Gambling Awareness Month, during which the North American Association of State and Provincial Lotteries (NASPL) partners with the National Council on Problem Gambling (NCPG) to provide educational resources and training to those engaged in gambling, including lottery administrators, retailers and players.

Research suggests that odds awareness through advertising may not be enough to adequately prepare individuals to fully understand concepts like random chance and probability as problem gamblers typically do not understand these key concepts as well as responsible gamblers. While studies show that targeted education efforts decrease gambling frequency and gambling problems among those study participants, research is inconclusive on the long-term effects of reducing problem gambling in society.<sup>63</sup>

While a variety of gambling disorder prevention practices – including awareness, risk factor reduction, protections, and screening and intervention – will likely reduce the incidence of gambling disorder and mitigate social costs, it is widely agreed upon by the members of this Study Group that financial literacy, including odds awareness, are the greatest keys to problem gambling prevention. As one study indicated, “Problem gamblers identified financial illiteracy as a serious problem affecting their ability to identify and manage the problem. Almost all the problem gamblers with debt reported being unable to manage their money....”<sup>64</sup>

With this in mind, consideration should be made as to a state’s role in ensuring an informed and educated gambling consumer base. If Alabama decides to permit more legalized gambling opportunities, should it also dedicate public funds to prevention and education programs in an effort to reduce the likelihood of gambling disorder development?

## **REGULATORY STRUCTURE**

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A diverse cross-section of states – including states with mature gambling operations, states with newly permitted gambling operations, and states with different types and combinations of gambling offerings – was examined to determine the characteristics associated with successful gambling regulations and operations. Ultimately, the potential variations of governance, administration, and oversight range widely and are somewhat dependent on factors unique to each state.

Broad and basic components of gambling oversight and regulation may include issuance of operator licenses, regulation of gambling machines, and administration of a state lottery. Investigation and enforcement of ethics and tax provisions may also be included in regulatory duties. Generally, gambling regulation and oversight is an important function of government to ensure gambling activities maintain operational integrity and are fair to the consumer.

Before considering governance variations, it is important to first review and understand Alabama’s current structure and its limitations and deficiencies. Alabama currently has no statewide regulatory entity dedicated to administering or overseeing a lottery or other gambling operations, to make and enforce

gambling rules, or to otherwise regulate much of the gambling that occurs in the State. The result is inconsistent and varying levels of enforcement. In fact, Alabama's recent history of legal battles supports the fact that Alabama lacks a legal and regulatory framework to adequately accommodate gambling. The result has been years of litigation over laws the State cannot effectively enforce.

Therefore, the governing, administering, and overseeing of gambling would be a new function of Alabama state government should the State decide to expand legal gambling opportunities – or should the State decide to better regulate its existing gambling.

Alabama is unique compared to other states for a variety of reasons. First, Alabama's prohibition against most forms of gambling is constitutional – thus it cannot simply be changed by legislative act. Moreover, should Alabama decide to expand legal gambling, it would be one of the last states to do so – thus it has the benefit of learning from other states. Finally, Alabama has an existing patchwork of legalized gambling that must be taken into consideration.

With this context in mind, Alabama has a great deal of lessons-learned from other states' experiences when considering best practices of regulatory structures.

#### Regulatory Observations & Conclusions

Having studied other states around the country, there are some basic observations and conclusions made by the Study Group. At the highest level, a state must identify some sort of regulatory structure and will likely select an entity that is either:

- 1) corporate in nature;
- 2) an independent state agency; or
- 3) a division of a state agency or public office.

Furthermore, if a state chooses to do so, there are several configurations – with varying degrees of responsibilities, jurisdictions, and powers – of boards or commissions to govern or oversee a state's gambling operations. Some states, for instance, enact statutes to govern gambling, while others authorize more discretion to a regulator.

In addition to the structure of the regulatory entity, a state should consider requiring rules or enacting laws regarding ethical standards, participation eligibility, prize collection and taxation, budget requirements, operator reporting requirements, contracts and competitive bidding, and countless other aspects concerning the state and gambling. The laws and rules governing lotteries and gambling within any given state may be very precise or very general and depend on the types of gambling that state permits.

Several pros and cons can be identified when studying and comparing and contrasting different states' regulatory structures. However, the desired characteristics of the regulator must be considered when making these determinations. Having studied regulatory entities throughout the United States, it can be reasonably concluded that the most effective regulatory structure should foster the following principal characteristics:

- Adaptive to serve as regulator of all forms of gambling in Alabama
- Responsive to changing technologies and delivery methods and consumer trends
- Protective of consumer interests and fair gambling operation

- Competitiveness with other states
- Authority to regulate and ability to enforce statewide
- Highest standard of ethical conduct

### Regulatory Best Practices

Without making specific recommendations, the Study Group has identified regulatory best practices that should be considered in order to achieve the aforementioned principal characteristics for an effective regulatory structure.

Best practices suggest a singular, statewide regulatory entity is best suited to most efficiently and effectively regulate – and administer when applicable – all potential state-approved gambling, including but not limited to paper lotteries, electronic lotteries, casino gaming, sports betting and other electronic betting and gaming. To maximize flexibility, responsiveness, and competitiveness, consideration should be given to the best form for this entity. For example, the entity could be structured as public corporation.

Management and control of the regulatory entity by a Board of Trustees is seen in many states with successful gambling operations. This system of governance also aligns with some of Alabama’s historically successful models like the Alabama State Port Authority. Characteristics include:

- Governor-appointed and Senate-confirmed members;
- Members who reflect the geographic, racial, gender and economic diversity of the State;
- Election of board members to serve as chair and vice-chair.

Lessons learned from Alabama’s past experiences and from other states with quality gaming operations, suggest other board structure provisions should be considered, including the specification of terms, appointments, vacancies, and removals of the trustees. Best practices suggest:

- Staggered terms of service ensure transitional stability and continuity of Board operations.
- Two term limits of four-year terms diminish the likelihood of political influence and favoritism.
- Predetermined processes for initial appointments and terms and provisions addressing trustees’ transition and separation to mitigate unforeseen future challenges.
- A predetermined process for removal of a trustee for neglect of duty, misfeasance, or nonfeasance in office will ensure accountability and high standards of service.

It is not uncommon for states to require its board to appoint and provide for the compensation of a Chief Executive Officer (CEO) to carry out all management aspects of that state’s gambling operations. The CEO should serve at the pleasure of the Board. This type of selection process enhances transparency and protects against political favoritism.

General powers of the Board of Trustees are another common provision that are considered to enhance the accountability of a state’s gambling operations. Examples of such powers include:

- Employment of an individual or firm to provide professional services, including but not limited to legal counsel, financial services and marketing;
- Solicitation of reports pertaining to gaming information from state agencies;
- Investigative powers.

Additional Board- or Trustee-related practices that may be addressed include:

- The frequency of board meetings;
- Rules for establishing quorums, transacting business, and voting procedures;
- Compensation of Trustees. It is not uncommon for Trustees serve without salary but may receive a per diem or reimbursement for reasonable expenses.

As previously mentioned in this report, mature state gambling operations are typically self-funded. In fact, some states strictly prohibit the transfer of state revenue from non-gambling sources to gambling operations. Regardless of legislative specificity, clear budget requirements for both the regulatory entity and its governance fall within the scope of observed best practices. While these funding characteristics are true in most states, a state like Alabama must consider initial start-up costs to be incurred before gambling revenue streams are established. It should be noted, however, that these financing needs could be rapidly repaid by initial gambling-generated state revenue.

Another practice commonly found in other states is inclusion of a forum for stakeholder input. One example is that of a retailer advisory board. Considering that successful retailers are integral to successful lotteries, inclusion of this structure may be important if Alabama approves a lottery.

Lastly, many states enact procedures for vendors and competitive bidding. These types of practices are commonplace when public money is involved but seem to be heightened in regard to gambling regulations and operations.

### Ethics

As with all Alabama government or quasi-government entities, the strictest of ethics standards should be applied to any and all persons and entities involved with the regulation and administration of gambling in the State. Creating a system independent of political favoritism and outside influence is paramount to ensuring fair practices and maintaining public trust. Best practices ensure measures are taken to minimize or eliminate impropriety. In addition to Alabama's existing ethics laws, the following practices have been identified in peer states:

- Prohibition of Trustee or Employee contributions to the campaigns of a candidate for the Legislature, constitutional officer or other publicly elected official;
- No Trustee or Employee should employ a lobbyist or act as a lobbyist;
- No Trustee or Employee or any spouse, sibling, ascendant or descendant of a Trustee or Employee should have a financial interest in any vendor doing business or proposing to do business with the regulatory entity;
- No former Trustee or Employee should represent any vendor or lottery retailer before the regulator for a period of at least 2 years following separation;
- Trustees and Employees; vendors; retailers; or spouse, child, brother, sister, or parent residing in the same home of the previously listed should not play and participation in any game or activity under the jurisdiction of the regulator and no prize should be paid to any of the previously listed persons;
- Trustees and Employees should be required to file a completed statement of economic interests for the previous calendar year with the State Ethics Commission;
- Each Trustee and Employee should be subject to a background check before service to or employment, and no person who has been convicted of a felony or bookmaking or other forms of illegal gambling or of a crime involving moral turpitude should be granted employment or service;

- No lottery system vendor, any applicant for a procurement contract, lottery retailer, nor applicant to be a lottery retailer should give a thing of value or service, excluding food and beverages having an aggregate value not exceeding \$100 in any calendar year, to any Trustee or Employee, or member of the immediate family residing in the same household as any such person;
- Prohibition of political campaign contributions by any gambling operators or license-holders within the State.

## **PUBLIC OPINION OF GAMBLING IN ALABAMA**

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As with many public policy issues, it is important for policymakers to understand the opinions held by the public. With this in mind, the Study Group commissioned a public opinion research survey<sup>65</sup> on various issues related to gambling, and it sought input from Alabama's religious community.

### Public Opinion Survey

The Study Group commissioned a survey of 500 randomly selected likely general election voters in Alabama. The survey, which was administered via telephone by professional interviewers from November 17 to 19, 2020, has an accuracy of +/- 4.5 percent at a 95 percent confidence interval. It was paid for with public funds provided by the Governor's Office in accordance with section 5 of Executive Order No. 719. McLaughlin & Associates, the firm who conducted the survey, is well-experienced in Alabama and does not have connections to the gambling industry.

At the highest level, 67 percent of survey participants said they favor legalizing gambling, while 25 percent said they oppose gambling.

When asked about legalizing specific types of gambling:

- 71 percent favored a statewide lottery, while 25 percent opposed a statewide lottery;
- 63 percent favored casino-style slot machines, while 32 percent opposed;
- 61 percent favored casino-style table games, while 35 percent opposed; and
- 52 percent favored online sports betting, while 41 percent opposed.

The survey also proposed three opinions and asked respondents to choose which option most closely corresponded with their own opinion regarding legalizing gambling:

- 51 percent of respondents said they support legalizing gambling;
- 22 percent said they personally oppose gambling but believe others should legally be allowed to gamble; and
- 24 percent of the respondents said they opposed gambling and believe it should remain illegal for everyone.

Survey respondents were also asked if, in general, legalized gambling improve things in Alabama, make things worse, or have no impact:

- 54 percent of the respondents said legalized gambling would improve things in Alabama,
- 19 percent said it would make things worse, and
- 19 percent said it would have no impact.

### Religious Perspective on Gambling

Considering the prevalence of churches and other faith-based groups in Alabama and given the perceived correlation between religious principles and moral objections to gambling, the Study Group specifically solicited input from the religious community. Commentary and written statements from representatives of the religious community indicate that many religions and denominations do not have an official position on gambling, and there is certainly no consensus position on gambling from the religious community. However, while there is no consensus opinion, many organized religions and denominations oppose gambling. For example, the Alabama Baptist State Convention unanimously passed a 2016 resolution, which stated in part that it, “oppose any and all attempts by the Governor and/or State Legislators to expand any form of state-sponsored, state-sanctioned and predatory gambling in Alabama....”

### **CONCLUSION**

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Having concluded research and examination into other states, the Governor’s Study Group on Gambling Policy recognizes the following options to be available to the Governor, the Legislature, and the People of Alabama:

#### Option 1: Maintain Status Quo

Alabama could choose to maintain its status quo in regard to gambling. Under its current system, Alabama realizes few, if any, benefits of gambling, as there is currently no system for taxing gambling revenue, nor is the State able to designate beneficiaries of gambling proceeds. Furthermore, the current system of segmented gambling laws and regulatory jurisdictions affords the State limited enforcement mechanisms to oversee gambling operations, which has cost the State of Alabama considerable time and money over the years and which will inevitably persist into the future. In addition to these detracting factors, it is known that Alabamians do purchase lottery tickets and gamble in other states, which means dollars are leaving Alabama’s economy that could otherwise support beneficiaries in the State.

This is a default option if no action is taken by the Legislature.

#### Option 2: Prohibit Gambling & Provide Enforcement

Alabama could choose to prohibit and criminalize all forms of gambling and introduce the enforcement mechanism that it has historically not had. In doing so, the State would realize certain benefits. The State would have a defined enforcer of gambling prohibitions, which would allow it to effectively and efficiently enforce its restrictions on gambling. This would essentially end the time-consuming and costly litigation in which the State has been involved over the years.

To achieve “Option 2,” the Legislature would have to statutorily repeal the pari-mutuel and fantasy sports betting provisions from the Alabama Code, and it would have to approve a constitutional amendment – which would then require approval by the voters of Alabama – to repeal the existing “bingo amendments.” Legislation to enhance the State’s enforcement capabilities would also be necessary.

#### Option 3: Prohibit All Gambling Except Lottery

Alabama could choose to approve a lottery but prohibit all other forms of gambling. Doing so would provide two distinct benefits to the State. It would generate revenue for beneficiaries, and it would

provide an enforcement mechanism for all other illegal forms of gambling. It would also introduce widespread access to gambling, which could result an increase in social costs.

To achieve this option, the Legislature would have to approve a constitutional amendment, which would then require approval by the voters of Alabama. The constitutional amendment would repeal the existing “bingo amendments” *and* authorize a lottery.

#### Option 4: Allow Limited Gambling

As described within this report, there are numerous gambling activities Alabama could choose to legally permit. Alabama could choose to approve various gambling activities while prohibiting others. Any combination of lottery, casino-style gaming, pari-mutuel wagering, and sports betting could be allowed, while restricting others. As another limited gambling consideration, the State could permit some or all forms of these gambling activities but limit the availability in terms of geographical locations – for instance, the 16 counties that have already approved local constitutional amendments to permit some forms of gambling. This option would provide the benefits of revenue and enforcement, but it would also increase the likelihood of incurred costs associated with gambling disorders.

Constitutional amendments proposed by the Legislature and approved by a vote of the people would be required to achieve this option. If approved by the voters, the State might then subsequently enter a tribal-state compact regarding the operation of such gaming by a federally recognized Indian tribe.

#### Option 5: Full Gaming

Alabama could choose to approve all the gambling activities mentioned in this report with no limitations on forms or locations. This option would provide the benefits of revenue and enforcement, but it would result in the highest social costs incurred by the State.

Constitutional amendments proposed by the Legislature and approved by a vote of the people would be required to achieve this option. If approved by the voters, the State might then subsequently enter a tribal-state compact regarding the operation of such gaming by a federally recognized Indian tribe.

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<sup>1</sup> See *Grimes v. State*, 178 So. 73, 74 (Ala. 1938); see also *Ex parte Ted's Game Enters.*, 893 So. 2d 376, 377-80 (Ala. 2004). Although the element of chance is perhaps the most distinctive feature of a lottery, note that the other two elements—(1) that a player pay to play and (2) that prizes are at stake—are equally important elements. For example, many promotional campaigns that *appear* to be illegal lotteries are not actually lotteries because organizers incorporate a “no purchase necessary” policy into their campaign.

<sup>2</sup> AL Code § 13A-12-76 (2019).

<sup>3</sup> See *State vs. \$223,405.86*, 203 So. 3d 816, 826 & n.5 (Ala. 2016). The Court in *State v. \$223,405.86* listed 12 decisions over eight years resulting from the “bingo” wars; that list did not include *State v. \$223,405.86* itself or *State v. 825 Electronic Gambling Devices*, which was decided later in 2016, or *State v. Epic Tech LLC*, Nos. 1180675 & 1180974, 2020 WL 5742683 (Ala. Sept. 25, 2020), decided in 2020.

<sup>4</sup> See *State vs. \$213,405.86*, 203 So. 3d at 834-42; *State v. 825 Electronic Gambling Devices*, 226 So. 3d 660 (Ala. 2016).

<sup>5</sup> See *Barber v. Cornerstone Community Outreach, Inc.*, 42 So. 3d 65, 86 (Ala. 2009).

- <sup>6</sup> Congressional Research Service. *Indian Gaming: Legal Background and the Indian Gaming Regulatory Act (IGRA)*. Library of Congress, 9 April 2012.  
[www.everycrsreport.com/files/20120409\\_R42471\\_0724f690e6eb564d51c00e9983046a69046ab1d8.pdf](http://www.everycrsreport.com/files/20120409_R42471_0724f690e6eb564d51c00e9983046a69046ab1d8.pdf)
- <sup>7</sup> See 25 U.S.C. § 2703(6) (definition of “class I gaming”); *id.* § 2710(a)(1) (“Class I gaming on Indian lands is within the exclusive jurisdiction of the Indian tribes and shall not be subject to the provisions of this chapter.”).
- <sup>8</sup> See 25 U.S.C. § 2703(7) (definition of “class II gaming”); *id.* § 2710(a), (b) (jurisdiction over, and regulation of, class II gaming).
- <sup>9</sup> See 25 U.S.C. § 2710(b) (regulation of class II gaming).
- <sup>10</sup> See 25 U.S.C. § 2703(8) (definition of “class III gaming”); *id.* § 2710(d) (class III gaming pursuant to Tribal-State compacts).
- <sup>11</sup> See 25 U.S.C. § 2710(d)(3).
- <sup>12</sup> See 25 U.S.C. § 2710(d)(3)(C)(iv).
- <sup>13</sup> “Jai alai.” Merriam-Webster, <https://www.merriam-webster.com/dictionary/jai%20alai>
- <sup>14</sup> “Glossary of Lottery Terms.” North American Association of State and Provincial Lotteries, <https://naspl.org/glossaryoflotteryterms>
- <sup>15</sup> American Gaming Association. *State of the States 2020*, June 2020, [https://www.americangaming.org/wp-content/uploads/2020/06/AGA-2020-State\\_of\\_the\\_States.pdf](https://www.americangaming.org/wp-content/uploads/2020/06/AGA-2020-State_of_the_States.pdf)
- <sup>16</sup> American Gaming Association. *State of the States 2020*, June 2020, [https://www.americangaming.org/wp-content/uploads/2020/06/AGA-2020-State\\_of\\_the\\_States.pdf](https://www.americangaming.org/wp-content/uploads/2020/06/AGA-2020-State_of_the_States.pdf)
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## **Public Meetings**

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## Summary of Meetings

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The Governor's Study Group on Gambling Policy held five public meetings throughout the course of its study. Although not required by law, notification of each meeting was posted on the Alabama Open Meetings Act webpage (<https://www.openmeetings.alabama.gov/>) in an effort to provide complete transparency to the process.

The first public meeting was conducted in-person. Due to the COVID-19 pandemic, the following four public meetings were conducted via videoconference. Despite this challenge, every effort was made to ensure maximum access to the meetings by allowing anyone to participate in the live videoconference meetings. Furthermore, each videoconference meeting was recorded and posted to a YouTube channel ([https://www.youtube.com/channel/UCrzo\\_caBwV-H2jcLe61USwg](https://www.youtube.com/channel/UCrzo_caBwV-H2jcLe61USwg)) specifically dedicated to the Governor's Study Group on Gambling Policy.

The Study Group achieved 100 percent participation during each public meeting, as all 12 members participated in each of the five meetings.

Following this summary are agendas from each of the public meetings as well as the presentations provided by each meeting's speakers.

# **Study Group on Gambling Policy**

## **Agenda: First Meeting**

**Thursday, March 5, 2020**

**11:00 AM - 12:30 PM**

**Alabama State House**

**Room 825**

**11 South Union Street**

**Montgomery, Alabama 36130**

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- I) Welcoming Remarks: Todd Strange, Chair
- II) Roll Call: Todd Strange, Chair
- III) Membership Introductions
- IV) Overview of Executive Order No. 719: Erika McKay, Deputy General Counsel to the Governor
- V) Signing of the Ethics Pledge
- VI) Discussion of Working Principles: Todd Strange, Chair
- VII) Overview of Gambling in Alabama: Will Parker, General Counsel to the Governor
- VIII) Next Steps: Todd Strange, Chair
- IX) Adjournment: Todd Strange, Chair

# Study Group on Gambling Policy

## Agenda: Second Meeting

Monday, April 20, 2020

10:00 AM - 12:00 PM

<https://algov.zoom.us/j/934234357>

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- I) Welcoming Remarks: Todd Strange, Chair
- II) Roll Call: Todd Strange, Chair
- III) *Living in Truth: How State Lotteries Worsen Opportunity, Reduce Mobility Out of Poverty, and Deepen State Budget Problems:* Les Bernal, Stop Predatory Gambling, a national network of individuals and partner groups with members of more than 1 million people
- IV) *Commercialized Sports Betting Severely Harms Kids and Will Radically Change the Way That Alabama Children and Families Consume Sports:* John W. Kindt, MBA, J.D., LL.M., SJD, Professor Emeritus of Business and Legal Policy at the University of Illinois
- V) *Problem Gambling-The Hidden Addiction:* Jack Galassini, President, Alabama Council on Compulsive Gambling; and, Reverend Roger Olsen, Resource Development Coordinator, Alabama Council on Compulsive Gambling
- VI) Discussion of Subject Subcommittees: Todd Strange, Chair
- VII) Next Steps: Todd Strange, Chair
- VIII) Adjournment: Todd Strange, Chair

# Study Group on Gambling Policy

## Agenda: Third Meeting

Friday, May 15, 2020

10:00 AM - 12:00 PM

<https://algov.zoom.us/j/94833541842>

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- I) Welcoming Remarks: Todd Strange, Chair
- II) Roll Call: Todd Strange, Chair
- III) *Tribal State Gaming Compacts*: Paula Hart, Director Office of Indian Gaming, Office of Assistant Secretary - Indian Affairs; Troy M. Woodward Senior Policy Advisor, Office of Indian Gaming Office of Assistant Secretary - Indian Affairs; Morgan Oakes, Management Assistant, Office of Assistant Secretary - Indian Affairs
- IV) *Common Questions When Considering a State Lottery*: David Barden, CEO, New Mexico Lottery Authority
- V) Next Steps: Todd Strange, Chair
- VI) Adjournment: Todd Strange, Chair

# Study Group on Gambling Policy

## Agenda: Fourth Meeting

Friday, June 5, 2020

9:30 AM - 11:30 AM

<https://algov.zoom.us/j/6555984534>

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- I) Welcoming Remarks: Todd Strange, Chair
- II) Roll Call: Todd Strange, Chair
- III) *Vital Importance of Charity Bingo in Greene County*: Jim Folsom, Jr. - Former Alabama Governor; Don Wood - CPA; Dr. Marcia Pugh - Administrator/CEO, Greene County Health System; Charlie McAlpine - Mayor, Forkland, Alabama
- IV) *Gaming in Greene County*: William "Will" G. Somerville - Shareholder, Baker Donelson (representing River's Edge Bingo)
- V) *Future Economic Opportunities for the State Concerning Victoryland and the Birmingham Race Course*: Lewis Benefield - President, Victoryland and the Birmingham Race Course
- VI) *Economic Feasibility of Gaming in Alabama*: Arthur Mothershed - Vice President of Business Development, PCI Gaming and Council Member, Poarch Band of Creek Indians Tribal Council
- VII) Next Steps: Todd Strange, Chair
- VIII) Adjournment: Todd Strange, Chair

# Study Group on Gambling Policy

## Agenda: Fifth Meeting

Friday, June 26, 2020

9:30 AM - 11:30 AM

<https://al.gov.zoom.us/j/6555984534>

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- I) Welcoming Remarks: Todd Strange, Chair
- II) Roll Call: Todd Strange, Chair
- III) *The Lottery and Convenience Store Retailers, A Winning Combination*: Tripp Powell – Owner, Kuykendall & Powell Oil Co., Inc.; KC Kingsbury – Vice Chairman, Petroleum & Convenience Marketers of Alabama
- IV) *Sports Betting in Alabama: Background & Lessons from Other States*: Kevin Cochran – Manager of Government Affairs, DraftKings Inc.; Stacie Stern – Government Affairs Director, The FanDuel Group; Erica Sechrist – Senior Strategist, Orrick Herrington and Sutcliffe
- V) *Greenetrack: Building Communities, Building Lives, Building Futures*: Luther Winn, Jr. – President & CEO, Greenetrack, Inc.; John Bolton – Attorney
- VI) Public Comment Period
- VII) Next Steps: Todd Strange, Chair
- VIII) Adjournment: Todd Strange, Chair

## Presentations

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## **Overview of Gambling in Alabama**

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Will Parker, General Counsel to the Governor

March 5, 2020



# GAMBLING IN ALABAMA

# Outline

- I. Restrictions on Gambling in Alabama law
- II. Horse and Dog Racing
- III. Bona-Fide Amusement Devices
- IV. Daily Fantasy Sports
- V. Bingo Amendments
- VI. Poarch Creek Indians and Alabama law



# RESTRICTIONS ON GAMBLING IN ALABAMA

# Alabama Constitution (1901)

## Article IV, Section 65

“ The legislature shall have no power to authorize lotteries or gift enterprises for any purposes, and shall pass laws to prohibit the sale in this state of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery...”

“Section 65...was intended to provide a broad proscription of the evils suffered by earlier generations who, after experiencing the effects firsthand, found lotteries to be ‘among the most dangerous and prolific sources of human misery.’”

Opinion Of The Justices, 795 So. 2d 630, 643 (Ala. 2001)

# Elements of Lottery

Under Alabama law, a “lottery” is anything that includes:

- a prize
- awarded by chance
- for consideration paid

*Grimes v. State, 178 So. 73 (Ala. 1937)*

# Criminal Gambling Statutes

Ala. Code § 13A-12-20 et seq.

- Alabama has several criminal offenses related to gambling, found in *Ala. Code § 13A-12-20 et seq.*
- These statutes provide the prohibition against lotteries required by Art. IV, § 65

**As of 1977**



# HORSE AND DOG RACING AND ALABAMA LAW



# Horse and Dog Racing

- Previously illegal under Alabama law because it constituted gambling under Ala. Code § 13A-12-20(4):

“A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence...”
- The legislature created an exception that allows locations to create “Racing Commissions” that oversee horse/dog racing *Ala. Code § 11-65-1 et seq.*
- Simulcast racing is allowed as well.
- Four counties have pari-mutuel dog/horse racing: *Greene, Jefferson, Macon and Mobile.*

# What is Pari-mutuel Gambling?

*"A form of betting where those holding winning tickets divide the total amount bet in proportion to their wagers, less a percentage for management, taxes, etc."*

- Differs from fixed-odds betting because the final payout is not determined until the pool is closed
- Examples: horse racing, greyhound dog racing, bracket pools, sporting events
- Alabama law specifically carves out exceptions for some, not all, pari-mutuel betting

**As of 1984**





# BONA-FIDE AMUSEMENT DEVICES AND ALABAMA LAW

# Bona-Fide Amusement Devices

## ALA. CODE § 13A-12-76

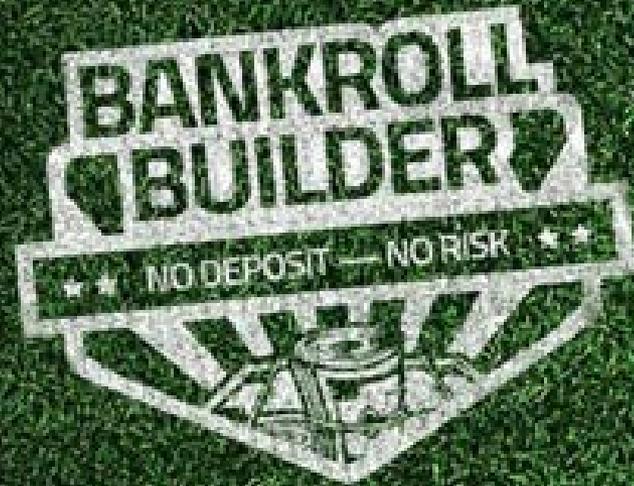
- Commonly called **“Chuck-E-Cheese law”** or **“Skill-based games”**
- Exempts these type of machines from being illegal gambling devices or slot machines because:
  - They are “skill-based” machines. Alabama law **REQUIRES** that skill “predominates” over any chance (not the other way around). *See Ex parte Ted’s Games Ent., 893 So.2d 376 (2004)*
  - Winnings limited to “noncash merchandise, prizes, toys, gift certificates or novelties, each of which has wholesale value of not more than five dollars (\$5).” *13A-12-76(a)*
  - Some other requirements/exceptions listed in statute

# As of 1986



**PLAY DAILY  
FANTASY SPORTS**  
WIN REAL CASH PRIZES — NO DEPOSIT. NO RISK

SIGN UP FREE



# DAILY FANTASY SPORTS AND ALABAMA LAW

# What is Daily Fantasy Sports?

Is a game where a group of players pay money to choose real-life professional sports athletes to be on their “fantasy team.” Then, based on the way each real-life athlete performs, the fantasy teams are assigned points. The fantasy team in the league or competition with the most points wins.

“Daily” fantasy sports allows this to occur on a single day or short time frame and money can be made by the winning player.

# Daily Fantasy Sports

- Previously illegal under Alabama law because it constituted gambling under Ala. Code § 13A-12-20(4):  
  
“A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence...”
- The Legislature amended Alabama law to exempt fantasy competitions from this definition.

*Ala. Code § 8-19F-8*

**As of 2019**

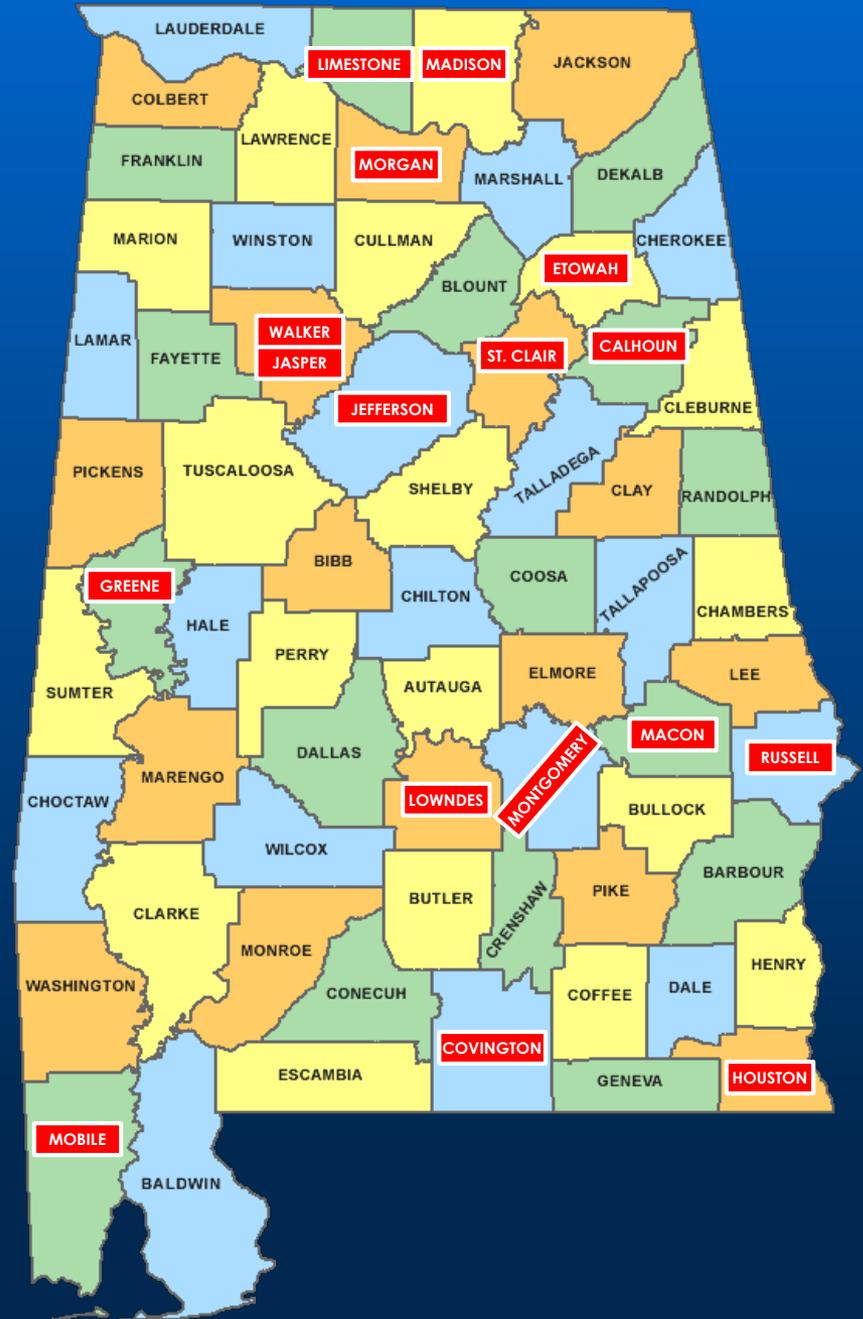




# BINGO AMENDMENTS AND ALABAMA LAW

# ★ BINGO AMENDMENTS ★

1. Jefferson (1980)
2. Madison (1980)
3. Montgomery (1982)
4. Mobile (1984)
5. Etowah (1990)
6. Calhoun (1990)
7. St. Clair (1992)
8. Walker (1993)
9. City of Jasper (1993)
10. Covington (1994)
11. Houston (1995)
12. Morgan (1996)
13. Russell (1996)
14. Lowndes (2000)
15. Limestone (2000)
16. Macon (2004)
17. Greene (2004)



**As of 2004**



# Machine Seized VICTORYLAND

February 19, 2013

Ordered to be  
destroyed by  
SUPREME COURT

June 25, 2015

"Bingo Card"

"Drawn"  
Values

**HOTTER than**  
**JACKPOT**  
**\$25000.00**

Contract: B-2  
Serial #: BSL02091368  
Manufacturer: Gateway Gaming  
SA Sean      al/m





Rows of slot machines in Las Vegas, NV

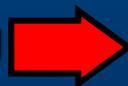
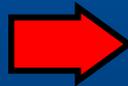
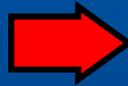
# What is Bingo?

- Is a “lottery” under Alabama law
- Multiple cases brought for court to interpret the law regarding what the “game commonly known as bingo” was in Alabama.
- The Amendments create a recognized, narrow exception to the Constitutional prohibition  
*Barber v. Cornerstone, 42 So.3d 65 (Ala. 2010)*

# “Electronic Bingo” Illegal in Alabama

## Operator Arguments

- The machines play game of bingo for player
- Connected machines are “playing together”
- Machine matches values and marks card
- Machine recognizes a winning pattern
- Values appear one-by-one on screen for player
- Machines “call out” winning bingo to network
- Cannot be slot machine, do not insert anything to play



## Supreme Court Rulings

- Bingo *cannot* be played by machines
- No meaningful interaction, game play between players
- Human player must match values and mark card
- Human player must know pattern as they play
- Values must be announced audibly one-by-one for players
- Must call out to other players and announcer
- Inserting PIN or account code is same as inserting cash

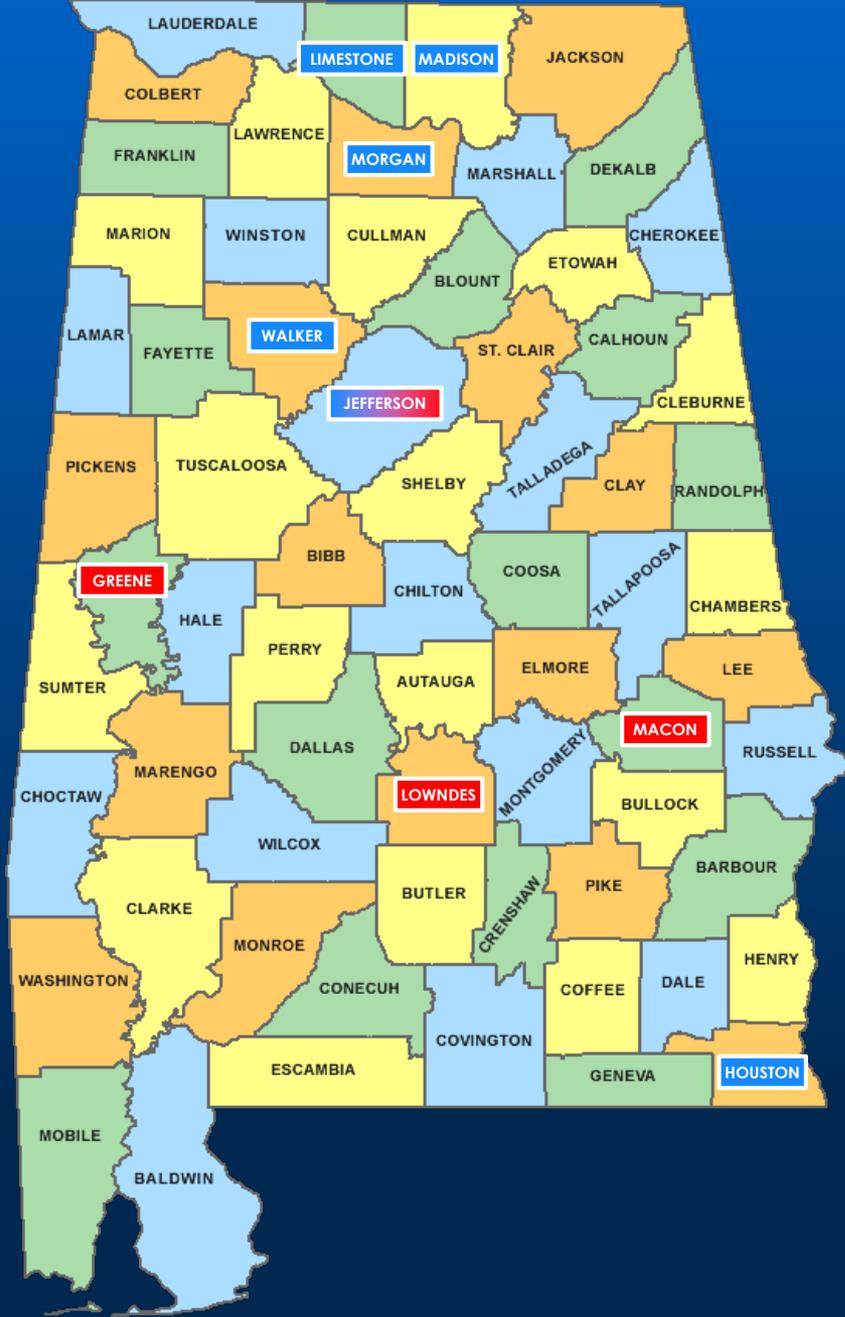
# Cornerstone Factors

*Barber v. Cornerstone*, 42 So.3d 65 (Ala. 2010)

1. Players use card(s) with spaces arranged in five columns and five rows
2. Numbers/values are randomly drawn and announced one by one
3. Players must pay attention and mark the bingo card
4. Players can fail to pay proper attention or mark the bingo card and fail to win game
5. Players must recognize they have a "bingo" from a predetermined pattern and announce to the other players and the announcer
6. The game is a group activity with multiple players competing to win a "bingo"

“Today's decision is the latest, and hopefully the last, chapter in the more than six years' worth of attempts to defy the Alabama Constitution's ban on “lotteries.” It is the latest, and hopefully the last, chapter in the ongoing saga of attempts to defy the clear and repeated holdings of this Court beginning in 2009 that electronic machines like those at issue here are not the “bingo” referenced in local bingo amendments. It is the latest, and hopefully the last, chapter in the failure of some local law-enforcement officials in this State to enforce the anti-gambling laws of this State they are sworn to uphold, thereby necessitating the exercise and performance by the attorney general of the authority and duty vested in him by law, as the chief law-enforcement officer of this State, to enforce the criminal laws of this State. And finally, it is the latest, and hopefully last, instance in which it is necessary to expend public funds to seek appellate review of the meaning of the simple term “bingo,” which, as reviewed above, has been declared over and over and over again by this Court. **There is no longer any room for uncertainty, nor justification for continuing dispute, as to the meaning of that term.** And certainly the need for any further expenditure of judicial resources, including the resources of this Court, to examine this issue is at an end. **All that is left is for the law of this State to be enforced.**”

*State v. \$223,405.86, 203 So. 3d 816 (Ala. 2016)*



# ★ RECENT CASINOS ★

- Facilities closed in past three years
- Facilities currently operating



# POARCH CREEK CASINOS AND ALABAMA LAW

# Native American Indian Gambling

## OVERVIEW AND APPLICATION

- Native American gaming is regulated by the U.S. Department of the Interior and in accordance with the Indian Gaming Regulatory Act (IGRA)
- Strikes a “careful balance among federal, state, and tribal interests” (11<sup>th</sup> Cir. 1999)
- IGRA defines three different types of gaming:
  - Class I = Social gaming for minimum prizes
  - Class II = Bingo and card games allowed by state law
  - Class III = Anything else (including slot machines, table games, card games, etc.) *\*Requires Compact*

# Regulation of Indian Gambling

Class	Scope of Tribe's Authority (on Indian Lands)
Class I	Decision to allow is within the exclusive jurisdiction of Indian tribes; no federal oversight
Class II	May conduct pursuant to a federally approved ordinance/resolution to the extent permitted by state law
Class III	May conduct pursuant to a federally approved ordinance/resolution if: <ol style="list-style-type: none"><li data-bbox="608 1029 1613 1136">1. The State permits the specific form of class III gaming at issue AND</li><li data-bbox="608 1143 1709 1305">2. The class III gaming at issue is conducted in conformance with a Tribal-State Compact</li></ol>

# Compacts

- IGRA gives tribes a statutory right to negotiate a compact concerning a particular form of class III gambling if the State permits that form of gambling
- BUT, the courts have identified several legal impediments to tribes' enforcement of that right
- Compacts may address
  - Regulation of gambling on tribal lands
  - State assessment for regulatory costs

# Native American Indian Gambling

## APPLICABLE SECTIONS OF IGRA – 25 U.S.C. § 2703

(7)(A) The term "**class II gaming**" means -

(i) ***the game of chance commonly known as bingo*** (whether or not electronic, computer, or other technologic aids are used in connection therewith) -

(I) which is ***played for prizes***, including monetary prizes, ***with cards*** bearing numbers or other designations,

(II) ***in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and***

(III) ***in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards***, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo...

# Native American Indian Gambling

## APPLICABLE SECTIONS OF IGRA – 25 U.S.C. § 2703

- (B) The term "**class II gaming**" does *not* include
- (i) any banking card games, including baccarat, chemin de fer, or blackjack, or
  - (ii) ***electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.***

# Alabama v. PCI Gaming Authority

801 F.3d 1278 (2015)

- The State attempted to stop the Poarch Creek Indians from operating slot machines on tribal land in Alabama.
- The 11<sup>th</sup> Circuit held that it did not have a proper case because the State could not seek civil remedy against the tribe in Federal Court.

# Questions?

## **Living in Truth: How State Lotteries Worsen Opportunity, Reduce Mobility Out of Poverty, and Deepen State Budget Problems**

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Les Bernal, Stop Predatory Gambling

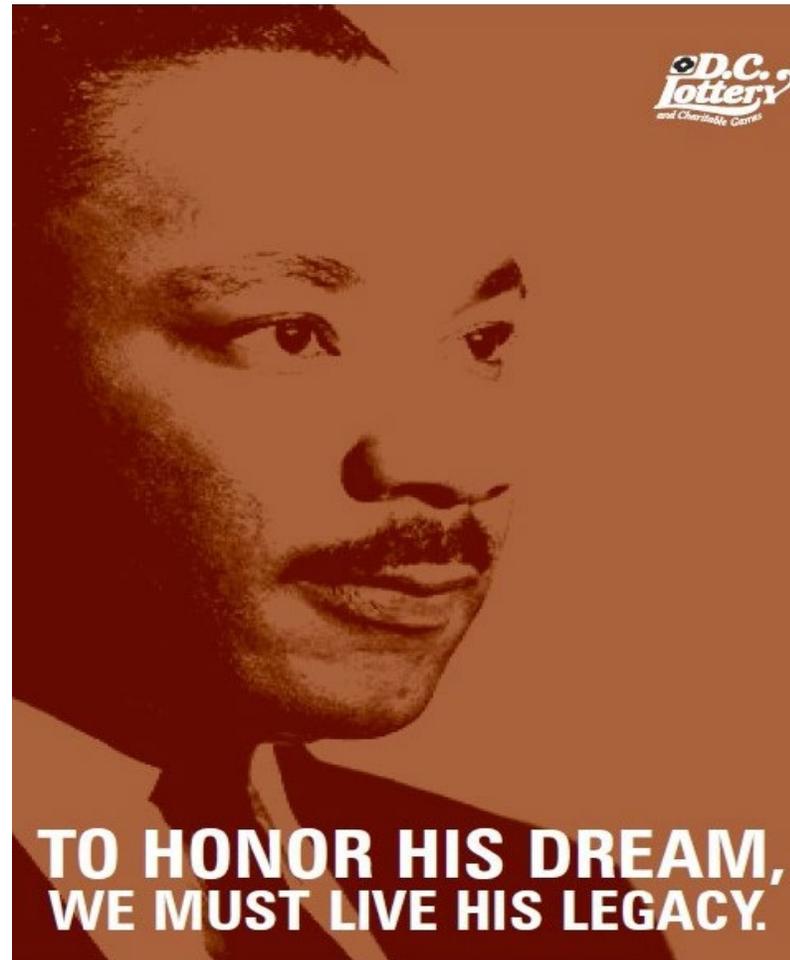
April 10, 2020

## “Living in Truth:

# Lotteries Worsen Opportunity, Reduce Mobility Out of Poverty, and Deepen Budget Problems”

## A Briefing on State Lotteries by Les Bernal, Stop Predatory Gambling

*Exempt from truth-in-advertising laws, more than \$2 billion is spent by states every year marketing messages like this D.C. Lottery ad, which in this case is exploiting Martin Luther King's image and message to sell lottery tickets.*



# The New York Times

**“When I asked one I.G.T. artist if he ever plays, he acted as if I had insulted him. ‘Slots are for losers,’ he spat, and then, coming to his senses, begged me to consider that an off-the-record comment.”**

**– “The Tug of the Newfangled Slot Machines,” by Gary Rivlin  
*New York Times Magazine*, May 9, 2004**

**What is the most urgent problem you are looking to solve?**



## **Four Truths About State Lotteries**

**Truth #1: State Lotteries Are a Form of Consumer Financial Fraud Causing Life-Changing Financial Losses for Millions of Citizens**

**Truth #2: State Lotteries Are One of the Root Causes of the Lack of Mobility Out of Poverty and Unfairness of Opportunity Facing Millions of American Families Today**

**Truth #3: Lotteries Are Blatantly Trying to Get Kids to Develop a Gambling Habit**

**Truth#4: “You Pay Even If You Don’t Play”: The Majority of Citizens Don’t Gamble and They End Up Paying Higher Taxes for Less Services and Worse State Budget Problems Over the Long Term, Footing the Bill for the Inevitable Budget Deficits State Lotteries Leave Behind**

# Truth #1: State Lotteries Are a Form of Consumer Financial Fraud Causing Life-Changing Financial Losses for Millions of Citizens



## Win up to \$1,000,000!

### FASTEST ROAD TO \$1,000,000

Game Number: 1487

Start Date: 01/21/2020

To play **Fastest Road to \$1,000,000**, scratch off the entire play area. Match any of YOUR NUMBERS to any of the WINNING NUMBERS, instantly win PRIZE shown for that number. Get a "5X", "10X", "15X", "20X", "50X" or "100X", instantly win and multiply your PRIZE by amount shown!

Overall odds of winning playing "FASTEST ROAD TO \$1,000,000" are 1 in 2.52

**“THE FASTEST ROAD TO \$1,000,000”**

A \$30 Georgia Lottery instant scratch ticket marketed to citizens during the severe financial crisis caused by the coronavirus pandemic.

**Truth #2: State Lotteries Are One of the Root Causes of the Lack of Mobility Out of Poverty and Unfairness of Opportunity Facing Millions of American Families Today**



**The Dave Ramsey Show, hosted by personal finance expert Dave Ramsey, is the 5<sup>th</sup> most downloaded podcast. WHY?**

# Truth #3: Lotteries Are Blatantly Trying to Get Kids to Develop a Gambling Habit



In an effort to greatly increase their market share of young smokers, R.J. Reynolds initiated the now infamous Joe Camel campaign for the Camel brand in 1988. The campaign faced almost immediate criticism for influencing children to smoke.



A 2015 Mass Lottery scratch ticket marketing the image of "Frosty the Snowman," an iconic character for most children.

# Georgia Lottery Online Gambling Games- April 14, 2020

Notice the amount of child-like imagery. The gambling games start with a free-to-play demo and then switch to the real money game.



Ticket Cost : \$0.50-\$5.00  
Win up to \$150,000!



Ticket Cost : \$0.50-\$5.00  
Win up to \$50,000!



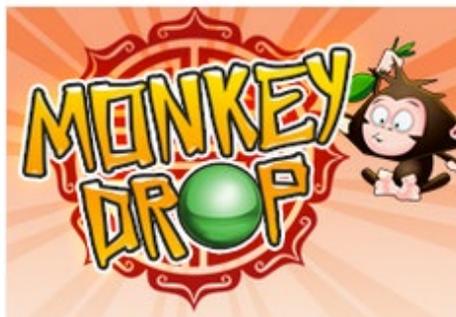
Ticket Cost : \$1.00-\$10.00  
Win up to \$150,000!



Ticket Cost : \$0.50-\$10.00  
Win up to \$100,000!



Ticket Cost : \$1.00-\$5.00  
Win up to \$60,000!



Ticket Cost : \$1.00-\$5.00  
Win up to \$60,000!



Ticket Cost : \$0.50-\$10.00  
Win up to \$150,000!



Ticket Cost : \$1.00-\$5.00  
Win up to \$50,000!



Ticket Cost : \$1.00-\$5.00  
Win up to \$50,000!



Ticket Cost : \$1.00-\$10.00  
Win up to \$100,000!



Ticket Cost : \$2.00-\$5.00  
Win up to \$50,000!



Ticket Cost : \$0.50-\$2.00  
Win up to \$10,000!



**Truth #4: “You Pay Even If You Don’t Play”**

**The Majority of Citizens Don’t Gamble and They End Up Paying Higher Taxes  
for Less Services and Worse State Budget Problems Over the Long Term,  
Footing the Bill for the Inevitable Budget Deficits State Lotteries Leave Behind**



**THE NELSON A.  
ROCKEFELLER  
INSTITUTE  
OF GOVERNMENT**



**THE BLINKEN REPORT**

**State Revenues  
From Gambling**

**Short-Term Relief, Long-Term  
Disappointment**

**Lucy Dadayan**

# A Truthful Look at the Georgia Lottery

- In the last fiscal year results posted (FY 2018,) Georgia citizens lost more than \$1.8 billion of their personal wealth to the Georgia Lottery. That's \$3480 every minute.
- Over the last 20 years (since FY 1999,) the citizens of Georgia have lost \$30.4 billion of personal wealth to the Georgia Lottery.
- If this rate of gambling losses by Georgia citizens continues at its current pace *without marketing any new forms of commercialized gambling by state government*, the people of Georgia are on course to lose more than \$9.2 billion of their personal wealth over the next five years.

Source: Georgia Lottery Annual Reports Fiscal Years 1999-2018



# A Truthful Look at the Georgia Lottery (continued)

Excerpts from *The Atlanta Journal Constitution*

**“Now 20, what has HOPE accomplished?”**

<https://www.ajc.com/news/state--regional-govt--politics/now-what-has-hope-accomplished/7tvZcMVQGSKQ19VDOgOc3M/>

- Georgia’s lottery scheme hasn’t significantly increased the number of kids going to college who otherwise would not have, studies have concluded. The percentage of Georgians with degrees would have climbed anyway, due to job market demands and more access to loans or other aid.
- Instead, the Georgia Lottery has redistributed money from poor citizens who play the lottery to high-achieving middle-class and upper-class students. Georgia’s HOPE program overwhelmingly benefits some of the wealthiest counties in the state, even though the poorest counties lose far more money gambling on the Georgia Lottery which funds the scholarships.

## A Truthful Look at the Georgia Lottery (continued)

Excerpts from *The Atlanta Journal Constitution*

### “Now 20, what has HOPE accomplished?”

<https://www.ajc.com/news/state--regional-govt--politics/now-what-has-hope-accomplished/7tvZcMVQGSKQ19VDOgOc3M/>

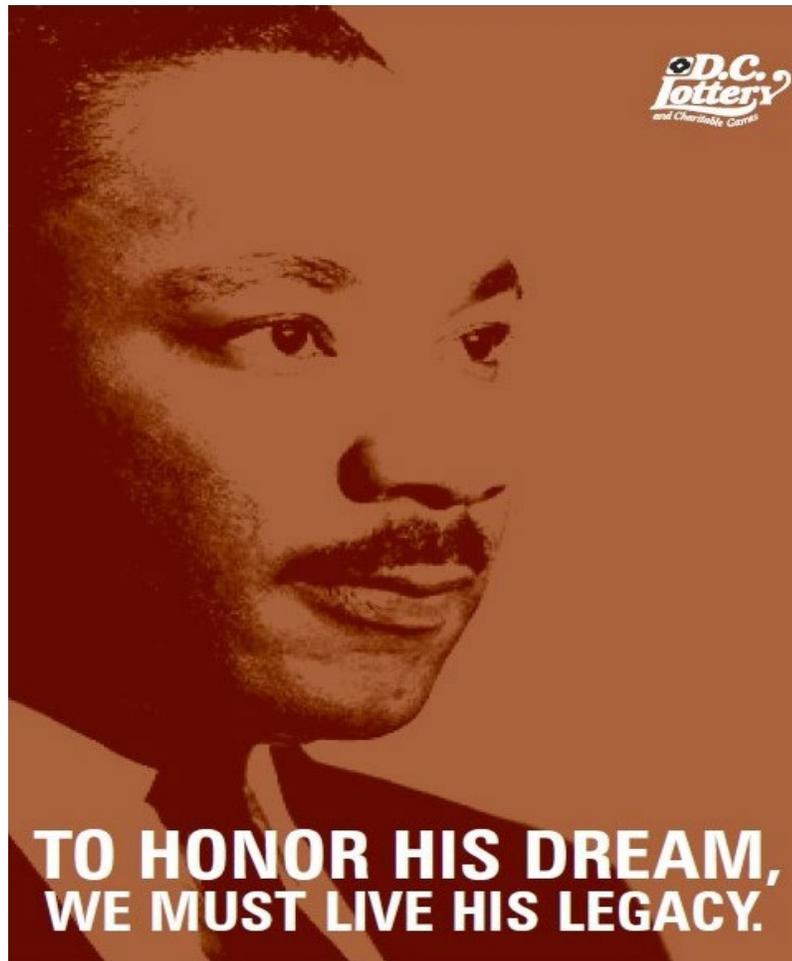
- A University of Georgia study found car registrations increased in affluent counties as the number of HOPE recipients rose, offering further support to those who call these new cars — bought by parents using money saved on tuition — “HOPE-mobiles.”
- A University of Georgia study also looked at the HOPE scholarship’s effect on college enrollment. While HOPE helped keep some Georgians in-state, it mainly led them to choose more expensive four-year colleges over the less expensive two-year colleges,
- Those findings are similar to a study by Harvard’s University’s Civil Rights Project, which found that only 4 percent of the money spent on HOPE went to students who might not have gone to college otherwise.

## “Living in Truth:

# Lotteries Worsen Opportunity, Reduce Mobility Out of Poverty, and Deepen Budget Problems”

## A Briefing on State Lotteries by Les Bernal, Stop Predatory Gambling

*Exempt from truth-in-advertising laws, more than \$2 billion is spent by states every year marketing messages like this D.C. Lottery ad, which in this case is exploiting Martin Luther King's image and message to sell lottery tickets.*



To support our efforts  
or for more information,  
please visit

[www.StopPredatoryGambling.org](http://www.StopPredatoryGambling.org)

or call (202) 567-6996



## **Commercialized Sports Betting Severely Harms Kids and Will Radically Change the Way That Alabama Children and Families Consume Sports**

---

John W. Kindt, MBA, J.D., LL.M., SJD, Professor Emeritus of  
Business and Legal Policy at the University of Illinois

April 10, 2020



House of Representatives  
**Judiciary Committee**

Chairman Bob Goodlatte

HEARING (HEARINGS)

# Post-PASPA: An Examination of Sports Betting in America

2141 RAYBURN HOUSE OFFICE  
BUILDING  
10:00 AM

SEPTEMBER  
**27**  
2018

Subcommittee on Crime, Terrorism, Homeland Security, and Investigations  
(<https://judiciary.house.gov/calendar/?subcommittee-filter=subcommittee-on-crime-terrorism-homeland-security-and-investigations>) | By Direction of the Chairman

## WITNESSES

Name	Occupation	Organization	Testimony	Truth in Testimony
Jocelyn Moore	Executive Vice President, Communications and Public Affairs	National Football League		
John Warren Kindt	Professor	University of Illinois		
Sara Slane	Senior Vice President of Public Affairs	American Gaming Association		
Jon Bruning	Counselor	Coalition to Stop Online Gambling		
Becky Harris	Chair	Nevada Gaming Control Board		

2138 Rayburn House Office Bldg  
Washington, DC 20515  
202.225.3951

Minority Site (<https://democrats-judiciary.house.gov/>)

Nos. 16-476 and 16-477

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**In the Supreme Court of the United States**

CHRISTOPHER J. CHRISTIE,  
GOVERNOR OF NEW JERSEY, ET AL.,

v.

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, ET AL.

NEW JERSEY THOROUGHBRED HORSEMEN'S  
ASSOCIATION, INC.,

v.

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, ET AL.

*On Writ of Certiorari to the United States  
Court of Appeals for the Third Circuit*

BRIEF OF STOP PREDATORY GAMBLING, CENTER  
FOR POPULAR DEMOCRACY, CHRISTIAN  
COALITION OF AMERICA, CONCERNED WOMEN  
FOR AMERICA, FAITH & FREEDOM COALITION,  
ISLAMIC SOCIETY OF NORTH AMERICA, NATIONAL  
ASSOCIATION OF EVANGELICALS, PUBLIC GOOD  
LAW CENTER, PUBLIC HEALTH ADVOCACY  
INSTITUTE, UNITED FOR A FAIR ECONOMY,  
ALABAMA CITIZENS ACTION PROGRAM, LOUISIANA  
BAPTIST CONVENTION, THE LUTHERAN CHURCH –  
MISSOURI SYNOD, AND SEVENTEEN STATE FAMILY  
POLICY COUNCILS AS *AMICI CURIAE* IN SUPPORT  
OF RESPONDENTS

DEEPAK GUPTA

*Counsel of Record*

DANIEL TOWNSEND

GUPTA WESSLER PLLC

1900 L Street, NW, Suite 312

Washington, DC 20036

(202) 888-1741

*deepak@guptawessler.com*

*Counsel for Amici Curiae*

October 23, 2017

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Prof. John Warren Kindt  
University of Illinois

Attachments

Before the Subcommittee on Crime, Terrorism, Homeland Security, and Investigations  
U.S. House of Representatives, Committee on the Judiciary  
Legislative Hearing  
“Post-PASPA: An Examination of Sports Betting in America”  
September 27, 2018

Killer Girls / Ghandi on the Gaza / Rent Sweet Rent

# Newsweek

08.22.2014



HOW WASHINGTON  
OPENED THE  
FLOODGATES TO  
ONLINE GAMBLING.  
OK, WHO'S IN?

# POKER FACE

\$7.99

34 >



# 'New chains' shackle King's dream

## IPs urge new economic priorities

BY BRYAN SMITH  
OF CHICAGO

Great strides have been made in civil rights thanks to the Rev. Martin Luther King Jr., but without economic inclusion for minorities his dream will remain unfulfilled, speakers said Monday at ceremonies marking his birthday. "Slavery is behind us, legal segregation is behind us" because of King's work, the Rev. Jesse Jackson said at the ninth annual Rainwater/MLK Breakfast. "But race to capital is in front of us. Economic inclusion . . . must be the thing to fight for." Jackson refused a study showing 137 Fortune 500 companies do have minorities on their

boards of directors. But he also said that poor communities need to change their attitude.

"The new chains of slavery happen to be credit cards and lottery tickets," he said.

The key to achieving King's dream is "teaching our people to go from the lottery to the markets. From gambling habits to investments," Jackson said.

The theme was echoed in keynote remarks by PUSH-Race Director Valerie C. Johnson. "We are having Dr. King's dream unfulfilled," she said. "We're not providing [children] with the opportunity to succeed."

U.S. Rep. Jesse Jackson Jr. (D-M) added that the biggest threat to King's goals is "an economy

that leaves many Americans behind. Whether it be a family in Ford Heights or in Appalachia."

"We must create an economy that has full employment for everyone," she said. "We must get people to register to vote . . . and even run for political office. Dr. King's dream was the basis, the seed of change. We must allow that change to continue to grow."

Gov. Ryan and Mayor Daley also praised King's work at the breakfast.

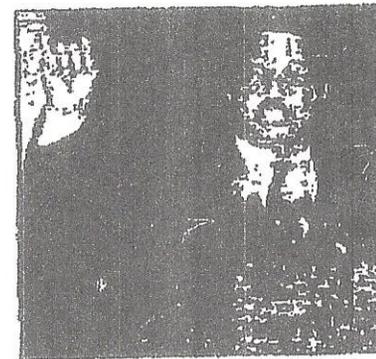
"As Dr. King said: 'If you can help somebody as you pass along; if you can cheer somebody with a word or a song; if you can show

someone he's traveling wrong, then your living will not be in vain,'" Ryan said.

At the Rockefeller Chapel at the University of Chicago, keynote speaker Mary Frances Berry, head of the U.S. Civil Rights Commission, talked about her days working with King and speculated what he might say about the current state of civil rights.

"He would speak of the dispossessed," she said.

"He would be concerned that we're patting ourselves on the back for ending welfare" while people are struggling to feed their families, Berry said.



Rev. Jesse Jackson says economic inclusion must be the next battleground. (Sun-Times photo)



Reprinted with permission from:  
Robert Dorr, 40 Economists Side  
Against More Gambling, OMAHA  
WORLD-HERALD, Sept. 22, 1996, at  
B1.

*Omaha World-Herald 9/22/96  
pt. of Midlands Section*

# 40 Economists Side Against More Gambling

## Signers: Costs Likely Higher Than Benefits

BY ROBERT DORR  
WORLD-HERALD BUREAU

Lincoln — Forty Nebraska economists say they oppose the expansion of gambling in Nebraska because the economic costs "are likely to far outweigh" the benefits.

Gambling has a better reputation than it deserves because the economic benefits — mainly jobs at casinos — are easy to see, said Lorcia Fairchild, economics professor at Nebraska Wesleyan University in Lincoln.

"The economic costs are hidden," said Dr. Fairchild, the main drafter of a statement released Saturday.

The statement opposes gambling only on the basis of its economic costs related to economic benefits.

The signers, mostly economics teachers at Nebraska colleges and universities, might or might not have moral reasons for opposing the expansion of gambling in Nebraska, Dr. Fairchild said.

Two expanded-gambling petition issues have fallen short of the 90,939 valid signatures needed to get those measures on the Nov. 5 ballot in Nebraska. A federal judge has given the leaders of both efforts until Oct. 8 to come up with evidence that too many signatures were invalidated by local election officials.

One issue, supported by Nebraska racetracks and horse owners, would permit opening casinos at or near the state's tracks. The second issue, backed by some keno parlor owners, would allow local voters to authorize slot machines and other electronic gambling at keno parlors.

The statement signed by the 40 economists reads: "We, the undersigned Nebraska economists, are opposed to the expansion of gambling in Nebraska be-

Please turn to Page 5, Col. 1

# 40 Economists Pan Expanded Gambling

Continued from Page 1

cause the additional direct and indirect costs are likely to far outweigh the additional direct and indirect benefits for the state as a whole."

Dr. Fairchild said studies on gambling have indicated that casinos that draw most of their customers from the local area and the surrounding region "siphon consumer dollars away from other local businesses."

"Regional casinos simply recirculate dollars that already exist, bringing little or no new money to the local economy," said Dr. Fairchild, who has a doctorate in economics from Cornell University.

Dr. Fairchild said many people believe that all the money from gambling stays in the state. "That's a myth," she said. "It depends on the ownership structure. Many of the casinos are owned by a few large Las Vegas- or East Coast-based corporations."

In calculating economic benefits, Dr. Fairchild said, economists include new jobs, profits to any in-state owners, additional tax revenues and savings by consumers in traveling to a nearby casino compared with going to one farther away.

Costs include the loss of revenue and job reductions at other retail businesses, sales-tax revenue losses, profits going to out-of-state owners, revenue lost by existing forms of gambling, costs of regulating gambling and costs to businesses because of increased absenteeism and lower productivity.

Other economic costs result from an increase in people with gambling addictions, she said. Those costs include increased crime leading to more police, jails and courts; costs to businesses of embezzlements, forgeries and thefts; and costs of treating addicted gamblers.

In assessing other gambling studies and drafting the statement, Dr. Fairchild worked with Charles Lamphear, director of the Bureau of Business Research at the University of Nebraska-Lincoln, and John Anderson, professor

of economics at UNL. The economists signed as individuals. The statement did not list their employers. The signers in addition to the three townshippers:

UNL economics professors or associate professors: Craig MacPhar, David Rosenbaum, Ann Mast May, Roger Riebler, Jerry Petr and Benjamin Kim.

UNL economics professor emeritus: Wallace C. Peterson.

UNL professors or associate professors of agricultural economics: Michael S. Turner, Glenn A. Helmer, George H. Pfeiffer, Richard K. Perrin, Raymond J. Sapalla, James G. Kendrick, Bruce Johnson, Dale Anderson and R. Garth Taylor.

Creighton University economics professors or associate professors: Joseph Phillips, Gerard Stockhausen, Thomas Nitsch, James Knudsen, N.R. Vasudeva Murthy and Edward Fitzsimmons.

Bellevue University: Judd W. Patton, associate professor of economics, and James R. Moore, instructor in economics.

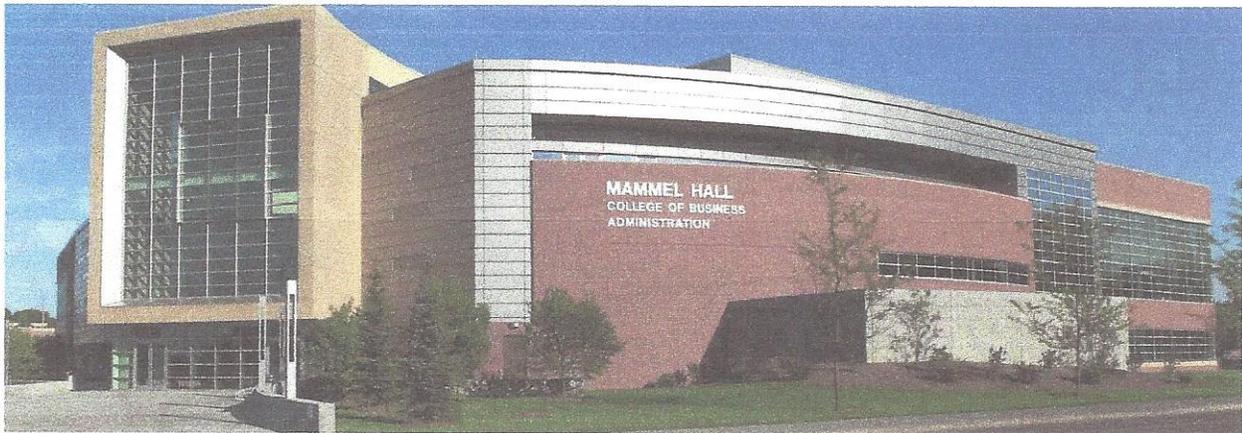
Nebraska Department of Economic Development: James Knotwell, economist, and Kim Newell, recycling economic development advocate.

Doane College, Crete: Les Mennis, assistant professor of finance and economics, and Mary Sue Carter, associate economics professor.

Nebraska Wesleyan University: Joyce Citason, professor, and Clayton D. Faw, retired economics teacher.

Others: Ron Kometz, associate professor of management and marketing, University of Nebraska at Kearney; Mohli Afari, Quadron State College business department; William Snyder, professor of business, Penn State College; Meenahali Daid, economist at Wayne State College; Donna Duffney, business division head, College of St. Mary, Omaha; and Chifton A. Sexton Jr., Lincoln, and Joe Watkins, Grand Island, whose affiliations could not be determined.

OMAHA REJECTS CASINOS' "ECONOMIC SOLUTIONS" AND INSTEAD INVESTS IN NEW HIGH-TECH OFFICE PARK AND UNIVERSITY OF NEBRASKA CLASSROOMS—ATTRACTING OVER \$1 BILLION IN NEW RESIDENCES, BUSINESSES, ENTERTAINMENT CENTERS, AND IRONICALLY THE UNO BUSINESS COLLEGE\*



New 2010 University of Nebraska at Omaha College of Business Built Instead of a Casino Proposed to Compete with 2 Nearby Iowa Casinos (Google Images: Public Domain)

During the mid-1990s, the Nebraska legislature was lobbied by the ailing Aksarben racetrack which claimed it could save itself by becoming a combination racetrack-casino (or “racino”). The racetrack’s lobbyists claimed their casino would bring home Nebraska’s gamblers and taxes, which were allegedly being lost to nearby Iowa casinos. However, the legislature rejected these casino lobbyists’ arguments, closed the racetrack de facto, and incorporated any useful racetrack resources into a high-tech office park with associated facilities/classrooms for the University of Nebraska at Omaha (UNO). Thereafter, gambling lobbyists frequently returned to Nebraska, but they were repeatedly rebuffed by the academic community—as highlighted by one instance where 40 economists headlined in the press their rejection of the economic claims of gambling’s proponents.

Beginning in 1997, the Nebraska legislature cleared the way for First Data Resources (FDR) to create an estimated 2,000 new jobs over 5 years while building adjacent to a new \$37.4 million UNO College of Information Sciences and Technology. By 2016 these initiatives had benefited all of Omaha by attracting over \$1 billion in new residences, businesses, entertainment centers, and ironically, the new UNO College of Business. From a blighted racetrack area in continual decline, Nebraska’s leaders had created an economic engine for all of Omaha—an economic multiplier worth \$ billions benefiting the consumer economy and its taxpayers from 1997, as well as into the future.

\*Paraphrased with permission from: Stanford Univ. Law School, John W. Kindt, *Would Re-Criminalizing U.S. Gambling Pump-Prime the Economy and Could U.S. Gambling Facilities Be Transformed into Educational and High-Tech Facilities?*, 8 *Stan. J. L., Bus. & Fin.* 169-212 (2003)(footnotes deleted). See also, Robert Dorr, *40 Economists Side Against more Gambling*, *Omaha World-Herald*, Sept. 22, 1996, at B1; Matthew Waite, *Legislature Likely to Approve Funds for UNO*, *FDR*, *Daily Nebraskan*, Jan. 1997.



**The Retailers Association**

*Serving Members Australia Wide™*

## MEDIA RELEASE

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AMP Tower  
140 St Georges Terrace  
PERTH WA 6000

ABN: 53 009 660 495

## 110 Pokies per Australian

### ***Driscoll: "Retailers Could Cut Unemployment in Half Without Pokies Scurge"***

Monday, 18 January 2010

**Scott Driscoll**, National Executive Director of **The Retailers Association** has called on Prime Minister Kevin Rudd to intervene and curtail the States drunk on Pokies revenue, for the sake of job creation, if protecting families wasn't enough.

"With Australia now in the **"World's Top 10"** poker machine countries, with a Pokie per 110 Australians, we are killing off jobs and industry, so that our Governments can get fat on Pokies blood money at the expense of lives and jobs," said Mr Driscoll.

"As well as families suffering more with the growth of Pokies numbers across Australia, the retail sector suffers dramatically also as the Pokies plague spreads. People who can least afford to pour their wages down the throats of Pokies, in turn reduce spending on food, clothes and household essentials for their families. This has been a serious retail trend since Pokies emerged in Australia," said Mr Driscoll.

"Most of the **\$10Billion** that now goes into Pokies each year in Australia used to be spent across the retail sector. It used to support the creation of real jobs," said Mr Driscoll.

"If we wiped out Pokies overnight and returned that same **\$10Billion** to where it used to be spent we would halve the unemployment rate in Australia tomorrow and could create **303,000 new retail jobs**," said Mr Driscoll.

Again Proves  
Consumer Job  
Losses

For further comment call Scott Driscoll on 0413 831 045.

GUEST COMMENTARY

# Illinois pensions, education are losing out to gambling

By JOHN KINDT

Gov. Patrick Quinn's spring 2013 speeches repeatedly tie together three issues facing Illinois, specifically the state budget, pension funding and gambling. Lost in the analysis of these problems is that during the last 22 years Illinois technically could have collected \$10 billion to \$53 billion from gambling interests, according to the United States International Gaming® Report — probably making Illinois pensions solvent today. States which rejected the Illinois gambling model 20 years ago have little gambling today and solid pensions — and even budget surpluses.

Compared with other states, the new Illinois gambling expansion bill SB1739 gives away another \$5 billion to \$10 billion to gambling owners. Furthermore, this bill partially ties pension funding and education monies to illusory gambling revenues, including speculative and legally questionable Internet gambling activities. For example, SB1739 supposedly dedicates Internet gambling fees to funding pensions — but only if there are any monies left after the tax credits gifted to gambling owners. In a similar misrepresentation, SB1739's expansion of slot machines/video gambling machines (VGMs) will supposedly enhance monies to education.

After stigmatizing Illinois with pension fraud on March 11, 2013, the Securities and Exchange Commission will doubtless be joined by other federal regulatory agencies in a heightened monitoring of Springfield's legislative sleight-of-hand.

While vetoing two gambling expansion bills within the last 12 months, Gov. Quinn noted that there can be "no loopholes for mobsters" and "Illinois cannot gamble its way to prosperity."

But if Illinois is going to have gambling, Illinois needs to collect the billions of dollars other states have collected. For example, Illinois casino licenses worth a fair market value of \$500 million to \$1 billion each are apparently given away in the pending gambling expansion bill for only \$100,000 each.

During the early 1990s, the initial 10 Illinois casino licenses worth a total fair market value of at least \$5 billion were legally given away for \$25,000 each to political insiders, including one insider who is now in prison as part of the Rod Blagojevich scandals.

Ironically, a chief sponsor of current gambling expansion is also sponsoring a bill to make permanent the 67 percent state income tax increase. Passed during the 2011 lame-duck legislative session, the 67 percent increase in the state income tax currently provides an additional \$8 billion in annual tax revenues. By comparison, the current gambling bill immediately gives away \$5 billion to \$10 billion in potential tax revenues.

Compared to low Illinois casino taxes, the tax on Canadian casinos has traditionally been 100 percent — with the casino companies receiving only management fees.

In another comparison, the 2009 Illinois Video Gaming Act authorizing another 45,000 to 75,000 video gambling machines in neighborhoods has

local governments receiving 5 percent, the state 25 percent, and the owners/operators 70 percent of revenues — unlike other savvy states, where the government takes all or most of the revenues. Compounding these revenue problems, another Illinois gambling bill sponsored by Rep. Daniel Beiser, D-Alton, includes more tax giveaways by authorizing thousands of additional slot machines/VGMs into nebulously-termed "social clubs."

Historically, Illinois has tried to reverse this destructive fiscal course — and can still do so. In one example in 2005, Rep. John Bradley introduced a two-sentence bill, HB1920, which eliminated most Illinois gambling while increasing jobs, and with Speaker Madigan's support, the bill passed 67-42. However, HB1920 was procedurally derailed by Gov. Rod Blagojevich's protégés.

Gov. Quinn has repeatedly stated that the Illinois Legislature needs to address over \$90 billion in unfunded pensions liabilities, as well as a depleted state budget, before considering gambling expansion. However, experts highlight that the current Illinois policy on "existing gambling facilities" should simply be "pay up or get out." New gambling proposals only misdirect more funds away from pensions and education.

Professor John Kindt has served in academic capacities involving benefits issues for public employees, including teachers. He is also a senior editor of the United States International Gaming® Report. An abbreviated version of this op-ed was originally published March 28 by *Crain's Chicago Business*.



## Academic Senate

### UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN

RS.10.01  
December 7, 2009  
Approved by Senate

#### UNIVERSITY OF ILLINOIS URBANA-CHAMPAIGN SENATE

##### Prefiled Resolution

RS.10.01 Resolution Regarding Local Governmental Units Banning Video Gambling Machines Due to Their Detrimental Impacts on Students and the General Public

##### Background

In July 2009 the State of Illinois enacted the Video Gambling Act which will allow Illinois to have more video gambling/slot machines than the State of Nevada. This legislation permits licensed facilities pouring alcohol to create mini-casinos comprised of video gambling machines and including not just bars, but truck stops, restaurants, billiard parlors, airport lounges, bowling alleys, and other convenience locations serving alcohol. Legislation has already been introduced to extend further the types of facilities and the numbers of video gambling machines.

Whereas, The U.S. National Gambling Impact Study Commission, sponsored by U.S. Senator Paul Simon, noted that the psychological, sociological, and psychiatric communities commonly refer to video gambling machines as the "crack cocaine" of creating new addicted gamblers; and

Whereas, The *Chicago Tribune* (7-12-09), the *Chicago Sun-Times* (5-14-09), and other Illinois news media have editorialized and commented against the Video Gambling Act, including calling for its repeal (*Chicago Tribune*, 9-11-09); and

Whereas, Thirty-nine Illinois counties and municipalities have already enacted new ordinances banning video gambling machines, including DuPage County by a unanimous vote and Cook County by a 10 to 4 vote; and

Whereas, Communities banning video gambling machines will not lose capital construction funds under the \$31 billion capital construction bill; and

Whereas, Studies in concurrence with and subsequent to the U.S. National Gambling Impact Study Commission have shown that student populations are particularly susceptible to addicted and problem gambling and are showing double the gambling addiction rate of the older adult population; and

Whereas, Illinois college communities, such as Carbondale, have recently banned or are poised to ban video gambling machines as problematic for students; and

Whereas, On November 12, 2009, the Champaign County Board, Urbana City Council, and Champaign City Council co-sponsored a policy review study session at the Beckman Institute, where these facts were presented to the public; and

Whereas, If bans are not initiated quickly, video gambling machines will bring all the problems of gambling into our local communities.

*Be it resolved by the UIUC Senate that*

For the welfare of the student population and the general public, the UIUC Senate urges the Champaign County Board, the Urbana City Council, the Champaign City Council, and surrounding governmental units to enact new bans prohibiting video gambling machines.

*UIUC Senate Members:*

ILLINOIS STUDENT SENATE  
Senate Resolution (12-02-2009-02)  
*Video Gambling*

Authors: Hannah Ehrenberg, David Olsen

Sponsors: Nolan Drea, Greg Thompson, Max Molloy, Cole Goldenberg, Peter Hughes, Brian Larson, Robert Gregg

**Background**

In July 2009 the State of Illinois enacted the Video Gambling Act which will allow Illinois to have more video gambling/slot machines than the State of Nevada. This legislation permits licensed facilities pouring alcohol to create mini-casinos comprised of video gambling machines and including not just bars, but truck stops, restaurants, billiard parlors, airport lounges, bowling alleys, and other convenience locations serving alcohol. Legislation has already been introduced to extend further the types of facilities and the numbers of video gambling machines.

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Whereas, If bans are not initiated quickly, video gambling machines will bring all the problems of gambling into our local communities.

*Be it resolved by the Illinois Student Senate that*

The Illinois Student Senate urges the Champaign County Board, the Urbana City Council, the Champaign City Council, and surrounding governmental units to enact new bans prohibiting video gambling machines.



John Kindt <johnwkindt@gmail.com>

---

**FW: READ!!! NJ follow thru with ANOTHER STUPID move!! Pension fund/ Revel**

2 messages

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**Kindt, John W** <jkindt@illinois.edu>  
To: "johnwkindt@gmail.com" <johnwkindt@gmail.com>

Wed, Oct 28, 2015 at 3:19 PM

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**From:** DMBerlin@aol.com [DMBerlin@aol.com]

**Sent:** Thursday, October 02, 2014 9:22 AM

**To:** dmberlin@aol.com

**Subject:** READ!!! NJ follow thru with ANOTHER STUPID move!! Pension fund/ Revel

<http://www.courierpostonline.com/story/money/business/2014/03/15/state-takes-300-million-pension-gamble-on-revel-casino-owner/6472093/>

**State takes \$300 million pension gamble on Revel Casino owner**

Jean Mikle, @jeanmikle 4:25 p.m. EDT August 12, 2014

The struggling Revel casino in Atlantic City may be sold. AP file photo Revel Casino Hotel's future is in doubt ? again. AP file photo Revel, Atlantic City NJ's newest casino shown in this Oct. 17, 2012 photo, says it is considering "strategic alternatives," which in this gambling resort town usually means a property is being marketed for sale or considering a bankruptcy filing. The \$2.4 billion casino-hotel just emerged from bankruptcy court in May.(AP Photo/Wayne Parry)(Photo: Wayne Parry, AP)

Atlantic City's beleaguered Revel Casino & Hotel has lost millions from the start, but that hasn't stopped New Jersey's pension system from placing a \$300 million bet with the largest owner of the oceanfront resort.

The state agency that oversees the multibillion-dollar employee pension funds voted late last year to invest \$300 million with Chatham Asset Management, the hedge fund that owns 28 percent in the troubled casino property.

The investment deal is complex. Although the state plans to invest in Chatham, treasury officials say the transfer of funds won't happen until later this year — when Chatham said it hopes to shed itself from the faltering casino. But treasury officials told the State Investment Council that there is no firm timetable for when Chatham will be out of Revel.

The 1,399-room Revel emerged from bankruptcy protection last year from nearly \$1.5 billion in debt yet continues to have difficulty attracting customers. It ranked ninth out of 11 casinos in revenue last month, and is expected to be sold sometime this year for as little as \$200 million to \$300 million, a far cry from the \$2.4 billion it cost to build.

The 47-story Revel, touted by Gov. Chris Christie as a model for Atlantic City's rebirth, has been a tremendous failure. It lost more than \$100 million in its first year of operations.

Touted as a job creator, Revel was expected to employ 5,500 people but now has about 2,800 on staff. Meanwhile, as Atlantic City continues to struggle to compete with casinos in Pennsylvania and New York, the city's Atlantic Club Casino shut down in January, laying off 1,600 workers.

# Gov. Quinn and

By JOHN KINDT

Gov. Pat Quinn is expected to veto the 2012 gambling expansion bill, SB 1849, because of the refusal of the bill's sponsors to prohibit political and campaign contributions from gambling interests. By vetoing this bill, which would create six new racetrack casinos (called "racinos") plus five land-based casinos, Gov. Quinn will be confirming the tradition of "The Untouchables." Today, Illinois needs "The New Untouchables" as historically embodied by such organizations as the Chicago Crime Commission established to combat Al Capone.

Pursuant to a 2012 study by the Institute of Government and Public Affairs at the University of Illinois, Chicago is the most corrupt area in the United States. Gov. Quinn's 2009 Illinois Reform Commission, chaired by former federal prosecutor Patrick Collins, revealed that corruption costs Illinois taxpayers billions of dollars per year — as UIUC Emeritus Professor Stephen Kaufman has recently highlighted.

In this historical context, Gov. James Thompson's administration authorized the legal granting of the

10 original casino licenses for \$25,000 each to political insiders, although the total fair market value of the licenses was \$5 billion (\$9.5 billion in 2012 dollars). One license was granted to a political insider recently convicted in the Rod Blagojevich scandals. The 2012 gambling bill gives away another \$3.5 billion to \$5 billion, among other giveaways, by charging just \$100,000 per casino license.

Since the original 10 casino licenses were granted, academics at the University of Illinois at Springfield have spent two decades documenting millions of dollars in legalized political and campaign contributions made by lobbyists to legislative supporters of gambling.

Disturbed by the spreading political corruption accompanying legalized gambling, U.S. Sen. Paul Simon sponsored the bipartisan U.S. National Gambling Impact Study Commission. Co-sponsored by U.S. Rep. Henry Hyde and supported by virtually the entire Illinois congressional delegation, the Final Report of the U.S. Gambling Commission called for a moratorium on the expansion of any type of gambling anywhere in the country, and the commission included

Sunday, July 29, 2012

C-3

THE NEWS-GAZETTE

## COMMENTARY

# 'The New Untouchables'

recommendations for stringent curbs on campaign contributions (Rec. 3.5), the re-criminalization of slots/electronic gambling machines (EGMs) convenient to the public (Rec. 3.6), and continued prohibitions on creating racetrack casinos (Rec. 3.12). The Illinois 2012 gambling expansion bill obviously ignores all of these recommendations and adds to the national embarrassment of Illinois.

Today's business model for racetracks is to let the racing die, while simultaneously transforming the racetrack into a casino. For example, the Quad-City Downs racetrack has not run a live race since 1994, and by giving slots to racetracks, they are just being enabled to become slots/EGM casinos.

Confirming the U.S. Gambling Commission, the multi-volume 2009-2012 U.S. International Gaming® Report, produced in large part at the University of Illinois, concluded that by 2008 "lobbying monies and gambling interests were the largest influences and dominant forces in 26 state governments" and were dictating state economic policies ruinous to state budgets. By comparison, the state of Virginia rejected casinos during the

same time frame that Illinois authorized its first 10 casinos, and Virginia currently has a budget surplus, while the Illinois state budget is the nation's worst. For the strategic perspective on Wall Street gambling, decriminalized in 2000, and its delimitation as the catalytic cause of the current economic crisis, the news video "Financial WMDs" may still be viewed at the website for "60 Minutes."

If the Illinois Legislature really needed money, it could immediately collect at least \$5 billion in casino license fees which the casinos should have originally paid — instead of the mere \$25,000 per license. In 2003 legislative presentations in Springfield by the Maryland Tax Education Foundation, for example, the fair market value of the Illinois casino licenses were pegged as being worth up to \$500 million each.

Apparently, only troubled casino licenses have a fair market value under \$500 million, as casino licenses are laundered by regulators from one casino owner to the next.

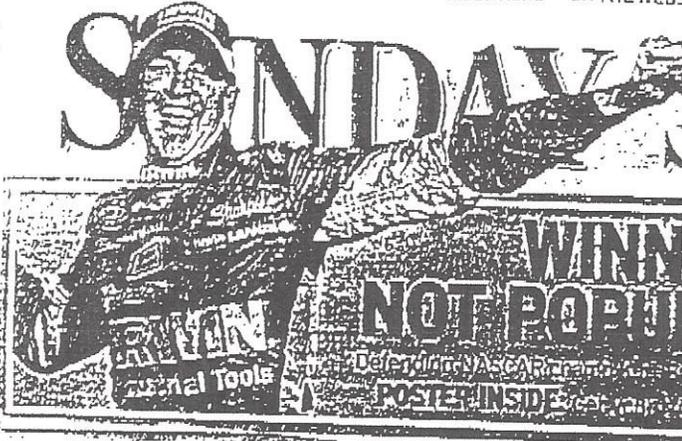
In 2001 it was reported that Nevada's Jack Binion, the tycoon of Horseshoe Gaming, was ruled unfit for his \$25,000 Illinois casino license.

Accordingly, Binion sold his Illinois casino interests for \$465 million. In 2008, a \$435 million offer was made for the troubled 10th Illinois casino license as the casino went to Des Plaines. Dogged by improprieties, Station Casinos sold its Missouri casino interests to Ameristar Casinos for \$488 million. As Louisiana Gov. Ed Edwards went to jail for his part in a casino scandal, Players International Inc. sold its Louisiana casino interests to Harrah's Entertainment for \$425 million.

If Illinois needs tax revenues, the current casino license fees are a pot of gold worth billions of dollars. Until these billions are collected, authorizing racinos and new casino license giveaways to political insiders via SB 1849 is a non sequitur. By vetoing gambling expansion, Gov. Quinn will draw favorable national attention to Illinois as the home of "The New Untouchables."

John Kindt is a contributing author and editor of the U.S. International Gaming® Report. He frequently testifies before Congress and state legislatures as an expert regarding issues in business and legal policy.

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# SUNDAY SUN-TIMES

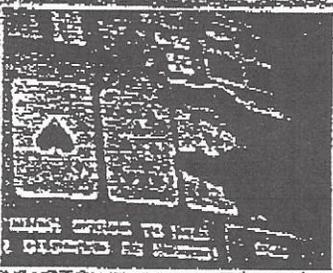
**WINNING RACES — NOT POPULARITY CONTESTS**

Defending NAASC champion... **POSTER INSIDE**... **2005 SUNDAY FEBRUARY 20 2005**... **SLOPPY 73/30°**... **Weather forecast: Pages 2A, 2B**

# FEDS: MOB BOSS RAN VIDEO POKER EMPIRE FROM JAIL

They say secret tapes show James Marcelllo was expanding his criminal ventures with his brother's help

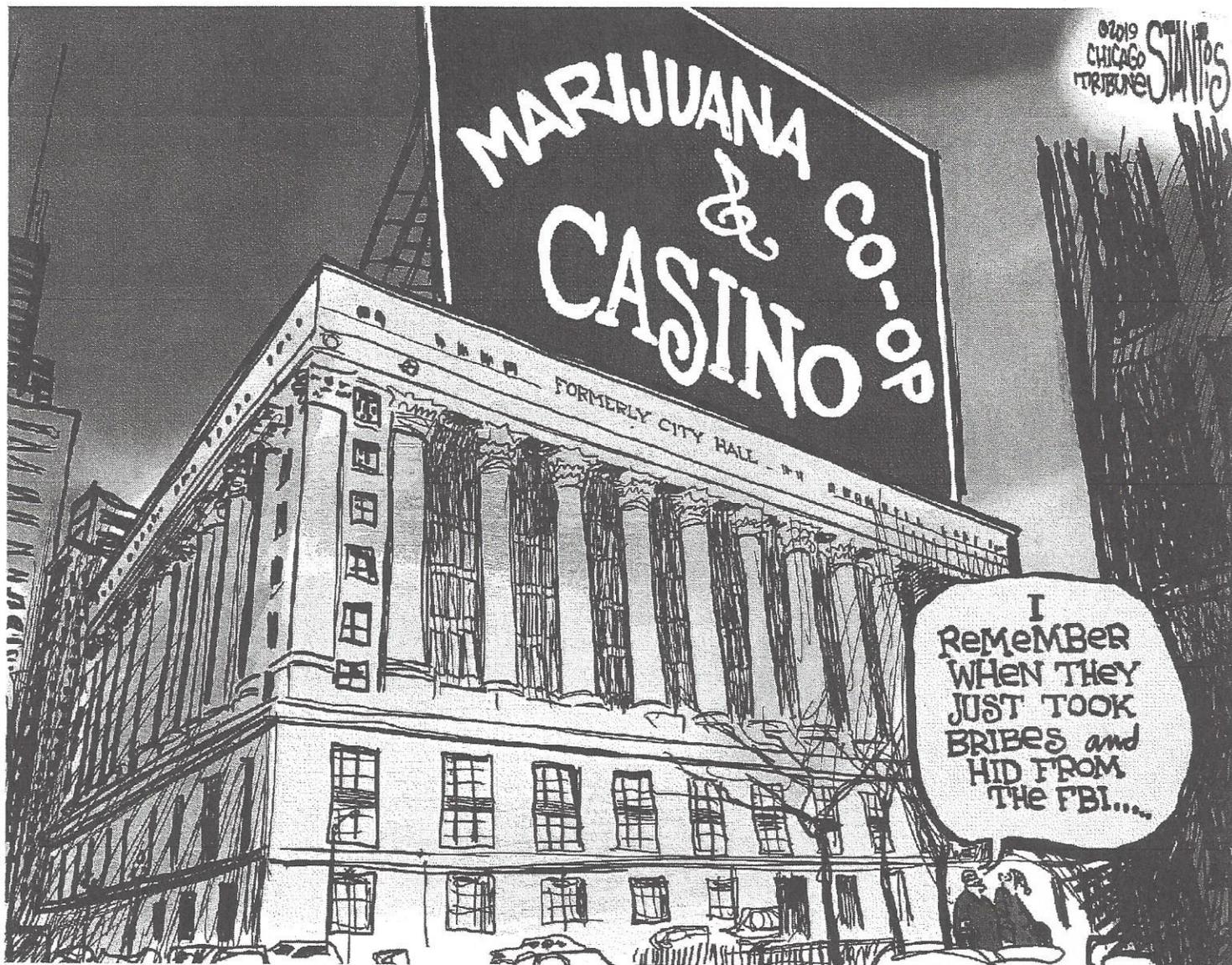
Feds believe Mickey Marcelllo — brother of James Marcelllo (right) — worked out of his Cicero business, collecting money from more than 40 bars throughout the suburbs. **STORY BY STEVE WARMBIR AND ROBERT HERGUTH, PAGES 8-9A**



Steve Warmbir & Robert Herguth, *Feds: Mob Boss Ran Video Poker Empire From Jail*, Chi. Sun-Times, Feb. 20, 2005, at A1 [hereinafter *Mob Boss Ran Video Poker Empire*], at [www.suntimes.com](http://www.suntimes.com).

[www.suntimes.com](http://www.suntimes.com)

SCOTT STANTIS



DECEMBER 16, 2002

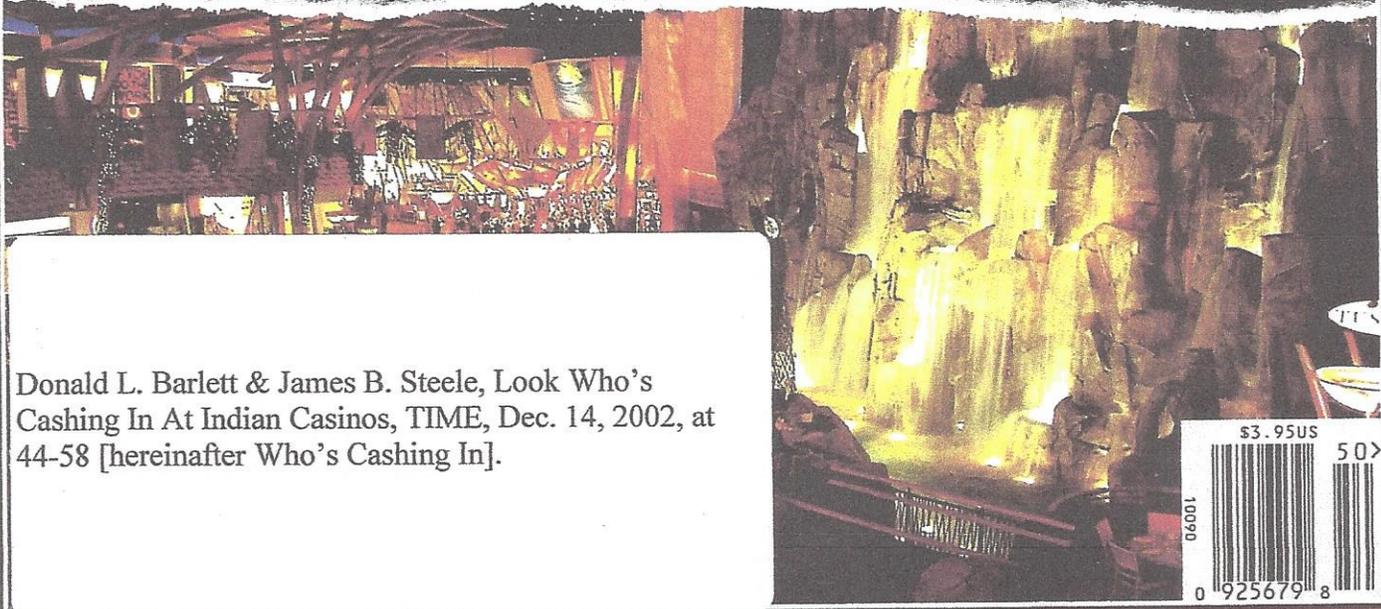
www.time.com AOL Keyword: TIME



# LOOK WHO'S CASHING IN AT INDIAN CASINOS

**HINT: It's not the people who are supposed to benefit**

**SPECIAL INVESTIGATION BY DONALD L. BARLETT AND JAMES B. STEELE**



Donald L. Barlett & James B. Steele, Look Who's Cashing In At Indian Casinos, TIME, Dec. 14, 2002, at 44-58 [hereinafter Who's Cashing In].

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**U.S. Department of the Interior  
Office of Inspector General**

## **AUDIT REPORT**

### **ISSUES IMPACTING IMPLEMENTATION OF THE INDIAN GAMING REGULATORY ACT**

**REPORT NO. 94-I-113  
NOVEMBER 1993**

**This report may not be disclosed to anyone other than  
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for Administration, Office of Inspector General,  
U.S. Department of the Interior,  
Washington, D.C. 20240**

■ U.S. NEWS

# Gambling with the mob?

*Wise guys have set their sights on the booming Indian casino business*

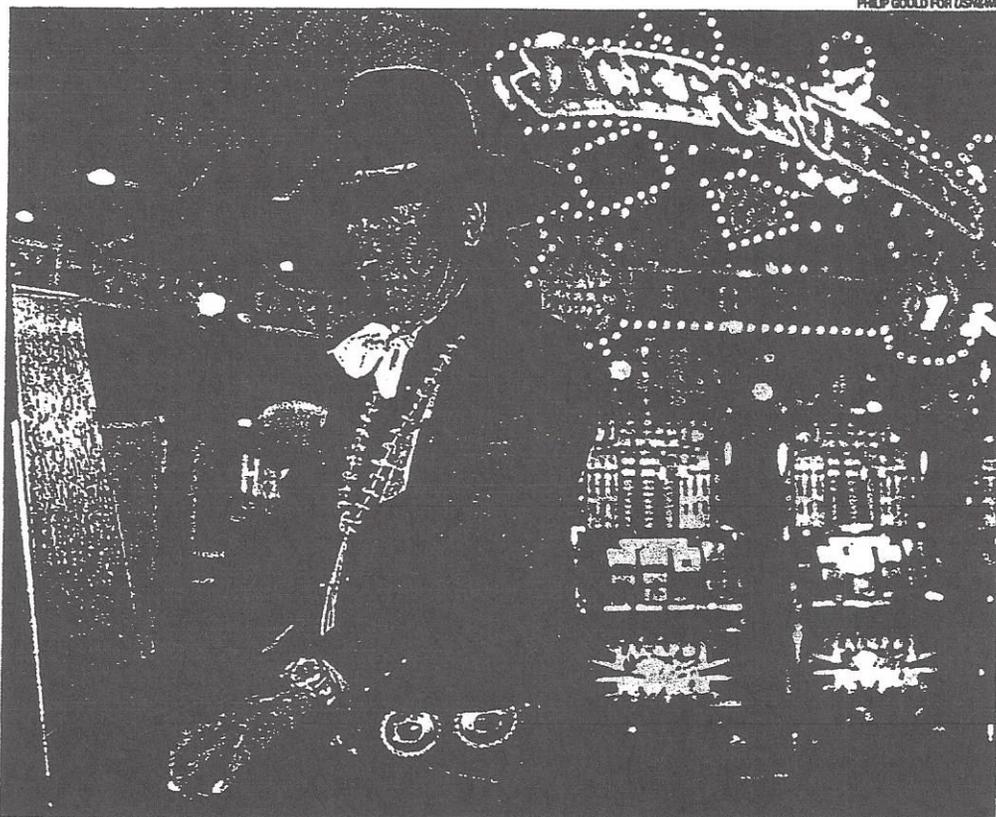
PHILIP GOLD FOR USNEWS

**S**eated in the largest Senate hearing room with a hood over his head to protect his identity, the witness identified only as "Marty" had some confessions to make. Not only had he helped the mob set up and run a high-stakes bingo hall on an Indian reservation, he testified, but he had padded expenses and robbed the tribe of over \$600,000 a year.

But even Marty's sensational tales of filling bingo balls with helium and awarding \$60,000 cars to paid shills paled in comparison to his next news flash. Marty told members of the Senate Select Committee on Indian Affairs that 12 other Indian bingo halls also were controlled by the mob. "Organized crime is destroying the Indian reservation," he said in a slow, mechanical baritone, his voice deliberately altered through the use of a special machine.

Four years later, the leaders of the Indian gambling industry are still smarting. Marty's apocalyptic visions of Mafia domination have been proven wrong, they argue, adding that Indian-owned casinos and bingo halls are more heavily regulated than the glitz palaces in Atlantic City and Las Vegas. But while it's true that the industry has grown much more sophisticated and has weeded out the most venal operators, many questionable characters remain. From dozens of interviews with federal, state and local law-enforcement officials and from documents obtained through the Freedom of Information Act, *U.S. News* has learned of a number of cases that raise serious doubts about the integrity and inviolability of Indian casinos.

**The new buffalo.** Devastated by unemployment, substandard housing and schools and crippling alcoholism, many Indians have come to see gambling as "the new buffalo"—the first true economic opportunity in two centuries. But buffalo never paid dividends like a one-armed bandit. In Connecticut, the sprawling Foxwoods Casino owned by



**Big-time enterprise.** *The huge, new market in Indian-owned casinos is a draw for vendors.*

the Mashantucket Pequots could conceivably gross \$1 billion this year and net half that amount. On the Shakopee Mdewakanton Dakota reservation near Minneapolis, the Mystic Lake casino takes in so much cash that tribal members sometimes receive dividend checks for up to \$20,000 a person per month, one official with the Bureau of Indian Affairs says. And just last month near Syracuse, N.Y., the Oneida Indians opened the \$10 million Turning Stone Casino, expected to rake in well over \$100 million a year.

Now that 73 tribes in 19 states offer or will soon offer full-scale casino gambling, the big boys have taken notice. Atlantic City casino owner Donald Trump recently sued the U.S. government for allegedly giving an unfair advantage to tribes setting up casinos. And he's out to prove the fledgling industry is corrupt. "A lot of the reservations are being, at least to a certain extent, run by

organized crime," says Trump. "There's no protection. It's become a joke."

Mobsters did, in fact, prey upon Indian gambling during the 1980s. Besides Marty, whose real name was Stewart Siegel and who managed a California bingo hall for the Barona Indians before he died of cancer, Indian gambling's cast of characters was like something out of an Edward G. Robinson movie. Just this spring, for example, reputed Chicago mob boss John "No Nose" DiFronzo and his gambling expert, Donald "The Wizard of Odds" Angelini, were convicted of conspiracy and fraud in a failed attempt to take over gambling operations at the Rincon Reservation near San Diego in the late '80s. The Chicagoans had hoped to skim profits and launder mob money, FBI wiretaps show. In 1980, California's Cabazon Indian tribe hired as their poker-room manager one Rocco Zangari, identified as a mobster in Senate

# BANKRUPTCY DEVELOPMENTS JOURNAL

**LEGALIZED GAMBLING'S DESTABILIZATION OF  
U.S. FINANCIAL INSTITUTIONS AND THE  
BANKING INDUSTRY: ISSUES IN BANKRUPTCY,  
CREDIT, AND SOCIAL NORM PRODUCTION**

*John Warren Kindt  
John K. Palchak*

Reprinted from  
Bankruptcy Developments Journal  
Volume 19, No. 1

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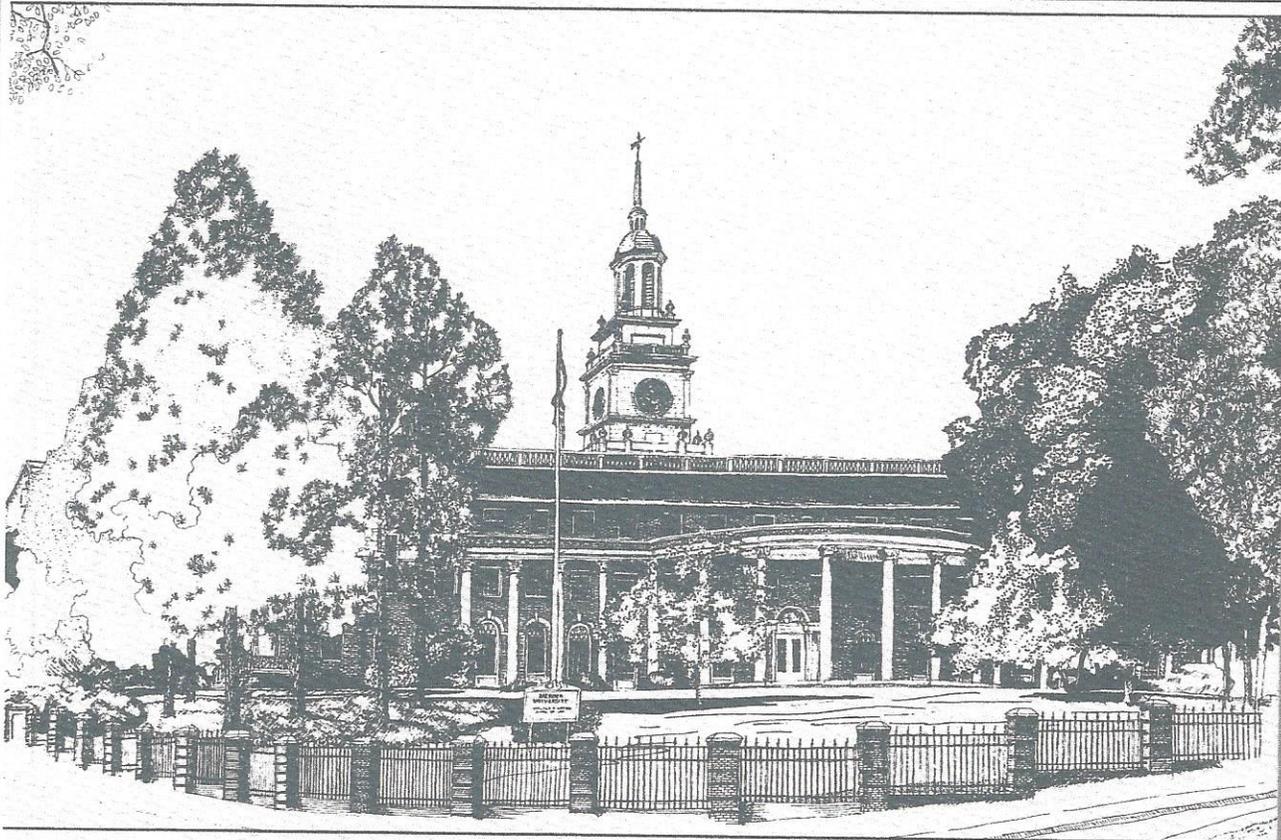
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# MERCER LAW REVIEW

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“The Insiders” for Gambling Lawsuits:  
Are the Games “Fair” and Will Casinos and  
Gambling Facilities Be Easy Targets for Blueprints  
for RICO and Other Causes of Action?

*John Warren Kindt*

# The Costs of Addicted Gamblers: Should the States Initiate Mega-Lawsuits Similar to the Tobacco Cases?

John Warren Kindt\*,<sup>1</sup>

*University of Illinois, Champaign, IL, USA*

## INTRODUCTION

In 1999, *The Economist* cited to the critics of gambling activities and raised the spectre that 'there might be a lot of money to be made by suing the entities that knowingly get people addicted to gambling'.<sup>1</sup> This observation paralleled the long-held conclusions among gambling addiction experts such as the former executive director of the Council on Compulsive Gambling of New Jersey, Arnie Wexler, who highlighted the concerns of the gambling interests in 1997:

'I think the industry is sitting on its hands nervously looking at what's happening to the cigarette industry', said Wexler, a frequent lecturer about compulsive [i.e., 'pathological'] gambling. 'The stuff that happened to the cigarette industry is going to happen 10–20 years down the road, if not sooner'.<sup>2</sup>

As early as 1996, the Las Vegas gambling industry had a premonition of being saddled with mega-lawsuit problems similar to the tobacco industry, and had developed plans to counter the educational efforts of public interest groups,<sup>3</sup> such as the National Coalition Against Legalized Gambling (NCALG), an organization similar to Mothers Against Drunk Driving (MADD). In 1996, in the heart of Las Vegas, the local paper opined a wake-up call to the gambling industry:

Gambling and tobacco. Tobacco and gambling.

\* Correspondence to: University of Illinois, Champaign, IL 61820, USA. Tel.: +1 217 3336018; fax: +1 217 2447969.

<sup>1</sup> Professor, Univ. Ill.; A.B., William and Mary, 1972; J.D. 1976, MBA 1977, Univ. Ga.; LL.M. 1978, SJD 1981, Univ. Va.

A leader in the national fight against the spread of legalized gambling is . . . attempting to link the tactics of both industries in their separate battles for public relations legitimacy.

'It is out-and-out lying, and . . . [the gambling industry is] in denial', said Tom Grey [executive director of the NCALG].<sup>4</sup>

By 1997, the strategies of anti-gambling groups combined with public interest groups were being readily detailed in the US press.

Anti-gambling crusaders are borrowing a page from the anti-smoking movement, trying to tar casinos and lotteries with some of the same criticisms leveled against the tobacco industry.

The critics say legalized gambling, too, depends on addiction for profits, runs ads that glamorize its offerings and targets minors for future customers.<sup>5</sup>

Similarly, it became apparent where the gambling industry was trying to focus the public's attention and frame the long-term strategic debate.

Gambling proponents stress their industry has acted to keep itself out of the same dock as tobacco, by trying to identify its addicted clientele for treatment.

Critics say those efforts are cosmetic, and that the \$50-billion-a-year industry's profit margin depends on compulsive [i.e., 'pathological'] gamblers lured by marketing strategies to exploit their addiction.<sup>6</sup>

This scenario was reminiscent of several public interest debates involving potentially harmful products—particularly tobacco.

In this context the pro-gambling commissioners on the 1999 National Gambling Impact Study Commission (1999 Gambling Commission) may

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# Corruption remains strong in Illinois, report shows

April 26, 2016

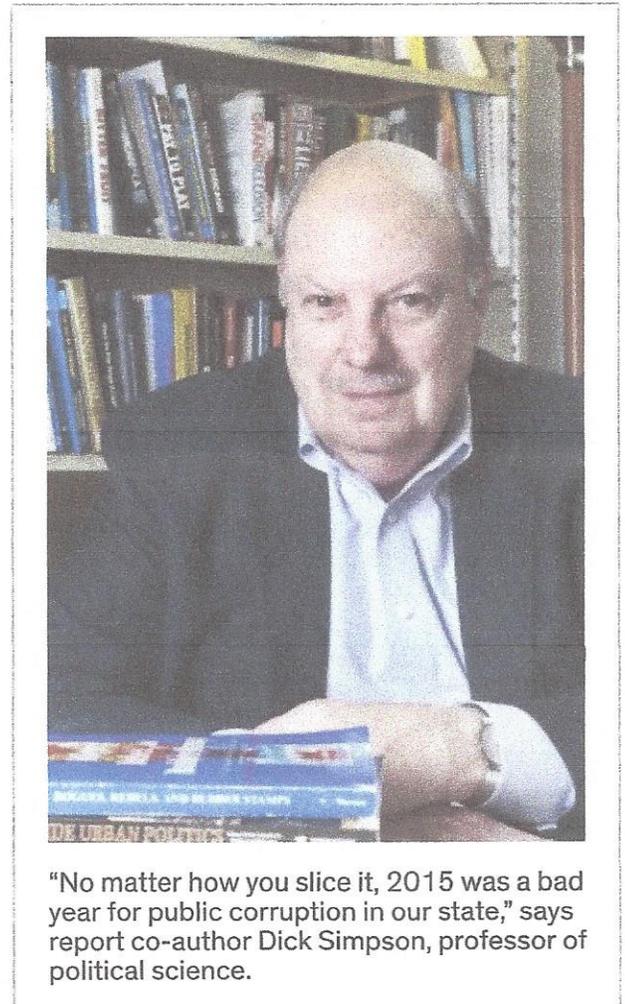
The tradition of corruption in Illinois remained strong last year according to a new report published by UIC researchers.

The report, "2015 a Banner Year for Corruption in Illinois, Anti-Corruption Report #9," catalogues 27 convictions, 28 indictments, the launch of 11 corruption investigations, and the sentencing of 30 convicted elected officials, government employees, and private sector individuals from the Land of Lincoln.

"No matter how you slice it, 2015 was a bad year for public corruption in our state," says report co-author Dick Simpson, professor of political science.

Highlights of the [report](#) include:

- the arrest and guilty plea by former Congressman Dennis Hastert;
- the indictment and conviction of Chicago Public Schools CEO Barbara Byrd-Bennett;
- the indictment of a Chicago Police officer for the shooting murder of an unarmed teenager;



"No matter how you slice it, 2015 was a bad year for public corruption in our state," says report co-author Dick Simpson, professor of political science.

[https://www.ilnews.org/news/state\\_politics/poll-shows-percent-of-chicagoans-considered-moving-out/article\\_c2a765b2-6082-11e9-bdec-0f6f23ab1abe.html](https://www.ilnews.org/news/state_politics/poll-shows-percent-of-chicagoans-considered-moving-out/article_c2a765b2-6082-11e9-bdec-0f6f23ab1abe.html)

## Poll shows 44 percent of Chicagoans considered moving out

By Cole Lauterbach | Illinois News Network Apr 16, 2019



Chicago Board of Trade building.

CiEII / Shutterstock.com

Citing the high cost of living, taxes and violence, a poll of Chicagoans 55 and older found nearly half had considered leaving and even more knew someone else who had thought about a move elsewhere.

The AARP poll was conducted in December and focused on the Chicago mayoral election, but included in the survey of more than 800 likely voters over age 55 was whether they'd considered leaving the city. Forty-four percent said they had thought about it.

AARP Illinois director Bob Gallo said the high cost of living and high taxes were the two reasons most said they considered it.

# THE NATIONAL GAMBLING IMPACT STUDY COMMISSION



FINAL REPORT

June 1999

LAS VEGAS REVIEW JOURNAL



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Thursday, April 29, 1999  
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## Gambling panel favors new casino moratorium

A commission's 5-4 vote reveals profound divisions between pro-gaming and anti-casino representatives.

**By Tony Batt**  
[Donrey Washington Bureau](#)

WASHINGTON -- A federal commission voted 5-4 Wednesday to recommend a moratorium on new gaming, revealing a deep schism in the panel and prompting some members to openly ponder if a report on their 22-month study of legalized gambling will be completed.

The veneer of cordiality that characterized recent meetings of the National Gambling Impact Study Commission vanished with the vote, the first major tally of its members. Commissioners split along anti-casino and pro-casino lines, an underlying division that had been put aside for most of the study period.

In the vote, three commissioners with ties to Nevada and an Alaskan who customarily defends Indian tribal gambling were outnumbered by the panel's chairman and four others.

Raising his voice and pounding the table, Commissioner John Wilhelm complained the commission had strayed from its mission to examine the economic and social effects of gambling and was on its way to producing a one-sided report.

"We are going to write a report on social impact -- period," Wilhelm fumed. "The commission is trying to hide in the notion that since we can't say with finality what the economic impact of gambling is, therefore let's say, 'Who knows?'"

Wilhelm, president of the Hotel Employees and Restaurant Employees International Union, said the draft reports do not reflect testimony of

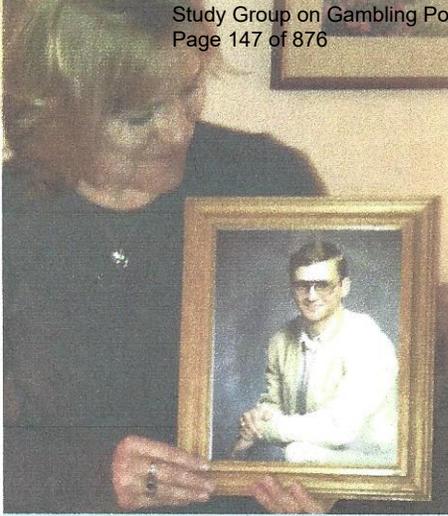
# **GAMBLING RESEARCH BRIEF**

## **NOT IN OUR BACK YARD!!**

The gambling moguls, who fully understand the havoc created by their industry, continue to boast of Las Vegas as a wonderland of close family life, of good jobs, wonderful tourism, excitement and a great life for its' residents. Consider these documented facts about Nevada:

- # 1 in suicides<sup>1</sup>**
- # 1 in divorce<sup>2</sup>**
- # 1 in high school dropouts<sup>3</sup>**
- # 1 in women killed by men<sup>4</sup>**
- # 1 in gambling addictions<sup>5</sup>**
- # 3 in bankruptcies<sup>6</sup>**
- # 3 in abortions<sup>7</sup>**
- # 4 in rapes<sup>8</sup>**
- # 4 in out of wedlock births<sup>9</sup>**
- # 4 in alcohol related deaths<sup>10</sup>**
- # 5 in crime<sup>11</sup>**
- # 6 in prisoners locked up<sup>12</sup>**
- # 50 in voter participation<sup>13</sup>**

(Documentation of sources are on page 2)



**Bobby Hafemann**

**TRAGEDY SPARKS  
NATIONAL DAY  
OF ACTION**



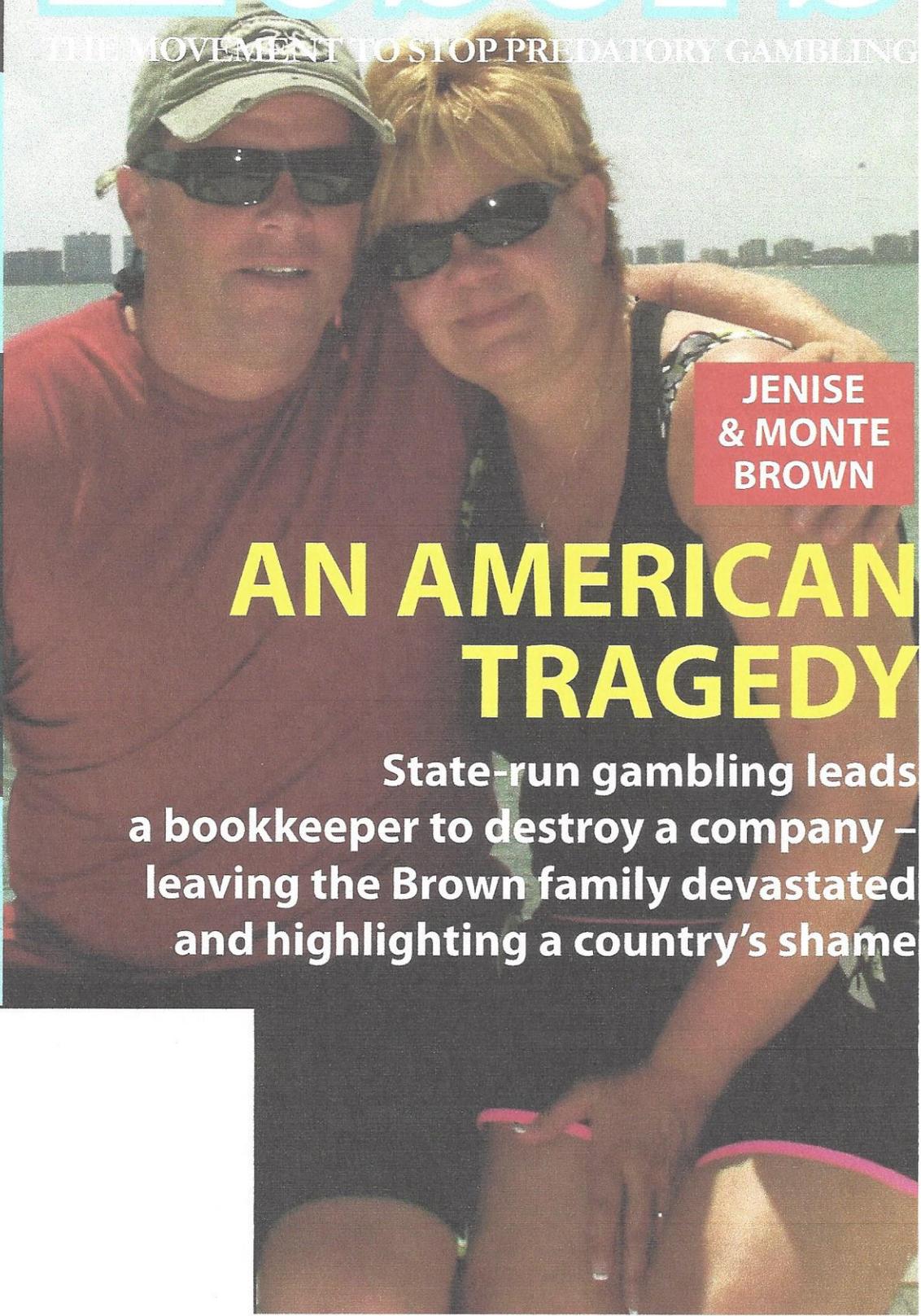
**'WE WILL  
BEAT THIS'**

**Melynda Litchfield**

# We, The Losers

JUNE 2015

THE MOVEMENT TO STOP PREDATORY GAMBLING



**JENISE  
& MONTE  
BROWN**

## AN AMERICAN TRAGEDY

State-run gambling leads a bookkeeper to destroy a company – leaving the Brown family devastated and highlighting a country's shame

# Teens laying their futures

**Addictive habit:** Few adolescents are aware that they can become hooked on gambling.

By Charles Walston  
STAFF WRITER

In the explosion of gambling in the United States, some of the biggest losers are kids.

As lotteries, casinos, Keno games and other forms of legal wagering spread across the country, studies indicate that 7 million teenagers in the United States gamble regularly. As many as 1 million may have a serious gambling problem.

"Gambling has become an average and expectable activity among adolescents," said Dr. Howard J. Shaffer, director of the division on addictions at Harvard Medical School. About 90 percent of high school seniors have gambled, he said.

Widespread legal gambling is fairly new in Georgia, where the lottery started in 1993, and the first study of teenage betting in the state will not be completed or several months. Despite the lack of scientific data, it is a sure bet that many Georgia teens have a problem with gambling, Shaffer said.

A study completed for the Department of Human Resources last year indicated that 4.4 percent of adults in Georgia have been problem or pathological gamblers at some point in their lives, and 2.3 percent currently have a problem. And in every state where comparative studies have been done, the rate of problem gambling among juveniles has been higher than among adults.

"Kids are at least twice as likely to have problems with gambling," said Durand Jacobs, vice president of the National Council on Problem Gambling and a professor of psychiatry at the University of California School of Medicine in California.

Children are more vulnerable

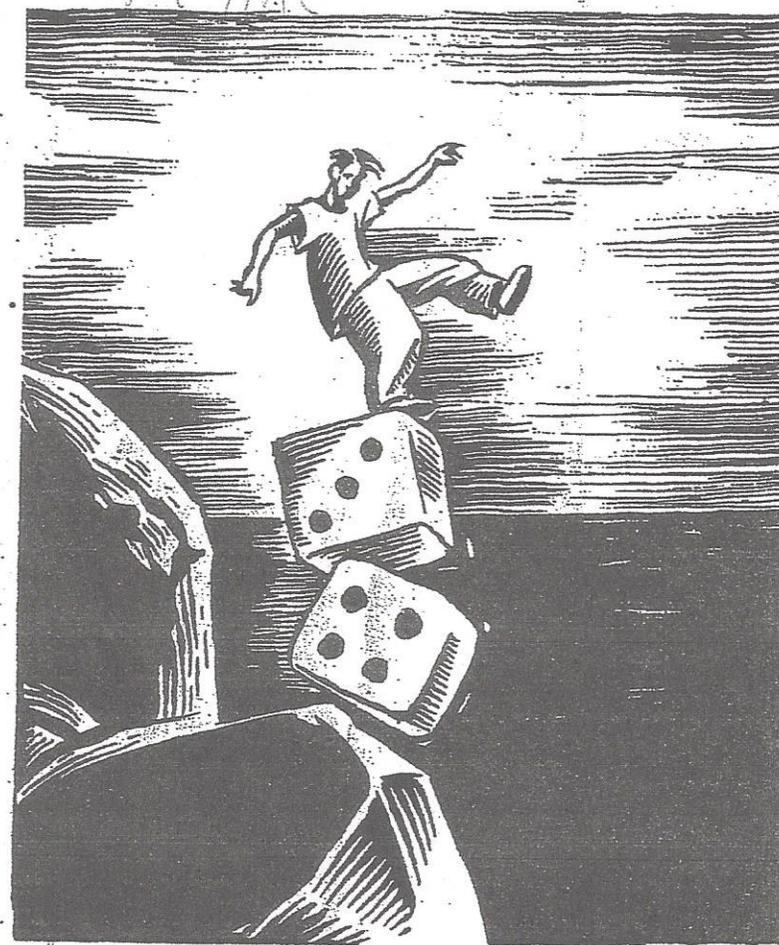


Illustration by WALTER CUMMING / Staff

than adults, because they don't understand gambling can be addictive, Jacobs said. The American Psychiatric Association has recognized compulsive gambling as an addiction since 1980.

Although children younger than 18 are not legally allowed to play state-sponsored lotteries, they are affected by the millions of dollars in lottery advertising, according to Jacobs and Shaffer.

"It's the first time in more than 100 years that young people are growing up in a context of legalized gambling," said Shaffer.

Atlanta teens say the experts are right: Gambling is common.

"It goes on at every school," said Reggie Barrow, an 18-year-old who graduated from South Atlanta High School last year.

"They start in middle school and stuff."

Dee Dee and Monica Bowden

point of gambling. "The object is to take the other person's money," said Dee Dee, 13.

Bill Sonenshine, acting director of the Georgia Council on Compulsive Gambling, has visited meetings of Gamblers Anonymous and met several teenagers there.

"One boy, a graduating senior in high school, was about ready to go to jail," said Sonenshine. "He gambled himself, and he was making a book for other students."

Like adult gamblers who go over their head, some teenage gamblers turn to crime. Jacobs said his surveys indicate that 10 percent of all teenage gamblers have committed crimes ranging from forgery to prostitution to pay gambling debts.

August Seale, who witnessed a murder, says he was shot in the head by a loser in a video game bet, is the only Atlanta teenager to be killed while gambling. A 19-year-old East Point man, Derico Cunningham, was killed seven years ago during a holdup at a dice game, and two juveniles allegedly killed a man at the Lake Meadows housing project over a \$2 gambling debt.

Yet juvenile judges in Atlanta say they have not seen much evidence of gambling-related crime, and school officials seem unaware of gambling by students.

At South Atlanta High School, students played dice outside the cafeteria during lunch hour, Barrow said. Teachers and administrators at the school "really didn't know," he said.

Shaffer said most adults tend not to view gambling by teenagers in the same light as drug or alcohol use, but he sees many similarities. For most people, such behavior will never become a serious problem, while others develop a compulsion that can damage or ruin their lives.

"There is no need to assure just because a child gambles that they have a gambling problem," he said. "But I think parents should be concerned when their children engage in all risk-taking behaviors."

## Where to get help

If you know someone with a gambling problem, here are some places to call for help:

- Georgia Gambling Helpline, 800-699-7117
- Gamblers Anonymous, 404-237-7281
- National Council on Problem Gambling, 800-522-4700

live near Bankhead Highway in west Atlanta and sometimes hang out at a store where grown-ups line up to play the lottery.

Dee Dee, who is in high school, and Monica, who is in elementary school, know kids who bet on everything from dice to cards to a coin-matching game called "Get Like Me." Monica said she has even gambled herself.

They already understand the

# futures on the line

point of gambling. "The object is to take the other person's money," said Dee Dee, 13.

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Like adult gamblers who get in over their head, some teenage gamblers turn to crime. Jacobs said his surveys indicate that 13 percent of all teenage gamblers have committed crimes ranging from forgery to prostitution to pay gambling debts.

August Seale, who witnesses say was shot in the head by a sore loser in a video game bet, is not the only Atlanta teenager to be killed while gambling. A 19-year-old East Point man, Derico Cunningham, was killed several years ago during a holdup at a dice game, and two juveniles allegedly killed a man at the East Lake Meadows housing project over a \$2 gambling debt.

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"There is no need to assume, just because a child gambles, that they have a gambling problem," he said. "But I think we should be concerned when our children engage in all risk-taking behaviors."

## Juveniles who gamble

With lotteries and other forms of legal wagering widely available, studies indicate teenagers bet on everything from dice and cards to video games and sporting events, and as many as 1 million may have serious gambling problems.

<b>Level 1</b>	
Gamble but exhibit no problem	77.9% - 83%
<b>Level 2</b>	
At risk of developing a problem	4.2% - 9.9%
<b>Level 3</b>	
Serious problem or pathological behavior	4.4% - 7.4%

Source: Based on nine studies of 7,700 adolescents in U.S. and Canada by the Division on Addictions at Harvard Medical School.

## Problem gamblers

A government study last year indicated that 4.4 percent of Georgia's adults have been problem or pathological gamblers at some point in their lives, and 2.3 percent currently have a problem.

	Non-problem gamblers	Problem or pathological gamblers
Male	44%	63%
Younger than 30	22%	41%
Non-Caucasian	26%	48%
Single	43%	63%
Less than high school education	8%	19%
Income under \$25,000	31%	33%
Began gambling (mean age)	27	20
Bet \$100 or more in a day	19%	40%

Source: Based on survey of 1,550 adults by the Georgia Department of Human Resources.

## GSU to study youths' betting habits

There are no hard statistics on teenage gambling in Georgia, but soon there will be.

The Department of Human Resources recently contracted with Georgia State University to survey 1,000 adolescents in the state about their betting habits, according to Judy Byrnes, the DHR specialist in gambling behavior. The report should be completed in a few months.

The DHR did its first gambling study last year, surveying adult betting. That study concluded that "at a minimum, 17,000 Georgia adults are currently experiencing severe problems related to their involvement in gambling."

Every compulsive gambler

costs government agencies and businesses between \$13,000 and \$52,000 a year, according to a 1994 economic analysis by the University of Massachusetts. Based on those figures and the DHR study, compulsive gambling is costing between \$221 million and \$884 million a year in Georgia.

The DHR study also found that problem gamblers were much more likely to be nonwhite, male and younger than 30 than those who gambled without any problems. Also, problem gamblers had started betting at a much earlier age than other gamblers — 20 years, compared with 27.

— Charles Walston

**BloombergBusiness**

# Porn Giant Vivid Wants to Rescue Daily Fantasy Sports

Eben Novy-Williams

novy\_williams

February 19, 2016 — 9:00 AM EST



Football fans watch an NFL game at a bar.

Source: Anadolu Agency via Getty Images

- 
- ▶ 'Fantasy sports and naked girls have a lot in common.'
  - ▶ DraftDay will provide platform, Vivid will provide an audience

As one of the world's largest adult film companies, Vivid Entertainment has spent 31 years selling sexual imagery for all types and tastes. Now it's focusing on a different kind of fantasy.

Next week, Vivid will debut daily fantasy sports games, in which customers assemble a roster based on actual players and win or lose based on how those athletes perform in real life. Called Vivid Sports 4 Money, the site will be built and operated by DraftDay Gaming Group. The companies will share profits.

This is a natural extension for Vivid, said company co-founder and part-owner Bill Asher. In the early days of the Internet, pornography found a massive new market online -- and attracted the interest of regulators. But Asher and others figured out how to navigate new regulations and keep their millions of

# US Gambling Operators Have 90 Days to Comply With New Rules

The Department of Justice will wait 90 days to implement a legal opinion that will affect online gambling.

Jan. 15, 2019



FILE - In this Wednesday, Aug. 2, 2017, file photo, a game of internet slots is under way on a free-play site in Atlantic City, N.J. A legal opinion from the U.S. Department of Justice made public Monday, Jan. 14, 2019, could threaten the viability of online gambling that crosses state lines, such as poker. (AP Photo/Wayne Parry, File)

THE ASSOCIATED PRESS

LAS VEGAS (AP) — THE Department of Justice will wait 90 days to implement a legal opinion that will affect online gambling.

We are running a quick survey. Would you like to participate?

Start Survey

No Thanks

# GAMBLING NEWS

(<https://www.gamblingnews.com/>)

ESPORTS (<https://www.gamblingnews.com/news/category/esports/>)    DECEMBER 31, 2018

## The US Federal Trade Commission to Probe Loot Boxes

EMAIL ([MAILTO:?SUBJECT=THE US FEDERAL TRADE COMMISSION TO PROBE LOOT BOXES&BODY=https://www.gamblingnews.com/news/the-us-federal-trade-commission-to-probe-loot-boxes/](mailto:?subject=THE US FEDERAL TRADE COMMISSION TO PROBE LOOT BOXES&body=https://www.gamblingnews.com/news/the-us-federal-trade-commission-to-probe-loot-boxes/))

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**SIMON DELOIT** (<https://www.gamblingnews.com/news/author/simon/>)

There has been growing concern over the use of loot boxes in video games (<https://www.gamblingnews.com/news/olympic-future-for-esports-and-caveats/>) for quite a while and the issue has finally gotten the attention of the United States Federal Trade Commission. This comes in the wake of similar efforts by several other countries including the United Kingdom and Australia that have been looking into the issue very seriously for the past year or so.

First used in Japan in the early 2000s, loot boxes were used in video games that added extra functionality that allowed players to earn points to win virtual lives or weapons in rooms or in a treasure box. The name "loot box" was derived from the fact that there were treasure boxes to loot. They were originally considered to be extra features in video games but as time went by, the video game companies began to realize how valuable purchases could be. From then on, the video game manufacturers began to add extra rooms, lives, prizes, equipment, and characters that could be purchased by the player. At the same time, **the video game and app developers began to make the loot boxes more difficult for the gamers and this is perhaps when the controversy started.**

### How It All Started

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**John W. Kindt** is a Professor of Business and Legal Policy at the University of Illinois. After receiving a B.A. in business from the College of William and Mary in 1972, Professor Kindt earned several graduate degrees in law and business, specifically, J.D. 1976, and MBA 1977, from the University of Georgia; LL.M. 1978, and SJD 1981, from the University of Virginia.

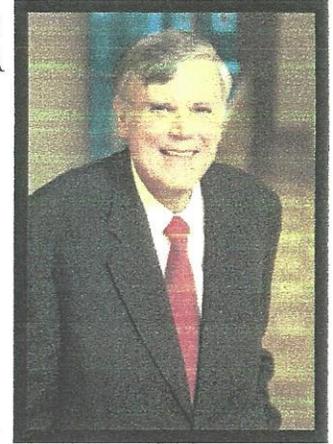


Photo courtesy of the University of Illinois News Bureau.

Professor Kindt's research has resulted in more than 70 academic articles and studies in the areas of antitrust law, commercial law, and environmental law. For 20 years his research has been focused on the societal, business, and economic impacts of decriminalizing gambling activities, particularly gambling's destabilization of international financial institutions and criminal justice systems.

\*Please note that any author or editorial financial returns generated by this collection were pre-assigned to go directly to 501(c)(3) charity.

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-39-

Table 2. Annual Social Costs per Pathological Gambler

	MD Poltizer <i>et al.</i> (1981) (\$)	FL Exec. Office of Gov (1994) (\$)	WI Thompson <i>et al.</i> (1996) (\$)	CT Thompson <i>et al.</i> (1998) (\$)	SD SD Leg. Research Council 1998-1999 (\$)	LA Ryan <i>et al.</i> (1999) (\$)	US Gerstein <i>et al.</i> (1999) (\$)	SC Thompson and Quinn (1999) (\$)	Row averages for studies 1994-1999 (\$)
Crime									
Apprehension and increased police costs			44	71	1000	53		116	257
Adjudication (criminal and civil justice costs)	1788		1234	994	27	649		476	676
Incarceration and supervision costs	2828	15 221	758	889	382	690		451	3065
Business and employment costs	11 265								
Lost productivity on job									
Lost time and unemployment			2717	3436				1082	1082
Bankruptcy			515			5936	320	2156	2913
Suicide								118	316
Illness									
Social service costs							700		700
Therapy/treatment costs			437	114	75	396	30	83	189
Unemployment and other soc. svc. (incl. welfare and food stamps)			606	971	549	60	145	318	442
Government direct regulatory costs									
Family costs									
Divorce, separation								111	111
Abused dollars	14 354		3802	9519	240	3175		2436	3834
									13 586

Reprinted with permission from: Earl L. Grinols  
& David B. Mustard, *Business Profitability  
versus Social Profitability: Evaluation Industries  
with Externalities - The Case of Casinos*, 22  
MANAGERIAL & DEC. ECON 143 (2002) (John  
Wiley & Sons Ltd., Pub.).



We believe in improving the lives of the American people with compassion and fairness, freeing us from the lower standard of living, exploitation, and fraud that commercialized gambling spreads.

# A NEW, BIG, BOLD IDEA WHOSE TIME HAS COME.

Dear Friend,

The vision and plan I'm sharing with you in the pages that follow has been a long time in the making.

It's the result of the selflessness and the grit of thousands of people in our national network, almost all of whom are volunteers who take action because of what we believe:

- We believe everyone should have a fair opportunity to get ahead and improve their future.
- We believe every person's life has worth and that no one is expendable.
- We believe that a good society depends on the values of honesty, concern for others, mutual trust, self-discipline, sacrifice, and a work ethic that connects effort and reward.
- We believe no agency or entity of government should depend on predatory gambling to fund its activities.

In 2020, we are launching a national campaign with a national strategy that will dramatically change the course of your community and our country: The Campaign for Compassion and Fairness.

**My purpose in writing is to present Stage 1 of the campaign and to ask how will you contribute your time, talent, and treasure to help these desperately-needed, long-overdue, social reforms move forward over the next 24 months? Please let me know. My email is [les@stoppredatorygambling.org](mailto:les@stoppredatorygambling.org) and my phone is (202) 567-6996. Thank you.**

Sincerely,

Les Bernal, National Director  
Stop Predatory Gambling

## **Problem Gambling: The Hidden Addiction**

---

Jack Galassini, President, Alabama Council on Compulsive Gambling

Reverend Roger Olsen, Resource Development Coordinator,  
Alabama Council on Compulsive Gambling

April 10, 2020



**Jack Galassini**  
**President**

---

**Roger Olsen**  
**Resource Development Director**



**501(c)3**

**NCPG Affiliate**

# **THE AMERICAN PSYCHIATRIC ASSOCIATION HAS DESIGNATED GAMBLING AS AN ADDICTION**

## **“HIDDEN ADDICTION”**

- **Alcohol & Drugs- VISIBLE**
- **Gambling- INVISIBLE**

**“GAMBLING DISORDER KNOWS NO BORDER”**

# **THE THRILL OF THE WIN**

**From a simple door prize to mega  
millions, for a problem gambler,  
the thrill NEVER leaves**



# **WHO GAMBLES???**

## **VIRTUALLY EVERYONE**

- **Even a Kiwanis Club**
- **Kids start with video games**
- **Military cards & dice**



**GAMBLING IS EVERYWHERE  
IN ALABAMA:**

**CASINOS  
CARD ROOMS  
SPORTS BETTING  
ONLINE GAMBLING  
FANTASY SPORTS  
DOG TRACKS  
LOTTERY**

**ANY ACTIVITY THAT INVOLVES  
“CHANCE” OR “RISK”**

# Sports Bettors in the Past Year for Real Money

(Asked of sports bettors only)

	Professional Football	College Football	Professional Basketball	College Basketball
Alabama	61%	74%	33%	29%
Arkansas	68%	55%	31%	31%
Georgia	57%	45%	28%	28%
Florida	57%	29%	18%	34%
Kentucky	51%	41%	54%	25%
Louisiana	72%	49%	26%	38%
Mississippi	71%	64%	32%	38%
Missouri	73%	47%	35%	31%
South Carolina	68%	53%	34%	28%
Tennessee	65%	59%	31%	19%
Texas	69%	33%	21%	34%

IPSOP Research for NCPG 2018 Sample state 500, Credibility Interval +/- 5.0%  
Sample bettors only 200, Credibility Interval +/- 7.9%



ENJOY SPORTS  
DON'T BET YOUR LIFE ON IT.

# **CONVENIENCE TO SOURCES INCREASES THE POTENTIAL FOR PROBLEM GAMBLING**

- **1970s- Las Vegas was KING**
- **2020- Las Vegas, ONE of MANY**



# RESPONSIBLE GAMBLING

- **Sets limits**
- **Gambles with money they can afford to lose**



# COMPULSIVE GAMBLING

- **Unable to set limits**
  - **Gambles with money they CANNOT afford to lose**
  - **Lies to cover up gambling activity**
- 
- Two red dice are shown on a green surface, likely a gambling table. The dice are positioned in the lower right quadrant of the image, with one die slightly behind and to the right of the other. The background is dark and out of focus, showing faint grid lines on the table surface.

