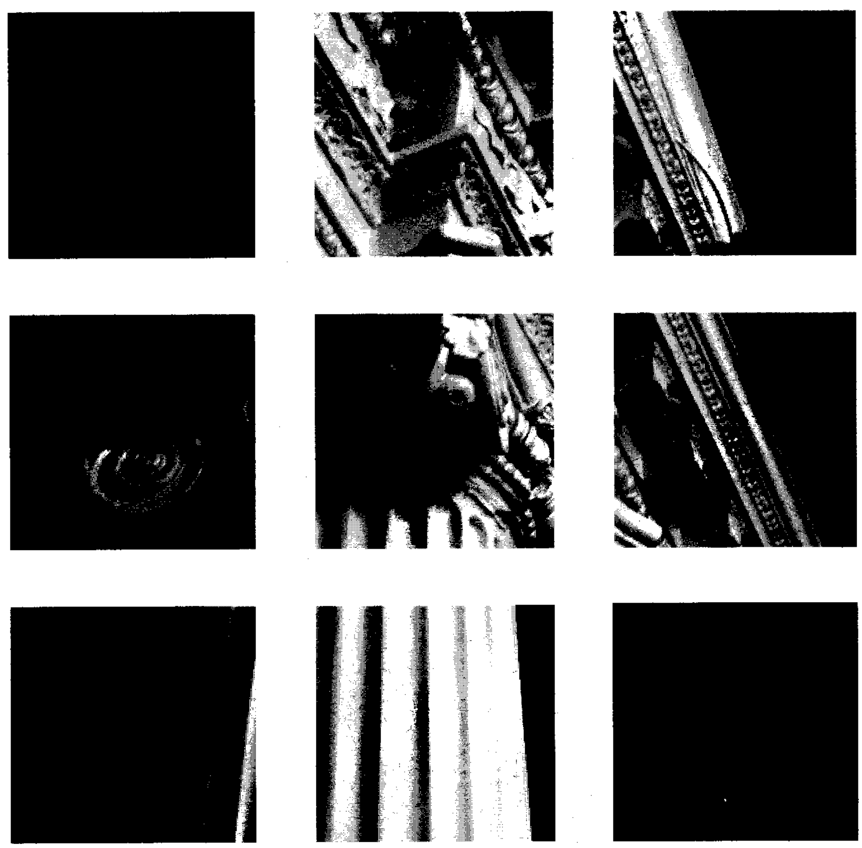
# Legislators' Guide to Video Lottery Terminal Gambling



Department of Legislative Services 2004

# Legislators' Guide to Video Lottery Terminal Gambling

**Department of Legislative Services**
**Office of Policy Analysis**
**Annapolis, Maryland**

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**DEPARTMENT OF LEGISLATIVE SERVICES**
OFFICE OF THE EXECUTIVE DIRECTOR
MARYLAND GENERAL ASSEMBLY

**Karl S. Aro**
Executive Director

January 15, 2004

The Honorable Thomas V. Mike Miller, Jr., President of the Senate
The Honorable Michael E. Busch, Speaker of the House of Delegates
Members, Maryland General Assembly

Ladies and Gentlemen:

Whether, and in what format, to permit video lottery terminals (VLTs) in Maryland was a subject of much discussion and debate during the 2003 legislation session. The discussion over VLTs continued during the 2003 interim, with the House Committee on Ways and Means extensively examining various aspects of the issue. VLTs are likely to be a significant issue again during the 2004 session.

The House Committee on Ways and Means will be preparing a report of its findings. The Department of Legislative Services has separately prepared this report, the Legislators' Guide to Video Lottery Terminals, in an attempt to combine into one document discussion of many of the aspects surrounding VLTs, including review of the experience of other states and related issues such as the state of horse racing in Maryland. The Department of Legislative Services trusts this report will be of assistance to the members of the General Assembly as the discussion unfolds during the 2004 session.

This report was coordinated by Matthew D. Riven, based on analyses prepared by J. Ryan Bishop, Victoria L. Gruber, Rachel H. Hise, W. Kevin Hughes, Robert J. Rehrmann, Michael D. Sanelli, and Mr. Riven. Administrative support was provided by Judith A. Callahan.

Sincerely,

Karl S. Aro
Director

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# Chapter 1. Overview of Gambling in Maryland

Under current law, the State sanctions specific gambling activities – these include wagering on horse racing and the State Lottery. (Horse racing is discussed in the next chapter.) State law provides for a variety of limited gambling activities for certain organizations on a county-by-county basis.

No statutory changes to these laws have been made in recent years.

## Slot Machines

Slot machines were authorized throughout the State from 1937 to 1939. This was designed to provide revenues for the needy near the end of the Great Depression. Even though the original legislation had a sunset date of April 30, 1939, there were several legislative attempts to continue the practice in certain counties. The General Assembly actually passed several bills to allow for the continuation of these machines in Anne Arundel, Charles, Montgomery, and Prince George's counties, but these bills were vetoed by Governor Herbert O'Conor on the grounds that using gaming devices to raise revenue was detrimental to the overall interests of the State.

In 1941, Governor O'Conor again vetoed legislation that would have provided for slot machines in Anne Arundel and Garrett counties but signed similar legislation for Anne Arundel County in 1943. Legislation was enacted for Calvert, Charles, and St. Mary's counties in the late 1940s.

By 1949, Southern Maryland was the only place in the continental United States outside of Nevada with slot machines. It is estimated that about 6,000 slot machines were licensed in the four counties at its peak. Supporters argued that the slot machines generated needed revenues and thousands of jobs while opponents argued that the machines enriched few at the expense of many, encouraged political corruption, and created an unwholesome atmosphere.

By 1962, there was much debate about the abolition of slot machines in Southern Maryland. Governor J. Millard Tawes called for abolition that year, and this succeeded during the 1963 legislative session. The legislation called for a gradual reduction in the number of machines per establishment over a five-year period, with complete prohibition by July 1, 1968.

Despite the prohibition, many fraternal organizations continued to operate slot machines, using State laws permitting charitable activities as the legal rationale. In 1984, the Attorney General ruled that the operation of these slot machines was illegal.

In 1987, legislation authorized slot machines in Eastern Shore counties (except Worcester County). Under this law, certain nonprofit and charitable organizations are permitted to operate no more than five machines, and 50% of the proceeds must go to charity. Machines are licensed by the local sheriff's office, and annual reports outlining the disposition of the proceeds are required to be provided to the Comptroller. The Comptroller's office, however, has no authority to audit these reports.

## State Lottery

The State Lottery was established in 1972 through legislative action and a constitutional amendment approved by voters. Revenues generated from the Lottery are deposited in the general fund, as they have been since the Lottery's inception. Revenues for the general fund are estimated at $418 million for fiscal 2004 (and $491 million including revenues dedicated to special purposes).

Special lotteries are held for the benefit of the Maryland Stadium Authority – the revenues generated are used for the authority's operating expenses and to finance the authority's capital program.

## Tip Jars

While legal in numerous counties, tip jars are popular in Western Maryland and typically benefit nonprofit organizations – these may also be found in businesses such as restaurants and bars. A tip jar refers to a game of chance that involves the selling of a packet of tickets to win a prize. Tip jars are closely regulated in several counties, including Allegany, Frederick, and Washington.

## Bingo and Other Gambling Activities

Bingo may be conducted in all 24 local jurisdictions by various nonprofit entities – these include volunteer fire companies and fraternal organizations. Commercial bingo is provided in several counties, including Anne Arundel, Calvert, and Washington. Carnivals, bazaars, raffles, and casino-type games are allowed for nonprofit organizations on a county-by-county basis.

## Oversight of Local Gambling Activities

No general State oversight of local gambling activities is provided. Local gambling activities are generally regulated by county legislative bodies or sheriffs. Several counties have gaming boards that provide some level of regulatory oversight.

Past studies of gambling activities in the State, including the 1995 Joint Executive-Legislative Task Force to Study Commercial Gaming Activities in Maryland, have pointed out several deficiencies in the regulation of these local gambling activities. In a letter to that task force, the Attorney General expressed concerns about the lack of regulation of some of these activities, including a lack of oversight over slot machines on the Eastern Shore.

# Chapter 2. Overview of the Horse Racing Industry in Maryland

## Horse Racing in Maryland

The formation of the Maryland Jockey Club in 1743 to supervise races at an Annapolis track represents the first regulation of horse racing in Maryland. The Jockey Club began to award prizes and purses to the winners of the races they supervised. Pari-mutuel betting was introduced in Maryland in 1912 as a system that allows the bettors themselves rather than an outside bookmaker to set the odds. Under the pari-mutuel system, all money wagered by unsuccessful bidders is returned to successful bidders after specified deductions including track operations, taxes, and purse money. **Appendix 3** provides a glossary of horse racing terminology.

Prior to 1920, local jurisdictions regulated the five operating horse racing tracks in Maryland. Chapter 273 of 1920 repealed local laws controlling racing, established State control over racing, and created the Maryland Racing Commission to regulate racing. Authorized racing was limited to thoroughbred racing until 1937 when the General Assembly provided for the licensing of harness racing. Harness racetracks were subsequently granted the authority to operate pari-mutuel betting in 1951.

The six types of racing currently allowed in the State are mile thoroughbred racing, harness racing, special thoroughbred racing, steeplechase or hurdle racing, flat racing, and quarter horse racing. Mile thoroughbred racing – in which thoroughbred horses race at a track at least one mile long – is conducted at Laurel Park in Anne Arundel County and Pimlico Race Course in Baltimore City. Harness racing – in which standardbred horses trot or pace in a harness while pulling drivers – is conducted at Rosecroft Raceway in Prince George's County and Ocean Downs Raceway in Worcester County.

Special thoroughbred racing takes place at the Maryland State Fair in Timonium or as a part of other fairs or special events. Steeplechase racing (where horses jump over wooden barriers) and hurdle racing (where horses jump over hedges) may be held as one-day race meetings and are currently conducted at Fair Hill in Cecil County. Quarter horse racing is also authorized but not currently conducted at Fair Hill. The details of the various tracks are discussed below.

### Thoroughbred Racetracks

Owned by Magna Entertainment Corp. and the Maryland Jockey Club, Laurel Park is located in Anne Arundel County and Howard County. Opened in 1911, the facility has a 1-mile turf course and a 1⅛-mile track.

Pimlico Race Course, also owned by Magna Corp. and the Maryland Jockey Club, is located in Baltimore City. Pimlico opened in 1870 and has a 1-mile main track and a 7/8-mile turf course.

### Standardbred Racetracks

Owned and operated by Cloverleaf Enterprises, Inc., Rosecroft Raceway is located in Prince George's County, five miles from Washington, DC. Opened in 1949, Rosecroft has a 5/8-mile track.

Owned by the Allegany Racing Association, Ocean Downs is located in Worcester County, five miles from Ocean City. Opened in 1949, the facility has a 1/2-mile track.

### Proposed Allegany County Racetrack

Allegany Racing Association plans to build a thoroughbred/standardbred racetrack in Allegany County in the near future.

### Racing Data

**Exhibit 2.3** (at the end of this chapter) shows the total attendance, live racing days, total betting, and purses for Laurel, Pimlico, and Timonium racetracks between 1998 and 2002. Similarly, **Exhibit 2.4** (at the end of this chapter) shows the total attendance, live racing days, total betting, and purses for Rosecroft and Ocean Downs between 1998 and 2002.

## State Regulation of Horse Racing

Racing is regulated by the Maryland Racing Commission within the Department of Labor, Licensing, and Regulation – the commission regulates all racing and wagering issues in the State. Consisting of nine members appointed by the Governor with the advice and consent of the Senate, the commission provides oversight in three major categories – licensing, racing, and wagering.

## State Taxation of Horse Racing

Traditionally, racing licensees pay taxes on the total amount wagered, known as the "handle." In 1933, the State imposed the first tax on horse race wagering, which was first set at 1% of betting at mile thoroughbred tracks. In 1937, a State tax of 1% of betting over $500,000 was levied in addition to a 5% tax on net revenues from racing, which was dedicated to the Maryland State Fair Board. The Racing Commission then allowed mile thoroughbred tracks to deduct an additional 1% from the betting to be used for capital improvements at the tracks in

1938. The State tax on betting was increased from 1% to 2% at the mile tracks and half-mile tracks in 1939 and 1941, respectively.

The 1% deduction for capital improvements was rescinded by the Racing Commission in 1944 and replaced with a permitted deduction of 0.5% for purses and a permitted 0.5% deduction for capital improvements. A fixed takeout from betting at mile tracks was first set by the General Assembly at 10% in 1945. The Racing Commission was authorized to fix the racetrack share of the takeout, not to exceed 8% (the State tax was 2%). The State tax increased in subsequent years up to 5.34% for mile tracks and 5.5% for half-mile tracks in 1970.

In 1985, significant changes were made to the tax structure governing racing, including the reduction of daily license fees and a lowering of the State tax rate from 4.09% to 0.5%. At the same time, the share of the takeout allocated to the tracks, purses, and the bred funds increased significantly. Finally, in 1997, the State tax rate was further reduced to 0.32%, which was initially limited to a one-year period but was extended for two more years in 1999 and made permanent in 2000.

In fiscal 2002, total revenue from the State racing tax was approximately $1.85 million. All revenue from racing taxes, along with license and permit fees and uncashed pari-mutuel tickets, is credited to a special fund. The special fund is used for several statutory grants including grants to the Maryland Agricultural Board.

## Racing Takeout and Distribution

The takeout is the total amount deducted by the track from the amount bet on a race after payments by the track to the State for taxes and to other designated allocations. The racetrack retains a certain percentage of the takeout and allocates the remainder to purses and bred funds. The takeout structure has varied through the years according to factors such as the tax rate and amount paid back to the public. The structure also varies between the thoroughbred and standardbred tracks.

While the takeout is specified in statute, current law permits mile thoroughbred tracks to allocate by agreement the amount of the takeout retained by the racetrack to the track, the purses, and the bred funds. The agreement must be assented to by both the track and the majority of horse owners, trainers, and breeders.

There is currently an agreement between the owners of Pimlico and Laurel and the owners of Rosecroft Raceway to combine the takeout from the three tracks. The combined revenues from the takeout are then divided 80% to the thoroughbred tracks and industry and 20% to the standardbred industry. This agreement is scheduled to expire in March 2004. From the 80% provided to the thoroughbred industry, 47% is allocated to the tracks, 47% is allocated to purses, and 6% is allocated to the Maryland-Bred Race Fund. The statutory takeout for mile thoroughbred tracks (Pimlico and Laurel) is shown in **Exhibit 2.1**.

**Exhibit 2.1**
**Mile Thoroughbred Tracks Statutory Takeout Structure**

| | Regular Pool | 2-Horse Multiple[4] | 3-Horse Multiple[5] |
|---|---|---|---|
| State tax | 0.32% | 0.32% | 0.32% |
| Track[1] | 7.70% | 8.70% | 11.70% |
| Purses | 7.70% | 8.70% | 11.70% |
| Bred Funds | 1.10% | 1.10% | 1.10% |
| Bond Fund[2] | 1.00% | 2.00% | 0.75% |
| Purse Enhancement[3] | 0.18% | 0.18% | 0.18% |
| Total Takeout | 18.00% | 21.00% | 25.00% |
| Returned to Bettors | 82.00% | 79.00% | 74.75% |
| **Total Handle** | **100.00%** | **100.00%** | **100.00%** |

[1] 0.25% of the takeout allocated to the track is required to be allocated to the Maryland Track Employees Pension Fund.
[2] If the funds are not needed to pay debt service on bonds issued under the Racing Facility Redevelopment Bond Fund, this allocation may be used by the tracks for improvements to the track as approved by the Racing Commission.
[3] The State tax was reduced in 1997 from 0.5% to 0.32%, and the difference of 0.18% was dedicated to purses.
[4] This is also known as “daily double.”
[5] This is also known as “trifectas.”

Source: Maryland Racing Commission

The takeout at harness tracks (Rosecroft and Ocean Downs) is a tiered system that varies according to the average daily handle for the year. **Exhibit 2.2** shows the statutory takeout for harness tracks.

## Purses

Since 1998, thoroughbred racing purses have increased by about 20% from approximately $40 million dollars in 1998 to $48 million in 2002. In the same period, however, purses for standardbred racing have decreased by 36% from approximately $11 million to $7 million. Purses for thoroughbred racing and standardbred racing from 1998 through 2002 are shown in Exhibits 2.3 and 2.4, respectively (at the end of this chapter).

**Exhibit 2.2**
## Harness Tracks Statutory Takeout Structure

| | Average Daily Handle | Regular Pool | 2-Horse Multiple | 3-Horse Multiple |
|---|---|---|---|---|
| State Tax | | 0.32% | 0.32% | 0.32% |
| Track Maintenance | First $150,000 | - | 0.50% | 3.25% |
| | $150-$600,000 | - | 0.50% | 3.25% |
| | $600,000+ | - | 0.50% | 3.25% |
| Tracks | First $150,000 | 15.50% | 16.50% | 16.50% |
| | $150-$600,000 | 13.00% | 14.00% | 14.00% |
| | $600,000+ | 14.50% | 15.50% | 15.50% |
| Purses | First $150,000 | 1.75% | 2.25% | 5.00% |
| | $150-$600,000 | 1.75% | 2.25% | 5.00% |
| | $600,000+ | - | 0.50% | 3.25% |
| Bred Fund | First $150,000 | 0.50% | 0.50% | 1.00% |
| | $150-$600,000 | 1.00% | 1.00% | 1.50% |
| | $600,000+ | 1.00% | 1.00% | 1.50% |
| Track Pensions | First $150,000 | 0.25% | 0.25% | 0.25% |
| | $150-$600,000 | 0.25% | 0.25% | 0.25% |
| | $600,000+ | 0.25% | 0.25% | 0.25% |
| Bond Fund | First $150,000 | - | 1.50% | - |
| | $150-$600,000 | - | 1.50% | - |
| | $600,000+ | - | 1.50% | - |
| Track Maintenance | First $150,000 | - | 0.50% | 0.50% |
| | $150-$600,000 | - | 0.50% | 0.50% |
| | $600,000+ | - | 3.25% | 3.25% |
| Marketing & Promotion | First $150,000 | 0.25% | 0.25% | 0.25% |
| | $150-$600,000 | 0.25% | 0.25% | 0.25% |
| | $600,000+ | 0.25% | 0.25% | 0.25% |
| Total Takeout | First $150,000 | 18.75% | 20.75% | 26.75% |
| | $150-$600,000 | 18.75% | 20.75% | 26.75% |
| | $600,000+ | 17.00% | 19.00% | 25.00% |
| Returned to Public | First $150,000 | 81.25% | 79.25% | 73.25% |
| | $150-$600,000 | 81.25% | 79.25% | 73.25% |
| | $600,000+ | 83.00% | 81.00% | 75.00% |

Source: Maryland Racing Commission

The purse increases and decreases discussed above include enhancements provided in recent years by the General Assembly. Beginning in 1997, the State tax was lowered from 0.5% to 0.32% with the difference of 0.18% dedicated to purses. Purses were also enhanced in 1997 with $5 million in lottery revenues as well as a $500,000 allocation to the Maryland Million from uncashed pari-mutuel tickets. From fiscal 1998 through 2000, an annual $10 million subsidy was provided to enhance purses from lottery revenues, and the $500,000 allocation to the Maryland Million was extended to June 2001. Most recently, in 2002, a $3.0 million subsidy for purse enhancement was provided from unused funds from the Racing Facility Redevelopment Bond Fund.

## Bred Funds

The General Assembly created the Maryland-Bred Race Fund in 1962. The fund consists primarily of revenue from the percentage of the takeout from all horse races held by thoroughbred tracks. The fund is then apportioned between purses for stakes races for Maryland-bred horses and awards given to the owners and breeders. In order to be a registered Maryland-bred horse eligible for the awards, a horse must be foaled in Maryland. Additionally, the horse must meet one of the following requirements: the breeder of the horse must reside in Maryland for more than nine months before the registration; the horse must be conceived in Maryland in the previous season; or the horse's dam must have been sent to Maryland to foal and after foaling was covered by a Maryland stallion during the season of the horse's birth.

Owner awards are paid when Maryland-bred horses win races other than stakes races and certain other races. Breeders' awards and stallion awards are paid when a Maryland-bred horse wins or places in any stakes race in the State. Finally, yearling show bonus awards are given to the four highest winning two-year-olds and three-year-olds shown at the annual Maryland Horse Breeders Association show.

In 2002, total revenues to the Maryland-Bred Race fund totaled $5.5 million. Of these revenues, approximately 55% was designated for purses and owner awards, and 45% was allocated to breeder and stallion awards. Breeder awards are twice the amount of stallion awards and range between 4% to 16% of the earner's share of the purse for the breeder and 2% to 8% of the earner's share of the purse for the stallion owner. Owner awards are usually between 10% and 16% of the winner's share of the purse and are paid when a registered Maryland-bred horse wins a race other than a stakes race. The specific amount of the award is calculated at the end of each race meeting and is dependent on the total mutuel handle and the number of Maryland-breds earning bonuses.

The Maryland Standardbred Race Fund was established in 1971 to encourage the standardbred industry in the State. The fund consists primarily of revenue from the percentage of the takeout from harness tracks as well as fees paid by owners, breeders, and stallion owners. Funds are allocated to purses for two sets of races, the Maryland Standardbred Fund (or the Foaled Stakes Program) and the Maryland Sire Stakes program. Only standardbred horses foaled in Maryland may start in races under the Foaled Stakes Program, and only standardbred horses that are sired by a Maryland stallion may start in races under the Maryland Sire Stakes Program. A small percentage of funds are also allocated to very limited breeder and stallion awards.

In order to be a registered Maryland-bred standardbred horse eligible for the races, the horse must meet the same requirements that apply to registered thoroughbred horses. In 2002, total revenue in the Maryland Standardbred Race Fund was approximately $1.87 million. Of this, $970,360 was allocated to the Sire Stakes Program, and $900,690 was allocated to the Foaled Stakes Program.

## Off-track Betting and Satellite Simulcasting

Tracks are supplemented as betting locations by off-track betting (OTB) facilities. There are currently four OTB facilities in the State: the Cracked Claw, NorthEast/P-Jimmy's, Colonial Beach, and the Cambridge Turf Club (opened in April 2003). In 2002, approximately $65.6 million was wagered at OTB facilities.

In 1988, the General Assembly permitted intertrack wagering between thoroughbred tracks that allowed betting to occur at a racetrack while no live racing was being held. In 1993, the General Assembly expanded this authority to authorize full satellite simulcasting in the State, allowing individuals to bet on races simulcast from locations around the country from any of the State tracks and OTBs. Additionally, Maryland races are sent by satellite signal to betting locations across the country.

Satellite simulcasting now accounts for a significant majority of all horse racing wagering that occurs in the State. As shown in Exhibit 2.3, betting on out-of-state races accounted for 78% of total betting that occurred in 2002 at thoroughbred racetracks in the State. Similarly, betting on out-of-state races accounted for 84% of total betting that occurred in 2002 at harness racetracks as shown in Exhibit 2.4.

## Recent Financial Benefits Provided to the Horse Racing Industry

The General Assembly has provided significant financial and other benefits to the horse racing industry in an effort to enhance the industry and improve the capital infrastructure at the tracks. In the last 20 years, the General Assembly has adopted the following measures:

- 1984 – Harness tracks with daily average handle of less than $125,000 were exempted from the State tax, and a scheduled State tax increase for mile thoroughbred tracks from 4.09% to 4.84% was delayed until 1986.

- 1985 – The State tax on mile thoroughbred tracks was reduced from 4.09% to 0.5% and the daily license fee was reduced from $1,000 to $25 per day. The State tax was reduced at harness tracks from .75% to 0.5%.

- 1988 – Thoroughbred tracks authorized to conduct intertrack wagering in the State were also authorized to conduct wagering on races simulcast from a track outside the State.

- 1990 – All thoroughbred and harness tracks in the State were authorized to participate as both a sending track and a recipient track for the purpose of conducting intertrack wagering in intrastate simulcast wagering.

- 1992 – Satellite simulcast betting was authorized in the State. Racing licensees were authorized to conduct pari-mutuel wagering on any horse race in another state or country.

- 1997 – A one time distribution of $500,000 from uncashed pari-mutuel tickets at mile thoroughbred tracks was required to support and promote the Maryland Million races. Additionally, the State tax was reduced from 0.5% to 0.32% with the 0.18% difference dedicated to purses. Additionally, after the State lottery met the 1997 general fund revenue estimate, the next $5 million was required to be allocated to a special fund for purses.

- 1998 and 1999 – Any funds that were remaining in the horse racing special fund were required to be distributed to the Maryland-Bred Race Fund and the Standardbred Race Fund rather than the general fund. The State reduced wagering tax rate and the $500,000 for the Maryland Million from uncashed pari-mutuel tickets were extended. A "one time" $10 million distribution of excess lottery revenues to increase purses and bred funds was provided.

- 2000 – A Maryland Racing Facility Redevelopment Program was established to assist horse racing facilities with capital improvements. The State wagering tax of 0.32% was extended again, and another "one time" distribution of $10 million from excess lottery funds or general funds was provided to support the horse racing industry.

- 2002 – $3.0 million that had accrued to the Racing Facility Redevelopment Fund from increased takeout was designated to be used to enhance purses.

## Exhibit 2.3
# Thoroughbred Horse Racing in Maryland

| | 1998 | 1999 | 2000 | 2001 | 2002 |
|---|---|---|---|---|---|
| **Laurel Racetrack** | | | | | |
| Attendance* | 1,390,728 | 585,907 | 1,241,130 | 500,925 | 918,725 |
| Live Racing Days | 166 | 167 | 162 | 112 | 144 |
| Purses | $24,300,202 | $30,826,439 | $31,655,895 | $21,752,971 | $31,761,761 |
| Betting on Racing at Laurel | | | | | |
| Live Racing @ Laurel | $56,445,439 | $51,987,253 | $42,626,631 | $26,486,837 | $28,892,681 |
| MD Races Simulcast | $13,809,918 | $15,136,383 | $12,337,215 | $14,385,927 | $10,689,612 |
| Out-of-state Simulcast | $139,966,134 | $144,733,700 | $145,985,370 | $149,335,635 | $152,899,052 |
| Total Betting @ Laurel | $210,221,491 | $211,857,336 | $200,949,216 | $190,208,399 | $192,481,345 |
| **Pimlico** | | | | | |
| Attendance* | 543,366 | 519,532 | 488,528 | 573,484 | 674,188 |
| Live Racing Days | 58 | 58 | 58 | 109 | 74 |
| Purses | $14,385,130 | $13,649,006 | $13,701,055 | $24,520,844 | $15,238,698 |
| Betting on Racing at Pimlico | | | | | |
| Live Racing @ Pimlico | $21,985,604 | $23,315,615 | $21,641,401 | $27,423,675 | $20,042,369 |
| MD Races Simulcast | $23,337,146 | $22,741,209 | $17,622,230 | $10,581,946 | $11,141,240 |
| Out-of-state Simulcast | $92,252,202 | $95,351,030 | $100,925,142 | $106,372,850 | $104,339,830 |
| Total Betting @ Pimlico | $137,574,952 | $141,407,854 | $140,188,773 | $144,378,471 | $135,523,439 |
| **Timonium** | | | | | |
| Attendance* | 34,741 | 42,785 | 34,607 | 48,600 | 34,968 |
| Live Racing Days | 10 | 10 | 10 | 8 | 8 |
| Purses | $1,446,928 | $1,544,765 | $1,339,248 | $1,122,385 | $914,170 |
| Betting on Racing at Timonium | | | | | |
| Live Racing @ Timonium | $2,937,013 | $2,570,250 | $2,204,179 | $1,892,326 | $1,789,673 |
| MD Races Simulcast | - | - | - | - | - |
| Out-of-state Simulcast | $1,161,697 | $1,349,786 | $1,313,658 | $962,524 | $891,867 |
| Total Betting @ Timonium | $4,098,710 | $3,920,036 | $3,517,837 | $2,854,850 | $2,681,540 |
| **Total Thoroughbred Purses** | $40,132,260 | $46,020,210 | $46,696,198 | $47,396,200 | $47,914,629 |
| **Total Betting at Thoroughbred Tracks in MD** | $351,895,153 | $357,185,226 | $344,655,826 | $337,441,720 | $330,686,324 |
| **Percentage of Betting on Out-of-state** | 66% | 68% | 72% | 76% | 78% |

* Attendance includes live and simulcast.

