



**Report to the New Hampshire Gaming Regulatory Oversight Authority
Regarding a Comprehensive Approach to
Existing and Expanded Gaming**

Area 1: Comparator States



October 22, 2013

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FOR DISCUSSIONS PURPOSES ONLY

Representative Richard Ames, Chair

New Hampshire Gaming Regulatory Oversight Authority
Legislative Office Building
33 North State Street
Concord, New Hampshire 03301

**Re: Report to the New Hampshire Gaming Regulatory Oversight Authority
Regarding a Comprehensive Approach to Existing and Expanded Gaming**

Dear Chair Ames,

Pursuant to a Request for Proposal ("RFP") dated August 20, 2013, the New Hampshire Gaming Regulatory Oversight Authority ("Authority") has retained WhiteSand Gaming LLC ("WhiteSand") to assist it in complying with its statutory mandate to provide the General Court with a report, by on or before December 15, 2013, containing "... recommendations regarding gaming policy, oversight, and regulations . . .". RSA 284-A:2, VII. Deliverable #1 under the RFP requires an assessment of New Hampshire's current gaming sectors. Deliverable #2 requires an assessment of certain enumerated proposals considered in the 2013 Legislative Session relating to the authorization of video lottery terminals or full scale casino gaming. It further requires an assessment of the capacity of New Hampshire to develop a commercial gaming sector. As a key element of the engagement, WhiteSand was tasked by the Authority with identifying options and alternatives with regard to a regulating entity for a full scale commercial casino with an eye toward an organizational structure for that entity that is cost effective, consistent with industry best practices and capable of ensuring not only the integrity but the competitiveness of any commercial casino approved in New Hampshire.

Given that the Authority's report will have a wide-reaching impact on a number of State agencies, an essential first step for WhiteSand was to convene the relevant stakeholders to understand their respective roles in the regulation of New Hampshire's existing gaming sectors and to examine with their input, the functional components of a casino regulatory scheme - investigation, adjudication, rulemaking, audit and compliance, regulatory enforcement and criminal referral and enforcement. In a series of meetings, and in telephone and e-mail communications, WhiteSand has had the opportunity to dialogue with, among others, Authority members Senator James Rausch, Representative Lucy Weber, Sgt. Patrick Cheetham and Kathleen Sullivan, Esq., Attorney General Joseph Foster and members of his senior staff, NH Department of Safety Commissioner John J. Barthelmes and Colonel Robert L. Quinn, NH Racing and Charitable Gaming Commissioner Timothy Connors, Director Paul Kelley and a member of his senior staff, Lottery Executive Director Charles McIntyre, Lucy Hodder, Esq and Christopher Kennedy of the Office of the Governor and you as Chair of the Authority. All were generous with their time and provided vital information and insights that have informed the analysis that follows.

CURRENT NEW HAMPSHIRE GAMING SECTORS

Among its many duties, the Authority is tasked with evaluating:

whether the current regulations and regulatory bodies for legal gaming in the state are adequate to operate in a manner that protects the public interest and allows the regulation of gaming to be conducted in an effective and efficient manner. RSA 284-A:2I(a) .

To that end, the Authority included in the RFP an assessment of the ". . . strengths and weaknesses of current New Hampshire gaming laws . . .". RFP at page 6. To meet this requirement within the constraints of the scope and budget of the RFP, WhiteSand interviewed the Directors of the respective regulating agencies and surveyed each enabling statute and the rules and procedures promulgated thereunder. This process allowed us to derive a high level view of each gaming sector from two perspectives:

Public accountability - meaning does the sector appear to be serving the purposes intended by the Legislature; and

Suitability of the regulatory scheme - meaning is the sector regulated in a manner that is sufficiently comprehensive to provide a reasonable level of assurance as to the integrity of the gaming conducted. As an element of this analysis, WhiteSand examined the organizational structure of each regulating agency and attempted to assess whether each agency is appropriately funded and resourced to fulfill its regulatory mandate.

Legal gaming in the State of New Hampshire currently includes lottery, simulcast wagering and charitable gaming. For the purposes of this report, WhiteSand examined:

- The Granite State Lottery operated by the New Hampshire Lottery Commission pursuant to RSA 284:21-a et seq., *Lottery*;
- The gaming conducted under the oversight of the New Hampshire Racing and Charitable Gaming Commission, specifically:
 - Simulcast wagering conducted pursuant to RSA 284, *Horse and Dog Racing*;
 - Games of Chance conducted pursuant to RSA 287-D, *Games of Chance*;
 - Bingo and Lucky 7 conducted pursuant to RSA 287-E, *Bingo and Lucky 7*; and
- Two less formalized sectors: the redemption slot machines and redemption poker machines operated by family entertainment centers under an exception to the general prohibitions on gambling in RSA 647:2, VI and the conduct of sweepstakes on a gambling machine prohibited by that same statute.

Our findings are as follows:

Granite State Lottery

History is replete with examples of the use of lotteries to generate revenue for public purposes. Benjamin Franklin was a proponent of the practice and lotteries were commonly used in Colonial times to finance public works such as streets and bridges.

It took six tries over ten years, but New Hampshire Representative Larry Pickett finally gained enough support for his Sweepstakes Bill for it to pass and it was signed into law on April 30, 1963. With its adoption, New Hampshire initiated the first modern lottery in the United States. Pickett was convinced that a Sweepstakes was a viable and voluntary method of raising revenue for education and given what we now know, he was right. The first lottery tickets sold were tied to horse racing results as the program was modeled on the long-running Irish Sweepstakes. The connection to horse racing continued until the early 1970s.

RSA 284:21-a creates the New Hampshire State Lottery Commission ("Lottery") consisting of three members. Commissioners are appointed by the Governor with the advice and consent of the Executive Council and may be removed for cause by the Governor with the advice and consent of the Executive Council. Commissioners serve a three year staggered term and are subject to certain conflict criteria enumerated in the statute and a two (2) year post-employment restriction. The Commissioners elect their own Chair and Secretary and are modestly compensated; they are presumably part time, although no terms of engagement are specified, and they are reimbursed for expenses.¹

RSA 284:21-i authorizes the Lottery Commission to employ such technical assistants and employees as is required to fulfill the purposes of the chapter. Although there is no specific provision requiring an Executive Director, the Lottery appoints an Executive Director to administer and manage all aspects of Lottery operations including its contracts with technology providers. The Executive Director serves at the pleasure of the Lottery Commission.

The Lottery exercises rulemaking authority under RSA 284:21-i including that related to the conduct of drawings, prizes and the operation and sale of instant tickets and games administered by the MUSA and Tri- State Lottery.

Following standard practices in this sector, the Lottery does not employ as a prerequisite to doing business with Intralot (discussed below), or any of its other technology providers, a licensing process comparable to that routinely applied in the commercial gaming sector for a gaming licensee or technology provider. Rather, the Lottery employs a comprehensive request for proposal and contracting process to achieve its desired security and technical standards and to vet the provider for suitability to do business with the state, financial stability and business experience. As a result the Lottery does not require the amount of formal rulemaking typical for a regulating entity. Intralot, and other providers are routinely compensated by a direct share in lottery proceeds and regulatory enforcement takes the form of contract administration. By its very nature the Lottery is both an operator and a regulating entity. It operates the lottery with its

¹ Compensation approximates \$17,000 for the Chair and \$9,500 for a member.

technology partners, it relies on them for much of the necessary staffing required to implement, oversee and audit operations and it plays the dominant role in advertising and promoting the gaming product.

The Lottery's website represents that lottery revenue is allocated as follows.

62%	Prize Payouts
26%	New Hampshire Schools
6%	Retailer Commissions
3%	Other Costs of Sales ²
3%	Administrative Expenses

The Lottery enabling statute does not expressly provide for an allocation of lottery proceeds to problem gambling. Pursuant to RSA 284:21-v, however, the Lottery and the Department of Health and Human Services are mandated to collaborate on a program to withhold child support arrearages from any prize triggering W-2G reporting with the Internal Revenue Service.

It is noteworthy that a 2011 amendment to the Lottery enabling statute expressly prohibits the Commission from authorizing the use of electronic gaming devices, including video slot machines and games on the Internet, without the specific authorization of the General Court. See RSA 284:21-h, VI.

The Lottery's primary technology provider is Intralot, a dominant provider of integrated gaming and transaction processing services in the lottery sector with over 5,500 employees operating in 55 jurisdictions on five continents. Intralot is certified according to the World Lottery Association's Security Control Standard and also holds an International Organization for Standardization 20000 Certification for Information Technology Service Management. Intralot is also certified as complying with Gaming Standards Association requirements including those related to Game to Game Message Protocol.