**95% OF PEOPLE WHO GAMBLE CAN  
DO IT RESPONSIBLY**

**5% DEVELOP A GAMBLING  
PROBLEM**



# **PROBLEM GAMBLERS ALREADY AT A HIGH RISK**

- **More likely to be: young, male, lower SES, military/veteran, substance use & abuse, positive attitudes about gambling but low gambling literacy, heavy frequency of gambling, play multiple game types**
- **Social isolation, anxiety, stress and depression are all associated with higher rates of gambling problems**
- **Have high rates of co-occurring behavioral health and physical disorders, more likely to be in healthcare system, housing-insecure, incarcerated, financial problems**
- **Already face extensive barriers to services—15% of states have NO public funding, and average per capita spend in remainder is 37 cents. Low rate of treatment seeking (-1%) and high levels shame & stigma**

**ACCORDING TO NCPG,  
PROBLEM GAMBLERS COST SOCIETY**

**\$1,500.00 TO \$3,000.00**

**PER GAMBLER, PER YEAR**



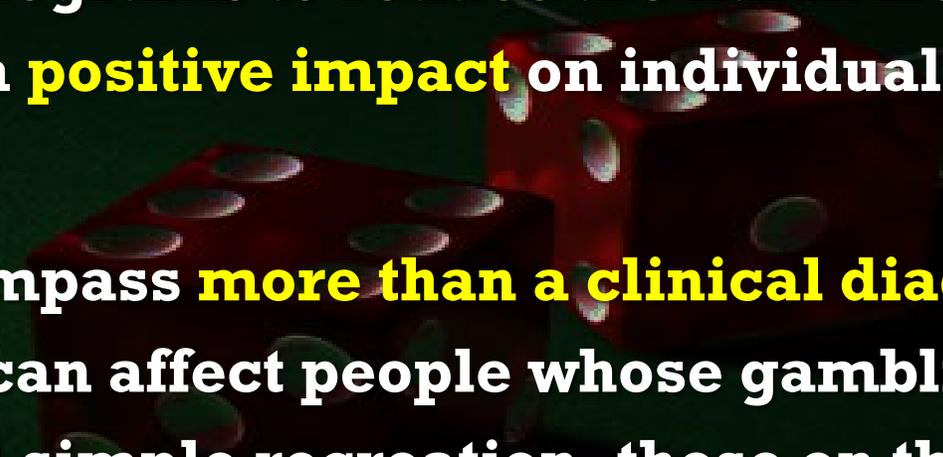
**FOR EVERY \$1**  
**SPENT ON TREATMENT,**  
**WE SAVE \$3**  
**IN SOCIAL COSTS**

Two red dice are positioned in the lower right quadrant of the image. They are resting on a green surface that has a faint grid pattern, resembling a pool table. The dice are slightly out of focus compared to the text.

**ACROSS THE BOARD, MOST AFFILIATES RECEIVE AT LEAST 1% OF THE GAMBLING REVENUES TO PROVIDE SERVICES. IN THIS WAY, THEY ARE BEING SOCIALLY RESPONSIBLE**

- **Provide trained counselors in every county in Alabama**
  - **Make sure treatment is provided to all despite the ability to pay**
  - **Provide public awareness about the warning signs of Problem Gambling**
- 
- Two red dice are positioned in the lower right quadrant of the slide. They are set against a dark green background that features faint, glowing green lines forming a grid or perspective pattern. The dice are rendered with a slight shadow, giving them a three-dimensional appearance.

# NCPG PRINCIPLE HIGHLIGHTS

- The decision to gamble is an **individual choice** that should be made on an **informed basis**.
  - Problem gambling is a **national public health** issue that negatively affects individuals, families, businesses and communities throughout the country. Programs to **reduce the harm** from gambling addiction have a **positive impact** on individuals, families, communities and society.
  - Gambling problems encompass **more than a clinical diagnosis** of a gambling disorder. They can affect people whose gambling is just beginning to move beyond simple recreation, those on the path to recovery, and many points in between.
- 
- A pair of red dice is positioned in the lower right quadrant of the slide. The dice are rendered with a slight shadow and are set against a dark green background that features a faint, glowing grid pattern. The lighting on the dice is soft, highlighting their edges and the texture of the pips.

- The most **ethical and effective** way to address problem gambling is through comprehensive prevention, education, treatment, enforcement, research, and responsible gambling and recovery programs.
- Problem gambling services **must be available, accessible** to all in need and **affordable**.
- Governments have a responsibility to **provide adequate funding** for programs to mitigate the costs of gambling addiction.
- Gambling operators, suppliers, and regulators play a **critical role** in successfully addressing problem gambling.
- Our mission can only be accomplished through the **collaborative action** of a broad range of people and organizations.



---

**THANK YOU!**

## **Tribal State Gaming Compacts**

---

Paula Hart, Director Office of Indian Gaming, Office of Assistant Secretary - Indian Affairs

Troy M. Woodward Senior Policy Advisor, Office of Indian Gaming Office of Assistant Secretary - Indian Affairs

Morgan Oakes, Management Assistant, Office of Assistant Secretary - Indian Affairs

May 15, 2020

# Tribal State Gaming Compacts



Office of Indian Gaming  
1849 C Street, NW  
MS 3543 MIB  
Washington, DC 20240

# Indian Gaming Specialists



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Deputy Director – Maria Wiseman

Senior Policy Advisor – Troy Woodward

Policy Advisor – Philip Bristol

Management Analyst – Debbie DeLeon

Management Analyst – Maja Pepion

Management Assistant – Morgan Oakes

Telephone: (202) 219-4066

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# Office of Indian Gaming



The Office of Indian Gaming is responsible for implementing the Secretary's Responsibilities under the Indian Gaming Regulatory Act

- Approve/Disapprove Tribal State Gaming Compacts
- Approve/Disapprove Revenue Allocation Plans (Raps) Pursuant To 25 CFR 290
- Land Applications For Gaming Purposes Under Section 20 of IGRA
- Gaming Contracts & Collateral Agreements Pursuant To 25 USC 81
- Congressional Correspondence
- Technical Assistance & Guidance
- Applications For Secretarial Procedures Pursuant To IGRA and Part 291

# Indian Gaming Beginnings



- *Cabazon Band of Mission Indians v. California*
- The Tribes sued the State and the local county in Federal District Court, seeking a declaratory judgment that State gambling laws did not apply on the Tribe's reservation and that the County had no authority to apply its ordinances inside the reservations
- The District Court granted the Tribes' motion for summary judgment, holding that neither the State nor the county had any authority to enforce its gambling laws within the reservations
- *Civil Regulatory versus Criminal Prohibitory*

# Cases



- *Seminole Tribe v. Butterworth* was an action by the Seminole Tribe for a declaratory judgment that the Florida bingo statute did not apply to its operation of a bingo hall on its reservation.
- In *Mashantucket Pequot Tribe v. McGuigan* the Tribe sought a declaratory judgment and injunctive relief to preclude enforcement of state statutes pertaining to the conduct of bingo games on the Tribe's reservation.

# Indian Gaming Regulatory Act (IGRA)



Congress enacted IGRA “to provide a statutory basis for the operation of gaming by Indian tribes as a means of ***promoting tribal economic development, self-sufficiency, and strong tribal governments...***” (IGRA 25 U.S.C. § 2702)(emphasis added).

# Permits “Such Gaming”



- In *Mashantucket Pequot Tribe v. State of Connecticut* the Federal District Court in Connecticut held that IGRA permits a tribe to conduct class III gaming if, among other requirements, it is “located in a state that permits such gaming for any purpose by any person, organization, or entity.” 25 U.S.C. § 2710(d) (1) (B).
- Connecticut permits “any nonprofit organization, association or corporation [to] promote and operate games of chance [or Las Vegas nights] to raise funds for the purposes of such organization” subject to certain limitations and restrictions, such as limits on the size of wagers, character of prizes, and frequency of operation.

# Scope of Gaming: Policy



- If the State regulates a type of game in the State it cannot prohibit that game in a class III compact.
- If State permits “such gaming” for any purpose by any person, organization, or entity, it is regulating not prohibiting.
- Even if the State regulatory provisions include some criminal penalties, it does not transform regulating to prohibiting.

# Three Classes of Indian Gaming in IGRA



Tribes are the sole regulators of class I

Class I gaming means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.

# Class II Gaming Regulated by Tribes and NIGC



- **Class II gaming means - (i) the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith) -**
  - (I) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,
  - (II) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and
  - (III) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and
- **(ii) card games that -**
  - (I) are explicitly authorized by the laws of the State, or
  - (II) are not explicitly prohibited by the laws of the State and are played at any location in the State, but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.
- **The term “class II gaming” does not include**
  - (i) any banking card games, including baccarat, chemin de fer, or blackjack (21), or
  - (ii) electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

# Class III Gaming: Requires Tribal-State Compact



Class III gaming means all forms of gaming that are not class I gaming or class II gaming.

Congress used nearly identical language in defining the prerequisites to both class II and III gaming: both are permissible on Indian lands if located within or in a State that permits such gaming for any purpose by any person, organization or entity.

Regulation of class III Indian gaming requires a Tribal-State compact.

# Tribal-State compact



Class III gaming activities shall be lawful on Indian lands only if such activities are--

- (A) authorized by an ordinance or resolution that--
  - (i) is adopted by the governing body of the Indian tribe having jurisdiction over such lands,
  - (ii) meets the requirements of subsection (b), and
  - (iii) is approved by the Chairman of the NIGC,
- (B) located in a State that permits such gaming for any purpose by any person, organization, or entity, and
- (C) conducted in conformance with a Tribal-State compact entered into by the Indian tribe and the State under paragraph (3) that is in effect.

# Congress Intentionally Excluded Certain Subjects from Compact Negotiations



Sen. Inouye discussed the compact negotiation process, stating, “There is **no** intent on the part of Congress that the compacting methodology be used in such areas as **taxation, water rights, environmental regulation.**”

# IGRA Specifically Permits in a Compact



- (i) the application of the criminal and civil laws and regulations of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of such activity;
- (ii) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws and regulations;
- (iii) the assessment by the State of such activities in such amounts as are necessary to defray the costs of regulating such activity;

25 U.S.C. § 2710(d)(3)(C)

# Specifically Allowed in Compact



- (iv) taxation by the Indian tribe of such activity in amounts comparable to amounts assessed by the State for comparable activities;
- (v) remedies for breach of contract;
- (vi) standards for the operation of such activity and maintenance of the gaming facility, including licensing; and
- (vii) any other subjects that are directly related to the operation of gaming activities.

25 U.S.C. § 2710(d)(3)(C)

## IGRA prohibits Tax, Fee, Charge, or other Assessment

Except for any assessments that may be agreed to under paragraph (3)(C)(iii) of this subsection, **nothing in this section shall be interpreted as conferring upon a State or any of its political subdivisions authority to impose any tax, fee, charge, or other assessment upon an Indian tribe** or upon any other person or entity authorized by an Indian tribe to engage in a class III activity.

No State may refuse to enter into the negotiations described in paragraph (3)(A) based upon the lack of authority in such State, or its political subdivisions, to impose such a tax, fee, charge, or other assessment.

# Compact Review



The Secretary may only disapprove a proposed Compact if:

It violates IGRA,

It violates any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands,

It violates the trust obligation of the United States to Indians. 25 U.S.C. § 2710 (d)(8)(B).

# Issues of Note



- A Compact's validity begins with State law and Tribal law processes –authority to negotiate and “enter into” compacts
- Compact should not provide payments to the State except for State regulatory costs, unless the State provides valuable concessions to the Tribe
- This is an economically valuable concession that the Tribe might not otherwise have.
- A Compact is not effective unless approved by the Department of the Interior and published in the Federal Register.

# 45 Day Review Period



- If the Secretary does not approve or disapprove a compact before the date that is 45 days after the date on which the compact is submitted to the Secretary for approval, the compact shall be considered to have been approved by the Secretary, but only to the extent the compact is consistent with the provisions of this Act.
- 45 Day review period begins when the original and all required documents are received at OIG. 25 C.F.R 293.11.

# Compact, Amendment or Extension



## Address:

Office of Indian Gaming  
1849 C Street, NW  
MS 3543 MIB  
Washington, DC 20240

- An Amendment is subject to the same review process as an original compact
- A simple extension of the compact term is not subject to review and approval but does require notice in the Federal Register.
- Compacts are available on our website: <https://www.bia.gov/as-ia/oig/gaming-compacts>

## **Common Questions When Considering a State Lottery**

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David Barden, CEO, New Mexico Lottery Authority

May 15, 2020

# Questions When Considering a State Lottery

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DAVID M. BARDEN

CHIEF EXECUTIVE OFFICER, NEW MEXICO LOTTERY

MAY 15, 2020

# What makes Alabama a suitable lottery state?

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- With Mississippi starting last year, Alabama is now one of only five states without a lottery.
- Florida, Georgia, and Tennessee have successful lotteries, indicating a regional appetite for the games.
- Alabamans are already playing lottery games. Some travel to neighboring states, especially when jackpots are high. This is money traveling out of state that players would prefer to spend close to home.
- The process in Alabama ultimately gives the decision to start a lottery to the people.

# Who should be the beneficiaries of lottery revenue?

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- Lotteries exist in the U.S. to provide funding for good causes.
- Education is a popular beneficiary while some states contribute to senior services, parks, the general fund, etc.
- Once running, the Lottery would regularly update the public on the funds contributed to its beneficiaries.

# What concepts are important for enabling legislation?

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- Enabling legislation sets the stage for the lottery and would be difficult to change later.
- A Lottery must be thought of as a business.
- Legislation should allow for flexibility to manage the Lottery based on industry best practices that maximize net revenue.
- The Lottery should be able to determine optimal prize payouts, introduce new games, and consider new technologies and innovations without strict legislative limits.

# How should a lottery be organized?

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## STATE-OWNED CORPORATION

- Completely self-funded
- Focuses on revenue generation and behaves like a business
- Quasi-public with Board governance
- Common with recent lottery launches

## STATE AGENCY

- Reports to an existing agency, the Governor, or a commission
- Little revenue-generating experience within State government
- May be more impacted by politics or administration changes

# Who sells lottery products?

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- Businesses across the state would benefit from lottery sales commissions and increased foot traffic that leads to sales of other products.
- Most retailers fit into convenience or grocery, but many other small businesses can also apply to be licensed.
- Alabama's population is closest in count to South Carolina and is regionally similar.
  - SC 2019 population was 5,148,714 and there were approx. 3,828 lottery retailers (source: La Fleurs 2020 Lottery Almanac).
  - Alabama could expect fewer retailers early on, approximately 1 per 1,500 people or 3,300 retailers.

# What jobs are needed for a lottery?

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- A lottery in Alabama should expect to hire at least 40-50 people.
- A head person (president/CEO) would oversee lottery operations and be accountable to an appointed body, such as a board of directors.
- Staff would fill divisions such as product development, finance, sales, security, marketing, and information technology.
- Because a lottery is a business, it is imperative that politics be left out of hiring processes.
- When setting up a new lottery, it is also essential that the lottery head and some other managers have lottery industry experience.

# How are retailers compensated?

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- Retailers should be paid a commission for selling tickets and may also be paid a commission for cashing winning tickets.
- Commission structure should be left flexible and not set in enabling legislation.
- Alabama's neighbors have different commission structures.
  - Florida offers a 5% selling commission and 1% cashing commission.
  - Georgia and Mississippi offer a 6% selling commission but no cashing commission.
  - Tennessee offers a 6.5% selling commission and only offers a 1% cashing commission on certain games.

# What vendor Requests for Proposals will be needed?

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- Several major vendor procurements will need to be made prior to starting the lottery. Some services can be combined and provided by the same vendor.
- Vendor RFPs include:
  - Central Gaming System
  - Instant Printing Services
  - Advertising Services
  - Banking Services
  - Internal Control System (ICS)
  - Warehousing and Distribution (recommended)

# What are some procurement considerations?

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- Score vendors on the value provided, which may or may not be the lowest price.
- Allow major vendor contract terms to be at least ten years or as allowed by law.
- Consider incentives for reaching growth targets.
- Lottery technologies and innovation expand every year. In the RFP, solicit pricing for all options that are available now and set up a way to obtain new options as they become available in the future.

# What games should be introduced and when?

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- To start, introduce instant (scratch-off) games at price points no higher than \$5.
- Launch approximately four new instant games monthly.
- Introduce a \$10 instant game several months after start and monitor when to introduce a \$20 game after the first year.
- Introduce draw games in stages:
  - Powerball first (apply to join the Multi-State Lottery Association)
  - Pick 3 and Pick 4 (twice-daily drawings)
  - Mega Millions
  - In-state jackpot game
  - Regional/multi-state game (ex. Lotto America) (well after first year)

# How would Alabama perform compared to other states?

- Assuming best practices are used, Alabama can expect to perform in line with other southeastern states.
- Instant (scratch-off) games should make up a higher percentage of sales. Large multi-state jackpots would cause spikes in draw game sales. Daily draw games would provide a stable amount of regular sales.
- Approximate weekly per-capita sales:

	FL	GA	NC	SC	TN
Instant Games	\$1.76	\$2.55	\$1.65	\$1.89	\$0.86
Draw Games	\$4.65	\$5.89	\$3.56	\$5.52	\$4.10

# What are some other best practices?

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- Partner with a state or national provider of responsible gaming services. A phone number and website for people to find assistance should be present on tickets and advertising.
- Develop a cohesive retailer strategy to maximize locations as well as in-store inventory and product appearance.
- Include winner awareness in advertising to show that people are winning.
- Adjust prize payouts as needed to optimize both player interest and profit. Do not operate under a set rate of return that limits prizes to players.

# Thank You and Good Luck!

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DAVID M. BARDEN

505-501-7886

## **Vital Importance of Charity Bingo in Greene County**

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Jim Folsom, Jr., Former Alabama Governor

Don Wood, CPA

Dr. Marcia Pugh, Administrator/CEO, Greene County Health  
System

Charlie McAlpine, Mayor, Forkland, Alabama

June 5, 2020



# The Vital Importance of Charity Bingo in Greene County, Alabama

Presented By Citizens For A Better Greene County

# Citizens For A Better Greene County

Citizens For A Better Greene County is a non-profit entity organized to provide a singular voice to advocate the vital importance of charity bingo revenue in Greene County and the community's substantial financial reliance on the funds. Significant community resources depend on charity bingo contributions to operate. The charity bingo revenue recipients in Greene County include the county and municipal governments, healthcare facilities, community organizations, law enforcements agencies, volunteer fire departments, ambulance services and schools.

# Presenters

**Honorable Jim Folsom Jr., Former Governor for The State of Alabama**

**Honorable Don H. Wood, CPA**

**Honorable Marcia Pugh, PhD., Greene County Health Systems Administrator – Greene County, Alabama**

**Honorable Charlie McAlpine, Mayor of Forkland, Alabama**



## Former Governor Jim Folsom 1993-1995

James E. Folsom Jr. (1949- ) became governor of Alabama in 1993. He was elected to three terms as Lieutenant Governor in 1987, 1990, and 2007. Folsom is known for bringing the Mercedes Benz Plant to Alabama.

His father, James "Big Jim" Folsom Sr., was Governor of Alabama from 1947-51 and 1955-59.

### Education:

Cullman High School Graduate of 1967  
United States Army National Guard (1968 -69,  
Active Duty).

Jacksonville State University Graduate 1974

Multiple Professional Licenses

# Introduction of Presenters & The History of CA 743

Presented by Mr. Jim Folsom



# Constitutional Amendment 743

- Bingo games for prizes or money may be operated by a nonprofit organization in Greene County. The sheriff shall promulgate rules and regulations for the licensing, permitting, and operation of bingo games within the county. The sheriff shall insure compliance with such rules or regulations and all of the following:
  - (1) No person under the age of 19 years shall be permitted to play any game or games of bingo, nor shall any person under the age of 19 years be permitted to conduct or assist in the operation of any game of bingo.
  - (2) Bingo games shall be operated exclusively on the premises owned or leased by the nonprofit organization operating the bingo game. Such location shall be specified in the application of the nonprofit organization.
  - (3) A nonprofit organization may not enter into any contract with any individual, firm, association, or corporation to have the individual or entity operate bingo games or concessions on behalf of the nonprofit organization. A nonprofit organization may not pay consulting fees to any individual or entity for any services performed in relation to the operation or conduct of a bingo game.
  - (4) A nonprofit organization may not lend its name or allow its identity to be used by another person or entity in the operating, promoting, or advertising of a bingo game in which the nonprofit organization is not directly and solely operating the bingo game.
  - (5) All equipment shall be stamped or clearly marked in letters no less than one-half inch in height and one-fourth inch in width (except for the letter "I") with the name of the nonprofit organization using the equipment. A nonprofit organization or other person or entity may not use equipment marked with the name of another nonprofit organization.
  - (6) Prizes given by any nonprofit organization for the playing of bingo games shall not exceed ten thousand dollars (\$10,000) in cash or gifts of equivalent value during any bingo session .
  - (7) A nonprofit organization may not advertise bingo except to the extent and in the manner authorized by rule of the sheriff. If the sheriff allows a nonprofit organization to advertise bingo, the nonprofit organization shall indicate in the advertisement the purposes for which the net proceeds will be used by the nonprofit organization.
  - (8) A nonprofit organization shall display its bingo license conspicuously at the location where the bingo game is conducted.
  - (9) The sheriff shall determine by regulation the days of operation during any calendar week and the hours of operation.
- A violation of this amendment is a Class A misdemeanor as specified by general law.

Prior to 2003, Greenetrack Inc. was the only operating facility in Greene County that engaged in gaming related activities. As one of the poorest counties in the United States, Greene County leaders recognized a need for additional revenue for the county.

In the same year, the Alabama State Legislature passed and the people of Greene County ratified Constitutional Amendment 743.

To date, there are four charity bingo facilities in existence that are licensed by the Greene County Sheriff.



## Mr. Don Hales Wood, CPA

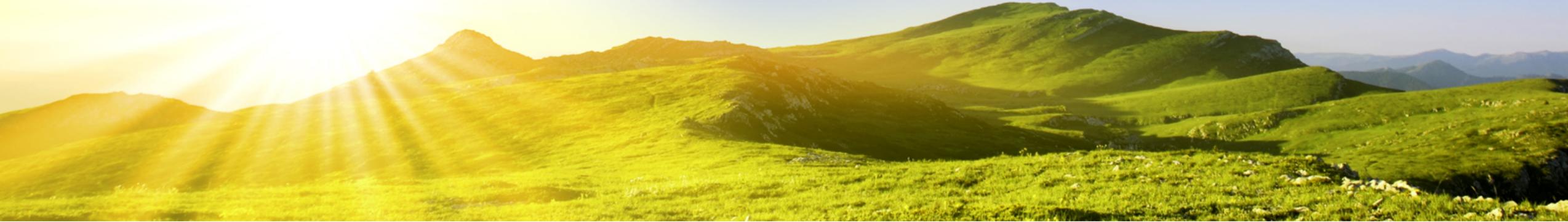
Don Wood received his Bachelor of Science Degree in Commerce and Administration with an Accounting Major, from the University of Alabama in 1982.

### Professional Affiliations

- American Institute of Certified Public Accountants
- Alabama Society of Certified Public Accountants
- National Association of Accountants

# Greene County Agencies, Funds Recipients and Box Fees

Presented by Mr. Don Wood



# CA 743 (Box Fees)

CA 743 saddles the sheriff of Greene County with the added responsibility for licensing and regulating the industry.

For the first five years CA 743 was in existence, there was only one licensed bingo establishment in Greene County. In 2010, Governor Bob Riley appointed Joe Benison Sheriff of Greene County. Sheriff Benison, who remains in office today, used the constitutional powers of CA 743 to improve Greene County and the lives of its citizens.

Sheriff Benison enacted the "Greene County Bingo Rules and Regulations," which do two (2) significant things. First, they allow for the issuance of more charity bingo operator licenses to provide competition. Second, the rules and regulations provide an income stream to the local hospital, the county commission, the board of education, the sheriff's department, the four incorporated municipalities within Greene County, and five other smaller agencies, such as volunteer fire departments. More than \$10 million has been distributed to the hospital, county agencies, municipalities, and other vital county agencies, to date.

Sheriff Benison issued a limited number of additional licenses for larger, "destination-style" bingo halls. The competition started a construction upturn, created over 300 new jobs for construction of new bingo facilities, increased the number of permanent jobs in Greene County, increased visitors to Greene County, and increased sales tax revenue.

Sheriff Benison also enacted regulations requiring all bingo operators to pay a "machine fee" or "box fee" of \$230 per month per bingo machine located in each bingo facility. The total monthly box fee amount is divided between the Greene County Hospital and nursing home, the Greene County Board of Education, the Greene County Commission, the Greene County Sheriff's Department and Jail, the City of Eutaw, the Towns of Boligee, Forkland and Union, and 14 smaller non-profit county agencies. There are approximately 2250 bingo machines currently operating in Greene County. Charity bingo proceeds recipients' divide more than \$500,000 each month.

# Box Fees

## Electronic Bingo Count and Assessment per Machine May 23, 2020

Palace – 715 x \$230 = \$164,450

GreeneTrack – 594 x \$230 = \$136,620

Frontier – 333 x \$230 = \$76,590

Total – 2,111 x \$230 = \$485,530

Rivers Edge – 469 x \$230 = \$107,870

# Box Fees Allocations

Greene County Commission - \$61.14

City of Eutaw - \$18.50

Greene County Sheriff's Department - \$67.50

Town of Forkland - \$7.75

Greene County Hospital - \$25.00

Town of Boligee - \$7.75

Greene Board of Education - \$21.00

Town of Union - \$7.75

\$13.60 per machine per month is divided equally among the following:

Children's Policy Council

Greene County Housing Authority

Greene County DHR

James C. Poole Memorial Library

Association of Greene Volunteer Fire Departments

Greene County Golf Course

# Total Amounts Received by Greene County Agencies 2011 - 2020

Greene County Commission - \$7,011,091.86

Sheriff `s Department - \$4,404,996.76

Eutaw- \$2,246,236.89

Forkland - \$1,162,162.70

Boligee - \$1,162,162.70

Union - \$1,162,162.70

Board of Education - \$4,270,165.58

Hospital - \$1,094,888.04



## Dr. Marcia Pugh, CEO Greene County Health Systems

Dr. Marcia Pugh is the Chief Executive Officer and Administrator of the Greene County Health System that includes the hospital, nursing Home, physician's clinic and other specialty services. Dr. Pugh has spent over 40 years in the healthcare field as a registered nurse.

She holds a Bachelor's Degree in Nursing from Tuskegee University. She received her Master's Degrees in Nursing and Business from the University of Phoenix where she did specialty courses in health care management. She holds a Doctorate in Nursing Practice from The University of Alabama. She has also taken Health Care Management courses from Capella University and UCLA (the University of California in Los Angeles). She is a member of Delta Sigma Theta Southwest Alumnae Chapter.

Dr. Pugh has two children. Her daughter, Nakieta, is a clinical psychologist and has her own practice. Her son, Barrown, has given her the joy of a granddaughter who keeps her very busy!

# Effects of Bingo Funding on the Greene County Health System

Presented by Dr. Marcia Pugh

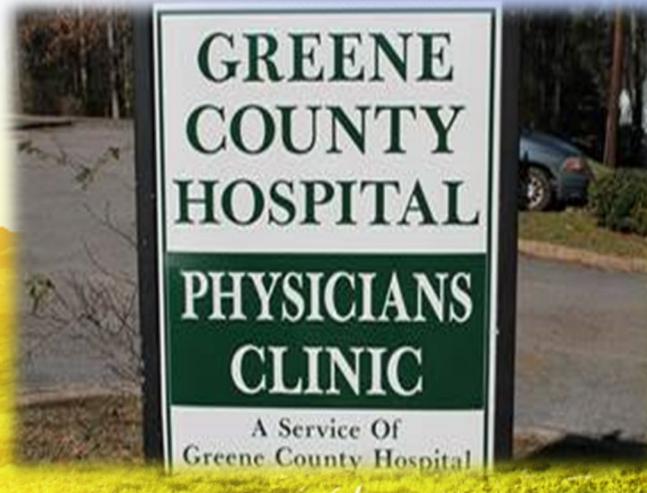


# Rural Healthcare Equipment &

Greene County Hospital



Greene County Physicians  
Clinic



Greene County Residential Care



\$45,900/month Charity Bingo Funds

- Charity bingo contributions are utilized to assist in maintaining monthly payroll
- The hospital and nursing home have been able to purchase a telephone system and upgrade the computer network system
- Without charity bingo contributions, needed repairs and maintenance on the facilities could not be performed



## Mayor, Town of Forkland Charlie McAlpine

Mayor McAlpine was born and reared in Forkland, AL. He attended and graduated from Paramount High School. Mayor McAlpine received a BS Degree in Agribusiness from Alabama A & M University in Huntsville and a Masters in Public Administration from Troy University, Troy, AL. Mr. McAlpine furthered his education at the Foreign Service Institute, Washington, D.C.

After 37 years, he retired from USDA specializing in Agriculture, Rural, Community and Economic Development. Mr. McAlpine held positions at the state, federal and international levels. He served as Coordinator of the Midsouth Resource Conservation Development Council, Soil Conservationist, District Conservationist, National Resource Inventory Coordinator and Outreach Coordinator. He spent three years in Afghanistan as an Agriculture Advisor/Expert.

Mr. McAlpine has three children, two of whom graduated from Troy University and one from the University of Alabama.

# Impacts on Municipality Budgets

Public Safety  
Community Programs  
Infrastructure  
Recreation  
Technology

Presented by Mr. Charlie McAlpine

# Public Safety

## Police Force & Municipal Court

Forkland Police Department



Forkland Municipal Court



### Purchase of Police Vehicles & Development of Municipal Court System

- \$80,100 (USDA/Rural Development Grant)
- \$45,000 (Tommy Summerville Police Charity – TSP)
- \$30,000 (Charity Bingo)

# Public Safety Cont.



Forkland Public Safety Building Model

Projected Development Cost - \$750,000 - \$800,000

- Application has been submitted for 75% of the projected development cost
- 25% of the projected development cost comes from existing charity bingo funds

## Office Locations

- Police Department
- Municipal Court
- Fire Station

# Community Programs

**Forkland One-Stop Innovative Program**  
Classes consist of 32 participants ranging from  
ages 62 to 87



1<sup>st</sup> Graduating Class 2019

**Innovative Program Total Cost \$17,000**

- \$7,000 grant from RC& D (Alabama Association of Resource Conservation & Development, Inc.)
- \$10,000 Town of Forkland Charity Bingo Funds

# Community Programs Cont.

**Forkland Senior Nutrition Program**  
Program consists of 42 participants ranging from  
ages 60 to 87



**Senior Program's Cost - \$30,000/year**

- \$20,000 Town of Forkland Charity Bingo Funds
- \$10,000 Town Funds

# Infrastructure Project



## Paving Odom and ShepCook Roads Water Line Upgrades (3" – 6")

- \$350,000 CDBG Grant (Awarded 2020 Fiscal Year)
- \$15,000 7 Cent Gas Tax Fund
- \$10,000 Charity Bingo

# Recreation Project



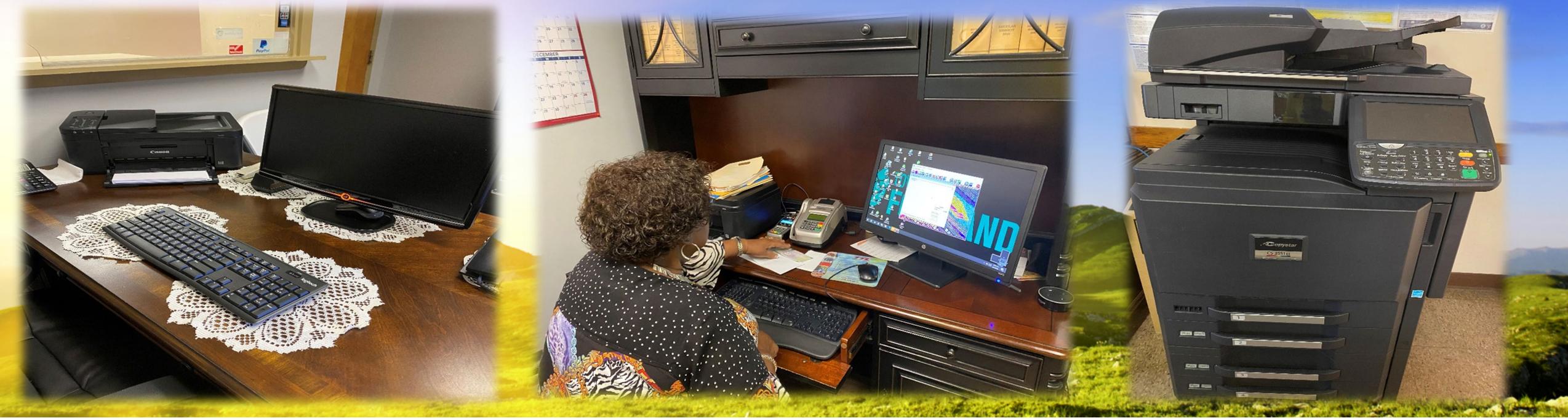
Forkland Park Model



## Park Project Development

- Recently purchased approximately 5 acres
- \$45,000 land purchase May 2020
- Community Enhancement Grant – (proposed for 2021)

# Technology Project



## Technology Purchases and Upgrade for Municipality

- \$16,000 Charity Bingo



Citizens for a Better Greene County

## **Gaming in Greene County**

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William “Will” G. Somerville, Shareholder, Baker Donelson  
(representing River’s Edge Bingo)

June 5, 2020

# Rivers Edge Bingo Greene County

PRESENTED TO  
THE STUDY GROUP ON GAMBLING POLICY

# Federal Case Law

- ▶ **United States v. 162 Megamania Gambling Devices, 231 F.3d 713 (10th Cir. 2000)**
- ▶ **United States v. 102 Electronic Gambling Devices, 221 F.3d 1091 (9th Cir. 2000)**
- ▶ **Cases held that “fast-paced” games played on machines allegedly resembling slot machines satisfied IGRA definition of bingo.**

# Hundreds of Jobs in Greene County depend on Bingo Games

These are jobs that pay **more than minimum wage**, and most of which also provide **health insurance** for employees.

- ▶ Greene County Hospital, Nursing Home and Physicians Clinic: 137 jobs
- ▶ Frontier and D.R.E.A.M., Inc.: 38 jobs
- ▶ Palace and TS Police Support League, Inc.: 41 jobs
- ▶ E-911, Woman-To-Woman and Volunteer Fire-Fighters' Association: 55 jobs
- ▶ River's Edge and Tishobee Community Center & Next Level Leaders 55 jobs

**Bingo Gaming (C.A. 743) with its current operational structure the largest employer in Greene County.**

# Greene County Hospital and Greene County Nursing Home

**Greene County Hospital and Greene County Nursing Home** currently receive approximately fifty thousand dollars (\$50,000.00) per month and a total of six hundred thousand dollars (**\$600,000.00**) per year as the result of Greene County Bingo Rules and Regulations.

**This money is used for payroll.**

# Greene County Commission

**Greene County Commission** currently receives approximately one million four hundred and four thousand dollars (**\$1,404,000.00**) per year as the direct result of C.A. 743 and Greene County Bingo Rules and Regulations.

# Greene County Board of Education

**Greene County Board of Education** currently receives approximately seven hundred and fifty thousand dollars **(\$750,000.00)** per year as the direct result of C.A. 743 and Greene County Bingo Rules and Regulations.

Without these funds, the BOE will also default on Federal Grants received for computers, books, teacher training, etc.

# Greene County Sheriff's Department and Jail Facility

**Greene County Sheriff's Department and Jail Facility** currently receives approximately seven hundred thousand dollars (**\$700,000.00**) per year as the direct result of C.A. 743 and Greene County Bingo Rules and Regulations.

- ▶ The twenty-two (**22**) **deputies** and eight (**8**) **jailers** patrol approximately two thousand (2,000) miles of roadway and approximately forty five (45) miles of river.
- ▶ Funding from C.A. 743 provides for **vehicles, gasoline, protective vests, training programs, uniforms, weapons, etc.**
- ▶ **TS Police Support League**, Inc. is a licensee charity bingo operator, funded by C.A. 743, directly supports law enforcement agencies and law enforcement initiatives in general. TS Police Support League has **sponsored scholarships for students studying criminal justice, automobiles and emergency transport vehicles for E-911, the City of Eutaw Police Department and other law enforcement agencies in West Alabama.**

# City of Eutaw

**City of Eutaw** receives approximately four hundred and fifty thousand dollars (**\$450,000.00**) per year as the direct result of C.A. 743 and Greene County Bingo Rules and Regulations enacted by Sheriff Benison.

These monies go to:

- ▶ Federal Grants match to **upgrade and repair roads** within its poorest communities that were approximately fifty (50) years old and had never been upgraded before.
- ▶ **Operate a youth center** where Greene County children (whether living within city limits or not) can stay active playing games, receive tutoring and receive safe care while parents are working.

# Cities of Union, Bolligee and Forkland

**Cities of Union, Bolligee and Forkland** receive approximately two hundred thousand dollars (**\$200,000.00**) per year as the direct result of C.A. 743

These smaller municipalities use their funds to **operate community centers** which provide care and meals for elderly citizens, and to create several parks.

# Non-Profit Organizations

**Volunteer Fire Departments, PARA, Elder-Care, Meals on Wheels, and smaller community-based non-profit organizations** receive **several thousand dollars per month apiece**. These organizations provide fire protection, meals to the elderly, mowing the lawns of elderly citizens, disaster preparedness and training, etc.

## **Future Economic Opportunities for the State Concerning Victoryland and the Birmingham Race Course**

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Lewis Benefield, President, Victoryland and the Birmingham  
Race Course

June 5, 2020

# MACON COUNTY & JEFFERSON COUNTY

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DR. LEWIS T. BENEFIELD, DVM



# VICTORYLAND (MACON COUNTY GREYHOUND PARK)

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- Established 1984
- Total handle through 3/31/2020 -- \$3.08 billion
- Total taxes paid -- \$155 million
- Payments to area agencies, governments, etc. -- \$89.2 million
- Payments/Donations to area charities -- \$13.6 million

# BIRMINGHAM RACE COURSE

---

- Acquired January 1992
- Total handle through 3/31/2020 -- \$2.71 billion
- Total taxes paid -- \$121.7 million
- Payments to area agencies, governments, etc. -- \$55.7 million
- Payments/Donations to area charities -- \$621,000

# WHERE WE ARE & WHAT COULD BE

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- Job creation – historic and future
- Economic development – for the state’s largest metropolitan area and one of the the state’s poorest counties
- Projections for growth with expansion

## **Economic Feasibility of Gaming in Alabama**

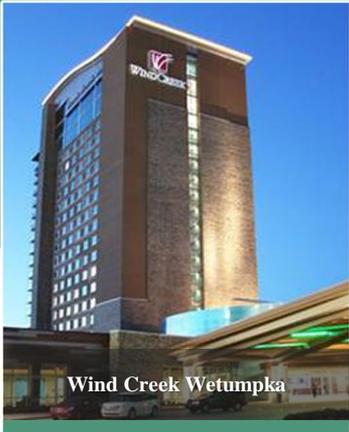
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Arthur Mothershed, Vice President of Business Development,  
Wind Creek Hospitality

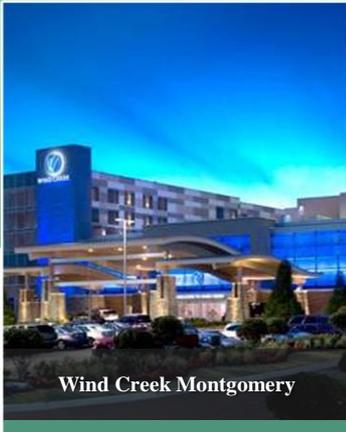
June 5, 2020



## PCI Gaming Authority



Wind Creek Wetumpka



Wind Creek Montgomery



Wind Creek Atmore



Wind Creek Bethlehem



Renaissance Aruba

## Poarch Band of Creek Indians

### Gaming Overview

June 2020

## Agenda:

1. **Wind Creek Hospitality**
2. **Our Properties**
3. **Casino Industry and Trends**
4. **Economic Impact of AL Casino Resorts**
5. **Alabama Market**
6. **Question and Answer**

## Presenters:

- **Arthur Mothershed**  
Vice President of Business Development  
*Wind Creek Hospitality*





## **Wind Creek Hospitality**

# The Pearch Band of Creek Indians

## Introduction to the Tribe



### Tribal history and background

- **The only federally recognized Indian tribe in the State of Alabama**
  - Heritage traces back to the Creek Nation, which originally occupied territory across nearly all of Georgia and Alabama
- Approximately 3,000 members
- Progressive, well-established and financially conservative
- Owns and operates a variety of enterprises which employ thousands of area residents

### Stable governance and leadership structure

#### Tribal Council

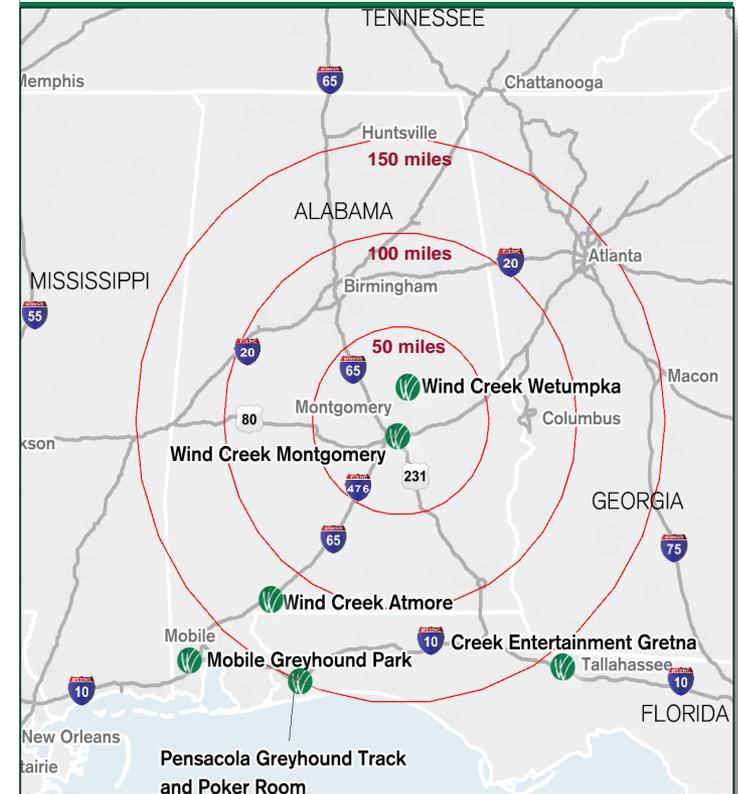
- Legislative Branch
  - Nine-member Tribal Council is elected by the Tribe for three-year terms
  - Implements statutes, establishes policy and appropriates funds
  - Council Chair is the Chief Executive Officer of the Tribe
- Executive Branch
  - Overseen by Tribal Chair / CEO
  - Manages the government’s daily activities, including accounting, human resources, education, family services, health services, safety, public works, utilities and economic development
- Tribal Court (Judicial Branch)
  - Lower court and court of appeals adjudicate criminal, civil and other ordinances related to activities that take place on Tribal land

### PCI Gaming Authority (“PCI” or the “Authority”)

- An unincorporated instrumentality of the Tribe established by Tribal Council to further the Tribe’s gaming and hospitality activities
- Operates and manages the casinos under the “Wind Creek Hospitality” brand



### Footprint in Southeast



### PCI Gaming Authority – Board of Directors

- Five-member board appointed by Council for staggered three-year terms
- Oversees operations of the casinos

# The Poarch Band of Creek Indians

## Philosophies, Activities and Community Participation

### ✓ Tribal Government – Operations and Services provided to Tribal Citizens

- Police Protection
- Fire Protection
- Education
- Health Care
- Elder Services
- Boys & Girls Club
- Housing
- Social Services
- Recreation
- Cultural Preservation

### ✓ Activities of Poarch Band of Creek Indians

- created **12,700 employment opportunities**, which includes more than 5,000 direct and an additional 7,600 indirect jobs
- spent in excess of **\$200 million on payroll**, which includes salaries and wages, taxes and benefits

### ✓ Community Participation

- Since 2013, the Poarch Band of Creek Indians made more than **\$75 million in donations**, charitable contributions, sponsorships, and mutual aid agreements. These contributions were made to:
  - Educational Institutions
  - County Drug Task Forces
  - Fire Departments
  - Educational Scholarships
  - Community Organizations
  - City and State Infrastructure Projects
  - Hospitals
  - Arts & Sciences
  - Law Enforcement



### **Our initiatives:**

*Alabama Department of Public Health: \$500,000 (2020)*

In May 2020, Poarch Band of Creek Indians donated \$500,000 to the Alabama Department of Public Health (ADPH) to assist with testing and equipment in the battle against the COVID-19 pandemic. The move was praised by the Governor of the state of Alabama.

*Atmore Hospital: \$1,000,000 (2020)*

In April 2020, the Atmore Hospital urgently needed to replace vital equipment such as a CT scan, ultrasound imaging, and new hospital beds as well as additional funding for staffing needs associated with testing and caring for patients potentially affected by the Covid-19 virus. The Poarch Band of Creek Indians stepped in and assisted.

*American Red Cross: \$150,000+ (2020)*

In May 2020, Poarch Band of Creek Indians donated funds to American Red Cross for the purchase of a new Bloodmobile to address shortages caused by the pandemic.

*Tornado Relief: \$250,000+(2019)*

In February 2019, East Alabama experienced a devastating EF-2 tornado with 23 lives lost that day. The Poarch Band of Creek Indians covered funeral expenses for all 23 victims. WCH made donations to Wetumpka Police Department and First Presbyterian Church.

*Hurricane Relief with Feeding America: \$100,000+ (2018)*

In October 2017, Hurricanes Harvey and Irma struck with devastating results. WCH properties raised over \$100,000 for disaster relief that were used to provide food for distribution in affected areas.

### **We care about and support:**

*Women Who Shape the State Awards: \$20,000 (2019)*

*National & Alabama Kidney Foundation: \$57,500 (2018)*

*St. Jude's Children's Research Hospital: \$25,000 (2019)*

*Alabama Clean Water Partnership: \$30,000 (2018)*

*Boys and Girls Clubs of Alabama and Florida: \$30,500 (2018)*

*WKRG News "Magical Christmas Toy Drive": \$27,000 (2019)*

### **Education is one of the most precious gifts:**

*University of Alabama College of Human Environmental Sciences: \$250,000 (2018 - 2019)*

*Gulf Coast Exploreum Science Center "Genghis Khan": \$200,000 exhibit sponsor (2019)*

*Mobile and Montgomery Symphony Orchestras: \$125,000 (2018 - 2019)*



### **A growth and quality-oriented company**

- ✓ Premier regional gaming properties with best-in-class amenities
- ✓ Attractive locations and expansive sites with developmental potential
- ✓ Significant reinvestment into its core AAA 4-diamond+ level gaming portfolio assets
- ✓ Strong and experienced Executive Team
- ✓ Team-oriented culture and diverse workforce

### **A company that acquires and invests in talented employees in addition to properties.**

### **A company well-regarded by the financial community**

- ✓ Wind Creek Hospitality is among highest financially-rated regional operators
- ✓ We have the confidence of the Wall Street

### **A company whose Balance Sheet is ready to face future competition**

- ✓ Class leading low leverage rate
- ✓ Class leading interest coverage

### **A responsible Gaming Operator**

- ✓ We fund and support organizations such as Alabama Council on Compulsive Gambling (the only gaming industry participant within the state of Alabama)





## **Our Properties**

# Wind Creek Wetumpka

## Overview

- \$245 million renovation in 2013
- 283-room Hotel with 91% occupancy
- 85,000 sq. ft. gaming floor with
- ~2,600 gaming terminals
- Five restaurants and two bars
- 2019 \$9.5M CapEx plan to renovate rooms and add a Spa



# Wind Creek Montgomery

## Overview

- \$65 million renovation in 2015
- 123-room Hotel with 89% occupancy
- 65,000 sq. ft. gaming floor
- ~2,200 gaming terminals
- BB King Blues Club



# Wind Creek Atmore

## Overview

- First Bingo Palace opened in 1985
- 236-room Hotel with 85% occupancy
- 57,000 sq. ft. of gaming space
- ~1,700 gaming terminals
- 4 restaurants and 2 bars
- Spa and Culinary Studio
- Movie Theater and Bowling Alley
- Amphitheater



# Wind Creek Bethlehem

## Overview

- Opened in 2009
- 276-room Hotel with 93% occupancy
- 146,000 sq. ft. of gaming space
- ~3,200 gaming terminals
- ~215 live table games
- 7 full-service restaurants
- Spa and Convention
- Retail and Theater



## **Aruba Renaissance Hotel and Casino**

Featuring the Wind Creek Crystal and Seaport Casino

### **Overview**

- **Acquired in May 2017**
- **Oceanfront resort directly across from local cruise ship terminal**
- **297-room Marina Hotel**
- **255-room Oceanfront Suites Hotel**
- **840 gaming terminals and 20 live table games**
- **Multiple restaurants, bars, spa and marina**
- **2 shopping Malls**
- **\$40 million in development CapEx allocated for upgrades and renovations**

# Curacao Renaissance Hotel and Casino

Featuring the Wind Creek Mardi Gras Casino

## Overview

- Acquired in October 2017
- Oceanfront setting in heart of Willemstad and adjacent to the local cruise ship terminal
- 237-room Hotel
- 376 gaming terminals and 14 live table games
- Multiple restaurants and bars
- Shopping Mall with movie theater
- \$15 million in development CapEx allocated for upgrades and renovations





Share your thoughts...

heads my way



5 Likes 2 Comments

Peppersmom It was and I enjoy the grilled vegs and pineapple more than the meat. Lol

posted just now Reply

1570 Online

Patita Bigred22... Sarah77 Blssdbyd... Rodrica ...

Tournaments will be held at 3 PM, 5 PM, 7 PM, 9 PM, 11 PM CT

Play Games Tournaments Videos



1 2 3 4

- Social [WindCreekCasino.com](http://WindCreekCasino.com) went live in February 2015
- 23,000 average daily users
- Fully staffed 24/7/365

# Our Employees Are Our Competitive Advantage

## Employment, Programs and Diversity

### **Wind Creek Hospitality**

- Competitive wages
- Incentive Compensation Plan extended to all employees
- Health and Dental Insurances are offered to all ACA full-time employees
- 401K plan is available to all employees
- Our emphasis is Full-Time employment
- We train and promote within our company
- Our strength is engaged and committed employees, whose contributions we acknowledge through effective recognition programs.

### **Employment Statistics**

- Wind Creek Wetumpka ~ 850 employees
- Wind Creek Montgomery ~ 500 employees
- Wind Creek Atmore ~ 780 employees
- Wind Creek Bethlehem ~ 2,300 employees
- Wind Creek Corporate ~ 400 employees





## **Casino Industry and Trends**

# The Industry

## And Performance of Casino Resorts

### General Facts about the Industry

- Gaming market potential defines casino resort sizing.
- Generally increase in competition within the region leads to smaller scale operations with limited non-gaming offerings.
- Casino Resorts take advantage of *Economies of Scale*, which in turn leads to increased efficiencies on all levels.
- Operating a Quality Resort is capital intensive as an upfront investment as well as ongoing maintenance.
- Non-gaming offerings diversify revenues and improve market position though, it once again, requires capital and also dilutes returns.

### Performance Drivers

- Location
  - Proximity to the densely populated areas
  - Easy access to the facility preferably via highly-traveled roads
  - Access to travel hubs such as airports, seaports, subways, etc.
- Competitive Landscape
  - Number of competitors in the market
- Attractiveness/Gravity Model
  - Visitors tend to gravitate towards higher-quality offerings unless confronted by the burden of the distance
- Regulatory Environment
  - Level of taxation
  - Operational limitations
  - Investment conditions and other regulatory requirements
- Market Conditions
  - Overall health of the regional economy
  - Access to financial markets for current and future developments



# Regulators and Casino Resorts' Operators Interests and the Relationship

## Regulator's Interests

- Optimal and stable tax revenue stream
- Maximum and steady employment
- Attainment of an ethical and reliable neighbor
- Experienced operator with an established leadership
- Encourage non-gaming amenities that benefit local community

## Casino Operator's Interests

- Income that justifies all-in investment
- Limited competition
- Stable regulatory environment
- Potential to grow and prosper
- Engaged regulators
- Ethical and reliable regulators
- Community acceptance and support

### From regulators stand point:

- ✓ Important to engage not just an experienced operator, but also a reliable and community-oriented neighbor whose goals are not limited to a bottom line performance and returns;
- ✓ Lesser number of licenses leads to a higher-quality properties and efficiencies and, therefore, higher returns to the State.



### Mistakes Made in Other States

- Reliance on other state's revenues
  - Tunica, MS
  - Laughlin, NV
  - Hammond, IN
  - Bossier City, LA
- Overestimated market demand coupled with the size of the investment
  - Upstate NY



### Success Stories

- The State of Massachusetts strategically issued just 3 licenses so far, which are spread out throughout the state to avoid cannibalization of revenues, with one additional originally being planned for Mashpee Tribe of Massachusetts.
  - One license for Boston – Wynn
  - One license for Springfield – MGM
  - One license for Plainville – Penn
- Las Vegas Strip went through a magnificent transformation from operators relying strongly on gaming revenues to most operators having a diversified stream of revenues at times equally distributed between the following: gaming, hotel, food and beverage and entertainment.





## **Economic Impact of AL Casino Resorts**

# AL Economic Impact from Gaming Activities

## Alabama Casino Resorts

### Definitions:

- **Employment** is measured as headcount, or the number of full and part-time workers supported by an economic activity.
- **Labor Income** is compensation to all workers in terms of wages and salaries as well as benefits and payroll taxes.
- The **Direct Effect** represents the expenditures made by the facility in the form of employee compensation and purchases of goods and services, which ultimately derive from patron spending on the casino floor, and patron spending on non-gaming amenities is an additional direct effect.
- **Indirect Effects** are the impact of the direct expenditures on other business sectors. Indirect effects reflect the economic spin-off that is made possible by the direct purchases of a casino. Firms providing goods and services to a casino have incomes partially attributable to the casino.
- The **Induced Effects** result from the spending of labor income: for example, casino employees using their income to purchase consumer goods locally. As household incomes are affected by direct employment and spending, this money is recirculated through the household spending patterns causing further local economic activity.
- The **Total Economic Impact** of an industry is the sum of the three components.



# AL Economic Impact from Gaming Activities (Continued)

## Alabama Casino Resorts



### Data on AL Economic Impact of one location fitted for a Resort-style casino:

	Total Statewide Casino Operating Impact (\$Mil)		Total Statewide Casino Construction Impact (\$Mil)	
	Employment	Payroll (\$Mil)	Employment	Payroll (\$Mil)
<b>Direct Effect</b>	1,715	\$84.3	1,999	\$106.4
<b>Indirect Effect</b>	204	\$9.0	363	\$21.2
<b>Induced Effect</b>	487	\$20.6	676	\$28.1
<b>Total Economic Impact</b>	<u>2,406</u>	<u>\$113.9</u>	<u>3,038</u>	<u>\$155.7</u>

	Revenue Sharing Payment (\$Mil)
<b>Gross Gaming Revenue</b>	\$400.0
<b>Gaming Revenue Sharing Rate</b>	15%
<b>Total Gaming Tax Revenue</b>	<u>\$60.0</u>

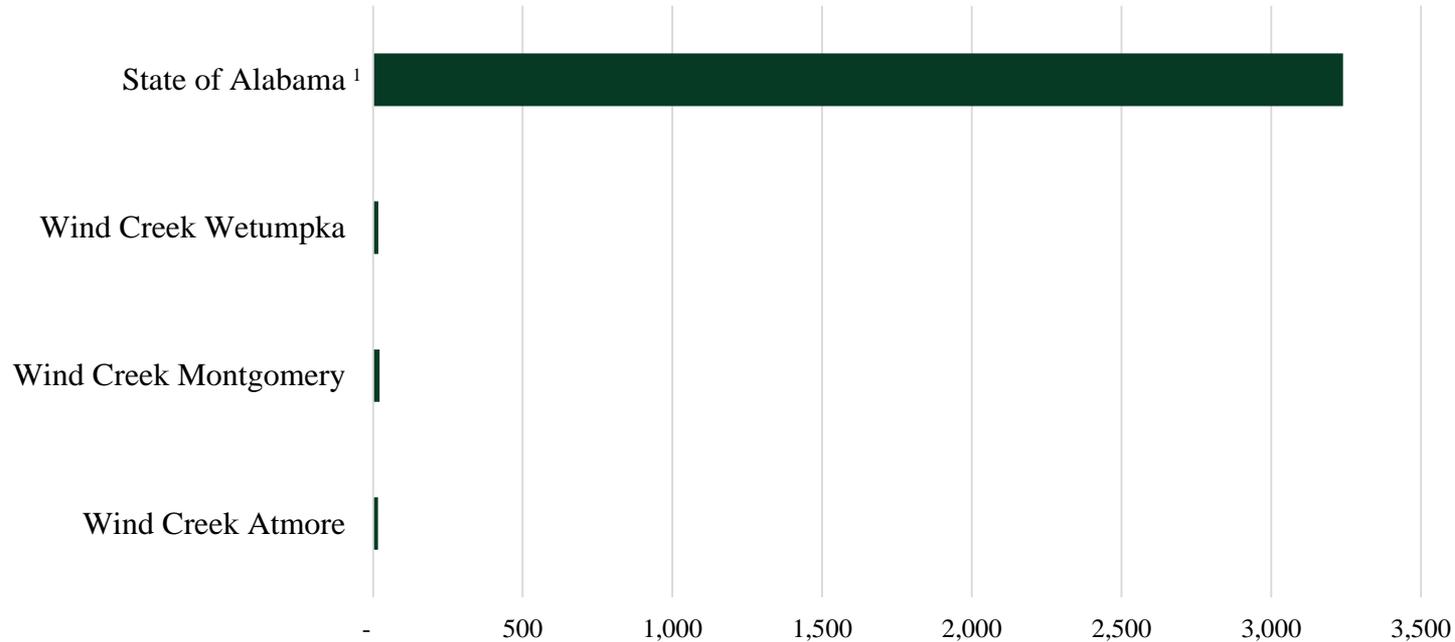
	Alabama State and Local Tax Impact: Total Effect Ongoing Operations (\$Mil)	Alabama State and Local Tax Impact: Total Effect Construction (\$Mil)
<b>Direct Effect: Property Tax</b>	\$7.4	<b>Direct Effect:</b> \$12.5
<b>Direct Effect: Sales Tax</b>	\$6.5	
<b>Direct Effect: Personal Income Tax</b>	\$1.9	
<b>Indirect Effect</b>	\$1.6	<b>Indirect Effect</b> \$6.1
<b>Induced Effect</b>	\$5.5	<b>Induced Effect</b> \$10.6
<b>Total Economic Impact</b>	<u>\$22.7</u>	<u>\$29.2</u>

Source: WCH internal statistical data and Innovation Group "WCH AL Impact Study".



## Crime Rate Data for Poarch Band of Creek Indians Gaming Facilities in AL:

### Crime Rate per 100,000 Visitors

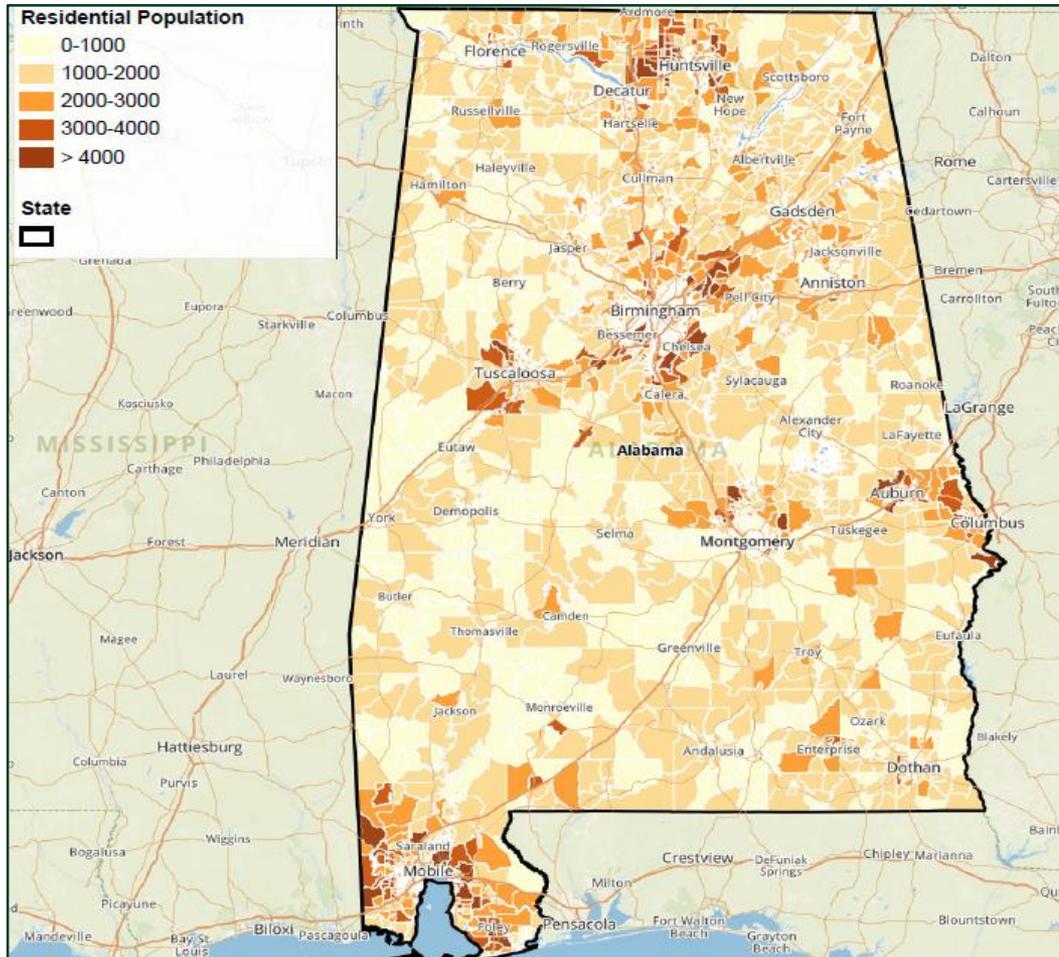


Source: 2017 CRIME IN ALABAMA, PUBLICATION OF THE ALABAMA LAW ENFORCEMENT AGENCY CRIMINAL JUSTICE SERVICES DIVISION  
[https://www.alea.gov/sites/default/files/crime\\_statistics/2017CIA.pdf](https://www.alea.gov/sites/default/files/crime_statistics/2017CIA.pdf)





## **Alabama Market**



## AL Market Considerations:

- Fitted for destination Resort-type casinos:
  - Birmingham
  - Huntsville/Gadsden
- Potentially oversaturated markets:
  - Montgomery
  - Mobile
- Markets reliant on adjacent state revenues:
  - Auburn
  - Dothan

## Statistics:

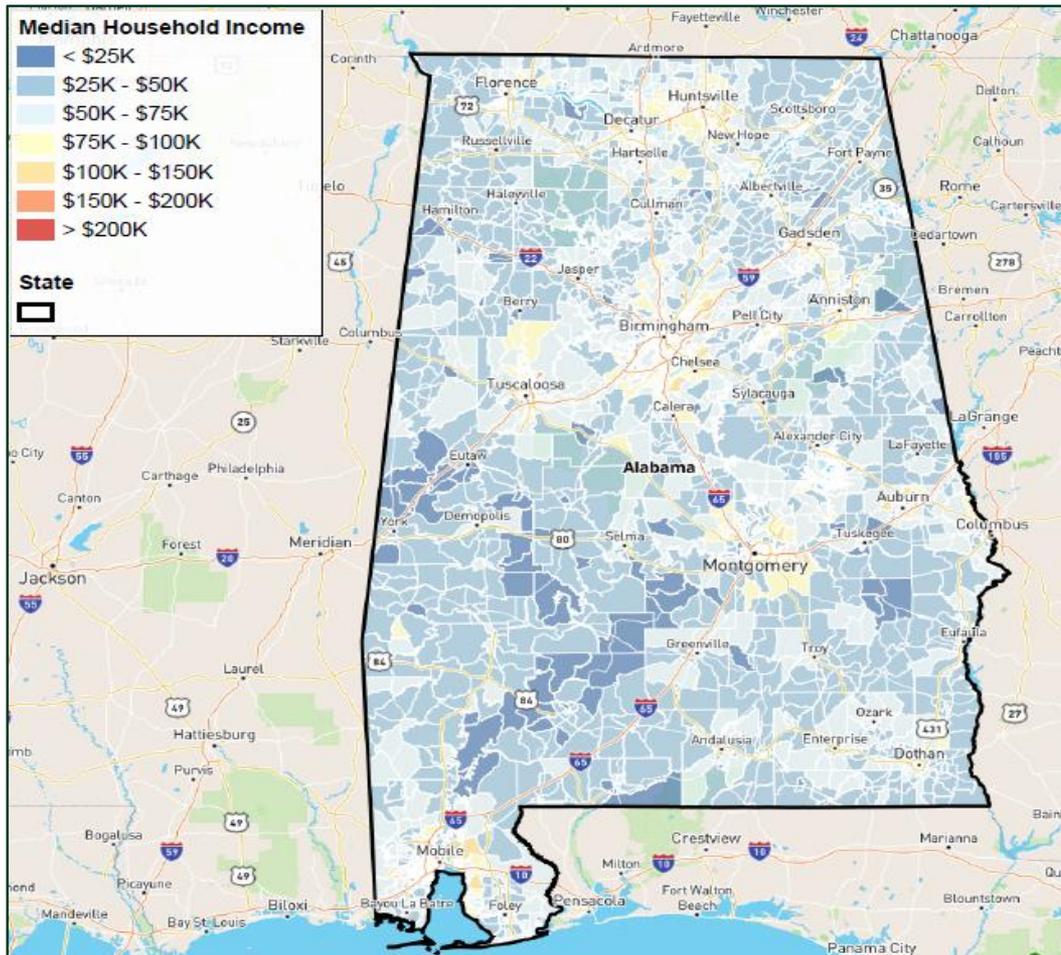
- Total population is 4.98Mil
- Comprised of:
  - Urban 77%
  - Rural 23%

Source: Modeled using 2010 Census Data and 2019 American Community Survey.



# Median Household Income

## State of Alabama



### Statistics:

- Estimated per Capita Income is \$27,147
- Median Household Income - \$49,378
- Average Household Income - \$67,992
- Average Household Size – 2.48
- Education:
  - High School+ is 54%
  - BS Degree+ is 26%

Source: Modeled using 2010 Census Data and 2019 American Community Survey.





## **Question and Answer**



## **The Lottery and Convenience Store Retailers, A Winning Combination**

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Tripp Powell, Owner, Kuykendall & Powell Oil Co., Inc.

KC Kingsbury, Vice Chairman, Petroleum & Convenience  
Marketers of Alabama

June 26, 2020



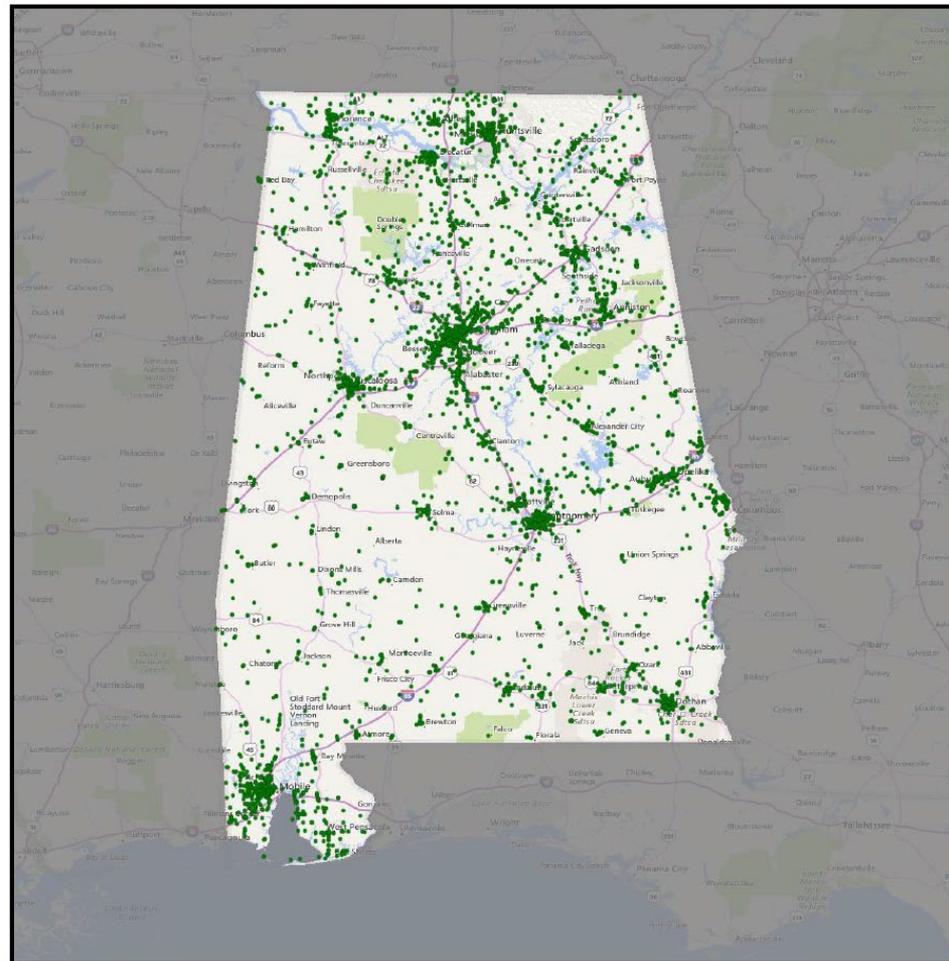
## The Lottery and Convenience Retailers, A Winning Combination

# Petroleum & Convenience Marketers of Alabama

- Formed in 1949 as the Alabama Petroleum Marketers Association
- Represents Alabama's Wholesale and Retail Motor Fuel Marketers and Convenience Store Owner/Operators
- Combined, P&CMA Members account for more than 75% of petroleum products sold statewide and own, operate and/or supply more than 3,000 retail locations
- As "Essential Businesses," during the recent COVID crisis, P&CMA members provided vital goods and services to Alabama residents statewide

## Convenience Stores of Alabama

## Data for the Convenience Stores of Alabama



	Average Per Store	State
<b>Total Stores:</b>	1	3,843
<b>Stores Selling Gas:</b>	1	3,534
<b>Total Employees:</b>	16	61,488
<b>Transactions Per Day:</b>	1,354	5,203,422
<b>Total Sales:</b>	\$4,267,899	\$16,401,535,857
<b>Merchandise:</b>	\$1,153,892	\$4,434,406,956
<b>Food:</b>	\$482,729	\$1,855,127,547
<b>Fuel:</b>	\$3,378,201	\$11,938,562,334
<b>Gallons of Fuel:</b>	1,255,837	4,438,127,958
<b>Credit Card Fees Paid:</b>	\$61,995	\$238,246,785
<b>Utility Expenses:</b>	\$43,454	\$166,993,722
<b>Labor Expenses:</b>	\$372,812	\$1,432,716,516
<b>Pre-Tax Profit:</b>	\$71,784	\$275,865,912

**Alabama** | Governor Kay Ivey

Each dot on the map represents one convenience store. See additional data on other side.  
 Source: NACS State of the Industry Report of 2018 Data; Nielsen TDLinX Store Count (December 31, 2018)



# LOTTERY ISSUES



# The Arguments for Lottery in Convenience

- Traditional arguments for lottery in convenience retailers
  - Benefitting Lottery
    - Distribution - more than 4,000 convenience stores in Alabama
    - Essential - market fuel and food
    - Convenience - prime real estate with easy in/out, many open 24/7.
  - Benefitting Retailer
    - Traffic – bring in more new customers.
    - Complementary Sales – purchasers of lottery may buy other products.
    - Profitability – commission



# Issues to Consider

- Traffic
  - By itself is not a positive for a convenience store
    - Limited parking, limited staffing
- Complementary Sales
  - Many customers planning to buy Lottery tend to purchase only Lottery.
  - Adds to staffing needs and customer wait-time
- Profitability
  - Traditional Convenience categories are in decline; the industry is evolving
    - Channel morphing, margin erosion
    - Shift to food service, transaction time, improved service
  - Incremental costs
    - Labor – To sell, redeem winning tickets, and administer
      - At 5% commission, must sell \$250 in tickets to pay for 1 hour of labor
      - Losses – theft/breakage
      - Replenish and merchandise
    - Cash, risk management
    - Opportunity Cost – space allocation

# For Additional Information Contact:

J. Bart Fletcher, CAE

Petroleum & Convenience Marketers of  
Alabama

Office Phone: 334-272-3800

Email: [bfletcher@pcmala.org](mailto:bfletcher@pcmala.org)



## **Sports Betting in Alabama: Background & Lessons from Other States**

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Kevin Cochran, Manager of Government Affairs, DraftKings, Inc.  
Stacie Stern, Government Affairs Director, The FanDuel Group  
Erica Sechrist, Senior Strategist, Orrick Herrington and Sutcliffe  
June 26, 2020

June 2020

A dark silhouette of a person wearing a helmet and goggles, standing in a doorway and looking out at a large crowd of people. The scene is dimly lit, with the crowd visible through the doorway.

# SPORTS BETTING IN ALABAMA: BACKGROUND & LESSONS FROM OTHER STATES

## ALABAMA'S SPORTS BETTING OPPORTUNITY

Alabamians are already betting on sports through illegal offshore websites and apps.

Creating a legal framework for mobile sports betting will:

- stamp out the illegal market;
- protect consumers from unregulated operators; and
- generate new tax revenues for the state.

### By the Numbers<sup>1</sup>

**Estimated Number of Alabamians Illegal  
Wagering Now**

~1,035,000

**Estimated Annual \$ Bet  
by Alabamians**

\$2.3 billion

**Estimated Tax Revenue for  
Alabama**

\$17 - \$35 million

1. Oxford Economics, "Economic Impact of Legalized Sports Betting"

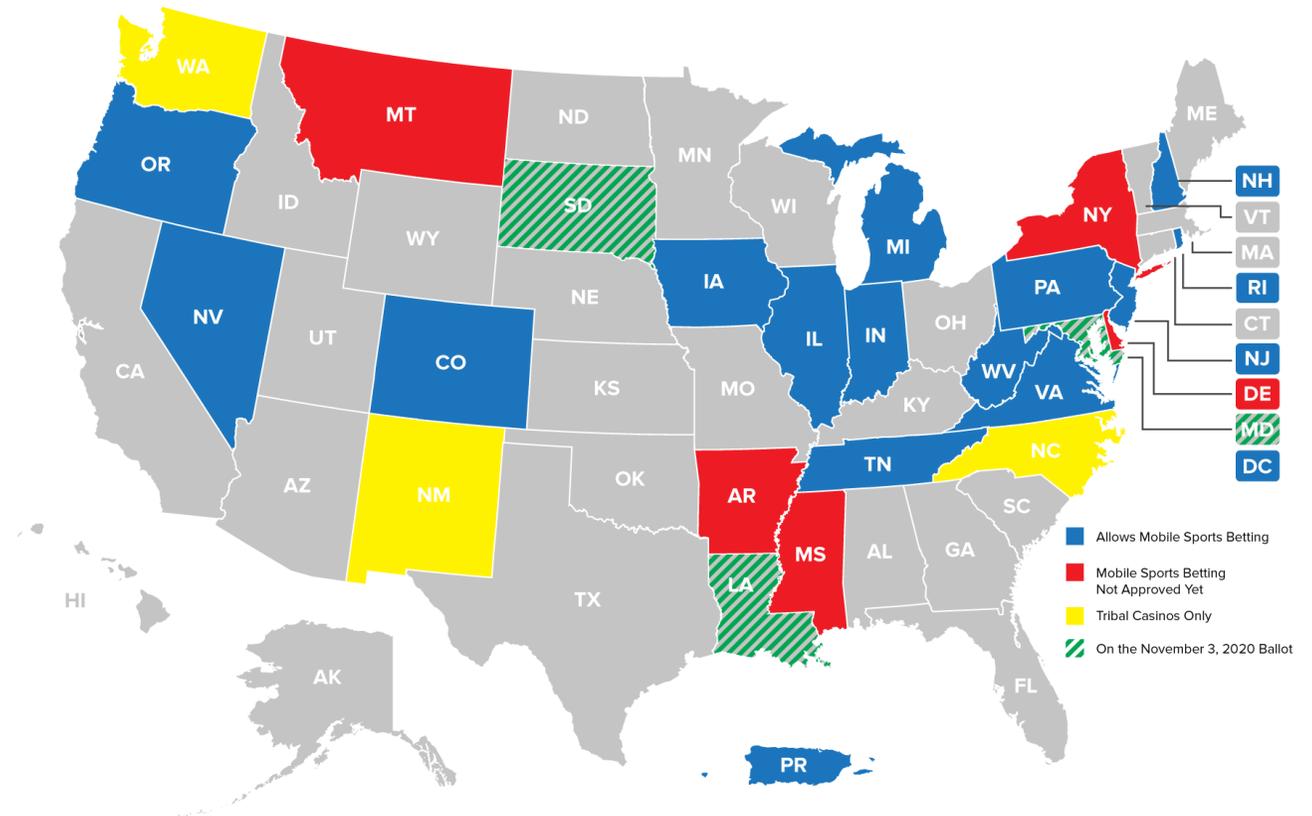


# SPORTS BETTING 101

The Case for Mobile

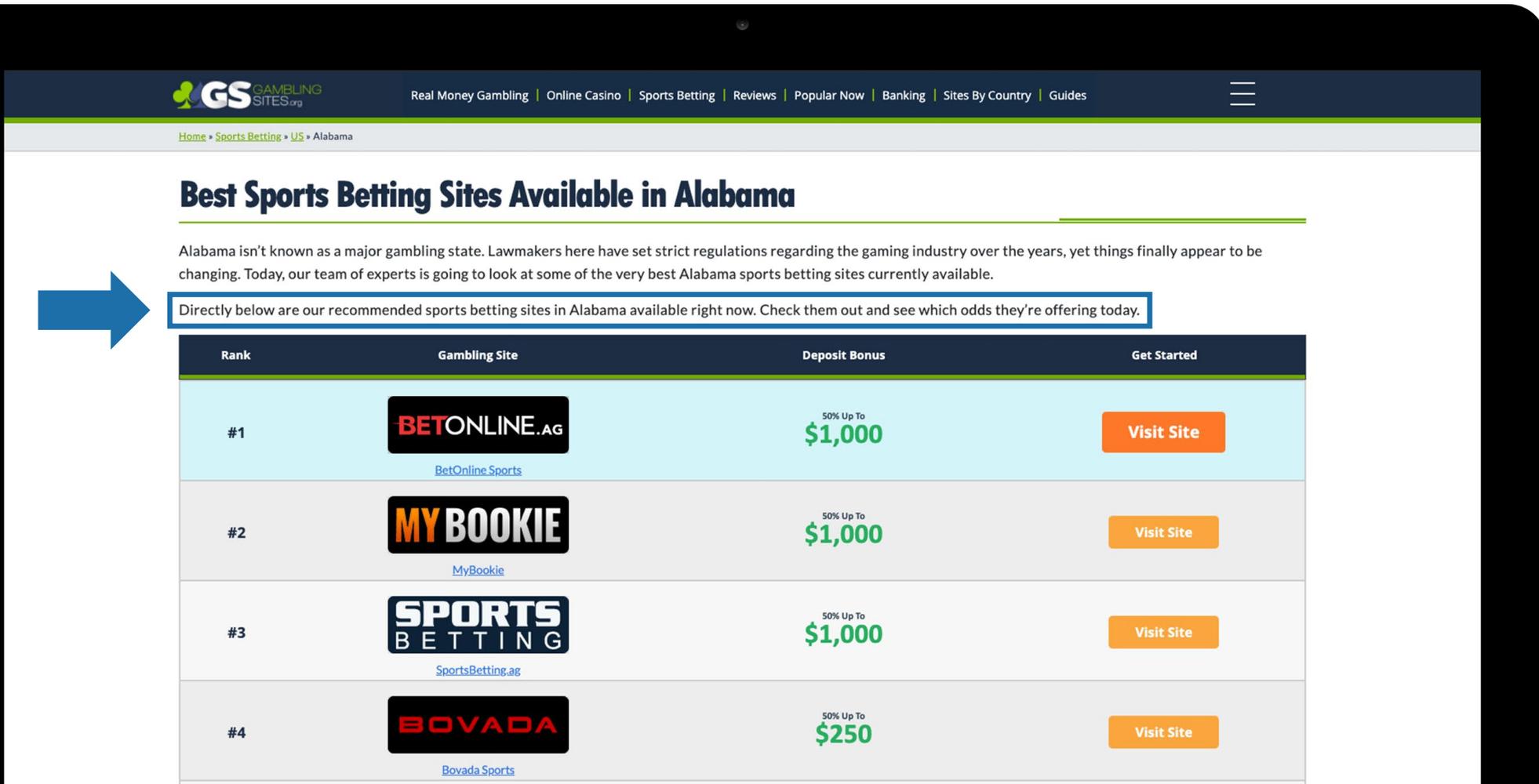
# MOBILE SPORTS BETTING IN THE U.S.

- The United States Supreme Court paved the way for states to legalize sports wagering in May 2018 when the Court struck down the Professional and Amateur Sports Protection Act as unconstitutional under the Tenth Amendment.
- States that have legalized sports wagering overwhelmingly favor mobile sports wagering with mobile registration because it **maximizes tax revenue** and draws customers away from existing offshore sportsbooks
- Only Nevada, Rhode Island, Illinois, and Iowa will require customers to sign up for a mobile sports betting account inside a physical casino – and Iowa will allow mobile registration starting in 2021 and Illinois' in-person registration requirement has been suspended.
- Every other jurisdiction with mobile sports wagering (**including neighboring Tennessee**) allows customers to register their accounts online



# SPORTS BETTING IS ALREADY HAPPENING IN ALABAMA... JUST NOT LEGALLY REGULATED OR TAXED.

An estimated 21% of Alabamians are wagering more than \$2 billion annually – through illegal offshore betting platforms or with local “bookies”

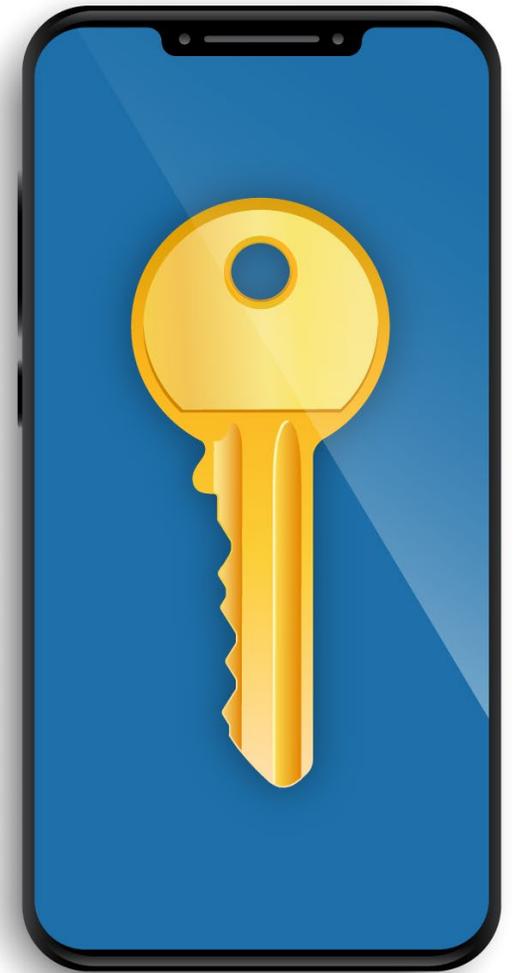


The screenshot shows a website page with a dark blue header containing navigation links: 'Real Money Gambling | Online Casino | Sports Betting | Reviews | Popular Now | Banking | Sites By Country | Guides'. Below the header is a breadcrumb trail: 'Home > Sports Betting > US > Alabama'. The main heading is 'Best Sports Betting Sites Available in Alabama'. A blue arrow points to a text box that reads: 'Directly below are our recommended sports betting sites in Alabama available right now. Check them out and see which odds they're offering today.' Below this is a table with four rows of recommended sites.

Rank	Gambling Site	Deposit Bonus	Get Started
#1	 <a href="#">BetOnline Sports</a>	50% Up To <b>\$1,000</b>	<a href="#">Visit Site</a>
#2	 <a href="#">MyBookie</a>	50% Up To <b>\$1,000</b>	<a href="#">Visit Site</a>
#3	 <a href="#">SportsBetting.ag</a>	50% Up To <b>\$1,000</b>	<a href="#">Visit Site</a>
#4	 <a href="#">Bovada Sports</a>	50% Up To <b>\$250</b>	<a href="#">Visit Site</a>

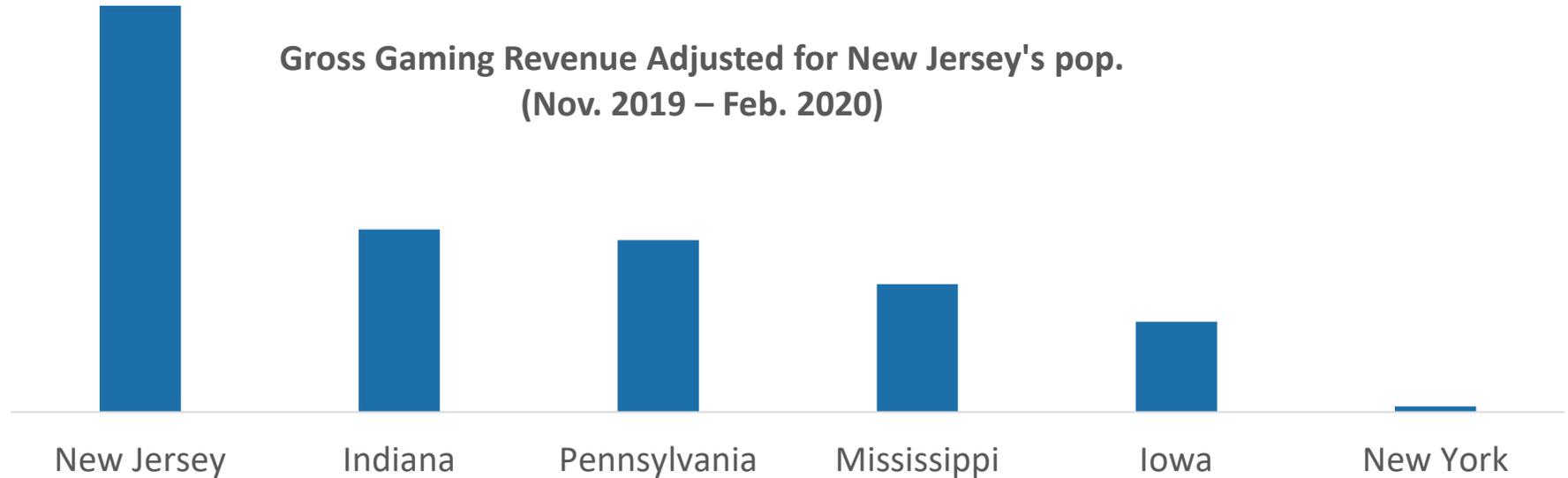
## MOBILE SPORTS BETTING IS KEY FOR LEGAL SPORTS BETTING TO WORK IN ALABAMA

- The Oxford Economics study in 2017 estimated Americans were illegally wagering \$150 billion on sporting events annually.
- Technology advances in mobile phones i.e. smart phones created an opportunity for bookies to go online and bettors to easily access the illegal offshore apps/websites.
- Mobile betting is critical to moving consumers from the illegal market to legal options. Customers will not move to a legal, regulated market unless it is just as convenient and accessible as the illegal alternatives.
- States that have implemented hurdles and limitations to legally regulated mobile sports wagering, have seen their tax revenues fall short of fiscal office estimates.
- Alabama should seek to create a safe, legal alternative to the illegal online market that protects consumers and captures tax revenue for the state.



## SPORTS BETTING RESULTS BY STATE HAVE BEEN HIGHLY VARIABLE...

Legal sports betting revenue has lagged in states with artificial barriers to mobile sports betting



	<b>NJ</b>	<b>IN</b>	<b>PA</b>	<b>MS</b>	<b>IA</b>	<b>NY</b>
Gross Gaming Revenue	\$132.8m	\$59.7m	\$56.2m	\$41.7m	\$29.5m	\$1.7m
On-site Registration	No	No	No	N/A	Yes	N/A
# of Mobile Operators	17	7	6	0	6	0
% Wagered Legally Online	87%	71%	87%	0%	59%	0%

*Note: Data based on taxable revenue reported by state agencies such as the NJ Department of Gaming Enforcement.*

## WHY MOBILE?

- **Convenient:** draw customers from the illegal offshore market
- **Safe:** proven online age and identify verification processes
- **Consumer's choice:** 85% of all bets are placed on mobile
- **Secure:** tested consumer and fraud protection for online deposits and withdrawals
- **Resilient:** provides entertainment for people and remains available during unforeseen circumstances (*e.g.*, pandemics and winter storms)





# Sports Betting Case Studies:

## States Making the Case for Mobile Sports Wagering

## MOBILE VS. NON-MOBILE: NEW JERSEY VS MISSISSIPPI

New Jersey and Mississippi were two of the first states to authorize sports betting. New Jersey allows for wagers to be placed via mobile phones while Mississippi does not.

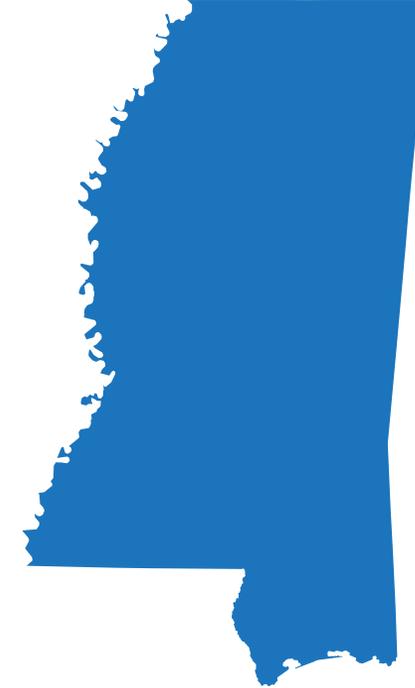
Even after adjusting for population differences, New Jersey has created **more than double** the tax revenue of Mississippi – because of statewide mobile sports betting.

New Jersey's population is almost three times Mississippi's. If you adjust Mississippi's handle for population differences, the state could report \$1.1 billion in total handle.

That's a difference of **\$3.5 billion** in the total amount wagered.



# 2019



\$4.6B	<b>Total Amount Wagered</b>	\$369 M
83.6%	<b>% Wagered via Mobile</b>	0%
\$36.5M	<b>Tax Revenue</b>	\$5.3M
8.82M	<b>Population</b>	2.98M

## ACCOUNT REGISTRATION OBSTACLES: NEW JERSEY VS IOWA

Iowa first allowed mobile sports wagering in August 2019. However, under current Iowa law, an account holder must register in-person at a casino before they may participate in sports wagering.

This unnecessary barrier has drastically slowed the adoption of mobile sports wagering in the state. This is evidenced by the comparatively **lower percentage of wagers placed on mobile devices**, as well as the significantly lower amounts wagered and tax revenue received.

While New Jersey has approximately 3 times the population of Iowa, it brought in **16 times** the tax revenue from sports wagering over the same 5-month period between August and December 2019.



# 2019



\$2.34B	<b>Total Amount Wagered</b>	\$212M
85.8%	<b>% Wagered via Mobile</b>	55.8%
\$20.7M	<b>Tax Revenue</b>	\$1.3M
8.82M	<b>Population</b>	3.15M



# Mobile Sports Betting:

## Is it Safe?

## CONSUMER PROTECTIONS

- **Geolocation** – Identify a user’s location based on the GPS signal in the device or their Wi-Fi connection, as well as cellular data and IP address.
- **Secure Payments** – Provide users the ability to deposit and withdrawal through various methods.
- **Commitment to Responsible Gaming** – Hire responsible gaming professionals to continue to evolve the companies' responsible gaming programs and better serve consumers.
- **Problem Gambling Services** – Legislators may choose to dedicate a portion of sports betting tax revenue towards problem gambling education and treatment.
- **Player Self-Limits** – Individuals can set limits on their play, which includes the ability to set deposit and engagement limits.
- **Voluntary Self-Exclusion** – Individuals can choose to be excluded from gambling facilities and websites for a period of time or for life.
- **Responsible Advertising** – Prominently display the national hotline and website for problem gaming assistance on the websites and mobile apps.

**Rigorous Age and Identity Verification** – Online age verification process is more comprehensive than in-person verification used at land-based facilities.

# Questions?

## Alabama Numbers Recap<sup>1</sup>

**Estimated Number of Alabamians Illegal  
Wagering Now**

~1,035,000

**Estimated Annual \$ Bet  
by Alabamians**

\$2.3 billion

**Estimated Tax Revenue for  
Alabama**

\$17 - \$35 million

1. Oxford Economics, "Economic Impact of Legalized Sports Betting"

## **Greenetrack: Building Communities, Building Lives, Building Futures**

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Luther Winn, Jr., President & CEO, Greenetrack, Inc.

June 26, 2020

# GREENETRACK, INC

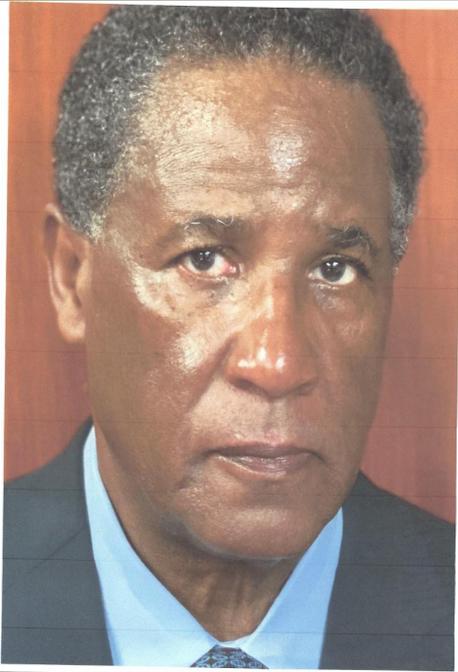
Building Communities

Building Lives

Building Futures



# Luther Winn, Jr



- Began his gaming career in 1978 as a security guard at Greene Greyhound Park and worked his way up through the industry
- Trained the staff in the opening of the gaming facilities in Shorter, Alabama (Victoryland), Council Bluff, Iowa, and Coeur d'Alene, Idaho
- In 1992, assisted with the designing and training of the largest Greyhound facility in the world, Gulf Greyhound Park in LaMarque, Texas and during that time became the first African American in the United States to serve as Director of Racing
- In 1999, returned to Greenetrack formally known as Greene County Greyhound Park to become the President and CEO of Greenetrack, Inc., the largest African American owned gaming facility in the United States

# Winn..... cont'd

- Serves as the Chairman of the Administrative Board and a member of the Board of Trustees for St. Paul United Methodist Church, board member of the Greene County Industrial Development Authority, West Alabama Mental Health and the National Action Network – past board member of the Greene County Board of Education – supporter of the Boy Scouts of America, the American Cancer Society and the ARC of Tuscaloosa – Co-founder and sponsor and mentor of My Brother's Keeper Boys' Academy.
- Greenetrack brought several gaming proposals to the Alabama Legislature including video poker and full casino gaming. In the second special session of the Alabama Legislature in 2003 with Senator Charles Steele carrying the bill in the senate and Representative Bobby Singleton carrying the bill in the house, Greenetrack was successful in purposing legislation which allowed electronic bingo in Greene County.
- Has received numerous awards reflecting his commitment to the community — ***Greatest achievement came in 2004, with the implementation of Electronic Bingo Gaming in Greene County which created four hundred (400) jobs and 1500 electronic bingo machines at Greenetrack***

# Building Communities

- **Prior to the implementation of electronic bingo**
  - Greene County was ranked 66 poorest county in the State of Alabama
  - Greene County Commission was in bankruptcy
  - Greene County Board of Education was under financial oversight by the State Department of Education
  - The hospital and nursing home were at risk of closing
  - Greene County did not have an E-911 service and the volunteer fire departments lacked proper equipment and training
- **After the implementation of electronic bingo in 2004**
  - Greenetrack was the only gaming facility in Greene County.
  - In 5 short years after implementing bingo, Greenetrack paid \$15,000,000 in state and local taxes and the (86) licensed nonprofit organizations generated more than \$10,000,000 in bingo charity fees. These funds allowed the county to become solvent and the school board to come out of receivership.
  - Greenetrack established a special payroll account of \$150,000 for the Greene County Hospital to retain employees and to remain open.

# Building Communities.. cont'd

- Provided a significant amount of bingo funds to assist in the establishing of an E-911 system
- Previously to Greenetrack's electronic bingo funding, most of the fire departments had an ISO rating of 10. After bingo funding, a majority of the fire departments now have an ISO rating of 7, which means a lower insurance cost to home and business owners.
- Greenetrack's electronic bingo funds were a significant contributor to the nursing home.
- Greenetrack endowed and funded a scholarship at Stillman College and The University of Alabama. Greenetrack donated \$50,000 for scholarships at Alabama A&M University. In addition, Greenetrack donated to Alabama State University and The University of West Alabama Scholarship programs.
- **In 2007, the Alabama Bureau of Economic Analysis published a report labeling Greene County as the fastest growing County in the State of Alabama.** In 2010, Greenetrack was listed for the 6<sup>th</sup> consecutive year as the largest employer in the County with 96% of its employees from Greene County and surrounding communities.
- Greenetrack has continued to pay over \$50,000,000 to charities and taxes.
- **Donated \$100,000 to Lewis and Faye Manderson Cancer Center at DCH**

# Building Communities... cont'd

Currently, there are four bingo facilities employing an estimated 200 employees with 2000 electronic bingo machines. However, from 2010 to current, Greene County has fallen back to the 66<sup>th</sup> poorest county with the third highest unemployment rate in the State of Alabama according to the unemployment statistics released June 20, 2020.\*

**\*Note. There are currently 10 bingo facilities in Greene County. As of June 22<sup>nd</sup> , four are open.**



Bama Bingo



Charity Bingo (1)



Charity Bingo (2)



River's Edge Bingo



James Carter Bingo



Frontier Bingo (1)



Frontier Bingo (2)



Eatman School Bingo

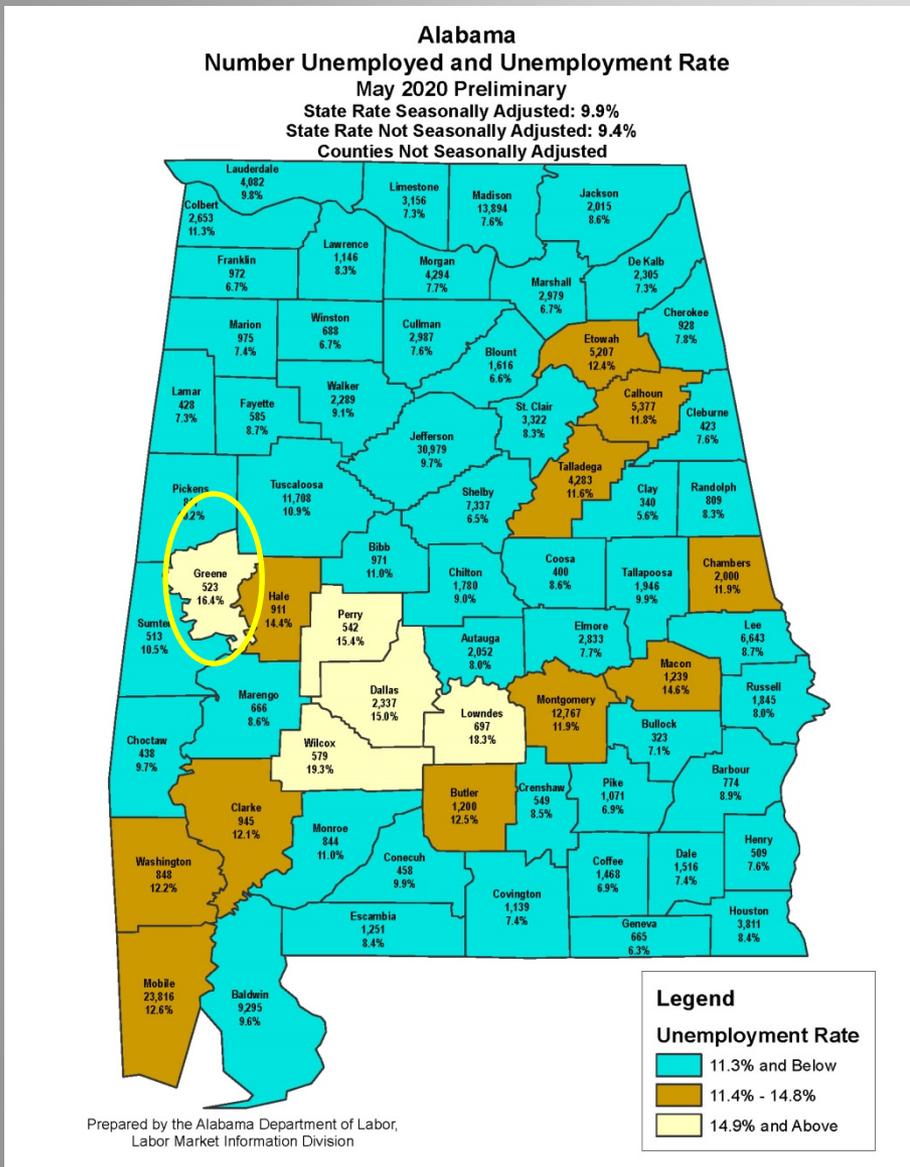


Palace Bingo



Greenetrack

# Building Lives



- Greenetrack facility is minority owned by more than 250 shareholders. These shareholders are all former employees, current employees, or children/heirs of the former employees
- The benefits offered by the company rival those offered at Fortune 500 companies, such as health/dental insurance, free short term/long term disability insurance, free \$10,000 life insurance policy for all employees, paid vacation, sick and holiday leave and an employer matched 401k
- Prior to 2010, Greenetrack’s security earned more than Alabama State Troopers.
- Prior to 2010, food servers were earning \$15 an hour plus tips and benefits. Also, housekeeping personnel earned more than \$42,000 annually including benefits
- 96% of Greenetrack’s staff is from Greene County
- 98% of Greenetrack’s staff is full time

# Building Futures



- In 2005, Greenetrack established a scholarship program where every Greene County high school senior who had a 2.0 GPA received a \$5000.00 scholarship to attend a college/university of their choice in the State of Alabama. If the student or parent were employed at Greenetrack, the student received a \$6000.00 scholarship
- Tutorial programs were set up at state colleges/universities in Alabama to tutor students from Greene County in English, Math, and Science. The tutor was paid \$10/per hr.
- Greenetrack offered internships during summer months for college students.
- Greenetrack employed a professional consultant to teach financial awareness for its employees and members of the Greene County community

# Greenetrack's Vision For A Gaming Bill

- In 2014, Greenetrack pursued a casino license in The Hudson Valley of New York State. The rendering here is of a \$570 million dollar casino that Greenetrack proposed to build if a license was granted. This is the vision Greenetrack has for Alabama

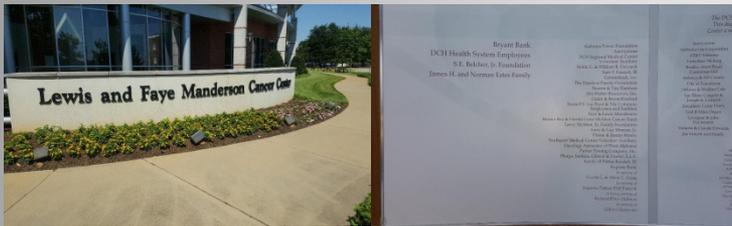


- A Gaming Commission that will provide transparency, honesty and integrity

# Summary

- Greenetrack has been in business in the community for over 40 years since pari-mutuel gaming was first approved by the citizens of Greene County
- Greenetrack is owned by citizens of Greene County and most of its employees are also citizens of Greene County
- Greenetrack and electronic bingo have enriched the Greene County community with its support of public education, the creation of mentoring programs, educational grants and scholarships for students, its financial support for the only hospital in the county, and its bingo funding of both the E911 system and fire protection in the county
- Greenetrack was once the largest employer in the county and its employees enjoyed wages and benefits matched by few employers in Alabama. Revenues from Greenetrack electronic bingo have long supported Greene County, its public entities, charities and its citizens

# Press Releases



With a personal per capita income of \$25,918, Greene County ranked 31st highest of Alabama's 67 counties in 2006, according to the latest figures from the federal Bureau of Economic Analysis.

<https://www.tuscaloosaneews.com/news/20080817/personal-income-increases-in-greene>

At a press conference on Friday morning at Greenetrack, Greenetrack CEO, Luther 'Nat' Winn Jr. and several board members presented the Greene County Health System (GCHS) with two checks totaling \$150,000

<https://greenecodemocrat.com/2016/06/08/greentrack-sets-up-guarantee-fund-to-assist-greene-county-health-system-with-payroll/>

Counties with the lowest unemployment rates are: Clay County at 5.6%, Geneva County at 6.3%, and Shelby County at 6.5%. Counties with the highest unemployment rates are: Wilcox County at 19.3%, Lowndes County at 18.3%, and Greene County at 16.4%. [https://labor.alabama.gov/news\\_feed/News\\_Page.aspx](https://labor.alabama.gov/news_feed/News_Page.aspx)

<https://www.dreamstime.com/photos-images/future-jobs.html>

Picture used in slide #8

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## **American Gaming Association**

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# Unregulated Gaming Machine Fact Sheet

April 2020



## What is regulated gaming?

Regulated gaming machines include casino slot machines with random number generators (RNGs), video poker machines, Class II video bingo machines, video gaming terminals (VGTs), video lottery terminals (VLTs), historical racing machines and other electronic gaming machines (EGMs) that have received both hardware and software approvals from authorized testing agencies and state gaming boards and offer player protections related to game integrity, promised payback percentages, last-game recall and prominently displayed rules and game-play characteristics.

## What is unregulated gaming?

The entire family of unregulated machines – often referred to as “amusement” games to present a false impression of innocence – falls into the “gray” category – as in a “gray” legal area that opens the door for illicit activity that often starts with the message these “gray” games are legal under some cleverly exploited legal loophole. “Gray” machine categories include “sweepstakes,” “skill,” “nudge,” “zero chance,” “no chance,” “pachislo” and “8-liners.” At the other end of the spectrum, regulated machines operate in a black and white legal environment.

## “Organizations that are opposed to the spread of unregulated gaming”

American Gaming Association (AGA)  
Association of Gaming Equipment Manufacturers (AGEM)  
BMM Testlabs  
California Nations Indian Gaming Association (CNIGA)  
Canadian Gaming Association (CGA)  
Casino Association of Indiana (CAI)  
Colorado Gaming Association (CGA)  
Gaming Laboratories International (GLI)  
Illinois Casino Gaming Association (ICGA)  
International Association of Gaming Advisors (IAGA)  
International Center for Responsible Gaming (ICRG)  
International Gaming Standards Association (IGSA)  
Iowa Gaming Association (IGA)  
Louisiana Casino Association (LCA)  
Missouri Gaming Association (MGA)  
National Council on Problem Gambling (NCPG)  
National Indian Gaming Association (NIGA)  
National Tribal Gaming Commissioners & Regulators (NTGCR)  
Nevada Resort Association (NRA)  
North American Association of State and Provincial Lotteries (NASPL)  
Oklahoma Indian Gaming Association (OIGA)  
Regulatory Management Counselors (RMC)  
Washington Indian Gaming Association (WIGA)

**LINK – Illinois State Representative caught up in alleged sweepstakes machine bribery scheme**

# Whatever the name given or manner of play, all these unregulated games have three common attributes:

- 1** The games have not been affirmatively approved by the State under a regulatory system administered to protect the public.
- 2** The operators of the games are not subject to the suitability examinations and licensing for gambling operators imposed by State law.
- 3** The sponsors, proponents and operators of the games always claim reliance on some exception or “interpretation” that the machines are not gambling games because either –
  - Consumers use their skill, knowledge or dexterity to play and therefore there is no “chance” involved in the game; or,
  - The game is made available without the consumer directly paying money into the machine to play, although the consumer may have given valuable consideration for some other good or service as a pretext to gain access to use the machine.

“Unregulated gaming machines designed to look like regulated slot machines fool players into thinking they are getting a fair chance, rarely include any responsible gaming features and enrich only the unregulated machine companies and locations while creating a burden for law enforcement, healthcare providers and regulators. Furthermore, unregulated gaming increases social costs and criminal activity and provides questionable tax or other benefits for the states where it exists.”

# The Consequences: Crime, Consumer Abuse and Damaged Policy Initiatives

There are several undeniable repercussions from the existence of unregulated games, and each is left to the State to remedy.

- 1** The public is exposed to gambling games that have not been tested for honesty, integrity and fairness. No State regulator has determined that the games are not cheats.  
[\*CLICK FOR MORE DETAIL\*](#)
- 2** Consumers do not have a readily available, impartial and effective method of resolving disputes with game operators under a process sanctioned by the State.  
[\*CLICK FOR MORE DETAIL\*](#)
- 3** Because these forms of gambling are unregulated, the operations are ripe for criminal activity, including money laundering, loan sharking, bribery and extortion.  
[\*CLICK FOR MORE DETAIL\*](#)
- 4** Weak or ambiguous laws allowing so-called amusement devices are exploited by operators to foster illegal gambling that become a constant drain on law enforcement resources.  
[\*CLICK FOR MORE DETAIL\*](#)
- 5** The state and local governments are deprived by the unregulated games and the businesses operating these games of the taxes and fees imposed on legitimate gaming operations.  
[\*CLICK FOR MORE DETAIL\*](#)
- 6** State responsible gaming policy mandates to provide protections and services to problem gamblers are emasculated.  
[\*CLICK FOR MORE DETAIL\*](#)
- 7** Unregulated games and the businesses operating these games are a fertile environment for scandal – including widespread underage gambling by minors – damaging the reputations of state, local communities, and legitimate regulated lotteries and casinos, with the fallout impacting tourism, tax revenues, economic development and commerce.  
[\*CLICK FOR MORE DETAIL\*](#)

# The Solutions:

## Effective Efforts to Attack Unregulated Games

Several states have pursued successful strategies to tackle the proliferation of unregulated games. These are some other best practices that states can adopt to provide effective tools to curtail operation of unregulated gambling machines:

- 1** Establish a small state and local government task force of experienced prosecutors and law enforcement officers with the mission of investigating and bringing select enforcement actions. Provide media support fostering a significant public profile for the task force and its efforts, which can include setting up a hotline for the public to report unregulated machines and can have a broad deterrent effect with just a few successful cases.
- 2** Given unregulated games are typically operated at venues with state or local privileged liquor licenses, implement a periodic inspection program targeting liquor licensees for administrative discipline for operating unregulated games.
- 3** Adopt or amend an amusement or sweepstakes game machine registration program requiring all devices to have a state issued certification sticker affixed for which a fee is imposed. Require in the registration application a detailed description of the devices that will be operated at the venue and deny the applications where the devices do not strictly adhere to the state's amusement game laws. Support this program with targeted inspections and seizures of unregistered devices or devices that received registrations based on misrepresentations in applications.
- 4** Use state and local business license issuance and administration to inspect locations that would typically operate unregulated gray games. Most business licensing laws require the licensee to operate consistent with state and local law. A business licensee who could lose the license to conduct business altogether will be more cautious in operating prohibited machines.
- 5** Leverage atypical enforcement tools. For instance, many states have deceptive trade practice laws with significant civil and criminal penalties for businesses that operate without all required licenses and approvals, or that engage in businesses that violate any law.
- 6** Enact statutory changes that provide clear and detailed legal guidance on what is a permitted form of regulated electronic gambling device and what types of regulated amusement or entertainment games are allowed, and declares possession and operation of other types of machines is unlawful and a crime.

*LINK* – Missouri Lottery say gray machines have cost state \$50 million

# Spotlight on current environment in Pennsylvania



Based on a 2014 ruling in Beaver County Common Pleas court, so-called “games of skill” have popped up everywhere in Pennsylvania. Unregulated machine companies often test the limits of the law by seeking a court ruling from those who often don’t understand the working mechanics of the unregulated machines. The Pennsylvania ruling is indeed such an example and has now created momentum to stop the spread of the machines.

A subsequent ruling from the Commonwealth Court on Nov. 20, 2019, determined that Pennsylvania “games of skills” should be classified as slot machines licensed by the Pennsylvania Gaming Control Board (PGCB), though the ruling also noted the PGCB does not have jurisdiction over the bars and other locations where these games are installed.

To its credit, the Pennsylvania State Police responded in December by seizing the unregulated devices from five bars in Daupin and Cumberland counties and more raids were stalled by yet another legal challenge that has added to the confusion in the Commonwealth.

A subsequent ruling on Jan. 21, 2020 gave the go-ahead for State Police to resume seizing skill games. In typical fashion to foster confusion, the offending machine company made disingenuous claims in a press release after the ruling. The offending company sought an order from the Court stopping seizures by the State Police of its machines and the court found that the offending company had not “met its burden of proving the injunction was necessary” and refused to grant the injunction. With the court expressly concluding that an injunction would be contrary to the public interest, the company lost and then tried to spin a story of victory in its a press release.

For its part, the PGCB has indicated its desire for the removal of unregulated machines that are negatively impacting the regulated casino market that has invested billions of dollars in jobs and quality gaming entertainment locations. Moreover, the Pennsylvania Legislature is poised to addresses this issue and a statewide campaign has emerged to stop the spread of these machines, with more information found at [www.PAAgainstIllegalGambling.com](http://www.PAAgainstIllegalGambling.com).

## Other States in the news fighting unregulated machines

[California](#)

[District of Columbia](#)

[Florida](#)

[Georgia](#)

[Illinois](#)

[Missouri](#)

[Nebraska](#)

[Ohio](#)

[Texas](#)

[Virginia](#)

# Glossary

[Return to first page](#)

“**COAMS**” are coin operated amusement devices, which similar to 8-Liners are legal when operated consistent with State law, such as in Georgia, but which manufacturers and operators use illegally by making cash payouts instead of awarding limited value prizes of food and beverage.

“**Gray games**” refers to the entire family of unregulated machines – as in a “gray” legal area that opens the door for illicit activity that often starts with the message these “gray” games are legal under isolated interpretations. Regulated machines operate in a black and white legal environment.

“**Nudge**” refers to machines with a feature where a player can touch the screen to move a symbol into a winning position, and are simply a variation on claims that the games include an element of “skill” that makes these games legal because they are not reliant entirely on “chance.”

“**Pachislo**” also known as “skill stop” machines, are devices inspired by the Japanese machines of the same name, but have been modified in an attempt to present the games as legal in the U.S. and oftentimes require special tokens for game play.

“**Sweepstakes machines**” are devices that generally allow players to receive a coupon in exchange for money to redeem for merchandise online that creates credits for play on games that mimic slot machines.

“**Sweepstakes parlors**” or “**Internet cafes**” are an extension of the “sweepstakes” category, these unregulated locations generally have multiple computer screens and advertise and sell a product – oftentimes internet time or long-distance telephone minutes – that the player does not want, but the player also receives “bonus entries” that fund the game play that are claimed to conform to local “sweepstakes” laws but not to applicable gambling laws.

“**Skill-games**” are machines billed as “skill” and are designed to circumvent local rules that prohibit “chance” games that not conforming to the regulations that govern casino slot machines. By adding a “skill” element, these machines companies claim their games are legal even though they remain unregulated and still include “chance” that players can never beat. These “skill” machines are not anything like “skill-based gaming” that is highly regulated in casino jurisdictions such as Nevada and New Jersey.

“**Zero chance**” or “**no chance**” games are those that involve devices programmed in another attempt to circumvent State law prohibitions on “chance” games. “Zero chance” or “no chance” games also may include a feature that can reveal the outcome of the next play in advance, allegedly making them “skill” games that force players to make a decision to get to an outcome.

“**8-Liners**” are legal entertainment games, operated primarily in Texas, that are allowed to award “cash” of \$5.00 or less, but operated unlawfully by awarding cash equivalents such as a prepaid debit card for considerably more than permitted by statute.

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## About AGEM

The Association of Gaming Equipment Manufacturers (AGEM) is a non-profit international technology trade association representing manufacturers and suppliers of electronic gaming devices, lotteries, systems, game content, table games, online technology, sports betting, key components and support products and services for the gaming industry. AGEM works to further the interests of gaming equipment suppliers throughout the world.

## About AGA

The American Gaming Association is the premier national trade group representing the \$261 billion U.S. casino industry, which supports 1.8 million jobs nationwide. AGA members include commercial and tribal casino operators, gaming suppliers and other entities affiliated with the gaming industry. It is the mission of the AGA to achieve sound policies and regulations consistent with casino gaming’s modern appeal and vast economic contributions.



# ILLEGAL & UNREGULATED GAMBLING IN AMERICA

How New Game Designs Are Eroding  
State and Tribal Public Policy

By **Kevin P. Mullally**  
Vice President of Government Relations  
and General Counsel  
Gaming Laboratories International, LLC

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# GAMBLING EXPANSION WITHOUT RULES

## EXECUTIVE SUMMARY

Every state in the union makes gambling a crime. Enacting exceptions to that rule is difficult and taken with great care. Regulatory structures are well-crafted and well-funded, designed to prevent criminal activity, ensure transparency in the legal gambling operations, dedicate funds from gambling to worthy causes, and to create protections for the vulnerable.

Illegal gambling in the United States has expanded to the point that it might be considered an epidemic. Outbreaks are reported regularly across the country. Violent and other types of crime tend to be present around illegal gaming establishments. The rising occurrence of unregulated and illegal gambling operations is weakening state policy objectives. This phenomenon is being fueled by increasingly sophisticated technology designed to take advantage of archaic, often vague, criminal gambling statutes that never envisioned modern game designs. This allows for the creation of devices that present themselves as slot machines while allowing operators to argue the machines escape the definition of illegal gambling. They operate without any supervision and do not adhere to any reviewable set of operational guidelines designed to prevent fraud, theft, money laundering and a variety of other criminal behaviors. There are no protections for consumers and no protection for problem gambling.

There is a desire among policymakers to distinguish between what they perceive to be harmless family entertainment games found in high-end, multipurpose entertainment centers/arcades, and strip-mall slot parlors/mini-casinos most view as problematic. Frequently, policymakers and regulators seek to create an exception for "skill-based amusement devices" or "amusement games" to resolve this dilemma. The problem is that technology always wins. Because of the inherent conflict in these two goals, developers can circumvent the definition of illegal gambling device by creating "something that isn't that". States are losing revenue, economic development opportunities and financial support for important causes, and individuals are placed at increased risk. Litigation has proven to be a costly and repetitive attempt at damage control that is failing.

Our studied view is that the only effective way to protect the fidelity of a jurisdiction's purposeful gambling policy is to require regulatory review of every type of gambling device. A suggested regulatory framework, adjustable to the spectrum of jurisdictions, is contained herein.

# BACKGROUND

**“This is a game room that steals from people on fixed incomes. There’s crime that happens in and around these places.”**

*Constable Alan Rosen, Harris County, Texas*

## THE EPIDEMIC

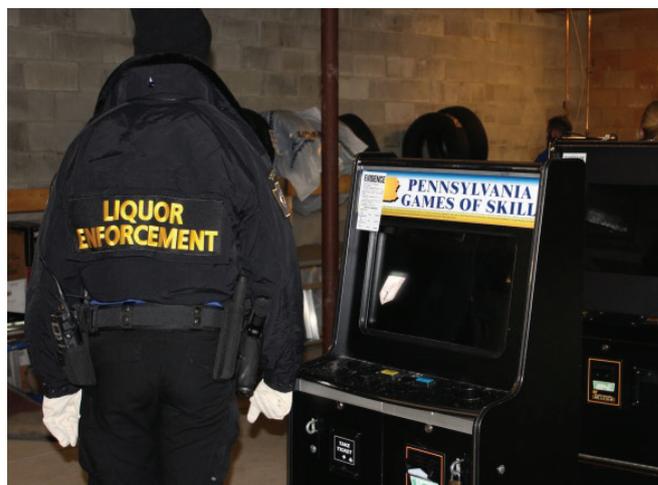
Using a wide variety of technology and game types, purveyors of unregulated and illegal gambling are spreading ever more rapidly across the U.S. These operations often lead to a wide variety of social ills including fraud, money laundering, violent crime, drug trafficking, and preying on problem gamblers.

## POLICY EROSION

Unregulated and illegal gambling operations erode state gambling policy by siphoning tax dollars away from worthy causes, preying upon the vulnerable and facilitating a wide array of criminal activity. Moreover, they circumvent the purposeful gambling policy goals set by the states and sovereign tribal governments.

Illegal gambling in the United States is expanding so rapidly that it is now a nationwide problem. Consider just a few of the major outbreaks recently reported across the country:

- Since January 2018, the Kern County, California Sheriff’s Office (KCSO) has raided over 100 establishments with illegal video gambling machines. KCSO reports



that each game can gross between \$50,000 and \$100,000 per month.<sup>1</sup> The illegal gambling parlors have resulted in a tenfold increase in crime and the operators prey on the addicted and the vulnerable.<sup>2</sup>

- In south Houston, Texas, police raided an illegal gambling hall with over 200 gambling devices that were grossing between \$60,000 and \$100,000 per day.<sup>3</sup> After seizing piles of cash, Constable Alan Rosen commented, “This is a game room that steals from people on fixed incomes. There’s crime that happens in and around these places.”

<sup>1</sup> Kotowski, Jason (2019, March 29) KCSO has busted roughly 100 illegal video gambling parlors in past 14 months. *The Record*. <https://www.bakersfield.com>

<sup>2</sup> *Ibid.*

<sup>3</sup> White, Dawson (2019, June 25) Sparks fly as Houston officers find stacks of cash in raid of illegal gambling room. *The Kansas City Star*. [www.kansascity.com](http://www.kansascity.com)

<sup>4</sup> Consillio, Kristen (2020, January 15) Man convicted of manslaughter in Honolulu game room shooting. *Honolulu Star Advertiser*. [www.staradvertiser.com](http://www.staradvertiser.com)

<sup>5</sup> Nirappil, Fenit (2020, January 27) Games that offer cash rewards are flooding the region. Is it illegal gambling? *The Washington Post*. [www.washingtonpost.com](http://www.washingtonpost.com)

- A Honolulu man was recently convicted of killing a patron at Gameroom Rock Za Sura as part of a botched robbery attempt.<sup>4</sup>
- In the District of Columbia and Virginia, thousands of games that operators allege to rely on skill have flooded into bars, convenience stores and restaurants, causing widespread alarm among state and local public officials. "You are not winning \$150 playing Pac-Man," said Fred Moosally, the director of the D.C. Alcoholic Beverage Regulation Administration, which proposed new restrictions. "What we don't want is to have illegal games that are unregulated that are actually gambling devices in the District of Columbia."<sup>5</sup>
- While four local governments in Virginia have taken steps to try to eradicate the growing number of "skill gambling machines," the devices continue to spread rapidly throughout the state. The Virginia Lottery estimates that it will lose \$140 million over the next year as a result of the growing number of these gambling devices. "It's keeping me awake at night," said Virginia Lottery executive director, Kevin Hall. "It is not right; they are allowed to operate without any oversight, any regulation, any rules of the road, with no tax benefits to the locality or to the state?"<sup>6</sup>
- The problem has become so bad in Missouri that the House of Representatives established an Interim Committee to study this issue in the second half of 2019. During a hearing, the Missouri State Highway Patrol testified that complaints about illegal gambling have increased from 39 in 2018 to 145 through September 2019.<sup>7</sup> Missouri Lottery commissioner, Paul Kinkaid, estimates that almost 14,000 machines may be in operation throughout Missouri.<sup>8</sup>
- In California, police have shut down at least eight illegal gambling halls since 2019. Long Beach Police Chief Robert Luna stated that ". . . what we are seeing around these locations are people carrying guns."<sup>9</sup> LBPD Lt. Aaron Alu observed that "these places can make a lot of money," and are hives for gangs and organized crime. In the past six months, two people have died and two have been wounded in three different shootings associated with the gambling houses.<sup>10</sup>
- In North Carolina, law enforcement officials seized 93 illegal gambling machines and over \$12,000 in a raid of "sweepstakes parlor" that was operating as a mini-casino. GLI served as the expert witness for the Alamance County Prosecutor which resulted in a guilty plea, destruction of the devices and surrendering of the cash to the local school district.
- In Hawaii, federal agents raided two illegal gambling houses in Waipahu and Pearl City, seizing 60 illegal gambling machines and about \$150,000 in cash. The U.S. Department of Justice issued federal indictments against 15 people for crimes that included illegal gambling, possession of controlled substances with the intent to distribute and possession of firearms in furtherance of drug trafficking, robbery and arson. GLI served as the expert witness for the DOJ for the illegal gambling charges resulting in convictions in federal court.<sup>11</sup>

<sup>4</sup> A bad bet? 'Skill machines' could cost the Virginia Lottery and local schools millions. (2019, December 9) retrieved from <https://www.wavy.com/news/investigative/a-bad-bet-skill-machines-could-cost-the-virginia-lottery-and-local-schools-millions/>

<sup>7</sup> Missouri General Assembly, House of Representatives (2019). Report of the House of Representatives Special Interim Committee on Gaming, p. 9.

<sup>8</sup> Id. At 8.

<sup>9</sup> Osier, Valerie. (2020, January 26). What's a slaphouse? Police say they're fighting new wave of illegal gambling. Long Beach Post. [www.lbpost.com](http://www.lbpost.com)

<sup>10</sup> Id.

<sup>11</sup> CS-00-UHI-19-01 (Honolulu PD and HSI Joint Op - 2019) Case Number: CR 19-00119 JMS

- When an illegal gambling house containing “eight-liners” became a serious problem in Fort Worth, Texas, the city council enacted an ordinance prohibiting them. The gambling operators sued, and the case is currently pending before the Supreme Court. The gambling operators argue that the machines fit under an exemption for machines that pay out small, non-cash prizes, like machines found in arcades. The attorney for the city has argued that “the prizes aren’t fuzzy animals. They’re X-boxes. They’re flat screen TVs.”<sup>12</sup>
- On January 24, 2020, the Waco Police Department’s SWAT team raided an illegal gambling house containing 24 slot machines. Charges are pending.<sup>13</sup>
- In Oakland, California, a 22-year-old man was recently convicted of fatally shooting a man outside of an illegal gambling club. In April 2019, a man was shot and another pistol-whipped during a robbery at the same illegal gambling parlor. Indicative of the lack of law enforcement resources available to respond to this growing problem, the defense attorney in the case, a former local prosecutor, commented, “In my 26 years of experience in the criminal justice system, I’ve never known it to be a priority to crack down on illegal gambling clubs in Oakland.”<sup>14</sup>
- Between January 22 and February 25, 2020, Pennsylvania state police and liquor control agents raided 17 locations housing what they allege are illegal gambling devices, seizing 71

machines and more than \$115,000 in cash. “Illegal, unregulated gambling is a serious and growing problem facing the Commonwealth,” said Captain Jeffrey Rineer, acting director the Pennsylvania State Police Bureau of Liquor Control Enforcement. He noted that “So far in 2020, gambling machine seizures have been reported from every BLCE office, in counties from Erie to Philadelphia.”<sup>15</sup>



A typical unregulated “skill” gambling parlor in Pennsylvania.

These examples are just a small sampling of the rapidly expanding illegal gambling market that is eroding state gambling policy and leaving a trail of devastating social harms that is the certain result of unregulated gambling. There is a reason why every state in the union makes gambling a crime. There are also reasons why it is difficult to enact exceptions to that rule.

When states chose to allow exceptions to the general rule that gambling is illegal, they crafted extensive and well-funded regulatory structures to control it. These systems prevent criminal activity, ensure transparency in the

<sup>12</sup> Weinberg, Tessa. (2020, January 28). Fort Worth asks Texas Supreme Court to declare eight-liner machines illegal lotteries. Forth Worth Star-Telegram. <https://amp.star-telegram.com>

<sup>13</sup> Larson, Jerry. (2020, January 24). Waco Tribune-Herald. [www.wacotrib.com](http://www.wacotrib.com)

<sup>14</sup> KPIX TV. Man Gets 8-Year Prison Term In Shooting Death Outside Oakland Illegal Gambling Club. Retrieved from <https://sanfrancisco.cbslocal.com/2020/01/24/8-years-prison-shooting-death-oakland-illegal-gambling-club/>

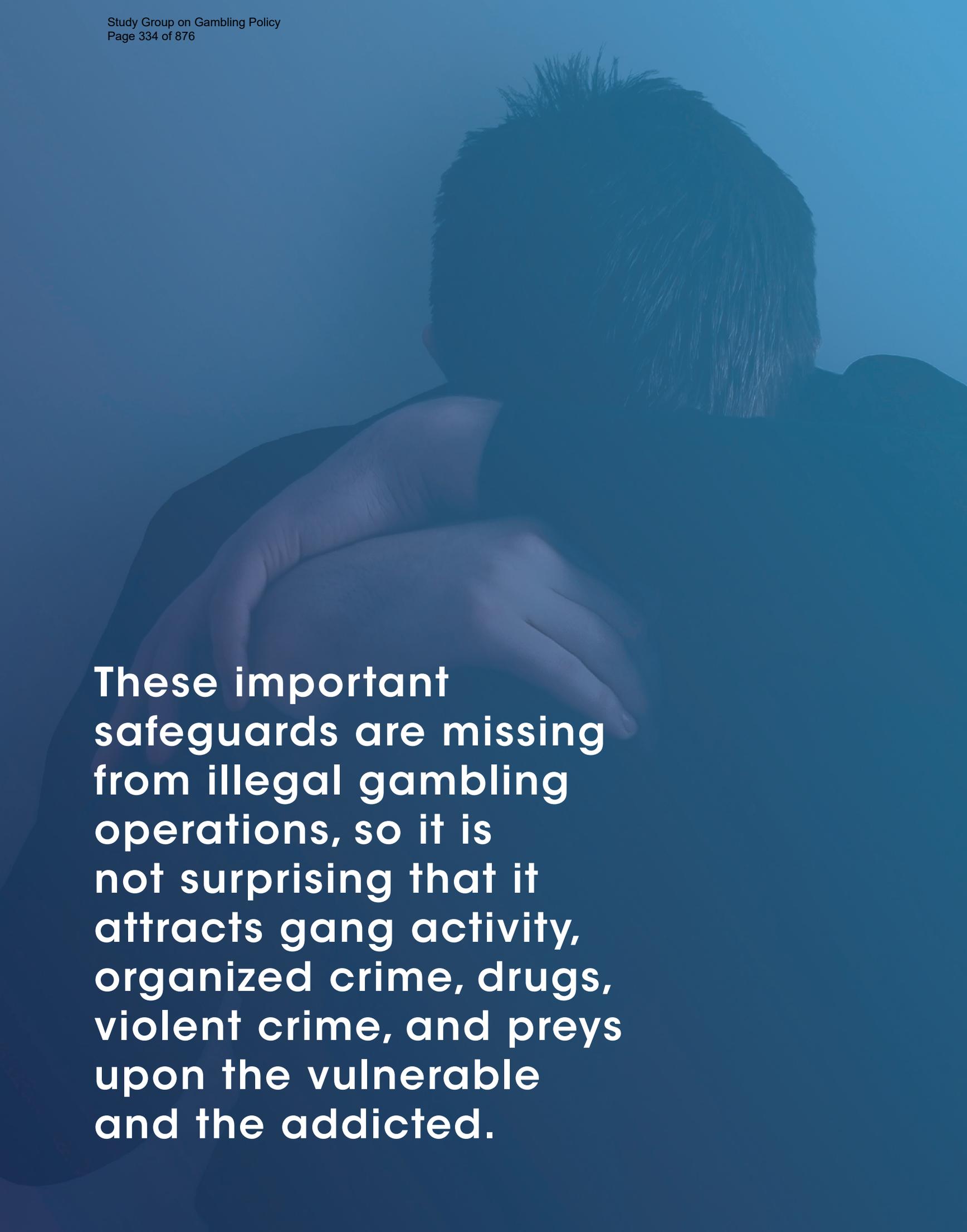
<sup>15</sup> Kellar, Travis. (2020, February, 28). ‘Skill-based,’ other gambling devices seized statewide: state police. <https://www.pennlive.com>.

legal gambling operations, dedicate funds from the gaming operation to worthy causes, and create protections for the vulnerable. These important safeguards are missing from illegal gambling operations, so it is not surprising that it attracts gang activity, organized crime, drugs, violent crime, and preys upon the vulnerable and the addicted.

This *GLI Policy Series White Paper* will examine the key state policy goals that are being compromised by the rapid expansion of illegal gambling devices and offer a solution to eradicate existing operations.

**Unregulated and illegal gaming venues operate without any supervision. They do not adhere to prescribed operational guidelines designed to prevent fraud, theft, money laundering, and a variety of other criminal behaviors.**



A person is shown from the back, with their head buried in their hands, suggesting a state of despair, stress, or addiction. The image is overlaid with a blue gradient.

**These important safeguards are missing from illegal gambling operations, so it is not surprising that it attracts gang activity, organized crime, drugs, violent crime, and preys upon the vulnerable and the addicted.**

# ERODING STATE & TRIBAL PUBLIC POLICY

Nearly every state in the union has a criminal prohibition against gambling. These laws were enacted as part of what Professor I. Nelson Rose calls the end of the second wave of legalized gambling in the U.S.<sup>16</sup>

Beginning with Nevada in 1936, many states have created exceptions to this general prohibition, with each state having specific public policy objectives for the gambling activities they have chosen to legalize. In his 1986 book, *Gambling and the law*, Professor Rose observes, “Thirty-five years ago, gambling for money was illegal, period. It did not matter if it was a nickel-ante game of poker played in a neighbor’s den or a friendly bet on Monday night football with a co-worker over a beer.”

Since, Rose penned this in 1986, nearly every state has authorized some form of gambling. However, they have done it with strict controls and for specific policy reasons.” Rose goes on to comment, “It is difficult to think of another area of the law where 50 individual states have changed their thinking 180 degrees within such a short time.”<sup>17</sup> And yet, despite the clear articulation of policy by the states – that gambling is illegal except when authorized to fulfill specific and purposeful policy objectives – the rising occurrence of

unregulated and illegal gambling operations is eroding these state policy objectives.

The problem is further exacerbated by the impact unregulated and illegal gambling operations are having on the enormously successful implementation of tribal gaming policy. Since the landmark *California v. Cabazon Band of Mission Indians*<sup>18</sup> decision was handed down in 1987 and the subsequent enactment of the Indian Gaming Regulatory Act (IGRA) in 1988, gambling has provided invaluable resources to tribes throughout the country to improve the safety, economic security and quality of life in tribal communities.

The unregulated and illegal gambling movement threatens this progress. This phenomenon is fueled by increasingly sophisticated technology designed to take advantage of archaic, often vague, criminal gambling statutes that never envisioned modern game designs. These statutes allow for the creation of devices that present themselves as slot machines while allowing operators to argue that the design escapes the definition of illegal gambling.

<sup>16</sup> Rose, I. Nelson. (2010). *Gambling and the Law: The Third Wave of Legal Gambling*, 17 Jeffrey S. Moorad Sports L.J. 361

<sup>17</sup> Rose, I. Nelson (1986). *Gambling and the law*. *Gambling Times*.

<sup>18</sup> 480 U.S. 202 (1987)

**Despite the clear articulation of policy by federal, state and tribal law – that gambling is illegal except when authorized to fulfill specific and purposeful policy objectives – the rising occurrence of unregulated and illegal gambling operations is undermining these important policy goals.**

## **STATE & TRIBAL POLICY OBJECTIVES**

When Missouri legalized riverboat gambling in 1993, its goal was to encourage “economic development, job creation and the promotion of Missouri as a major tourist attraction.”<sup>19</sup> The funds for gaming were to be devoted to specific causes, with all the tax revenue from gambling dedicated to education. In addition, the casinos would pay a fee for each admission, which would support the local government where the casino was based; the cost of regulation; and important causes such as funding for nursing homes for veterans, early childhood education programs, and law enforcement programs to reduce gang violence.<sup>20</sup>

Upon passage of the legislation, the Missouri Riverboat Gaming Association (MRGA) predicted that the next two years would produce six licensed casinos generating 5,400 new jobs and \$78 million in tax revenue for education.<sup>21</sup> The actual results would shatter

the MRGA’s estimate, as Missouri Gaming Commission would license seven casinos in its first two years, employing 8,234 people and depositing \$96.7 million into the state’s education fund.

Missouri’s first-generation casino projects would inject nearly \$675 million of capital investment into the Missouri economy and contribute an additional \$45.1 million in gaming fees dedicated to local governments and special causes.<sup>22</sup> Since that time, it has become clear that Missouri’s policy goals have been fulfilled. From 1994-2018, the Missouri casino industry has produced:

- \$6.93 billion for educational programs (elementary, secondary and early childhood)
- \$3.2 billion in capital investments in Missouri
- \$927.5 million to all causes supported by admission fees including \$324.2 million for veterans programs<sup>23</sup>

**This phenomenon is fueled by increasingly sophisticated technology designed to take advantage of archaic, often vague, criminal gambling statutes that never envisioned modern game designs. This allows for the creation of devices that present themselves as slot machines while allowing operators to argue that the design escapes the definition of illegal gambling.**

<sup>19</sup> Missouri Gaming Commission 1994 Annual Report, page 3.

<sup>20</sup> Mo. Rev. Stat. § 313.822 (A.L. 1993 S.B. 10 & 11 § 10).

<sup>21</sup> Missouri Riverboat Gaming Association. (1993, April 30). Missouri Riverboat Gaming Association Supports State Riverboat Gaming Legislation.

<sup>22</sup> Missouri Gaming Commission 1994 Annual Report. Pages 51-59.

<sup>23</sup> Missouri Gaming Association Annual Report (2018).

It is important to understand that Missouri's Constitution limits the number of casinos to 13, reflecting the state's limited tolerance for gambling and its policy decision to focus on reinvestment in quality properties, rather than having a free-market approach to gambling policy. It is clear that having as many as 14,000 unregulated, illegal devices spread throughout the state is undermining this constitutional policy decision that was enacted by Missouri's citizens.

Similarly, Pennsylvania created the Pennsylvania Gaming Control Board (PGCB) in 2004, giving it the authority to license 14 casinos with the objective of invigorating the economy, creating jobs, preserving the state's horse racing industry, and providing property tax relief for homeowners. Since the industry's inception in 2006, it has produced \$17 billion in tax revenues for the commonwealth, while creating 16,000 direct casino jobs.<sup>24</sup> As in Missouri, and a majority of the other states, the rampant growth of unregulated and illegal gambling is rendering carefully crafted state and tribal gambling policies meaningless.

The positive results of tribal gaming policy have been even more impressive. Since 1985, the National Indian Gaming Association (NIGA) has worked to promote tribal gaming policy objectives that include "protecting and preserving tribal sovereignty and the ability of tribes to attain economic self-sufficiency through gaming and other forms of economic development."<sup>25</sup> Its mission has been a resounding success. In 2018, 501 Native American casinos produced \$33.7 billion in gross gaming revenue while creating 676,428 jobs.<sup>26</sup> In 2019, the estimated economic impact of tribal gaming was \$105.42 billion.

<sup>24</sup> Pennsylvania Gaming Control Board Annual Report 2018-19. Page 5.

<sup>25</sup> National Indian Gaming Association. <http://www.indiangaming.org/about>

<sup>26</sup> National Indian Gaming Commission. 2018 Gross Gaming Revenue Reports. <https://www.nigc.gov/commission/gaming-revenue-reports>

<sup>27</sup> Oliver, Ned. (2019, October 30). A slot machine showdown in Chesterfield parking lot highlights legal uncertainty. *The Virginia Mercury*. <https://www.virginiamercury.com>

## The rampant growth of unregulated and illegal gambling is rendering carefully crafted state and tribal gambling policies meaningless.

### EMERGING FORMS OF ILLEGAL GAMBLING

Many forms of unregulated and illegal gambling devices that we are seeing today are using more advanced technology to disguise them as "skill games" or "arcade games." The random number generator (RNG) is often shielded by game features offering the player a choice of whether to cash out or continue. This is commonly referred to as a "pre-reveal" feature, where, after the player sees the outcome of a game, they are given the opportunity to cash out or continue playing. Other games give a player the option of playing some game of skill to avoid a loss or they can accept the loss and continue playing the device like a traditional slot machine. Of course, few, if any, players use these features because it makes playing the game tedious and lacks entertainment value. To understand how technology is being used to camouflage gambling devices, consider how a manufacturer in Virginia, who has placed approximately 5,000 of the devices, describes its technology as reported in *The Virginia Mercury*:

*"... the company insists that it's the only one in the state that's operating legally because its proprietary software also includes a secondary game that, in theory, allows a player to win a few*

*cents on every spin if they take the time to complete it and have the mental wherewithal to remember a Simon Says-style 20-beat pattern. Users can easily skip over it in favor of a faster-paced, slot-machine style of play, but the company says its existence means that a player can win on every try based on skill alone.”<sup>27</sup>*

The policy debate in Virginia has created an odd conflict between operators of these devices, leaving them to engage in bizarre, pro wrestling style, publicity battles over whose devices are more illegal.<sup>28</sup> Meanwhile, the Commonwealth’s attorney in Charlottesville ruled that the machines were illegal. The operators responded by filing a lawsuit to overturn the decision. As the litigation proceeds, the Legislature is considering several bills to clarify that the machines are illegal gambling devices. Moreover, the Legislature spent last year preparing a report to assist in developing a comprehensive gambling policy.<sup>29</sup> The report contained specific findings regarding the impact of the growing number of unregulated gambling devices in the state:

*Proliferation of unregulated electronic gaming devices, or “grey machines” around the state, could pose direct competition to Virginia’s authorized gaming such as lottery, charitable gaming, and historical horse racing, as well as any additional forms of gaming that could be authorized in the future. These unregulated grey machines create risks for players and businesses. Virginia currently uses a local approach to enforce the legality of the devices, which has led to inconsistent and insufficient oversight. Other states have addressed grey machines, through regulation or an outright ban on the devices.<sup>30</sup>*

<sup>28</sup> Ibid.