Source: Maryland Racing Commission

**Exhibit 2.4**

## Standardbred Horse Racing in Maryland

| | 1998 | 1999 | 2000 | 2001 | 2002 |
|---|---|---|---|---|---|
| **Rosecroft** | | | | | |
| Attendance* | 285,046 | 360,458 | 675,559 | 667,853 | 652,852 |
| Live Racing Days | 145 | 147 | 147 | 133 | 137 |
| Purses | $10,110,654 | $10,583,404 | $9,343,565 | $5,684,719 | $6,063,000 |
| Betting on Racing at Rosecroft | | | | | |
| Live Racing @ Rosecroft | $15,364,491 | $15,519,474 | $14,335,526 | $11,622,302 | $9,347,168 |
| MD Races Simulcast | $14,594,905 | $14,908,549 | $13,040,719 | $11,751,734 | $10,522,979 |
| Out-of-state Simulcast | $90,442,427 | $95,373,178 | $106,009,727 | $110,440,950 | $111,761,597 |
| Total Betting @ Rosecroft | $120,401,823 | $125,801,201 | $133,385,972 | $133,814,986 | $131,631,744 |
| **Ocean Downs** | | | | | |
| Attendance* | 67,311 | 74,165 | 120,387 | 130,757 | 135,868 |
| Live Racing Days | 40 | 40 | 40 | 40 | 40 |
| Purses | $802,043 | $1,037,530 | $937,810 | $868,670 | $839,570 |
| Betting on Racing at Ocean Downs | | | | | |
| Live Racing @ Ocean Downs | $2,268,369 | $2,305,789 | $2,276,047 | $2,073,150 | $2,152,267 |
| MD Races Simulcast | $2,484,109 | $857,827 | $2,120,704 | $2,375,522 | $2,279,582 |
| Out-of-state Simulcast | $11,613,860 | $15,960,449 | $13,783,449 | $20,889,706 | $19,827,978 |
| Total Betting @ Ocean Downs | $16,366,338 | $19,124,065 | $18,180,200 | $25,338,378 | $24,259,827 |
| **Total Standardbred Purses** | $10,912,697 | $11,620,934 | $10,281,375 | $6,553,389 | $6,902,570 |
| **Total Betting at Standardbred Tracks in MD** | $136,768,161 | $144,925,266 | $151,566,172 | $159,153,364 | $155,891,571 |
| **Percentage of Betting on Out-of-state** | 75% | 77% | 79% | 83% | 84% |

Source: Maryland Racing Commission 2002 Annual Report

# Chapter 3. Major 2003 Video Lottery Terminal Legislation

In the 2003 legislative session, there were a number of pieces of legislation considered by the General Assembly relating to video lottery terminals (VLTs). Senate Bill 322 and its crossfile, House Bill 359, were introduced by the Administration. The Administration subsequently proposed significant amendments, which were never adopted. Senate Bill 322 was passed with amendments by the Senate Budget and Taxation Committee and the full Senate. As amended by the Senate, Senate Bill 322 contained a number of provisions that were similar to House Bill 78. By contrast, the House Committee on Ways and Means and the full House passed House Bill 800, which provided for a study commission on VLTs.

Below are summaries of the various versions of Senate Bill 322 and House Bill 78. These four major variations of a slots structure are also summarized in tabular form in the back of the chapter. A summary of House Bill 800 as it passed the House is also included.

## Senate Bill 322 as Introduced

Senate Bill 322 as introduced by the Administration would have authorized up to 10,500 VLTs at four designated horse racing tracks in the State. The bill provided for 3,000 VLTs each at Laurel Park in Anne Arundel County, Pimlico Race Course in Baltimore City, and Rosecroft Raceway in Prince George's County. Additionally, 1,500 VLTs were authorized for operation at a horse racing track to be built in Allegany County. Significant one-time license fees of $100 million were required for Laurel, Pimlico, and Rosecroft, and a one-time license fee of $50 million was required for the track to be built in Allegany County.

### Establishment and Duties of the State Lottery and Horse Racing Commission

As introduced, Senate Bill 322 would have abolished the State Lottery Agency, the State Lottery Commission, and the State Racing Commission and would have provided for the creation of a State Lottery and Horse Racing Agency (the agency) and a State Lottery and Horse Racing Commission (the commission) within the agency. The commission would have been granted the authority to issue subpoenas and conduct investigations and hearings. The commission also would have had the authority to be present at the operations of VLTs through employees or agents and to inspect and examine all premises where VLT operations are conducted, as well as any VLTs, associated equipment, audit books, and financial records.

### Licensing

The bill would have required the licensure of VLT operators, VLT manufacturers, VLT employees who manage, operate, supply, or service VLTs, and VLT facility employees. All applications for licensure would have been subject to State Police background investigations.

Licenses other than VLT operation licenses would have been valid for one year and subject to an annual fee determined by the commission.

Applicants for VLT operator licenses would have been required to submit the one-time license fees by March 31, 2004. The term of the VLT operator license would have been 20 years. At the end of the 20-year license term, the license could be renewed annually for a fee to be designated later by statute. If the VLT operator license was revoked or surrendered prior to the expiration of the 20-year term, the State was required under the bill to reimburse the licensee for a portion of the application fee on a pro rata basis. The bill also provided that if a VLT operator licensee made capital improvements or renovations related to VLT operation and the license was revoked or surrendered within ten years, the licensee would be entitled to reimbursement by the State for the improvement costs on a pro rata basis.

### Minority Business Enterprise (MBE) Goals

When awarding a VLT license, the State's 25% MBE procurement goal would have been applicable. A VLT licensee or applicant would have been required to meet the State's MBE goal for both construction of facilities and procurement related to the operation of VLTs. If a county in which a VLT is located had a higher MBE goal, an applicant or licensee would have been required to meet or exceed the local MBE goal to the extent possible.

### VLT Ownership and Operation

Senate Bill 322 would have provided that the VLTs, associated equipment, and central computer would be owned or leased by the commission and under the control of the commission at all times. The bill exempted the procurement of VLTs, associated equipment, and the central computer system from the procedural requirements of State procurement law, including MBE provisions. A VLT operator licensee would have been permitted to select the types of VLT machines to be installed from a licensed manufacturer, and the commission was required to lease or purchase the selected VLTs unless the request was unreasonable.

The required minimum average annual payout percentage for a VLT machine under the bill was 87%, but the commission was authorized by regulation to establish an average annual payout of between 87% and 95%. VLT facilities were permitted to operate daily from 8:00 a.m. to 2:00 a.m. (18 hours). VLT operator licensees were additionally responsible for all marketing, advertising, and promotion of the VLT operations.

### Distribution of VLT Proceeds

The bill would have required the Comptroller to distribute the proceeds of the VLT operations, which would be transferred electronically on a daily basis to the State Lottery Fund. From the gross proceeds of VLTs, after payout to players, the Comptroller would have been required to deduct and pay the actual costs incurred by the commission, including costs to purchase or lease and maintain the VLTs, the central computer system, and other necessary equipment. The proposed distribution of the gross proceeds under the bill is provided in **Exhibit 3.1**.

**Exhibit 3.1**
**Senate Bill 322 as Introduced**
**Distribution of Gross Proceeds**

| | **Percentage/Amount** |
|---|---|
| State Lottery and Horse Racing Commission | 5.65% |
| Education Trust Fund | 58.20% |
| VLT Operator Licensees | 24.80% |
| Horse Racing Purses and Bred Funds | 7.20% |
| Local Governments | 3.00% |
| Other | 1.15% |

Source: Department of Legislative Services

## Amendments to Senate Bill 322 Proposed by the Administration

Amendments to Senate Bill 322 subsequently proposed by the Administration would have created a State Lottery and Horse Racing Agency (agency), but the Lottery Commission and the Horse Racing Commission would both continue to exist under the agency. The amendments also provided that all new members would be appointed to each commission. Administration and regulation of VLTs would be the responsibility of the State Lottery Commission (commission).

Another major provision of the Administration amendments would have exempted VLT construction from local planning and zoning requirements. The amendments further would have required VLT operator licensees to meet certain horse racing requirements including maintaining the same number of racing days as conducted in 2002, and for the Pimlico licensee only, if the licensee failed to operate the Preakness in Maryland, the commission was authorized to revoke the VLT license.

One-time license fees were reduced for VLT operators to $40 million for each track except for a $12 million license fee for the track to be built in Allegany County. In addition, the VLT operator licensees would have been required to spend $100 million in initial construction and related costs for the VLT facilities and other facilities within the first two years of operation.

The amendments would have further prohibited minors from playing VLTs and prohibited VLT operators from providing free alcohol. Additionally, the amendments included an “anti-referendum” provision that stated that the bill and all of its parts were essential elements of an integrated enactment that generates State revenues and other funds. Finally, the amendments altered the proposed distribution of the VLT proceeds as shown in **Exhibit 3.2**.

**Exhibit 3.2**
**Senate Bill 322 with Proposed Administration Amendments**
**Distribution of Gross Proceeds**

| | Percentage/Amount |
|---|---|
| State Lottery and Horse Racing Commission | 5.0% |
| Education Trust Fund | 42.0% |
| VLT Operator Licensees | 43.6% |
| Horse Racing Purses and Bred Funds | 5.0% |
| Local Governments | 3.6% |
| Other | 0.8% |

Source: Department of Legislative Services

## Senate Bill 322 as Passed by the Senate

As amended and passed by the Senate, Senate Bill 322 would have authorized up to 11,500 VLTs in the State, with 3,500 VLTs each at the Pimlico Racecourse, Laurel Park, and the Rosecroft Raceway. There were 1,000 VLTs authorized for the proposed track in Allegany County.

### Duties of the State Lottery Commission

As amended, Senate Bill 322 would have maintained the Racing Commission and the Lottery Agency and the State Lottery Commission. The bill provided that VLT regulation and oversight would be carried out by the State Lottery Commission. Membership on the Lottery Commission (commission) would have increased under the bill by four members to a total of nine members. The members would be restricted from having any financial interest in a VLT facility.

Consistent with the bill as introduced, the VLTs would be owned or leased by the commission and under the control of the commission at all times. As passed by the Senate, the bill would have granted the commission very similar authority to administer and regulate VLTs as provided in the bill as introduced.

### Licenses

Also similar to Senate Bill 322 as introduced, the bill as passed by the Senate would have required licenses to be obtained by VLT operators, VLT manufacturers, VLT employees, anyone hired by a VLT operator to manage a VLT facility, and any other individuals related to the VLT facility that the commission determined should be licensed. The bill would have established a license term of one year for all VLT-related licenses except VLT operation licensees, which would have been granted a 15-year license term.

### Additional VLT Operation License Requirements

Under Senate Bill 322, an applicant for a VLT operation license would have been additionally required to pay a one-time application fee of $5 million ($1.5 million for the Allegany track). The bill also would have required VLT operation licensees to invest at least $150 million in construction and related costs and to provide at least 500 full-time jobs (the Allegany track would have had to invest $43 million and provide at least 150 jobs).

### Minority Business Enterprise Requirements

Senate Bill 322 would have required VLT operation licenses to offer at least 15% of equity investment to minority businesses if the licensee holds one license and 10% if the licensee holds two or more licenses. The bill also would have required a VLT operation licensee to meet the State’s minority business participation requirements for facility construction and procurement and the relevant county’s minority business participation requirements, if they are higher than the State’s.

### Horse Racing Industry Requirements

Senate Bill 322 would have required a VLT operation licensee to maintain a specified number of live horse racing days at each horse racetrack location. VLT operation licensees would have been additionally required to develop racing improvement plans to improve the quality and marketing of horse racing at each track that included $4 million in capital maintenance and improvements in the horse racing facilities. Additionally, under the bill, if a VLT operation license was granted to the Pimlico Race Course and to Laurel Park, both licenses would have been revoked if the Preakness was transferred out of the State.

### Distribution of VLT Proceeds

The proposed distribution of gross VLT proceeds under Senate Bill 322 as passed by the Senate is shown in **Exhibit 3.3**.

**Exhibit 3.3**
**Senate Bill 322 as Passed by the Senate**
**Distribution of Gross Proceeds**

| | Percentage/Amount | |
|---|---|---|
| State Lottery Commission | 5.00% | (4.3% in Year 2 and thereafter) |
| Education Trust Fund | 46.00% | |
| VLT Operator Licensees | 39.00% | |
| Horse Racing Purses and Bred Funds | 5.25% | (5.95% in Year 2 and thereafter) |
| Local Governments | 4.75% | |
| Other | None | |

Source: Department of Legislative Services

### Compulsive Gambling and Consumer Protection

Senate Bill 322 would have additionally assessed a $390 fee per VLT terminal to be paid by VLT operation licensees that would have been placed into a Compulsive Gambling Fund administered by the Department of Health and Mental Hygiene. The fund would have been used to establish a 24-hour hotline, provide counseling and other support services for compulsive gamblers, and establish problem gambling prevention programs.

Consumer protections adopted in Senate Bill 322 included prohibiting individuals under the age of 21 from playing VLTs. Senate Bill 322 also would have required the commission to adopt regulations to reduce or mitigate the effects of problem gaming including provisions that required:

- mandatory exclusion of career offenders from VLT facilities;
- procedures that permit self-exclusion from VLT facilities for individuals with gambling problems;
- limits on the dollar amount that VLT machines will accept;
- payouts of winnings above a certain amount by check;
- limits on the number, location, and maximum withdrawal amounts for ATMs;
- conspicuous disclosures related to VLT payouts and odds; and

- consumers be given a record of spending levels to the extent that marketing measures that track customer spending are used.

### Local Development Councils and Transportation

From the funds provided to local governments where the VLT facilities would be located, Senate Bill 322 would have allowed for the proceeds to be used for infrastructure improvements, public safety, and other needs in the communities in the immediate proximity to where the facility is located. The bill also would have created a Local Development Council in each area where a VLT facility would be located to advise, comment, and make recommendations on a plan developed by the county providing for the use of the Local Development Grant funds. The bill further would have allowed the State to pay for the reasonable transportation costs necessary to mitigate the impact on the communities in immediate proximity to the VLT facilities and to make VLT facilities accessible to the public.

## House Bill 78/Senate Bill 699 as Introduced

House Bill 78/Senate Bill 699 would have authorized a total of 10,000 VLTs in the State with 2,500 VLTs at up to four horse racetracks in different regions of the State. The racetrack locations were not designated in the bill and to be eligible, a racetrack was required to hold a mile thoroughbred or harness racing license issued by the State Racing Commission.

The State Lottery Commission was required under the bill to select applicants for the four video lottery facility licenses based on a competitive process, but the process was not detailed in the legislation. House Bill 78 also would have required significant one-time license fees of $125 million per VLT facility license.

### Duties of the State Lottery Commission

House Bill 78 would have provided that the oversight and regulation of VLTs be administered by the State Lottery Commission (commission). The VLTs would be owned or leased by the commission and under the control of the lottery commission at all times.

### Licensing

The bill would have required the licensure of VLT facilities, VLT operators (managers of VLT facilities), VLT manufacturers, VLT employees, and VLT service technicians. All licenses would have been valid for one year. Except for the one-time VLT facility license fees of $125 million, license fees would be established by the commission to cover administrative costs. In addition to the one-time license fee, House Bill 78 would have required an applicant for a VLT facility license to invest at least $100 million in construction and related costs and provide at least 150 full-time jobs.

All applicants for a VLT license would have been subject to an application process which involved a background investigation of the applicant and each person who owns or controls the applicant. After the background investigation of a VLT facility applicant, the commission would have been required to conduct a hearing on the application.

## MBE Requirements

An applicant for a VLT facility license would also be required to meet the State's minority business participation requirements, at a minimum, for construction and procurement and to meet the county's minority business participation requirements, to the extent practicable, if they are higher than the State's. Additionally, VLT facility licensees would have been required to make good faith efforts for participation in ownership by minorities and women.

## Distribution of VLT Proceeds

The proposed distribution of gross VLT proceeds under House Bill 78 is shown in **Exhibit 3.4**.

**Exhibit 3.4**
**House Bill 78 Distribution of Gross Proceeds**

| | Percentage/Amount |
|---|---|
| State Lottery Commission | 5.65% |
| Education Trust Fund | 50.35% |
| VLT Facility Licensees | 30.00% |
| Horse Racing Purses and Bred Funds | 7.00% |
| Local Governments | 7.00% |

Source: Department of Legislative Services

## Compulsive Gambling Fund

House Bill 78 would have additionally assessed a $360 annual fee per VLT terminal to be paid by VLT operation licensees that would have been placed into a Compulsive Gambling Fund administered by the Department of Health and Mental Hygiene. The fund would have been used to establish a 24-hour hotline and provide counseling and other support services for compulsive gamblers.

### Local Referendum Requirement

House Bill 78 would have provided that the commission was prohibited from considering an applicant for a VLT facility license unless the county governing body in the county where the facility would be located passed a resolution in support of a video lottery facility. The bill further provided that the local resolution could be petitioned by citizens of the county to a local referendum at a special election.

A county governing body would have been required by the bill to pass the resolution in support of a video lottery facility in the county within 60 days after the bill's June 1, 2003, effective date. To petition the local resolution to referendum at a special election in the county, the signatures of 3% of the county's legally qualified voters would be required to be collected and certified within 30 days after passage of the local resolution. If that occurred, a special election would be held in the county within 30 days after the petition was certified, and the State would be required to pay for the costs of a special election.

## House Bill 800 as Passed by the House

To further study the expansion of gambling in Maryland and VLTs, the House of Delegates passed House Bill 800, which would have established a 16-member Commission to Study Video Lottery Terminals in Maryland. The commission would have been required to review and evaluate the effects of authorizing the operation of VLTs for gaming purposes in the State, including:

- the estimated annual impact on State revenues;
- the potential social costs of increases in compulsive gaming and the behaviors associated with compulsive gaming;
- the potential economic development benefits and the effects on other economic sectors in the State, including the horse racing, tourism, and restaurant industries;
- the impact on State lottery revenues and other gaming activities in the State;
- the impact of VLT operations in Delaware and West Virginia and the potential impact of gaming changes in neighboring states;
- the appropriate number of and locations for VLT facilities, including the feasibility of locating these facilities at existing racetrack locations and the potential costs and appropriate allowances for expenses of operating VLTs; and
- the potential impact of VLT facilities on local jurisdictions; and the impact on law enforcement and criminal activity.

The bill would have required the commission to submit a report of its findings and recommendations to the Governor and the General Assembly by December 31, 2003. This bill was not reported from the Senate Budget and Taxation Committee.

**Exhibit 3.5** compares 2003 video lottery terminal legislation.

## Exhibit 3.5

## Comparison of 2003 Video Lottery Terminal Legislation

| | Senate Bill 322 as Introduced (Administration) | Senate Bill 322 with Proposed Amendments (Administration) | Senate Bill 322 with Amendments as Passed by the Senate | House Bill 78 (Delegate Rawlings and Delegate C. Davis) |
|---|---|---|---|---|
| **Oversight** | Nine-member State Lottery and Horse Racing Commission (all new members) | State Lottery Commission under the State Lottery and Horse Racing Agency (all new members on the State Lottery Commission and the State Horse Racing Commission) | Nine-member State Lottery Commission (addition of four members to existing five-member commission) | State Lottery Commission (no changes to existing five-member commission) |
| **Number of VLTs** | 10,500 machines<br>• 3,000 at Pimlico, Laurel, and Rosecroft<br>• 1,500 at Allegany | 11,500 machines<br>• 3,500 at Pimlico, Laurel, and Rosecroft<br>• 1,000 at Allegany | 11,500 machines<br>• 3,500 at Pimlico, Laurel, and Rosecroft<br>• 1,000 at Allegany | 10,000 machines<br>• 2,500 at each of up to four racetrack locations (but not at a track on State property) |
| **Ownership of VLTs** | State Lottery and Horse Racing Commission | State Lottery Commission | State Lottery Commission | State Lottery Commission |
| **License Award** | Up to four licenses to be awarded to the holders of licenses to hold a race meeting at:<br>• Pimlico,<br>• Laurel,<br>• Rosecroft, and<br>• Allegany County | Same as introduced | Up to four licenses to be awarded to the holders of licenses to hold a race meeting at:<br>• Pimlico,<br>• Laurel,<br>• Rosecroft, and<br>• Allegany County | Up to four licenses to be awarded by the commission to holders of racing licenses using a competitive selection process that allows for no more than one applicant to operate in the same region of the State |

# Comparison of 2003 Video Lottery Terminal Legislation

| | Senate Bill 322 as Introduced (Administration) | Senate Bill 322 with Proposed Amendments (Administration) | Senate Bill 322 with Amendments as Passed by the Senate | House Bill 78 (Delegate Rawlings and Delegate C. Davis) |
|---|---|---|---|---|
| **License Fees** | • $100 million each for Pimlico, Laurel, and Rosecroft<br>• $50 million for Allegany County | • $40 million each for Pimlico, Laurel, and Rosecroft<br>• $12 million for Allegany County | • $5 million each for Pimlico, Laurel, and Rosecroft<br>• $1.5 million for Allegany County | • $125 million for each license holder |
| **License Duration** | 20 years (renewable annually thereafter) | Same as introduced | 15 years (must reapply at the end of license term) | To be determined by the commission |
| **Capital Improvement Expenditure and Job Creation Requirements** | None required | $100 million each in capital expenditures in facilities at Pimlico, Laurel, and Rosecroft in initial construction of the VLT facility, race track, and related improvements in the two years following June 1, 2003 | • $150 million each in capital expenditures at Pimlico, Laurel, and Rosecroft and 500 full-time jobs<br>• $43 million in capital construction costs in Allegany County and 150 full-time jobs | $100 million in capital expenditures and 150 jobs at each location |

## Comparison of 2003 Video Lottery Terminal Legislation

| | Senate Bill 322 as Introduced (Administration) | Senate Bill 322 with Proposed Amendments (Administration) | Senate Bill 322 with Amendments as Passed by the Senate | House Bill 78 (Delegate Rawlings and Delegate C. Davis) |
|---|---|---|---|---|
| **MBE Requirements** | License applicant must meet State MBE requirements for construction/procurement contracts and meet local MBE requirements if they exceed the State requirement of 25% | Same as introduced | License applicant must:<br>(1) offer at least 15% of equity investment to minority businesses if the licensee holds one license and 10% if the licensee holds two or more licenses; and<br>(2) meet the State MBE requirements for construction/procurement contracts and meet local MBE requirements if they exceed the State requirement of 25% | License applicant must:<br>(1) meet the State MBE requirements for construction/procurement contracts and meet local MBE requirements if they exceed the State requirement of 25%; and<br>(2) make good faith efforts for participation in equity ownership by minorities and women |

# Comparison of 2003 Video Lottery Terminal Legislation



| | Senate Bill 322 as Introduced (Administration) | Senate Bill 322 with Proposed Amendments (Administration) | Senate Bill 322 with Amendments as Passed by the Senate | House Bill 78 (Delegate Rawlings and Delegate C. Davis) |
|---|---|---|---|---|
| **Racing Industry Requirements** | None | | | None |
| **Racing Days** | | VLT licensee to maintain at least same number of racing days as conducted in 2002 (two days less than number of racing days authorized in 2002) | VLT licensee to maintain the following number of live racing days:<br>• 220 days at Laurel/ Pimlico;<br>• 180 days at Rosecroft; and<br>• 21 days at Allegany County<br>(number of racing days authorized in 2002) | |
| **Preakness** | | VLT licensee at Pimlico to conduct Preakness at Pimlico or VLT license at Pimlico may be revoked by Commission | VLT licensee at Pimlico to conduct Preakness at Pimlico or VLT licenses for both Pimlico and Laurel are automatically revoked | |
| **Racing Improvement Plan** | | | Each VLT licensee must develop a racing improvement plan to improve the quality and marketing of horse racing – must include $4 million of annual capital maintenance and improvements at horse racing facilities | |

## Comparison of 2003 Video Lottery Terminal Legislation

| | Senate Bill 322 as Introduced (Administration) | Senate Bill 322 with Proposed Amendments (Administration) | Senate Bill 322 with Amendments as Passed by the Senate | House Bill 78 (Delegate Rawlings and Delegate C. Davis) |
|---|---|---|---|---|
| **Local Planning and Zoning** | None | Local government prohibited from exercising planning and zoning authority to regulate construction, installation, or operation of VLT facilities | None | None |
| **Referendum** | None | None | None | Commission may only consider license application if county governing body where facility would be located adopts a resolution in support of VLT facility<br><br>Resolution may be petitioned to referendum by 3% of registered voters and special election on any referendum must be held within 30 days |

## Comparison of 2003 Video Lottery Terminal Legislation

| | Senate Bill 322 as Introduced (Administration) | Senate Bill 322 with Proposed Amendments (Administration) | Senate Bill 322 with Amendments as Passed by the Senate | House Bill 78 (Delegate Rawlings and Delegate C. Davis) |
|---|---|---|---|---|
| **Fiscal 2004 Revenue Estimate** | *DLS:* $350 million in one-time license fees and $0 in gross VLT revenue<br><br>*Administration*: $350 million in one-time license fees and $90 million in gross VLT revenue (imputed from budget assumption of $45 million in VLT revenue to be received by the State) | *DLS:* Not estimated<br><br>*Administration:* $120 million in one-time license fees and $50 million in gross VLT revenue | *DLS:* $15 million in one- time license fees and $0 in gross VLT revenue<br><br>*Administration:* $15 million in one-time license fees and $50 million in gross VLT revenue | *DLS:* $500 million in one-time license fees and $0 in gross VLT revenue |
| **Fiscal 2005 Estimate** | *DLS:* $125.7 million in gross VLT revenue<br><br>*Administration:* $1 billion in gross VLT revenue (imputed from budget assumption of $600 million in VLT revenue to be received by the State) | *DLS:* Not estimated<br><br>*Administration:* $1 billion in gross VLT revenue | *DLS:* $95 million in gross VLT revenue | *DLS:* $146 million in gross VLT revenue |
| **Year of Full VLT Operation Maturity and Fiscal Estimate** | *DLS:* Full maturity in fiscal 2008 with $1.23 billion in gross VLT revenue<br><br>*Administration:* Not available | *DLS:* Not estimated<br><br>*Administration:* Full maturity in fiscal 2006 with $1.525 billion in gross VLT revenue | *DLS:* Full maturity in fiscal 2008 – $1.3 billion in gross VLT revenue | *DLS:* Full maturity in fiscal 2008 – $1.1 billion in gross VLT revenue |

## Comparison of 2003 Video Lottery Terminal Legislation

| | Senate Bill 322 as Introduced (Administration) | Senate Bill 322 with Proposed Amendments (Administration) | Senate Bill 322 with Amendments as Passed by the Senate | House Bill 78 (Delegate Rawlings and Delegate C. Davis) |
|---|---|---|---|---|
| **Revenue Distribution – % of Gross VLT Revenue** | | | | |
| **Lottery (Administration)** | 5.65% | 5% | 5% (4.3% in Year 2) | 5.65% |
| **State** | 58.2% | 42% | 46% | 50.35% |
| **Licensee (Operator)** | 24.8% | 43.6% | 39% | 30% |
| **Horse Racing Purses/Bred Funds** | 7.2% | 5% | 5.25% (5.95% in Year 2) | 7% |
| **Local Government** | 3% | 3.6% | 4.75% | 7% |
| **Other** | 1.15% | .8% | None | None |
| **Local Development Council** | None | None | Creation of Local Development Council in each area where a VLT facility is located to advise, comment, and make recommendations on county plans regarding local government revenue | None |
| **Compulsive Gambling** | $500,000 of VLT revenue to DHMH for compulsive gambling programs | .07% of VLT gross revenue to DHMH for compulsive gambling programs | $390 fee per VLT terminal to be paid by VLT licensees for Compulsive Gambling Special Fund (11,500 VLTs = $4.5 million annually) | $360 fee per VLT terminal to be paid by VLT licensees for Compulsive Gambling Special Fund (10,000 VLTs = $3.6 million annually) |

# Comparison of 2003 Video Lottery Terminal Legislation

| | Senate Bill 322 as Introduced (Administration) | Senate Bill 322 with Proposed Amendments (Administration) | Senate Bill 322 with Amendments as Passed by the Senate | House Bill 78 (Delegate Rawlings and Delegate C. Davis) |
|---|---|---|---|---|
| **Annual VLT Payout Percentage** | Commission may establish average annual payout of 87 to 95% by regulation | Same as introduced | Commission may establish average annual payout of 87 to 95% by regulation | Commission may establish average annual payout of not less than 83% |
| **Consumer Protection** | | | | |
| **Age Restrictions** | Commission may prohibit minors from playing VLTs | Minors are prohibited from playing VLTs | Individuals under the age of 21 are prohibited from playing VLTs | Minors are prohibited from playing VLTs |
| **Free Food and Beverage Restrictions** | None | Commission may prohibit free alcohol | Free food and beverages, including alcoholic beverages, are prohibited | None |
| **Mandatory Exclusion Policy** | None | None | Mandatory exclusion of career offenders from VLT facilities required | Mandatory exclusion of career offenders from VLT facilities required |
| **Voluntary Exclusion Policy** | | | VLT facilities required to develop procedures that permit self-exclusion from facilities for individuals with gambling problems | |

## Comparison of 2003 Video Lottery Terminal Legislation

| | Senate Bill 322 as Introduced (Administration) | Senate Bill 322 with Proposed Amendments (Administration) | Senate Bill 322 with Amendments as Passed by the Senate | House Bill 78 (Delegate Rawlings and Delegate C. Davis) |
|---|---|---|---|---|
| **Additional Consumer Protections** | None | None | Commission to adopt regulations to reduce or mitigate the effects of problem gaming including:<br>• limits on dollar amount accepted by VLTs;<br>• payout of winnings above a certain amount by check;<br>• limits on ATM numbers, locations, and maximum withdrawals;<br>• conspicuous disclosures related to VLT payouts and odds; and<br>• consumer records of spending levels to the extent that marketing measures track spending | None |

VLT = Video Lottery Terminal
MBE = Minority Business Enterprise
DHMH = Department of Health and Mental Hygiene

# Chapter 4. Economic Concepts Regarding Video Lottery Terminals

The debate over whether to allow video lottery terminals (VLTs) in Maryland has frequently centered on the relative financial gains that will be received by the State and by the licensee(s)/operator(s). Measuring and evaluating these gains involves a discussion of financial and economic concepts that do not often arise in the context of other State revenue sources. The following are brief definitions of economic terms and concepts that arise in discussion of VLTs. (Except where otherwise noted, economic definitions are taken from the *MIT Dictionary of Modern Economics,* Pearce, David W., editor, THE MIT Press, 1986.)