Intralot not only supplies the necessary hardware and software comprising the online system to the Lottery but also provides the bulk of the technical personnel necessary to maintain and support the system's interoperability with over 1,200 retailer terminals, related peripherals and instant ticket vending machines. Because the Lottery is state owned and operated it also contracts with Intralot for the equipment, software, personnel and other services essential to develop and implement the customized marketing and promotional programs necessary to drive sales. The Lottery's current contract with Intralot runs through June 30, 2016.

The Intralot system generally:

- provides high-level system controls for user security, game draws, the creation and distribution of promotions and messaging in order to manage day-to-day operations;

² Intralot receives 1.435% of net lottery sales for the term of its current contract.

- coordinates, controls, and monitors the life cycle of each retailer including a retailer's association with their terminals, clerks, and owners. The system also provides a complete audit trail of all retailer-related data changes and provides a secure, consolidated view of their lottery sales, inventory, and invoice reports;
- provides customized data to generate all types of relevant summary views, sales analytics, and trending;
- manages all aspects of instant games through each ticket's life cycle and monitors and controls all administrative, inventory, distribution, and validation functions relating to instant tickets; and
- validates both online and instant tickets during the claims process.

Intralot is also a leading supplier of instant ticket vending machines and other high-security vending products. It currently supplies vending machines to New Hampshire under a contract that expires June 30, 2016. Instant ticket vending machines are used by public lotteries to dispense instant winner lottery tickets primarily in retail locations such as supermarkets and convenience stores. The machines dispense instant lottery tickets without the assistance of an employee of the Lottery, instant ticket retailer or agent thereby permitting the retailer or agent to sell tickets without disrupting the normal duties of its employees. As is the case with the lottery systems and related equipment, under its contract with the Lottery Intralot provide the personnel required to support and maintain these instant ticket vending machines.

Scientific Games Corporation, another leading supplier of instant tickets, systems and services to lotteries, supplies instant tickets and related services to the Lottery under a contract that expires June 30, 2015.

Griffin York & Krause, a New Hampshire based advertising agency, provides advertising and marketing advice and services to the Lottery under a contract that expires June 30, 2017.

The Lottery's games mix includes instant tickets and multi-jurisdictional games like Powerball.

Instant tickets range in complexity. The simplest are prize scratch cards that require a player to scratch off three (or more) areas hiding numbers, symbols, etc. If all the items revealed are the same, a prize has been won. More complicated instant tickets have several different ways to win on one card. Often instant tickets are adaptations of popular games such as blackjack, poker or Monopoly or are tied to popular themes such as Harley Davidson, Major League Baseball, NASCAR, the National Hockey League, Marvel Comics and FIFA World Cup.

Multi-jurisdictional games like Powerball are available through New Hampshire's membership in the Multi-State Lottery Association ("MUSL"), a non-profit, government-benefit association owned and operated by agreement of its 33 member lotteries. The MUSL facilitates the operation of many of the most famous multi-jurisdictional lottery

games, including Hot Lotto, Mega Millions and Powerball. Formed in 1987, the MUSL provides a variety of services for lotteries, including game design, management of game finances, production and up-linking of drawings, the development of common minimum information technology and security standards and inspections of lottery vendor sites, coordination of common promotions and advertisements, coordination of public relations, emergency back-up drawing sites for lottery games and website related services.

MUSL provides these services to member lotteries at no cost, earning its income from non-game sources such as licensing. MUSL owns the patents and trademarks necessary to its operations, holding them for the benefit of its members. MUSL games operate under the same core game rules in each jurisdiction; however, each lottery is free to vary rules pertaining to such things as purchase age, the claim period, and some validation processes.

New Hampshire is also a member of the Tri-State Lottery with Maine and Vermont. Predating the MUSL, the Tri-State Lottery had its first initial drawing on September 14, 1985. By state compact five games are offered: Megabucks Plus (drawn Wednesdays and Saturdays), Pick 3 and Pick 4 (both have "day" and "night" drawings daily, including Sundays), Gimme 5 (drawn Mondays, Wednesdays, and Fridays) and Fast Play (terminal-generated "instant" tickets). Tri-State drawings are held in New Hampshire. These drawings use "classic" numbered balls and drawing machines, except for raffles.

Maine, New Hampshire, and Vermont currently do not offer a joint instant game but the members are working on a joint instant game similar to Midwest Millions, a MUSL-sponsored instant game in Iowa and Kansas.

New Hampshire and Vermont allow Tri-State subscription play. In New Hampshire, a prerequisite to subscription play is a New Hampshire address, residency is not required.

New Hampshire is a member of the North American Association of State and Provincial Lotteries (NASPL). Founded in 1971 as an informal exchange of information between three pioneering lottery directors, the NASPL now represents 52 lottery organizations. The mission of NASPL is to assemble and disseminate information related to lottery operations and the benefits to be derived from this sector through education and communication of its member lotteries and their staffs and technology providers. In addition, it publicly advocates the consensus position of the Association on matters of general policy. NASPL assists its members in identifying, adopting and implementing best practices and cost effective policies.

KEY FINDING: While the scope of the RFP did not permit a financial or operational review of the Lottery, a general overview of Lottery operations, including but not limited to a survey of the certifications held by, and the technical standards applied by, its technology providers, supports that the Lottery is serving the purposes intended by the Legislature. Likewise nothing in our overview suggested that the Lottery's regulatory

scheme is operationally or organizationally deficient or that the Lottery is unable to ensure the integrity of the product it offers to the gaming public.

Horse and Dog Racing

New Hampshire has not had a live horse race meet since 2009. Its largest racetrack Rockingham Park has not had a thoroughbred meet since 2002. Live dog racing has been banned in New Hampshire since 2010. What remains active and available in New Hampshire is pari-mutuel wagering on the simultaneous telecast of live racing events and it is over this activity, among others, that the New Hampshire Racing and Charitable Gaming Commission ("Commission") exercises primary regulatory jurisdiction.

The Commission is established pursuant to RSA 284:6-a. Its six (6) members are appointed by the Governor with the advice and consent of the Executive Council. Commissioners serve a three-year term and elect a Chairman from among the members. A Director, appointed by the Commission and serving at its pleasure, administers and supervises all aspects of Commission operations.

The State tax on simulcast wagering on thoroughbred and harness racing is 1.25% of the total contributions to all pari-mutuel pools conducted, made or sold by a licensee on a simulcast race. The State tax on simulcast wagering on dog racing is 1.5% of the total contributions to all pari-mutuel pools conducted, made or sold by a licensee on a simulcast race. In addition a tax is paid on "outs" meaning revenue generated from unclaimed winnings.

The Commission exercises broad rulemaking authority under RSA 284:12 including rules relating to pari-mutuel pools authorized under RSA 284:22 and 22-a. Many of its rules incorporate by reference, or find their root requirements in, the Association of Racing Commissioners International Inc.'s ("ARCI") Model Rules of Racing and as such they draw upon best practices in the racing industry. Chapter Pari 200, *Rules of Practice* (adjudicative hearings and rulemaking), Chapter Pari 600, *Rules of Harness Racing* and Chapter Pari 700, *Use of Prohibited Substances and Practices in Horse Racing*, for example, directly incorporate the ARCI Model Rules with enumerated amendments specific to New Hampshire.

It is noteworthy that in a 2011 amendment to RSA 284, *Horse and Dog Racing* the Commission was subjected to the same prohibition imposed on the Lottery Commission in that same session, specifically a prohibition on rulemaking authorizing the use of electronic gaming devices, including video slot machines and games on the Internet, without the specific authorization of the General Court. See RSA 284:6-a VI.

The Commission licenses all persons or entities and their respective qualifiers³

³ Licensing best practices in the commercial casino industry generally provide that all persons or entities that have a legal, beneficial or equitable ownership interest in, or are otherwise able to manage or control, the person or entity applying for a license must "qualify" as part of the license application of the person or entity. Each jurisdiction is somewhat nuanced but typically the threshold in commercial casino gaming is a 5% ownership position (for example PA, NJ).

holding live meets or simulcasting horse or dog races at or for which pari-mutuels pools are sold. The qualification threshold applied is 10% or more of an ownership position. While the Commission's application process, its licensing criteria and the scope of the investigation conducted are arguably not as robust as those commonly applied to commercial casino operators or reflected in the Omnibus Version of SB 152 for casino license applicants, they are generally consistent with racing industry practices and they do include the key check and balance on agency discretion inherent in the conduct of a background investigation independent of the deciding authority. Under RSA 284:15-b, II and Chapter Pari 303, *Application Procedures for a Racetrack License*, the Attorney General conducts a background investigation on a license or renewal applicant and makes the suitability recommendation to the Commission. Under the express terms of RSA 284:15-b, II, the Commission may not issue a license to a person or entity the Attorney General concludes is not fit to be associated with racing in New Hampshire.