<sup>29</sup> Regulatory Management Counselors, P.C. (2019). *Comparative Governance and Regulatory Structures of Gaming Regulation Related to Expanded Legalized Gaming Activities in the Commonwealth of Virginia*. Prepared for The Innovation Group as Part of Its Report to the Virginia Joint Legislative Audit and Review Commission.

<sup>30</sup> Ibid.

The experience in Virginia is common in the United States. Nearly every jurisdiction attempting to combat the devices by using the obsolete definition of gambling device in its criminal code has either been overruled, presented with additional guidance further complicating enforcement or has been frustrated by cycles of expensive litigation that wastes resources and does not produce conclusive results.



Photo courtesy of Penn National Gaming from Special Report by Spectrum Gaming. Used with permission.

## THE ENDLESS LITIGATION LOOP

A common experience in many jurisdictions is what we will refer to as the *endless litigation loop*. Prosecutors and law enforcement officials throughout the country will find the following scenario familiar:

1. Law enforcement begins to receive complaints about an unregulated gambling operation that is involved in one or more of the following:
  - a. Openly offering games that function similarly or identical to a typical casino slot machine with citizens questioning their legality.
  - b. Patrons complain they have been deceived or the devices are “rigged.”

Consumer complaints are not addressed by the operator.

c. A consumer complains that they are becoming dependent on the devices, or a relative or friend of a player complains that a player is addicted to the machines or is spending too much time/money gambling at the unregulated venue.

d. The venue is a gathering place for gangs and persons with extensive criminal records. A variety of criminal behavior is being reported in or around the gaming facility.

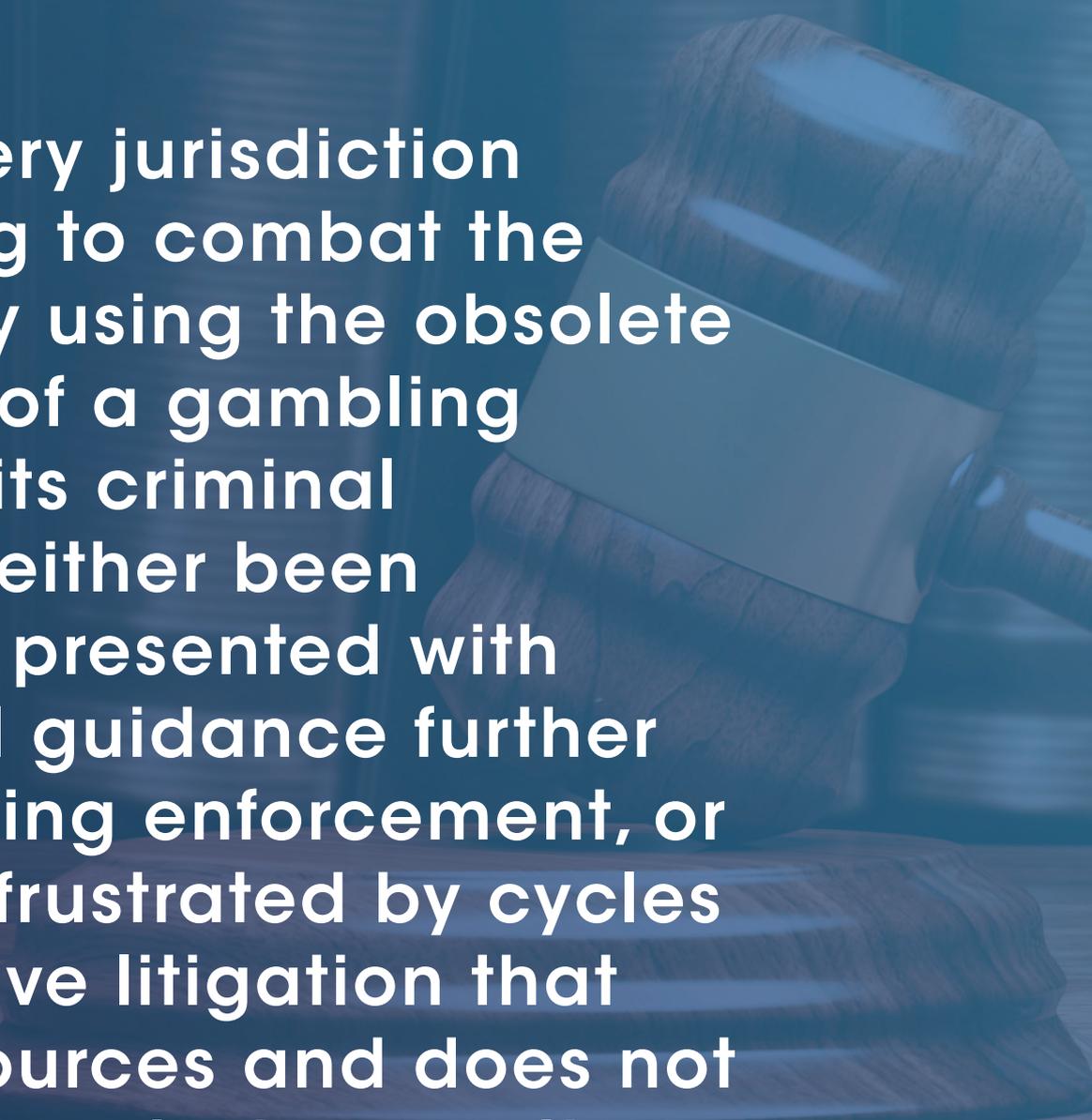
e. There are reports of persons who appear to be underage that are either unsupervised, playing the devices, or accompanying persons who are playing the devices.

f. People who are intoxicated with alcohol or drugs are observed playing the devices.

g. Players are observed putting large amounts of money into the machines, playing a very short time and then cashing out; then repeating the cycle (money laundering).

2. Law enforcement investigates the location and concludes there is reason to believe that it is an illegal gambling operation.
3. Law enforcement contacts GLI and requests an estimate for an initial forensic evaluation of machines.
4. After signing a contract as an expert to be paid by local taxpayers, GLI provides law enforcement with a report describing the technology behind the machines and the methodology to achieve game outcome.

5. Law enforcement works with local prosecutors to analyze the report and determine that the games violate the state's criminal statute prohibiting the operation of gambling devices without a license.
6. The local prosecutor files a criminal complaint and seizes the machines.
7. The gaming operator seeks a temporary restraining order (TRO) preventing the seizure, pending the outcome of the litigation. The operators argue that the devices contain some game logic, typically introducing some element of skill, which allows them to fall outside the criminal definition for a gambling device.
8. The prosecutor enters into a contract with GLI to provide expert witness testimony in the case, at further expense to the local government.
9. Months of discovery, depositions and pretrial motions consume more local resources at taxpayer expense.
10. As the case nears trial, the gambling operator agrees to plea to a misdemeanor gambling charge and agrees not to operate the machines that are the subject of the litigation in the future.
11. A few months after the settlement, a new corporation, with a new version of gaming software appears, claiming "it learned a lot from the previous litigation" and now have a device containing even more skill that does not run afoul of the criminal gambling statute.
12. Repeat steps 1-11.



Nearly every jurisdiction attempting to combat the devices by using the obsolete definition of a gambling device in its criminal code has either been overruled, presented with additional guidance further complicating enforcement, or has been frustrated by cycles of expensive litigation that waste resources and does not produce conclusive results.

We have seen this cycle play out in jurisdictions throughout the U.S. From Florida to California, from Ohio to Texas and Pennsylvania to Hawaii. Litigation results, at best, are temporary victories and shortly celebrated before the cycle starts again. It is expensive. It is inefficient. It is contrary to the bedrock principle in every state authorizing legal gambling: the industry is responsible for the cost of its own regulation.

It is regulation in reverse:

- First, operators flagrantly introduce games that receive money, offer a short game primarily based on chance with minor elements of remedial skill;
- then make taxpayers foot the bill to show that the operators are violating nearly every consumer protection and public policy objective the jurisdiction has established for gambling; and
- after the expensive exercise, the operators start a new cycle of unregulated behavior with purportedly new technology or game strategy, forcing the taxpayers to start the process over again.

## THE ARCADE/VIDEO GAME PARLOR DILEMMA

The endless litigation loop has its origins in policymakers desire to distinguish between what they perceive to be harmless entertainment games (e.g., Dave & Busters, Chuck E. Cheese, Main Event, bowling alleys, etc.) and the mini-casinos and strip mall slot parlors that so many consumers and policy makers find offensive. Thus, they try to craft an exception for "skill-based amusement devices" or "amusement games" that only pay out in small prizes or tickets that can be redeemed for prizes.

The problem with this strategy is that technology will always win. Any exception we have seen, no matter how artfully drafted, can be circumvented by even more clever game design that provides an actual or perceived work-around.

Because of the inherent conflict in these two policy goals, developers can circumvent the definition of illegal gambling device by creating "something that isn't that." It allows gaming operators ample room to set up business and enjoy the fruits of the endless litigation loop. An equally prevalent outcome is when unregulated and illegal operators evade any consequences because law enforcement and prosecutors are busy with other criminal activity they deem a higher priority.



Photo courtesy of Penn National Gaming from Special Report by Spectrum Gaming. Used with permission from Penn National Gaming.

# THE SOLUTION: PROTECTING PUBLIC POLICY OBJECTIVES

Our introduction discussed the remarkable consistency in which state and tribal law address gambling policy. Every U.S. state and territory has a criminal statute, and, in most cases, a constitutional provision, prohibiting gambling and making it a crime to operate gambling games. The federal government has a host of statutes prohibiting various types of gambling activity. Since the mid-1800s our nation's starting point is that gambling is generally illegal.

Since that time, many states and the federal government have enacted exceptions to this general prohibition. In each instance, the exceptions were designed to fulfill specific public policy objectives of the particular jurisdiction. Some wanted revenue dedicated to worthy causes like education, health care and tax relief. Others wanted to stimulate job creation, economic activity or to redevelop blighted areas. Some desired to increase tourism or assist minority and women-owned businesses. The federal government and sovereign tribal nations saw an opportunity to dramatically improve the quality of life for Native Americans. In each instance, the jurisdiction had a specific strategy that was narrowly defined to meet an identified need.

Allowing unregulated and illegal gambling operations undermines these policy objectives. They operate without the extensive prior approval and vetting processes in all

regulated environments. They are not confined to certain locations, as is the case with the great majority of jurisdictions in the U.S., nor are they subject to competitive bidding processes that are also prevalent in the states.

Unregulated and illegal gaming venues operate without any supervision. They do not adhere to prescribed operational guidelines designed to prevent fraud, theft, money laundering, and a variety of other criminal behaviors. There are no protections for consumers. For instance, there are no controls to protect players from devices designed to deceive or cheat them. There are no minimum payout percentages, nor any transparency about how much the operator is allowed to win from players.

**Perhaps the most egregious offense is that the games appeal to the most vulnerable in our population without any protections for problem gambling. There is no self-exclusion list, no signs for where to get help if you have a gambling problem and often the marketing of these facilities appears to be designed to entice the addicted.**

## **REINFORCING THE PRESUMPTION THAT UNREGULATED GAMBLING IS ILLEGAL**

We now have several decades of experience demonstrating the futility the impossible task of attempting to define a gambling device with the intention of allowing some types of games but prohibiting others. It has not been successful, and the overwhelming evidence suggests it is a flawed and expensive strategy.

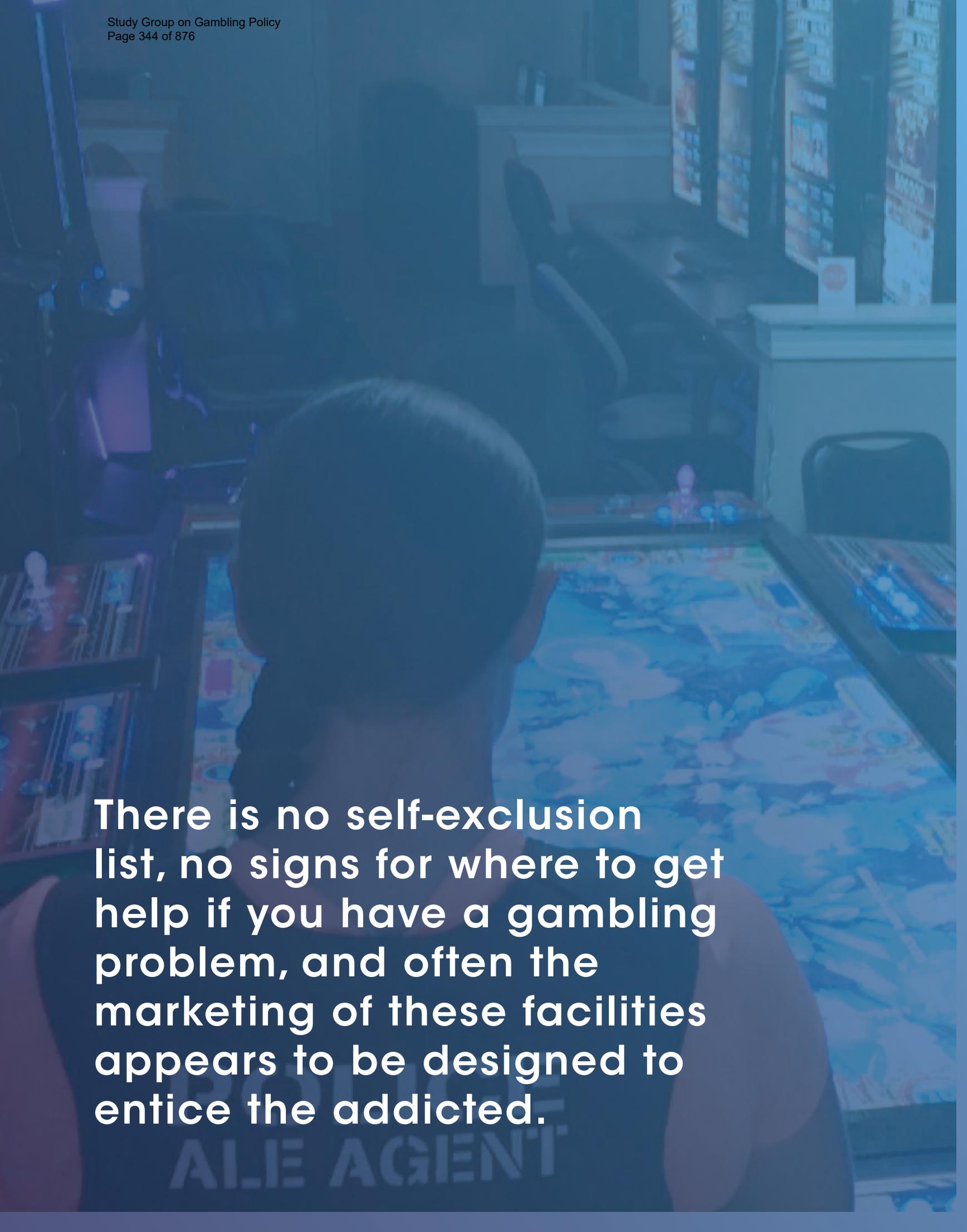
Our studied view is that the only effective way to protect the fidelity of a jurisdiction's purposeful gambling policy is to require regulatory review of every type of gambling device. The technology used in these devices is becoming increasingly complex. Understanding how the games function and the software logic behind game play requires specific expertise that can only be managed by a dedicated gaming regulatory agency such as a gaming commission, control board or lottery commission.

Because criminal gambling statutes, constitutional provisions, regulatory structures and tribal compacts are so varied, it would be imprudent to offer model language. However, we believe the following proposed regulatory framework provides policymakers with sufficient guidance to develop an affordable, efficient and effective regulatory structure. This framework minimizes the burden on family-oriented or purely leisure businesses, while protecting the jurisdiction against the infection of illegal gambling operations that undermine jurisdictional policy, prey upon the vulnerable and foster criminal behavior.

**There are no protections for consumers. For instance, there are no controls to protect players from devices designed to deceive or cheat them. There are no minimum payout percentages, nor any transparency about how much the operator is allowed to win from players. Perhaps the most egregious offense is that the games appeal to the most vulnerable in our population without any protections for problem gambling.**

## **A REGULATORY FRAMEWORK TO OVERSEE MODERN GAMING TECHNOLOGY**

We suggest reconsidering the definition of gambling and gambling devices in the criminal code to clarify that any type of game requiring something of value to play with the opportunity to win something of value, is presumed to be a gambling game. The definition should allow for exemptions of certain types of contests that do not require devices, such as sporting events, and contests of skill that are sponsored by or overseen by recognized organizational bodies. The definition can set criteria for those types of bodies.

A photograph of a person from behind, looking at a roulette table in a casino. The person is wearing a dark tank top with the words 'BOULDER' and 'ALE AGENT' printed on it. The roulette table has a colorful patterned felt. In the background, there are slot machines and other casino equipment. The entire image has a blue tint.

**There is no self-exclusion list, no signs for where to get help if you have a gambling problem, and often the marketing of these facilities appears to be designed to entice the addicted.**

Moreover, the statute should empower the gambling regulatory agency with the ability to grant waivers to categories of entertainment facilities that the agency finds meet policy objectives for non-gambling entertainment facilities by evaluating criteria established in the legislation. Some factors to consider include:

- The percentage of gross revenue derived from food and beverage services, retail or other non-gaming entertainment activities.
- The capital investment in the facility where the games are offered.
- The types of games being offered (e.g., traditional arcade games such as skeeball, pinball, racing games, sports games, etc.).
- The maximum amount allowed for a single play of each game.
- The maximum payout of the machines and the procedures for payout and redemption.
- Whether cash is allowed as a prize payout, either directly or indirectly.
- The method of accounting for net win of each device and the internal controls for governing the integrity of game play.
- The appropriateness of the game being available for play to minors.
- The extent of consumer protections included in the game design.
- The impact of the gaming facility on public safety.
- Other criteria as may be approved by the regulatory agency through the administrative rulemaking process.

Those businesses applying for a waiver would be subject to a small fee to offset, but not necessarily cover, the administrative costs of the review process. In most jurisdictions, fees from licensed gambling activities can be used to pay for the cost of the regulatory waiver process.

Waiver applicants would submit an affidavit drafted by the regulatory agency attesting that it agrees to conform to any conditions or criteria the agency deems necessary for waiver. Moreover, they will agree to cooperate with audits of any game if the regulator establishes a reasonable suspicion that the operator is violating the terms of the waiver.

**Our studied view is that the only effective way to protect the fidelity of a jurisdiction's purposeful gambling policy is to require regulatory review of every type of gambling device.**

The gambling regulator is given the authority to investigate allegations of illegal gambling and has the power of search and subpoena. It would not have the authority to file charges for illegal gambling, but would be required to submit its cases to local law enforcement and prosecutors. The gaming regulator would also be required to cooperate with local law enforcement efforts to investigate illegal gambling and to aid local prosecutors filing criminal charges for illegal gambling.

# CONCLUSION

Since legalized gambling has emerged in the U.S., GLI has served gaming regulators as the independent technical expert tasked with evaluating gaming technology against the government's technical standards. We serve over 475 gaming regulatory agencies globally and have advised hundreds of jurisdictions on a wide variety of public policy issues related to the regulation and control of gambling.

We are the government's chosen expert in nearly all gambling prosecutions. Many of those have succeeded. Yet, we remain as

frustrated as our clients in seeing the fruits of victory rapidly evaporate as a new wave of unregulated gambling machines becomes a focus of law enforcement. States and tribes have developed many purposefully designed and well-meaning strategies to combat this phenomenon. As we have demonstrated, each of those efforts have failed. We hope the information presented in this analysis is helpful as each jurisdiction considers its future path. Regardless of the strategy you choose, we stand ready to support you to achieve your goals.

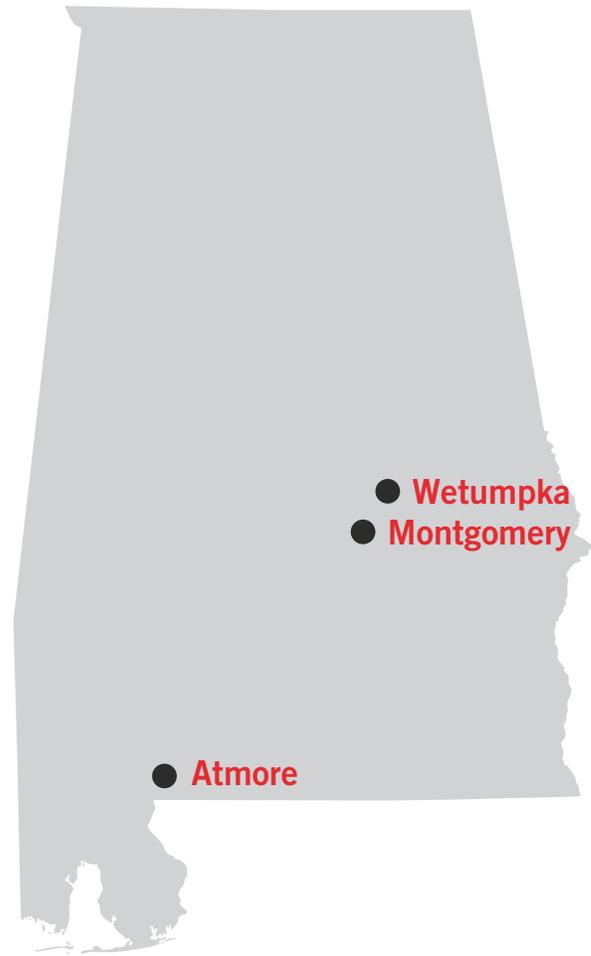
GAMING BY THE NUMBERS

# Alabama

Alabama is home to tribal gaming operators that support jobs for more than 12,000 Alabamians and \$149.8 million in tax revenue and tribal revenue share payments annually for all levels of government.

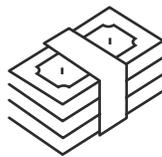
# 3

**Casino Gaming Locations\***



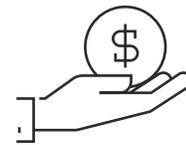
**12,270**

Jobs Supported



**\$1.4 Billion**

Annual Economic Impact



**\$149.8 Million**

Annual Tax Impact &  
Tribal Revenue Share  
Payments to Governments

\* All location data is as of Dec. 31, 2019.



AMERICAN  
GAMING  
ASSOCIATION

## **Global Market Advisors**

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# Global Market Advisors

Alabama is currently debating the potential expansion of gaming in the state. As the Governor and her study committee evaluates existing forms and potential options for expansion, Global Market Advisors (“GMA”) believes that it can best assist the committee in the following areas and would welcome the opportunity to speak in more detail on each of the topics below as it relates to the charter of the committee:

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## MARKET FEASIBILITY AND ECONOMIC IMPACT

As Alabama looks at crafting policy, it must understand the potential gaming market. Whether it be casino gaming, lottery, sports betting, or other potential forms of gaming, policy leaders must guide their compass based on a reliable projection to understand the market opportunity in each scenario, as well as the direct, indirect, and induced economic impacts of gaming.

GMA has worked in nearly every market in the Americas, Asia, Australia, and Europe. GMA’s studies are utilized in bank financing, RFP submissions, and public forums. In evaluating a market, GMA first looks at its past performance and compares it with public data from similar markets. Next, GMA conducts an analysis of existing and potential future competition, providing an understanding of the competitive market. Then, GMA looks at the current demand for gaming within a subject region and forecasts future demand. Finally, GMA applies proven methods to forecast revenues and expenses for a subject property.

An Economic Impact Study (EIS) is an independent research report that quantifies the economic benefits that a proposed casino project would have on the surrounding region. This analysis quantifies the direct, indirect, and induces impacts that a project would have on the potential number jobs created, wages paid, taxes generated, and total output. An EIS examines these impacts for two distinct phases: the construction phase, which is a onetime stimulus on the region’s economy; and the operational phase, which provides ongoing stimuli to the region’s economy on an annual basis. An EIS is essential to the successful development of a new gaming market as it addresses the concerns of all stakeholders within the community.

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## LEGISLATION & REGULATION

GMA has advised governments around the world on economic policy, tourism strategy, and casino gaming legalization initiatives, and has assisted with crafting casino gaming legislation. GMA’s partners and team have over 100 years of combined experience, ensuring that local, state, and national governments receive the best guidance and advice that accounts for political dynamics, public relations, and overall solution architecting. It has additionally advised various

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companies and organizations on gaming, tourism, and hospitality initiatives, as well as legislative and campaign management.

Sound legislation and regulation are the keys to any strict regulatory market that allows for the maximum revenue opportunity. With in-depth knowledge of gaming laws in jurisdictions across the globe, GMA's Government Affairs and Legal Team has extensive experience crafting gaming legislation and regulation and understanding best practices. GMA also understands the impact that gaming taxes can have various types of gaming, including casinos and their ability to develop gaming and non-gaming amenities. Gaming taxes must be based on sound government policy and its relation to a broader tourism strategy. GMA can help governments navigate this path to successful lottery and casino developments. GMA also has the expertise to address other issues that may arise in legislative debates, including limits on casino size, licensure requirements, and levels of investment.

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#### RESPONSIBLE GAMING & SOCIAL IMPACTS

In addition to understanding the economic impacts of a potential gaming market, it is also important to understand the social impacts. This includes the impact that the potential addition of gaming may have on social services, as well as ensuring that there are adequate resources to support any potential impacts on the market. States such as Massachusetts and, to a lesser extent, Virginia explored these impacts as they were evaluating the opportunity to expand gaming, as well as form a baseline for future research.

Responsible gaming measures are critical to any market, and this includes having programs in place for the lottery, casinos, sports betting, and other forms of gaming that detail the potential warning signs of a problem. It also means having resources in place to treat those problems and establish a support network including, but not limited to, a reliable toll-free number that operates 24/7, as well as self-exclusion programs, clinicians, and support groups.

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#### ABOUT GLOBAL MARKET ADVISORS

Global Market Advisors is the leading international provider of consulting services to the gaming, entertainment, sports, and hospitality industries with offices located in Las Vegas, Nevada; Denver, Colorado; and Bangkok, Thailand. The company's market experience extends throughout all regions of the Americas, Eastern and Western Europe, Australia, and Asia. GMA provides clients with strategic planning, market feasibility studies, primary research, due diligence, general counsel, operations analyses, government relations, responsible gaming initiatives, and business and marketing plans. GMA's clients consist of the majority of public gaming companies, more than 75 Native American tribes, commercial and investment banks, and government agencies from around the world.





# Global Market Advisors

June 24, 2020

Chairman Todd Strange  
Governor's Study Group on Gambling Policy  
State of Alabama  
600 Dexter Avenue  
Montgomery, Alabama 36130

Dear Chairman Strange:

On behalf of Global Market Advisors, I want to thank you for the opportunity to submit comments regarding the Governor's Study Group on Gambling Policy and the potential recommendations that this esteemed body may be making for the long-term gaming policy for the State of Alabama. As has been demonstrated by your committee, gaming occurs in the state today. The question now is to determine the potential impact of current and future gaming offerings in the state in the areas of economic output, social implications, and regulatory structure.

The key to gaming policy is to set the standard for the long term. It should not be viewed as a quick fix to solve a budget crisis or to fill a niche. Crafting sound policy and regulation is essential to the long-term success of a market and allowing the proper level of competition that prevents one form of legal gaming from cannibalizing another. Global Market Advisors has worked in jurisdictions throughout the United States and around the world, and there are countless examples of both good and less-than-desired examples of markets that attempted to expand gaming. We have confidence that Alabama will take a prudent approach to crafting any expansion.

As you evaluate the long-term policy goals, it will be critical to understand the positive impacts that gaming can have on a community as well as mitigating any potential negative effects. While the state has evaluated most of the potential forms of gaming including lottery, casino gaming, sports betting, charitable gaming, bingo, pari-mutuel, and online gaming, it will be critical to rely on experts that can assist with a further understanding of the economic feasibility and impact, the regulatory structure and standards, and consumer protections and social impacts. Below are some brief considerations:

## **Economics, Feasibility, and Legislation**

As we have seen with gaming expansion, there is a lot of numbers being thrown around about the potential of a market opportunity. Alabama should take a realistic approach in studying the market so that any projections used for budgetary planning purposes will take into account the

full legal gaming market. Alabama should consider a comprehensive study to look at the prospects of casino, lottery, sports betting, the illegal market, and other forms of gaming in various scenarios to see the economic and social impacts on businesses, communities, and the state. It should also consider recommendations on how best to legalize these forms of gaming while considering the framework already in place in Alabama.

### **Regulations and Standards**

Integrity, first and foremost, exists in the laws and regulations that are the cornerstone of any gaming market. Stakeholders need to know that gaming regulations and standards do not need to be reinvented. Multiple states have already gone through this process and offer a solid foundation to draft regulations based on the legislative language and intent. Other groups including Gaming Laboratories International (“GLI”) or BMM Test Labs (“BMM”) have released their own standards for states to adopt, which have become widely accepted. Consumers need to be assured that, in a strict regulatory environment, the games are being held to the highest standards and integrity, whereas the illegal and offshore markets do not have to follow these rules or standards. By adopting regulations and standards that allow for a level playing field, jurisdictions can be assured that they are offering a quality product while relying on best practices that have been demonstrated in other jurisdictions.

As Alabama considers legalizing or regulating other forms of gaming, it should consider first the existing footprint of legal gaming. There are legal operators that have already invested millions of dollars in infrastructure, operations, employment, and marketing to garner local patrons in the market. These organizations have already passed suitability and are licensed to conduct gaming today. Furthermore, this standard should not be eroded in any future market. Whether it be an operator, a supplier, or anyone else assisting with the operations of a market, they need to be held to the same high standard that has been established in the market. They should also have a solid track record, in order to avoid the errors that have occurred in other jurisdictions.

### **Consumer Protections**

Finally, consumer protections are the cornerstone of any strict regulatory environment. This includes ensuring that operators maintain key aspects of the Know Your Customer (“KYC”) standard, as well as safeguards to make sure that customers are old enough to gamble, that they are able to fund their accounts, that they have not violated any anti-money laundering (“AML”) or other banking regulations, and that they are not on any watch lists. Technology greatly aids this process as it allows the operator to compare new customer data against existing databases in real time to ensure compliance.

Responsible gaming measures are another cornerstone of any consumer protection scheme. At a minimum, this should include the ability for individuals to seek help for themselves or others who may develop a problem with gaming. In many jurisdictions, this also includes self-exclusion, which allows individuals to exclude themselves from gaming and opt out of receiving gaming promotions. Technology greatly aids this effort as well. Companies like GameSecure vet names across the databases of several operators, as well as against other states for their self-exclusion lists. Responsible operators will also enlist robust programs to assist those that may develop a

problem. Research is also a key component that should be considered. This includes establishing best practices, making sure that measures are effective, and that delivering resources that are appropriate to the unique characteristics of the market. Groups like the National Council on Problem Gambling (“NCPG”) and academic institutions can serve as solid resources.

The opportunity is set for Alabama to evaluate the best opportunity to expand gaming. Before passing anything, the Legislature should study the opportunity for all forms of gaming that are currently prevalent in United States. It is incumbent on the state, first and foremost, to understand the economics and the actual revenue potential of the market, as well as the social impact. In turn, this will lead to the crafting of strict regulations that build upon your existing standards, protect consumers from the illegal market, and create a competitive environment to attract consumers to a robust legal market. If done correctly, the experience and environment that is created will be a win-win for Alabama. GMA stands ready to assist in that effort.

Sincerely,



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# Global Market Advisors

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Given the uncertainties of coronavirus disease (“COVID-19”), investors are looking to understand the general operating parameters of a given casino operation and fixed versus variable expenses. This document provides detail on the intricacies of casino operations from a revenue and expense standpoint, including gaming revenues, operating expenses, and earnings before interest, taxes, depreciation, and amortization (“EBITDA”). The goal of this exercise is to provide an understanding of how these items may fluctuate between operators, as well as between jurisdictions. Additionally, this document will provide readers with an understanding of fixed versus variable expenses (for facilities that are open), allowing investors to more accurately project the performance of target properties under a variety of recovery scenarios.

The following discussion is based on Global Market Advisors’ (“GMA”) experience of reviewing hundreds of income statements from casino properties across the world. For the purposes of this analysis, GMA focused its evaluation on regional gaming operations in the United States, representing casino operations that have generated between \$50 and \$700 million in annual gaming revenue. Often, the only access that investors may have to operating income statements would be from those published from Nevada and New Jersey. As will be seen within this document, many departmental and overall margins vary greatly from casinos between these and other states. While many operations may have expenses that lie outside of the ranges presented in this report, the overwhelming majority of regional casinos across the United States likely fall within these ranges.

GMA is the leading international provider of consulting services to the gaming, entertainment, sports, and hospitality, industries. The company's market experience extends throughout all regions of the Americas, Europe, Australia, and Asia. The company provides clients with strategic planning, market feasibility studies, primary research, due diligence, general counsel, payroll control, operations analyses, government relations, crisis communications, responsible gaming initiatives, business and marketing plans, and reward program design.

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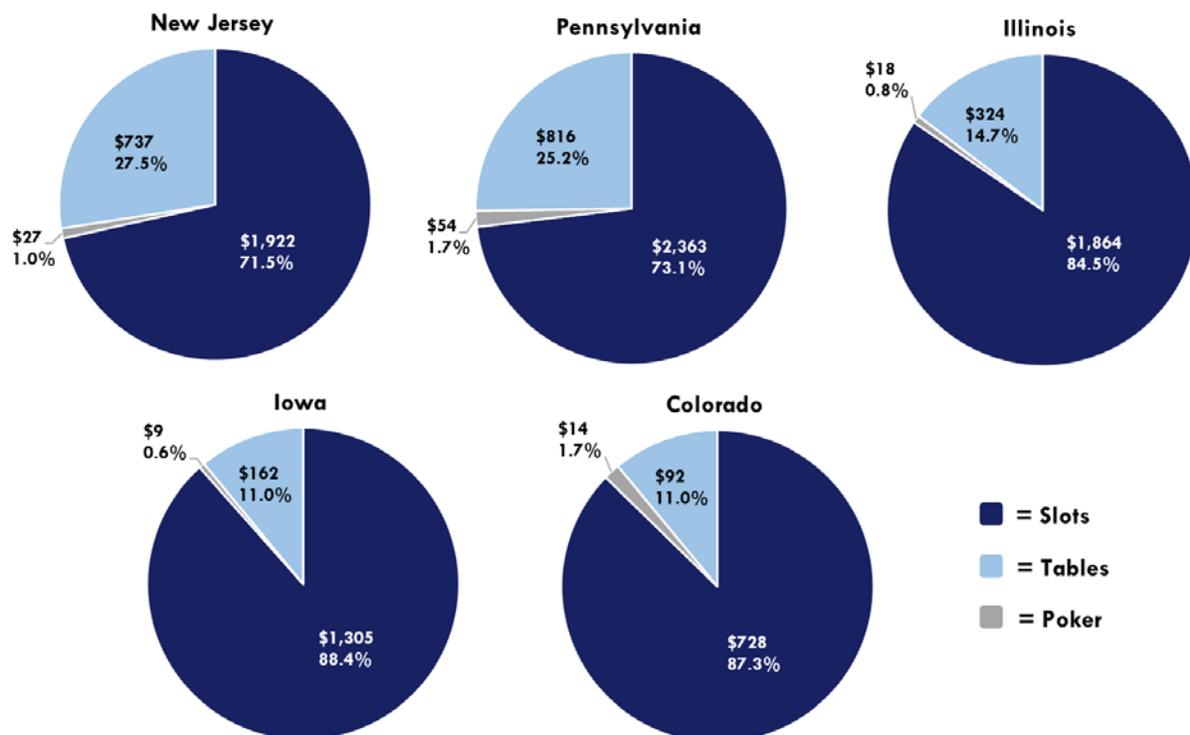
## GAMING REVENUE

Gaming revenue, or win, refers to the total amount of money wagered at a casino, less payouts to players. In most jurisdictions, gaming revenue is a known number that must be reported on a monthly, sometimes weekly, basis. In Indian Country, however, the numbers are not often publicly available. Typically, in Indian Country, slot machines generate a higher percentage of total gaming revenue compared to table games. While this is often due to the restrictions placed on the types of table games and/or limits that a casino can offer, this can at times be attributed to the apprehension of tribal leadership to accept the risk of offering higher limits for table games.

Outside of Las Vegas, slot machines tend to comprise between 70% and 90% of gross gaming revenue (“GGR”). As this percentage can vary significantly, a good rule-of-thumb is to assume an 80/20 split of gaming revenue between slots and tables. In general, the more rural a location is, the higher the percentage for slot revenue is, as the consumer’s lifestyle seems more to fit that of a typical slot player. Poker revenue is highly dependent on the availability of poker options to a local population. While certain casinos can offer popular poker options, they rarely generate revenues as significant as slots or traditional tables, and their players can often expect to receive large amounts of incentives to play despite them making up only a small piece of the overall profit. Many operators use poker options as an amenity to attract a wider range of patrons to their properties. The following table illustrates the spread of slots, tables, and poker in select regional markets throughout the United States.

## 2019 Slot, Table, and Poker Revenue Comparison - Select Markets

Revenues in USD millions



Source: GMA, NJ Division of Gaming Enforcement, Pennsylvania Gaming Control Board, Illinois Gaming Board, Iowa Racing and Gaming Commission, Colorado Division of Gaming

### SLOTS

When evaluating slot revenue, it is crucial to look at net versus gross slot win. Whereas gross slot win is inclusive of freeplay, net slot win subtracts freeplay from gross slot win. As such, when comparing the performance of casinos from jurisdiction to jurisdiction, it is crucial to ensure an “apples-to-apples” comparison as some states report gross revenues and others report net revenue.

Freeplay is far from free and can often make up a casino’s greatest marketing expense, particularly in jurisdictions with a high tax rate, such as Pennsylvania. For example, in Pennsylvania, 20.6% of all gross revenue is freeplay, with some properties reporting over 30%. To further complicate the matter, some jurisdictions have created their own vernacular for each category. They may report a figure as “gross revenue” when it is actually net of freeplay. For example, in Pennsylvania, “gross terminal revenue” is gross slot revenue less freeplay. To this end, it is often necessary to evaluate whether freeplay is included instead of relying on the “gross/net” definition provided by the jurisdiction.

Slot machines, which tend to generate roughly 80% of any regional operation's revenues, are rather inexpensive to operate. After all, they really are nothing more than a computer with flashing lights plugged into a wall. However, it is crucial to identify appropriate games (referred to as titles or game mix in the casino industry) that appeal to customers. As such, slot manufacturers often do not immediately sell their latest and greatest devices. Rather, they provide the machines to operators for either a fee per day or on an 80/20 revenue sharing split, where the manufacturer receives 20% of the daily net slot revenue. These are known in the industry as fee-based games. Casinos are also often required to pay a minimum revenue share, such as \$70/day. For a more remote casino, that minimum can often make those machines unaffordable for the facility. Overall, between 5% and 8% of casino's slot machines should be the more popular revenue-share machines, although many operators have been going below that threshold in an effort to save operating expenses, which at times can be detrimental to revenue. As an expense, this will usually cost between 1.3% to 2.3% of slot revenue.

The other two primary expense categories for the slots department are payroll and slot parts. It is surprising how often the buttons on machines need to be replaced from players banging away on them all day long. Generally, the busier the casino, the higher the expense to fix the machines as they are being used more frequently. In any given year, a casino could expect to pay between \$500 to \$1,500 per machine to keep them running properly. Another major expense for casinos, which is generally shown below the EBITDA line on the income statement ("IS"), is the capital required to replace machines and titles. Generally, casinos look to replace between 10% to 20% of their titles on the floor each year, down from decades ago when casinos generally replaced 20% to 25% of their floor each year. This usually involves a mix of buying new machines, which can cost up to \$27,000 each, and conversion kits by purchasing a new title and decorative glass from the manufacturer, which ranges from \$2,500 to \$8,000 per device.

Payroll for slots is usually limited to slot maintenance and slot attendants to help customers with problems or provide hand-pays on jackpots over \$1,200. Slot payroll can generally range from 1.8% to 6.0% of gross slot revenue. It is important to use gross revenue rather than net, as gross revenue is more representative of how much play is going through the machines. From a fixed versus variable perspective, payroll can vary to a certain extent, but one must keep minimum staffing on the floor, even during slow times, to ensure proper levels of customer service. However, the maintenance cost is generally variable based on the amount of machine usage, and participation expenses are directly variable, unless there is a daily minimum that tends to be the dominant figure for determining the expense. Overall, approximately 60% of slot expenses are variable.

Casino Slot Expenses		
	Low	High
Slot Revenue as % of Total Gaming	70.0%	90.0%
Slot Expenses as % of Slot Revenue:		
Salaries and Wages	1.8%	6.0%
Participation Expenses	1.3%	2.3%
Parts and Other (Per Device)	\$500	\$1,500

Source: GMA

## TABLE GAMES

The single greatest expense in table games is payroll. A good table games director will understand how to staff tables appropriately to ensure the high limit tables are always available and that the low limit games are near capacity, while still allowing for some availability. Other than payroll, expenses are generally limited to the cost of dice, cards, replacing felts, and rental cost for the automatic shufflers. However, overall operating expenses can vary greatly depending on the demand of table players and the types of games offered at a casino.

An efficient table games department will operate with expenses as low as 30% of table revenue, and as high as 45% to 50%. Generally, table games operating expenses can be expected to range from 35% to 40% of table revenue. Except for the cost of renting shufflers, table games expenses are variable as one can reduce staffing at the tables when demand is low. However, in a situation where the volume of play is the same but the spend per customer is lower, the expenses remain the same as table payroll is based on the volume of players, not the volume of play. Similar to slots, nearly 70% of expenses will generally be variable based on volume of play.

## POKER

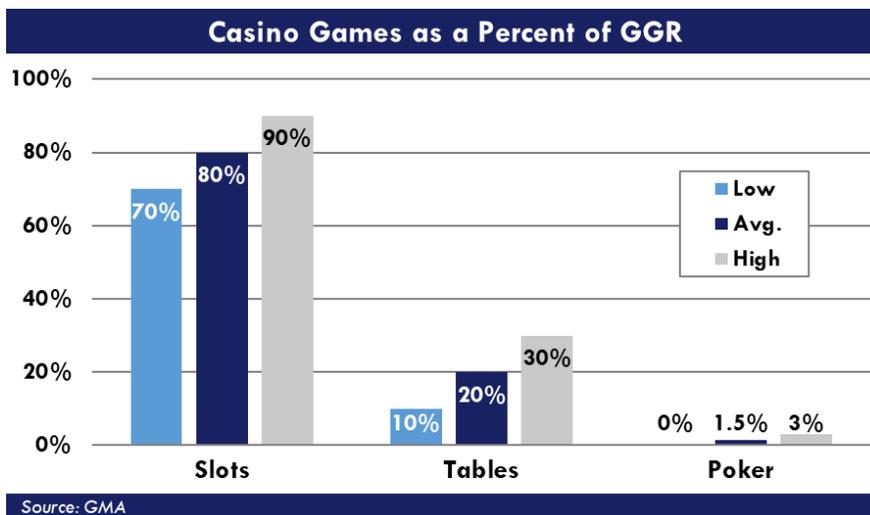
Although variable, it can generally be assumed that poker expenses will vary from 70% to 80% of poker revenue. This is a highly variable department, as most of the expenses are related to payroll and the level of play can be more predictable. Additionally, poker players are more predictable, in the sense that they will always go to the facility that has the best “game”, or their favorite game.

## CAGE AND COUNT

Not included in the areas above is the cost of the cashiers and drop team to count the money. With the advent of additional self-service kiosks, casinos have continued to realize savings in this department. However, while cashiers can be reduced as the business flow is down, most of this category’s expenses are primarily fixed. Generally, these expenses range from 1.3% to 1.8% of gross gaming revenue.

## GAMING REVENUE SUMMARY

The following table summarizes the expense margins of a casino operation by department. On average, casino expenses can be expected to range from 8.7% to 23.3% of GGR, depending on the size and scope of the casino. GMA notes that the table below does not include gaming taxes, which vary drastically throughout the United States and are often the highest expense to a casino operation. A further discussion of gaming taxes is provided later in this report.



<b>Gaming Expense Summary</b>			
	<b>Low</b>	<b>Average</b>	<b>High</b>
Slots (% of Slot Revenue)	3.8%	7.1%	10.4%
Tables (% of Table Revenue)	30.0%	40.0%	50.0%
Poker (% of Poker Revenue)	70.0%	75.0%	80.0%
Cage & Count (% of GGR)	1.3%	1.6%	1.8%
<b>Weighted Avg. Expenses (% of GGR)</b>	<b>8.7%</b>	<b>16.1%</b>	<b>23.3%</b>

Source: GMA

## OTHER REVENUE DEPARTMENTS

Historically, operators focused only on the casino department, and the other revenue departments were simply loss leaders. However, as Las Vegas has clearly demonstrated, non-gaming amenities can be profitable as well. As regional gaming has expanded across the United States, operators continue to recognize the need to further find available gross operating income from all operating departments. It is important to remember that any non-gaming amenity given to a customer on a complimentary basis would appear on the overall income statement as a “Promotional Allowance” and as revenue in the subject category’s IS. On the departmental IS, it is common for casino operators to show two sources of revenue: “cash” and “comp.”

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### HOTEL

In casino hotels, occupancy levels are usually very high, with operators rarely seeing figures below 80%. Regional operators have incentives to fill their rooms, as it is likely that a healthy percentage of guests will also enjoy the casino during their visit. However, due to a large percentage of guests receiving discounted or complimentary hotel rooms from the casino, and the willingness of the casino to charge cheap rates for other available rooms, comparatively low average daily rates (“ADRs”) are experienced when taking into account the usual quality of the regional casino hotel. Overall, ADRs tend to range from \$100 to \$150 throughout these facilities.

In terms of operating expenses, it is best to look at the hotel in terms of the cost to “flip” (or turn over) a room. With a regional casino hotel, the other operating expenses (marketing, maintenance, etc.) are integrated throughout the rest of the resort’s operating income statement. In evaluating the cost per Room Night of Demand (“RND”), it should be evaluated whether the hotel’s ADR exceeds the cost to flip the room and to what degree. In doing so, it is important to note that a nicer hotel will logically have a higher cost associated with turning over a room than a lower quality hotel property. As an example, Wynn Las Vegas, compared to Circus Circus, needs to spend significantly more money when it cleans and turns over its rooms.

Overall, for a regional gaming resort, it generally costs between \$30 and \$60 to flip a room depending on the quality level of the hotel and other market dynamics. This number is mostly variable as the largest expenses, payroll, can be reduced if a property is experiencing large declines in occupancy. Additionally, as shampoos and other similar goods are only used when the room is used, the cost of these goods can also be reduced if occupancy declines. Overall, rooms expense generally comprise between 35% and 45% of rooms revenue. The following table illustrates the average cost to turn a hotel room. GMA notes that these expenses may increase over the near term based on current events and the uncertainty surrounding COVID-19.

Regional Hotel Operating Metrics			
	Low	Average	High
Occupancy	80%	89%	98%
ADR	\$100	\$125	\$150
Cost to Turn a Room	\$30	\$47	\$60
Expenses as % of Revenue	30%	38%	40%

Source: GMA

## FOOD & BEVERAGE

Food & beverage (“F&B”) has historically been one of the greatest challenges for gaming operators. Over the history of regional gaming, F&B has evolved from simple fuel for customers to an amenity to help drive more business and lengthen the stay of each guest.

Unfortunately, as it used to be acceptable for this department to lose money, many operators continue to believe that a good F&B operation cannot be profitable. This notion is wholly untrue, and F&B remains one of the greatest sources of potential upside for a gaming operation. A well-run F&B operation should provide a quality food product with good service, which will result in additional customers and a limited amount of profit. While the casino itself will always remain the key profit center, F&B can also assist with the bottom line. However, GMA has seen many operators turn to significant increases in prices as the solution to success, but this simply turns away gaming customers and hurts the operation in the long run.

A highly successful F&B department will generally run a 75% expense margin on F&B revenue, with the average margin achieved by proper operators generally reaching approximating 85% today. The two prime costs of F&B are the cost of goods sold (“COGS”) and Payroll. COGS will generally run from 35% to 45% of revenue and Payroll from 37% to 50% of revenue.

The quality of F&B operations also directly impacts the percentage that they contribute to overall revenue. As a percent of gaming revenue, F&B revenue for a local grind joint could be as low as 6% of gaming revenue, whereas F&B revenue for a robust regional casino could have F&B revenue as high as 17% of gaming revenue.

<b>Food &amp; Beverage Expense Margins</b>		
	<b>Low</b>	<b>High</b>
As % of Gaming Revenue	6.0%	17.0%
Expenses:		
Salaries and Wages	37.0%	50.0%
COGS	35.0%	45.0%
<b>Total Expenses</b>	<b>72.0%</b>	<b>95.0%</b>
<i>Source: GMA</i>		

## ENTERTAINMENT

Outside of Las Vegas, entertainment simply remains a loss leader on a stand-alone basis. Some of these losses can be covered by concessions and merchandise sales, but the greatest impact is felt on the gaming floor. However, this can be hard to demonstrate quantitatively as well. The goal of entertainment is to ensure that the acts are appropriate for the core gaming customer, and that the facility is the right size to ensure that not too much money is lost. Overall, the goal for most casinos is to break even on entertainment, while trying to keep operating expenses to no more than 110% of entertainment revenue. When this figure rises above 130%, there are likely savings to be had, which often can often be realized through reducing the talent level, moving to non-traditional entertainment, or better negotiations with the talent, which is where all the expenses are found.

## GAMING TAXES AND MARKETING

While they are counterintuitive, Gaming Taxes and Marketing are discussed in the same section as marketing expenses are highly dependent on the local gaming tax rate. A great example can be found in looking at the difference between Pennsylvania and New Jersey. In Pennsylvania, the tax rate on slot revenue is onerous at 54%, whereas table games are more reasonable at a 16% rate. In New Jersey (Atlantic City), the casino gaming tax rate is 8% (although the effective rate is slightly higher due to other fees casinos must pay). As Pennsylvania's slot tax rate is so high, casinos simply cannot afford to give away too many complimentary items or play incentives to their players and market their facilities appropriately in such a competitive environment.

Atlantic City (and New Jersey) should thank Pennsylvania for passing such a high gaming tax rate. If it had not done so, then Pennsylvania casinos would have had more revenue available to provide complimentary hotel rooms and dining to their players, thereby gaining a competitive advantage against Atlantic City and giving the nearby population further reason not to travel to Atlantic City to gamble. This is qualitatively illustrated by the following example: At a 30% reinvestment rate (exclusive of freeplay), Atlantic City operators would still be making roughly a 57% gross operating income margin on a given slot player. However, if the same 30%

reinvestment rate applied in Pennsylvania, the operator would realize a gross operating income margin of roughly 11%. While a 30% reinvestment rate may sound high when not including freeplay, many Atlantic City casinos would happily offer free room nights and dinner for two to a player from Pennsylvania to attract them down to the shore.

It is for this reason that we see such high levels of freeplay being offered in Pennsylvania casinos, as this is truly the only reinvestment that they can afford to give as it is not taxed.

Reinvestment for a \$500 Slot Player		
	PA	Atlantic City
Average Win From a Premium Player	\$ 500	\$ 500
Taxes to State	(270)	(40)
Revenue After Tax	230	460
30% Reinvestment Rate	(150)	(150)
Operating Expenses	(25)	(25)
<b>Gross Operating Income</b>	<b>\$ 55</b>	<b>\$ 285</b>
GOI Margin	11.0%	57.0%
Source: GMA		

## GAMING TAXES

Gaming taxes are one of the most variable expenses in the casino industry as they typically are tied to gaming revenue directly. Some states have implemented tiered tax rates, such as Indiana, where gaming revenues are taxed between 15% and 40%, and Illinois, where gaming revenues are taxed between 15% and 50%. Other states have instituted a rate that is a straight percentage of win. In some states, there are annual device fees, which are fixed based on the number of positions on the gaming floor. However, these fees are generally rarer and more minimal in comparison to a given state's tax rate. The rates charged range from a low of 6.75% in Nevada to over 50% in some states. In certain states where the lottery oversees casino gaming, such as in Maryland, Delaware, and Rhode Island, the state retains a sizable majority of revenues and pays the remainder to operators as a commission or management fee. However, when considering that the state also supplies the slot machines to its operators and pays to maintain them, the effective rate in in these states is lower than the published tax rate.

In an environment such as today, the advantage of a high tax rate is that it does allow for a casino to immediately cut back on one of its largest operating expenses. However, the much greater negative result of a large tax rate is that it prevents operators from having enough operating income to invest in non-gaming amenities, such as hotels, restaurants, and spas, which hinders an operator's ability to expand its market potential and continue to evolve with the overall market. There is a direct correlation between Nevada having both the lowest tax rate and the

largest integrated resort properties in the United States. The following table summarizes slot and table gaming tax rates for select markets within the U.S.

Current Gaming Tax Rates - Select Markets		
State	Slots	Tables
Nevada	6.75%	6.75%
New Jersey	8.0%	8.0%
Mississippi (1)	8.0%	8.0%
Arkansas (2)	13.0%	13.0%
Colorado (3)	20.0%	20.0%
Iowa (4)	22% - 24%	22% - 24%
New York	37% - 45%	10.0%
Maryland (4)	53.0%	20.0%
West Virginia	53.5%	35.0%
Pennsylvania (5)	54.0%	16.0%
Delaware	57% - 58%	20.0%
Rhode Island	71.5% - 74%	81% - 83%

Source: GMA  
Notes: (1) Additional 3.2% tax on slot & table revenues assessed by most, but not all, localities in Mississippi; effective rate is 11.2%. (2) 13% rate applies to the first \$150 million in gaming revenues. Additional revenues are taxed at 20%. (3) Tiered tax rate, with the 20% rate applying to revenues above \$13 million. (4) (3) Racinos pay 22% to 24% in gaming taxes. Casinos are taxed at a tiered rate, with 22% applying to revenues above \$3 million. (5) Slot taxes in Maryland range between 40% and 61% depending on the operator. As of Feb. 2020, the effective statewide rate for the fiscal year to date was 53%. (6) \$10 million local license renewal fee in addition to 54% tax rate. (7) The Rhode Island Lottery retains a vast majority of gaming revenues, with the remainder being in paid to operators as a commission or management fee.

## MARKETING AND PROMOTIONAL ALLOWANCES

Marketing is generally the largest variable operating expense of a casino resort. When casinos refer to marketing expense, it is usually inclusive of three primary categories: freeplay, promotional allowances, and marketing & advertising. Depending on the casino, these expenses can appear in a variety of areas on the income statement. In some casinos, freeplay is not even listed on the income statement as it is recorded as a contra revenue, as outlined in GAAP accounting. Promotional Allowances (comps, or the retail value of goods given to a player on a complimentary basis) may be presented as a line item between gross revenue and net revenue, or they may be found in the slots department and tables department based on who received the rewards. Although varying approaches may be taken to address these items, GMA prefers to call out freeplay and promotional allowances after gross revenue in order to arrive at a net revenue

figure, and then provide for a separate line for marketing under operating expenses. (It is important to note that financials utilizing GAAP accounting will not have promotional allowances listed.)

#### FREEPLAY

Freeplay is one of the numbers that varies the greatest from state to state. As previously discussed, states with higher tax rates often have some of the higher levels of freeplay being issued, providing that it is not taxed. However, some states will allow up to a predetermined percentage of slot revenue to be given to players before taxes, therefore dissuading operators from giving away too much freeplay. In New York State, for example, when an operator goes above the 10% threshold for freeplay, that operator owes the state about 40 cents (varies from racinos to resorts) in taxes on every dollar of freeplay that is redeemed, which makes freeplay far from free.

It is important to understand that when freeplay is not taxed, it artificially lowers the hold (or the percentage of coin-in that is retained by the casino) on slot machines. To counteract this, operators often increase the slot hold percentage programming to ensure that they can maximize the share of their player's wallet. The basic slot hold calculation is the amount wagered divided by the amount paid to the patron during one full cycle of the game. A basic slot game cycle is the total number of possible combinations that can be displayed to the patron. With an assumed 3 reels of symbols on a basic slot machine, the number of symbols on each reel (20) should be taken to the third power to determine the number of possible combinations ( $20^3 = 8,000$  possible combinations for a full cycle of the game).

The following section provides an example from Wind Creek Bethlehem in 2019. As can be seen, the casino held 9.9% on gross revenue and 6.2% on net revenue. This means that for every dollar wagered, 90.1 cents were given back to the player on a gross basis, and 93.8 cents given on a net basis. From a time perspective, this means that a dollar wagered by a player redeeming freeplay lasted about 55% longer than the one that didn't redeem freeplay. As such, this makes it harder to attract new players. When a player comes to the casino but hasn't earned freeplay yet, they quickly lose their money and many not have had the entertainment experience that they desired. It is then the goal of the casino to value their actual loss (versus theoretical) and send them an offer with freeplay to entice them to return (which is not often executed well at many casinos across the United States).

<b>Wind Creek Bethlehem 2019</b>	
Coin In (MM)	\$ 4,536
Gross Slot Revenue	\$ 447
Freeplay (MM)	\$ (162)
Net Slot Revenue	\$ 285
Slot Hold (Gross)	9.9%
Slot Hold (Net)	6.3%

*Source: PA Gaming Control Board, GMA*

Overall, freeplay generally ranges from a low of 3.5% of slot revenue to as much as 15% of slot revenue or more. As illustrated above, there are outliers to this, such as Wind Creek Bethlehem at 34% and some Native American properties where the number may be as low as 1.5%, although both of these two examples are rare.

#### PROMOTIONAL ALLOWANCES

Promotional Allowances (promo allowances or comps) are the retail value of goods given to customers on a complimentary basis. Examples of these include free or discounted hotel rooms, food & beverage comps, spa treatments, concert tickets, etc. In addition, some casinos also consider freeplay and/or table match coupons as part of promotional allowances as well. As a percent of revenue, these generally range from a low of 3.5% of GGR to a high of 9.0% of GGR, when considering only non-gaming goods given away.

Generally, a casino with a larger number of amenities will have a higher percentage of promo allowances as they have more options to offer as comps to players. It is likely that the reason that the more robust resort was built and/or expanded was to allow the operator to attract a larger or more diverse group of customers. As a rule of thumb, a casino that has a higher level of comps is able to offer lower levels of freeplay. For casinos that are able to offer alcohol for free (certain jurisdictions prohibit casinos from giving away complimentary alcohol), this can often account for 1.0% to 2.5% of gaming revenue. Many argue whether it is beneficial to give away alcohol for free, as some operators see it as a blessing in disguise when they are prohibited from doing so. Provided that a casino charges relatively low prices for drinks and offers ample floor service to accommodate their customers, the disadvantages of having to charge for drinks can be mitigated and have the same effect on gross operating income while still giving customers what they want.

#### MARKETING & ADVERTISING

The primary buckets in this category include direct mail (cost to produce and redemption thereof), promotions, special events, bussing, advertising, and payroll. As with most businesses, this category typically approximates 5-6% of revenue, but can vary from as low as 3.5% to a high

of 8.5%. Logically, the more competitive the environment, the higher this number will be. In addition, this figure will tend to be higher for casinos who do not have as high-quality of a product and therefore need to “buy” more of their business. Advertising and direct mail each typically approximate 2.0% to 3.0% of revenue; promotions and special events will run between 0.50% to 1.75%; direct payroll will approximate 0.75% to 1.50% (much of which accounts for staffing of the rewards club); and the rest is distributed between the remaining categories.

The following table summarizes casino marketing expenses as a percentage of gross gaming revenue.

<b>Casino Marketing Expense Margins</b>		
	<b>Low</b>	<b>High</b>
Expense as % of GGR:		
<b>Freeplay</b>	<b>3.5%</b>	<b>20.0%</b>
<b>Promo Allowances</b>	<b>3.5%</b>	<b>9.0%</b>
Alcohol Comps	1.0%	2.5%
<b>Marketing &amp; Advertising</b>	<b>3.5%</b>	<b>8.5%</b>
Advertising	2.0%	3.0%
Promotions/Events	0.5%	1.75%
Direct Payroll	0.75%	1.5%
<b>Total Casino Marketing</b>	<b>10.5%</b>	<b>37.5%</b>
<i>Source: GMA</i>		

## PLAYER REINVESTMENT

Player reinvestment is the sum of casino marketing expenses that are spent directly on players to incentivize them to play. Player reinvestment should generally only be given to players that are part of the reward program and utilize their players club card during play. These costs include all comps redeemed by carded members (F&B, hotel, etc.), all points that are redeemed (not accrued), redeemed mail offers, all freeplay offers, the costs of promotions that are predicated on the use of a rewards card, and the costs of events for certain segments of the casino database. Advertising placement and production, marketing administration, direct mail printing, and postage are not forms of player reinvestment.

Discussion of Player Reinvestment is used in terms of relationship to carded slot play and rated table game play, which refer to the amount of play that is recorded through the use of the casino’s player tracking system. Player Reinvestment rates (player reinvestment divided by carded play) can vary but typically range from 20% to 30%. When a rate is greater than this, it is likely that the casino is overinvesting in many of its players. If the rate is below this level, either the casino operates in a more monopolistic environment where it does not have to invest too much, or it has a rewards program that players do not feel is competitive. Very often, a low

player reinvestment rate is found at a casino that has a low percentage of carded gaming revenue. Typically, a healthy percentage of carded gaming revenue ranges from 65% to 80%. Below that range, there are likely opportunities to expand market share, and above that range, casinos may be overinvesting in their players.

Player reinvestment does not show up directly on casino income statements. These are separate analyses completed by sophisticated marketing departments or by well-seasoned consulting firms, such as GMA.

## OTHER OPERATING EXPENSES

With the revenue departments discussed, the remainder of a casino's operating expenses are generally fixed. While fixed, it is important to note that as with most businesses, even fixed expenses began to get overinflated when the economy is strong. As such, there is generally always room for some areas of savings regarding fixed expenses. Within this section, GMA also discusses relevant absolute minimum expenses that should be upheld.

### GENERAL & ADMINISTRATIVE

Whether a casino generates \$100 million in revenue or \$500 million, the level of G&A expense should not change too drastically. As such, as a percentage of gross revenue, this line item can vary greatly. In a successful operation, this figure can be as low as 3% of revenue, increasing to as much as 6% for a smaller casino, or even as high as 12% for a small, single-owned operation. However, for those properties generally discussed in this report, a number above 6% would be of concern. Some of the larger items found within G&A include executive payroll, insurance, and real estate taxes.

### MAINTENANCE AND ENGINEERING

Maintenance and Engineering is largely a fixed cost and changes very little. Whether a casino is closed or running at full capacity, the machines are still plugged in and running. While a higher volume of customer would bring more wear and tear on a property, walls still need to be painted, and floors need to be cleaned. This is one of the more stable categories as a percent of gross revenue, varying from 3.1% to 3.7% of gross revenue. Approximately half of this expense is payroll, with utilities accounting for the largest percentage of non-payroll expenses.

### SECURITY AND SURVEILLANCE

Similar to Maintenance and Engineering, Security and Surveillance expenses are mostly fixed. Casinos have set plans for where guards need to be stationed and how many need to roam the property. These expenses do not vary much based on the number of customers. With

Surveillance, there are a certain amount of people in the surveillance room watching the cameras, with an extra person or two during peak periods. As a percent of gross revenue, this generally varies from 0.9% to 1.6%, with a majority of these expenses being in payroll.

## FIXED VS. VARIABLE

Overall, when taking into account all categories, roughly 21.4% (of gross facility revenue) of a regional casino's operating expenses are fixed, while roughly 78.6% of operating expenses are variable. When looking at an overall corporation, the fixed versus variable ratio is closer to the 65% to 70% range due to corporate overhead. The largest and most variable expenses to a casino are usually its gaming tax rate, as well as freeplay and promotional allowances. While these expenses are variable, it is important to note that they are not directly variable (except gaming taxes) on a dollar to dollar basis. For example, if revenue is down 20% in the casino, promotional allowances will not go down a direct 20% as the casino will likely be employing a higher player reinvestment strategy to work on retaining customers. The following table further illustrates the variability of casino expenses.

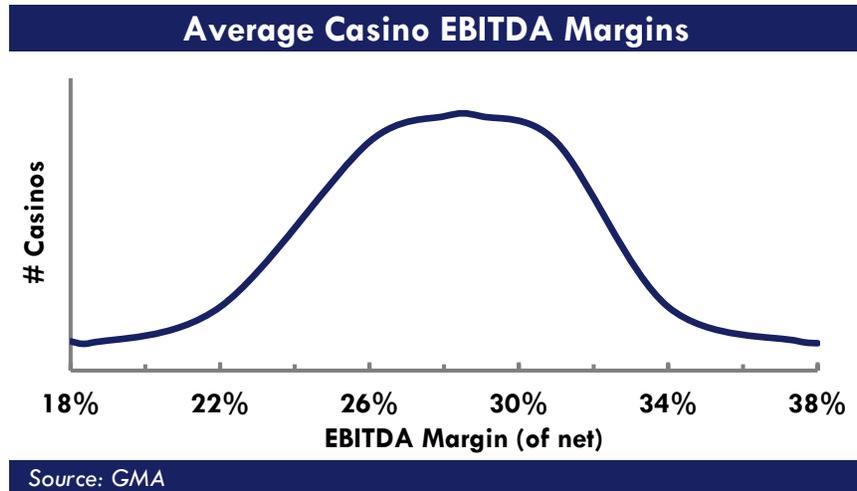
% Fixed Costs vs. Variable Costs		
	Fixed	Variable
Slots	40%	60%
Tables	30%	70%
Poker	30%	70%
Cage & Count	90%	10%
Rooms	30%	70%
F&B	20%	80%
Entertainment	5%	95%
Gaming Tax	0%	100%
Freeplay	0%	100%
Promo Allowances	0%	100%
Marketing	50%	50%
G&A	90%	10%
Maint. & Eng.	90%	10%
Security	90%	10%
<b>Weighted Average on Gross Revenue</b>	<b>21.4%</b>	<b>78.6%</b>

Source: GMA

The above chart is representative of an operation that is open and acts as a good guide to understand how to flex an income statement based on a reduction in revenue. In the current Covid-19 scenario, where casinos are forced to close their doors, a significant amount of the fixed costs become variable as well (utilities drop, fixed payroll may be significantly reduced, COGS are reduced to near zero as there is nothing to sell, etc.). For this, there is no rule of thumb and each casino and gaming company needs to be evaluated on a per facility basis.

## EBITDA

When taking into account all expenses, U.S. regional gaming properties generate EBITDA margins ranging from the high teens (often experienced in high tax-rate jurisdictions) to 38% for a successful casino resort. However, the majority of EBITDA margins usually approximate 27% to 31%. At times in Indian country, we have seen casinos reach margins in the 60<sup>th</sup> and 70<sup>th</sup> percentile, but these margins are usually anomalies as the facilities are operating with very low compact revenue sharing fees and enjoying a near monopolistic environment.



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GMA is the leading international provider of consulting services to the gaming, entertainment, sports, and hospitality, industries. The company provides clients with strategic planning, market feasibility studies, primary research, due diligence, general counsel, payroll control, operations analyses, government relations, crisis communications, responsible gaming initiatives, business and marketing plans, and reward program design. GMA also assists governments in developing public policy for integrated resorts, evaluating new markets and opportunities for public and private companies, and with due diligence for potential acquisitions. GMA's clients consist of the majority of public gaming companies, more than 75 Native American tribes, commercial and investment banks, and government agencies. The firm maintains active clients in Asia, the Americas, and Europe with offices located in Denver, CO; Las Vegas, NV; and Bangkok, Thailand. More information can be found by visiting [www.globalmarketadvisors.com](http://www.globalmarketadvisors.com).

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While the sports world has been put on pause due to COVID-19, it has started to reemerge as UFC events began last week. NASCAR is also returning this weekend at Darlington, and other major professional and amateur sports are working on their plans to either complete their season or host partial or modified seasons, ideally by Fall 2020. Meanwhile, this pause has also introduced new sports and leagues from around the world to a global audience. No one would have assumed that Taiwanese baseball, Russian ping pong, and Belarusian soccer would be able to find new homes in the hearts and minds of sports bettors across the globe. Sports has been and always will be a source of unification. Sports betting through the repeal of PASPA has only enhanced that fever for the activity to occur in a legal and regulated fashion.

While ESPN may be televising cherry pit spiting or rock skipping during the Great Shutdown, those sports have been unopen to wagering as operators and regulators have not determined whether or not wagers should be offered for these events. Snooker, bandy, darts, and other games are now commonly found on sports betting apps, along with esports and offshoots thereof that are being developed as these events allow for further wagering opportunities. Overwatch, League of Legends, and others similar games have provided a new set of options to sports bettors. This has also caused other sports leagues to get in on the action. Most notable is the iRacing Series that NASCAR has adopted to allow their drivers to compete and race through an online, simulated version of a racetrack.

## REVENUE TAKES A PAUSE

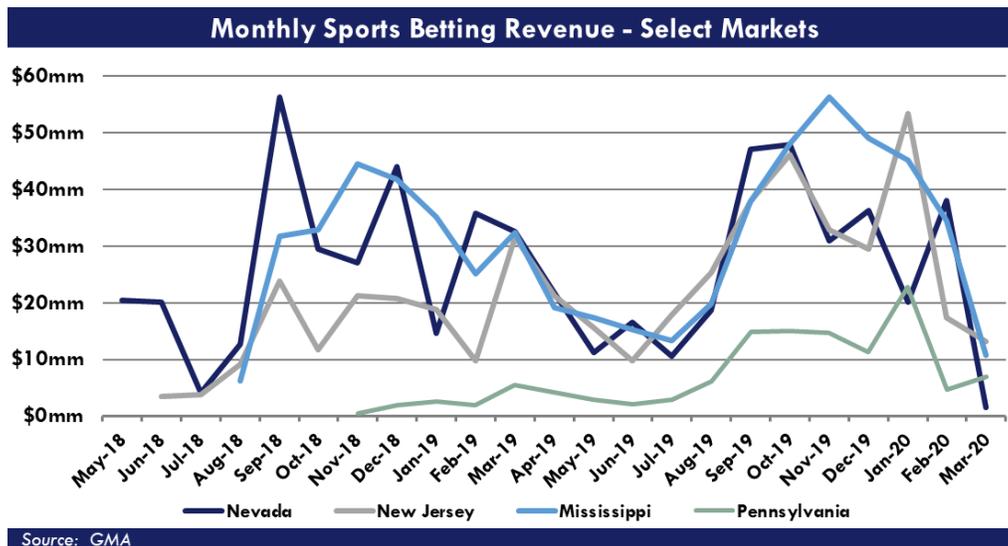
The revenue growth that has been experienced in states across the country will begin to trail off as there have only been a limited number of major sporting events on which customers can wager on (with the exception of the NFL Draft that occurred in April). The following table illustrates the sports betting revenue that was generated across several jurisdictions in the US through March 2020, which would have been significantly higher had March Madness taken place.

U.S. Sports Betting Comparable Summary								
State	Timeframe	Sports Betting			Taxes Collected (\$MM)	Total Gaming Revenue (\$MM)	Sports Betting % of Total Gaming	Sports Betting Win per Adult
		Handle (\$MM)	Revenue (\$MM)	Hold %				
Nevada	TTM March'20	\$ 4,514.8	\$ 305.6	6.8%	\$ 20.6	\$ 11,710.9	2.5%	\$132.22
Delaware	TTM March'20	\$ 88.8	\$ 13.0	14.7%	\$ 7.3	\$ 400.4	3.1%	\$17.77
New Jersey	TTM March'20	\$ 4,721.6	\$ 320.0	6.8%	\$ 39.4	\$ 2,585.0	11.0%	\$47.28
Mississippi	TTM March'20	\$ 366.8	\$ 41.4	11.3%	\$ 5.0	\$ 2,029.0	2.0%	\$19.21
West Virginia	TTM March'20	\$ 182.4	\$ 14.4	7.9%	\$ 1.4	\$ 571.9	2.5%	\$10.51
New Mexico (1)	TTM March'20	--	--	--	--	--	--	--
Pennsylvania	TTM March'20	\$ 2,191.6	\$ 108.5	5.0%	\$ 39.0	\$ 3,686.4	2.9%	\$11.22
Rhode Island	TTM March'20	\$ 246.5	\$ 23.4	9.5%	\$ 12.0	\$ 593.8	3.8%	\$29.01
Iowa	Since Launch (Aug'19)	\$ 346.7	\$ 24.4	7.0%	\$ 1.7	\$ 924.6	2.6%	\$15.88
Indiana (2)	Since Launch (Sept'19)	\$ 868.8	\$ 70.8	8.2%	\$ 6.7	\$ 1,162.4	5.7%	\$24.91
Average Without Nevada				6.8%			5.2%	\$23.66

Source: Global Market Advisors

(1) New Mexico is tribal only, no publicly available statistics; (2) Indiana revenues are exclusive of tribal gaming

The revenue pattern for sports betting continues to be seasonalized, with revenues peaking roughly from September to March. Many states that have emerged in the post-PASPA world are following this trend while generating significant levels of sports betting revenue. New Jersey and Mississippi, for example, have generated revenue levels comparable to Nevada within only two years of launching in those states. The following chart illustrates monthly sports betting revenues achieved in select markets since May 2018.



Football and the fall season continue to dominate, with the popularity of the NFL and College Football seasons in addition to the tail end of baseball season. This is demonstrated by the large bump in revenue in 2019 in Mississippi, when the state handled a high volume of wagers with the Houston Astros in the World Series. On the other hand, Pennsylvania continues to lag. While the state has a large base of consumers and several professional and college teams, they have been limited in the amount of revenue generated. This is due largely in part to onerous tax rates and licensing fees that have prevented operators from pursuing the opportunity further. Other states have had similar experiences with high tax rates and an improper structure in place to allow the market to meet expectations.

As the industry looks upon the last two years, there have been some leaders, some challenges, and some struggles in the states that have legalized sports betting. There are also some states that continue to balk on the issue and have held the same debate over the last three legislative sessions.

GMA continues to monitor both existing and emerging markets, as well as those that could emerge in the coming year. There are many important considerations as new markets look to legalize sports betting, including but not limited to tax rates, licenses and fees, mobile and online wagering, and consumer protections.

## TAX RATES MATTER

Taxes are one of the most important issues that that can lead to the success or failure of a market. As GMA has completed numerous studies across the country for operators, tribal organizations, associations, and governments, GMA has learned that anything above a 15% blended tax rate can make it difficult for sports betting operators to effectively compete in the market. This blended rate includes various tax scenarios that have been introduced in states to address brick-and-mortar, mobile, and online rates. Mobile tax rates tend to be slightly higher than, if not the same as, the brick-and-mortar rates in a given jurisdiction, but the operating costs are also lower, with a faster and more convenient delivery to the player. The table below illustrates sports betting tax rates in select markets across the United States.

U.S. Sports Betting Tax Rates	
Nevada	6.75%
Iowa	6.75%
New Jersey	8.5% - 14.25%
Indiana	9.5%
West Virginia	10%
New York	10%
Mississippi	12%
Pennsylvania	36%
Rhode Island	51%
Delaware	60%

Source: GMA

Pennsylvania, Rhode Island, and Delaware have some of the highest rates, which has been a part of creating some of the most challenging markets for both operators and the states themselves. States like Nevada, New Jersey, and Iowa offer some of the lowest tax rates and also have some of the most competitive and open markets. A competitive market is key to the development of a robust legal sports betting market that can compete effectively with the illegal market.

One of the biggest issues that has somewhat faded over the last six months has been the professional leagues desire for 'integrity fees.' However, the leagues have more recently tried to backchannel this fee through its data feeds to pick up additional revenue. Legislatively, this has been their continued focus as a way around the integrity fee debate. GMA firmly believes that data feeds should not be mandated under the legislative framework. Anything that has been done and continues to be done between two private parties should not be mandated through legislative means.

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## SOCIAL DISTANCING THROUGH MOBILE AND ONLINE

One movement that has been gaining momentum throughout the Great Shutdown has been the desire to move forward with mobile wagering and online gaming. New Jersey and Pennsylvania continue to lead the revenue charge in the iGaming space. In New Jersey, trailing 12-month online gaming revenue through March increased by almost 65% year-over-year. Pennsylvania, which is still in its infancy in the eye of the online gaming world, saw an online revenue increase of nearly 25% in the same period. Michigan and West Virginia are the next states that will move online. Look for other states and operators to start this movement as they experience revenue shortfalls resulting from the Great Shutdown. The 800-pound gorilla in the room remains in the Coalition to Stop Internet Gaming and how they may try to silence any initiative to legalize online gaming. GMA believes that this will catch more fire in future legislative sessions across the United States.

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## THE ROAD AHEAD

There are some states that are still having active conversations on sports betting. In addition to the states that are bringing sports betting to the ballot this fall, Louisiana is considering adding sports betting to the ballot. This initiative will move forward in a similar fashion as fantasy sports in the state, which was approved in the state in 2018. The quandary continues to be whether the legislature will pass the regulatory structure so that the process can move forward. Should sports betting be on the ballot in 2020 in Louisiana, GMA believes that the legislature will move in 2021 with enabling legislation.

New York, which already has land-based sports betting, is awaiting the results of a study that (at the latest) is supposed to be released to the public by June 1<sup>st</sup>. The report, which has had two draft deadlines pass and has been held in secrecy amongst the gaming commission, is part of a larger gaming study that is supposed to also look closely at mobile sports betting. While it is not likely that the legislature will take up the issue until later in the year at the earliest, stakeholders will likely have to procure their own studies that take a deeper look at the market across all forms of gaming. Legislative champions for sports betting continue to push forward in their attempt to recoup money that is being lost to operators across the border. GMA continues to believe that the quickest path to mobile wagering in New York would be through the ballot to avoid further legal challenges.

As states look to fill budget gaps, sports betting and online gaming will likely creep into the conversation. For those states that already have legalized sports, an increase in the tax rate should not be seen as a solution to fill a budget gap. In a high volume, low margin business, this would only hinder an already pressured market. Sound policy and insights from experts are needed to provide states with realistic projections that consider the impacts of COVID-19.

As GMA reflects on the two years since the post-PASPA journey began, the future looks bright for sports betting in the United States. The states' rights argument that overturned PASPA will likely lead to nearly 50 unique markets across the U.S. As this expansion unfolds, it will be important for each market to create a regulatory structure based on best practices, allowing for each market to compete effectively with the existing black market. By setting an appropriate tax rate, allowing for mobile wagering, and by implementing consumer protections and responsible gaming initiatives, a strong sports betting market can provide significant revenue to the states. Game On!

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## Regulated Sports Betting: A Nevada Perspective

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## REGULATED SPORTS BETTING: A NEVADA PERSPECTIVE<sup>1</sup>

*Becky Harris\**

### INTRODUCTION

This article discusses the impact Nevada has had on legal regulated sports betting for the past seventy years. First, an overview and history of Nevada's sports betting regulatory framework will be presented; and, second, lessons learned and issues to consider for states wishing to embark on legalized regulated sports betting such as, integrity, why states and not the federal government should regulate sports betting, how tax rates and fees impact the legal and illegal markets, why technology is a critical component of legal sports wagering, why multiple avenues for consumer protection are essential, and finally how cooperation among all stakeholders is essential and will help create solutions to new challenges.

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<sup>1</sup> *Post-PASPA: An Examination of Sports Betting in America: Hearing Before H. Subcomm. On Crime, Terrorism, Homeland Security, and Investigations*, 115th Cong. (2018) (Background material provided by Becky Harris) (This document is constantly changing as the sports betting environment transforms in the Post-PASPA Environment. It is current as of January 3, 2019. Prior versions of this document were reviewed and edited by my former staff at the Nevada Gaming Control Board. My thanks to Chief James Barbee, Chief Karl Bennison (retired), Chief Kelly Colvin, Chief Dan Douglas, Hearing Officer Chan Lengsavath, and Technology Lab Manager Eberwien for their insights and contributions as well as Carol O'Hare of the Nevada Council on Problem Gambling.) This article was originally provided as an exhibit as part of a presentation before the U.S. Judiciary's Subcommittee on Crime, Terrorism, Homeland Security and Investigations on September 27, 2018 in Washington, D.C.



I. OVERVIEW AND HISTORY OF NEVADA’S SPORTS BETTING REGULATION

Nevada has several decades’ worth of experience with legal regulated sports betting. As early as 1949, Nevada allowed bookmakers to accept bets on professional sports.<sup>2</sup> The first Nevada race books and sports pools were independent from casinos and had informal agreements with the hotels that they would stay out of the casino business as long as the hotels stayed out of the race book and sports pool business.<sup>3</sup> These race books and sports pools were small stand-alone shops referred to as “turf clubs.”<sup>4</sup> Some of the turf clubs from the early days include the Derby and Saratoga Clubs and the Hollywood Horse and Sports Book.<sup>5</sup> It is rumored that these early turf clubs were very lucrative.<sup>6</sup> Despite the agreements between the casinos and the turf clubs, sports betting remained unregulated by the State of Nevada.

In 1951, “reacting to a groundswell of opposition to all the illegal sports gambling outside of Nevada, the federal government slapped a 10% tax on Nevada’s legal sports books [handle].”<sup>7</sup> More commonly known as the Revenue Act of 1951, a law still in effect today, this excise tax “drove a lot of the legitimate operators either out of business or into the untaxed underground.”<sup>8</sup>

During the 1955 legislative session, the Nevada Legislature created the Gaming Control Board within the Nevada Tax Commission.<sup>9</sup> The Board’s purpose at that time was to eliminate the undesirable elements in Nevada gaming, to provide regulations for the licensing and the operation of gaming,

<sup>2</sup> See Richard N. Velotta, *Legalize Sports Wagering Elsewhere Might Not Affect Nevada Much*, L.V. SUN (Jan. 6, 2013, 2:00 AM) (For approximately 70 years bookmakers in Nevada have accepted legal bets on sporting events).

<sup>3</sup> David G. Schwartz, *Why Congress Should Repeal a Federal Tax on Sports Betting*, CDC GAMING REPORTS, INC. (Mar. 11, 2015, 10:21 AM), <https://www.cdcgamingreports.com/commentaries/why-congress-should-repeal-a-federal-tax-on-sports-betting/>; Aaron Grey, *The Vegas Era: Major Sports Betting Legislation in the USA (Part II)*, SPORTS BETTING DIME (Oct. 10, 2019), <https://www.sportsbettingdime.com/guides/legal/sports-betting-history-part-ii/>.

<sup>4</sup> STATE BAR OF NEV. PUBLICATIONS DEP’T & GAMING LAW SECTION OF THE STATE BAR OF NEV., NEVADA GAMING LAW PRACTICE AND PROCEDURE MANUAL, Sec 8.01, at 8-2-8-3 (2016) [hereinafter NEV. GAMING LAW PRACTICE AND PROCEDURE MANUAL]; Anthony Curtis, *Question of the Day – 17 November 2017*, L.V. ADVISOR (Nov. 17, 2017), <https://www.lasvegasadv isor.com/question/sports-betting-history/>.

<sup>5</sup> Curtis, *supra* note 4 (owned by Jackie Gaughan and by Jimmy “the Greek” Snyder, respectively); see also *Jackie Gaughan Bio*, WORLD CASINO INDEX (last visited Dec. 15, 2019), <https://www.worldcasinoindex.com/bios/jackie-gaughan/>.

<sup>6</sup> Curtis, *supra* note 4 (it is speculated that Jimmy “the Greek” Snyder was making \$2 million a week in the mid-1950s).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*; see also Schwartz, *supra* note 3.

<sup>9</sup> *About Us*, NEV. GAMING CONTROL BOARD, <https://gaming.nv.gov/index.aspx?page=2> (last visited Dec. 3, 2019).



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and to make sure gaming taxes were correctly reported to the state.<sup>10</sup> It was not until 1959, with the creation of the Nevada Gaming Commission, that the current framework for regulated gaming in Nevada was created.<sup>11</sup>

The ten percent tax at the federal level “drove legitimate Nevada casinos out of sports betting.”<sup>12</sup> In order for legalized sports betting to reestablish itself, an appropriate tax structure was necessary. This tax structure would need to both provide a basis for which legal operators could offer bets in a safe regulated market and persuade others to join this regulated system while leaving behind the competing illegal market.

In 1974, U.S. Senator Howard Cannon, D-Nev., succeeded in passing a bill that reduced the ten percent excise tax to two percent.<sup>13</sup> Casinos began to see the benefits of offering sports betting and “within a decade,” the majority of turf clubs ceased to exist while race books and sports pools became amenities inside the casinos.<sup>14</sup> While the first race book and sports pool to open inside a casino occurred in 1975, at the Union Plaza,<sup>15</sup> Nevada Gaming Control Board records show the last turf club in Nevada closed its doors in the fall of 1996.

The 1977 Nevada Legislature established a public policy for gaming by enacting the following:

1. The legislature hereby finds, and declares to be the public policy of this state, that:
  - (a) The gaming industry is vitally important to the economy of the State and the general welfare of the inhabitants.
  - (b) The continued growth and success of gaming is dependent upon public confidence and trust that licensed gaming. . .[is] conducted honestly and competitively. . .[and] that gaming is free from criminal and corruptive elements.
  - (c) Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations and activities related to the operation of licensed gaming establishments, the manufacture, sale or

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<sup>10</sup> *Id.*

<sup>11</sup> *See Gaming Commission, NEV. GAMING CONTROL BOARD*, <https://gaming.nv.gov/index.aspx?page=3> (last visited Dec. 3, 2019).

<sup>12</sup> Schwartz, *supra* note 3.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> Curtis, *supra* note 4.



distribution of gaming devices and associated equipment. . . .

(d) All establishments where gaming is conducted and where gaming devices are operated, and manufacturers, sellers and distributors of certain gaming devices and equipment. . . must therefore be licensed, controlled and assisted to protect the public health, safety, morals, good order and general welfare of the inhabitants of the State. . . and to preserve the competitive economy and policies of free competition of the State of Nevada.

2. No applicant for a license or other affirmative commission approval has any right to a license or the granting of the approval sought. Any license issued or other commission approval granted pursuant to the provisions of this chapter or chapter 464 of NRS is a revocable privilege, and no holder acquires any vested right therein or thereunder.<sup>16</sup>

This general philosophy has guided Nevada's legalized gambling market for more than forty years.<sup>17</sup> Though the language has been amended over time, the statute has been augmented, but not fundamentally changed.<sup>18</sup>

Despite the decrease in federal taxation on race books and sport pools to two percent, the two percent tax was a financial hardship and as such only a few casinos offered betting on sports. Race books and sports pool operators maintain a very low house advantage and therefore operate a low-margin business.<sup>19</sup>

In 1982, Congress lowered the tax on legal Nevada sports books to 0.25 percent, but kept intact the two percent levy on illegal bookmaking operations.<sup>20</sup> The Revenue Act of 1951 allows the federal government to collect taxes not only from Nevada, but with the recent repeal of PASPA, any other jurisdiction that implements legal regulated sports wagering.<sup>21</sup>

<sup>16</sup> NEV. REV. STAT. § 463.0129 (1999).

<sup>17</sup> *Id.* (amendments to this statement of public policy have been made only ten times in 40 years).

<sup>18</sup> *See generally id.*

<sup>19</sup> Eric Ramsey, *Nevada Congresswoman Calls For End to Federal Sports Betting Handle Tax*, LEGAL SPORTS REP. (Dec. 13, 2017), <https://www.legalsportsreport.com/16955/federal-sports-betting-handle-tax/>; *see also Sportsbook Profit Margins*, SPORTS INSIGHTS, <https://www.sportsinsights.com/betting-tools/sportsbook-profit-margins/> (last visited Dec. 3, 2019).

<sup>20</sup> Schwartz, *supra* note 3.

<sup>21</sup> *See generally* Dustin Gouker, *Legislative Tracker: Sports Betting*, LEGAL

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In the early days, sports wagering was not regulated in the same form or to the degree it is today. However, with the decrease in the federal excise tax burden, enhanced state oversight, and dedicated state resources, Nevada has been and continues to regulate sports betting with integrity and success. In fact, in 2018, Nevada race books and sports pools saw almost \$5 billion “in handle,” or the total amount wagered.<sup>22</sup>

In the era of legalized sports betting in the United States, there are those who feel that the Nevada model should not be emulated.<sup>23</sup> As the most mature regulated gaming market in the United States, Nevada shares its successful model with interested jurisdictions to serve as a foundation from which those jurisdictions can assess their public policy considerations and determine the best regulatory process for them.

Every entity that conducts wagering in Nevada is subject to a rigorous licensing investigation to ensure that the entity itself, and the individuals associated with it, meet Nevada’s strict gaming standards and are persons of the highest caliber.<sup>24</sup> Key employees involved in the operation of a sports pool or race book are required to be fully licensed by the Nevada Gaming Commission.<sup>25</sup> Every time there is a new licensing event, such as a change in job responsibilities or an employee promotion, investigations begin anew and licensee is again brought before the Nevada Gaming Control Board and Commission.<sup>26</sup>

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SPORTS REP. (last updated Sept. 4, 2019), <https://www.legalsportsreport.com/sportsbetting-bill-tracker/> (as of the writing of this article, 13 U.S. jurisdictions currently offer legalized sports betting and 7 more, including Puerto Rico, have authorized sports betting but are not currently offering wagering); see also Kelsey McCarson, *Puerto Rico Sports Betting Bill Signed into Law by Governor*, TOPUSBETS (July 31, 2019), <https://www.topusbets.com/news/puerto-rico-sports-betting-bill-signed-into-law-by-governor>.

<sup>22</sup> *Legal Nevada Sports Betting*, LEGAL SPORTS BETTING (Sept. 25, 2019), <https://www.legalsportsbetting.com/nevada/>; Todd Dewey, *Nevada Sportsbooks Win Record \$301M in 2018 from \$5B in Bets*, L.V. REV. J. (Jan. 31, 2019), <https://www.reviewjournal.com/sports/betting/nevada-sportsbooks-win-record-301m-in-2018-from-5b-in-bets-1586522/>.

<sup>23</sup> When comparing the Nevada and United Kingdom models for sports betting, significant differences are apparent. Specifically, in the United Kingdom there is no federal law overlay such as the Wire Act for operators to comply with and credit cards can be used for gambling purposes. See Debbie, *Sports Betting Laws in Nevada Are Outdated: Major League Baseball*, iGAMING POST (Jan. 12, 2018), <https://gaming-awards.com/NEWS/sports-betting-laws-in-nevada-are-outdated-major-league-baseball/>; Joss Wood, *Will Nevada Finally Allow Sports Bettors to Sign Up Online?*, LEGAL SPORTS REP. (Sept. 12, 2018, 2:03 PM), <https://www.legal-sportsreport.com/23602/nevada-sports-betting-online-signup/>.

<sup>24</sup> Nev. Gaming Comm’n Reg. § 3.090 (2019).

<sup>25</sup> Nev. Gaming Comm’n Reg. § 3.110 (2019).

<sup>26</sup> Nev. Rev. Stat. § 463.165 (2007); Nev. Rev. Stat. § 463.530 (1993); Nev. Rev. Stat. § 463.569 (2013); Nev. Rev. Stat. § 463.5735 (2013); NEV. GAMING LAW PRACTICE AND PROCEDURE MANUAL, *supra* note 4, at § 2.01(3).



Wagers of all types, including sports wagers, are taken under only the strictest of state government controls. Nevada sports books must comply with significant statutory, regulatory, and internal controls standards. Nevada imposes strict audit and accounting requirements on its licensees.<sup>27</sup> Nevada's sports betting systems documents important detailed information relating to all aspects of sports wagering activity including required information for each wager received, every win paid out, results of events, changes in odds and results, authorization for voids, large wagers and large payouts, exception reports, and other relevant information needed to adequately audit the operations of the book.<sup>28</sup> Sports books must also maintain both a minimum on-hand bankroll and an approved restricted reserve account with a financial institution that guarantee payment of wagers.<sup>29</sup>

The Nevada Gaming Control Board routinely audits sports book operators both in terms of financial accountability and process accountability.<sup>30</sup> When conducting an audit, among other things, Gaming Control Board agents will go to a sports book, observe how bets are taken, see if the correct processes are being followed if a bet is voided, and make sure the appropriate information is captured on the ticket.<sup>31</sup> Additionally, surveillance requirements are imposed where wagers are offered.<sup>32</sup>

As the most mature legally regulated sports betting jurisdiction in the United States, Nevada has a depth of knowledge and a breadth of understanding that can only come with experience. It has much to offer new jurisdictions wishing to legalize sports wagering in the aftermath of the repeal of PASPA.

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<sup>27</sup> See Nev. Gaming Comm'n Reg. § 5.013 (2019), Nev. Gaming Comm'n Reg. § 5.115 (2019), Nev. Gaming Comm'n Reg. § 5.190 (2019), Nev. Gaming Comm'n Reg. § 5.225-5.240 (2019); see also Nev. Gaming Comm'n Reg. § 6 (2019), Nev. Gaming Comm'n Reg. § 14.010 (2019), Nev. Gaming Comm'n Reg. § 22 (2019), Nev. Gaming Comm'n Reg. § 26B (2019), Nev. Gaming Comm'n Reg. § 26C (2019); see STATE OF NEV. GAMING CONTROL BOARD, MINIMUM INTERNAL CONTROL STANDARDS, RACE AND SPORTS (2008) [hereinafter MINIMUM INTERNAL CONTROL STANDARDS], <https://gaming.nv.gov/modules/showdocument.aspx?documentid=4549>.

<sup>28</sup> See MINIMUM INTERNAL CONTROL STANDARDS, *supra* note 27.

<sup>29</sup> Nev. Gaming Comm'n Reg. § 6.150.

<sup>30</sup> See MINIMUM INTERNAL CONTROL STANDARDS *supra* note 27; NEV. GAMING LAW PRACTICE AND PROCEDURE MANUAL, *supra* note 4, at § 15.01.

<sup>31</sup> See generally MINIMUM INTERNAL CONTROL STANDARDS, *supra* note 27 (mandating auditing requirements for casinos).

<sup>32</sup> See generally Nev. Gaming Comm'n Reg. § 5A (2019) (This regulation mandates the type of monitoring casinos should participate in when patrons are placing various types of wagers).

II. THE NEVADA REGULATORY STRUCTURE: LESSONS LEARNED AND IMPORTANT CONSIDERATIONS FOR FUTURE STATES ADOPTING A LEGAL REGULATED SPORTS BETTING FRAMEWORK.

As the rollout of state and tribal regulation of legal sports betting continues throughout the United States, the Nevada regulatory model can provide a foundation for some of the weightier matters which must be addressed when creating a robust gaming regulatory structure.

*A. Integrity in the Game Is One of the Most Important Aspects When Regulating Sports Betting.*

Nevada's stated public policy, as discussed above, is fundamental to all forms of gaming, regardless of the jurisdiction. It is understandable that as more states create their own sports betting models and offer wagering, concerns about integrity might proliferate. One integrity issue involves the game itself. Often there are unarticulated concerns about how the game is played; the conditions of the playing environment; interactions between the coaches, referees and player(s); how the officiating is conducted; the interactions between players; player health; how the owners of the teams conduct themselves; etc. Because there is no regulatory authority to which sports leagues are accountable, sports leagues have the responsibility to self-police and regulate these matters as well as the people involved within their organizations.

Another integrity issue involves the betting action that occurs with respect to sporting events. While the types of bets being placed receives much attention, other issues that are more difficult to resolve include which types of bets should be placed,<sup>33</sup> the types of data captured,<sup>34</sup> how much data should be captured,<sup>35</sup> what is done once the data has been captured,<sup>36</sup> when has too much

<sup>33</sup> *When Sports Betting Is Legal, the Value of Game Data Soars*, CAPPTERTEK (July 3, 2018), <https://www.cappertek.com/blog.asp?b=when-sports-betting-is-legal-the-value-of-game-data-soars>; Steve Gallaway & Brendan Bussmann, *The Importance of Data in Sports Betting*, GLOBAL GAMING BUS. MAG. (Jan. 27, 2019), <https://ggbmagazine.com/article/the-importance-of-data-in-sports-betting/> (disclosure: the author consults for Global Market Advisors but did not contribute in any way to this article).

<sup>34</sup> Aaron Timms, *Are Super-Nerds Really Ruining US Sports?*, GUARDIAN (Aug. 16, 2018), <https://www.theguardian.com/sport/2018/aug/16/sports-nerds-analytics-data>.

<sup>35</sup> *Id.*; Ryan Ayers, *How Big Data is Revolutionizing Sports*, DATAECONOMY (Jan. 24, 2018), <https://dataeconomy.com/2018/01/big-data-revolutionizing-favorite-sports-teams/>.

<sup>36</sup> Gallaway & Bussmann, *supra* note 33; Bernard Marr, *The Big Risks of Big Data in Sports*, FORBES (Apr. 28, 2017, 1:00 AM), <https://www.forbes.com/sites/be>

data been captured,<sup>37</sup> who owns the data,<sup>38</sup> whether or not data is shared,<sup>39</sup> and if so, how it is shared and with whom,<sup>40</sup> and more importantly which data points are shared or not shared.<sup>41</sup> Still, other concerns center around whether or not a particular type of sporting or “other event” has a “league,” sanctioning body or other organized entity that represents all participants, what happens when an organized league or organized entity decides not to create an integrity structure, or doesn’t want to have to self-police the issues that arise when gaming is offered on its events.<sup>42</sup>

As other U.S. jurisdictions legalize sports betting, the major U.S. sports leagues have indicated they want to control the types of bets that sports pools can offer.<sup>43</sup> The NFL has stated they want the ability to “put the kibosh on certain types of in-game prop bets, arguing that “[t]hese types of bets are significantly more susceptible to match-fixing efforts, and are therefore a source of concern to sports leagues, individual teams, and the athletes who compete.”<sup>44</sup> In a strictly regulated sports betting market, there are no specific bet types that drive the illegal market. What allows the illegal market to flourish is accessibility, convenience, ability to issue credit, and no requirements to report winnings. As there are no regulatory costs to illegal bookmakers, they are able to offer competitive or more attractive odds compared to legal race books and sports pools and as such exact lower commission rates (i.e., vigorish).

Match fixing is more likely to occur in illegal markets where there is no regulatory responsibility, where monitoring betting patterns is of no concern, and where line movements may not matter.<sup>45</sup> From the time Nevada established

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rnardmarr/2017/04/28/the-big-risks-of-big-data-in-sports#5bb3110a7462.

<sup>37</sup> Timms, *supra* note 34.

<sup>38</sup> John Holden, *Can Leagues Own Data Rights When it Comes to US Sports Betting?*, LEGAL SPORTS REP. (May 28, 2018), <https://www.legalsportsreport.com/20745/leagues-and-fees-in-sports-betting/>.

<sup>39</sup> Marr, *supra* note 36.

<sup>40</sup> Ayers, *supra* note 35.

<sup>41</sup> Marr, *supra* note 36; Katie Russell, *Why Sports Teams Should Avoid Relying on Consent to Comply With GDPR*, LAWINSPO (Aug. 15, 2018), <https://www.lawinsport.com/content/articles/item/why-sports-teams-should-avoid-relying-on-consent-to-comply-with-gdpr>; Charlie Sammonds, *Data Collection in Sports: An Ethical and Legal Minefield*, INNOVATION ENTERPRISE, <https://channel.theinnovationenterprise.com/articles/data-collection-in-sports-an-ethical-and-legal-minefield> (last visited Dec. 20, 2019).

<sup>42</sup> Nev. Gaming Comm’n Reg. § 22.1201 (2019) (“Other event” is a designation for certain types of bets sports books can offer).

<sup>43</sup> Rey Mashayeki, *Inside the Battle for the Future of Sports Betting*, FORTUNE (Apr. 10, 2019), <https://fortune.com/long-form/sports-betting-battle/>.

<sup>44</sup> Mike Florio, *NFL Wants Official Data Used for Gambling, Restrictions on Certain Types of Bets*, NBC SPORTS (Sept. 26, 2018, 4:42 PM), <https://profootballtalk.nbcsports.com/2018/09/26/nfl-wants-official-data-used-for-gambling-restrictions-on-certain-types-of-bets/>.

<sup>45</sup> See Minhyeok Tak et al., *The Problems and Causes of Match-Fixing: Are Legal*

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its sports betting regulatory framework, around 1982, several sports betting scandals have been discovered by Nevada bookmakers. The Nevada Gaming Control Board has also been instrumental in helping to uncover and investigate allegations of insider information and point shaving.

Some of the biggest scandals in U.S. sports history include the following:

1919 Chicago Black Sox

“Eight Chicago White Sox Players...were banned from baseball for life for conspiring with gamblers to throw the 1919 World Series in exchange for cash.”<sup>46</sup>

1951 College basketball point-shaving scandal

Thirty-two players were arrested and admitted to accepting bribes from 1947 to 1950 to fix eighty-six games. This scandal involved City College of New York, winner of the NCAA and National Invitational Tournament titles in 1950, as well as New York University, Long Island University, Manhattan College, Bradley, Toledo, and Kentucky (which suspended its basketball program from the 1952–1953 season).<sup>47</sup>

Late 1970s

Nevada regulated sports betting model and modern sports books begin to develop.<sup>48</sup>

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*Sports Betting Regimes to Blame?*, 4 J. CRIMINOLOGICAL RES., POL’Y & PRAC. 73, 77 (2018). Sometime in the 2008–2009 timeframe, a proposition bet was taken off the betting board in Nevada at the request of the Nevada Gaming Control Board because of indications that the outcome was known prior to the start of the event and concern that someone with inside information could potentially make a bet. In 2015, the Nevada Gaming Control Board allowed for certain wagers to be rescinded due to concerns around high value wagers that were placed on a specific rare outcome. A high dollar wager was placed for \$100,000 on the Mayweather/Pacquiao fight to end in a draw. The high dollar coupled with a wager on a rare outcome raised enough concern about suspicious betting activity that the Chair of the Nevada Gaming Control Board gave approval for rescission of the wager to William Hill. The rescission of the wagers was made *prior* to the start of the fight.

<sup>46</sup> Todd Dewey, *Las Vegas Bookmakers Know a Fix When They See One*, L.V. REV. J. (Sept. 8, 2017, 5:54 PM), <https://www.reviewjournal.com/sports/betting/las-vegas-bookmakers-know-a-fix-when-they-see-one/> (there is no record of any wagers placed in Nevada).

<sup>47</sup> *Id.* There is no record that any inside knowledge of the fix was utilized when wagers were placed in Nevada.

<sup>48</sup> Roger Aitken, *U.S. Sports Betting Market: Could New Jersey Eclipse Nevada to Become No. 1?*, FORBES (Aug. 12, 2018, 2:49 PM), <https://www.forbes.com/sites/rogeraitken/2018/08/12/u-s-sports-betting-market-could-new-jersey-eclipse-nevada-to-become-no-1/#7a25351427ca>.



1978 Boston College basketball point-shaving scandal

Mobster Henry Hill and Richard “The Fixer” Perry, a twice convicted sports fixer, conspired during the 1978–1979 season to fix nine games with the help of three Boston College players. Boston College Eagles player Rick Kuhn received a ten-year prison sentence for his role. Ultimately, he only served twenty-eight months of that sentence.<sup>49</sup>

1985 Tulane basketball point-shaving scandal

John “Hot Rod” Williams, a former NBA player, was involved in shaving points in exchange for money and cocaine along with four other Tulane players. **Las Vegas bookmakers helped uncover** this scandal, which resulted in Tulane dropping its basketball program.<sup>50</sup>

1989 Pete Rose

Pete Rose was banned from baseball for betting on the Cincinnati Reds while he managed them.<sup>51</sup> An Ohio bookmaker told prosecutors that he took as much as \$1 million in bets from Pete Rose.<sup>52</sup>

1994 Arizona State basketball point-shaving scandal

Sun Devils players Stevin “Hedake” Smith and Isaac Burton fixed four games in the 1993–1994 season by conspiring with gamblers. **Las Vegas bookmakers helped uncover the scheme** by alerting authorities to suspicious betting patterns after taking around \$900,000 in wagers on an Arizona State–Washington game, which would typically generate \$40,000 in wagers.<sup>53</sup>

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<sup>49</sup> Dewey, *supra* note 46 (there is no record that any inside knowledge of the fix was utilized when wagers were placed in Nevada).

<sup>50</sup> *Id.*

<sup>51</sup> Hilary Russ, *U.S. States Should Not Copy Nevada Sports Betting Law: MLB, WHBL* (June 8, 2018, 4:34 PM), <https://whbl.com/news/articles/2018/jun/08/us-states-should-not-copy-nevada-sports-betting-law-mlb/>.

<sup>52</sup> *Rose Bet up to \$1 Million, Bookie Says*, DESERET NEWS (Apr. 25, 1989, 12:00 AM), <https://www.deseret.com/1989/4/25/18805262/rose-bet-up-to-1-million-bookie-says> (no Nevada sports pools or race books are known to have taken any direct action from Mr. Rose).

<sup>53</sup> Dewey, *supra* note 46 (there is no record that any inside knowledge of the fix was utilized when wagers were placed in Nevada).



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1995 Northwestern point-shaving scandal

Kenneth Dion Lee and Dewey Williams were indicted in a point-shaving scandal alleging they “took money to insure [sic] that the Wildcats lost by more than the point spread in three games in early 1995.”<sup>54</sup>

2001 University of Florida

**NCAA requested information from the Nevada Gaming Control Board** regarding the betting activity of a University of Florida basketball player who gave inside information on games to a bookmaker.<sup>55</sup>

2004–2006 Toledo football and basketball point-shaving scandal

In the first major gambling case involving two sports on a college campus, Rockets football and basketball players conspired with gamblers to shave points in games from 2004 to 2006. **Kenny White, who owned the Las Vegas Sports Consultants odds-making firm at the time, first alerted the NCAA to suspicions of point shaving** at Toledo after noticing irregular betting patterns on its games.<sup>56</sup>

2007 NBA Referee Tim Donaghy

Veteran NBA official Tim Donaghy was sentenced to fifteen months in prison in 2007 for betting on NBA games he officiated, for making calls that affected the point spreads and totals in those games, and providing inside information to gamblers.<sup>57</sup>

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<sup>54</sup> Pam Belluck, *College Basketball; Ex-Northwestern Players Charged in Point-Shaving*, N.Y. TIMES (Mar. 27, 1998), <https://www.nytimes.com/1998/03/27/sports/college-basketball-ex-northwestern-players-charged-in-point-shaving.html> (there is no record that any inside knowledge of the fix was utilized when wagers were placed in Nevada).

<sup>55</sup> *Dupay Allegedly Shared Gambling Winnings*, L.A. TIMES (Sept. 15, 2001, 12:00 AM), <https://www.latimes.com/archives/la-xpm-2001-sep-15-sp-46059-story.html> (there is no record that any inside knowledge of the fix was utilized when wagers were placed in Nevada).

<sup>56</sup> Dewey, *supra* note 46 (there is no record that any inside knowledge of the fix was utilized when wagers were placed in Nevada).

<sup>57</sup> *Donaghy Sentenced to 15 Months in Prison in Gambling Scandal*, ESPN (July 29, 2008), <https://www.espn.com/nba/news/story?id=3509440> (there is no record that any inside knowledge of the fix was utilized when wagers were placed in Nevada).

2011 University of San Diego

The FBI learned about point shaving on USD basketball games after the 2009–2010 season. Five or six games had been compromised. The majority of the wagers were placed with off-shore bookies.<sup>58</sup>

2012 Auburn University point-shaving scandal

Varez Ward was indicted for “two counts related to point-shaving accusations.” Ward was alleged to “have conspired with others to bribe or solicit one or more individuals to influence an Auburn game” and for trying “to fix games” and offer money to his teammates.<sup>59</sup>

2014 University of Texas El Paso

**The FBI in El Paso reached out to the Nevada Gaming Control Board** about UTEP basketball in January 2014. Three players were kicked off the team for betting on games. A bookmaker unsuccessfully attempted to recruit the players to fix a game but did not get them to bet.<sup>60</sup>

In the majority of the examples above, illegal bookmakers and illegal bookmaking operating independent of regulated sports betting provided the conditions that fostered point-shaving and match-fixing. When significant sums were wagered in regulated sports books, it was readily apparent that suspicious activities were taking place. While one might think that significant sums of money are involved in match fixing schemes, quite the opposite is the functional reality.

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<sup>58</sup> See generally Rob Dauster, *FBI: San Diego Point-Shaving Scandal Netted 'More than \$120,000'*, ESPN SPORTS (May 22, 2013, 11:52 AM), <https://collegebasketball.nbcsports.com/2013/05/22/fbi-san-diegos-brandon-johnson-paid-up-to-10000-per-game-to-shave-points/> (some small wagers designed to avoid detection were made with Nevada sports pools and there is no record that any inside knowledge of the fix was utilized when wagers were placed in Nevada).

<sup>59</sup> Scott Gleeson, *Former Auburn Player Indicted in Point-Shaving Scandal*, USA TODAY SPORTS (June 4, 2013, 6:05 PM), <https://www.usatoday.com/story/sports/ncaab/2013/06/04/former-auburn-guard-varez-ward-indicted-in-point-shaving-scandal/2388831/> (there is no record that any inside knowledge of the fix was utilized when wagers were placed in Nevada).

<sup>60</sup> Aaron Martinez, *Bookie in UTEP Basketball Betting Scandal Pleads Guilty*, EL PASO TIMES (Oct. 21, 2016 6:21 PM), <https://www.elpasotimes.com/story/news/crime/2016/10/21/bookie-utep-betting-scandal-pleads-guilty/92487014/> (No significant bets were taken on the games with Nevada sports pools and race books. There is no record that any inside knowledge of the fix was utilized when wagers were placed in Nevada).

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In a highly regulated, legal sports betting market, like Nevada, integrity in sports betting on the gaming side is maintained through the consistent efforts of the Enforcement Division of the Nevada Gaming Control Board, along with the Nevada sports book operators who are actively involved in monitoring betting lines, watching for unusual betting activity, and successfully uncovering attempts to fix games.

*B. States Are in the Best Position to Regulate Sports Betting.*

States are best equipped to regulate sports betting within their borders. It is a responsibility that the states and tribal jurisdictions take seriously and perform with fidelity. Federal regulation would only add unnecessary costs, delay in the licensing process, increase taxation, and create additional complications. “The federal government has historically played no role in the discharge of the traditional regulatory functions of licensing, enforcement, and audit.”<sup>61</sup> “Congress has no real expertise in establishing gaming regulatory regimes.”<sup>62</sup> Whereas states and tribal jurisdictions have had decades to develop their expertise and to strictly regulate gaming.

It would take several years to establish a federal regulatory model. In the meantime, Nevada has had its sports betting regulatory system in place for over forty years and other states have begun to establish their systems. A federal system of regulation would only create additional barriers to entry into the legal sports betting industry and establish unnecessary additional layers of regulation. Federal regulation would put legal regulated sports betting at a greater disadvantage because another level of regulation would increase the overall price of betting products.

*C. Tax Rates and Fee Structures Can Dramatically Influence Both the Legal and Illegal Sports Betting Market.*

It is imperative that jurisdictions embarking on legalized sports betting understand the impact that tax rates and fee structures have on both legalized regulated sports betting markets and the illegal sports betting market.

To foster a robust and healthy legal sports betting market, state tax structures **must** be reasonable. Nevada already has a strong model for sports betting in place; one that has been refined over decades. The State of Nevada has buttressed that model with significant resources in the form of an enforcement structure, audit and accounting controls, and minimum internal control standards. Over the past forty years Nevada has developed a specialized

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<sup>61</sup> Keith C. Miller & Anthony N. Cabot, *Regulatory Models for Sports Wagering: The Debate Between State vs. Federal Oversight*, 8 UNLV GAMING L.J. 153, 156 (2018).

<sup>62</sup> *Id.* at 174.

regulatory knowledge for sports betting that cannot be easily replicated in a short period of time.

Nevada and other U.S. jurisdictions accept a certain level of risk when pricing their offerings, that other models such as the United Kingdom do not accept. Operating on thin margins, typically at five percent or less, navigating volatile revenues with the unpredictability of game outcomes, and a constant need to be competitive, race books and sports pools have almost as much on the line as the bettors do. The race books and sports pools have to hope that their line setters can anticipate the outcome of a game better than the sports enthusiast who places a wager. A good example of the thin margins and high volatility in sports betting comes from Las Vegas. As the Las Vegas Golden Knights continued its quest for the Stanley Cup during the 2018 season, Nevada race books and sports pools were looking at potential losses ranging from \$5-7 million (U.S. dollar).<sup>63</sup>

New jurisdictions engaging in legalized sports wagering will not simply be competing against other states with legalized sports betting, they will also be competing with off-shore illegal operators along with illegal operators within their own jurisdictions.<sup>64</sup> Reasonable tax rates are essential in order for legal sports betting products to be competitive with illegal providers.

Any additional fees, to the extent they are implemented, serve only to facilitate off-shore illegal gambling operations by making legal betting products that much more expensive. A well-regulated gaming market shifts betting away from the illegal market to the degree the legal market satisfies any given bettor.<sup>65</sup> After the repeal of PASPA, state gaming regulators released a statement declaring, “[a]dditional fees, including the so-called ‘integrity fee,’ increase the costs of legal sports betting, siphon much needed tax revenues away from state coffers, and increase state regulatory burdens.”<sup>66</sup> Keeping taxes low and eliminating fees helps ensure that legal betting products can be priced competitively with illegal market products.

Nevada gaming licensees pay a number of taxes and fees.<sup>67</sup> The most

<sup>63</sup> Todd Dewey, *Sports Books Excited for Golden Knights Despite Possible \$7M Loss*, L.V. REV. J. (May 24, 2018, 7:17 PM), <https://www.reviewjournal.com/sports/betting/sports-books-excited-for-golden-knights-despite-possible-7m-loss/>.

<sup>64</sup> See generally Joe Lemire, *New U.S. Sports Betting Markets Have Started Data War*, SPORTTECHIE (June 29, 2018), <https://www.sporttechie.com/sports-betting-of-f-icial-data-rights-mlb-nfl-nba-pga-nhl-ncaa/>.

<sup>65</sup> Media Statement, U.S. State Gaming Regulators Forum, State Gambling Regulators Equipped and Ready to Take Charge on Legal Sports Betting Industry (May 22, 2018) [hereinafter U.S. Gaming Regulators Forum] <https://gaming.nv.gov/modules/showdocument.aspx?documentid=13251.>

<sup>66</sup> *Id.*

<sup>67</sup> See generally *License Fees Tax Rate Schedule*, NEV. GAMING CONTROL BOARD, <https://gaming.nv.gov/index.aspx?page=94> (last visited Dec. 20, 2019) (explaining that fuller explanation of the types of taxes and fees paid by non-restricted licensees in Nevada).

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common gaming tax across jurisdictions is the gross gaming tax.<sup>68</sup> In Nevada, nonrestricted gaming licensees (a sports book license is a nonrestricted license) pay gross gaming taxes on monthly basis.<sup>69</sup> Gross Gaming Tax Revenues are calculated on a graduated scale:

- 3.5% of the first \$50,000 during the month, plus
- 4.5% of the next \$84,000, plus
- 6.75% of revenue exceeding \$134,000.<sup>70</sup>

The various fees that have been proposed by major sports leagues and others have devolved from an “integrity fee” to a “royalty fee” to a “commission” to a “processing fee”; and the latest iteration of the fee is called a “share in wagering.”<sup>71</sup> The NBA admitted at Connecticut’s Public Safety Committee Informational Forum that the “fee is not *solely* to preserve the integrity of the game.”<sup>72</sup> A recent survey by the American Gaming Association estimated that together the four major U.S. sports leagues could pull in \$4.2 billion a year in *indirect* revenues with the NFL earning the largest portion of approximately \$2.33 billion.<sup>73</sup> The survey demonstrates how the major U.S. sports leagues stand to benefit, even without a “dedicated” revenue stream, from additional fees or “official data” requirements that would presumably be purchased by legalized, regulated sports books throughout the United States.<sup>74</sup> Interestingly, legalized sports betting actually benefits professional sports and sports leagues. Sports wagering can be a tool to increase fan engagement,

<sup>68</sup> See NEV. GAMING CONTROL BOARD, *supra* note 67.

<sup>69</sup> NEV. REV. STAT. § 463.370 (2013).

<sup>70</sup> *Id.* § 463.370; see also *License Fees Tax Rate Schedule*, *supra* note 67.

<sup>71</sup> See Hilary Russ, *U.S. Sports Leagues Could Reap \$4.2 Billion a Year from Legal Betting: Survey*, REUTERS (Oct. 18, 2018, 2:52 AM), <https://www.reuters.com/article/us-usa-gambling-sports/exclusive-u-s-sports-leagues-could-see-4-2-billion-annually-from-legal-betting-idUSKCN1MS1CT>; see generally NEV. REV. STAT. § 463.172 (1997); see NEV. REV. STAT. § 463.160 (2013) (the term “share in wagering” is particularly problematic as NRS 463.160(1) states “Except as otherwise provided in subsection 4 and NRS 463.172, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others: . . . (d) To receive, directly or indirectly, any compensation or reward or any percentage or share of the money or property played, for keeping, running or carrying on any gambling game, slot machine, gaming device, mobile gaming system, race book or sports pool. . . .” By continuing to ask for a share of the amount wagered, the leagues may trigger state regulatory licensing requirements and find themselves subject to the jurisdiction of gaming regulators).

<sup>72</sup> Jill R. Dorson, *Connecticut Not Interested in Paying Leagues a Sports Betting ‘Royalty’*, SPORTS HANDLE (Mar. 1, 2018), <https://sportshandle.com/connecticut-sports-betting-hearing-nba-mlb-fee> (emphasis in original).

<sup>73</sup> Russ, *supra* note 71.

<sup>74</sup> See Rey Mashayekhi, *Inside the Battle for the Future of Sports Betting*, FORTUNE (Apr. 10, 2019), <https://fortune.com/longform/sports-betting-battle/>.



particularly with regard to sports that are seeing a decline in television ratings.<sup>75</sup>

The following charts<sup>76</sup> provide context for how increased fee structures would not only impact Nevada specifically, but also all race books and sports pools generally. These charts show how additional fees of just 1% and 0.25% would have impacted the Super Bowl “write and win” in Nevada for the past twenty-eight years.

Nevada Super Bowl Historic Write and Win					
Year	Super Bowl Write	Super Bowl Win Amounts	1% Fee (Super Bowl Write X 1% Fee)	Win less 1% Fee (Super Bowl Win Amount less 1% Fee)	Estimated Percentage Fee Collections from Super Bowl Win (Super Bowl Win Amount X 6.75%)
1991	\$ 40,080,409	\$ 3,512,241	\$ 400,804	\$ 3,111,437	\$ 237,076
1992	\$ 50,334,277	\$ 301,280	\$ 503,343	\$ (202,063)	\$ 20,336
1993	\$ 56,811,405	\$ 7,174,869	\$ 568,114	\$ 6,606,755	\$ 484,304
1994	\$ 54,483,221	\$ 7,481,541	\$ 544,832	\$ 6,936,709	\$ 505,004
1995	\$ 69,591,818	\$ (396,674)	\$ 695,918	\$ (1,092,592)	\$ -
1996	\$ 70,907,801	\$ 7,126,145	\$ 709,078	\$ 6,417,067	\$ 481,015
1997	\$ 70,853,211	\$ 2,265,701	\$ 708,532	\$ 1,557,169	\$ 152,935
1998	\$ 77,253,246	\$ 472,033	\$ 772,532	\$ (300,499)	\$ 31,862
1999	\$ 75,986,520	\$ 2,906,601	\$ 759,865	\$ 2,146,736	\$ 196,196
2000	\$ 71,046,751	\$ 4,237,978	\$ 710,468	\$ 3,527,510	\$ 286,064
2001	\$ 67,661,425	\$ 11,002,636	\$ 676,614	\$ 10,326,022	\$ 742,678
2002	\$ 71,513,304	\$ 2,331,607	\$ 715,133	\$ 1,616,474	\$ 157,383
2003	\$ 71,693,032	\$ 5,264,963	\$ 716,930	\$ 4,548,033	\$ 355,385
2004	\$ 81,242,191	\$ 12,440,698	\$ 812,422	\$ 11,628,276	\$ 839,747
2005	\$ 90,759,236	\$ 15,430,138	\$ 907,592	\$ 14,522,546	\$ 1,041,534
2006	\$ 94,534,372	\$ 8,828,431	\$ 945,344	\$ 7,883,087	\$ 595,919
2007	\$ 93,067,358	\$ 12,930,175	\$ 930,674	\$ 11,999,501	\$ 872,787
2008	\$ 92,055,833	\$ (2,573,103)	\$ 920,558	\$ (3,493,661)	\$ -
2009	\$ 81,514,748	\$ 6,678,044	\$ 815,147	\$ 5,862,897	\$ 450,768
2010	\$ 82,726,367	\$ 6,857,101	\$ 827,264	\$ 6,029,837	\$ 462,854
2011	\$ 87,491,098	\$ 724,176	\$ 874,911	\$ (150,735)	\$ 48,882
2012	\$ 93,899,840	\$ 5,064,470	\$ 938,998	\$ 4,125,472	\$ 341,852
2013	\$ 98,936,798	\$ 7,206,460	\$ 989,368	\$ 6,217,092	\$ 486,436
2014	\$ 119,400,822	\$ 19,673,960	\$ 1,194,008	\$ 18,479,952	\$ 1,327,992
2015	\$ 115,986,086	\$ 3,261,066	\$ 1,159,861	\$ 2,101,205	\$ 220,122
2016	\$ 132,545,587	\$ 13,314,539	\$ 1,325,456	\$ 11,989,083	\$ 898,731
2017	\$ 138,480,136	\$ 10,937,826	\$ 1,384,801	\$ 9,553,024	\$ 738,303
2018	\$ 158,586,934	\$ 1,170,432	\$ 1,585,869	\$ (415,437)	\$ 79,004
Totals	\$ 2,409,443,826	\$ 175,625,334	\$ 24,094,438	\$ 151,530,895	\$ 11,854,710

<sup>75</sup> Miller & Cabot, *supra* note 61.

<sup>76</sup> Press Release, Nevada Gaming Control Board, (Feb. 4, 2019), <https://gaming.nv.gov/modules/showdocument.aspx?documentid=14343>; Press Release, Nevada Gaming Control Board (Feb. 9, 2010) (on file with author); Press Release, Nevada Gaming Control Board (Feb. 2, 2000) (on file with author). Using the following figures from the State of Nevada, even a one-percent fee would provide more revenue to a sports league than to the state budget (tax rate of 6.75 percent) because the proposed sports league fees would be assessed against write (the total amount wagered) and tax dollars are collected on the win (the amount paid to winning bettors). In years where the margins are especially low, sports books would have to pay fees to sports leagues despite negative revenues and the tax collection would be zero.



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Nevada Super Bowl Historic Write and Win					
Year	Super Bowl Write	Super Bowl Win Amounts	0.25% Fee (Super Bowl Write X 0.25% Fee)	Win less 0.25% Fee (Super Bowl Win Amount less 0.25% Fee)	Estimated Percentage Fee Collections from Super Bowl Win (Super Bowl Win Amount X 6.75%)
1991	\$ 40,080,409	\$ 3,512,241	\$ 100,201	\$ 3,412,040	\$ 237,076
1992	\$ 50,334,277	\$ 301,280	\$ 125,836	\$ 175,444	\$ 20,336
1993	\$ 56,811,405	\$ 7,174,869	\$ 142,029	\$ 7,032,840	\$ 484,304
1994	\$ 54,483,221	\$ 7,481,541	\$ 136,208	\$ 7,345,333	\$ 505,004
1995	\$ 69,591,818	\$ (396,674)	\$ 173,980	\$ (570,654)	\$ -
1996	\$ 70,907,801	\$ 7,126,145	\$ 177,270	\$ 6,948,875	\$ 481,015
1997	\$ 70,853,211	\$ 2,265,701	\$ 177,133	\$ 2,088,568	\$ 152,935
1998	\$ 77,253,246	\$ 472,033	\$ 193,133	\$ 278,900	\$ 31,862
1999	\$ 75,986,520	\$ 2,906,601	\$ 189,966	\$ 2,716,635	\$ 196,196
2000	\$ 71,046,751	\$ 4,237,978	\$ 177,617	\$ 4,060,361	\$ 286,064
2001	\$ 67,661,425	\$ 11,002,636	\$ 169,154	\$ 10,833,482	\$ 742,678
2002	\$ 71,513,304	\$ 2,331,607	\$ 178,783	\$ 2,152,824	\$ 157,383
2003	\$ 71,693,032	\$ 5,264,963	\$ 179,233	\$ 5,085,730	\$ 355,385
2004	\$ 81,242,191	\$ 12,440,698	\$ 203,105	\$ 12,237,593	\$ 839,747
2005	\$ 90,759,236	\$ 15,430,138	\$ 226,898	\$ 15,203,240	\$ 1,041,534
2006	\$ 94,534,372	\$ 8,828,431	\$ 236,336	\$ 8,592,095	\$ 595,919
2007	\$ 93,067,358	\$ 12,930,175	\$ 232,668	\$ 12,697,507	\$ 872,787
2008	\$ 92,055,833	\$ (2,573,103)	\$ 230,140	\$ (2,803,243)	\$ -
2009	\$ 81,514,748	\$ 6,678,044	\$ 203,787	\$ 6,474,257	\$ 450,768
2010	\$ 82,726,367	\$ 6,857,101	\$ 206,816	\$ 6,650,285	\$ 462,854
2011	\$ 87,491,098	\$ 724,176	\$ 218,728	\$ 505,448	\$ 48,882
2012	\$ 93,899,840	\$ 5,064,470	\$ 234,750	\$ 4,829,720	\$ 341,852
2013	\$ 98,936,798	\$ 7,206,460	\$ 247,342	\$ 6,959,118	\$ 486,436
2014	\$ 119,400,822	\$ 19,673,960	\$ 298,502	\$ 19,375,458	\$ 1,327,992
2015	\$ 115,986,086	\$ 3,261,066	\$ 289,965	\$ 2,971,101	\$ 220,122
2016	\$ 132,545,587	\$ 13,314,539	\$ 331,364	\$ 12,983,175	\$ 898,731
2017	\$ 138,480,136	\$ 10,937,826	\$ 346,200	\$ 10,591,625	\$ 738,303
2018	\$ 158,586,934	\$ 1,170,432	\$ 396,467	\$ 773,965	\$ 79,004
Totals	\$ 2,409,443,826	\$ 175,625,334	\$ 6,023,610	\$ 169,601,724	\$ 11,854,710

D. Government Mandates Are Not Necessary.

If sports leagues are looking to monetize sports betting, there is nothing that prevents them from contracting with sports book operators. To date, the MGM Resorts International and the National Basketball Association (NBA),<sup>77</sup> New York Jets,<sup>78</sup> the National Hockey League (NHL),<sup>79</sup> Major

<sup>77</sup> David Purdum & Darren Rovell, *NBA Signs Deal with MGM to be Gaming Partner*, ESPN (July 31, 2018), [http://www.espn.com/chalk/story/\\_id/24245142/nba-first-league-betting-sponsor-deal-mgm](http://www.espn.com/chalk/story/_id/24245142/nba-first-league-betting-sponsor-deal-mgm).

<sup>78</sup> News Release, MGM Resorts, New York Jets Announce Partnership with MGM Resorts (Oct. 31, 2018), <https://investors.mgmresorts.com/investors/news-releases/press-release-details/2018/New-York-Jets-Announce-Partnership-With-MGM-Resorts/default.aspx>.

<sup>79</sup> Todd Prince, *MGM Resorts, NHL Sign Sports Betting Partnership Deal*, L.V. REV. J. (Oct. 29, 2018, 8:58 PM), <https://www.reviewjournal.com/business/casinos-gaming/mgm-resorts-nhl-sign-sports-betting-partnership-deal/>.



League Baseball (MLB),<sup>80</sup> and Major League Soccer (MLS)<sup>81</sup> have entered into these types of agreements. William Hill, a major U.S. sports book operator, announced a sponsorship agreement with the Las Vegas Golden Knights and the New Jersey Devils.<sup>82</sup> Caesars Palace Las Vegas Hotel & Casino signed a deal with the Philadelphia 76ers, the New Jersey Devils, the NBA, and the NHL.<sup>83</sup> The National Football League (NFL) chose Caesars to be its first casino sponsor.<sup>84</sup> Under the terms of the multi-year sponsorship, Caesars will have exclusivity with respect to NFL trademarks in promoting Caesars casino properties.<sup>85</sup> The gaming company 888 scooped up the first online gaming deal with NFL via the New York Jets.<sup>86</sup>

In a written statement submitted to the House Judiciary Subcommittee on Crime, Terrorism, Homeland Security and Investigations, Jocelyn Moore, Executive Vice President for Communications and Public Affairs for the NFL, requested that any legislation Congress might consider include the requirement that states with legalized sports betting use “official league data.”<sup>87</sup> The NBA, MLB, and the Professional Golfers’ Association (PGA) have been united in

<sup>80</sup> Bill Shaikin, *MLB Becomes Third Major Sports League to Form Partnership with MGM*, L.A. TIMES (Nov. 27, 2018, 7:15 PM), <http://www.latimes.com/sports/mlb/la-sp-mlb-mgm-partnership-20181127-story.html>.

<sup>81</sup> *MLS Becomes MGM’s Fourth US Major League Betting Partner*, GAMES MAG. BRASIL (Mar. 20, 2019), <https://www.games-bras.com/english-version/2019/3/20/mls-becomes-mgms-fourth-us-major-league-betting-partner-12049.html>.

<sup>82</sup> Matt Rybaltowski, *Devils Ink Deal with William Hill, Becoming First Team in New Jersey to Land Sports Book Partnership*, FORBES (Oct. 25, 2018, 7:10 AM), <https://www.forbes.com/sites/mattyrybaltowski/2018/10/25/devils-ink-deal-with-william-hill-becoming-first-team-in-new-jersey-to-land-sports-book-partnership/#79af1a091e22>.

<sup>83</sup> Matt Rybaltowski, *Caesars Lands Sports Betting Partnership with Sixers, Devils in Unique Cross-Sport Deal*, FORBES (Oct. 30, 2018, 1:44 PM), <https://www.forbes.com/sites/mattyrybaltowski/2018/10/30/caesars-lands-sports-betting-partnership-with-sixers-devils-in-unique-cross-sport-deal/#3aae67e51eb8>.

<sup>84</sup> Press Release, National Football League, *NFL Selects Caesars Entertainment as First Casino Sponsor* (Jan. 3, 2019, 9:00 AM), <http://www.nfl.com/news/story/0ap3000001007289/article/nfl-selects-caesars-entertainment-as-first-casino-sponsor>.

<sup>85</sup> *Id.*

<sup>86</sup> Phillip Conneller, *New York Jet and 888 Ink First Ever NFL-Online Gaming Tie up, Deal Already Ruffling Feathers*, CASINO.ORG (Oct. 30, 2018), <https://www.casino.org/news/new-york-jets-and-888-ink-first-ever-nfl-online-gaming-tie-up>.

<sup>87</sup> Brett Smiley, *Here’s What Happened at the House Judiciary Hearing on Sports Betting*, SPORTSHANDLE (Sept. 27, 2018), <https://sportshandle.com/heres-what-happened-at-the-house-judiciary-hearing-on-sports-betting/> (The Hearing took place on September 27, 2018. Video of the Hearing and written statements from each of the witnesses is linked within the article); see also Mike Florio, *NFL Wants Official Data Used for Gambling, Restrictions on Certain Types of Bets*, NBC SPORTS (Sept. 26, 2018, 4:42 PM), <https://profootballtalk.nbcsports.com/2018/09/26/nfl-wants-official-data-used-for-gambling-restrictions-on-certain-types-of-bets/> (the NFL wants “official data” used for gambling restrictions on certain types of bets).

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their desire to require legal betting markets to use their “official data.”<sup>88</sup> The MGM has signed deals with both the NBA<sup>89</sup> and NHL<sup>90</sup> for access to their data. In the case of the NHL, MGM will “receive access to ‘previously unseen enhanced NHL proprietary game data.’”<sup>91</sup> More recently, MGM announced that its agreement with Sportradar would provide for a “wide range of pre-match and live betting services along with bet stimulation content such as live match trackers.”<sup>92</sup> The American Gaming Association has advocated that data contracts should be between sporting bodies and gaming companies.<sup>93</sup>

While there is a universal vested interest in ensuring that the data used in sports betting is accurate, there is no general agreement among states or sports leagues as to what that process or framework should be. A few states have discussed requiring the use of “official data.”<sup>94</sup> During the 2019 state legislative sessions, both Illinois and Tennessee accommodated the league promoted policy of requiring use of official league data for in-play wagering.<sup>95</sup> Confusion persists as to what constitutes “official data,” how data could or should be obtained for legal wagering purposes, and how that data could or should be used.

In terms of data delivery, “live streaming” is the industry standard.<sup>96</sup> While consumers generally think the data feed is instantaneous, there is typically a ten to thirty second delay in streaming.<sup>97</sup> “Real-time, on the other hand, has a lag of less than a half-second.”<sup>98</sup> Until technology delivery improves, many of the in-play wagering examples used to support the need for ensuring that only “official league data” be utilized are not realistic. Moreover,

<sup>88</sup> Dustin Gouker, *New ‘US Sports Integrity’ Website Pushes Leagues’ Vision on Sports Betting Data*, LEGAL SPORTS REP. (Apr. 10, 2018), <https://www.legalsportsreport.com/19730/sports-betting-integrity-and-data-rights/>; Joe Lemire, *New U.S. Sports Betting Markets Have Started a Data War*, SPORTTECHIE (June 29, 2018), <https://www.sporttechie.com/sports-betting-official-data-rights-mlb-nfl-nba-pga-nhl-ncaa/>.

<sup>89</sup> Purdum & Rovell, *supra* note 77.

<sup>90</sup> Dan Rosen, *NHL, MGM Resorts Form Sports Betting Partnership*, NHL NEWS (Oct. 29, 2018), <https://www.nhl.com/news/nhl-mgm-resorts-sports-betting-partnership/c-301392322>.

<sup>91</sup> Prince, *supra* note 79.

<sup>92</sup> *MGM GVC Interactive Announces Sportradar as an Exclusive Supplier of U.S. Sports Data*, BUS. WIRE (Nov. 8, 2018, 8:15 AM), <https://www.businesswire.com/news/home/20181108005434/en/MGM-GVC-Interactive-Announces-Sportradar-Exclusive-Supplier/>.

<sup>93</sup> Lemire, *supra* note 88.

<sup>94</sup> *Id.*

<sup>95</sup> Brett Smiley, *How ‘Unofficial’ Sports Betting Data May Be Better than ‘Official League Data’*, SPORTSHANDLE (June 5, 2019), <https://sportshandle.com/unofficial-official-league-data>.

<sup>96</sup> Joe Lemire, *Media Tech in Sports Betting, Part Two: Streaming and Data Rights*, SPORTTECHIE (June 6, 2018), [www.sporttechie.com/sports-gambling-ott-streaming-technology-data-rights/](http://www.sporttechie.com/sports-gambling-ott-streaming-technology-data-rights/).

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*



while advancing every day, the technological capability to offer these types of betting products does not currently exist.

In terms of historical statistics and players names, the Eighth Circuit held that because the information used by a fantasy baseball game company was in the public domain, the First Amendment trumped any state law rights, and that the data could be utilized without a license.<sup>99</sup>

So far, sports leagues have been relatively successful in monetizing the legalization of sports betting though not necessarily as anticipated. It will be interesting to see what state legislatures decide to do during their 2020 Legislative sessions in terms of data requirements and delivery.

*E. Combating Illegal Operators Is Going to Be and Will Be an Ongoing Reality, Regardless of Any Federal Legislation.*

Illegal bookmakers do not worry about complying with regulations, paying taxes, or establishing reserve accounts. While some illegal operators may pay fees, perhaps pay taxes, and may even follow some regulations, what we know for sure is that many illegal operators serve their customers with sophisticated and attractive websites, provide a seamless transaction experience, and make betting easy for their customers. Illegal bookmakers do not have the same regulatory infrastructure costs, can offer more betting options, are more convenient, provide payment plans, and extend credit. This is all done without regulatory oversight, patron dispute processes, protection of patron funds, or responsible gambling messaging.

In order to effectively combat illegal operators, regulators will continue to enforce the law with regard to gaming, while developing and exploring new enforcement strategies. An effective way to eradicate illegal activities is through coordinated and productive law enforcement efforts by fostering interstate agreements that will allow for “[c]oordinated action among jurisdictions offering sports betting against illegal bookmaking, illegal gambling activities,” unlawful sports bribery, “and any unsuitable and unlawful associations.”<sup>100</sup> Strong support from federal-level enforcement agencies, with their unique police powers, would also facilitate the dismantling of illegal gambling operators.

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<sup>99</sup> C.B.C. Distribution & Mktg., Inc. v. Major League Baseball Advanced Media, L.P., 505 F.3d 818, 823–24 (8th Cir. 2007).

<sup>100</sup> U.S. State Gaming Regulators Forum, *supra* note 65.



*F. Sports Wagering and Its Technology Needs to Maintain the Highest Standards of Integrity, Accountability, and Regulatory Compliance.*

Nevada regulates all gambling, including sports betting, with comprehensive regulations.<sup>101</sup> Each sports book operator is required to undergo Nevada's strictest licensing process.<sup>102</sup> The Nevada Gaming Control Board investigates the owners, officers, directors, and members of entities seeking a Nevada gaming license.<sup>103</sup> Two types of investigations are conducted: financial and criminal background.<sup>104</sup> The Board uses staff who are experienced and specialized to conduct these investigations. Financial and criminal background investigations are also conducted for executives and key employees who work at sports books.<sup>105</sup> Similar investigations for findings of suitability and licensure are also conducted for shareholders who own more than ten percent of the stock in a gaming company.<sup>106</sup> Even the front-line employees who work in a sports book must pass a background check and be registered with the Board.<sup>107</sup>

<sup>101</sup> See NEV. REV. STAT. §§ 462–466 and NEV. GAMING COMM'N & NEV. GAMING CONTROL BOARD REG. §§ 1–30 (2019).

<sup>102</sup> See NEV. REV. STAT. § 463.1605 (2005) (stating that a race book or sports pool is required to secure a non-restricted license); Nevada Gaming Comm'n, *Board Information Packet 25*, [https://gaming.nv.gov/modules/show\\_document.aspx?documentid=14995](https://gaming.nv.gov/modules/show_document.aspx?documentid=14995); see also NEV. GAMING LAW PRACTICE AND PROCEDURE MANUAL, *supra* note 4, at § 8.01 p. 8-2.

<sup>103</sup> NEV. REV. STAT. § 463.210 (1981); NEV. REV. STAT. § 463.242 (1981); NEV. REV. STAT. § 463.334 (2015); Nev. Gaming Comm'n Regs, Corporate Licensees § 15.1594-2, § 15.530-1, § 15.585.7-4, and § 15.585.7-5; Limited Partnership Licensees § 15A.030, § 15A.065, § 15A.160, and § 15A.190; Limited Liability Company Licensees § 15B.190; Private Investment Companies § 15C.060 and § 15C.070; and Publicly Traded Corporations and Public Offerings of Securities § 16.400, § 16.405, § 16.410, and § 16.415. (Oct. 24, 2019); NEV. GAMING LAW PRACTICE AND PROCEDURE MANUAL, *supra* note 4, at § 2.01 pp. 2-6–2-9; see Nev. Gaming Control Board, Investigations Division, *Multi-Jurisdictional Personal History Disclosures Form* [hereinafter *Multi-Jurisdictional Personal History Disclosures*], <https://gaming.nv.gov/modules/showdocument.aspx?documentid=14810> (last visited Jan. 10, 2019).

<sup>104</sup> *Multi-Jurisdictional Personal History Disclosures*, *supra* note 103, at 37–47 (for financial background investigation questions), at 28–36 (for criminal background investigation questions).

<sup>105</sup> NEV. REV. STAT. § 463.165 (2007); NEV. REV. STAT. § 463.530 (1993); NEV. REV. STAT. § 463.569 (2013); NEV. REV. STAT. § 463.5735 (2013); see *Multi-Jurisdictional Personal History Disclosures*, *supra* note 103.

<sup>106</sup> NEV. REV. STAT. § 463.530 (1993) (beneficial owners of any interest in holding companies must apply for a finding of suitability and Nevada Gaming Commission has discretion to require licensure); NEV. REV. STAT. § 463.595 (1993) (must file for determination of suitability); NEV. REV. STAT. § 463.643 (2011) (beneficial owners of a publicly traded company which own more than ten percent of any class of voting securities must apply for a finding of suitability with the Nevada Gaming Commission); NEV. GAMING LAW PRACTICE AND PROCEDURE MANUAL, *supra* note 4, at § 4.04(2) pp. 4-11–4-12.

<sup>107</sup> See NEV. REV. STAT. § 463.335 (2009).



Once the investigation process has been completed, the three Board members review all of the reports which include the following: personal financial information, education, work and residence histories, involvement in litigation, law enforcement interactions if any, association with other gaming companies and individuals, previous licensing history, character references, tax returns, investment history, and other relevant factors.<sup>108</sup>

At a public meeting, the Board discusses the findings with the applicant and the applicant is asked additional questions.<sup>109</sup> After a public, deliberative process, the Board then makes a recommendation to the Commission.<sup>110</sup> If approval is recommended, the matter is forwarded to the Commission.<sup>111</sup>

The Nevada Gaming Commission is a five-member body that is the policy making piece of Nevada's regulatory structure.<sup>112</sup> The Commission reviews the same materials the Board receives.<sup>113</sup> After another public hearing with the applicant, the Commission engages in its public deliberative process and decides whether or not the license will be issued.<sup>114</sup>

In terms of modern technological developments, many new sports wagering jurisdictions take for granted what Nevada has developed over two decades.<sup>115</sup> In 2001, utilizing an intranet system, Nevada race books and sports pools provided the option to wager from home.<sup>116</sup> Automated telephone account wagering began in 2002.<sup>117</sup> By 2003, remote kiosks and remote race wagering account terminals were placed in both non-restricted and restricted locations.<sup>118</sup> Wagering kiosks were introduced in 2004.<sup>119</sup> A few years later, in

<sup>108</sup> See generally *Multi-Jurisdictional Personal History Disclosures*, *supra* note 103.