## Demand

In economic terms, demand is defined as the quantity of a good or service that an individual or group desires at the ruling price. Each individual has his/her own preferences and willingness to purchase at a particular price. Aggregating these individual preferences, the price-demand curve shows the relationship between demand and price, with all other variables held constant. A demand curve is typically downward sloping, with demand (as measured in quantity demanded) lowest when the price is highest, and increasing as the price decreases.

In the case of gambling, which is more like a service than a good, the price upon which the purchasers determine their demand preference may be difficult to determine. One theory describes consumers of gambling services as rational actors who are purchasing a commodity that offers entertainment and excitement, as well as some hope of acquiring a higher level of income and wealth, despite the games' negative expected monetary value. Confirming this "rational theory," research indicates that gamblers are aware of, and sensitive to, "payout" – the amount of wagering that is returned to gamblers via winnings. So to the extent that they can do so (i.e., if there is available competition among suppliers), gamblers will shift their demand to operators that offer a better payout. Gamblers may also take into account other factors that affect their "net" price, such as "comps" and other promotions. Finally, they may take into account non-price factors, such as ambience, amenities, and other features.

## Supply

Supply is defined as the quantity of a good or service that a producer will offer at the ruling price. The supply curve reflects the relationship between the supply of a commodity and its price. Generally, the curve slopes upward, reflecting the fact that as price increases, producers will increase their output.

Under perfect competition, suppliers will accept all prices that are at least equal to their marginal cost. For a variety of reasons, however, gambling producers may not behave as under perfect competition. First, as noted above, unlike in perfect competition, the purchaser may not have full information about price in the form of payout. This phenomenon is known as price information asymmetry.

Second, virtually all the scenarios for VLT gambling in Maryland grant a limited number of licenses to VLT operators. They also incorporate a restriction on the total number of VLTs in the State and the number of VLTs at a particular facility. This license grant will cause the licensee (the supplier) to behave more like a monopolist than a supplier in a free-market equilibrium. In a pure monopoly, the monopolist is likely to produce to the point where marginal cost is equal to marginal revenue. As a result, the consumer pays a higher price (represented, in this case, by a lower payout than would otherwise exist), and the quantity (represented by the amount of gambling) is lower than would exist in a free market. In the scenarios discussed during the 2003 session, there were likely to be several licensees. However, because the number of machines and terms of operation would be so stringently set forth in the bills, there was likely to be relatively little price competition among the licensees. (There might be some competition regarding amenities and features.) In economic terms, they could be described as "oligopolists."

Even under an oligopolistic structure in Maryland, there is likely to be some competition (both in payout and amenities) between the Maryland facilities and those in West Virginia and Delaware. To the extent that gamblers are within traveling distance of facilities in other states and to the extent they are able to determine payout in the different facilities, they may "vote with their feet." If this phenomenon is significant enough, it may cause Maryland operators to alter their payout. They need not match the payout in other states, however. They need only increase payout enough to capture those marginal players who would otherwise choose the other facility. The net effect is that supply behavior may not be perfectly monopolistic; however, it will surely not reflect a free market either in terms of the number of machines or in payout.

Gambling in Nevada provides an illustration of how the economics of VLTs operate in the free market. There are approximately 200,000 VLT machines operating in the state, with no legal restriction on the total number allowed. The legal minimum payout in Nevada is 75%, but a recent average payout was 94%, indicating significant competition among producers. By comparison, the various Maryland legislation from last year mandated minimum payouts of between 83% and 87%.

## Win Per Day

Revenues from VLTs are often expressed in the form of "win per day." Win per day represents the average daily amount of "take" or "takeout" (or retained revenues after payouts to winners) at a VLT facility, divided by the number of VLT machines. It thus represents the average daily takeout associated with each machine, although obviously actual takeout can vary from day to day and from machine to machine.

Average win per day is perhaps the key assumption in forecasting the likely amount of revenue that can be expected from a proposed VLT facility. Expected win per day can vary significantly based on a number of factors. On the one hand, facilities located in or near large population centers tend to have higher win per day than rural locations. On the other hand, facilities that are subject to nearby competition from other VLT facilities may have lower win per day than ones that are geographically isolated.

Facilities in jurisdictions where the number of machines is limited by statute tend to have higher win per day than facilities where there is no limit on the number of machines. In jurisdictions where the "takeout" is higher (due to higher tax rates or higher deductions by the operator) and the payout to players is correspondingly lower, the win per day may be higher. However, as noted above, players are sensitive to payout and may avoid facilities where it is too low, causing win per day to drop and implying that there is a "sweet spot" for payout that maximizes win per day.

Finally, there are physical limitations to how much revenue a machine can produce. For example, hours of operation will obviously affect win per day. Similarly, when facilities get too crowded or players have to wait to play a machine, then win per day will be constrained and players may opt to patronize other facilities. Other physical factors include the denomination of VLT betting (nickel, quarter, etc.) and the speed at which the machine plays.

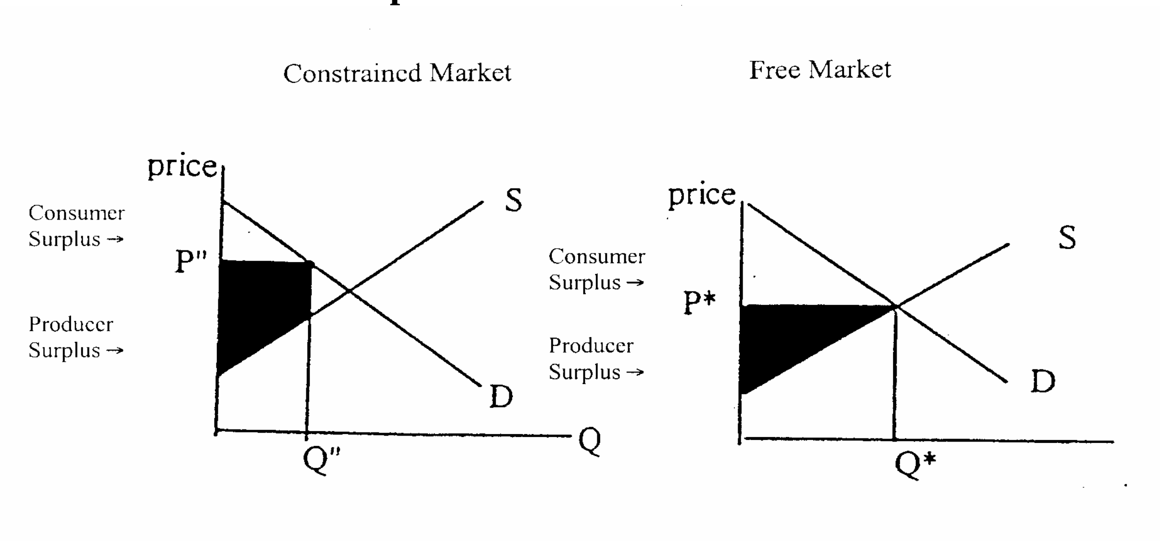
For all the above reasons, win per day can vary widely. On the low end, in Nevada, where there is no limit on the number of machines, the average win per day is $90 and can be as low as $65 in rural areas. On the high end, in Illinois, one facility in the metropolitan Chicago area averages close to $600 in win per day. Chapter 6 and **Appendix 1** incorporate DLS research of win per day experience in other jurisdictions.

## Supernormal Profit or "Monopoly Rent"

When a firm earns a return that exceeds the minimum necessary to induce it to enter or remain within the industry, the firm is said to earn a "supernormal" profit. As discussed above, this supernormal profit phenomenon is likely to develop in Maryland under any of the VLT proposals, all of which restrict the number of machines in the State. Under all the scenarios, there would be fewer machines (restricted quantity) than would occur in a free-market equilibrium, resulting in the ability for suppliers to charge higher prices (in terms of lower payout, promotions, etc.) than the free-market equilibrium would provide. Jeff Hooke and Thomas Firey, in their analysis of last year's slots proposals, entitled "Legalizing Video Slot Gaming in Maryland: A Business Analysis" (Maryland Public Policy Institute and Maryland Tax Education Foundation, 2003), also refer to this phenomenon as "economic rent."

**Exhibit 4.1** provides a simplified graphical illustration of the impact on price and output from restricted supply**.**

**Exhibit 4.1**
**Producer Surplus in Free and Constrained Markets**




Source: Department of Legislative Services

The graph illustrates that the existence of a supply constraint does not imply that there should be no reward to the producer (as measured by "producer surplus") – who would earn a producer surplus even in free market equilibrium. Rather, the supply constraint enlarges the producer surplus by raising the equilibrium price.

The various proposals for VLTs have attempted to address these supernormal profits in a variety of ways, either by charging large upfront license fees or by reducing the operator's share of the receipts, or both. Some of the proposals have increased the State's payments to the point where the proposed operators argue that there is no profit at all, let alone a supernormal profit. As discussed below, calculating the necessary return for a profitable VLT operation can be difficult, and subject to disagreement on a variety of assumptions.

## Weighted Average Cost of Capital (WACC)

The weighted average cost of capital is the cost – as measured as a percentage rate – of the various sources of capital required to finance a capital expenditure, where the weight is determined by the ratio of the value of each type of capital to the total value of the capital dedicated to the project. All sources of capital have a cost, which can either be a direct cost, as with a loan, or an indirect one (called an "opportunity cost"), for example, from the use of retained earnings. Typical direct costs are those associated with equity (ordinary or preferred shares) and debt.

The cost of equity capital is related directly to the rate of return that shareholders will require before they will hold shares in the organization and reflects the shareholder's expectations of dividend payments and growth in the share's market price. The cost of debt capital is the effective interest charged. To the extent that the capital issuer seeks to minimize its WACC, it may take into account the fact that debt payments are tax deductible, while dividend payments are not (although dividend receipts are now eligible for a lesser federal tax rate). The mathematical formula for WACC is:

> WACC = [(1-tax rate) * interest rate for debt * share of project financed with debt) + (required return on equity * share of project financed with equity)]

The cost of capital is used as the discount rate to find the net present value (NPV) from new projects and is compared to the internal rate of return from these projects to determine their economic viability. The discount rate is the rate at which future benefits and costs are discounted because of the time value of money (i.e., a dollar today is worth more than a dollar tomorrow). NPV reflects the value, in a single figure, of a stream of cash flows at the given discount rate. In theory, any project with a positive (greater than zero) NPV is worth undertaking.

For example, analyzing the various VLT proposals last year in his report "Slot Machine Gambling in Maryland: An Economic Analysis," Robert E. Carpenter assumes a 15% discount rate as a proxy for WACC in his estimate, reflecting an unstated mix of equity and capital. He also tests the various scenarios at 20%. Magna Entertainment Corp., one of the ownership partners of Pimlico and Laurel racetracks, noted its intention to use 86% debt and 14% equity to finance its capital investment. Based on this mix of debt and equity, and Magna's statements that it expected its cost of equity to be at least 30% and its cost of debt at 12%, Carpenter calculates their WACC at 10.4%. KPMG, analyzing the various proposals on behalf of the Department of Budget and Management, estimated the VLT operators' cost of equity at between 16% and 20% and the cost of debt at between 12% and 14%.

As illustrated in **Exhibit 4.2**, the different assumptions about costs of equity and debt affect the assumed WACC and discount rate, which in turn affect the NPV of any proposal. The higher the WACC, the lower the value transferred to the VLT operators.

**Exhibit 4.2**
**Impact of Various Discount Rates on Valuation of Cash Flows from Hypothetical VLT Scenario**
**($ in Millions)**

| Assumed Discount Rate/ WACC | Assumed 15-year Annual Cash Flow | Net Present Value at Assumed Discount Rate before Capital Costs |
|---|---|---|
| 7.5% | $100.0 | $882.7 |
| 10.0% | 100.0 | 760.6 |
| 12.5% | 100.0 | 663.3 |
| 15.0% | 100.0 | 584.7 |
| 17.5% | 100.0 | 520.6 |
| 20.0% | 100.0 | 467.5 |

Notes:
"WACC" = Weighted Average Cost of Capital
WACC = [(1-tax rate) * interest rate for debt * share of project financed with debt) + (required return on equity * share of project financed with equity)]

Source: Department of Legislative Services

Hooke and Firey use a similar net present value method to calculate the value to the State of various VLT scenarios. They use a discount rate of 10%, incorporating an estimated annual return to equity of 20%.

Potential VLT operators have criticized various proposals because they do not provide a positive return based on the projected financial statements provided by the operators. These financial statements indicate an assumed mix of equity and debt to achieve the assumed WACC. Carpenter notes that the project developer often has some flexibility in determining its mix of debt and equity, and that altering that mix (for example, by increasing the share of debt, if that source is cheaper) can turn a projected negative return into a positive return.

## Salvage Value and "Real Option"

Carpenter notes that his valuation of different scenarios assumes that at the end of the license period, the license is without value. He further notes that this may not be a valid assumption due to the phenomenon of "salvage value" or "real option." Presumably, at the end of the license period, the license will be renewed. Moreover, it is fair to assume that the incumbent will have as good a chance, and probably a better chance, of obtaining a new license as compared to other applicants. Thus, there is some value to license that can be "salvaged" at the end of the license period, based on the likelihood that the license will be renewed.

## Risk – Market, Company, and Political

The interest rate that lenders will charge the VLT operator, and the return that equity investors will expect on their investments, will incorporate an expectation of the risk that the cash flows projected by the operator will not materialize. In the case of a government license such as this one, this risk can relate to market forces, individual company issues, and political aspects. In the first instance, it is possible that the operator's projections for the number of customers and resulting revenues may not materialize as projected. In the second instance, the operator may not operate as profitably as it had projected. And since the industry is subject to government regulation, there is the possibility that if the operator does not operate with the probity required under its license, the license could be revoked or the firm could otherwise be penalized, which would obviously affect the firm's profitability versus its projections. This operational risk should be distinguished from the final risk – that of political risk. Because the operator's license derives from statute, and statutes can be changed, it is possible that terms of the license may be changed even if the operator has operated in accordance with them. Thus, lenders and investors will factor in a "political risk" factor in their expected return. Such risk is not theoretical. Both Illinois and Rhode Island have granted licenses incorporating a certain revenue share to the operator, only to later revise their statutes to reduce that share.

## EBITDA

This acronym stands for Earnings before Interest, Taxes, Depreciation, and Amortization. Presumably, the proposed operators will incur both operating costs (related to the ongoing operation of the VLT facilities) and capital costs, related to construction, start-up, and other one-time costs. Because EBITDA excludes capital costs, which would generally be reflected in interest, depreciation, or amortization, it more closely reflects the firm's operating profit rather than net profit. Hooke and Firey report that gaming stocks trade publicly at 7 to 12 times EBITDA.

# Chapter 5. Video Lottery Terminals: Types of Locations

When contemplating expanded gambling, one of the first and most important decisions to be made is where gambling facilities will be located. Many states have a variety of gambling activities at different types of venues so there are several options that could be explored.

## Racinos (VLTs at Racetracks)

An often discussed option in Maryland has been to place video lottery terminals (VLTs) at some or all of the State's horse racing tracks. Several states have implemented this "racino" model, including Delaware, West Virginia, and Rhode Island (the last at dog tracks and jai alai frontons). The states that implemented this type of gambling did so to generate revenues for their horse racing industries and for State government operations.

Senate Bill 322 of 2003, passed by the Senate but voted unfavorably by the House Ways and Means Committee, would have placed up to 3,500 VLTs each at Pimlico Race Course, Laurel Park, and Rosecroft Raceway and up to 1,000 VLTs at a proposed racetrack in Allegany County.

Supporters of VLTs at racetracks argue that this will provide new jobs and help the racing industry in its efforts to become more competitive with Delaware and West Virginia, especially in the granting of racing purses and horse bred funds. In addition, supporters say that the general public is more comfortable with having VLTs at racetracks (as opposed to other venues) because gambling already exists at those locations.

As with casino-type facilities, opponents argue that the potential economic development aspects of these facilities and aid to the racing industry are outweighed by the social and economic costs related to problem and pathological gambling activities. Opponents also expect concern that, depending on the structure of the legislation, the owners of the racetracks could receive a financial windfall.

## Casinos/Tourist Destination Locations

Nevada, New Jersey, and several other states have full fledged casinos (with both VLTs and table games such as blackjack) that are co-located with hotels and various entertainment venues. These types of facilities are advertised and operated as tourist destination facilities, and may be land-based or riverboat casinos. Almost half of the states now have Native American casinos, regulated by federal statutes and State agreements, and these are also generally operated and marketed as tourist destination locations.

These types of destination locations, whether it be casino type facilities or destinations with only VLTs, have also been discussed for Maryland. There are several locations that have been discussed by both elected officials and interested parties, including the National Harbor development project in Prince George's County, the Rocky Gap Resort in Western Maryland, and the Cambridge Hyatt Hotel on the Eastern Shore.

Supporters of these types of facilities argue that additional types of gambling activities and the associated hotel, restaurant, and entertainment facilities provide more economic development possibilities, including more and higher paying jobs than at VLT facilities. As with VLTs at the racetracks, opponents argue that the economic development aspects of these facilities are outweighed by the social and economic costs related to problem gambling activities. In addition, many individuals who work in and with the horse racing industry feel that these types of tourist destination facilities would be detrimental to the health of the racing industry by taking bettors away from the tracks.

## Stand-Alone Facilities

Another option is to have a free-standing VLT facility that is not at a racetrack, nor built as a casino-type tourist destination facility. This type of facility could be placed near an interstate highway or in an urban area that is accessible to large numbers of individuals from both in-state and out-of-state. These could also be coupled with other entertainment venues.

## Convenience Gambling

Some states, such as West Virginia and Louisiana, have what may be termed convenience gambling – in these states, limited numbers of video lottery terminals and/or video poker terminals are located in restaurants, bars, and similar type establishments.

# Chapter 6. Video Lottery Terminals: State Comparisons

Video lottery terminals (VLTs), including slot machines and video poker, are prevalent in more than half the states in the Union. They are found in a variety of forums: traditional casinos, riverboat casinos, Indian casinos, racetracks and other pari-mutuel facilities, bars, restaurants, grocery stores, convenience stores, hotels, airports, and nonprofit clubs. They come in a variety of forms, including spinning reels, video slots, video poker, video black jack, keno, and video bingo. They generate varying degrees of revenue depending on location, type of machine, frequency of use, frequency of machine turnover, popularity of the game, and level of competition from other VLT establishments.

## Comparison of VLTs: Numbers and Performance

The operation of VLTs can be divided into three broad categories: states that allow VLTs at racetracks or other facilities but not full fledged casinos; states that allow casinos with table games and slot machines; and states that have Indian casinos. Some states have a combination of two or three of these venues. **Exhibit 6.1** is a summary of states that permit VLTs primarily at racetracks and other non-casino establishments. State comparisons include location and number of machines, types of machines, ownership, and annual revenues and average win-per-day per machine (WPD). The Canadian province of Ontario, which has a system of publicly run VLTs, is included for illustration purposes.

Most states that permit the operation of non-casino VLTs do so primarily at racetracks and other pari-mutuel facilities. Delaware, Iowa, Louisiana, New Mexico, and West Virginia all allow VLTs at some racetrack facilities. Additionally, New York has authorized eight racetrack VLT licenses. Rhode Island has no racetracks but permits VLTs at a greyhound track in Lincoln Park. Most racetracks have between 1,000 and 2,000 machines and receive periodic increases in the number of machines allowed. The total number of machines tends to vary by a state's geographic size, population, and number of racetracks. For example, Delaware has 5,327 machines at three racetracks, Iowa has 3,548 machines at three racetracks, and West Virginia has 8,138 VLTs at four racetracks. Annual revenues also vary due to the number of machines and frequency of use. In fiscal 2002, annual gross revenues were $565 million in Delaware, $307 million in Iowa (fiscal 2001), $281 million in Rhode Island, and $596 million in West Virginia. The average WPD ranges from about $230 to $300. The highest WPD was $363 at Lincoln Park in Rhode Island.

States that permit casinos with slot machines include Nevada, New Jersey, Illinois, Colorado, Indiana, Michigan, Mississippi, Missouri, and South Dakota. Slot machines traditionally generate between 80% and 85% of a casino's gross revenues. Most states restrict slot machines to casinos, but Nevada permits smaller establishments such as grocery stores, bars, and convenience stores to operate a limited number of machines (termed "convenience" gambling by the industry). **Exhibit 6.2** is a summary of three states, Nevada, New Jersey, and Illinois, which have privately owned casinos, and Connecticut, which has two Indian casinos.

States with large scale casinos tend to generate considerably more revenue from slot machine operations than states that allow non-casino VLT facilities. Nevada, for example, has over 212,000 slot machines that generate over $6.2 billion in gross revenues. The average WPD, however, is only $90, which is substantially less than VLTs at most racetracks. New Jersey has over 38,000 slot machines at 12 casinos. The machines generated over $3.2 billion in gross revenues in fiscal 2002, with an average WPD of $234. Lastly, Illinois has 9,550 machines at nine riverboat casinos. Illinois casinos generated over $1.5 billion in VLT revenues in fiscal 2002 and had one of the highest average WPD at $443.

**Exhibit 6.1**

## VLT/Slot Machine Statistics: Selected States (Fiscal 2002)

| State | Location/<br># Machines | Types of Machines | Ownership | Annual Revenues/<br>Avg. Win-Per-Day | Notes |
|---|---|---|---|---|---|
| Delaware | Racetracks:<br>Delaware Park 2,000<br>Dover Downs 2,000<br>Harrington 1,327<br>Total 5,327 | Spinning reel and video slots; money in, coin out | Private; racetrack licensees | $565,477,200/<br>$293 avg. WPD | VLTs approved in 1994;<br>Bets range from 5 cents to $100; Payout: 87% to 95%; 7,500 VLTs now authorized |
| Iowa | Racetracks:<br>Bluffs Run 1,500<br>Dubuque Grey 600<br>Prairie Meadows 1,448<br>Total 3,548 | Spinning reel and video slots; money in, coin or ticket out | Private; racetrack licensees | $307,402,471/<br>$237 avg. WPD<br>(FY 01) | VLTs approved in 1994, subject to local referendum;<br>No limits on bets; Avg. Payout: 93.7% |
| Louisiana | Video poker at racetracks; OTBs, bars, restaurants, hotels:<br>Delta Downs 1,492<br>Other locations 13,720<br>Total 15,212 | Video poker (VP), slot machines at racetracks; money or token in, coin or token out | Private, racetrack licensees, other private licensees | $535,960,460 (VP)/<br>$107 avg. WPD<br><br>$54,373,149(slots)/<br>$243 avg. WPD | Video poker approved in 1991; With local approval, tracks can switch from VP to slots; VP bets range from 25 cents to $2, no limits on slot bets;<br>Payout: 80 to 99.9%;<br>Louisiana Downs opened 900 slots facility in 5/03 |
| Montana | Liquor-license facilities:<br>17,000 machines estim. at 1,650 locations | Video poker, keno and bingo; money in, token out | Private licensees | $291,000,000/<br>$45 avg. WPD | Video keno approved in 1975, video poker in 1985;<br>Bets range from 5 cents to $2; Payout est.: 92% |

| State | Location/<br># Machines | Types of Machines | Ownership | Annual Revenues/<br>Avg. Win-Per-Day | Notes |
|---|---|---|---|---|---|
| New Mexico | Racetracks:<br>Sunland Park 696<br>3 other tracks 1,037<br>Non-profits (40) 391<br>Total 2,124 | Spinning reel, video slots; coin or token in, coin or token out | Private, racetrack licensees; non-profits | $123,168,961/<br>$160 avg. WPD | Slots approved in 1997; no limits on bets; no prize limits at racetracks; Payout: 82 to 96% |
| Oregon | Liquor-license facilities:<br>9,300 machines estim. at 1,850 locations | Video poker; ticket in, ticket out | Private establishments | $480,209,327/<br>$144 avg. WPD | VLTs approved in 1991; Bets range from 25 cents to $2; Payouts avg. 93.5% |
| Rhode Island | Pari-mutuel facilities:<br>Lincoln Park 1,702<br>Newport Jai-Alai 776<br>Total 2,478 | Video slots; bills in, ticket out | Parimutuel licensees | $281,013,869/<br>$363 WPD: Lin. Pk<br>$231 WPD: Newprt<br>($311 avg. WPD) | VLTs approved in 1992; Bets range from 5 cents to $10, max. prize of $25,000; Payouts 92 to 99.1%; 1,825 add. VLTs approved in 2003 |
| South Dakota | Liquor-license facilities:<br>8,211 machines estim. at 1,406 locations | Video poker, keno, blackjack; money in, ticket out | Private establishments | $207,340,350/<br>$69 avg. WPD | VLTs approved in 1989; Bets range from 5 cents to $2, max. prize of $1,000; Payouts avg. 91% |

| State | Location/ # Machines | Types of Machines | Ownership | Annual Revenues/ Avg. Win-Per-Day | Notes |
|---|---|---|---|---|---|
| West Virginia | Racetracks:<br>8,138 VLTs at 4 tracks<br><br>Restricted access facilities:<br>3,997 LVLs at 910 locations | VLTs and limited video lottery (LVLs); money in, coin and ticket out | Racetrack licensees; private establishments | $595,946,640 VLTs<br>$232 avg. WPD<br><br>$45,760,511 LVLs/<br>$64 avg. WPD | VLTs expanded to most tracks in 1994; 10,900 VLTs authorized for 4 tracks; LVLs authorized in 2001; Bets range from 5 cents to $5, no max. prize; Payouts 85 to 92% |
| Ontario | Racetracks:<br>8,653 slot machines at 15 racetracks | Spinning reel; money and token in, token out | Public, Ontario Lottery and Gaming Corp. (OLGC) | $1,289,400,000/<br>$407 avg WPD | Slots authorized in 1998; OLGC operates 5 charity casinos and owns 3 commercial casinos; min. bet 25 cents; Payouts greater than 85% |

Source: International Gaming and Wagering Business, Sept. 2002
Rhode Island Lottery Commission

**Exhibit 6.2**

## VLT/Slot Machine Statistics: Selected States with Casinos

| State | Location/<br># Machines | Types of Machines | Ownership | Annual Slot/<br>VLT Revenues/<br>Avg. Win-Per-Day | Notes |
|---|---|---|---|---|---|
| Nevada | Casinos, other sites such as grocery stores, bars, drugstores, liquor stores:<br>Casinos 192,498<br>Non-casinos 19,995<br>Total 212,493 | Slots, video poker | Private operators | $6,229,000,000/<br>$90 avg. WPD, varies from $120 in casinos to $65 in rural areas | Gambling regulated in mid-1950s; No limit on total number of machines in the state or number of machines in a casino; Payout avg. is 94.5%; |
| New Jersey | 12 casinos in Atlantic City operated 38,177 slot machines | Slot machines | Private casino operators | $3,262,000,000/<br>$234 avg. WPD | Gambling legalized in 1976; Bets range from 5 cents to $100; Avg. of 3,176 machines per casino |
| Illinois | 9 riverboat casinos along 5 Illinois rivers; 9,550 EGDs in operation | Electronic gaming devices (EDGs) | Private riverboat casino operators | $1,544,570,000/<br>$443 avg. WPD | Gambling authorized in 1990; 10 riverboat licenses allowed with 1,200 gambling positions each; Payout avg. is 94%; |
| Connecticut | 2 Native-American Casinos (as of 6/03):<br>Foxwoods 6,587<br>Mohegan Sun 6,169<br>Total 12,756 | Slot machines | Mashantucket Pequots tribe, Mohegan tribe | Foxwoods:<br>$796,152,838/<br>$339 avg. WPD*<br><br>Mohegan Sun:<br>$679,663,824/<br>$354 avg. WPD* | * WPD for June 2003; Foxwoods began operations in 1993, Mohegan Sun in 1996; 80% of total casino revenues come from slot machines |

Source: New Jersey Casino Control Commission, 2002 Annual Report
Illinois Gaming Board, 2002 Annual Report
Nevada Gaming Control Board
Connecticut Division of Special Revenue

# Chapter 7. Distribution of Video Lottery Terminal Proceeds

As there are many different models for how states authorize gambling operations, there are just as many ways in which the revenue generated is distributed. These differences are due in part to the different reasons for which states have authorized gambling and the different stakeholders involved. For example, Delaware, which authorized gambling in order to revive the horse racing industry, dedicates well over half of proceeds to the tracks, purses, and other associated businesses. On the other hand, New York State also provides assistance to the horse racing industry, but given its fiscal difficulties, opted to provide only 20% to the video lottery terminal (VLT) operators.