Under its enabling statute, should live horse racing be revived in New Hampshire the Commission has jurisdiction over the:

licensing, supervising, disciplining, suspending, fining and barring from racing, on any tracks under the jurisdiction of the commission, of horses, owners, breeders, authorized agents, sub-agents, nominators, trainers, jockeys, jockey apprentices, jockey agents, and any other persons, organizations, associations, or corporations, the activities of whom affect the conduct and operation of running or harness horse races at racetracks under the jurisdiction of the commission. RSA 284:19

The Commission exercises overall regulatory enforcement authority over live meets or simulcast horse or dog races at or for which pari-mutuels pools are sold. Under RSA 284:13 it is empowered to "...regulate, supervise and check the making of pari-mutuel pools and distributions therefrom." and is further authorized to investigate ownership and control of a licensee. Appeal of a regulatory enforcement decision of the Commission is to the Superior Court.

KEY FINDING: While the scope of the RFP did not permit a financial or operational review of the Commission, WhiteSand's discussions with Commissioner Connors and Director Kelley as well as its survey of the Commission rules and procedures applicable to racing operations and pari-mutuels pools all support the general conclusion that simulcast racing is being conducted in the manner intended by the Legislature. Likewise, notwithstanding the recommendations that follow, nothing in our review suggested that the Commission's regulatory scheme is operationally or organizationally deficient or that the Commission is unable to reasonably ensure the integrity of the racing product offered to the gaming public.

Recommendations for Horse and Dog Racing

The actual conduct of pari-mutuel wagering relies on a totalistator system ("tote") that in essence interfaces with wagering terminals to combine wagers into pools. The totes track pool totals throughout the wagering cycle of each race and record and display changes in betting patterns which are translated into recalculated pari-mutuel odds based on the proportion of the total amount wagered in the pool placed on a particular horse. Odds change throughout the wagering cycle and become final when the pool is closed immediately prior to the start of a race. Once the results of a race are official, the tote calculates the payoffs on all winning wagers and players are paid accordingly.

Recognizing that it is incumbent upon racing commissions to provide the public with a reasonable level of assurance that totalistator systems accurately calculate odds and payoffs, in 2011 the ARCI published, after years of study, Totalistator Technical Standards. See ARCI Totalistator Technical Standards, Version 1.01, amended July 2012. These technical standards are focused on the manufacturers of totalistator systems and related equipment and incorporate minimum design standards for hardware and software, physical and logical access controls, data transmission protocols and reporting, monitoring and data retention requirements all aimed at collectively ensuring the integrity of these systems. Following a testing and certification model that has been utilized with slot machines and slot management systems for over thirty years, the technical standards require manufacturers to provide racing regulators with documentation from an independent testing laboratory that the version of a totalistator system operating in their jurisdiction complies with the technical standards. As is the case with slot machines, the cost of compliance and testing is borne by the manufacturer.

Although slower than commercial casino gaming to recognize the impact of technology on the integrity of its gaming product, responsible racing jurisdictions are now studying the ARCI Technical Standards to ascertain, based on their individual racing environment, demographics and risk tolerance, the desirability, feasibility and cost of incorporating the Technical Standards into their overall regulatory scheme. At present reputable tote manufacturers typically contract for periodic independent SAS 70 Audits⁴ and our understanding is that the Commission receives this Audit from its current totalistator company Amtote and that no adverse reports have been received to date. While the SAS 70 Audit has value it does not provide a level of assurance comparable to compliance with the racing industry specific Technical Standards.

Recommendation #1: The Authority should consider incorporating into its report to the Legislature a recommendation that the Commission's rules be amended to require submission of an Annual SAS 70 Audit.

⁴ Statement on Auditing Standards (SAS) No. 70, *Service Organizations*, is an auditing standard developed by the American Institute of Certified Public Accountants. It is applicable to manufacturers of totalistator systems as these systems host or process data for a client racetrack. The focus of the SAS 70 Audit is to establish the adequacy of the internal controls over the client's data.

Recommendation #2: The Authority should consider incorporating into its report to the Legislature a recommendation that the Commission be tasked with examining the ARCI's Technical Standards and preparing a report examining the desirability, feasibility and cost of incorporating the standards into New Hampshire's overall regulatory scheme. The Authority should further recommend that this examination and report be meaningfully and realistically funded due to the technical sophistication of the subject matter.

Recommendation #3: As the tax due on simulcast operations is calculated based on the data produced by the tote system, the Authority should consider incorporating into its report to the Legislature a recommendation that the Commission take steps to formalize via rulemaking the procedures and controls associated with the sale of pari-mutuel pools and the Commission's validation of daily tote reports.

Charitable Gaming

Charitable gaming in recent years has been thrust into a prominent role as a fundraising mechanism for many charities nationwide. Much of the growth [in the sector] has occurred as a result of economic conditions during the 1970's and 1980's which caused a decrease in federal and state funding available for charities as well as a decline in private contributions. Seeking other funding sources, charities tapped into a growing national demand for gaming activities. In a relatively short period of time, charitable gaming evolved from the Friday night bingo game in the church basement to a multi-billion dollar enterprise. With this growth came a need for more effective regulation.

Introduction, *Model State Charitable Gaming Act*, National Council of Legislators from Gaming States ("NCLGS Model Act.").

According to the American Gaming Association, although some form of charitable gaming is legal in all but five (5) states, charitable gaming is the least regulated form of gambling in the United States. See *US Commercial Casino Industry Facts at Your Fingertips*, AGA, 2009.

The Racing and Charitable Gaming Commission ("Commission") exercises oversight authority over the forms of charitable gaming authorized in New Hampshire: games of chance, bingo and the sale of Lucky 7 tickets. Interestingly, under RSA 287-D:1-a the Commission's administration and enforcement efforts are ". . .with the assistance of the attorney general and the chief of police . . ." only for games of chance. See RSA 287-D:1-a. This same provision is not applied to bingo or Lucky 7. See RSA 287-E:2,16. Both RSA 287-D:1, III and RSA 287-E:1, V have similar but not identical definitions of a charitable organization. The differential in terminology is not material and largely relates to veterans and fraternal organizations and the sale of Lucky 7 tickets.

Games of Chance

Games of chance are broadly defined as ". . .any game involving gambling as defined by RSA 647:2, II, or any lottery prohibited by RSA 647:1, but shall not include any game involving the use of a slot machine or any other device in the nature of a slot machine, 50/50 raffles as defined in RSA 287-A:1, III, or ice-out contests as defined in RSA 287-D:1, IV. " RSA 287-D:1, II.

This definition has been interpreted to permit a full array of table games under the rubric of charitable gaming including, but not limited to, roulette, blackjack and poker. Play at these tables is subject to numerous rules that might at first glance support the assertion that the amount at risk is de minimus in nature including:

- No single wager may exceed \$4.00. See RSA 287-D:3, V.
- Where chips have no monetary value, a licensed charitable organization may offer any number of tables at a licensed event provided each player is limited to \$150 per game including buy-ins and re-buys. RSA 287-D:2-b, XI.⁵
- A licensed charitable organization may offer one game per licensed event where each player may spend up to \$250 per game including buy-ins and re-buys. See RSA 287-D:2-b, XII.
- Where chips have no monetary value, the payback in prizes may not exceed 80% of the total amount collected from players. See RSA 287-D:2-b, XIV.

In practice, this is not the case. Conspicuously, RSA 287-D does not define "game" it appears, however, to infer a type of table i.e. blackjack, roulette, poker. Without question, in practice the provision is not interpreted to cap a player's total cash outlay for the entire gaming session at \$150 or \$250. Likewise, RSA 287-D includes a definition of wager that is generally synonymous with bet. In practice, the \$4.00 per wager limitation would not preclude a player from betting \$152 on a single spin of the roulette wheel [\$4.00 on all 38 of the colored and numbered pockets on the roulette wheel (American double zero)].

Statistics appended to the above referenced NCLGS Model Act suggests that while bingo, raffles and pull-tabs are relatively common forms of charitable gaming, the number of casino nights with table games permitted for a charitable organization per year in New Hampshire at 10 per year well exceeds the average in those states that allow casino nights.⁶ See Table 8, Casino Night Restrictions, NCLGS Model Act.⁷

⁵ Per Pari 1202.12 a re-buy means the fee paid by a player to purchase additional chips.

⁶ RSA 287-D:2-d, I permits a charitable organization one license per year authorizing games of chance for 10 days, which 10 days need not be consecutive.

Games of chance may be operated by individuals who are, or are associated with, bona fide members of the charitable organization pursuant to RSA 287-D:2-b, I or may be operated by a licensed game operator employer or licensed primary game operator provided there exists a written agreement between the operator and the charitable organization.⁸ Where a charity elects to use a licensed game operator employer or licensed primary game operator, a representative of the charitable organization need only be present at a licensed event once per event day for an unspecified period of time.