<sup>109</sup> See generally NEV. REV. STAT. § 463.110 (1983) (because of Nevada's open meeting laws, Nevada Gaming Control Board members are prohibited from discussing pending matters and as such, it is general practice for board members to ask questions during the meetings).

<sup>110</sup> In 2018, the practice of the Board was to engage in a deliberative process during its monthly public meeting and then make a recommendation to the Commission. If two or more Board members approved the matter, it was then forwarded to the Commission.

<sup>111</sup> NEV. REV. STAT. § 463.210 (1981); NEV. REV. STAT. § 463.220 (2017).

<sup>112</sup> NEV. REV. STAT. § 463.022 (1959); NEV. REV. STAT. § 463.150 (1981).

<sup>113</sup> NEV. REV. STAT. § 463.140 (1995); Nev. Gaming Comm'n Reg. § 2.030(6) (2018).

<sup>114</sup> NEV. REV. STAT. § 463.029 (1983); NEV. REV. STAT. § 463.120 (2017); NEV. REV. STAT. § 463.170 (2009).

<sup>115</sup> E-mail from Jim Barbee, Chief Technology Division of the Nevada Gaming Control Board, to Becky Harris, Distinguished Fellow, Gaming and Leadership (Oct. 17, 2019, 08:53 AM PST) (on file with author).

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> Evan Simonsen, *Against the Spread: The Legality of Full-Service Sports*

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2006, intra-casino wireless sports wagering was emerged, and in 2010, intra-state mobile smart phone wagers could be placed in Nevada.<sup>120</sup>

With the implications of the 1966 Federal Wire Act on sports betting, many jurisdictions are concerned with the effectiveness of geofencing. Geolocation is the process by which a user's location can be identified through use of their mobile device.<sup>121</sup> Geolocation typically calls upon multiple resources such as GPS, WiFi, or mobile cell tower triangulation through the use of radio-frequency (hereinafter "RF") technology.<sup>122</sup> In addition to RF triangulation, geofencing algorithms may be augmented by the use of IP geolocation data.<sup>123</sup> However, IP geolocation information is spoofable and cannot always be relied upon alone to determine the location of a mobile device.<sup>124</sup> Each mobile operating system provider, such as Android, iOS, and Windows, has implemented a location services function that applications can call on to determine the real-time location of a mobile device.<sup>125</sup>

Geolocation companies, also known as geolocation service providers, use proprietary algorithms to implement a geofence.<sup>126</sup> Geolocation service providers may consider variables such as mobile location service information,

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*Wagering Kiosks*, 4 UNLV GAMING L. J. 241, 248 (2014); *see also Regulators Concerned about Betting Kiosks*, L.V. SUN (Apr. 26, 2004, 10:44 AM), <https://lasvegassun.com/news/2004/apr/26/regulators-concerned-about-betting-kiosks/>.

<sup>120</sup> E-mail from Jim Barbee to Becky Harris, *supra* note 115.

<sup>121</sup> *Geolocating Carmen Sandiego*, GRAVITATE (Dec. 14, 2018), <https://www.gravitatedesign.com/blog/what-is-geolocation/>.

<sup>122</sup> Ana-Maria Roxin et al., *Survey of Wireless Geolocation Techniques*, HAL (Apr. 3, 2010), <https://hal.archives-ouvertes.fr/file/index/docid/470120/filename/IEEE-Globecom-Workshops-2007-NaitSidiMoh.pdf>; *see also* Michael Essany, *The Future of Geofencing and Online Gambling is Here*, MOBILE MARKETING WATCH (Aug. 15, 2013), <https://mobilemarketingwatch.com/the-future-of-geofencing-and-online-gambling-is-here-35290> ("the geotracking technology is spoof proof because it relies on multiple methods for verifying a user's location. One of those methods is triangulation where it gets a fix on a cell phone by figuring out where it is relative to other cell phone towers in the area. Locaid checks the IP (Internet Protocol) address of the user and also checks with a Wi-Fi service provider about the location of a user on its network."); *What is Geofencing? 10 Basics A Marketer Needs to Know*, PLOT PROJECTS (June 27, 2017), <https://www.plotprojects.com/blog/what-is-geofencing/>.

<sup>123</sup> *Why Use Geofencing?*, PLOT PROJECTS, <https://www.plotprojects.com/geofencing/> (last visited Jan. 11, 2020).

<sup>124</sup> Jill R. Dorson, *The Total Dummy's Guide to Sports Betting Geolocation Technology*, SPORTSHANDLE (Apr. 1, 2019), <https://sportshandle.com/geolocation-mobile-sports-betting/>; Tim Fisher, *How to Fake a GPS Location on Your Phone*, LIFEWIRE (May 24, 2019), <https://www.lifewire.com/fake-gps-location-4165524>; *see also* Gravitare, *supra* note 121.

<sup>125</sup> John Murray, *Geofencing Part 1*, MURRAY BLOG, <http://www.johnmurray.io/log/2012/07/11/Geofencing-Part-1.html> (last visited Dec. 28, 2019); *What is Geofencing*, BLUEDOT (2019), <https://bluedot.io/library/what-is-geofencing/>; *see also, Why Use Geofencing?*, *supra* note 123.

<sup>126</sup> Bluedot, *supra* note 125.



GPS information, IP geolocation information, as well as the physical location provided by the mobile device user at the time of registration to determine a confidence level that the mobile device is actually located within the geofenced region.<sup>127</sup> This region could be either at the jurisdictional level, or a more defined area such as the gaming floor of a licensee.<sup>128</sup> Because location data provided by the mobile device is critical to determining the location of the device, a mobile sports wagering application implements several checks to ensure the device is not “spoofing” the location data.<sup>129</sup>

When an application wishes to know the location of the mobile device, it will provide the mobile operating system provider with the unique identifier and signal strength for each cell tower and WiFi access point visible to the device.<sup>130</sup> Using RF triangulation techniques, the mobile operating system provider will use this information to determine with a high degree of accuracy the precise location of the mobile device.<sup>131</sup> Both software and hardware may also be used to create a geofence and to prevent unauthorized users from accessing mobile sports betting software.<sup>132</sup>

To ensure that wagers are only placed in an authorized region, an operator may implement a buffer zone between the border and where the operator can accurately determine a device’s location. Additionally, the closer the proximity to a defined boundary a mobile device is located, the more often a geolocation check may be required to be performed.<sup>133</sup> A geofence can also vary in scale. For example, a statewide geofence consists of a set of coordinates that define the “shape” of the state.<sup>134</sup> The geolocation of a device user wishing to place a sports wager is then compared to the state’s geofence to determine if the user is inside the border or not.

<sup>127</sup> *Id.*; *The Power of Geofencing and How to Add It to Your Marketing*, SALESFORCE (2019), <https://www.salesforce.com/products/marketing-cloud/best-practices/geofencing-marketing/>.

<sup>128</sup> *See generally* John Murray, *Geofencing Part 2*, MURRAY BLOG (2017), <http://www.johnmurray.io/log/2012/09/10/Geofencing-Part-2.html>.

<sup>129</sup> *See* Jill R. Dorson, *supra* note 124; *Geofencing: Harness the Power of Geofencing*, LOCATIONSMART, <https://www.locationsmart.com/platform/geofencing> (last visited Dec. 28, 2019); *Verifying Transactions with Secure Location Intelligence*, LOCATION SMART, <https://www.locationsmart.com/platform/location> (last visited Jan. 9, 2020).

<sup>130</sup> Bindu Swetha, *What Is Location Tracking and How Does it Work?*, TECHSPIRITED (Dec. 9, 2017), <https://techspirited.com/how-location-tracking-works>; *This Is No Virtual Reality*, LOCATIONSMART (Apr. 4, 2019), <https://www.locationsmart.com/company/news/this-is-no-virtual-reality>.

<sup>131</sup> *See* Bindu Swetha, *supra* note 130; *see also* *How Accurate Can RFID Tracking Be?*, RFID J. (June 8, 2015), <https://www.rfidjournal.com/blogs/experts/entry?11454>.

<sup>132</sup> *See* Jill R. Dorson, *supra* note 124.

<sup>133</sup> *Id.*

<sup>134</sup> *See generally* Michael Essany, *supra* note 122.

Additionally, a geofence may be defined at the property level.<sup>135</sup> Property level geofencing may use networked hardware to define borders in addition to a set of coordinates. Device users can be restricted to using mobile applications only in authorized areas.<sup>136</sup> Geofencing and geolocation are key for products such as mobile sports betting which depending on the jurisdiction are limited to intrastate transactions or are only allowed within the bounds of a licensed gaming establishment.

As more and more jurisdictions legalize and regulate sports betting, the use of geofencing and geolocation technologies is critical to ensuring that online and mobile betting is confined to individual state or tribal boundaries as the federal wire act prohibits interstate sports betting.<sup>137</sup>

*G. Consumer Protection Mechanisms Are Essential to Combat the Challenges That Arise for Those Who Are Unable to Gamble Responsibly.*

In Nevada, a person must be twenty-one years old to gamble.<sup>138</sup> This includes placing sports wagers.<sup>139</sup> Nevada has tough wagering account creation requirements. In order to create an account, users must complete the sign-up process in person at a casino where the patron's identity can be verified and ensure that the user is legally allowed to gamble.<sup>140</sup> After a wagering account has been created, Nevada offers mobile gaming for patrons who wish to place sports bets while they are within the geographic boundaries of Nevada.<sup>141</sup> For states embarking on legal regulated sports betting, providing resources for

<sup>135</sup> *Id.*

<sup>136</sup> Ana-Maria Roxin et al., *supra* note 122; Bindu Swetha, *supra* note 130; see e.g., GEOCOMPLY, <https://www.geocomply.com> (last visited Dec. 28, 2019) (“Combining the power of iBeacons with GeoComply’s robust geolocation compliance solutions, our indoor solution, PinPoint, allows for gaming to be restricted within specific zones of a gaming property to within a few meters of accuracy. PinPoint was designed specifically for the gaming industry’s unique requirements and offers the same real-time anti-spoofing and fraud benefits as the mobile and desktop solutions. PinPoint’s advanced detection and monitoring system can even anticipate movements to alert players before leaving permitted areas, making for a seamless and uninterrupted play experience.”)

<sup>137</sup> Mark Hichar, *U.S. States May Now Legalize Sports Betting – But the Federal Wire Act Affects State Implementation*, INTERNATIONAL COMPARATIVE LEGAL GUIDE TO: GAMBLING 2019 at 3 (5th ed. 2018); Juan Carlos Blanco, *What Is the Net Effect of the New Wire Act Opinion on Sports Betting?*, LINES (Jan. 20, 2019), <https://www.thelines.com/wire-act-sports-betting/>; *The Federal Wire Act Law of 1961*, GAMBLING LAWS, <https://www.gamblinglaws.org/us/federal-wire-act/> (last visited Dec. 28, 2019).

<sup>138</sup> NEV. REV. STAT. § 463.350 (1991).

<sup>139</sup> *Id.*

<sup>140</sup> See e.g., *STN Sports – Official Rules*, STN SPORTS, <https://www.stationcasino.sports.com/rules/> (last visited Jan. 9, 2020).

<sup>141</sup> *Id.*



those who do not know how to or cannot quit gambling is “important to help protect and maintain the credibility” of sports betting activities.<sup>142</sup>

1. *Nevada Gaming Commission Regulations.*

a. *Wagering Accounts*

In terms of wagering account creation, higher standards are required of Nevada gaming licensees than for other types of e-commerce account creators.<sup>143</sup> Nevada licensees are obligated to “know their customers” when creating an account and are required to take additional steps to verify the identity of the account creator.<sup>144</sup> Once a wagering account is created and verified, Nevada licensees are required to create a secure personal identifier for each patron “that is reasonably designed to prevent the unauthorized access to, or use of, the wagering account by any person other than the patron or patrons for whom the wagering account is established.”<sup>145</sup>

While concerns exist regarding inappropriate use by minors, this is an issue that exists in *any* ecommerce online activity, such as online banking or e-commerce retail sites, not just online gambling. The volume of transactions in online banking and e-commerce retail sites is exponentially greater than online gambling.<sup>146</sup> Ultimately, with regard to any type of account that is created, whether traditional or online, it is up to the account creator to ensure their account credentials are protected. Despite the fact that Nevada has protections in place to safeguard against unauthorized account creation or unauthorized access to another person’s account, if account creators refuse to exercise reasonable precautions against unauthorized use, regulations forbidding access to and resources dedicated to responsible gambling choices will not be as effective as they might otherwise be.

<sup>142</sup> U.S. State Gaming Regulators Forum, *supra* note 65.

<sup>143</sup> *See* Nev. Gaming Comm’n Reg. § 5.225.

<sup>144</sup> Nev. Gaming Comm’n Reg. §§ 5.225(5)–(8).

<sup>145</sup> Nev. Gaming Comm’n Reg. § 5.225(6).

<sup>146</sup> J. Clement, *E-Commerce Worldwide – Statistics & Facts*, STATISTA (Mar. 12, 2019), <https://www.statista.com/topics/871/online-shopping/> (stating that approximately 1.8 billion people purchased products online in 2018); *but see* 2019 iovation Gambling Industry Report, IOVATION at 3, <https://content.iovation.com/resources/iovation-report-2019-gambling-industry.pdf?mtime=20190201115903> (showing that in comparison only 518 million gambling transactions took place during that same 2018 period).

b. Patron Dispute Resolution Process

Nevada also has a time-tested patron dispute process that is effective.<sup>147</sup> Nevada Gaming Commission Regulation 7A specifically directs, “[t]his regulation should be liberally construed to achieve fair, just, equitable, and expedient resolutions of all disputes governed by NRS 463.363 and 463.364.”<sup>148</sup> If the dispute is less than \$500, the licensee is required to provide the Board’s information to the patron.<sup>149</sup> In disputes of \$500 or more, the licensee is required to contact the Board.<sup>150</sup> The patron dispute process is intended to be patron “friendly” and the hearing is not conducted pursuant to normal rules of evidence as any relevant evidence is allowed.<sup>151</sup> Nevada Gaming Commission Regulation 10.010 also allows immediate family to represent petitioners, as long as they are not paid.<sup>152</sup> The process is very timely, as the Board only has forty-five days to mail out a decision.<sup>153</sup> A party that disagrees with the initial determination may file a petition with the Board requesting a hearing to reconsider the decision.<sup>154</sup> Nevada’s process allows for twenty days, plus an additional five days for mailing, to request an appeal with the Hearing Examiner, otherwise the dispute is barred from going to the Board or judicial review.<sup>155</sup>

2. State Funding for Problem Gambling

For those who suffer from addiction, the State of Nevada provides problem gambling treatment, prevention, workforce development, and program evaluation services through dedicated funding from the state budget and grant funding under the Department of Health and Human Services (DHHS).<sup>156</sup> State

<sup>147</sup> As jurisdictions around the United States “roll out” their sports betting regulations, refinements will be necessary as patrons challenge sports betting operator procedures. *See generally* NEV. REV. STAT. §§ 463.362–463.366 (1991); *see also* Nev. Gaming Comm’n Reg. § 7A (2019); *see e.g.*, Steve Ruddock, *The Handling of Technical Errors at NJ Sportsbooks is a Work in Progress*, PLAYNJ (Nov. 2, 2018), <https://www.playnj.com/news/technical-errors-nj-sports-betting/26073/> (illustrating regulation and other technical issues that remain in states other than Nevada).

<sup>148</sup> Nev. Gaming Comm’n Reg. § 7A.010 (2019).

<sup>149</sup> NEV. REV. STAT. § 463.362(2)(b) (2009).

<sup>150</sup> NEV. REV. STAT. § 463.362(2)(a) (2009).

<sup>151</sup> Nev. Gaming Comm’n Reg. § 7A.070 (2019).

<sup>152</sup> Nev. Gaming Comm’n Reg. § 10.010 (2019).

<sup>153</sup> NEV. REV. STAT. § 463.362(3) (2009).

<sup>154</sup> NEV. REV. STAT. § 463.363 (1991); *see also* Nev. Gaming Comm’n Reg. § 4 (2019).

<sup>155</sup> *See* NEV. REV. STAT. § 463.363 (1991).

<sup>156</sup> Nev. Dept. of Health & Human Servs., *Problem Gambling Services 2017–2019 Strategic Plan*, Office of Cmty. P’ships & Grants (May 19, 2016), [http://dhhs.nv.gov/uploadedFiles/dhhs.nv.gov/content/Programs/Grants/Programs/Problem\\_Gambling/PGStrategicPlan2017-2019v62316.pdf](http://dhhs.nv.gov/uploadedFiles/dhhs.nv.gov/content/Programs/Grants/Programs/Problem_Gambling/PGStrategicPlan2017-2019v62316.pdf).



funding is generated through a portion of gaming tax revenue which is set aside per statute specifically for this purpose and has been in effect since 2005. DHHS administers this account with input and oversight by the Governor's Advisory Committee on Problem Gambling (ACPG), whose members include representatives of Nevada's gaming industry, mental health and addiction professionals, and other experts in the problem gambling field.<sup>157</sup> The State's vision is to improve the public health of Nevadans through a sustainable and comprehensive system of programs and services that reduce the impact of problem gambling.<sup>158</sup> Certified Problem Gambling Counselors in qualified agencies offer a diverse range of services to both problem gamblers and their family members. In 2019, the Nevada Legislature changed the funding formula for problem gambling by eliminating the requirement that \$2.00 per slot machine per quarter be dedicated to treatment for problem gambling.<sup>159</sup> Problem gambling in Nevada is currently provided for through a state budget general fund allotment each biennium.<sup>160</sup> An increase of approximately \$600,000 was approved for fiscal year 2020–21.<sup>161</sup>

### 3. *Non-Profit Resources for Problem Gambling*

The Nevada Council on Problem Gambling, a private non-profit agency and affiliate of the National Council on Problem Gambling, is the primary advocate and provider of prevention, community outreach, and professional education programs in Nevada.<sup>162</sup> The Council addresses problem gambling as a community health issue, and does not take a position for or against legal gambling.<sup>163</sup> The Council provides the 24-hour Problem Gamblers HelpLine service, whose toll-free number is required by gaming regulation to be posted in every Nevada gaming location.<sup>164</sup> Through this HelpLine, callers are referred to treatment and recovery support services throughout the state, including over 100 weekly Gamblers Anonymous support group meetings.<sup>165</sup> The Council works collaboratively with the gaming industry, regulators, and legislators to ensure effective public policy and programs that promote

<sup>157</sup> *Id.* at 3.

<sup>158</sup> *Id.* at 1.

<sup>159</sup> *Id.* at 1, 3; *see also* S.B. 535, 2019 Leg., 80th Sess. (Nev. 2019) (illustrating amendment 936 to S.B. 535 which deleted NRS 463.320 subsection (2)(e) requiring the two dollar per slot license fee).

<sup>160</sup> *See generally* Nev. S.B. 535, *supra* note 159.

<sup>161</sup> *See generally* Nev. Dept. of Health & Human Servs., *supra* note 156, at 23.

<sup>162</sup> *Mission and Vision*, NEV. COUNCIL ON PROBLEM GAMBLING, <https://www.nevadacouncil.org/who-we-are/mission-vision/> (last visited Dec. 28, 2019).

<sup>163</sup> NEV. COUNCIL ON PROBLEM GAMBLING, <https://www.nevadacouncil.org/> (last visited Dec. 28, 2019).

<sup>164</sup> *Get Help Now*, NEV. COUNCIL ON PROBLEM GAMBLING, <https://www.nevadacouncil.org/get-help-now/> (last visited Dec. 28, 2019).

<sup>165</sup> *See generally id.*

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Responsible Gaming, and also works in partnership with community agencies to integrate problem gambling awareness and prevention programs into schools, mental health and addiction services, and other health promotion activities.<sup>166</sup>

#### 4. Clark County's Problem Gambling Diversion Program

Clark County Nevada has instituted a diversion program for problem gamblers through its court system.<sup>167</sup> Instead of prison or probation, judges now have the discretion to order counseling for those addicted to gambling and retain oversight of their recovery.<sup>168</sup> "Advocates say it's more cost-effective than incarceration and a proactive way to reduce the number of repeat offenses."<sup>169</sup>

Each new jurisdiction will have to determine its responsible gambling policy priorities. Establishing partnerships with important community stakeholders to provide a variety of resources is critical in meeting the needs of those who are unable to gamble responsibly. As is the case with the Problem Gambling Diversion Program, Nevada continues to look for productive ways to address problem gambling and mental health concerns.

#### H. Cooperation and Discussion With All Sports Betting Stakeholders Is Essential As Many Issues Are of Mutual Concern.

With the International Center for Gaming Regulation (ICGR) at University Nevada Las Vegas (UNLV) established as the facilitator, U.S. gaming regulators established the U.S. Sports Betting Forum (Forum) in 2018.<sup>170</sup> The Forum provides a neutral setting where stakeholders, regulators, law enforcement, sports organizations, tribal leaders, and others can have an opportunity to communicate across jurisdictions to discuss problems of mutual

<sup>166</sup> NEV. COUNCIL ON PROBLEM GAMBLING, *supra* note 163; *see also Mission and Vision*, *supra* note 162.

<sup>167</sup> *Help, Not Prison, Offered at New Clark County Gambling Court*, U.S. NEWS & WORLD REP. (Oct. 28, 2018), <https://www.usnews.com/news/best-states/nevada/articles/2018-10-28/help-not-prison-offered-at-new-clark-county-gambling-court>.

<sup>168</sup> *Id.*

<sup>169</sup> *Id.*

<sup>170</sup> *New 'US Sports Betting Forum' Established by State Regulators to Discuss Sports Gambling Policy*, CDC GAMING REPORTS INC. (Oct. 17, 2018, 9:24 PM), <https://www.cdcgamingreports.com/new-us-sports-betting-forum-established-by-state-regulators-to-discuss-sports-gambling-policy/>. As of the writing of this article, the US Sports Betting Forum has conducted two meetings: May 15, 2019 in Boston, Massachusetts and October 15, 2019 in Las Vegas, Nevada.



concern and put into place thoughtful solutions crafted from their diverse experience.<sup>171</sup>

Providing a venue and opportunity for the various stakeholders to begin to better understand each other's challenges is a productive place to begin to navigate these complex issues. Hopefully, over time, understanding can be developed, and participants can begin to build consensus around how to best approach their differences.

#### CONCLUSION

Sports betting will continue to evolve for the foreseeable future. New technologies, sports book operators, and betting products are entering the market and disrupting the status quo. For jurisdictions considering legalizing sports betting, the Nevada regulatory structure along with its decades of experience in sports betting matters is a good example of how to effectively regulate. It is imperative that consideration be given to assuring the integrity on both on the gaming side of the counter and on the field. As has always been the case for all types of legalized gambling, states and tribal jurisdictions are in the best position to establish and regulate sports betting in the United States. States and tribal jurisdictions should fashion reasonable tax rates and fee structure and reject government mandates for fees and other guaranteed funding mechanisms for sports leagues and organizations. Recognition that combatting illegal activity will be an on-going reality and cooperation in enforcement efforts will be critical to the success of any regulatory scheme. Establishing rigorous technology standards help ensure that states are offering betting products within the appropriate jurisdictional boundaries. Consideration should also be given to developing robust patron dispute resolution processes, establishing consumer protections for all patrons, creating solid responsible gambling programs for those who are susceptible to problem gambling and addiction, and engaging with responsible gambling stakeholders to create a variety of resources within communities to help address the social challenges that are often associated with gaming. Finally, participating in forums where all stakeholders are welcome and can continue to communicate with and educate each other is essential and will help create solutions and assure that important resources are available for the journey ahead.

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<sup>171</sup> Dave Dye, *US Sports Betting Forum Organized by UNLV's International Center for Gaming Regulation*, GAMING TODAY (Oct. 18, 2019, 9:49 AM), [https://www.gamingtoday.com/industry/article/78392-US\\_Sports\\_Betting\\_Forum\\_organized\\_by\\_UNLV\\_s\\_International\\_Center\\_for\\_Gaming\\_Regulation](https://www.gamingtoday.com/industry/article/78392-US_Sports_Betting_Forum_organized_by_UNLV_s_International_Center_for_Gaming_Regulation).



Over two years ago, the Supreme Court of the United States overturned the Professional and Amateur Sports Protection Act (“PASPA”). In overturning PASPA, the Supreme Court has allowed states to begin to regulate sports betting across the country. As of today, there are 19 legal sports betting jurisdictions in the United States, with five others working through regulations and another three states seeking voter approval.

As each of these 19 sports betting markets have been created, there is a direct relationship between the revenues generated and how the markets were initially crafted, including factors such as tax rates, the depth of competition, and the ability to offer mobile wagering. This research brief highlights the revenues generated in those states that were among the first movers to the market following the repeal of PASPA. Those states that have shown the highest revenue generation and a competitive tax rate are those that are leading the effort across the United States. New Jersey continues to be the model versus states such as Rhode Island and Delaware that continue to struggle.

U.S. Sports Betting Comparable Summary									
State	Timeframe	# Skins	Handle (\$MM)	Sports Betting Revenue (\$MM)	Hold %	Taxes Collected (\$MM)	Total Gaming Revenue (\$MM)	Sports Betting % of Total Gaming	Sports Betting Win per Adult
Nevada (1)	TTM March'20	202	\$ 4,514.8	\$ 305.6	6.8%	\$ 20.6	\$ 11,710.9	2.5%	\$132.22
New Jersey	TTM May'20	19	\$ 4,261.4	\$ 296.0	6.9%	\$ 36.5	\$ 2,154.5	12.1%	\$43.69
Rhode Island	TTM May'20	1	\$ 230.3	\$ 21.5	9.3%	\$ 11.0	\$ 538.2	3.8%	\$26.60
Indiana (3)	Since Launch (Sept'19)	12	\$ 962.2	\$ 78.5	8.2%	\$ 7.5	\$ 1,162.4	6.3%	\$19.34
Mississippi	TTM May'20	29	\$ 330.4	\$ 38.2	11.6%	\$ 4.6	\$ 1,739.6	2.2%	\$17.74
Delaware	TTM May'20	1	\$ 76.8	\$ 11.9	15.4%	\$ 6.7	\$ 333.7	3.4%	\$15.84
Iowa	Since Launch (Aug'19)	19	\$ 368.0	\$ 25.7	7.0%	\$ 1.8	\$ 924.6	2.7%	\$13.37
Pennsylvania	TTM May'20	10	\$ 2,242.4	\$ 109.1	4.9%	\$ 39.3	\$ 3,023.5	3.5%	\$11.28
West Virginia	TTM May'20	5	\$ 173.9	\$ 14.0	8.0%	\$ 1.4	\$ 524.3	2.6%	\$10.19
New Mexico (2)	TTM May'20	4	--	--	--	--	--	--	--
Average Without Nevada					6.9%			5.7%	\$21.45

Source: Global Market Advisors  
(1) April 2020 revenue data redacted by the State; (2) New Mexico is tribal only, no publicly available statistics; (3) Indiana revenues are exclusive of tribal gaming

## LOW TAXES DRIVE MARKETS

Taxation is one of the most important issues that can lead to the success or failure of a market. As GMA has completed numerous studies across the country on behalf of gaming operators, tribal organizations, associations, and governments, any gaming tax above 15% can make it difficult for sports betting operators to effectively compete in the market. This includes various tax scenarios that have been introduced in states to address brick-and-mortar vs. mobile and mobile offerings, as well as both a state and local share of revenues. To date, no state has ever allowed an “integrity” fee, a money grab by the leagues that have fought against sports betting for over two decades. The table below illustrates sports betting tax rates in select markets across the United States.

Pennsylvania, Rhode Island, and Delaware have instituted some of the highest tax rates and have been some of the most challenging markets for both operators as well as the states themselves. Only Pennsylvania has established a competitive model, whereas Delaware and Rhode Island are among the lowest performers. States such as Nevada, New Jersey, and Iowa offer some of the lowest tax rates and also have maintained some of the most competitive and open markets. A competitive market is key to a robust legal sports betting market to compete with the illegal market.

U.S. Sports Betting Tax Rates	
Nevada	6.75%
Iowa	6.75%
New Jersey	8.5% - 14.25%
Indiana	9.5%
West Virginia	10%
New York	10%
Mississippi	12%
Pennsylvania	36%
Rhode Island	51%
Delaware	60%

Source: GMA

## COMPETITION DRIVEN BY THE MARKET

The success of a market will be dictated both by the operators in the market as well as the regulatory structure that is established. An ideal sports betting market would be attractive to a wide range of well-known operators and allow for innovation to occur. As with any free market, competition helps drive this innovation, bringing additional revenues, adding direct and indirect investment, and building a robust market. It also allows consumer choice through competitive pricing, driving these same individuals away from the black market.

The best example of a market that allows for competition is New Jersey that has allowed multiple brands and skins into the market and created one of the most diverse overall sports betting offerings. This market allows more than the existing brick-and-mortar operators into the market, and the revenue generated from those multiple operators continues to increase the revenue as the effective competition within the market against the illegal market.

Markets that show problems are those that offer only a few operators, if not a monopolistic approach that does not drive innovation or competition to the market, making it stagnant. Once again, states such Rhode Island and Delaware are the examples of how not to draft a market. Both states take a monopolistic approach in partnering with the state lottery and a single

provider of the sports wagering platform. The revenues for these states have been less than lackluster, and this will continue to be the case until competition comes to market along with other changes to the regulatory structure. States like Pennsylvania that limit their market to existing operators allow for further constriction on the market, limiting its full potential.

State	Handle (\$MM)	Sports Betting Revenue (\$MM)	Taxes Collected (\$MM)	Total Gaming Revenue (\$MM)	Sports Betting % of Total Gaming	Sports Betting Win per Adult
New Jersey	\$ 4,261.4	\$ 296.0	\$ 36.5	\$ 2,154.5	12.1%	\$43.69
Rhode Island	\$ 230.3	\$ 21.5	\$ 11.0	\$ 538.2	3.8%	\$26.60
Delaware	\$ 76.8	\$ 11.9	\$ 6.7	\$ 333.7	3.4%	\$15.84

Source: Global Market Advisors

### MOBILE WAGERING DRIVES COMPETITIVE

Sports betting has faced its challenges over the last few months due to SARS-CoV-2. Of the states that allow mobile wagering, the most robust jurisdictions are those that allow mobile registration and mobile payment, offering a true mobile experience such as those found in New Jersey, Pennsylvania, and Indiana. Nevada and other states still require in-person registration and account funding either in person or via a kiosk. While the casinos were shut down in Nevada earlier this year, several operators started to open drive-thru locations, in some cases in their hotel porte cochère, to allow players to refill their accounts so that they could continue to wager.

New Jersey continues to be the model as it allows sports bettors to participate through mobile applications as soon as they are located within the state. This includes allowing mobile registration and mobile payments, the most effective way to compete against the illegal market and bring access to the sports bettor. Nevada and other states need to make changes to their mobile regulations to allow these options in order to avoid any incidents with payments, such as when casinos were shut down or when a player lacks the ability to register in-person, which only drives people to the illegal market.

### SUMMARY

By the end of 2020, a majority of jurisdictions in the United States could have legal sports wagering. As additional jurisdictions look toward legalization, they must remember that it is no longer about being first to market or rushing to beat a neighboring state. At this point, it is about establishing the right process to combat the illegal market and allow operators to compete in a robust marketplace that allows for innovation and true competition. Stakeholders must also recognize that the market should not be limited only to existing operators, and that revenue that has been lost in illegal markets can be recaptured by the state. Integrity exists in the laws and regulations that govern a market, and stakeholders can create a solid foundation for sports betting by educating themselves from the beginning.



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As the United States awaits a decision by the U.S. Supreme Court on the Professional and Amateur Sports Protection Act of 1992 (“PASPA”) in the *Murphy v. NCAA* case, stakeholders are busy evaluating the size of the sports betting market opportunity and contemplating how to take advantage of the opportunity. Several government stakeholders have already enacted legislation regarding the potential for sports betting, including the most recent legislation passed in Pennsylvania (2017) and West Virginia (2018). Many other state governments have introduced proposed legislation for the new potential market opportunity, including Iowa, Illinois, Michigan, New York, and Connecticut.

These enacted and proposed legislative pieces have begun to shape the potential regulatory framework of a legalized sports betting market in each state, including setting tax rates and licensing fees. Other stakeholders, including the professional sports leagues, have suggested that an integrity (royalty) fee should be levied as well. Unfortunately, some of these proposed taxes and levies do not fit within the economic construct of the sports betting opportunity as the margins achieved in the industry are too slim for the operator to generate enough profit to justify investment.

To educate stakeholders on the basic economics behind the sports betting market and illustrate how some of these proposed regulations would fit within the framework of the market’s economics, GMA prepared the following research brief as an update to its white paper completed in November 2017 entitled, “An Examination of Sports Betting in America & Forecasts of Revenues by State.” This research brief highlights some of the key educational points that legislators should consider on how sports books operate, the impact that additional royalty fees would have on the operation of facilities, how integrity already exists in the game, and the true revenue potential that exists with sports betting.



## THE SPORTS BETTING DOLLAR

As state governments continue to contemplate how to formulate the regulatory framework for sports betting and how they can maximize the benefit to the community in terms of tax revenue and other economic impacts, they should first consider how a bet turns into revenue and how that revenue turns into profit. By understanding the basic economics behind the industry, stakeholders can gain insights into the actual size of the market opportunity and how the characteristics of different regulatory models can hamper or help a sports betting market succeed.

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### HANDLE TO REVENUE

Several industry pundits have presented their views of the sports betting opportunity by illustrating the market's potential in terms of handle. Handle represents the amount of money wagered on sports betting by market patrons. While this metric is useful in understanding the projected level of market participation in sports betting, it grossly overstates the actual value of the market.

Only a portion of handle is retained by the operators as revenue. On average, operators only hold on to approximately five percent of handle. As such, if a market is projected to generate one dollar in handle, only five cents of that dollar is held by the operators as revenue. The hold percentage generally ranges between 4.5% to 5.5% depending on the type of betting allowed (straight bet, in-game, and prop bets) as well as the operators success in setting lines based on its predictions of the outcomes of future events. Although the sports book operators have become increasingly proficient at setting lines and odds, they still can encounter losses when their predictions go awry. For example, \$159 million was wagered on the Super Bowl in Nevada's sports books in 2018. However, the books only won \$1.1 million, representing a hold percentage of only 0.7%. The green section of the following illustration depicts the slim amount of a sports betting dollar that operators can expect to retain as revenue.

## From Handle to Revenue



\$0.95

\$0.05

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### REVENUE TO PROFIT: EXPLAINING MARKET ECONOMICS WITHIN THE NEVADA MODEL

After garnering revenue, sports book operators must account for operating costs, taxes, and other items before realizing any profit.

#### OPERATIONAL COSTS

In Nevada, the majority of a sports book's revenue is utilized to service operating costs. The operational costs involved in running a sports book vary depending on the state's laws and the types of sports betting allowed.

For a land-based sports book, an operation's largest expense is often payroll. This expense can be mitigated due to an operation's mix and use of online, mobile, and land-based offerings and the distribution of bets placed via kiosk, online, and over the counter. The marketing and advertising expenses incurred by sports books are also often considerable. These expenses can range from 6.0 to 7.5 percent of revenue. Other expenses incurred by sports books include but are not limited to data expenses, system related expenses, general & administrative expenses, utilities, and lease payments. All of these expenses ensure that the integrity of each game is maintained through strict compliance procedures. On average, a typical sports book's total operating costs account for approximately 48.8 percent of revenue or 2.4 percent of handle. This assumes that the book operates both land-based operations and its bettors can place bets online as well, as is experienced in Nevada.

## TAXATION

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In Nevada, the regulatory framework has a straightforward tax regime. The state imposes a 6.75 percent tax on gross gaming win (“GGW Tax”). In addition to the state tax, a federal excise tax is imposed which is based on a quarter of every penny wagered. Assuming a five percent hold, this federal tax equates to five percent of revenue. The resulting effective tax rate on sports books in the State of Nevada is approximately 12 percent of revenue.

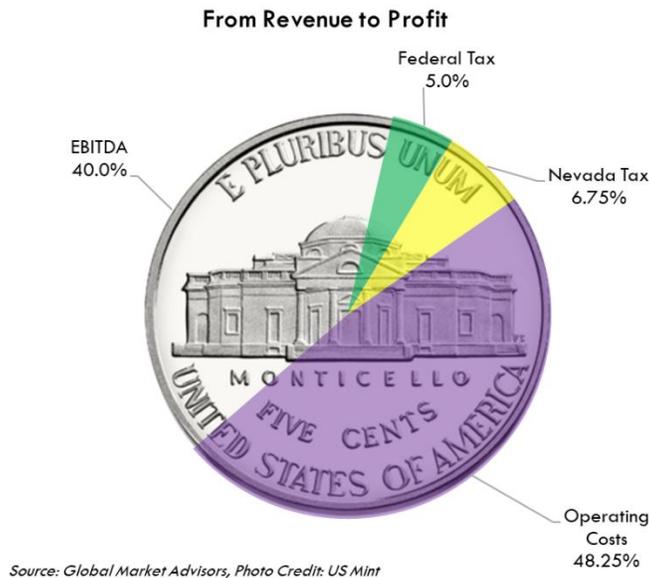
## PROFIT MARGINS

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After operational expenses, state taxes, and the federal tax, the sports books in Nevada are still able to produce positive levels of profit albeit at thin margins. This modest tax environment allows sports books to appropriately adjust their operations and business strategies to grow revenue and profit, allowing for a greater portion of revenue to flow to the State of Nevada. With this tax model, sports books are still able to adjust marketing campaigns and offer more competitive lines to attract bettors. Any additional fees or taxes would have a detrimental impact on the sports book’s ability to compete against illegal and other legal markets.

Sports book operators generally retain approximately 40 percent of revenue (or two percent of handle) as EBITDA (Earnings Before Interest, Taxes, Depreciation, and Amortization). However, larger operations, which successfully generate a substantial amount of online wagering, could achieve larger profit margins on revenue. In Nevada, the more mobile the sports betting platform, the higher the margin. From this EBITDA, operations must then outlay the necessary capital to build the sports book, fit out the sports book, buy or lease the land/ building where the book is located, and purchase the necessary computers and servers to effectively operate. In Las Vegas, the amount of revenue earned per square foot of a sports book is far less than the amount of revenue earned from slots and tables per square foot.

If a new jurisdiction were to allow full mobile wagering, including remote registration and in-game wagering, with a limited number of licenses, the jurisdiction could raise tax rates moderately to take advantage of increased profit margins. However, in jurisdictions where sports betting is limited to land-based operations, tax and licensing rates should be lowered to accommodate for reduced profit margins on revenue. Regardless, a state tax any higher than ten percent would make it very difficult for a sports betting operation to compete against illegal operators who do not pay anything in taxes and do not have the burden of paying for land based operations.



## AN EVALUATION OF PROPOSED/ENACTED TAX RATES AND FEES BY STATE

As discussed in GMA’s Sports Betting White Paper from November 2017, sports betting in the United States is legally permitted in varying degrees in Nevada, Oregon, Montana, and Delaware. Nevada is currently the only state permitted to offer single-game betting on college and professional sports through licensed bookmakers. As such, other states are currently evaluating what regulatory framework they should employ if sports betting is legalized. Some of these states have relied on regulatory models from other jurisdictions in drafting regulations, while other states have developed entirely new models. The following section evaluates how these proposed models work with or do not work with sports betting economics.

### WEST VIRGINIA MODEL

The State of West Virginia followed Nevada’s lead in developing a straightforward taxation schedule. The five existing gaming facilities in West Virginia, including The Casino Club at The Greenbrier, Hollywood Casino at Charles Town Races, Mardi Gras Casino and Resort, Mountaineer Casino, Racetrack and Resort, and Wheeling Island Hotel-Casino-Racetrack would be allowed to offer sports betting for a five-year, \$100,000 licensing fee, renewable at the end of each licensing period. Additionally, gross gaming revenues would be taxed at a rate of 10 percent. This modest taxation rate would allow for the creation of a healthy market, sustainable and attractive tax revenue figures, and still provide desirable profit margins to the operator.

The State of West Virginia put itself ahead of the curve when it ordered a study bill last year to examine the best methods and revenue potential for sports betting with the potential repeal of PASPA. The West Virginia Lottery, which will oversee sporting betting in the state, has stated

that they could be ready 90 days after a decision by SCOTUS. West Virginia did not include an “integrity” fee desired by the leagues in its legislation, which was enacted in March 2018. The Governor has suggested that there could be a special session on the enacted law to discuss the additional fee issue if PASPA is overturned.

#### PENNSYLVANIA MODEL

New legislation was developed for the State of Pennsylvania. The state imposed a 36 percent tax on gross gaming revenue, a 34 percent tax rate by the state and a 2 percent tax for the local share assessment. This tax rate will prevent operators from entering the market as it would be nearly impossible for a sports book to produce sustainable levels of profit in this high tax environment. This is largely due to the fact that other nearby states and illegal books would be able to offer more competitive bets, odds, and marketing strategies to capture available revenue from the market. In addition, the legislation requires a onetime licensing fee of \$10 million per licensee. As the sizeable tax rate would leave the operators with little to no EBITDA, the required level of investment to enter the market and likely return rates would make investment in the market unjustifiable.

#### MODELS CONTEMPLATED BY OTHER STATES

There are several other states that have formulated pieces of legislation that vary in their proposed tax rates, whether they include a royalty fee that would distribute a portion of handle to the professional leagues, and where sports betting will be available to potential customers within their respective states (e.g. mobile, online, and land-based). There are currently over a dozen states that are actively undergoing legislative discussions to ready themselves should PASPA be overturned.

The State of Iowa is currently reviewing sports betting legislation. The state is thought to be the next state to pass sports betting legislation should the federal ban be lifted. Iowa adopted a tiered taxation schedule. The first one million dollars will be taxed at a five percent rate, growing to 10 percent for gross gaming revenues from one million to three million dollars. Gross gaming revenues exceeding three million dollars would incur a 22 percent tax. This tax structure is more reasonable than the Pennsylvania model as blended tax rates would be well below 36 percent. However, the blended tax rate observed by most operators would still hamper their ability to offer a competitive product that produces the largest potential amount of taxable revenue to the State of Iowa.

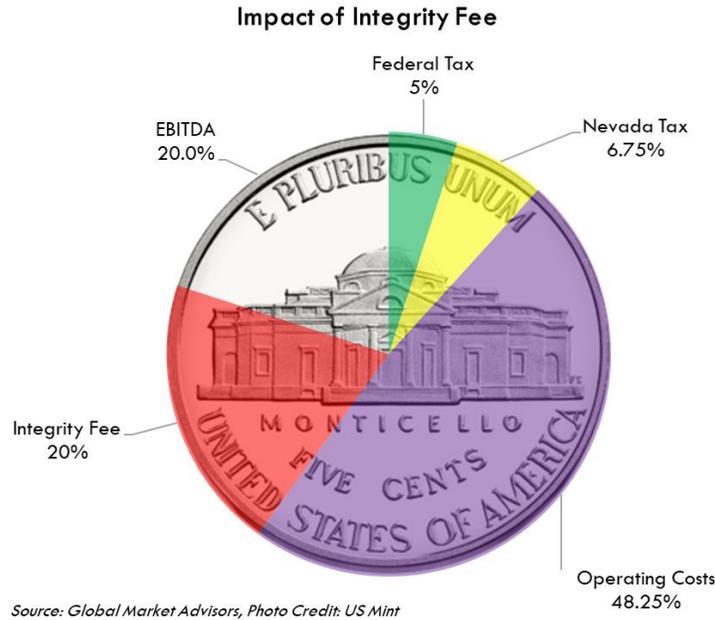
Connecticut continues to debate the sports betting issue and has held several hearings to debate these issues as well as other gaming related issues in this session of the General Assembly. The most recent bill would impose a 15 percent tax on sports wagering gross revenue. Connecticut has been one of many states that has debated the “integrity” fee that is sought after by the

professional leagues. In a recent hearing, several members of the legislature's public safety and security committee questioned the need for an "integrity" fee by the leagues. The most recent version of sports betting legislation offers the leagues a 0.25 percent fee on all wagers placed on sporting events. This appears to be the leagues latest attempt at a revenue grab. While this figure is lower from the originally shopped amount of one percent of handle in states including Connecticut, New York, Illinois, and others, it still would be equivalent to a five percent royalty on revenue that would cut into the operability of sports books and further facilitate the ability for illegal books to succeed.

#### AN EVALUATION OF THE INTEGRITY (ROYALTY) FEE

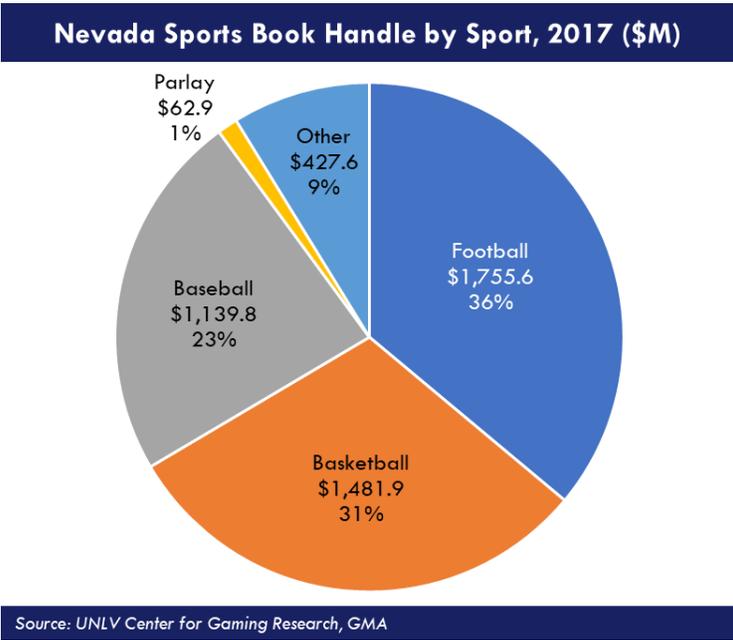
Several professional sports leagues have proposed that they should receive an integrity fee (equivalent to one percent of handle) should sports betting be legalized. First and foremost, there is not an integrity fee paid to any league in the existing market of Nevada today. The integrity of the game is monitored by operating sports books to ensure that games are fair and held to a high standard. Nevada sports books over the years have been the first to catch any degradation of integrity that may exist in a contest(s).

While one percent of handle may seem like a marginal amount, it is the equivalent of a 20 percent fee on revenue. To illustrate the impact of this fee on sports book operations, the Nevada model was utilized as they tax sports books at a reasonable rate that allows the books to still be profitable. As the average sports book operator in Nevada maintains 40 percent of revenue as EBITDA, a 20 percent fee on revenue would leave the operator with only a 20 percent EBITDA margin. If the effective tax rate on sports betting operations was increased by 20 percent, it would make sports betting operations in any state unfeasible. Ironically, the enactment of an integrity fee of this level would only further facilitate the ability for illegal books to remain in operation, which is unlikely to increase the integrity of the games.

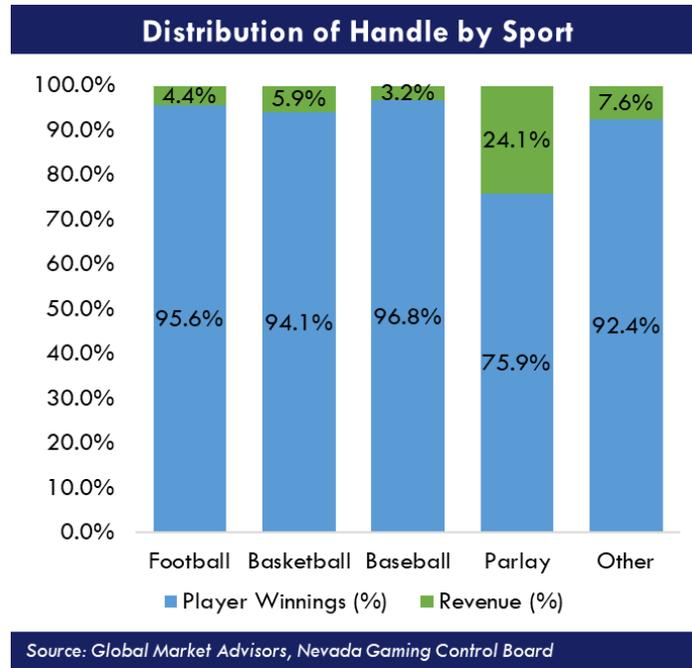


**SHOULD ALL SPORTS AND LEAGUES RECEIVE AN EQUAL SHARE OF AN “INTEGRITY” FEE?**

In any sports betting market, all leagues, events, and sports are not equally attractive in the eyes of the bettor. In the Nevada market in 2017, wagering on football and basketball accounted for 67 percent of all handle generated in Nevada. Baseball generated approximately 23 percent of handle and other sports accounted for only nine percent of handle in that year.

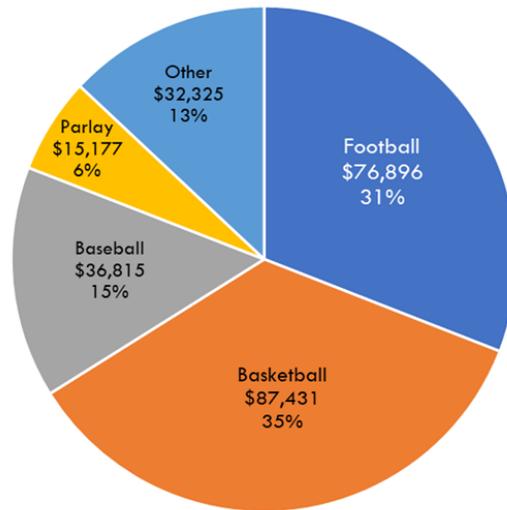


Additionally, sports books garner a different percentage of handle as revenue from each sport. As an example, handle generated from baseball produced a much smaller level of revenue (3.2 percent of handle) than football (4.4 percent of handle) and basketball (5.9 percent of handle) in 2017.



Wagers on football generated approximately 31 percent of Nevada’s sports book revenue in 2017, even though it generated approximately 36 percent of handle in that year. Basketball generated 35 percent of Nevada’s sports book revenue in 2017, despite only accounting for 31% of handle in that year.

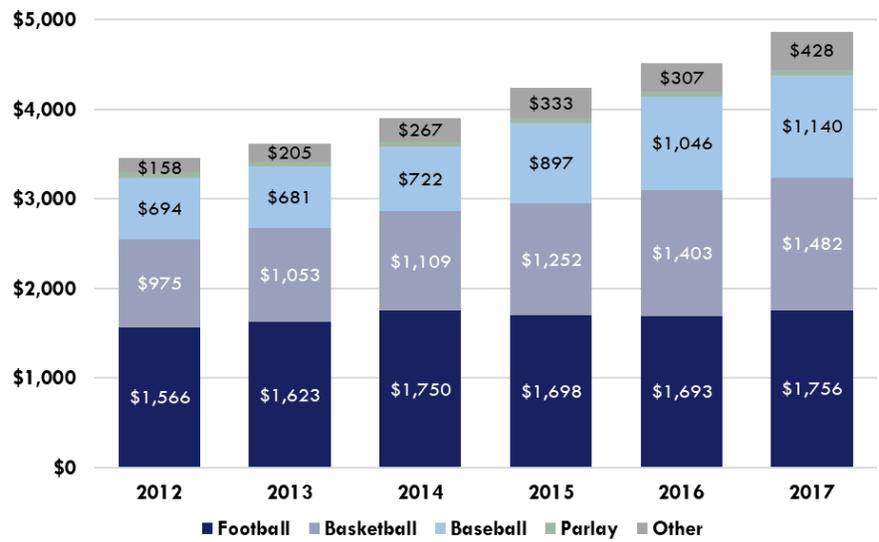
### Nevada Sports Book Revenue by Sport, 2017 (\$000)



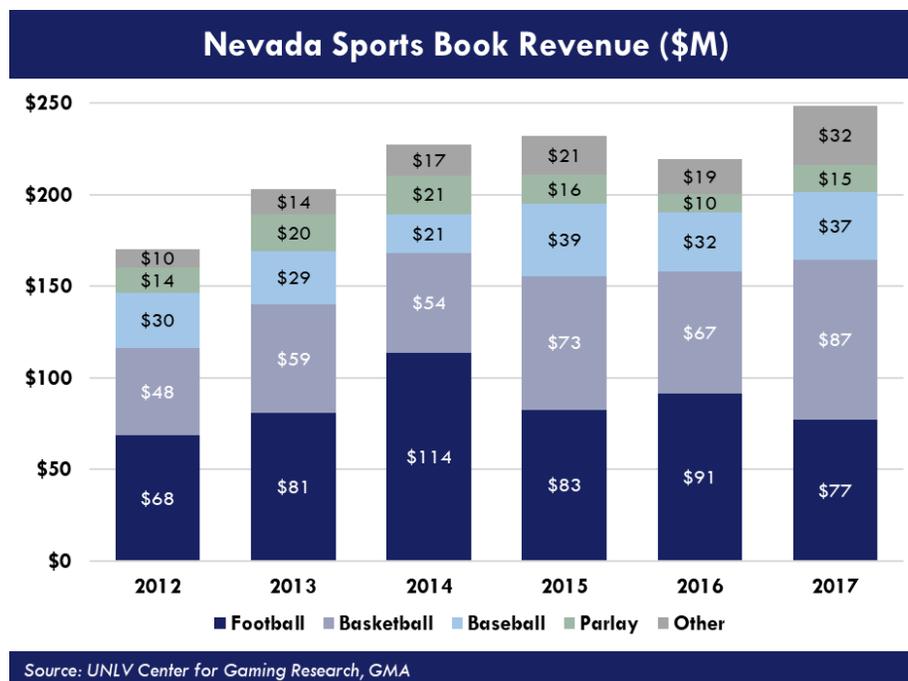
Source: UNLV Center for Gaming Research, GMA

While the revenue for sports betting continues to increase collectively in the State of Nevada, sports betting continues to make up a small percentage (2.5%) of the total gaming revenue for the state. Sports betting is as much of a driver for gaming and non-gaming revenue in food and beverage, hotel operations, and other property amenities as it is for the bottom line itself.

### Nevada Sports Book Handle (\$M)



Source: UNLV Center for Gaming Research, GMA



While an “integrity” fee will never materialize in the state of Nevada, one could extrapolate its potential impact on the overall operations of a sports book and the money that it would generate to the professional leagues. Under the current desire to seek one percent of handle, the leagues would have acquired roughly \$50 million in revenue from Nevada based off the nearly \$5 billion that was wagered in 2017. This figure would have equated to nearly three quarters of the amount of tax revenue collected by the State of Nevada on sports betting in 2017.

Through testimony provided in various states, the sports leagues have also made it clear that they only seek the reward involved in sports betting and do not desire to take on any risk that may occur with games and contests. The most recent example occurred with the Super Bowl in Nevada where many of the books lost money on the overall event. If an “integrity” fee were put in place, not only would books lose money on the event they would owe an additional amount to the leagues as well.

## NEVADA AS A FRAMEWORK

The State of Nevada has served as a regulatory model for gaming regulators contemplating the right framework for new jurisdictions around the world. Other U.S. States should look to the State of Nevada in crafting their own regulatory structure for sports betting. Specifically, they should evaluate Regulation 22 of the Nevada Gaming Control Board Regulations, which solely deals with race books and sports pools, to understand the tax structure, licensing procedures, and other regulations created to bring integrity to contests.

One issue that states will have to resolve internally is deciding what regulatory board should oversee sports betting as not all states currently have a gaming control board and land-based gaming facilities. In some cases, this may mean that the Lottery Commission (where applicable) should oversee these activities. This approach has even been utilized by states with casinos, like the State of West Virginia, and is currently being considered by the State of Kansas. Each state will also need to decide what locations and platforms can take wagers, the suitability required to garner a license, anti-money laundering procedures, and complying with Title 31 (Bank Secrecy Act).

The level of convenience of wagering that is afforded to players will be key to the success of each market. The State of Nevada offers a great example of how a state can work with operators to make the market more accessible to patrons with the advance of online, mobile, and kiosk technology. These new wagering platforms have evolved over time as geo-location technology has improved from the “wager pager” to the PC to mobile phones (with the assistance of geo-fencing). It will be important for each jurisdiction to consider offering a multitude of wagering options to make their sports betting product more competitive with other legal and illegal offerings. Each state can utilize the State of Nevada as a guide in deciding how to allow for items like initial registration.

The State of Nevada continues to enhance its model by studying other jurisdictions in Europe. As an example, the State of Nevada recently allowed in game play, which has been offered in jurisdictions in Europe for quite some time. While this type of play is still more prevalent in Europe, stakeholders in Nevada have realized its ability to attract new market segments, including a younger group of patrons. The State of Nevada formulated a way to introduce this new product while continuing to conduct the games and contests with the highest level of integrity. They have also expanded the offerings allowed at sports books beyond traditional games to include events such as the Heisman Trophy, NFL Draft, and other sports including esports and the Olympics.

To successfully compete against the illegal market, states will have to offer a reasonable tax regime that allows operators to have some margin of operational success. By bringing in quality operators that monitor games and contests, as the State of Nevada has done for decades, the integrity of the game can be maintained and ensured. Scandals like the point shaving contest that occurred in the 1990s at Arizona State and the referee betting scandal that occurred in the NBA in 2007 were discovered by Nevada sports books and their effective monitoring of games.

The State of Nevada has demonstrated a path to successful sports betting implementation through strict regulation. Integrity exists in the games due to proper regulation and not through a money play by sports leagues. The sports leagues will benefit from the expansion of sports betting due to the increase in viewership and interest that stems from the influx of new sports betting participants should PASPA be overturned.

## **CONTACT INFORMATION**

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## **Poarch Creek Accountability Now**

---



Governor Kay Ivey  
Gaming Study Group Members:

Todd Strange

Rey Almodóvar

Deborah Barnhart

Walter Bell

Dr. Regina Benjamin

Young Boozer

Sam Cochran

Liz Huntley

Carl Jamison

Justice Jim Main

Phil Rawls

Bishop B. Mike Watson

March 16, 2020

RE: Solid basis for recommendations

Members,

I wanted to thank you for taking on the challenge of gaming in Alabama. Each of you bring unique backgrounds that will serve the study group well. I believe that in order for you to provide Governor Ivey realistic recommendations that you must first start with: what is legal in Alabama? The attorneys in your group will find the attached recent DOI opinion withdrawal important as PCI offers billion dollar promises based on its tenuous position.

While voters will ultimately decide the fate of a lottery in Alabama – it falls upon you to ensure that the best possible proposal is in place. A proposal based on achievable projections and one that will not trade away our states future

**PoarchAccountability.com**

P.O. Box 4971, Montgomery, Alabama 36103

financial proceeds. Our future, the next generation of our workforce will be largely shaped by the recommendations that your group provides Governor Ivey. That responsibility requires that your group consider all the legal implications as well as potential revenue sources – current and in the future- as you prepare your findings.

Thank you in advance for your service to Alabama,

With great respect,

  
Gerald Dial



## United States Department of the Interior

OFFICE OF THE SOLICITOR  
Washington, D.C. 20240

IN REPLY REFER TO

**MAR - 9 2020**

M-37055

Memorandum

To: Secretary  
Assistant Secretary – Indian Affairs

From: Solicitor

Subject: Withdrawal of Solicitor’s Opinion M-37029, “The Meaning of ‘Under Federal Jurisdiction’ for Purposes of the Indian Reorganization Act”

On March 12, 2014, the Solicitor issued M-37029 (“Sol. Op. M-37029”) that interpreted certain phrases found in the first definition of “Indian” (“Category 1”) at Section 19 (“Section 19”) of the Indian Reorganization Act of 1934 (“IRA”).<sup>1</sup> Sol. Op. M-37029 was published following the 2009 opinion of the United States Supreme Court (“Supreme Court”) in *Carcieri v. Salazar*,<sup>2</sup> which concluded that the phrase “now under federal jurisdiction” requires tribal applicants for trust-land acquisitions to have been “under federal jurisdiction” in 1934. The Supreme Court did not, however, construe the meaning of the phrases “recognized Indian tribe” or “under federal jurisdiction.”

In 2010, the Department of the Interior (“Department”) interpreted these phrases and other aspects of Section 19 in a record of decision for a fee-to-trust application submitted by the Cowlitz Indian Tribe (“Cowlitz ROD”).<sup>3</sup> The Cowlitz ROD concluded that the phrase “under federal jurisdiction” was ambiguous, and interpreted it to mean “an action or series of actions (...) that are sufficient to establish, or that generally reflect federal obligations, duties, responsibility for or authority over the tribe by the Federal Government.”<sup>4</sup> The Cowlitz ROD separately interpreted the phrase “recognized Indian tribe” and concluded it was not subject to the temporal limitation contained in “now under federal jurisdiction,” meaning that an applicant tribe is “recognized” for purposes of Category 1 so long as it is “federally recognized” at the time the IRA is applied.<sup>5</sup>

Sol. Op. M-37029 adopted the analysis and interpretive framework set forth in the Cowlitz ROD with little substantive change, including the Cowlitz ROD’s two-part procedure for determining whether a tribe was “under federal jurisdiction” in 1934.

<sup>1</sup> Act of June 18, 1934, c. 576, 48 Stat. 984, codified at 25 U.S.C. § 5101, *et seq.*

<sup>2</sup> *Carcieri v. Salazar*, 555 U.S. 379 (2009).

<sup>3</sup> U.S. Department of the Interior, Assistant Secretary – Indian Affairs, Record of Decision, Trust Acquisition of, and Reservation Proclamation for the 151.87 acre Cowlitz Parcel in Clark County, Washington, for the Cowlitz Indian Tribe at 77-106 (Dec. 17, 2010).

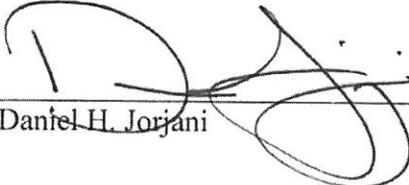
<sup>4</sup> Cowlitz ROD at 94.

<sup>5</sup> Cowlitz ROD at 87-89.

Since the issuance of Sol. Op. M-37029 in 2014, attorneys in the Office of the Solicitor (“Solicitor’s Office”) have consulted with the Bureau of Indian Affairs (“BIA”) to determine eligibility for trust-land acquisitions under Category 1 using Sol. Op. M-37029’s two-part procedure. In each case, the Department has assessed the evidence submitted by an applicant tribe to determine whether such evidence sufficiently demonstrated that the tribe was “under federal jurisdiction” in 1934.<sup>6</sup> Considerable uncertainty remains, however, over what evidence may be submitted to demonstrate federal jurisdictional status in and before 1934. Because of this, many applicant tribes spend considerable time and resources researching and collecting any and all evidence that might be relevant to this inquiry, in some cases prompting submissions totaling thousands of pages.

To remove such uncertainties and to assist tribes in assessing eligibility, in 2018, the Solicitor’s Office began a review of Sol. Op. M-37029’s two-part procedure for determining eligibility under Category 1, and the interpretation on which it relied. This review has led me to conclude that Sol. Op. M-37029’s interpretation of Category 1 is not consistent with the ordinary meaning, statutory context, legislative history, or contemporary administrative understanding of the phrase “recognized Indian tribe now under federal jurisdiction.” Therefore, I hereby withdraw Sol. Op. M-37029.

Concurrent with this Opinion, I am issuing procedures under separate cover to guide Solicitor’s Office attorneys in determining the eligibility of applicant tribes under Category 1. This guidance derives from an interpretation of Category 1 that better reflects Congress’ and the Department’s understanding in 1934 of the phrase “recognized Indian tribe now under federal jurisdiction.”

  
\_\_\_\_\_  
Daniel H. Jorjani

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<sup>6</sup> *Checklist for Solicitor’s Office Review of Fee-to-Trust Applications*, Memorandum from the Solicitor to Regional Solicitors, Field Solicitors, and SOL-Division of Indian Affairs at ¶ 9 (Jan 5, 2017).

## **Poarch Band of Creek Indians**

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The Poarch Band of Creek Indians (PCI) have long supported putting the power of gaming to work for the benefit of all Alabamians. That's why we offer this proposal to increase the State's revenue. In a recent survey, **73% OF ALABAMIANS SAID THAT THEY WOULD VOTE YES** if the Poarch Band of Creek Indians Billion dollar package came to a vote on the statewide ballot. The same survey showed that 80% of Alabamians support a state lottery.



## THE LEGISLATION WE ARE PROPOSING:

- Provides a **COMPREHENSIVE PLAN** for gaming in Alabama which includes a billion dollars in new revenue for the State. The State does not currently receive revenue from any gaming operators within its borders, but we are here to change that reality.
- Calls for a vote of the people on a **CONSTITUTIONAL AMENDMENT** (CA) to authorize two new destination resorts with casino-style gaming.
- The CA also authorizes the Governor to enter into **COMPACT NEGOTIATIONS** with PCI if she wishes. A Compact is a contract between the State and the Tribe outlining many conditions including, but not limited to, regulation of any Class III casino-style gaming within the state and any revenue sharing between the Tribe and the state of Alabama.
- This legislation establishes the **ALABAMA EDUCATION LOTTERY** to provide important funding for our students, teachers, and schools.
- Additionally, the bill establishes **REGULATORY SAFEGUARDS** to ensure the quality and integrity of gaming via a newly created Alabama Gaming Commission.

---

**OUR PROPOSAL WILL GENERATE AN ESTIMATED \$350 MILLION IN INCREASED REVENUE AND TAXES.**

---

## WHO BENEFITS FROM OUR PROPOSAL?

- **EACH COUNTY IN ALABAMA** will receive funding from the Gaming Trust Fund. This Trust Fund will house the license fees paid by PCI to operate new gaming entities.
- **STUDENTS AND TEACHERS** will benefit from increased revenue in the Education Trust Fund, generated by the Alabama Education Lottery.
- **OUR TOURISM** will flourish with the addition of two new resort destinations with casino style gaming in Jefferson County and either Dekalb, Jackson, or Marshall county. These locations were strategically selected to ensure that Alabama derives maximum tax revenue to bolster the General Fund. That will create a capital spending to the tune of:

### **\$500 MILLION IN CAPITAL INVESTMENTS.**

- Additionally, our proposal also allows for the **COMPETITION** of two more licenses and sites after 25 years.
- The Billion Dollar Plan maintains our commitment to job creation by creating an estimated:

### **6,500 NEW JOBS – THAT’S \$300 MILLION IN WAGES.**

For questions, please **CONTACT MIRIAM FRY** at [mfry@pci-nsn.gov](mailto:mfry@pci-nsn.gov) or 251-359-3280.

The Poarch Band of Creek Indians is the only federally recognized tribe in Alabama. PCI is an active partner in the state of Alabama, contributing to economic, educational, social and cultural projects benefiting both Tribal Members and residents of these local communities and neighboring towns. Learn more about the Tribe at [www.pci-nsn.gov](http://www.pci-nsn.gov).

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**PUT GAMING TO WORK  
FOR ALABAMA**

## **Scientific Games Corporation**

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## Information Request

### Alabama Study Group for Gambling Policy

### Sports Wagering Overview

#### Executive Summary

In May 2018, the U.S. Supreme Court's decision to overturn PASPA, the 1992 federal law that prevented states from regulating sports betting, has created an unprecedented opportunity for state lotteries and gaming organizations in the U.S. PASPA was declared unconstitutional in the 6-3 decision, *meaning it will be up to states, which sought sports wagering for years, to decide whether to allow residents to bet on sport.* This ruling allows states to legislate immediately and for all such laws to become effective immediately.

Currently, there are 17 states operational including: Arkansas, Delaware, Illinois, Indiana, Iowa, Michigan, Mississippi, Montana, New Mexico, Nevada, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, and West Virginia. Another four states authorized but not operational including: Colorado, Washington D.C., North Carolina and Tennessee. It is estimated that 36% of the population of the US will have access to regulated sports wagering<sup>1</sup>.

For states to maximize revenue, a multi-channel sports wagering distribution strategy creates the most return to beneficiaries. There are currently 3 channels with which to operate sports wagering – 1) mobile/online, 2) casino venue (sportsbook) and 3) lottery retailers. It is recommended to authorize each respective distribution channels under their current regulatory agency. Each channel features the following:

- **Casinos & Tracks**
  - Full On-Venue Sportsbooks
  - Wide Range of Sports
  - Wide Range of Wagers
  - Dedicated Player Spaces
- **Mobile**
  - Broadest Wager Options
  - Accounts Remotely Funded
  - Players Geo-fenced
- **Lottery Retail**
  - Widely Distributed Channel
  - Existing Infrastructure
  - Simple Wager Offers (Parlay Recommended)
  - Responsible Gaming Controls
  - Additional Benefits:
    - State funding maximized thru Lottery
    - Lotteries regulate 70% of global sports betting

<sup>1</sup> Eilers & Krejci, U.S. Sports Betting Policy Monitor | March 2020

For this document, we will focus on the lottery-based sports wagering distribution channel. Lottery retailers are an effective avenue to reach a casual player, because it offers simple wagers and convenient location access of players. US Lottery retailers are widespread, offer an expanded spectrum of merchandise, and have trained staff in place to support lottery product lines. In order to keep the wagering process informal and seamless, it is recommended for the lottery to stick with Parlay wagers. These expanded wagers can be easily implemented into the existing lottery system, efficiently processed due to the minimal numbers of wagers, and readily understood by a casual player looking to add excitement to upcoming sporting events.

## Best Practices for a Sports Wagering Bill

- Authorize sales distribution channels under their current regulatory agencies
- Establish a fair tax rate without league fees or data requirements for this low margin offer
- Allow wagering on professional, collegiate, and in-state events without league veto power
- Authorize intrastate mobile and online wagering to maximize state revenues
- Permit 3<sup>rd</sup> party vendors to facilitate sports wagering operations
- Provide responsible gaming controls for players
- Prohibit wagering on the results of authorized Lottery games/events
- Contract with responsible vendors supporting sports wagering in regulated markets

## Parlay Wagering for the Lottery Retail Channel

What is parlay wagering? A parlay is a single sports wager that involves two or more teams winning. The allure of these bets has always been a larger payout to the player than choosing a single team to win. The larger payouts for a parlay make sense since picking an individual winning side or total is difficult by itself. Picking more than one winner is even more difficult. There are two instances when a parlay can be a winning bet. A parlay only wins if all the sides, totals, or money lines selected in the wager wins. The parlay can still be a winner if a game is canceled or ends in a tie. The pay schedule will simply move down to the lesser payment.

Why are parlay wagers the best for the lottery retail channel?

- Parlay wagers are challenging to win and that makes them profitable. According to UNLV, sportsbooks in Nevada have a win percentage on parlays of 31.17% since 1992. For reference, they didn't win more than 7% from other bet types.
- Placing a parlay bet is quite simple. This is important because lottery retailers sell several product lines, so ease of use keeps waits to a minimum. Bettors can either tell a retail cashier directly which teams and totals they would like to bet on, and how much they'd like to risk on the bet. Filling out a parlay mobile parlay card is the other option for placing this kind of bet. Once the card is filled in, the bettor simply needs to visit the retail cashier or self-service betting terminal to scan the QR code created.

## Delaware Case Study

Scientific Games provides parlay-based sports wagering in Delaware through the lottery retail channel during football season (Pre-season games – Super Bowl). Approximately 16% of the retailers in Delaware offer parlay wagers. Our current sports retailer population is 109 of our 600 retailers. This has been found

to be the sweet spot for the percentage of sports retailers to total retailers. Increasing the count dilutes the product, increases inefficiencies and costs and doesn't result in a substantial sales increase. Delaware is in the eighth season of retailer wagering. Sales have grown each year. There is a \$50,000 minimum sales volume to continue as a sports retailer. A parlay wager must consist of three or more outcomes. Wagers can be produced by completing one or more of our five types of parlay cards or can be produced manually through the terminal interface. We do offer a quick pick option for the cards.

The five parlay cards Delaware offers are:

- **½ Point Card** (no ties) – This is the standard Las Vegas odds you will see everywhere although they may be tweaked for regional bias of Delaware players.
- **Teaser Card** – Based on the ½ point card but easier for the player to win and has lower payouts.
- **Super Teaser Card** – Based on the ½ point card but even easier for the player to win and has even lower payouts. This card has a four-selection minimum.
- **Reverse Teaser Card** – Based on the ½ point card but harder to win and increased payouts.
- **\$100K Card** – Match 15 for 15 and win \$100,000. If there are multiple winners, the prize is split. This card does not have ½ points and a tie is a loss.

We recommend maintaining the product as a premium product that not all retailers will be selling. This keeps the retailer invested and encourages them to actively push the product. If a retailer is not successful with the product, there are other retailers waiting to take their place. Some retail locations are not well suited for the extra rigors of sports wagering.

## Product Modules for Lottery Retail Execution

Outlined below, please find the key components that lottery customers can mix and match to best fit their existing technology needs. Through Scientific Games OpenSports solution, we can operate an entire sports betting operation and provide all the modules listed in this section.

### Core Back End Elements

Integration of a central system that includes a betting technology solution that is the backbone on which a sports betting program can function. Here is an overview of the key back-end components needed to support a Lottery based sports wagering operation:

- **Player Account Management System** - provides world-class, fully compliant player account and wallet services, know your customer verification, and back-end functionality.
- **Managed Trading Service** - managed trading service includes pricing, odds, and feeds for a supplier of real-time betting data, as well as full risk and liability management. Scientific Games acquired Don Best, a top managed trading service to fulfill this very important element of a sports betting platform.
- **Data/Analytics Platform** – Dashboard, analytics, bespoke reports
- **3<sup>rd</sup> Party Management Systems** – CRM segmentation, geolocation services, know your customer, and email services
- **Customer Service/Fraud Prevention/Responsible Gaming Tools**

### **Core Front End Elements**

These are the customer facing elements required to create a compelling, easy to use product that interfaces with existing products in the lottery's retail partnerships and digital products like an app or website. UI design is widget based so there is absolute flexibility in how the desktop + mobile + retail product front end is designed/presented.

- **Retail/Over the Counter/ePoint-of-Sales** - The design of the retail solution supports highly distributed environments while maintaining rapid pricing updates while extending the capabilities of the online gaming solution to the brick-and-mortar retail environment.
- **Mobile/Online** - This technology can be created from scratch or APIs can be built into existing digital assets like a Lottery app or website.
- **Content Management System** – Promotion content for mobile and self-service betting terminals.

### **Lottery Player Journey Examples**

- **In-App** – Player downloads lottery app, clicks on sports betting section, selects preferred parlay wager(s) to which creates customized QR Code. QR code is either 1) Scanned & read by cashier, or 2) scanned and read at self-service terminal, receipt of wagers is given to customer
- **Mobile Web** – Player pulls up lottery mobile website, clicks on sports betting section, selects preferred parlay wager(s) to which creates customized QR Code, QR code is either 1) Scanned by cashier, or 2) scanned at self-service terminal, receipt of wagers is given to customer
- **Full Self Service** – Player enters retail establishment, goes to the self-service sports betting terminal that contains applicable parlay wagers on self-service screen, selects at least two games to wager on, performs payment functions, player receives bet receipt for wagers placed
- **Verbal Bet (also known as an off-the-board bet)** – Player reviews bets on mobile device, verbally tells cashier the Parlay bets with which they would like to wager, cashier provides receipt of wagers placed.
- **Redemptions** – Claims are like that of lottery. Retailers can redeem winners if they do not exceed \$599. Winning wagers that exceed \$600 can be redeemed at lottery claim centers.



# Alabama Lottery Launch

Successfully launching a consumer organization to maximize revenue to worthy causes

# Enabling Legislation

- Organizational model of the lottery (agency or corporation)
- Regulatory and oversight requirements
- Guidelines for the ongoing management of the lottery
- Flexibility to set the percentage of prizes paid to players is the decision that most significantly impacts the profitability of a lottery.
- Identify which good causes, programs, and or initiatives will receive the lottery profits
- Other:
  - Ability to operate as a commercial business
  - Flexibility to market and advertise
  - Ability to use technology in ways that make business sense
  - Unclaimed prizes returned to players via games and promotions

# Sample Beneficiaries in the United States

Lottery	Lottery Profits Earmarking	Lottery	Lottery Profits Earmarking
Arizona	General Fund, University Bond, Healthy Arizona, Transit, Heritage Fund, Homeless Services, Economic Development, CASA, Internet Crimes Against Children, Dept. of Gaming, Tribal	Nebraska	Education Innovation Fund, Environmental Trust, State Fair Improvement and Compulsive Gambling
Arkansas	College and university scholarships, Workforce Challenge Trust Account	New Hampshire	K-12 Education
California	Education Fund	New Jersey	Pensions, Treasury
Colorado	Parks and Recreation	New Mexico	Lottery Tuition Fund
Connecticut	General Fund	New York	K-12 Education
D.C.	D.C. General Fund	North Carolina	Education
Delaware	General Fund, Dept. of Health & Social Services, Racetrack Programs	North Dakota	General Fund, Multi-Jurisdiction Drug Task Force, Compulsive Gambling
Florida	Educational Enhancement Trust Fund	Ohio	Education
Georgia	Education (Hope Scholarship program, voluntary pre-kindergarten program, technology/capital outlay)	Oklahoma	Education, Dept. of Mental Health & Substance Abuse
Idaho	Public Schools, State Permanent Building Fund, State Bond Equalization Fund, General Fund	Oregon	Economic Development Fund, General Obligation Bond Fund
Illinois	Common School Fund, Other State Funds	Pennsylvania	Lottery Fund (Senior Citizens)
Indiana	Retired teachers pension plan, police officers pension and disability fund, Build Indiana Fund	Rhode Island	General Fund
Iowa	General Fund, Veterans Trust Fund	South Carolina	Education
Kansas	State Gaming Revenue Fund, Problem Gambling Fund, Expanded Lottery Act Revenues Fund	South Dakota	General Fund, Capital Construction Fund, Dept. of Social Services
Kentucky	General Fund, KEES Scholarship Reserve Fund	Tennessee	Lottery for Education Account, After-School Program Account
Louisiana	State's Lottery Proceeds Fund (appropriated by legislature annually)	Texas	Foundation School Fund, Veterans Commission, General Revenue, State Health Services
Maine	General Fund, Fish & Wildlife	Vermont	Education
Maryland	General Fund, Maryland Stadium & Veterans Trust, Int'l Racing Fund, Other Gov't Funds	Virginia	Education
Massachusetts	Local Aid (Cities and Towns), Cultural Council, Council on Compulsive Gambling	Washington	WOPA, Stadium & Exhibition Center, Economic Development Fund, Problem Gambling, General Fund
Michigan	Michigan School Aid Fund (K-12 public schools), General Fund, Health & Human Services	West Virginia	General Fund, Education, Senior Citizens, Infrastructure, Tourism, County & Local, Scholarship
Minnesota	General Fund, Environmental Trust Fund, Gaming & Fish, Natural Resources, Problem Gambling	Wisconsin	Property Tax Relief, Compulsive Gambling,
Missouri	Education	Wyoming	Permanent Land's Fund Common School Account, Compulsive Gambling
Montana	General Fund		

# Governance Profiles

- Well-run lottery considers value, state-of-the-art technology, efficiency, control, retailer satisfaction, and return on investment in terms of funds generated for good causes or government programs.
- Operating models vary to meet needs of government and ensure lottery runs profitably with the utmost integrity.

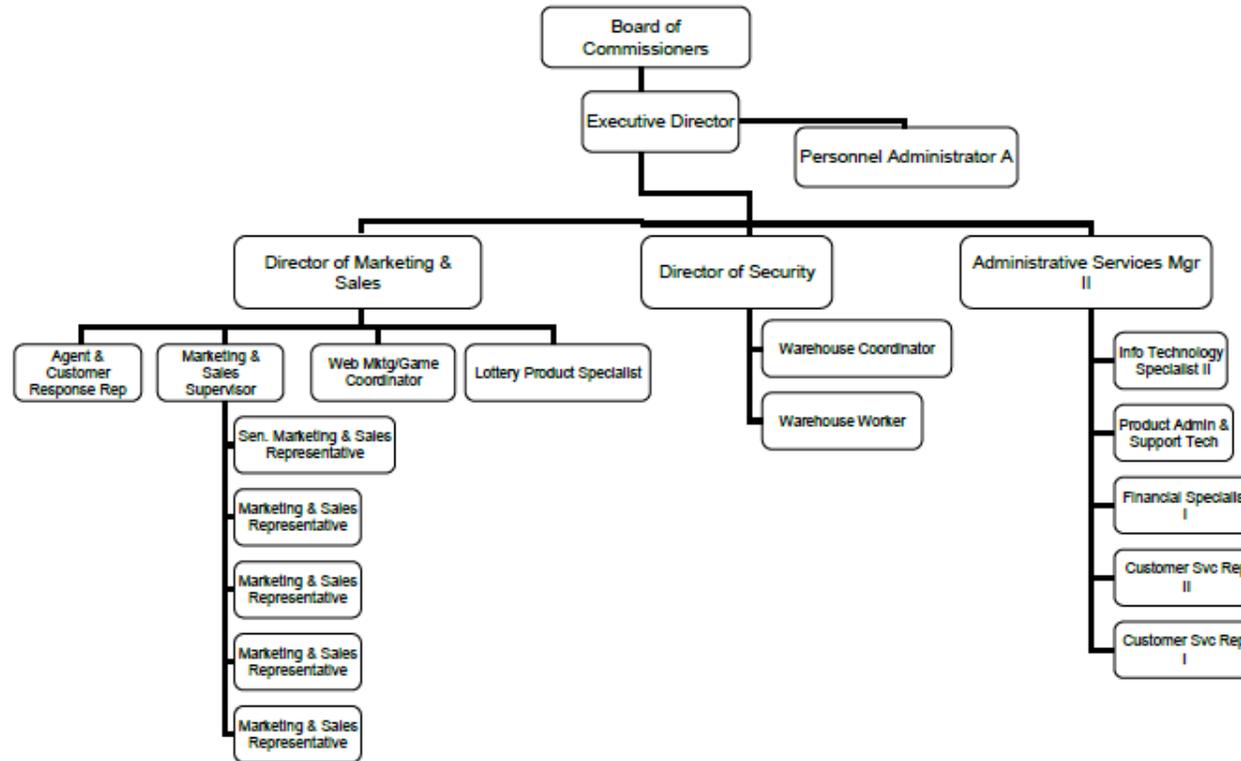
# Roles & Responsibilities

- State Owned Corporation
  - Self-funding
  - Quasi-public with Board
  - Structure of most recent lottery launches
  - Focus on revenue generation
- State Agency
  - With Commission – authoritative or advisory
  - Stand alone reporting to Governor or
  - Under Revenue, Treasury or Administration
- Multiple Options for Vendor Participation:
  - Defined Duties – instant, systems, VLT, iLottery, etc.
  - Full-line Contract
  - Private Management

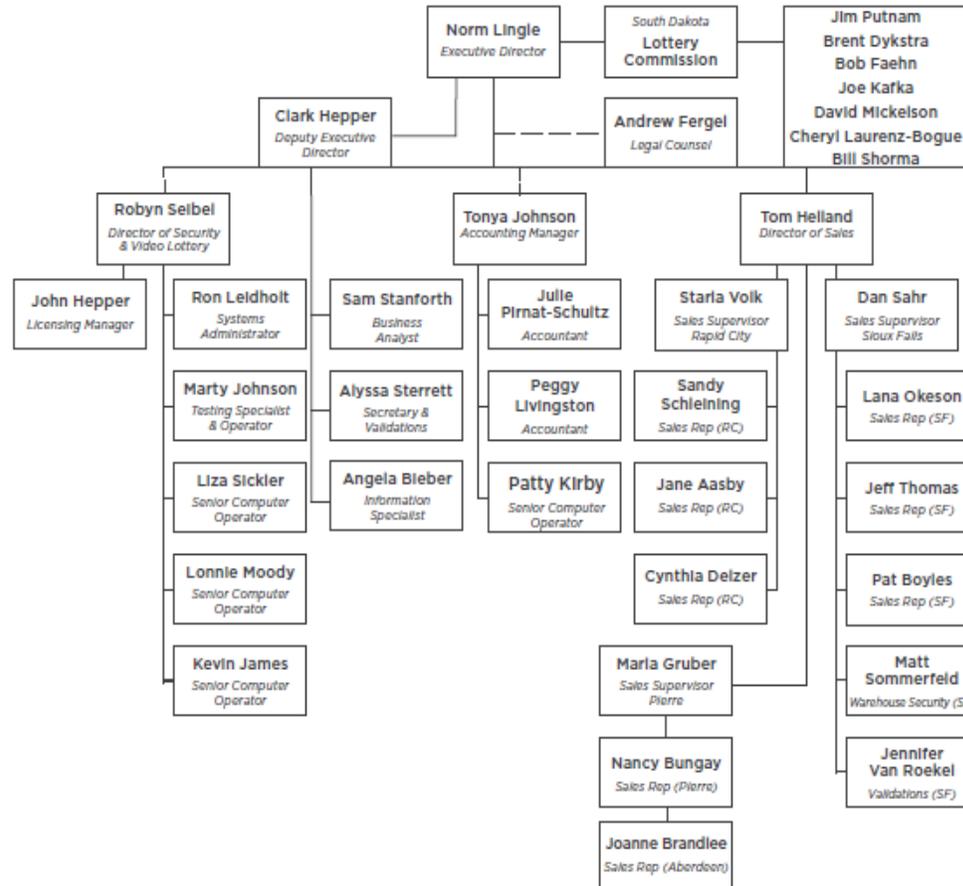
# Roles & Responsibilities

- State & Lottery
  - Day to Day Management
  - Oversight & Auditing
  - Legal
  - Security
  - Procurement
  - Regional Claim Centers
  - Accounting Payable/Receivable
  - Tax Payable/W2G
  - Marketing hires ad agency
- Vendor Partners
  - System
  - Hardware
  - Communications
  - Retail Service & Consumables
  - Back Office Systems & Reports
  - Field Sales & SFA
  - IT & Data Center Operations
  - Instant Category Management
    - Instant Management System
    - Product Development
    - Inside Sales
    - Warehousing & Distribution

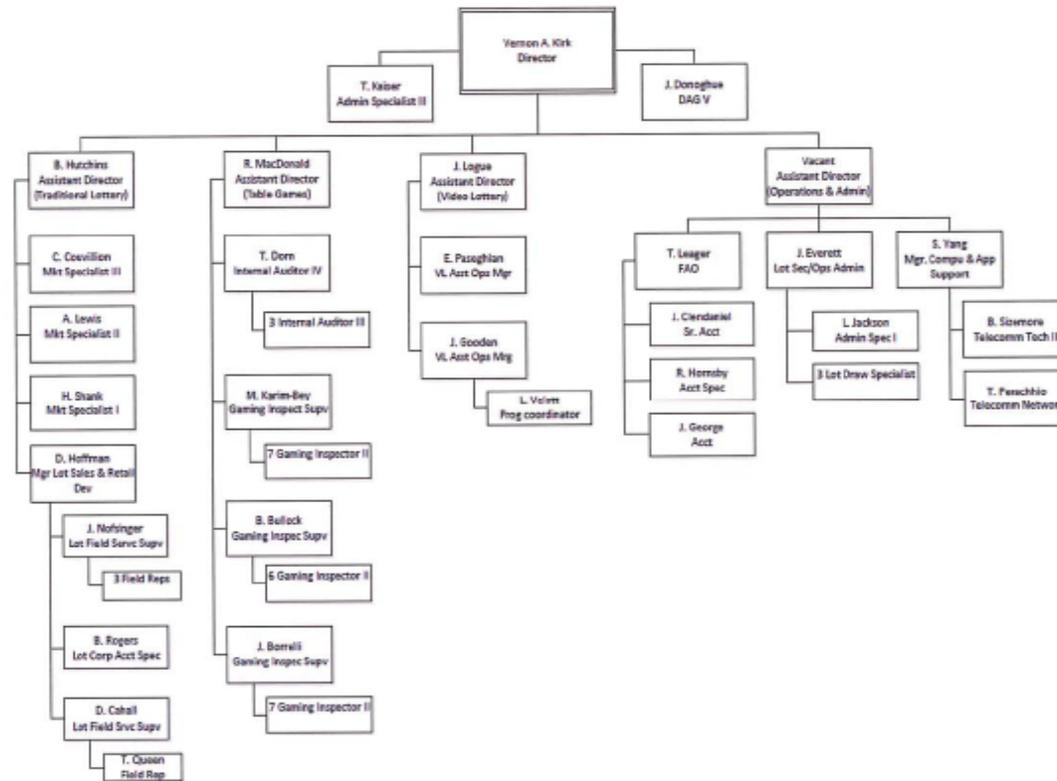
# Organizational Model – Vermont Lottery



# Organizational Model – South Dakota Lottery



# Organizational Model - Delaware Lottery



# Best Practices

## 1. **Flexibility to carefully manage prize payouts**

Imposing a strict rate of return to the government results in disappointing funding for the designated programs. Lotteries with the flexibility to increase prize payouts when conditions require generate higher lottery ticket sales resulting in greater returns.

## 2. **Developing a cohesive retail strategy with optimal distribution**

Successful lotteries have developed marketing plans that maximize the number of retail sales points to offer convenient access for the public.

## 3. **Ensuring efficient allocation of advertising dollars**

Allowing flexibility for the use of advertising to promote the lottery and the programs provided by the lottery has been essential to the success of state lotteries.

## 4. **Implementing an ongoing promotions and winner awareness plan**

Participants play the lottery to win. Awareness of previous winning participants has shown effective in promoting future participation.

# Best Practices

## 1. **Flexibility to carefully manage prize payouts**

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# Effective Retailer Base

- Enabling legislation will determine requirements of licensure for the lottery retailers.
  - Business owners must meet lottery's licensure requirements, lottery tickets are sold in different retail locations or venues.
- More than 70% of the lottery retailers are comprised of convenience stores and supermarkets utilizing vending.
- Evolution to digital, drug stores, dollar stores, and big box retailers.
- Vendor flexibility to ensure hardware meets retailer profile maximizes sale

# Procurement and Launch Timing

Lottery	RFP Release	Vendor Questions Round 1	Lottery Response to Round 1 Questions	Proposal Due	Evaluation Period	Vendor Site Visits/Oral Presentations	Lottery Opens Vendor Pricing Proposals	Best & Final Offers	Intent of Apparent Successful Vendor Award Notice	Final Contract Negotiations	Go-Live of New System	Days between RFP Release and Due Date	Days between RFP Release and Go-Live
Tennessee	2/11/2014	2/18/2014	2/21/2014	4/8/2014	Begins 4/8/2014	No dates specified	No dates specified	No dates specified	5/28/2014	No dates specified	4/11/2015	56	424
Mississippi*	6/27/2019	7/8/2019	7/16/2019	8/2/2019	8/2/2019 - 8/16/2019	8/16/2019	No date specified	No date specified	8/23/2019	8/30/2019	11/25/2019	36	151

\*Scratch Launch

## Mississippi Launch Details

- RFP System Go Live: 2/10/19
- Mississippi Lottery launched with Instant Scratch Games 1/25/19
  - 1,200 Approved
- Multi-state games launched 1/30/20 with 1,350 retailers across the 82 counties selling Powerball and Mega Millions in addition to Instant Scratch
- First transfer of \$7,621,232.37 in net proceeds to the Lottery Proceeds Fund to the Mississippi State Treasury on January 17, 2020.

# Procurement Best Practices

- Consider a procurement tied to executing the lottery's strategic objectives to maximize sales and revenue for the worthy causes supported
  - Phase 1: Identify sales goal and invite vendors to propose a plan to meet and exceed the defined goal
  - Phase 2: Evaluate proposed solutions and define
  - Phase 3: Request costing for a defined solution
  - Base contract length of ten to 20 years
- Value what is valuable to focus on revenue growth vs. cost
  - Defined evaluation criteria and weighting
  - Price weighting of 25% or less
  - Price calculated on percentage of total lottery sales
  - Option for upfront capital payment for lower operating fee
  - Contractor Incentive Bonus for agreed upon growth
    - Since neither the lottery nor the vendor can envision or price for any and all opportunities that arise over the life of the contract, this allows vendors to propose innovative solutions

# Procurement Best Practices

- Network
  - Monitoring: each vendor should be required to provide a comprehensive explanation of a state-of-the-art communication network and demonstrate their experience and track record in providing such services
  - In state data centers add cost but less value, security and operational excellence
- Options
  - It is also important to let vendors know that options may be exercised by the lottery at a mutually agreed upon future date and price after system conversion and do not necessarily have to be implemented in conjunction with the conversion effort.
  - TBD pricing for offered options
    - Can be priced at contract based on revenue potential

# Alabama Potential

## Basic Market Assumptions and Projections:

- Legislation to allow Instant and Draw games with potential for Monitor games
- Market size to be ~3,300 retailers or 1 retailer per ~1,500 residents
- Retailers to include C-stores, supermarkets/grocery and Wal-Mart.
- Alabama instant per capita sales likely to perform below neighboring lotteries given strength of Georgia (#2 in U.S.), South Carolina (#3 in U.S.), Florida (#4 in U.S.) and Tennessee (#6 in U.S.)
- Alabama draw per capita sales likely to perform slightly above neighboring lotteries
- In the first full year of operations, the projected performance is:
  - Total sales are projected to be \$1.06B
  - Transfers to the state are projected to be \$279M or 26.3% of the projected total sales
  - Retailer Commissions are projected to be \$61.1M or 5.8% of the projected total sales or \$18,500 per retailer

# Alabama Lottery Projections – First Year

Lottery	Total Sales FY '19	Transfers to State		Retailer Commissions		
		%	\$	%	\$	Retailer/Year
AR	\$499,560,000	18.43%	\$92,068,908	5.64%	\$28,200,000	\$12,726
FL	\$6,635,180,000	26.17%	\$1,736,426,606	5.63%	\$373,820,000	\$26,692
GA	\$4,654,680,000	26.07%	\$1,213,475,076	5.83%	\$271,580,000	\$31,205
LA	\$521,570,000	35.03%	\$182,705,971	5.27%	\$27,500,000	\$9,519
SC	\$1,977,000,000	24.97%	\$493,656,900	6.24%	\$123,460,000	\$32,532
TN	\$1,759,100,000	26.00%	\$457,366,000	6.44%	\$113,230,000	\$22,475
Average	\$2,674,515,000	26.11%	\$695,949,910	5.84%	\$156,298,333	\$22,525
<b>Alabama</b>	<b>\$1,060,616,960</b>	<b>26.11%</b>	<b>\$276,944,765</b>	<b>5.84%</b>	<b>\$61,988,831</b>	<b>\$18,784</b>

Lottery	Population	Retailer		Draw Sales				Instant Sales				Full Line Sales			
		Quantity	Density	State WPC	State Rank	State 10 yr CAGR	Industry 10 yr CAGR	State WPC	State Rank	State 10 yr CAGR	Industry 10 yr CAGR	State WPC	State Rank	State 10 yr CAGR	Industry 10 yr CAGR
AR	3,100,000	2,216	1,399	\$0.67	41	1.5%	2.3%	\$2.55	23	2.4%	4.5%	\$3.22	27	2.2%	3.6%
FL	21,400,000	14,005	1,528	\$1.98	16	0.2%	2.3%	\$4.36	4	7.4%	4.5%	\$6.34	10	4.5%	3.6%
GA	10,700,000	8,703	1,229	\$2.72	10	1.9%	2.3%	\$5.89	2	1.6%	4.5%	\$8.61	2	1.7%	3.6%
LA	4,700,000	2,889	1,627	\$1.22	22	1.8%	2.3%	\$1.03	38	4.0%	4.5%	\$2.25	33	2.8%	3.6%
SC	5,100,000	3,795	1,344	\$1.99	5	2.8%	2.3%	\$5.42	3	7.1%	4.5%	\$7.41	4	5.8%	3.6%
TN	6,800,000	5,038	1,350	\$1.02	27	3.1%	2.3%	\$4.10	6	4.7%	4.5%	\$5.12	13	4.4%	3.6%
Average	8,633,333	6,108	1,413	\$1.60	20	1.9%	2.3%	\$3.89	13	4.5%	4.5%	\$5.49	15	3.6%	3.6%
<b>Alabama</b>	<b>4,903,000</b>	<b>3,300</b>	<b>1,486</b>	<b>\$1.56</b>	<b>21</b>	<b>-</b>	<b>-</b>	<b>\$2.60</b>	<b>22</b>	<b>-</b>	<b>-</b>	<b>\$4.16</b>	<b>20</b>	<b>-</b>	<b>-</b>





NEVADA GAMING CONTROL BOARD

NEVADA GAMING COMMISSION

JANUARY 2020

January 2020

Thank you for your interest in Nevada's gaming regulatory structure. The Nevada Gaming Commission and the Nevada Gaming Control Board are empowered by law to regulate Nevada's gaming industry. Our laws and regulations have continued to evolve and are an integral element of the success of gaming in Nevada. The gaming industry is declared to be vitally important to the economy of our State and the general welfare of our inhabitants.

During the fiscal year ending June 30, 2019, our 290 nonrestricted licensees who grossed more than \$1 million in gaming revenue generated total revenues of \$24.5 billion. \$8.8 billion or 35.7% of those total revenues were generated from gaming activities. These 290 nonrestricted licensees reported an employee base of 162,066 people. As is evident by these data points, the contribution of gaming and tourism to Nevada is substantial.

Since the creation of our agency in 1955, Nevada has consistently been the largest commercial casino gaming market in the nation and is responsible for more than 55% of all commercial casino employment. Casino gaming is continuing to grow and become legal in many jurisdictions throughout the United States and around the globe. Our model of regulation has been adopted successfully by a number of other jurisdictions.

The background, data, and statistics contained herein provide an overview of the regulation of Nevada's gaming industry. We invite you to visit our agency's website ([gaming.nv.gov](http://gaming.nv.gov)) for additional information.

Sincerely,



Tony Alamo, M.D.  
Chairman  
Nevada Gaming Commission



Sandra D. Morgan  
Chairwoman  
Nevada Gaming Control Board

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## INTRODUCTION

Nevada's gaming regulatory framework and the long standing contributions of legislative and government leaders, gaming commissioners, board members and dedicated employees have developed a reputation around the globe as the leader in the governance of gaming. This reputation has been enhanced by the continued contributions of gaming lawyers, accountants, advisors and members of the academic community who have challenged the system with new ideas.

The Nevada Gaming Control Board's (Board) reputation is based on the philosophy: gaming when properly regulated, can thrive and be an important contributor to the economic welfare of Nevada. The Board's reputation has been built around a philosophy of consistent legal, ethical and fair-minded practices and actions, bolstered through highly rigorous standards for licensing, suitability and operation. Maintaining a balance between rigorous standards for the industry and the kind of flexibility permitting innovation and prudent expansion is an overarching goal guiding not only day-to-day decision making, but also the consideration of changes to regulations and statutes.

## MISSION AND GUIDING PRINCIPLES

### **Mission**

The Nevada Gaming Commission ("Commission") and the Nevada Gaming Control Board ("Board") govern Nevada's gaming industry through strict regulation of all persons, locations, practices, associations and related activities. The Board is charged with protecting the integrity and stability of the industry through in depth investigative procedures, exacting licensing practices, strict enforcement of laws and regulations holding gaming licensees to high standards. Through these practices, the Board ensures the proper collection of taxes and fees, an essential source of revenue for the State of Nevada.

### **Guiding Principles**

1. In all decisions and in the performance of our jobs, our highest priority is to protect the citizens of Nevada and visitors to Nevada by ensuring the interests of the agency, employees or licensees are not placed above our duty to our citizens and visitors.
2. We act with a high degree of integrity, honesty and respect in carrying out our duties and in our interactions with our stakeholders.
3. We are committed to protecting the confidentiality of all information entrusted to us by applicants, licensees and other stakeholders.

4. Our objectivity, independence and impartiality are beyond reproach. We avoid all personal or professional circumstances or conflicts calling these into question.
5. Our processes ensure all actions, decisions and policies are consistently applied and do not result in advantages or disadvantages to any party to the detriment of another.
6. Our investigations, audits and tests, while comprehensive, are objective and fair-minded. Written reports of such actions are made with a high degree of care with special attention to accuracy.
7. We carry out our duties in a rigorous and thorough manner and utilize the resources provided to us wisely and only for the legitimate purposes of the agency.
8. We continuously challenge ourselves to improve the practices and processes of the agency to keep pace with the industry's change, growth and innovation and our legislative mandates.
9. We continuously improve our public communication and public access to provide guidance and assistance to those we hold accountable for compliance.
10. We foster and maintain cooperative relationships with other governmental bodies, domestic and foreign, and our professionalism and competence bolsters our reputation as world class participants in gaming regulation.
11. Our professional work environment is demanding and respects the individual differences of our employees. We set a high standard for hiring and advancing employees based on demonstrated achievement.

## **NEVADA GAMING COMMISSION NEVADA GAMING CONTROL BOARD**

### **Gaming Commission**

Tony Alamo, M.D., Chairman  
John T. Moran, Jr., Member  
Deborah J. Fuetsch, Member  
Rosa Solis-Rainey, Member  
Steven B. Cohen, Member

### **Term Expires**

April 27, 2020  
April 27, 2021  
April 27, 2021  
April 27, 2022  
April 27, 2023

### **Gaming Control Board**

Sandra Douglass Morgan, Chairwoman  
Terry Johnson, Member  
Phil Katsaros, Member

### **Term Expires**

January 29, 2023  
January 29, 2021  
January 29, 2023

Pursuant to state law, members of the Board and Commission are appointed by the Governor of Nevada to four-year terms. In addition to other requirements, each member must be a resident of Nevada and no member may hold elective office while serving. Members are also not permitted to possess any direct pecuniary interest in gaming activities while serving in their capacity as members.

The Board and Commission conduct public meetings at least once monthly and special meetings as required. The Executive Secretary, who is appointed by the Board with the approval of the Commission, assists the Board and the Commission in administrative matters and facilitates the monthly meetings.

EXECUTIVE SECRETARY: Marie Bell e-mail: [mbell@gcb.nv.gov](mailto:mbell@gcb.nv.gov)

The Executive Secretary's office is comprised of the Executive Secretary and one administrative staff. The Board has two Senior Research Specialists, while the Commission has one.

The Executive Secretary serves as the clerk and parliamentarian of the Gaming Commission and the Gaming Control Board. The Executive Secretary's office is responsible for the administration of the Gaming Commission and assisting the Board in administrative matters relating to its public meetings and hearings. Additionally, the Executive Secretary calendars and conducts all meetings of the Commission and the Board, accepts all complaints against licensees and claims for

reimbursements from licensees, nominations for excluded persons, performs research for the Commission and the Board and coordinates the regulation adoption process for the development and modification of gaming regulations. The Executive Secretary also supports the Gaming Policy Committee, an advisory committee chaired by the Governor serving at the pleasure of the Governor and providing input on gaming policy within Nevada.

## **Current and Past Chairs**

### **Commission**

Tony Alamo, M.D. (2014-Current)  
Peter Bernhard (2001-2014)  
Brian Sandoval (1999-2001)  
William Curran (1991-1999)  
John O'Reilly (1987-1991)  
Paul Bible (1983-1987)  
Carl Dodge (1981-1983)  
Harry Reid (1977-1981)  
Peter Echeverria (1973-1977)  
John Diehl (1968-1973)  
George Dickerson (1967-1968)  
Milton Keefer (1965-1967)  
Norman Brown (1961-1965)  
Milton Keefer (1959-1961)  
Miles Pike (1959-1959)

### **Board**

Sandra Douglass Morgan (2019-Current)  
Becky Harris (2018-2019)  
A.G. Burnett (2012-2017)  
Mark Lipparelli (2011-2012)  
Dennis Neilander (2001-2010)  
Steve DuCharme (1998-2000)  
William Bible (1989-1998)  
Michael Rumbolz (1987-1989)  
Barton Jacka (1985-1987)  
James Avance (1983-1984)  
Richard Bunker (1980-1982)  
Roger Trounday (1977-1979)  
Philip Hannifin (1971-1977)  
Frank Johnson (1967-1971)  
Alan Abner (1967-1967)  
Ed Olsen (1961-1966)  
Ray Abbaticchio (1959-1961)  
Robbins Cahill (1955-1959)

## **GAMING REGULATION IN NEVADA**

### **History**

In 1861, while Nevada was a territory, the first prohibition on all forms of gaming was passed into law. In 1869, the Nevada Legislature legalized gaming in spite of the Governor's veto. This law approved numerous games and imposed the first licensing fee.

Between 1869 and 1907, many changes in gambling regulations and license fees were made, with the main concern being where and when gaming could be conducted. The 1907 Legislature redistributed gaming fee revenues so all fees, except those from slot machines, were retained by the county, while slot machine fees went into the state coffers. The change was short-lived, as the 1909 Legislature prohibited gaming in all forms effective October 1, 1910.

It was not until 1931 when Nevada's modern era of legalized gaming began with the passage of the "Wide Open Gambling" bill signed into law by Governor Fred Balzar. The bill established a schedule of license fees for all games and machines, with the counties assuming the responsibility for the licensing and the collection of fees.

At about the same time, the State Legislature introduced a new concept in licensing. A state licensing requirement was enacted with fees based on a percentage of gross gaming win. This fee was in addition to the previously established county license fees, based on the number of games and machines in operation.

The Nevada Tax Commission was designated as the administrative agency under this new licensing requirement. The fees collected went into the state general fund, with a maximum of five percent of total collections set apart for administrative costs.

### **Nevada Gaming Control Board**

The 1955 Legislature created the State Gaming Control Board ("Board") within the Nevada Tax Commission, whose purpose was to inaugurate a policy to eliminate the undesirable elements in Nevada gaming and to provide regulations for the licensing and the operation of gaming. The Board was also to establish rules and regulations for all tax reports to be submitted to the state by gaming licensees. The 2015 Legislature formally renamed the State Gaming Control Board as the Nevada Gaming Control Board.

The Board consists of three full-time members appointed by the Governor for four-year terms, with one member acting as Chair, and is responsible for regulating all aspects of Nevada's gaming industry.

The primary purpose of the Board is to protect the stability of the gaming industry through investigations, licensing, and enforcement of laws and regulations; to ensure the collection of gaming taxes and fees, an essential source of state revenue; and to maintain public confidence in

gaming. The Board implements policy enforcing State laws and regulations governing gaming through six divisions (Administration, Audit, Enforcement, Investigations, Tax and License and Technology). The Board currently has 402 full-time equivalent positions, and maintains offices in Carson City, Elko, Las Vegas, Laughlin and Reno.

### **Nevada Gaming Commission**

In 1959, the Nevada Gaming Commission (“Commission”) was created by the passage of the Gaming Control Act (“Act”). The Act laid the foundation for what would become modern gaming regulation.

The Commission consists of five members appointed by the Governor to four-year terms, with one member acting as Chair. The Commission members serve in a part-time capacity.

The primary responsibilities of the Commission include acting on the recommendations of the Board in licensing matters and ruling upon work permit appeal cases. The Commission is the final authority on licensing matters, having the ability to approve, restrict, limit, condition, deny, revoke or suspend any gaming license.

The Commission is also charged with the responsibility of adopting regulations to implement and enforce the State laws governing gaming.

When the Board believes discipline against a gaming licensee is appropriate, the Board acts in the prosecutorial capacity, while the Commission acts in the judicial capacity to determine whether any sanctions should be imposed.

### **Gaming Policy Committee**

The Gaming Policy Committee (“Committee”) was created by the Nevada Legislature in 1961 and meets at the call of the Governor to discuss matters of gaming policy. Recommendations made by this committee are advisory to the Commission and are not binding on the Board or the Commission in the performance of their duties.

The Committee consists of twelve members including: the Governor (who chairs the Committee); one member of the State Senate; one member of the State Assembly; one member of the Nevada Gaming Commission; one member of the Nevada Gaming Control Board; one member of a Nevada Native American Tribe; and six members appointed by the Governor (two representatives of the general public, two representatives of nonrestricted gaming licensees, one representative of a restricted gaming licensee, and one representative of academia who possesses knowledge of matters related to gaming).

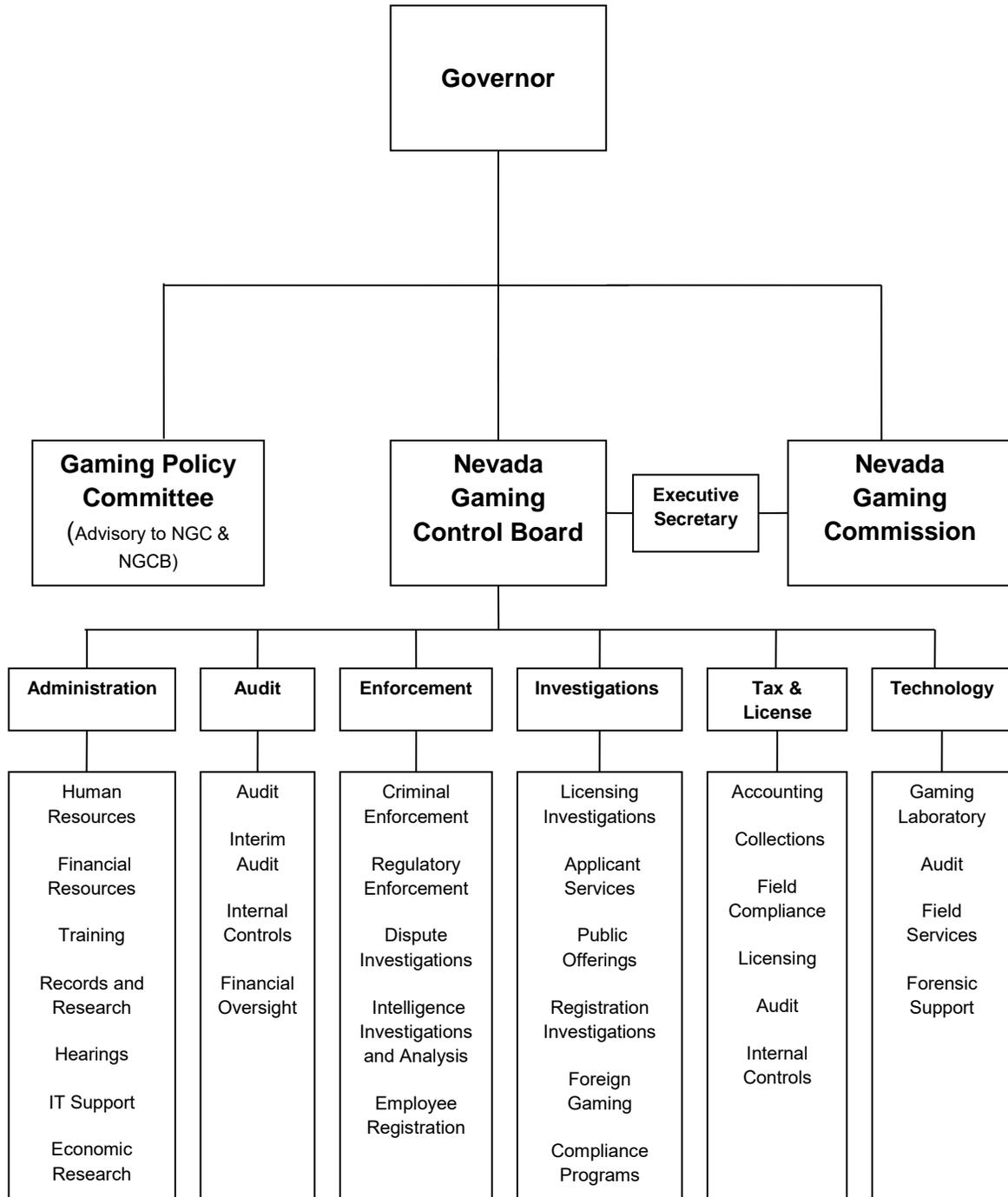
## **Gaming Laws**

The Commission and the Board make up the two-tiered system responsible for regulating the Nevada gaming industry. Gaming in Nevada is primarily governed by Chapters 462, 463, 463B, 464, 465, and 466 of the Nevada Revised Statutes. These statutes are supported by the regulations of the Commission and Board. The Commission and Board administer the State laws and regulations governing gaming for the protection of the public in accordance with the policy of the State.

Nevada Revised Statute 463.0129(1) sets forth the public policy of Nevada regarding gaming. All gaming regulatory decisions must reflect these public policy mandates. Specifically, this statute includes the following statements:

- (a) The gaming industry is vitally important to the economy of the State and the general welfare of the inhabitants.
- (b) The continued growth and success of gaming is dependent upon public confidence and trust; licensed gaming and the manufacture, sale and distribution of gaming devices and associated equipment are conducted honestly and competitively, establishments holding restricted and nonrestricted licenses where gaming is conducted and gambling devices are operated do not unduly impact the quality of life enjoyed by the residents of the surrounding neighborhoods, the rights of the creditors of the licensees are protected and gaming is free from criminal and corruptive elements.
- (c) Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations and activities related to the operation of licensed gaming establishments, the manufacture, sale or distribution of gaming devices and associated equipment and the operation of online gaming and inter-casino linked systems.
- (d) All establishments where gaming is conducted and where gaming devices are operated, and manufacturers, sellers and distributors of certain gaming devices and equipment, and operators of online gaming and inter-casino linked systems must be licensed, controlled and assisted to protect the public health, safety, morals, good order and general welfare of the inhabitants of Nevada, to foster the stability and success of gaming and to preserve the competitive economy and policies of free competition in the State of Nevada.
- (e) To ensure gaming is conducted honestly, competitively and free of criminal and corruptive elements, all gaming establishments in Nevada must remain open to the general public and the access of the general public to gaming activities must not be restricted in any manner except as provided by the Legislature.

## NEVADA GAMING REGULATION ORGANIZATIONAL STRUCTURE



## **Section A**

# **Overview of Nevada Gaming Divisions**

## **ADMINISTRATION DIVISION**

### **Division Leadership**

CHIEF:	Jaime Black	e-mail: Jblack@gcb.nv.gov
DEPUTY CHIEF:	Mary Ashley	e-mail: Mashley@gcb.nv.gov
IT MANAGER:	Andrew Tucker	e-mail: Atucker@gcb.nv.gov
HUMAN RESOURCES:	Emily Kuhlman	e-mail: Ekuhlman@gcb.nv.gov

### **Administration Division Staff**

The Administration Division currently has 30 professional staff positions and a support staff of 20.

### **Administration Division Responsibilities**

The Administration Division (Administration) supports the operating divisions of the Board with regard to human resources management, training, facilities, contracts, purchasing, accounting, budgeting, and records retention. Professional Standards (internal affairs) and the Board's administrative hearings officers are assigned within Administration. Administration is also responsible for providing information technology services for the Board, including maintenance of all computer hardware, software, and computer related needs. Additionally, administrative services for the Board and Commission are provided by Administration.

Administration is responsible for the preparation and oversight of the Commission's and the Board's biennial operating budgets and for providing management oversight of the Board's facilities in six locations: Carson City, Las Vegas (two locations), Elko, Reno and Laughlin. The Accounting office oversees payroll, expenditures, licensee billing reimbursements, purchasing, inventory, contracts, supply acquisition and mail services.

The Information Technology Section is responsible for the general information technology support and the internal maintenance and development of applications used by the agency. The section also develops online applications allowing online processing of agency submissions such as gaming employee registrations. The Section has two primary groups: Network Services and Application Development.

The Division's Human Resources Section is responsible for recruitment, employee relations, compensation, training, compliance and serves as the liaison for employees with the Public Employees' Benefits Program (PEBP) and the Public Employees' Retirement System (PERS). Most of the Board's employees are in the unclassified service. Based on this unique structure, Nevada law authorizes the Board to adopt a Gaming Control Board Human Resources Manual to establish rules for the management of employees.

The Records and Research Services Office is responsible for maintaining the security and confidentiality of all information received from the various Board divisions for historical preservation and retrieval. It is the principal repository for data maintained on all Nevada gaming applicants and licensees. All custodial services, including court-ordered subpoenas, are processed through Records and Research.

The Professional Standards Section has two investigative functions: (1) conducting employment background investigations to determine suitability for employment with the Board and (2) conducting internal investigations of alleged employee misconduct.

The Administration Division's Hearings Officers conduct hearings and submit recommended decisions to the Board regarding disputes between players and licensed gaming establishments on all licensed gambling games and devices. Hearings Officers also conduct hearings and submit recommended decisions to the Board concerning persons whose applications for a gaming employee work permit have been denied because of an objection.

## **Economic Research Section**

The Economic Research Section is responsible for forecasting gaming tax and fee revenues. Those forecasts are presented to the State's Economic Forum as part of the General Fund revenue projection process. In addition, the section prepares the Legislative Report which takes into account net incomes and assessed values of licensees. This section also prepares the monthly press releases on Gaming Win and the Percentage Fee Collections. Additionally, it compiles the Nevada Gaming Abstract including financial statements, rate of room occupancy, square foot analysis and ratios and average number of employees. Furthermore, the section performs special research projects at the request of the Board, the Nevada Legislature and/or the Governor.

SENIOR RESEARCH SPECIALIST:           Mike Lawton           e-mail: Mlawton@gcb.nv.gov

## **Legal Research Section**

The Legal Research Section assists the Board and Commission in the drafting of regulations and internal controls and performs special research projects at the request of the Board and Division Chiefs. This section also acts as the Board's liaison to the Nevada Legislature, working closely with the Office of the Governor, legislators, and staff in drafting bills relating to gaming. The senior research specialist from the Legal Research Section presents the Board's proposed legislation

before the Nevada Legislature, and is called to testify on various matters relating to gaming. The section, at the direction of the Board, provides historical data and information relating to gaming laws and regulations both in Nevada and other jurisdictions to better inform the direction of future gaming policy. Additionally, this section is often the first point of contact for members of the gaming industry who have questions regarding the implementation of gaming regulations by the Board.

SENIOR RESEARCH SPECIALIST:           Mike Morton           e-mail: [Mmorton@gcb.nv.gov](mailto:Mmorton@gcb.nv.gov)

## AUDIT DIVISION

### Division Leadership

#### Las Vegas

CHIEF:	Kelly Colvin	e-mail: Kcolvin@gcb.nv.gov
DEPUTY CHIEF:	Vanessa Vuong	e-mail: Vvuong@gcb.nv.gov
DEPUTY CHIEF:	Peggy Chung	e-mail: Pchung@gcb.nv.gov
SUPERVISOR:	Kimberly Wolfgang	e-mail: Kwolfgang@gcb.nv.gov
SUPERVISOR:	Rusty LeBlanc	e-mail: Rleblanc@gcb.nv.gov
SUPERVISOR:	Thomasina Fremont	e-mail: Tfremont@gcb.nv.gov

#### Reno

DEPUTY CHIEF:	Cari Bradley	e-mail: Cbradley@gcb.nv.gov
SUPERVISOR:	William Layman	e-mail: Wlayman@gcb.nv.gov

### Audit Division Staff

The Audit Division currently has 84 professional staff members, and a clerical staff of 6. All professionals have college degrees and, as Agents of the Board, are peace officers of the State of Nevada.

### Certification

Employment as an Agent in the Audit Division qualifies a person to apply for a certified public accountant (CPA) designation in Nevada. The requisite college degree and four years of experience with the Audit Division are required to become certified. Approximately 50% of the Audit Division's professional staff are either CPAs, or have passed the CPA exam and are in the process of satisfying their experience requirement.

## **Audit Division Responsibilities**

### **Audits**

The Audit Division is primarily responsible for auditing Group I casinos throughout the state (the definition of a Group I casino is based upon a gross gaming revenue threshold adjusted annually in accordance with the consumer price index). The frequency of audits performed by the Audit Division is determined by the available manpower in relation to the inventory of Group I licensees and is therefore subject to fluctuations. The Audit Division maintains a cycle allowing for each Group I licensee to be audited approximately once every two to three years.

The Audit Division employs a comprehensive and structured model for determining risk and meets twice a year with one or more Board Members to review the risk ratings assigned to each property and to brief the Members on issues of regulatory significance. The risk ratings assist the Division in allocating Audit staff in relation to perceived risk.

The primary objectives of a Board audit are to determine the proper reporting of gaming and entertainment revenue and to determine if the casino is in compliance with all applicable gaming and live entertainment laws and regulations. Internal accounting controls are thoroughly analyzed, in-depth analytical review of operating statistics is undertaken and detail tests of transactions are performed to gather sufficient audit evidence to render an audit opinion. At the conclusion of an audit, the division issues a written report to the Board including the audit opinion. The Audit Division is required by regulation to perform audits in accordance with generally accepted auditing standards.

The division employs various means in gathering audit evidence. Covert or surprise observations of casino procedures are routinely conducted on an interim basis throughout the audit period. Interviews with casino staff are periodically performed to ensure a casino is complying with documented internal accounting controls. For those casinos with branch offices outside of Nevada (including those outside of the country), inspections of these offices are performed by Audit Division agents to ensure proper operating procedures are being followed.

## **Compliance Reviews**

Operators of slot machine routes, slot machine manufacturers and distributors, disseminators of racing information, operators of inter-casino linked gaming systems and pari-mutuel systems operators are required to be licensed by the Board and to comply with a number of statutes and regulations. The Audit Division periodically reviews these operations for regulatory and statutory compliance.

## **Other Responsibilities**

The Audit Division has a number of additional responsibilities, including but not limited to:

- Periodically performing cash counts to ensure the casinos have sufficient funds, pursuant to Regulation 6.150, to operate.
- Analyzing annual financial statements submitted by Group I Licensees to monitor the entities' continuing financial viability.
- Preparing reports for the Board summarizing the key details of certain transactions (e.g., loans and leases) made with licensees, including the source of funds, reported as required by regulation ensuring licensees receive funds only from reputable sources.
- Routinely monitoring the performance of all casino games in the state. If substandard performance is observed, various types of follow-up work are performed to determine the reasons for this poor performance.

## **ENFORCEMENT DIVISION**

### **Division Leadership**

#### **Las Vegas**

CHIEF:	James Taylor	e-mail: Jtaylor@gcb.nv.gov
DEPUTY CHIEF:	Dave Salas	e-mail: Dsalas@gcb.nv.gov
DEPUTY CHIEF:	Kristi Marusich	e-mail: Kmarusich@gcb.nv.gov

#### **Carson City**

SUPERVISOR:	Patrick Stackpole	e-mail: Pstackpole@gcb.nv.gov
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#### **Elko**

SUPERVISOR:	Brian McIntosh	e-mail: Bmcintosh@gcb.nv.gov
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#### **Laughlin**

SUPERVISOR:	Chris Whitton	e-mail: Cwhitton@gcb.nv.gov
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#### **Reno**

DEPUTY CHIEF:	Russell Niel	e-mail: Rniel@gcb.nv.gov
SUPERVISOR:	Stacey Graves	e-mail: Sgraves@gcb.nv.gov

### **Enforcement Division Staff**

The Enforcement Division currently has approximately 91 certified peace officers and 29 clerical staff located in five offices throughout the state. The peace officers have a college degree or a combination of education and investigative experience equating to a college degree. The division is made up of peace officers (“agents”) from diverse backgrounds including law enforcement, gaming, accounting, computer science and law.

### **Certification**

Enforcement Division agents are required to be certified peace officers in Nevada. Agents are required to perform the duties of a peace officer and meet all requirements, including physical fitness and firearms proficiency. Agents are also required to successfully complete a Gaming Academy and a Field Training Program. Once certified, agents are required to retain their certification by completing 24 hours of approved training each calendar year. Agents receive new and updated training on a variety of subjects including licensed games, cheating techniques, investigate disputes, defensive tactics, arrest techniques, criminal law, detention and firearms use and safety.

## **Enforcement Division Responsibilities**

The Board's Enforcement Division operates 24 hours a day, seven days a week. Primary responsibilities are to conduct criminal and regulatory investigations and to investigate disputes between patrons and licensees. Investigations range from simple to detailed and complex involving violations of gaming regulations and/or statutes. The division is also responsible for processing and conducting background investigations and registering all gaming employees who work in the State of Nevada.

The division collects intelligence information regarding criminals and criminally oriented persons, as well as individuals engaged in organized crime and other activities relating to the gaming industry. It also makes recommendations on potential candidates for the "List of Excluded Persons" also known as the "Black Book". In their investigative capacity, agents are responsible for interviewing witnesses and complainants, interrogating suspects, conducting covert surveillance operations and obtaining information from confidential informants and other cooperating individuals.

The Enforcement Division's Operations Section conducts inspections of licensee's surveillance systems, various gaming devices including slot machines, cards and dice. The section is also responsible for inspecting and approving new games, chips and tokens, charitable lotteries and bingo.

The division provides assistance to other domestic and international jurisdictions in gaming-related matters and works closely with federal, state and local law enforcement agencies on cases of mutual interest and in the exchange of information as appropriate.

## **Special Investigations**

Special investigations often entail developing evidence to prove skimming (the diversion of funds to avoid the payment of taxes) or money laundering in a casino. This work may be performed in conjunction with other state or federal agencies such as the Federal Bureau of Investigation, Internal Revenue Service, etc.

## INVESTIGATIONS DIVISION

### Division Leadership

#### Carson City

CHIEF:	Mike LaBadie	e-mail: Mlabadie@gcb.nv.gov
DEPUTY CHIEF:	Carl Hoffman	e-mail: Choffman@gcb.nv.gov
DEPUTY CHIEF OF CORPORATE SECURITIES:	Russell Tegio	e-mail: Rtegio@gcb.nv.gov
COORDINATOR OF APPLICANT SERVICES:	Barry Chilton	e-mail: Bchilton@gcb.nv.gov

#### Las Vegas

DEPUTY CHIEF:	Robert Grozenski	e-mail: Rgrozenski@gcb.nv.gov
SUPERVISOR/ Agency Liaison:	Diane Presson	e-mail: Dpresson@gcb.nv.gov

### Investigations Division Staff

The Investigations Division currently has a professional staff of 65 agents and a clerical staff of 11.

### Certification

Investigative agents generally have college degrees in business or financial disciplines, criminal justice, or extensive law enforcement experience. As agents of the Board, investigators are peace officers of the State of Nevada.

### Investigations Division Responsibilities

#### **Finding of Suitability/Licensing Application Investigations**

The Investigations Division is charged with investigating all individuals and companies seeking a privileged Nevada gaming license, registration, finding of suitability or other approval. Applicants for these approvals are subject to extensive investigation of personal background and financial activity to verify suitability.

Agents further investigate and analyze the activities of all privately held business entities seeking a gaming license or registration in the State of Nevada. Division investigators produce detailed reports used by the Board and the Commission as the basis for licensing and approval recommendations or decisions.

The Investigation Division is also charged with the following program responsibilities:

### **Applicant Services and Agency Liaison**

The Investigations Division provides and receives all application forms and ensures each application is properly completed and all necessary forms are filed in accordance with statutory and regulatory requirements. The division also collects all required application fees. The Agency Liaison responds to requests for information from governmental agencies around the world.

### **NGC Regulation 25 Independent Agents**

The Investigations Division registers and investigates individuals who bring patrons to Nevada casinos through junket programs. This is performed by receiving all application forms for Independent Agents and ensuring each application is properly completed, in accordance with statutory and regulatory requirements and all application fees are collected.

### **NGC Regulation 3.100 Employee Reports**

The Investigations Division receives and monitors all semi-annual reports on key employees submitted by nonrestricted gaming licensees.

### **Corporate Securities Section Responsibilities**

#### **Finding of Suitability/Licensing Application Investigations**

The Corporate Securities Section monitors, investigates and analyzes activities of registered, publicly traded corporations and their subsidiaries involved in the Nevada gaming industry. Actions affecting the industry, such as changes in control, public offerings, involvement in foreign gaming and recapitalization plans are scrutinized by the Section and reported to the Board.

Section investigators produce detailed reports used by the Board and the Commission as the basis for licensing/approval recommendations/decisions.

## **Publicly Traded Corporations**

The Corporate Securities Section is responsible for investigating and analyzing publicly traded corporations for suitability, licensing and financial viability. At the conclusion of an investigation, a written report is issued to be used by the Board and the Commission as the basis for licensing/approval recommendations/decisions.

## **Compliance Reviews**

Publicly traded corporations and certain other licensees are required to establish and maintain a regulatory compliance plan. The Compliance Unit evaluates plans and periodically performs reviews of these companies for compliance with the requirements of their plan.

## **Monitoring**

Publicly traded corporations' activities are continually monitored for any changes to company structure, management and financial viability through review of Securities and Exchange Commission filings, Board submissions, press releases and news articles.

## **Special Projects/Investigations**

On occasion, the Corporate Securities Section and the Compliance Unit are assigned special projects and investigative work such as debt analysis, litigation review or financial viability.

## **Foreign Gaming Reporting**

The Corporate Securities Section monitors foreign gaming reporting submission reports required to be filed by any Nevada licensee who conducts gaming activity outside the State of Nevada. These quarterly and annual submissions detail foreign gaming locations, violations in foreign gaming jurisdictions and fines levied.

## **TAX & LICENSE DIVISION**

### **Division Leadership**

#### **Las Vegas**

CHIEF: Dan Douglas e-mail: Ddouglas@gcb.nv.gov

#### **Carson City**

DEPUTY CHIEF: Scott MacDonald e-mail: Smacdonald@gcb.nv.gov

### **Tax & License Division Staff**

The Tax & License Division currently has 21 professional staff, including four CPAs, and a clerical staff of five. The division is split into three sections; Collections, Compliance and Licensing.

### **Tax & License Division Responsibilities**

#### **Collections Section**

The Collections Section is responsible for all deposits (with the exception of Gaming Employee Registration) and distributes gaming taxes, fees, penalties, interest and fines. Responsibilities include the management of accounts receivables, collecting on delinquent accounts and performing write-offs on bad accounts.

Additionally, the Collections Section is responsible for processing Holiday or Special Event applications (NGC-16), requests for Temporary Closures (Nevada Gaming Commission Regulation 9.010), requests to add licensed games, requests to allow fee-based gaming and the monitoring of such locations (Nevada Gaming Commission Regulation 5.120) and holding surety bonds for new nonrestricted locations.

#### **Compliance Section**

The Compliance Section performs reviews on Group II casinos throughout the state and conducts reviews on all manufacturers, distributors, slot route operators, operators of inter-casino linked systems and mobile gaming operators (not associated with a Group I casino). The section also completes reviews of restricted locations reporting live entertainment revenue.

The primary objectives of a Board review are to determine the proper reporting of revenue (casinos and restricted locations with live entertainment revenue) and to determine if the licensee is in compliance with all applicable gaming statutes and regulations. Internal accounting controls are thoroughly analyzed, in-depth analytical review of operating statistics is undertaken and detail tests of transactions are performed. At the conclusion of a review, the section issues a written report to the Board Chair or designated Board Member.

The section employs various means in gathering audit evidence. Covert or surprise observations of casino procedures are routinely conducted on an interim basis throughout the audit period. Interviews with casino personnel are periodically performed to ensure the casino is complying with documented internal accounting controls.

The Compliance Section has a number of additional responsibilities, including but not limited to:

- Performing periodic cash counts to ensure casino licensees (and restricted locations when necessary) have sufficient funds, pursuant to Nevada Gaming Commission Regulation 6.150, to operate.
- Analyzing annual financial statements submitted by operators of inter-casino linked systems to monitor continuing financial viability. The section also reviews reports from external auditors performing reviews on the licensees' systems (Wide Area Progressive Agreed Upon Procedures).
- Approval of diagrams and any subsequent changes for all restricted locations.
- Processing violation letters for restricted locations with the assistance of the Technology Division.
- Monitor Indian Gaming which includes the gaming compacts and developments in other jurisdictions.

## **Licensing Section**

The Licensing Section issues all gaming licenses approved by the Commission. Additionally, this section is tasked with maintaining the license database, including owners, key employees and conditions. Annually the section sends requests to all licensees to verify the owners and conditions placed on their licenses. Any requests for licensing history are also processed through this section. In addition, trusts are processed through this section.

## **TECHNOLOGY DIVISION**

### **Division Leadership**

#### **Las Vegas:**

CHIEF:	Jim Barbee	e-mail: Jbarbee@gcb.nv.gov
LAB MANAGER:	Jeremy Eberwein	e-mail: Jeberwein@gcb.nv.gov

### **Technology Division Staff**

The Technology Division is comprised of 26 staff consisting of 14 engineers, 4 Information Technology Auditors, 6 Technicians, and 2 clerical staff.

### **Certification**

Engineers must have at a minimum a Bachelor's degree in electrical or computer engineering, computer science, mathematics, or statistics. Information Technology Auditors must have at a minimum a Bachelor's degree in Accounting or business administration. CPA and CISA certifications are encouraged. Technicians must have at a minimum an Associate's degree in technology.

### **Technology Division Responsibilities**

#### **Gaming Technology Approvals**

The Technology Division is the primary point of contact for the Board for new gaming innovation to be introduced into Nevada. The fundamental role of the Technology Division is the review of all technology used directly in the conduct of gaming by Nevada licensees. The division reviews and makes recommendations to the Board Chair approximately 2,000 new and modified gaming devices and gaming associated equipment each year. The division also assists technology innovators with how the Board's regulatory and technical requirements apply to their products.

#### **Technology Field Inspections**

In addition to gaming technology approval, the Technology Division is responsible for inspecting all gaming devices and associated equipment throughout Nevada once it has been deployed. Technology Division staff inspect every licensed location at least once every three years for compliance and identifying products no longer approved for use.

## **Forensic Investigations**

The Technology Division is the digital forensic investigations unit for the Board. Specific engineering staff maintain proficiency and certifications on the latest digital forensic tools and techniques. Technology Division staff support the Enforcement Division by assisting in investigations of patron complaints related to gaming technology and criminal investigations. Additionally, the division provides support to the Investigations Division during the licensing process by providing data acquisition and analysis services.

## **Other Responsibilities**

The Technology Division has a number of additional responsibilities, including but not limited to:

- Provide technical expertise to the Board and Nevada Gaming Commission on matters related to gaming technology.
- Collaborate with gaming regulators throughout the United States and the World on matters related to gaming technology regulation and standards.
- Monitor technology trends for gaming related risks and benefits.
- Serve as the technical representative of the Board in matters related to the gaming industry at tradeshow, career fairs, and other industry events.
- Provide expertise when changes to the Nevada Gaming Commission technology regulations are proposed.

## **Section B**

### **Selected Data and Information**

## SELECTED DATA AND INFORMATION

### GAMING LICENSES (June 30, 2019)

Nonrestricted (Group I)	143
Nonrestricted (Group II)	313
Slot Route Operator	53
Manufacturer/Distributor	381
Other	80
Restricted	<u>1,996</u>
<b>Total</b>	<b><u>2,996</u></b>

#### License Descriptions

There are five primary gaming licenses approved by the Commission including: (1) nonrestricted gaming license; (2) slot route operator's license; (3) manufacturer's and/or distributor's license; (4) restricted gaming license; and (5) interactive gaming licenses.

A nonrestricted gaming license is typically granted for the operation of: (1) a property having 16 or more slot devices; (2) a property having any number of slot devices together with any other live game, gaming device, race book or sports pool; (3) a slot machine route, (4) an inter-casino linked system; or (5) a mobile gaming system.

A slot route operator license is a nonrestricted license authorizing the holder to place slot devices in a licensed location and share in the gaming revenues without being on the license issued for the location. An operator's license will normally be issued only to an applicant already licensed at three locations or having firm commitments to place machines at three licensed locations upon licensing.

A manufacturer's license authorizes the holder to manufacture, assemble or produce any device, equipment, material or machines used in gambling, except pinball machines, in the State of Nevada in accordance with Nevada Gaming Commission Regulation 14.

A distributor's license authorizes the holder to sell, distribute or market any gambling device, machine or equipment in the State of Nevada in accordance with Nevada Gaming Commission Regulation 14.

Restricted gaming licenses are granted to the operator of 15 or fewer gaming devices (and no table games) at certain locations within Nevada such as bars, taverns, supper clubs, and convenience stores.

Interactive gaming licenses include operators of interactive gaming, interactive gaming service providers and manufacturers of interactive gaming systems.

The Board and the Commission also have statutory authority to require the licensure of any individual or entity that: (1) has influence over any gaming operations in the State of Nevada; (2) shares in gaming revenues with a licensee; (3) is a lender to a gaming licensee; or (4) is the owner of land where gaming is conducted.

Nevada also requires approvals and licenses for transactions affecting the ownership and/or control of any gaming operation in the State and for any individual who could exert any similar influence.

## SLOT DEVICES AND TABLE GAMES

### Slot Devices

#### Nonrestricted Locations (by Denomination)

\$0.01	56,731	
\$0.25	5,971	
Multi-denom	69,398	
Other	<u>12,493</u>	
<b>Total</b>		<b><u>144,593</u></b>

#### Restricted Locations (by Denomination)

\$0.01	288	
\$0.25	460	
Multi-denom	17,554	
Other	<u>717</u>	
<b>Total</b>		<b><u>19,019</u></b>

**Grand Total Slot Devices** **163,612**

### Table, Card, and Counter Games

Twenty-One	2,575	
Roulette	472	
Baccarat	412	
Craps	383	
Mini-Baccarat	154	
Sports Pools	198	
Race Books	177	
Keno	70	
Poker	717	
Interactive Poker	2	
Other Games	<u>982</u>	
<b>Grand Total Games and Tables</b>		<b><u>6,142</u></b>

## GAMING REVENUES

Five Year Gaming Win (Statewide by County) (in thousands)

	<u>FY 2019</u>	<u>FY 2018</u>	<u>FY 2017</u>	<u>FY 2016</u>	<u>FY 2015</u>
Clark	\$ 10,247,878	\$ 10,170,587	\$ 9,894,372	\$ 9,609,997	\$ 9,555,378
SLT/CV	333,449	335,499	323,840	307,513	315,514
Elko	306,033	290,991	271,034	266,471	262,837
Washoe	855,310	857,124	805,469	789,359	765,248
Balance	<u>164,915</u>	<u>158,389</u>	<u>149,673</u>	<u>148,037</u>	<u>149,798</u>
<b>Statewide</b>	<b><u>\$11,907,585</u></b>	<b><u>\$11,812,590</u></b>	<b><u>\$11,444,388</u></b>	<b><u>\$11,121,377</u></b>	<b><u>\$11,048,775</u></b>

Five Year Gaming Win (by Revenue Category) (in thousands)

<u>Type</u>	<u>FY 2019</u>	<u>FY 2018</u>	<u>FY 2017</u>	<u>FY 2016</u>	<u>FY 2015</u>
Slot Devices	\$ 7,803,358	\$ 7,540,696	\$ 7,283,083	\$ 7,081,036	\$ 6,862,225
Table, Card & Counter	<u>4,104,227</u>	<u>4,271,894</u>	<u>4,161,305</u>	<u>4,040,341</u>	<u>4,186,550</u>
<b>Total</b>	<b><u>\$11,907,585</u></b>	<b><u>\$11,812,590</u></b>	<b><u>\$11,444,388</u></b>	<b><u>\$11,121,377</u></b>	<b><u>\$11,048,775</u></b>

Five Year Overall Revenues<sup>1</sup> (Nonrestricted Licensees/\$1 million and over) (in thousands)

<u>Revenue</u>	<u>FY 2019</u>	<u>FY 2018</u>	<u>FY 2017</u>	<u>FY 2016</u>	<u>FY 2015</u>
Gaming	\$8,757,658	\$11,595,722	\$11,109,963	\$10,760,756	\$10,622,399
Rooms	6,447,686	6,239,825	6,165,785	5,829,851	5,403,219
Food	4,219,159	4,027,632	3,890,158	3,871,752	3,756,031
Beverage	2,083,694	1,938,358	1,804,477	1,730,949	1,724,946
Other	<u>3,037,812</u>	<u>3,306,343</u>	<u>3,204,317</u>	<u>3,041,576</u>	<u>3,084,793</u>
<b>Total</b>	<b><u>\$24,546,009</u></b>	<b><u>\$27,107,880</u></b>	<b><u>\$26,174,700</u></b>	<b><u>\$25,234,884</u></b>	<b><u>\$24,591,388</u></b>

<sup>1</sup> - Overall Revenues are derived from Nonrestricted Licensees grossing \$1 million or more in gaming revenue during the applicable year.

## **TAXES AND LICENSE FEE COLLECTIONS**

The gaming industry in Nevada produces a substantial portion of the overall revenues to the state's General Fund. The Board and Commission function as the taxing authority on behalf of the state. Generally, the largest share of gaming taxes are generated from a tax on the gaming revenue or "house win" with other fees and taxes associated with equipment placement and live entertainment. Casino licensees are also responsible for other federal, state and local taxes not administered by the Board or Commission.

Gaming fees on gross revenues are applied monthly under a graduated rate schedule:

- 3.5% on the first \$50,000 of gross gaming revenue, plus
- 4.5% on the next \$84,000 of gross gaming revenue, plus
- 6.75% on gross gaming revenues exceeding \$134,000.

Annual and quarterly taxes are also collected on each gaming device and table game exposed for play in a nonrestricted gaming location within the state:

- An annual fee of \$250 per slot device, plus
- A quarterly fee of \$20 per slot device.
- Table games are taxed on a quarterly and annual basis based on the number of table games available for play during each fiscal year and each quarter.

Restricted gaming locations are required to pay the following annual and quarterly taxes:

- An annual fee of \$250 per slot device, plus
- A quarterly fee of \$81 per slot device for the first five slot devices, plus
- A quarterly fee of \$141 per slot device for each slot device after the first five.

Pursuant to the Nevada Gaming Control Act, the failure to pay such taxes within 30 days will automatically result in the surrender of the gaming license and require immediate closure of the gaming operations.