## Distribution of Video Lottery Revenue – Other States

**Exhibit 7.1** compares the distribution of video lottery terminal revenues among the different states. A more detailed description of each state's revenue distribution follows the exhibit.

**Exhibit 7.1**
**Approximate Distribution of VLT Revenues Example States**

| | Connecticut | Delaware[1] | Illinois[1] | New York | Nevada | Rhode Island[2] |
|---|---|---|---|---|---|---|
| State | 25.0%[3] | 35.0% | 30.0% | 61.0% | 7.2%[4] | 60.0%[5] |
| Lottery | | | | 10.0% | | |
| Licensee/Operator | 75.0%[3] | 49.0% | 64.0% | 20.0% | 92.8% | 26.8% |
| Central System/Machine Vendors | | 5.0% | | | | 9.5% |
| Local Governments | | | 6.0% | | | 1.0% |
| Horse Racing (purses, breeders, etc.) | | 11.0% | | 9.0% | | 2.7%[6] |
| Total | 100.0% | 100.0% | 100.0% | 100.0% | 100.0% | 100.0% |

Note: Ontario, which operates on a different model from the United States, is discussed separately.

[1] Distribution is based on a sliding scale; percentages shown are effective distribution for fiscal 2003.
[2] Reflects average distribution of separate statutory formulas for dog tracks and jai alai.
[3] Indian Casinos pay 25% of gross slot machine win to the state on a monthly basis, as negotiated by treaty.
[4] Taxes from slots only – table games excluded.
[5] Includes a distribution to Lottery Commission.
[6] Owners of dog kennels under contract with licensee.

Source: Department of Legislative Services

## Connecticut

Casinos and slots are allowed only on Indian lands. By negotiated agreement, casinos give 25% of gross slot machine win to the state on a monthly basis. (The state does not get any portion of the table game operations.)

## Delaware

VLT revenues in Delaware are distributed based on a sliding scale indicated below. For fiscal 2003, the effective distribution of gross proceeds from video lottery terminals after payouts to players was as follows:

- Approximately 35% is distributed to the state
- Approximately 49% is distributed to the racetracks
- Approximately 11% is distributed to purses
- The remaining 5% covers administrative costs/vendor fees

The basis of this distribution is progressive, based on the following formula:

- 12.5% of average daily win not exceeding $25,000
- 15% of average daily win exceeding $25,000 but not in excess of $50,000
- 20% between $50,000 and $75,000
- 30% of win in excess of $75,000

In addition, the state receives the following percentage of the net win:

- 12.27% of net win from Harrington
- 12.59% of net win from Dover Downs
- 12.73% of net win from Delaware Park

Finally, Delaware has a newly instituted 1.25% state surcharge on the net win from each venue, after the state and purse distributions:

- 10% of average daily win not exceeding $25,000

- 20% of average daily win exceeding $25,000 but not in excess of $50,000

- 20% of all net proceeds after state share if average daily win exceeds $50,000

This new surcharge is not reflected in the effective fiscal 2003 distribution indicated above.

## Illinois

The Riverboat Gambling Act of 1990 imposes two taxes on riverboat gambling: an admissions tax and a wagering tax.

**Admissions Tax:** The tax rate ranges from $3 per person for casinos that admitted 1 million or fewer people in the previous calendar year to $5 per person for casinos that admitted more than 2.3 million people in the previous year.

**Wagering Tax:** In 2002, the state adopted a graduated tax rate for wagering based on the annual adjusted gross receipts (AGR) of the riverboat operation with a top tax rate of 50% for AGR in excess of $200 million. Effective July 1, 2003, the graduated tax rate was increased for a period of two years or until a tenth casino is in operation. Riverboat casinos are subjected to the following tax rates:

- 15.0% of AGR up to and including $25 million

- 27.5% of AGR in excess of $25 million but not exceeding $37.5 million

- 32.5% of AGR in excess of $37.5 million but not exceeding $50 million

- 37.5% of AGR in excess of $50 million but not exceeding $75 million

- 45.0% of AGR in excess of $75 million but not exceeding $100 million

- 50.0% of AGR in excess of $100 million but not exceeding $250 million

- 70.0% of AGR in excess of $250 million

**Local Government Revenue:** Each local government that serves as a host for a casino licensee receives a share of gaming taxes in an amount equal to 5% of the AGR and $1 of the admissions tax attributable to the licensee within its jurisdiction.

The balance of the tax revenue goes to support the administration and enforcement of the Riverboat Gambling Act and to the Education Assistance Fund.

In 2002, the total adjusted gross receipts for all casinos were $1.8 billion. Of this amount, $666 million was paid in state and local taxes ($556 million in state taxes and $110 million in local taxes), and $1.2 billion was retained by the nine casinos licensees. As a result, the aggregate effective tax rate for combined wagering and admissions taxes was approximately 36.4%.

## New York

The Mohawk Akwesasne and Oneida Turning Stone casinos distribute none of their gambling revenue to the state. The Seneca Nation Niagara Falls Casino distributes 25% of its revenue to the state.

While New York has authorized eight racetrack VLT facilities, none are currently in operation. If a facility were to operate, the statutory revenue distribution should be as follows:

- 61% to the state for education
- 10% to the Lottery Commission
- 29% to the horse racing industry

**Exhibit 7.2** shows the distribution of the 29% that would be dedicated to the New York horse racing industry.

**Exhibit 7.2**
**Distribution of New York Horse Racing Industry Revenue**

| | Year 1-3 | Year 4-5 | Year 6-10 |
|---|---|---|---|
| Tracks | 69.8% (20.24% of gross VLT revenue) | 69.0% (20.0% of gross VLT revenue) | 60.3% (17.5% of gross VLT revenue) |
| Purses | 25.9% (7.5% of gross VLT revenue) | 26.7% (7.74% of gross VLT revenue) | 34.5% (10.0% of gross VLT revenue) |
| Bred Funds | 4.3% (1.25% of gross VLT revenue) | 4.3% (1.25% of gross VLT revenue) | 5.2% (1.5% of gross VLT revenue) |

* Law sunsets after 10 years beginning with when the first track begins VLT operation.

Source: Department of Legislative Services

## Nevada

All revenues accrue to operators after payment of required fees and taxes as follows:

Slot machines operated under a nonrestricted gaming license pay:

- annual tax of $250 per machine (special fund revenue)
- quarterly license fee of $20 per machine (to GF)
- monthly percentage fee based on gross gaming revenue (to GF):
    - 3.0% of first $50,000 during the month
    - 4.0% of next $84,000
    - 6.25% of revenue exceeding $134,000

Slot machines operated under a restricted gaming license (15 or fewer machines) pay:

- annual tax of $250 per machine (special fund revenue)
- quarterly license fee on sliding scale based on number of machines (average = $84 per machine) (to GF)

As a result of the above distributions, casinos pay approximately 7% of slot machine proceeds to the state in taxes.

## Rhode Island

The state share of VLT revenue has been adjusted four times since fiscal 1993. The total VLT payments to the state are $157 million in fiscal 2002 and an estimated $183 million in fiscal 2003.

**Exhibit 7.3** shows the distribution of VLT revenues for fiscal 2004.

**Exhibit 7.3**
**Rhode Island Distribution of VLT Revenues – Fiscal 2004**

| | Fiscal 2004 | |
|---|---|---|
| | **Lincoln** | **Newport** |
| State General Fund and Lottery Commission[1] | 59.1% | 63.5% |
| Video Lottery Retailer | 27.0% | 26.0% |
| Owners of Dog Kennels under Contract w/Licensee | 3.4% | n.a. |
| Technology Providers | 7.0% | 7.0% |
| Central System Provider | 2.5% | 2.5% |
| Municipality | 1.0% | 1.0% |

[1] Distressed Communities Relief Program receives up to $5 million annually from allocations to the state, retailers, kennel owners, and technology providers.

Source: Department of Legislative Services

## Ontario, Canada

Profits generated by the Ontario Lottery and Gaming Corporation (OLGC) are paid to the Province of Ontario's Consolidated Revenue Fund. The province is then responsible for the allocation of these profits.

Since 1975, provincial gaming activities managed by OLGC have generated more than $17 billion in profits for thousands of causes throughout Ontario (through March 31, 2002). The Ontario Lottery and Gaming Corporation Act of 1999 directs profits from charity casinos; slot facilities at racetracks; and lotteries to the operation of hospitals, including programs to address problem gambling, physical fitness, sport, recreational and cultural activities, and through the Ontario Trillium Foundation to charitable and not-for-profit organizations. Provincial revenues from commercial casinos are used for priorities including health care and education.

Revenue from OLGC supports $100 million annually for the province's charities. This money is distributed to charities through the Ontario Trillium Foundation.

Two percent of gross slot machine revenue from charity casinos and racetrack slot facilities is directed by the province to the Ministry of Health and Long-Term Care to support programs for the research, treatment, prevention and public awareness of problem gambling. Based on this 2% formula, the amount for fiscal 2004 is projected at $36 million.

In addition to the profits that are directed to the Province of Ontario, the government made a number of revenue sharing commitments to a number of other stakeholders. Under a revenue-sharing agreement, the charity casino and slots-at-racetrack initiatives have given more than $211 million in direct non-tax related revenue to host municipalities. Communities hosting charity casinos receive 5% of gross slot machine revenue. Communities hosting slot facilities at racetracks receive 5% of gross revenue from the first 450 slot machines and 2% from any additional machines over that number. Funds may be used at the discretion of the municipality.

Twenty percent of gross slot machine revenue at racetrack operations is evenly split between the racetrack and its horse people.

# Chapter 8. Cross-border Activity and Substitution Effect

Many Marylanders currently travel to other states to play video lottery terminal (VLT) machines. Similarly, if VLTs were allowed to operate in Maryland, many non-Marylanders would come to Maryland to play them. Thus, one significant question in the evaluation of the fiscal impact of VLTs is the extent of this cross-border activity. A related question is the extent to which those Marylanders who previously did not play VLTs but who would do so if it becomes legal will spend discretionary income on VLTs rather than other taxable items, reducing other State tax revenues. This latter impact is termed “substitution” or “displacement.”

## Cross-border Effect

The group of potential VLT players at a Maryland facility can be divided into three cohorts: Marylanders who currently travel out of state to play VLTs; Marylanders who do not currently travel out of state to play VLTs but would play in Maryland; and out-of-state residents who would come to Maryland to play VLTs – regardless of if or where they currently play VLTs.

The introduction of VLTs in Maryland could lead to the recapture of money that is currently being spent in other states, primarily Delaware and West Virginia. Data provided by the Innovation Group (a gambling consulting firm under contract with the owners of Pimlico and Laurel racetracks) and adjusted by the Department of Legislative Services (DLS) for a scenario of 3,500 VLT machines in each of three facilities in the Central Maryland corridor, indicate that approximately 31% of the revenue generated by VLTs would come from Maryland residents who currently gamble outside of the State; 11% would come from out-of-state residents who currently gamble somewhere else; 21% would come from new Maryland gamblers; and 37% from new out-of-state gamblers.

**Exhibit 8.1** illustrates the impact of each of these cohorts on direct and indirect revenues to the State and the estimated percentage of VLT revenues from each group at 10,500 VLTs.

The gaming trips made by Marylanders who currently travel out of state to gamble but who would remain in-state under a VLT regime would generate direct VLT revenues to the State. These Marylanders would also generate additional economic activity and corresponding indirect tax revenues from their restaurant and gasoline spending that currently occurs in Delaware or West Virginia. Similarly, out-of-state VLT players who would travel to Maryland to play VLTs would generate direct VLT revenues to the State and would also generate other indirect tax revenues to the extent they spent money on taxable items and activities, such as restaurant or gasoline purchases, while in Maryland.

**Exhibit 8.1**
## Cross-border Impact – Estimated Share of Direct VLT Revenues*
## Central Maryland VLT Facilities

| Cohort | Cross-border and/or Substitution Impact | Estimated Share of Direct VLT Revenues (at 10,500 machines) |
|---|---|---|
| Marylanders who currently travel out of state to play VLTs | Additional direct and indirect revenue to the State | 31% |
| Marylanders who do not currently travel out of state play VLTs but would play in Maryland | Additional direct revenue to the State, offset by any lost revenue from substitution effect | 21% |
| Out-of-state residents who currently play VLTs elsewhere but who would come to Maryland to play VLTs | Additional direct and indirect revenues to the State | 11% |
| Out-of-state residents who do not currently play VLTs elsewhere but who would come to Maryland to play VLTs | Additional direct revenue to the State. If VLT spending substitutes for other activity in Maryland, then other tax revenues could decline. If VLT spending is in addition to other activity in Maryland, then other tax revenues could increase | 37% |
| Total | | 100% |

* Assumes scenario of 10,500 VLTs at three Central Maryland facilities

Source: Innovation Group; Department of Legislative Services

The Innovation Group's estimates are based on the geographic proximity of population concentrations to the Central Maryland corridor and variables that estimate the number of gamblers and the annual trips that are likely to be taken based on the distance between the individual's home and the VLT facility. These estimates would vary if applied to VLT facilities located other than in the Central Maryland corridor, such as Western Maryland or the Eastern Shore.

These estimates also vary based on the number of machines at a Central Maryland facility – the Innovation Group argues that out-of-staters are less likely to travel to a facility if they have to wait to play a machine and are more sensitive to such waiting times than someone who lives nearby.

## Substitution Effect

Offsetting the direct and indirect revenue effect of VLT activity is any taxable economic activity that is foregone by VLT players. As indicated above, those who currently go to Delaware or West Virginia to play VLTs, but who would play in Maryland if they could, would bring their economic activity to Maryland with them. But those who do not otherwise play – whether they be Marylanders or out-of-state visitors – but who would play at Maryland VLT facilities may substitute other economic activities in Maryland for playing the VLTs. For instance, they may opt to play VLTs instead of attending an Orioles game. In that case, there would be foregone local admissions and amusement taxes, as well as foregone sales tax on any concessions and food. Similarly, they may choose not to go to the movies (also subject to the admissions and amusement tax) or a bar (liquor tax, sales tax, Keno).

The impact of such substitution cannot be reliably estimated at this time and even the method of calculating such loss is subject to debate. Professor Carpenter of UMBC argues that, depending on the approximate payout of the machine and the State's share, the State could make less money from VLTs than from consumer spending subject to the sales tax. For example, Carpenter posits that if the consumer spends $105 at the VLTs, and assuming a 92% payout and a projected State share of 46%, the State would receive only $3.86. This State revenue is less than the $5 the State would receive if the individual spent $105 (including tax) on items subject to the State sales tax.

The Carpenter analysis of the substitution effect on other taxes appears flawed, however. Bear Sterns, an investment banking firm working for the owners of Pimlico and Laurel race tracks, acknowledges that an individual entering a VLT facility and wagering $100 will receive, on average, $92 back in payout. The investment firm points out, however, that the individual can elect to either continue gambling or spend the $92 on other taxable items, making the picture more favorable to the State. Extending this logic, the nature of the "house odds" and the statutory revenue distribution imply that if the play continues long enough, the house will receive the full $100 and the State will receive its $46. Viewed from this perspective, the VLT tax rate is significantly higher than the sales tax rate. Moreover, it is possible that the VLT activity may be complementary to other taxable activities such as eating out, rather than a substitution, in which case there is no negative substitution impact.

## Substitution and the Lottery

One source of State revenue that would suffer, theoretically at least, due to substitution is the State lottery. Playing the lottery, after all, is a form of gambling and it is reasonable to expect that Marylanders who currently play the lottery may opt to use those disposable dollars to play VLTs in Maryland. The relationship, however, between the two activities is not clear-cut. Last year's fiscal notes for VLT legislation reflected the assessment by the State Lottery Agency that a 10% decline in lottery sales could be expected in the first year of VLT operations, and that one-fifth of that decline would be mitigated each year thereafter, so that projected revenues would return to their previous level after five years.

The Innovation Group, on behalf of the owners of Pimlico and Laurel racetracks, notes there is a wide discrepancy in patterns of lottery revenue growth among states, and that there is not always a correlation between the introduction of gambling and a resulting decline in lottery revenue. Consistent with the State Lottery Agency's perspective, Innovation concludes that the most noticeable pattern was that "as gaming expands lottery revenues experience a temporary revenue decline, with normal growth resuming a year or so after the initiation of alternative gaming venues." To further emphasize its point that the presence of gambling is not a primary threat to lottery revenue, Innovation also identifies states where lottery revenues have continued to grow throughout the introduction of casino gambling or slots, as well as other states where lottery revenues have declined even without the presence of gambling.

Examining the raw data provided by Innovation, however, suggests a much more bleak outlook for lottery revenues, at least in the immediate period following slots introduction. Peak-to-trough declines for lottery revenues in states where gambling was either initiated or ramped-up have ranged up to 40%. Of six states singled out by Innovation, only one (Rhode Island) did not experience a decline in lottery revenues. The other five experienced declines between 15% and 40%. Moreover, in several of these states, gambling introduction was too recent to determine whether lottery revenues ever stabilized or rebounded after the introduction of gambling.

# Chapter 9. Capital Development of Video Lottery Terminal Facilities

A key factor in the debate over video lottery terminals (VLTs) in Maryland is the physical development of the VLT facilities. Building such facilities will be expensive. The level of such expense will have an impact on both the State's and the operator's profitability. On the other hand, more attractive facilities may generate additional visitors and therefore increase revenues. Finally, the financing structure for the capital costs may take a variety of formats.

## Attractiveness of Facilities

In a free market society, the theory is that you have to spend money to make money. That is, given an individual's limited discretionary income, a business operator has to offer a quality service or product in order to attract business and maximize revenues. As was discussed in Chapter 4 (Economic Concepts Regarding VLTs), VLT operators in Maryland will likely operate in an environment somewhere between perfect competition (or free market) and perfect monopoly. Maryland VLT operators would compete with VLT facilities in nearby states and, presumably, in Maryland. The attractiveness of a VLT facility and the availability of amenities such as dining and beverages, entertainment, and lodging may influence where an individual chooses to gamble. Currently, in the immediate geographic area, Maryland VLT facilities would be competing with racinos in Delaware and West Virginia, and further away, casinos in Atlantic City, New Jersey.

Potential VLT operators argue that a first class facility is necessary to maximize revenues, both to the State and to the operators. Gaming operators want to create a destination environment that draws potential gamblers to Maryland repeatedly, even for those gamers who are closer to VLT facilities in neighboring states. Magna Entertainment Corp. has proposed construction costs of $180 to $210 million for VLT facilities at each of Pimlico and Laurel Park.[1] Costs of that magnitude roughly compare to the cost of building a professional football stadium. Gambling project costs have varied widely across the country. According to a summary of selected gaming projects provided by Bear Stearns (and commissioned by Magna Entertainment Corp.), all of which are casinos with slot machines, total project costs ranged from $77 million for Riviera Black Hawk Casino in Colorado (in 1999) to $2.4 billion for Le Reve Casino in Las Vegas (in 2002). Several casinos were built for $100 to $150 million in the last six years.

A VLT facility's total project costs, and the cost of capital used by the VLT operator, affect the operating costs of the business (including debt service) and ultimately the project's return on investment. The mix of equity and debt used to cover costs also affects the project's cost and needed return on investment since equity capital has a higher cost than debt (as described in Chapter 4). All of these elements affect the share of VLT revenues an operator

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[1] Based on two reports commissioned by Magna: Innovation Group Report, January 2003 and Bear Stearns Analysis, February 2003.

"needs" to finance project costs and receive a "break even" rate of return, which is lower than the rate of return desired by investors to make the project feasible.

The question is how attractive does a VLT facility need to be (i.e., how nice is nice enough) or even more basically, how much of the attractiveness of a VLT facility should be reflected in the share of VLT revenues given to operators. The Innovation Group report (commissioned by Magna Entertainment Corp.) based its maximized revenue projections on an assumption that the physical facilities will be "competitive with, if not superior to, other regional competitors."[2] To the extent facilities are not competitive with other facilities, then revenues would be some amount less than maximum but barring unusual circumstances, still positive.

## Private or Public Financing

Private market financing for privately developed VLT facilities is one option. Another option is public financing. The State could finance construction of VLT facilities through a public entity such as the Stadium Authority or Maryland Economic Development Corporation (MEDCO) using tax exempt or taxable debt. Taxable bonds carry a higher interest rate than tax exempt bonds, so repayment on taxable bonds would be more expensive over time. However, current market rates show only 15 to 30 basis point spread between tax exempt and taxable debt.[3] Whether taxable or tax exempt, public debt is significantly less expensive than private financing. If cash reserves were available, the State could also use PAYGO (pay-as-you-go) funds to reduce or eliminate borrowing.

Public ownership of the property is required for tax exempt debt; a long-term leasehold interest in the property is sufficient for taxable debt (i.e., private property with publicly financed VLT facility). If a VLT facility is publicly financed, then the State could choose to operate the facility directly or award a private contract for management of the facility.

The Capital Debt Affordability Committee monitors debt issuances for the State and determines if debt is within the statutory criteria of affordability. Tax supported debt issued by public entities is included in the calculations for affordability. Debt issued by the Maryland Stadium Authority is included in the affordability calculation; MEDCO debt is not considered explicit State debt and so is not included in the calculation. Under the affordability criteria, the State has significant additional debt capacity of $1.25 billion.[4]

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[2] Innovation Group Report, January 2003, p. 22.
[3] *Effect of Long Term Debt on the Fiscal Condition of the State*, Department of Legislative Services, November 2003, p. 60.
[4] *Effect of Long Term Debt on the Fiscal Condition of the State*, p. 35.

## Temporary Facilities

Another question is whether to use temporary facilities prior to opening permanent facilities. The use of temporary facilities allows VLTs to begin operating and revenues to begin flowing before and during construction of the permanent facilities, which generally takes one to two years. In Ontario, Canada, the revenues from temporary facilities have been used in part to finance the construction of permanent facilities.

Depending on the type of temporary structures used, minimal food and beverage service may be available. In addition, space may be constrained, limiting the number of VLTs, which may also reduce the amount played and the frequency of return visits. This would result in revenues below full market potential in the short term. However, as estimated by the Innovation Group, assuming a capacity-constrained environment, in which the number of VLTs in Maryland would be limited under any scenario, win per visit would remain relatively high at $62 (assuming 2,000 VLTs at each of Pimlico, Laurel Park, and Rosecroft) in a temporary facility. This estimate is only slightly lower than the estimate of a $65 win per visit in a permanent facility (assuming 2,500 VLTs at the same three racetracks).[5] If the gaming experience in a temporary facility is negative, however, potential gamers may not return once permanent facilities are open. VLT operators would have a strong incentive to create a positive environment since smaller VLT revenues would affect their bottom line.

Although temporary facilities can be as simple as a modular building (i.e., trailer), temporary structures could be used at a site different than where the permanent facility will be located. In Ontario, several casinos have opened in temporary facilities that were housed in permanent structures. For example, one casino operated out of a retrofitted brewery for four years before moving to a permanent facility, and another is in temporary space in an old retail mall while a new facility is under construction.

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[5] Innovation Group Report, January 2003, pp. 16-17.

# Chapter 10. Social Costs and Economic Development Effects of Gambling

## Introduction

Social costs are the negative impacts to society resulting from individuals who have difficulty controlling their gambling. These gamblers are commonly referred to as problem and pathological gamblers. Problem and pathological gamblers may experience excessive rates of adverse consequences that have tangible economic costs. These include adverse family and health impacts, crime, employer costs, and government expenditures. Adverse family impacts include increased rates of domestic violence, child neglect and abuse, and divorce. Adverse health impacts include decreased mental and physical health as well as increased rates of suicide. Employer costs include absenteeism, lost productivity, and increased unemployment-related costs. Government expenditures include direct gambling regulatory costs, social service costs, and gambling treatment costs. Other potential costs include increased rates of bankruptcy for gamblers and unpaid gambling debts.

On the other hand, gambling benefits include economic development and job creation, increased tax revenues, and enhanced recreational opportunities. Ideally, the costs and benefits of gambling would be measured against each other. The resulting balance would indicate whether gambling had a beneficial or harmful net effect on society. The contentious issue of social costs and benefits has attracted many academic and government research efforts toward this end. These research efforts, however, have failed to provide a clear picture as to the relationship between gambling and social outcomes. Due to strong disagreements in methodologies and conclusions as well as the complexities in gambling social costs and benefits estimation, any estimate of gambling's net impact should be treated with extreme caution.