Lottery Director Paul Kelley reports that the vast majority of charitable organizations utilize a game operator employer or primary game operator to conduct their games of chance. For games played with chips of no monetary value, 3% of all funds collected from players is remitted to the state. For games played with chips having monetary value, 10% of the rake or house winnings and other money collected by the game operator not paid out as prizes to players is remitted to the state.⁹ Allocations to charitable organizations are examined below.

⁷ A commentary to Table 8 in the NCLGS Model rules highlights the variety of approaches to "casino night" charitable gaming but supports the conclusion that the number of nights allocated per charity in New Hampshire is high. The Commentary reads as follows: "Nine (9) states and D.C. provide some statutory regulation of "casino nights" (Table 8). None of these states allow play with cash. Two have prize limits; \$25,000 per event in Indiana, \$250 per person in Illinois. In Connecticut, players may play for merchandise only. **All ten (10) jurisdictions restrict the number of events a charitable organization may have per year, ranging from one (1) a year in Montana to twelve (12) a year in New York.** Four (4) states regulate the length of a session ranging from six (6) hours to twenty-four (24) hours. In Indiana, the length may vary but must be stated on the application. Six (6) states require persons to be eighteen (18) or older to play."

⁸ The following definitions are found in RSA 287-D:1,V and V-a;

(a) "Primary game operator" which means any consultant or any person other than a bona fide member of the charitable organization, involved in conducting, managing, supervising, directing, or running the games of chance, or

(b) "Secondary game operator" which means any person other than a bona fide member of the charitable organization, involved in dealing, running a roulette wheel, handling chips, or providing accounting services or security functions.

(c) "Game operator employer" means a primary game operator or a business entity who employs, supervises, and controls game operators and who is hired by a charitable organization to operate games of chance on its behalf. The owner of 10 percent or more of the entity, partner, managing member, or chief executive of a business entity who serves as a game operator employer must be licensed as a primary game operator.

⁹ Generally speaking, a "rake" is the **casino's take for conducting the game. Most commonly it involves a percentage of the pot taken by the house during each hand, but it can also be assessed based on a amount of time a player is at the table for example, per half-hour.**

The Commission is responsible for licensing charitable organizations, persons or entities leasing or renting facilities to charitable organizations for the purposes of conducting games of chance five (5) or more days per calendar year, game operator employers and their respective qualifiers (subject to a qualification threshold of 10%)¹⁰, primary game operators and secondary game operators. Under RSA 287-D, the Commission's license application processes for games of chance game operator employers and primary game operators are not comparable to that applied to racing simulcast licensees and certainly not comparable to what has been proposed in New Hampshire for casino operators.

KEY FINDING : Under the relevant statute, the Commission is not required to employ the key check and balance on agency discretion inherent in the conduct of a background investigation independent of the deciding authority. Under RSA 287-D:8 the Division of State Police performs the criminal history check for all licenses and transmits the results to the Commission but does not make a formal suitability recommendation on an applicant. Under the express terms of RSA 287-D:8, II, the determination as to eligibility and suitability are within the exclusive jurisdiction of the Commission.

As is the case with racing, the Commission is granted rulemaking authority under RSA 284-D:1-b including, but not limited to, that related to licensing, background and criminal records checks, the operation of authorized games and accounting controls.

KEY FINDING: Although the Commission has taken steps to fully implement the statute through rulemaking it has not as yet completed the task, especially as it relates to regulation of games of chance. As an interim step it has issued recommended best practices to provide guidance to its licensees but in the absence of rulemaking is not positioned to enforce its recommended practices.

RSA § 287-D:6 enumerates regulatory and criminal penalties for violation of the statute and delegates regulatory enforcement authority to the Commission. Its audit and compliance staffs perform compliance testing and investigate regulatory violations. A matter may be resolved administratively by a corrective action plan, warning letter or other form of agreement through a tiered violation scheme (minor, moderate, major). Where it determines it to be warranted, the Commission may suspend or revoke a license and may impose fines. Rehearing and appeals are governed by RSA § 541. Criminal enforcement is the responsibility of the attorney general and/or the chief of police of any city or town where games of chance are held.

KEY FINDING : While the scope of the RFP did not permit a financial or operational review of the Commission, WhiteSand's discussions with Commissioner Connors and Director Kelley, its survey of the Commission rules and procedures

¹⁰ Licensing best practices in the commercial casino industry generally provide that all persons or entities that have a legal, beneficial or equitable ownership interest in, or are otherwise able to manage or control, the person or entity applying for a license must "qualify" as part of the license application of the person or entity. Each jurisdiction is somewhat nuanced but typically the threshold in commercial casino gaming is a 5% ownership position (for example PA, NJ).

applicable to games of chance and a site visit to a licensed facility all suggest that charitable gaming in the form of games of chance, and the type of facility that is actually operated under this authority, may not be well understood by stakeholders outside the Commission.

KEY FINDING: As a result, meaning compliance efforts are thwarted by limitations in the statute and regulations and it appears the Commission may not be funded or otherwise resourced to attract, train and retain personnel with the expertise required to complete the necessary rulemaking or to adequately oversee this sector.

KEY FINDING: Although the concerns and recommendations that follow warrant serious consideration, nothing in our review suggested that the Commission's organizational structure is deficient or that it is not optimizing the resources allocated to it.

Short Term Concerns and Recommendations

In its report to the Legislature the Authority is urged to recommend immediate action with regard to the statutory amendments or concern denoted as "expedited" and to recommend consideration in the normal course of the remainder.

1. KEY FINDINGS: Conduct of Games of Chance

a. Part Pari 1209, Games of Chance House Rules requires the charitable organization or the game operator to adopt "House Rules" describing how each game of chance offered is conducted, played and won. While the rule identifies topics, for example buy-in and re-buy, it provides no guidance as to acceptable practices and the Commission has no expressed authority to disapprove a House Rule. On a site visit, House Rules were observed to be hand written on an erasable white board.

b. Part Pari 1210, Operation of Games of Chance authorizes the Commission to review and approve procedures associated with the actual conduct of a game, for example, the payouts and odds for each wager in a card game but it is not sufficiently developed to provide guidance as to what is expected. On a site visit it was observed that the game operator employer did not follow standard practice and outfit a blackjack table with a card dealing shoe - the cards were dealt from the hand of the dealer - a practice that is not permissible in many regulated jurisdictions. It was also observed that chip sales and other accounting controls were rudimentary at best and completely manual - no inventory data was maintained on computer.

Recommendation #1 - Expedited: In practice, a substantial amount of money is wagered at these tables, notwithstanding a \$4.00 single maximum wager and other per game limits, and the gaming public at these tables is entitled to the same level of integrity and consumer protection required of a commercial casino operator. These games should be conducted in accordance with procedures and controls that emulate, or are directly derived from, best practices in commercial gaming. Although Part Pari 1209 and 1210

generally address the bulk of the operational considerations they are not sufficiently detailed to require licensees to implement and adhere to best practices. As a result, any standardization of practices or regulatory enforcement is frustrated. The Authority should consider incorporating into its report to the Legislature a recommendation that the Commission undertake expedited rulemaking to amplify the following sections of its regulations.

a. Require house rules to be subject to Commission approval in order to ensure that the games are conducted in a manner the complies with standard practice for that game, for example, the handling of an insurance side bet in blackjack;

b. Impose minimum internal control standards over all money handling functions including counting and cashiering, specific storage and inventory controls over all forms of gaming equipment;

c. Impose minimum staffing and supervision requirements that correlate to the number of tables in operation; and

d. Add a requirement that a game operator employer staff a security function. This function is essential to overall public safety.

2. ***KEY FINDINGS: Gaming Operation Employers and Primary Service Operators***

a. RSA 287-D does not include the key check and balance on agency discretion inherent in the conduct of a background investigation independent of the deciding authority.

b. Although nothing in the statute or the regulations precludes the Commission from requesting and reviewing the service agreement between a charitable organization and a game operation employer or primary game operator, it is notable that no provision requires the agreement to be submitted by the charitable organization or game operator employer applicant. This approach is contrary to the approach in RSA 287-D:3, VIII that requires a facility rental agreement to be submitted as an element of a license application.

c. A recent amendment to RSA § 287-D:5, VI extends the Commission's ability to audit, review or inspect any and all financial records, books, documentation and bank accounts in the name of a charitable organization but reaffirms that this authorization applies only to financial records, books, documentation and bank accounts that "*pertain to games of chance*".

Recommendation #2 - Expedited

For a multiplicity of reasons including the size of this sector, the revenue generated by it and its current level of operational oversight, in its report to the Legislature the Authority should consider recommending that RSA 287-D be revised to mirror racing and require the Attorney General to conduct a background investigation on, at a minimum, a gaming operation employer or primary gaming operator and to expressly provide that the Commission may not issue a license to a person or entity the Attorney General concludes is not fit to be associated with games of chance in New Hampshire.