**Five Year Tax Collections (Statewide by County)**

<b><u>County</u></b>	<b><u>FY 2019</u></b>	<b><u>FY2018</u></b>	<b><u>FY2017</u></b>	<b><u>FY2016</u></b>	<b><u>FY2015</u></b>
Clark	\$ 789,848,137	\$ 737,159,428	\$ 752,463,971	\$ 756,466,964	\$ 790,547,018
SLT/CV	25,779,996	27,289,331	25,332,882	23,991,015	25,132,941
Elko	23,763,220	22,680,057	21,009,507	20,540,657	20,544,046
Washoe	67,352,122	66,765,548	64,328,725	63,546,194	61,900,579
Balance	<u>12,773,842</u>	<u>12,411,317</u>	<u>11,642,642</u>	<u>11,495,317</u>	<u>11,732,501</u>
<b>Statewide</b>	<b><u>\$ 919,517,317</u></b>	<b><u>\$ 866,305,681</u></b>	<b><u>\$ 874,777,727</u></b>	<b><u>\$ 876,040,147</u></b>	<b><u>\$ 909,857,085</u></b>

**Five Year Tax Collections (Statewide by Category)**

<b><u>Category</u></b>	<b><u>FY2019</u></b>	<b><u>FY2018</u></b>	<b><u>FY2017</u></b>	<b><u>FY2016</u></b>	<b><u>FY2015</u></b>
Percentage Fees	\$ 708,357,814	\$ 682,964,964	\$ 688,164,776	\$ 676,219,096	\$ 694,048,872
Entertainment Tax	105,613,998	100,863,918	102,328,255	111,994,620	130,861,416
Quarterly Non-Restricted Slot Tax	10,416,168	10,496,064	10,641,146	10,861,213	11,164,523
Quarterly Games Tax	6,266,332	6,390,519	6,443,060	6,450,491	6,522,917
Quarterly Restricted Slot Tax	8,317,777	8,270,489	8,172,087	8,225,963	8,291,051
Annual Slot Tax	41,825,957	41,662,618	41,830,877	42,696,766	43,432,043
Annual Games Tax	2,365,517	2,408,338	2,450,300	2,462,842	2,530,383
Other Collections	<u>36,353,754</u>	<u>13,248,771</u>	<u>14,747,226</u>	<u>17,129,156</u>	<u>13,005,880</u>
<b>Statewide</b>	<b><u>\$ 919,517,317</u></b>	<b><u>\$ 866,305,681</u></b>	<b><u>\$ 874,777,727</u></b>	<b><u>\$ 876,040,147</u></b>	<b><u>\$ 909,857,085</u></b>

While the Board acts as the taxing authority for the State of Nevada with respect to gaming activities, the revenues derived are not retained by the agency and, instead, are remitted to the state General Fund and other dedicated accounts.

### Distribution of Tax Collections

<u>Fund</u>	<u>FY 2019</u>	<u>FY2018</u>	<u>FY2017</u>	<u>FY2016</u>	<u>FY2015</u>
General Fund	\$ 874,129,551	\$ 821,035,967	\$ 829,285,161	\$ 829,637,659	\$ 862,609,361
Problem Gambling <sup>1</sup>	1,310,380	1,318,540	1,332,632	1,358,094	1,393,120
Dedicated Fund <sup>2</sup>	<u>44,077,386</u>	<u>43,951,174</u>	<u>44,159,934</u>	<u>45,044,394</u>	<u>45,854,604</u>
<b>Statewide</b>	<u>\$ 919,517,317</u>	<u>\$ 866,305,681</u>	<u>\$ 874,777,727</u>	<u>\$ 876,040,147</u>	<u>\$ 909,857,085</u>

*1 – Problem Gambling – Distributions are from the General Fund*

*2 – Dedicated Fund – Distributed to Schools and Counties*

## **Section C**

### **Resources**

## **NEVADA GAMING CONTROL BOARD WEBSITE PUBLICATIONS AND INFORMATION**

The publications listed below are available at no charge for downloading or printing on the Nevada Gaming Control Board website (<http://gaming.nv.gov>). Questions regarding these publications can be e-mailed to: [gcbresch@gcb.nv.gov](mailto:gcbresch@gcb.nv.gov)

### **Statistics & Publications**

### **Description**

Abbreviated Revenue Release	Two-page abbreviated monthly release reflecting total gaming win and percentage fee tax collections for nonrestricted licensees for the month and the comparative data from one year earlier.
Chip and Token Report	Listing of approved/disapproved chips and tokens submitted by Nevada licensees.
Corporate Securities Orders	Sets forth a description of Registered Publicly Traded Corporations affiliated companies and intermediary companies, and the various gaming licenses and approvals obtained by those entities. Orders included are from April 1993 to present. For Orders prior to April 1993, contact Corporate Securities at (775) 684-7860.
Enrolled Agents	Listing of Enrolled Agents who have been approved pursuant to NGC Regulation 10.060.
Gaming Revenue Report	Summary of gaming revenue information for nonrestricted gaming activity; each report reflects 1-month, 3-month and 12-month data.
Information Sheet	Statistics about the Nevada Gaming Control Board.
List of Excluded Persons	Listing of persons who are required to be excluded or ejected from licensed gaming establishments that conduct pari-mutuel wagering or operate any horse race book, sports pool or games, other than slot machines only.
Nevada Gaming Abstract	An annual financial analysis of nonrestricted gaming licensees producing \$1 million or more in gaming revenue (July-June). This report is available mid-January.
Nonrestricted Count Report	Listing of nonrestricted locations reflecting the quantity and denomination of gaming devices and the type and quantity of table games.

### **Publication**

Nonrestricted Square Footage Report

Quarterly Statistical Report

### **Description**

Annual list of nonrestricted locations reflecting the square footage allotted to specific types of gaming activities at each location.

General summary of Nevada's taxable gaming revenue and fee and tax collections.

### **Online Services**

Location Detail Report

Location Name and Address List

Registered Independent Hosts Report

Restricted and Nonrestricted Locations Report

### **Description**

Detailed License Report for any active location.

Location name and address reports by license type.

Lists all the active club venue registered Independent Hosts.

Names and addresses of all restricted and nonrestricted Locations.

### **Misc.**

Gaming Statutes & Regulations

Industry Notices & Technical Bulletins

Agendas and Dispositions

Licensee Information

Gaming Employee Registration

Tax Forms

### **Description**

Nevada Gaming Control Act and Ancillary Statutes and Regulations of the Nevada Gaming Commission and Nevada Gaming Control Board.

All Board & Commission News.

Meeting agendas of the Nevada Gaming Control Board and the Nevada Gaming Commission and dispositions reflecting Board recommendations and Commission final action.

License Fees and Tax Rate Schedules.

Casino Human Resources Login, Gaming Applicant Login and Gaming Employee Registration Appeal Hearings.

On-line Tax Forms Portal.

## OFFICE LOCATIONS AND MAILING ADDRESSES

**Carson City Office & Mailing Address:**

1919 College Parkway  
Carson City, NV 89706

**Elko Office & Mailing Address:**

557 West Silver Street, Suite 207  
Elko, NV 89801

**Las Vegas Office & Mailing Address:**

555 East Washington Avenue, Suite 2600  
Las Vegas, NV 89101

**Las Vegas Technology Division Lab Address & Mailing Address:**

750 Pilot Road, Suite I  
Las Vegas, NV 89119

**Laughlin Office Address:**

3650 South Pointe Circle, Suite 203  
Laughlin, NV 89029

**Laughlin Mailing Address:**

P.O. Box 31109  
Laughlin, NV 89028

**Reno Office & Mailing Address:**

9790 Gateway Drive, Suite 100  
Reno, NV 89521

## OFFICE PHONE AND FAX NUMBERS

<b><u>Carson City Office</u></b>	<b><u>Phone Numbers</u></b>	<b><u>Fax Numbers</u></b>
Nevada Gaming Commission	(775) 684-7750	(775) 687-5817
Nevada Gaming Control Board	(775) 684-7740	(775) 687-5817
Administration Division	(775) 684-7700	(775) 687-5817
Administration Division – Human Resources	(775) 684-7704	(775) 687-5817
Enforcement Division	(775) 684-7900	(775) 687-5362
Investigations Division	(775) 684-7800	(775) 687-1372
Investigations Division – Applicant Services	(775) 684-7840	(775) 687-1372
Investigations Division – Corporate Securities Section	(775) 684-7860	(775) 687-1219
Legal – Attorney General’s Office	(775) 687-2100	(775) 850-1150
Tax & License Division	(775) 684-7770	(775) 684-7787
Technology Division	(775) 684-7731	

<b><u>Elko Office</u></b>	<b><u>Phone Number</u></b>	<b><u>Fax Number</u></b>
Enforcement Division	(775) 738-7191	(775) 738-3608

<b><u>Las Vegas Office</u></b>	<b><u>Phone Numbers</u></b>	<b><u>Fax Numbers</u></b>
Nevada Gaming Control Board	(702) 486-2000	(702) 486-2045
Administration Division	(702) 486-2000	(702) 486-2045
Administration Division - Training	(702) 486-2071	(702) 486-2045
Audit Division	(702) 486-2060	(702) 486-3543
Employee Registration Unit	(702) 486-3340	(702) 486-2591
Enforcement Division	(702) 486-2020	(702) 486-2230
Investigations Division	(702) 486-2260	(702) 486-2011
Investigations Division – Applicant Services	(702) 486-2007	(702) 486-2011
Investigations Division – Corporate Securities Section	(702) 486-2365	
Legal - Attorney General’s Office	(702) 486-3420	(702) 486-2377
Tax & License Division	(702) 486-2008	(702) 486-3727

**Las Vegas Office (cont'd)**

Technology Division

**Phone Numbers**

(702) 486-3274

**Fax Numbers**

(702) 486-2241

Technology Division – Lab

(702) 486-2043

(702) 486-2241

**Laughlin Office**

Enforcement Division

**Phone Number**

(702) 298-0669

**Fax Number**

(702) 298-6049

**Reno Office**

Audit Division

**Phone Numbers**

(775) 823-7200

**Fax Numbers**

(775) 823-7272

Enforcement Division

(775) 823-7250

(775) 823-7272

Legal – Attorney General's Office

(775) 687-2100

(775) 850-1150

## **GAMING LINKS ON THE INTERNET**

### **Nevada Gaming Control Board**

Nevada Gaming Control Board Website [www.gaming.nv.gov](http://www.gaming.nv.gov)

### **Associations, Boards and Commissions**

American Gaming Association [www.americangaming.org](http://www.americangaming.org)  
Gaming Regulators European Forum [www.gref.net](http://www.gref.net)  
International Association of Gaming Advisors [www.theiaga.org](http://www.theiaga.org)  
International Association of Gaming Regulators [www.iagr.org](http://www.iagr.org)  
North American Association of State  
and Provincial Lotteries [www.naspl.org](http://www.naspl.org)  
Association of Gaming Equipment Manufacturers [www.agem.org](http://www.agem.org)  
Gaming Standards Association [www.gamingstandards.com](http://www.gamingstandards.com)

### **Nevada University and College Links**

UNLV International Gaming Institute [www.unlv.edu/igi](http://www.unlv.edu/igi)  
UNR Institute for the Study of Gambling  
& Commercial Gaming [www.unr.edu/gaming](http://www.unr.edu/gaming)  
College of Southern Nevada  
Casino Management Program [www.csn.edu/programs/casino-management](http://www.csn.edu/programs/casino-management)  
International Center for Gaming Regulation [www.unlv.edu/icgr](http://www.unlv.edu/icgr)

### **Problem Gambling**

Gam-Anon.org [www.gam-anon.org](http://www.gam-anon.org)  
Gamblers Anonymous [www.gamblersanonymous.org](http://www.gamblersanonymous.org)  
National Center for Responsible Gaming [www.ncrg.org](http://www.ncrg.org)  
National Council on Problem Gambling [www.ncpgambling.org](http://www.ncpgambling.org)  
Nevada Council on Problem Gaming [www.nevadacouncil.org](http://www.nevadacouncil.org)

**Tribal Gaming**

National Congress of American Indians

[www.ncai.org](http://www.ncai.org)

National Indian Gaming Association

[www.indiangaming.org](http://www.indiangaming.org)

National Indian Gaming Commission

[www.nigc.gov](http://www.nigc.gov)

**Prof. John Warren Kindt, University of Illinois**

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Prof. John Warren Kindt, Em.  
University of Illinois

Prepared Statement  
Before the Governor's Study Group on Gambling Policy  
Montgomery, Alabama  
April 20, 2020

ELECTRONIC AND SPORTS GAMBLING ARE CAUSING 10% OF KIDS TO BECOME  
GAMBLING ADDICTS AND WILL RADICALLY CHANGE THE WAY THAT ALABAMA  
CHILDREN AND FAMILIES INTERFACE WITH SPORTS

Honorable Members of the Alabama Legislature and the Governor's Study Group, thank you for your kind invitation to testify before this Commission.

As a University of Illinois professor since 1978 researching and teaching law, economics, and business courses, I and my colleagues have analyzed decades of academic studies which indicate that electronic and sports gambling are causing 10 percent of kids to become gambling addicts, while creating enormous costs to families and taxpayers.

Since the Covid-19 health issues have shut down most 'brick and mortar' gambling venues as of April 2020, the business model for the gambling industry has become almost exclusively focused on 24/7 real-time Internet gambling and sports gambling via cell phones. Covid-19 will result in the purveyors of gambling losing \$1 trillion over the next 3 to 5 years. Therefore, gambling owners are desperate, and they are willing to commit unlimited dollars to lobbying for 24/7 real-time Internet and sports gambling.

Per a dubious legal interpretation of *Murphy v. NCAA*, 584 U.S. \_\_\_\_ (2018), lobbyists for electronic and sports gambling are giving states the "bums rush" to legalize sports gambling. These gambling lobbyists are trying via new state legislation to give themselves leverage to counter the existing Federal prohibitions (such as the Wire Act, 18 U.S.C. § 1084) as well as the new Federal legislative backlash developing against electronic and sports gambling. *See, e.g.*, "Post PASPA: An Examination of Sports Betting in America," *Hearing Before the Subcomm. on Crime, Terrorism, Homeland Security, and Investigations, House Comm. on the Judiciary*, 115th Cong., 2d Sess. (2018) (prepared statement of Prof. John W. Kindt) [hereinafter *Cong. Hearing 2018 on Sports Gambling*]. *See*, "Prevention of Deceptive or Child-Targeted Advertising in Violation of the Unlawful Internet Gambling Enforcement Act," S. 3322, 116th Cong., 2d Sess. (introduced Feb. 13, 2020, U.S. Sen. Tom Cotton (R-Ark.)).

My colleagues and I believe that a large majority of U.S. academic experts unattached to the gambling industry would concur that via the Commerce Clause, the Professional and Amateur Sports Protection Act (PASPA), 28 U.S.C. § 3701 *et seq.* has the simple fix of prohibiting corporations and individuals from engaging in sports gambling activities—instead of prohibiting States—which was the gravamen of *Murphy v. NCAA*, 584 U.S. \_\_\_\_ (2018).

(Libertarians may eliminate individuals from these restrictions if the bans on businesses are strict.) During the 2018 Congressional hearing, this interpretation was supported by House Judiciary Chair Robert Goodlatte (R-Va.) and Subcommittee Chair James Sensenbrenner (R-Wis.). *Cong. Hearing 2018 on Sports Gambling, infra*, at opening statements by U.S. Rep. James Sensenbrenner and U.S. Rep. Robert Goodlatte.

Immediately upon taking office on February 14, 2019 as U.S. Attorney General, William Barr witnessed the return of the original interpretation of U.S. Attorney General Robert F. Kennedy's Wire Act regulating Internet and sports gambling. In 2011 the Wire Act had been neutered by a controversial Office of Legal Counsel opinion by the Obama Administration. Of course, gambling lobbyists are challenging the U.S. Justice Department via forum shopping a case to New Hampshire. The case is currently on appeal to the U.S. First Circuit Court of Appeals.

On a national level reflected in the states, sports gambling enterprises will destabilize Wall Street by creating a "Wild West" Wall Street environment. The Great Recession of 2008 was caused in large part by the elimination of the anti-gambling restrictions via the Commodity Futures Modernization Act of 2000, 7 U.S.C. § 27f (bill § 408). An excellent 12-minute **60 Minutes** summary substantiating these observations is **Financial WMDs, a.k.a. Financial Weapons of Mass Destruction**, CBS Network (reporter Steve Kroft, airdate Aug. 30, 2009). Interfacing the issues highlighted by **60 Minutes** with the push for sports gambling reveals the dangers of real-time sports gambling on cell phones which can be manipulated to interface with the trading of stocks and financials—also via cell phones. Internet sports gambling is "impossible to regulate" and can only be banned, pursuant to findings of the Congressional U.S. NATIONAL GAMBLING IMPACT STUDY COMMISSION, FINAL REPORT (June 1999) [hereinafter U.S. GAMBLING COMMISSION ], at <http://govinfo.library.unt.edu/ngisc>; see, e.g., *id.*, chap. 5 & recs. 5.1 to 5.4. See also, The Wire Act, 18 U.S.C. § 1084 (sponsored by U.S. Att'y Gen. Robert F. Kennedy, 1961); John W. Kindt, op-ed., *SCOTUS Decision Creates a 'Wild West' for Sports Gambling*, THE HILL, May 14, 2018 (online edition), at <https://thehill.com/opinion>.

Pursuant to the *Murphy* decision, sports gambling promoters project that eventually a gambler theoretically will be able to take a laptop, personal computer, or cell phone and—just like automatic bill pay—tie into a person's day trader accounts, stock accounts, IRAs, Roth IRAs, 401(k)s, college savings accounts, checking accounts, and other monetary accounts.

Internet sports gambling places the most addictive form of gambling as real-time gambling at every school desk, at every work desk, and in every living room—making it easy to "click your phone, lose your home" or "click your mouse, lose your house."

Under *Murphy*, my 12 grandchildren will soon be able to drain their accounts and go into debt. My college students and colleagues claim they can circumvent any industry safeguards and that they are only deterred by legal penalties.

However, won't sports gambling companies be tempted, if not compelled eventually, to bundle the 12 debtor accounts of my grandchildren and others—like subprime mortgages were

bundled to support credit default swaps? Then are we not back at Warren Buffett's warning of "New Financial Weapons of Mass Destruction"?

These caveats may sound speculative, but the technology is there and if you give our law colleagues several million dollars, they will find a way to legalize "New Financial Weapons of Mass Destruction." Even more dangerous is the anonymity of Internet sports gambling which will stimulate computer fraud, corruption, and money laundering--per dangerous organizations. To reiterate the Congressional U.S. Gambling Commission, Internet sports gambling cannot be regulated. The simple solution is for Congress to prohibit businesses from engaging in sports gambling. Decision makers should also beware the numerous so-called "studies" financed directly or indirectly by gambling interests—who will not finance any relevant research that could harm their talking points. *See, e.g.,* David Ferrell & Matea Gold, *Casino Industry Fights an Emerging Backlash*, L.A. TIMES, Dec. 14, 1998, at A1 (part of investigative series detailing ongoing harassment of academic community by gambling industry).

As warned by the U.S. Gambling Commission, millions of new gamblers will become problem gamblers and go into debt. The medical, psychiatric, and psychological communities widely refer to electronic gambling, particularly Internet gambling, as the "crack cocaine" for addicting new gamblers—including kids and youth who are already showing gambling addiction rates of 4% to 8%—double those of the adult population. *See, e.g.,* Durand F. Jacobs, *Illegal and Undocumented: A Review of Teenage Gambling and the Plight of Children of Problem Gamblers in America*, in COMPULSIVE GAMBLING: THEORY, RESEARCH, AND PRACTICE 249 (1989) [hereinafter Jacobs]. *See also*, U.S. GAMBLING COMMISSION, *infra*, at 5-5; V. Novak, *They Call It Video Crack*, TIME, June 1, 1998, at 58; Charles Walston, *Teens Laying Their Futures on the Line*, ATLANTA J.-CONST., Feb. 25, 1996, at C4 (reporting 4.5% to 7.5% Ga. teens as addicted gamblers). The U.S. Gambling Commission also reported 100% increases in problem and addicted gamblers were caused by proximity to legalized gambling. U.S. GAMBLING COMMISSION, *infra*, at 4-4.

Killing personal, business, and institutional finances, Internet gambling is widely known as the "killer application" (a.k.a. "killer app") of the Internet. *See, e.g.,* William H. Bulkeley, *Feeling Lucky? Electronics is Bringing Gambling into Homes, Restaurants and Planes*, WALL ST. J., Aug. 16, 1995, at A1.

As often stated by former Ohio State and NFL quarterback Art Schlichter, who has repeatedly gone to prison for periodically conning millions of dollars from sports friends: "You just don't understand gambling addiction!" *See, Art Schlichter: All American Fraud*, AMERICAN GREED, CNBC Network, season 11, episode 14 (recent airdate Sept.3, 2018).

Jesse Jackson predicted many of these serious socio-economic costs when in his Chicago speech on Martin Luther King Day he labeled legalized gambling activities as "the new chains of slavery." Jackson stated that "The key to achieving King's dream is to teach ... people to go from ... [legalized gambling] to the markets ... [and] to boardrooms." Bryan Smith, *'New chains' shackle King's dream*, CHI. SUN-TIMES, Jan. 19, 1999, Metro Sec., at 1.

As I testified before a Congressional subcommittee on 3-25-15, the perceived loophole in the Unlawful Internet Gambling Enforcement Act (UIGEA), 31 U.S.C. §§ 5301, 5361 *et seq.* (2006) for Daily Fantasy Sports (DFS) needs to be closed. Along with colleagues, I also made this point with Congressional staff before and after my 4-5-06 testimony in favor of UIGEA before a Congressional subcommittee. I specifically remember myself and colleagues stating that gambling interests would leverage any apparently harmless exceptions (as desired by the NFL for season-long fantasy sports) and drive a truckload of unforeseeable negative consequences through any exception. Concurrently, 49 State Attorneys General supported the passage of UIGEA (*see* attached Nat'l Ass'n Att'ys Gen. Letter to Congress, Mar. 21, 2006) which became law after passing the House with a favorable bipartisan vote of over 80 percent.

These consequences occurred, as DFS interests initiated online DFS designed to leverage into the current push for ubiquitous online sports gambling. By 2015 DFS was the largest advertiser in the United States. However, by the end of 2015, DFS was the subject of investigations by the U.S. Attorney Offices in New York, Boston, and Tampa. Other criminal justice authorities including two dozen state attorneys general were reviewing various DFS operations. *See*, Prof. John Kindt, op-ed., *Gov. McAullife's Dilemma: The Daily Fantasy Sports Emperor is Wearing No Clothes*, RICHMOND TIMES-DISPATCH, Mar. 5, 2016, editorial page.

In October 2015, N.Y. Attorney General Eric Schneiderman declared DFS illegal. He was soon joined by the attorney generals of 11 other states including Illinois, Texas, Alabama, Georgia, Hawaii, Mississippi, Nevada, South Dakota, Tennessee, Idaho, and Vermont. Historically, DFS had also been banned in Arizona, Louisiana, Montana, Washington, and Iowa. *See, e.g., id.*

With billions of dollars at stake, DFS lobbyists needed to manufacture the color of legality by misdirecting naïve legislators in enacting sham legislation “regulating” DFS—such as in Virginia where DFS was first “legalized” without any significant opposition being allowed to testify before the legislature. Ironically, former U.S. Representative Frank Wolf (R-Va.) was a sponsor of the Congressional U.S. Gambling Commission which called for severe restrictions on sports gambling and a total ban on Internet gambling, concluding it was impossible to regulate. *See, id.*

As the U.S. Gambling Commission and the academic community have warned for years, the international markets are now evidencing the emergence of bizarre financials predicated most recently on the “loot boxes” and “skin games” of video games which have attained real-world value, can be moved off the games to third-party sites and can be gambled via platforms, such as YouTube (to children of all ages).

However, in 2017 the gaming industry's sham watchdog, the Entertainment Software Rating Board (ESRB), “declined to classify loot boxes as a form of gambling.” Jean Carter, *EU Regulators Form Coalition to End Gambling on Video Games*, Sept. 19, 2018, at <https://www.usaonlinecasino.com>. For example, “skins became their own sort of currency, with money deposited converted to points to trade in skins [including gambling], but with no way to [*sic*] withdraw credits and convert them back into real money.” *Id.* Consequently, 15 countries

and government entities in the European Union (EU), as well as the State of Washington, have formed an international coalition to take regulatory action. *Id.* The EU countries and government entities include the United Kingdom, Ireland, France, Spain, Portugal, the Netherlands, Norway, Poland, Austria, the Czech Republic, Latvia, Gibraltar, Jersey, Malta, and the Isle of Man. *See also*, Philip Conneller, *Washington State Joins Alliance of European Regulators to Challenge Video Game Industry on Loot Boxes*, Sept. 17, 2018, at <https://www.casino.org/news>.

Without a ban on sports gambling, numerous experts and Congressional hearings note that there will be widespread corruption of state decision makers, massive money laundering to deleterious organizations, and gaming companies addicting numerous kids via Internet gambling—the “crack cocaine of gambling addiction” (beginning with loot boxes).

Internet gambling and sports gambling are issues of the public health, safety, and welfare. These types of gambling are not “fun-and-game” issues of electronic poker, daily fantasy sports gambling, and other gambling methodologies—which are actually proposals to leverage gateways for legalizing various gambling activities throughout international cyberspace.

States should be protecting and not victimizing children and families. In the new era of Covid-19 and projected future problems, states can enhance their economies and social welfare by prohibiting gambling activities.

## Supplement to Prepared Statement of Prof. John Warren Kindt

### Summary Update of Gambling Issues Interfacing with Internet Sports Gambling Activities

#### *A. Internet Sports Gambling Destabilizes Economic Systems*

During the 1990s, the international financial and economic threats posed to the United States by the spread of U.S. gambling were outlined in a law journal article written at the suggestion and under the auspices of former Secretary of State Dean Rusk. The article was: John W. Kindt, *U.S. National Security and the Strategic Economic Base: The Business/Economic Impacts of the Legalization of Gambling Activities*, 33 ST. LOUIS U.L.J. 567-584 (1995), reprinted in *National Gambling Impact and Policy Comm'n Act: Hearing on H.R. 497 before the House Comm. on the Judiciary*, 104th Cong., 1st Sess. 519-27, 528-45 (1995). This 1995 Congressional hearing rejected the 10th Amendment arguments of the American Gaming Association lobbying group and moved the proposed legislation for the U.S. Gambling Commission into markup.

Containing numerous reprints of original academic studies and Congressional documents and including acknowledgments to legal and entrepreneurial icons such as U.S. Attorney General Robert F. Kennedy, U.S. Senator Richard Lugar, Howard Buffett, Warren Buffett, and Dr. John M. Templeton, Jr., the titles of some of the **United States International Gambling Report®** series (produced at the University of Illinois in concert with other research-one universities) directly outline the dangers of Internet gambling—particularly Internet sports gambling.

1. **The Gambling Threat to Economies and Financial Systems: Internet Gambling** (Wm. S. Hein Pub. 2010).
2. **The Gambling Threat to National and Homeland Security: Internet Gambling** (Wm. S. Hein Pub. 2012).
3. **The Gambling Threat to World Public Order and Stability: Internet Gambling** (Wm. S. Hein Pub. 2013).

Designated by the Library of Congress (LOC) as volumes related to “national security issues,” the over 3,700 pages in these three volumes include reprints of 97 original Congressional

documents detailing the dangers of Internet sports gambling via a decade of Congressional hearings (*see, e.g.*, Attachments to Prof. Kindt Statement).

Also assigned by the LOC to the national security sections of law libraries, the titles of other volumes of the **United States International Gambling Report®** are self-explanatory.

1. **Gambling with National Security, Terrorism, and Military Readiness** (Wm. S. Hein Pub. 2009).
2. **Gambling with Crime, Destabilized Economies, and Financial Systems** (Wm. S. Hein Pub. 2009).

In 2006-2007, Russian President Vladimir Putin sanguinely noted the economic and crime costs of government-sanctioned gambling and he recriminalized 2,230 electronic gambling casinos—virtually wiping the economy clean. Associated leaders such as Chechen President Ramzan Kadyrov confirmed that “the gambling business is ... [a threat to] national security.” Itar-Tass, Moscow, *Another 315 gambling places to continue to be closed in Moscow*, Oct. 9, 2006, at <http://www.itar-tass.com/eng/level2.html?NewsID=10869516&PageNum=0>. What do the Russian economists know that is still eluding Washington politicians?

*See*, John W. Kindt, “Gambling with Terrorism: Gambling’s Strategic Socio-Economic Threat to National Security,” Address at Harvard Univ., Int’l Bus. Conf., Feb. 10-11, 2007 (sponsored by Harvard Bus. School, Harvard Law School & Kennedy School of Gov’t).

*B. Internet Gambling, Particularly Internet Sports Gambling, is Big Government Interstate Gambling Promoted and Abused by Big Government*

1. Internet sports gambling destabilizes U.S. and international economies.

John W. Kindt & Stephen W. Joy, *Internet Gambling and the Destabilization of National and International Economies: Time for a Comprehensive Ban on Gambling Over the World Wide Web*, 80 DENV. U.L. REV. 111-153 (2002).

2. Internet sports gambling destabilizes and threatens the financial systems of the United States and the International Economic System.

*See, e.g.*, John W. Kindt & John K. Palchak, *Legalized Gambling’s Destabilization of U.S. Financial Institutions and the Banking Industry: Issues in Bankruptcy, Credit, and Social Norm Production*, 9 EMORY U. BANKRUPTCY DEV. J. 21-69 (2002) (lead article). *See also*, John W. Kindt, *The Business-Economic Impacts of Licensed Casino Gambling in*

*West Virginia*, 13 W. VA. U. INST. PUB. AFF. 22-26 (1996) (invited article), updated and reprinted from, *The National Impact of Casino Gambling Proliferation: Hearing Before the House Comm. on Small Business*, 103d Cong., 2d Sess. 77-81 (1994) (statement of Prof. John W. Kindt).

3. Internet sports gambling creates and facilitates new criminal activity.

See generally, John W. Kindt, *Increased Crime and Legalizing Gambling Operations: The Impacts on the Socio-Economics of Business and Government*, 30 CRIM. L. BULL. 538-555 (1994); John W. Kindt, *The Failure to Regulate the Gambling Industry Effectively: Incentives for Perpetual Non-Compliance*, 27 S. ILL. U.L.J. 221-262 (2002) (lead article) [hereinafter *The Failure to Regulate Gambling*].

4. Internet sports gambling fuels the fastest growing addiction among young people – gambling addiction.

See John W. Kindt & Thomas Asmar, *College and Amateur Sports Gambling: Gambling Away Our Youth?*, 8 VILLANOVA SPORTS & ENTERTAINMENT L.J. 221-252 (2002) (lead article).

5. Internet sports gambling creates enormous socio-economic costs of \$3-\$7 for every \$1 in benefits.

John W. Kindt, *The Costs of Addicted Gamblers: Should the States Initiate Mega-Lawsuits Similar to the Tobacco Cases?*, 22 MANAGERIAL & DECISION ECON. 17-63 (invited article).

6. Internet sports gambling creates and facilitates government corruption in the United States and throughout the world.

See generally, John W. Kindt, *Follow the Money: Gambling, Ethics, and Subpoenas*, 556 ANNALS OF THE AM. ACADEMY OF POLITICAL & SOC. SCI., 85-97 (1998) (invited article) [hereinafter *Follow the Money*].

Callously capitalizing on the 9-11 tragedy, U.S. gambling lobbyists slipped into the 2002 Economic Stimulus Act what the Nevada press termed a \$40-billion federal tax break (reduced from the initial \$133-billion solicited) for slot machines and other electronic gambling devices. Tony Batt, *Tax Break for Slots OK'd*, LAS VEGAS REV. J., Oct. 16, 2001, at 1.

These types of tax write-offs should be eliminated. John W. Kindt, *Internationally, the 21<sup>st</sup> Century Is No Time for the United States to Be Gambling With the Economy: Taxpayers Subsidizing the Gambling Industry and the De Facto Elimination of All Casino Tax Revenues via the 2002 Economic Stimulus Act*, 29 OHIO N. UNIV. L. REV. 363-394 (2003) (lead article).

Like drug addiction, the harms to the public (commonly referred to as “the ABCs” of legalized gambling’s socio-economic impacts) caused by gambling activities via cyberspace and particularly via the Internet include:

- (a) new addicted gamblers,
- (b) new bankruptcies, and
- (c) new crime

For the most authoritative analysis of new crime costs (averaging 9 percent increases each year) linked to the accessibility and acceptability of gambling, see Earl L. Grinols & David Mustard, *The Curious Case of Casinos and Crime*, 88 REV. ECON. & STAT. 28-45 (2006). A table of the authoritative academic studies highlights that the socio-economic public costs of legalized gambling activities are at least \$3 for every \$1 in benefits. Earl L. Grinols & David B. Mustard, *Business Profitability versus Social Profitability: Evaluating Industries with Externalities, The Case of Casinos*, 22 MANAGERIAL & DEC. ECON. 143, 153 (2001) [hereinafter *The Case of Casinos*]. This 3:1 ratio has been the ratio for many years. See, e.g., *The National Impact of Casino Gambling Proliferation: Hearing before the House Comm. on Small Business*, 103d Cong., 2d Sess. 77-81 & nn. 9, 12 (1994).

For the definitive book in these issue areas, see EARL L. GRINOLS, *GAMBLING IN AMERICA: COSTS AND BENEFITS* (Cambridge Univ. Press 2004). For summaries and tables of the major studies of the socio-economic harms, see John W. Kindt, *The Costs of Addicted Gamblers: Should the States Initiate Mega-Lawsuits Similar to the Tobacco Cases?*, 22 MANAGERIAL & DEC. ECON. 17, 44-63, App. Tables A1-A14 (2001) [hereinafter *Mega-Lawsuits*]. See also, U.S. GAMBLING COMMISSION, *infra*, chap. 4. For a summary of the socio-economic costs of gambling activities as presented to Congress, see Testimony and Prepared Statement of Professor John Warren Kindt, *Before the U.S. House of Representatives Comm. on Resources*, 109th Cong., 1st Sess., Apr. 27, 2005 (App. Tables).

In the case of concentrated and multiple electronic gambling devices (EGDs), such as in casinos and racinos (*i.e.*, EGDs at racetracks), the “accessibility” and new “acceptability” (*i.e.*, legalization) to the public dictates that the new pathological (*i.e.*, addicted) gamblers will double from approximately 1.0 percent of the public, increasing to 2 percent. Similarly, the new problem gamblers will double from approximately 2 percent of the public, increasing to 4 percent. When the category is specifically focused on teens and young adults, these rates are virtually doubled again to between 4 percent to 8 percent combined pathological and problem gamblers. See e.g., Jacobs, *infra*, at 249, *et seq.*

These “doubling increases” have reportedly occurred within the gambling facilities’ “feeder markets.” U.S. GAMBLING COMMISSION, *infra*, at 4-4 (50-mile feeder markets); John W. Kindt, *Diminishing or Negating the Multiplier Effect: The Transfer of Consumer Dollars to Legalized Gambling: Should a Negative Socio-Economic “Crime Multiplier” be Included in Gambling Cost/Benefit Analyses?*, 2003 MICH. STATE DCL L. REV. 281, 312-13 App. (2003) (35-mile feeder markets) [hereinafter *Crime Multiplier*]; John Welte, St. Univ. N.Y. at Buffalo, 2004 Study (10-mile feeder markets).

Obviously, gambling lobbyists know that with Internet sports gambling, the feeder market would be “in your face” via computers and cell phones and the projected new gamblers, including millions of addicted and problem gamblers, would be enormous.

Gambling activities via cyberspace and particularly via the Internet eliminate the radial feeder markets around the casino EGDs and maximize the accessibility and acceptability factors for gambling (and concomitant social negatives) by placing EGDs on every cell phone, at every social media site, and at every school desk. Children, teens, and young adults conditioned by the Nintendo phenomenon are already demonstrating double the pathological and problem gambling rates of the older adult populations who matured without video games and without the accessible legalized gambling venues. Jacobs, *infra*.

Accordingly, the Congressional 1999 U.S. Gambling Commission recommended that there be no legalization of Internet gambling and that the U.S. laws criminalizing gambling over the wires be strengthened (*see* 18 U.S.C. § 1084, the “Wire Act”). The Commission also de facto recommended that the laws criminalizing Internet gambling be redrafted to eliminate any ambiguities and to establish a virtual ban on gambling in cyberspace. U.S. GAMBLING COMMISSION, *infra*, recs. 5.1-5.4. The 1999 U.S. Gambling Commission also reported testimony that Internet gambling, particularly Internet sports gambling, magnifies gambling addiction.

Irreparable harm as a result of advertising Internet gambling devolves from the phenomenon that there are large increases in the numbers of pathological (*i.e.*, “addicted”) and problem gamblers once EGD gambling becomes accessible and acceptable. The legalization of new gambling venues since 1990 and the addictive nature of gambling have led to substantial increases in the numbers of Gamblers Anonymous (Gam-Anon) groups, which are modeled after Alcoholics Anonymous groups. Virtually nonexistent before the 1990s, by 1999 there were 69 major Gam-Anon groups listed in the U.S. Gambling Commission’s Final Report. U.S. GAMBLING COMMISSION, *infra*, at VI-9 & VI-10.

Gambling industry spokespersons have frequently referred to Internet gambling as the “killer application” (a.k.a. “killer app”) of Internet technology because Internet gambling is crack cocaine to addicting new gamblers and because the feeder market is every living room, work station, and school desk. For a summary table showing the various studies reporting the disproportionate revenues which various types of legalized gambling take from pathological and problem gamblers, *see Mega-Lawsuits, infra*, at 25, Table 1 (compiled by Professor Henry Lesieur).

Increasing numbers of experts and clinicians studying pathological gambling have reported that when a new person is “once hooked” they are “hooked for life.” *See, e.g., Mindsort, Colorado Lottery 1996*. The salient points are that: (1) these are new pathological gamblers, and (2) these gamblers may be addicted for life (although in remission in many cases). A fortiori, sports gambling via cyberspace and particularly via the Internet intensifies these problems—a substantial number of which will be irreparable, especially when interfaced with children, teens, and young adults. *See, e.g., David P. Phillips, et al., Elevated Suicide Levels Associated with Legalized Gambling, 27 SUICIDE & LIFE-THREATENING BEHAV. 373, 376-77, & Table 3 (1997)*.

### C. Are the Electronic and Sports Gambling Mechanisms “Fair”?

1. Issues have arisen involving how “electronic gambling machines” (*e.g.*, electronic slots) are programmed and whether the astronomical odds are “fair” to patrons. Sports

gambling activities may be even more vulnerable to cheating, point shaving, and other manipulations of the “integrity of the game.”

John W. Kindt, “*The Insiders*” for *Gambling Lawsuits: Are the Games “Fair” and Will Casinos and Gambling Facilities be Easy Targets for Blueprints for RICO and Other Causes of Action?*, 55 MERCER L. REV. 529-593 (2004) (lead article). See also, John W. Kindt, *Subpoenaing Information from the Gambling Industry: Will the Discovery Process in Civil Lawsuits Reveal Hidden Violations Including the Racketeer Influenced and Corrupt Organizations Act?*, 82 OREGON L. REV. 221-294 (2003) (lead article).

2. Coupled with pandemic regulatory failures, these issues of “fairness” are increasingly problematic for the public’s perceptions of gambling.

See, e.g., *The Failure to Regulate Gambling, infra*; *Follow the Money, infra*.

#### D. Congressional Gambling Commission Calls for a Moratorium on the Expansion of Any Type of U.S. Gambling

The Final Report of the Congressional 1999 U.S. Gambling Commission called for a moratorium on the expansion of any type of gambling anywhere in the United States. Although tactfully worded, the U.S. Gambling Commission also called for the continued prohibition of Internet gambling and the re-criminalization of various types of gambling, particularly slot machines convenient to the public.

In his classic book entitled *ECONOMICS*, Nobel-Prize Laureate Paul Samuelson summarized the economics involved in gambling activities as follows:

There is ... a substantial economic case to be made against gambling. First, it involves simply *sterile transfers of money or goods* between individuals, creating no new money or goods. Although it creates no output, gambling does nevertheless absorb time and resources. When pursued beyond the limits of recreation, where the main purpose is after all to “kill” time, gambling subtracts from the national income. PAUL SAMUELSON, *ECONOMICS* 425 (10th ed. 1976) (emphasis original). See also, *id.*, subsequent editions, *et seq.*

The second economic disadvantage of gambling is the fact that it tends to promote *inequality and instability of incomes.*” *Id.* at 425 (emphasis original). Furthermore, Professor Samuelson observed that “[j]ust as Malthus saw the law of diminishing returns as underlying his theory of population, so is the ‘law of diminishing marginal utility’ used by many economists to condemn professional gambling.” *Id.* at 425.

Instead of legalizing a casino/slot machine establishment at a failing racetrack in 1997, the Nebraska legislature bulldozed the racetrack and made it into an extension of the University of Nebraska at Omaha (UNO) and a high-tech office park. Ironically, the proposed casino site is now the home of the new UNO College of Business and has attracted close to \$.5 billion in commercial developments. See, e.g., John W. Kindt, *Would Re-Criminalizing U.S. Gambling*

*Pump-Prime the Economy and Could U.S. Gambling Facilities Be Transformed into Educational and High-Tech Facilities? Will the Legal Discovery of Gambling Companies' Secrets Confirm Research Issues?* 8 STANFORD J.L., BUS. & FIN. 169-212 (2003) (lead article).

As pro-gambling interests have courted Nebraska they have been repeatedly rebuffed by the academic community, which was exemplified in one instance by 40 economists publicly rejecting new gambling proposals that would “cannibalize” the consumer economy. Robert Dorr, *40 Economists Side Against More Gambling, Signers: Costs Likely Higher than Benefits*, OMAHA WORLD-HERALD, Sept. 22, 1996, at B1.

Governments cannot gamble their way to prosperity. However, via financial instruments predicated on vacuous gambling activities, governments can destabilize and depress their economies and budgets.

## **Alabama Council on Compulsive Gambling**

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**Funding Needs for staffing for statewide program**

Since the state will be divided in five districts staffing will be required in each segment along with additional funding needed for the Montgomery District which is the statewide and national liaison.

District Directors (5)	5 @ \$55,000 (salary and payroll expenses)	\$275,000
Director Assistant Birmingham	1@ \$37,000 (salary and payroll expenses)	\$ 37,000
Executive Director	1 @ \$70,000 (Salary and payroll expenses)	\$ 70,000
Resource Development Director	1@ \$60,000 (Salary and Payroll expenses)	\$ 60,000
Public Relations Director	1 @ \$50,000 (Salary and payroll expenses)	\$ 50,000
Office Manager	1 @ \$40,000 (Salary and payroll expenses)	\$ 40,000
<b>Office Expense</b>		
Rent	\$12,000	
Communication Cost	\$ 9,600	
Supplies	\$ 6,000	
		\$ 27,600
Travel	All offices statewide/national \$3,500 mo.	\$ 42,000
Funding for counselor's supplement	Covers cost of initial sessions with clients	\$100,000
Advertising (211 message statewide	5 major television markets @ \$84,000 yr.	\$420,000
	<b>Total</b>	<b>\$1,121,600</b>

# LACG

## LOUISIANA ASSOCIATION on COMPULSIVE GAMBLING

Louisiana Association on Compulsive Gambling  
1325 Barksdale Blvd., Suite 219  
Bossier City, LA 71111  
Phone: (318) 227-0883 Fax: (318) 221-0005  
Website: [www.helpforgambling.org](http://www.helpforgambling.org)

## LACG History & Programs



**LACG's Mission Statement:** *We are a non-profit organization dedicated to providing assistance through treatment and helpline services to individuals and families who may be affected by problem gambling, substance use or suicide. We neither advocate for nor oppose gambling but promote education, prevention and treatment for those in need of our services.*

LACG was established in 1996 with the specific purpose to provide education, treatment and resources to people with gambling problems. We have since added additional services to help people with substance use and suicide concerns. We established a statewide diverse Board of Directors consisting of people from treatment providers, the gaming industry, business owners, and those in recovery.

\* In 1999, we opened the Center of Recovery (CORE), providing free residential treatment for adults in Louisiana with gambling addictions. Our Clinical team consists of state or internationally certified gambling counselors along with Licensed Professional Counselors, Counselors-in-Training, and Interns. We are consistently updating our treatment programs and incorporating the most effective

\*While working with the Louisiana Department of Health, the Louisiana Gaming Control Board and the Gaming Industry, we decided to launch the first Louisiana Problem Gamblers Helpline for the state on 1/1/2000.

\*In 2001, we established a second gambling addiction treatment facility in New Orleans called CORE-South and created an intensive outpatient program for people with Gambling Disorders.

\* LACG assisted the Louisiana Department of Health in conducting an annual state Problem Gambling Conference for all certified gambling counselors and interested therapists/providers to receive the most up to date information on treatment for gambling disorders.

\*Since 1999, LACG has partnered with all 10 regions in Louisiana through the Department of Health & Hospitals to expand services in those areas with counselors providing weekly sessions, educational sessions, and community outreach. Any person in Louisiana has the opportunity to receive **FREE** help for problem gambling.

\*During the 2005 Hurricane Katrina disaster, we were asked by the Louisiana Department of Health to pick up the statewide Substance Use Helpline and in 2007 we were again asked to provide Helpline services for the Northwest Louisiana Suicide Prevention Line. Both of these Helplines have continued to be provided by LACG ever since.

\*In 2006, LACG launched with the Webster Parish Judicial District Court a pilot Gambling Treatment Referral Program. This was highly successful and updated by LACG in 2013. We have continued work with the Attorney General's office in 2017 to assist with their newest program the Problem Gambling Resource Services.

\*In 2017, LACG completed the arduous process to obtain accreditation for both the Louisiana Problem Gamblers Helpline and the Northwest Louisiana Suicide Prevention line. We are proud to be the first Problem Gamblers Helpline in the United States with a national accreditation and to be used as a pilot program to examine proper guidelines for future accreditations with other problem gambling helplines. LACG became a Suicide Prevention Lifeline Network provider in October 2018.

\*For over 18 years, LACG has partnered with multiple states to provide problem gambling helpline services to their residents, including answering the Helpline **#1-800-522-4700** for the National Council on Problem Gambling. We have worked in tandem with stakeholders in each of those states to establish their best resources and services for their citizens. Since 2000, we have answered over 1.8 million calls/texts/chats for all Helplines combined.

\*Our Helpline Team maintains a 24/7 - 365 days a year Helpline services call center. No Helpline Specialist (*hereinafter referred to as **HLS***) is answering at home or is ever handling a crisis call alone. Our Team will answer calls in less than a minute, as we strive towards a 3-ring system and we answer each call with a live person. *No wait time.*

\*All HLS are expected to receive a minimum of 80% on the CRISIS and CALM certifications. All HLS are experienced in the ASIST education training as well. We conduct mandatory in-service trainings regularly in 60-90 minute sessions with testing either built within the course or at the end, with continued education on certain topics, as they change or are updated. Our HLS are either a level 1, 2, 3 or 4, depending on their tenure and assigned job duties.

\*We have licensed/certified Clinicians on-call 24/7/365 to assist HLS when fielding a crisis call of any kind. Our HLS are prepared to assist callers in any crisis. Our HLS are diverse, passionate and empathetic to callers.

## **\*Helpline Specialist- Requirements & Trainings:**

**Applied Suicide Intervention Skills Training (ASIST)** – A two-day, workshop focused on intense and direct hands-on-training preparing each participant with vital suicide first aid techniques and help resources, as part of the care they would provide. (Certificate)

**Counseling on Access to Lethal Means (CALM)** – This training focuses on how to reduce access to the methods people use to kill or harm themselves. (Certificate)

**Crisis Helpline Specialist Certifications-** This training demonstrates a thorough understanding of the competencies needed to provide compassionate and non-judgmental services to those in need of emotional support. (Certificate)

**Mental Health First Aid-** This 8 hour course training focuses on giving an action plan through assessing risk of suicide or harm, listening nonjudgmentally, giving reassurance and information, encouraging professional help and encouraging self-help and other support strategies. (Certificate)

**Problem Gambling, Gambling Disorders and Co-occurring Disorders-** These sessions are provided by Clinicians on various medical, addiction & mental disorders; and their impact on callers. (Required Training)

**Louisiana Mandated Reporter-** This covers the state & federal laws and regulations for a mandate reporter for specific areas of abuse. (Certificate)

**Ontario Domestic Abuse Risk Assessment (ODARA)** – This training helps to teach how to assess the likelihood of a person to assault their partner again. (Certificate)

**Domestic Violence-** This covers the basic information and resources of Domestic Violence & how to handle these callers with Understanding the Basics (Certificate)

**Resources and Data Entry-** This is an ongoing training throughout employment (Required Training)

**Confidentiality/HIPAA Laws & Guidelines-** This is ongoing education throughout employment (Required Training)

**First 90 days Training-** Active Listening, Self-Awareness, Crisis Intervention, Substance Use, Problem Gambling, Mental Illness, Specific Caller Issues, Grief and Loss, Intake Procedures and Practicum.

**Educational:** High School Diploma (Minimum Requirement); Undergraduate Degree, or in process: (Preferred)

**Credentials for Clinicians On-Call,** includes, but is not limited to; CCGC, ICGC-I & II, LPC, LAC, CCDP-D, LMSW, CIT, CPSS

## **The United Methodist Church**

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## Religious Perspectives on Gambling

### Christian Positions

There is not a uniform position on gambling among Christian denominations. For many, however, including broad councils like the National Association of Evangelicals (NAE) and the National Council of Churches (U.S.A.) understand gambling to be morally and socially destructive.

#### *Evangelical*

A 1985 resolution of the NAE states: The National Association of Evangelicals reaffirms its opposition to gambling and lotteries, including those run by the government. These are socially, morally and economically destructive. They are rooted in covetousness and violate the biblical work ethic.”

<https://www.nae.net/gambling/>

#### *Southern Baptist*

As recently as 2017, The Southern Baptist Convention affirmed a resolution “[On The Sin of Gambling](#)” In it, the convention affirms that it has long opposed casinos, lotteries, and horserace betting, and further resolves to oppose state-sponsored gambling. The convention sees gambling as being against neighbor-love, the principles of work as being based on hard work, the principle of “contentment” that opposes greed, principles of freedom, and the principle that civil government should protect their citizens and not prey on them ( ([Proverbs 8:15–16](#); [Amos 5:10–13](#); [Romans 13:4](#); [1 Timothy 2:1–2](#); [1 Peter 2:13–15](#)).

#### *Catholic*

The Catholic Church does not understand gambling to be morally negligent in itself, but does caution against it being practiced to the detriment of society and one’s family. As the Catechism of the Catholic Church states:

"Games of chance (card games, etc.) or wagers are not in themselves contrary to justice. They become morally unacceptable when they deprive someone of what is necessary to provide for one's needs and those of others. The passion for gambling risks becoming an enslavement. Unfair wagers and cheating at games constitute grave matter, unless the damage inflicted is so slight that the one who suffers it cannot reasonably consider it significant." (The Catechism of the Catholic Church, 2413).

Card games, for example, that are of low stakes and purely recreational are seen as generally acceptable. However, given the widespread expansion of gambling as a revenue stream for states, many councils at the state level have recommended or expressed caution. predatory gambling including casino gambling was outright opposed recently by the [Massachusetts Catholic Council of Bishops](#) (2014).

In 2015, The Catholic Conference of Illinois called for a re-examination of the state and church policies on gambling. They are concerned that with the prevalence of casino gambling, lotteries, and video gambling, there becomes an increased risk for persons to lose vast amounts of money to the detriment of the welfare of themselves and their families. On a social level, they are concerned that:

“The passion for gambling is entering more pervasively into the fabric of our society. Some see the lottery as a painless way to fund the public treasury. Riverboat gambling is increasingly intertwined with issues of political power. Advertisements for gambling, sometimes directed toward the poor, deceptively offer an easy path to wealth and the American dream.” (“A Catholic Perspective on Gambling in Illinois,” Catholic Conference of Illinois, 2015)

#### *United Methodist*

The United Methodist Church has long held a position opposing all forms of gambling. The Church is also very concerned about those who become addicted to gambling and their families. According to the Church’s Social Principles, “Gambling is a menace to society, deadly to the best interests of moral, social, economic, and spiritual life, destructive to good government and good stewardship. As an act of faith and concern, Christians should abstain from gambling and should strive to minister to those victimized by the practice.” (*Social Principles*, ¶163.G)

Further, according to its Book of Resolutions, The United Methodist Church specifically addresses the concerns related to gambling and the Native American community:

“We grieve over the expansion of gambling onto tribal reservations and lands. Gambling expansion on tribal lands has fostered racism and hate crimes, has caused discord between and among tribal members, and has led to divisions in churches and families. While we support tribal self-determination and self-governance, resorting to gambling as a form of economic development is regrettable.” (*Book of Resolutions*, 4041.Gambling)

#### **Jewish**

Jewish positions on gambling differ depending on one’s particular synagogue and tradition. Raffles and running lotteries for charitable giving are part of the life of some synagogues. Within the Reform movement, however, the [Union of American Hebrew Congregations](#) passed a resolution in 1959 advising that gambling not be a means of raising funds for synagogues.

Debate continues on whether lotteries and casinos are immoral. The Talmud describes a ruling by the rabbis that someone who plays with dice is not a reliable witness. It is not clear from this prohibition, however, why this person is prohibited from being a witness. In one interpretation, the if the person is a professional gambler then they are not a reliable witness because they do not contribute to society. Another interpretation offers that gambling is like thievery because the money of the loser is given over against their will. (<https://www.myjewishlearning.com/article/gambling/>)

#### **Muslim**

The Quran holds that gambling is a “grave sin.” (Qur’an 2:219) It is understood as being much like alcohol in which the evil of it outweighs any benefit. For many Muslims, it is understood that one gains money or wealth through knowledge and hard work. It is not to be received by chance, but one earns one’s livelihood. Therefore, recreational gambling is not to be engaged by Muslims. (Huda. "The Quran and Gambling." Learn Religions, Feb. 11, 2020, [learnreligions.com/what-does-the-quran-say-about-gambling-2004114](https://www.learnreligions.com/what-does-the-quran-say-about-gambling-2004114).)

***Book of Discipline of the United Methodist Church - 2016***  
**Social Principles - 2016**

**Gambling - Paragraph 163.G**

Gambling is a menace to society, deadly to the best interests of moral, social, economic, and spiritual life, destructive of good government and good stewardship. As an act of faith and concern, Christians should abstain from gambling and should strive to minister to those victimized by the practice. Where gambling has become addictive, the Church will encourage such individuals to receive therapeutic assistance so that the individual's energies may be redirected into positive and constructive ends. The Church acknowledges the dichotomy that can occur when opposing gambling while supporting American Indian tribal sovereignty and self-determination. Therefore, the Church's role is to create sacred space to allow for dialogue and education that will promote a holistic understanding of the American Indians' historic quest for survival. The Church's prophetic call is to promote standards of justice and advocacy that would make it unnecessary and undesirable to resort to commercial gambling—including public lotteries, casinos, raffles, Internet gambling, gambling with an emerging wireless technology and other games of chance—as a recreation, as an escape, or as a means of producing public revenue or funds for support of charities or government.

## *The Book of Resolutions of The United Methodist Church – 2016*

### **Gambling**

The Social Principles state that, “Gambling is a menace to society, deadly to the best interests of moral, social, economic, and spiritual life, [and] destructive of good government. . . . As an act of faith and concern, Christians should abstain from gambling and should strive to minister to those victimized by the practice. Where gambling has become addictive, the Church will encourage such individuals to receive therapeutic assistance so that the individual’s energies may be redirected into positive and constructive ends. The Church should promote standards and personal lifestyles that would make unnecessary and undesirable the resort to commercial gambling—including public lotteries—as a recreation, as an escape, or as a means of producing public revenue or funds for support of charities or government” (§ 163G).

When asked which commandment is first of all, Jesus answered, “Hear, O Israel: the Lord our God, the Lord is one; you shall love the Lord your God with all your heart, with all your soul, and with all your mind, and with all your strength” (Mark 12:29-30 NRSV). Gambling feeds on human greed and invites persons to place their trust in possessions rather than in God. It represents a form of idolatry that contradicts the first commandment. Jesus said: “You shall love your neighbor as yourself” (Mark 12:31b NRSV). In relating with compassion and love to our sisters and brothers, we are called to resist those practices and systems that exploit them and leave them impoverished and demeaned. The apostle Paul wrote in 1 Timothy 6:9-10a: “Those who want to get rich fall into temptation and a trap and into many foolish and harmful desires that plunge people into ruin and destruction. For the love of money is a root of all kinds of evil” (NIV).

Gambling, as a means of acquiring material gain by chance and at the neighbor’s expense, is a menace to personal character and social morality. Gambling fosters greed and stimulates the fatalistic faith in chance. Organized and commercial gambling is a threat to business, breeds crime and poverty, and is destructive to the interests of good government. It encourages the belief that work is unimportant, that money can solve all our problems, and that greed is the norm for achievement. It serves as a “regressive tax” on those with lower income. In summary, gambling is bad economics; gambling is bad public policy; and gambling does not improve the quality of life.

We oppose the growing legalization and promotion of gambling.

Dependence on gambling revenue has led many governments to exploit the weakness of their own citizens, neglect the development of more equitable forms of taxation, and thereby further erode citizen confidence in government.

We oppose the legalization of pari-mutuel betting, for it has been the opening wedge in the legalization of other forms of gambling that has fostered the growth of illegal bookmaking. We deplore the establishment of lotteries and their use as a means of raising public revenues. The constant promotion and the wide advertising of lotteries have encouraged large numbers of persons to gamble for the first time.

We express our concern for the increasing development of the casino enterprises, which have taken captive entire communities and corrupted many levels of government with its fiscal and political power.

Public apathy and a lack of awareness that petty gambling feeds organized crime have opened the door to the spread of numerous forms of legal and illegal gambling.

We especially express our deep concern at the rapid growth of two forms of gambling:

**Internet/Digital Gambling:** Internet/Digital gambling—encompassing online, mobile, and digital TV based gambling services—is available in the privacy of one’s home and even in churches. Easy access to Internet/Digital gambling greatly increases the potential for addiction and abuse. Internet/Digital gambling is an international problem and it is virtually unregulated, which leads to corruption, money laundering, and funding of terrorist organizations. Individuals and local churches should seek to educate themselves on the easy access to Internet/Digital gambling. The social cost of addiction to Internet/Digital gambling is great and leads to bankruptcy, suicide, and family discord. Young adults and senior citizens are among the most vulnerable populations at risk to gambling addiction. Parents and caregivers should take steps to ensure that children and the elderly with access to electronic devices and digital media not be exposed to Internet/Digital gambling. Local churches and annual conferences should provide educational resources for parents and caregivers on the dangers of Internet/Digital gambling and enact strict oversight of church-owned electronic devices and digital media, including computers.

**US Tribal Gambling:** We grieve over the expansion of gambling onto tribal reservations and lands. Gambling expansion on tribal lands has fostered racism and hate crimes, has caused discord between and among tribal members, and has led to divisions in churches and families. While we support tribal self-determination and self-governance, resorting to gambling as a form of economic development is regrettable. We acknowledge and recognize the dichotomy created when the Church’s positions oppose gambling and at the same time support tribal self-determination. We urge annual conferences and local churches, which reside near tribal casinos or are facing expansion of tribal gambling ventures, to build partnerships with churches on reservations and Indian lands to foster mutual trust and understanding of tribal history and of the United Methodist position on gambling without resorting to diminishing tribal sovereignty.

The church has a key role in fostering responsible government and in developing health and moral maturity that free persons from dependence on damaging social customs. We urge national, tribal, state, and local governments to read, analyze, and implement the recommendations of the National Gambling Impact Study report released by the United States in 1999. We encourage tribal governments to wean themselves from gambling as a form of economic development; and we encourage and fully support tribal efforts to diversify economically away from gambling.

We support the strong enforcement of antigambling laws and the repeal of all laws that give gambling an acceptable and even advantageous place in our society.

It is expected that United Methodist churches abstain from the use of raffles, lotteries, bingo, door prizes, other drawing schemes, and games of chance for the purpose of gambling or fund-raising. United Methodists should refrain from all forms of gambling practices and work to influence community organizations and be supportive of American Indian tribes in developing forms of funding that do not depend upon gambling. Furthermore, it is incumbent upon local churches to reach out with love to individuals who are addicted, compulsive, or problem gamblers and support efforts at recovery and rehabilitation. We oppose coalitions, groups, organizations, and campaigns that claim opposition to gambling, yet at the same time undermine or oppose tribal sovereignty, which fosters a climate of hate and racism. An alarming trend is the attempt to use local churches in order to increase support for this destructive agenda. We believe that these groups operate contrary to Christian teachings. Therefore we strongly discourage United Methodist members and local churches from participating in such efforts.

The General Board of Church and Society will provide materials to local churches and annual conferences for study and action to combat gambling and to aid persons addicted to gambling. The General Board of Church and Society, annual conferences, and local churches shall work with coalitions

and grassroots organizations (such as the National Coalition Against Legalized Gambling) that are compatible with the position of The United Methodist Church (Social Principles ¶ 163).

**ADOPTED 1980**

**AMENDED AND READOPTED 1996, 2004, 2008, 2016**

**RESOLUTION #4041, 2008, 2012 *BOOK OF RESOLUTIONS***

**RESOLUTION #203, 2004 *BOOK OF RESOLUTIONS***

**RESOLUTION #193, 2000 *BOOK OF RESOLUTIONS***

*See* Social Principles, ¶ 163G.

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## **Petroleum & Convenience Marketers of Alabama**

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Montgomery, AL 36106  
P.O. Box 231659  
Montgomery, AL 36123-1659  
334/272-3800  
Fax 334/272-3837  
www.pcmala.org

May 18, 2020

The Honorable Todd Strange, Chairman  
Governor's Study Group on Gambling Policy  
Office of Governor Kay Ivey  
600 Dexter Avenue  
Montgomery, AL 36130

Dear Chairman Strange:

I am writing you today on behalf of the Petroleum & Convenience Marketers of Alabama (P&CMA), the state trade association representing Alabama's convenience store industry.

For information, the National Association of Convenience Stores (NACS) 2018 State Report indicates there are 3,843 convenience stores in Alabama; combined handling more than 5.2 million transactions per day and employing more than 61,000 Alabamians.

If Alabama were to enact a lottery, we are the sales force.

As the work of your Study Group continues, there will certainly be discussions and questions related to lottery retailers. We respectfully request to be made a part of these discussions. We understand that at the next meeting, set for June 5, 2020, the Study Group will hear presentations from Alabama Stake Holders. P&CMA would welcome an opportunity to make a presentation at that meeting.

We look forward to the opportunity of working with the Study Group.

Sincerely,



J. Bart Fletcher, CAE  
President



## **National Council of Churches**

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## The American Baptist Churches

<https://www.abc-usa.org/wp-content/uploads/2019/02/GAMBLING.pdf>

<https://www.abc-usa.org/wp-content/uploads/2019/02/GAMBLING-AND-STATE-REVENUE.pdf>

## The Christian Methodist Episcopal Church

**Gambling.** Gambling is a menace to society, destructive of good government and deadly to the best interest of moral, social, and spiritual life. We stand for the achievement of community and personal standards which make unnecessary the resort to petty or commercial gambling as a recreation, escape, or producer of public or charitable revenue. As an act of faith and love, Christians should abstain from all acts of gambling and should participate in efforts to minister to those victimized by the practice, including compulsive gamblers.

## The Church of the Brethren

### 1986 Report of the Committee

#### I. Introduction

As many as 88 million Americans gamble.

\$23 billion is gambled legally.

\$39 billion is gambled illegally.

That is more than is spent on education, religion, or medical care. Gambling brings corruption to individuals and to society. Gambling is increasing as more states legalize state lotteries.

Gambling is not a new issue in American life. Indeed, the first successful English colony at Jamestown was funded by a lottery licensed by the English Crown to the Virginia Company of London. Between 1607 and 1890, gambling was utilized as a funding mechanism to support local and state projects such as hospitals, roads, colleges, and churches.

During the first third of this century, little legal gambling occurred until 1931, when Nevada approved wide-open casino gambling, mainly for revenue. Puerto Rico became the second part of the United States to permit such gambling in 1948; New Jersey followed suit.

Lotteries made a reappearance in New Hampshire in 1964. New Jersey, in 1971, introduced a weekly numbers game, which was soon imitated by several other states. By 1985, 22 states and the District of Columbia had approved government-operated lotteries.

Other forms of legalized gambling are parimutuel betting, off-track betting, cards, and bingo.

Many states have enacted laws that permit non-profit organizations, such as fire companies, service clubs, and churches, to conduct lawful gambling activities, such as "tip jars," "fish bowls," and instant bingo.

Because many who play the various lotteries are the poor and thus see public gambling as a way out of their poverty, the general public's attitude towards gambling activities has become one of acceptance. The public does not oppose lotteries because it sees them as a way of avoiding tax increases.

A 1982 Gallup Poll showed that 82 percent of American people approved some form of gambling (bingo for charity); 72 percent registered approval of state lotteries.

Issues which the Church of the Brethren must face:

1. Are there grounds in the Bible for advising our members to abstain from gambling?
2. Are the effects of gambling on individuals or society enough to create a compelling case for legal sanctions against it?
3. What are the most effective ways for the church to implement its position on gambling?

## **II. Biblical Guidelines Concerning Gambling**

In the Bible, there is no specific command stating, "Thou shall not gamble." The concern of the church is based upon the recognition that all we have and are belongs to God. As Christian stewards, we dare not waste or gamble away that which belongs to God (Psa. 50:10-12, I Chr. 29:14-18, Prov. 12:26, 27, Luke 16:1-13, 1 Cor. 6:19-20). Our Lord teaches us that we cannot serve God and mammon (Matt. 6:19-24). Gambling is putting mammon above God.

Gambling encourages greed. There is no service rendered nor production of goods. It takes from the many to give to a few. Certainly this violates the commandment against coveting (Exod. 20:17, Deut. 5:21). It also comes close to violating the commandment against stealing (Exod. 20:15, Deut. 5:19). The difference lies in the fact that the loser consents to taking the risk.

The destructive effect of gambling may be noted whether one wins or loses. Gambling tends to destroy the concern for others taught in the "Golden Rule" (Matt. 7:12, Luke 6:31). When Adam and Eve were cast out of Eden, they were ordered to work for a living (Gen. 3:19). The work ethic as affirmed by Paul expresses concern for the welfare of the other person (Eph. 4:28, Phil. 2:3-4).

The writer of Ecclesiastes observes, "He who loves money will not be satisfied with money; nor he who loves wealth, with gain; this also is vanity" (5:10). The corruption that frequently accompanies gambling is condemned: "He who is greedy for unjust gain makes trouble for his household, but he who hates bribes will live" (Prov. 15:27). Again the writer in Proverbs condemns the principle of gambling to get gain while praising honest labor and warns against shortcuts to wealth (23:19-20).

## **III. Effects of Gambling on Individuals**

Many people have a desire, often a compulsive desire, to gamble. Most of these people have access to gambling opportunities. Spread across the social and economic spectrum of our nation, gambling is symptomatic of a deeply distressed society.

Compulsive gamblers have an uncontrollable urge to gamble. Estimates of compulsive gamblers in this country range from 4 to 12 million persons. "Gambling reaches the point at which it compromises, disrupts, and destroys the gambler's personal life, family relationship, or vocational pursuits" (National Council on Compulsive Gambling, 1985).

Gambling exploits the weaknesses of individuals. The fantasy of "something for nothing" provides an escape from neurotic anxiety. Research indicates that those who can afford it the least often gamble the most. Many poor people perceive the state lottery as their only hope for sharing in the American dream of wealth and power.

#### **IV. The Effects of Gambling on Society**

Proponents of lotteries, casinos, or other forms of wagering call them a voluntary or "painless tax," pointing out that the funds raised (without raising taxes) go to such worthy causes as support of the elderly, education, or road-building. They say that jobs are created, the economy stimulated, and everyone is better off financially. Gambling provides inexpensive "entertainment," within reach of those with moderate to lower incomes, giving millions of people a real chance, however remote, to become fabulously wealthy overnight.

Critics see gambling as an erosion of the work ethic, wealth received at the cost of another person's loss, a concession to greed and self-interests. It preys upon the poor by enticing them with illusions of quick wealth that are, in reality, slim to nonexistent. The overwhelming majority of the players are losers. Even the winners are losers. Gambling is addictive, often leading to more and greater risk-taking, bankruptcy, embezzlement, stealing, prostitution, and other forms of crime. All of these are detrimental to society's values, harmonious family life, responsible social obligations, and result in chronic discontent, disappointment and, often, suicide. Dependence on lottery revenue has led many states to become exploiters of their own citizens, thus neglecting the development of more equitable forms of taxation. Government should be protecting consumers, not looting them. Legitimate business are hurt by lotteries, as wage earners cannot spend money twice. Critics conclude that expanding gambling does not solve problems. It creates them!

#### **V. Conclusion**

We believe that gambling encourages service to mammon rather than God. We believe that gambling violates Christ's teachings regarding stewardship and mutual responsibility. We believe that for a government to promote gambling is immoral and violates its obligation to project the best interest of its citizens. Therefore, we oppose the legalization of and participation in any form of gambling.

#### **IV. Suggestions for Implementation of the Position Paper on Gambling**

A. Develop curriculum to educate members by teaching the biblical/moral perspectives against gambling, the extent of gambling, and the effects of gambling on the individual and society. Encourage members to share with families, friends, and neighbors what they have learned in the new curriculum.

- B. Practice alternatives to gambling by using financial resources for responsible Christian stewardship.
- C. Take an active role in the legislative process against any form of gambling (i.e., letters, phone calls, visits, etc.). Be diligent in prayer for those in governmental authority and responsibility.
- D. Urge each individual to covenant prayerfully with God to abstain from gambling in professional and personal life.
- E. Encourage all congregations to look carefully at their stewardship practices to assure that gambling, lotteries, and games of chance, however harmless-appearing, are not promoted, excused, or practiced within their fellowship.
- F. Publish consciousness-raising articles on gambling in *Messenger* and as hand-out brochures. Promote "stinger" spots against gambling in the media.
- G. Sponsor essay, speech, or banner contests for various age groups in the local church, district, and at national levels and then publish the best entries. Have winning speeches presented in churches, at district conferences, and at Annual Conference.
- H. Encourage churches to assist the compulsive gambler to find help through Gamblers Anonymous or professional counselors.
- I. Encourage the General Board to initiate dialogue with other denominations and the National Council of Churches for the purpose of developing a program to combat the growth of legalized gambling in the United States.

E. Paul Weaver, Chairperson  
Beverly W. Kline, Secretary  
Wayne J. Eberly  
Very Hayes  
Vivian Ziegler

**Action of 1986 Annual Conference:** The report on GAMBLING was presented by E. Paul Weaver, chairperson of the study committee, with the other members of the committee. *The delegates adopted the report.*

### **The Episcopal Church**

The Episcopal Church General Convention passed [2000-C044](#): "Increase Awareness of the Impact of Gambling and Gaming on Society." Within the resolution, the General Convention encouraged clergy to become familiar with Gamblers Anonymous resources, encourage awareness of the inappropriateness churches using gambling as a fundraising tool, urge members to work to end state-sponsored gambling, and encourage inclusivity of those within the gambling industry.

1. **Encourage the clergy and pastoral caregivers of this Church to become familiar with the resources of Gamblers Anonymous ([www.gamblersanonymous.org](http://www.gamblersanonymous.org)) and other organizations, which provide service to problem and addicted gamblers and their families;**
2. **Encourage parishes and church-related organizations to be aware of the inappropriateness of using gambling for fundraising purposes;**

3. **Endorse the recommendations of the bipartisan National Gambling Impact Study Commission for a moratorium on the expansion of gambling in states and localities, and for a gambling impact study to be conducted in each state and locality prior to the introduction or expansion of gambling;**
4. **Ask Executive Council to establish a Task Force on Gambling and Gaming to study the effects of this activity on persons and communities and to report back to the 74th General Convention;**
5. **Urge members, congregations, dioceses, provinces, and the National Church Center to work to end state-sponsored gambling and gaming; and**
6. **Encourage congregations and church related organizations to be inclusive of, and minister to, those persons related to and employed in the gambling industry.**

### **The Evangelical Lutheran Church in America (ELCA)**

The ELCA does not have a prohibition against gambling. Recognizing the moral and theological issues it raises, there are different documents and study guides from other the years for Lutherans to explore the topic.

The ELCA does have teaching on state-sponsored gambling. In “[Sufficient Sustainable Livelihood for All](#)”, the economic life social statement, the ELCA opposes lotteries and other state-sponsored gambling because of how these regressive means of raising state revenues adversely affect those who are poor and urges alternatives to gambling as a means of community economic development.

The ELCA Corporate Social Responsibility program recommends no investments in the gambling industry and has a screen for those

investments [https://download.elca.org/ELCA%20Resource%20Repository/Gambling\\_Screen.pdf?\\_ga=2.206802259.1145516780.1590341557-1405880136.1553551681](https://download.elca.org/ELCA%20Resource%20Repository/Gambling_Screen.pdf?_ga=2.206802259.1145516780.1590341557-1405880136.1553551681)

The exception would be gaming sponsored by American Indian tribes because of the importance to tribal well-being.

### **The Moravian Church (Northern Province)**

#### **GAMBLING**

Whereas, gambling is perceived to be a morally neutral activity, and

Whereas, there is a perception that gambling addiction is an increasing problem at all levels in our society, and

Whereas, organized gambling is increasingly utilized by local, state, and provincial governments as a means of raising revenue, therefore be it

48 RESOLVED: The 1994 Synod of the Moravian Church, Northern Province acknowledges that gambling, as a means of realizing material gain only by chance or at the expense of others, is not to be encouraged; and be it further

RESOLVED: The Moravian Church, Northern Province, opposes organized gambling supported by local, state, or provincial governments as a means of generating revenue; and be it further

RESOLVED: The Moravian Church, Northern Province, does not approve of games of chance sponsored by Moravian congregations or institutions; and be it further

RESOLVED: The Moravian Church, Northern Province, will be sensitive to the needs and families of gambling addicts and will use all appropriate resources in response.

1994 Northern Province Synod

### **The Presbyterian Church (USA)**

<file:///C:/Users/jwinkler/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/SPTLX9S3/Gambling%20%20Christian%20Faith%20SG%201998.pdf>

### **Quakers (Philadelphia Yearly Meeting)**

Advices of Philadelphia Yearly Meeting: *Keep to the simplicity of Truth. Seek for its manifestations in prayer, in reading matter, in the arts, and in all experiences of daily life. Shun the use of mind-changing drugs and intoxicants, of gambling, and of other detrimental practices that interpose themselves against the Inward Light. It is the experience of Friends that these drugs, intoxicants, and practices lead to a personal willfulness and inability to listen for the will of God. Avoid in daily work those involvements and entanglements that separate us from each other and from God. Keep your recreations from becoming occasions for self-intoxication and avoid those conventional amusements which debase the emotions by playing upon them. These, too, lead to self-absorption and to forgetfulness that each person's humanity is shared by all persons. Live and work in the plainness and simplicity of a true follower of Christ.*

## **River's Edge**

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The Democrat  
Greene County, AL  
Wednesday, October 29, 2003

### Commission passes resolution supporting bingo

In a call meeting on Wednesday, October 29, the Greene County Commission voted 4-1 to go on record in support of legalizing bingo in Greene County. The county-wide vote on this will be held on Tuesday, November 4, 2003.

Commission members Donald Means, Bill Johnson, Toby Webster and Edna Chambers voted for the support; chair Chip Beeker voted against it.

Johnson, Means, Webster and Chambers have all publically supported the bingo bill due to the financial crisis in state and local government.

Net revenues from legalized bingo will go to E-911, the Greene County Volunteer Fire Association, the Greene County Board of Education, the Greene County Sheriff's Department and the

Greene County Racing Commission, which will in turn distribute the money on the same formula used for the dog track distribution.

Greene County Sheriff Johnny Isaac will be in charge of formulating rules and regulations governing bingo.

Several mass meetings have been held throughout the county to inform citizens of the need for immediate funds for all of the above entities.

Fifty-six percent of Greene County voters had passed the tax package proposed by Governor Bob Riley. However, the tax proposal was overwhelmingly defeated statewide, leading to deep cuts in state funding for all programs, especially education. In Greene County, the school system lost \$168,000 in

the 2003/2004 budget with the promise of much deeper cuts in the 2004/2005 budget.

These dismal figures galvanized support for legalized bingo which has drawn together many factions in the county.

Some non-supporters say they do so because gambling is wrong.

Means countered them by stating in a public meeting that he is a farmer and "that is a real gamble!"

In Wednesday's meeting, Webster told the body that he had even spoken up for bingo in his church.

Means told Beeker, "You oppose this but you will spend the money!" Beeker did not reply.

In other business, the commission:

\*Passed the Highway Department budget and amended the total budget to reflect the new figures.

\*Agreed to send a letter of support for E-911 to the party who offered to donate a building for the use of that program. The letter will stipulate support but not financial support until the county is in better financial concition.

\*Agreed to a disposition of four generators no longer needed by the county - one to E-911, one to the water department and two to be declared as surplus equipment.

\*Agreed to amend the personnel policy in order that sick leave may be transferred from one employee to another. The amendment allowed them to approve the request from Darlene Robinson to another employee who had used up all of her days.

Robinson was commended by all the commissioners for her unselfish act.

Greene County

# The Democrat

50¢ Wednesday October 29, 2003 Vol. 112, No. 44

*Serving West Alabama Like No Other Community Newspaper*

The Democrat  
Greene County, AL  
Wednesday, October 29, 2003

## Vote Yes for Bingo

The Greene County Democrat urges our readers to vote YES for the bingo proposal on the ballot next Tuesday, November 4th.

After the defeat of the tax reform proposal and due to the continuing deterioration of the local economy, the people of Greene County have no choice but to seek alternative sources of revenue to support vital functions of local government.

The bingo proposal will provide revenue to support public education, the E-911 Emergency Network, the volunteer fire departments around the county, the Sheriff's Department and the Greene County Racing Commission (for distribution to county and city agencies).

We understand that that the proposal which created legal bingo includes both traditional and electronic methods of playing. While this suggests casino gambling, we do not oppose the bingo proposal.

It is amusing that some of our local political leaders have found "religion" and oppose bingo as a form gambling as they work in facilities paid for over the past 20 years by pari-mutual betting on dog racing.

While we don't see gambling as a cure all for the financial ills besetting Greene County, we are realistic in viewing the bingo proposal as another way to bring revenues in for essential services. In fact, it may well divert some of the hundreds of dollars currently being spent on illegal gambling in this county and adjoining counties. At least when the money is spent on legal bingo, the proceeds will go to build up the area.

If this proposal is defeated, we don't know where the school system can turn to procure new textbooks (the money allotted by the state to purchase text books has been cut from \$57 per pupil to \$7 per pupil); we don't know how many more teacher units will be lost in our school system, with the resulting domino effect on the area economy; we don't know where the county and cities can find the money to support E-911; we don't know where the county will find the money to efficiently run the new jail; we don't know how our volunteer fire departments will receive the training and equipment that they need.

We hope Greene County will continue to look for permanent solutions through more jobs, more industrial development.

We do know that if we don't find a solution such as the bingo proposal, our schools will deteriorate to the point that it will be even harder, if not impossible, to bring jobs and development into the county.

## MEMORANDUM

TO: Governor Kay Ivey's Study Group for Gaming Policy  
Todd Strange, Committee Chair  
R. "Rey" Almodóvar  
Deborah Barnhart  
Walter Bell  
Regina Benjamin  
Young Boozer  
Sam Cochran  
Elizabeth "Liz" Huntley  
Carl Jamison  
Justice James "Jim" Main  
Phillip "Phil" Rawls  
Bishop B. Mike Watson

FROM: William G. Somerville

DATE: September 15, 2020

RE: Analysis of Legislation for Alabama Gaming

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**CONSTITUTIONAL AMENDMENT:** We propose that Section 65 of the Alabama Constitution be repealed. We considered amending or repealing the various local amendments relating to bingo, but concluded that doing so would be excessively complicated.

**COMPACT WITH FEDERALLY RECOGNIZED TRIBE:** We have included a provision that would permit the Governor to enter into negotiations with federally recognized Indian tribes in the state, including the Poarch Band of Creek Indians, for a tribal-state compact to allow the tribe to conduct gaming in Alabama pursuant to the Indian Gaming Regulatory Act.<sup>1</sup> The compact would be the agreement between the State and the tribe setting out the terms under which the tribe could conduct gaming and would likely address things such as: revenue sharing with the state, the administration and regulation of gaming, and the types of games to be operated by the tribe.<sup>2</sup> We

<sup>1</sup> 25 U.S.C. ch. 29 § 2701 *et seq.*

<sup>2</sup> Pursuant to IGRA, a tribal-state compact may include provisions relating to:

(i) the application of the criminal and civil laws and regulations of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of [governing gaming activities Indian lands];

have provided two options for the legislation—one allows the Governor to negotiate the compact with the Legislature having to approve it, while the other allows the Governor to enter into a compact without ratification by the Legislature.<sup>3</sup> We defer to you on which one is best.

"GRANDFATHERING" CURRENTLY OPERATING BINGO FACILITIES: In the interest of simplicity, we have given electronic bingo facilities the option of attempting to migrate to the new structure, or continuing to offer the same Class-II-type games that they have offered since 2004. The ability to migrate to the new structure, however, is not unconditional, because in order to expand their facilities they would have to meet the capital investment requirements of the new structure. In addition, in order to operate anything other than electronic bingo, they would have to satisfy the rigorous suitability analysis contemplated by the proposed statute.

We have also attempted to keep the fee structure in place, knowing how important these fees are to charities and services in places like Greene County.

We believe that repealing the applicable bingo amendments would be extremely complicated, so we have left them in place. Theoretically, a venue that wants to continue to conduct electronic bingo would be permitted to do so.

Also in the interest of simplicity, we have proposed that the pari-mutuel facilities in Jefferson, Macon, Greene, and Mobile Counties continue to offer pari-mutuel betting under their current structure. It would be possible, however, to require these pari-mutuel operations to operate under the regulatory authority of the Gaming Commission.

OTHER STATUTORY CONSIDERATIONS: In addition to adopting legislation to permit and regulate casino gaming, sports betting and lottery, other sections of the Alabama Code, including the Alabama Criminal Code, Title 13A, Chapter 12, Article 2, will need amendment to provide consistency across all Alabama statutes. The Alabama criminal code sections prohibiting gambling should be amended to state that all gambling is prohibited except as provided in the Alabama

- (ii) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws and regulations;
- (iii) the assessment by the State of such activities in such amounts as are necessary to defray the costs of regulating such activity;
- (iv) taxation by the Indian tribe of such activity in amounts comparable to amounts assessed by the State for comparable activities;
- (v) remedies for breach of contract;
- (vi) standards for the operation of such activity and maintenance of the gaming facility, including licensing; and
- (vii) any other subjects that are directly related to the operation of gaming activities.

25 U.S.C. § 2710(d)(3)(c)

<sup>3</sup> No compact will be valid until approved by the United States Secretary of the Interior and published in the Federal Register. 25 U.S.C. § 2710(d)(3)(B).

Gaming Control Act, existing pari-mutuel provisions, and local constitutional amendments relating to the game commonly known as bingo.

LIMITED CASINO LICENSES VS. UNLIMITED CASINO LICENSES: Whether Alabama should choose a limited license or an unlimited license model will likely be the subject of intense debate and negotiation among all stakeholders. "Unlimited license" is a bit of a misnomer, as all jurisdictions, even Nevada, place limits on the issuance of gaming licenses under certain circumstances.<sup>4</sup> Mississippi is not a true unlimited license state – while there is no limit to the number of licenses that may be issued, casinos may only be located in specific areas on the Mississippi Gulf Coast and along the Mississippi River, which effectively restricts the total number of casinos that may be constructed and licensed. Some states, such as Virginia, have true limited licenses. Virginia's recently adopted legislation permits a total of 5 licenses in "qualified locations" described in the legislation.<sup>5</sup>

<sup>4</sup> See, NRS 463.1605 Limitation on approval of nonrestricted license in county whose population is 100,000 or more; additional local regulation of resort hotels permissible.

<sup>5</sup> Va. Stat. § 58.1-4107. Eligible host city; certification of preferred casino gaming operator.

- A. The conduct of casino gaming shall be limited to the following eligible host cities:
  1. Any city (i) in which at least 40 percent of the assessed value of all real estate in such city is exempt from local property taxation, according to the Virginia Department of Taxation Annual Report for Fiscal Year 2018, and (ii) that experienced a population decrease of at least seven percent from 1990 to 2016, according to data provided by the U.S. Census Bureau;
  2. Any city that had (i) an annual unemployment rate of at least five percent in 2018, according to data provided by the U.S. Bureau of Labor Statistics; (ii) an annual poverty rate of at least 20 percent in 2017, according to data provided by the U.S. Census Bureau; and (iii) a population decrease of at least 20 percent from 1990 to 2016, according to data provided by the U.S. Census Bureau;
  3. Any city that (i) had an annual unemployment rate of at least 3.6 percent in 2018, according to data provided by the U.S. Bureau of Labor Statistics; (ii) had an annual poverty rate of at least 20 percent in 2017, according to data provided by the U.S. Census Bureau; (iii) experienced a population decrease of at least four percent from 1990 to 2016, according to data provided by the U.S. Census Bureau; and (iv) is located adjacent to a state that has adopted a Border Region Retail Tourism Development District Act;
  4. Any city (i) with a population greater than 200,000 according to the 2018 population estimates from the Weldon Cooper Center for Public Service of the University of Virginia; (ii) in which at least 24 percent of the assessed value of all real estate in such city is exempt from local property taxation, according to the Virginia Department of Taxation Annual Report for Fiscal Year 2018; and (iii) that experienced a population decrease of at least five percent from 1990 to 2016, according to data provided by the U.S. Census Bureau; and
  5. Any city (i) with a population greater than 200,000 according to the 2018 population estimates from the Weldon Cooper Center for Public Service of the University of Virginia; (ii) in which at least 24 percent of the assessed value of all real estate in such city is exempt from local property taxation, according to the Virginia Department of Taxation Annual Report for Fiscal Year 2018; and (iii) that

**CASINO LOCATION:** The Mississippi's Gaming Control Act ("MGCA") does not identify locations eligible for gaming facilities. Instead, such locations are set forth, generally, as a negative covenant in the Mississippi criminal code, *i.e.* all gambling is illegal, except gambling which takes place in legal gambling locations as described below.<sup>6</sup> We suggest, for clarity, whether the number of licenses will be specific, as in Virginia, or "unlimited", that the locations for legal gaming in Alabama be clearly and completely stated in the Alabama Gaming Control act. In addition, the new Alabama gaming legislation should specifically address whether a local referendum is required to render a location legal, and if so, the mechanics of such a referendum.

**SPORTS BOOK:** The draft legislation provides for casinos to operate sports books under a sports book license. The Legislature must determine whether to permit any mobile or online sports books to be offered outside of the brick-and-mortar casinos, and whether to allow non-casino operators to offer online sports books independent of the casino operators.

**REGULATORY BODY:** Gaming jurisdictions utilize many different organization structures, including, but not limited to the following examples. Each structure has its positives and negatives, and balancing the need for control, flexibility and timely action by a gaming regulatory body is no small task. A structure that utilizes only one board or commission that makes final determinations based on the recommendations of a single individual administrator (backed by a full staff) certainly streamlines and speeds decisions. However, some states worry that such a system concentrates too

had a poverty rate of at least 24 percent in 2017, according to data provided by the U.S. Census Bureau.

<sup>6</sup> The statute elaborates further on the locations, but essentially, the language is:

...However, this section shall not apply to betting, gaming or wagering:

- (a) On a cruise vessel as defined in Section 27-109-1 whenever such vessel is in the waters within the State of Mississippi, which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi, including the Mississippi Sound, St. Louis Bay, Biloxi Bay and Pascagoula Bay, and in which the registered voters of the county in which the port is located have not voted to prohibit such betting, gaming or wagering on cruise vessels as provided in Section 19-3-79;
- (b) In a structure located, in whole or in part, on shore in any of the three (3) most southern counties in the State of Mississippi in which the registered voters of the county have voted to allow such betting, gaming or wagering on cruise vessels as provided in Section 19-3-79, if:...
- (c) On a vessel as defined in Section 27-109-1 whenever such vessel is on the Mississippi River or navigable waters within any county bordering on the Mississippi River, and in which the registered voters of the county in which the port is located have not voted to prohibit such betting, gaming or wagering on vessels as provided in Section 19-3-79;  
or
- (d) That is legal under the laws of the State of Mississippi.

Miss. Code Ann. § 97-33-1.

much authority in the hands of a few. In our experience, simpler is usually better for the gaming industry.

Mississippi: The MGCA creates the three-member Mississippi Gaming Commission ("MGC") as the final decision maker and establishes the MGC Executive Director as the MGC's primary administrator and adviser. The MGC is staffed with its own divisions, investigators, hearing examiner, special assistant attorney general, and gaming agents. We have used the Commission and Executive Director system in this draft legislation. However, there are elements of the Louisiana regulatory authority system that we thought might be a good fit in Alabama, and have provided those as an "Alternate Version".

Louisiana: The nine-member Louisiana Gaming Control Board ("LGCB"), headed by the Chairman, who serves a similar role as the MGC Executive Director, makes Louisiana's final gaming-related decisions. In contrast to Mississippi and Nevada, Louisiana uses its department of public safety as the gaming investigations and enforcement divisions.

Nevada: The five-member Nevada Gaming Control Commission ("NGCC") acts on recommendations made by the three-member Nevada Gaming Control Board ("NGCB") (which staffs its own enforcement and investigations division, among others) and is the final authority on gaming licensing matters. The NGCC also promulgates the state's gaming regulations and acts in a judicial capacity to determine if sanctions are appropriate when the NGCB instigates disciplinary proceedings against state gaming licensees and their associates.

Lottery: Some jurisdictions, particularly those with very limited licenses, have designated the state's lottery board as the casino gaming regulatory body. Mississippi and a number of states with multiple casino licensees have separate lottery corporations with their own boards and professional staff. We believe that this model will better serve the state of Alabama. The skills and tasks involved in regulating a lottery, as opposed to those utilized in regulating commercial casinos, are markedly different in some respects, and we are of the opinion that gaming and lottery should be governed by separate regulatory authorities. The draft statute that we propose sets up the Alabama Lottery Corporation ("ALC"), which will be a public corporation and instrumentality of the State of Alabama. The corporate format will also expedite the ALC's agreements with the multi-state lotteries, i.e. Powerball® and Mega Millions®.<sup>7</sup>

<sup>7</sup> In 1988, the Multi-State Lottery Association (MUSL) was formed with Iowa, Kansas, Missouri, Oregon, Rhode Island, West Virginia, and the District of Columbia as its charter members; it is best known for Powerball, which was designed to create large jackpots. Another joint lottery, The Big Game (now called Mega Millions), was formed in 1996 by six other lotteries as its charter members.

As of November 2019, each of the 44 state lotteries offer both Mega Millions and Powerball as a result of a 2009 agreement between the Mega Millions consortium and MUSL to cross-license their game to one another's members, although the two organizations continue to administer Mega Millions and Powerball separately. The District of Columbia and the U.S. Virgin Islands also offer both games. (The Puerto Rico Lottery

**TAXES AND FEES:** The appropriate taxing of Alabama gaming facilities is another political topic that must be addressed; everyone - the state, its counties, its municipalities, its school systems, its agencies – will want a piece of the state's gaming revenue.

Casinos: The appropriate tax rate will ultimately be determined by the number of available licenses. For example, Mississippi has a progressive tax on gross revenue paid monthly (4% on the first \$50,000, 6% on the \$50,001 - \$134,000 and 8% on \$134,001 and above). There are local taxes which make up about 4% of gross revenue, which gives an effective tax rate of 12%.<sup>8</sup> Louisiana has 15 available licenses and the tax rate is around 25%; Maryland has two casinos and the tax on slot revenue is 67%. In contrast, Nevada, which allows gaming statewide, has a 7.75% effective tax rate, with a 6.75% tax on gross gaming revenues and about 1 percent of taxes in fees.

Mississippi also provides for gross revenue fees (at a much lower rate) for the county or municipality in which the casino is located. We have included a similar provision in the draft legislation. A local government fee may be directed to fund specific governmental services, or it may be left to the discretion of the local governing body.

In Mississippi, all taxes and fees are paid to the Department of Revenue. The Department of Revenue is tasked with disbursing certain proceeds allocated to the appropriate county or municipality, with the remainder going to the General Fund. Having a single party responsible for receiving and distributing all gaming taxes and fees can simplify matters and potentially speed disbursements to local governments.

Other jurisdictions require that the revenue be distributed to fund specific state divisions, for example, in Maryland, the Education Trust Fund, receives 48.5%; Horse racing Purse Dedication, 7%; Local Impact Grants, 5.5%; Race Tracks Facility Renewal Account, 2.5%; and Small, Minority, and Women-Owned Business, 1.5%, etc.

Lottery: In Mississippi, the first \$80 million in revenue goes toward roads and bridges. Any revenue over \$80 million goes to the Education Enhancement Fund to benefit education. Likewise, the proceeds from the lotteries in Georgia and Tennessee also fund education.

**ENTITY LICENSING:** We have adopted the Louisiana system that provides that all individuals and entities that directly or indirectly own any equity interest or economic interest are required to be licensed or found suitable.<sup>9</sup> This is for the purpose of ensuring that there are no

does not offer Mega Millions.) Mississippi will get both Mega Millions and Powerball on January 30, 2020. [https://en.wikipedia.org/wiki/Lotteries\\_in\\_the\\_United\\_States](https://en.wikipedia.org/wiki/Lotteries_in_the_United_States).

<sup>8</sup> This scheme was adopted thirty years ago and as a practical matter, a progressive tax is no longer the norm.

<sup>9</sup> A "finding of suitability" is a term of art in the gaming industry. Generally, it means that after investigation,

“unsavory” or criminal elements participating indirectly in gaming activities. As part of the licensing and suitability determination, the Gaming Commission will have the authority to engage in a far-reaching analysis of the entities’ sources of funding, their corporate structure, and capitalization. Most gaming jurisdictions have found that this type of rigorous analysis creates public confidence in the gaming industry and in the regulatory system.

**DISCIPLINARY MATTERS AND PATRON COMPLAINTS:** The MGCA sets out that patron disputes concerning such matters as jackpot payouts or promotional events are initially conducted as administrative procedures, which may be appealed to state court once the administrative procedures have been exhausted. We think this is a good system, and avoids an enormous number of nuisance lawsuits by patrons dissatisfied with the outcome of a game or slot machine. In this draft, we have implemented the Alabama Administrative Procedure Act as the system for patron dispute resolution as well as for any applicant or a licensee who is aggrieved by the Commission's decision. As in Louisiana, for disciplinary actions, we have included in the statute that the gaming commission may set out a schedule of fines in the gaming regulations. Such a schedule leads to more consistent results in similar factual situations and allows licensees to more accurately evaluate their potential liability.

the regulatory authority has determined that the person is:

- (a) A person of good character, honesty and integrity;
- (b) A person whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of this state or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto; and
- (c) In all other respects qualified to be licensed or found suitable consistent with the declared laws of the state.

## **GAMING LEGISLATION**

### **CONSTITUTIONAL PROVISION FOR STATEWIDE REFERENDUM**

Section 65 of the Alabama Constitution shall be, and the same hereby is, repealed.<sup>1</sup>

<sup>1</sup> “The legislature shall have no power to authorize lotteries or gift enterprises for any purposes, and shall pass laws to prohibit the sale in this state of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery; and all acts, or parts of acts heretofore passed by the legislature of this state, authorizing a lottery or lotteries, and all acts amendatory thereof, or supplemental thereto, are hereby avoided.” Ala. Const. , § 65.

## **MODIFICATION OF EXISTING LAW**

### **Alabama Code Ann. § XX-XX-X.**

Section 13A-12-31 of the Code of Alabama shall be, and the same hereby is, amended to read as follows:

The provisions of this article shall not apply to pari-mutuel betting at race meetings authorized by statute, or to any activity authorized by the Alabama Gaming Control Act. The Alabama Gaming Control Act, as well as all presently effective state statutes and laws and locally adopted ordinances and laws pursuant thereto legalizing, authorizing or allowing bingo games, greyhound races and betting or wagering thereon, are hereby expressly and specifically preserved, saved and excepted from any repealer provisions contained anywhere in the Criminal Code.

## **GAMING CONTROL ACT**

### **Alabama Code Ann. § XX-XX-1<sup>2</sup>. Short title**

This chapter shall be known and may be cited as the “Alabama Gaming Control Act” and shall become effective upon the repeal of Article IV, Section 65 of the Alabama Constitution of 1901.

<sup>2</sup> NOTE: The number used to introduce certain statutes/sections (e.g., the 1 in Section XX-XX-1) were included primarily for the convenience of the drafters. In a few instances, one statute will refer to another statute in the act; in some such cases, the statute number used will help you identify the referenced statute. Otherwise, the statute numbers have no particular relevance and can be changed at will/as needed.

**Alabama Code Ann. § XX-XX-3.** Construction; legislative findings

- (1) The provisions of this chapter shall not be construed to legalize any form of gaming which is prohibited under the Alabama Constitution or the laws of this state. All legal gaming which is conducted in this state and which is otherwise authorized by law shall be regulated and licensed pursuant to the provisions of this chapter, unless the Legislature specifically provides otherwise.
- (2) The Legislature hereby finds, and declares it to be the public policy of this state, that:
  - (a) Development of a controlled gaming industry to promote economic development of the state requires thorough and careful exercise of legislative power to protect the general welfare of the state's people. Regulation of licensed gaming is important in order that licensed gaming is conducted honestly and competitively, and that gaming is free from criminal and corruptive elements.
  - (b) Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations and activities related to the operation of licensed gaming establishments and the manufacture or distribution of gambling devices and equipment.
  - (c) All establishments where gaming is conducted and where gambling devices are operated, and manufacturers, sellers and distributors of certain gambling devices and equipment must therefore be licensed, controlled and assisted to protect the public health, safety, morals, good order and general welfare of the inhabitants of the state.
- (3) No applicant for a license or other Commission approval has any right to a license or the granting of the approval sought, and no licensee, permittee or applicant for a license, permit, or other thing existing, issued, or let as a result of this chapter, shall have any right of action to obtain any license, permit, or the granting of the approval or Commission action sought except as provided for and authorized by this chapter. Any license issued or other Commission approval granted pursuant to the provisions of this chapter is an absolute revocable privilege, and no holder acquires any vested right therein or thereunder, property or otherwise, under the constitution of the United States or of the state of Alabama.
- (4) It is the intent of the Legislature that gaming licensees, to the extent practicable, employ residents of Alabama in the operation of their gaming establishments located in this state.

**Alabama Code Ann. § XX-XX-281. Officials deriving unauthorized pecuniary benefits**

No elected or appointed official shall derive any pecuniary benefit, directly or indirectly, other than compensation and any other benefits authorized by law, as a result of such elected or appointed official's duties under this chapter. Any person convicted of a violation of this section shall be punished pursuant to the provisions of [the CODE OF ETHICS FOR PUBLIC OFFICIALS, Alabama Code Ann. § 36-25-1 *et seq.*].

**Alabama Code Ann. § XX-XX-XX. Eligible locations[;][ referendum approving casino gaming][;][number of operator licenses]**

(1) Provided that any proposed establishment meets all other requirements of the Alabama Gaming Control Act, gaming and sports pool may be conducted in the State of Alabama only at the following eligible locations<sup>3</sup>:

- (a) \_\_\_\_\_,
- (b) \_\_\_\_\_,
- (c) \_\_\_\_\_, and
- (d) \_\_\_\_\_,

except as specifically provided in {statute grandfathering in existing charitable bingo operations.} [Gaming and sports book may be conducted in any county or municipality in the State of Alabama, provided that any proposed establishment meets all other requirements of the Alabama Gaming Control Act<sup>4</sup>.]<sup>5</sup>

(2) The Commission shall not grant a gaming operator license to any person until the voters of the eligible location in which the gaming establishment will operate have approved a referendum<sup>6</sup> allowing licensed gaming in that eligible location. {Insert mechanics of the referendum, including publication requirements, percentage of vote required for approval, and wording of

<sup>3</sup> *Will casino gaming be limited to certain locations, if so, what locations? For example:*

Will those locations be incorporated municipalities only or also unincorporated areas/will casinos be allowed only inside city or some other metropolitan limits only or also in the county?

Will those locations be pre-determined (*e.g.*, specific cities/counties, like Birmingham, Montgomery, or Tuscaloosa or Jefferson County, Montgomery County, or Tuscaloosa County) or based on some objective criteria (*e.g.*, but not limited to (1) economically depressed areas that could benefit from the financial boost potentially associated with a casino, (2) existing resort-like areas whose residents might be more amenable to gaming on their doorsteps and that already have in place some or all of the infrastructure necessary for casino development; or (3) more populated areas with residents potentially more amenable to local gaming and existing, necessary infrastructure ?

If allowed in incorporated municipalities only, will you identify them by their proper names or obliquely define those locations, *e.g.*, by referencing the cities' locations, populations, Alabama city classification, or other characteristics?

<sup>4</sup> For purposes of this draft only, we have used certain placeholder language where we do not yet know the proper name of a person/body/etc. (*e.g.*, "the election certifying body" and "the eligible location's local governing body." These terms can be replaced/revised with the correct proper name or defined term once identified.

<sup>5</sup> You may choose either of the bracketed alternatives.

<sup>6</sup> *Must local voters approve a referendum on casino gaming before a casino can locate there?*

If so, what will trigger the referendum, *e.g.*, but not limited to, (1) the filing of a license application with the gaming governing body triggers a referendum; (2) each eligible location must hold a referendum on casino gaming within x months after the Alabama gaming control act becomes effective; or (3) an eligible location can hold an initial referendum on casino gaming whenever it wants, so long as any such referendum meets all Alabama law requirements for such a local referendum.

the referendum.} The {election certifying body} shall certify the results of the referendum to the Commission and the eligible location's {local governing body}. If the voters of an eligible location approve such a referendum, then no subsequent referendum on the question of licensed gaming in that eligible location shall be allowed or required [, unless \_\_\_\_].<sup>7</sup>

- (3) [The Commission may issue \_\_\_\_ gaming operator license[s][.] [for each eligible location].]  
[The Commission may issue an unlimited number of operator licenses.]<sup>8</sup>
- (4) [INFRASTRUCTURE REQUIREMENTS, FOR EXAMPLE: To obtain a gaming operator license issued under the provisions of this chapter, the applicant shall make a capital investment of at least Three Hundred Million Dollars (\$300,000,000.00) in a gaming establishment, including the value of the real property upon which such establishment is located and all furnishings, fixtures, and other improvements.]

<sup>7</sup> *What is the long-term effect of a referendum approval?*

For example, once a location has approved gaming, can it withdraw that approval? If so, under what circumstances?

Once a location has approved gaming, does it ever need to reaffirm that approval through a referendum? If so, under what circumstances?

<sup>8</sup> Will the number of licenses be limited, either statewide or per eligible location? If so, to what number?

**Alabama Code Ann. § XX-XX-XX. [Charitable bingo operations.]**

- (1) Any entity that owns a facility at which games purporting to constitute electronic bingo are currently operated, and were operated at least one year prior to the date on which this Act became law, pursuant to a license or permit issued by an authority designated by a local amendment to the Alabama Constitution on the effective date of this Act (an “Existing Facility”) may continue to operate as a an electronic bingo facility, regulated by such authority, in the location at which such Existing Facility is operating on the effective date of the Act subject to the following:
  - (a) No expansion of area of the Existing Facility shall be made unless approved in advance by the Commission and the authority that granted the license or permit pursuant to which the games have been operated;
  - (b) Transfer of 5% or greater of ownership interests or economic interests in an Existing Facility must be approved in advance by the Gaming Commission and the authority that granted the license or permit;
  - (c) Transfer of all or substantially all of the assets of an Existing Facility must be approved in advance by the Gaming Commission and the authority granting the license or permit;
  - (d) Any transferee must submit an application for suitability to the Gaming Commission and be found suitable prior to the transfer of assets, ownership interests or economic interests of an Existing Facility.
- (2) Any entity that owns an Existing Facility may apply to the Gaming Commission for a gaming operator license, and may be licensed as a Gaming operator pursuant to Section XX-XX-55(1), subject to all statutory and regulatory requirements of this Chapter, except that such Existing Facility shall not be required to meet the capital investment requirements of Section XX-XX-XX [or the location requirements of Section XX-XX-XX] and no local referendum shall be required pursuant to Section XX-XX-XX.
- (3) Any Existing Facility that continues to operate as an electronic bingo facility, shall continue to pay all fees required by existing regulations, and shall continue to be regulated by the existing regulatory authority.
- (4) Any Existing Facility that obtains a license to operate under the regulatory authority of the Gaming Commission shall continue to pay fees in the same amount and to the same entities as required by current regulations; provided, however, that such Existing Facility shall receive a credit for such fees against taxes established in section [\_\_\_\_\_].

## **Alabama Code Ann. § XX-XX-5. Definitions**

As used in this chapter, unless the context requires otherwise:

“Affiliate” means a person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, a licensee.

“Applicant” means any person has applied for, or is required by the provisions of this chapter or the executive director to apply for, any license, permit, finding of suitability or other approval under the provisions of this chapter.

“Application” means a request for the issuance of a license, permit, finding of suitability, or other approval under the provisions of this chapter but does not include any supplemental forms or information that may be required with the application.

“Associated equipment” means any equipment or mechanical, electromechanical or electronic contrivance, component, or machine used, remotely or directly, in connection with gaming or with any game or sports pool that would not otherwise be classified as a gaming device as defined in subsection (r) of this section, including, but not limited to, dice, playing cards, links which connect to progressive slot machines, equipment which affects the proper reporting of gross revenue, computerized systems of betting at a sports pool, computerized systems for monitoring slot machines, and devices for weighing or counting money.

“Business or legal entity” means a natural person, a corporation, a partnership, a limited liability company, or any other organization or entity, which could enter into a contract or apply for a license or permit issued by the Commission pursuant to this chapter or to any other law relative to activity under the jurisdiction of the Commission.

“Chairman” means the Chairman of the Alabama Gaming Commission.

“Cheat” means to alter the selection of criteria that determine:

- (i) The rules of a game, or
- (ii) The amount or frequency of payment in a game.

“Commission” or “Gaming Commission” means the Alabama Gaming Commission.

“Commission member” means a member of the Alabama Gaming Commission.

“Commissioner” means the Commissioner of Revenue of the Department of Revenue.

“Credit instrument” means a writing that evidences a gaming debt owed to a person which holds a license at the time the debt is created, and includes any writing taken in consolidation, redemption, or payment of a prior credit instrument.

“Department” means the Department of Revenue of the State of Alabama.

“Distribute” means to sell, lease, supply, otherwise furnish, or market.

“Distributor license” means a license issued pursuant to Section XX-XX-55(2)(b).

“Economic interest” means any interest from which a person receives, or is entitled to receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest, or other benefit.

“Enforcement division” means a particular division supervised by the executive director which provides enforcement functions.

“Establishment” means any premises wherein or whereon any gaming is done.

“Executive director” means the Executive Director of the Alabama Gaming Commission.

“Game,” or “Gambling game” means any banking or percentage game played with cards, dice or any mechanical, electromechanical or electronic device or machine for money, property, checks, credit, or any representative of value, including, but not limited to, faro, monte, roulette, keno, fan-tan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, poker, chuck-a-luck (dai shu), wheel of fortune, chemin de fer, baccarat, pai gow, beat the banker, panguingui, slot machine, or any other game or device approved by the Commission. However, “game” or “gambling game” shall not include any bingo games or electronic bingo games operated pursuant to a license or permit issued by an authority designated by a local amendment to the Alabama Constitution on the effective date of this Act, or the illegal gambling activities described in Section XX-XX-XX.

“Gaming” or “gambling” means to deal, operate, carry on, conduct, maintain, or expose for play any game as defined in this chapter.

“Gaming device” means any mechanical, electromechanical or electronic contrivance, component, or machine used in connection with gaming or any game which affects the result of a wager by determining win or loss. The term includes a system for processing information which can alter the normal criteria of random selection, which affects the operation of any game, or which determines the outcome of a game. The term does not include a system or device which affects a game solely by stopping its operation, so that the outcome remains undetermined.

“Gaming employee” means any person connected directly with the operation of a licensed establishment, including:

- (i) Boxmen;
- (ii) Cashiers;
- (iii) Change personnel;
- (iv) Counting room personnel;
- (v) Dealers;

- (vi) Floormen;
- (vii) Hosts or other persons empowered to extend credit or complimentary services;
- (viii) Keno runners;
- (ix) Keno writers;
- (x) Machine mechanics;
- (xi) Security personnel;
- (xii) Shift or pit bosses;
- (xiii) Shills;
- (xiv) Supervisors or managers; and
- (xv) Ticket writers.

The term “gaming employee” also includes employees of manufacturers or distributors of gaming devices or associated equipment within this state whose duties are directly involved with the manufacture, repair or distribution of gaming devices or associated equipment. “Gaming employee” does not include bartenders, cocktail waitresses, or other persons exclusively engaged in preparing or serving food or beverages.

“Gaming license” or “Gaming operator license” means a license issued pursuant to Section XX-XX-55(1).

“Gross revenue” means the total of all of the following:

- (i) Cash received as winnings;
- (ii) Cash received in payment for credit extended by a licensee to a patron for purposes of gaming, and
- (iii) Compensation received for conducting any game in which the licensee is not party to a wager

Less the total of all cash paid out as losses to patrons and those amounts paid to purchase annuities to fund losses paid to patrons over several years. For the purposes of this definition, cash or the value of noncash prizes awarded to patrons in a contest or tournament are not losses.

The term does not include:

- (i) Counterfeit money or tokens;
- (ii) Coins of other countries which are received in gaming devices, or

- (iii) Cash taken in fraudulent acts perpetrated against a licensee for which the licensee is not reimbursed.

“Hearing officer” means a person authorized to conduct administrative hearings.

“Institutional investor” means:

- (i) A bank as defined in Section 3(a)(6) of the Federal Securities Exchange Act;
- (ii) An insurance company as defined in Section 2(a)(17) of the Investment Company Act of 1940, as amended;
- (iii) An investment company registered under Section 8 of the Investment Company Act of 1940, as amended;
- (iv) An investment advisor registered under Section 203 of the Investment Advisors Act of 1940, as amended;
- (v) Collective trust funds as defined in Section 3(c)(11) of the Investment Company Act of 1940, amended;
- (vi) An employee benefit plan or pension fund that is subject to the Employee Retirement Income Security Act of 1974, as amended, excluding an employee benefit plan or pension fund sponsored by a corporation registered with the Commission;
- (vii) A state or federal government pension plan;
- (viii) A group comprised entirely of persons specified above, or
- (ix) Such other persons as the Commission may determine for reasons consistent with the policies expressed in the Alabama Gaming Control Act. To qualify as an institutional investor, a person other than a state or federal government pension plan must meet the requirements of a “qualified institutional buyer” as defined in Rule 144A of the Federal Securities Act.

“Investigation division” means a particular division supervised by the executive director which provides investigative functions.

“Junket representative” means any person who contracts with a licensed gaming establishment or its affiliate to provide services consisting of arranging transportation and/or lodging for guests at a licensed gaming establishment, but does not include any travel agency that receives compensation based solely on the price of the transportation or lodging or any permanent, full-time employee of a licensed gaming establishment or its affiliate.

“License” means any license issued pursuant to this chapter, including any gaming operator license, sports pool operator license, manufacturer license, or distributor license.

“Licensee” means any person to whom a valid license has been issued.

“License fees” means monies required by law to be paid to obtain or continue a license.

“Licensed establishment” means any premises wherein or whereon gaming is conducted pursuant to a license issued pursuant to the provisions of this chapter.

“Manufacture” means to assemble, produce, fabricate, or compose and combine the components or subparts of a completed gaming device or piece of associated equipment and includes modifying, converting, adding, or removing parts of a completed gaming device or piece of associated equipment.

“Manufacturer license” means a license issued pursuant to Section XX-XX-55(2)(a).

“Non-gaming supplier” means any person that supplies or provides goods or services not directly related to, used in connection with, or affecting, gaming or sports book, including, but not limited to, any person that provides any of the following:

- (i) Food and beverages (alcoholic and non-alcoholic);
- (ii) Garbage handling and pickup;
- (iii) Vending machines;
- (iv) Linen supplies and laundry services;
- (v) Landscaping services;
- (vi) Janitorial services;
- (vii) Building maintenance services;
- (viii) Junket representatives;
- (ix) Limousine services, and
- (x) Real estate, building or construction services.<sup>9</sup>

“Operation” means the conduct of gaming.

“Party” means the Alabama Gaming Commission and any licensee or other person appearing of record in any proceeding before the Commission, or the Alabama Gaming Commission and any licensee or other person appearing of record in any proceeding for judicial review of any action, decision, or order of the Commission.

“Permit” means any permit or authorization, or application therefor, issued pursuant to the provisions of this chapter.

<sup>9</sup> These persons are often included in jurisdictions’ definitions of non-gaming vendors/suppliers, but you may identify others, if you wish.

“Permittee” means any person who is issued or applying for a permit pursuant to the provisions of this chapter.

“Person” includes any association, corporation, firm, partnership, trust or other form of business association as well as a natural person.

“Premises” means land, together with all buildings, improvements and personal property located thereon.

“Regulation” means a rule, standard, directive, or statement of general applicability which effectuates law or policy or which describes the procedure or requirements for practicing before the Commission. The term includes a proposed regulation and the amendment or repeal of a prior regulation but does not include:

- (i) A statement concerning only the internal management of the Commission and not affecting the rights or procedures available to any licensee or other person;
- (ii) A declaratory ruling;
- (iii) An interagency memorandum;
- (iv) The Commission’s decision in a contested case or relating to an application for a license, or
- (v) Any notice concerning the fees to be charged which are necessary for the administration of this chapter.

“Respondent” means any licensee or other person against which a complaint has been filed with the Commission.

“School or training institution” means any school or training institution which is licensed by the Commission to teach or train gaming employees pursuant to Section XX-XX-34.

“Slot machine” means any mechanical, electrical, or other device, contrivance or machine which, upon insertion of a coin, token or similar object, or upon payment of any consideration, 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.

“Sports pool” means the business of accepting wagers on collegiate or professional sporting events or athletic events, by any system or method of wagering other than the pari-mutuel system.

“Sport pool operator license” means a license issued pursuant to Section XX-XX-55(1)(c).

“Suitable”, “suitability”, or “suitability requirements” means the applicant, licensee, permittee, or other person is a person of good character, honesty, and integrity, and meets the criteria provided for in Section XX-XX-XX.

“Temporary work permit” means a work permit which is valid only for a period not to exceed ninety (90) days from its date of issue and which is not renewable.

“Wide area progressive system” means a network of games or gaming devices located at multiple gaming establishments, the payoff from which increases automatically over time or as games or gaming devices that are part of the network are played.

“Work permit” means any card, certificate, or permit issued by the Commission, whether denominated as a work permit, registration card, or otherwise, authorizing the employment of the holder as a gaming employee. A document issued by any governmental authority for any employment other than gaming is not a valid work permit for the purposes of this chapter.

**Alabama Code Ann. § XX-XX-7.**

(1) [The Alabama Gaming Commission, consisting of [●] (●) members, is hereby created. [ALTERNATE VERSION:] The Alabama Gaming Commission is hereby created. The board shall consist of [●] members who shall be appointed by the governor and two ex officio members. In making the appointments, the governor shall appoint *at least one member from each congressional district* and such appointments shall, as nearly as practicable, be made in a manner that is representative of the population of the state. All such appointments are subject to confirmation by the Senate. Members shall serve staggered terms of *six* years. No person shall serve more than two terms, whether consecutive or not. No person shall be appointed to serve on the board who had previously been confirmed by the Senate and served on any gaming regulatory board or commission in this state prior to the establishment of the Alabama Gaming Commission.

(2) (a) Each member of the Commission shall be:

- (i) A citizen of the United States, and
- (ii) A resident of the State of Alabama.

(b) One (1) member of the Commission shall have been a resident for not less than five (5) years of a location in which gaming is authorized at the time of appointment.

(3) No member of the Legislature, no person holding any elective office, or any officer or official of any political party shall be eligible to appointment to the Commission.

(4) It is the intention of the Legislature that the Commission shall be composed of the most qualified persons available, preferably no two (2) of whom shall be of the same profession or major field of industry; but no person actively engaged or having a direct pecuniary interest in gaming activities shall be a member of the Commission.

[ALTERNATE VERSION:] At least one (1) shall have no less than five (5) years of progressively responsible administrative experience in public or business administration or possess broad and demonstrable management skills.

At least one (1) shall have expertise in matters of finance, which expertise shall include, at a minimum, either

- (a) possession of either a master's degree in economics, business administration, public administration, or finance from an accredited business school, or
- (b) possession of a bachelor's degree in accounting, finance, or administration and a current license as a certified public accountant, and

at least five (5) years of progressively responsible experience in general accounting, general finance, or auditing and a comprehensive knowledge of the principles and practices of corporate finance.

At least one (1) shall have expertise in investigation and law enforcement, which expertise shall include, at a minimum, possession of a bachelor's degree from an accredited school and at least ten (10) years of verifiable training and experience in the fields of investigation and law enforcement.

At least one (1) shall be a lawyer licensed to practice law in the State of Alabama with not less than five (5) consecutive years of experience in the practice of law in Alabama.

[●] members shall represent the state at large.

### **Alabama Code Ann. § XX-XX-9. Appointment of members**

- (1) Initial appointments to the Commission made pursuant to this chapter shall be for terms as follows:
  - (a) [●] (●) member(s) for three (3) years;
  - (b) [●] (●) member(s) for four (4) years;
  - (c) [●] (●) member(s) for five (5) years, and
  - (d) [●] (●) member(s) for six (6) years.
- (2) The term of each of the members first appointed pursuant to this chapter shall be designated by the Governor.
- (3) After the initial appointments, all members shall be appointed for terms of [four (4)][six (6)] years from the expiration date of the previous term; [provided, however, that no member shall serve more than two (2) terms of [four (4)][six (6)] years each.]
- (4) Appointments to the Commission and designation of the chairman shall be made by the Governor with the advice and consent of the Senate. Prior to the nomination, the [INSERT APPROPRIATE ALABAMA REVIEW COMMITTEE] shall conduct an inquiry into the nominee's background, with particular regard to the nominee's financial stability, integrity and responsibility and his reputation for good character, honesty and integrity.
- (5) The member designated by the Governor to serve as chairman shall serve in such capacity throughout such member's entire term and until his successor shall have been duly appointed and qualified. No such member, however, shall serve in such capacity for more than ten (10) years.
- (6) Appointments to fill vacancies on the Commission shall be for the unexpired term of the member to be replaced.
- (7) [The CODE OF ETHICS FOR PUBLIC OFFICIALS] is applicable to the Commission and its employees.
- (8) Members of the Commission shall not have any direct or indirect interest in an undertaking that puts their personal interest in conflict with that of the Commission and shall be governed by the provisions of [Section \_\_\_ of the Alabama Constitution and] Section 36-25-1 et seq. In addition, members of the Commission shall not receive anything of value from, or on behalf of, any person holding or applying for a gaming license, permit, or other approval under this chapter.
- (9) Each member of the Commission shall serve for the duration of his term and until his successor shall be duly appointed and qualified; provided, however, that in the event that a successor is not duly appointed and qualified within one hundred twenty (120) days after the expiration of the member's term, a vacancy shall be deemed to exist.

(10) Each member of the Commission is entitled to per diem as provided by Section XX-XX-XX.

**Alabama Code Ann. § XX-XX-11. Services and equipment furnished to Commission**

- (1) The executive director and his employees shall furnish to the Commission such administrative and clerical services and such furnishings, equipment, supplies, stationery, books, and all other things that the Commission may deem necessary or desirable in carrying out its functions.
- (2) All costs of administration incurred by the executive director on behalf of the Commission shall be paid out on claims from the State Treasury.

**Alabama Code Ann. § XX-XX-13. Commission meetings**

- (1) Regular and special meetings of the Commission may be held, at the discretion of the Commission, at such times and places as it may deem convenient, but at least one (1) regular meeting shall be held each month [on or after the fifteenth day of the month]. All meetings shall be open, unless they may be closed pursuant to Section XX-XX-XX.
- (2) A majority of the members is a quorum of the Commission.

**Alabama Code Ann. § XX-XX-XX. Commission's authority; responsibilities**

- (1) The Commission shall regulate all gaming activities and operations in the state, as more specifically provided in this Chapter and other applicable laws.
- (2) The Commission has full and absolute power and authority to deny any application or limit, condition, restrict, revoke or suspend any license, permit, finding of suitability or approval, or fine any person licensed, permitted, found suitable or approved, for any cause deemed reasonable by the Commission.
- (3) Any license, permit, or finding of suitability issued or other Commission approval granted pursuant to the provisions of this chapter is a revocable privilege, and no holder acquires any vested right therein or thereunder. The initial decision of the Commission to deny, limit, condition, or restrict a license shall be final.
- (4) The Commission shall:
  - (a) Have all regulatory authority, control, and jurisdiction, and all power incidental or necessary to such regulatory authority, control, and jurisdiction over all aspects of gaming activities and operations as authorized pursuant to the provisions of the Alabama Gaming Control Act.
  - (b) Establish, and from time to time amend, a plan of organization to conduct the business of regulating and controlling the gaming operations and activities under its jurisdiction efficiently, efficaciously, and thoroughly.
  - (c) Adopt such policies and rules as are necessary to the efficient, efficacious, and thorough conduct of the business of regulating and controlling the gaming operations and activities under its jurisdiction and as are required by this Chapter.
  - (d) The Commission by rule may adopt a schedule of penalties for violations of this Chapter, or any rule or regulation of the Commission. Any such rules shall be adopted pursuant to the Administrative Procedure Act and as otherwise provided in this chapter.
  - (e) Before the beginning of each legislative session, the Commission shall submit to the Legislature a report on the gross revenue and net revenue, of all gaming operator licensees, categorized by geographical area.

**Alabama Code Ann. § XX-XX-15. Appointment of director**

- (1) The position of Executive Director of the Alabama Gaming Commission is hereby created.
- (2) The Commission shall appoint the executive director, with the advice and consent of the Senate, and the executive director shall serve at the will and pleasure of the Commission.
- (3) No member of the Legislature, no person holding any elective office, or any officer or official of any political party is eligible for the appointment of executive director.
- (4) The executive director must have at least five (5) years of responsible administrative experience in public or business administration or possess broad management skills.
- (5) The executive director shall devote his entire time and attention to his duties under this chapter and the business of the Commission and shall not pursue any other business or occupation or hold any other office of profit.
- (6) The executive director shall not have any pecuniary interest in any business or organization holding a license, permit, finding of suitability, or other approval under this chapter or doing business with any person or organization holding a license, permit, finding of suitability, or other approval under this chapter and shall be governed by the provisions of [Section 36-25-1 *et seq.* Code Of Ethics For Public Officials, Employees, etc.]. In addition, the executive director shall not receive anything of value from, or on behalf of, any person holding or applying for a gaming license, permit, finding of suitability, or other approval under this chapter.
- (7) The executive director is entitled to an annual salary in the amount specified by the Commission, subject to the approval of the State Personnel Board, within the limits of legislative appropriations or authorizations.

**Alabama Code Ann. § XX-XX-17. Enforcement Division and Investigation Division**

- (1) There are hereby created, for supervision by the executive director, two (2) divisions which are entitled the Enforcement Division and the Investigation Division. The executive director shall be authorized to create such other divisions as he deems necessary to implement the provisions of this chapter.
- (2) The executive director shall employ division directors that possess training and experience in the fields of investigation, law enforcement, law, business, or gaming.

**Alabama Code Ann. § XX-XX-19. Maintenance of files and records**

- (1) The executive director shall maintain a file of all applications for licenses under this chapter, together with a record of all action taken with respect to those applications. The file and record are open to public inspection, subject to subsection (3) of this section.
- (2) The Commission and the executive director may maintain such other files and records as they deem desirable.
- (3) The following information and data shall be confidential and may be revealed in whole or in part only in the course of the necessary administration of this chapter or upon the lawful order of a court of competent jurisdiction, except that the executive director or the Commission may reveal such information and data to an authorized agent of any agency of the United States government, any state, or any political subdivision of this state pursuant to regulations adopted by the Commission. Notice of the content of any information or data furnished or released pursuant to this subsection (3) may be given to any applicant or licensee in a manner prescribed by regulations adopted by the Commission:
  - (a) Information required by the Commission or the executive director to be furnished to them under this chapter or which may be otherwise obtained relative to the finances, earnings, or revenue of any applicant or licensee;
  - (b) Pertaining to an applicant's criminal record, antecedents, and background which have been furnished to or obtained by the Commission or the executive director from any source;
  - (c) Provided to the members of the Commission or the executive director or his employees by a governmental agency or an informer or on the assurance that the information will be held in confidence and treated as confidential, and
  - (d) Obtained by the executive director or the Commission from a manufacturer, distributor or operator relating to the manufacturing of gaming devices or associated equipment.

**Alabama Code Ann. § XX-XX-21. Powers of executive director**

- (1) The executive director in pursuit of the attainment of the objectives and the purposes of this chapter may:
  - (a) Sue and be sued on behalf of the Commission;
  - (b) Acquire real property in accordance with statutory procedure and make improvements thereon on behalf of the Commission;
  - (c) Make, execute, and effectuate any and all agreements or contracts, including contracts for the purchase of goods and services, as are necessary;
  - (d) Employ the services of such persons as he considers necessary for the purposes of consultation or investigation and fix the salaries of or contract for the services of such legal, professional, technical, and operational personnel and consultants, subject to applicable provisions of the State Personnel Board. For the purpose of implementing the provisions of this chapter, additional legal assistance may be retained only with the approval of the Attorney General;
  - (e) Acquire such furnishings, equipment, supplies, stationery, books, and all other things as he may deem necessary or desirable in carrying out his functions; and
  - (f) Perform such other duties which he may deem necessary to effectuate the purposes of this chapter.
- (2) Except as otherwise provided in this chapter, all costs of administration incurred by the executive director and his employees shall be paid out on claims from the State Treasury in the same manner as other claims against the state are paid.

**Alabama Code Ann. § XX-XX-23. Duties of executive director**

The executive director shall direct and supervise all administrative and technical activities of the Commission in accordance with the provisions of this chapter and with the administrative procedures of and regulations adopted by the Commission. It shall be the duty of the executive director to:

- (a) Establish, and from time to time alter, such plan of organization as he may deem expedient;
- (b) By agreement secure information and services as he deems necessary from any department, agency, or unit of state government. Such agencies, departments or units of state government shall cooperate with the executive director and provide such information and services as may be required by the executive director to carry out his responsibilities;
- (c) Make available for inspection by any member of the Commission, upon request, all books, records, files, and other information and documents of his office, and advise the Commission and recommend such administrative regulations and other matters he deems necessary and advisable to improve the administration of this chapter, and
- (d) Attend meetings of the Commission or appoint a designee to attend on his behalf.

**Alabama Code Ann. § XX-XX-25. Representation of Commission by Attorney General**

The Attorney General and his assistants shall represent the Commission and the executive director in any proceeding to which the Commission or the executive director is a party under this chapter and shall also advise the Commission and the executive director in all other matters, including representing the Commission when the Commission sits in a quasi-judicial capacity.

**Alabama Code Ann. § XX-XX-27. Administration of provisions for protection of public**

- (1) The provisions of this chapter with respect to state gaming licenses and manufacturer and distributor licenses shall be administered by the executive director for the protection of the public and in the public interest in accordance with the policy of this state.
- (2) The executive director and his employees may:
  - (a) Inspect and examine all premises wherein gaming is conducted or gambling devices or associated equipment are manufactured, sold, or distributed;
  - (b) Inspect all equipment and supplies in, upon, or about such premises;
  - (c) Summarily seize and remove from such premises and impound any equipment or supplies for the purpose of examination and inspection;
  - (d) Demand access to and inspect, examine, photocopy, and audit all papers, books and records of applicants and licensees, on their premises or elsewhere as practicable, in the presence of the licensee or his agent, respecting the gross income produced by any gaming business (and may require verification of income) and respecting all other matters affecting the enforcement of the policy or any of the provisions of this chapter.
- (3) For the purpose of conducting audits after the cessation of gaming by a licensee, the former licensee shall furnish, upon demand of the executive director or his employee, books, papers, and records as necessary to conduct the audits. The former licensee shall maintain all books, papers, and records necessary for audits for a period of three (3) years after the date of the surrender or revocation of his gaming license. If the former licensee seeks judicial review of a deficiency determination or files a petition for a redetermination, he must maintain all books, papers and records until a final order is entered on the determination.
- (4) The executive director may investigate, for the purpose of prosecution, any suspected criminal violation of the provisions of this chapter. For the purpose of the administration and enforcement of this chapter, the executive director and enforcement employees have the powers of a peace officer of this state.
- (5) The Commission or executive director has full power and authority to issue subpoenas and compel the attendance of witnesses at any place within this state, to administer oaths, and to require testimony under oath. Any process or notice may be served in the manner provided for service of process and notices in civil actions. The Commission or the executive director may pay such transportation and other expenses of witnesses as they deem reasonable and proper. Any person making false oath in any matter before the Commission is guilty of perjury. The Commission may appoint hearing officers who may administer oaths and receive evidence and testimony under oath.

**Alabama Code Ann. § XX-XX-29. Investigations by executive director**

- (1) The executive director and the Investigations Division shall investigate the qualifications of each applicant under this chapter before any license is issued or before any permit, finding of suitability, or other Commission approval is granted, and the executive director shall continue to observe the conduct of all licensees and other persons having a material involvement directly or indirectly with a licensed gaming establishment to ensure that licenses are not issued or held by, nor is there any material involvement directly or indirectly with a licensed gaming operation by, unqualified, disqualified, or unsuitable persons or persons whose operations are conducted in an unsuitable manner or in unsuitable or prohibited places or locations.
- (2) The executive director has the authority to recommend to the Commission the approval or denial of any application, the limitation, conditioning, or restriction of any license, permit, finding of suitability, or approval or the imposition of a fine upon any person licensed, permitted, found suitable, or otherwise approved by the Commission for any cause deemed reasonable by the executive director.

### **Alabama Code Ann. § § XX-XX-33. Rules and regulations**

- (1) The Commission shall, from time to time, adopt, amend or repeal such regulations, consistent with the policy, objects and purposes of this chapter, as it may deem necessary or desirable in the public interest in carrying out the policy and provisions of this chapter. The Commission shall comply with the Alabama Administrative Procedures Law when adopting, amending or repealing any regulations authorized under this section or under any other provision of this chapter.
- (2) These regulations shall, without limiting the general powers herein conferred, include the following:
  - (a) Prescribing the method and form of application which any applicant for a license, permit, finding of suitability, or other Commission approval must follow and complete before consideration of his application by the executive director or the Commission.
  - (b) Prescribing the information to be furnished by any applicant, licensee or holder of a permit or finding of suitability concerning his antecedents, habits, character, associates, criminal record, business activities, and financial affairs, past or present.
  - (c) Prescribing the information to be furnished by a licensee relating to his employees.
  - (d) Requiring fingerprinting of an applicant, a licensee, a holder of a permit or finding of suitability, and a gaming employee or other methods of identification.
  - (e) Prescribing the manner and procedure of all hearings conducted by the Commission or any hearing officer of the Commission, including special rules of evidence applicable thereto and notices thereof.
  - (f) Requiring any applicant to pay all or any part of the fees and costs of investigation of such applicant as may be determined by the Commission under paragraph (g) of this subsection (2).
  - (g) Prescribing the amounts of investigative fees only as authorized by regulations of the Commission under paragraph (f) of this subsection and collecting those fees.
  - (h) Prescribing the manner and method of collection and payment of fees and issuance of licenses and permits.
  - (i) Prescribing under what conditions a licensee or permittee may be deemed subject to revocation or suspension of his license or permit.
  - (j) Requiring any applicant, licensee, or holder of a permit or finding of suitability to waive any privilege with respect to any testimony at any hearing or meeting of the Commission, except any privilege afforded by the Constitution of the United States or this state.
  - (k) Defining and limiting the area, games, and devices allowed, and the method of operation of such games and devices, for the purposes of this chapter.

- (l) Prescribing under what conditions the nonpayment of a gambling debt by a licensee shall be deemed grounds for revocation or suspension of his license.
  - (m) Governing the use and approval of gambling devices and associated equipment.
  - (n) Prescribing the qualifications of, and the conditions under which, attorneys, accountants and others are permitted to practice before the Commission.
  - (o) Restricting access to confidential information obtained under this chapter and ensuring that the confidentiality of such information is maintained and protected.
  - (p) Prescribing the manner and procedure by which the executive director, on behalf of the Commission, shall notify a county or a municipality wherein an applicant for a license desires to locate.
  - (q) Prescribing the manner and procedure for an objection to be filed with the Commission and the executive director by a county or municipality wherein an applicant for a license desires to locate.
- (3) Notwithstanding any other provision of law, each licensee shall be required to comply with the regulation that no wager may be placed by, or on behalf of, any individual or entity or group, not physically present at the gaming establishment.

**Alabama Code Ann. § XX-XX-55. Acts requiring license; exceptions**

- (1) Except as otherwise provided in Section XX-XX-XX, it is unlawful for any person:
  - (a) To operate a gaming establishment in the State of Alabama without having first procured, and thereafter maintained in effect, a gaming operator license;
  - (b) To operate a sports pool in the State of Alabama without having first procured, and thereafter maintained in effect, a sports pool operator license; provided however, that any person holding a valid gaming operator license pursuant to paragraph (a) of this subsection may be authorized by the executive director to also operate a sports pool, or
  - (c) To operate a wide area progressive system in the State of Alabama without having (i) first procured, and thereafter maintained in effect, (i) a valid (x) gaming operator license pursuant to subsection (1)(a) of this section, (y) manufacturer license pursuant to subsection (2)(a) of this section, or (z) distributor license pursuant to subsection (2)(b) of this section and (ii) first received authorization from the executive director to also operate a wide area progressive system.
- (2) Except as otherwise provided in this subsection (2), it is unlawful for any person:
  - (a) To manufacture any gaming device or associated equipment for use or play in the State of Alabama without having first procured, and maintained in effect, a manufacturer license, or
  - (b) To distribute any gaming device or associated equipment for use or play in Alabama without having first procured, and maintained in effect, a distributor license.

Further, with the prior approval of the executive director, the holder of a gaming operator license or its affiliate may modify and/or dispose of any or all of its gaming devices or associated equipment without first obtaining a manufacturer license or distributor license. The executive director may also authorize the modification and/or disposition of gaming devices or associated equipment by a person other than a gaming operator licensee without requiring a manufacturer license or distributor license, if a gaming operator licensee is the subject of a bankruptcy case or other insolvency proceeding or subject to foreclosure of a lien applicable to such gaming devices.

**Alabama Code Ann. § XX-XX-61. Findings of suitability**

- (1) Each of the following must be found suitable by the Commission to be associated with a licensee:
  - (a) Any person that has or controls (directly or indirectly) a five percent (5%) or greater ownership, income, or profit or economic interest in a licensee;
  - (b) Any person that receives payment for goods and/or services provided to a licensee based on the licensee's earnings, profits or receipts from gaming;
  - (c) Any person identified as an officer of a licensee, or a person specified in paragraph (a) or (b) of this subsection, or that, in the executive director's opinion, holds an equivalent position;
  - (d) Any person identified as a director of a licensee, or a person specified in paragraph (a) or (b) of this subsection, or that, in the executive director's opinion, holds an equivalent position;
  - (e) Any person that has or controls (directly or indirectly) any ownership interest in real property used by a licensed gaming establishment, and
  - (f) Any person that, in the Commission's opinion, has the power to exercise a significant influence over the operations of a licensee.
  
- (2) The executive director may require that any of the following persons be found suitable by the Commission to be associated with a licensee:
  - (a) Any person that does business on the premises of a licensed gaming establishment, and
  - (b) Any other person that, in the executive director's opinion, should be found suitable to ensure the effective control and regulation of the activities governed by this chapter.

**Alabama Code Ann. § XX-XX-67. License and finding of suitability applications; qualifications for license and finding of suitability**

- (1) An application for a license or finding of suitability shall constitute the applicant's request to the executive director for a recommendation and to the Commission for a decision upon the applicant's general suitability, character, integrity, and ability to participate or engage in, or be associated with, the gaming industry in the manner or position sought by the application. By filing an application with the executive director, the applicant specifically consents to the making of such a recommendation by the executive director and such a decision by the Commission.
- (2) Any person that the Commission determines is qualified to receive a license or be found suitable under the provisions of this chapter, having due consideration for the proper protection of the health, safety, morals, good order, and general welfare of the inhabitants of the State of Alabama and the declared policy of this state, may be issued a license or found suitable. The burden of proving an applicant's qualification to receive any license or be found suitable is on the applicant.
- (3) The Commission shall not grant any application to receive a license or be found suitable, unless it is satisfied that the applicant is:
  - (a) A person of good moral character, honesty, and integrity;
  - (b) A person whose prior activities, arrest, or criminal record (if any), reputation, habits and associations do not pose a threat to this state's public interest or to the effective regulation and control of gaming and do not create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and operations in the activities regulated by this chapter and the financial arrangements incidental thereto,
  - (c) Likely to conduct business as authorized by this chapter in compliance with the provisions of this chapter;
  - (d) Not prohibited from receiving a license or finding of suitability, as applicable, based on subsection (4) of this section, and
  - (e) In all other respects qualified to be licensed or found suitable consistent with the laws of this state.
- (4) No person convicted of any of the following in any jurisdiction [within \_\_ (\_\_) years of the date of that person's application] may receive a license or be found suitable:
  - (a) Any offense punishable by imprisonment for more than one (1) year;
  - (b) Any offense related to organized crime,
  - (c) Any offense related to gambling,
  - (d) Any offense related to the sale of alcoholic beverages to minors,

- (e) Any offense related to prostitution or human trafficking,
- (f) Any offense related to theft, or
- (g) Any offense related to fraud, deceit, or misrepresentation.

For purposes of this subsection (4), an applicant shall be deemed to have been convicted of an offense even if (i) that the applicant later received a pardon or its equivalent, or (ii) the conviction has been expunged, or the equivalent, from the applicant's criminal record.

- (5) The Commission shall not grant a gaming operator license, unless the applicant has satisfied the Commission that:
  - (a) The applicant has adequate business probity, competence, and experience in gaming or generally; and
  - (b) The proposed financing for the gaming establishment is:
    - (i) Adequate for the nature of the proposed operation, and
    - (ii) From a source that the Commission deems suitable, based on the standards set forth in subsection (2) of this section.
- (6) All statements, whether written and oral, made in the course of an official proceeding before the Commission or the executive director are absolutely privileged, if they are relevant to the proceeding. Such statements cannot form the basis for recovery in any civil action.
- (7) The Commission may establish additional qualifications for the granting of licenses and findings of suitability as it deems to be in the public interest and consistent with the declared policy of the state.

**Alabama Code Ann. § XX-XX-73. Form and contents of license and suitability applications**

- (1) Application for a license or finding of suitability shall be made to the executive director on forms furnished by the executive director and in accordance with the Commission's regulations.
- (2) The application for a license or finding of suitability shall include:
  - (a) The name of the applicant;
  - (b) The location of the applicant's place or places of business;
  - (c) The names of all persons directly or indirectly interested in the applicant's business and the nature of each such interest, and
  - (d) Such other information and details as the Commission or the executive director may require.
- (3) The executive director may furnish to the applicant supplemental forms which the applicant shall complete and file with the application. Such supplemental forms may require, but shall not be limited to, complete information and details regarding the applicant's antecedents, habits, character, criminal record, business activities, financial affairs, and business associates and shall cover at least a ten (10)-year period immediately preceding the date of filing of the application.
- (4)<sup>10</sup> On or before the date that an applicant submits a license application to the executive director, the applicant must remit the following application fee to the Commission:
  - (a) \_\_\_ Dollars (\$\_\_\_), if the applicant seeks a gaming operator license;
  - (b) \_\_\_ Dollars (\$\_\_\_), if the applicant seeks a sports book license;
  - (c) \_\_\_ Dollars (\$\_\_\_), if the applicant seeks a wide area progressive system operator license;
  - (d) \_\_\_ Dollars (\$\_\_\_), if the applicant seeks a manufacturer license; or
  - (e) \_\_\_ Dollars (\$\_\_\_), if the applicants seeks a distributor license.

If the applicant seeks more than one (1) license, it must pay the separate fee listed for each license sought. Payment of this fee does not constitute payment of the annual license fee due pursuant to Section XX-XX-XX.

<sup>10</sup> Depending on the number of licenses to be issued, consider whether the application fee should be a significant amount, such as in Virginia, where only 5 licenses are to be issued, the application fee is \$15 million; in Mississippi, with unlimited licenses, the application fee is \$5,000.

**Alabama Code Ann. § XX-XX-139. Full disclosure of all information by applicants**

An applicant for a license, permit, finding of suitability, or other Commission approval or consent required by this chapter shall make full and true disclosure of all information to the Commission, the executive director, and any other relevant governmental authority as necessary or appropriate in the public interest or as required in order to carry out the policies of this state relating to licensing and control of the gaming industry.

**Alabama Code Ann. § XX-XX-87. Disclosure of information in applications and returns**

- (1) Applications, returns, and information contained therein filed or furnished under this chapter shall be confidential, and, except in accordance with proper judicial order or as otherwise authorized by this chapter, it shall be unlawful for the Department of Revenue or members of the Alabama Gaming Commission or any present or former employee thereof to divulge or make known in any manner the amount of income or any particulars set forth or disclosed on any application, report, or return required.