## Definitions of Pathological and Problem Gambling

Research typically classifies individuals as non-gamblers, low-risk, at-risk, problem, or pathological gamblers. These classifications are typically derived from the diagnostic criteria for gambling disorders, as described in the Diagnostic and Statistical Manual for Mental Disorders, fourth version (DSM-IV) of the American Psychiatric Association (1994). The diagnosis of pathological gambling was first included in the Diagnostic and Statistical Manual in 1980. Internationally, research and treatment professionals have adopted the DSM-IV as the diagnostic standard. An individual's diagnosis is based on how many criteria, out of ten, the respondent is reported as having as listed in **Exhibit 10.1**.

**Exhibit 10.1**
## DSM-IV Criteria for Gambling Classification

| | |
|---|---|
| Preoccupation | Is preoccupied with gambling |
| Tolerance | Needs to gamble in increasing amounts to achieve satisfaction |
| Withdrawal | Is irritable or restless when attempting to cut down or stop gambling |
| Escape | Gambles to escape from problems |
| Chasing | Returns often to get even after losing money gambling |
| Lying | Lies to family members and others about extent of gambling |
| Loss of Control | Makes repeated unsuccessful attempts to control gambling |
| Illegal Acts | Commits illegal acts to finance gambling |
| Risked relationships | Jeopardizes job, significant relationship, or educational or career opportunities as a result of gambling |
| Bailout | Relies on others to provide money as a result of gambling |

Source: Diagnostic and Statistical Manual for Mental Disorders, fourth version (DSM-IV) of the American Psychiatric Association (1994)

Low-risk gamblers report no criteria. At-risk gamblers have one or two criteria while problem gamblers have three or four criteria. The DSM-IV Criteria characterize pathological gambling as a "persistent and recurrent maladaptive gambling behavior that disrupts personal, family, or vocational pursuits" as evidenced by reporting five or more criteria (American Psychiatric Association, 1994, p. 615).

## Prevalence of Problem and Pathological Gambling

Pathological and problem gambling prevalence is frequently reported as either "past year" or "lifetime." The distinction is based on when, either within the past year or at any time, the individual reported the DSM-IV symptoms listed in Exhibit 10.1. Researchers are usually referring to lifetime prevalence rates when discussing the number of problem and pathological gamblers.

The National Research Council of the National Academy of Sciences (NRC) estimated national prevalence rates for different classifications of gamblers. **Exhibit 10.2** below lists the estimated past year and lifetime problem and pathological prevalence rates.

**Exhibit 10.2**
**NRC Prevalence Estimates, 1998**
**Percent of Adult Population**

| | Lifetime | Past Year |
|---|---|---|
| Problem Gambling | 3.9% | 2.0% |
| Pathological Gambling | 1.5% | 0.9% |
| Drug Abuse/Dependence | 6.2% | 2.5% |
| Alcohol Abuse/Dependence | 13.8% | 6.3% |

Source: National Research Council of the National Academy of Sciences (1998)

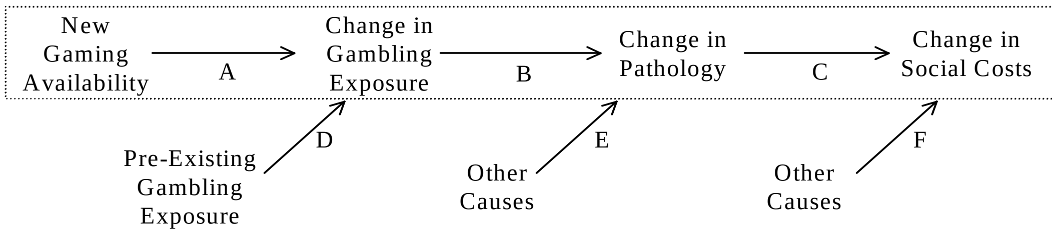
The National Gambling Impact Study Commission (NGISC) cited a Harvard study on alcohol and drug abuse in order to provide perspective on the scope of problem gambling. Exhibit 10.2 lists the estimated prevalence for drug and alcohol abuse/dependency in 1997, for comparison purposes.

Additional research has been focused on examining if problem and pathological-gambling prevalence rates differ among age, gender, social, and ethnic classifications. While existing research is not in total agreement, some studies have concluded that (1) a familial history of and early exposure to gambling are likely to increase the chances of developing gambling problems and; (2) prevalence rates are higher for minority men, especially adolescents, with relatively low levels of income and education.

## Estimating Social Costs

In **Exhibit 10.3**, the region inside the dotted line represents the standard theory typically employed to estimate gambling social costs. The addition of new forms of gambling increases gambling exposure, causing an increase in pathological and problem gambling rates. Social costs increase as the number of pathological and problem gamblers increase. Most studies, including the NGISC, employ this basic framework to estimate gambling social costs by (1) estimating the prevalence of pathological and problem gambling; (2) compiling a list of negative social outcomes caused by problem gamblers; (3) estimating the average social cost generated by each problem gambler; and (4) multiplying this average by the total number of gamblers to estimate the social cost of gambling.

**Exhibit 10.3**
## Standard Model of Gambling Costs




Source: Various sources, including testimony of Jonathan B. Taylor to Rhode Island Commission to Study Gaming, March 7, 2003

This estimation technique has several problems. First, while it is plausible that increasing gambling availability increases pathological and problem gambling, the magnitude of the change is unclear. In addition, estimates may not consider pre-existing gambling exposure and patterns. In Maryland, pre-existing gambling exposure includes legal and illegal gambling within the State, as well as slot machines accessible to Marylanders in nearby states. Given evidence of significant gambling in Delaware and West Virginia by Marylanders, it is likely that Maryland already bears the burden of gambling social costs.

Another serious flaw is the problem of comorbidity amongst gamblers. Comorbidity refers to the problem that pathological gamblers often have co-occurring addictions or mental health problems. Referring to ill social effects, the General Accounting Office (GAO) in a report in 2000 stated that “because pathological gambling in many cases is accompanied by other disorders, it is difficult to determine whether gambling is the only or primary factor causing these problems” to the extent that “even when an individual acknowledges that gambling contributed to a particular family or social problem, it is extremely difficult to determine exactly what caused the problem.” Numerous studies have established that pathological gamblers often have other behavioral disorders including personality disorders, substance abuse, and mood disorders or have experienced trauma in their lives. One study estimates that 78% of pathological gamblers reported other addictive or psychiatric problems, and 38.5% stated that addictive and psychiatric problems had increased the severity of their gambling. Gamblers can have other problems irrespective of their gambling activities that make them more prone to generating social costs. The NRC conducted a critical review of the existing literature on problem and pathological gambling in 1999. The NRC stated that it is not clear whether or not some problems observed in pathological gamblers may not be caused by gambling but by (for example) alcohol abuse. The NRC also stated that it is possible that pathological gambling is a symptom of other underlying disorders that would show up in other ways if gambling were not available. Many studies ignore comorbidity and therefore overestimate gambling social costs.

The third serious flaw is the difficulty in isolating gambling as the particular cause of social problems. Countless factors influence crime, for example. Typically, studies look at crime rates before and after gambling has been introduced in order to determine gambling's impact on crime. This analysis, however, can be misleading given that changes in other variables that influence crime rates such as drug use, education, and economic opportunities may also be responsible for the observed change in crime rates. Not accounting for changes in other variables that influence social ills will lead to an inaccurate estimate of gambling social costs.

In addition to these conceptual flaws, applying existing literature as a guide in determining whether authorizing VLT gambling in Maryland will cause social costs is problematic for the following reasons: (1) a paucity of reliable, unbiased studies and; (2) uncertainty if studies examining other non-VLT gambling activities are relevant and appropriate.

The difficulties in estimating gambling social costs are reflected in the conclusions of several important federal gambling studies. Neither of the GAO's studies in 2000 of Atlantic City and convenience gambling in several communities were able to conclude whether gambling causes social costs. The GAO stated that it was not able to "clearly identify the social effects of gambling on Atlantic City" and that "we found no conclusive evidence showing whether or not convenience gambling caused increased social problems." Not surprising, the title of the GAO's Atlantic City gambling study was "Economic Effects More Measurable than Social Effects." The NRC identified serious flaws in many studies and stated that in most gambling studies "the methods used are so inadequate as to invalidate the conclusions."

## Economic Benefits from Gambling

As with social costs, a lack of consensus exists over the classification and magnitude of benefits. Economic benefits differ by type of gambling. Convenience gambling – gambling that is typically located in bars and restaurants catering to local populations – is generally thought to have less economic benefit than gambling destination resorts. The latter is more likely to attract nonresidents who spend additional money at local, non-casino businesses.

Economic effects include job creation, investment stimulation, tourism development, and economic development and revitalization. Economic effects can be direct and indirect. A direct effect is the wages paid to casino employees. When a casino employee spends his or her wages in a local business, the owner of the business indirectly benefits from the casino. Another example of an indirect benefit is gasoline and other incidentals purchased from local businesses by tourists visiting casinos. These indirect effects comprise the "multiplier effect" of a gaming establishment. A gaming establishment's direct investments are "multiplied" throughout the community so that the total economic impact is greater than the direct effect.

The federal Bureau of Economic Analysis has estimated multiplier effects for an extensive range of industries. A multiplier for gaming establishments, however, has not been estimated. An imperfect proxy employed in many gaming studies is the multiplier for amusement and recreation facilities. In addition, another potential source of error results from difficulties in accurately measuring the direct effects of a gaming establishment. Incorrect estimates of direct effects will lead to incorrect indirect estimates.

The last benefit from gambling is the enjoyment that the majority of gamblers receive from the overall experience. The gain in utility these individuals receive from gambling is a benefit. The resulting “consumer surplus” associated with this enjoyment, however, is difficult to quantify.

## Netting Out Costs and Benefits

Several states have conducted studies to estimate the net costs and benefits of state gambling operations. Most studies estimate the prevalence of pathological and problem gambling and employ some or all of the cost estimates estimated by the NGISC. The State of Delaware, Health and Human Services 2002 study and the Louisiana Gambling Control Board’s 1999 Cost-Benefit Analysis of Gambling are two studies of interest.

Despite the expansion of slot machine gambling in the mid-1990s, Delaware’s rate of pathological gamblers was found to be “slightly lower” than the national average. The past year estimated prevalence of pathological, problem, and at-risk gamblers was 0.3%, 0.4%, and 5.8% respectively. Males were slightly more likely to be problem gamblers. Those aged 65 and over were less likely to be problem gamblers, and no statistically significant difference was identified for ethnicity. The number of at-risk gamblers, however, increased from 1988 to 2002 suggesting a potential future increase in the prevalence of pathological and problem gambling.

The study concluded that the “aggregate of the social costs of gambling appears to be relatively small compared with the economic benefits produced by the gambling industry.” The study offers several possible explanations as to why Delaware has a relatively low rate of pathological gamblers and therefore social costs. One of the explanations offered is that the study is not fully able to account for all of Delaware’s gambling patrons since many come from out of state. The report stated that “Delaware exports a substantial proportion of the costs and consequences of problem gambling to the surrounding states” and that “many out-of-state residents gamble in Delaware, but manifest the costs and consequences of gambling mainly in their home states.” According to this study, Maryland currently has more pathological gamblers and “substantial” social costs as a result of slot machine gambling even though slot-machine gaming is not legal in Maryland.

Gambling is a major industry in Louisiana. Louisiana has more forms of legalized gambling than any other state except Nevada. The lifetime prevalence rates for problem and pathological gamblers were estimated to be 3.3% and 2.5%. The past-year prevalence rates were estimated at 2.3% for problem gamblers and 1.6% for pathological gamblers. Unlike the Delaware study, substantial differences in prevalence rates were found to exist among ethnic and age subgroups.

The Louisiana study found that total benefits in the form of new tax revenues and new earnings totaled $1.1 billion. Costs included regulatory costs ($50 million) and measurable social costs ($481.5 million). Measurable social costs included employment costs, bad debts, and thefts as well as civil court, criminal justice, and treatment costs. The study concluded that the benefit-cost ratio of 2.08 justified continued legalization of gambling. A caveat to this conclusion was that the "lion's share of new spending" came from Texas residents, and if Texas legalizes casino gambling the benefit-cost ratio would reverse and gambling would become a net negative industry in the state. This conclusion, along with Delaware's study, suggests that states maximize their gambling industry benefit-cost ratio by locating gaming venues in areas that maximize the number of out-of-state gaming patrons.

# Chapter 11. Local Approval and Taxation of Video Lottery Terminal Operations

## Introduction

The role of local governments in the approval and development of any video lottery terminal (VLT) facilities in Maryland will clearly be the subject of considerable debate. This chapter reviews the practices of other states regarding the local role in initiating or expanding gambling. The chapter also reviews current Maryland law, to the extent it exists, that would be applicable to initiation of VLTs in Maryland.

## Local Approval: Experiences in Other States

Many states require some type of local approval in order for VLT facilities or full-fledged casinos to operate in local jurisdictions. Additionally, voters have a say in any statewide approval that may be required for the establishment or expansion of gambling. Local consent, by an act of the voters, their local governing bodies, or both, can take various forms. A state constitution or statutory provision authorizing gambling can require approval by local referendum before a facility can be licensed to operate in a county, municipality, or other local jurisdiction. Instead of approval by the voters, a local governing board may be required to pass an ordinance approving gambling in the jurisdiction. In some cases, the local ordinance is then subject to a local referendum. In cases where gambling licenses are competitively awarded, it is essential to have some form of support from the host jurisdiction if a bid is to be successful. Finally, in most states that allow VLT and casino gambling, facilities must receive local planning and zoning approval prior to construction of gambling operations.

One recurrent principle throughout the array of state gambling policies is the recognition that local communities should have some input into whether and where gambling is permitted in their jurisdictions. In some states, an affirmative act by the voters is required. In Rhode Island, VLTs are currently permitted at two pari-mutuel facilities in Newport and Lincoln Park. Under the state constitution, local voters must approve any expansion of VLTs or other forms of gambling into a new municipality. Additionally, a constitutional amendment must be ratified by the voters in order for casinos to be allowed. In Iowa, which has slot machines at racetracks, approval is subject to local referendum.

In other states, VLT or casino operations must be approved by the local governing board of a county or municipality. In Illinois, which has riverboat gambling, casino licenses are not subject to local referendum. However, prior to the issuance of a casino license, the governing body of the county or municipality must by majority vote approve the docking of the casino. Likewise, in Louisiana, racetracks can switch from video poker to slot machines only with local approval.

Most states, at a minimum, subject VLT facilities and casinos to local planning and zoning processes. Delaware, New York, Rhode Island, and Illinois, for example, all allow for local planning and zoning approval. The one case in which no local approval or input is permitted is for Indian gaming. Indian casinos must be on lands of federally recognized Indian tribes and as "sovereign nations," these Indian lands are governed by federal law and are not subject to local planning or zoning rules.

## Local and Statewide Approval Options in Maryland

Video lottery terminals and casinos may be authorized in Maryland through a public general law, a constitutional amendment, or a combination of the two. If the General Assembly wished to make an expansion of legalized gambling contingent upon the approval of Maryland voters, a constitutional amendment is the only practical way to do so. In 1995, Attorney General J. Joseph Curran, Jr. stated in a letter to Joseph D. Tydings, Chairman of the Joint Executive-Legislative Task Force to Study Commercial Gaming Activities in Maryland, that legislation authorizing, regulating, and taxing commercial gambling "would constitute a public general law that, under the constitution, cannot be conditioned on a statewide or local referendum." *80 Opinions of the Attorney General* (Opinion 95-050, November 15, 1995) (see **Appendix 2**). He further noted that legislation taxing commercial gambling and dedicating the tax revenues for specific purposes could not be petitioned to statewide referendum. *Id.* at 1.

Attorney General Curran stated in his opinion that a constitutional amendment authorizing commercial gambling would be permissible, noting that "[t]here are few, if any, restrictions on what may be included in a state constitution." *Id.* at 3. The Attorney General did concede that it would be "unprecedented" to include the level of detail necessary to create the framework to establish and regulate gambling in a constitutional amendment. *Id.* A concern not raised by Curran's opinion is that the Maryland Court of Appeals has recognized a distinction between a "constitution" and a "law." A constitutional amendment containing an extreme level of regulatory detail could be challenged as a violation of the constitutional provision prohibiting the General Assembly from "re-delegating" its law-making power to the people through legislative referendum. In his opinion, Attorney General Curran suggests that a public general law establishing and regulating VLT facilities or casinos could be made contingent upon the approval of a constitutional amendment that expressly authorizes commercial gambling. *Id.*

The General Assembly has more latitude to craft legislation that would permit a local governing body and local voters to approve a VLT facility or casino in their jurisdiction. In the same opinion to the Tydings Task Force, the Attorney General stated that even though the legislature cannot make the authorization of gambling in a single locality contingent on a local referendum, it can require that gambling in a jurisdiction be contingent on the enactment of a local ordinance. *Id.* at 7. In the legislation, the General Assembly can further permit the local ordinance to be petitioned to referendum by the voters. Additionally, if a constitutional amendment is passed, the amendment can require a local referendum or even a statewide referendum prior to the approval of the operation of a VLT facility or casino.

## Local Taxation Issues

Local governments generate revenues from VLT facilities and casinos operating in their jurisdictions in a variety of ways. As outlined in Chapter 7, many local governments receive some share of the state taxes collected on gambling proceeds. This distribution is in part to compensate localities for the increased costs in infrastructure, law enforcement, and other social costs resulting from gambling operations. In addition, some local jurisdictions receive revenues from an admissions tax applied to gambling establishments. In Illinois, for example, host communities receive $1 of the admissions tax attributable to the licensee within its jurisdiction. Some localities may also impose their own license fees. In Nevada, counties impose a quarterly or annual license fee for each slot machine.

As with the development of any other business, the localities would receive real and personal property tax revenues from gambling facilities. Whether any personal property tax would apply to the VLTs may depend on who actually owns the machines, the state or the facility licensee. In other states, local admissions and amusement taxes may also be applicable to entertainment and refreshments provided at gambling facilities, although generally not to the revenues generated by the slot machines themselves. Under Maryland law, VLT revenues would be subject to the admissions and amusement tax unless a specific exception was granted.

# Appendix 1

Much of the comparative information presented in this report is derived from in-depth examination of a selected group of states (and a Canadian province) with gambling. These jurisdictions were selected because of the variety of approaches they have taken to gambling. This appendix provides more details about the structure and nature of gambling in each jurisdiction. They are as follows:

- Nevada
- Connecticut
- Delaware
- New York
- Illinois
- Rhode Island
- Ontario

# Nevada Gambling Information

## Types of Gambling

Virtually all types of games are permitted. The state's list of approved games includes slots, video poker, 21, baccarat, mini-baccarat, craps, roulette, keno, Caribbean stud, Let It Ride, race book, sports pools, poker, pan, etc.

## Types/Numbers of Locations

An unrestricted gaming license allows an operator to offer all approved games in a casino facility. A restricted gaming license allows operation of up to 15 slot machines and no other games (with different tax/fee structure) at certain facilities: grocery stores, drugstores, bars, convenience stores, and liquor stores. (Previously, a restricted license could be used to operate slots in any establishment; existing licenses are grandfathered.)

There is no limit on the total number of machines in the state. The initial application for gaming licenses will indicate the number of machines (and/or gambling positions) the operator expects to operate. If the control board has questions or concerns about the particular application, that license may be limited (or conditioned) to a certain number of machines or positions. But in general the operator may operate more machines than were in the initial application and add machines subsequently.

Number of slot machines:

| | |
|---|---:|
| Restricted | 19,995 |
| Unrestricted | 192,498 |
| **Total** | **212,493** |

(Control board data on other non-slots games also available.)

There is no limit on the number of machines at an individual facility. The largest facility (MGM at The Strip) has approximately 5,000 machines; the smallest restricted facilities may have just a few. The average casino on The Strip has approximately 2,000 machines.

Site location is determined by the private operators.

## Ownership/Regulation and State Oversight

Gambling existed in Nevada unrestricted early in the twentieth century and became regulated in the mid 1950s. Gambling facilities are built, owned, and operated by private firms in Nevada, under state regulation. The Nevada Gaming Commission (part-time commissioners) oversees the State Gaming Control Board (regulatory agency). The control board has a budget of approximately $30 million and 432.5 employees. The control board is responsible for: deciding whether a new gambling facility may be initiated; deciding which individuals or companies may be involved in casino operations; collecting revenues from casino operations; and overseeing operations from a public safety and consumer protection perspective.

## Licenses/Licensing Process

Applicants must file a state license application. In some counties, they must also file a local application, the extent of which varies by county. The state application process can take between six months and two years, depending on the complexity of the application and the number and nature of the applicants. The state and local processes run simultaneously. The local application process is intertwined with any local zoning processes.

There is no fixed number of licenses, so applications are considered on a case-by-case basis as they are received. Applications are reviewed based on the character and history of the applicant, and the likely viability and suitability of the proposed operation.

Unless subject to a time-limit condition, licenses have no fixed duration and continue in force so long as the licensee pays the required taxes and fees. A license can be revoked for improper conduct; however, that is done very rarely. If ownership of a facility is transferred, a new license is required.

The application must state the physical size of the facility, the theme and design, the name, the number and type of positions, and the amount of capital investment. A layout of the facility (such as blueprint or architectural design) must be provided. The applicant's source of financing and estimated construction costs must be included, as well as a business plan indicating expected revenues and expenses during the first year.

However, once the application is approved (and so long as no conditions are attached to it), the applicant can change any of these terms, including the number of positions or machines, and the amount of capital investment.

The applicant may start construction prior to approval of the license application, at the risk of the license being denied. If an application has been approved, temporary structures are permitted, so long as the temporary facility and permanent facility are connected prior to the opening of the permanent facility. In general, temporary facilities are rarely used because of the availability and proximity of competition in permanent facilities.

As indicated above, the application process can range from six months to two years. Application fees for an unrestricted facility are $500 for each person or entity to be approved, plus reimbursement of the control board's expenses (e.g., travel expenses, and $70/per investigating agent/per hour). Total application costs may equal $15,000 to $20,000 for a simple application, or $100,000 to $200,000 for a more complex application.

Normally, construction development runs concurrently with the local and state license application processes, with the goal of being up and running immediately upon license approval. Licenses must be "activated" (by actively operating the casino) within six months of the approval.

There is no state protection from competition among licensees. Some local jurisdictions, as part of the zoning process, prohibit new gaming facilities that are too close (within a certain number of feet) from existing gaming facilities.

However, since approximately 1999, the state will not permit new licensees in the counties that include Las Vegas and Reno unless the license is for a "resort destination" facility, which has been defined by regulation to mean a facility with at least 200 hotel rooms. The purpose of the legislation is to restrict the proliferation of smaller facilities in those counties and to concentrate gaming in those counties at larger resorts.

In Nevada, the large casinos are almost entirely self-operated. There are very few contract operations. If the operation is contracted out to provide the operator a share of the revenues or profits, then the operator must also obtain a license.

The restricted licensees often use "route operators" who own and operate the slot machines at bars and restaurants and pay a share to the facility owner. In that case, both the facility owner and the route operator must have licenses (a restricted and unrestricted license, respectively).

## Payout Percentage and Win per Day

Average statewide win per day per machine is approximately $90; it varies somewhat seasonally. Win per day ranges from approximately $120 per day (at The Strip) down to $65 per day in the smaller, more rural areas.

Minimum legal payout is 75%. Recent average payout was 94.5%. Aggregate payout for various regions of the state is reported monthly, which encourages competition. While the control board has all the necessary data (for audit purposes) to compute payout of individual operators or facilities, they do not compute or publish such data. (Operators also advertise and promote based on payout, subject to verification by the control board. Various industry sources also attempt to calculate and publish payout data.)

## Local Referendum/Regulation (Planning and Zoning, etc.)

State law permits gambling in all local jurisdictions except one (Boulder City). No referendum is required or permitted.

Local governments receive a small portion of the dedicated revenue from the annual slots license fee. The total amount of the local share is $2.8 million, divided equally among the 17 counties. In addition, counties may impose (and most do impose) a quarterly or annual license fee for each slot machine. The fees vary by county. Most are a flat fee per machine; however, Clark County, which includes Las Vegas, imposes a percentage fee.

Any local infrastructure impact is addressed in the local gaming application and may result in the applicant being required to provide assistance to the local government to finance any infrastructure costs.

## Project Development/Financing

The state does not provide any assistance in the financing of gaming facilities, either in the form of grants or tax credits.

## Revenue Distribution

All revenues accrue to operators after payment of required fees and taxes as follows. Slot machines operated under a nonrestricted gaming license pay:

- annual tax of $250 per machine (dedicated revenue stream)
- quarterly license fee of $20 per machine (to GF)
- monthly percentage fee based on gross gaming revenue (to GF):
    - 3% of first $50,000 during the month;
    - 4% of next $84,000; and
    - 6.25% of revenue exceeding $134,000.

Slot machines operated under a restricted gaming license (15 or fewer machines) pay:

- annual tax of $250 per machine (dedicated revenue stream)

- quarterly license fee on sliding scale based on number of machines (average = $84 per machine) (to GF)

**Fiscal 2002 Win and State Revenue Data**
**($ in Millions)**

| | Slots | Other Games | Total |
|---|---|---|---|
| Operator win | $6,201.2 | $3,099.1 | $9,300.3 |
| State tax | | | |
| Percentage fee | $371.6* | $183.0* | $554.6 |
| Entertainment tax | -- | 64.8 | 64.8 |
| Qrtly nonslot tax | 15.5 | --- | 15.5 |
| Qrtly games tax | --- | 7.2 | 7.2 |
| Qrtly res. slot tax | 6.7 | -- | 6.7 |
| Annual slot tax | 54.3 | -- | 54.3 |
| Annual games tax | -- | 2.8 | 2.8 |
| Other collections | -- | 5.6 | 5.6 |
| **Total state tax** | **$448.1** | **$263.4** | **$711.5** |
| Slots/nonslots split | 63.0% | 37.0% | |
| Taxes as % of win | 7.2% | 8.5% | 7.7% |

* Imputed split between slots and other games; actual aggregate data not available.

Source: Nevada Gaming Control Board; Department of Legislative Services

As noted above, a minimal percentage of the license fee is dedicated to the counties.

## Economic Impacts (Jobs, Tax Revenues, etc.)

For casinos with revenues of more than $1 million annually (which is most of them), total employment last year was approximately 191,000 people.

## Problem Gambling/Consumer Protection

No gambling tax revenue is dedicated to programs for gambling social costs.

Casinos are required to make available certain informational materials about problem gambling to their patrons; the extent to which they do so varies by casino.

*Nevada Gambling Information*

There is no dedicated tax revenue source for gambling counseling and assistance. The Nevada Council on Problem Gambling is a nonprofit organization that provides counseling and assistance to problem gamblers. It is funded by voluntary contributions, primarily from the large casinos. One source estimates that there are probably only several specialized gambling counselors in the entire state.

Playing patrons must be 21; however, there is no requirement that IDs be checked.

The state recently required that the casinos offer self-limit programs; however, this program is new and one source questions whether it is being vigorously implemented by the casinos.

Policies regarding “comps” are governed by the individual casinos.

Policies regarding free or reduced price alcohol are governed by the individual casinos. Casino employees and managers presumably have been trained to identify gamblers who have “lost control” but such decisions are left to the individual casinos, managers, and employees.

Casinos can be open 24 hours per day, 365 days per year.

**Information based on public data provided by the Nevada Gaming Control Board and telephone interviews with control board staff (Bev Myers and Frank Strechley).**

**Information on social impact of gaming from University of Nevada – Reno, Institute for the Study of Gambling and Commercial Gaming (Judy Cornelius).**

# Connecticut Gambling Information

## Types of Gambling

The main forms of gambling in Connecticut are: Native-American-run casinos, lottery, pari-mutuel betting (Greyhound Racing and off-track betting), and bingo (nonprofit).

## Types/Number of Locations

The following table illustrates the magnitude of gambling operations in Connecticut in fiscal 2001 through 2002 (except for Native-American casino table games, which do not contribute to the state). Jai Alai has recently been discontinued.