Recommendation #3 - Expedited

A firm understanding of the duties, responsibilities and liabilities between charitable organizations and game operators is integral to meaningful oversight of games of chance and a comprehensive review of the agreement, and audits and compliance testing related thereto, are essential to ascertaining compliance with the 35% requirement in RSA 287-D:3, VIII (discussed with specificity below). In its report to the Legislature the Authority should consider recommending that RSA 287-D and its regulations be amended to eliminate any inference that the Commission may not review the agreement. It should further consider recommending that the Commission be granted explicit authority to approve the agreement or, in the alternative, that the legislature propose statutory amendments providing significantly more guidance as to the content of these agreements.

Recommendation #4 - Expedited

While it is uncontroverted that especially for a large organization there are many records that are not relevant to the regulatory process, the absence of a definition in RSA 287-D:5, VI that specifies what documents do pertain to games of chance will likely continue to materially frustrate the ability of the Commission to meaningfully perform the compliance testing it is tasked with. In its report to the Legislature the Authority should consider recommending that this provision be revisited with an eye toward better scoping and defining regulatory expectations.

Recommendation #5

In its report to the Legislature the Authority should consider recommending that the Commission explore the efficacy of a disclosure requirement aimed at ascertaining the level of independence between a gaming operation employer and a selected charitable organization. Given that there are more charities that want to participate in this form of fundraising than there is capacity to participate these relationships are relevant.

3. KEY FINDINGS: Facility Rental Agreements

a. RSA 287-D:3, VII identifies criteria for two forms of facility rental agreement.

(i) Where the facility is not rented from a game operator employer or primary game operator the contract must be in the form of a fixed rental payment reflecting the fair market value of the facility and may not be based on a percentage of what the charity receives from games of chance.

(ii) Where the facility is rented from a game operator employer or primary game operator the statute is silent on terms relating to the rental of the facility and in lieu of that specificity essentially provides that after the cost of the service or employment contract with the game operator employer or primary game operator and the facility rental agreement, the charitable organization must: " . . . retain no less than 35% of the gross revenues from any games of chance minus any prizes paid in accordance with RSA 287-D:3, VIII."

Notwithstanding the protections in RSA 287-D:3, VII and VIII on the retention of 35% of gross revenue, the statute allows additional "fees" to be assessed by a game operator employer or primary game operator provided it is agreed to in writing by the charitable organization and disclosed to the Commission.

b. RSA 287-D:3, VII further provides that under either scenario the facility rental agreement must be submitted to the Commission with the charitable organization's license application but grants no specific approval authority to the Commission over the terms of a facility rental agreement.

Recommendation #6 - Expedited

Charitable organizations have little negotiating clout with game operator employers, left unchecked RSA 287-D:3's fee provision completely undercuts the 35 percent requirement. It is consistent with the regulatory approach to prohibit additional fees or to set reasonable limitations on fees (well beyond what is specified in the current regulation) where a game operator is involved in order to protect the spirit and intent of the 35% minimum. The Authority should consider including in its report to the Legislature a recommendation that the fee issue be re-examined.

Recommendation #7

Where gaming operations take place in facilities that are not owned by the licensed operator it is a regulatory best practice to review and approve lease terms to establish that the relationship between the parties does not create an ownership interest triggering a qualification requirement. It is recommended that the Authority consider including in its report to the Legislature a recommendation that the statute be amended to require Commission review and approval of a facility agreement.

4. **KEY FINDINGS: Surveillance**

a. RSA 287-D:2-e, I (a) addresses surveillance. Although the facility license and the game operator employer license are separate licenses, the statute mandates that the game operator employer provide surveillance coverage of games of chance at his expense. RSA 287-D:2-e, I. This requirement essentially assumes that the facility licensee and the game operator employer are the same or affiliated. As constructed, the statute infers that there is no surveillance coverage requirement where a game operator employer is not involved.

b. RSA 287-D:2-e, I(a) allows a game operator employer authorized to conduct fewer than 50 calendar days at a particular location to substitute alternative controls for surveillance with Commission approval. The statute is silent as to permissible alternative procedures other than to specify they are at the game operator employer's expense.

c. RSA 287-D:2-e, I(d) requires a gaming operation employer to staff a surveillance function with at least one trained person with knowledge of the equipment, games and regulations.

Recommendation #8

The Authority should recommend reexamination of all three cited provisions along with other aspects of the chapter dealing with frames per second, recording retention, authentication of recordings and related provisions. The need for surveillance coverage, and surveillance minimum staffing, should be scaled to the size of the operation, specifically the number of tables potentially at play and should not be tied to who operates the licensed event or how often that person performs the service. Operators should be required by regulation to employ a scaled minimum staffing plan based on activity levels at its tables. The surveillance function should be independent of all other functions. A person can not simultaneously man a surveillance function and sell gaming chips as was observed on a site visit.

Recommendation #9

Stakeholders should be cognizant of the fact that for a table game operation there is likely no substitute control for surveillance other than extra security personnel trained to the satisfaction of the Commission in its rules and procedures as well as the house rules. The Authority should consider recommending rulemaking that provides guidance as to an acceptable substitute for the surveillance requirement.

5. **KEY FINDINGS: Gaming Equipment**

a. RSA 287-D:3, I requires a person that is a dealer in, or rents, gaming equipment for use in conducting games of chance to have a principal place of business in New Hampshire and to register to do business with its Secretary of State. It

does not require any type of licensing or registration of such persons with the Commission.

b. RSA 287-D:3, VI provides that "Any contract for the rental of a facility for a game of chance shall be independent of any contract for the rental of equipment. Those contracts shall not be contingent upon the charitable organization's agreement that it will contract with a particular business for a particular facility or equipment."

Recommendation #10

The Authority should consider recommending, at a minimum, that RSA 287-D be revised to impose a registration requirement that includes a criminal history check for a dealer in gaming equipment. In a commercial casino context sale of many of these products triggers the need for a gaming related casino service industry license.

Recommendation #11

RSA 287-D:3, VI is ambiguous at best. It fails to define independent and infers that the rental of equipment is outside of the 35% minimum discussed above. The Authority should consider recommending rulemaking to clarify regulatory expectations with regard to both fees and equipment rentals.

Long Term Recommendations

It is commonly agreed that the vast majority of jurisdictions that permit charitable gaming could significantly improve their commitment to politically independent, meaningful regulation of this sector. The fact that the NCLGS took up the issue and proposed the NCLGA Model Act in the late 1990's speaks volumes as to the pervasive nature of the difficulties associated with any attempt at meaningfully regulating such a long-standing exception.

Many states that have successfully moved into commercial gaming and regulate it well still grapple with the charitable gaming sector. A General Assembly Gaming Oversight Committee in Maryland just this past summer took up the issue of "inconsistent and confusing local laws" more than four years after commercial gaming was approved by referendum.

Arguably, moving forward in the process of designing and implementing a regulatory scheme for a commercial casino operation would provide a template for regulating games of chance that does not currently exist. The operational regulations that would be developed regarding the operation of table games involving accounting internal controls, gaming equipment specification and controls, rules of the games, security and surveillance would all be readily adaptable to games of chance. Potentially, an enabling statute could provide a funding source for this effort.

Recommendation #12

In its report to the Legislature the Authority is advised to recommend initiation of a comprehensive analysis of games of chance to determine whether the continued existence of this type of charitable gaming is in the best interest of the citizens of New Hampshire.

This analysis should assess:

- revenue impact on all stakeholders (the state, charitable organizations, facility owners, game operator employers, primary game operators, secondary game operators and equipment dealers);
- current oversight and enforcement costs;
- projected oversight and enforcement costs should they be improved as recommended;
- the impact of growth in this sector on the ability of New Hampshire to develop the type of commercial casino contemplated by the Omnibus Version of SB 152 and competing proposals;
- alternative funding mechanisms for charitable organizations;
- the role of game operator employers and primary game operator; and ¹¹
- the prospect of limiting the growth or phasing out this sector.

¹¹ The NCLGS Model Act represents an attempt by member legislators, with the assistance of the Kentucky Legislative Research Commission, to cobble together best practices, options and alternatives for meaningfully regulating charitable gaming in a manner that is readily adaptable to accommodate each state's political environment and other externalities. It is notable that the NCLGS Model Act expressly prohibits the concept of a game operator employer or primary game operator reading in pertinent part:

"No licensed charitable organization shall contract with, or otherwise utilize the services of, any management company, service company, or consultant in managing or conducting any aspect of charitable gaming". Section 12(7), NCLGS Model Act.