The term “proper judicial order” as used in this chapter shall not include subpoenas or subpoenas duces tecum but shall include only those orders entered by a court of record in this state after furnishing notice and a hearing to the taxpayer and the Department of Revenue. The court shall not authorize the furnishing of such information, unless it is satisfied that the information is needed to pursue pending litigation wherein the return itself is in issue, or the judge is satisfied that the need for furnishing the information outweighs the rights of the taxpayer to have such information secreted.

- (2) Such information contained on the application, returns, or reports from the licensee or the Alabama Gaming Commission may be furnished to: (a) members and employees of the Department of Revenue and the income tax department thereof, for the purpose of auditing, comparing, and correcting returns; (b) the Attorney General, or any other attorney representing the state in any action in respect to the amount of tax under the provisions of this chapter; (c) the Alabama Gaming Commission, or (d) the revenue department of another state or the federal government when said state or federal government grants a like comity to Alabama.
- (3) The State Auditor and the employees of his office shall have the right to examine only such tax returns as are necessary for auditing the Department of Revenue or the Alabama Gaming Commission, and the same prohibitions against disclosure which apply to the Department of Revenue shall apply to the State Auditor and his office.
- (4) Nothing in this section shall prohibit the Chairman of the Department of Revenue from making available information necessary to recover taxes, fees, fines, or damages owing the state.

**Alabama Code Ann. § XX-XX-153. Application for release of confidential information**

An application to a court for an order requiring the Commission or the executive director to release any information declared by law to be confidential shall be made only upon motion in writing on ten (10) days' written notice to the Commission or the executive director, the Attorney General, and all persons who may be affected by the entry of such order. Copies of the motion and all papers filed in support of it shall be served with the notice by delivering a copy in person or by certified mail to the last known address of the person to be served.

**Alabama Code Ann. § XX-XX-75. Investigation of applications**

Within a reasonable time after an applicant files a completed application, including any supplemental information that the Commission or the executive director may require, the executive director shall begin an investigation of the applicant. The executive director shall conduct said investigation in accordance with the Commission's regulations.

**Alabama Code Ann. § XX-XX-77. Presentation of recommendations to Commission; vote by Commission**

- (1) After the executive director has completed his investigation of an applicant, he shall promptly present a recommendation regarding the application to the Commission at a Commission meeting. The executive director may either recommend that the Commission (a) grant or (b) deny the application.
- (2) After considering the executive director's recommendation, the Commission may:
  - (a) Grant the application; provided however, that a unanimous vote of the Commission members present is required for the Commission to grant an application where the executive director has recommended that the application be denied; and provided further that the Commission may limit or place such conditions as it deems necessary in the public interest upon any license, finding of suitability, or other approval for which application has been made;
  - (b) Deny the application, provided that the Commission shall prepare and file a written decision upon which its order denying the application is based; or
  - (c) Remand the matter to the executive director for such additional investigation and reconsideration as the Commission orders. If the Commission desires that further investigation be made or desires to conduct any hearings, it shall notify the applicant within thirty (30) days after the executive director's presentation of his recommendation and set a date for hearing.
- (3) The Commission shall grant an application for a license or finding of suitability where it determines that the applicant is suitable to hold the requested license or finding of suitability and to be associated with gaming.
- (4) If the Commission grants an application for a license, it shall issue the license pursuant to Section XX-XX-85. The license shall continue in effect upon payment of all license fees, taxes and other amounts required by law and the Commission's regulations, subject to the Commission's power to revoke, suspend, condition, or limit licenses.
- (5) [(4) If the Commission grants an application for a finding of suitability, that finding of suitability shall continue in effect] [as stated in the Commission's regulations.] [for a period of \_\_ ( ) years, subject to the Commission's power to revoke, suspend, condition or limit said finding of suitability.]
- (6) [(5) If the Commission grants an application for an approval other than a license or finding of suitability, that approval shall continue in effect] [as stated in the Commission's regulations.] [indefinitely, subject to the Commission's power to revoke, suspend, condition or limit said approval.]
- (7) The Commission has full and absolute power and authority to deny any application for any cause it deems reasonable.

**Alabama Code Ann. § XX-XX-XX. Failure to file application; denial of application for license or finding of unsuitability.**

- (1) If a person required to be licensed, permitted, or found suitable by the Commission pursuant to this chapter does not submit an application to the executive director within thirty (30) days after demand by the executive director, that person shall not, thereafter, without the executive director's approval:
  - (a) Remain in any existing position, arrangement, or relationship that requires the person to be licensed or found suitable by the Commission,
  - (b) Enter into any new position, arrangement, or relationship that requires the person to be licensed or found suitable by the Commission, or
  - (c) File any application with the Commission for a period of at least two (2) years from the date of the executive director's demand.
  
- (2) If a person required to be licensed, permitted, or found suitable by the Commission pursuant to this chapter:
  - (a) Is denied a license, permit, or finding of suitability, or
  - (b) Has a license, permit, or finding of suitability revoked by the Commission,

that person shall not thereafter, without the executive director's approval, (i) remain in any existing position, arrangement, or relationship that requires the person to be licensed, permitted, or found suitable by the Commission or (ii) enter into any new position, arrangement, or relationship that requires the person to be licensed, permitted, or found suitable by the Commission.

The person must, within the period specified by the Commission, divest of any ownership or economic interest in a licensee or its affiliate for the lower of (x) the price paid by the person for the interest, or (y) the fair market value of the interest on the date that the Commission found the person unsuitable, and any agreement between the person and a licensee or its affiliate must be terminated. A licensee or its affiliate may not pay the person for any goods provided or services performed in any capacity that requires the person to be found suitable, except for amounts due for services rendered or goods provided by the person before the date the licensee or its affiliate received notice that the Commission found the person unsuitable. The Commission may make such regulations as it deems necessary in the public interest of the state to further address the consequences of, and required actions triggered by, the denial of a license, permit, finding of suitability or other Commission approval.

Any agreement to which a licensee or its affiliate is a party shall be deemed to include a provision for its termination, without liability on the licensee's or its affiliate's part, as to any other party that the Commission finds to be unsuitable. Failure to expressly include this

provision in an agreement is not a defense in any action brought pursuant to this section to terminate the agreement.

- (3) In addition to, and not in lieu of, the general provisions of subsection (2) of this section, if the Commission denies an application for a manufacturer or distributor license made pursuant to Section XX-XX-55(2):
- (a) The executive director may not, pursuant to Section XX-XX-XX, approve for use or play in Alabama any new gaming device or associated equipment manufactured or distributed by the applicant;
  - (b) The executive director may revoke his prior approval of any gaming device or associated equipment manufactured or distributed by the applicant, if the Commission's reasons for denying the license application also apply to that gaming device or associated equipment, and
  - (c) The applicant may not distribute for use or play in Alabama any new gaming device or associated equipment that is has manufactured.
- (4) Failing to terminate any association or agreement with a person after receiving notice that the Commission has found that person unsuitable constitutes an unsuitable method of operation that may subject the licensee or its affiliate to disciplinary action by the Commission.

**Alabama Code Ann. § XX-XX-85. Issuance of licenses**

- (1) If the Commission is satisfied that an applicant is eligible to receive a license, the Commission shall issue and deliver to the applicant a license entitling it to engage in the operation for which it is licensed upon the applicant's tender to the Department of Revenue of:
  - (a) The annual license fee due pursuant to Section XX-XX-XX;
  - (b) All other fees, taxes and amounts required by law and the Commission's regulations, and
  - (c) A bond executed by the applicant as principal, and by a corporation qualified under the laws of this state as surety, payable to the State of Alabama, and conditioned upon the payment of license fees, taxes, penalties, interest, fines, and the faithful performance of all requirements imposed by law, regulation, or the conditions of the license.

The executive director shall prepare and maintain a written record of the specific terms and conditions of, and any modification to, each license issued and shall deliver a duplicate of this record to the licensee.

- (2) The Commissioner of Revenue shall fix the amount of the bond to be required under subsection (1) of this section. The Department of Revenue may apply the bond to the payment of any unpaid liability of the licensee due to the State of Alabama.
- (3) In lieu of the bond required under subsection (1) of this section, an applicant may deposit with the Department of Revenue a like amount of lawful money of the United States or any other form of security authorized by the Department of Revenue.
- (4) If a licensee satisfies the requirement for a bond in:
  - (a) Cash, the Department of Revenue shall deposit the money in the State Treasury for credit to the fund for bonds of licensees, which is hereby created as a special fund.
  - (b) Any other authorized manner, the security must be placed, without restriction, at the disposal of the Department of Revenue, but any income from the security must inure to the licensee's benefit.

**Alabama Code Ann. § XX-XX-207. Disposition of securities, economic interests of a licensee**

The purported sale, assignment, transfer, pledge ,or other disposition of any security issued by a business entity which holds a state gaming license the granting of an option to purchase such a security, or the sale, assignment, or transfer of any economic interest in a business entity which holds a state gaming license is void, unless approved in advance by the Commission.

**Alabama Code Ann. § XX-XX-XX. Annual license fees; license terms**

(1) Before the Commission may issue a license to an applicant, the Department of Revenue must collect the following annual license fee(s) from the license applicant:

- (a) \_\_\_ Dollars (\$\_\_\_00), if the applicant seeks a gaming operator license;
- (b) \_\_\_ Dollars (\$\_\_\_00), if the applicant seeks a sports book license;
- (c) \_\_\_ Dollars (\$\_\_\_00), if the applicant seeks a wide area progressive system operator license;
- (d) \_\_\_ Dollars (\$\_\_\_00), if the applicant seeks a manufacturer license, or
- (e) \_\_\_ Dollars (\$\_\_\_00), if the applicants seeks a distributor license.

If the applicant seeks more than one license, it must pay the separate fee listed for each license sought. Payment of this fee does not constitute payment of the application fee due pursuant to Section XX-XX-73.

(2) Subject to the Commissions' power to deny, revoke, suspend, condition or limit licenses and the licensee's payment of all taxes, fees, fines, and other amounts required by law and the Commission's regulations, a license shall be effective for a period of \_\_ (\_\_) years from the date of its issuance.

(3) During the effective period of a license, on or before each anniversary of the date that a license was issued, the licensee must pay to the Department of Revenue the following annual license fee(s):

- (a) \_\_\_ Dollars (\$\_\_\_00) for a gaming operator license;
- (b) \_\_\_ Dollars (\$\_\_\_00) for a sports book license;
- (c) \_\_\_ Dollars (\$\_\_\_00) for a wide area progressive system operator license;
- (d) \_\_\_ Dollars (\$\_\_\_00) for a manufacturer license; or
- (e) \_\_\_ Dollars (\$\_\_\_00) for a distributor license.

(4) Any person failing to pay any license fee or fees due at the times respectively provided shall pay in addition to such license fee or fees, a penalty of not less than \_\_\_ Dollars (\$\_\_00) or \_\_\_ percent (\_\_\_%) of the amount due, whichever is the greater, but not more than \_\_\_ Dollars (\$\_\_00), if the fees are less than \_\_ (\_\_) days late and in no case in excess of \_\_\_ Dollars (\$\_\_00). This penalty must be collected as are other charges, license fees, and penalties under this chapter.

(5) Any person that continues to operate a gaming establishment, sports pool, or wide area progressive system or to manufacture or distribute gaming devices or associated equipment

after failing to pay its license fee(s) as provided in this section is guilty of a misdemeanor and, in addition to the penalties provided by law, is liable to the State of Alabama for all license fees, taxes, and penalties that would have been due for continuation of the license(s).

- (6) If any licensee fails to pay a license fee as provided in this section, the Commission may order such licensee to immediately cease any operations, manufacture, or distribution in the state of Alabama until said licensee or person has paid all necessary fees, interest and penalties.

**Alabama Code Ann. § XX-XX-177. Gaming Gross Revenue fee**

- (1) There is hereby imposed and levied on each gaming licensee a fee of [●] percent (●%) of all the gross revenue of the licensee
- (2) All revenue received from any game or gaming device which is leased for operation on the premises of the licensee-owner to a person other than the owner thereof or which is located in an area or space on such premises which is leased by the licensee-owner to any such person must be attributed to the owner for the purposes of this section and be counted as part of the gross revenue of the owner. The lessee is liable to the owner for his proportionate share of such license fees.
- (3) If the amount of license fees required to be reported and paid pursuant to this section is later determined to be greater or less than the amount actually reported and paid by the licensee, the Commissioner of Revenue shall:
  - (a) Assess and collect the additional license fees determined to be due, with interest thereon until paid, or
  - (b) Refund any overpayment, with interest thereon, to the licensee.

Interest must be computed, until paid, at the rate of [●] percent (●%) per month from the first day of the first month following either the due date of the additional license fees or the date of overpayment.

- (4) Failure to pay the fees provided for in this section when they are due for continuation of a license shall be deemed a surrender of the license.

**Alabama Code Ann. § XX-XX-193. Calculation of gross revenues**

- (1) In calculating gross revenue, any prizes, premiums, drawings, benefits or tickets which are redeemable for money or merchandise or other promotional allowance, except money or tokens paid at face value directly to a patron as the result of a specific wager and the amount the cash paid to purchase an annuity to fund winnings paid to that patron over several years by an independent financial institution, must not be deducted as losses from winnings at any game except a slot machine.
- (2) In calculating gross revenue from slot machines, the actual cost to the licensee of any personal property distributed to a patron as the result of a legitimate wager may be deducted as a loss, but not travel expenses, food, refreshments, lodging or services.

**Alabama Code Ann. § XX-XX-195.<sup>11</sup> License fee imposed by municipalities and counties**

- (1) In addition to any state license fees or taxes, (a) a municipality may impose a fee upon a licensee located within the municipality for conducting, carrying on or operating any gambling game, slot machine, or other game of chance based upon all the gross revenue of the licensee derived from his establishment within the municipality, and (b) a county may impose a fee upon a licensee located within the unincorporated area of the county for conducting, carrying on or operating any gambling game, slot machine, or other game of chance based upon all the gross revenue of the licensee derived from his establishment within the unincorporated area of the county, of [Eight-tenths percent (.8%)] of all the gross revenue of the licensee per calendar month.
- (2) Whenever a municipality or county imposes a fee under this section, it shall not become effective until the first day of the month following the month in which the municipality or county adopts the ordinance imposing the fee.
- (3) All revenue received from any game or gaming device which is leased for operation on the premises of licensee-owner to a person other than the owner thereof or which is located in an area or space on such premises which is leased by the licensee-owner to any such person must be attributed to the owner for the purposes of this section and be counted as part of the gross revenue of the owner. The lessee is liable to the owner for his proportionate share of such fees.
- (4) If the amount of fees required to be reported and paid pursuant to this section is later determined to be greater or less than the amount actually reported and paid by the licensee, the Department of Revenue on behalf of the local government shall:
  - (a) Assess and collect the additional fees determined to be due, with interest thereon until paid; or
  - (b) Refund any overpayment, with interest thereon, to the licensee.

Interest must be computed, until paid, at the rate of [●] percent (●%) per month from the first day of the month following either the due date of the additional fees or the date of overpayment.

- (5) Failure to pay the fees provided for in this section when they are due for continuation of a license shall be deemed a surrender of the license.

<sup>11</sup> This section may require revision, depending upon the locations which you determine are eligible for gaming establishments. For example, references to a county levying a fee/tax should be removed if you decide that gaming establishments may only be located in cities/incorporated areas.

**Alabama Code Ann. § XX-XX-197.<sup>12</sup> Distribution of fees**

On or before the fifteenth day of each month, the gross revenue fees collected under the provisions of Section XX-XX-195 during the preceding month shall be paid and distributed as follows:

- (a) Fees designated as “local government fees” remitted by licensees who are located within an incorporated municipality shall be distributed:
  - (i) To such municipal corporation in the proportion that the population of the municipal corporation bears to the entire population of the county in which the municipal corporation is located, according to the most recent federal census; and
  - (ii) To the county in which the municipal corporation is located in the proportion that the population of the county outside of that municipal corporation bears to the entire population of the county, according to the most recent federal census.
- (b) Fees designated as “local government fees” remitted by licensees who are not located within an incorporated municipality shall be distributed to the county in which the licensee is located.

<sup>12</sup> This section may require revision, depending upon the locations which you determine are eligible for gaming establishments. For example, references to a county levying a fee/tax should be removed if you decide that gaming establishments may only be located in cities/incorporated areas.

**Alabama Code Ann. § XX-XX-179. Income tax credit**

License fees paid under Section XX-XX-177 in any taxable year shall be allowed as credit against the income tax liability of the licensee for that taxable year.

**Alabama Code Ann. § XX-XX-91. Posting and inspection of licenses**

- (1) Gaming operator licenses and sports book operator licenses must be posted at all times in a conspicuous place in the licensed gaming establishment for which the license is issued.
- (2) All other licensees must make their licenses available for inspection by authorized state, county, and municipal officials upon request.

**Alabama Code Ann. § XX-XX-95. Maintenance of current report on file with executive director**

- (1) Every licensee shall at all times maintain on file with the executive director a current report setting forth such information as may be required by the Commission's regulations. This report must be verified by the affidavit of an authorized legal representative of the licensee.
- (2) With respect to each licensee, the Commission shall carefully review, not less frequently than once every \_\_ (\_\_) year[s], the information contained in the current report required under subsection (1) of this section to determine if there has been any substantial change in the information provided in the licensee's most recent license application.

**Alabama Code Ann. § XX-XX-131. Records of gaming employees; work permits**

- (1) The executive director shall:
  - (a) Ascertain and keep himself informed of the identity, prior activities, and present location of all gaming employees in the State of Alabama; and
  - (b) Maintain confidential records of such information.
- (2) No person may be employed as a gaming employee, unless he is the holder of a work permit issued by the Commission.
- (3) A work permit issued to a gaming employee must have clearly imprinted thereon a statement that it is valid for gaming purposes only.
- (4) Application for a work permit is to be made to the executive director and may be granted or denied for any cause deemed reasonable by the executive director. Whenever the executive director denies such an application, he shall include in the notice of the denial a statement of the facts upon which he relied in denying the application.
- (5) The executive director may refuse to issue a work permit if the applicant has:
  - (a) Failed to disclose, misstated or otherwise attempted to mislead the Commission with respect to any material fact contained in the application for the issuance or renewal of a work permit;
  - (b) Knowingly failed to comply with the provisions of this chapter or the regulations of the Commission at a place of previous employment;
  - (c) Been convicted of any offense punishable by imprisonment for more than one (1) year;
  - (d) Committed, attempted, or conspired to commit any crime of moral turpitude, embezzlement, or larceny, any violation of any law pertaining to gaming, or any crime that is inimical to the declared policy of this state concerning gaming;
  - (e) Been identified in the published reports of any federal or state legislative or executive body as being a member or associate of organized crime or of notorious and unsavory reputation;
  - (f) Been placed and remains in the constructive custody of any federal, state, or municipal law enforcement authority;
  - (g) Had a work permit revoked or committed any act which is a ground for the revocation of a work permit or would have been a ground for revoking his work permit if he had then held a work permit, or
  - (h) For any other reasonable cause.

- (6) Any person whose application for a work permit has been denied by the executive director may, not later than \_\_\_\_ (●) days after receiving notice of the denial or objection, [appeal the executive director's decision as provided in the ALABAMA ADMINISTRATIVE PROCEDURE ACT, Ala. Code § 41-22-1 et seq.]
- (7) All records acquired or compiled by the Commission relating to any application made pursuant to this section and all lists of persons to whom work permits have been issued or denied and all records of the names or identity of persons engaged in the gaming industry in this state are confidential and must not be disclosed except in the proper administration of this chapter or to an authorized law enforcement agency.
- (8) A work permit expires unless renewed within ten (10) days after a change of place of employment, or if the holder thereof is not employed as a gaming employee within the jurisdiction of the issuing authority for more than ninety (90) days.
- (9) Notice of any objection to or denial of a work permit by the executive director as provided pursuant to this section is sufficient, if it is mailed to the applicant's last known address as indicated on the application for a work permit. The date of mailing may be proven by a certificate signed by the executive director or his designee that specifies the time the notice was mailed. The notice is presumed to have been received by the applicant five (5) days after it is deposited with the United States Postal Service with the postage thereon prepaid.

**Alabama Code Ann. § XX-XX-135. Order of suspension or revocation of work permit**

- (1) The Commission may issue an order summarily suspending a person's work permit upon a finding that the suspension is necessary for the immediate preservation of the public peace, health, safety, morals, good order, or general welfare. The order becomes effective when served upon the permit holder.
- (2) The order of summary suspension must state the facts upon which the finding of necessity for the suspension is based.
- (3) If any gaming employee is convicted of any violation of this chapter or if in investigating an alleged violation of this chapter, the executive director or the Commission finds that a gaming employee employed by the licensee has been guilty of cheating, the Commission shall revoke the employee's work permit.
- (4) The Commission may revoke a work permit if it finds that the gaming employee has failed to disclose, misstated, or otherwise misled the Commission with respect to any fact contained within any application for a work permit or subsequent to being issued a work permit:
  - (a) Committed, attempted or conspired to do any of the acts prohibited by this chapter;
  - (b) Knowingly possessed or permitted to remain in any licensed gaming establishment any cards, dice, mechanical device, or any other cheating device whatever, the use of which is prohibited by statute or ordinance;
  - (c) Concealed or refused to disclose any material fact in any investigation by the executive director or the Commission;
  - (d) Committed, attempted, or conspired to commit larceny or embezzlement against a gaming licensee or upon the premises of a licensed gaming establishment;
  - (e) Been convicted in any jurisdiction other than Alabama of any offense involving or relating to gambling;
  - (f) Accepted employment without prior Commission approval in a position for which he could be required to be found suitable under this chapter after having been denied a finding of suitability for a reason involving personal unsuitability or after failing to apply for a finding of suitability when requested to do so by the Commission or the executive director;
  - (g) Been refused the issuance of any license, permit or approval to engage in or be involved with gaming in any jurisdiction other than Alabama, or had any such license, permit or approval revoked or suspended;
  - (h) Been prohibited under color of governmental authority from being present upon the premises of any gaming establishment for any reason relating to improper gambling activities or any illegal act;

- (i) defied any legislative investigative committee or other officially constituted bodies acting on behalf of the United States or any state, county, or municipality which seeks to investigate crimes relating to gaming, corruption of public officials, or any organized criminal activities, or
  - (j) Been convicted of any offense, other than one constituting a violation of this chapter.
- (5) The person whose work permit is summarily suspended or revoked may, not later than \_\_ (\_\_) days after receiving notice of the suspension or revocation, [appeal the Commission's decision as provided in the ALABAMA ADMINISTRATIVE PROCEDURE ACT, Ala. Code § 41-22-1 et seq.]

### **Alabama XX-XX-XX Non-gaming supplier permit**

- (1) Unless otherwise exempted pursuant to this section, a non-gaming supplier shall not, on a regular and continuing basis, supply or provide goods or services to a gaming operator licensee, unless the person holds a non-gaming supplier permit issued by the Commission.
- (2) A person is deemed to be supplying or providing goods or services to a gaming operator licensee on a regular and continuing basis, if the total dollar amount of the person's business transactions with any single gaming operator licensee equals [ \_\_ Dollars (\$\_\_.00) or more [an amount to be set by the Commission but not to exceed \_\_ Dollars (\$\_\_.00)] within any rolling twelve (12)-month period.
- (3) Every non-gaming supplier shall monitor its total dollar amount of business with each gaming operator licensee in the state of Alabama. If that total reaches the monetary threshold provided in this section, then the non-gaming supplier must immediately either (i) apply for a non-gaming supplier permit or (ii) cease doing business with any gaming operator in the state of Alabama.
- (4) The executive director may exempt any person from the non-gaming supplier permitting requirements of this section, if the executive director determines that such person:
  - (a) Is an agency of state, local, or federal government,
  - (b) Is regulated by another regulatory agency in this state,
  - (c) Will provide goods or services of insubstantial or insignificant amounts or quantities,
  - (d) or if it deems that permitting the person is not necessary to protect the public interest or accomplish the policies and purposes of the Alabama Gaming Control Act.
- (5) Application for a non-gaming supplier permit shall be made to the executive director and may be granted or denied for any cause deemed reasonable by the executive director. Whenever the executive director denies such an application, he shall include in the notice of the denial a statement of the facts upon which he relied in denying the application.
- (6) The executive director may refuse to issue a non-gaming supplier permit if the applicant has:
  - (a) Failed to disclose, misstated, or otherwise attempted to mislead the Commission with respect to any material fact contained in the application for the issuance or renewal of a non-gaming supplier permit;
  - (b) Knowingly failed to comply with the provisions of this chapter or the Commission's regulations at a previous place of employment;

- (c) Committed, attempted, or conspired to commit any crime of moral turpitude, embezzlement, or larceny, any violation of any law pertaining to gaming, or any crime that is inimical to the declared policy of this state concerning gaming;
  - (d) Been identified in the published reports of any federal or state legislative or executive body as being a member or associate of organized crime or of notorious and unsavory reputation;
  - (e) Been placed and remains in the constructive custody of any federal, state or municipal law enforcement authority; or
  - (f) Had any other non-gaming supplier permit or its equivalent in another jurisdiction revoked.
- (7) The executive director shall refuse to issue a non-gaming supplier permit if the applicant has committed, attempted, or conspired to commit any offense punishable for more than one (1) year.
- (8) Notice of the denial of a non-gaming supplier permit by the executive director pursuant to this section is sufficient if it is mailed to the applicant's last known address as indicated on the application. The date of mailing may be proven by a certificate signed by the executive director or his designee specifying when the notice was mailed. The applicant is presumed to have received the notice five (5) days after it is deposited with the United States Postal Service with the correct postage thereon prepaid.
- (9) Any person whose application for a non-gaming supplier permit has been denied by the executive director may, not later than \_\_ (\_\_) days after receiving notice of the denial, [appeal the executive director's decision as provided in the ALABAMA ADMINISTRATIVE PROCEDURE ACT, Ala. Code § 41-22-1 et seq.]
- (10) A non-gaming supplier permit expires, unless renewed, \_\_\_\_(\_\_) \_\_ after it is issued.
- (11) The Commission shall maintain and make available to gaming operator licensees a current list of every person holding a non-gaming supplier permit.

**Alabama Code Ann. § XX-XX-155. Age requirements**

- (1) A person under the age of twenty-one (21) years shall not:
  - (a) Play, be allowed to play, place wagers, or collect winnings, whether personally or through an agent, from any gaming authorized under this chapter.
  - (b) Be employed as a gaming employee.
- (2) Any licensee, employee, dealer, or other person who violates or permits the violation of any of the provisions of this section, and any person under twenty-one (21) years of age who violates any of the provisions of this section shall, upon conviction, be punished by a fine of not more than [One Thousand Dollars (\$1,000.00)] or imprisonment in the county jail not more than [six (6) months,] or both.
- (3) In any prosecution or other proceeding for the violation of any of the provisions of this section, it is no excuse for the licensee, employee, dealer, or other person to plead that he believed the person to be twenty-one (21) years old or over.

**Alabama Code Ann. § XX-XX-159. Resolution of patron disputes**

- (1) Whenever a licensee refuses payment of alleged winnings to a patron, the licensee and the patron are unable to resolve the dispute to the satisfaction of the patron and the dispute involves:
- (2) (a) At least Five Hundred Dollars (\$500.00), the licensee shall immediately notify the executive director; or  
  
(b) Less than Five Hundred Dollars (\$500.00), the licensee shall inform the patron of his right to request that the executive director conduct an investigation.

The executive director shall conduct whatever investigation is deemed necessary and shall determine whether payment should be made.

- (3) The executive director shall mail written notice to the Commission, the licensee and the patron of his decision resolving the dispute within thirty (30) days after the date the executive director first receives notification from the licensee or a request to conduct an investigation from the patron.
- (4) Failure to notify the executive director or patron as provided in subsection (1) is grounds for disciplinary action.
- (5) The decision of the executive director is effective on the date the aggrieved party receives notice of the decision. The date of receipt is presumed to be the date specified on the return receipt.
- (6) A dispute between a licensee and a patron associated with a promotional activity as defined in Section XX-XX-5, shall be resolved by the executive director in accordance with this section. The resolution of such a claim or dispute by the executive director shall include any claims for alleged winnings or losses, or the award or distribution of cash, prizes, benefits, tickets or any other item of value associated with the promotional activity, or the manner in which the specific event at which the award or distribution from the promotional activity is conducted; however, the authority granted under this subsection (5) regarding a promotional activity does not provide the executive director or the Commission with any additional authority, not otherwise granted by law, to regulate the promotional activity with regard to those matters pertaining exclusively to the operational or administrative aspects of the promotional activity that occur in advance of such specific event at which the award or distribution is conducted.
- (7) Notice of the decision of the executive director shall be deemed sufficient if it is mailed to the last known address of the licensee and patron. The date of mailing may be proven by a certificate signed by an employee of the executive director that specifies the time the notice was mailed. The notice is presumed to have been received by the licensee or the patron five (5) days after it is deposited with the United States Postal Service with the postage thereon prepaid.
- (8) Any person aggrieved by the decision of the executive director under this Section XX-XX-159 may, not later than \_\_ (\_\_) days after receiving notice of the decision, appeal the executive

director's decision as provided in the ALABAMA ADMINISTRATIVE PROCEDURE ACT,  
Ala. Code § 41-22-1 et seq.

**Alabama Code Ann. § XX-XX-301. Unlawful activities**

It is unlawful for any person:

- (a) To alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players.
- (b) To place, increase, or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or that is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing, or decreasing a bet or determining the course of play contingent upon that event or outcome.
- (c) To claim, collect, or take, or attempt to claim, collect, or take, money or anything of value in or from a gambling game, with intent to defraud, without having made a wager contingent thereon, or to claim, collect, or take an amount greater than the amount won.
- (d) Knowingly to entice or induce another to go to any place where a gambling game is being conducted or operated in violation of the provisions of this chapter, with the intent that the other person play or participate in the gambling game.
- (e) To place or increase a bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including past-posting and pressing bets.
- (f) To reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including pinching bets.
- (g) To manipulate, with the intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, including, but not limited to, varying the pull of the handle of a slot machine, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

**Alabama Code Ann. § XX-XX-XX. Manufacture, sale, or distribution of gaming materials intended for illegal use prohibited; altering equipment prohibited; instructing others in cheating prohibited**

- (1) It is unlawful to manufacture, sell, or distribute any cards, chips, dice, voucher, coupon, electronic card, game, or device that is intended to be used to violate any provisions of this chapter.
- (2) It is unlawful to mark, alter, or otherwise modify any gaming equipment, gaming device, or associated equipment in a manner that:
  - (a) Affects the result of a wager by determining win or loss, or
  - (b) Alters the normal criteria of random selection, which affects the operation of a game or which determines the outcome of a game.
- (3) It is unlawful for any person to instruct another in cheating or in the use of any device for that purpose, with the knowledge or intent that the information or use so conveyed may be employed to violate any provision of this chapter. The provisions of this subsection shall not apply to board-approved training programs for gaming employees conducted by, or on behalf of, gaming licensees.
- (4) Any person who violates any of the provisions of this section shall be punished by a fine of not more than Two Thousand Dollars (\$2,000.00) or imprisoned, with or without hard labor, for not more than two (2) years, or both

**Alabama Code Ann. § XX-XX-XX. Manufacture, sale, or distribution of gaming materials intended for illegal use prohibited; altering equipment prohibited; instructing others in cheating prohibited**

- (1) It is unlawful to manufacture, sell, or distribute any cards, chips, dice, voucher, coupon, electronic card, game, or device that is intended to be used to violate any provisions of this Title.
- (2) It is unlawful to mark, alter, or otherwise modify any gaming equipment, gaming device, or associated equipment in a manner that:
  - (a) Affects the result of a wager by determining win or loss; or
  - (b) Alters the normal criteria of random selection, which affects the operation of a game or which determines the outcome of a game.
- (3) It is unlawful for any person to instruct another in cheating or in the use of any device for that purpose, with the knowledge or intent that the information or use so conveyed may be employed to violate any provision of this Title. The provisions of this Subsection shall not apply to board-approved training programs for gaming employees conducted by, or on behalf of, gaming licensees.
- (4) Any person who violates any of the provisions of this Section shall be imprisoned, with or without hard labor, for not more than two years or may be fined not more than two thousand dollars, or both.

**Alabama Code Ann. § XX-XX-303. Use or possession; certain devices at gaming establishment**

It is unlawful for any person at a licensed gaming establishment to use, or possess with the intent to use, any device to assist:

- (a) In projecting the outcome of the game;
- (b) In keeping track of the cards played;
- (c) In analyzing the probability of the occurrence of an event relating to the game, or
- (d) In analyzing the strategy for playing or betting to be used in the game, except as permitted by the Commission.

**Alabama Code Ann. § XX-XX-305. Slugs, counterfeit chips or tokens**

- (1) It is unlawful for any licensee, employee, or other person to use counterfeit chips in a gambling game.
- (2) It is unlawful for any person, in playing or using any gambling game designed to be played with, receive, or be operated by chips or tokens approved by the Commission or by lawful coins of the United States of America:
  - (a) Knowingly to use other than chips or tokens approved by the Commission or lawful coins, legal tender of the United States of America, or to use coins not of the same denomination as the coins intended to be used in that gambling game, or
  - (b) To use any device or means to violate the provisions of this chapter.
- (3) It is unlawful for any person, not a duly authorized employee of a licensee acting in furtherance of his employment within an establishment, to have on his person or in his possession on or off the premises of any licensed gaming establishment, any device intended to be used to violate the provisions of this chapter.
- (4) It is unlawful for any person, not a duly authorized employee of a licensee acting in furtherance of his employment within an establishment, to have on his person or in his possession, on or off the premises of any licensed gaming establishment, any key or device known to have been designed for the purpose of and suitable for opening, entering, or affecting the operation of any gambling game, drop box, or any electronic or mechanical device connected thereto, or for removing money or other contents therefrom.
- (5) It is unlawful for any person to have on his person or in his possession any paraphernalia for manufacturing slugs. As used in this subsection, “paraphernalia for manufacturing slugs” means the equipment, products, and materials that are intended for use or designed for use in manufacturing, producing, fabricating, preparing, testing, analyzing, packaging, storing, or concealing a counterfeit facsimile of the chips or tokens approved by the Commission or lawful coins of the United States, the use of which is unlawful pursuant to subsection (2) of this section. The term includes, but is not limited to:
  - (a) Metal or metal alloys;
  - (b) Molds, forms, or similar equipment capable of producing a likeness of a gaming token or United States coin;
  - (c) Melting pots or other receptacles;
  - (d) Torches, and
  - (e) Tongs, trimming tools, or other similar equipment.
- (6) Possession of more than one (1) of the devices, equipment, products or materials described in this section permits a rebuttable inference that the possessor intended to use them for cheating.

**Alabama Code Ann. § XX-XX-307. Cheating unlawful**

It is unlawful for any person, whether he is an owner or employee of, or a player in, an establishment, to cheat at any gambling game.

**Alabama Code Ann. § XX-XX-35. Persons excluded from gaming establishments**

- (1) The Legislature hereby declares that the exclusion or ejection of certain persons from licensed gaming establishments is necessary to effectuate the policies of this chapter and to maintain effectively the strict regulation of licensed gaming.
- (2) The Commission may by regulation provide for the establishment of a list of persons who are to be excluded or ejected from any licensed gaming establishment. The list may include any person whose presence in the establishment is determined by the Commission or the executive director to pose a threat to the interests of this state or to licensed gaming, or both.
- (3) In making that determination, the Commission and the executive director may consider any:
  - (a) Prior conviction of a crime which is a felony in this state or under the laws of the United States, a crime involving moral turpitude, or a violation of the gaming laws of any state;
  - (b) Violation or conspiracy to violate the provisions of this chapter relating to:
    - (i) The failure to disclose an interest in a gaming establishment for which the person must obtain a license; or
    - (ii) Willful evasion of fees or taxes;
  - (c) Notorious or unsavory reputation which would adversely affect public confidence and trust that the gaming industry is free from criminal or corruptive elements; or
  - (d) Written order of a governmental agency which authorizes the exclusion or ejection of the person from an establishment at which gaming is conducted.
- (4) Race, color, creed, national origin or ancestry, or sex shall not be grounds for placing the name of a person upon the list.

**Alabama Code Ann. § XX-XX-59. Interstate transportation of gaming devices**

- (1) Pursuant to Section 2 of that certain Act of the Congress of the United States entitled “An act to prohibit transportation of gambling devices in interstate and foreign commerce,” approved January 2, 1951, being c. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. Sections 1171-1177, the State of Alabama, acting by and through the duly elected and qualified members of its Legislature, does hereby in this section, and in accordance with and in compliance with the provisions of Section 2 of such Act of Congress, declare and proclaim that it is exempt from the provisions of Section 2 of that certain Act of the Congress of the United States entitled “An act to prohibit transportation of gambling devices in interstate and foreign commerce,” approved January 2, 1951, being c. 1194, 64 Stat. 1134.
- (2) All shipments of gambling devices, including slot machines, into this state, the registering, recording and labeling of which has been duly had by the manufacturer or dealer thereof in accordance with Sections 3 and 4 of that certain Act of the Congress of the United States entitled “An act to prohibit transportation of gambling devices in interstate and foreign commerce,” approved January 2, 1951, being c. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. Sections 1171-1177, shall be deemed legal shipments thereof into this state.

**Alabama Code Ann. §xx-xx-1<sup>1</sup>. Short title.**

This chapter shall be referred to as the “Alabama Lottery Law.”<sup>2</sup>

<sup>1</sup> NOTE: The number used to introduce certain statutes/sections (e.g., the 1 in Section xx-xx-1) were included primarily for the convenience of the drafters. In a few instances, one statute will refer to another statute in the act; in some such cases, the statute number used will help you identify the referenced statute. Otherwise, the statute numbers have no particular relevance and can be changed at will/as needed.

<sup>2</sup> This statute can be altered to name the act differently, *e.g.*, after a specific person.

### **Alabama Code Ann. §xx-xx-3. Statement of purpose and intent.**

<sup>3</sup> The Legislature intends that the net proceeds of lottery games conducted pursuant to this act be used to improve public education in the State of Alabama.<sup>4</sup> The Legislature recognizes that the operations of a state lottery are unique activities for state government and that a corporate structure will best enable the Alabama state lottery to be managed in an entrepreneurial and business-like manner. It is the Legislature's intent that the Alabama Lottery Corporation shall be accountable to the Governor, the Legislature, and the people of the state through a system of audits, reports, and disclosures as required by this chapter.

<sup>3</sup> The act as currently written assumes that the state lottery will be operated by a special corporation rather than the usual state agency. If the lottery is to be operated differently, then multiple statutes in this draft will require revision.

<sup>4</sup> The act as currently written operates the lottery for the benefit of public education. If you wish, this section can be altered to reflect different or additional aims/priorities; however, in that case, multiple statutes in this draft will require revision.

## **Alabama Code Ann. §xx-xx-5. Definitions.**

As used in this chapter, the following words and phrases shall have the following meanings, unless the context clearly requires otherwise:

- (1) “Board” means the Alabama Lottery Corporation Board of Directors.
- (2) “Corporation” means the Alabama Lottery Corporation.
- (3) “Fiscal year” means the fiscal year used by the State of Alabama.
- (4) “Instant ticket” means a lottery game in which a player scratches a coating from one (1) or more play areas on a ticket to determine if he has won, as indicated by the symbols and words that are revealed.
- (5) “Lottery” or “lottery game” means any game of chance approved by the board and operated pursuant to this chapter.
- (6) “Lottery system” means lottery products, computer hardware and software used to monitor sales of lottery tickets, lottery tickets, and maintenance services.
- (7) “Major procurement” means any item, product or service in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_.00) or more.
- (8) “Net proceeds” means all revenue derived from the sale of tickets and all other moneys derived from the lottery, less operating expenses.
- (9) “Operating expenses” means all costs of doing business including, but not limited to, prizes, compensation paid to lottery retailers, advertising and marketing costs, personnel costs, capital costs, depreciation of property and equipment, and expenses directly associated with the operation or sale of any lottery game.
- (10) “Person” means any individual, corporation, partnership, limited liability company, unincorporated association, or other legal entity.
- (11) “President” means the President of the Alabama Lottery Corporation, who shall also serve as the corporation’s chief executive officer.
- (12) “Retailer” means any person with whom the corporation has contracted to sell lottery tickets to the public.
- (13) “Security” means the protection of information that would provide an unfair advantage to any individual involved in the operation of the lottery, protection and preservation of the integrity of lottery games and operations, as well as measures taken to prevent crimes against the corporation and its retailers.

- (14) “Ticket” means any tangible evidence issued by the lottery to provide participation in a lottery game.
- (15) “Vendor” means any person who has entered into a contract with the corporation.

**Alabama Code Ann. §xx-xx-7. Alabama Lottery Corporation created; administration by corporation; domicile; venue.**

- (1) There is hereby created a state lottery, which shall be administered by a special purpose<sup>5</sup> entity, a corporation that shall be known as the “Alabama Lottery Corporation.” The corporation shall be managed in such a manner that enables the people of the state to benefit from its profits and to ensure the integrity of the lottery.
- (2) The existence of the corporation shall begin only upon the confirmation of all five (5) board members as provided in Section xx-xx-9. Until such time, no business shall be conducted on behalf of the lottery.
- (3) The corporation shall be domiciled in Montgomery, Montgomery County, Alabama, but may establish additional offices in other areas of the state as lottery operations necessitate.
- (4) [The corporation shall be exempt from Alabama corporate income taxes and corporation franchise taxes.]<sup>6</sup>
- (5) The exclusive venue for any action or matter against the corporation arising out of, or in connection with, the issuance, non-issuance, delivery, or failure to deliver a lottery ticket or payment, or nonpayment of a lottery prize is Montgomery County, Alabama, and the \_\_\_\_\_ Court of Montgomery County, Alabama, has exclusive jurisdiction thereof.

<sup>5</sup> The act as currently drafted contemplates that the lottery corporation will be a special purpose entity, a corporation. If another form of entity is to be used to administer the day-to-day operations of the lottery, multiple sections, including sections related to corporation board members, officers, and employees will require revision.

<sup>6</sup> Pursuant to footnote 4, this section can be altered to specifically exempt the lottery corporation from certain obligations normally required of a corporation, *e.g.*, registration with the Secretary of State, payment of various taxes, etc., if you wish. Alternatively, you can select a specific form of legal entity under Alabama law that most closely suits your purposes.

**Alabama Code Ann. §xx-xx-9. Corporation board of directors; qualifications; terms; removal Corporation; compensation.**

- (1) The affairs of the corporation shall be administered by the Alabama Lottery Corporation Board of Directors, which shall be composed of five (5) members<sup>7</sup> appointed by the Governor with the advice and consent of the Senate. [The Commissioner of Revenue and the State Treasurer shall serve as ex officio, non-voting members.<sup>8</sup>] Members appointed when the Senate is not in session shall serve only until the end of the next regular session, unless confirmed by the Senate. Should the Senate refuse to confirm a member appointed in the interim, then he shall forfeit his office as of the date on which the Senate refuses to confirm him. [Any person not confirmed by the Senate shall not be reappointed as a member[.][for a period of \_\_\_ (\_\_\_) years.<sup>9</sup>]
- (2) The Governor shall take into account the goals of geographic, racial, gender, and other categories of diversity when nominating board members.<sup>10</sup>
- (3) Neither the president nor a corporation employee may be a board member.
- (4) (a) Board members shall serve staggered terms. Initial appointments to the board made pursuant to this chapter shall be for terms as follows:<sup>11</sup>
  - (i) One (1) member for one (1) year;
  - (ii) One (1) member for two (2) years;
  - (iii) One (1) member for three (3) years;
  - (iv) One (1) member for four (4) years, and
  - (v) One (1) member for five (5) years.
  - (b) The term of each of the members first appointed pursuant to this chapter shall be designated by the Governor.
  - (c) After the initial appointments, all members shall be appointed for terms of five (5) years from the expiration date of the previous term; [provided,

<sup>7</sup> This statute can be altered to change the number of board members, as you wish.

<sup>8</sup> This statute can be altered to include ex officio board members who can advise the board but not vote, if you wish.

<sup>9</sup> This statute can be altered to preclude any person not approved by the Senate from ever being reappointed or from being reappointed for a specified period of time, if you wish.

<sup>10</sup> This statute can be altered to further specify the geographic areas/fields from which members must be selected, if you wish.

<sup>11</sup> This statute can be altered to change the length of initial board member terms, if you wish.

however, that no member shall serve more than two (2) consecutive terms of five (5) years each.]<sup>12</sup>

- (d) Members may serve beyond the end of their respective terms until their successors have been appointed and qualified.<sup>13</sup> Members may be removed by the Governor for neglect of duty, misfeasance, or nonfeasance in office. The board shall annually elect a chairman [from among its voting members<sup>14</sup>].<sup>15</sup>
- (5) [Appointed] [m]<sup>16</sup>[M]embers of the board shall be entitled to such per diem compensation as is provided to {state board members} in Section xx-xx-xx], paid by the corporation, and shall be reimbursed by the corporation for necessary travel and other reasonable expenses incurred in the performance of their official duties. [No [appointed]<sup>17</sup> member of the board shall be considered a public officer.<sup>18</sup>]
- (6) The board, upon the initial call of the Governor and the call of the board chairman [or the president<sup>19</sup>] thereafter, shall meet at least monthly for the first eighteen (18) months,<sup>20</sup> at least quarterly thereafter, and at such other times as the chairman [or the president<sup>30</sup>] may determine. [The board shall also meet upon the call of three (3) or more [board members] [voting<sup>21</sup> board

<sup>12</sup> This statute can be altered to change the length of subsequent board member terms or to impose term limits on board members, if you wish. For example, the language shown indicates a limit of two consecutive five-year terms, but this could be altered to limit a total number of years served or to prohibit consecutive terms, etc.

<sup>13</sup> This statute can be altered to limit the length of time a board member may hold over his seat, if you wish.

<sup>14</sup> This language is not necessary if there are no ex officio board members.

<sup>15</sup> If you wish, this statute can be altered to allow another form of choosing a chairman, *e.g.*, the Governor appoints the chairman, or to change the period of time that an elected/appointed chairman serves in that capacity.

<sup>16</sup> This language is not necessary if there are no ex officio board members.

<sup>17</sup> This language is not necessary if there are no ex officio board members.

<sup>18</sup> The act as currently drafted assumes that board members will serve part-time and not be considered state employees. This section could be altered to deem the corporation a public agency, the board members to hold public office, and the corporation employees to be public employees, if you wish. In that case, multiple statutes in this draft will require revision.

<sup>19</sup> This statute can be altered to allow the president of the lottery corporation or board members to call board meetings, if you wish.

<sup>20</sup> This statute can be altered to change the frequency of required board meetings, if you wish.

<sup>21</sup> This language is not necessary if there are no ex officio board members.

members.<sup>30]</sup> Three (3) [voting<sup>22]</sup> members of the board shall constitute a quorum.<sup>23</sup>

- (7) The board shall keep accurate and complete records of all its meetings.
- (8) All board meetings shall be subject to the Alabama Open Meetings Act.

<sup>22</sup> This language is not necessary if there are no ex officio board members.

<sup>23</sup> This statute can be altered to change the number of board members that constitutes a quorum, if you wish.

**Alabama Code Ann. §xx-xx-11. Corporation president.**

- (1) The corporation president shall be appointed by the board, subject to the approval of the Governor. Within thirty (30) days after receiving a written nomination from the board, the Governor will either approve or reject the nomination. Failure to take either action within the required time shall constitute approval of the nomination by the Governor. If the Governor rejects the nomination, then the board shall submit a different nominee to the Governor. [Any nominee rejected by the Governor shall not be re-nominated[.] [for a period of at least two (2) years.<sup>24</sup>]
- (2) The president shall serve at the will and pleasure of the board, and the board shall set the president's compensation.
- (3) The president shall manage the daily affairs of the corporation and shall have such powers and duties as specified by this chapter, by the board, and by any rules or regulations adopted by the board.
- (4) The president may employ one (1) or more officers with such duties as are assigned by the president. Such officers shall serve at the pleasure of the president.

<sup>24</sup> This statute can be altered to prohibit a rejected presidential nominee from being re-nominated or from being re-nominated for a specified period of time, if you wish.

**Alabama Code Ann. §xx-xx-13. Corporation records.**

- (1) Except as provided under Section xx-xx-23, all records of the corporation shall be deemed public records and subject to public inspection as provided by the Alabama Open Records Act, unless:
  - (a) The record relates to, or was provided by, a confidential source or informant and relates to lottery security or applicant, vendor, or retailer qualifications or conduct;
  - (b) The record involves a trade secret of the corporation or a vendor;
  - (c) Disclosure of the record would endanger the security of the lottery or its retailers, or
  - (d) The record is covered by another exemption under federal or state law.<sup>25</sup>
- (2) The exclusive venue for any action or matter regarding the records of the lottery corporation is Montgomery, Montgomery County, Alabama, and the \_\_\_\_\_ Court for Montgomery County, Alabama, has exclusive jurisdiction thereof.

<sup>25</sup> This section must be finalized to be consistent with the Alabama Open Records Act.

**Alabama Code Ann. § xx-xx-15. Board duties.**

The board shall provide the president with private-sector perspectives on the operation of a large marketing enterprise. The board shall:

- (1) Approve, disapprove, amend, or modify the budget recommended by the president for the operation of the corporation.
- (2) Approve, disapprove, amend, or modify the terms of major procurements recommended by the president.
- (3) Serve as a board of appeals for any denial, revocation, or cancellation by the president of a contract with a lottery retailer.
- (4) In accordance with the Alabama Administrative Procedure Act, adopt such administrative rules and regulations as may be necessary to carry out and implement its powers and duties, the operations of the corporation, the conduct of lottery games in general, and any other matters necessary or desirable for the efficient and effective operation of the lottery or the convenience of the public.

**(5) Alabama Code Ann. §xx-xx-17. Board administrative rules and regulations; board advice and recommendations.**

- (1) The board may, in accordance with the Alabama Administrative Procedure Act, adopt administrative rules and regulations for the conduct of specific lottery games and operations, including, but not limited to, administrative rules and regulations specifying:
  - (a) The types of lottery games to be conducted.
  - (b) The sale price of tickets.
  - (c) The number and amount of prizes.
  - (d) The methods to be used in selling tickets for lottery games.
  - (e) The methods and location of selecting or validating winning tickets.
  - (f) The frequency and means of conducting drawings, which shall be open to the public.
  - (g) The manner of payment of prizes.
  - (h) The frequency of games and drawings.
  - (i) The manner and amount of compensation to lottery retailers, except that all such compensation shall be uniform.
  - (j) Any other matters necessary to carry out this chapter, for the efficient and effective operation of the lottery, or for the convenience of the public.
- (2) In all other matters, the board shall advise and make recommendations. In addition, the board shall:
  - (a) Conduct hearings upon complaints charging violations of this chapter or of the corporation's administrative rules and regulations and shall conduct such other hearings as may be provided by administrative rules and regulations.
  - (b) Periodically, review the corporation's performance and:
    - (i) Advise the president and make recommendations to him regarding the corporation's operations; and
    - (ii) Identify potential improvements in this chapter, the corporation's administrative rules and regulations, and the corporation's management.

- (c) Request from the corporation any information the board determines to be relevant to its duties.
- (3) Nothing in this chapter shall be construed to govern, affect, or limit gaming or sports pool operations at a gaming establishment licensed by the Alabama Gaming Commission pursuant to the Alabama Gaming Control Act. Nor shall this chapter be construed to supersede or preempt the authority of the Alabama Gaming Commission as it relates to gaming or sports pool operations occurring at a licensed gaming establishment.
- (4) Nothing in this chapter shall prohibit a gaming establishment or sports pool licensed by the Alabama Gaming Commission from applying and operating as a lottery retailer under this chapter.

**Alabama Code Ann. §xx-xx-19. Administration of lottery games; corporation powers and duties.**

- (1) The corporation shall conduct and administer lottery games to result in maximization of revenues to the State of Alabama. The corporation, its employees, and the board members shall provide for the efficient and effective operation of lottery games which ensure the integrity of the lottery and maintain the dignity of the state and the general welfare of its citizens.
- (2) The corporation, in pursuing the objectives and purposes of this chapter, may<sup>26</sup>:
  - (a) Sue and be sued in its corporate name.
  - (b) Adopt a corporate seal and a symbol.
  - (c) Hold patents, copyrights, trademarks, and service marks and enforce its rights with respect thereto.
  - (d) Appoint agents upon which process may be served.
  - (e) Enter into written agreements with one (1) or more other states or sovereigns for the operation, marketing, and promotion of a joint lottery or joint-lottery games.
  - (f) Acquire real property and make improvements thereon.
  - (g) Make, solicit, and request proposals and offers and execute and effectuate any and all agreements or contracts, including, but not limited to:
    - (i) Contracts that provide for the placement of commercial advertising on tickets.
    - (ii) Contracts for the purchase and/or lease of real property as are necessary for the operation and promotion of the lottery.
    - (iii) Any contract and/or agreement necessary for the implementation, operation, and promotion of the lottery and this chapter.
  - (h) Adopt and amend such bylaws, rules, and regulations, with the board's approval, as the corporation deems necessary to administer this chapter.

<sup>26</sup> This section can be altered to change the powers given to the lottery corporation, if you wish.

- (3) The corporation shall:
  - (a) Supervise and administer the lottery in accordance with the provisions of this chapter and the administrative rules and regulations adopted by the board.
  - (b) Submit quarterly and annual reports to the Governor, the Lieutenant Governor, the Speaker of the Alabama House of Representatives, the State Treasurer, the State Auditor, the Permanent Joint Legislative Committee on Finances and Budget, and the Commissioner of Revenue<sup>27</sup> containing financial information and projections which include, but are not limited to, disclosure of gross revenues, operating expenses, and net proceeds for the period.
  - (c) Adopt by administrative rules and regulations a system of continuous internal audits.
  - (d) Maintain weekly, or more frequent, records of lottery transactions, including distribution of tickets to lottery retailers, revenues received, claims for prizes, prizes paid, and all other financial transactions of the corporation.
  - (e) Adopt by administrative rules and regulations a code of ethics for corporation officers and employees to carry out the standards of conduct established by this chapter.
  - (f) Adopt by administrative rules and regulations guidelines for the disposal of lottery property if the corporation is dissolved.
- (4) There shall be no liability on the part of, and no cause of action shall arise against, the corporation, its board, agents, vendors, or employees, out of, or in connection with, the issuance, failure to issue, or delivery of a lottery ticket.

<sup>27</sup> This section can be altered to change the persons to whom the lottery corporation reports, if you wish.

**Alabama Code Ann. §xx-xx-21. President power and duties; cooperation from agencies, departments, or units of state government**

- (1) The president, as the corporation's chief executive officer, shall direct and supervise all administrative and technical activities in accordance with the provisions of this chapter and within the administrative rules and regulations adopted by the board. The president shall:
  - (a) Supervise and administer the operation of the corporation, the lottery, and the lottery games.
  - (b) Employ and direct such personnel as may be necessary to carry out the purposes of this chapter and utilize such services, personnel, or facilities of the corporation as he may deem necessary.
  - (c) Contract with lottery retailers in accordance with the administrative rules and regulations adopted by the corporation.
  - (d) Make available for inspection by the board or any board member, upon request, all books, records, files, and other information and documents of his office; advise the board, and recommend such administrative rules and regulations and other matters he deems necessary and advisable to improve the operation and administration of the lottery.
  - (e) Subject to the limitations under Section xx-xx-69, enter into any contract pursuant to this chapter with any person for the promotion and operation of the lottery or for the performance of any of the functions as provided in this chapter or administrative rules and regulations adopted by the board.
  - (f) Attend board meetings or appoint a designee to attend on his behalf.
  - (g) Not later than thirty (30) days before the beginning of the corporation's fiscal year, submit the corporation's proposed annual budget and projected net proceeds to the board for review and approval. The proposed annual budget shall include a personnel table reporting information for each full-time and part-time, permanent position as follows:
    - (i) The title and compensation for each position in the existing operating budget for the current fiscal year, indicating whether each position is filled or vacant as of the reporting date.
    - (ii) The title and compensation recommended for each position for the next fiscal year.
- (2) The president, with the board's approval, may amend or modify the budget at any time in any manner deemed necessary for the proper operation of the corporation.
- (3) Following his approval by the Governor and during his entire employment by the board, the president shall reside in Alabama.

- (4) The president and the board shall conduct an ongoing examination of the operation and administration of lotteries in other states and/or countries, of federal laws and regulations which may affect the operation of the lottery, and of the reactions of citizens of this state to existing or proposed features of lottery games with a view toward implementing improvements that will tend to serve the purposes of this chapter. The president may also establish one (1) or more market or equipment research centers for lottery products and may establish lottery player information centers.
- (5) The president shall require bond from corporation employees with access to corporation funds or lottery funds in such an amount as provided in the administrative rules and regulations of the board.
- (6) The president may:
  - (a) Require bond from other corporation employees as he deems necessary.
  - (b) For good cause, suspend, revoke, or refuse to renew any contract entered into in accordance with this chapter or the administrative rules and regulations of the board.
  - (c) Upon specific or general approval of the board, conduct hearings and administer oaths to persons for the purpose of assuring the security or integrity of lottery operations or to determine the qualifications of, or compliance by, vendors and retailers.
  - (d) Upon specific or general approval of the board, enter into personal service contracts pursuant to administrative rules and regulations adopted by the board and compensate such consultants and technical assistants as may be required to carry out the provisions of this chapter.
  - (e) By agreement, secure information and services as he may deem necessary from any department, agency, or unit of the federal, state, or local government, and to the extent allowed by federal or state law, compensate such department, agency, or unit of government for its information and services.
- (7) Agencies, departments, or units of state government shall cooperate with the corporation to assure the integrity of the lottery and the effective operation of the lottery games.

**Alabama Code Ann. §xx-xx-23. Information sharing agreements.**

- (1) The corporation may enter into intelligence sharing, reciprocal use, or restricted use agreements with the federal government, law enforcement agencies, lottery regulation agencies, and gaming enforcement agencies of other jurisdictions which provide for, and regulate the use of, information provided and received pursuant to the agreement.
- (2) Records, documents, and information in the corporation's possession received pursuant to an intelligence sharing, reciprocal use, or restricted use agreement entered into by the corporation with a federal department or agency, any law enforcement agency, or the lottery regulation or gaming enforcement agency of any jurisdiction shall be exempt from the Alabama Open Records Act and shall not be released by the corporation without the permission of the person or agency providing the record or information.

**Alabama Code Ann. §xx-xx-25. Board and corporation legal representation.**

[The attorney general or a full-time assistant attorney general shall be the legal advisor to the corporation and the board, shall counsel and advise the corporation and the board, and shall represent the corporation in all legal proceedings. The corporation shall reimburse the attorney general for the cost of advising and representing the board and the corporation.]<sup>28</sup>

[The board may employ an attorney and/or may contract with outside counsel, when the board determines the need for such counsel.]

<sup>28</sup> You may choose one of these alternatives, or draft different language regarding legal representation for the board and the corporation.

**Alabama Code Ann. §xx-xx-27. Advertising.**

- (1) The corporation may enter into contracts that provide for the placement of commercial advertising on tickets. For purposes of this section, “commercial advertising” means advertising intended for the sole benefit of the advertiser.
- (2) The nature of the advertising authorized in this section and the procedures for its acceptance, as well as the implementation of this section, shall be provided by administrative rules and regulations adopted by the board consistent with any other applicable law. The board shall have the authority to accept or reject any advertisement, except that the board may not accept advertisements for tobacco and alcohol products.

**Alabama Code Ann. §xx-xx-29. Personnel program; conflicts of interest; prohibited employment.**

- (1) Unless otherwise specified by the president, corporation employees shall serve at the will and pleasure of the president, who shall determine their compensation and benefits. The compensation of officers shall be determined by the board. Corporation employees shall not be considered employees of the State of Alabama.
- (2) The corporation shall establish and maintain a personnel program, including administrative rules and regulations for its employees. The corporation may procure benefit programs or group insurance plans and shall provide or arrange for a retirement plan. Corporation employees shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the president's discretion and shall not be subject to civil service provisions.
- (3) No board member, officer, or employee of the corporation or any spouse, sibling, ascendant, or descendant of a board member, officer, or employee shall have a financial interest in any vendor doing business or proposing to do business with the corporation.
- (4) No board member, officer, or employee of the corporation with decision-making authority shall participate in any decision involving a lottery retailer with whom the board member, officer, or employee or any spouse, sibling, ascendant, or descendant of such board member, officer, or employee has a financial interest.
- (5) No officer or employee of the corporation who leaves the employ of the corporation, nor any board member, may represent any vendor or lottery retailer before the corporation for a period of one (1) year<sup>29</sup> following termination of employment with the corporation or membership on the board.

<sup>29</sup> This statute can be altered to change the prohibitive period, if you wish.

**Alabama Code Ann. §xx-xx-31. Corporation investigations of employees and duties.**

- (1) Prior to employing an applicant who has reached the final selection process, the corporation shall conduct a criminal background and credit investigation of the applicant. Each such applicant shall be fingerprinted and tested for the presence of illegal controlled substances as a condition of employment.
- (2) No person who has been convicted of any offense punishable by imprisonment for more than one (1) year or any offense related to gambling, fraud, deceit, or misrepresentation, as determined by the corporation, shall be employed by the corporation.<sup>30</sup>
- (3) The corporation shall:
  - (a) Supervise ticket validation and lottery drawings.
  - (b) Inspect, at times determined solely by the corporation, the facilities of any vendor in order to determine the integrity of the vendor's product and whether the vendor is in compliance with its contract.
  - (c) Report any suspected violations of this chapter to the attorney general and the appropriate district attorney and law enforcement agencies.
  - (d) Upon request, provide assistance to the attorney general or any district attorney or law enforcement agency investigating a violation of this chapter.

<sup>30</sup> This statute can be altered to change the offenses that preclude an employee hire, if you wish.

**Alabama Code Ann. §xx-xx-33. Appeals; judicial review.**

- (1) Any lottery retailer, vendor, or applicant for a lottery retailer or vendor contract aggrieved by an action of the corporation or president may appeal that decision to the board in accordance with the administrative rules and regulations of the board.
- (2) Any person aggrieved by a decision of the board may appeal the decision in accordance with the Alabama Administrative Procedure Act.

**Alabama Code Ann. §xx-xx-35. Letters of credit or surety in lieu of a bond.**

Whenever a bond is required for the protection of the corporation, letters of credit or other surety approved by the corporation may be utilized in lieu of the bond. The corporation shall review all bonds or letters of credit at least annually as to their solvency and sufficiency.

**Alabama Code Ann. §xx-xx-37. Bulk sale of lottery tickets.**

The board shall promulgate administrative rules and regulations that define and prohibit the bulk sale of lottery tickets by a retailer and the bulk purchase of such tickets by any person for investment purposes.<sup>31</sup>

<sup>31</sup> This statute can be altered to change the persons to whom the prohibition applies, if you wish.

**Alabama Code Ann. §xx-xx-39. Toll-free telephone number to assist compulsive gamblers.**

The corporation shall require, as a part of any contract for the production or printing of lottery tickets, that each ticket include the toll-free telephone number of any state or national organization that provides information and referral services regarding compulsive or problem gambling.

**Alabama Code Ann. §xx-xx-41. Publication of corporation financial statements.**

The corporation shall publish quarterly and annual financial statements, which shall be made available to the public within thirty (30) days following the close of each quarter. The quarterly and annual financial statements shall include disposition of all funds expended by the corporation for any purpose, including disclosure of any major procurements.

**Alabama Code Ann. §xx-xx-43. Lottery proceeds subject to income tax withholding laws; verification of ticket validity; unclaimed prize money; discharge of liability; persons excluded from purchasing ticket or winning prize.**

- (1) Proceeds of any lottery prize of Six Hundred Dollars (\$600.00) or more shall be subject to state and federal income tax withholding laws, as applicable. Any attachments, garnishments, or executions authorized and issued pursuant to law shall also be withheld if timely served upon the process agent of the corporation.
- (2) The board shall adopt administrative rules and regulations to establish a system of verifying the validity of tickets claimed to win prizes and to effect payment of such prizes, except that:
  - (a) No prize, no portion of a prize, and no right of any person to a prize awarded shall be assignable, except as provided for in Section xx-xx-47. Any prize, or portion thereof, remaining unpaid at the death of a prizewinner shall be paid to the estate of the deceased prizewinner or to the trustee of a trust established by the deceased prizewinner, if a copy of the trust document or instrument has been filed with the corporation, along with a notarized letter of direction from the deceased prizewinner, and no written notice of revocation has been received by the corporation prior to the deceased prizewinner's death. Following a deceased prizewinner's death, and prior to any payment to such a trustee, the corporation shall obtain from the trustee and each trust beneficiary a written agreement to indemnify and hold the corporation harmless with respect to any claims that may be asserted against the corporation arising from payment to, or through, the trust. Notwithstanding any other provisions of this chapter, any person, pursuant to an appropriate judicial order, shall be paid the prize to which a winner is entitled.
  - (b) No ticket shall knowingly be sold to any person under the age of twenty-one (21).
  - (c) No prize shall be paid arising from claimed tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received, unclaimed or not recorded by the corporation within applicable deadlines, lacking in captions that conform and agree with the play symbols as appropriate to the lottery game involved, or not in compliance with such additional specific rules and public or confidential validation and security tests of the corporation appropriate to the particular lottery game involved.
  - (d) No particular prize in any lottery game shall be paid more than once, and in the event of a binding determination that more than one (1) claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them an equal share in the prize.

- (e) The holder of a winning ticket from an Alabama lottery game or from a multi-state or multi-sovereign lottery game shall claim a prize within the timeframe provided for in administrative rules and regulations. If a valid claim is not made for a prize within the applicable period, the prize shall constitute an unclaimed prize for purposes of paragraph (c) of this subsection.
  - (f) A person holding a winning lottery ticket in the amount of Six Hundred Dollars (\$600.00) or more must provide his name and city or area of residence to the corporation to claim a prize. The corporation shall not disclose the identity of the person holding a winning lottery ticket without that person's written permission.
- (3) No prize shall be paid upon a ticket purchased or sold in violation of this chapter. Any such prize shall constitute an unclaimed prize for purposes of subsection (2)(c) of this section.
  - (4) Any unclaimed prize money shall be added to the pool from which future prizes are to be awarded or used for special prize promotions.
  - (5) The corporation is discharged of all liability upon payment of a prize.
  - (6) No ticket shall be purchased by, and no prize shall be paid to, any of the following persons:
    - (a) Any board member;
    - (b) Any corporation officer or employee;
    - (c) Any corporation vendor, including lottery retailers, or
    - (d) Any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any person listed in paragraph (a), (b) or (c) of this subsection.

**Alabama Code Ann. §xx-xx-45. Withholding lottery prizes to collect outstanding child support arrearages or debts owed to state.**

- (1) The board shall coordinate with the Department of Human Resources to promulgate rules and regulations providing for the withholding of lottery prizes of persons who have outstanding child support arrearages as reported to the corporation, beginning at prize levels to be determined by the board. The corporation may require any agency reporting current child support arrearages to the corporation to provide information relating to such arrearages in a manner, format, or record approved by the corporation. The corporation shall not be liable for withholding a lottery prize based upon child support arrearage information provided to it. Additionally, the corporation shall employ the same methods, procedures, and parameters to withhold lottery prizes for persons who have delinquent debt as submitted by a claimant agency to the Department of Revenue for recovery under Ala. Code §§40-18-100 et seq. The corporation shall not be liable for withholding a lottery prize based upon delinquent debt information provided to it by the Department of Revenue.
- (2) To the extent feasible, the board shall coordinate with state agencies to promulgate administrative rules and regulations providing for the withholding of lottery prizes of persons who have outstanding debts owed to the state.

**Alabama Code Ann. §xx-xx-47. Assignment of deferred annuity payments.**

- (1) Under an appropriate judicial order, any prize, portion of a prize, or right of any person to a prize awarded payable by the corporation in deferred annuity payments may be paid to any person other than the winner.
- (2) The right of a person to a prize payable by the corporation in deferred annuity payments may be voluntarily assigned as a whole or in part, if the assignment is made to a person designated in accordance with an order of the Circuit Court in Montgomery County, Alabama. Any such order shall be deemed an appropriate judicial order.
- (3) On the filing by the assignor or the assignee in Circuit Court of a petition seeking approval of a voluntary assignment, the court may issue an order approving a voluntary assignment and directing the corporation to make prize payments, as a whole or in part, to the assignee, if the court finds all of the following:
  - (a) The assignment is in writing, is executed by the assignor, and is, by its terms, subject to the laws of this state.
  - (b) The assignor provides a sworn affidavit attesting that the assignor is of sound mind, is in full command of the assignor's faculties, and is not acting under duress.
  - (c) The assignor has been advised about the assignment by an independent attorney who is not related to, and not compensated by, the assignee or an affiliate of the assignee.
  - (d) The assignor understands that the assignor will not receive the prize payments or parts of payments during the years assigned.
  - (e) The assignor understands and agrees, with regard to the assigned payments, that the corporation and its board, officers, and employees shall have no further liability or responsibility for making the assigned payments.
  - (f) The assignee provides the assignor with a one (1)-page disclosure statement that sets forth in bold type not less than fourteen (14) points in size the payments being assigned by amount and payment date, the purchase price, the rate of discount to present value (assuming daily compounding and funding on the contract date), and any origination or closing fee that will be charged to the assignor.
  - (g) The contract of assignment expressly states that the assignor has three (3) business days after signing the contract to cancel the assignment.

- (h) The assignor and assignee do not seek assignment for purposes of evading creditors, judgments, or obligations of child support.
- (i) The assignor and assignee have certified that neither of them has a child support obligation, or, if either does have a child support obligation, that no arrearage is due and that neither the assignor nor the assignee is obligated to repay any public assistance benefits or overpayment of child support.
- (j) The petition required by this subsection shall be accompanied by a certification from a representative of the Alabama Department of Human Resources stating any of the following:
  - (i) That the assignor or assignee does not currently have a child support arrearage, or the assignor or assignee does not owe an obligation to repay any public assistance benefits or an overpayment of child support benefits to the Alabama Department of Human Resources.
  - (ii) That the assignor or assignee does currently have a child support obligation and that no arrearage is due to the Alabama Department of Human Resources.
  - (iii) That the assignor or assignee does currently have a child support arrearage, or the assignor or assignee does owe an obligation to repay any public assistance benefits or an overpayment of child support benefits to the Alabama Department of Human Resources.

The certification from the Alabama Department of Human Resources shall be provided to the assignor and the assignee promptly upon the request of the assignor or the assignee, and in no event, more than ten (10) business days after the request is received by the Alabama Department of Human Resources.

- (4) Written notice of the petition, the proposed assignment, and any court hearing concerning the petition and proposed assignment shall be served on the corporation, which shall be made a party thereto.
- (5) (a) The corporation, not later than ten (10) days after receiving a certified copy of a court order approving a voluntary assignment, shall send the assignor and the assignee written confirmation of both of the following:
  - (i) The court-approved assignment.
  - (ii) The corporation's intent to rely on the assignment in making payments to the assignee named in the order free from any attachments, garnishments, or executions.
- (b) The corporation shall thereafter make payments in accordance with the assignment.
- (6) (a) Neither the state nor the corporation, its board, any of its officers, or

employees shall be liable in any manner for any assigned payments made by the corporation pursuant to this section.

- (b) The assignor and assignee shall hold harmless and indemnify the state, the corporation, its board, its officers, and its employees and agents from all claims, suits, actions, complaints, or liabilities related to the assignment.
- (7) The assignee shall pay any costs incurred by the corporation related to the assignment.
- (8) The assignee shall notify the corporation of its business location and mailing address for payment purposes and of any change in location or address during the entire course of the assignment.
- (9) Any court order or combination of court orders issued pursuant to this section may not require the corporation to divide a single prize payment among more than three (3) different persons.
- (10) If the Internal Revenue Service or a court of competent jurisdiction issues a determination letter, revenue ruling, or other public document declaring that the voluntary assignment of prizes will affect the federal income taxation treatment of lottery prizewinners who do not assign their prizes, the following shall occur:
  - (a) Within fifteen (15) days after the corporation receives the letter, ruling, or other document, the president shall file a copy of it with the Attorney General, and
  - (b) A court shall not issue an order authorizing a voluntary assignment under this section.
- (11) This section shall prevail over any inconsistent provision in Alabama law.

**Alabama Code Ann. §xx-xx-49. Contracts for major procurements; bidding process.**

- (1) The corporation shall enter into its contracts for major procurements after bidding. The corporation may adopt administrative rules and regulations pursuant to the provisions of this chapter providing for procedures whereby the Alabama Lottery Corporation may make any class of procurement.
- (2) In its bidding processes, the corporation may do its own bidding and procurement or may utilize the services of the Department of Finance or other state agencies as appropriate and necessary. The president may, with approval of the board, declare an emergency for purchasing purposes which shall be governed by the administrative rules and regulations adopted by the board.

**Alabama Code Ann. §xx-xx-51. Monies received from sale of lottery tickets; creation of lottery net proceeds fund.**

- (1)
  - (a) All monies received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. Such account shall be established in a custodian financial institution domiciled in the State of Alabama and insured by the Federal Deposit Insurance Corporation and collateralized as prescribed by Ala. Code §41-14-A-5. The corporation may use all monies in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall estimate and allocate the amount to be paid by the corporation to prizewinners.
  - (b)
    - (i) The investment of monies in the corporate operating account, other than the amount specifically required for the purchase of securities for payment of deferred prizes and the amount specifically required for the purchase of securities for deferred prize payments to winners, shall be invested in a manner prescribed by the board, consistent with law. Such securities purchased as investments by the corporation shall be issued in the name of the corporation and shall be kept at a custodian financial institution domiciled in the State of Alabama and insured by the Federal Deposit Insurance Corporation.
    - (ii) These instruments may be in varying maturities and may be in book-entry form.
    - (iii) For the purpose of deferred prize payments to winners, the corporation shall purchase or invest in only those securities prescribed by the board, consistent with law.
  - (c) Within twenty (20) days following the close of each calendar month, the corporation shall transfer to the {fund established below} in the State Treasury the amount of net proceeds. [After \_\_\_\_\_ [the first year of operation] the corporation shall transfer each year not less than \_\_\_\_\_ percent (\_\_\_%) of gross revenues to the State Treasury.]
- (2) A {fund name} is hereby established in the State Treasury. Net proceeds shall be deposited into this fund as provided in subsection (1) of this section. Monies deposited into the {fund name} shall be invested by the state in accordance with state investment practices, and all earnings from such investments shall accrue to this account. [No monies shall be allotted or expended from this account, unless pursuant to a warrant issued as provided under Section xx-xx-85.]<sup>32</sup>

<sup>32</sup> Depending upon the mechanics of how the net proceeds are distributed and ultimately used, additional coordination may be necessary between this section and section xx-xx-85.

**Alabama Code Ann. §xx-xx-53. Corporation funding.**

- (1) <sup>33</sup> The corporation may accept and expend, in accordance with the provisions of this chapter, such monies as the Legislature may appropriate or such monies as may be received from any source, including income from the corporation's operations, for effectuating its corporate purposes, including payment of the initial expenses of administration and operation of the corporation and the lottery.
- (2) After the repayment of any appropriated funds provided to the corporation by the state, the corporation shall be self-sustaining and self-funded. Monies in the State General Fund shall not be used or obligated to pay the expenses of the corporation or prizes of the lottery, and no claim for the payment of an expense of the lottery or prizes of the lottery may be made against any monies other than monies credited to the corporate operating account.

<sup>33</sup> The act as currently written allows the state to fund initial expenditures to get the lottery operating. But after the lottery corporation gets to the point it can repay those monies, the act requires the lottery corporation to be self-sustaining. That structure can be changed, *e.g.*, to not require repayment of the state monies given to the lottery corporation as start-up costs, to put the state be on the hook for lottery corporation expenses (including prizes) that the lottery corporation cannot pay, etc., as you wish. Such changes will require that multiple sections to be revised.

**Alabama Code Ann. §xx-xx-55. Lottery retailers.**

- (1) The Legislature hereby recognizes that to conduct a successful lottery, the corporation must develop and maintain a statewide network of lottery retailers that will serve the public convenience and promote the sale of tickets, while ensuring the integrity of the lottery operations, games, and activities.
- (2) To govern the selection of lottery retailers, the board shall, by administrative rules and regulations, develop a list of objective criteria upon which the selection of lottery retailers shall be based. In developing these criteria, the board shall consider such factors as the applicant's financial responsibility, the location and security of the applicant's place of business or activity, and the applicant's integrity and reputation; however, the board shall not consider political affiliation or activities or monetary contributions to political organizations or candidates for any public office. The criteria shall include, but not be limited to, the following:
  - (a) The applicant shall be current in the payment of all taxes, interest, and penalties owed to any taxing political subdivision where the lottery retailer will sell lottery tickets.
  - (b) The applicant shall be current in filing all applicable tax returns and in payment of all taxes, interest, and penalties owed to the State of Alabama, excluding items under formal appeal pursuant to applicable statutes, before a license is issued and before each renewal.
- (3) The corporation shall conduct a criminal background and credit investigation of each lottery retailer applicant in accordance with the administrative rules and regulations adopted by the board.
- (4) No person shall be selected as a lottery retailer for the sale of lottery tickets who:
  - (a) Has been convicted of any offense related to the security or integrity of the lottery in any jurisdiction.
  - (b) Has been convicted of any offense related to gambling in any jurisdiction.
  - (c) Has been convicted of any offense related to fraud, deceit, or misrepresentation, as determined by the board, in any jurisdiction.
  - (d) Has been convicted of any offense punishable by imprisonment for more than one (1) year in any jurisdiction.
  - (e) Has been found to have violated the provisions of this chapter or any administrative rules and regulations adopted under this chapter, unless

either ten (10) years<sup>34</sup> have passed since the violation, or the president and the board find the violation both minor and unintentional in nature.

- (f) Is a vendor or an employee or agent of any vendor doing business with the corporation.
- (g) Resides in the same household as an officer or board member of the corporation.
- (h) Has made a statement of material fact to the corporation, knowing such statement to be false.

<sup>34</sup> This section can be altered to change the criteria for considering potential lottery retailers, if you wish.

**Alabama Code Ann. §xx-xx-57. Assignability of lottery retail contracts; lottery retailer certificates; retailer payments to winners.**

- (1) No lottery retailer contract awarded pursuant to this chapter shall be transferable or assignable. No lottery retailer shall contract with any person for lottery goods or services, except with the approval of the board.
- (2) Each lottery retailer shall be issued a lottery retailer certificate which shall be conspicuously displayed at the place where the lottery retailer is authorized to sell lottery tickets. Lottery tickets shall only be sold by the retailer at the location stated on the lottery retailer certificate.
- (3) For the convenience of the public, all retailers may pay winners up to Six Hundred Dollars (\$600.00) after performing validation procedures appropriate to the lottery game involved.

**Alabama Code Ann. §xx-xx-59. Lottery retailer letters of credit or bonds.**

The corporation shall require each lottery retailer to post with the corporation a letter of credit or a bond using a surety acceptable to the corporation and in an amount not to exceed twice the average lottery ticket sales<sup>35</sup> of the lottery retailer for the period within which the lottery retailer is required to remit lottery funds to the corporation. This section does not apply to lottery tickets which are prepaid by the lottery retailer. The corporation may facilitate the purchase of bonds and letters of credit by establishing lottery retailer pools for the purchase of bonds and letters of credit for lottery retailers.

<sup>35</sup> This section can be altered to change the maximum amount of the required bond/letter of credit/surety. It might be most prudent to leave the specific amount of bond/letter of credit/surety up to the board, which can provide for such matters in its regulations.

**Alabama Code Ann. §xx-xx-61. Cancellation, denial, revocation, suspension, renewal rejection, or termination of contract with lottery retailer.**

- (1) Any contract executed by the corporation with a lottery retailer pursuant to this section shall specify the reasons for which the contract may be cancelled, denied, revoked, suspended, renewal rejected, or terminated by the corporation, which reasons may include, but not be limited to:
  - (a) The lottery retailer violating this chapter or administrative rules and regulations adopted pursuant to this chapter.
  - (b) The lottery retailer failing to accurately account for lottery tickets, revenues, or prizes as required by the corporation.
  - (c) The lottery retailer committing any fraud, deceit, or misrepresentation.
  - (d) The lottery retailer failing to sell a sufficient number of lottery tickets.
  - (e) Conduct by the lottery retailer which is prejudicial to public confidence in the lottery.
  - (f) The lottery retailer filing for, or being placed in, bankruptcy, receivership, or other insolvency proceedings.
  - (g) Any material change in any matter considered by the corporation in executing the contract with the lottery retailer.
  - (h) The lottery retailer failing to meet any of the objective criteria established by the board pursuant to this chapter.<sup>36</sup>
- (2) If, in the discretion of the president, cancellation, denial, revocation, suspension, rejection of renewal, or termination of a lottery retailer contract is in the best interest of the lottery, the public welfare, or the State of Alabama, then the president may cancel, deny, revoke, suspend, reject the renewal, or terminate, after notice and a hearing, any contract issued pursuant to this chapter. Such contract may, however, be temporarily suspended by the president without prior notice, pending any prosecution, hearing, or investigation, whether by a third party or by the president. A contract may be cancelled, denied, revoked, suspended, renewal rejected, or terminated by the president for any one (1) or more of the reasons enumerated in this section.

<sup>36</sup> This section can be altered to change the grounds for cancellation, etc. of a lottery retailer contract, as you wish.

**Alabama Code Ann. §xx-xx-63. Retailer's deposit of proceeds, liability, and insolvency.**

- (1) All proceeds from the sale of lottery tickets received by a lottery retailer shall constitute a trust fund until paid to the corporation, either directly or through the corporation's authorized collection representative. A lottery retailer shall have a fiduciary duty to preserve and account for lottery proceeds, and lottery retailers shall be personally liable for all proceeds. Proceeds shall include unsold instant tickets received by a lottery retailer and cash proceeds of the sale of any lottery products, net of any allowable sales commissions and credit for lottery prizes paid to winners by lottery retailers. Sales proceeds and unused instant tickets shall be delivered to the corporation or its authorized collection representative upon demand.
- (2) The corporation shall, by administrative rules and regulations, require lottery retailers to place all lottery proceeds due the corporation in accounts in institutions insured by the Federal Deposit Insurance Corporation not later than the close of the next banking day after the date of their collection by the lottery retailer until the date they are paid over to the corporation. Each lottery retailer shall establish a separate bank account for lottery proceeds which shall be kept separate and apart from all other funds and assets and shall not be commingled with any other funds or assets.
- (3) Whenever any person who receives proceeds from the sale of lottery tickets in the capacity of a lottery retailer becomes insolvent, or dies insolvent, the proceeds due the corporation from such person or his estate shall have preference over all debts or demands.

**Alabama Code Ann. §xx-xx-65.<sup>37</sup> Ticket prices; gift or sale of, or promotion using, ticket; locations for ticket sales.**

- (1) No person shall sell a ticket at a price other than established by the corporation, unless authorized in writing by the president. No person other than a duly certified lottery retailer shall sell lottery tickets; provided, however, that a person who may lawfully purchase lottery tickets is not prohibited from making a gift of lottery tickets to another. Nothing in this chapter shall be construed to prohibit the corporation from designating certain of its agents and employees to sell lottery tickets directly to the public.
- (2) Lottery tickets may be given by merchants as a means of promoting goods or services to customers or prospective customers, subject to approval by the board.
- (3) No lottery retailer shall sell a ticket except from the locations listed in the contract.
- (4) [No lottery tickets shall be sold at State of Alabama safety rest areas.]

<sup>37</sup> This section can be altered to change, *e.g.*, the eligible locations for sale of lottery tickets, to prohibit the gifting of a lottery ticket, to prohibit the use of a lottery ticket in a promotion, etc. In that case, other sections may require revision.

**Alabama Code Ann. §xx-xx-67. Posting of signs on retailer premises.**

A lottery retailer shall post at each point of entry into any area where lottery tickets are sold one (1) or more signs informing patrons of a toll-free telephone number of any state or national organization that provides information and referral services regarding compulsive or problem gambling. Failure by the lottery retailer to post and maintain such a sign or signs shall be cause for the imposition of a fine to be determined by the board.

**Alabama Code Ann. §xx-xx-69. Procurement of goods or services by corporation; vendor disclosures and qualifications; prohibited contracts; vendor bond or letter of credit.<sup>38</sup>**

- (1) The corporation may purchase, lease, or lease-purchase such goods or services as are necessary to effectuate the purposes of this chapter. The corporation shall not contract with any person for the total operation and administration of the lottery, but it may make procurements which integrate such functions as lottery game design, lottery ticket distribution to retailers, supply of goods and services, and advertising. In all procurement decisions, the corporation shall take into account the particularly sensitive nature of the lottery and shall act to promote and ensure security, honesty, fairness, and integrity in the operation and administration of the lottery and the objectives of raising net proceeds for the benefit of the public.
- (2) The corporation shall, in accordance with the administrative rules and regulations adopted by the board, investigate the financial responsibility, security, and integrity of any lottery system vendor who submits a bid, proposal, or offer to the corporation. At the time of submitting such bid, proposal, or offer to the corporation, the vendor shall provide the following items:
  - (a) A disclosure of the vendor's name and address and, as applicable, the name and address of the following:
    - (i) If the vendor is a corporation, each officer, director, and stockholder of such corporation; provided, however, that in the case of owners of equity securities of a publicly traded corporation, only the names and addresses of those stockholders owning five percent (5%) or more of such securities need be disclosed.
    - (ii) If the vendor is a limited liability company, each member, manager, and equity owner of such company.
    - (iii) If the vendor is a trust, the trustee and each person entitled to receive income or benefits from such trust.
    - (iv) If the vendor is an association, each member, officer, and director (or their equivalent) of such association.
    - (v) If the vendor is a partnership of any type, each general partner and each limited partner of such partnership.
    - (vi) If the vendor is a joint venture, each joint venturer.

<sup>38</sup> This section can be altered to change the required disclosures by, the qualifications/ disqualifications of, and the bond requirements for, vendors, if you wish. In that case, additional revisions to other sections may be required.

- (vii) If the vendor is an entity not identified above, each person required by the corporation to be identified.
  - (b) A disclosure of (i) all the jurisdictions in which the vendor does business, and (ii) the nature of the business for each such jurisdiction.
  - (c) A disclosure of (i) each jurisdiction in which the vendor has a contract to supply any gaming-related goods or services, including, but not limited to, lottery goods and services; (ii) the nature of the goods or services which are the subject of each such contract; (iii) any such contract that has been terminated or not renewed, and the reason(s) for such termination or nonrenewal; (iv) any proceeding commenced against the vendor in regards to any such contract, and (v) the disposition of each such proceeding.
  - (d) A disclosure of (i) each jurisdiction in which the vendor has applied for, or been requested by an authority to apply for, a gaming-related license of any kind; (ii) the disposition of each such application or request, including, but not limited to, application granted; application denied; application pending, or application not yet filed, and (iii) any disciplinary action or other proceeding commenced against the vendor in connection with any such gaming-related license, including, but not limited to, license revocation or suspension or the imposition of a fine or penalty.
  - (e) A disclosure of the details of any plea by, conviction of, or any finding or adjudication of guilt in any jurisdiction regarding the vendor for any offense other than a traffic violation.
  - (f) A disclosure of the details of any bankruptcy, insolvency, or reorganization of, or any purchase or takeover of an entity (including bonded indebtedness) by, the vendor.
  - (g) A disclosure of the details of any pending litigation against the vendor not identified above.
  - (h) Such additional disclosures and information as the corporation may determine to be appropriate for the procurement involved.
- (3) If the vendor subcontracts any substantial portion of the work to be performed under the contract to a subcontractor, the vendor shall disclose all of the information required by this subsection for the subcontractor, as if the subcontractor were itself a vendor.
  - (4) The corporation shall not enter into a contract for a procurement with a lottery system vendor who has not complied with the disclosures required by the corporation and described in subsection (2) of this section, and any contract with such a vendor is void and unenforceable. Any contract with a vendor who does not comply with the requirements for periodically updating such disclosures during the tenure of a contract as may be specified in such contract is voidable and may be terminated by the corporation. The provisions of this

- section shall be construed broadly and liberally to achieve the ends of full disclosure of all information necessary to allow for a full and complete evaluation by the corporation of the competence, integrity, background, and character of vendors.
- (5) (a) The corporation shall not enter into a contract with any vendor who has been found guilty of an offense related to the security or integrity of the lottery in any jurisdiction or with any vendor who is found to be in possession of any illegal lottery device.
- (b) The corporation shall not enter into a contract with any vendor who has not first obtained a signed tax clearance from the Commissioner of Revenue indicating that the vendor is current in filing all applicable tax returns and in payment of all taxes, interest, and penalties owed to the State of Alabama, excluding items under formal appeal pursuant to applicable statutes.
- (6) The corporation may require that each vendor shall, at the execution of the contract with the corporation, post a performance bond or letter of credit from a bank acceptable to the corporation and in an amount established by the corporation subject to the provisions of Section xx-xx-61. In lieu of the bond, a vendor may, to assure the faithful performance of its obligations, deposit and maintain with the corporation securities that are interest-bearing or accruing and that are rated in one (1) of the three (3) highest classifications by an established, nationally-recognized investment rating service. Securities eligible under this subsection are limited to:
- (c) Certificates of deposit issued by solvent banks or savings associations approved by the corporation and which are organized and existing under the laws of this state or under the laws of the United States.
- (d) United States bonds, notes, and bills for which the full faith and credit of the government of the United States is pledged for the payment of principal and interest.
- (e) Corporate bonds approved by the corporation. The corporation which issued the bonds shall not be an affiliate or subsidiary of the depositor. Such securities shall be held in trust.
- (7) Every contract entered into by the corporation pursuant to this section shall contain a provision for payment of liquidated damages to the corporation for any breach of contract by the vendor.
- (8) Each vendor shall be qualified to do business in this state and shall file appropriate tax returns as provided by the laws of this state. All contracts under this section shall be governed by the laws of this state.

**Alabama Code Ann. §xx-xx-73. Sales of lottery ticket to minor.**

- (1) No lottery retailer or its agent, associate, employee, representative or servant shall sell a lottery ticket to any person, unless the person submits at least one (1) of the following forms of identification which establish the age of the person as twenty-one (21) years or older:<sup>39</sup>
  - (a) A valid and current Alabama driver's license which contains a photograph of the person and the birth date of the person presenting the driver's license.
  - (b) A valid and current driver's license of another jurisdiction which contains a photograph of the person and the birth date of the person presenting the driver's license.
  - (c) [A valid and current special identification card issued by the State of Alabama pursuant to Ala. Code § 17-9-30 or Ala. Code § 32-6-1 which contains a photograph of the person and the birth date of the person presenting the identification card.]
  - (d) A valid and current passport or visa issued by the United States or another country which contains a permanently-attached photograph of the person and the birth date of the person presenting the passport or visa.
  - (e) A valid and current military identification card issued by the United States government which contains a photograph of the person and the birth date of the person presenting the identification card.
  - (f) Each form of identification listed in paragraph (a) of this subsection must on its face establish the age of the person as twenty-one (21) years of age or older, and there must be no reason to doubt the authenticity or correctness of the identification. No form of identification mentioned in paragraph (a) of this subsection shall be accepted as proof of age, if it is expired, defaced, mutilated, or altered. If the form of identification presented is a duplicate, then the person shall submit an additional form of identification which contains the name, date of birth, and photograph of the person presenting the identification.
  - (g) No educational institution identification card, check-cashing identification card, or employee identification card shall be considered as lawful identification for the purposes of this subsection.
- (2) Any lottery retailer who knowingly sells a lottery ticket to a person under twenty-one (21) years of age shall be fined pursuant to the administrative rules

<sup>39</sup> This statute can be altered to change the acceptable forms of identification, or the minimum age for the purchase of a lottery ticket, if you wish. Such changes might require revisions to other sections.

and regulations adopted by the board and may be disqualified as a lottery retailer.<sup>40</sup>

- (3) It is unlawful for any person under twenty-one (21) years of age to purchase a lottery ticket. Any person that violates the provisions of this subsection shall be fined not more than \_\_\_\_ Dollars (\$\_\_\_\_.00). Any person apprehended while violating the provisions of this subsection shall be issued a citation by the apprehending law enforcement officer, which shall be paid in the same manner as provided for the offenders of local traffic violations.

<sup>40</sup> This section allows the board to discipline lottery retailers that sell lottery tickets to underage patrons to discipline those retailers, including, but not limited to, fining them or revoking their lottery retailer status, through its regulations.

**Alabama Code Ann. §xx-xx-75. Altered lottery tickets; tampering with lottery.**

- (1) Any person, with intent to defraud, who falsely makes, alters, forges, utters, passes, or counterfeits a state lottery ticket shall be punished by imprisonment for not less than one (1) year and not more than \_\_\_\_\_ (\_\_\_) years, by a fine of not more than \_\_\_\_\_ Dollars (\$\_\_\_\_.00), or by both such fine and imprisonment.<sup>41</sup>
  
- (2) Any person who influences, or attempts to influence, the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials shall be punished by imprisonment for not less than one (1) year and not more than \_\_\_\_\_ (\_\_\_) years, by a fine of not more than \_\_\_\_\_ Dollars (\$\_\_\_\_.00), or by both such fine and imprisonment.<sup>42</sup>

<sup>41</sup> This statute can be altered to revise the penalties for forging/counterfeiting lottery tickets, if you wish. For example, you could revise the fine amounts, revise the length of the prison sentence, or make the prison sentence without benefit of probation, parole, or suspension of imposition of sentence, provided doing so is consistent with other applicable Alabama law.

<sup>42</sup> This statute can be altered to revise the penalties for lottery tampering, if you wish.

**Alabama Code Ann. §xx-xx-77. Prohibited actions for corporation board members and officers.**

- (1) No former board member or corporation officer of the corporation, and no entity owned (in whole or in part) by a former board member or corporation officer, shall solicit or accept employment or enter into a contract for compensation of any kind with a vendor of the corporation within one (1) year after termination of service with the corporation.<sup>43</sup>
- (2) The name of any individual who is a board member or a corporation officer or employee shall not appear upon any lottery ticket, lottery game, lottery form, or paper used in playing any lottery game.
- (3) Violation of any provision of this section by a board member or corporation officer or employee shall constitute cause for removal from office or dismissal from employment.
- (4) [The provisions of subsections (1) and (3) of this section shall not apply to ex officio board members.]<sup>44</sup>
- (5) [The State Ethics Commission shall administer and enforce the provisions of this section. The procedures and penalties provided for in Code of Ethics for Public Officials, Employees, Etc. shall apply to the administration and enforcement of the provisions of this section.]

<sup>43</sup> This section can be altered to change the limitations on employment, if you wish.

<sup>44</sup> This section is not necessary if there are no ex officio board members.

**Alabama Code Ann. §xx-xx-79. Skimming of lottery proceeds.**

- (1) Skimming of lottery proceeds is the intentional excluding, or the taking of any action in an attempt to exclude, of anything or its value from the deposit, counting, collection, or computation of gross revenues or net proceeds from lottery activities.
- (2) Whoever commits the crime of skimming of lottery proceeds when the amount skimmed or to be skimmed is less than \_\_\_ Dollars (\$\_\_\_.00) may be imprisoned for not more than \_\_\_ (\_\_\_) years, or may be fined not more than \_\_\_ Dollars (\$\_\_\_.00), or both.<sup>45</sup>
- (3) Whoever commits the crime of skimming of lottery proceeds when the amount skimmed or to be skimmed is \_\_\_ Dollars (\$\_\_\_.00) or more, but less than \_\_\_ Dollars (\$\_\_\_.00), shall be imprisoned for not less than \_\_\_ (\_\_\_) years, nor more than \_\_\_ (\_\_\_) years, and may be fined not more than \_\_\_ Dollars (\$\_\_\_.00), or both.
- (4) Whoever commits the crime of skimming of lottery proceeds when the amount skimmed or to be skimmed is \_\_\_ Dollars (\$\_\_\_.00) or more shall be imprisoned for not less than \_\_\_ (\_\_\_) years, nor more than \_\_\_ (\_\_\_) years, and may be fined not more than \_\_\_ Dollars (\$\_\_\_.00), or both.

<sup>45</sup> This section, as well as any section regarding imprisonment or a fine, can be altered to change the length of punishment, the terms of punishment, *e.g.*, without benefit of probation, parole or suspension of sentence, and/or the dollar amount of the fine, as you wish, provided that such change is otherwise consistent with Alabama law.

**Alabama Code Ann. §xx-xx-81. Illegal lottery devices and material false statements; penalties.**

No person shall knowingly or intentionally use or possess an illegal lottery device, make a material false statement in any application or proposal to conduct lottery activities, or make a material false entry in any book or record which is compiled or maintained or submitted to the corporation pursuant to the provisions of this chapter. Any person who violates the provisions of this section shall be imprisoned for not less than \_\_\_ (\_\_\_) years, nor more than \_\_\_ (\_\_\_) years, and may be fined an amount not to exceed \_\_\_ Dollars (\$\_\_\_00) or the dollar amount of the false entry or statement, whichever is greater, or both.<sup>46</sup>

<sup>46</sup> This section can be altered to change the punishment for using an illegal lottery device or making false statement or entries, if you wish, provided such change is otherwise consistent with Alabama law.

**Alabama Code Ann. §xx-xx-83. Illegal lottery devices defined; confiscation; liability for destroying device.**

- (1) Illegal lottery devices as described in this section are contraband.
- (2) As used in this section, the term “illegal lottery device” means forged, counterfeit, stolen, improperly issued, or illegally possessed lottery tickets.<sup>47</sup>
- (3) [All law enforcement officers of municipal police forces, sheriffs' departments, and the state may confiscate and immediately destroy all illegal lottery devices which come to their attention. Any law enforcement agency which seizes any illegal lottery device in accordance with this section may, in lieu of the immediate destruction of the device, file a petition in the circuit court where the device was seized seeking a judicial determination that the seized device is an illegal lottery device. The petition shall require the persons and entities from whom the device was seized and such other persons as the agency believes may have an interest in the device to appear and show cause why the seized device should not be destroyed as an illegal lottery device.] [All law enforcement officers of municipal police forces, sheriff's departments, and the state shall confiscate and preserve all illegal lottery devices which come to their attention for evidence in the prosecution of those individuals in possession of same. Any such illegal lottery device will be subject to destruction.]
- (4) Neither the state nor any political subdivision, agency, agent, or enforcement officer thereof shall be liable civilly or criminally for the destruction of any illegal lottery device.

<sup>47</sup> This section can be altered to change the definition of “illegal lottery device,” if you wish, *e.g.*, if you wish to make video lottery games and terminals illegal. If changes are made, multiple sections in the act will require revision.

**Alabama Code Ann. §xx-xx-85. Net proceeds generated by the Alabama Lottery Law.**

<sup>48</sup>All net proceeds generated by the Alabama Lottery Law, created pursuant to this chapter and deposited into the {fund name} under Section xx-xx-51, shall be paid into the Education Trust Fund.<sup>49</sup>

<sup>48</sup> This section may not be required (or may require revision), depending upon the specific mechanics to be used for moving the net proceeds from the fund account to its ultimate destination(s).

<sup>49</sup> This section can be altered to provide for a different distribution of the net proceeds from the lottery, *e.g.*, the net proceeds can be divided between different state funds, either using a specified dollar amount or a percentage, or the net proceeds can be deposited to one fund for a specified period of time, then to another state fund thereafter for a specified period of time, etc.

**[Alabama Code Ann. §xx-xx-87. Officers and employees of the corporation considered public servants; filing of Statement of Economic Interest.**

All corporation officers and employees shall be considered public employees as defined by Ala. Code § 36-25-1. All corporation officers are subject to Ala. Code § 36-25-14 and shall be required to file a statement of economic interests with the State Ethics Commission.]<sup>50</sup>

<sup>50</sup> The act as currently drafted contemplates that the lottery corporation will be a special purpose entity and its employees and officers not public employees or its board members public officials. If you prefer to alter this set-up, *e.g.*, making employees public employees, this is an example of a provision that you might wish to include.

**Alabama Code Ann. §xx-xx-89. Financial integrity of lottery.**

To ensure the financial integrity of the lottery, the corporation, through its board, shall:

- (a) Compile and submit quarterly and annual reports and financial statements, in compliance with Sections xx-xx-xx and xx-xx-xx;
- (b) Contract with an independent auditor who is a certified public accountant or firm to conduct an annual financial audit of the books and records of the corporation. The cost of this annual financial audit shall be an operating expense of the corporation:
  - (i) Such independent auditor shall have no financial interest in any vendor with whom the corporation is under contract;
  - (ii) All contracts for independent auditors shall be reviewed by, and subject to, the approval of the Alabama State Auditor to ensure that the independent auditor is qualified to perform the audit;
  - (iii) The audit shall be completed within ninety (90) days after the close of the corporation's fiscal year, and
  - (iv) Contracts for audit services may be entered into for a period not to exceed five (5) years, and the same firm shall not receive two (2) consecutive audit contracts.<sup>51</sup>

<sup>51</sup> This section can be altered to change the limitations on contracting for audit services, if you wish, provided that the ultimate structure you choose allows such under Alabama law.

**Alabama Code Ann. §xx-xx-91. Submission of annual operating budget to the Joint Legislative Budget Committee.**

For informational purposes only, the corporation shall submit to the Permanent Joint Legislative Committee on Finances and Budgets a copy of the corporation's annual operating budget for the upcoming fiscal year. The budget shall include an estimate of net proceeds to be deposited into the {fund name under section xx-xx-51} during the succeeding fiscal year.

**[Alabama Code Ann. §xx-xx-xx. State declaration of exemption from provisions of certain federal statutes.**

- (1) Pursuant to Section 2 of that certain Act of the Congress of the United States entitled “An act to prohibit transportation of gambling devices in interstate and foreign commerce,” approved January 2, 1951, being c. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. Sections 1171-1177, the State of Alabama, acting by and through the duly elected and qualified members of its Legislature, does hereby in this section, and in accordance with and in compliance with the provisions of Section 2 of such Act of Congress, declare and proclaim that the state of Alabama or the portion within which lottery operations are authorized is exempt from the provisions of Section 2 of that certain Act of the Congress of the United States entitled “An act to prohibit transportation of gambling devices in interstate and foreign commerce,” approved January 2, 1951, being c. 1194, 64 Stat. 1134.
- (2) All shipments of lottery supplies, equipment, and devices into any are of the state of Alabama within which lottery operations are authorized shall be deemed legal shipments of such for purposes of federal law.]<sup>52</sup>

<sup>52</sup> Depending upon the type of lottery games allowed, *e.g.*, if video lottery devices are sued, you may need or wish to include a provision such as this.

## **Victoryland & The Birmingham Race Course**

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### MACON COUNTY GREYHOUND PARK

TOTAL PARI-MUTUEL HANDLE 1984 - 03/31/2020	\$ 3,087,962,479.00
TOTAL PARI-MUTUEL TAXES PAID 1984 - 03/31/2020	\$ 155,447,635.34
TOTAL PARI-MUTUEL TAXES PAID TO STATE OF ALABAMA, GENERAL FUND 1984 - 03/31/2020	\$ 46,292,815.63
TOTAL HISTORIC HORSE RACING TAXES PAID 10/01/19 - 03/31/2020	\$ 125,962.70
TOTAL HISTORIC HORSE RACING TAXES TO STATE 10/01/19 - 03/31/2020	\$ 41,987.57
TOTAL AGENCY DISTRIBUTIONS 1984 - 03/31/2020	\$ 89,230,921.09
TOTAL CHARITY DAY DISTRIBUTIONS 09/18/84 - 03/31/2020	\$ 2,457,277.19
TOTAL BINGO CHARITY PAYMENTS 2003 - 03/31/2020	\$ 11,221,559.00

#### DISTRIBUTION BY AGENCY:

Macon County Board of Education	\$ 45,566,976.26
Macon County General Fund	\$ 8,017,374.16
Macon County Sheriff Department	\$ 1,787,440.61
Macon County Library	\$ 1,787,440.61
Indigent Care	\$ 1,786,828.61
MCCRR	\$ 893,721.83
Macon County Human Resources	\$ 893,721.83

Charity Hospital (MCHCA, Inc.)	\$	1,787,440.61
Macon County Recreation	\$	898,617.82
City of Tuskegee	\$	8,477,030.33
City of Notasulga	\$	3,391,160.31
City of Franklin	\$	847,573.72
Town of Shorter	\$	690,049.60
Tuskegee University	\$	7,147,073.59
Community Action Agency	\$	2,452,309.88
Southern Vocational College	\$	1,750,662.81
Children's School (1984-1996)	\$	103,797.51
St. Joseph's Catholic School	\$	892,641.00
YMCA	\$	48,929.60
Macon-Russell Community Action Agency	\$	10,130.40
	\$	<u>89,230,921.09</u>

MACON COUNTY GREYHOUND PARK  
CHARITY DAY RECIPIENTS

Aberfoil School Comm. Center	\$	600.00
AIDS Outreach	\$	1,000.00
AIM, Inc. (Aid to Inmate Mothers)	\$	9,061.00
Alabama 4H Club	\$	1,200.00
Alabama CASA Network	\$	100.00
Alabama Civil Justice Foundation	\$	150.00
Alabama Coalition Against Domestic Violence	\$	100.00
Alabama DHR	\$	1,500.00
Alabama Easter Seals	\$	700.00
Alabama Emergency Rescue Unit	\$	1,400.00
Alabama Foster Care Trust	\$	850.00
Alabama Girl's Ranch	\$	9,950.00
Alabama Historic Commission	\$	5,000.00
Alabama Institute for Deaf & Blind	\$	8,945.00
Alabama League for Ad Education	\$	300.00
Alabama Lions Sight Conservation	\$	4,700.00
Alabama Rural Council	\$	1,000.00
Alabama Special Olympics	\$	5,950.00
Alabama State University	\$	150.00
Alabama Vietnam Vet Leadership	\$	650.00
Alabama Watch	\$	150.00
All Macon County Day	\$	200.00
Aloha Kappa Alpha	\$	2,500.00
American Cancer Society	\$	15,626.32
American Diabetes	\$	8,750.00
American Heart - Jump Rope	\$	4,600.00
American Heart - Jump Rope - Tuskegee Chapter	\$	2,400.00
American Heart - Montgomery County	\$	150.00
American Heart - Tuskegee Chapter	\$	15,700.00
American Legion Post #150	\$	750.00
American Lung Association	\$	14,750.00
American Red Cross - Tuskegee Chapter	\$	105,800.83
Angels Caring For Angels	\$	525.00
Army Aviation Museum	\$	5,100.00
Arthritis Foundation	\$	19,907.00
Ashdale Cemetery	\$	4,250.00
Auburn Day Care Center	\$	2,050.00
Auburn United Way	\$	5,740.53
Auburn University Dept of Theater	\$	150.00
Auburn/Opelika Optimist Club	\$	5,325.00
Autauga County Family	\$	200.00
Autauga-West Elmore Retired Citizens	\$	5,600.00
Baptist Medical Center	\$	500.00

Battle Community Concern	\$	175.00
B & D Cancer Center, Inc.	\$	8,177.33
Bellingrath PTA Athletic Fund	\$	6,000.00
Bethel Destiny Comm. Serv.	\$	400.00
Big Brothers & Sisters	\$	300.00
Black Belt Arts Center	\$	1,700.00
Black Belt Community Foundation	\$	486.32
Booker T. Washington Elks Lodge	\$	500.00
Booker T. Washington PTSA	\$	2,200.00
Boy Scouts of America - Carver District	\$	12,220.00
Boys & Girls Clubs of Montgomery	\$	250.00
Boys & Girls Clubs of Tuskegee	\$	7,762.03
Boys Scouts of America	\$	2,102.00
Bradford's Chapel	\$	200.00
Brantwood Children's Home	\$	1,500.00
Britton McKenzie Post #150	\$	25,300.00
Brownville Fire Department	\$	37,916.32
BTW Athletics	\$	2,755.00
Bullock County DHR	\$	1,000.00
Bullock County Historical Society	\$	9,150.00
Bullock County Humane Society	\$	2,350.00
Bullock County Mental	\$	85,175.00
Bullock County Rural Ambulance	\$	1,000.00
By His Grace Ministries	\$	600.00
Camp ASCOA	\$	500.00
Camp Seale Harris	\$	11,875.00
Carver District	\$	2,300.00
Carver Sweet Potato Growers	\$	500.00
Catholic Social Service	\$	1,250.00
Central Alabama Comm. Foundation	\$	2,000.00
Central Alabama Comprehensive Health	\$	45,813.00
Central Alabama Easter Seal Rehab Center	\$	1,275.00
Central Alabama Lauback Society	\$	1,750.00
Chambers-Tallapoosa Community Action	\$	500.00
Chehaw Volunteer Fire Department	\$	150.00
Child Care Resource Center	\$	1,250.00
Child Protect, Inc.	\$	1,000.00
Children & Family	\$	7,600.00
Children & Friends Connection of Russell	\$	300.00
Children R Us Day Training	\$	1,000.00
Children's Hospital of Alabama	\$	2,100.00
Children's Organ Transplant	\$	1,500.00
Children's Trust Fund	\$	1,000.00
Christmas in Montgomery	\$	2,000.00
City of Restoration	\$	1,000.00
Clark County DHR	\$	500.00
Clearing House of Barbour County	\$	2,600.00

Commonwealth Cntr Continuing Ed	\$	150.00
Community Care Network	\$	2,000.00
Community Hospital	\$	2,000.00
Conecuh County Dept.	\$	650.00
Continental Society - Tuskegee Chapter	\$	500.00
Coosa Valley Resource Conser.	\$	200.00
Cornerstone Community Center	\$	2,000.00
Creek Stand Neighborhood Watch	\$	500.00
Crenshaw County 4-H Clubs	\$	1,000.00
Crenshaw Volunteer Fire Department	\$	7,500.00
Crisis Center of East Alabama	\$	500.00
D. C. Wolfe PTA	\$	100.00
Dale County Foster Parents	\$	500.00
Daleville Community Chest, Inc.	\$	500.00
Dare to Dream, Inc.	\$	200.00
Disabled American Vets #14	\$	13,900.00
Disabled American Vets #66	\$	4,050.00
Disabled American Vets #95	\$	2,000.00
Divine Inspirational	\$	15,077.34
Domestic Violence Interve	\$	200.00
E Alabama AIDS Outreach	\$	1,500.00
E Alabama Chapter National Kidney Foundation	\$	18,100.00
E Alabama Medical Center	\$	7,400.00
E Alabama Services for the Elderly	\$	750.00
E Alabama Task Force for Battered Women	\$	25,640.00
E Central Mental Health	\$	95,530.00
E Perry Education Association	\$	5,326.32
E Tallapoosa Emergency	\$	300.00
Eagle School Age Program, Inc.	\$	150.00
Educational Resources, Inc.	\$	7,350.00
Enterprise State Junior College	\$	100.00
Enterprise YMCA	\$	500.00
Envision 20/20	\$	1,500.00
Etowah County Lions Club	\$	100.00
F. Walker Love Life Foundation	\$	2,000.00
Family and Friends Economic	\$	300.00
Family Clinic	\$	100.00
Family Enrichment Center of Loachapoka	\$	676.32
Family Guidance	\$	1,000.00
Family Preservation Agency	\$	600.00
Family Volunteer Fire Department	\$	500.00
Fitzpatrick Elementary PTA	\$	200.00
Fort Rucker PTA	\$	200.00
Foster & Adoption	\$	7,050.00
Gadsden State Community	\$	500.00
Geneva County Association of Retired Citizens	\$	6,000.00

Geneva County City Schools	\$	500.00
George Lindsey Benefit	\$	2,500.00
George Washington Carver Arts & Crafts	\$	1,250.00
Girl's Exchange Network	\$	100.00
Greater Al Muscular Dystrophy	\$	300.00
Greene County DHR	\$	100.00
Harris Barrett School, Inc.	\$	1,050.00
Hartford PTA	\$	1,850.00
Hatching Inc.	\$	300.00
HBCU Publishing Consortium, Inc.	\$	2,500.00
Health Initiative	\$	1,100.00
Helping Hands Outreach Org.	\$	250.00
HGHG	\$	1,500.00
Hickory Grove Community Cemetery	\$	1,915.00
HOPE	\$	1,000.00
Hospice of Montgomery	\$	2,500.00
House of Love and Mercy	\$	650.00
House of Lydia Foundation	\$	1,000.00
House of Moses	\$	200.00
House of Restoration	\$	11,525.00
Howard Road Community Organization	\$	15,000.00
Human Resource Development	\$	1,000.00
Humane Society of Eufaula	\$	100.00
IOTA Phi Lambda Sorority	\$	10,953.37
I Am My Brother's Keeper, Inc.	\$	1,450.00
Jack & Jill of America	\$	450.00
Jean Dean RIF	\$	850.00
Jesse Parkhurst Guzman Foundation, Inc.	\$	360.00
Jobs Program	\$	2,350.00
John A. Andrew Community Hospital	\$	2,400.00
Johnson Express, Inc.	\$	1,200.00
Jubilee Charistian	\$	200.00
Junior Educators	\$	1,550.00
Kershaw Center YMCA Track Club	\$	3,000.00
Kid One Transport	\$	2,500.00
Kids On The Move	\$	500.00
Learn To Succeed, Inc.	\$	500.00
Lee County AIDS Outreach	\$	4,650.00
Lee County E.A.C. Sickle Cell	\$	350.00
Lee SCAN, Inc.	\$	2,700.00
LEFT, Inc.	\$	21,650.00
Leukemia Society	\$	3,600.00
Lewis Adams Early Education	\$	1,000.00
Little Texas VFD	\$	15,851.32
Lower Russell County Youth Club	\$	12,700.00
Louis O. Newman	\$	100.00

Lowndes County DHR	\$	100.00
Macedonian Community Fire Dept.	\$	32,151.32
Macon Co Betterment Assn.	\$	200.00
Macon Co. Council, PTA	\$	6,500.00
Macon Co Development Corp	\$	43,650.00
Macon Co DHR/Jobs Program	\$	1,950.00
Macon Co Extension Service	\$	1,000.00
Macon Co Farmer Organization	\$	1,900.00
Macon Co Fine Arts Manifesto	\$	3,000.00
Macon Co Juvenile Court	\$	100,558.00
Macon Co Unity Service 4-H	\$	12,980.00
Macon Co/Tuskegee Public Library	\$	52,175.38
Macon County Health Dept.	\$	1,700.00
Macon County Humane Society	\$	1,790.00
Macon County 4-H Clubs	\$	44,576.32
Macon County DHR, Travis Goodson	\$	8,150.00
Macon County Peoples Organization	\$	3,500.00
Macon County RSVP	\$	83,842.00
Macon County Senior Olympic	\$	16,127.33
Macon DHR	\$	80,329.00
Macon Founty CTE A	\$	500.00
Macon M.E.A.N.S.	\$	760.00
Macon/Russell CAC	\$	19,526.32
Macon West Optimist Club	\$	2,300.00
March of Dimes	\$	2,450.00
MCCRR	\$	36,826.32
McRae Prostate Cancer Awareness Foundation	\$	3,350.00
Mental Health Association	\$	3,100.00
Mental Health in Montgomery	\$	2,600.00
Mental Retardation Board of Dale Co	\$	4,000.00
Mentoring Our Males To Success	\$	2,000.00
Mobile Minority AIDS	\$	200.00
Monsky Developmental Clinic	\$	500.00
Montgomery AIDS Outreach	\$	250.00
Montgomery Area Community	\$	6,900.00
Montgomery Assoc of Retarded Children	\$	100.00
Montgomery Cancer Wellness Foundation	\$	6,351.32
Montgomery Chapter of Jack & Jill	\$	100.00
Montgomery Co 4-H Club	\$	250.00
Montgomery Lions Club	\$	100.00
Montgomery Literacy Council	\$	700.00
Montgomery Police Dept. Chaplaincy Program	\$	150.00
Montgomery Symphony Association	\$	250.00
Montgomery United Way	\$	38,650.00
Montgomery Zoo Society	\$	1,000.00
Mrs. Lucille Marable	\$	25.00

Mt Meigs Chapel Adv	\$	1,500.00
Mt Oliver	\$	5,500.00
National Bar Institute	\$	500.00
National Coalition of 100 Black Women	\$	26,200.00
National Honorary Beta Club	\$	10,000.00
National Kidney Foundation	\$	14,872.00
Nellie Burge Comm. Center	\$	2,000.00
Notasulga Band Boosters	\$	400.00
Notasulga High School Band/PTA	\$	925.00
Nutrition Education Program	\$	1,000.00
Old Merritt School	\$	2,500.00
Optimist Club of Uniontown	\$	4,050.00
Organ Transplants	\$	3,500.00
Organized Community	\$	300.00
Ozark/Dale Co Public Library	\$	250.00
Pace's Point Volunteer Fire & Rescue	\$	200.00
Perry Co DHR	\$	600.00
Peter Crump Special Needs	\$	900.00
Phenix-Russell County Boys & Girls Club	\$	6,250.00
Phenix-Russell County Boys Club	\$	4,000.00
Phenix-Russell County Girls Club	\$	5,800.00
Phenix-Russell County Literacy Co	\$	1,400.00
Pike Road Volunteer Fire Department	\$	500.00
Planned Parenthood of Alabama	\$	9,361.00
Randolph County Learning Center	\$	1,600.00
Ray of Hope	\$	2,500.00
Resurrection Catholic Missions	\$	3,100.00
Rockefeller Hill Comm. Center	\$	2,500.00
RSVP	\$	5,500.00
RSVP of Baldwin	\$	3,800.00
RSVP of Barbour	\$	70,401.32
Rural Alabama Development	\$	1,750.00
Rural Dev. Center	\$	2,100.00
Rural Enrichment Accessing	\$	150.00
Russell Child Dev. Center	\$	500.00
Russell Co Pensions & Security	\$	5,750.00
Russell Co. Council for Abused and Neg.	\$	4,100.00
Russell County Firefighters	\$	5,000.00
Russell County Health Dept.	\$	500.00
Salem Housing Corp.	\$	2,750.00
Salem Nursing & Rehab Center of Tuskegee	\$	800.00
Salvation Army	\$	100.00
SEASHA, INC.	\$	3,250.00
Shelter For Battered Women, Inc.	\$	4,700.00
Shiloh Community Restoration	\$	9,500.00
Sickle Cell of Montgomery	\$	6,200.00

Sistas Cansurvive, Inc.	\$	2,300.00
Social Work Student Alliance	\$	15,400.00
South Central Ala Girl Scouts	\$	750.00
South Central Ala Mental Health Board	\$	2,500.00
South East Ala Sickle Cell	\$	8,961.78
South Parks State Tech. College	\$	500.00
Southwind Drum and Bugle Club	\$	100.00
St. Joseph Catholic School	\$	43,701.32
Star Mindingall Water Auth	\$	3,326.32
Successful Living Center	\$	100.00
Sumpter Co. Dept. of Human Resources	\$	22,350.00
TAHEC	\$	8,150.00
Talladega County DHR	\$	250.00
Tallapoosa Partners	\$	100.00
Tallassee Rescue Unit	\$	2,000.00
Task Force for Elderly Russell County	\$	2,500.00
TEARS Inc.	\$	400.00
Teen Empowerment Awareness	\$	250.00
The Alabama Elite	\$	250.00
The Brass Ring Society	\$	2,700.00
The Godparent Project	\$	500.00
The Potter's House	\$	5,500.00
The World Conference of Mayors	\$	13,326.32
Thinkbig/ERI	\$	500.00
Time 4 Change	\$	200.00
Too Good For Drugs	\$	2,100.00
Town of Midway	\$	2,000.00
Troy State University of Dothan	\$	100.00
Tukabatchee Area Council of Boys Scouts of Amer	\$	5,200.00
Tuskegee Area Chamber of Commerce	\$	1,450.00
Tuskegee Area Health Education Center	\$	776.32
Tuskegee Community Christian Org.	\$	27,650.00
Tuskegee Continental Soc	\$	6,141.33
Tuskegee Delta Sigma	\$	750.00
Tuskegee Eye FDN	\$	12,268.00
Tuskegee Futbol Youth	\$	500.00
Tuskegee Home	\$	1,400.00
Tuskegee Historic Preservation Commission	\$	876.32
Tuskegee Optimist Club	\$	71,380.00
Tuskegee Public Schools PTA	\$	300.00
Tuskegee Repertory Theatre	\$	39,539.32
Tuskegee Rescue Unit	\$	500.00
Tuskegee School Community	\$	7,252.00
Tuskegee Storks Nest	\$	1,400.00
Tuskegee United Women League	\$	25,800.00
Tuskegee University Local Alumni Assn.	\$	526.32

Tuskegee Univ National	\$	650.00
Tuskegee University Athletic Assn.	\$	43,650.00
Tuskegee/Macon Alumni Assn. Of A&M	\$	500.00
Tuskegee/Macon Co Commun	\$	2,000.00
Tuskegee/Macon Co YMCA	\$	144,740.00
Tuskegee Main Street	\$	800.00
Tuskegee/Montgomery UNCF	\$	2,500.00
Union Volunteer Fire and Rescue	\$	28,150.00
Union/Bullock Tourism Board	\$	1,100.00
United Negro College Fund	\$	2,850.00
United Way	\$	200.00
Universal Faith Ministry	\$	250.00
USA Recreation	\$	400.00
Valley Haven School	\$	7,660.00
Volunteer & Info Center	\$	2,600.00
Wall Street Community Improvement	\$	3,485.00
Washington Public Schools PTA	\$	2,250.00
West Macon Community Improvement	\$	1,000.00
Woman Involved in Farm Eco	\$	950.00
Zeta Phi Beta Storcks Nest	\$	4,190.00
Zion Health-Social Services Inc.	\$	10,000.00
Zonta Club of Dothan	\$	2,000.00
Individuals	\$	400.00
Previous Distribution	\$	33,281.86
	\$	<u>2,457,277.19</u>

## BIRMINGHAM RACE COURSE

TOTAL PARI-MUTUEL HANDLE 01/01/1992 - 03/31/2020	\$ 2,712,752,058.30
TOTAL PARI-MUTUEL TAXES PAID 01/01/1992 - 03/31/2020	\$ 121,798,388.25
TOTAL PARI-MUTUEL TAXES PAID TO STATE OF ALABAMA, GENERAL FUND 01/01/1992 - 03/31/2020	\$ 32,135,732.53
TOTAL HISTORIC HORSE RACING TAXES PAID 10/01/2019 - 03/31/2020	\$ 3,151,857.03
TOTAL HISTORIC HORSE RACING TAXES TO STATE 10/01/2019 - 03/31/2020	\$ 900,530.58
TOTAL AGENCY DISTRIBUTIONS 01/01/1992 - 12/31/2018	\$ 55,784,656.81
TOTAL COMMISSION CHARITY DAY DISTRIBUTIONS 1993 - 2018	\$ 621,376.94

### DISTRIBUTION BY AGENCY:

City of Birmingham	\$ 10,045,496.34
City of Birmingham Employee Retirement System	\$ 543,837.17
Jefferson & Shelby County Governments	\$ 5,579,309.00
University of Alabama Board of Trustees	\$ 5,022,539.10
Jefferson State Community College	\$ 1,674,179.70
Lawson State Community College	\$ 1,659,956.99
Bessemer State Technical College	\$ 1,116,119.82
Birmingham/Jefferson Co Transit Authority	\$ 572,282.65

Jefferson/Shelby Counties Public Schools	\$	9,487,157.72
Jefferson/Shelby Counties Other Municipalities	\$	2,532,603.65
Fire Districts & Volunteer Fire Depts.	\$	2,253,573.70
County Owned Hospitals/Nursing Homes	\$	1,116,119.82
Tannehill Furnace and Foundry Commission	\$	829,978.51
Alabama State Fair Authority	\$	286,141.33
Miles College	\$	1,674,179.70
Miles College Law School	\$	1,674,179.70
Metropolitan Development Board	\$	603,837.17
Children's Hospital of Alabama	\$	3,334,136.67
Alabama Child Caring Foundation	\$	33,473.37
Sickle Cell Foundation, N Central Alabama	\$	1,068,423.71
Partners in Neighborhood Growth	\$	550,948.54
Urban League, Birmingham Chapter	\$	558,059.91
United Cerebral Palsy, Birmingham Chapter	\$	558,059.91
Birmingham Flood Relief (1991)	\$	7,111.37
Birmingham/Jefferson Co. Emergency Management	\$	7,111.37
Birmingham Children's Theatre (1991)	\$	3,222.74
Cahaba Girl Scouts (1991)	\$	1,000.00
Children's Aid Society (1991)	\$	500.00
Discovery Place (1991)	\$	5,000.00
Fourth Avenue YMCA	\$	272,918.57
Ruffner Mountain Nature Coalition (1991)	\$	1,000.00
Service Guild of Birmingham (1991)	\$	2,500.00

United Negro College Fund (1991)	\$	1,000.00
Alabama Square/Round Dance Association (1991)	\$	6,111.37
E. B. Erwin High School (1991)	\$	1,000.00
Alabama School of Fine Arts (1991)	\$	400.00
Birmingham Festival of Arts (1991)	\$	1,000.00
Bubblegum Playhouse (1991)	\$	750.00
Metropolitan Arts Council (1991)	\$	2,111.37
Space One Eleven, Inc. (1991)	\$	1,000.00
UAB Dept of Theatre & Dance (1991)	\$	850.00
Birmingham Museum of Art	\$	271,918.60
March of Dimes Birth Defects	\$	543,837.17
Prescott House	\$	543,837.17
Bessemer Child Advocacy	\$	271,918.58
Gateway Orphanage	\$	543,837.17
Alabama Symphony Orchestra	\$	246,918.57
Metro Humane Shelter	\$	151,204.68
Bessemer/W Jefferson Humane Society	\$	38,899.61
Alabama Wildlife Rescue Society	\$	34,386.40
Greater Birmingham Humane Society	\$	47,427.89
Previous Distribution	\$	1,290.00
	\$	<u>55,784,656.81</u>

## BIRMINGHAM RACE COURSE

### COMMISSION CHARITY DAY RECIPIENTS

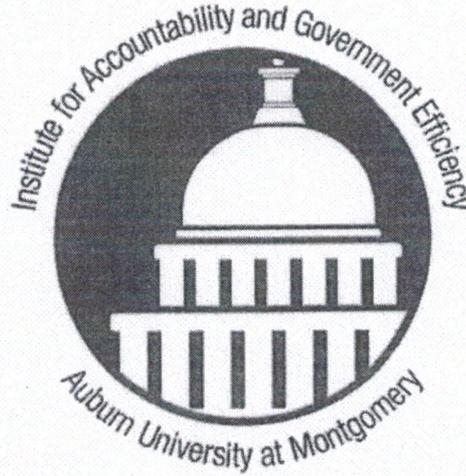
A. G. Gaston Boys & Girls Club	\$	7,619.67
Ala Radio Network for the Print Impaired	\$	1,920.16
Alabama CASA Network, Inc.	\$	14,032.87
Alabama Goodwill Industries	\$	1,684.52
Alabama Head Injury Foundation	\$	9,514.84
Alabama Hoyas Athletic Association	\$	1,426.28
Alabama Jazz Hall of Fame	\$	15,929.20
Alabama Kidney Foundation	\$	1,506.74
Alabama Lion Sight Foundation	\$	6,550.38
Alabama Network for the Blind	\$	2,122.67
Alabama Negro League	\$	561.26
Alabama Roadrunners Recreation & Education	\$	903.29
Alabama School Of Fine Arts	\$	6,119.43
Alabama Veteran's Leadership Program	\$	3,885.49
Alethia House	\$	5,150.80
All Saints Episcopal School	\$	4,557.76
American Heart Association	\$	10,957.91
ARC of Jefferson County	\$	2,363.57
Arthritis Foundation	\$	5,604.37
Assistance League of Birmingham	\$	426.38
Auntie Litter & U.S., Inc.	\$	7,346.68
B.R.U.T.E.	\$	1,845.13
Bessemer Cut-Off Advocacy Center	\$	7,751.88
Better Basics, Inc.	\$	4,298.68
B'ham Schools Community Education Dept.	\$	7,139.42
Birmingham AIDS Outreach	\$	2,353.52
Birmingham Area Boys Scouts of America	\$	4,296.25
Birmingham Council Campfire Boys & Girls	\$	2,084.90
Birmingham Humane Society	\$	5,203.22
Birmingham Landmarks	\$	7,751.88
Birmingham PATH	\$	4,607.66
Birmingham Swim League	\$	22,121.97
Bread & Roses Hospitality, Inc.	\$	16,112.12
Camp Birmingham	\$	2,644.44
Children Can Soar	\$	2,122.67
Children's Aid Society	\$	3,321.03
Children's Dance Foundation	\$	5,405.77
Children's Village	\$	42,490.15
Crisis Center	\$	9,919.46

Crohns & Colitis Foundation	\$	13,082.18
Delta, Inc.	\$	1,845.13
Diabetes Fund	\$	2,262.26
Discovery 2000, Inc.	\$	8,174.85
Downtown Action Committee	\$	5,183.97
Dunbar-Abrams Foundation	\$	9,170.02
E.B. Erwin High School Band Booster	\$	2,246.02
East End Memorial Foundation	\$	986.78
Eastern Health Foundation	\$	1,743.08
Edgewood Elementary School	\$	1,440.48
Erwin High School	\$	2,855.77
Exceptional Foundation	\$	36,672.70
Exchange Club Child Abuse Prevention	\$	8,490.67
Fourth Avenue YMCA	\$	8,339.59
Greater Birmingham Habitat For Humanity	\$	6,757.20
Hand-In-Paw	\$	14,338.86
Hewitt-Trussville Middle School	\$	4,557.76
Holy Family High Basketball Camp	\$	1,986.79
Holy Infant of Prague Catholic Church	\$	13,037.74
Homewood Middle School	\$	8,567.29
Iron & Steel Museum	\$	8,339.59
James Lewis Tennis	\$	1,597.82
J.C.C.E.O.	\$	6,473.85
Jefferson County Board of Education-Dept. of Arts	\$	1,981.80
Jefferson County Counseling Learning Center	\$	990.91
Jefferson County Special Olympics	\$	1,920.16
Jefferson State Community College	\$	5,197.87
Jefferson/Blount/St Clair Mental Health Authority	\$	5,298.43
John Carroll High School	\$	9,865.98
Jonesboro Elementary School	\$	4,557.77
Kid-One Transportation System	\$	9,755.29
Kiwanis Club of Vulcan	\$	1,401.00
L.M. Smith Middle School	\$	1,652.77
Lakeshore Foundation	\$	11,868.98
Leukemia Society	\$	2,926.29
McWane Center	\$	844.16
Meals on Wheels	\$	14,799.35
Metro Arts Council	\$	844.17
Nature Conservancy of Alabama	\$	874.63
Our Lady of Sorrows	\$	1,652.77
Pathways	\$	7,519.58
Planned Parenthood	\$	2,045.24
Positive Maturity	\$	2,084.90
Princeton Elementary School	\$	23,479.47
Ramsey Alternative High School	\$	1,530.60

Ruffner Mountain Nature Center	\$	11,088.90
Service Guild of Birmingham, Inc.	\$	5,470.02
Shades Valley Y.M.C.A.	\$	874.63
Shelby County Board of Education	\$	4,003.13
Sickle Cell Disease Foundation	\$	764.96
Special Equestrians	\$	2,802.00
St. Anne's Home	\$	847.48
St. Peter The Apostle Catholic Church	\$	13,892.52
St. Peter's School	\$	4,492.05
The Arc of Jefferson County	\$	3,875.86
The Seasoned Performers	\$	2,084.90
U. A. B. Hospice	\$	1,486.35
United Negro College Fund	\$	7,293.36
Urban Impact	\$	1,684.52
Vulcan Park & Museum	\$	5,748.63
Vocational Resources	\$	2,023.46
West End High School	\$	3,601.03
Wild Mammal Care of Alabama	\$	564.49
Y.W.C.A.	\$	5,496.24
Payables as of 12/31/09	\$	385.47
		<hr/>
	\$	621,376.94
		<hr/>

## Future Economic Opportunities for the State of Alabama concerning Victoryland and The Birmingham Race Course

1. Brief history of Victoryland (Macon County Greyhound Park) and the legislation that created different entertainment and opportunities - live greyhound racing and different forms of bingo
2. Victoryland's major economic developments and job creation in late 2000's
3. Economic Impact of Victoryland for Macon County and the State of Alabama (see taxes paid by Macon County Greyhound Park)
4. Brief history of the Birmingham Race Course (Jefferson County Racing Association) - Live horse racing, live greyhound racing, and historical horse racing Machines
5. Economic Impact of The Birmingham Race Course for Jefferson County and the State of Alabama (see taxes paid by Jefferson County Racing Association)
6. Future Projections with additional forms of Gambling (see the AUM Economic Study) and personal opinion
7. My goal for economic development for the State of Alabama utilizing current and additional forms of gambling



# Assessment of Lottery and Gaming Programs Across the United States

April 2015

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## Introduction

The Office of the President Pro Tempore (Pro Temp) of the Alabama State Senate asked the Institute for Accountability and Government Efficiency (IAGE) at Auburn Montgomery to research lottery and gaming programs in other states. Specifically, the Pro Temp asked IAGE to:

1. Prepare lists of states with and without lotteries
2. Develop profiles of the lotteries in Alabama's border states and the U.S., including the:
  - a. Revenue generated by the lotteries;
  - b. The allocation of revenue generated by the lotteries among prizes, administrative costs, and proceeds available to the states;
  - c. The types of games each state's lottery allows; and
  - d. The programs funded from each state's share of lottery revenue.
3. List the reasons states without lotteries do not offer them;
4. Profile states that have entered into gaming compacts with Indian tribes;
5. Research and summarize the literature on monetary issues related to lotteries; and
6. Draft a summary of the implications for Alabama if the State were to consider sponsoring a lottery and/or Class III casino gaming.

The IAGE staff reviewed available data, information, and research on lotteries and gaming in the United States and Alabama's bordering states and offers the following findings.

## Lotteries

### States with Lotteries

All but six (6) states (Alabama, Alaska, Hawaii, Mississippi, Nevada, and Utah) sponsor lotteries (Figure 1).

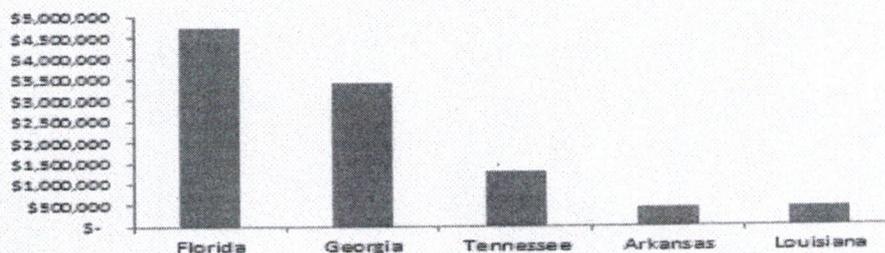
**Figure 1**  
States with and without Lotteries  
2013



### Lotteries in Alabama's Bordering States

Except for Mississippi, all of Alabama's bordering states sponsor lotteries. In 2013, bordering state lotteries generated from \$423 million (Louisiana) to \$4.8 billion (Florida) in revenue (Figure 2).

**Figure 2**  
Total Lottery Revenue—Border States  
2013  
(\$1000s)

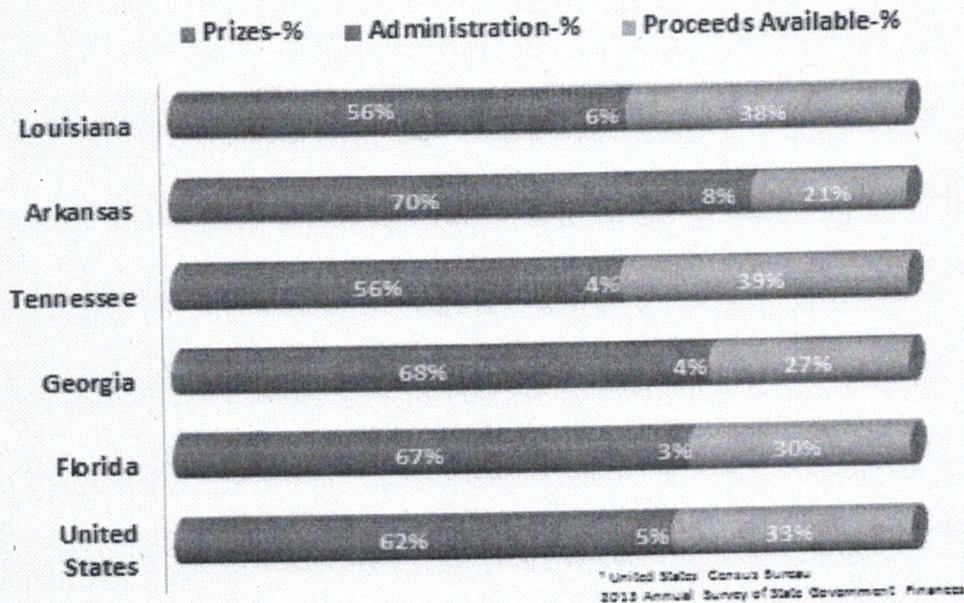


<sup>1</sup> United States Census Bureau  
2013 Annual Survey of State Government Finances

Of the revenue generated from bordering states' lotteries in 2013, between 21% (Arkansas) and 39% (Tennessee) of the proceeds were available to fund programs in the states. For the United States, as a whole, 33% of lottery revenue was available for state-level programs. The following chart summarizes the allocation of lottery revenues to prizes, administrative costs, and proceeds available to the states for bordering states and the United States in 2013 (Figure 3).

Figure 3

**Lotteries in Alabama's Border States and the United States-2013  
 Prizes, Administration, and Proceeds Available—2013  
 (%)<sup>1</sup>**



**Arkansas**

The following table summarizes the allocation of Arkansas' lottery revenue, the State's programs funded by the lottery, and the percentage of lottery revenue attributable to each of the lottery's ten (10) games in 2014 (Table 1).<sup>1</sup>

**Table 1**

	Lottery Proceeds (\$ millions)	% of Lottery Revenue
Prizes	\$ 275	67%
Administrative Costs	54	13%
State Program Funding	82	20%
<b>Total</b>	<b>\$ 411</b>	
Programs Funded (\$ millions)	Education Trust Fund—\$81.7	
	Arkansas Department of Human Services—\$.2	
Games	Instant--scratch-off	78%
	Powerball	9%
	Mega Millions	5%
	Fast Plan	2%
	Natural State Jackpot	2%
	Cash 3	2%
	Cash 4	1%
	Decades of Dollars	1%
	Arkansas Million Dollar Raffle	0%
	Arkansas 50/50	0%

<sup>1</sup> Arkansas Lottery Commission *Annual Report-2014*

**Florida**

The following table summarizes the allocation of Florida's lottery revenue, the State's programs funded by the lottery, and the percentage of lottery revenue attributable to each of the lottery's ten (10) games in 2014 (Table 2).<sup>1</sup>

**Table 2**

	Lottery Proceeds (\$ millions)	% of Lottery Revenue
Prizes	\$ 3,431	64%
Administrative Costs	\$ 450	8%
State Program Funding	\$ 1,500	28%
Total	\$ 5,381	100%
Programs Funded		
(\$ millions)	Education Enhancement Trust Fund	
	\$1,495	
Games		
	Instant Games (Scratch-off)	64%
	Powerball	9%
	Lotto	7%
	Cash 3	6%
	Fantasy 5	5%
	Play 4	5%
	Mega Millions with Mega-plier	3%
	Mega Money	1%

<sup>1</sup> Florida Lottery Audited Financial Statement, FY 2014

## Georgia

The following table summarizes the allocation of Georgia's lottery revenue, the State's programs funded by the lottery, and the percentage of lottery revenue attributable to each of the lottery's ten (10) games in 2014 (Table 3).<sup>1</sup>

**Table 3**

	Lottery Proceeds (\$ millions)	% of Lottery Revenue
Prizes	\$2,332	64%
Administrative Costs	381	8%
State Program Funding	927	28%
Total	<b>\$3,640</b>	100%
Lottery for Education Account—\$928		
Programs Funded (\$ millions)	<ul style="list-style-type: none"> <li>• Tuition grants, scholarships or loans to undergraduate college students and teachers who seek advanced degrees in critical areas of need;</li> <li>• Voluntary Pre-Kindergarten programs;</li> <li>• Technology grants to train teachers in the use and application of advanced technology; and</li> <li>• Capital outlay projects for educational facilities</li> </ul>	
Games	Instant Games (Scratch-off)	60%
	Power Ball with Power Play	13%
	Lotto	7%
	Cash 3	6%
	Fantasy 5	6%
	Play 4	5%
	Mega Money	2%
	Others	1%

<sup>1</sup> Georgia Lottery Audited Financial Statement, FY 2014

**Louisiana**

The following table summarizes the allocation of Louisiana's lottery revenue, the State's programs funded by the lottery, and the percentage of lottery revenue attributable to each of the lottery's ten (10) games in 2014 (Table 4).<sup>1</sup>

**Table 4**

	Lottery Proceeds (\$ millions)	% of Lottery Revenue
Prizes	\$236	53%
Administrative Costs	51	11%
State Program Funding	160	36%
<b>Total</b>	<b>\$447</b>	<b>100%</b>
<b>Programs Funded (\$ millions)</b>	<b>Lottery for Education Account</b>	
	\$160	
<b>Games</b>	Instant Games (Scratch-off)	36%
	Power Ball	29%
	Pick 3	11%
	Pick 4	7%
	Mega Millions	6%
	Lotto	6%
	Easy 5	2%
	Others	3%

<sup>1</sup> Louisiana Lottery Audited Financial Statement, FY 2014

**Tennessee**

The following table summarizes the allocation of Tennessee's lottery revenue, the State's programs funded by the lottery, and the percentage of lottery revenue attributable to each of the lottery's ten (10) games in 2014 (Table 5).<sup>1</sup>

**Table 5**

	Lottery Proceeds (\$ millions)	% of Lottery Revenue
Prizes	\$794	62%
Administrative Costs	\$146	11%
State Program Funding	\$340	27%
<b>Total</b>	<b>\$1,280</b>	<b>100%</b>
Lottery for Education Account		
<b>Programs Funded (\$ millions)</b>	\$321.5	
	After Schools Program Account	
	\$16.1	
<b>Games</b>	Instant Games (Scratch-off)	80%
	Power Ball	10%
	Cash 3	4%
	Cash 4	2%
	Mega Millions	2%
	Tennessee Cash	2%
	Hot Lotto	<1%

<sup>1</sup> Tennessee Lottery Audited Financial Statement, FY 2014

## States without Lotteries

Six (6) states, including Alabama, do not sponsor lotteries. The following table lists the states and the reasons each has chosen not to sponsor a lottery program (Table 6).<sup>1</sup>

**Table 6**

State	Reason
Alabama	<ul style="list-style-type: none"> <li>• Religious objections</li> </ul>
Alaska	<ul style="list-style-type: none"> <li>• No competition from neighboring states</li> <li>• Remoteness of most of the population</li> </ul>
Hawaii	<ul style="list-style-type: none"> <li>• Satisfied with revenue from tourism</li> <li>• No competition from neighboring states</li> </ul>
Mississippi	<ul style="list-style-type: none"> <li>• Religious objections</li> <li>• Competition with casinos</li> </ul>
Nevada	<ul style="list-style-type: none"> <li>• Competition with casinos</li> </ul>
Utah	<ul style="list-style-type: none"> <li>• Religious objections</li> </ul>

## Gaming Compacts with Indian Tribes

A number of states have gaming compacts with Indian Tribes. A survey sponsored by the National Council of State Legislatures (NCSL) in 2007, which was updated in 2009, was somewhat successful in securing information about the prevalence of compacts and their financial impact in most of the states that have them. States that do not offer tribes an “exclusive” gaming franchise receive payments from the tribes intended to cover the states’ costs of regulating gaming at tribal casinos. States that offer tribes “exclusive” franchises receive payments to cover the cost of regulation plus a percentage of tribal casino revenue. The following table summarizes the findings from the NCSL’s 2009 survey (Table 7).<sup>2</sup>

<sup>1</sup> “Seven states that don’t have lotteries”.  
CNN Money. December 17, 2013.