**Gambling in Connecticut**
**(Fiscal 2001 through 2002)**

| Form of Gambling | Wagering Revenue | Amount Transferred to General Fund |
|---|---|---|
| Slot machines, Foxwoods Casino | $9,917,836,740 | $199,038,210 |
| Slot machines, Mohegan Sun Casino | 8,264,168,135 | 169,915,956 |
| Lottery | 907,903,268 | 271,509,680 |
| Off-track Betting | 276,349,625 | 5,736,901 |
| Charitable Games | 51,432,005 | 1,284,454 |
| Plainfield Greyhound Park | 14,645,337 | 162,945 |
| Milford Jai Alai | 13,054,755 | 137,764 |
| Bridgeport Shoreline | 3,717,293 | 41,969 |
| **Total** | **$19,449,107,158** | **$647,827,879** |

Source: Connecticut Division of Special Revenue (DOSR), "At a Glance" (http://www.dosr.state.ct.us)

Casinos and slots are allowed only on the Indian lands. According to the Division of Special Revenue (DOSR), there is no cap on the number of slot machines the Indian casinos may have, since they are "sovereign nations." DOSR reports that in June 2003 there were 6,587 slot machines at Foxwoods Casino and 6,169 slot machines at The Mohegan Sun. The Mohegan Sun and Foxwoods Casino both also offer table games. For example, The Mohegan Sun web site lists many table games totaling over 238 tables (116 of which are Blackjack and 22 of which are Craps). It also offers Keno (with one game called every five minutes) and has a Race Book betting facility. Foxwoods Casino's web site claims 350 table games, the world's largest bingo hall, Keno, and an Ultimate Race Book betting facility.

There are additional Indian tribes that have sought federal recognition that could potentially ask to open a casino. It is unclear how that would affect the current revenue sharing arrangement between the state and the two Indian casinos, which requires exclusivity. It has been speculated that the existing casino operators might agree to expand the exclusivity to the new tribes in exchange for some benefit, such as a lower contribution to the state. The state recently repealed its statute that allowed nonprofit gambling. This was done in an effort to prevent being legally obligated to authorize new Indian casinos.

Connecticut has a long-standing moratorium on licensing expansion of other (pari-mutuel and off-track betting) gambling facilities. The few facilities that do exist were established in the 1970s. DOSR does not think the moratorium on other (non-Indian) new gambling facilities will be lifted any time in the near future.

## Ownership/Regulation and State Oversight

Casinos/slots are allowed only on lands of federally-recognized Indian tribes. Class III (casino) gambling is allowed only if the state itself allows Class III gambling. The tribe and State must, pursuant to federal law, then negotiate a compact or the U.S. Secretary of the Interior must approve regulatory procedures and the tribe must adopt a tribal gaming ordinance.

The two Indian-operated casinos in Connecticut are the Mohegan Sun and Foxwoods Casino, both of which had over $1 billion in revenues in 2002, with the majority of gambling revenues (around 80%) from slots.

The legality of slots on Connecticut Indian lands has been subject of much debate. The debate hinges on the federal Indian Gaming Regulatory Act (IGRA) that allows federally recognized Indian tribes to negotiate for certain types of gambling permitted in the state in which they are located. IGRA allows tribes to negotiate for “Class III gaming” (which includes casino-type gambling) on Indian lands if the State itself permits such gambling. The definition of whether Connecticut did allow “such gaming” has been strongly debated. In 1990, the U.S. Court of Appeals for the second Circuit found for the eventual operators of the Foxwoods Casino that a Connecticut statute that allowed charities to hold Las Vegas Nights with nonmonetary prizes, met the standard. (Connecticut has since repealed the Las Vegas Nights statute as part of an effort to block more casinos from opening). As a result of this holding, The Mashantucket Pequot Tribe (which had originally operated only a bingo hall) was allowed to open Foxwoods Casino with table games in 1992. In 1993, a deal was struck with the state to give 25% of slot proceeds if Foxwoods were assured a monopoly in the state on slots and Foxwoods began slots operations. In 1994, the Mohegan Tribe was federally recognized and also sought to open a casino. During negotiations for a compact between the Mohegan Tribe and state, the Mashantucket Pequots expanded slots exclusivity to the Mohegan Tribe if the exclusivity were broadened to all forms of casino gambling (both slots and table games). The Mohegan Sun Casino, including video slots, opened October 1996.

The first level of regulation of the Indian casinos is through the Indian tribe. Each tribal government regulates gambling on their reservations through their own Tribal Gaming Commission that is tasked with keeping the operations in compliance with local ordinances and state compacts. The second level of regulation is the state, which has regulatory authority only to the extent negotiated with the tribe. The third level is the National Indian Gaming Commission, operating since 1993, which oversees regulation of Indian gaming.

In Connecticut, DOSR is the state entity tasked with ensuring integrity in legalized gambling within the state and tribal nations. It performs licensing and permitting of all legalized gambling and monitors compliance with gaming laws and Tribal-State agreements. The Tribal-State agreements allow for state regulatory personnel to be assigned to and have an office at each casino. The tribe funds the state regulatory involvement in the casino. The agreement gives the state (through DOSR) authority to:

- monitor/audit table games and slots;
- witness money box drops from slots; and
- license all gaming personnel (from the lowest janitor to highest executive), including vendors. Background checks are conducted by the Connecticut State Police.

DOSR is involved with the testing of slot machines and randomly checks them to ensure proper operations. It also monitors placement and location of machines.

Additionally, the Connecticut State Police has criminal jurisdiction on each reservation and has an office at each. The Connecticut Division of Liquor Control conducts inspections.

## Licenses/Licensing Process

Casinos may be operated only on Indian lands. The time required to negotiate a casino license depends upon the following process: the IGRA established that the state is obligated to negotiate compacts with federally recognized Indian tribes to lay out conditions, regulations and limitations for Class III gambling. If the state refuses to negotiate or is found not to negotiate in good faith, tribes may sue for federal mediation. If the state refuses mediation recommendations, the Secretary of the Interior establishes the procedures. The license period is indefinite for Indian casinos.

There is currently a moratorium on licensing other (non-casino) gambling facilities. Existing pari-mutuel licenses are periodically reviewed.

## Payout Percentage and Win per Day

DOSR does not publish data on table games but does on slots. DOSR data show that Foxwoods Casino video slot machine wins for June 2003 (latest data) averaged $2,231,355 daily ($339 daily per machine) and the Mohegan Sun's video facsimile/slot machine wins for June 2003 (latest data) was $2,187,231 daily ($354 daily per machine).

## Local Referendum/Regulation (Planning and Zoning, etc.)

Casino/slots operations must be on lands of federally recognized Indian tribes. No local planning or zoning rules apply to casinos/slots, as they are on Indian lands and therefore "sovereign nations."

As mentioned above, there is a moratorium on licenses for other gambling facilities. When licensing of pari-mutuel facilities was allowed, there was a requirement for a local referendum. Off-track betting required local approval (e.g., by a city council). Licensing of these facilities was reportedly a very lengthy and contentious process.

## Project Development/Financing

The Indian tribes own the land, casino building, and hotel facilities. These were all new facilities.

Financing information is available for the Mohegan Sun Casino, because it is publicly held. The Mohegan Sun Annual Report states that operating activities are a significant source of cash flows, but that Mohegan also uses external sources for investing requirements. Such external financing was needed for the recent Project Sunburst construction project, a $1 billion expansion of the Mohegan Sun Casino. External financing included both collateralized credit (obtained through banks) and uncollateralized credit (in the form of redeemable notes).

The Mohegan Sun had once contracted for management of the casino in exchange for a share of the revenue but has since terminated the agreement. The Mohegan Sun's management agreement with Trading Cove Associates (TCA) gave TCA management, operation, and marketing of Mohegan Sun for a management fee of 30% to 40% of net income (before management fees), depending upon profitability. Mohegans and TCA agreed to terminate the management agreement and replace it with a "Relinquishment Agreement" in 2000, upon which the Mohegan Tribe resumed management of the operation. To compensate TCA for termination of the management agreement, the Mohegans agreed to pay TCA 5% of gross revenues generated by the Mohegan Sun during the 15-year period ending yearend 2014.

## Revenue Distribution

Indian Casinos give 25% of gross slot win at Indian casinos to the state of Connecticut on a monthly basis. (The state does not get any cut of the table game operations.)

Casino compensation to areas surrounding the casinos is required only as negotiated in a compact or other agreement. For example, in 1994, the tribe operating the Mohegan Sun entered into an agreement to pay the town of Montville a recurring annual payment of $500,000 to minimize the impact on the town resulting from decreased tax revenues on reservation land. Also, the tribe made a one-time payment of $3 million toward infrastructure improvements to the town's water system. DOSR did not think that the Foxwoods Casino made any similar compensation to the immediately surrounding community.

Contributions to the cost of infrastructure surrounding the casinos may be negotiated. DOSR reports that the tribes have cooperated with the Connecticut Department of Transportation to address traffic issues.

The DOSR web site reports that, for greyhound betting, PA 93-332 changed the tax rate for wagering to the following: 2% on handle up to $50 million; 3% on handle over $50 million up to $80 million; 4% on handle over $80 million; and a tax equal to "½ breakage to the dime" resulting from the wagering.

DOSR reports that off-track betting generates a significant amount of money for the state. However, the DOSR contact was unsure of the precise formula.

## Economic Impacts (Jobs, Tax Revenues, etc.)

Note: DOSR is supposed to prepare a gambling impact report every seven years (including this year). However, due to budget constraints, they were unable to fund the estimated $600,000 to $700,000 project. As a result, there is no current state-sanctioned analysis of the impact of the Indian casinos available.

The casinos have had a significant impact on employment. Foxwoods Casino claims 11,000 employees, and the Mohegan Sun claims 9,500 employees. The Mohegan Sun gives hiring preference to Native Americans, (except for certain "key employees"). In staffing the Project Sunburst expanded facilities, preference was to be given first to Mohegans, then to other Native Americans, then to others.

Despite the high casino employment numbers, there are some reports that casinos have not benefited nearby businesses such as hotels and restaurants because these are offered at casinos which have a cost advantage because they do not have to pay tax.[1] There are also reports[2] of traffic problems and of the need for surrounding towns to provide additional police to monitor for drunks leaving the casinos and medical personnel for accidents. There have been reports of increased prostitution and pornography stores near casinos, as well as increased crime rates, increased DUIs, and decreased property values.

Indians who live and work on reservations are exempt from paying state income and property taxes. No local taxes are required from casinos, but operators may voluntarily provide grants to surrounding communities. Admissions or amusement taxes are not required by statute, but DOSR reports that they may voluntarily pay some taxes on liquor and tobacco.

## Problem Gambling/Consumer Protection

DOSR has a confidential toll-free legalized gambling hotline for reporting complaints or incidents of abuse involving gambling.

DOSR is tasked with efforts to create public awareness of prevention, education, and treatment for the chronic gambler. DOSR informs the public of treatment programs for chronic gambling (per section 12-563(a) of the Connecticut General Statutes) and insures funding for such programs is available (per Section 17a-713(b) of the Connecticut General Statutes). The state of Connecticut Department of Mental Health and Addiction Services has established a program for treatment and rehabilitation of chronic gamblers.

Operators of greyhound and OTB facilities are required to pay a monthly fee for funding the chronic gamblers treatment and rehabilitation program. The Foxwoods Casino and Mohegan Sun Casino web sites both have links to the Connecticut Council on Problem Gambling, a private organization affiliated with the National Council on Problem Gambling.

The DOSR contact says age restriction limits at Indian casinos are up to the tribe but thinks the limit is 21 years. No minors are allowed to wager at pari-mutuel facilities. DOSR was unaware of any such requirement to limit ATM withdrawals at casinos. Casinos may and do provide gamblers in hotel, food, and drink.

1 Joe Miksch, "Connecticut's Crap Shoot" (Hartford advocate at www.hartfordadvocatecom/gbase/News/content?oid=oid:1063, downloaded August 1, 2003).

2 Joe Miksch, "Connecticut's Crap Shoot" (Hartford advocate at www.hartfordadvocatecom/gbase/News/content?oid=oid:1063, downloaded August 1, 2003).

## Competition/Marketing

The Mohegan Sun Annual Report claims that the existing gambling industry in the northeastern United States is highly competitive, and that Mohegan competes primarily with Foxwoods and, to a lesser extent, with Atlantic City. Mohegan claims that Foxwoods has the advantages of having been operating longer and has greater financial resources and operating experience. Also, Foxwoods had been offering amenities, including hotel and convention center, only recently available at Mohegan Sun. To compete, the Mohegan Sun initiated the Project Sunburst facility expansion in order to broaden beyond day-trip customers to include guests staying overnight at the resort. The Mohegan Sun claims it now competes more directly with Atlantic City and, to a lesser extent, gambling resorts such as those on the Gulf Coast of Mississippi, and Las Vegas. However, Mohegan claims that many of these competing resorts have greater resources and name recognition than the Mohegan Sun.

DOSR notes that there is another Indian tribe that is pursuing federal recognition which, if successful, could possibly pursue opening a casino.

***Connecticut Gambling Information***

# Delaware Gambling Information

## Types of Gambling

- Horse Racing (Simulcasting and Off-track Betting)
- Lottery
- Racetrack VLT Facilities
  - Harrington Raceway
  - Dover Downs
  - Delaware Park

## Types/Numbers of Locations

There are currently authorized 7,500 allocated machines equally between three venues, but no venue has the maximum right now. Delaware Park and Dover Downs each have 2,000 machines, and Harrington has approximately 1,300 machines. Recently, the state authorized an extra 500 at each track.

## Ownership/Regulation and State Oversight

VLT Facilities are regulated by the Lottery Commission. All VLT machines and the central computer are owned/leased by the state and under the regulation of the Lottery Commission.

## Licenses/Licensing Process

License has no duration unless ownership is transferred. Minimal licensing fees.

## Payout Percentage and Win per Day

Prize payouts range from 87% to 95% unless the State Lottery Director authorizes otherwise.

- Win per day at most successful facility: $741,000/day

- Win per day at least successful facility: $90,000/day

## Local Referendum/Regulation (Planning and Zoning, etc.)

VLT facilities are subject to local planning and zoning.

## Project Development/Financing

Project financing is reviewed by the State Lottery Director.

## Revenue Distribution

Gross proceeds after payouts to players were approximately $524 million in fiscal 2003. Approximately 35% ($184 million) was distributed to the state; 39% ($254 million) was distributed to the racetracks; 11% ($58 million) was distributed to purses; and the remaining 5% ($28 million) to cover administrative costs/vendor fees.

## State Share

State share is progressive:

- 12.5% of average daily win not exceeding $25,000
- 15% of average daily win not exceeding $25,000 but not in excess of $50,000
- 20% between $50,000 and $75,000
- 30% of win in excess of $75,000

Additional state share of net win:

- 12.27% of net win from Harrington
- 12.59% of net win from Dover Downs
- 12.73% of net win from Delaware Park

Additional surcharge:

- Newly instituted 1.25% state surcharge on net win from each venue

After state share, purse distribution:

- 10% of average daily win not exceeding $25,000
- 20% of average daily win not exceeding $25,000 but not in excess of $50,000
- 20% of all net proceeds after state share if average daily win exceeds $50,000

## Economic Impacts (Jobs, Tax Revenues, etc.)

1,200 jobs at the three VLT facilities

## Problem Gambling/Consumer Protection

One percent of state share of net win is dedicated to programs for problem gamblers and is budgeted by the Department of Health and Social Services as contractual.

Self-exclusion policies are authorized by regulation.

# *Delaware Gambling Information*

# New York Gambling Information

## Types of Gambling

- Horse Racing (Simulcasting and Off-track Betting)

- Lottery

- Indian Casinos

  - Two authorized by compact with the State: St. Regis Mohawk Tribe Akwesasne Mohawk Casino, Oneida Indian Nation Turning Stone Casino

  - Six authorized by Chapter 383 of 2001 (three for the Senecas and three in the Catskills): Seneca Indian Nation Niagara Falls Casino in operation, Senecas looking in Buffalo and other parts of western New York, and other tribes in negotiations with the state for three sites in the Catskills

- Racetrack VLT Facilities

  - Eight authorized but none in operation – no applications received as of September 2, 2003

## Types/Numbers of Locations

***Mohawk Akwesasne:*** There are table games and 140 class 2 machines (bingo) but no lawful slots. The facility operates 350 unlawful slots and prosecution falls under the U.S. Attorney General.

***Oneida Turning Stone:*** There are table games and no slots. They also operate 1,400 instant multigames that are Keno-type based electronic games.

***Seneca Nation Niagara Falls:*** 2,600 slot casino, slots were authorized by Chapter 383 of 2001.

***Racetrack VLT Facilities:*** No applications have been received.

***Vernon Downs:*** Newspaper report that Mid-State Raceway, Inc – owner of Vernon Downs (harness track) will open on a 32,000 square foot facility by the end of December with 1,100 machines (five miles from Turning Stone).

***Aqueduct:*** Newspaper report that New York Racing Association (NYRA) has contracted with MGM/Mirage to operate VLT at Aqueduct Race Track in New York City. The NYRA expects to install 4,500 at the track.

***Finger Lakes:*** Newspaper report that VLT facility will be opened at Finger Lakes Race Track in February 2004 with 1,000 machines.

***Saratoga/Batavia Downs:*** Newspapers report VLT facility development and construction at these two racetracks.

## Ownership/Regulation and State oversight

***Indian Casinos and Horse Racing:*** regulated by the New York Racing and Wagering Board

***Racetrack VLT Facilities:*** Chapter 383 of 2001 provided that VLTs at the racetracks will be regulated by the lottery commission. All VLT machines and the central computer will be owned by the state and under the regulation of the lottery commission. The state has contracted with Multimedia Gaming for the central computer and has contracted with Ballys, IGT, Sierra, and Spielo for VLT machines.

## Licenses/Licensing Process

***Indian Casinos:*** Indian casinos must reimburse the Racing and Wagering Board for all costs related to licensing employees and vendors and for background checks.

***Racetrack VLT Facilities***: VLT facilities have no charge for licenses. VLT contractors must pay a $10,000 licensing fee.

## Payout Percentage and Win per Day

n/a

## Local Referendum/Regulation (Planning and Zoning, etc.)

***Indian Casinos:*** None

***Racetrack VLT Facilities:*** These facilities have been subject to local zoning. In addition to zoning, there have been some issues raised regarding the New York Environmental Quality Review Act. Moreover, if an applicant requests, the lottery commission will assist in coordinating local zoning. They have also issued building permits in some instances. The rationale for the state to issuing permits instead of the locals is due to the large state financial interest in the facilities and that the law gives the state full access to the facilities.

## Project Development/Financing

***Indian Casinos:*** None

***Racetrack VLT Facilities:*** The lottery commission reviewed construction plans and business plans.

## Revenue Distribution

***Mohawk Akwesasne***: None

***Oneida Turning Stone:*** None

***Seneca Nation Niagra Falls***: 25%

***Racetrack VLT Facilities:*** 61% to the state for education, 10% to the lottery commission, 29% to horse racing industry.

**Split of 29% of VLT**
**Revenue for the Horse Racing Industry**

| | Year 1-3 | Year 4-5 | Year 6-10 |
|---|---|---|---|
| Tracks | 69.8% (20.24% of gross VLT revenue) | 69% (20% of gross VLT revenue) | 60.3% (17.5% of gross VLT revenue) |
| Purses | 25.9% (7.5% of gross VLT revenue) | 26.7% (7.74% of gross VLT revenue) | 34.5% (10% of gross VLT revenue) |
| Bred Funds | 4.3% (1.25% of gross VLT revenue) | 4.3% (1.25% of gross VLT revenue) | 5.2% (1.5% of gross VLT revenue) |

Note: Law sunsets after 10 years beginning with when the first track begins VLT operation

Source: New York State Lottery Commission

## Economic Impacts (Jobs, Tax Revenues, etc.)

***Mohawk Akwesasne:*** 450 employees

***Oneida Turning Stone:*** 3,000 employees

***Seneca Nation Niagra falls:*** 2,500 employees

***Racetrack VLT Facilities:*** No applications received.

## Problem Gambling/Consumer Protection

***Mohawk Akwesasne:*** Voluntary self-exclusion policy

***Oneida Turning Stone:*** Voluntary self-exclusion policy

***Seneca Nation Niagara Falls:*** Chapter 383 of 2001 provided that of the money that the state receives, some of it may be dedicated to problem gaming programs. The facility may also implement a self-exclusion policy.

***Racetrack VLT Facilities:*** Nothing is required in the law. The Lottery is intending to do some type of public awareness program and public service announcements.

Contact: New York Lottery – Gardiner Guarney (518) 388-3352

# Illinois Gambling Information

## Types of Gambling

The main forms of gambling in Illinois are:

- Lottery games: Lotto, Pick 3/4, Instant Games
- Bingo
- Charitable Gaming
- Horse Racing
- Riverboat Casinos

## Types/Number of Locations

The Riverboat Gambling Act was passed in 1990 and authorizes the Illinois Gaming Board to award 10 riverboat casino licenses. Each riverboat casino may have two riverboats and up to 1,200 gambling positions. Gambling positions include electronic gaming devices (i.e., slot machines) and table games such as poker, blackjack, and roulette. Riverboats may be in the form of permanent barges and must be located on a waterway in the state, with the exception of Lake Michigan. There are nine riverboat casinos currently in operation along the Mississippi, Ohio, Illinois, Des Plaines, and Fox rivers. One casino license has been the subject of litigation since 1999.

## Ownership/Regulation and State Oversight

The Illinois Gaming Board is responsible for regulating riverboat casino gambling and collecting gaming revenues. The board is composed of five members serving three year terms. The board provides regulatory oversight and licenses all riverboat gambling operators, employees, and suppliers. The board is responsible for awarding and renewing the initial casino licenses and implementing a new competitive bidding system for the award of any future casino license. The board approves casino policies pertaining to operations, such as admission fees and hours of operation, and must approve the sale or acquisition of any riverboat casino. The board has investigators on site at all casinos during operations.

Riverboat casinos are owned by private entities. These companies are responsible for buying or leasing and operating the electronic gaming devices housed at their casinos. The riverboats are also owned by the casinos as is much of the adjoining land. In 2003, a law was enacted establishing a new competitive bidding process that permits the tenth casino to be owned and operated by the state.

## License/Licensing Process

The initial 10 casino licenses were awarded based on a competitive process. A $50,000 application fee was required, and a license holder had to pay a $25,000 first year license fee and a $5,000 ongoing annual fee. The Illinois Gaming Board can renew a casino license for up to four years. The criteria used to award casino licenses included:

- character, reputation, experience, and financial integrity of applicant;
- type and condition of facilities;
- highest prospective total revenue to be derived by the state;
- ownership diversity;
- financial ability to maintain adequate insurance, and capitalization to provide and maintain a riverboat;
- total economic benefits casino project confers on the state;
- extent to which all regions of the state share in the economic benefits of casino gambling; and
- the board may give favorable consideration to economically depressed areas, and applicants with plans for significant economic development.

In 2003, the Illinois General Assembly created a new competitive bidding process for the award of any license that has been revoked or otherwise not renewed. (This would presumably include the tenth license now in litigation.) The same criteria as above would be used but each applicant would have to include a monetary license bid. The Illinois Gaming Board would select the three final applicants and conduct further negotiations. Each final applicant may increase its license bid or otherwise enhance its proposal. The board may select someone other than the highest license bidder but must identify the reasons for its selection. If the board concludes that the state would derive the "highest prospective total revenue" from the state operating the casino rather than a private applicant, the board can permit state ownership in lieu of awarding the license.

## Payout Percentage and Win per Day

Average payout for VLTs is approximately 94%.
Average win per day is $458 in May 2003.

## Local Referendum/Regulation

Casino licenses are not subject to local referendum. However, prior to the issuance of a casino license or approval of the relocation of a riverboat casino, the governing body of the municipality or county must (by a majority vote) approve the docking of the casino. A local government will negotiate with a casino company and approve site location and other zoning requirements prior to the award of a license by the board.

## Project Development/Financing

No public funds have been used to finance or construct riverboat casinos. Local governments have made infrastructure improvements adjacent to riverboats. Public land is sometimes used to accommodate parking.

## Revenue Distribution

The Riverboat Gambling Act imposes two taxes on riverboat gambling: an admissions tax and a wagering tax. The admissions tax was changed in 2003 to a graduated rate. The tax ranges from $3 per person for casinos that admitted 1 million or fewer people in the previous calendar year to $5 per person for casinos that admitted more than 2.3 million people in the previous year.

In 2002, the state adopted a graduated tax rate for wagering based on the annual adjusted gross receipts (AGR) of the riverboat operation with a top tax rate of 50% for AGR in excess of $200 million. Effective July 1, 2003, the graduated tax rate was increased for a period of two years or until a tenth casino is in operation. Riverboat casinos are subjected to the following tax rates:

- 15% of AGR up to and including $25 million;
- 27.5% of AGR in excess of $25 million but not exceeding $37.5 million,
- 32.5% of AGR in excess of $37.5 million but not exceeding $50 million;
- 37.5% of AGR in excess of $50 million but not exceeding $75 million;
- 45% of AGR in excess of $75 million but not exceeding $100 million;
- 50% of AGR in excess of $100 million but not exceeding $250 million;
- 70% of AGR in excess of $250 million.

Each local government that serves as a host setting for a casino licensee receives a share of gaming taxes in an amount equal to 5% of the AGR and $1 of the admission tax attributable to the licensee within its jurisdiction. The balance of the tax revenue goes to support the administration and enforcement of the Riverboat Gambling Act and to the Education Assistance Fund. Revenues from the issuance of a tenth license would include distributions to the Horse Racing Equity Fund, Chicago State University and counties with large populations.

In 2002, the total adjusted gross receipts for all casinos were $1,831 million. Of this amount, $666 million was paid in state and local taxes ($556 million in state taxes and $110 million in local taxes), and $1,165 million was retained by the nine casinos licensees. As a result, the aggregate effective tax rate for combined wagering and admissions taxes was approximately 36.4%.

## Economic Impacts

The riverboat casino industry had a total payroll of $376 million and 11,000 employees in 2002. Casinos spent $184 million on goods and services provided by vendors located in the state. The industry estimates that 55,000 non-casino jobs are support by riverboat casino operations.

## Problem Gambling/Consumer Protection

There is no mandated distribution of casino tax revenues for the treatment of problem gambling. The Illinois Gaming Board runs a statewide voluntary self-exclusion program established in 2002. Casinos have their own self-exclusion programs. They also contribute funding for the Illinois Gambling Help Line and the Illinois Coalition to Curb Problem Gambling. Treatment for gambling addiction can be obtained through the Illinois Council on Problem and Compulsive Gambling and the Illinois Institute for Addiction Recovery.

Under Illinois Gaming Board regulations, individuals under the age of 21 are prohibited from gambling at riverboat casinos.

## Marketing

The Riverboat Casino owners are responsible for marketing their facilities to the public. The Illinois Gaming Board participates in some promotional campaigns.

## Outlook

The Illinois General Assembly considered various gambling initiatives during the 2003 session, including bills to: (1) authorize the 40,000 video poker machines in the state to pay cash winnings and tax revenues generated by the machines; (2) allow slot machines at the state's horseracing tracks; and (3) expand the number of slot machines at existing riverboat casinos. These initiatives were defeated due in part to the Governor's opposition to expanded gambling.

The Illinois Gaming Board believes a settlement will be reached with the owner of the tenth casino license which will permit the operation of a tenth riverboat casino in 2004 or 2005.

# Rhode Island Gambling Information

## Types of Gambling

The main forms of gambling in Rhode Island are:

- Lottery games: Lotto, Keno, Instant Games at 1,100 locations throughout the state.
- Dog Racing
- Video Lottery Terminals

## Types/Number of Locations

In 1992, the Rhode Island General Assembly enacted legislation authorizing video lottery terminals in two pari-mutuel facilities:

- Lincoln Park Race Track in the city of Lincoln Park
- Newport Grand Jai Alai in the city of Newport

| | | | | |
|---|---|---|---|---|
| Lincoln Park: | 1,700 plus | 1,300 | (approved 2003) = | 3,000 |
| Newport: | 775 plus | 525 | (approved 2003) = | 1,300 |
| **Total** | | | | **4,300** |

As of July 2003, approximately 1,000 of the additional 1,825 machines are operational.