No owner, officer, employee, or contractee of a licensed charitable gaming facility or an affiliate, or any member of the immediate family of any officer, employee, or contractee of a licensed charitable gaming facility or an affiliate shall, concerning a lessee:

- (a) Manage or otherwise be involved in the conduct of charitable gaming;
- (b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;
- (c) Handle any moneys generated in the conduct of charitable gaming;
- (d) Advise a licensed charitable organization on the expenditure of net receipts;
- (e) Provide transportation services in any manner to patrons of a charitable gaming activity;
- (f) Provide advertisement or marketing services in any manner to a licensed charitable organization;
- (g) Provide, coordinate, or solicit the services of personnel or volunteers in any manner;
- (h) Influence or require a licensed charitable organization to use a certain distributor or any particular gaming supplies; or
- (i) Donate or give any prize to be awarded in the conduct of charitable gaming.

Section 1, NCLGS Model Act.

Recommendation #13 - Expedited.

In its report to the Legislature, the Authority should recommend that any analysis of games of chance be independent of, and at best run concurrent with, any analysis of expanded gaming. In specific, the Authority is urged to recommend against linking any commercial casino proposal to the on site availability of games of chance. Given the substantial influence of this sector and the dependence of charitable organizations on this revenue, resolution of the myriad of issues associated with games of chance will require time, education and hard policy choices as to what should be expected from this sector going forward. Games of chance have evolved over time and the issues associated with them are complex. It is unreasonable to burden any legislative proposal to expand into commercial gaming with the remediation of this sector.

Bingo and Lucky 7

Under RSA § 287-E the Commission is responsible for licensing the following persons and organizations:

Bingo: charitable organizations, agricultural fairs, private campgrounds and hotels, distributors and manufacturers of bingo supplies and equipment and commercial halls who rent or lease halls to charitable organizations.

Lucky 7: charitable organizations and distributors and manufacturers of Lucky 7 tickets, dispensing equipment and related equipment.

Unlike games of chance, a prerequisite to a bingo or Lucky 7 license is a local referendum authorizing the play of any game permissible under RSA 287-E. See RSA 287-E:27.

As is the case with racing and games of chance, the Commission is granted rulemaking authority under RSA 284-E:3 and RSA 284-E:18 including, but not limited to, that related to licensing, the operation of the game of bingo, the sale of Lucky 7 tickets and accounting controls. The Commission's rules for bingo and Lucky 7 are more detailed than is the case with games of chance and generally reflect standard practices and requirements.

RSA 287-E:14 addresses the Commission's regulatory enforcement authority for bingo and is focused exclusively on suspension or revocation of a license. It includes no authority to impose fines. RSA 287-E:25 addresses the Commission's regulatory enforcement authority over Lucky 7 ticket sales and is focused exclusively on revocation of a license. RSA 287-E:29 contains a misdemeanor provision related to unlawful Lucky 7 ticket sales.

KEY FINDING: While the scope of the RFP did not permit a financial or operational review of the Commission, WhiteSand's discussions with Commissioner Connors and Director Kelley, its survey of the Commission rules and procedures

applicable to bingo and Lucky 7 and a site visit to a license facility suggest that while the overall regulatory approach provides a reasonable level of assurance as to the integrity of bingo and Lucky 7 the type of bingo facility that is actually operated under this authority may not be well understood by stakeholders outside the Commission. Although the concerns and recommendations that follow warrant consideration, nothing in our review suggested that the Commission's organizational structure is deficient or that it is not optimizing the resources allocated to it.

KEY FINDING: Unlike games of chance licensees there is no requirement for a bingo or Lucky 7 licensee to undergo a background and criminal records check. See RSA 287-D:8 as to games of chance..

KEY FINDING: RSA 287-E:7, II(b) reads in pertinent part:

No compensation shall be paid to any person or entity for **consulting, managing, assisting in the operation of the bingo games or the sale of lucky 7 tickets, record keeping, filing forms with the racing and charitable gaming commission, advertising, free offer of coffee and donuts to customers, or security protection for the charitable organization itself** not including security for the hall or parking area, **unless agreed to in advance in writing by the charitable organization.** Participation in and charges for such activities shall be solely at the discretion of the charitable organization. Failure to participate in any of these activities shall not constitute grounds for expulsion from any hall where bingo games are held or lucky 7 tickets are sold.

Recommendation #14

The Authority should consider recommending that the statute be revised to require that a background and criminal records check be performed, at a minimum, for private campgrounds and hotels, distributors and manufacturers of bingo supplies and equipment, commercial halls who rent or lease halls to charitable organizations and distributors and manufacturers of Lucky 7 tickets, dispensing equipment and related equipment.

Recommendation #15

RSA 287-E:7, II(b) acknowledges a category of service provider that is not contemplated by the licensing scheme for either bingo or Lucky 7. Servicers offering consulting, management and assistance are akin to game operator employers and primary game operators and the Authority should consider recommending that the statute be amended to require licensing to the same standard.

Redemption Slot Machines and Redemption Poker Machines

Any appraisal of existing gaming sectors in New Hampshire must include an examination of the redemption slot machines and redemption poker machines found throughout the State in family entertainment centers. This sector should be subject to the same two prong analysis as the aforementioned formalized gaming sectors meaning, as to public accountability, are the games licensed and/or offered to the public under the redemption slot machine and redemption poker machine exception operated in compliance with the limitations articulated in RSA 647:2, including the merchandise only limitations detailed therein and, as to integrity, does the regulatory scheme to which they are subject provide a reasonable level of assurance as to their fairness and compliance with all applicable conditions and limitations.

RSA 647:2 defines criminal penalties for gambling including the possession of gambling machines subject to certain enumerated exemptions. One of the exemptions carved out in the chapter is for "family entertainment centers" defined as a:

Place of business having at least 50 games or devices designed and manufactured only for bona fide amusement purposes on premises which are operated for the entertainment of the general public and tourists as a bona fide entertainment facility and not having more than 15% of the total games or machines being redemption slot machines or redemption poker machines. RSA 647:2II(c).

RSA 647:2 defines a "redemption slot machine" or "redemption poker machine" as:

Any device or equipment which operates by means of the insertion of a coin or token and which may entitle the person playing or operating the game or machine the opportunity of additional chances or free plays or to receive points or coupons which may be exchanged for merchandise only, excluding cash and alcoholic beverages, provided the value for such points or coupons does not exceed 2 1/2 cents for each credit on the game or machine. RSA 647:2II(f).

While not legally dispositive, the redemption slot machines and redemption poker machines routinely available in New Hampshire physically resemble slot machines and the creative payment methodologies employed to arguably circumvent the prohibition on cash payments from these machines contributes to that illusion. They are often integrated into facilities that also house Games of Chance, Bingo and Lucky 7. Unlike the latter, however, the availability of redemption slot machines and redemption poker machines is not tied to any charitable purpose or organization and the Racing and Charitable Gaming Commission ("Commission") has no expressed authority to regulate this sector or to enforce the provisions of RSA 647:2. Per the statute, "a[A]ny violation of this chapter may be enjoined by the superior court, upon petition of the attorney general, county attorney, or the police chief within the jurisdiction in which the violation is alleged to have occurred." RSA 647:2VI. Typically, these machines are assessed a fee at the local

level, purportedly \$2,000 per machine per year under a Manchester ordinance, and enforcement authority rests with applicable local law enforcement.

Any public accountability assessment of redemption slot machines and redemption poker machines is frustrated by the fact that the legislative intent behind RSA 647's exception for these machines is not obvious. How far the Legislature intended to allow operators to go beyond the plush toy merchandise prizes traditionally associated with "family" entertainment is uncertain. Was the payment mechanism of choice for many operators of these machines - the Visa debit card - envisioned? Was the practice of an operator converting points into merchandise via an Internet purchase contemplated?¹² What happens if this merchandise is subsequently returned by the player for a cash refund? There are no clear answers. What is apparent, however, is that RSA 647:2 lacks clarity, has inconsistencies and, as a corollary enforcement limitations, all of which compel the need for further clarification of the terms and conditions of the exemption and which favor a state wide, uniform compliance approach.

KEY FINDINGS

a. RSA 647:1 et seq. does not define cash or reference a statutory definition of cash. Generally, cash is held to mean currency or coin. NJAC 13:69D-1.1. The use of the term cash is conspicuous in the chapter as it was amended, as late as 2012 [HB 1260], to expressly reference in the definition of gambling machine cash equivalents, debit cards and merchandise credit cards.¹³ The statute must be clarified to squarely address the Legislature's position with regard to payments in cash equivalents and to incorporate uniform, defined terms throughout.

b. Although RSA 647:2II(c) limits redemption slot machines and redemption poker machines to 15% of the total games or machines in a family entertainment center it fails to define what type of machine may be included in the 15% calculation. Must the game be in service? Does a hand held device qualify for consideration in the count? Again, clarity is required.

c. RSA 647:2 neither incorporates nor references technical standards applicable to redemption slot machines and redemption poker machines including, but not limited to, procedures and controls to preclude or detect conversion of a redemption machine to a device meeting the chapter's definition of a gambling machine, minimum design standards relating to payout percentage or randomness, metering, accounting and inventory controls or requirements covering physical or logical access to these machines or any related systems.