<sup>2</sup> Tribal Gaming in the States (based on surveys conducted by the National Conference of State Legislatures in cooperation with the Wisconsin Legislative Fiscal Bureau; text by Art Zimmerman, Wisconsin LFB, January 2007; updated in 2009 with notes by Judy Zelio, NCSL)-data exclude some states from whom NCSL could not secure information

**Table 7**

<b>States with and without Gaming Compacts</b>				
<b>State</b>	<b>Number of Tribes</b>	<b>Number of Casinos</b>	<b>Payments for Regulation (\$millions)</b>	<b>Additional Payments (\$millions)</b>
<b>With Exclusive Compacts</b>				
Connecticut	1	2	\$10.0	\$454.0
California	66	58	\$19.6	\$297.8
Wisconsin	11	18	\$0.4	\$112.3
Arizona	21	23	\$8.0	\$74.4
New Mexico	13	18	\$1.3	\$56.7
Michigan	11	17	\$0.4	Unknown
New York	3	4	\$10.0	Unknown
<b>Without Exclusive Compacts</b>				
Colorado	2	2	\$0.0	\$0.0
Florida	1	7	Unknown	Unknown
Idaho	4	6	\$0.0	\$0.0
Iowa	3	3	Actual Costs	\$0.0
Kansas	4	4	\$1.7	\$0.0
Louisiana	3	3	\$1.5	\$0.0
Minnesota	11	17	\$0.2	\$0.0
Mississippi	1	2	\$0.0	\$0.0
Montana	5	5	\$0.0	\$0.0
North Carolina	1	1	\$0.0	\$0.0
North Dakota	5	5	\$0.0	\$0.0
Oklahoma	15	80	\$0.0	\$0.0
Oregon	9	9	\$1.8	\$0.0
South Dakota	8	9	\$0.0	\$0.00
Washington	27	25	\$3.3	\$0.0

## Economic Assessment for Alabama

### Potential Revenue from State-Run Lottery

Potential annual revenue from a state-run lottery system in Alabama was estimated to be **\$331,667,963**. This was estimated based on per capita lottery revenues in 43 states with state-run lottery systems and Alabama population.<sup>1,2</sup> The average (weighted) annual per capita lottery revenue in these 43 states was \$69.11.

### Potential Revenue from Casinos

Potential gaming revenue generation in casinos was estimated based on gaming revenue per table and per slot machine in 11 states (Mississippi, New Jersey, Nevada, Illinois, Indiana, Iowa, Kansas, Ohio, Colorado, Missouri, and Pennsylvania) and the expected number of tables and slot machines in Alabama casinos.<sup>3</sup> The average (weighted) annual casino gaming revenue among these states was \$57,764 per slot machine and \$564,985 per gaming table (based on the most recent available data). The gaming revenue and tax revenue estimates for Alabama are presented in Table 8.

**Table 8.** Potential annual revenue from casinos in Alabama

Casino	# Slots	# Tables	Gaming Revenue	Tax revenue @13%	Tax revenue @15%
Birmingham	3,000	80	\$218,491,588	\$28,403,906	\$32,773,738
Greenetrack	700	20	\$51,734,684	\$6,725,509	\$7,760,203
Victoryland	1,750	35	\$120,861,937	\$15,712,052	\$18,129,291
Mobile	1,500	26	\$101,336,007	\$13,173,681	\$15,200,401
<b>Total</b>	<b>6,950</b>	<b>161</b>	<b>\$492,424,216</b>	<b>\$64,015,148</b>	<b>\$73,863,632</b>

<sup>1</sup> 2013 Annual Survey of State Government Finances, United States Census Bureau.

<sup>2</sup> 2009-2013 American Community Survey 5-Year Estimates, United States Census Bureau.

<sup>3</sup> State of Alabama Gaming Market Assessment and Impact Study, Global Market Advisors, LLC (2015).

## Potential Economic Impact of Casinos

An economic analysis was conducted to identify the potential impacts of four casinos on Alabama economy. This analysis was performed using a methodology that combines the classic economic theory of input-output analysis with region-specific data to provide highly accurate and adaptable economic impact models. Input-output analysis is a means of examining relationships within an economy, both between businesses and between businesses and final consumers. It captures all monetary market transactions for consumption in a given time period. The estimated economic impacts are presented in Table 9. It serves, however, to first review the different economic impact measures and effects.

### Impact Measures

*Employment:* Employment is the annual average of monthly jobs in an organization (this is the same definition nationally used by the Bureau of Labor Statistics and the Bureau of Economic Analysis). Thus, 1 job lasting 12 months = 2 jobs lasting 6 months each = 3 jobs lasting 4 months each. A job can be either full-time or part-time.

*Labor income:* Labor income includes employee wages and benefits.

*Output:* Output is the value of production. For manufacturers this is sales plus/minus change in inventory. For service sectors, output is equal to sales. For retail and wholesale trade, output is equal to gross margin and not gross sales.

### Impact Effects

*Direct effect:* Direct effect is a single (or series of) production change(s) or expenditure(s) made by producers/consumers as a result of an activity or policy. Direct impact is, thus, the result of activities within a company itself.

*Indirect effect:* Indirect effect is the impact of local businesses/industries buying goods and services from other businesses/industries. For example, an Alabama casino may purchase cleaning supplies from another business in the state. The suppliers of cleaning products receive this income and then spend some of that income in Alabama, leading to further rounds of income and expenditures by other businesses and individuals.

*Induced effect:* Induced effect is the impact of additional household expenditures resulting from the direct and indirect impact. This is the impact of household expenditures from wages and salaries directly or indirectly supported by an organization. For example, employees of a casino may spend part of their salaries on new cars, which would lead auto dealer employees to spend part of their salaries on groceries, and so on.

**Table 9. Annual economic impact of four casinos in Alabama**

Annual Economic Impact of Casino Gaming			
	Employment	Labor Income	Output
Direct Effect	10,549	\$189,991,991	\$492,424,216
Indirect Effect	1,188	\$57,847,296	\$152,261,049
Induced Effect	1,656	\$64,408,581	\$189,925,051
<b>Total Effect</b>	<b>13,393</b>	<b>\$312,247,868</b>	<b>\$834,610,316</b>
Annual Tax Impact of Casino Gaming			
	Indirect Business Tax	Households Tax	Total Tax
	\$33,924,299	\$6,967,645	\$40,891,944
Annual Economic Impact of Casino Hotel Lodging			
	Employment	Labor Income	Output
Direct Effect	141	\$2,987,455	\$12,328,171
Indirect Effect	37	\$1,595,702	\$4,498,842
Induced Effect	31	\$1,191,356	\$3,513,119
<b>Total Effect</b>	<b>208</b>	<b>\$5,774,513</b>	<b>\$20,340,133</b>
Annual Tax Impact of Casino Hotel Lodging			
	Indirect Business Tax	Households Tax	Total Tax
	\$1,168,673	\$128,947	\$1,297,620

**Notes:**

1. The numbers given in this table represent the estimated total economic impact of the four casinos in 2016 dollars, based on their expected annual sales revenues (presented in the previous section). The economic impact of hotel lodging was estimated based on average annual hotel revenues in the United States.<sup>1</sup>
2. Indirect business tax includes, if applicable, sales taxes, property taxes, special assessment taxes, documentary and stamp taxes, motor vehicle and business license fees, rents, royalties, and fines.
3. Household tax includes, if applicable, personal income taxes, property taxes, fishing/hunting taxes, motor vehicle license fees, and other fees and fines.

<sup>1</sup> 2014 Lodging Industry Profile, American Hotel & Lodging Association.

## **The Crossing at Big Creek**

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THE  
**CROSSING**  
AT BIG CREEK

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Houston Economic	334-803-8138
Development Association	334-803-8139 fax
300 Crossing Parkway	info@thecrossingbigcreek.com
Cottonwood, AL 36320	www.thecrossingbigcreek.com

June 19, 2020

Governor Ivey's Study Group on Gambling Policy  
600 Dexter Avenue  
Montgomery, AL 36130

Dear Chairman Strange and Members of the Study Group on Gambling Policy:

We write this letter to request consideration of The Crossing at Big Creek (formerly known as Center Stage) for inclusion in any policy or legislative efforts that expand gambling in Alabama. The Crossing at Big Creek, has offered bingo under Alabama constitutional amendment 569 and Houston County resolution 10-10 for over ten years.

If this study group ultimately recommends that the benefits of expanding gambling in Alabama would outweigh the costs, then we feel that the inclusion of our location and project would provide a significant benefit to both Alabama and the local community.

The Crossing at Big Creek is uniquely located in the southeast corner of the state and approximately 100 miles from the closest current or proposed gambling facilities. Currently 30 to 40% of our customers reside in Florida or Georgia. Part of the goal of the project is to attract visitors from other states to spend a portion of their disposable income with us so that our local community and state can benefit in tax revenue and economic growth. We are located right off of US Highway 231, which is one of the major travel routes through Alabama to Florida. Over 12 million cars travel this section of highway every year.

The project completed construction in 2009 with close to 100 million dollars of site investment. We currently operate lodging through a lodge, cabins, and RV Resort Park. We have three full service restaurants available, and we have entertainment options through a 10,000-seat capacity outdoor amphitheater and a 500 seat indoor theater. Attached are some pictures that show the size and scale of the location. We also have great pictures of the campus on our website [www.thecrossingbigcreek.com](http://www.thecrossingbigcreek.com)

The five-year projections of the economic impact study, based on the ability to offer Class II or Class III gaming, conducted before the start of the project estimated the following:

- 1,200 direct new jobs
- 5,000 indirect jobs
- 200 million in tax revenue back to Alabama
- 7 million dollars back to Houston County
- 10 million dollars back to local charities

The Crossing at Big Creek believes that there can be a great benefit for the State of Alabama if there is an effort to expand gaming. We feel that our location offers a site that is strategically located and primed with standing infrastructure to offer a magnificent resort destination. We thank you for the time and opportunity to tell our story.

Sincerely,

The Board of Directors of the Houston Economic  
Development Association



Frank Wendt, Director





## **The Alabama Citizens Action Program (ALCAP)**

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# 2020 Report to the Alabama Governor's Gambling Policy Study Committee

*Submitted by Joe Godfrey, Executive Director of  
the Alabama Citizens Action Program (ALCAP)*

## Seven questions concerning gambling in Alabama:

- 1) How is government-sanctioned gambling different than every other business, including other vices like alcohol and tobacco?
- 2) Do lotteries and local casinos contribute to racial unfairness and economic inequality between whites and blacks?
- 3) Are state lotteries and local casinos effective at improving the financial condition of state governments?
- 4) Does government-sanctioned gambling lead to economic growth and good paying jobs for ordinary citizens?
- 5) Should we simply let the people vote on a state lottery and local casinos by statewide referendum and let them decide?
- 6) People are going out of state to gamble so should we try to keep the money they are losing here in Alabama?
- 7) Should people be free to gamble if they want to do so?

*[Answers to these questions, taken from the website [www.StopPredatoryGambling.org](http://www.StopPredatoryGambling.org), are found on the following pages. Pages 8-9 present the official statements concerning gambling by two major Christian denominations in Alabama]*

## **1) How is government-sanctioned gambling different than every other business, including other vices like alcohol and tobacco?**

What separates commercialized gambling like lotteries and local casinos from every other business, including vices like alcohol and tobacco, is it's a big con game based on deceit and exploitation. Commercialized gambling is a form of consumer financial fraud, similar to price-gouging and false advertising. Citizens are conned into thinking they can win money on games that are designed to get them fleeced in the end. If you pay for a pizza, a ticket to a sporting event, or a glass of wine, that's what you receive in return. With commercialized gambling, what you receive is a financial exchange offering *the lure* that you *might* win money. But this financial exchange is mathematically rigged against you so inevitably you lose your money in the end, especially if you keep gambling. Any success only comes at someone else's expense. All of this explains why commercialized gambling is illegal *unless* you run the gambling scheme in partnership with state government.

The most revealing truth about this big con is that nearly all of the people who run local casinos and state lotteries, as well as the public officials who lobby to bring them in, rarely if ever gamble themselves. Yet these hypocrites cause life-changing financial losses for millions of citizens.<sup>1</sup>

## **2) Do lotteries and local casinos contribute to racial unfairness and economic inequality between whites and blacks?**

Commercialized gambling like state lotteries and local casinos are a significant contributor to the massive wealth disparity between whites and blacks. Nationwide, African Americans spend five times more on lottery tickets than white people.

**Over the next eight years, the American people are on a course to lose more than \$1 trillion of their personal wealth to government-sanctioned gambling and at least half of this wealth – \$500 billion – will be lost to state lotteries, much of it taken from African-American families.<sup>2</sup>**

While differences in income are a major contributing factor, the disparity between whites and blacks in the accumulation of wealth-building assets is staggering. According to the Federal Reserve, 60% of whites have a retirement fund while only 34% of blacks; 73% of whites own a primary residence but only 45% of blacks; and 61% of whites own publicly-traded stocks compared to just 31% of blacks.

<sup>1</sup> "The Hypocrite Hall of Fame," March 2020 <https://www.stoppredatorygambling.org/hypocrite-hall-of-fame/>

<sup>2</sup> H2 Gambling Capital, 2018 <https://h2gc.com/>

Building assets and the accumulating and investing of savings are the keys to financial peace. Owning a home, a college fund, retirement accounts, and a stock portfolio are the hallmarks of middle and upper class America, and these assets are all the result of savings. With fewer African-Americans and people of color holding these essential assets, they miss out on higher average returns than low-risk assets, as well as the power of compound interest.

Creating wealth by the accumulation of assets and the investment of savings is the direct opposite of what state lotteries represent and encourage. “The Fastest Way to a Million Dollars,” “Road to Riches,” “\$200,000 a Year for Life,” “\$10,000,000 Bankroll,” and “\$7,000,000 Supercash” are just a sampling of the hundreds of different lottery scratch tickets that state governments across the United States are marketing at this very moment during a time when more than 20 million citizens are unemployed, of which a disproportionate amount are African-American.

Commercialized gambling sanctioned by the state would cause another serious harm on black lives, especially black women: a severe gambling addiction problem. Results of a large nationally-representative study that investigated ethnicity and rates of problem gambling found that African-Americans had twice the rate of gambling addiction compared to whites and they were also more likely to be women in the lowest income brackets.

### **3) Are state lotteries and local casinos effective at improving the financial condition of state governments?**

In 1969, New Jersey congressman Cornelius Gallagher [wrote](#) that if the Garden State enacted a lottery “we could abandon all taxation in New Jersey and increase every service in our state four times over.”

Today, New Jersey has a state lottery, several casinos, online casino gambling, and commercialized sports betting. Yet the state is in the worst fiscal condition of any U.S. state, ranking 48<sup>th</sup> in the nation in George Mason University Mercatus Center’s [report on the fiscal condition of states](#).

New Jersey exemplifies how government-sanctioned gambling has been a spectacular failure as a revenue source. It’s proven to be THE biggest budget gimmick and the calling card of anti-reform politicians across the U.S.

Yet gambling lobbyists and some public officials continue to tout government-sanctioned gambling as a way to raise tax revenue. But history has shown repeatedly that this argument is either overstated or wrong. [According to the Rockefeller Institute of Government](#) at State University of New York-Albany, the organization doing the best independent research on public revenues from gambling, states creating new revenue streams from gambling may see momentary bumps in tax income but “in the long-run, the growth in state revenues from gambling activities slows or even reverses and declines.”

That's because income from government-sanctioned gambling does not grow over time like general tax revenue and expenditures on education and other programs will grow more rapidly than gambling revenue. As a result, new gambling operations that are intended to pay for normal increases in state spending add to, rather than ease, long-term budget imbalances.

Many states tout lotteries as a way "to improve education" yet these states have not seen significant improvement in their education rankings over the last two decades.

Beyond its obvious status as a budgetary shell game, government-sanctioned gambling incurs major social costs that end up footed by all taxpayers. In addition to targeting and exploiting the financially desperate and cultivating addiction, government-sanctioned gambling leads to increases in rates of personal bankruptcy and provides new avenues for crime and money laundering. Gambling operators don't pay for the harms they cause families, businesses, and communities. ***Taxpayers do.*** Lower-income Americans lose money on gambling, get it back by relying on more financial help from their government, who get it from taxpayers.

Also troubling for taxpayers, gambling operators are not allowed to fail by the state. For example, when casinos come up short, states usually provide new infusions of money, reduced taxes, reduced funding for gambling addiction measures, or other concessions such as lifting smoking bans and loss limits, in order to sustain revenues and profitability. Rhode Island, Delaware, and New Jersey, to just name a few, have all taken special steps to help casinos that might otherwise fail. Public tax dollars too often prop up gambling operators.

All the citizens who don't gamble also pay another way. Government-sanctioned gambling lowers a state's standard of living because it's a sterile transfer of money from millions of ordinary people's pockets into a small number of other people's pockets, producing nothing new and nothing of lasting value. Its economic impact is similar to throwing your money on the street so someone else can pick it up – it redistributes wealth without creating it. Because this nonproductive activity nevertheless uses up time and resources, we experience a reduced standard of living, a consequence that impacts all of us.

The way we raise money to pay for our government says as much about our democratic principles and values as the way we spend it.

#### **4) Does government-sanctioned gambling lead to economic growth and good paying jobs for ordinary citizens?**

Commercialized gambling is a naked money grab disguised as economic development. Let's contrast it with any other business that sells a product or a service. Take a blanket-selling business, for example. If you go out to buy a blanket for you or your family, other people don't have to give up their blankets for you to get one. But imagine a blanket-selling business where in order for a few people to get a blanket, mostly everyone else had to turn in their own blankets and go without. And many people actually ended up *owing blankets*.

The primary winner in a blanket-selling business such as this are the people who operate the blanket redistribution scheme. *It's an exchange where, over a period of time, they are guaranteed statistically to end up with all the blankets.*

Despite the inherent predatory and dishonest nature of the scheme, it escapes from being shut down because the blanket sellers provide state governments a percentage of their bounty. In fact, only those who partner with states are allowed to run the scheme and they're usually handed regional monopolies to do it.

Those who never buy a blanket also lose. They end up paying extra for those who gave up their blankets and now need help. They also have to subsidize the state budget problems that result when the gimmick revenues inevitably dry up.

This is the essence of the government-sanctioned gambling scheme.

The analogy underscores how the economic impact of commercialized gambling is similar to throwing your money on the street so that someone else can pick it up — it's redistributing wealth without creating it.

The gambling lobby feeds on the job insecurity of Americans because people, whether gambling or seeking employment, have fewer viable ways to make good money.

By relying on slot machines and other forms of gambling as its primary revenue source, a casino may employ some citizens but it doesn't produce economic growth.

Any activity the state puts money into will stimulate the economy. Government can stimulate the economy with good things, things that help people build wealth.

We are told one of the primary rationales for state-sanctioned casinos is to "create jobs" but facts show that casinos leave behind far more gambling addicts than jobs. According to the most recent numbers made available by the [Illinois Gambling Board](#), the total enrollment of citizens in the state's *voluntary* Self-Exclusion Program was 11,119 and the total number of full and part-time casino jobs was 7,137 – *almost 35% higher*. Thousands more gambling addicts have banned themselves from the state's casinos because their lives have been ruined than there are people who work inside the state's casinos.

But that figure is literally the tip of the iceberg. *The actual amount of gambling addicts created by state-sanctioned casinos is far greater than the number of citizens who have self-excluded.* That's because only about 10% of people experiencing problems with gambling [seek help](#) from problem gambling services- *90% never even come forward for help.*

State-sanctioned casinos also create unfairness for other businesses. When casino lobbyists call for a “limited number of casinos” to be allowed into a state, what they are really doing is attempting to rig the system to hand out special privileges to a few powerful political insiders at the expense of everyone else. Government, in this case, is not merely permitting private, consensual behavior. It is granting monopolies and awarding regulatory advantages to favored firms.

## 5) Should we simply let the people vote on a state lottery and local casinos by statewide referendum and let them decide?

When the gambling lobby declares “Let the People Vote,” recent history shows what they are really saying is “Let Us Buy the Vote.”

It’s blatantly disingenuous for any gambling lobbyist or public official to say a fair debate leading to an informed, educated public will happen during a commercialized gambling referendum campaign because it won’t. If every legislator in a state was outspent 3 to 1 during his or her campaign, most would lose reelection regardless of their merit. **Yet some legislators allow commercialized gambling operators to hijack the ballot process by outspending predatory gambling opponents by a margin of at least 250 to 1. How many sitting elected officials would win a campaign if they were outspent by at least 250 to 1?**

Here are just a few examples of the massive spending that has occurred in other states:

- In Colorado, gambling interests outspent opponents 1,734 to 1.<sup>3</sup>
- In Massachusetts, citizens collected signatures to place a casino repeal referendum on the 2014 ballot. Gambling interests spent more than \$15 million to defeat it.<sup>4</sup> In the last 30 days, gambling interests including MGM ran more than 4000 TV ads. Repeal advocates ran zero because it was too costly to go on TV. **In addition to the massive difference in ad spending, almost none of the TV ads run by gambling interests even mentioned the word casino.**<sup>5</sup>
- In Maryland, another MGM-led casino campaign spent more than \$40 million to pass a statewide ballot question.<sup>6</sup>

<sup>3</sup> “Never a Sure Bet,” a 2009 report from the National Institute on Money in State Politics, <http://stoppredatorygambling.org/wp-content/uploads/2012/12/Never-A-Sure-Bet-Report-from-National-Institute-on-Money-in-State-Politics.pdf>

<sup>4</sup> [https://ballotpedia.org/Massachusetts\\_Casino\\_Repeal\\_Initiative,\\_Question\\_3\\_\(2014\)](https://ballotpedia.org/Massachusetts_Casino_Repeal_Initiative,_Question_3_(2014))

<sup>5</sup> To view the casino advertising aired to block casino repeal in MA 2014, visit Stop Predatory Gambling’s YouTube channel SPG America: <https://www.youtube.com/playlist?list=PLA6B145FA31CCA40A>

<sup>6</sup> “MGM gets the deal for Maryland’s sixth casino,” The Washington Post, December 20, 2013 [https://www.washingtonpost.com/local/mgm-gets-the-nod-to-build-marylands-sixth-casino-at-national-harbor-in-prince-georges/2013/12/20/059e7276-693e-11e3-a0b9-249bbb34602c\\_story.html?utm\\_term=.87301d4b47cb](https://www.washingtonpost.com/local/mgm-gets-the-nod-to-build-marylands-sixth-casino-at-national-harbor-in-prince-georges/2013/12/20/059e7276-693e-11e3-a0b9-249bbb34602c_story.html?utm_term=.87301d4b47cb)

- In Ohio, gambling companies spent almost \$50 million to pass a ballot question allowing them to open casinos in the state.<sup>7</sup>

## 6) People are going out of state to gamble so should we try to keep the money they are losing here in Alabama?

When a practice is fraudulent, its advocates will speak of it fraudulently. One example of this reality is the “They’re-Going-Out-of-State-To-Gamble” narrative, a phony, recycled public relations strategy used by gambling interests in almost every state in America to breathe artificial life into efforts to establish lotteries.

Big national lottery gambling operators like Scientific Games and International Gaming Technology (IGT), often *running lotteries in neighboring states*, fund lobbying campaigns to legalize lotteries in the states without them. “Legalize the lottery and recoup the money going out of state,” they deceitfully cry. ***They profit as the lottery vendor in those nearby states!*** They pit one state against another state, over and over again, in a continuing race to the bottom in which the only winner are the big gambling interests.

## 7) Should people be free to gamble if they want to?

No one is forcing people to gamble away their future financial security on state lottery games or at local casinos, some say. While true, it is more like luring people into a life-changing financial trap difficult to escape. State governments deliberately concentrate lottery outlets and local casinos in economically-distressed regions to entice more low-income citizens, often clustering gambling locations communities with large numbers of minorities. Lotteries also aggressively target these communities with marketing campaigns exempted from truth-in-advertising laws under the Federal Trade Commission.

Government is not simply permitting private, consensual behavior as some public officials who support state-sanctioned gambling attempt to argue. If it was their true intent, then this purpose could be achieved by allowing small, unlicensed games and keeping gambling private and local. Such an approach would be in line with the most effective and appropriate state stance toward gambling which is not encouragement, but rather containment.

This is a big government program that actively advertises more and more extreme forms of gambling at higher and higher wagering amounts in our communities. It also grants monopolies and awards regulatory advantages to favored firms.

State government shouldn’t be telling people how to live by encouraging them to gamble on state lotteries or at local casinos, especially on games they are guaranteed statistically to get fleeced.

<sup>7</sup> “Ohio Casino Approval referendum, Question 3, 2009  
[https://ballotpedia.org/Ohio\\_Casino\\_Approval\\_and\\_Tax\\_Distribution,\\_Amendment\\_3\\_\(2009\)](https://ballotpedia.org/Ohio_Casino_Approval_and_Tax_Distribution,_Amendment_3_(2009))

And in the process, they are violating the rights and freedoms of the two-thirds of the public who almost never gamble yet are being forced to foot the bill for the lower standard of living and budget deficits that state-sanctioned gambling leaves behind.

One can be a libertarian on this, while at the same time, believing that we cross an unacceptable ethical line when we go from allowing individuals to gamble to allowing our government to set up a massive marketing and distribution scheme urging people to do so.

## **What churches have said about gambling:**

### ***UNITED METHODISTS...***

Gambling is a menace to society, deadly to the best interests of moral, social, economic, and spiritual life, destructive of good government and good stewardship. As an act of faith and concern, Christians should abstain from gambling and should strive to minister to those victimized by the practice....

The Church's prophetic call is to promote standards of justice and advocacy that would make it unnecessary and undesirable to resort to commercial gambling-including public lotteries, casinos, raffles, Internet gambling, gambling with an emerging wireless technology and other games of chance-as a recreation, as an escape, or as a means of producing public revenue or funds for support of charities or government.

~Excerpt from [Gambling \(Social Principles\)](#)

### ***ALABAMA BAPTISTS...***

The Alabama Baptist Convention meets annually to conduct business. Messengers from over 3000 churches from throughout the state have passed various resolutions throughout the years condemning state-sponsorship and state-sanctioning of gambling in Alabama. Their most recent anti-gambling statement, a resolution, was passed unanimously during their 2016 Convention, meeting in Montgomery, AL, in response to then-Governor Robert Bentley's formation of the Alabama Advisory Council on Gaming (Gambling). The following is the entire resolution that was passed:

### **ALABAMA BAPTIST CONVENTION 2016 RESOLUTION ON GAMBLING**

WHEREAS, The Governor of Alabama has established a council to study gambling in Alabama (the Alabama Advisory Council on Gaming) that is expected to make recommendations to the Alabama Legislature concerning changes in the gambling laws of the state; and

WHEREAS, The existence of such a council on gambling is not necessary, but the enforcement of existing laws against gambling is needed; and

WHEREAS, The Bible gives numerous principles that show gambling to be an activity that Christians should oppose (Exodus 20:3-5 and Matthew 6:33; Exodus 20:15; Exodus 20:16 and Leviticus 19:11; Exodus 20:17; Philippians 4:19; Philippians 2:4; 1 Corinthians 4:1-2; Ephesians 4:28; Romans 12:10; and Romans 14:13); and

WHEREAS, Many in the Alabama Legislature continue to introduce and advocate for gambling expansion in the state, including (but not limited to) a state-sponsored lottery, casino gambling, a tribal compact, and internet gambling in the form of daily fantasy sports betting; and

WHEREAS, State-sponsored and/or state-sanctioned gambling preys upon the poorest citizens of Alabama; and

WHEREAS, State-sponsored and/or state-sanctioned gambling is based on deceiving the state's own citizens into believing that gambling is a solution to their financial struggles, while in fact, in most cases, it worsens an individual's or family's financial difficulties; and

WHEREAS, State-sponsored and state-sanctioned gambling hurts the local and state economies by depleting other, more established revenue streams, such as sales taxes; now, therefore, be it

RESOLVED, That the messengers to the Alabama Baptist State Convention meeting in Montgomery, Alabama, on November 15-16, 2016, oppose any and all attempts by the Governor and/or State Legislators to expand any form of state-sponsored, state-sanctioned and predatory gambling in Alabama; and be it finally

RESOLVED, That the President of the Alabama Baptist State Convention and the Executive Director of the Alabama Baptist State Board of Missions be authorized to send a copy of this resolution to the Governor, members of the Alabama Advisory Council on Gaming and all Alabama Legislators.

## **His Vessel Ministries**

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August 6, 2020

To: Todd Strange, Chairman  
Alabama Study Group of Gambling Policy

We appreciate the task before you to help the people of Alabama have a better understanding of the issues tied to gambling. Please allow us to speak to the heart of the issue at hand. One perhaps you haven't considered, yet we contend is critical to the well-being of this state and its citizens.

We are a state whereby the majority of citizens are God-fearing people. In fact, as evidenced by the State of Alabama constitution, we are a people who invoke the favor and guidance of Almighty God.

We, the people of the State of Alabama, in order to establish justice, insure domestic tranquility, and **secure the blessings** of liberty to ourselves and our posterity, invoking **the favor and guidance of Almighty God** (emphasis added), do ordain and establish the following Constitution and form of government for the State of Alabama...". (AL. CONST of 1901, preamble.)

With this evidentiary truth as our premise, we ask you to consider the spiritual argument. Consider the following words of Truth with an open heart and mind within the framework of our state constitution, as stated above, and the convictions of the citizenry of Alabama. We are to have no other gods before us (Exodus 20:3). We worship one God, the Living God (Acts 14:15). Gambling, in any respective form, depends on false gods such as good luck, fortune, or destiny. Gambling advertisements confirm this with get rich quick slogans such as "Get lucky," "Call in Rich," "Win a fortune," and "Winning is easy."

As citizens who love God and as our Constitution invokes, we know that God sees our needs and is our provider (Genesis 22:1-14). Christ is our source of hope (Romans 15:4). But when people don't know Truth, they lose hope and turn to other sources for their provision and hope. The enemy always sends an appealing counterfeit. The present counterfeits are such things before your consideration, namely the lottery and additional gaming rights in our state. We recognize these as counterfeits because they are contrary to the Word of God. Gambling also invokes the spirit of greed (Jeremiah 6:13-19), which is in direct contradiction to the heart of a Christian. We are never to follow greed but instead be on guard against any form of covetousness (Luke 12:15).

The open door to the stronghold of gambling is through its deception. It brings a false hope that these false gods can take care of the people's needs, whether it be financial provision, a sense of security, or entertainment. Turning away from God and turning to false gods for provision and fortune brings judgment upon the people (Isaiah 65:13-16). These are not our words. Instead, they come directly from the authority of the Word of God. Even more, if the state of Alabama turns to the false gods of good luck and good fortune to meet the budgetary needs of the state and the entertainment pleasures of its people, God's judgment is sure to follow, possibly affecting your grandchildren and mine.

Expanded gambling options may bring prosperity, security, and entertainment to our state, for a season. However, it is the consequences "after the season" that we humbly bring to the forefront. We humbly submit these truths regarding the final outcome that will impact Alabama and its citizens. We pray for the good.

The offers before our state are simple—the favor of God or the judgment of God. The blessings (favor) of God come AFTER the obedience of man. The judgment of God follows the disobedience of man when man knows the right thing to do. When you turn to God for your financial, security, or entertainment provisions, then God opens up the heavens and supplies beyond what you can calculate or imagine. Although we cannot propose exactly how this will look, as much as we yearn to, it is a principle solidified by the Word of God. It requires one to trust in God, not man.

This is the opportunity God has been waiting for: A state that will follow its declaration that yields "to the favor of the Almighty God," that will renounce other gods like gambling and luck that are enticing the government, and that will make decisions that are wise while forsaking the foolishness of the world.

God always has the final say. Why? Because He is sovereign over man. God allows man to choose because He is a gentleman. For this and the aforementioned, we respectfully and prayerfully appeal to you. Choose the favor of God by rejecting the enlargement of gambling opportunities in Alabama.

Respectfully submitted,

  
**Jo Hancock**  
His Vessel Ministries  
Founder and Watchman

  
**Phyllis Ingram**  
His Vessel Ministries  
Board Member and  
Watchman

  
**Donna McClinton**  
His Vessel Ministries  
Watchman

c: Governor Kay Ivey

## **Education Policy Center, The University of Alabama**

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# **A Lottery-Funded Alabama College Promise & Alabama Opportunity Scholarship Program**



EDUCATION POLICY CENTER  
THE UNIVERSITY OF ALABAMA

## ***A Review of State Lottery Policies and Recommendations for Creation and Implementation***

By

Jonathan R. Bowen, Research Associate  
and Emily Grace Corley, Research Associate

Education Policy Center  
The University of Alabama

December 2020

December 2020

Dear Colleagues:

The “Alabama story” on higher education outcomes is we start them, but we don’t finish them.

We don’t finish them because Alabama ranks dead last among Southern Regional Education Board states in state-funded need-based student aid. The average state/federal split is 21/79 percent across the 16 SREB states. In 2016, Alabama invested just one percent.

Federal Pell grants are Alabama’s *de facto* student aid program. The \$462 million Pell helps academically-talented, economically disadvantaged students succeed at our state’s community colleges, regional universities, flagship universities, and 14 nonprofit accredited colleges. With no state student aid program, responsibility for enrollment and completion falls on the backs of institutions to fund scholarships, and students through self-funded loans. With no state student aid program, students and institutions are vulnerable to federal Pell cuts—adjusted for inflation, Pell has been cut 8 times since 1974, including 4 straight years starting in 2012.

These realities drive the higher education agenda of the Education Policy Center: Helping save students time, credits, and money translates into higher retention and completion rates. Our 2015 study for the Higher Education Partnership of Alabama documented the return on investment of state funding. Our Alabama Transfers program works with the Alabama General Studies Committee to create a mobile app advancing a paper-based transfer system into the digital age. We’re partnering with the new Alabama Office of Apprenticeships to create dashboards linking employer needs to apprenticeship programs, promoting 2+2+2 transfer. In July 2020, we conducted the Governor’s Survey of Employer Needs for the Governor’s Office of Education & Workforce Transformation. Our Black Belt 2020 series released nine briefs on issues facing Alabama’s impoverished 24 Black Belt counties, in partnership with Al.com, in the Fall of 2020.

Our federal student aid work includes 20 state and national studies of Pell, and presentations at the White House and at the U.S. Department of Education in administrations of both parties. We worked with state leaders and college presidents in Mississippi and Alabama to create consistent messaging for the Senate Appropriations Committee under the late Thad Cochran and Richard Shelby that spurred the 2017 restoration of year-round (Summer) Pell nationwide.

The EPC is fully committed to help Governor Kay Ivey and our state’s business and education leaders achieve the goal of 500,000 more Alabamians with industry-recognized certificates and degrees by 2025. At her request, in 2019 we coordinated a delegation of Alabama educators to see TnAchieves, the first and largest statewide College Promise. *A Lottery-Funded Alabama College Promise & Alabama Opportunity Scholarship Program* by EPC Research Associates Jonathan Bowen and Emily Grace Corley provides a roadmap to create a need-based statewide student aid programs to bring young Alabamians and working adults hope that college is within their grasp. It is the magic sauce needed to accomplish Governor Ivey’s big goal.

*Stephen G. Katsinas & Nathaniel J. Bray*  
*Education Policy Center, The University of Alabama*

## LETTER OF TRANSMITTAL

December 2020

Dear Colleagues:

We are pleased to present *A Lottery-Funded Alabama College Promise & Alabama Opportunity Scholarship Program, A Review of State Lottery Policies and Recommendations for Creation and Implementation*. This report examines state gaming legislation, expected lottery impacts, and provides recommendations. It reviews state lotteries across the country, with special emphasis on Georgia, Florida, Mississippi, and Tennessee, which all have lottery-funded programs. It details the cost and benefits of an Alabama College Promise and companion Alabama Opportunity Scholarship programs, detailing the implications for high school completion rates and first-time freshman in-state enrollment at public higher education institutions.

In February of 2020, Governor Kay Ivey established the Governor’s Study Group on Gambling Policy, to produce “detailed and factual findings to allow the legislature as well as the people of Alabama make an informed decision about the future of gambling policy.”<sup>1</sup> The Study Group was tasked to report on the current status of gaming in Alabama, what it could look like with costs and benefits, and to report on the various regulatory structures other states have adopted to maximize the benefits and minimize the costs of gaming. Since the Study Group on Gambling Policy was not tasked with deciding what to do with gambling revenues in the event Alabama were to later expand gaming, our report complements well the final report by the Study Group by providing options for how legislators could appropriate potential gaming revenues.

We first wish to thank our Education Policy Center colleagues Emily Jacobs, Hunter Whann, Noel Keeney, John Bruno, Stephanie Paul, Michael S. Malley, Jr., and Associate Director Nathaniel Bray. We thank EPC Fellows Ray Huebschmann, Vince Lacey, Brian Johnson, James E. “Skip” Dotherow, James E. “Ed” Davis, David S. Murphy, Art Dunning, and Jake L. Warner. We also thank The University of Alabama’s Master of Public Administration faculty, including MPA Program Director Dr. Dana Patton and Dr. Sungho Park. We also thank Peter Abernathy, Chief Aid and Compliance Officer of Tennessee Higher Education Commission, and Misti Monroe, Chief Revenue Officer at the Legislative Budget Office of Mississippi for their assistance. Finally, we thank EPC Director Stephen Katsinas, whose patient guidance and support throughout the writing of this report has been essential.

We need to do more to expand access in Alabama. In 2017-18 Mississippi’s community colleges enrolled just under 53,000 students and in that same year Alabama’s community colleges enrolled just over 54,000 students, despite the fact we have nearly 2 million more Alabamians. Our state’s community colleges do a good job with the resources given, but they’re underfunded.

An Alabama College Promise with a companion Alabama Opportunity Scholarship Program could be decisive in helping Governor Ivey and her team achieve their *SuccessPlus* goal to attain 500,000 highly-skilled workers with recognized degrees and certificates by 2025. We commend to you the work and it is a privilege to be of service. Any mistakes or errors are ours alone.

*Jonathan R. Bowen & Emily Grace Corley, MPA students and Research Associates,  
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**A Lottery-Funded Alabama College Promise & Alabama Opportunity Scholarship Program**  
*Education Policy Center, The University of Alabama*

## **Executive Summary**

### **Overview**

The Education Policy Center at the University of Alabama has completed a quantitative study to propose an Alabama Lottery for Education. By examining state lottery policy surrounding Alabama, we have established a basis for understanding the implications for using lottery revenues for scholarships to post-secondary institutions. This report examines state gaming legislation on lottery proceeds and provides data on expected impacts of a College Promise program and Opportunity Scholarship in Alabama. Across the country, College Promise programs are used to ease the financial burden that comes with pursuing a college degree. This report concludes with policy recommendations to establish a state education lottery that would fund Alabama College Promise—to make community college free or as close to free as possible—utilizing lottery revenue to invest in the future of the state's workforce needs.

### **Methodology**

This report presents a variety of data relating to state gambling policy—including national and state perspectives—over the past thirty years. In addition to studying lottery legislation, an analysis of the cost of Alabama College Promise, as well as lottery programs in states bordering Alabama, provides a detailed analysis of the implications for high school completion rates and first-time freshman in-state enrollment at public higher education institutions. The analyses conducted in this report informed the policy recommendations to establish an education lottery and create a College Promise program in Alabama.

### **Key Findings**

- **Lotteries for education have grown.** At least 28 states earmark lottery proceeds for education programs in some form—including scholarships, grants, building & construction funds, pre-k, and afterschool programs.
- **Net lottery proceeds offer states an additional revenue stream.** California, Florida, Georgia, New York, and Texas all saw lottery proceeds exceed \$1 billion in 2018. Instead of increasing taxes on their residents, states can utilize revenue generated by a lottery to invest in public programs.
- **State-operated gaming legislation is needed.** Alabama currently operates ten casinos at various locations throughout the state. However, the state lacks programs paid for through proper channels of taxation. *The focus of policymakers should be on establishing an Alabama lottery for education, allowing the state to benefit from the growing gambling enterprise.*
- **Alabama lacks state-based student aid.** With no broad support from the state, the cost of post-secondary institutions falls solely on the backs of parents, students, and institutions. *A college promise program would be the first comprehensive student aid program in Alabama*

*since the state currently has limited to no opportunities for its high school graduates to receive need-based funding for post-secondary education, making the federal Pell grant the state's de facto student aid program.*

- **An education lottery could pay for Alabama College Promise and Alabama Opportunity Scholarship.** With a targeted approach to student-aid, an education lottery could generate an estimated \$280 million in profits and fund last-dollar scholarships for upwards of 56,000 low-income Alabamians. The Alabama College Promise scholarship would cost roughly \$200 million and provide need-based scholarships for 40,000 low-income students for use at public community and technical colleges. The remaining \$80 million would go towards the creation of the Alabama Opportunity Scholarship, funding need-based scholarships for use at four-year public and private non-profit universities.
- **Alabama College Promise could improve high school graduation rates and in-state post-secondary enrollment.** Data examined in this report finds that in Florida, Georgia, and Tennessee, following the creation and implementation of their respective education lotteries, high school graduation rates and increased enrollment across all sectors of public post-secondary institutions. In Tennessee, where TNPromise provides need-based awards for low-income students to use at two-year colleges, there was also an increase in enrollment specifically at public two-year colleges.
- **Alabama College Promise would improve postsecondary degree attainment and enhance the state's workforce.** With no existing state student-aid, Alabama often starts students in post-secondary education programs but does not provide the infrastructure to help them finish. *Alabama College Promise would fill in the funding gaps for students and lead to an increase in degree and workforce credential attainment.* Building up of Alabama's workforce requires pathways to post-secondary institutions to gain essential training and credentials needed to compete in the modern job market.

## Conclusions

- (1) ***It is the recommendation of the authors that the Alabama Study Group on Gambling Policy propose the adoption of a statewide education lottery that will create a lottery to fund Alabama's 21<sup>st</sup> century workforce needs.*** This speaks to the need for Alabama to use the \$280 million of estimated first-year lottery proceeds to create the Alabama College Promise and Alabama Opportunity Scholarship. Both options could expand the number of graduates with twenty-first century workforce skills and bolster the credentials of Alabama's workforce.
- (2) As part of this recommendation, we suggest that the lottery revenues be kept in a "lockbox fund" (in the style of the Tennessee Promise legislation) in order to ensure that the proceeds are used for their intended purpose of providing need-based aid for students pursuing post-secondary education at Alabama's public community and technical colleges—and not transferred to other accounts for other, extraneous expenditures. The endowment will propel more high school students to enroll and complete credentials and associate degrees statewide.

tnAchieves year one high school-to-college retention rate exceeded the seven prior years combined.

- (3) The Alabama College Promise program should be structured to *provide last-dollar scholarship funds to low-income students* upon completing high school or GED prior to their 19<sup>th</sup> birthday. A last-dollar scholarship would be applied after other forms of aid are awarded. This is critical for two reason: last-dollar scholarships will conserve monetary resources to make the lottery resources stretch further, enabling the program to serve more students, and it encourages FAFSA completion since completing the FAFSA would be a prerequisite for receiving Promise funds.

## Summary

This study was designed to examine state lottery legislation and provide examples as to how Alabama could implement a lottery. Alabama is currently losing revenue to their neighboring states, all of which operate a lottery and are building their future on the backs of Alabama taxpayers. With record-low unemployment and improving labor force participation rates prior to the COVID-19, Alabama could use lottery revenues to plug its human capital pipeline leaks. Recognizing the nature of college affordability and accessibility helps develop our understanding of the problem.

Alabama lacks a comprehensive state student-aid program. This creates an immense financial burden for students and families when it comes to paying for college. Even for low-income students receiving Pell Grants, the existing needs-based aid streams are not enough to cover the full indirect costs of attending college. An Alabama education lottery could provide a new stream of funding to allocate towards need-based student-aid in the form of Alabama College Promise and the Alabama Opportunity Scholarship. The expected proceeds from a lottery in Alabama is roughly \$280 million. Alabama College Promise and the Alabama Opportunity Scholarship, together, would target last-dollar scholarship funds to low-income students for use at public two-year colleges, public four-year colleges, and private non-profit colleges. These programs could provide scholarships for upwards of 56,000 low-income students and improve access to higher education and workforce development opportunities.

The data examined and discussed in this report suggests that Alabama would see an improvement in high school graduation rates, increased post-secondary enrollment, particularly at two-year institutions, and overall improvement in post-secondary degree and workforce credential attainment. Georgia, Florida, and Tennessee allocate lottery proceeds for college scholarships, providing pathways for workers to gain essential training and credentials needed to compete in the modern workforce. Following the creation and implementation of each respective lottery, high school graduation rates and college enrollment increased in the state's post-secondary education institutions. Because the majority of new jobs created since the Great Recession require more than a high school diploma (i.e. an industry recognized credential or two-year degree), Alabama must invest in workforce training and development opportunities in order to retain and recruit well-paying jobs to the state. If Alabama wants to stay competitive in the twenty-first century economy, it is paramount that the state invests in a well-trained and well-educated workforce.

# **A Lottery-Funded Alabama College Promise & Alabama Opportunity Scholarship Program**

*Education Policy Center, The University of Alabama*

## **INTRODUCTION: OVERVIEW OF STATE LOTTERIES**

### **A Brief Overview of State Lotteries**

Since the emergence of state lotteries, there has been much debate about the value they provide and how they can be used throughout the United States. There are currently 45 state-sponsored lotteries, including Washington D.C. and, most recently, as of 2018, Mississippi. This leaves Alabama—along with Alaska, Hawaii, Nevada, and Utah—as one of the only states to *not* sponsor a lottery. This report examines state gaming legislation on lottery proceeds, explores data on expected impacts of a College Promise program in Alabama, and provide policy recommendations to establish a state education lottery to fund Alabama College Promise. Included is an examination of a diverse array of programs funded by state lotteries with specific focus on states surrounding Alabama. The existing literature is used to evaluate the effects of state lotteries, allowing us to speculate how lottery proceeds could be used in Alabama.

How states allocate their lottery proceeds varies from one to the other. Lottery revenues are used to serve a variety of purposes: in infrastructure, health care, veteran affairs, or to allocate revenues directly to their general fund. At least 28 states earmark lottery proceeds for education programs in some form, including scholarships, grants, building & construction funds, pre-k and afterschool programs.<sup>2</sup> Many states have chosen to adopt a state-sponsored lottery because of the additional revenue stream the lottery provides for education related expenditures.

How states use lotteries has led to much debate and research into the ethics of state-sponsored lotteries. Some have chose to use lottery proceeds to replace existing state funding for a purpose other than its intended use. This presents a question: should lotteries *supplement* or *supplant* existing sources of state funding?

The steady stream of revenue granted to states by lotteries to has allowed them to fund a diverse range of public projects and programs. In Massachusetts, lottery revenue is used to provide unrestricted aid to cities and towns,<sup>3</sup> while Wisconsin provides benefits in property tax credits.<sup>4</sup> In Indiana, lottery proceeds are used for local police & firefighters' pensions, the Teachers' Retirement Fund, and the Build Indiana Fund.<sup>5</sup> Policymakers in Kansas chose to invest lottery proceeds mainly in the Economic Development Initiatives Fund.<sup>6</sup> State legislators ultimately have the power to determine where lottery proceeds are allocated based on the written language of the bill. For many states, using lottery proceeds for education has bipartisan support and provides additional funding for public schools and higher education.

The idea of using lottery proceeds to fund programs in education has been adopted by 24 states as a way to raise revenues without directly increasing taxes. This offers state legislatures the option to increase revenues and fund programs supported by the general public. Since the

1980s, lotteries have been used as a politically convenient measure to increase government revenues without having citizens bear the cost of higher taxes. The three oldest lotteries in the country, New Hampshire, New York, and New Jersey all earmark funds for public education. Lotteries are viewed as a voluntary tax – only individuals who wish to purchase a lottery ticket pay the tax. Lotteries provide state legislatures with a unique opportunity to increase their states revenue without imposing undesirable taxes.

### **More Money for Education**

With more funds pouring into state coffers, the potential for unintended use— and perhaps misuse—by state governments rises. New Mexico operates the New Mexico Legislature Lottery Scholarship program, which provides scholarships to students who earn a 2.5 GPA in their first semester of college.<sup>7</sup> This program is structured to benefit students each semester of continued academic success. When the Great Recession occurred, the New Mexico legislature opted to cut state appropriations for their institutions operating budgets. At the same time, scholarship funding designated for need-based assistance was used to plug the revenue shortfalls and deficits.<sup>8</sup> Thus, New Mexico has transferred lottery proceeds to different funds as a means of combating state deficits instead of funding for its originally intended purposes.<sup>9</sup> In recent years, bills have been introduced to further limit this guarantee and to open the door for even more discretionary spending of lottery proceeds.

Contrary to New Mexico's experience, the State of Kentucky re-purposed lottery proceeds away from regular state expenditures and toward education. Originally, the majority of proceeds from the Kentucky Lottery were transferred to its general fund. Beginning in 1998, however, funds began being used for the Kentucky Educational Excellence Scholarship program, and as of 2005 one hundred percent of lottery proceeds are placed in college grants, scholarships, and literacy program.<sup>10</sup> The Kentucky Educational Excellence Scholarship provides scholarships to students who earn at least a 2.5 GPA each year in high school.<sup>11</sup> The better a student does in high school, the more funding they can earn towards college. Kentucky also offers awards based on students' ACT/SAT scores as well as scores on Advanced Placement, International Baccalaureate, or Cambridge Advanced International exams.<sup>12</sup> Scholarships range from \$125 for a student with a 2.5 GPA up to \$500 for students with a 4.0 GPA per year. As in other states, Kentucky primarily focuses on funding merit-based awards to recruit the best in-state students while providing limited opportunities for need-based aid.

It is certainly worth further investigating the efficacy of state lotteries and their impact on the quality of public education. Regardless, efforts to fund education lotteries continue to be popular. The support for education lotteries is backed by the growing body of literature, explored below, that shows traditional methods of funding education are inadequate to sufficiently meet the needs of students.

### Lottery Proceeds & Revenue of States Bordering Alabama

The most recent data on lottery revenues, as seen in Figure 1 below, show lotteries in states surrounding Alabama. Because Mississippi established its program in 2018, data is limited and not presented here. Florida, Georgia, and Tennessee saw 28 percent of lottery revenue going to the state government.<sup>13</sup> California, Florida, Georgia, New York, and Texas all saw lottery proceeds above \$1 billion, enabling them to distribute high sums to public education and state programs.<sup>14</sup> Lottery proceeds have enabled Arizona, Kentucky, Tennessee, and West Virginia to invest more into their state schools, providing them with an additional revenue stream on top of current state funding, i.e. supplementing existing appropriations.

<b>Figure 1. State Lottery Revenues and Proceeds, 2018 (millions)</b>				
<b>State</b>	<b>Year Created</b>	<b>Revenue</b>	<b>Net Proceeds</b>	<b>Percentage of Net Revenue</b>
Florida	1986	\$6,334,056	\$1,764,046	28%
Georgia	1992	\$4,089,821	\$1,145,070	28%
Mississippi	2018	N/A	N/A	N/A
Tennessee	2003	\$1,471,210	\$417,101	28%
Source: 2018 Annual Survey of State Government Finances Tables.				

States neighboring Alabama have used lottery proceeds to invest in education as a workforce development tool. Georgia, Florida, and Tennessee not only invest in educating their youth, they also provide pathways to higher education for adults to gain essential training and skills needed to compete in the national and global job markets. Investing lottery proceeds in education is a useful tool for developing the human capital of a state’s workforce. By tying lottery revenues to scholarships for postsecondary institutions, these states are promoting workforce development. Below, this issue brief proceeds with an in-depth examination of Georgia’s HOPE Scholarship, Florida’s Bright Futures Scholarship, and the tnAchieves program, to better understand policy options about how to use state lottery revenues for programs in higher education.

## PART ONE: GAMING LEGISLATION IN ALABAMA'S NEIGHBOING STATES

***Overview: States neighboring Alabama all operate a state-sponsored lottery. Each state has unique education funded programs supported by lottery proceeds. How each states invest those proceeds differ from one to the other. This section examines state lottery policy to show options that Alabama could imitate for a lottery for education.***

### **The Georgia HOPE Scholarship**

The State of Georgia is largely regarded as a pioneer in using lottery proceeds to fund scholarships to attend postsecondary colleges and universities.<sup>15</sup> Per Georgia law, proceeds from the Georgia Lottery for Education support scholarships and grants under the Zell Miller Tuition Assistance Program.<sup>16</sup> Introduced in 1992 under Governor Zell Miller— the HOPE scholarship and Zell Miller scholarship have been used to retain the state's brightest and most academically talented students.<sup>17</sup> Since its inception, Helping Outstanding Pupils Educationally (HOPE) tuition assistance program has provided more than \$10 billion in financial assistance to over 1.8 million high school graduates. This initiative has provided aid for students to attend public and private universities and technical schools, resulting in a better-educated workforce in Georgia.

In 2019, 44 percent of bachelor's degree-seeking students and 22 percent of associate degree-seeking students in the Georgia University System received scholarships under HOPE.<sup>18</sup> HOPE Scholarships for University of Georgia students alone totaled more than \$175 million in 2018.<sup>19</sup> Georgia Code 50-27-2 section (1) outlines that lottery proceeds shall be used to support improvements and enhancements for educational purposes, and net lottery proceeds shall be used to supplement, not supplant, existing resources for educational purposes and programs.<sup>20</sup> As outlined in Appendix A, the Georgia Legislature grants the Georgia Lottery Corporation broad authority over the Georgia Lottery for Education, creating an oversight body whose sole mission is dedicated to the integrity of the lottery.

Like the lottery scholarships in Kentucky and New Mexico, Georgia's HOPE Scholarship is a merit-based award made available only to Georgia high school students who graduate with a minimum 3.0 GPA. Students must also meet federal and state citizenship requirements and graduate from an eligible Georgia high school. Students must meet enrollment standards by being admitted, enrolled, and classified as a degree-seeking student at eligible public, private, and for-profit colleges and universities in Georgia.<sup>21</sup>

The purpose of the policy behind HOPE has sparked an interesting debate about the policy objective for scholarships in higher education. The policy objective for HOPE was to invest in Georgia's "best and brightest" students, to retain them long-term, and grow Georgia's workforce. This is the justification behind the merit-requirements attached to HOPE scholarships. Award amounts vary drastically depending on the institutions and the scholarship available. A student taking 15 hours at Chattahoochee Technical College could get a \$1,050 HOPE award, while a student at Georgia Tech on a Zell Miller scholarship, could get \$5,004 for taking the same number of hours.<sup>22</sup> The Zell Miller scholarship is essential a HOPE scholarship

that covers full cost of tuition, given to students with a higher GPA. In the Fall of 2013, more than half of the states undergraduate students did not qualify to receive HOPE scholarship funding.<sup>23</sup> At the University of Georgia, in the 2013-2014 academic year, 79 percent of students received a HOPE or Zell Miller scholarship, compared to only 39 percent of students at Georgia State University.<sup>24</sup>

Claire Suggs, a senior education policy analyst at the Georgia Budget and Policy Institute, writes "less than half of the in-state students benefit from Georgia's flagship merit-based aid programs," demonstrating the disparities in HOPE distributions and offering an idea of how many students are not able to benefit from the program.<sup>25</sup> In the report, she details the limitations of Georgia's merit-based approach as a solution for closing the gaps between students and college affordability. She continues by explaining how students from underserved groups in low-to-moderate income backgrounds are underrepresented among scholarship recipients; within the university system, only 20 percent of African American students and 36 percent of Hispanic students were awarded a HOPE scholarship, compared to 46 percent of Asian American 45 percent of white students.<sup>26</sup>

The scholarship program, originally passed, included an income cap to determine eligibility. The income cap restriction was lifted in 1996, and now Georgia residents can receive HOPE funding based entirely on high school academic performance with no tie to income.<sup>27</sup> By removing the income cap restriction, students from affluent socioeconomic backgrounds are eligible for the same amount of funding as students from low-income backgrounds.

In 2011, the Georgia legislature further amended the HOPE scholarship program by allowing funding to be applied to any portion of a student's tuition. Greater discretionary spending offers budgetary flexibility for students, allowing them to use HOPE scholarship money for books, supplies, and other expenses. With financial pressure mounting, Governor Nathan Deal signed House Bill 326 in 2012 to prevent the scholarship fund from running dry.<sup>28</sup> H.B. 326 requires the shortfall reserve to be drawn upon to meet any deficiencies "if net proceeds paid into the Lottery for Education Account in any year are not sufficient to meet the amount appropriated for education purposes." Subsection (f) of section (15) declares no surplus in the Lottery for Education Account shall be reduced to correct any nonlottery deficiencies in sums available for general appropriations, meaning no amount of funding will be transferred from the Lottery for Education Account except for educational purposes. This amendment is critical to HOPE scholarship protection, ensuring the scholarship is sustainable for generations to come.

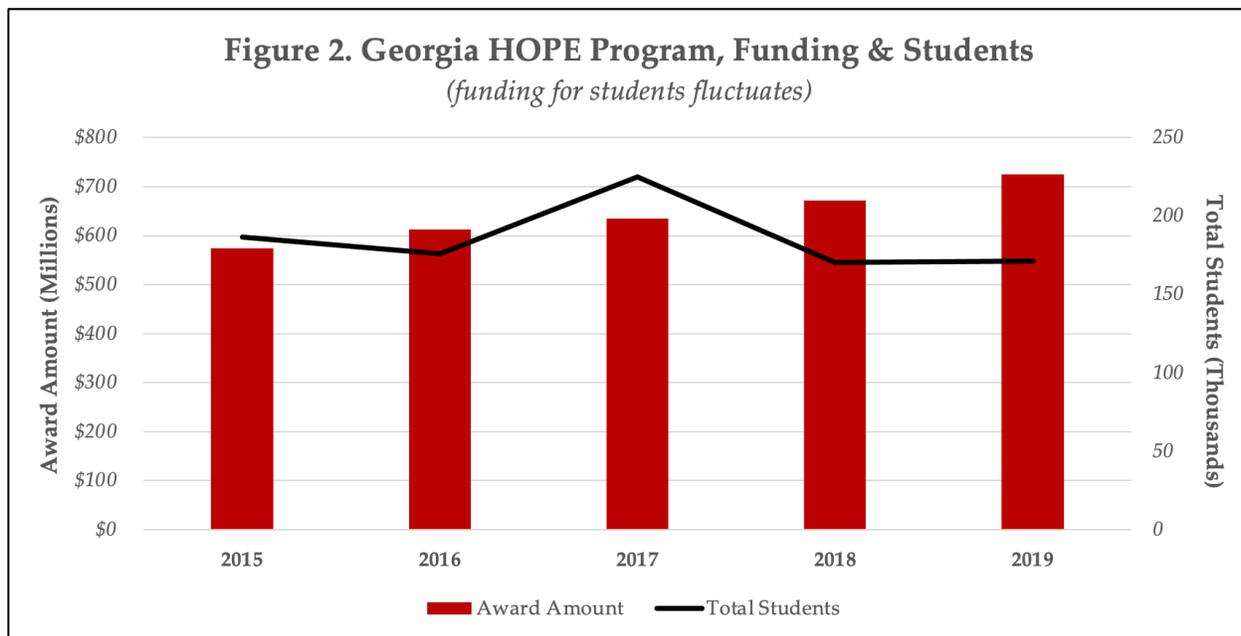
Since 1997, Georgia has returned between 25 and 35 percent of total lottery revenue to education.<sup>29</sup> In 2019, \$1.2 billion in lottery revenue went into Georgia's education system, providing a \$100 million increase from the year prior. In FY 2011, a combined \$740 million was allocated for the HOPE Scholarship and Grant program.<sup>30</sup> Returns from the Georgia lottery to education have increased every year with the exceptions of 1998 and 2005. While funding has increased, however, the total number of students receiving HOPE scholarships has fluctuated. The Fiscal Research Center outlines how the objectives for HOPE have been dedicated to

increasing student achievement in high school and college, increasing the quality of Georgia's workforce, and retaining the "best and brightest" students in Georgia.<sup>31</sup>

While the state has programs in place to recruit in-state talent, policies are failing to create equitable solutions that would lead to significantly higher levels of educational attainment for all its residents. While the HOPE scholarship program is helping individuals meet their financial need, it is broadly struggling to increase the overall number of students enrolling in post-secondary institutions. According to researchers from the University of Pennsylvania's Institute for Research, only 31 percent of Georgians between ages 18 and 24 are in college, ranking 45th lowest rate in the nation.<sup>32</sup>

Figure 2 below, shows the Georgia Student Financial Commission awarded \$724,517,398 to 171,254 students in the HOPE Program for academic year 2018. That is a decrease, as 186,444 students were served in 2014, even as the total amount of aid awarded increased. In other words between 2014 and 2018 15,000 fewer students received \$151 million more in state aid to go to college. In recent years, award amounts have steadily increased, yet the number of total HOPE scholars has not.

***While HOPE offers generous merit aid to Georgia's "best and brightest" students, the state does not offer a broad comprehensive need-based aid program.*** Students in Georgia, like many Pell Grant recipients in Alabama, depend primarily on federal financial aid for need-based tuition assistance.



Source: GSFC, Annual Report 2015-2019<sup>33</sup>

### Florida Bright Futures Scholarship

State policy in Florida presents a different use of lottery proceeds for education. Instead of tying lottery proceeds to government mandates like Tennessee, or solely investing in scholarships like Georgia, the Florida Legislature appropriates lottery proceeds into the Educational Enhancement Trust Fund (EETF). The EETF is meant to provide support for improvements for schools, resources in the classroom, and funds for the Bright Futures Scholarship.

At the end of each fiscal year, the Florida legislature determines a percentage amount from lottery proceeds and the sale of online and instant lottery tickets that will be deposited into the EETF. Funding percentages are subject to change from year to year. Florida State Code (FL Code § 24.121) does not specify requirements for funding the scholarship. Section (5)(a) states:

Public educational programs and purposes funded by the Educational Enhancement Trust Fund may include, but are not limited to, endowment, scholarship, matching funds, direct grants, research and economic development related to education, salary enhancement, contracts with independent institutions to conduct programs consistent with the state master plan for postsecondary education, or any other educational program or purpose deemed desirable by the Legislature.

This allows the legislature to loosely interpret what lottery proceeds for education can be spent on, allowing changes year to year.

The Bright Futures Scholarship Program was established in 1997 and intended to reward high school graduates with merit-based scholarships upon enrollment at an eligible Florida public or private postsecondary institution using lottery-based funding.

Since the creation of the program, the Florida lottery has provided more than \$6.2 billion in aid to over 840,000 college students.<sup>34</sup> In fiscal year 2019, the EETF appropriated over \$595 million to the Bright Futures Scholarship Program, a \$70 million increase from the previous year. Almost half—42.6 percent—of the EETF funding was distributed to public schools, 18.4 percent to state universities, and 28.5 percent to Bright Futures.<sup>35</sup> Bright Future offers four award levels of funding—(The Florida Academic Scholars Award, the Florida Medallion Scholars Award, the Florida Gold Seal Vocational Scholars Award, and the Florida Gold Seal CAPE Scholars award). Each level has increasingly stringent GPA, college entrance exam scores, and community service hour requirements.<sup>36</sup>

Like Georgia, Florida lottery policy emphasizes merit and academic success. *The impact that Florida's Bright Futures Scholarship has had on the thousands of students who have received aid is undeniable, but a compelling argument can be made that the program fails to adequately serve students who demonstrate the greatest financial need.*<sup>37</sup> At the University of Florida, \$124,002,303 was disbursed to 23,597 students under Florida Bright Future Scholarships in academic year 2017-2018.<sup>38</sup> However, that same year, 31,046 students took on \$256,064,482 in the form of loans.<sup>39</sup> In the 1997 academic year, 42,319 students received

scholarship funding, totaling over \$69 million in disbursements. Data from academic year 2018 shows Florida's Bright Futures Scholarship program disbursed \$544 million to 101,579 students, an increase of 59,000 students over 21 years.<sup>40</sup> While the number of students receiving Bright Futures Scholarships has increased, so too has the number of students taking out loans.

The Florida Legislature has, in the past, used lottery proceeds to fund pursuits not outlined in legislative policy. Steven Stark, Craig Wood, and David S. Honeyman studied The Florida Education Lottery and its use as a substitute for existing funds and its effects on the equity of school funding, examining lottery appropriations to local school district for the 1989-1990 school year. They found that 43.2 percent of lottery funds were used for the enhancement of education while 56.8 percent were used as a substitute for existing resources.<sup>41</sup> Their analysis concluded that there was an overall decrease in the level of state funding for K-12 education and blamed this decrease on the state having substituted existing resources for public education with lottery proceeds.<sup>42</sup>

Outlined in Appendix B, Florida statute 24.121 details the expected allocation of revenues and expenditures of funds for public education. As previously mentioned, the Florida Legislature operates with a sense of flexibility as to what educational programs and purposes are funded by the EETF. Yet it is stated in section (c) a portion of net revenues, as determined annually by the Legislature shall be distributed to each school district and be made available to each public school in the district for enhancing school performance through development and implementation of a school improvement plan. This section of Florida lottery policy allows the legislature to adjust the amount of funding schools receive and has opened the door for lottery funds to supplant existing appropriations.

One major problem with lotteries funding education without strict mandates is that states can decide to replace existing state funding with lottery profits. By definition, this means lottery proceeds are not fully utilized for the impact of providing *supplemental* funding to education programs, and their current struggle for additional funding continues without the essential funding to improve year to year.

### **Tennessee's "tnAchieves"**

In 2003, Governor Phil Bredesen made education one of Tennessee's top priorities. His leadership was instrumental in establishing the Tennessee Education Lottery Scholarship program. Ensuring college affordability was made a high priority of his administration. Bredesen secured U.S. Department of Education "Race to the Top" funds,<sup>43</sup> and, at the end of his second term, signed the Complete College Tennessee Act of 2010.<sup>44</sup> This put Tennessee in position to increase postsecondary education attainment rates and focus on improving and developing the skill of their state's workforce.

Gov. Bredesen, a Democrat, laid the groundwork for the next administration, where he was succeeded by Bill Haslam, a Republican. Governor Haslam picked up right where the previous administration left off and under his direction, tnAchieves came into being. In

partnership with Tennessee Promise, tnAchieves has the mission to increase higher education opportunities for high school students by providing last dollar scholarships.<sup>45</sup> When passed in 2003 Tennessee Education Lottery Scholarships were used to fund a diverse set of educational programs such as pre-K, afterschool programs, and a mix of small grants and scholarships. Under the direction of Gov. Haslam, excess lottery reserve funds were allocated to develop an endowment that would sustain the Tennessee Promise scholarship program over time.<sup>46</sup>

The Tennessee Promise endowment provides financial assurance for scholarships to continue to cover certificates and degrees at two-year community college programs.<sup>47</sup> By creating a lockbox trust in the state treasury, a percentage of overall lottery proceeds would not be repurposed. Tennessee Code 4-51-111, outlines the requirements of the "lockbox" account, stating:

There is created with the state treasury a lottery for education account. Amounts remaining in the account at the end of each fiscal year shall not revert to the general fund. Money in the account shall be invested by the state treasurer according to title 9, chapter 4, part 6 for the sole benefit of the account. All earnings articulable to such investments shall be credited to the lottery for education account.

Outlined in Appendix Three, The Tennessee Promise Scholarship Act of 2014 received bipartisan support and effectively established an endowment for the sole purpose of funding Tennessee Promise, specifically stating in SB 2471 that "beginning in FY14-15, all funds in the Lottery for Education Account that exceed \$10,000,000 shall be transferred, every quarter, to the Tennessee Promise Scholarship endowment." The endowment established a reserve amount that would ensure the Promise program would be funded for posterity.

In 2013, Tennessee launched the Drive to 55 campaign, an ambitious educational attainment initiative devoted to the state's workforce development outcomes.<sup>48</sup> The goal of this initiative is to equip 55 percent of Tennesseans with a college degree or certificate by the year 2025, to increase the quality of the state's workforce. The Tennessee Student Assistance Corporation (TSCA) is charged with administering the Drive to 55 Alliance and the Tennessee Promise program. One of the pillars of the Drive to 55 Alliance is to "generate private sector awareness, ownership and support for the long-term steps needed in college entry and completion, adult education and training, and identifying and closing gaps," to better prepare the future of Tennessee's workforce.<sup>49</sup>

The Tennessee Promise scholarship program provides two years of tuition-free community or technical college to high school graduates attending in-state institutions. ***The Tennessee Promise is a last-dollar program that provides scholarships to students with the intent of making the cost of state community and technical colleges tuition free when combined with other forms of financial aid.***<sup>50</sup> As a last-dollar scholarship, the Tennessee Promise is applied only after other forms of aid are awarded. Tennessee Promise recipients are also paired with a mentor in the community to guide them through the application and enrollment process. Requiring students to participate in mentoring and community service programs keeps them accountable and connected to a support team to navigate the college

application and world of work processes. As states struggle to make college more affordable and easily accessible while also securing funding that is protected and sustainable, Tennessee provides a model that effectively achieves both.

The specific use of lottery proceeds outlined in Tennessee legislation allows little room for interpretation or misuse of funds. The state legislature also specified the intended use of amounts remaining in unclaimed prize money to be used for a special subaccount to fund afterschool programs. Contrary to how other state lottery policy is written, proceeds from the Tennessee Lottery for Education are used to provide supplemental assistance on top of traditional methods of financial aid. Unlike Florida's Bright Futures Scholarship and Georgia's HOPE scholarship, Tennessee's Promise Scholarship awards scholarships to students who demonstrate the greatest need. Tennessee's approach to need-based aid attracts more students into the higher education system, a key feature to develop the future workforce. ***The Tennessee Promise Scholarship offers upward mobility for students, allowing them to gain essential training for developing their skills. The Tennessee Promise approach gives students a pathway towards affordable higher education.***

With guidance from the national College Promise Campaign, Tennessee has embraced the idea of using higher education as a pathway for workforce development. The national College Promise Campaign aims to assist students with the cost of pursuing higher education.<sup>51</sup> As a national non-profit, non-partisan program, they have advocated state and local policymakers across the country to create programs allowing high school graduates to attend two-year and four-year colleges and universities. Currently, College Promise programs are offered in more than 320 states and localities and has helped facilitate more than \$3 billion in grantmaking in nearly 70 countries.<sup>52</sup> The mission of the Campaign is to provide students with pathways to attend trade schools, community colleges, and flagship universities and prepare students for careers in the twenty-first century.

Since its inception in 2015, Tennessee Promise has enrolled over 88,000 students.<sup>53</sup> Early indicators of student success show increases in high school graduation, the FAFSA filing rate, and college enrollment.<sup>54</sup> Future research will provide further insight into the effectiveness and impact of the program over time, including college graduation rates and workforce employment. For states looking to implement a lottery scholarship for the purpose of making college more accessible and affordable, Tennessee Promise is a model program.

### **Implications for Alabama**

Alabama currently operates ten casinos at various locations throughout the state. This includes bingo gaming and pari-mutuel wagering, as well as horse and dog track racing. While gaming is allowed through the compact formed with The Porch Band of Creek Indians, Alabama lacks state-operated programs paid for through proper channels of taxation. In February 2020, Governor Kay Ivey created the Alabama Study Group on Gaming Policy to gather facts related to gaming policy and legislation.<sup>55</sup> The Study Group is tasked to administer a report by the end of 2020, providing details as to how the state would be affected by expanding gaming through a

state lottery or casinos. The Alabama Constitution currently prohibits lotteries and other forms of gambling.

In recent years, as more states have turned towards state-sponsored lotteries to increase revenue, public sentiment for a lottery has changed. With record-low unemployment and improving labor force participation rates prior to the COVID-19 pandemic, but flat or declining number of high school graduates, Alabama could use lottery revenues to plug leaks in its human capital pipeline. National studies consistently find Alabama high school graduates start college, but no not finish.

Today 27 states have College Promise programs, most of them with need-based student aid programs. ***A College Promise program would be the first comprehensive state student aid program in Alabama since the state currently has limited to no opportunities for its high school graduates to receive need-based funding for post-secondary education, making the federal Pell grant the state's de facto student aid program.*** This has left thousands of Alabamians struggling to cover the financial burden that comes with pursuing a college degree. An Alabama College Promise program could increase the number of graduates with twenty-first century workforce skills and bolster the credentials of Alabama's workforce.

Recognizing the nature of college affordability and accessibility helps develop our understanding of the problem. The rising cost of tuition and fees has made it harder to increase assistance to those with unmet need and limitations. In Alabama, not accounting for federal programs, the burden to finance college degrees and certificates relies entirely upon students, parents, and institutions with small endowments. The money generated by lottery sales could be used to propel more high school students to enroll and complete credential training and associate degrees in technical fields that are in-demand across the state. ***Taking the model Tennessee has provided, Alabama can make the promise of free community college a reality for its citizens.***

## **PART TWO: THE CURRENT STATE OF EDUCATIONAL ATTAINMENT AND STUDENT-AID IN ALABAMA**

### **The State of Educational Attainment in Alabama**

Educational attainment in Alabama continues to fall below national averages and ranks among the lowest in the country. Among Alabamians, 85 percent of people age 25 and over have completed high school, below the nationwide average of 87 percent.<sup>56</sup> Roughly 25 percent of this same age demographic has attained a bachelor's degree or higher, and over 20 percent of adults have some college credit but no degree.<sup>57</sup>

This strongly suggests that Alabama not only has a lagging college enrollment rate compared to the rest of the country—the United States average bachelor's degree attainment rate is 31 percent—but also that the state lacks the educational infrastructure to help students enroll *and then complete college*. College Promise programs, like the one in the State of Tennessee, provide high school graduates with the opportunity to attend public two- or four-year colleges at as low a cost as possible—if not zero cost—and connect them with valuable job training experiences, like apprenticeships that count towards field-recognized certificates.<sup>58</sup>

As it stands, Alabama's deficiencies in educational attainment across the state stand to make Alabamians less competitive in the regional, national, and global labor markets. A state lottery-funded College Promise program could help grow and improve the state. We now turn to what a College Promise program might look like if implemented in Alabama. The following paragraphs aim to examine the potential impact of a state lottery by identifying expected lottery revenue and uses, determining the structure and eligibility requirements of an Alabama College Promise program, and determining the overall impact of such a program on Alabama.

### **Expected Lottery Revenues and Uses**

As of November 2019, all four states bordering Alabama have a lottery, some form of gambling, or both with Mississippi being the most recent of the four to implement a state lottery and legalize gambling in some form. Alabama is the last state in the southeast to not have a state lottery. Even so, Alabamians are still playing the lottery—they are just crossing into Florida, Georgia, Tennessee, and now Mississippi, to partake.<sup>59</sup> Though Governor Ivey's study group on gambling has not yet released their report on gaming and lottery in the state, past estimates show that Alabama is losing over \$200 million per year to the bordering states in lottery revenues, though this figure has likely gone up since the implementation of Mississippi's state lottery last year.<sup>60</sup>

**Figure 3. Revenue and Apportionment of State-Administered Lottery Funds *in billions* , 2018**

State	Lottery Revenue	Apportionment of Funds		Net Proceeds Remaining
		Prizes	Administrative Costs	
Florida	\$6.34	\$4.39	\$0.17	\$1.76
Georgia	\$4.09	\$2.76	\$0.17	\$1.14
Tennessee	\$1.47	\$1.02	\$0.03	\$0.42

Source: United States Census Bureau

When considering the data in Figure 3, it is important to keep in mind that Florida and Georgia are both significantly higher in population, so the proceeds available from those lotteries will be significantly higher than Alabama should expect to bring in. For this reason, Tennessee, which has less than 2 million more residents than Alabama, provides a better comparison. In May of 2020, David Barden—CEO of the New Mexico Lottery and former lottery official in South Carolina—testified before the Alabama Study Group on Gambling Policy that Alabama could “expect to generate about \$1 billion in annual sales and could see about \$280 million in profits” after the pay out and administration expenses were paid.<sup>61</sup> Thus, compared to the \$1.4 billion in revenue and roughly \$417 million that Tennessee brought in through its lottery in 2018, the expected revenues and profits for Alabama seem to be reasonable and achievable projections.

Every single state bordering Alabama sends at least some portion of the lottery revenues to fund college scholarships, grants, or general educational improvement. As discussed earlier in this report, both Florida and Georgia offer merit-based scholarships to attend public colleges and universities and some qualifying private colleges, with Florida also investing funds into its Educational Enhancement Trust Fund (EETF). In Mississippi, the lottery has been set up to fund both infrastructure improvements and educational initiatives, with the first \$80 million in proceeds each year going towards improving roads and bridges and any proceeds above that threshold going towards education.<sup>62</sup> Tennessee funds last dollar, need-based college scholarships with its lottery revenue through its Promise program, with an emphasis on sending high school graduates to two-year technical and community colleges in pursuit of a well-educated, well-qualified, and well-credentialed workforce.<sup>63</sup>

Alabama could choose to use the proceeds from a lottery to fund a revitalization of outdated infrastructure or improvements for overcrowded prisons, among other things. ***However, if Alabama wants to stay competitive in the twenty-first century economy, it is paramount that the state invests in a well-trained and well-educated workforce.***

### **Call for Alabama College Promise Program**

At present, Alabama effectively has no comprehensive state student-aid program, with the Federal Pell program serving as the de facto state student-aid program. As seen in Figure 4 (below), the average aid awarded to Alabama students in Fall 2018 was \$106. Every state bordering Alabama awarded over double that amount, with Tennessee awarding over twenty-five

times more in aid on average. In total dollars awarded, Alabama awarded just over \$5 million in Fall 2018, not even half of the amount that Mississippi distributed in student aid that year. When compared to Florida, the state that distributed the most student aid in Fall 2018, Alabama’s meager \$5 million in state student aid is less than three percent of Florida’s total spending. Of the twelve financial aid programs that are available to Alabamians through the state’s Commission on Higher Education, only one scholarship is awarded based on financial need. The rest of the scholarships are awarded to children of the deaf and blind, GI dependents, and various descendants of veterans, police officers, and firefighters.<sup>64</sup> Keeping this in mind, the goal of the Alabama College Promise program should be to prioritize high-need students (as determined by the FAFSA) in order to expand access to higher education for students from low-income families.

**Figure 4: Average State Student Aid for Alabama and Bordering States, Fall 2018**

State	Total State Student Aid, Fall 2018	Average State Student Aid, Fall 2018
Alabama	\$5,040,325	\$106
Florida	\$212,342,547	\$1,411
Georgia	\$155,593,834	\$2,089
Mississippi	\$11,901,999	\$386
Tennessee	\$146,750,733	\$2,662

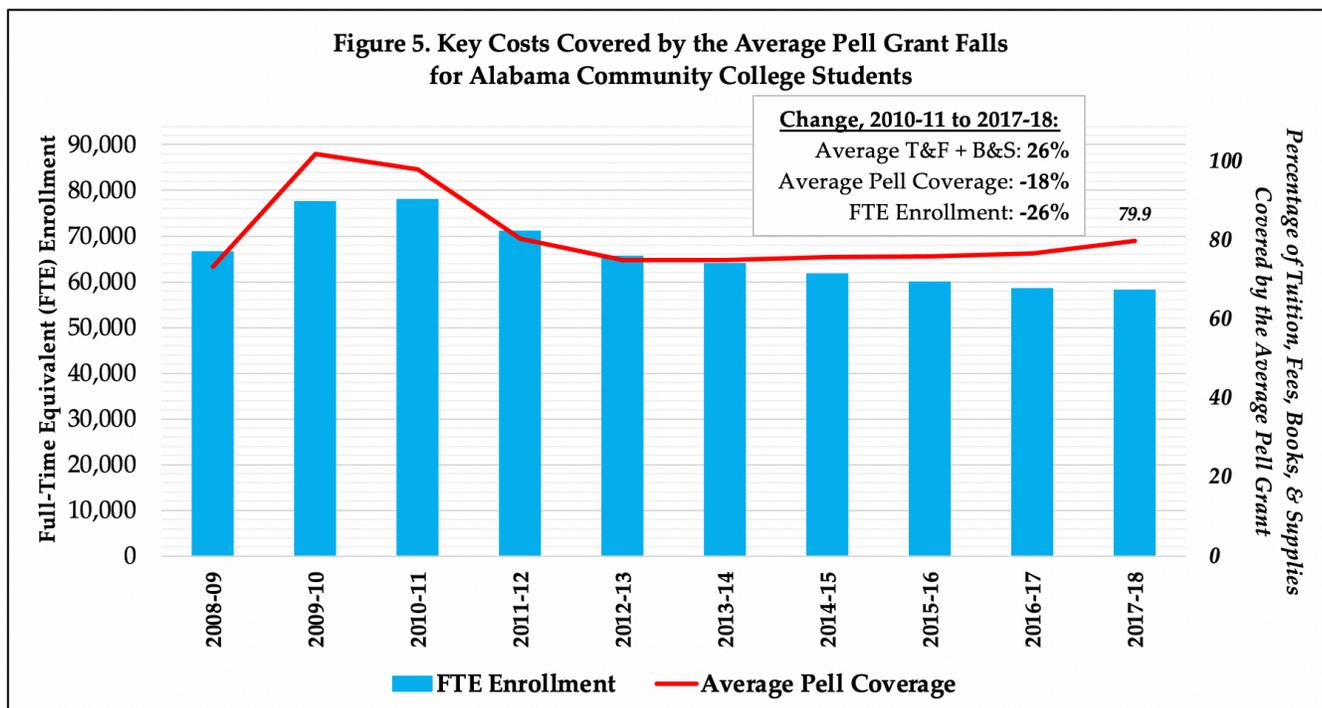
Source: Unpublished Analysis of IPEDS data by the Education Policy Center at The University of Alabama, 2020

Providing access to higher education is an important distinction here. Both the Georgia HOPE and Florida Bright Futures scholarships are strictly merit-based, whereas Tennessee Promise emphasizes a need-based and a broader workforce development approach. *Because Alabama lacks a comprehensive student-aid program and lags far behind in college degree attainment, it is extremely important to provide assistance to the students most lacking educational and workforce development opportunities.*

### PART THREE: OPTIONS FOR ALABAMA COLLEGE PROMISE PROGRAM

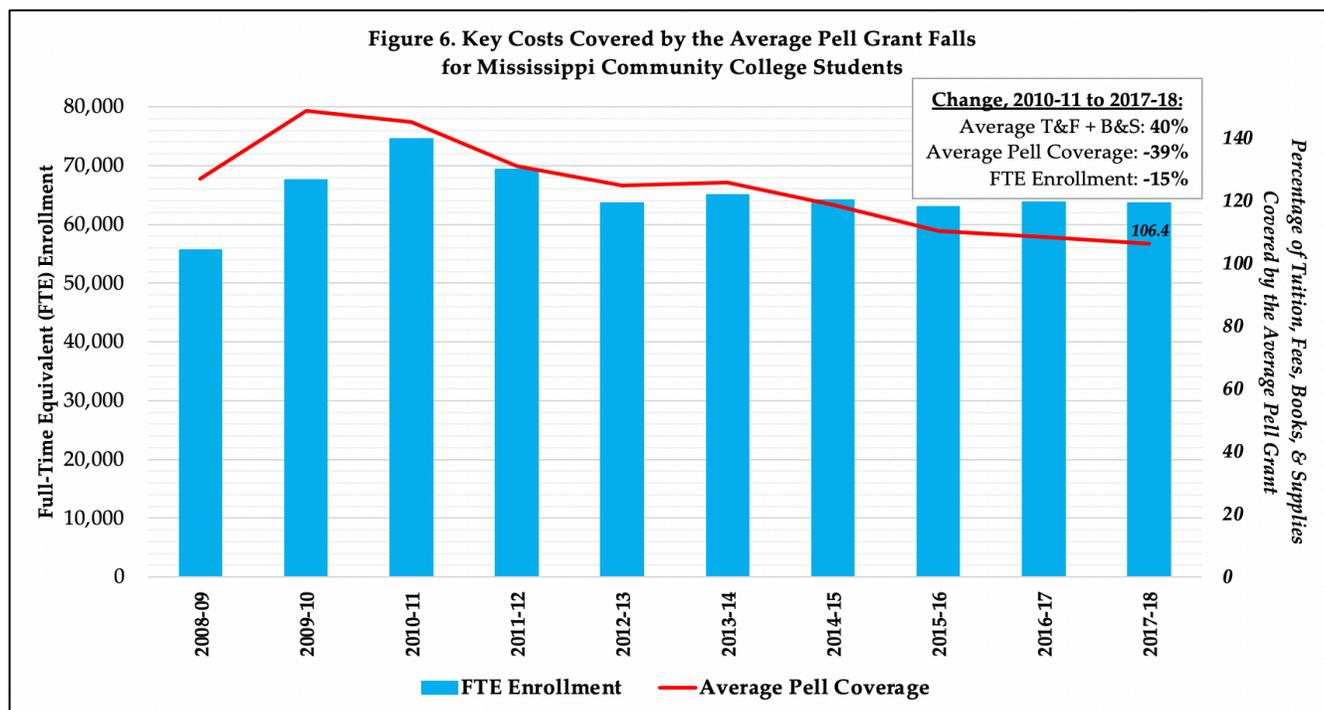
*Overview: With record low unemployment, improving labor force participation rates, but flat or declining number of high school graduates, Alabama needs to plug its human capital pipeline leaks by increasing the number of available, qualified, and skilled workers.*

A 2012 study by the Education Policy Center, commissioned by the Alabama Commission on Higher Education, found that the Federal Pell grant program is Alabama’s de facto state student aid program.<sup>65</sup> Because over ninety percent of college students—both four-year and two-year—attend public colleges and universities in Alabama, the Pell Grant has a direct and positive influence on every public higher education institution.



Above, Figure 5 shows the key costs that are covered by the average Pell award for Alabama community college students. Those costs include tuition, fees, books, and supplies. The blue bars show the Full Time Equivalent (FTE) enrollment while the red line shows the percent of key costs covered by the average Pell grant. At its peak, the average Pell award covered ninety-eight percent of costs in 2009-10. Since then, the average tuition and fees grew by twenty-six percent to \$5,961 in 2017-18, and the average Pell award has fallen by eighteen percent, covering just under eighty percent of expenses. This coverage gap means that more students will have to take out additional loans, work multiple jobs, or simply drop out if they cannot afford tuition. In the same period of time, FTE enrollment fell by twenty-six percent. In 2017-18, under sixty thousand students were enrolled in Alabama’s community colleges, suggesting students are being priced out of attending community college and that there isn’t enough support to fill in the Pell coverage gaps.

Below, Figure 6 shows the same information for Mississippi community colleges. Similar to Alabama, Pell coverage in Mississippi peaked in 2009-10 at nearly one-hundred and forty percent. This means that there was money left over for students to use for expenses like housing, transportation, or childcare. Since 2009-10, the average tuition and fees at Mississippi community colleges has grown by forty percent to \$4,433 in 2017-18, while the average Pell coverage has fallen by nearly forty percent. However, the average Pell award in Mississippi still covered over one hundred percent of the key costs attending community college in 2017-18, and Mississippi has only seen a fifteen percent decline in FTE enrollment. In 2017-18, Mississippi enrolled over five-thousand more students than Alabama despite Alabama having nearly two million more residents than Mississippi.



The information presented above supports the conclusion that Alabama lacks a comprehensive state student-aid program and lags behind both in college enrollment and degree attainment. Therefore, Alabama should move to create a permanent and comprehensive student-aid program that will support the students most lacking educational and workforce development opportunities. This will support the goals of the state to improve workforce development and participation by providing access to higher education opportunities that allow for credential or degree attainment.

The data in Figures 7 and 8 (below) show the average Pell Grant award broken down by institutional classification, the net cost of attendance (NCOA) with just a Pell Grant, and the total cost of paying the NCOA for Pell Grant recipients. Based on this data, it would cost over \$1.2 billion to cover the NCOA for all Pell Grant recipients attending public institutions in Alabama, which does not account for other scholarships or grant awards.

**Figure 7. Pell at Alabama Public Colleges and Universities, 2017-18**

Sector	Total Pell Awards	Total Pell Recipients	Average Pell Award
Flagship Universities	\$45,977,542	10,154	\$4,636
Regional Universities	\$162,836,633	36,554	\$4,865
Community Colleges	\$166,317,959	42,294	\$5,062
<b>Total</b>	<b>\$375,132,134</b>	<b>89,002</b>	<b>\$4,981</b>

Source: U.S. Department of Education, 'Distribution of Federal Pell Grant Program Funds by Institution'

**Figure 8. Net Cost of Attendance Not Covered by Pell Grants and Actual Net Cost of Attendance for Students at Alabama Public Colleges and Universities with Family Income \$0-\$30,000, 2017-18**

Sector	Total Indirect Cost of Attendance	Average Pell	Net Cost of Attendance <i>(what Pell doesn't cover)</i>	Cost for State to Cover What Pell Does Not
Flagship Universities	\$30,353	\$4,636	\$25,717	\$258,893,922
Regional Universities	\$22,189	\$4,865	\$17,324	\$600,725,851
Community Colleges	\$14,527	\$5,062	\$9,465	\$400,934,484
<b>Total</b>				<b>\$1,260,554,257</b>

Source: U.S. Department of Education, Integrated Postsecondary Education Data System

Below, figure 9 shows the reported actual net cost of attendance (ANCOA) by classification of institution and the projected cost of covering the ANCOA for all Pell Grant recipients attending that classification of institution. The ANCOA accounts for other scholarships and grants that students might receive in addition to Pell Grants. To cover the ANCOA for all the nearly 90,000 Pell Grant recipients, it would still cost over \$845 million. The currently projected \$280 million in lottery proceeds would clearly not suffice for a program so wide in scope as to serve all ninety thousand students receiving Pell Grants. Following are options for a state student aid program that would address the gaps in Pell Grant coverage in Alabama.

**Figure 9. Actual Net Cost of Attendance for Students at Alabama Public Colleges and Universities with Family Income \$0-\$30,000, 2017-18**

Sector	Actual Net Cost of Attendance	Cost for State to Cover Actual Net Cost
Flagship Universities	\$18,566	\$188,392,990
Regional Universities	\$13,068	\$456,573,037
Community Colleges	\$4,976	\$200,612,272
<b>Total</b>		<b>\$845,578,299</b>

Source: U.S. Department of Education, Integrated Postsecondary Education Data System

### **Option One: Meeting the Full Need**

The first option to address the deficiencies in state student aid in Alabama is simply to meet the full need. An Alabama Education Lottery will not produce enough revenue to fully meet the need of low-income students and plug the state's human pipeline leaks. The full need of students receiving Pell Grants is over \$800 million, while an education lottery would only bring in \$280 million, leaving a \$565 million gap in funding. One way to address this gap in funding would be to find an additional funding stream (raising property taxes, for example) or to cut funding for another program. If Alabama were to meet the full need of Pell recipients, nearly 90,000 low-income students across community, regional, and flagship colleges and universities would reap the benefits of such a prolific investment in higher education.

### **Option Two: Merit Based Student Aid**

Similar to Florida and Georgia, another option would be to use lottery revenues to fund merit-based scholarships to the states academically inclined students. As outlined in Florida and Georgia gaming legislation, merit-based awards would restrict the number of students eligible to receive an award. The policy objective for merit-based awards is to retain students in-state, increase their skills, and provide credentials to better develop the state's workforce. These awards typically have stringent standards on GPA scores, ACT/SAT tests, and other graduation exams. In Georgia and Florida, strict GPA requirements dictate the amount of scholarship funding students are eligible for. Merit-based funding will help students who are academically inclined, while leaving those who need help the most behind. A merit-based student aid program would allow Alabama Legislators greater control over which students receive funding.

### **Option Three: Alabama College Promise and Alabama Opportunity Scholarship**

A third option is to fund the Alabama College Promise and Opportunity Scholarship. Both programs should be structured to provide *last-dollar scholarship funds to low-income students* upon completing high school or a GED prior to their 19<sup>th</sup> birthday. Last-dollar scholarships, instead of covering the full price of tuition, room and board, and other expenses, cover the remaining costs after other scholarships or grants are applied. This is a critical distinction for two reasons: (1) it conserves monetary resources to make the lottery resources stretch further, enabling the program to serve more students, and (2) it encourages FAFSA completion and federal student aid participation since completing the FAFSA would be a prerequisite for receiving Promise funds or an Opportunity scholarship.

Based on the data presented in this brief, the best use of these funds is to primarily target students who come from low-income families. *The Alabama College Promise program would provide scholarships for use at Alabama public two-year community and technical colleges.* This will serve to improve Alabama's certificate and degree attainment rate as well as improve overall workforce readiness. In the summary table of actual net cost of attendance above (Figure 9), to cover the actual net cost of attendance for all Pell Grant recipients attending two-year colleges would cost roughly \$200 million. **Doing so would serve over 40,000 low-income Alabamians and leave roughly \$80 million leftover to distribute to upwards of 16,000**

**additional low-income students attending 4-year colleges and universities.** Supposing an Alabama College Promise would be a need-based aid program, there are some basic eligibility rules that should be implemented so that the program stretches limited funds to aid as many Alabamians as possible. All recipients of Alabama College Promise funds should meet the following eligibility requirements:

1. Be residents of Alabama and have graduated from an Alabama public high school (or completed their GED) by age 19
2. Must attend a public post-secondary two-year college in Alabama
3. Must have completed the Free Application for Federal Student Aid (FAFSA)
4. Must maintain a 2.0 GPA in their post-secondary program

These eligibility requirements are equivalent to what other cities and states have put in place for their respective college promise programs. Both Birmingham Promise and Tennessee Promise have requirements that students must complete the FAFSA and attend public, in-state post-secondary institutions.<sup>66,67</sup>

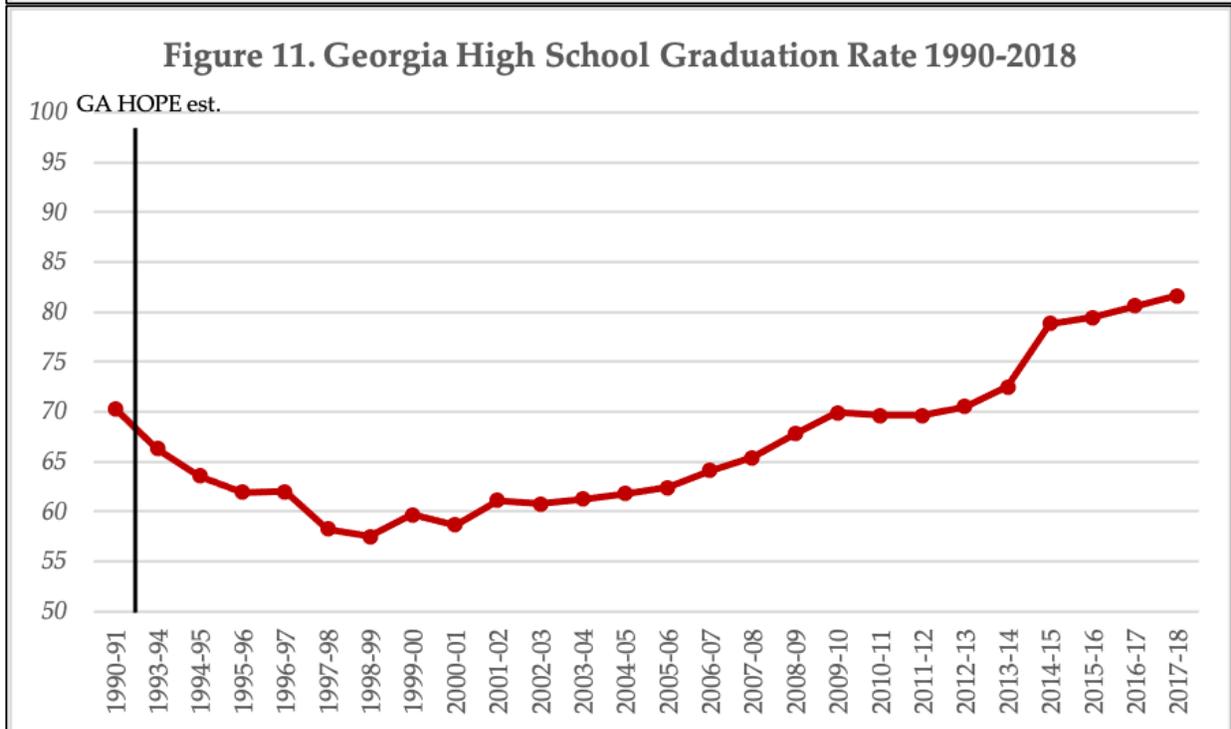
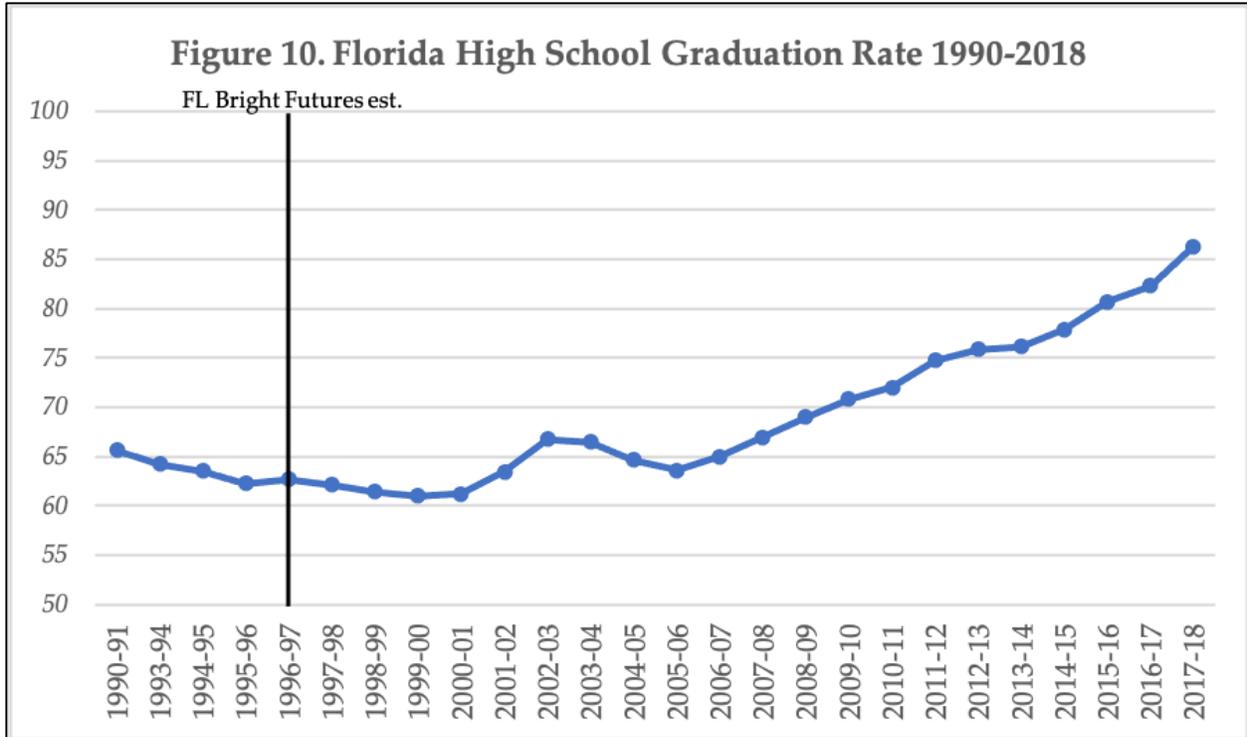
***Additionally, the Alabama Opportunity Scholarship would fund need-based scholarships at four-year public universities and regionally accredited private colleges.*** Of the expected \$280 million in first year revenue, \$80 million would go towards the creation of the scholarship. This would be distributed in the form of aid to Pell recipients at the state's public and private four-year institutions. Similar to the Alabama College Promise, the Alabama Opportunity Scholarship would be a need-based aid program, provided to cover expenses Pell grants currently do not. This option would also help students transition from community college to a four-year university to help complete their degree. Today, the majority of jobs require an education beyond high school, an Alabama College Promise and Opportunity Scholarship would provide additional resources to help students receive credentials of value and provide a gateway to the job market.

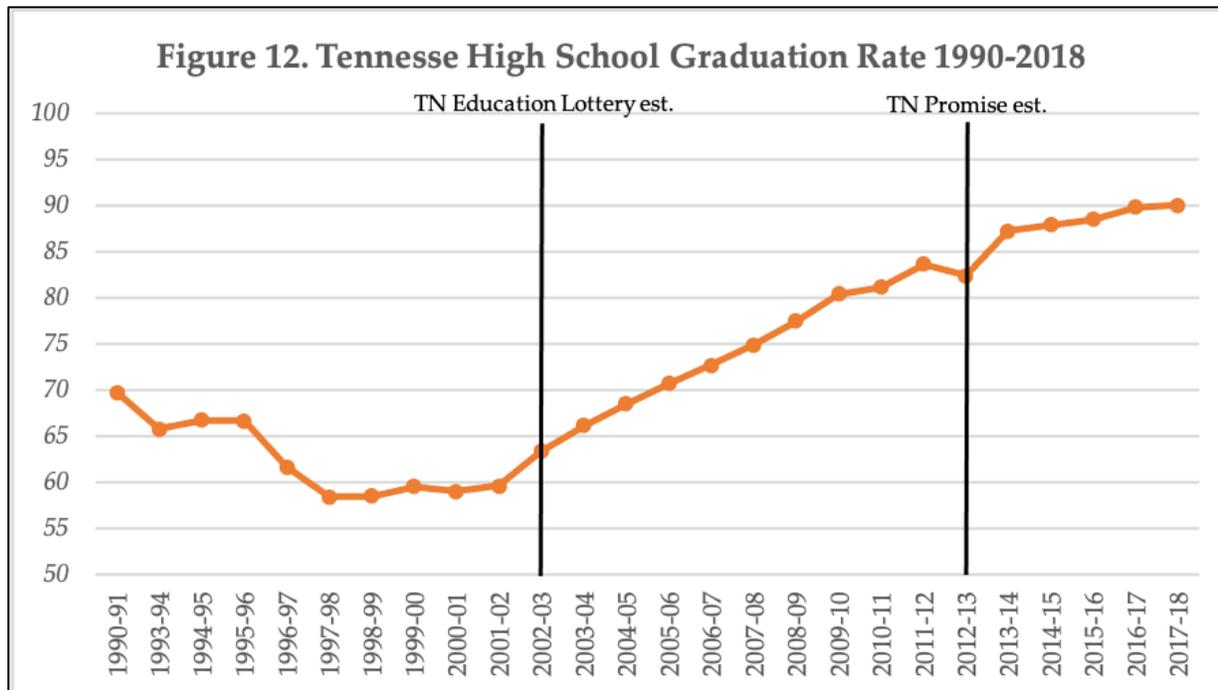
## **PART FOUR: EXPECTED IMPACT OF ALABAMA COLLEGE PROMISE**

*Overview: With no existing state student-aid, Alabama often starts students in post-secondary education programs but does not provide the infrastructure to help them finish. Alabama College Promise would fill in the funding gaps for students and lead to an increase in degree and workforce credential attainment.*

### **College Scholarships and High School Graduation Rates**

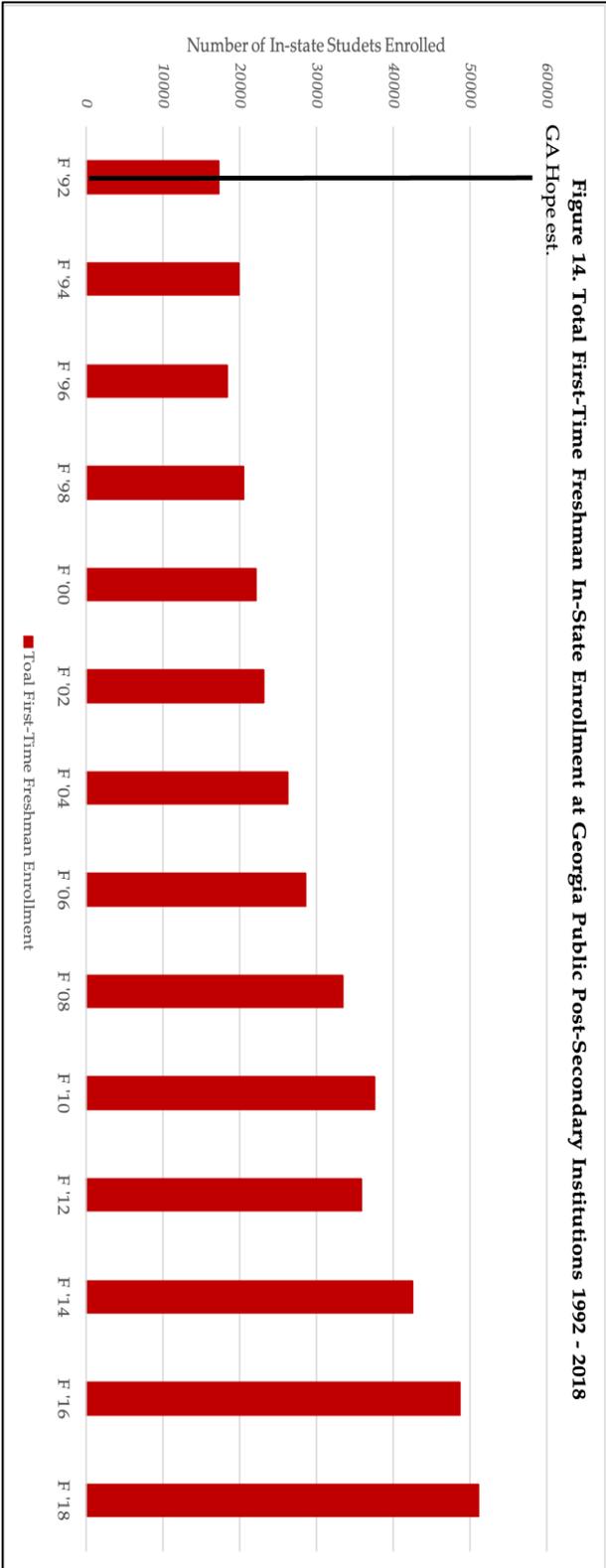
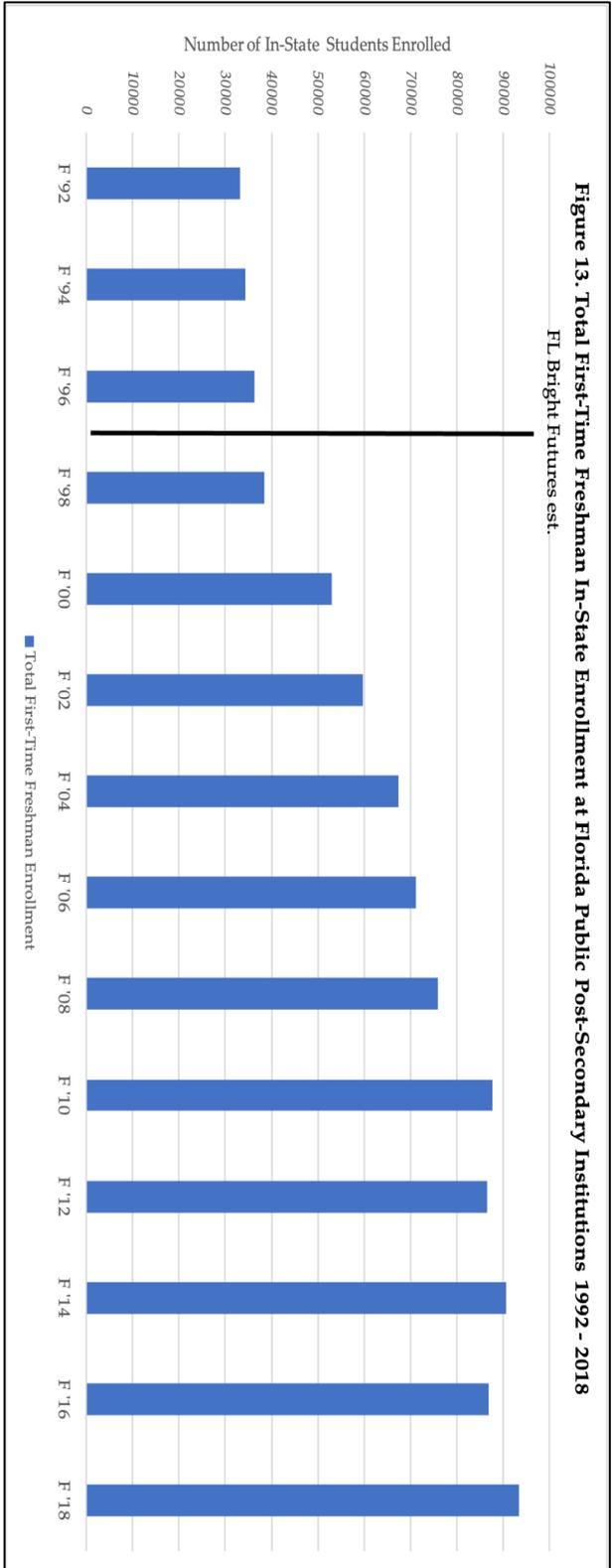
Since the implementation of state lotteries in Florida, Georgia, and Tennessee, all three states have seen vast improvements in high school graduation rates. Figures 10, 11, and 12 below show the high school graduation rates for each of these three states from the 1990-91 academic year through the 2017-18 academic year.<sup>68,69</sup> The vertical black line on each chart indicates the year when each state established their respective education lotteries (Tennessee has two lines, indicating when the education lottery was created and then when Tennessee Promise was implemented). In every one of these states, there is an almost immediate rise in high school graduation rates following the implementation a lottery. In all three states, the graduation rates hovered between 60 and 70 percent around the time the lotteries were implemented, and as of the 2017-18 academic year, each state has improved to graduation rates of at least 80 percent, with Tennessee having the highest at 90 percent. Improving high school graduation rates is extremely important, as the College Promise Campaign highlights, because the majority of jobs created since the Great Recession require more than a high school diploma, and often require certificates or two-year college degrees.<sup>70</sup> Given that the goal of college promise programs is to improve post-secondary degree and credential attainment, having students complete high school is an essential first step. Even though Alabama already has very high secondary graduation rates (in 2017-18, Alabama had a 90 percent high school graduation rate), implementing a college promise program in the state would likely further improve high school graduation rates, and, as further data will show, also improve college enrollment rates.

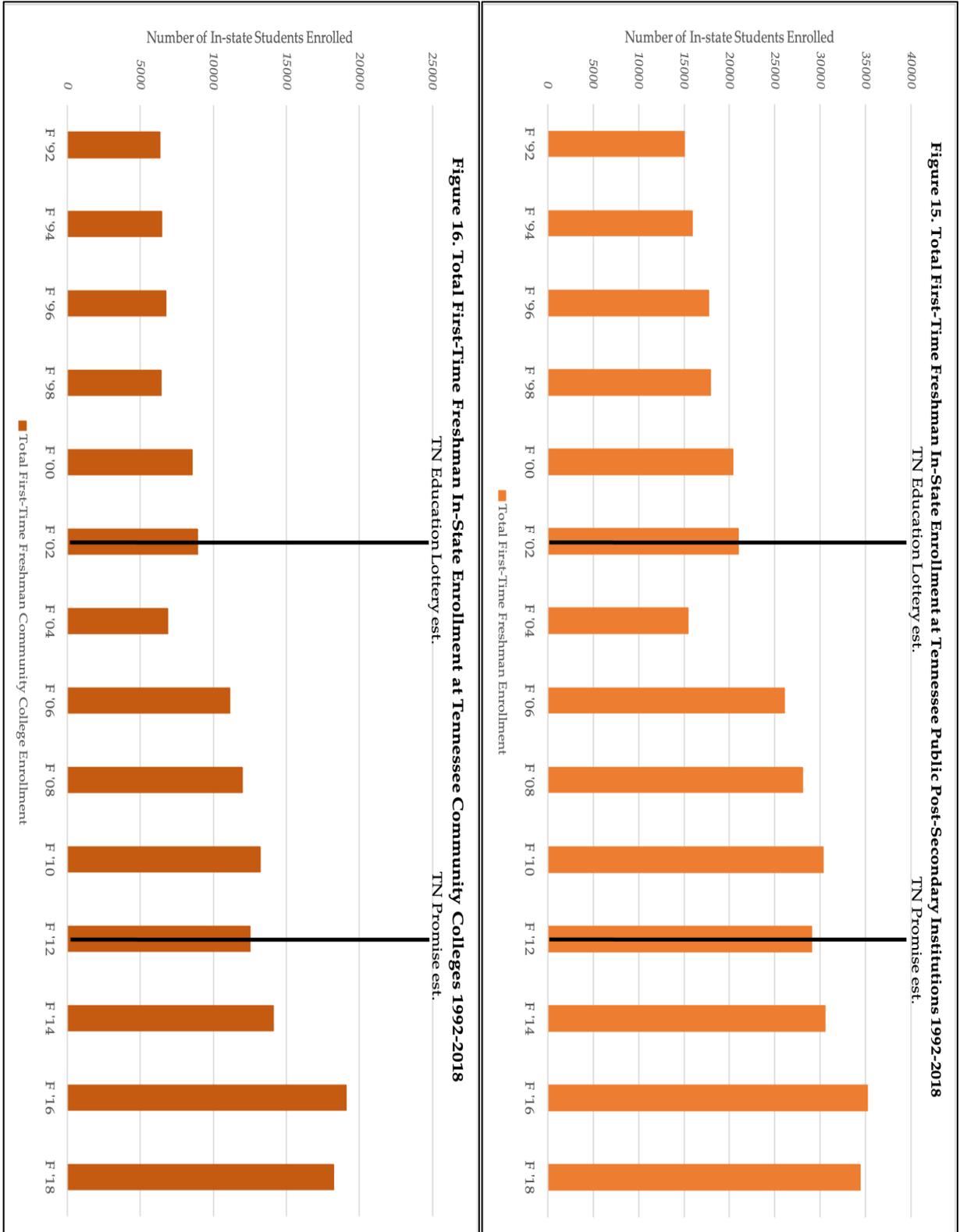




### First-Time Freshman Enrollment

Additionally, there is evidence that state education lottery scholarships led to an increase of in-state enrollment across all three states. Below, Figures 13, 14, and 15 show the first-time freshman in-state enrollment across all levels of public post-secondary institutions for Florida, Georgia, and Tennessee, respectively, from 1992 to 2018.<sup>71</sup> After the year 2000, institutions were not required to report enrollment in odd years which resulted in anomalies in the data due to non- or under-reporting, so those observations have been left out of this report. Despite this, in-state enrollment at the public institutions in these three states generally increased in the years following the implementation of their respective lotteries. Additionally, given the focus on access to higher education and workforce development by Tennessee Promise, Figure 16 shows total in-state enrollment at Tennessee’s public two-year institutions from 1992 to 2018. Following the implementation of the Tennessee Education Lottery and Tennessee Promise, enrollment grew at public two-year community and technical colleges.





Based on the data presented above, we believe that Alabama would experience similar enrollment increases at public post-secondary, particularly at public two-year community and technical colleges, following the creation and implementation of a statewide college promise program. This is incredibly important to the future of Alabama's economy and ability to compete in regional, national, and worldwide markets. In a 2012 study by the Education Policy Center regarding workforce training, a survey of community college leaders found that the majority of state community college directors agree or strongly agree that "business leaders see community colleges as primary workforce training providers."<sup>72</sup> Additionally, if Alabama wishes to retain and continue to recruit well-paying jobs to the state through the expansion of auto-manufacturing, Alabama must invest in workforce training and development to ensure that there are enough skilled workers to fill new openings.<sup>73</sup> This can be done by creating Alabama College Promise to expand access to public two-year colleges as well as improve degree and credential attainment across the state.

### **Policy Recommendations**

In order to continue to grow our state's economy, it is essential to have a robust educational system that will encourage workers to enroll in colleges and further develop their employable skills. Many students in Alabama currently put off attending post-secondary institutions due to the prohibitive cost barriers and lack of available aid, therefore, a comprehensive need-based aid program is necessary to improve access to higher education in Alabama and enhance the state's workforce and opportunities. Our community and technical colleges deliver essential training and educational resources that sustain local communities through the schooling of future welders, electricians, auto-manufacturing technicians, and many other in-demand occupations that will help propel Alabama graduates into well-paying jobs.

Therefore, based on the data examined and discussed in this report, ***it is the recommendation of the authors that the Alabama legislators consider the adoption of a statewide education lottery that will create and fund an Alabama College Promise program and Opportunity Scholarship.*** If implemented correctly and effectively, the state stands to gain up to \$280 million in proceeds to put towards addressing the issue of its choosing. We believe these funds would be best used to fund higher education access and, by extension, workforce development. By establishing and funding Alabama College Promise with proceeds from an education lottery per this brief's recommendations, the state of Alabama could expect to provide last-dollar scholarships to upwards of 40,000 low-income students for use at Alabama's many public community and technical colleges. Additionally, the Alabama Opportunity Scholarship would provide last-dollar scholarships to low-income students attending public or private non-profit four-year colleges, serving upwards of 16,000 additional students. As part of this recommendation, we suggest that the lottery revenues be kept in a "lockbox fund" (in the style of the Tennessee Promise legislation, see Appendix 3) in order to ensure that the proceeds are used for their intended purpose of providing need-based aid for students pursuing post-secondary education at Alabama's public community and technical colleges—and not transferred to other accounts for other, extraneous expenditures. Additionally, we advise that provisions be included

in any lottery legislation to create an endowment fund so that funding is stable and sustainable for future generations and beneficiaries.

### **Concluding Thoughts: The Way Forward**

Every state surrounding Alabama uses lottery proceeds to invest in education in some form. Without one in Alabama, the burden to finance college degrees and certificate completions falls entirely on students, parents, and higher education institutions. Keeping college affordable for low-income and middle-income students and their families by financing college access and choice is a joint responsibility of federal and state governments. The University of Alabama's Education Policy Center has conducted 20 student aid studies since 2011. EPC research justified the strong support of the Mississippi and Alabama Congressional Delegations to restore year-round (Summer) Pell Grants as part of the bipartisan Consolidated Appropriations Act signed by President Donald J. Trump on May 4, 2017. To the regular nine-month Pell Grant of \$6,000, the summer Pell grant added an additional \$3,000 to help students continue their education and finish their programs in a shorter time frame, critical to working students and conducive to earning a family-sustaining wage.

***Student aid is an underutilized, powerful tool in state policymakers' workforce development toolbox.*** Maintenance of effort provisions in federal student aid laws do not exist, unlike Medicaid and highway, causing the erosion of higher education funding for many years. ***Therefore, Alabama should use the estimated \$280 million of first year estimated lottery proceeds to create the Alabama College Promise and Alabama Opportunity Scholarship.*** These programs would be the state's first comprehensive state-based student aid program, and each would provide much needed financial assistance to the state's high school graduates. A lottery would provide Alabama with the funds to plug its human capital pipeline leaks, ensuring students will gain financial assistance needed to complete credentials, certificates, and degrees. In order to continue to grow our state's economy in the future, it is essential to have a robust educational system that will encourage workers and students to enroll in colleges to further develop their employable skills. ***An endowed Alabama College Promise will propel more high school students to enroll and complete credentials statewide in technical fields to better meet the states workforce development goals.***

**APPENDIX ONE**  
**Georgia Code Lottery for Education (GA Code § 50-27-2)**

It is found and declared by the General Assembly:

- (1) That net proceeds of lottery games conducted pursuant to this chapter shall be used to support improvements and enhancements for educational purposes and programs and that such net proceeds shall be used to supplement, not supplant, existing resources for educational purposes and programs;
- (2) That lottery games are an entrepreneurial enterprise and that the state shall create a public body, corporate and politic, known as the Georgia Lottery Corporation, with comprehensive and extensive powers as generally exercised by corporations engaged in entrepreneurial pursuits;
- (3) That lottery games shall be operated and managed in a manner which provides continuing entertainment to the public, maximizes revenues, and ensures that the lottery is operated with integrity and dignity and free of political influence; and
- (4) That the Georgia Lottery Corporation shall be accountable to the General Assembly and to the public through a system of audits and reports.

## APPENDIX TWO:

### FLORIDA CODE § 4-24-121

24.121 Allocation of revenues and expenditure of funds for public education.—

(1) Variable percentages of the gross revenue from the sale of online and instant lottery tickets shall be returned to the public in the form of prizes paid by the department or retailers as authorized by this act. The variable percentages of gross revenue from the sale of online and instant lottery tickets returned to the public in the form of prizes shall be established by the department in a manner designed to maximize the amount of funds deposited under subsection (2).

(2) Each fiscal year, variable percentages of the gross revenue from the sale of online and instant lottery tickets as determined by the department consistent with subsection (1), and other earned revenue, excluding application processing fees, shall be deposited in the Educational Enhancement Trust Fund, which is hereby created in the State Treasury to be administered by the Department of Education. The Department of the Lottery shall transfer moneys to the Educational Enhancement Trust Fund at least once each quarter. Funds in the Educational Enhancement Trust Fund shall be used to the benefit of public education in accordance with the provisions of this act. Notwithstanding any other provision of law, lottery revenues transferred to the Educational Enhancement Trust Fund shall be reserved as needed and used to meet the requirements of the documents authorizing the bonds issued by the state pursuant to s. 1013.68, s. 1013.70, or s. 1013.737 or distributed to school districts for the Classrooms First Program as provided in s. 1013.68. Such lottery revenues are hereby pledged to the payment of debt service on bonds issued by the state pursuant to s. 1013.68, s. 1013.70, or s. 1013.737. Debt service payable on bonds issued by the state pursuant to s. 1013.68, s. 1013.70, or s. 1013.737 shall be payable from, and is secured by a first lien on, the first lottery revenues transferred to the Educational Enhancement Trust Fund in each fiscal year. Amounts distributable to school districts that request the issuance of bonds pursuant to s. 1013.68(3) are hereby pledged to such bonds pursuant to s. 11(d), Art. VII of the State Constitution.

(3) The funds remaining in the Operating Trust Fund after transfers to the Educational Enhancement Trust Fund shall be used for the payment of administrative expenses of the department. These expenses shall include all costs incurred in the operation and administration of the lottery and all costs resulting from any contracts entered into for the purchase or lease of goods or services required by the lottery, including, but not limited to:

(a) The compensation paid to retailers;

(b) The costs of supplies, materials, tickets, independent audit services, independent studies, data transmission, advertising, promotion, incentives, public relations, communications, security, bonding for retailers, printing, distribution of tickets, and reimbursing other governmental entities for services provided to the lottery; and

(c) The costs of any other goods and services necessary for effectuating the purposes of this act.

(4) The unencumbered balance that remains in the Operating Trust Fund at the end of each fiscal year shall be transferred to the Educational Enhancement Trust Fund.

(5)(a) Public educational programs and purposes funded by the Educational Enhancement Trust Fund may include, but are not limited to, endowment, scholarship, matching funds, direct grants, research and economic development related to education, salary enhancement, contracts with independent institutions to conduct programs consistent with the state master plan for postsecondary education, or any other educational program or purpose deemed desirable by the Legislature. Prior to the expenditure of these funds, each school district shall establish policies and procedures that define enhancement and the types of expenditures consistent with that definition.

(b) Except as provided in paragraphs (c), (d), and (e), the Legislature shall equitably apportion moneys in the trust fund among public schools, community colleges, and universities.

(c) A portion of such net revenues, as determined annually by the Legislature, shall be distributed to each school district and shall be made available to each public school in the district for enhancing school performance through development and implementation of a school improvement plan pursuant to s. 1001.42(18). A portion of these moneys, as determined annually in the General Appropriations Act, must be allocated to each school in an equal amount for each student enrolled. These moneys may be expended only on programs or projects selected by the school advisory council or by a parent advisory committee created pursuant to this paragraph. If a school does not have a school advisory council, the district advisory council must appoint a parent advisory committee composed of parents of students enrolled in that school, which is representative of the ethnic, racial, and economic community served by the school, to advise the school's principal on the programs or projects to be funded. Neither school district staff nor principals may override the recommendations of the school advisory council or the parent advisory committee. These moneys may not be used for capital improvements or for any project or program that has a duration of more than 1 year; however, a school advisory council or parent advisory committee may independently determine that a program or project formerly funded under this paragraph should receive funds in a subsequent year.

(d) No funds shall be released for any purpose from the Educational Enhancement Trust Fund to any school district in which one or more schools do not have an approved school improvement plan pursuant to s. 1001.42(18) or do not comply with school advisory council membership composition requirements pursuant to s. 1001.452(1). The Commissioner of Education shall withhold disbursements from the trust fund to any school district that fails to adopt the performance-based salary schedule required by s. 1012.22(1).

(e) All components of the Florida Bright Futures Scholarship Program shall be funded annually from the Educational Enhancement Trust Fund. Funds shall be allocated to this program prior to application of the formula for equitable distribution to public schools, community colleges, and state universities. If shortages require reductions in estimated distributions from the Educational Enhancement Trust Fund, funds for the Florida Bright Futures Scholarship Program shall be reduced only after reductions in all other distributions are made.

### APPENDIX THREE:

#### TENNESSEE SENATE BILL 2471

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 4, Part 7 and Title 49, Chapter 4, Part 9, relative to postsecondary financial assistance. WHEREAS, Governor Haslam has set the goal of making Tennessee the number one location in the southeast for high-quality jobs; and WHEREAS, high-quality jobs require a workforce that is equipped with the knowledge and skills provided through postsecondary education; and WHEREAS, the Governor and members of the General Assembly hear continually from Tennessee employers that the demand for skilled workers exceeds the supply; and WHEREAS, Tennessee lags behind the national average in residents with higher education degrees, ranking forty-third in the percentage of adults with a two-year degree or higher; and WHEREAS, without intervention, the current higher education attainment level of thirty two percent (32%) among Tennesseans is projected to increase to only thirty-nine percent (39%) by 2025; and WHEREAS, recognizing these realities, Governor Haslam launched the Drive to 55 initiative to increase higher education attainment among Tennesseans to fifty-five percent (55%) by 2025, which will require the awarding of four hundred ninety-four thousand (494,000) additional postsecondary credentials; and WHEREAS, these credentials need to be fully aligned with emerging workforce demand, which will require collaboration across education and workforce agencies at the state, regional, and local level; and SB2471 012014 -2- WHEREAS, the Drive to 55 initiative is comprised of strategies to address both traditional and non-traditional students; and WHEREAS, we cannot reach 55 percent without engaging our adult population that has some college but no degree; and WHEREAS, reaching this goal will require focused effort and coordination across all systems and institutions of Tennessee higher education; and WHEREAS, a key to the future economic success of Tennessee is reaching 55 percent higher education attainment by 2025 in order to keep up with projections of the percent of Tennessee jobs that will require a postsecondary credential or degree; now, therefore, BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-4-708, is amended by deleting the section in its entirety and by substituting instead the following language:

(a) This section shall be known and may be cited as the “Tennessee Promise Scholarship Act of 2014”.

(b) As used in this section:

(1) “Continuous enrollment” has the same meaning as defined in § 49-4- 902;

(2) “Eligible high school” has the same meaning as defined in § 49-4- 902;

(3) “Eligible postsecondary institution” means a Tennessee public college or university, a Tennessee college of applied technology, or a regionally accredited four-year private, non-profit institution located in this state and having its primary campus domiciled in this state;

(4) “Full-time student” has the same meaning as defined in § 49-4-902;

(5) “Gift aid” has the same meaning as defined in § 49-4-902;

(6) “Home school student” means a student who completed high school in a Tennessee home school associated with a church-related school as defined - 3 - 012014 by § 49-50-801 or an independent home school student whose parent or guardian has given notice to the local director of a Tennessee school district under § 49-6-3050(b)(1) of intent to conduct a home school;

(7) "Resident" means a student as defined by regulations promulgated by the board of regents under § 49-4-104; and

(8) "TSAC" means the Tennessee student assistance corporation. (c) TSAC shall administer the Tennessee Promise Scholarship Program for Tennessee residents seeking an associate's degree, certificate or diploma from an eligible postsecondary institution under the following terms and conditions: (1) To be eligible for the scholarship a student shall be admitted to and enrolled full-time in an eligible postsecondary program in the fall term following graduation from an eligible high school, or completion of high school as a Tennessee home school student, or obtaining a GED® or HiSET® diploma; provided, that the student obtains the GED® or HiSET® diploma prior to the student reaching nineteen (19) years of age. Exceptions to initial enrollment may be made for extenuating circumstances as provided in rules and regulations promulgated by TSAC; (2) Students applying for the scholarship shall complete the Tennessee Promise application in their initial year of enrollment. Students shall complete the free application for federal student aid (FAFSA) each academic year in which they seek to receive the Tennessee Promise Scholarship; (3) To continue to receive a Tennessee Promise Scholarship, a student shall maintain satisfactory academic progress as determined by the rules and regulations promulgated by TSAC; - 4 - 012014 (4) Scholarship recipients shall participate in mentoring and community service programs under the rules and regulations promulgated by TSAC. TSAC shall develop the selection and renewal criteria for students and shall have the authority to work with outside organizations to develop the most effective means for delivering the scholarships; (5) Subject to the amounts appropriated by the general assembly, a Tennessee Promise Scholarship shall be the cost of tuition and mandatory fees at the eligible postsecondary institution attended less all other gift aid, as defined in § 49-4-902. Gift aid shall be credited first to the student's tuition and mandatory fees; (6) Notwithstanding subdivision (c)(5), the amount of the Tennessee Promise Scholarship at an eligible four-year public postsecondary institution or an eligible private institution shall not exceed the average cost of tuition and mandatory fees at public two-year postsecondary institutions; (7) A Tennessee Promise Scholarship student who has an approved medical or personal leave of absence from an eligible postsecondary institution may continue to receive the scholarship upon resuming the student's education at an eligible postsecondary institution so long as the student continues to meet all applicable eligibility requirements. The sum of all approved leaves of absence shall not exceed six (6) months. The student shall be eligible for the scholarship until the occurrence of the first of the following events: (A) The student has earned a certificate, diploma, or associate degree; or (B) The sum of the number of years the student attended a postsecondary institution, exclusive of approved leaves of absence, - 5 - 012014 equals two and one-half (2½) years from the date of the student's initial enrollment at an eligible postsecondary institution; and (8) Except for a medical or personal leave of absence, as approved by an eligible postsecondary institution, a Tennessee Promise Scholarship student shall maintain continuous enrollment at an eligible postsecondary institution.

(d) The Tennessee Promise Scholarship program shall be funded under the following terms and conditions:

(1) There is established an endowment for the purpose of funding the Tennessee Promise Scholarship, which shall be funded from program-generated revenues of the TSAC and shall be invested as a part of the chairs of excellence endowment fund established by § 49-7-501, the intermediate-term investment fund established by § 9-4-608, or the state pooled investment fund established by § 9-4-603. To the extent that the endowment is invested in the chairs of excellence

endowment fund, the chairs of excellence endowment fund shall serve exclusively as an investment vehicle; accordingly, the chairs of excellence program and funding requirements shall not apply;

(2) In addition to the endowment described in subdivision (d)(1) there is established an additional endowment for the purpose of funding the Tennessee Promise Scholarship, which shall be funded from the lottery for education account established in § 4-51-111(b)(1). Such endowment shall be established as a separate account in the state treasury. Moneys in this endowment shall be invested by the state treasurer pursuant to title 9, chapter 4, part 6, for the sole benefit of that fund;

(3) Beginning in fiscal year 2014-2015, all funds in the lottery for education account, established in § 4-51-111(b), in excess of ten million dollars - 6 - 012014 (\$10,000,000) shall be transferred on a quarterly basis to the Tennessee Promise Scholarship endowment described in subdivision (c)(2). Such transfers shall occur after all required expenditures have been made for Tennessee education lottery scholarship programs, Tennessee student assistance awards, and administrative expenses, and after any required deposits into the general shortfall reserve subaccount have been made; and

(4) Funds appropriated for the Tennessee Promise Scholarship program, including matching funds or other appropriations made by the general assembly, may be placed in an endowment fund created solely for the program, the interest income from which shall be used to provide scholarships under this section. The corpus of each endowment established under this section shall not be expended. Unexpended funds remaining in each endowment in any fiscal year shall not revert to the general fund, but shall remain available in the Tennessee Promise Scholarship program for scholarship expenditures in subsequent fiscal years.

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- <sup>70</sup> College Promise Campaign. (2019). "2018-2019 annual report." Retrieved from [https://static1.squarespace.com/static/5e44327a52b88927aaecabd/t/5e5e967569266155eee66174/1583257213269/CPC-ANNUAL+REPORT-2019\\_Online+%281%29.pdf](https://static1.squarespace.com/static/5e44327a52b88927aaecabd/t/5e5e967569266155eee66174/1583257213269/CPC-ANNUAL+REPORT-2019_Online+%281%29.pdf)
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## **Public Affairs Research Council of Alabama (PARCA)**

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**Public Affairs  
Research Council  
of Alabama**

# **Analysis of Potential Gaming Revenue**

**Presented to**

**The Governor's Study Commission on Gambling  
The Honorable Todd Strange, Chair**

**May 22, 2020**



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## Executive Summary

At the request of the Governor’s Study Group on Gambling Policy, the Public Affairs Research Council of Alabama (PARCA) presents the following revenue projections. These projections are mathematical models based on publicly available data from the U.S. Census Bureau, other states, and national associations. The models do not account for variance in income, employment, earnings, or broader economic or demographic trends.

The research below suggests Alabama could generate approximately \$745 million in annual state revenue. This reflects the sum of the midpoint of the numbers below.

Lottery:	\$270 to \$386 million
Casino Gaming:	\$398 to \$423 million <sup>1</sup>
Electronic Gaming:	\$233 to \$290 million <sup>2</sup>
Sports Betting:	\$6 million
Total:	\$676 to \$815 million

The project numbers are not start-up or year-one projections. The numbers reflect fully operational and relatively mature gaming.

Likewise, this does not mean the state would have \$745 million in new revenue. As much as \$130 million would replace sales tax revenue that would have been generated from the sale of other goods instead of gambling. Likewise, the state will likely devote some revenue to address problem gambling—every state with gambling makes such an allocation. There are also other new costs to be incurred, as well as benefits.

PARCA recommends a full economic impact study to include all known direct and indirect costs.

Examinations of the social costs and the relative efficiency of gambling as a generator of state revenue are also recommended.

<sup>1</sup> Inclusive of electronic gaming

<sup>2</sup> Not included in the total gaming amount

## Introduction

At the request of the Governor’s Study Group on Gambling Policy, the Public Affairs Research Council of Alabama presents the following revenue projections. These projections are mathematical models based on publicly available data from the U.S. Census Bureau, other states, and national associations. The models do not account for variance in income, employment, earnings, or broader economic or demographic trends. Data are not available for every state and every year. No data from tribal casinos are included.

This study does not consider indirect revenue nor direct or indirect costs. Likewise, the study does not consider the social cost of gambling in Alabama. A complete economic impact study, including all known direct and indirect costs, is warranted. Examinations of the social costs and the relative efficiency of gambling as a generator of state revenue are recommended.

States vary widely in types of gaming permitted, where allowed, who may play, and how taxes apply. The numbers below are general ranges designed to give policymakers broad ideas. More accurate projections could be created as key questions are answered. Likewise, sophisticated models can be built to simulate different scenarios.

The research below suggests Alabama could generate approximately \$749 million in annual state revenue.

### Projected Revenues, PARCA, Alabama Department of Revenue

	PARCA Projection	Department of Revenue Projection	PARCA Variance from ADR Midpoint
<b>Lottery</b>	\$270 to 386 million Midpoint: \$328 million	\$354 to 438 million Midpoint: \$396 million	-17.7%
<b>Casino Gaming</b>	\$398 to 423 million Midpoint: \$410 million	\$311 to 421 million Midpoint: \$366 million	+12%
<b>Electronic Gaming</b>	\$233 to 290 million Midpoint: \$261 million	\$230 to 287 million Midpoint: \$258 million	+11%
<b>Sports Betting</b>	\$6 million	\$10 million	-40%
<b>Total</b>	\$676 to 815 million Midpoint: \$745 million	\$905 million to \$1,156 million Midpoint: \$1,030 million	-27.6%

Note that Alabamians, or those visiting, would need to spend an estimated \$3.25 billion on direct gambling costs to generate revenue in these ranges.

Presumably, dollars spent on gambling would otherwise be spent on other consumable goods and taxed at 4%. Thus, an estimated \$130 million of gambling revenue, 17%, would be replacement, rather than new, revenue.

## **Methodology**

PARCA used data sources cited throughout the document to calculate per capita gross revenue and states' net revenue amounts. In some instances, current dollars are displayed, but all dollar figures are converted to constant 2018 dollars to account for inflation. Multiple years of lottery and casino data are averaged. With less than two years of data, and some states with only a few months, sports betting data is annualized.

Population numbers from the 2010 U.S Census and 2018 American Community Survey are used. The analysis provided by the Alabama Department of Revenue used 2010 Census numbers and noted that analyses with more recent population numbers would likely show different revenues. This is evident in the numbers below.

In some instances, a legal age is referenced. In these cases, population inputs from the states are either the 18+ or 21+ populations, depending on the legal age of gambling in that state. Likewise, some outputs for Alabama are offered for both 18+ and 21+ populations.

As noted above, there are many variables in projected gambling revenues. A small adjustment in one variable can have significant impact in gross and net revenues.

## State Lottery

At present, 45 states allow lotteries. In addition to Alabama, Alaska, Hawaii, Nevada, and Utah do not presently allow lotteries, although Alaska is exploring a lottery. Most states began their lotteries before 1995, the year the Census Bureau first began reporting lottery financials. Table 1 lists the states which have begun lotteries since 1995.

Table 1. States Beginning Lotteries Since 1995

State	Year Lottery Began
New Mexico	1997
South Carolina	2002
North Dakota	2004
Tennessee	2004
North Carolina	2006
Oklahoma	2006
Arkansas	2010
Wyoming	2014
Mississippi	2019

Mississippi introduced a lottery in November 2019. Due to the lack of sufficient data, the state is not included in the analysis.

State lotteries vary in legal structure, organization, retail incentives, and games offered.

The data below consider lottery revenue since 2010, as reported by the U.S. Census Bureau's Annual Survey of Government Finances.<sup>3</sup>

Between 2010 and 2018, states have generated \$618 billion in constant (2018) dollars. See Table 2.

<sup>3</sup> <https://www.census.gov/programs-surveys/state.html>

Table 2. Total Lottery Sales by Year, All States—Current and Constant Dollars

	Sales, Current Dollars	Sales, Constant Dollars
2010	\$53,095,974,000	\$61,284,089,092
2011	\$54,803,529,000	\$61,321,915,460
2012	\$59,314,155,000	\$64,992,496,772
2013	\$61,999,118,000	\$66,942,755,701
2014	\$64,170,741,000	\$68,133,740,250
2015	\$66,268,085,000	\$70,239,611,676
2016	\$72,223,750,000	\$75,577,433,468
2017	\$71,803,923,000	\$73,556,256,966
2018	\$76,362,627,000	\$76,364,691,971
<b>Grand Total</b>	<b>\$580,041,902,000</b>	<b>\$618,412,991,356</b>

Table 3 lists total and average lottery sales by state between 2010 and 2018. New York leads the nation in both categories, averaging \$8.3 billion and totaling \$74.87 billion. Wyoming, establishing a lottery only in 2014, trails with an average of \$626 million and a total of \$5.6 billion. The national average is \$1.56 billion.