## Ownership/Regulation and State Oversight

The Rhode Island Lottery Commission is responsible for regulating VLT operations and collecting VLT revenues. VLT facilities are owned by private entities. Lincoln Park is owned by a public corporation located in the United Kingdom. Newport Grand Jai Alai, LLC is a privately owned company. VLT operations are regulated by the Rhode Island Lottery Commission. The lottery director and commission must approve the actual site selection of a facility.

Private technology providers own VLTs and are licensed by the commission for a period of three years to operate the machines. The lottery commission approves the number of VLTs at each location. The lottery agency can require removal of underperforming VLTs within 30 days. The agency awards licenses to four technology providers who own and operate VLTs and to the central system provider (G-Tech). Current technology providers are: IGT, G-Tech, Williams, and Spielo. The lottery agency collects all net revenues from VLT facilities on a daily basis.

The lottery uses an efficiency system to allocate VLTs among the technology providers. The agency reviews the performance of each provider's VLTs for the first 13 weeks of the year and gives each provider an "efficiency rating." If a vendor has 43% of VLTs, for example, it must achieve 43% of net revenues to earn an efficiency rating of 100%. If a vendor achieves a rating above 100%, the lottery agency awards the vendor additional VLTs. If the vendor has a rating below 97%, it loses machines. The system creates an incentive for technology providers to bring in the newest machines to attract customers and generate revenues. The lottery prohibits one technology provider from owning more than 50% of all VLTs.

The facility owners decide where to place VLTs in their respective facilities. The lottery agency is not involved in placement decisions. The agency conducts quarterly unannounced inspections of VLT facilities. State auditors also inspect facilities every one to two years.

## License/Licensing Process

VLT facilities licenses are authorized in statute to include pari-mutuel licensees existing as of June 30, 1992. Lincoln Park and Newport were the only "pari-mutuel licensees" that qualified under the 1992 law. VLT facility license is not competitive. The technology provider license is competitive. VLT facility license has no expiration date and can be revoked by the lottery commission.

Under the Rhode Island Constitution, expansion of gaming (e.g., casinos) requires statewide approval of voters; local voters must approve any expansion of VLTs or other forms of gaming into a new municipality.

## Payout Percentage and Win per Day

Average payout ranges from 92% to 99.1%.

| | |
|---|---|
| Win per Day: | Lincoln Park: $363/day |
| | Newport: $231/day |

## Local Referendum/Regulation

Under the Rhode Island Constitution, a local referendum is required to approve any expansion of VLTs or other forms of gaming into a new municipality. Local planning and zoning regulations apply.

## Project Development/Financing

No public funds have been used for project development costs. The existing facilities were used for the initial 1,200 VLTs and have been expanded over time to house additional VLTs. There is a proposal to build a new $40 million building at Lincoln Park along side of existing structure for the purpose of housing additional VLTs. It will be privately financed. No capital investment was required as part of the recent approval of an additional 1,825 VLTs.

## Revenue Distribution

Total VLT payments to the state of Rhode Island are $157 million in fiscal 2002 and $183 million (estimate) in fiscal 2003. The state share has been adjusted four times since fiscal 1993.

Allocation of Revenues for fiscal 2003 and 2004:

| | FY 2003 | | FY 2004 | |
|---|---|---|---|---|
| | **Lincoln** | **Newport** | **Lincoln** | **Newport** |
| State General Fund & Lottery Commission* | 52.0% | 57.5% | 59.1% | 63.5% |
| VL Retailer | 30.5% | 30.5% | 27.0% | 26.0% |
| Owners of dog kennels under contract w/ licensee | 5.5% | n/a | 3.4% | n/a |
| Technology Providers | 8.5% | 8.5% | 7.0% | 7% |
| Central System Provider | 2.5% | 2.5% | 2.5% | 2.5% |
| Municipality | 1.0% | 1.0% | 1.0% | 1.0% |
| Total | 100.0% | 100.0% | 100.0% | 100.0% |

*Distressed Communities Relief Program receives up to $5 million annually from allocations to the state, retailers, kennel owners, and technology providers.

## Economic Impacts

The Lincoln Park Race Track facility has a $15 million payroll and 800 employees. The Newport Grand Jai Alai facility has a $6.5 million payroll and 200 employees. Lincoln Park purchased $9.7 million in goods and services from local area vendors in 2001.

## Problem Gambling/Consumer Protection

The state appropriates $192,000 annually to health programs to treat problem gamblers. The lottery agency has a problem gambling hotline. In 2000, gambling operators voluntarily developed responsible gambling programs at Lincoln Park and Newport Grand Jai Alai. The lottery agency works with the operators to implement theses programs. Elements of the programs include employee training, employee assistance, customer education, underage prevention, and self-exclusion.

Under lottery regulations, individuals under the age of 18 are prohibited from gambling at VLT facilities.

## Marketing

VLT operators are responsible for marketing their facilities to the public.

## Outlook

The Rhode Island Legislature completed a year long study of casino gaming in April 2003 and recommended that a proposal authorizing full-fledged casinos be place on a statewide referendum. Legislation implementing this recommendation was introduced during the 2003 session but was not enacted before the General Assembly adjourned.

In fiscal 2004, the tax rate was changed to give the state a greater percentage of revenues and this has caused VLT owners to balk at investing in new facilities. The Governor and General Assembly are currently negotiating with VLT owners to reach a long-term agreement on tax rates.

# Ontario Gambling Information

## Types of Gaming/Locations

The Ontario Lottery and Gaming Corporation (OLGC) is responsible for three lines of business:

### Province-wide lottery games – OLGC operates 12 lottery games

LOTTO SUPER 7 and LOTTO 6/49 are games that are also played in other provinces in Canada, and managed by OLGC in Ontario. ONTARIO 49, ENCORE, LOTTARIO, PICK-3, DAILY KENO, WINNER TAKE ALL, INSTANT, PRO•LINE, PRO**H**PICKS, and POINT SPREAD are offered exclusively within Ontario by OLGC. In addition, OLGC offers three province-wide bingo games – The Link, Ultimate Link, and Late Link. These games are captured under the brand name BIG LINK BINGO. There are more than 10,300 OLGC retailers across the province – about 7,800 operate lottery terminals for computer-generated games.

### Direct Gaming (includes slots facilities at racetracks, charity and aboriginal casinos)

OLGC operates 15 slot machine facilities at the following racetracks in Ontario as shown in the following table.

**Number of Slot Machines at Ontario Racetracks**

| Track | Number |
|---|---|
| Woodbine Racetrack | 1,700 |
| Rideau Carleton Raceway | 1,250 |
| Fort Erie Race Track | 1,200 |
| Flamboro Downs | 750 |
| Mohawk Racetrack | 750 |
| Windsor Raceway | 750 |
| Hiawatha Horse Park | 450 |
| Georgian Downs | 400 |
| Kawartha Downs | 375 |
| Sudbury Downs | 325 |
| Western Fair Raceway | 300 |
| Clinton Raceway | 100 |
| Dresden Raceway | 100 |
| Hanover Raceway | 100 |
| Woodstock Raceway | 100 |
| **Total** | **8,650** |

Source: Department of Legislative Services

OLGC operates five charity casinos in Ontario: Casino Sault Ste. Marie; Brantford Charity Casino; Point Edward Charity Casino; Thunder Bay Charity Casino; and Thousand Islands Charity Casino. OLGC also owns and maintains authority over the slot operation at the Great Blue Heron Charity Casino, an aboriginal casino owned by the Mississaugas of Scugog Island First Nation, situated just east of Port Perry.

### Commercial Casinos

OLGC has responsibility for three commercial casinos: Casino Windsor; Casino Niagara; and Casino Rama. OLGC owns and maintains authority over these facilities, which are operated on a daily basis by private operators.

In addition to the three business lines for which OLGC is responsible, other forms of legal gambling in Ontario include:

- charitable gaming (bingos, break open tickets, and other short-term lotteries), which is the responsibility of the Alcohol and Gaming Commission of Ontario; and

- horse racing, which is regulated by the Ontario Racing Commission.

## Oversight/Regulation

OLGC is an operational enterprise created by the government of Ontario to provide gaming entertainment to maximize economic benefits for Ontarians in an efficient and socially responsible manner. On April 1, 2000, the government of Ontario merged the mandates and operations of the Ontario Lottery Corporation (OLC) and the Ontario Casino Corporation (OCC) to form OLGC. OLGC is supervised by the Attorney General and the Minister of Finance.

The Alcohol and Gaming Commission of Ontario (AGCO) regulates OLGC's gaming operations. AGCO is responsible for ensuring that casino-style gaming is conducted in the public interest with honesty, integrity, and financial responsibility and that games of chance are conducted fairly. AGCO regularly monitors all aspects of OLGC gaming operations, including:

- approving the location of slot machines within the facility, including any proposed relocation of machines within the gaming area;

- testing to ensure that computer chips are properly programmed and installed and taking steps to ensure that the chips cannot be altered; and

- examining all machines that pay out a major jackpot before the patron receives the winnings to ensure that the machine has not been altered in any way.

## Licensing

Direct Gaming employees must be licensed under the Alcohol and Gaming Commission of Ontario as a condition of employment.

## Economic Development/Impacts

OLGC currently employs more than 8,000 employees throughout Ontario. The private operators of the three commercial casinos currently employ about 12,000 people.

To date, OLGC's five charity casinos and 15 slot facilities at racetracks have created more than 8,000 direct jobs, as well as indirect impacts for suppliers and service providers. OLGC's annual payroll at these sites is estimated at more than $247 million.

Ontario's commercial casino initiative has created more than 27,000 direct and indirect jobs. The estimated value of new economic activity generated by all of Ontario's commercial casinos from casino operations and the additional tourists they attract is $2.4 billion. In fiscal 2002 to 2003, more than 16.5 million people visited Ontario's three commercial casinos.

## Revenue Distribution

Profits generated by OLGC are paid to the Province of Ontario's Consolidated Revenue Fund. The province is then responsible for the allocation of these profits.

Since 1975, provincial gaming activities managed by OLGC have generated more than $17 billion in profits for thousands of causes throughout Ontario (through March 31, 2002). The Ontario Lottery and Gaming Corporation Act of 1999 directs profits from charity casinos, slot facilities at racetracks, and lotteries to the operation of hospitals, including programs to address problem gambling, physical fitness, sport, recreational and cultural activities, and to charitable and not-for-profit organizations. Revenue from OLGC supports $100 million annually for the province's charities. Provincial revenues from commercial casinos are used for priorities including health care and education.

Two percent of gross slot machine revenue from charity casinos and racetrack slot facilities is directed by the province to the Ministry of Health and Long-Term Care to support programs for the research, treatment, prevention, and public awareness of problem gambling. Based on this 2% formula, the amount for fiscal 2003 through 2004 is estimated at $36 million.

As reflected below, in addition to the profits that are directed to the Province of Ontario, the government has a number of revenue sharing commitments with a number of other stakeholders. Under a revenue-sharing agreement, the charity casino and slots-at-racetrack initiatives have given more than $211 million in direct non-tax related revenue to host municipalities. Communities hosting charity casinos receive 5% of gross slot machine revenue. Communities hosting slot facilities at racetracks receive 5% of gross revenue from the first 450 slot machines and 2% from any additional machines over that number. Funds may be used at the discretion of the municipality.

**Charity Casino and Racetrack Slots**
**Revenue Distributions to Stakeholders**

| | Host Municipalities | Racetracks | Horsemen | Problem Gambling |
|---|---|---|---|---|
| Charity Casinos | 5% | | | 2% |
| Slots at Racetracks | 5%/2%* | 10% | 10% | 2% |

* 5% of proceeds from the first 450 machines, 2% of proceeds above 450 machines

Source: Department of Legislative Services

Twenty percent of gross slot machine revenue at racetrack operations is evenly split between the racetrack and its horse people. This has allowed host tracks to offer increased purses, which in turn result in better quality horses and more customers through the turnstiles. The slot operations at racetracks have exceeded revenue and attendance projections.

## Payouts/Win per Day

The payout for slot machines in all of our gaming facilities is 85% or higher. The actual slot payouts are higher. The specific level may vary by denomination or type of machine, but it is a directive of the regulator – AGCO – that all be at the 85% minimum.

## Problem Gambling/Consumer Protection

### OLGC Practices

In February 2003, OLGC hired a Director of Responsible Gaming to develop and implement the OLGC's Responsible Gaming Awareness Framework.

OLGC, within its mandate, has put in place a number of responsible gaming initiatives to address the issue of problem gambling, including a voluntary self-exclusion program.

As part of OLGC Responsible Gaming Awareness practices, all gaming facilities post a responsible gaming tagline, "Know Your Limit, Play Within It," and the Ontario Problem Gambling Helpline number. These messages are posted on the automated banking machine screens, on every slot machine, and at the entrances of gaming sites. Marketing programs and advertising for casinos and slot operations include the responsible gaming message.

## Policies/Practices in Place at Ontario Gaming Facilities to Prevent Minors Access into the Facilities

- All gaming sites work closely with the Alcohol and Gaming Commission of Ontario to ensure complete compliance with the Gaming Control Act.
- Posting a cautionary message at every gaming facility about the age restriction for playing at casinos and slots facilities.
- OLGC and its operators continually reinforce with all staff the need for continuing vigilance for minors attempting to enter gaming facilities.
- Introduction of enhanced security procedures at the door (some gaming facilities will ask anyone who appears to be under the age of 30 to stand in a separate line in order to scrutinize identification).
- Signage.

All commercial and charity casinos, as well as racetrack slot machine facilities, have problem gambling awareness programs that include:

- patron and public awareness initiatives;
- posting of the Ontario Problem Gambling Helpline phone number on all slot machines and the OLGC lottery products;
- staff training at commercial casinos developed in partnership with the Responsible Gambling Council (Ontario); and
- special training sessions are available for commercial casino staff concerned about problem gambling.

## Ministry of Health and Long-Term Care

The Ministry of Health and Long-Term Care (MOHLTC) uses the 2% in gross slot machine revenues to direct a number of problem gambling initiatives.

Examples of organizations that receive funding through the provincial problem gambling program:

- 45 problem gambling treatment providers across Ontario;
- The Ontario Problem Gambling Helpline;
- The Centre for Addictions and Mental Health;
- The Ontario Problem Gambling Research Centre; and
- The Responsible Gambling Council (Ontario).

## Project Development/Financing

Day-to-day operation of commercial casino facilities is left to the operator. Contracts awarded by the province provide operators a percentage of gross revenues and a percentage of net revenues to promote efficiency. The same basic pattern exists at each casino, but each is negotiated separately.

Casino Windsor was the first agreement authorized, and the local government was very supportive. It is now operated by Park Place Entertainment and first opened in a temporary facility. The casino was based on three floors of a retrofitted brewery and operated there for four years. It moved to a permanent facility in 1998, combining a small hotel (400 rooms), entertainment, and restaurants with the casino.

Casino Rama was the second casino, with the proceeds going to an Indian tribe. It is operated by Penn National Corporation and was built as a new casino, then later expanded. Casino Niagara is the newest and is operated by Hyatt – it is a temporary casino in an old retail mall. A new facility is currently under construction.

For Casino Windsor and Casino Rama, new facility development was financed by OLGC from cash flow from the temporary facilities. The Casino Niagara project was awarded competitively to developer/operator groups.

For Casino Niagara, a request for proposal was published stating objectives. The province had identified possible sites and respondents were required to make site-specific proposals. Development of temporary casinos took about a year and a half from initial approval, and renovation of existing facilities took three to four months of that period.

# Appendix 2

Opinion of the Attorney General
Cite as: *80 Opinions of the Attorney General* _____ (1995)
[Opinion No. 95-050 (November 15, 1995)]

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# STATE OF MARYLAND
# OFFICE OF THE ATTORNEY GENERAL

November 15, 1995

The Honorable Joseph D. Tydings, Chairman
Joint Executive-Legislative Task Force to Study
Commercial Gaming Activities in Maryland
Room 1400
301 West Preston Street
Baltimore, Maryland 21201

**GAMING — REFERENDA — METHODS BY WHICH A STATEWIDE OR LOCAL VOTE COULD PRECEDE INITIATION OF COMMERCIAL GAMBLING**

Dear Senator Tydings:

You have requested our opinion on two topics: whether legislation authorizing commercial gambling in Maryland could be made contingent upon, or be subject to, popular referendum; and whether such a measure could delegate to a local jurisdiction, subject to certain State regulatory parameters, the final decision on whether to allow commercial gambling in that locality.

Our opinion is as follows:

1. The General Assembly has the discretion to authorize commercial gambling by means of a constitutional amendment. Were it to do so, the amendment would necessarily be submitted to the statewide electorate for approval.

2. A single piece of legislation, or a package of bills enacted at a single session, for the purpose of authorizing, regulating, and taxing commercial gambling, with the tax proceeds devoted to various public purposes, is probably exempt from petition to statewide referendum under Article XVI, §2 of the Maryland Constitution.

3. If the General Assembly chose to enact legislation simply authorizing and regulating commercial gambling, *without* taxing and related fiscal measures, that legislation could be

*OPINION OF THE ATTORNEY GENERAL*
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[Opinion No. 95-050 (November 15, 1995)]

petitioned to statewide referendum. Non-referable tax and funding provisions could be enacted at a subsequent session.

4. Legislation authorizing, regulating, and taxing commercial gambling, whether throughout the State or in particular jurisdictions, would constitute a public general law that, under the Constitution, cannot be conditioned on a statewide or local referendum.

5. Legislation authorizing commercial gambling, either throughout the State or in one or more jurisdictions, may have its effectiveness in a specific jurisdiction conditioned on the enactment of a local ordinance sanctioning such gaming within the locality.

6. Legislation described in Paragraph (5) above, conditioning the local effectiveness of commercial gambling on enactment of a local ordinance, can contain provisions to facilitate the petitioning of such an ordinance to a local vote.[1]

## I

## Commercial Gambling Legislation

To respond to your questions without an actual bill in hand, we must make certain assumptions about its likely features. The first reader version of House Bill 995, which was amended to create the Joint Executive-Legislative Task Force to Study Commercial Gaming Activities in Maryland (Chapter 579, Laws of 1995), contains the likely elements of such a measure. It would have established a State regulatory and licensing agency to license and police gambling establishments. This agency would also have collected fees from the establishments and could have civilly fined them for infractions.

The bill also would have authorized a State admissions and amusement tax on the gross receipts derived from regulated gambling activity. These tax proceeds, which were estimated at up to $50 million, *see* Fiscal Note on House Bill 995 (March 2, 1995), would have been distributed to the counties and to components of the Department of Health and Mental Hygiene.

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[1] This opinion was originally issued as a letter of advice. Because of the importance of the issues discussed, we have reissued the letter, after slight editing, as an opinion.

## II

## Constitutional Amendment

One way to ensure a statewide vote before commercial gambling could be undertaken is by the General Assembly's embodiment of its approval in a constitutional amendment. Under Article XIV, §1, all amendments affecting more than one county must be submitted to the voters statewide.[2] To be sure, it would be unprecedented to include such detail in a constitutional amendment to be submitted to Maryland voters. However, there are few, if any, restrictions on what may be included in a state constitution.

In my opinion, it would be possible for the General Assembly to propose a constitutional amendment expressly "authorizing" commercial gambling at casinos with separate legislation, akin to the first reader version of House Bill 995, made contingent upon voter approval of the amendment. *See* Chapters 364 and 365 of the Laws of Maryland 1972, amending the Constitution to sanction State-run lotteries. It also would be possible to amend the Constitution to require a referendum before any commercial gambling measure could take effect.

## III

## Referendum Under Article XVI

Article XVI of the Maryland Constitution generally authorizes voters to petition to referendum most enactments of the General Assembly. However, Article XVI, §2 expressly exempts from this petition process a law "making any appropriation for maintaining the State Government." In *Kelly v. Marylanders for Sports Sanity*, 310 Md. 437, 530 A.2d 245 (1987), the Court of Appeals concluded that this language exempted from referendum three bills that together authorized the construction of sports stadiums and their financing via bond issues and sports lotteries. The Court found that this package was a revenue-raising and spending measure in furtherance of public recreational purposes and thus was exempt from voter consideration, although other portions of the legislation, considered in isolation, would have been subject to referendum. 310 Md. at 461, 467, and 468.

In our view, commercial gambling legislation like House Bill 995 would similarly be exempt from referendum by petition. Whatever one might say about the effects of such a bill as

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[2] For the reasons explained in Part IV below, even if commercial gambling were limited to a single jurisdiction, the regulatory and fiscal impact would affect more than that jurisdiction.

a whole, in the short run it would be a revenue-raiser, and the objects of the tax — promotion of public health and aid to local governments — are public purposes that would be considered as "maintaining ... the State Government."[3]

Because a key holding in the stadium litigation was that the "appropriation" portion of the legislative package was legally inseparable from non-exempt portions, we have considered whether a commercial gambling measure might be split into a referendum-exempt "appropriation" component and a non-exempt regulatory/licensing component, each with an express severability clause. In our opinion, it is doubtful that such a device, if enacted at a single session, would achieve the effect of permitting the petitioning of the regulatory/licensing bill. A severability clause does not bind a court to find severability. *See State v. Schuller*, 280 Md. 305, 319, 372 A.2d 1076 (1977). Thus, "even if the actual intention of the Legislature were to sever," a court would conclude otherwise if it found that the bills were not independent, *see Board of Public Works v. Baltimore County*, 288 Md. 678, 684, 421 A.2d 588 (1980) — a likely conclusion in the case of a subdivided House Bill 995.

An alternative would be the enactment at one session of a regulatory/licensing bill without any revenue-raising or appropriation component. The General Assembly could await the likely petitioning of such a measure to referendum and, if it were approved by the voters, enact a revenue-raising/appropriation bill at the following session. Although we have found no case law considering such an enactment, we believe that this approach would be constitutionally permissible.

## IV

## Mandatory Referendum

It has long been the law of Maryland that the General Assembly may not enact a public general law contingent upon a referendum of the people, either on a statewide or local level, although a public local law may be conditioned on a referendum of those in the affected area. *See Board of Public Works v. Baltimore County*, 288 Md. at 681 (collecting cases). The rationale for this constitutional rule was set forth in *Brawner v. Supervisors*, 141 Md. 586, 595, 119 A. 250 (1922):

> [W]e rest our conclusion upon two grounds, one, that the people of Maryland, having delegated to the legislature of Maryland the

[3] We would reach the same conclusion if the tax proceeds were earmarked for the General Fund and thereafter appropriated via the budget bill for general governmental purposes.

> power of making its laws, that body could not legally or validly redelegate the power and the authority thus conferred upon it to the people themselves; and two, that people of the State, from whom the Legislature itself derives its powers, having prescribed in the Constitution of the State the manner in which its laws shall be enacted, it is not competent for the Legislature to prescribe any other or different way in which its laws may be enacted.

Commercial gambling legislation akin to the regulatory, taxing, and funding measures in House Bill 995, whether authorizing casinos statewide or in only one or a handful of jurisdictions, would, in our view, be a public general law. As such, it could not be conditioned on either a statewide or a local vote.

A somewhat closer question is whether such a public general law might nevertheless contain a "local option" mechanism — that is, a requirement for a local vote approving commercial gambling within the particular locality before the law could take effect there. It might be argued that support for such an approach is found in cases such as *Burgess v. Pue*, 2 Gill 12 (1844) and *Fell v. State*, 42 Md. 71 (1875).[4] In *Burgess v. Pue*, the Court of Appeals rejected a constitutional attack on Chapter 162 of the Laws of 1825, a public general law that authorized a system of primary school instruction throughout the State, included local taxing authority exercised by the inhabitants of the school district, and contained a contingency submitting the act to the vote of the people of each county to determine its effectiveness within each county's boundaries.[5] In *Fell v. State*, 42 Md. 71 (1875), the Court of Appeals rejected an antidelegation attack on a General Assembly enactment that authorized the voters of four counties to determine whether certain alcoholic beverage laws would apply to their locality. In so doing, the Court rejected the contention that the enactment was not a complete law in itself but was made to depend for its existence and operation on a popular vote. 42 Md. at 92.[6]

However, the premise of both cases is that the "local option" feature of the challenged legislation was a public local law. *See Cole v. Secretary of State*, 249 Md. at 434. *Cole*

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[4] In a March 4, 1992 letter of advice to the Honorable Ellen R. Sauerbrey, this office concluded that these cases would permit the General Assembly, in a statewide bill, to condition on a local vote the effectiveness within a subdivision of a local "piggyback tax" increase.

[5] Although it is possible to contend that *Burgess* did not involve a challenge premised on an unconstitutional delegation of power to the voters, *see Hammond v. Haines*, 25 Md. 541, 560 (1866), later cases have treated it as resolving such a claim. *See, e.g., Cole v. Secretary of State*, 249 Md. 425, 434, 240 A.2d 272 (1968).

[6] There was little discussion in the Court's opinion of the fact that the legislation impacted more than one county. Rather, the focus of the Court was on the law's operation within a single county. 42 Md. at 87.

distinguishes these statutes from single-county measures whose immediate object appeared local in character but which "indirectly affected matters of significant interest to the entire State," such as the "protection of State revenues derived from licenses." 249 Md. at 435.[7]

In our opinion, commercial gambling legislation falls clearly on the "significant State interest" side of the line. Aside from the practical impact the licensing of a casino would have on those outside a particular jurisdiction, legislation like House Bill 995 clearly affects a scheme of State licensing and regulation and the provision of State revenues for statewide purposes.[8] The operation of such a law, even within a single locality, cannot be made contingent on a local referendum. To do so would unconstitutionally mandate to referendum public general law.

## V

## Local Ordinance Contingency

Mandating that the effectiveness of commercial gambling legislation within a particular jurisdiction hinge on the enactment of a local ordinance does not raise the same constitutional problem as requiring a vote of the people. In our opinion, such a proposal involves a delegation of power that the courts are likely to uphold.

First, the General Assembly has wide latitude in placing contingencies on the effectiveness of legislation. *See State v. Kirkley*, 29 Md. 85, 102 (1868); *Baltimore v. Clunet*, 23 Md. 449, 469-70 (1865). And my office has previously approved the constitutionality of legislation whose effectiveness was conditioned on certain findings of Executive Branch officers. *See* letter of advice on House Bill 651 (March 25, 1986); letter of advice on House Bill 398 (March 16, 1987). We do not see why a different result should be warranted with respect to conditioning effectiveness of State law on approval by a political subdivision through enactment of an ordinance. It raises no separation of powers concerns. *See County Council v. Investors Funding*,

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[7] On this point, *Cole* cited *Gaither v. Jackson*, 147 Md. 655, 128 A. 769 (1925), which concluded that a Baltimore City law licensing auctioneers was a public general law, and *Dash v. Jackson*, 270 Md. 251, 183 A. 534 (1936), which reached a similar conclusion regarding a State law licensing paperhangers in Baltimore City. *Gaither* noted that the statute was not a local law "because it provided revenue for the whole State," 147 Md. at 667, and *Dash* concluded that the paperhanging statute was a general law "because it affects the general revenues of the State." 170 Md. at 261. While neither case involved a mandatory referendum, they have been cited and relied upon in such cases. *See, e.g.*, *Steimel v. Board*, 278 Md. 1, 6, 357 A.2d 386 (1976).

[8] Neither *Burgess*, in which local voter approval would have triggered *local* taxation and *local* regulation, nor *Fell*, where voter approval would have authorized *local* licensing, is remotely comparable to the statewide impact of House Bill 995. The same conclusion is true of the proposed "piggyback tax" referendum approved in the March 4, 1992 letter of advice to Delegate Sauerbrey.