¹² See *N. H. already has slot machines - and lots of them*. New Hampshire Business Review, May 17, 2013 which reads in pertinent part: "When Room 647 [Belmont] reopened it did so without awarding the Visa cards. Instead, winners are able to trade in their winnings for merchandise. But it isn't for candy or pencils or similar arcade prizes that are given away. Slots players can use their winnings for any merchandise they can find on the Internet. The casino then orders the merchandise for the player."

¹³ A gambling machine is defined as " . . . any device or equipment which is capable of being used to play sweepstakes or games of chance and which discharges money, or anything that may be exchanged for money, cash equivalent, debit card, merchandise credit card, or opportunities to enter sweepstakes or play games of chance, or displays any symbol entitling a person to receive such a prize. RSA § 647II(e).

d. RSA 647:2 neither incorporates nor references testing or manufacturer certificate requirements to confirm for the authorizing entity that the machine is configured to operate as represented meaning that it complies with the rudimentary requirement that it award no more than 2 1/2 cents per credit.

e. Apparently relying on the de minimus amount that may be awarded per credit, RSA 647:2 fails to incorporate limitations on the number of credits that may be awarded or bet per wagering event.

f. Municipal licensing and permitting departments and applicable local law enforcement are not typically equipped by education, training or experience to determine whether a slot redemption machine meets the current, or an improved version of the definition of a redemption slot machine or redemption poker machine pursuant to RSA 647:2.

Recommendation #1 - Expedited

The Authority should consider recommending that RSA 647:1 et. seq. be amended to resolve the cited deficiencies and inconsistencies in relevant definitions and payment methods.

Recommendation #2

The Authority should consider recommending that RSA 647:1 et. seq. be amended to impose rules that require testing and/or manufacturer certification requirement on a prototype of each game platform to establish baseline fairness to the player and compliance with applicable conditions and limitations.; and

Recommendation #3

The Authority should consider recommending that regardless of where jurisdiction is placed, that the authorizing entity implement audit protocols aimed at ensuring the accuracy of the awards made by these machines.

Recommendation #4

The Authority should consider recommending a comprehensive cost/benefit analysis to determine whether the continued existence of the redemption slot machine exemption is in the best interest of the citizens of New Hampshire. This analysis should include an assessment of local revenue, current enforcement costs, projected enforcement costs should oversight be improved and a specific analysis of the impact of growth in this sector on the ability of New Hampshire to develop the type of commercial casino contemplated by the Omnibus Version of SB 152 and competing proposals.

Recommendation #5

The Authority should further consider recommending that if a decision is made to retain the exemption:

That RSA 647:1 et. seq. be amended to name the New Hampshire Racing and Charitable Gaming Commission as the primary regulatory authority subject to a defined exception that the local jurisdiction may continue to associate an "annual fee" on redemption slot machines and redemption poker machines. Properly funded the Commission appears to be equipped to undertake this role.

Explore methodologies to recoup the cost of regulatory oversight and enforcement over this sector including, but not limited to, an assessment on gross revenue or an additional annual fee per machine. This assessment should be in addition to any other property, income or corporate taxes generally applicable to a business.

Sweepstakes

A prohibition on the play of sweepstakes on a gambling machine as defined in RSA 647:2(e) and (h) was credibly incorporated into New Hampshire's Gambling Offenses statute in 2012 [HB 1260]. This was an important amendment for New Hampshire as the electronic display of sweepstakes results on an electronic monitor in a manner that simulates the play of a slot machine has proliferated significantly and venues offering this type of device have become prosecutorial and enforcement problems in States like Florida, Ohio and North Carolina.

Recommendation #1

The Authority should consider recommending that RSA 647:2(e) be amended as follows:

Gambling machine means any device or equipment which is capable of being used to play or reveal the outcome of a sweepstakes or play games of chance and which discharges money, or anything that may be exchanged for money, cash equivalent, debit card, merchandise credit card, or opportunities to enter sweepstakes or play games of chance, or displays any symbol entitling a person to receive such a prize.

Recommendation #2

The Authority should consider recommending that RSA 647:1 et. seq. be amended to designate the New Hampshire Racing and Charitable Gaming Commission or its designee as the initial arbiter of whether a device meets the statute's definition of a prohibited gambling machine.

REGULATORY STRUCTURE

While there are certain core best practices that should be incorporated, and uniform incompatibilities of function that must be respected, it is safe to say that no two of the twenty-three States that offered commercial gaming¹⁴ in 2012 regulates it in the same way. Regulatory schemes have never been one size fits all, what works well for one jurisdiction may not be palatable for legal, political, cultural or other considerations in another. Distilled to its essence, every regulatory scheme reflects a balancing of competing interests that is unique to that State.

As indicated elsewhere in this report, no structural changes in the New Hampshire regulatory system are indicated for currently authorized gaming. With regard to proposals to expand gaming to include commercial casinos, an essential first step for New Hampshire is to honestly assess what its expectations are for a commercial casino. Is it just a means of addressing an immediate fiscal problem or is it interested in integrating a gaming sector into its long term development plans? Is it about jobs? Is it about tourism? Or is a combination of these goals? Any statute that is developed should identify New Hampshire's unique expectations. If jobs are the primary motivator then hiring locally and use of local products should be emphasized. If tourism is the primary motivator, then the effective tax rate and/or any minimum investment requirements should be geared to stimulate restaurants, hotels, entertainment, convention centers and marketing. If the state is really committed to addressing problem gambling than an enabling statute must fund that commitment. When a state is considering whether to permit commercial gaming it is engaged in a negotiation. The casino companies know what they want to achieve in the context of those negotiations and it is important for the state to be equally prepared.

The challenge for any jurisdiction competing for gaming investment, especially as markets approach saturation, is to design a regulatory scheme that meaningfully regulates the industry at the lowest possible cost. The calculus performed by casino companies will involve not only an assessment of the initial costs of entry to the jurisdiction in the form of licensing fees, minimum investment and cost of investigation but will also factor in the regulatory burdens and expectations imposed upon their day to day operations. Well run casino companies will be looking for three things in any New Hampshire enabling statute:

- A secure regulatory environment where expectations are well defined and consistent with industry best practices so that no aspect of operations in New Hampshire complicates or jeopardizes its license in another jurisdiction.

¹⁴ The American Gaming Association defines commercial casinos as land based, riverboat, dockside and racetrack casinos. The *2013 American Gaming Association Survey of Casino Entertainment* at ii. For purposes herein, commercial gaming is intended to mean slot machines, video lottery terminals, table games or some combination thereof conducted at a commercial casino.

- A stable and predictable political environment where there are no frequent or dramatic changes or unrealistic expectations that impact its ability to do business; and
- A environment where it can pursue its overall business plan and can maximize returns within the limits of a reasonable regulatory scheme.

States can generally be categorized as gaming agency or lottery centric states. Gaming agency states typically employ either a single agency or dual agency approach to regulation. Arguably oversimplified, the distinction between gaming agency states generally turns on the source of the licensing suitability and eligibility recommendation and on responsibility for the prosecution of regulatory enforcement matters. California, for example, employs a dual agency approach for its cardrooms with the CA Department of Justice's Bureau of Gambling Control responsible for all investigatory, auditing and compliance functions and the CA Gambling Control Commission acting on licensing applications, adjudicating enforcement actions and maintaining responsibility for rulemaking. Conversely, Pennsylvania, as will be discussed with greater specificity below, consolidates all of the above cited functions in the Pennsylvania Gaming Control Board with an independent Bureau of Investigation and Enforcement within the Board ensuring that the appropriate segregation of these functions is internally maintained within the agency. Gaming agency states generally afford operators significant discretion over the operation and management of the gaming enterprise and the ownership of slot machines and related equipment and assess taxes, supplements to racing purses and other fees on gross or net gaming revenue.

The RFP identified nine comparator states for the purposes of this report. Of the nine, six of the states are gaming agency states:

Dual Agency: Connecticut¹⁵
 Maine
 New Jersey
 Nevada

Single Agency: Pennsylvania
 Massachusetts

Lottery centric states generally graft commercial gaming into an already functioning lottery regulatory scheme. Typically, these states employ lottery terminology rather than casino terminology, for example, a slot machine is denoted as a video lottery terminal, a game manufacturer is denoted as a technology provider. In the majority of lottery centric states, video lottery terminals and a central control computer system are

¹⁵ Foxwoods and Mohegan Sun are both Tribal casinos authorized under the National Indian Gaming Act. Multiple regulating agencies are involved with a tribal casino. On the Tribal level the primary regulator is the Tribe's gaming authority. In addition, there is a state regulatory mechanism agreed to via the Compact and there are roles for the National Indian Gaming Commission, the Bureau of Indian Affairs, other agencies within the Department of Interior and the Department of Justice.

owned, leased or licensed by the state and a remittance or commission based model of compensation is utilized pursuant to which all gross revenue is remitted to the lottery and distributed back by the lottery to casino operators, technology providers, general and specialty funds and others in the distribution scheme.