Table 3. Total and Average Sales by State, 2010–18, Constant Dollars

State	Total Income-Constant Dollars	Average Sales
New York	\$74,875,924,581	\$8,319,547,176
Florida	\$47,542,123,026	\$5,282,458,114
California	\$47,496,662,427	\$5,277,406,936
Massachusetts	\$45,705,953,502	\$5,078,439,278
Texas	\$41,126,922,715	\$4,569,658,079
Georgia	\$34,498,319,947	\$3,833,146,661
Pennsylvania	\$32,969,571,771	\$3,663,285,752
New Jersey	\$26,702,960,231	\$2,966,995,581
Illinois	\$25,866,323,625	\$2,874,035,958
Ohio	\$25,423,126,447	\$2,824,791,827
Michigan	\$24,222,263,365	\$2,691,362,596
Maryland	\$17,284,566,151	\$1,920,507,350
North Carolina	\$17,185,583,974	\$1,909,509,330
Virginia	\$16,105,209,880	\$1,789,467,764
South Carolina	\$11,874,952,272	\$1,319,439,141
Tennessee	\$11,824,410,013	\$1,313,823,335
Missouri	\$10,854,551,614	\$1,206,061,290
Connecticut	\$10,271,799,722	\$1,141,311,080
Indiana	\$8,988,328,208	\$998,703,134
Oregon	\$8,705,348,320	\$967,260,924
Kentucky	\$7,743,313,645	\$860,368,183
Arizona	\$6,596,333,040	\$732,925,893
West Virginia	\$6,529,159,984	\$725,462,220
Washington	\$5,638,359,490	\$626,484,388
Wisconsin	\$5,412,563,475	\$601,395,942
Rhode Island	\$5,103,687,001	\$567,076,333
Colorado	\$4,921,712,084	\$546,856,898
Minnesota	\$4,900,680,585	\$544,520,065
Delaware	\$4,162,285,089	\$462,476,121
Arkansas	\$4,020,080,258	\$446,675,584
Louisiana	\$4,019,764,256	\$446,640,473
Iowa	\$3,081,358,614	\$342,373,179
New Hampshire	\$2,555,208,308	\$283,912,034
Kansas	\$2,263,596,358	\$251,510,706
Maine	\$2,200,730,183	\$244,525,576
Oklahoma	\$1,891,498,429	\$210,166,492
Idaho	\$1,772,069,583	\$196,896,620
Nebraska	\$1,492,961,343	\$165,884,594
South Dakota	\$1,435,773,244	\$159,530,360
New Mexico	\$1,293,540,581	\$143,726,731
Vermont	\$991,634,332	\$110,181,592
Montana	\$519,926,533	\$57,769,615
North Dakota	\$247,878,737	\$27,542,082
Wyoming	\$93,974,411	\$23,493,603
<b>Average</b>	<b>\$14,054,840,713</b>	<b>\$1,561,945,604</b>

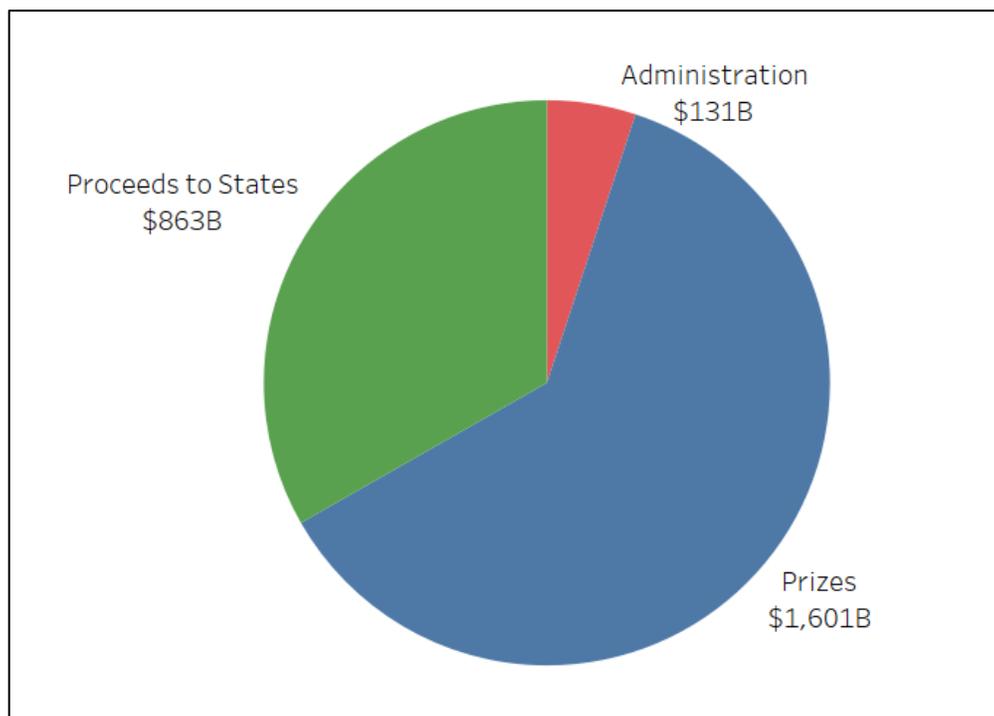
Table 4 lists average administrative costs, prizes distributed, and net government proceeds, all in constant (2018) dollars.

Table 4. Average Distribution of Lottery Revenue, Constant Dollars

	Admiministration- Constant Dollars	Prizes- Constant Dollars	State Reveneues-Constant Dollars
2010	\$68,700,451	\$879,987,901	\$476,510,137
2011	\$68,683,799	\$878,479,667	\$478,914,640
2012	\$71,464,442	\$944,975,206	\$495,000,380
2013	\$74,232,914	\$975,957,077	\$506,604,582
2014	\$75,800,692	\$996,981,453	\$511,709,654
2015	\$74,618,676	\$1,024,456,664	\$508,834,443
2016	\$77,315,395	\$1,097,409,463	\$542,929,332
2017	\$77,392,521	\$1,077,111,786	\$517,215,308
2018	\$78,287,776	\$1,120,562,437	\$536,696,477
<b>Average</b>	<b>\$74,055,185</b>	<b>\$999,546,851</b>	<b>\$508,268,328</b>

Over the nine years between 2010 and 2018, states average 5% of gross revenue on administration and 62% of gross revenue on prizes, leaving 33% for the state. See Figure 1.

Figure 1. Average Distribution of Lottery Proceeds



The Census Bureau's Annual Survey of State Government Finances also reports net proceeds available to states. PARCA took the net proceeds available to state governments every year between 2010 and 2018 and divided by the three population measures for each state: the 2010 Census, and the One-Year American Community Survey (ACS) Population Estimate<sup>4</sup> of the total population and the One-Year ACS population of those legal to buy lottery tickets in each state.<sup>5</sup>

These calculations result in an average per capita yield between \$80.90 and \$101.74, depending on the population variable. Rhode Island leads the nation, and North Dakota trails at \$79.11 and \$10.01, respectively, based on the total 2018 ACS population.

<sup>4</sup> <https://www.census.gov/programs-surveys/acs>

<sup>5</sup> 21 in Arizona, Iowa, Louisiana, and Mississippi, 18 in all other states

Table 5. Per Capita Tax Yields, 2010–18, Constant Dollars

State	Per Capita State Revenue -2010 Census Population	Per Capita Revenue-2018 ACS Population	Per Capita Tax Revenue-ACS Legal Population
Arizona	\$29.58	\$27.96	\$39.04
Arkansas	\$31.34	\$30.80	\$40.47
California	\$46.54	\$44.75	\$58.59
Colorado	\$27.01	\$25.32	\$33.01
Connecticut	\$97.53	\$97.22	\$123.98
Delaware	\$325.31	\$314.05	\$402.63
Florida	\$83.62	\$78.55	\$98.73
Georgia	\$108.21	\$103.59	\$137.60
Idaho	\$30.02	\$28.65	\$38.91
Illinois	\$59.10	\$59.05	\$77.01
Indiana	\$38.30	\$37.64	\$49.52
Iowa	\$27.91	\$27.38	\$38.05
Kansas	\$26.19	\$25.82	\$34.34
Kentucky	\$57.71	\$56.77	\$73.75
Louisiana	\$36.92	\$36.12	\$50.44
Maine	\$44.35	\$44.27	\$55.04
Maryland	\$110.24	\$107.01	\$138.32
Massachusetts	\$182.51	\$177.21	\$223.20
Michigan	\$82.78	\$82.49	\$106.44
Minnesota	\$25.93	\$25.19	\$32.96
Missouri	\$55.18	\$54.49	\$70.80
Montana	\$17.48	\$16.84	\$21.59
Nebraska	\$26.25	\$25.46	\$33.87
New Hampshire	\$62.37	\$61.67	\$77.23
New Jersey	\$114.28	\$112.86	\$145.76
New Mexico	\$21.49	\$21.24	\$28.00
New York	\$169.16	\$166.88	\$212.44
North Carolina	\$59.21	\$56.56	\$73.42
North Dakota	\$10.79	\$10.01	\$12.92
Ohio	\$73.03	\$72.65	\$94.11
Oklahoma	\$21.44	\$20.88	\$27.68
Oregon	\$168.13	\$161.05	\$205.55
Pennsylvania	\$86.64	\$86.14	\$109.30
Rhode Island	\$374.16	\$373.64	\$468.34
South Carolina	\$76.99	\$73.25	\$94.45
South Dakota	\$146.50	\$140.50	\$186.27
Tennessee	\$61.48	\$59.55	\$77.20
Texas	\$52.21	\$48.62	\$66.13
Vermont	\$42.08	\$42.08	\$52.27
Virginia	\$69.42	\$66.88	\$86.23
Washington	\$25.76	\$24.39	\$31.54
West Virginia	\$307.81	\$309.55	\$390.06
Wisconsin	\$35.11	\$34.71	\$44.87
Wyoming	\$11.41	\$11.08	\$14.51
<b>Average</b>	<b>\$80.90</b>	<b>\$79.11</b>	<b>\$101.74</b>

Excluding all but Southeastern states reduces the average to \$61.90. See Table 6.

Table 6. Average Per Capita Lottery Proceeds to Southeastern States, 2010–18, Constant Dollars

State	Per Capita State Revenue -2010 Census Population	Per Capita Revenue- 2018 ACS Population	Per Capita Tax Revenue-ACS Legal Population
Georgia	\$108.21	\$103.59	\$137.60
Florida	\$83.62	\$78.55	\$98.73
South Carolina	\$76.99	\$73.25	\$94.45
Tennessee	\$61.48	\$59.55	\$77.20
North Carolina	\$59.21	\$56.56	\$73.42
Kentucky	\$57.71	\$56.77	\$73.75
Louisiana	\$36.92	\$36.12	\$50.44
Arkansas	\$31.34	\$30.80	\$40.47
<b>Average</b>	<b>\$64.43</b>	<b>\$61.90</b>	<b>\$80.76</b>

By considering Southeastern states with the greatest political, economic, and cultural similarity to Alabama, the average per capita drops to \$55.39. See Table 7.

Table 7. Average Per Capita Lottery Proceeds to Selected States, 2010–18, Constant Dollars

State	Per Capita State Revenue -2010 Census Population	Per Capita Revenue- 2018 ACS Population	Per Capita Tax Revenue-ACS Legal Population
South Carolina	\$76.99	\$73.25	\$94.45
Tennessee	\$61.48	\$59.55	\$77.20
North Carolina	\$59.21	\$56.56	\$73.42
Kentucky	\$57.71	\$56.77	\$73.75
Arkansas	\$31.34	\$30.80	\$40.47
<b>Average</b>	<b>\$57.35</b>	<b>\$55.39</b>	<b>\$71.86</b>

We can now apply these various per capita amounts to Alabama population measures. First, however, we compare these projections to those of the Alabama Department of Revenue. The Department applied to 2018 revenue figures 2010 Census population figures to project \$354 to 438 million.

Using just 2018 financial data reported by the Census Bureau divided by 2010 Census numbers and different collection of states, PARCA projects between \$302 and \$389 million. See Table 8.

Table 8. Lottery Projections Based on 2018 Revenue and 2010 Population

Comparison	Per Capita	Projected
		Alabama Revenue
All States	\$81.50	\$389,580,188
Southeast States	\$71.79	\$343,165,174
Selected States	\$63.14	\$301,817,093

We also applied the nine-year constant dollar averages and 2018 ACS total population figures. See Table 9.

Table 9. Projected Lottery Revenues Based on 2018 ACS Total Population

Comparison	Per Capita	Projected
		Alabama Revenue
All States	\$79.11	\$386,679,475
Southeast States	\$61.90	\$302,559,215
Selected States	\$55.39	\$270,739,175

Based on this analysis, we project lottery revenue between \$270 and \$386 million.

Anecdotal projections have suggested an Alabama lottery could generate \$1 billion in sales. Between 2010 and 2018, state revenues averaged 32% of total retail sales. Based on this percentage, retail sales of \$1 billion would generate \$320 million for Alabama.

For comparison, see Table 10, detailing South Carolina lottery finances between 2010 and 2018.

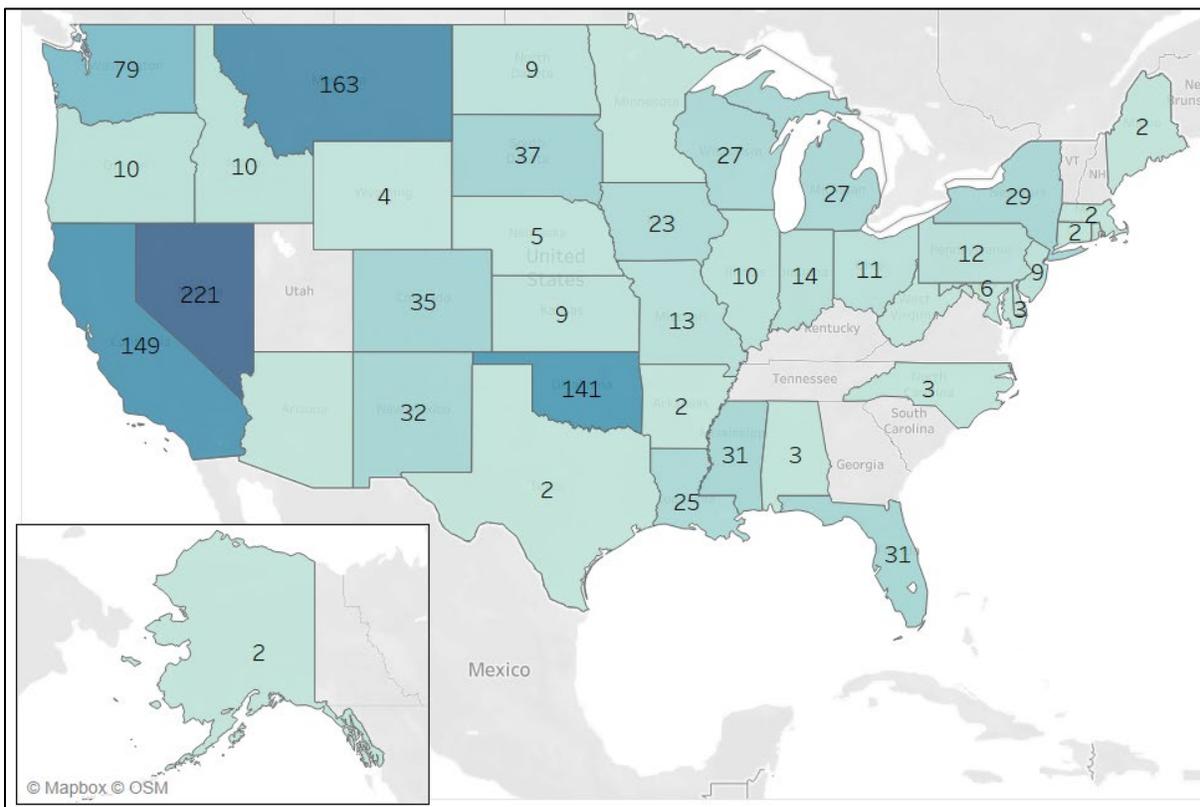
Table 10. South Carolina Lottery, 2010–18, Constant Dollars

	Sales	Administration	Prizes	State Revenue	State Revenue Per Capita, 2018 ACS Total Population
2010	\$1,057,253,779	\$44,654,211	\$725,237,346	\$287,354,452	\$61.98
2011	\$1,088,744,138	\$41,736,499	\$747,046,411	\$299,953,116	\$64.10
2012	\$1,156,323,004	\$41,011,107	\$790,440,112	\$324,863,000	\$68.77
2013	\$1,203,269,962	\$39,145,873	\$837,285,471	\$326,829,780	\$68.45
2014	\$1,247,783,321	\$39,175,652	\$861,143,410	\$347,454,864	\$71.90
2015	\$1,380,904,882	\$41,153,949	\$979,521,651	\$360,219,541	\$73.57
2016	\$1,556,512,919	\$41,333,122	\$1,095,836,814	\$419,331,644	\$84.52
2017	\$1,557,411,278	\$40,181,239	\$1,112,708,094	\$404,511,006	\$80.51
2018	\$1,626,748,989	\$42,436,148	\$1,149,817,092	\$434,484,000	\$85.46
Average	\$1,319,439,141	\$41,203,089	\$922,115,156	\$356,111,267	\$73.25

## Casino Gambling

Casinos provide perhaps the most complex array of gambling options. At the end of 2018, 1,265 casinos or card rooms operated in 40 states.<sup>6</sup> See Figure 2.

Figure 2. Casinos by State, All Types

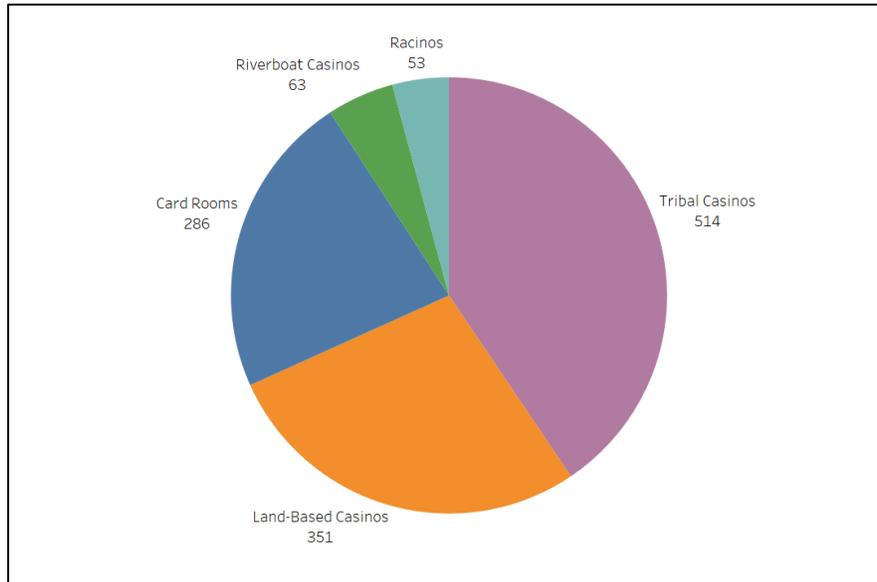


In addition to physical structures, seven states (Illinois, Louisiana, Montana, Nevada, Oregon, South Dakota, and West Virginia) allow electronic gaming machines in retail outlets outside traditional casinos. These states are home to 14,646 such outlets. Note this is the number of establishments offering electronic gaming, not the number of machines themselves.

Of the 1,265 casinos, 467 are so-called corporate casinos, and 514 are tribal casinos. See Figure 3.

<sup>6</sup> [https://www.americangaming.org/wp-content/uploads/2019/06/AGA-2019-State-of-the-States\\_FINAL.pdf](https://www.americangaming.org/wp-content/uploads/2019/06/AGA-2019-State-of-the-States_FINAL.pdf)

Figure 3. Casinos by Type



Corporate casinos report Gross Gaming Revenue (GGR) and government proceeds to state regulatory agencies. These data are collected and published by the American Gaming Association (AGA). The data in this section represent these corporate casinos, as reported by the AGA. Accurate and accessible revenue from tribal casinos is difficult, if not impossible, to obtain.

According to published reports by the AGA,<sup>7</sup> corporate casinos generated \$187.44 billion between 2014 and 2018 and provided \$45.36 billion in direct tax revenue to state and local governments.<sup>8</sup> See Table 11.

<sup>7</sup> Ibid.  
<sup>8</sup> Ibid.

Table 11. Average Gross Gaming Revenue and Tax Yields by State 2014-18, Current Dollars			Table 12. Average Gross Gaming Revenue and Tax Yields by State 2014-18, Constant Dollars		
State	Average Gross Revenue	Average State and Local Tax Revenue	State	Average Gross Revenue, Constant	Average Tax Revenue, Constant
Nevada	\$9,375,726,600	\$877,800,952	Nevada	\$9,686,003,730	\$911,922,171
Pennsylvania	\$3,294,906,815	\$1,423,169,762	Pennsylvania	\$3,422,848,268	\$1,477,310,475
New Jersey	\$2,694,042,220	\$251,092,906	New Jersey	\$2,795,720,273	\$260,503,293
Louisiana	\$2,556,266,122	\$607,692,536	Louisiana	\$2,654,560,280	\$631,117,260
Indiana	\$2,228,945,623	\$606,110,060	Indiana	\$2,314,537,532	\$629,561,471
New York	\$2,160,656,625	\$959,290,835	New York	\$2,237,640,877	\$994,124,358
Mississippi	\$2,102,279,692	\$252,319,242	Mississippi	\$2,182,796,699	\$261,960,498
Missouri	\$1,713,823,557	\$443,324,762	Missouri	\$1,779,097,107	\$460,326,959
Ohio	\$1,686,747,271	\$562,258,409	Ohio	\$1,748,802,306	\$582,912,293
Iowa	\$1,439,283,198	\$330,670,808	Iowa	\$1,494,132,471	\$343,245,265
Illinois	\$1,419,185,795	\$480,850,615	Illinois	\$1,474,458,838	\$499,632,187
Michigan	\$1,387,847,293	\$328,539,042	Michigan	\$1,440,477,491	\$340,808,434
Maryland	\$1,318,614,133	\$527,801,121	Maryland	\$1,362,302,054	\$545,634,353
Colorado	\$803,475,766	\$116,793,745	Colorado	\$833,717,739	\$121,147,814
West Virginia	\$662,392,861	\$303,767,051	West Virginia	\$688,656,866	\$315,700,221
Rhode Island	\$625,481,994	\$323,894,100	Rhode Island	\$649,196,521	\$336,461,237
Florida	\$539,936,535	\$188,976,187	Florida	\$560,291,083	\$196,100,188
Delaware	\$414,808,351	\$171,542,226	Delaware	\$430,581,331	\$177,802,523
Kansas	\$376,774,862	\$97,402,285	Kansas	\$390,826,801	\$100,953,988
New Mexico	\$237,834,458	\$74,190,702	New Mexico	\$196,600,660	\$61,014,363
Massachusetts	\$170,282,204	\$77,348,728	Massachusetts	\$174,406,451	\$79,369,573
Maine	\$134,128,438	\$53,898,179	Maine	\$139,156,889	\$55,919,211
Oklahoma	\$120,460,011	\$29,889,928	Oklahoma	\$124,850,889	\$30,704,320
South Dakota	\$105,770,451	\$15,494,192	South Dakota	\$109,838,826	\$16,099,394
Average	\$1,565,402,953	\$379,338,266	Average	\$1,620,479,249	\$392,930,494

Of course, neither gross revenues nor tax revenues are distributed equally.

Of the 24 states with casinos between 2014 and 2018, Nevada captured 25% of average gross revenue. The next largest state was Pennsylvania with 8.79%. The bottom ten states all fell below 2%. See Table 13.

Table 13. Total Gross Revenue by State, Share of Revenue, 2014–18, Constant Dollars

State	Total Revenue	Percent of Total Revenue
Nevada	\$48,430,018,652	24.9%
Pennsylvania	\$17,114,241,342	8.8%
New Jersey	\$13,978,601,363	7.2%
Louisiana	\$13,272,801,398	6.8%
Indiana	\$11,572,687,662	6.0%
New York	\$11,188,204,385	5.8%
Mississippi	\$10,913,983,496	5.6%
Missouri	\$8,895,485,535	4.6%
Ohio	\$8,744,011,528	4.5%
Iowa	\$7,470,662,353	3.8%
Illinois	\$7,372,294,190	3.8%
Michigan	\$7,202,387,454	3.7%
Maryland	\$6,811,510,272	3.5%
Colorado	\$4,168,588,694	2.1%
West Virginia	\$3,443,284,332	1.8%
Rhode Island	\$3,245,982,603	1.7%
Florida	\$2,801,455,417	1.4%
Delaware	\$2,152,906,655	1.1%
Kansas	\$1,954,134,005	1.0%
New Mexico	\$983,003,298	0.5%
Massachusetts	\$697,625,804	0.4%
Maine	\$695,784,444	0.4%
Oklahoma	\$624,254,443	0.3%
South Dakota	\$549,194,131	0.3%

State	Gross Gaming Revenue	Percent of Gross Gaming Revenue
Nevada	\$46,879M	25.01%
Pennsylvania	\$16,475M	8.79%
New Jersey	\$13,470M	7.19%
Louisiana	\$12,781M	6.82%
Indiana	\$11,145M	5.95%
New York	\$10,803M	5.76%
Mississippi	\$10,511M	5.61%
Missouri	\$8,569M	4.57%
Ohio	\$8,434M	4.50%
Iowa	\$7,196M	3.84%
Illinois	\$7,096M	3.79%
Michigan	\$6,939M	3.70%
Maryland	\$6,593M	3.52%
Colorado	\$4,017M	2.14%
West Virginia	\$3,312M	1.77%
Rhode Island	\$3,127M	1.67%
Florida	\$2,700M	1.44%
Delaware	\$2,074M	1.11%
Kansas	\$1,884M	1.01%
New Mexico	\$951M	0.51%
Massachusetts	\$681M	0.36%
Maine	\$671M	0.36%
Oklahoma	\$602M	0.32%
South Dakota	\$529M	0.28%
<b>Grand Total</b>	<b>\$187,440M</b>	<b>100.00%</b>

To calculate potential tax revenue, we divide the average yields (constant dollars) in Table 13 by the applicable states' populations. We chose to use the 2010 Census numbers (as did the Alabama Department of Revenue) and the American Community Survey (ACS) One-Year Population Estimates for both the total population and the 21+ population. The results are provided in Table 14.

Table 14. Average and Per Capita Tax Yields

State	Average Tax Revenue, Constant	Average Tax Yield Per Capita, 2010 Census Population	Average Tax Yield Per Capita, 2018 ACS Total Population	Average Tax Yield Per Capita, 2018 ACS 21+
Pennsylvania	\$1,477,310,475	\$116.30	\$115.44	\$154.09
New York	\$994,124,358	\$51.30	\$50.38	\$67.33
Nevada	\$911,922,171	\$337.66	\$310.56	\$423.04
Louisiana	\$631,117,260	\$139.21	\$135.16	\$187.87
Indiana	\$629,561,471	\$97.09	\$94.81	\$131.96
Ohio	\$582,912,293	\$50.53	\$50.10	\$68.20
Maryland	\$545,634,353	\$94.50	\$90.60	\$122.77
Illinois	\$499,632,187	\$38.94	\$38.98	\$53.29
Missouri	\$460,326,959	\$76.86	\$75.52	\$103.38
Iowa	\$343,245,265	\$112.66	\$109.54	\$151.86
Michigan	\$340,808,434	\$34.48	\$34.28	\$46.52
Rhode Island	\$336,461,237	\$319.54	\$318.34	\$423.62
West Virginia	\$315,700,221	\$170.37	\$172.49	\$228.63
Mississippi	\$261,960,498	\$88.26	\$87.64	\$123.39
New Jersey	\$260,503,293	\$29.63	\$29.11	\$39.27
Florida	\$196,100,188	\$10.43	\$9.52	\$12.50
Delaware	\$177,802,523	\$198.01	\$186.60	\$250.68
Colorado	\$121,147,814	\$24.09	\$21.90	\$29.89
Kansas	\$100,953,988	\$35.38	\$34.70	\$48.90
Massachusetts	\$79,369,573	\$12.12	\$11.58	\$15.36
New Mexico	\$61,014,363	\$29.63	\$29.21	\$40.36
Maine	\$55,919,211	\$42.10	\$41.95	\$54.34
Oklahoma	\$30,704,320	\$8.18	\$7.82	\$10.99
South Dakota	\$16,099,394	\$19.77	\$18.61	\$26.19
Average	\$392,930,494	\$89.04	\$86.45	\$117.27

These per capita amounts are applied to the same Alabama population metrics: the 2010 Census and the One-Year ACS Population Estimates for the total population and the 21+ population. Table 15 lists these figures based on each state and the average. In other words, if Alabama casinos generated revenue similar to that of the other 24 states with commercial casinos and taxed them at similar rates, Alabama could anticipate generating \$423.8 million in tax revenue per year.

Table 15. Per Capita Yields Applied to Alabama

State	Avg. Projected Alabama Tax Yield- 2010 Census	Avg. Projected Alabama Tax Yield- ACS Total Population	Avg. Projected Alabama Tax Yield- ACS 21+
Pennsylvania	\$555,870,852.2745	\$564,254,001	\$552,822,061
New York	\$245,206,763.9919	\$246,265,389	\$241,552,723
Nevada	\$1,613,946,143.8472	\$1,517,973,553	\$1,517,745,930
Louisiana	\$665,398,155.3024	\$660,661,779	\$674,024,364
Indiana	\$464,082,967.1376	\$463,409,277	\$473,430,065
Ohio	\$241,503,597.5673	\$244,865,348	\$244,678,541
Maryland	\$451,694,009.1508	\$442,820,260	\$440,471,655
Illinois	\$186,112,032.9577	\$190,506,518	\$191,196,757
Missouri	\$367,383,487.3804	\$369,118,869	\$370,885,872
Iowa	\$538,461,178.6814	\$535,426,668	\$544,831,977
Michigan	\$164,807,286.9693	\$167,554,927	\$166,904,255
Rhode Island	\$1,527,303,770.2081	\$1,556,013,411	\$1,519,803,530
West Virginia	\$814,327,606.8735	\$843,110,832	\$820,271,653
Mississippi	\$421,848,781.4969	\$428,354,665	\$442,670,351
New Jersey	\$141,621,938.2895	\$142,269,442	\$140,898,680
Florida	\$49,844,661.4491	\$46,512,736	\$44,829,288
Delaware	\$946,446,264.1789	\$912,092,618	\$899,355,593
Colorado	\$115,135,780.2003	\$107,027,024	\$107,237,520
Kansas	\$169,124,644.0280	\$169,588,727	\$175,451,961
Massachusetts	\$57,938,005.8100	\$56,612,572	\$55,116,633
New Mexico	\$141,624,266.6707	\$142,795,445	\$144,793,200
Maine	\$201,210,114.9753	\$205,031,226	\$194,961,156
Oklahoma	\$39,119,108.5946	\$38,242,564	\$39,438,299
South Dakota	\$94,511,230.6735	\$90,949,034	\$93,953,444
<b>Average</b>	<b>\$428,694,749.8969</b>	<b>\$425,635,898</b>	<b>\$423,794,209</b>

If we focus exclusively on states like Alabama, this figure drops to \$398 million. See Table 16.

Table 16. Projected Casino Tax Yields

State	Avg. Projected Alabama Tax Yield- 2010 Census	Avg. Projected Alabama Tax Yield- ACS Total Population	Avg. Projected Alabama Tax Yield- ACS 21+
Louisiana	\$665,398,155.3024	\$660,661,779	\$674,024,364
Missouri	\$367,383,487.3804	\$369,118,869	\$370,885,872
West Virginia	\$814,327,606.8735	\$843,110,832	\$820,271,653
Mississippi	\$421,848,781.4969	\$428,354,665	\$442,670,351
Florida	\$49,844,661.4491	\$46,512,736	\$44,829,288
Oklahoma	\$39,119,108.5946	\$38,242,564	\$39,438,299
Average	\$392,986,966.8495	\$397,666,908	\$398,686,638

There are two major caveats with these numbers. For Alabama to generate similar casino revenues, there should be similar access to gaming.

Nevada is home to 244 casinos. The other 23 states with commercial casinos average 11 casinos each, excluding tribal casinos—one per every 811,000 residents over age 21. Notice that Mississippi is home to 28 commercial casinos (now 29)—one per every 76,000 people over age 21.

Considering casinos per residents 21 and over, Alabama would need 4.3 casinos to

match the average of one casino for every 811,000 and 46.8 to match Mississippi's rate of one per 76,000. These calculations do not take in into account relative size or number of games available at casinos.

Table 17. Casinos per State

State	Commerical Casinos	Avg. Residents 21+ Per Casino	Casinos Per 100,000 People 21+
Colorado	34	120,498	0.832
Mississippi	28	75,896	1.318
South Dakota	26	24,021	4.170
Louisiana	20	168,228	0.594
Iowa	19	119,201	0.839
Missouri	13	343,328	0.291
Indiana	13	368,203	0.272
Pennsylvania	12	799,976	0.125
Ohio	11	778,353	0.128
New York	11	1,413,435	0.073
Illinois	10	937,863	0.107
Florida	8	1,982,018	0.050
New Jersey	8	866,953	0.117
Maryland	6	778,988	0.129
West Virginia	5	275,554	0.363
New Mexico	5	301,937	0.331
Kansas	4	602,362	0.169
Michigan	3	2,446,922	0.041
Delaware	3	237,910	0.420
Rhode Island	2	398,081	0.251
Oklahoma	2	1,397,263	0.072
Maine	2	515,392	0.194
Massachusetts	1	4,500,950	0.024
<b>Average</b>	<b>11</b>	<b>845,797</b>	<b>0.474</b>

Second, tax structures vary widely. Casinos offer a complex array of electronic and table games, each with their own regulations and, often, tax structures. Taxes on casino gaming varies by the nature of the game, the location (land, online, or water), and the relative profit already generated in a year. For example, Oklahoma taxes gambling revenue on a sliding scale starting at 35% for revenue up to \$10 million and up to 50% for revenue greater than \$70 million. Tax rates range from 6.75% in

Nevada up to 61% on some gaming revenue in Maryland.

Between 2014 and 2018, effective tax rates on casino gaming ranged from 9.3% in New Jersey to 51.8% in Rhode Island. State and local tax revenues averaged \$392.9 million, with a high of \$1.4 billion in Pennsylvania and a low of \$16 million South Dakota (current dollars). See Table 18.

The projected tax yield for Alabama based on data from all states, \$423.97 million, is based on an effective tax rate of 30.6%. See Table 18. The projection based on selected states, \$398.6 million, is based on an effective tax rate of 27%. See Table 19.

Table 18. Gross Revenue, Effective Taxes, and Tax Revenue, All States, 2014-18

State	Average Gross Revenue, Constant	Effective Tax Rate	Average Tax Revenue, Constant
Pennsylvania	\$3,422,848,268	43.4%	\$1,477,310,475
New York	\$2,237,640,877	44.6%	\$994,124,358
Nevada	\$9,686,003,730	22.1%	\$911,922,171
Louisiana	\$2,654,560,280	23.8%	\$631,117,260
Indiana	\$2,314,537,532	27.2%	\$629,561,471
Ohio	\$1,748,802,306	33.3%	\$582,912,293
Maryland	\$1,362,302,054	40.5%	\$545,634,353
Illinois	\$1,474,458,838	33.9%	\$499,632,187
Missouri	\$1,779,097,107	25.9%	\$460,326,959
Iowa	\$1,494,132,471	23.0%	\$343,245,265
Michigan	\$1,440,477,491	23.7%	\$340,808,434
Rhode Island	\$649,196,521	51.8%	\$336,461,237
West Virginia	\$688,656,866	45.9%	\$315,700,221
Mississippi	\$2,182,796,699	12.0%	\$261,960,498
New Jersey	\$2,795,720,273	9.3%	\$260,503,293
Florida	\$560,291,083	35.0%	\$196,100,188
Delaware	\$430,581,331	41.3%	\$177,802,523
Colorado	\$833,717,739	14.5%	\$121,147,814
Kansas	\$390,826,801	25.8%	\$100,953,988
Massachusetts	\$174,406,451	46.8%	\$79,369,573
New Mexico	\$196,600,660	31.2%	\$61,014,363
Maine	\$139,156,889	40.2%	\$55,919,211
Oklahoma	\$124,850,889	24.0%	\$30,704,320
South Dakota	\$109,838,826	14.7%	\$16,099,394
<b>Average</b>	<b>\$1,620,479,249</b>	<b>30.6%</b>	<b>\$392,930,494</b>

Table 19. Gross Revenue, Effective Taxes, and Tax Revenue, Southeast States

State	Average Gross Revenue, Constant	Effective Tax Rate	Average Tax Revenue, Constant
Louisiana	\$2,654,560,280	23.8%	\$631,117,260
Missouri	\$1,779,097,107	25.9%	\$460,326,959
West Virginia	\$688,656,866	45.9%	\$315,700,221
Mississippi	\$2,182,796,699	12.0%	\$261,960,498
Florida	\$560,291,083	35.0%	\$196,100,188
Oklahoma	\$124,850,889	24.0%	\$30,704,320
Average	\$1,331,708,821	27.8%	\$315,984,908

## **Electronic Gaming**

Alabama could consider legalizing slot machines and other types of electronic gaming. Projecting this revenue is particularly difficult. Strictly speaking, traditional slot machines are considered Class III gaming. However, some machines functionally meet the Class II definition, and casino operators have succeeded in efforts to legally declare Class III machines as Class II machines. Some states tax different games at different rates, and not all states report gaming revenue by type.

With those caveats, the 73.9% revenue estimate calculated the Alabama Department of Revenue is consistent with other data. Applying that rate to the casino revenues projected above suggests revenue between \$233.6 and \$290.275 million.

The same caveats that apply to casinos, generally, apply to electronic gaming also.

## **Sports Betting**

Compared to other forms of gambling, there are fewer sports gambling data available. Before the U.S. Supreme Court's May 2018 ruling in *Murphy v. National Collegiate Athletic Association*, sports betting was only legal in Nevada. Since the *Murphy* decision, 21 additional states have legalized sports betting, though not all states that have legalized sports betting have implemented sports betting. See Figure 4.



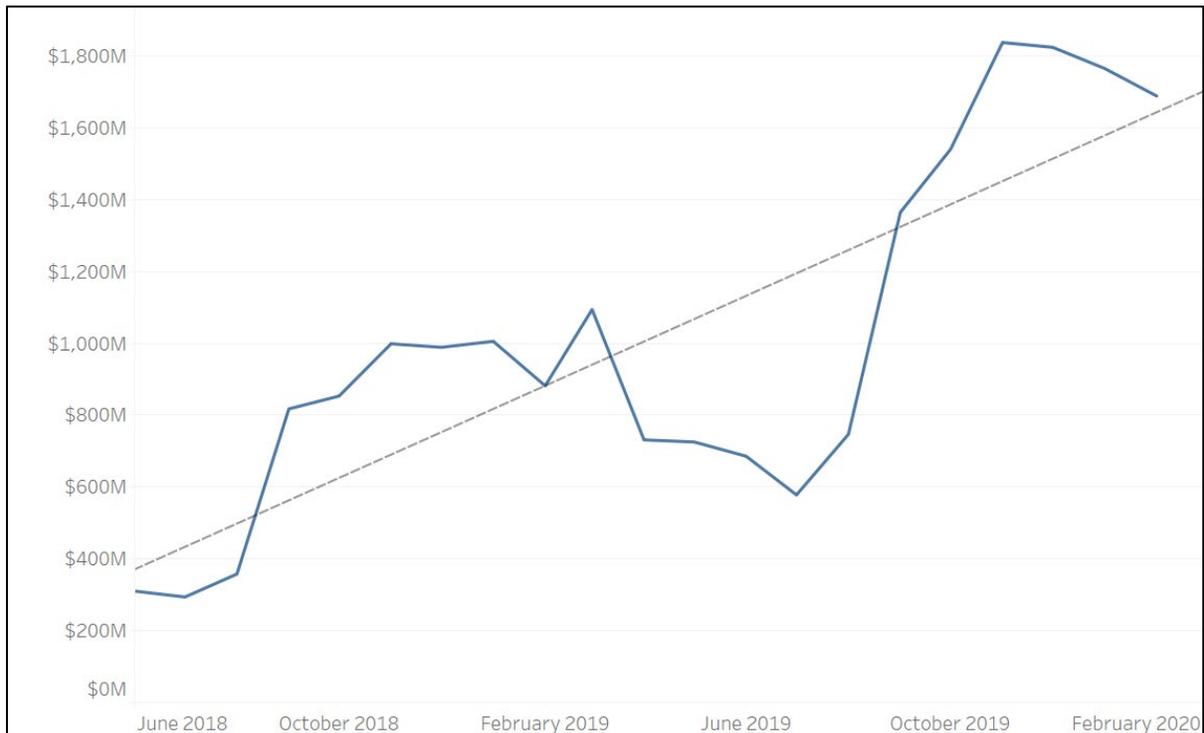


Table 20. Gross Sports Wagering, June 2018 to February 2020

State	
Nevada	\$9,332,025,854
New Jersey	\$6,865,133,129
Pennsylvania	\$2,185,902,278
Indiana	\$794,234,116
Mississippi	\$605,966,437
West Virginia	\$356,325,561
Iowa	\$327,337,178
Rhode Island	\$314,669,762
Delaware	\$266,306,906
Oregon	\$87,041,303
New Hampshire	\$38,863,332
<b>Grand Total</b>	<b>\$21,173,805,856</b>

Amounts wagered appear to rise and fall with college and professional football. See Figure 6.

Figure 6. Sports Wagering Trend, June 2018 to February 2020



While states have reported \$21.6 billion in wagers, they have captured \$204.8 million in revenue for state and local governments, averaging \$18.6 million. See Table 21.

Table 21. Total Amount Wagered and Total Government Revenue, June 2018 to February 2020<sup>9</sup>

State	Total Amount Wagered	Total State Revenue
Delaware	\$270,183,974	\$24,284,741
Indiana	\$869,052,918	\$6,731,677
Iowa	\$348,482,660	\$1,659,425
Mississippi	\$616,715,840	\$8,042,333
Nevada	\$9,473,134,055	\$39,328,138
New Hampshire	\$47,632,101	\$1,721,216
New Jersey	\$7,047,041,658	\$62,630,276
New York	\$0	\$982,631
Pennsylvania	\$2,317,232,337	\$43,589,612
Rhode Island	\$323,618,919	\$12,893,840
West Virginia	\$373,996,163	\$2,997,172
<b>Grand Total</b>	<b>\$21,687,090,625</b>	<b>\$18,623,733</b>

State taxes on sports betting range from 6.75% in Nevada to 51% in Rhode Island. The effective tax rate in Mississippi is between 11% and 12%.

Total state revenues reported in Table 21 are annualized and divided by the 2018 ACS population in each state, either 18 or 21, depending on the legal age of sports wagering. These calculations provide the per capita state revenues depicted in Table 22.

Table 22. Average Per Capita Government Revenue

State	Average Per Capita Government Revenue
Delaware	\$18.91
Indiana	\$2.57
Iowa	\$1.18
Mississippi	\$2.36
Nevada	\$10.02
New Hampshire	\$7.67
New Jersey	\$5.24
New York	\$0.11
Pennsylvania	\$3.20
Rhode Island	\$10.95
West Virginia	\$0.44
<b>Grand Total</b>	<b>\$5.70</b>

These per capita figures are applied to Alabama's 18+ and 21+ populations. Based on

<sup>9</sup> New York reports state revenue but not the total amounts wagered

the average, Alabama could project to generate \$21 million. The full results are reported in Table 23.

Table 23. Projected Alabama Revenues from Sports Wagering Based on All States

State	Annualized Per Capita Revenue	Alabama Per Capita Over 18	Alabama Per Capita Over 21
Delaware	\$18.91	\$71,821,693	\$67,789,524
Indiana	\$2.57	\$9,763,500	\$9,215,364
Iowa	\$1.18	\$4,491,804	\$4,239,627
Mississippi	\$2.36	\$8,952,126	\$8,449,541
Nevada	\$10.02	\$38,080,138	\$35,942,266
New Hampshire	\$7.67	\$29,140,416	\$27,504,432
New Jersey	\$5.24	\$19,916,475	\$18,798,336
New York	\$0.11	\$430,595	\$406,421
Pennsylvania	\$3.20	\$12,155,311	\$11,472,895
Rhode Island	\$10.95	\$41,612,502	\$39,276,318
West Virginia	\$0.44	\$1,688,305	\$1,593,521
Average	\$5.70	\$21,641,169	\$20,426,204

When only states similar to Alabama are considered, the state could anticipate generating \$6 million. See Table 24.

Table 24. Projected Alabama Revenues from Sports Wagering, Selected States

State	Alabama Per Capita Over 18	Alabama Per Capita Over 21
Indiana	\$9,763,500	\$9,215,364
Iowa	\$4,491,804	\$4,239,627
Mississippi	\$8,952,126	\$8,449,541
West Virginia	\$1,688,305	\$1,593,521
Average	\$6,223,934	\$5,874,513

Sports wagering revenue may be lower due to relatively low tax rates and its comparatively limited availability. More likely, sports betting requires extensive infrastructure. States with larger numbers of casinos or robust online lottery systems are expected to generate more revenue. Finally, unlike lotteries and casinos, widespread and substantial illegal sports betting has existed for decades. It is unknown how much of this activity will move into the legal market.

## Maximizing Gaming Revenue

Based on the above analysis, there are opportunities to maximize gaming revenue in Alabama. The following are not recommendations or endorsements. Moreover, they are not made with any consideration of other trade-offs or the overall policy cost, gambling, or otherwise.

1. Set robust and progressive taxes.
2. Set gambling age at 18.
3. Allow betting on in-state college athletics.
4. Allow off-site, online sports betting.
5. Ensure that any lottery offerings are as competitive as surrounding states.
6. Locate possible casinos in locations to attract visitors from Florida, Georgia, and Tennessee, states with little casino activity and no sports betting.
7. Promote competition, at least with sports betting vendors.

Again, the above are not recommendations by PARCA and may or may not be good policies generally, but they could be strategies to increase revenue.





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## **Alabama Department of Revenue**

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# ***Summary of Potential Alabama Gaming Revenues***

**April 2020**

(Updated April 17, 2020)

## **INTRODUCTION**

The Department of Revenue (Department) was asked to consider the range of potential revenue streams from gaming and, in particular from state-wide lotteries, casino operations, and sports wagering. The following is a summary of the Department's research on this topic, which was conducted using published data on sports wagering, lottery, and casino revenues in other states. It is important to note when considering the potential Alabama revenue ranges included in this summary that they are based solely on mathematical calculations using the revenues generated from these gaming activities in other states and extrapolating an Alabama estimate based on our state's relative population. These ranges are not based on economic modeling that takes into consideration the multiple factors that would impact actual revenues in Alabama if any or all of these gaming activities were allowed state-wide. Furthermore, the population-based calculations rely on census data from the 2010 Census. Calculations using updated data from the ongoing 2020 Census may yield lower estimated revenue ranges. As a result of these factors, the data included in this summary should not be considered in isolation in determining whether any or all of these activities should be authorized or the potential revenues they may generate.

## **CALCULATIONS**

The calculations are based on revenues in states having lotteries, casinos, and sports wagering in the four regions commonly referred to as Southeast, Southwest, Mid - Atlantic, and Great Lakes. The southeastern states are separated between those that are contiguous with Alabama, and the non-contiguous states. Alabama is the only state located within the 4 regions that does not have a state sponsored lottery.

In calculating potential revenues for Alabama, the lottery, casino, and sports wagering revenues reported as distributed to the other states' various target funds are recalculated using Alabama's population in relation to the population of each of the other states. No adjustments were made to the proportional calculations because of differences in the ways the lotteries, casinos, or sports wagering are conducted in the various states; such as types of games available, the times available, other restrictions or competing games available. Further, no adjustments were made to the calculations for differences in the percentage of revenues required to be transferred to the states, which vary by state. Total casino revenue data, lottery revenue data, sports wagering revenue data, and Alabama gaming estimate calculations are included in EXHIBIT A.

## **LOTTERY ESTIMATE**

The average lottery estimates calculated amounts for Alabama ranged from \$354 million to \$438 million using different states for the comparison, as follows:

\$407 million All states in the four regions  
\$408 million All southeastern states

\$438 million Southeastern states not bordering Alabama  
\$354 million Southeastern states bordering Alabama

Southeastern states bordering Alabama generate the lowest estimates. It should also be taken into consideration that because these states border the only state in the four regions without a lottery, they most likely would see a decrease in revenues if Alabama instituted a lottery. The revenue estimates between these states vary greatly. The estimate using revenues from Mississippi is the lowest at \$147 million. However, the estimate from Mississippi is based off one month of revenue due to its lottery beginning January 30, 2020. When Mississippi is excluded from the average for southeastern states bordering Alabama, the estimated revenue for a lottery is \$423 million.

ASSUMING that Alabama would establish a lottery with similar games and other provisions as the other states, then it might generate state distribution amounts comparable to those states. A reasonable estimate might be in the range of \$286 million to \$407 million. This range encompasses the lowest estimate from states bordering Alabama not including Mississippi, and the average of all states in the four regions. This estimate does not include any suggested provisions; such as share of revenues, available games, hours of operation, etc.

### **CASINO ESTIMATE**

The average casino estimates calculated amounts for Alabama ranged from \$311 million to \$421 million using different states for the comparison, as follows:

\$311 million All states in the four regions  
\$388 million All southeastern states  
\$372 million Southeastern states not bordering Alabama  
\$421 million Southeastern states bordering Alabama

ASSUMING that Alabama would legalize casinos with similar games and other provisions as the other states, then it might generate state distribution amounts comparable to those states. A reasonable estimate might be in the range of \$311 million to \$388 million. This range encompasses the lowest estimate from all states in the 4 regions and the average of all southeastern states. Southeastern bordering Alabama (1) and Southeastern states not bordering Alabama (2) do not contain enough to make a proper estimate. Therefore, it was important to use the estimates containing all southeastern states with casino revenues. This estimate does not include any suggested provisions; such as share of revenues, available games, hours of operation, etc.

### **SLOT MACHINE ONLY ESTIMATE**

In addition to the total Alabama casino estimate, a separate estimate was also calculated for Alabama estimated revenues resulting from slot machines only. Although all states that allow casino gambling in the four regions allow both table games and slot machine games, four of these states publish data identifying revenues by category. In these four states, slot machine revenues represent between 67.6% and 80.87% of total casino revenue. Combined, slot machine revenue in these four states average 73.93% of the total casino revenue. Slot machine and table game revenue data and estimated Alabama slot machine revenue data is included in EXHIBIT B.

ASSUMING that Alabama would legalize slot machine gaming only, then it might generate state distributions comparable to the slot machine portion of the casino tax distribution of those states. A

reasonable estimate might be in a range between \$230 million and \$287 million. This range encompasses the average estimate from the four states with published data of slot machine revenue and the average estimate of all the states in the four regions using the average slot machine revenue percentage calculated from the four states. This estimate does not include any suggested provisions; such as share of revenues, available games, hours of operation, etc.

### **SPORTS WAGERING ESTIMATE**

Only seven states in the four regions allow sports wagering. The average lottery estimate calculated for Alabama from these seven states is \$10 million.

ASSUMING that Alabama would legalize sports wagering with provisions as the other states, then it might generate state distribution amounts comparable to those states. A reasonable estimate would be \$10 million. This estimate does not include any suggested provisions; such as share of revenues, available games, hours of operation, etc.

*Sources:*

*Sports Wagering Revenues - <https://www.legalsportsreport.com/sports-betting/revenue/>*

*Lottery and Casino Revenues – Revenue information published by states with these gaming activities.*

# GAMING REVENUES AND ESTIMATES

State	Population (in Millions)*	Alabama Population Factor*	Lottery	Lottery Revenue**	Alabama Lottery Estimate	Casino Revenue **	Alabama Casino Estimate	Sports Wagering Revenue***	Alabama Sports Wagering Estimate
Arkansas	2.966	1.634861767	Yes	\$91,844,929.00	\$150,153,762.89		\$ -	\$ -	\$ -
Florida	19.89	0.24379085	Yes	\$1,656,348,000.00	\$403,802,486.27		\$ -	\$ -	\$ -
Georgia	10.1	0.48009901	Yes	\$1,207,000,000.00	\$579,479,504.95		\$ -	\$ -	\$ -
Kentucky	4.413	1.098799003	Yes	\$272,700,000.00	\$299,642,488.10		\$ -	\$ -	\$ -
Louisiana	4.65	1.042795699	Yes	\$184,300,000.00	\$192,187,247.31	\$ 706,410,728.00	\$ 736,642,068.83	\$ -	\$ -
Mississippi	2.994	1.619572478	Yes	\$91,200,000.00	\$147,705,010.02	\$ 260,172,161.00	\$ 421,367,671.57	\$ 3,889,563.00	\$ 6,299,429.19
North Carolina	9.944	0.487630734	Yes	\$709,200,000.00	\$345,827,715.21		\$ -	\$ -	\$ -
South Carolina	4.832	1.003518212	Yes	\$487,600,000.00	\$489,315,480.13		\$ -	\$ -	\$ -
Tennessee	6.549	0.740418384	Yes	\$386,700,000.00	\$286,319,789.28		\$ -	\$ -	\$ -
Virginia	8.326	0.582392505	Yes	\$606,200,000.00	\$353,046,336.78		\$ -	\$ -	\$ -
West Virginia	1.85	2.621081081	Yes	\$474,000,000.00	\$1,242,392,432.43	\$ 3,200,000.00	\$ 8,387,459.46	\$ 1,615,100.00	\$ 4,233,308.05
Arizona	6.731	0.720398158	Yes	\$211,913,799.00	\$152,662,310.41		\$ -	\$ -	\$ -
New Mexico	2.086	2.324544583	Yes	\$37,800,000.00	\$87,867,785.23		\$ -	\$ -	\$ -
Oklahoma	3.878	1.250386797	Yes	\$63,229,605.00	\$79,061,463.29		\$ -	\$ -	\$ -
Texas	26.96	0.17985905	Yes	\$1,373,000,000.00	\$246,946,476.26	\$ -	\$ -	\$ -	\$ -
Delaware	0.935614	5.182692863	Yes	\$204,400,000.00	\$1,059,342,421.13		\$ -	\$ 5,775,345.00	\$ 29,931,839.31
Maryland	5.976	0.811412316	Yes	\$717,500,000.00	\$582,188,336.68	\$ 542,700,000.00	\$ 440,353,463.86	\$ -	\$ -
New Jersey	8.938	0.542515104	Yes	\$994,000,000.00	\$539,260,013.43	\$ 266,477,000.00	\$ 144,567,797.38	\$ 32,416,976.00	\$ 17,586,699.11
New York	19.75	0.245518987	Yes	\$3,470,000,000.00	\$851,950,886.08		\$ -	\$ 1,384,596.00	\$ 339,944.61
Pennsylvania	12.79	0.379124316	Yes	\$1,140,000,000.00	\$432,201,720.09	\$ 1,400,000,000.00	\$ 530,774,042.22	\$ 18,033,787.10	\$ 6,837,047.20
Illinois	12.88	0.376475155	Yes	\$738,000,000.00	\$277,838,664.60	\$ 566,000,000.00	\$ 213,084,937.89	\$ -	\$ -
Indiana	6.597	0.735031075	Yes	\$312,000,000.00	\$229,329,695.32	\$ 602,409,935.00	\$ 442,790,021.95	\$ 9,757,236.00	\$ 7,171,871.66
Michigan	9.91	0.489303734	Yes	\$1,070,600,000.00	\$523,848,577.19	\$ 117,796,250.22	\$ 57,638,145.04	\$ -	\$ -
Ohio	11.59	0.418377912	Yes	\$1,150,000,000.00	\$481,134,598.79	\$ 280,000,000.00	\$ 117,145,815.36	\$ -	\$ -
Wisconsin	5.758	0.842132685	Yes	\$170,300,000.00	\$143,415,196.25		\$ -	\$ -	\$ -

Lottery Estimate 4 Regions	
State	Alabama Lottery Estimate
Oklahoma	\$79,061,463.29
New Mexico	\$87,867,785.23
Wisconsin	\$143,415,196.25
Mississippi	\$147,705,010.02
Arkansas	\$150,153,762.89
Arizona	\$152,662,310.41
Louisiana	\$192,187,247.31
Indiana	\$229,329,695.32
Texas	\$246,946,476.26
Illinois	\$277,838,664.60
Tennessee	\$286,319,789.28
Kentucky	\$299,642,488.10
North Carolina	\$345,827,715.21
Virginia	\$353,046,336.78
Florida	\$403,802,486.27
Pennsylvania	\$432,201,720.09
Ohio	\$481,134,598.79
South Carolina	\$489,315,480.13
Michigan	\$523,848,577.19
New Jersey	\$539,260,013.43
Georgia	\$579,479,504.95
Maryland	\$582,188,336.68
New York	\$851,950,886.08
Delaware	\$1,059,342,421.13
West Virginia	\$1,242,392,432.43
<b>Average</b>	<b>\$407,076,815.92</b>

Casino Estimate 4 Regions	
State	Alabama Casino Estimate
West Virginia	\$8,387,459.46
Michigan	\$57,638,145.04
Ohio	\$117,145,815.36
New Jersey	\$144,567,797.38
Illinois	\$213,084,937.89
Mississippi	\$421,367,671.57
Maryland	\$440,353,463.86
Indiana	\$442,790,021.95
Pennsylvania	\$530,774,042.22
Louisiana	\$736,642,068.83
<b>Average</b>	<b>\$311,275,142.36</b>

Sports Wagering Estimate 4 Regions	
State	Alabama Sports Wagering Estimate
New York	\$ 339,944.61
West Virginia	\$ 4,233,308.05
Mississippi	\$ 6,299,429.19
Pennsylvania	\$ 6,837,047.20
Indiana	\$ 7,171,871.66
New Jersey	\$ 17,586,699.11
Delaware	\$ 29,931,839.31
<b>Average</b>	<b>\$ 10,342,877.02</b>

## GAMING REVENUES AND ESTIMATES

State	Population (in Millions)*	Alabama Population Factor*	Lottery	Lottery Revenue **	Alabama Lottery Estimate	Casino Revenue**	Alabama Casino Estimate	Sports Wagering Revenue***	Alabama Sports Wagering Estimate
Arkansas	2.966	1.63486177	Yes	\$91,844,929.00	\$150,153,762.89		\$ -	\$ -	\$ -
Florida	19.89	0.24379085	Yes	\$1,656,348,000.00	\$403,802,486.27		\$ -	\$ -	\$ -
Georgia	10.1	0.48009901	Yes	\$1,207,000,000.00	\$579,479,504.95		\$ -	\$ -	\$ -
Kentucky	4.413	1.098799	Yes	\$272,700,000.00	\$299,642,488.10		\$ -	\$ -	\$ -
Louisiana	4.65	1.0427957	Yes	\$184,300,000.00	\$192,187,247.31	\$ 706,410,728.00	\$ 736,642,068.83	\$ -	\$ -
Mississippi	2.994	1.61957248	Yes	\$91,200,000.00	\$147,705,010.02	\$ 260,172,161.00	\$ 421,367,671.57	\$ 3,889,563.00	\$6,299,429.19
North Carolina	9.944	0.48763073	Yes	\$709,200,000.00	\$345,827,715.21		\$ -	\$ -	\$ -
South Carolina	4.832	1.00351821	Yes	\$487,600,000.00	\$489,315,480.13		\$ -	\$ -	\$ -
Tennessee	6.549	0.74041838	Yes	\$386,700,000.00	\$286,319,789.28		\$ -	\$ -	\$ -
Virginia	8.326	0.58239251	Yes	\$606,200,000.00	\$353,046,336.78		\$ -	\$ -	\$ -
West Virginia	1.85	2.62108108	Yes	\$474,000,000.00	\$1,242,392,432.43	\$ 3,200,000.00	\$ 8,387,459.46	\$ 1,615,100.00	\$4,233,308.05

Lottery Estimate Southeastern States	
State	Alabama Lottery Estimate
Mississippi	\$ 147,705,010.02
Arkansas	\$ 150,153,762.89
Louisiana	\$ 192,187,247.31
Tennessee	\$ 286,319,789.28
Kentucky	\$ 299,642,488.10
North Carolina	\$ 345,827,715.21
Virginia	\$ 353,046,336.78
Florida	\$ 403,802,486.27
South Carolina	\$ 489,315,480.13
Georgia	\$ 579,479,504.95
West Virginia	\$ 1,242,392,432.43
<b>Average</b>	<b>\$ 408,170,204.85</b>

Casino Estimate Southeastern States	
State	Alabama Casino Estimate
West Virginia	\$ 8,387,459.46
Mississippi	\$ 421,367,671.57
Louisiana	\$ 736,642,068.83
<b>Average</b>	<b>\$ 388,799,066.62</b>

Sports Wagering Estimate Southeastern States	
State	Alabama Casino Estimate
West Virginia	\$ 4,233,308.05
Mississippi	\$ 6,299,429.19
<b>Average</b>	<b>\$ 5,266,368.62</b>

## GAMING REVENUES AND ESTIMATES

State	Population (in Millions)*	Alabama Population Factor*	Lottery	Lottery Revenue **	Alabama Lottery Estimate	Casino Revenue**	Alabama Casino Estimate	Sports Wagering Revenue***	Alabama Sports Wagering Estimate
Arkansas	2.966	1.6348618	Yes	\$91,844,929.00	\$150,153,762.89		\$ -	\$ -	\$ -
Kentucky	4.413	1.098799	Yes	\$272,700,000.00	\$299,642,488.10		\$ -	\$ -	\$ -
Louisiana	4.65	1.0427957	Yes	\$184,300,000.00	\$192,187,247.31	\$ 706,410,728.00	\$ 736,642,068.83	\$ -	\$ -
North Carolina	9.944	0.4876307	Yes	\$709,200,000.00	\$345,827,715.21		\$ -	\$ -	\$ -
South Carolina	4.832	1.0035182	Yes	\$487,600,000.00	\$489,315,480.13		\$ -	\$ -	\$ -
Virginia	8.326	0.5823925	Yes	\$606,200,000.00	\$353,046,336.78		\$ -	\$ -	\$ -
West Virginia	1.85	2.6210811	Yes	\$474,000,000.00	\$1,242,392,432.43	\$ 3,200,000.00	\$ 8,387,459.46	\$ 1,615,100.00	\$ 4,233,308.05

Lottery Estimate Non Border Southeastern States	
State	Alabama Lottery Estimate
Arkansas	\$ 150,153,762.89
Louisiana	\$ 192,187,247.31
Kentucky	\$ 299,642,488.10
North Carolina	\$ 345,827,715.21
Virginia	\$ 353,046,336.78
South Carolina	\$ 489,315,480.13
West Virginia	\$ 1,242,392,432.43
<b>Average</b>	<b>\$ 438,937,923.26</b>

Casino Estimate Non Border Southeastern States	
State	Alabama Casino Estimate
West Virginia	\$ 8,387,459.46
Louisiana	\$ 736,642,068.83
<b>Average</b>	<b>\$ 372,514,764.15</b>

Sports Wagering Estimate Non Border Southeastern States	
State	Alabama Sports Wagering Estimate
West Virginia	\$ 4,233,308.05
<b>Average</b>	<b>\$ 4,233,308.05</b>

## GAMING REVENUES AND ESTIMATES

State	Population (in Millions)*	Alabama Population Factor*	Lottery	Lottery Revenue **	Alabama Lottery Estimate	Casino Revenue**	Alabama Casino Estimate	Sports Wagering Revenue***	Alabama Sports Wagering Estimate
Florida	19.89	0.2437908	Yes	\$1,656,348,000.00	\$403,802,486.27		\$ -	\$ -	\$ -
Georgia	10.1	0.480099	Yes	\$1,207,000,000.00	\$579,479,504.95		\$ -	\$ -	\$ -
Mississippi	2.994	1.6195725	Yes	\$91,200,000.00	\$147,705,010.02	\$ 260,172,161.00	\$ 421,367,671.57	\$ 3,889,563.00	\$ 6,299,429.19
Tennessee	6.549	0.7404184	Yes	\$386,700,000.00	\$286,319,789.28		\$ -	\$ -	\$ -

Lottery Estimate from Border States	
State	Alabama Lottery Estimate
Mississippi	\$ 147,705,010.02
Tennessee	\$ 286,319,789.28
Florida	\$ 403,802,486.27
Georgia	\$ 579,479,504.95
<b>Average</b>	<b>\$ 354,326,697.63</b>
<b>Average w/o MS</b>	<b>\$ 423,200,593.50</b>

Casino Estimate Border States	
State	Alabama Casino Estimate
Mississippi	\$ 421,367,671.57
<b>Average</b>	<b>\$ 421,367,671.57</b>

Sports Wagering Estimate Border States	
State	Alabama Sports Wagering Estimate
Mississippi	\$ 6,299,429.19
<b>Average</b>	<b>\$ 6,299,429.19</b>

\* Population based on 2010 Census

\*\* Revenue information published by states with these gaming activities.

\*\*\* Revenue obtained from legalsportsreport.com

**SLOT MACHINE ONLY ESTIMATE**

State	Population (in Millions)*	Alabama Population Factor*	Slot Machine Games	Table Games	Casino Revenue **	Alabama Casino Estimate	Slot Percentage	Alabama Slot Estimate
Maryland	5.976	0.811412316	Yes	Yes	\$ 542,700,000.00	\$ 440,353,463.86	74.33%	\$ 327,314,729.68
Pennsylvania	12.79	0.379124316	Yes	Yes	\$ 1,400,000,000.00	\$ 530,774,042.22	72.93%	\$ 387,093,508.99
Indiana	6.597	0.735031075	Yes	Yes	\$ 602,409,935.00	\$ 442,790,021.95	80.87%	\$ 358,084,290.75
Ohio	11.59	0.418377912	Yes	Yes	\$ 280,000,000.00	\$ 117,145,815.36	67.60%	\$ 79,190,571.18
<b>Average</b>							<b>73.93%</b>	<b>\$ 287,920,775.15</b>

State	Population (in Millions)*	Alabama Population Factor*	Slot Machine Games	Table Games	Casino Revenue **	Alabama Total Casino Estimate	Average Slot Percentage	Alabama Slot Estimate
Louisiana	4.65	1.042795699	Yes	Yes	\$ 706,410,728.00	\$ 736,642,068.83	73.93%	\$ 544,599,481.49
Mississippi	2.994	1.619572478	Yes	Yes	\$ 260,172,161.00	\$ 421,367,671.57	73.93%	\$ 311,517,119.59
West Virginia	1.85	2.621081081	Yes	Yes	\$ 3,200,000.00	\$ 8,387,459.46	73.93%	\$ 6,200,848.78
Maryland	5.976	0.811412316	Yes	Yes	\$ 542,700,000.00	\$ 440,353,463.86	73.93%	\$ 325,553,315.83
New Jersey	8.938	0.542515104	Yes	Yes	\$ 266,477,000.00	\$ 144,567,797.38	73.93%	\$ 106,878,972.60
Pennsylvania	12.79	0.379124316	Yes	Yes	\$ 1,400,000,000.00	\$ 530,774,042.22	73.93%	\$ 392,401,249.41
Illinois	12.88	0.376475155	Yes	Yes	\$ 566,000,000.00	\$ 213,084,937.89	73.93%	\$ 157,533,694.58
Indiana	6.597	0.735031075	Yes	Yes	\$ 602,409,935.00	\$ 442,790,021.95	73.93%	\$ 327,354,663.23
Michigan	9.91	0.489303734	Yes	Yes	\$ 117,796,250.22	\$ 57,638,145.04	73.93%	\$ 42,611,880.63
Ohio	11.59	0.418377912	Yes	Yes	\$ 280,000,000.00	\$ 117,145,815.36	73.93%	\$ 86,605,901.29
<b>Average</b>								<b>\$ 230,125,712.74</b>

<b>Maryland</b>				
<b>Casion</b>	<b>Slot Machines**</b>	<b>Table Games**</b>	<b>Total</b>	<b>Slot Percentage</b>
Hollywood	\$ 63,707,085.00	\$ 10,630,286.00	\$ 74,337,371.00	85.70%
Ocean Downs	\$ 60,965,490.00	\$ 53,952.00	\$ 61,019,442.00	99.91%
Live! Casino	\$ 354,297,449.00	\$ 190,695,442.00	\$ 544,992,891.00	65.01%
Rocky Gap	\$ 46,026,283.00	\$ 7,782,642.00	\$ 53,808,925.00	85.54%
Horseshoe	\$ 156,087,809.00	\$ 115,462,759.00	\$ 271,550,568.00	57.48%
MGM	\$ 318,584,995.00	\$ 290,042,392.00	\$ 608,627,387.00	52.34%
<b>Average</b>				<b>74.33%</b>

<b>Pennsylvania</b>				
<b>Year</b>	<b>Slot Machines**</b>	<b>Table Games**</b>	<b>Total</b>	<b>Slot Percentage</b>
2016	\$ 2,360,184,122.00	\$ 853,238,055.00	\$ 3,213,422,177.00	73.45%
2017	\$ 2,336,212,902.00	\$ 890,697,914.00	\$ 3,226,910,816.00	72.40%
2018	\$ 2,369,885,203.00	\$ 878,796,174.00	\$ 3,248,681,377.00	72.95%
<b>Average</b>				<b>72.93%</b>

<b>Indiana</b>				
<b>Month</b>	<b>Table Games**</b>	<b>Slot Machines**</b>	<b>Total</b>	<b>Slot Percentage</b>
Jan-20	\$ 36,169,206.00	\$ 153,095,516.00	\$ 189,264,722.00	80.89%
Feb-20	\$ 35,759,908.00	\$ 160,001,548.00	\$ 195,761,456.00	81.73%
Mar-20	\$ 19,640,970.00	\$ 78,447,536.00	\$ 98,088,506.00	79.98%
<b>Average</b>				<b>80.87%</b>

<b>Ohio</b>				
<b>Year</b>	<b>Table Games**</b>	<b>Slot Machines**</b>	<b>Total</b>	<b>Slot Percentage</b>
2020	\$ 59,372,223.00	\$ 120,591,713.00	\$ 179,963,936.00	67.01%
2019	\$ 270,754,224.00	\$ 580,230,238.00	\$ 850,984,462.00	68.18%
<b>Average</b>				<b>67.60%</b>

\*Population based on 2010 Census.

\*\* Revenue information published by states with these gaming activities.

## **Mississippi Institutions of Higher Learning University Research Center**

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# An Economic Analysis of a Lottery in Mississippi

November 2017

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University Research Center  
Mississippi Institutions of Higher Learning  
Jackson, Mississippi

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## Introduction

This paper attempts to address the following two separate but related questions regarding a potential lottery in Mississippi:

1. How much revenue would a lottery generate for the state of Mississippi?
2. Is a lottery good economic policy?

In addressing these questions, the following major points are observed:

1. The creation of a lottery in Mississippi would create leakages of economic activity that equal or exceed those currently existing through Mississippians purchasing lottery tickets in other states. These leakages are due primarily to the state's contribution to multi-state lottery payouts as well as costs of operation.
2. A lottery would create a slight decrease in total economic activity within the state. Lottery sales will largely come from a reduction in existing economic activity and a portion of that will be leaked from the state as mentioned in point 1, leading to the decline in total economic activity within the state. The decline in economic activity will grow proportional to lottery sales within the state – the more lottery sales increase, the more total economic activity is reduced.
3. Despite the loss of economic activity, General Fund revenues will increase significantly with a state lottery. We estimate gross revenue to the state of \$101.4-\$116 million from lottery ticket sales. This revenue will be offset by a decline in retail sales tax. The maximum offset is estimated to be \$18.8-\$22.2 million, yielding a net gain to the state General Fund of between \$82.6 to \$93.8 million.
4. Actual lottery sales may differ substantially from the URC estimate due to the complexities of lotteries and the number of factors which impact sales. Furthermore, the state's share of total sales could easily fall below national averages, yielding a lower gain to the General Fund for the same level of total lottery sales. For example, if Mississippi's share of the total sales is similar to Arkansas and Kansas, net gains to the General Fund would be as little as \$61.2 million.
5. Lottery sales will come primarily from lower income groups.

## How much revenue would a lottery generate for the state of Mississippi?

We used two methodologies to estimate potential revenue from a lottery. The first approach was to average the per capita sales in Arkansas and Kansas, and apply that to the lottery-eligible population in Mississippi. From this, we estimated the portion of sales going to the state. The second approach was to use econometric analysis to model state revenue from lotteries across ten states over the 2008-2015 period. While both approaches offer a reasonable method of estimating potential revenue, neither is without limitations. The experience across states varies widely, not only because of the different games offered, the payout percentages, the timing of new games, etc., but also their economies and socio-economic conditions. Substantial uncertainty remains as to what games will be offered in Mississippi, how those games will be managed, and how the state population will respond to a lottery. Our analysis is then an educated guess amidst this substantial uncertainty.

### Sales Per Capita Approach

According to the North American Association of State and Provincial Lotteries (NASPL), population is the best indication of total lottery sales. They suggested we look at the experience of states such as Arkansas and Kansas which are similar in size to Mississippi. The Arkansas lottery is relatively new. The Kansas lottery has been in place for decades. The NASPL gave us access to their databanks for analysis.

Total sales per capita can vary greatly depending on the games being offered. It is our understanding that the state intends to participate in the Powerball and Mega-Millions but will also consider some form of instant games. Most states initially introduce instant games since the launch time is short. Most states also participate in the Powerball and Mega-Millions. States will then introduce other games such as a Daily Pick, online lotteries, etc., according to a timeframe that works for the state and the vendor. Revenues are affected by the timing of new games and optimizing sales requires a careful strategy.

For our analysis, we focused only on the Powerball, Mega-Millions and Instant tickets as these will likely be the initial form of lottery in the state. Among the states that participate in the Powerball and Mega-Millions, sales per capita range from \$25 to \$65 per capita for the legal age population. This is a relatively small variance. Given Mississippi's population of 18 years old and older, lottery ticket sales would range from \$61 million to \$141 million. If we focus on Arkansas and Kansas as suggested by NASPL, and average their per capita sales and apply to Mississippi's population, the state would generate \$72 million in sales (NOTE: this is total sales, not the revenue generated to the state).

Instant ticket sales have a much higher variance, ranging from \$24 to \$753 per capita (legal age) among the states that have such games. The high variance in per capita instant games sales is due in part to the varying requirements to return a certain percentage to the state in transfers. For example, some lotteries are required to return a minimum percentage (say 30 percent) to the state. Instant ticket demand is tied directly to the size of its prize fund, which is affected by the percentage requirement. A lower state requirement increases the prize fund which increases demand for the instant ticket. Additional variance occurs due to the variety of instant tickets that are offered. Accurately predicting instant ticket sales is then complicated by the uncertainty surrounding return-requirements to the state as well as the products that will be offered.

Variance in instant ticket sales may also be due to variation in socio-economic characteristics of the population in the state. The economic literature on lotteries shows them to be regressive in nature. That is, lower income individuals spend a larger proportion of their total income compared to higher income individuals. Other studies found lottery ticket sales per capita were higher among lower income groups. Thus, not only do lower income groups spend a higher proportion of their income on lotteries, they buy more tickets than their higher income counterparts. While lotteries in general are regressive, instant games are considered the most regressive. Lottery officials in a state where

instant games make up the bulk of lottery sales stated that lower income individuals are drawn to the instant gratification from these games and, according to their focus groups, often pin hopes on winning sufficient money to pay their bills. Economic research confirms this attitude and has in fact found a significant correlation between unemployment and lottery sales. As unemployment rises, so too do lottery sales. Variation across states in ticket demand may then be due to income levels and the economic conditions within the state.

Given these complexities, accurately predicting demand for instant ticket games in Mississippi is extremely difficult. Based on the experience of Arkansas, Mississippi instant ticket sales might reach \$365 million. However, if the state has the experience of Kansas, sales would reach only \$168 million. Averaging the two states would yield \$266 million.

Suppose the state generated lottery sales of \$72 million in Powerball and Mega-Millions games and \$266 million in instant ticket sales for a total of \$338 million in total lottery ticket sales. These sales would be divided between payout to winners, the government's share and costs. A general rule of thumb, based on the experience of all states is 50 percent to payouts, 30 percent to the government, and 20 percent to costs. Using this breakdown would net Mississippi \$101.4 million from a lottery. This should be viewed as an upper bound however, especially in the first few years of operation. The government's share in Arkansas is 18.7 percent and in Kansas is 28.8 percent. If Mississippi has the experience of the average of these two states in terms of the government share of lottery ticket sales, the state's share would be 23.7 percent of sales or \$80.1 million ( $\$338 * 23.7$  percent).

It should be noted that this is not the net gain to the state. Limited income in Mississippi means any lottery sales will be accompanied by a reduction of retail sales tax. The net impact to the state's revenue picture is expected to be positive however, since the state's share of total lottery ticket sales (30 percent) exceeds the sales tax rate (7 percent).

If the state experiences \$338 million in lottery sales, retail sales tax would theoretically fall by a maximum of \$23.7 million ( $\$338$  million times 7 percent). However, three border states have a lottery and Mississippians are already purchasing tickets in these states. We have no in-house means of estimating the level of Mississippi lottery spending in these states. We therefore contacted officials in each state to determine their estimates of Mississippi purchases. Based on sales near the state line, Arkansas estimates that Mississippi purchases account for \$5 to \$10 million of their lottery sales. Based on payout records, Louisiana estimates that Mississippi purchases account for \$30.4 million. Tennessee did not respond to our request. If we assume Mississippi purchases of Tennessee tickets are similar to that of Louisiana and if we assume the upper bound of the Arkansas estimate, total existing purchases of lottery tickets by Mississippi residents would be roughly \$70 million. Retail sales purchases will then be reduced by \$268 million ( $\$338$  million minus \$70 million). A reduction of this size would reduce retail sales tax by a maximum of \$18.8 million<sup>1</sup> ( $\$268$  million times 0.7 percent). The net return to the state revenue from a lottery, taking into account the reduction in retail sales, would then be an estimated \$82.6 million ( $\$101.4$  million minus \$18.8 million). If the state's share of lottery sales was similar to that of Arkansas and Kansas, gains to the general fund net of the decline in retail sales would be as low as \$61.2 million. It should be noted that while the shift from retail sales to lottery sales results in a net gain to the state's revenue, the decline in retail sales tax reduces the diversion to municipalities.

### Econometric Analysis Approach

Following similar methodology to Ashley, Liu and Chang (1999), and Caudill, Gropper, and Peng (1995), we examined state revenue from lotteries in ten other states (ID, IA, KS, LA, ME, NE, NH, NM, OK, SC). Since Mississippi is a relatively small state, we limited our modeling to states with populations comparable to Mississippi. Mississippi's population is

<sup>1</sup> Realistically, the loss of sales tax revenue would be less, since a portion of lottery sales will come from diverting money from savings and non-taxed purchases. We used this upper bound here in order obtain a conservative estimate of net gains to the General Fund.

just under 3 million. We examined states with population of at least two million but less than five million. We excluded West Virginia, Arkansas, and Kentucky due to some data constraints for the period under consideration.

The model used the state's net lottery revenue per capita (in natural log form) as the dependent variable. Explanatory variables were percentage of population in poverty, non-lottery gaming revenue per capita (in natural log form), per capita income (in natural log form), population per square mile and regional indicator variables. The ten states were examined for the period 2008 to 2015.

Each variable had the expected sign. The poverty rate was found to be significant and positive, indicating that the higher the poverty rate, the higher the per capita lottery revenue. Population per square mile was likewise positive and significant, indicating that higher density areas have higher revenue from lotteries. Per capita income was negative and significant, indicating that the higher the per capita income the lower the revenue from lotteries. Non-lottery gaming revenue was negative but not significant, suggesting a lottery in Mississippi would not significantly affect gaming revenue.

Applying the coefficients to Mississippi data from 2013-2015 yields an estimated \$116 million in lottery revenue. Ashley, Liu and Chang (1999) estimated potential Mississippi lottery revenue using two different modeling techniques. Depending on the technique, their estimate for 1995 was either \$46.9 million or \$73.8 million. These estimates are equivalent to \$81.5 or \$128.3 million in 2015 dollars. The lower estimate is from their preferred model. Caudill, Gropper, and Peng (1995) estimated potential Mississippi lottery revenue of \$20.8 million in 1990 (or \$45.7 million in 2015 dollars). The large variance in these estimates reflects the complexity of estimating lottery sales. Each state is unique in terms of the socio-economic environment and the administration of its lotteries. Despite these complexities, the analysis suggests our estimates are reasonable.

The estimate of \$116 million does not take into account any loss of retail sales tax revenue as we did with the sales per capita approach. Using similar assumptions as with that approach, there would be an estimated \$22.2 million loss in sales tax revenue leaving a net gain in revenue of \$93.8 million.

Using the per capita approach yields a net gain in state revenue from a lottery of \$82.6 million; using the econometric modeling approach yields an estimate of \$93.8 million. These are based solely on ticket sales and the potential reduction in retail sales. This does not take into account any impact from a lottery.

## Is a lottery good economic policy?

To address the question of whether a lottery is good economic policy, we will first demonstrate conceptually how the introduction of a lottery creates its own leakages of economic activity. Then, using the REMI model, we will simulate the economic impact of a lottery using two different scenarios. We conclude with a few additional factors that should be taken into account when considering whether a lottery is good economic policy.

### The Economic Leakage Created by a Lottery

Mississippi lottery sales will come primarily from the disposable income in Mississippi. An additional amount will come from disposable income in Alabama. Of the money from Mississippi households, a portion will come from capturing the Mississippi dollars already leaving the state in the form of lottery sales to Arkansas, Louisiana, and Tennessee. Lottery sales will reduce retail sales, which will reduce employment, income, gross domestic product (GDP) and the General Fund. Since the government's share of lottery sales exceeds the Mississippi retail sales tax rate, the net effect to state government revenue will be positive.

Lottery sales dollars will be divided into the government's share, payouts to winners, and costs. As already stated, a general rule of thumb is that 50 percent of lottery sales dollars goes to payout, 30 percent goes to government and 20 percent goes to costs. It should be stressed that this is just a general rule of thumb and this breakdown is not guaranteed. As previously stated, the government share of total lottery sales in Arkansas was 18.7 percent in 2016. Most of Arkansas lottery tickets are sold in the form of instant games which tend to have lower government shares. Mississippi's government share will depend on many factors.

While a Mississippi lottery is likely to capture dollars currently leaving the state, it creates its own leakages of Mississippi dollars leaving the state. We believe these leakages would likely exceed current purchases of lottery tickets by Mississippians. While the government's share of lottery sales is expected to be spent almost entirely in the state, the other two uses of lottery sales (payouts and costs) contain notable leakages. These include the following:

1. A small but significant share of the payouts from instant ticket sales is likely to go to winners in other states. Louisiana estimates that 10 percent of their instant ticket payouts goes to winners in other states.
2. A much higher share of the state's contribution to the multi-state jackpot games will go to winners outside of the state. It is not clear how much this leakage will be. State contributions to these games represent 50 percent of sales (Louisiana contributes roughly 33.3 percent to the large jackpot games and the remaining 16.7 percent to lower tier prizes). In the 21 years that Louisiana has participated in these games, there have been nine years without a Louisiana winner of the jackpot. We do not know how many lower tier games had Louisiana winners. Mississippi's lower population suggests the probability of a multi-state jackpot winner coming from Mississippi is lower than that of Louisiana.

Additionally, of the winnings going to Mississippi winners, a portion will leave the state through out-of-state spending and investments. Because of these issues, it is reasonable to assume that the leakage associated with the multi-state games would be significantly higher than that of the instant ticket games.

3. The portion of the lottery sales going to costs is expected to be divided between in-state (retailers and administrative costs) and out-of-state (vendors and miscellaneous expenses). Mississippi does not have vendors within the state. The leakage from costs would then be higher than in states where the vendors reside.

Based on the above information, we believe the leakages created by a Mississippi lottery would exceed those estimated losses from existing purchases by Mississippians in the lotteries of surrounding states. This is illustrated in the table below.

**Table 1. Understanding Leakages Created With a Mississippi Lottery.**

		<b>Scenario 1</b>	<b>Scenario 2</b>
		<b>Based on</b>	<b>Assuming Sales</b>
		<b>Per capita Approach</b>	<b>Exceed Expectations</b>
Assumed MS lottery sales		\$ 338.0	\$ 500.0
Instant ticket games		\$ 266.0	\$ 393.5
Multi-State jackpot games		\$ 72.0	\$ 106.5
Government's share*	30.0%	\$ 101.4	\$ 150.0
Payout to winners	50.0%	\$ 169.0	\$ 250.0
Lottery expenses	20.0%	\$ 67.6	\$ 100.0
Leakages from lottery			
Out-of-state Instant ticket game winnings			
50% of ticket sales with 10% of winnings going to other states	5.0%	\$ 13.3	\$ 19.7
Payout for prizes in multi-state games			
50% of ticket sales with 75% of winnings going to other states	37.5%	\$ 27.0	\$ 39.9
Expenses			
Out-of-state lottery expenses (venders, misc. expenses)			
20% of ticket sales with half spent in other states	10.0%	<u>\$ 33.8</u>	<u>\$ 50.0</u>
Total leakages to other states		\$ 74.1	\$ 109.6
Estimated current leakage from lottery purchases in LA, AR, & TN		\$ 70	\$ 70

\* This estimate does not reflect the potential reduction in retail sales tax from a lottery.

In the table above, two scenarios are presented. The first assumes lottery ticket sales per capita in Mississippi equal the average per capita sales of Arkansas and Kansas for both instant ticket and jackpot games. The second scenario assumes total tickets sold equal \$500 million and the breakdown between instant ticket sales and jackpot games is the same as in scenario 1. We assume 30 percent of sales goes to the state government, 50 percent goes to payouts, and 20 percent goes to pay lottery expenses. We further assume that 10 percent of the payout from instant ticket sales will go to participants in other states; that 75 percent of the state's contribution to the multi-state game winners will go to other states; and that half of anticipated expenses will be spent in other states. Under these assumptions the total leakage to other states is \$74.1 million compared to the estimated \$70 million currently lost by leakage from Mississippians purchasing lottery tickets from other states. Scenario 2 shows that if sales exceed expectations, the additional loss from a Mississippi lottery is greater.

Obviously, these scenarios rely upon assumptions and a different set of assumptions would generate a different dollar figure for the total leakage. However, we have attempted to be realistic and have relied on information obtained from other states. Regardless of the specific assumptions, a lottery will reduce the level of money currently spent in the Mississippi economy. Under our assumptions, the state loses 15 percent of the instant ticket sales and almost half of the multi-state ticket sales in the form of leakages to other states. For a Mississippi lottery to be economically beneficial, it would need to generate sufficient economic activity from the dollars remaining in the state to exceed these leakages. We believe this is unlikely based on the analysis done in the next section.

## The Economic Impact of a Lottery

Using the two scenarios depicted in Table 1 and the REMI model, we estimated the hypothetical economic impact of a lottery. Since we are interested in isolating the economic impact of the lottery itself, we examined the impact of the lottery separately from the impact generated by government spending of the revenue created by a lottery. It is worth noting that the economic impact of the government spending would be the same regardless of the source of revenue.

### Scenario 1: An Estimated \$338 million in Lottery Ticket Sales

In the first scenario, a lottery will generate an estimated \$338 million in ticket sales in Mississippi, annually. Approximately 50 percent of this amount will be remitted to lottery winners, 20 percent will go toward administration of the lottery and 30 percent will accrue to the General Fund revenue. The increase to the General Fund revenue solely from the lottery is estimated to be \$101.4 million.

Lottery ticket purchases will be made using existing disposable income. Thus, Mississippi lottery ticket sales will result in a reduction in the sale of retail goods and consumer services. As shown in Table 2, in 2019, this reduction in economic activity will generate a decrease in employment (-1,561), wages and salaries (-\$52,980,000) and state Gross Domestic Product (GDP) (-\$93,590,000). The effect is almost negligible as these amounts represent less than 0.1 percent reduction in economic activity. Although the General Fund is projected to gain \$101.4 million from lottery ticket sales, it will lose an estimated \$8,315,930 from the reduction in sales tax for retail goods and consumer services, resulting in a net gain to General Fund revenue from the sales of lottery tickets of \$93,084,070 in 2019<sup>2</sup>.

The negative impact on jobs, wages and salaries, and GDP all decline slightly in years 2020 through 2023. Additions to the General Funds also decline during this period. From 2019 through 2023, the average annual change in jobs is -1,491, -\$56.8 million in wages and salaries, and -\$91.8 million in state GDP. The average annual increase in General Fund revenue over this 5-year period is \$92.3 million.

Table 2: Impact of a lottery independent of how the state spends the increase.

Year	2019	2020	2021	2022	2023	5-year average
Employment	-1,561	-1,560	-1,518	-1,445	-1,371	-1,491
Wages and Salaries	-\$52,980,000	-\$56,750,000	-\$58,310,000	-\$58,370,000	-\$57,640,000	-\$56,810,000
GDP	-\$93,590,000	-\$94,810,000	-\$93,390,000	-\$90,440,000	-\$86,930,000	-\$91,832,000
General Fund Revenue*	\$93,084,070	\$92,433,450	\$92,105,640	\$91,929,770	\$91,847,940	\$92,280,174

\*The impact to General Fund Revenue equals the increase to the state from the sale of lottery tickets (\$101,400,000) minus the lost revenue (\$8,315,930) generated by the shift in consumer spending from retail goods and consumer service to lottery tickets.

Impacts to General Fund revenue must be considered a best-case scenario because this analysis assumes that lottery ticket winnings are subject to the same income tax requirements that apply to casino gambling winnings. Since an estimated 75 percent of lottery ticket sales are projected to be instant-win tickets, this may be difficult to enforce.

<sup>2</sup> The REMI model assumes lottery ticket purchases are made by diverting money from taxable retail purchases, non-taxable purchases and from savings. The model yields a lower estimate for potential lost retail sales tax than assumed in the first section of this document. However, the REMI model likely understates the lost retail sales taxes as it does not recognize that lottery purchases will come primarily from lower income groups. Due to limited resources, lottery ticket purchases from lower income groups will come disproportionately from taxable retail sales.

Even though lottery ticket sales are projected to contribute \$101.4 million to the General Fund, only an estimated \$93.1 million accrues to the General Fund revenue. This amount (\$93.1 million) is available to be spent by the state and will generate new economic activity that will offset some or all of the drain on employment, wages and salaries and GDP generated by the lottery. Although the state legislature determines how this additional funding will be spent, in our analysis we devoted all the increase (\$93.1 million) to state road and bridge repair.

If the state spends the proceeds of a lottery on state road and bridge repair, increased economic activity will generate an estimated 1,114 jobs, \$40.4 million in wages and salaries, \$64.6 million in state GDP, and \$6.8 million in General Fund revenue in 2019 (see Table 3).

Table 3: Impact of spending state increase on road and bridge repair.

Year	2019	2020	2021	2022	2023	5-year average
Employment	1,114	1,088	1,041	978	917	1,028
Wages and Salaries	\$40,428,229	\$42,269,616	\$42,728,297	\$42,293,134	\$41,449,327	\$41,833,721
GDP	\$64,589,696	\$63,937,694	\$61,776,179	\$58,811,481	\$55,724,707	\$60,967,951
General Fund Revenue	\$6,776,594	\$7,040,986	\$7,171,341	\$7,212,045	\$7,203,813	\$7,080,956

The positive impact on jobs declines in years 2020 through 2023. The increase in state GDP declines during this period as well. Additions to the General Funds grow about 6 percent during this period. From 2019 through 2023, the average annual growth in jobs from new road and bridge expenditures is 1,028, \$41.8 million in wages and salaries, and \$61.0 million in state GDP and \$7.1 million in General Fund revenue.

The net impacts of implementing a lottery in Mississippi and spending the state increase to repair state roads and bridges is mixed. In this scenario, employment falls by 447 jobs in 2019. The average annual decline in employment from 2019 through 2023 is 463 jobs, or about a 0.03 percent decline. Wages and salaries decline \$12.5 million in 2019; increasing to a decline of \$16.2 million in 2023. The average annual decline in wages and salaries in Mississippi associated with this scenario is \$15.0 million, also a decline of about 0.03 percent. Mississippi GDP declines approximately \$29.0 million in 2019. The average annual decline in state GDP during this five-year period is \$30.8 million, or about 0.03 percent.

State General Fund revenue generated by \$338 million in lottery ticket sales is estimated to be \$99.8 million in 2019. From 2019 through 2023, average annual additions to General Fund revenue resulting from \$338 million in lottery ticket sales is estimated to be \$99.4 million, or an increase of about 1.43 percent. One of the assumptions in this analysis dictates that the \$99.4 million in General Fund revenue has already been spent on road and bridge repair and therefore, is not available for other purposes.

### **Scenario 2: An Estimated \$500 million in Lottery Ticket Sales**

In the second scenario, a lottery will generate an estimated \$500 million ticket sales in Mississippi, annually. As in the first scenario, approximately 50 percent of this amount will be remitted to lottery winners, 20 percent will go toward administration of the lottery and 30 percent will accrue to General Fund revenue. The increase to the General Fund revenue solely from the lottery is estimated to be \$150.0 million.

Mississippi lottery ticket sales will result in a reduction in the sale of retail goods and consumer services. As shown in Table 4, in 2019, this reduction in economic activity will generate a decrease in employment (-2,309), wages and salaries (-\$78,400,000) and state GDP (-\$138,480,000). Although the General Fund is projected to gain \$150.0 million from

lottery ticket sales, it will lose an estimated \$12,038,850 from the reduction in sales for retail goods and consumer services, resulting in a net gain to state General Fund revenue from the sales of lottery tickets of \$137,696,150 in 2019.

The negative impact on jobs, wages and salaries, and GDP all decline slightly in years 2020 through 2023. Additions to the General Fund also decline during this period. From 2019 through 2023, the average annual change in jobs is -2,206, -\$84.1 million in wages and salaries, and -\$135.9 million in state GDP. The average annual increase in General Fund revenue over this 5-year period is \$136.5 million.

Table 4: Impact of a lottery independent of how the state spends the increase.

Year	2019	2020	2021	2022	2023	5-year average
Employment	-2,309	-2,308	-2,246	-2,139	-2,029	-2,206
Wages and Salaries	-\$78,400,000	-\$84,000,000	-\$86,300,000	-\$86,400,000	-\$85,300,000	-\$84,080,000
GDP	-\$138,480,000	-\$140,280,000	-\$138,180,000	-\$133,810,000	-\$128,630,000	-\$135,876,000
General Fund Revenue*	\$137,696,150	\$136,733,600	\$136,248,580	\$135,988,370	\$135,867,300	\$136,506,800

\*The impact to General Fund Revenue equals the increase to the state from the sale of lottery tickets (\$150,000,000) minus the lost revenue (\$12,038,850) generated by the shift in consumer spending from retail goods and consumer service to lottery tickets.

As in scenario 1, impacts to General Fund revenue must be considered a best-case scenario because this analysis assumes that lottery ticket winnings are subject to the same income tax requirements that apply to casino gambling winnings. Since an estimated 75 percent of lottery ticket sales are projected to be instant-win tickets, this may be difficult to enforce.

Even though lottery ticket sales are projected to contribute \$150.0 million to the General Fund, only an estimated \$137.7 million accrues to General Fund revenue. This amount (\$137.7 million) is available to be spent by the state and will generate new economic activity that will offset some or all of the drain on employment, wages and salaries and GDP generated by the lottery. Although the state legislature determines how this additional funding will be spent, in our analysis we devoted all the increase (\$137.7 million) to state road and bridge repair.

If the state spends the proceeds of a lottery on state road and bridge repair, increased economic activity will generate an estimated 1,647 jobs, \$59.9 million in wages and salaries, \$95.6 million in state GDP, and \$10.0 million in General Fund revenue in 2019 (see Table 5).

Table 5: Impact of spending state increase on road and bridge repair.

Year	2019	2020	2021	2022	2023	5-year average
Employment	1,647	1,611	1,540	1,447	1,357	1,520
Wages and Salaries	\$59,851,927	\$62,532,833	\$63,219,341	\$62,554,650	\$61,321,441	\$61,896,038
GDP	\$95,561,128	\$94,619,651	\$91,377,381	\$87,032,557	\$82,426,162	\$90,203,376
General Fund Revenue	\$10,024,922	\$10,416,092	\$10,608,133	\$10,668,922	\$10,656,253	\$10,474,865

The positive impact on jobs declines in years 2020 through 2023. The increase in state GDP declines during this period as well. Additions to the General Fund grow about 6 percent during this period. From 2019 through 2023, the average annual growth in jobs from new road and bridge expenditures is 1,520, \$61.9 million in wages and salaries, and \$90.2 million in state GDP and \$10.5 million in the General Fund revenue.

The net impacts of implementing a lottery in Mississippi and spending the state increase to repair state roads and bridges is mixed. In this scenario, employment falls by 662 jobs in 2019. The average annual decline in employment from 2019 through 2023 is 686 jobs, or about a 0.04 percent decline. Wages and salaries decline \$18.5 million in 2019; increasing to a decline of \$24.0 million in 2023. The average annual decline in wages and salaries in Mississippi associated with this scenario is \$22.0 million, also a decline of about 0.04 percent. Mississippi GDP declines approximately \$43.0 million in 2019. The average annual decline in state GDP during this five-year period is \$45.7 million, or about -0.04 percent.

State General Fund revenue generated by \$500 million in lottery ticket sales is estimated to be \$147.7 million in 2019. From 2019 through 2023, average annual additions to General Fund revenue resulting from \$500 million in lottery ticket sales is estimated to be \$147.0 million, or an increase of about 2.12 percent. One of the assumptions in this analysis dictates that the \$137.7 million in General Fund revenue has already been spent on road and bridge repair and therefore, is not available for other purposes.

### Other points to consider regarding a lottery in Mississippi

Policy makers should be aware of potential social costs associated with a lottery. The economic literature almost unanimously finds lotteries are regressive for those who play; that is, lower income individuals spend a larger percentage of their total income than higher income individuals. Moreover, surveys have found lottery participants in lower income brackets spend more total dollars per year on lottery purchases than participants in higher income brackets. (Instant games are particularly regressive.) Thus, the lottery has the opposite effect of a progressive income tax: more revenue is transferred to the government from lower income participants than higher income participants. Some individuals will note that lottery purchases are voluntary while taxes are not, but governments also advertise and market state lotteries, often aggressively and are not subject to the same regulations as other advertising<sup>3</sup>.

Economic researchers have found greater income inequality in states with lotteries than states without lotteries, a reflection of the outcomes described above. At least one study cites the proliferation of state lotteries in the rise in income inequality in the U.S. which began in the 1970s. Income concentration occurs as payouts are transferred to a small number of individuals in addition to the revenues retained by the government. Other social costs of lotteries difficult to measure include increased problems associated with gambling for individuals such as addiction due to the increased availability of opportunities to gamble as well as the potential effects on views of the work ethic relative to gambling. Overall, how the state uses the proceeds it receives from a lottery and how efficiently it operates the lottery play a large role in determining if the lottery increases welfare for the economy as a whole, or at least does not reduce overall welfare. Lower income individuals, in particular must specifically benefit from government use of lottery proceeds in order to enhance overall welfare of the economy.

<sup>3</sup> According to Clott (2015) "The federal government, which banned lottery advertising until 1975, no longer exercises any authority over the substance of state lottery advertising. As with all state entities, state lotteries are exempt from the regulatory power of the Federal Trade Commission (FTC). Truth-in-advertising rules were set forth by the FTC to protect the public from deceiving, misleading ads. Researchers have roundly criticized this exemption when it comes to lotteries. If the lottery were run purely by private industry instead of by state governments, it is likely the FTC guidelines would prohibit much of the current lottery advertising. Without this baseline of protection, consumers fall prey to sophisticated, deceptive marketing strategies which are backed by massive financial resources...Although most states have some form of regulation on lottery advertising, they are not consistently enforced out of fear of decreasing profits. Lottery promotion has become so omnipresent that researchers have found it difficult to separate the adverse effects that the lottery itself has on society from the adverse effects caused by lottery promotion itself."

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## **Economic Research Services, Inc.**

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# Benefit and Cost Analysis of Gaming Industry on the Alabama Economy

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- The purpose of this report is to estimate the benefit and cost of legalized gambling (gaming industry) on Alabama’s economy.
- By gaming industry, we mean, legalized lottery, casino gambling, and sports betting.
- By economic benefit we mean the economic impact measured in terms of influx to state’s GDP, additional earnings, and additional employment, all solely attributable to introduction of gaming in the state.
- By economic cost, we mean jobs and income losses associated with spending displacement and social cost of gambling.
- The net benefit of the gaming industry is the difference between benefit and cost of the industry.
- This report is in support of the work by the Governor’s Study Group on Gambling.
- All the direct data for this report was provided to us by the Study Group.
- Direct data was provided by the Alabama Department of Revenue (DOR), Public Affairs Research Council of Alabama (PARCA), and the Study Committee itself.
- The direct data referenced above is presented in Table 1 below:

*Table 1: Gambling Revenues (Sales), in 1,000,000*

	PARCA	DOR
Lottery	\$1,544	\$1,628
Casino	\$1,521	\$1,395
Sports Betting	\$100	\$100
<b>Total</b>	<b>\$3,165</b>	<b>\$3,123</b>

*Table 2: Estimates of Government Revenue, in 1,000,000*

	Low	High	Average
DOR	\$627	\$805	\$716
PARCA	\$674	\$815	\$745
Study Committee	\$510	\$710	\$610
<b>Average</b>	<b>\$604</b>	<b>\$777</b>	<b>\$690</b>

Table 3: Distribution of Revenues (Sales)

	Lottery	Casino	Sports
Prizes (winnings)	60%		
Government	25%	28%	10.00%
Operation	15%		

- Using the estimates in Tables 1 through 3, we used the following assumptions:

Table 4: Gambling Revenues on Annual Basis, Assumption Used - in 1,000,000

Revenue (Sales)	\$3,166
Prizes	\$1,899
Government Revenue	\$ 791
Operation	\$475

- In addition to the assumptions listed in Table 4, we also collected information on average employment and payroll for all casinos in the U.S along with revenue, operation expenses and payroll for the Georgia Lottery Corporation.
- Using the above assumptions, we constructed direct impact estimates for employment, payroll, and operation of gambling industry in Alabama.
- These estimates and the total economic impact (benefit) of gambling in Alabama are presented in Table 5.

Table 5: Direct and Total Impact (Benefit) of Gambling on Alabama's Economy

Direct Impact	Employment	Payroll	Non-payroll
Lottery	180	\$11,671,058	\$160,108,542
Casinos (assuming 4 casinos)	3064	\$153,246,753	\$ 760,791,367
<b>Total</b>	<b>3244</b>	<b>\$164,917,811</b>	<b>\$920,899,909</b>
<b>Total Economic Impact (Benefit) of Gambling in Alabama</b>			
	Employment	Payroll	GDP Impact
<b>Impact</b>	<b>19,777</b>	<b>\$689,767,608</b>	<b>\$1,196,267,098</b>

- According to our estimates gambling creates direct impacts of 3,200 jobs, \$165 million in payroll and \$920 million in form of non-payroll spending on state's economy.
- These direct impacts will then generate total annual impact of approximately 19,800 jobs, \$690 million in payroll and \$1.2 billion in additional GDP.
- These figures provide total economic benefit (impact) of gambling in Alabama and do not consider any spending displacement and social costs that are generally associated with gambling.
- Spending displacement is the money that is redirected to purchase lottery tickets or is spent in casinos in lieu of spending on everyday consumption.
- It is unfeasible to assume that gambling spending is at the expense of depleting ones' savings alone.
- For every dollar spent on lottery a dollar must leak out of circular flow of the economy.
- By the same token, prizes and winnings, gambling commission spending and increased government spending (because of additional revenue for government) will be injection (or addition) to the economy.
- Lottery and casino gambling are forms of entertainment and require consumer decision about income allocation.
- With limited income, gambling spending means displaced spending on other commodities or services. The goods and services displaced could be necessities or just other entertainment expenditures.
- A certain segment of the population will be prone to excess spending on gambling venues (pathological gamblers).
- To the extent that pathological gamblers impose negative costs on themselves and on the society at large, the society will experience negative social costs and must bear it.
- Examples of such costs are, business and employment cost, bankruptcy, illness, social services cost, and family cost.
- The dollar value of these costs is hard to quantify.
- Using the existing body of research, we formulated the following assumptions regarding these costs:
  - Alabama Population: 4,903,185
  - Population above 18 years old; 3,814,678
  - Percent of population that gambles: 60%
  - Percent of problem gamblers: 2.9%
  - Number of Alabamian that may have gambling problem: 66,375
  - That is 1.7% of population above 18
  - Social Cost per person: \$576 in 2020 prices<sup>1</sup>

<sup>1</sup> <https://www.baylor.edu/content/services/document.php/144584.pdf>

- Social Cost of lottery: \$22.8 Million, population impacted: 36,600
- Social Cost of Casinos: \$15.4 Million, population impacted: 26,744
- Benefit and cost analysis of lottery is presented in the Table 6 and 7 below:

Table 6: Benefit and Cost Analysis of Lottery

<b>Alabama Consumption Loss (A)</b>	\$1,544,000,000
Add- Prizes	\$1,003,600,000
Add- Gambling direct spending injection	\$171,779,600
Add- Govt rev minus social cost	\$239,660,248
<b>All Additions (B)</b>	\$1,415,039,847
<b>Net Change (A-B)</b>	<b>(\$128,960,153)</b>
<b>Leakage</b>	40%
<b>Net of leakage (C)</b>	<b>(\$77,376,092)</b>
<b>Alabama consumption impact Loss</b>	<b>(\$142,077,979)</b>
<b>Alabama earning impact Loss</b>	<b>(\$81,922,163)</b>
<b>Jobs Loss</b>	<b>(2,349)</b>

Table 7: Benefit and Cost Analysis – Lottery

	Employment	Earning	Output	State Taxes
Economic Benefit <sup>2</sup>	3,129	\$109,123,291	\$189,253,021	\$386,000,000
Economic Cost <sup>3</sup>	(5,479)	(\$191,045,454)	(\$331,330,999)	\$(123,520,000)
Net Benefit/Cost	(2,349)	(\$81,922,163)	(\$142,077,978)	\$262,480,000

- Based on our estimation, lottery creates 3,129 jobs, \$109 million in earning, \$189 million in additional output, and \$386 million in additional tax revenues.
- Consumption displacement and social costs will lower the economic activities by 5,479 jobs, \$191 million of payrolls, \$331 million of GDP, and \$123 million in taxes.

<sup>2</sup> Calculated using the figures represented in Table 5.

<sup>3</sup> See methodology and calculation in Table 6.

- The net results are estimated at a loss of 2,349 jobs, \$82 million of payroll and an additional tax gain of \$262 million.
- Tax gain will be positive because sales and income taxes are taxed at 3% on average, but lottery tax revenue is set at 25% of the sales.
- The benefit and cost analysis for 4 casinos is presented in Tables 8 and 9.

Table 8: Benefit and Cost Analysis of Casinos

<b>Alabama Consumption Loss (A)</b>	\$1,521,582,734
Add- Prizes	\$989,028,777
Add- Gambling direct spending injection	\$914,038,120
Add- Govt rev minus social cost	\$243,240,880
<b>All Additions (B)</b>	\$2,146,307,777
<b>Net Change (A-B)</b>	\$624,725,043
<b>Leakage</b>	40%
<b>Net of leakage (C)</b>	\$374,835,026
<b>Alabama consumption impact Loss</b>	\$688,272,074
<b>Alabama earning impact Loss</b>	\$396,857,678
<b>Jobs Loss</b>	11,379

Table 9: Benefit and Cost Analysis – Four Casinos<sup>4</sup>

	Employment	Earning	Output	State Taxes
Economic Benefit	16,648	\$580,644,317	\$1,007,014,078	\$380,395,683
Economic Cost	(5,269)	(\$183,786,639)	(\$318,742,003)	(\$121,726,619)
Net Benefit/Cost	11,379	\$396,857,678	\$688,272,074	\$258,669,065

<sup>4</sup> Tables 8 and 9 are estimated using the exact methodology outlined in Tables 6 and 7.

- The overall benefit and cost analysis for the gaming industry in Alabama (lottery and casinos) are presented in Table 10.

Table 10: Benefit and Cost Analysis – Total (Lottery and Four Casinos)

	Employment	Earning	Output	State Taxes
Economic Benefit	19,777	\$689,767,609	\$1,196,267,098	\$766,395,683
Economic Cost	(10,747)	(\$374,832,094)	(\$650,073,003)	(\$245,246,619)
Net Benefit/Cost	9,030	\$314,935,515	\$546,194,095	\$521,149,065

- It is our estimates that after accounting for statewide lottery, four casinos, spending displacement and social cost of gambling, gaming industry will create an additional 9,000 jobs, \$315 million in earning, and \$521 million in additional revenue for state government.

Sources:

<https://www.baylor.edu/content/services/document.php/144584.pdf>  
<http://www.gpiatlantic.org/pdf/gambling/gamblingsumm.pdf>  
<https://www.brookings.edu/wp-content/uploads/2016/06/200502kearney.pdf>  
[https://www.huffpost.com/entry/the-lottery-is-a-tax-an-i\\_b\\_8081192](https://www.huffpost.com/entry/the-lottery-is-a-tax-an-i_b_8081192)  
<https://www.census.gov/quickfacts/AL>  
<https://georgia.gov/organization/georgia-lottery-corporation>  
[https://www.americangaming.org/wp-content/uploads/2019/06/AGA-2019-State-of-the-States\\_FINAL.pdf](https://www.americangaming.org/wp-content/uploads/2019/06/AGA-2019-State-of-the-States_FINAL.pdf)

# Benefit and Cost Analysis of Gaming Industry on the Alabama Economy

Prepared by: M. Keivan Deravi  
Economic Research Services, Inc.  
October 2020

<b>Estimates of Govt Revenue, in 1,000,000</b>	<b>Low</b>	<b>High</b>	<b>Average</b>
DOR	\$627	\$805	\$716
PARCA	\$674	\$815	\$745
SGGP	\$510	\$710	\$610
AVG	\$604	\$777	\$690

<b>Distribution</b>	lottery	casino	sports
Prizes	60%		
Govt	25%	28%	10.00%
Operation	15%		

<b>Sales, in 1000,000</b>	PARCA	DOR	
Lottery	\$1,544	\$1,628	
Casino	\$1,521	\$1,395	
High	\$100	\$100	
<b>Total</b>	<b>\$3,165</b>	<b>\$3,123</b>	

# Assumption Used - in 1,000,000

<b>Sales</b>	<b>\$3,166</b>
<b>Prizes</b>	<b>\$1,899</b>
<b>Govt</b>	<b>\$791</b>
<b>Operation</b>	<b>\$475</b>

# More Assumptions

Number of Casino's in U.S.	462
Number of Emp	354,000
Avg employment	766
GA Lottery Corp. -2019	GA
Annual Salary	\$ 33,675,000
Avg Wages	\$65,000
Employment	518
Operating Income (Adjusted for tickets as prize)	\$ 4,454,969,000
Operating expenses (ex Prizes)	\$461,968,000
Prizes	\$2,876,421,000

# Alabama Gaming Estimates, Operation (no Social Costs)

Direct Impact	Employment	Payroll	Non-payroll
Lottery	180	\$11,671,058	\$160,108,542
Casinos	3,064	\$153,246,753	\$ 760,791,367
Retailers		-	-
<b>Total</b>	<b>3,244</b>	<b>\$164,917,811</b>	<b>\$920,899,909</b>
	<b>3,244</b>	<b>\$1,085,817,720</b>	
<b>Impact</b>	<b>19,777</b>	<b>\$689,767,608</b>	<b>\$1,196,267,098</b>

# Social Cost

- Population : 4,903,185
- Percent of population that gambles: 60%
- Percent of problem gamblers: 2.9%
- Number of Alabamians that may have gambling problem: 66,375
- That is 1.7% of population above 18
- Social Cost per person: \$576 in 2020 prices
- Social Cost of lottery: \$22.8 Million, population impacted: 36,600
- Social Cost of Casinos: \$15.4 Million, population impacted: 26,744

# Taxes Lost, in 1,000,000

<b>All State Taxes</b>	<b>\$253.25</b>
Income Tax	\$79.14
Sales Tax	\$126.62
Other Taxes	\$47.48
<b>All Local Taxes</b>	<b>\$284.90</b>

These estimates are calculated assuming the displaced consumption due to introduction of gambling.

# Benefit – Cost Analysis - Lottery

<b>AL Consumption Loss (A)</b>		<b>\$1,544,000,000</b>
Add- Prizes		\$1,003,600,000
Add- Gambling direct spending injection		\$171,779,600
Add- Govt rev minus social cost		\$239,660,248
<b>All Additions</b>	<b>(B)</b>	<b>\$1,415,039,847</b>
<b>Net Change</b>	<b>(A-B)</b>	<b>(\$128,960,153)</b>
<b>AL consumption Loss after prizes and gambling injection</b>		<b>(\$128,960,153)</b>
Adjust for negative number		<b>(\$128,960,153)</b>
<b>Leakage</b>		<b>40%</b>
<b>Net of leakage</b>	<b>(C)</b>	<b>(\$77,376,092)</b>
<b>AL consumption impact</b>		<b>(\$142,077,979)</b>
<b>AL earning impact</b>		<b>(\$81,922,163)</b>
<b>Jobs</b>		<b>(2,349)</b>

# Benefit / Cost Analysis - Lottery

	Employment	Earning	Output	State Taxes
Economic Benefit	3,129	\$109,123,291	\$189,253,021	\$386,000,000
Economic Cost	(5,479)	(\$191,045,454)	(\$331,330,999)	(\$123,520,000)
Net Benefit/Cost	(2,349)	(\$81,922,163)	(\$142,077,978)	\$262,480,000

# Benefit – Cost Analysis - Casinos

<b>AL Consumption Loss (A)</b>		<b>\$1,521,582,734</b>
Add- Prizes		\$989,028,777
Add- Gambling direct spending injection		\$914,038,120
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<b>All Additions</b>	<b>(B)</b>	<b>\$2,146,307,777</b>
<b>Net Change</b>	<b>(A-B)</b>	<b>\$624,725,043</b>
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Adjust for negative number		<b>\$624,725,043</b>
<b>Leakage</b>		<b>0.40</b>
<b>Net of leakage</b>	<b>(C)</b>	<b>\$374,835,026</b>
<b>AL consumption impact</b>		<b>\$688,272,074</b>
<b>AL earning impact</b>		<b>\$396,857,678</b>
<b>Jobs</b>		<b>11.379</b>

# Benefit / Cost Analysis - Casinos

	Employment	Earning	Output	State Taxes
Economic Benefit	16,648	\$580,644,317	\$1,007,014,078	\$380,395,683
Economic Cost	(5,269)	(\$183,786,639)	(\$318,742,003)	(\$121,726,619)
Net Benefit/Cost	11,379	\$396,857,678	\$688,272,074	\$258,669,065

# Benefit / Cost Analysis - Total

	Employment	Earning	Output	State Taxes
Economic Benefit	19,777	\$689,767,609	\$1,196,267,098	\$766,395,683
Economic Cost	(10,747)	(\$374,832,094)	(\$650,073,003)	(\$245,246,619)
Net Benefit/Cost	9,030	\$314,935,515	\$546,194,095	\$521,149,065

# Benefits of Gambling (Lottery and Casino) Varying Number of Casinos Net of Social Cost

	Benefits Net of Social Costs			
	Employment	Earning	Output	State Taxes
1 casino	285	\$ 9,941,670	\$ 17,241,884	\$ 327,147,266
2 casinos	3,200	\$ 111,606,285	\$ 193,559,288	\$ 391,814,532
3 casinos	6,115	\$ 213,270,900	\$ 369,876,691	\$ 456,481,799
4 casinos	9,030	\$ 314,935,515	\$ 546,194,095	\$ 521,149,065

This table assumes incremental increase in the number of commercial casinos licensed to operate in Alabama. The economic benefit of the first casino will be lowered by the entire consumption displacement of the lottery.

## **McLaughlin & Associates**

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**ALABAMA STATEWIDE  
GENERAL ELECTION VOTERS  
N=500**

**FIELD DATES: 11/17/2020 – 11/19/2020**

**2. THINKING AHEAD, HOW LIKELY IS IT THAT YOU WILL VOTE IN THE NOVEMBER 2022 GENERAL ELECTIONS FOR U.S. SENATE, GOVERNOR AND ALABAMA STATE LEGISLATURE? WOULD YOU SAY YOU ARE DEFINITELY GOING TO VOTE, VERY LIKELY TO VOTE, ONLY SOMEWHAT LIKELY TO VOTE, NOT VERY LIKELY TO VOTE OR NOT AT ALL LIKELY TO VOTE? IF YOU ARE NOT REGISTERED TO VOTE, JUST SAY SO.**

<b>Total</b>	<b>500</b>
DEFINITELY VOTING	76.0
VERY LIKELY	19.6
SOMEWHAT LIKELY	4.4
<b>Mean</b>	<b>2.72</b>

**3. WHAT IS THE ONE THING ALABAMA'S ELECTED LEADERS SHOULD FOCUS THAT WOULD MOST HELP YOU AND YOUR FAMILY?**

<b>Total Answering</b>	<b>500</b>
JOBS/ECONOMY	16.4
EDUCATION	9.6
HEALTHCARE	9.4
CORONAVIRUS/PUBLIC HLTH	8.4
TAXES	6.6
FOCUS ON AMERICA	6.4
POLITICS/GOVERNMENT	6.0
CRIME/PBLC SAFETY/DRUGS	2.4
ROADS/INFRASTRUCTURE	2.0
UNITY/WORKING TOGETHER	2.0
COST OF LIVING	2.0
EQUALITY	1.6
CIVIL RIGHTS/FREEDOM	1.6
CLIMATE CHANGE	1.2
GAMBLING/LOTTERY	1.2
MORAL ISSUES	0.8
LEGALIZING MARIJUANA	0.8
MILITARY/VETERANS	0.4
SOCIAL SECURITY/BENEFITS	0.4
<b>DK/REFUSED</b>	<b>20.8</b>

**4. GENERALLY SPEAKING, WOULD YOU SAY THINGS IN ALABAMA ARE GOING IN THE RIGHT DIRECTION OR HAVE THEY GOTTEN OFF ON THE WRONG TRACK?**

<b>Total Answering</b>	<b>500</b>
RIGHT DIRECTION	49.2
WRONG TRACK	41.4
<b>DK/REFUSED</b>	<b>9.4</b>
<b>Net Diff.</b>	<b>7.8</b>

**5. I AM NOW GOING TO READ YOU A LIST OF SOME OF THE PROGRAMS AND SERVICES THAT ARE PROVIDED BY STATE GOVERNMENT. AFTER HEARING EACH, PLEASE TELL ME IF YOU THINK FUNDING FOR THE PROGRAM OR SERVICE SHOULD BE INCREASED, DECREASED OR KEPT THE SAME.**

**K THRU 12 PUBLIC EDUCATION**

<b>Total Answering</b>	<b>500</b>
INCREASED	77.2
DECREASED	3.6
KEPT THE SAME	16.0
<b>DK/REFUSED</b>	<b>3.2</b>
<b>Net Diff.</b>	<b>73.6</b>
<b>Mean</b>	<b>2.76</b>

**6. HEALTH INSURANCE PROGRAMS FOR LOW-INCOME FAMILIES AND THOSE WITH DISABILITIES, LIKE MEDICAID**

<b>Total Answering</b>	<b>500</b>
INCREASED	66.6
DECREASED	6.0
KEPT THE SAME	23.0
<b>DK/REFUSED</b>	<b>4.4</b>
<b>Net Diff.</b>	<b>60.6</b>
<b>Mean</b>	<b>2.63</b>

**7. POLICE AND LAW ENFORCEMENT**

<b>Total Answering</b>	<b>500</b>
INCREASED	61.2
DECREASED	12.0
KEPT THE SAME	24.6
<b>DK/REFUSED</b>	<b>2.2</b>
<b>Net Diff.</b>	<b>49.2</b>
<b>Mean</b>	<b>2.50</b>

**8. GENERALLY SPEAKING, DO YOU FAVOR OR OPPOSE CREATING A STATEWIDE LOTTERY IN ALABAMA?**

<b>Total</b>	<b>500</b>
<b>FAVOR</b>	<b>70.8</b>
Strongly	60.6
Somewhat	10.2
<b>OPPOSE</b>	<b>25.0</b>
Somewhat	5.8
Strongly	19.2
<b>DK/REFUSED</b>	<b>4.2</b>
<b>Net Diff</b>	<b>45.8</b>
<b>Mean</b>	<b>3.17</b>

**9. DO YOU FAVOR OR OPPOSE CREATING A STATEWIDE LOTTERY IN ALABAMA WHERE THE MONEY GENERATED WOULD PAY FOR TWO YEARS OF COLLEGE FOR ALL ALABAMA STUDENTS WHO ATTEND PUBLIC COLLEGES AND UNIVERSITIES IN ALABAMA?**

<b>Total</b>	<b>500</b>
<b>FAVOR</b>	<b>69.8</b>
Strongly	59.8
Somewhat	10.0
<b>OPPOSE</b>	<b>27.2</b>
Somewhat	5.8
Strongly	21.4
<b>DK/REFUSED</b>	<b>3.0</b>
<b>Net Diff</b>	<b>42.6</b>
<b>Mean</b>	<b>3.12</b>

**10. NOW, REGARDLESS OF YOUR POSITION ON CREATING A STATEWIDE LOTTERY IN ALABAMA, IF A LOTTERY WERE TO BE CREATED, WHICH PORTION OF THE STATE BUDGET WOULD YOU PREFER THE LOTTERY REVENUES BE USED TOWARDS?**

1. THE GENERAL FUND – WHICH FUNDS ALL NON-EDUCATION RELATED STATE AGENCIES, SUCH AS LAW ENFORCEMENT AND HEALTH INSURANCE PROGRAMS FOR LOW-INCOME FAMILIES AND THOSE WITH DISABILITIES, LIKE MEDICAID
2. THE EDUCATION TRUST FUND – WHICH FUNDS PUBLIC EDUCATION
- OR
3. BOTH EQUALLY

<b>Total</b>	<b>500</b>
GENERAL FUND	14.8
EDUCATION TRUST FUND	29.6
BOTH EQUALLY	46.6
NEITHER/OPPOSE LOTTERY	5.8
<b>DK/REFUSED</b>	<b>3.2</b>

**11. NOW, REGARDLESS OF YOUR POSITION ON CREATING A STATEWIDE LOTTERY IN ALABAMA, IF A LOTTERY WERE TO BE CREATED, WHO WOULD YOU TRUST MORE ON REGULATING AND OVERSEEING IT?**

1. PUBLIC OFFICIALS APPOINTED BY ALABAMA’S ELECTED LEADERS LIKE GOVERNOR KAY IVEY AND THE STATE LEGISLATURE
2. PEOPLE FROM THE PRIVATE SECTOR, LIKE BUSINESS LEADERS AND INDIVIDUALS WHO HAVE EXPERIENCE IN THIS AREA
- OR
3. A MIX OF STATE GOVERNMENT AND PRIVATE SECTOR OFFICIALS

<b>Total</b>	<b>500</b>
PUBLIC OFFICIALS	13.6
PRIVATE SECTOR	23.0
STATE GOV'T/PRV. SECTOR	52.4
NEITHER/OPPOSE LOTTERY	6.8
<b>DK/REFUSED</b>	<b>4.2</b>

**12. WHAT IS THE FIRST THING THAT COMES TO MIND WHEN YOU THINK OF GAMBLING?**

<b>Total Answering</b>	<b>500</b>
WINNING/MAKING MONEY	14.2
CASINO/GAMES/CARDS	13.4
MONEY FOR AL/EDUCATION	12.0
ADDICTION	10.0
OPPOSES GAMBLING	8.6
WASTE OF MONEY/LOSING \$\$	7.6
MONEY (UNSPECIFIC)	6.6
OKAY WITH GAMBLING	5.4
ILLEGAL/CORRUPTION/CRIME	5.2
IT'S A SIN/GOD/RELIGIOUS	2.4
MISSISSIPPI/INDIANS	1.2
LAS VEGAS	0.8
<b>DK/REFUSED</b>	<b>12.6</b>

**13. GENERALLY SPEAKING, DO YOU FAVOR OR OPPOSE LEGALIZING GAMBLING IN ALABAMA?**

<b>Total</b>	<b>500</b>
<b>FAVOR</b>	<b>67.0</b>
Strongly	53.6
Somewhat	13.4
<b>OPPOSE</b>	<b>28.8</b>
Somewhat	6.4
Strongly	22.4
<b>DK/REFUSED</b>	<b>4.2</b>
<b>Net Diff</b>	<b>38.2</b>
<b>Mean</b>	<b>3.03</b>

**14. WHY DO YOU FAVOR THIS?**

<b>Total Answering</b>	<b>335</b>
FUNDING WILL BENEFIT AL	21.8
FUNDING FOR PROGRAMS	20.3
PPLE ARE GOING TO DO IT	11.3
KEEP REVENUE IN ALABAMA	9.6
LIKES GAMBLING	7.2
STAY IN-STATE TO GAMBLE	5.7
GENERAL SUPPORT	5.4
OTHER STATES/DOING IT	4.5
CREATES JOBS	4.2
<b>DK/REFUSED</b>	<b>10.1</b>

**15. WHY DO YOU NOT FAVOR THIS?**

<b>Total Answering</b>	<b>165</b>
PEOPLE WILL LOSE MONEY	18.2
ADDICTIVE/BAD FOR PEOPLE	13.9
WILL CAUSE CORRUPTION	13.3
ITS WRONG	12.7
RELIGIOUS REASONS/BIBLE	10.3
CAUSES FAMILY PROBLEMS	8.5
BETTER THINGS/FOCUS ON	3.6
NOT GOING TO HAPPEN	1.8
<b>DK/REFUSED</b>	<b>17.6</b>

**16. WHICH OF THE FOLLOWING COMES CLOSEST TO YOUR OWN PERSONAL OPINION ON GAMBLING?**

**1. I SUPPORT LEGALIZING GAMBLING IN ALABAMA**

**2. WHILE I PERSONALLY OPPOSE LEGALIZING GAMBLING OR MAY HAVE MY OWN MORAL OBJECTIONS, OTHER ALABAMIANS SHOULD BE ABLE TO GAMBLE LEGALLY**

**OR**

**3. I OPPOSE GAMBLING AND BELIEVE IT SHOULD REMAIN ILLEGAL FOR EVERYONE IN ALABAMA**

<b>Total</b>	<b>500</b>
SPRRT LEGALIZING GMBLNG	51.4
OPPOSE IT/SHOULD LGLZE	22.0
OPPOSE IT/REMAIN ILLGL	23.6
<b>DK/REFUSED</b>	<b>3.0</b>

**17. GENERALLY SPEAKING, IF ALABAMA WERE TO LEGALIZE GAMBLING WOULD IT...?**

<b>Total</b>	<b>500</b>
IMPROVE THINGS IN AL	53.8
MAKE THINGS IN AL WORSE	19.0
NOT HAVE AN IMPACT	18.6
<b>DK/REFUSED</b>	<b>8.6</b>

**18. THERE ARE A NUMBER OF GAMBLING OPTIONS THAT ARE BEING DISCUSSED. PLEASE TELL ME IF YOU FAVOR OR OPPOSE LEGALIZING EACH OF THE FOLLOWING IN ALABAMA.**

**CASINO-STYLE SLOT MACHINES**

<b>Total</b>	<b>500</b>
<b>FAVOR</b>	<b>63.2</b>
Strongly	47.0
Somewhat	16.2
<b>OPPOSE</b>	<b>31.8</b>
Somewhat	7.0
Strongly	24.8
<b>DK/REFUSED</b>	<b>5.0</b>
<b>Net Diff</b>	<b>31.4</b>
<b>Mean</b>	<b>2.90</b>

**19. CASINO-STYLE TABLE GAMES, LIKE POKER AND BLACKJACK**

<b>Total</b>	<b>500</b>
<b>FAVOR</b>	<b>60.6</b>
Strongly	42.6
Somewhat	18.0
<b>OPPOSE</b>	<b>34.8</b>
Somewhat	8.8
Strongly	26.0
<b>DK/REFUSED</b>	<b>4.6</b>
<b>Net Diff</b>	<b>25.8</b>
<b>Mean</b>	<b>2.81</b>

**20. ONLINE SPORTS BETTING**

<b>Total</b>	<b>500</b>
<b>FAVOR</b>	<b>51.8</b>
Strongly	30.0
Somewhat	21.8
<b>OPPOSE</b>	<b>41.4</b>
Somewhat	10.6
Strongly	30.8
<b>DK/REFUSED</b>	<b>6.8</b>
<b>Net Diff</b>	<b>10.4</b>
<b>Mean</b>	<b>2.55</b>

**21. IF GAMBLING WERE TO BE LEGALIZED IN ALABAMA, WOULD YOU FAVOR OR OPPOSE GOVERNOR KAY IVEY APPOINTING AN INDEPENDENT COMMISSION TO REGULATE AND OVERSEE THE PROCESS, WITH ALL MEMBERS OF THIS COMMISSION BEING CONFIRMED BY THE ALABAMA STATE SENATE?**

<b>Total</b>	<b>500</b>
<b>FAVOR</b>	<b>62.6</b>
Strongly	37.0
Somewhat	25.6
<b>OPPOSE</b>	<b>30.4</b>
Somewhat	5.4
Strongly	25.0
<b>DK/REFUSED</b>	<b>7.0</b>
<b>Net Diff</b>	<b>32.2</b>
<b>Mean</b>	<b>2.80</b>

**22. IF GAMBLING WERE TO BE LEGALIZED IN ALABAMA AND GOVERNOR KAY IVEY APPOINTED AN INDEPENDENT COMMISSION TO REGULATE AND OVERSEE THE PROCESS, WOULD YOU FAVOR OR OPPOSE BANNING STATE LEGISLATORS AND ALL OTHER ELECTED OFFICIALS FROM RECEIVING POLITICAL CONTRIBUTIONS FROM CASINO OWNERS AND OPERATORS?**

<b>Total</b>	<b>500</b>
<b>FAVOR</b>	<b>53.8</b>
Strongly	46.6
Somewhat	7.2
<b>OPPOSE</b>	<b>41.6</b>
Somewhat	4.0
Strongly	37.6
<b>DK/REFUSED</b>	<b>4.6</b>
<b>Net Diff</b>	<b>12.2</b>
<b>Mean</b>	<b>2.66</b>

**23. AS YOU MAY KNOW, CERTAIN FORMS OF GAMBLING CURRENTLY EXIST IN ALABAMA. THE POARCH BAND OF CREEK INDIANS – A FEDERALLY RECOGNIZED NATIVE AMERICAN TRIBE – OPERATE CASINOS IN ATMORE, MONTGOMERY AND WETUMPKA THAT HAVE ELECTRONIC BINGO. THERE ARE ALSO DOG TRACKS LIKE VICTORY LAND IN MACON COUNTY AND GREENETRACK IN GREENE COUNTY, WHICH ALSO OFFER ELECTRONIC BINGO. DO YOU FAVOR OR OPPOSE GAMBLING AT THESE LOCATIONS?**

<b>Total</b>	<b>500</b>
<b>FAVOR</b>	<b>65.4</b>
Strongly	44.8
Somewhat	20.6
<b>OPPOSE</b>	<b>26.0</b>
Somewhat	6.4
Strongly	19.6
<b>DK/REFUSED</b>	<b>8.6</b>
<b>Net Diff</b>	<b>39.4</b>
<b>Mean</b>	<b>2.99</b>

**24. NOW, DO YOU FAVOR OR OPPOSE THE STATE OF ALABAMA CREATING AN AGREEMENT WITH THE POARCH BAND OF CREEK INDIANS, WHICH WOULD ALLOW THEM TO OPERATE A CASINO OUTSIDE OF THEIR TRIBAL LANDS WITH SLOT MACHINES AND TRADITIONAL TABLES GAMES LIKE POKER AND BLACKJACK IN EXCHANGE FOR THEM PAYING TAXES TO ALABAMA TO FUND CRITICAL STATE PROGRAMS?**

<b>Total</b>	<b>500</b>
<b>FAVOR</b>	<b>61.0</b>
Strongly	46.8
Somewhat	14.2
<b>OPPOSE</b>	<b>32.2</b>
Somewhat	5.6
Strongly	26.6
<b>DK/REFUSED</b>	<b>6.8</b>
<b>Net Diff</b>	<b>28.8</b>
<b>Mean</b>	<b>2.87</b>

**25. AS YOU MAY KNOW, ALABAMA STATE LAW REQUIRES THE STATE LEGISLATURE TO PASS A BALANCED BUDGET EACH YEAR. IN ORDER TO MAINTAIN CURRENT STATE SERVICES AND KEEP UP WITH THE RISING COSTS OF CERTAIN PROGRAMS, IT IS POSSIBLE THAT THE STATE WOULD NEED ADDITIONAL REVENUE NEXT YEAR. KNOWING THIS, WHICH OF THE FOLLOWING OPTIONS WOULD YOU MOST PREFER AS A WAY TO BALANCE THE STATE BUDGET IF ADDITIONAL REVENUE IS NEEDED?**

**1. RAISING TAXES ON HIGH INCOME ALABAMIANS AND ON MANY BUSINESSES**

**2. CUTTING STATE GOVERNMENT SPENDING EXCEPT PUBLIC EDUCATION – ACROSS THE BOARD BY 10%**

**3. CREATING A STATEWIDE LOTTERY WITH THE MONEY GENERATED GOING TO FUND CRITICAL STATE PROGRAMS**  
**OR**

**4. LEGALIZING GAMBLING WITH THE OPERATORS PAYING TAXES IN RETURN TO FUND CRITICAL STATE PROGRAMS**

<b>Total</b>	<b>500</b>
RAISE TAXES/HIGH INCOME	17.2
CUT STATE GOV'T SPNDG	18.6
CREATE STATEWIDE LOTTERY	31.4
LEGALIZE GAMBLING	23.8
<b>DK/REFUSED</b>	<b>9.0</b>

**26. WHICH OF THE FOLLOWING COMES CLOSER TO YOUR OWN PERSONAL OPINION REGARDING LEGALIZING GAMBLING IN ALABAMA?**

**1. SOME/OTHERS WHO SAY WE SHOULD LEGALIZE GAMBLING IN ALABAMA AS DOING SO WOULD BRING IN MILLIONS OF DOLLARS PER YEAR TO HELP FUND CRITICAL STATE PROGRAMS LIKE K THRU 12 PUBLIC EDUCATION, EARLY CHILDHOOD EDUCATION AND PUBLIC EDUCATION.**

**OR**

**2. OTHERS/SOME WHO SAY WE SHOULD NOT LEGALIZE GAMBLING IN ALABAMA. THERE ARE BETTER WAYS TO FUND CRITICAL STATE PROGRAMS INSTEAD OF LEGALIZING GAMBLING, WHICH IS IMMORAL AND PREYS ON LOW-INCOME CITIZENS AND THOSE WHO STRUGGLE WITH ADDICTION.**

<b>Total</b>	<b>500</b>
LEGALIZE GAMBLING	65.2
SHOULD NOT LEGALIZE IT	27.6
<b>DK/REFUSED</b>	<b>7.2</b>
<b>Net Diff</b>	<b>37.6</b>

**27. WHICH OF THE FOLLOWING COMES CLOSER TO YOUR OWN PERSONAL OPINION REGARDING LEGALIZING GAMBLING IN ALABAMA?**

**1. SOME/OTHERS WHO SAY EVEN THOUGH GAMBLING IS CURRENTLY ILLEGAL IN ALABAMA, MANY ALABAMIANS FIND WAYS AROUND THIS AND GAMBLE – EITHER ONLINE OR IN OTHER STATES. EXPANDING LEGALIZED GAMBLING WOULD RESULT IN LESS CORRUPTION IN ALABAMA BECAUSE GAMBLING OPERATORS WOULD HAVE LESS INCENTIVE TO BREAK THE RULES AND THE STATE WOULD BE ALLOWED TO HAVE MORE EFFECTIVE REGULATIONS.**

**OR**

**2. OTHERS/SOME WHO SAY LEGALIZING GAMBLING WILL RESULT IN MORE CORRUPTION IN ALABAMA, AS MANY CASINO OPERATORS IN PLACES LIKE LAS VEGAS AND ATLANTIC CITY HAVE A REPUTATION FOR ENGAGING IN ILLEGAL ACTIVITY. LEGALIZING GAMBLING WILL ALSO MAKE POLITICIANS BEHOLDEN TO THESE CORRUPT SPECIAL INTERESTS.**

<b>Total</b>	<b>500</b>
LESS CORRUPTION/LGLZD	57.6
LGLZD GAMBLING/MRE CRRPT	29.6
<b>DK/REFUSED</b>	<b>12.8</b>
<b>Net Diff</b>	<b>28.0</b>

**28. HAVE YOU EVER TRAVELED ACROSS STATE LINES TO FLORIDA, GEORGIA, TENNESSEE OR MISSISSIPPI TO PURCHASE A LOTTERY TICKET?**

<b>Total</b>	<b>500</b>
YES	57.6
NO	40.8
<b>DK/REFUSED</b>	<b>1.6</b>
<b>Net Diff</b>	<b>16.8</b>

**29. WITH WHICH POLITICAL PARTY ARE YOU AFFILIATED?**

<b>Total</b>	<b>500</b>
REPUBLICAN	41.0
DEMOCRAT	28.2
INDEPENDENT/OTHER	24.8
<b>DK/REFUSED</b>	<b>6.0</b>
<b>Net Diff</b>	<b>12.8</b>

**30. IF YOU WERE TO LABEL YOURSELF, WOULD YOU SAY YOU ARE A LIBERAL, A MODERATE OR A CONSERVATIVE IN YOUR POLITICAL BELIEFS?**

<b>Total</b>	<b>500</b>
<b>LIBERAL</b>	<b>18.8</b>
Very	9.4
Somewhat	9.4
<b>MODERATE</b>	<b>29.0</b>
<b>CONSERVATIVE</b>	<b>46.2</b>
Somewhat	19.0
Very	27.2
<b>DK/REFUSED</b>	<b>6.0</b>
<b>Net Diff</b>	<b>27.4</b>
<b>Mean</b>	<b>3.48</b>

**31. WHAT IS THE LAST GRADE OF FORMAL EDUCATION YOU HAVE COMPLETED?**

<b>Total</b>	<b>500</b>
<b>NON-COLLEGE GRAD.</b>	<b>57.4</b>
Some H.S./Less	4.4
High School Grad.	21.2
Some College/Trade	31.8
<b>COLLEGE GRADUATE</b>	<b>41.4</b>
College Graduate	27.0
Post-Grad/Prof. Degree	14.4
<b>DK/REFUSED</b>	<b>1.2</b>

**32. WHAT IS YOUR CURRENT MARITAL STATUS?**

<b>Total</b>	<b>500</b>
<b>SINGLE</b>	<b>23.4</b>
Never Married	20.6
Live w/Sig. Other	2.8
<b>MARRIED</b>	<b>57.2</b>
<b>SEPARATED</b>	<b>1.6</b>
<b>DIVORCED</b>	<b>7.6</b>
<b>WIDOWED</b>	<b>9.2</b>
<b>DK/REFUSED</b>	<b>1.0</b>

**33. DO YOU CONSIDER YOURSELF PRO-LIFE OR PRO-CHOICE ON THE ISSUE OF ABORTION?**

<b>Total</b>	<b>500</b>
<b>PRO-LIFE</b>	<b>52.8</b>
Strongly	43.8
Somewhat	9.0
<b>PRO-CHOICE</b>	<b>40.0</b>
Somewhat	7.8
Strongly	32.2
<b>DK/REFUSED</b>	<b>7.2</b>
<b>Net Diff</b>	<b>12.8</b>
<b>Mean</b>	<b>2.69</b>

**34. DO YOU CONSIDER YOURSELF AN EVANGELICAL OR BORN-AGAIN CHRISTIAN?**

<b>Total</b>	<b>500</b>
YES	61.4
NO	33.4
<b>DK/REFUSED</b>	<b>5.2</b>
<b>Net Diff</b>	<b>28.0</b>

**35. WHAT IS YOUR MAIN RACIAL BACKGROUND?**

<b>Total</b>	<b>500</b>
<b>WHITE</b>	<b>70.6</b>
<b>NON-WHITE</b>	<b>28.6</b>
African-American	26.8
Asian	0.6
Hispanic	1.0
Other	0.2
<b>REFUSED</b>	<b>0.8</b>

**36. WHAT IS YOUR AGE?**

<b>Total</b>	<b>500</b>
18-35	25.0
36-45	15.8
46-55	17.0
56-65	16.8
OVER 65	24.8
<b>REFUSED</b>	<b>0.6</b>
<b>Mean</b>	<b>48.68</b>

**37. GENDER:**

<b>Total</b>	<b>500</b>
MALE	46.0
FEMALE	54.0

**38. AREA:**

<b>Total</b>	<b>500</b>
<b>BIRMINGHAM</b>	<b>39.0</b>
Jefferson County	13.8
Rest of Birmingham	25.2
<b>COLUMBUS, GA &amp; ATLANTA</b>	<b>6.4</b>
<b>DOTHAN</b>	<b>5.0</b>
<b>HUNTSVILLE</b>	<b>20.6</b>
Madison County	8.0
Rest of Huntsville	12.6
<b>MOBILE</b>	<b>15.4</b>
Mobile County	8.2
Rest of Mobile	7.2
<b>MONTGOMERY AND MERIDIAN</b>	<b>13.6</b>
Montgomery County	4.4
Rest of Mont./Mer.	9.2

**39. REPUBLICAN PRIMARY VOTE HISTORY:**

<b>Total</b>	<b>156</b>
1 OF 3	47.4
2 OF 3	24.4
3 OF 3	28.2
<b>Mean</b>	<b>1.81</b>

**40. INTERVIEW:**

<b>Total</b>	<b>500</b>
LANDLINE	42.8
CELL PHONE	57.2