270 Md. 403, 436, 312 A.2d 225 (1973). In addition, the counties are arms and agents of the State. *See Baltimore County v. Churchill, Ltd.*, 271 Md. 1, 7, 313 A.2d 829 (1974). Finally, virtually any delegation of legislative power may be constitutionally justified if an appropriate standard governs the discretion of the recipient of the delegation. *See Montgomery County v. Walsh*, 274 Md. 502, 523-24, 336 A.2d 97 (1975).[9] Any reasonable standard would ensure that a local option by local ordinance would raise no question of unconstitutional delegation of power.

## VI

## Petition of Local Ordinance

In our opinion, a local option ordinance described above may be petitioned to referendum without offending any constitutional requirement, and State law may facilitate such a voluntary referendum. *See* Letter of Advice on Senate Bill 356 and Senate Bill 836 (March 22, 1990) (legislative contingency facilitating referendum by petition of alternative abortion law changes is constitutional because "it is up to the citizens of Maryland to initiate" the process.)

A referendum by petition is "not a power to enact the law itself," *Cheeks v. Cedlair Corporation*, 287 Md. 595, 612, 415 A.2d 255 (1980), and is less of an exercise of legislative power by the people than that conferred by mandatory referendum, *see* 63 *Opinions of the Attorney General* 291, 293 (1978). It is also an optional act not within the control of the Legislature or local legislative body. Finally, in the March 4, 1992, letter of advice on a "piggyback tax" local option, this office noted that:

> An alternative method of achieving the same end might be found in a provision that authorizes the locality to impose the tax, but subject to the power of the voters to *petition* the issue to referendum either pursuant to local charter provisions or some state-specified standard. *See, e.g.*, Art. 25A, §5(P)(1)(ii) on referendum of charter county bond issues.

For all of these reasons, we believe that the additional element of a local opportunity to petition a county ordinance on commercial gambling to local referendum is not unconstitutional. We note, however, that care should be taken in drafting any provision on this subject, because not

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[9] There is some authority for the proposition that a law delegating authority to a local legislative body, rather than an executive body, need not contain a standard to govern discretion. *See* 16 C.J.S. *Constitutional Law* §161.

all county voters have the right to petition an ordinance to referendum.[10] Thus, a petition mechanism for subdivisions without referendum must be included within the State legislation.

## VII

## Conclusion

This opinion has reviewed the legality of the various mechanisms by which the issue of commercial gambling might be brought to a vote of the people statewide or locally. Obviously this opinion is not intended as an implicit comment on the policy wisdom of any of these alternatives or of commercial gambling itself. As you know, the Attorney General's Office has expressed strong views on the subject and stands by them, especially our conclusions about the dire effect on the crime rate that would be the inevitable result of commercial gambling. This opinion, however, is limited solely to the legal issues presented.

Very truly yours,

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WP6.1/KMI:S-735

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[10] Every charter subdivision has such a general referendum procedure in its charter, except for Baltimore City. Code home rule counties have referendum pursuant to Article 25B, §10(h). Commissioner counties have no general referendum provisions.

# Appendix 3

## Glossary of Useful Terms

# Glossary of Useful Terms

**Added Money –** Money added to the purse of a race by the racing association or a breeding or other fund to the amount paid by owners in nomination, eligibility, entry, and starting fees: The $500,000-added Kentucky Derby.

**Allowance Race –** A race for which the racing secretary drafts certain conditions to determine weights to be carried based on the horse's age, sex, and/or past performance.

**Also-Eligible –** A horse officially entered for a race but not permitted to start unless the field is reduced by scratches below a specified number.

**Announcer –** Person who calls the position of the horses as they race, sometimes referred to as caller.

**Apron –** The (usually) paved area between the grandstand and the racing surface.

**Asterisk (*) –** The asterisk has many uses, but in front of the odds of a horse in racing form, the asterisk indicates the horse went off as a favorite.

**Average-Earnings Index (AEI**) – A breeding statistic that compares racing earnings of a stallion or mare's foals to those of all other foals racing at that time. An AEI of 1.00 is considered average, 2.00 is twice the average, 0.50 half the average, etc.

**Backside –** Stable area, dormitories, and often times a track kitchen, chapel, and recreation area for stable employees. Also known as "backstretch," for its proximity to the stable area.

**Backstretch –** (1) Straight portion of the far side of the racing surface between the turns. (2) See backside.

**Beyer Number –** A handicapping tool, popularized by author Andrew Beyer, assigning a numerical value (speed figure) to each race run by a horse based on final time and track condition. This enables different horses running at different race tracks to be objectively compared.

**Bleeder –** A horse that bleeds from the lungs after exertion. The most common preventative treatment currently available is the use of the diuretic furosemide (Lasix).

**Blinkers –** Headpiece or blinders restricting side vision of the horse.

**Blow Out –** A short, timed workout, usually a day or two before a race, designed to sharpen a horse's speed.

**Bolt –** Veering abruptly from straight course.

**Bottom Line –** A thoroughbred's breeding on the female side. The lower half of an extended pedigree diagram.

**Breakage –** In pari-mutuel betting, the odd cents left over, after paying the successful bettors to the nearest $0.10.

**Breakdown –** When a horse cannot run because of a physical injury; becomes lame.

**Break Maiden –** Horse or rider winning the first race of its career. Also known as "earning a diploma."

**Breeze –** Fast workout of a horse. Clocker can get an official time from a breeze. One clocked or published work out is required before a horse can race.

**Bug Rider –** Jockey who is an apprentice. He is entitled to weight off when riding a horse depending upon the number of races he has won. Bugs are indicated in the program by asterisks.

**Bute – (phenylbutazone) –** Medication used to kill pain in a horse.

**Buy-Back –** A horse put through a public auction that did not reach a minimum (reserve) price set by the consignor and so was retained. The consignor must pay a fee to the auction company based on a percentage of the reserve, to cover the auction company's marketing, advertising, and other costs.

**Calk (Caulks) –** A projection on the heels of a horseshoe, similar to a cleat, on the rear shoes of a horse to prevent slipping, especially on a wet track. Also known as a "sticker." Sometimes incorrectly spelled "caulk."

**Chalk –** Wagering the favorite in a race.

**Change Leads –** Horse changes stride to lead with opposite leg.

**Chart –** A statistical "picture" of a race (from which past performances are compiled), that shows the position and margin of each horse at designated points of call (depending on the distance of the race), as well as the horse's age, weight carried, owner, trainer, jockey, and the race's purse, conditions, payoff prices, odds, time and other data.

**Chutes –** An extension to the track making a straight-away run, so that horses do not have to make an immediate turn when they run a race. Chutes are usually used for a three-furlong race where two-year-olds begin to race.

**Claiming Price –** The predetermined price at which a horse in a claiming race must be sold, if it is claimed.

**Claiming Race –** A race in which each horse entered is eligible to be purchased at a set price. Claims must be made before the race and only by licensed owners or their agents who have a horse registered to race at that meeting or who have received a claim certificate from the stewards.

**Classification –**

| | |
|---|---|
| Alw 12000 | An allowance with purse value of $12,000. |
| Clm 10000 | A claiming race, entered for $10,000. |
| Stk 50000 | A stake race with a purse of $50,000. |
| Md Allow | A maiden race (horses which have never won a race) allowance. |
| Md Sp Wt | A maiden race where special weights will be assigned. |

**Clerk of Scales –** Person employed by the track with responsibility to weigh each jockey before each race to verify that the horse will be carrying its assigned weight. Also, after each race, the jockey is weighed.

**Clocker –** At the race track, the timer who records the workouts of horses.

**Colt –** An ungelded (entire) male horse four-years-old or younger.

**Commingle –** Combining mutuel pols from off-track sites with the host track.

**Condition Book –** Book issued by the racing secretary and officers of each track. The book explains in detail rules and regulations regarding eligibility for entering races. Each day's racing conditions are spelled out for the program of the day.

**Cool Out –** Walking a horse when hot after a race or workout to cool it down.

**Coupled –** Two horses entered by the same trainer to compete in a race. Listed in the program as 1 and 1A; if two trainers couple horses, they are listed as 2 and 2X.

**Crop –** Jockey's whip, sometimes referred to as a bat.

**Crowding –** One horse forcing another horse to the inside of the track.

**Dam –** Mother of a horse.

**Dark –** There is no racing on a dark day.

**Dead Heat –** Two or more horses are tied at the finish of the race. If tied for first, the purse for the first and second will be divided equally. The same applies for other ties.

**Distanced –** Horse so far behind the rest of the field of runners that it is out of contact and unable to regain a position of contention.

**Dogs –** Rubber traffic cones (or a wooden barrier) placed at certain distances out from the inner rail, when the track is wet, muddy, soft, yielding, or heavy, to prevent horses during the workout period from churning the footing along the rail.  Used in the phrase “the dogs are up,” or simply, “dogs up.”

**Double Entry –** Two or more horses owned by same stable entered in the same race and coupled for betting.

**Driving –** Horse finishing strong at the end of a race.

**Eighth –** A furlong (660 ft. or one-eighth of a mile).

**Engagement –** (1) Stakes nomination.  ( 2) Riding commitment.

**Exercise Rider –** Rider who goes from stable to stable to exercise and work horses.  Many jockeys exercise horses.

**Fast Track –** Best condition of track.

**Fee –** (1) Amount paid to a jockey for riding in a race.  (2) The cost of nominating, entering, or starting a horse in a stakes race.

**Field –** The horses in a race.

**Filly –** Young female horse up to age five.

**First Flight –** First group of horses breaking from the gate.

**Flat Track –** Track on which thoroughbred horses race, as opposed to harness races.

**Foal –** (1) A horse of either sex in its first year of life.  (2) As a verb, to give birth.  Also known as “dropped.”  (3) Can also denote the offspring or either a male or female parent **–** She is the last foal of Secretariat.

**Foal Papers –** The Jockey Club in New York has on file names and descriptions of each horse. These papers must be kept on file at the race track during the period that the horse is racing.

**Fractional Time –** Intermediate times recorded in a race, as at the quarter, half, three-quarters, etc.  The “quarter time,” for example, refers to the time after the first quarter-mile, not the first 25% of the race.

**Furlong –** One-eighth of a mile (660 ft.). Race distances are measured by furlongs.

**Gait –** The characteristic footfall pattern of a horse in motion. Thoroughbreds have four natural gaits – walk, trot, canter, and gallop. Thoroughbreds compete at a gallop.

**Gate Carded –** When starter at a track ok's a horse as having the ability to break from the gate without endangering other horses.

**Gelding –** A male horse of any age that has been neutered by having both testicles removed ("gelded").

**Gimmick Bet –** A track-structured bet on combinations of horses and/or races, as daily doubles, perfectas, etc.

**Graded Race –** Established in 1973 to classify select stakes races in North America, at the request of European racing authorities, who had set up group races two years earlier. Always denoted with Roman numerals I, II, or III. Capitalized when used in race title (the Grade I Kentucky Derby). See group race.

**Graduate –** (1) Winning for the first time, horse or rider. (2) A horse that has moved up to allowance, stakes, or handicap racing.

**Grooms –** Stable hands hired by the trainer. They feed and water horses, wash them down, bandage their legs, etc. Grooms walk horses from backside to the track when a horse is to run.

**Group Race –** Established in 1971 by racing organizations in Britain, France, Germany, and Italy to classify select stakes races outside North America. Collectively called "pattern races." Equivalent to North American graded races. Always denoted with Arabic numerals 1, 2, or 3. Capitalized when used in race title (the Group 1 Epsom Derby). See graded race.

**Half Mile –** Four furlongs.

**Hand –** Four inches. A horse's height is measured in hands and inches from the top of the shoulder (withers) to the ground, e.g., 15.2 hands is 15 hands, 2 inches. Thoroughbreds typically range from 15 to 17 hands.

**Handicap –** To consider all the variables and try to select a winner of a race.

**Handicap race –** Race in which weights carried on horses are adjusted to equalize the horses' chances of winning.

**Handle –** Total money bet, either in terms of one day or total meet.

**Harness Racing –** Racing with standardbred horses which either trot or pace, in harness, pulling a driver riding a sulky.

**Herding –** Horse forcing another to the outside of the track during a race.

**Hit the Board –** Those horses which numbers appear on the tote board as first, second, third, and fourth. The first three finishers affect payoffs.

**Homestretch –** The stretch in front of the grandstand from the final turn to the finish.

**Hot Walkers –** Stable hands who cool horses down gradually by walking the horses. If this is not done, the horse may catch cold. There are electrically powered hot walker machines, with leads extending from four to six positions. Horses are forced to walk at the pace set.

**In Jail –** After a horse is claimed, the horse cannot run for 30 days for the same claiming price unless the horse is "stepped up" to a higher price.

**Intertrack Wagering –** Pari-mutuel wagering on intrastate simulcast horse races held at an in-state sending track by patrons at an in-state receiving track, and transmission of the wagers to the in-state sending track.

**Jockey –** Person who rides a horse in a race.

**Jockey Agent –** (or jockey's agent) – A person employed by a jockey to secure mounts for him.

**Jog –** Slow gait of horse.

**Jumper –** Steeplechase or hurdle horse.

**Juvenile Stakes –** Stake race for two-year-olds.

**Key Horse –** A single horse used in multiple combinations in an exotic wager.

**Lasik –** Medication for horse who is a "bleeder."

**Lip Tattoo –** Before a horse can race, it is assigned a tattoo number, and this number is tattooed on its upper lip. This becomes a permanent identification for that horse.

**Listed Race –** A stakes race just below a group race or graded race in quality.

**Longshot –** Horse paying good odds (ten to one or better).

**Maiden –** Horse which has never won a race. When either a male or female horse "breaks its maiden," it has won its first race.

**Mare –** Female horse five-years-old or older.

**Minus Pool –** A mutuel pool caused when a horse is so heavily played that, after deductions of state tax and commission, there is not enough money left to pay the legally prescribed minimum on each winning bet. The racing association usually makes up the difference.

**Morning Line –** Early estimate of probable odds handicapped by the track handicapper. These odds are listed in the program.

**Mudder –** Horse that races well on muddy tracks. Also known as a "mudlark."

**Mutuel Pool –** In pari-mutuel betting, the total amount bet on any race, or on any day, or at any meeting.

**Neck –** Measuring distance between horses in race.

**Nomination –** The naming of a horse for a stakes race well in advance of the race. A set fee is paid on the nomination of a horse and other fees are paid at stated intervals.

**Nominator –** One who owns horse at the time it is named to compete in a stakes race.

**Objection –** Claim of foul lodged by rider, patrol judge, or other official after the finishing of a race. If lodged by official, it is called an inquiry.

**Odds On –** In betting, when odds are less than even.

**Off Track Betting (OTB) –** Wagering at legalized betting outlets usually run by the tracks, management companies specially in pari-mutuel wagering, or in New York State, by independent corporations chartered by the state. Wagers at OTB sites are usually commingled with on-track betting pools.

**Outrider –** Employed by track to prevent horses from acting up, running away, or getting out of control before, during, or after a race.

**Overlay –** A horse going off at higher odds than it appears to warrant based on its past performances.

**Overnights –** A sheet published by the racing secretary's office listing the entries for an upcoming racing card.

**Pacer –** A standardbred horse which races by moving with a lateral gait (both legs in unison, then both right legs).

**Pari-Mutuels –** A form of wagering originated in 1865 by Frenchman Pierre Oller in which all money bet is divided up among those who have winning tickets, after taxes, takeout and other deductions are made. Oller called his system "parier mutuel" meaning "mutual stake" or "betting among ourselves." As this wagering method was adopted in England it became known as "Paris mutuals," and soon after as "pari-mutuels."

**Placing Judge –** A racing association official who, with the other placing judges, decides the placement of the horses in their order of finish in a race.

**Pool –** Money bet on race in each pool—win/place/show.

**Post Position –** The position from which a horse starts a race—from inside rail, which is position #1, and outward. Most starting gates have 12 positions.

**Post Time –** Designated time for a race to start.

**Purse –** The total monetary amount distributed after a race to the owners of the entrants who finished in the (usually) top four or five positions. Some racing jurisdictions may pay purse money through other places.

**Race meeting –** The period of days during which races are run at any specified race track.

**Racing Chemist –** An analytical chemist whose duty it is to analyze saliva, urine, and blood samples of horses which have just completed a race (usually the winners) to insure that such samples are free from forbidden substance, such as narcotics, stimulants, and the like.

**Racing Commission –** A State-appointed body charged with the duty of regulating and supervising the conduct of racing in its jurisdiction.

**Runners –** People employed by the track to place the patron's bet at the windows and collect bets for that person.

**Saddle Cloth –** A cotton cloth, which goes under the saddle to absorb sweat. It usually has a horse's program number and sometimes, in major races, its name.

**Scratched –** Eliminated from race and not running when officially entered. A horse can be scratched by the veterinarian, jockey, trainer, or owner.

**Set Down –** Jockey suspended or "given days" for specific length of time.

**Shed Row –** Expression used for row of stables, which house horses on backside of track.

**Silks –** Jockey's shirt made of heavy, rugged nylon, easily laundered, and quick to dry. Displays the color and patterns which are registered by the owner and with the Jockey Club.

**Simulcast Horse Race –** Horse races conducted at a sending track, transmitted simultaneously by video signal to a receiving track.

**Sire –** (1) The male parent. (2) To beget foals.

**Speed Rating –** Comparison of one horse's time with 100 par track record and 100 par track condition.

**Spit Box –** After a race is run, the urine of the horse is tested to determine what and how much medication may have been used. This area is called the "spit box" because in the past, horses were made to spit for this test.

**Spook –** Horses are sensitive to loud sounds and quick movements. When this happens, a horse will react or "spook."

**Stakes Race (Stakes) –** A race for which the owner usually must pay a fee to run a horse. The fees can be nominating, maintaining eligibility, entering and starting, to which the track adds more money to make up the total purse. Some stakes races are by invitation and require no payment or fee.

**Stallion –** A male horse used for breeding.

**Standardbred** – Pedigreed horse whose ancestry must have been standard and registered for generation. "Standard" originally meant that the horse had to race up to a certain set "standard" of speed.

**Starting Gate** – Partitioned mechanical device having stalls in which the horses are confined until the starter releases the stalls' confined front doors to begin the race.

**State-bred –** A horse bred in a particular state and thus eligible to compete in races restricted to state-breds.

**Steeplechase –** A race over actual or artificial obstacles such as fences, hedges, water jumps, and the like.

**Steward –** The word "steward," or "stewards" means steward of the race meeting. Usually there are three, and it is their duty to see that the race meeting is run according to the rules of racing. They are judges of all matters of fact with respect to the conduct of a race meeting, but their decisions are subject to appeal to the state racing commission.

**Stretch –** Part of the track after the horse makes the last turn for home and the finish line.

**Stud Fee –** Sum paid to stallion owner for the use of the stallion to sire a foal.

**Sulky Track –** Track on which standardbred horses race with a sulky cart.

**Tack –** Any special equipment for riding and caring for a horse.

**Take (Take Out)** – Commission deducted from mutuel pools which is shared by the track, horsemen (in the form of purses), and local and state governing bodies in the form of a tax.

**Thoroughbred** – A thoroughbred is a horse whose parentage traces back to any of the three "founding sires" the Darley Arabian, Byerly Turk, and Godolphin Barb, and who has satisfied the rules and requirements of the Jockey Club and is registered in "The American Stud Book" or in a foreign stud book recognized by the Jockey Club and the International Stud Book Committee. Any other horse, no matter what its parentage, is not considered a thoroughbred for racing and/or breeding purposes.

**Tip Sheet** – Professional handicappers pick horses they think will win and sell sheets at the track.

**Top Line –** (1) A thoroughbred's breeding on its sire's side. (2) The visual line presented by the horse's back.

**Totalizator –** An automated pari-mutuel system that dispenses and records betting tickets, calculates and displays odds and payoffs, and provides the mechanism, for cashing winning tickets. Often shortened to "tote."

**Tote Board –** The (usually) electronic totalizator display in the infield which reflects up-to-the-minute odds. It may also show the amounts wagered in each mutuel pool as well as information such as jockey and equipment changes, etc. Also known as the "board."

**Trace Bias** – A racing surface that favors a particular running style or position. For example, a track bias can favor either front-runners or closers or horses running on the inside or outside.

**Track Variant –** In racing form, track variant is second two digits in speed rating. It is the time in relation to the track conditions.

**Trainer –** An individual who supervises and cares for the race horses in his charge. In most cases it is their duty to enter horses in races which suit the horses. In most jurisdictions, a trainer is licensed by the racing commission or governing body of racing.

**Triple Crown –** Used generically to denote a series of three important races, but is always capitalized when referring to historical races for three-year-olds. In the United States, the Kentucky Derby, Preakness Stakes, and Belmont Stakes. In England, the 2,000 Guineas, Epsom Derby, and Sr. Leger Stakes. In Canada, The Queen's Plate, Prince of Wales Stakes, and Breeders' Stakes.

**Trotter –** A standardbred horse which races with a diagonal gait (left front and right rear leg, then front, left rear leg).

**Turf –** Grass track on the inside of the main track.

**Valet –** Person assisting jockeys and trainers in saddling horses in paddock and who keeps equipment in order.

**Walking Ring –** Area where horses parade before each race and area where jockeys mount their horses.

**Weanling –** A foal which is a suckling ready to be weaned (separated from its mother). A foal is usually weaned when it is approximately six months old.

**Yearling –** A horse which is one year old. January 1 after the year of the birth of a foal is the birthday for all thoroughbred horses. On January 1 a foal becomes a yearling, and on the following January 1, it becomes a two-year-old, etc.

# Some Common Wagers

**Across the Board –** A bet on a horse to win, place and show. If the horse wins, the player collects three ways; if second, two ways; and if third, one way, losing the win and place bets. Actually three wagers.

**Box –** To bet on two horses to come in first and second in either order.

**Daily Double –** You are a winner if your selected horses win two consecutive races.

**Exacta –** You are a winner if your selected horses finish first and second in exact order in a race.

**Exotic –** Any wager other than win, place, or show. For the mathematically inclined, the amount of combinations in any exotic wager can be figured by the formula n!/(n-a!), where n is the number of horses in your wager and a is the number of finishers in the wager (two in an exacta, three in a trifecta, etc.)

**Pick 3 –** You are a winner if your selected horses come in first in three designated, usually consecutive, races.

**Place –** You are a winner if your horse finishes first or second.

**Quinella –** You are a winner if your selected horses finish first and second in any order of finish in a race.

**Show –** You are a winner if your horse finishes first, second, or third.

**Superfecta –** You are a winner if your selected horses come in first, second, third, and fourth in exact order of finish in a race.

**Trifecta Race –** You are a winner if your selected horses finish first, second, and third in exact order of finish in a race.

**Twin Trifecta –** You are a winner if your selected horses come in first, second, and third in two designated races.

**Win –** The most common of all wagers. You are a winner if your horse finishes first.

Sources:
(1) Track Talk, 1986, Burton & Mabel Butler, DIM Communications
(2) Maryland's Racing Industry, Its Participants, Organization and Economic Impact; Dr. Robert G. Lawrence; University of Maryland; Dec. 1978; pp.49-50
(3) Daily Racing Form "Picking Winners 101"; http://www.drf.com:80/handicapp.j/class1.html
(4) Glossary: Horse Racing Terminology, http://www.equineonline.com/misc/glos-a.html

# Appendix 4

## Incidence of Gambling by Various Demographic Factors

Legislative Services has reviewed studies of gambling incidence from various sources, including academic journals and industry and interest group materials. As the following tables indicate, the incidence of gambling among different demographic groups (for instance, as measured by income group, educational level, and race) can vary significantly from study to study. Results can vary due to many factors, including: the methodology of the study, the type of gambling being measured (gambling generally versus casino gambling versus slots gambling), the universe of the group surveyed, and the manner in which the results are expressed. The source for each table is indicated below.

# Incidence of Gambling by Various Demographic Factors

**Table 1A**
**U.S. Casino Participation Rate by Income**

| Annual Household Income | Share of Income Group Who Gambled in the Past Year |
|---|---|
| Under $35,000 | 21% |
| $35,001 - $55,000 | 28% |
| $55,001 - $75,000 | 30% |
| $75,001 - $95,000 | 32% |
| Over $95,000 | 34% |

Source: Harrah's Entertainment, Inc., NFO World Group, U.S. Census Bureau

**Table 1B**
**Education Level of Casino Gamblers vs. U.S. National Average**

| Education | U.S. Population | U.S. Casino Gamblers |
|---|---|---|
| No College | 48% | 45% |
| Some College | 25% | 28% |
| College Graduate | 18% | 17% |
| Post Graduate | 9% | 8% |
| Total | 100% | 100% |

Numbers may not total due to rounding.

Source: Harrah's Entertainment, Inc., NFO World Group, U.S. Census Bureau

**Table 2**
**U.S. National Survey**
## Percent Who Gambled Annually in Casino and Mean Individual Casino Involvement

| **Demographics** | | **Share of Group Who Gambled in Casino in Past Year** | **Mean Individual Casino Involvement[2] In $/Year** | |
|---|---|---|---|---|
| **Race** | | | | |
| White[1] | | 27% | $900 | |
| Black | | 23% | 2,024 | * |
| Hispanic | | 24% | 2,138 | * |
| Asian | | 33% | 1,646 | |
| American Indian | | 18% | 408 | |
| Other | | 27% | 1,499 | |
| **Socioeconomic Status**** | | | | |
| | **Average Family Income** | | | |
| Lo Quintile | $22,000 | 17% | $1,690 | |
| 2nd Quintile | 40,000 | 25% | 1,047 | |
| 3rd Quintile | 50,000 | 30% | 1,207 | |
| 4th Quintile | 87,000 | 29% | 1,309 | |
| Hi Quintile | 115,000 | 33% | 888 | |

[1]Whites are reference group for statistical tests.
[2]The extent of gambling involvement for any specific type of gambling for any specific respondent is the win/loss times the frequency of that type of gambling.
*Significant difference from reference group at .05 level.
**Socioeconomic status based on three equally-weighted factors: family income, years of education, and occupational prestige.

Source: John W. Welte, *et. al. Gambling Participation in the U.S. – Results from a National Survey*, in Journal of Gambling Studies, Vol. 18, No. 4, Winter 2002.

**Table 3**

## Demographics of Gamblers in Oregon
## Distribution within Demographic Group

| | Non-Gamblers (N = 197) | Infrequent Gamblers (N = 257) | Past Year Gamblers (N = 775) | Weekly Gamblers (N = 273) |
|---|---|---|---|---|
| **Ethnicity** | | | | |
| White | 90.6% | 95.7% | 91.9% | 91.3% |
| Non-White | 9.4% | 4.3% | 8.1% | 8.7% |
| **Education** | | | | |
| Less than HS | 14.3% | 6.7% | 6.2% | 11.0% |
| HS and Over | 85.7% | 93.3% | 93.8% | 89.0% |
| **Income** | | | | |
| Less than $25,000 | 53.7% | 36.9% | 28.7% | 29.1% |
| $25,000 to $50,000 | 31.6% | 34.6% | 37.6% | 43.7% |
| $50,000 or More | 14.7% | 28.5% | 33.7% | 27.2% |

Source: Gemini Research, Ltd. for Oregon Gambling Addiction Treatment Foundation.

**Table 4**

## Canadian Household Expenditures on Gambling Activities

| | Casinos, Slot Machines, and VLTs | |
|---|---|---|
| **Income** | **Annual Expenditure** | **Share of Income Group Who Gambled in Past Year** |
| Less than $20,000 | $414 | 11% |
| $20,000 to $39,999 | 629 | 18% |
| $40,000 to $59,999 | 540 | 23% |
| $60,000 to $79,999 | 483 | 29% |
| $80,000 and Over | 1,221 | 29% |

Source: *Survey of Household Spending*, Statistics Canada
Note: Expenditures are per spending household. Figures are for 1999.
Expenditures are in Canadian dollars.

***Incidence of Gambling by Various Demographic Factors***

# Appendix 5

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## Map of Maryland, Delaware, and Select West Virginia Track Locations

# Maryland, Delaware, & Select West Virginia Track Locations