The New Hampshire comparator states following a lottery centric model are:

Delaware
Maryland ¹⁶
Rhode Island

A summary of the regulatory scheme in each of the nine comparator states follows. ¹⁷ These summaries should function as a quick reference guide when evaluating alternatives and options with regard to the functional components of a casino regulatory scheme - investigation, adjudication, rulemaking, audit and compliance, regulatory enforcement and criminal referral and enforcement. Every effort has been made to present a uniform summary but the exercise is more difficult than first appears because the approaches, whether gaming agency centric or lottery centric, are so diverse. The reader is cautioned that while the experiences of others states are certainly relevant, within the constraints of industry best practices, New Hampshire is best served by setting its own objectives and finding its own path.

¹⁶ Maryland is in the process of phasing out state participation in the ownership, leasing or licensing of video lottery terminals. Two yet to be built facilities will be responsible for procuring their own video lottery terminals and by March 2015 the ownership of the slot machines at its two largest operating facilities must be transferred to the casino operators. The State Lottery and Gaming Control Agency will continue to own or lease the video lottery terminals at its two smallest properties in the near term.

¹⁷ While the report did not intentionally limit its analysis to the nine comparator states, and other states like California are referenced, the comparator states provide a good cross section of regulatory options and alternatives.

CONNECTICUT

The State of Connecticut has two very large scale casino resorts, both of which are operated by federally recognized Indian Tribes and authorized pursuant to gaming Compacts with the state under the Indian Gaming Regulatory Act of 1988, 25 U.S.C. sec. 2701 ("Act"). Under the Act, a Tribe is generally authorized to offer any game of chance then legal under state law including video facsimiles of permissible games of chance. Because the Act expressly prohibits a State from taxing Tribal gaming revenues, it is within the context of the Compact that the parties negotiate any revenue share. Neither Connecticut Compact has an expiration date and remain in effect unless terminated by both parties.

The Mashantucket Pequot Tribe opened Foxwoods Resort Casino in 1992 and the Mohegan Tribe opened Mohegan Sun four years later. Their respective Compacts with the State are the product of independent negotiations and generally set forth the scope of the permitted games mix as well as the rules, regulations and conditions under which each Tribe conducts Class III gaming as defined in the Act. As a result of Connecticut's broad charitable gaming rules these Tribal gaming operations are authorized offer the full array of casino games and electronic gaming devices. Pursuant to the terms of both Compacts, under certain enumerated conditions each tribal operator contributes 25% of its gross revenue from slot machines to the State's General Fund. There is no revenue share on table games. In addition, each is subject to an annual assessment sufficient to cover the costs of regulation, including investigations.

A number of entities at the Tribal, State and Federal level concurrently regulate a Tribal operation. On the Tribal level the primary authority is the Tribe's gaming authority. In addition to the State regulatory mechanism agreed to via the a Compact there are roles for the National Indian Gaming Commission, the Bureau of Indian Affairs, other agencies within the Department of Interior and the Department of Justice. An exhaustive discussion of their relevant concurrent and exclusive jurisdictions is well outside the scope of this report and is arguably of little direct relevance to the Authority's deliberations. The discussion herein is, therefore, limited to the State's role in the oversight of these operations.

Under the Connecticut Compacts, the Connecticut Department of Consumer Protection's Gaming Division ("Gaming Division") acts in the role of the State's gaming agency and the Connecticut State Police ("State Police") act as the State's law enforcement agency. Generally, licensing applications for employees and gaming service enterprises are filed with the Gaming Division, investigation and recommendation with regard to same are the responsibility of the State Police and the Gaming Division approves, approves with conditions or denies each license. Standards of operation and management, and regulatory compliance therewith are largely the responsibility of the Tribal gaming authority with certain enumerated oversight and concurrence authority resting with the Gaming Division. Criminal enforcement for gaming related matters rests primarily with the State Police.

DELAWARE

Type of Gaming	Year Authorized
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Video Lottery Terminals	1994
Table Games	2010
Sports Lottery (limited wagering)	2009
Internet Gaming	2012 ¹⁸

Effective Tax Rate

Video Lottery Terminals	56.5% ¹⁹
Table Games	33.9%
Sports Lottery (limited wagering)	56.5%

License Fee

None specified in the statute

Minimum Investment

None specified in the statute.

Regulatory Structure

Video lottery terminals, permissible sports wagering systems and Internet gaming systems are owned, leased or licensed by, and operated by, the Delaware Lottery and only entities licensed by the State to conduct horse or harness racing qualify to be Lottery Agents offering the full array of Lottery products. The latter include the table games authorized by the Legislature for licensed Lottery Agents in 2010. At present, three racinos are operational in Delaware.

The following summary reflects the regulatory model as of December 2013.

¹⁸ Expected to go live October 2013.

¹⁹ 29 Del. C § 4815 is extremely fact specific and employs a scheme pursuant to which the Lottery collects gross proceeds and remits back to casino operators. The effective tax rates in all categories are approximate. All remittances to operators are categorized as commissions for the operation of video lottery terminals, sports wagering and table games.

Director, State Lottery Office

The primary operating and regulating entity is the Director of the State Lottery Office in the Department of Finance. ("Director") Appointed by the Secretary of Finance with the approval of the Governor, the Director serves as the executive officer of the State Lottery Office. Under 29 Del. C § 4805 the Director exercises broad authority to operate and administer the State Lottery Office and to grant licenses to Lottery Agents and their qualifiers, key employees, game room service employees, sports operations employees and service companies. The Director is further authorized to contract with technology providers and to promulgate rules and regulations with regard to all aspects of licensing, the conduct of gaming operations and technical standards and specifications for systems. A party whose license is denied, suspended or revoked by the Director is entitled to a hearing conducted by the Delaware Lottery Commission. Appeal of the Lottery Commission's decision is to the Superior Court.

Generally, all license applications are filed with the Lottery and, upon a determination of completeness, are referred to the Division of Gaming Enforcement (see below) for investigation and ultimately, a licensing recommendation. Upon receipt of the Division's recommendation, the Director acts on the application.

Under 29 Del. C § 4819A the Director also licenses eligible charitable gaming organizations, generally fraternal or veteran's organizations in existence after January 1, 2013, permitted to operate charitable video lottery machines. connected to the Lottery's central control computer system

Lottery Commission

The Lottery Commission is also within the Department of Finance. Under 29 Del. C § 4837 its duties include, but are not limited to, providing policy advice and guidance to the Director and the Secretary of Finance and the review of regulations issued by the Director. The Commission is also charged with the conduct of hearings related to the following:

Motions for reconsideration of an emergency order for the suspension of any license issued by the Director. See 29 Del. C § 4830(i);

Denial, suspension or revocation of a license by the Director. See 29 Del. C § 4830(j); and,

A placement on the exclusion list. See 29 Del. C § 4835.

In every case, appeal of the Lottery Commission's decision is to the Superior Court.

Membership

Five member Commission, all appointed by the Governor and subject to confirmation by the Senate.

Chair is appointed by the Governor and serves at his pleasure.

The Commission must be composed of at least one of each of the following: CPA, lawyer, businessman, person with a background in law enforcement and a public member. Other restrictions on ownership are enumerated in the statute including prohibitions on owners, employees or agents of a video lottery agent or sports agent and members of the Standardbred Owners Association and Delaware Thoroughbred Horsemen's Association.

No more than three members from the same political party.

Five year staggered term; only one full term permitted.

Members are subject to background investigation to the same standard as a key employee.

Members are compensated on a per diem basis for meeting attendance and for actual expenses.

Division of Gaming Enforcement

Delaware recently formalized a Division of Gaming Enforcement ("Division") under the supervision of the Secretary of Safety and Homeland Security. The Division is charged with performing all background investigations required by the Lottery and the issuance of a suitability recommendation to the Director for all persons required to be licensed in Delaware.

The Division is responsible for initiating placement of a person on Delaware's exclusion list and exercises exclusive jurisdiction over all criminal offenses related to the conduct of operations at the Lottery or that occur at a licensed facility.

Under 29 Del. C § 4805 the Delaware State Police also plays a role in background investigations related to employee organizations (unions).

Rulemaking Authority:

Director

Regulatory Enforcement and Notice of Violation Recommendation

Under 29 Del. C § 4823, regulatory enforcement rests with the Director. The Director through Lottery Office staff evaluates compliance with applicable regulations and requirements and, where a deviation or deficiency is identified, the Director reviews the investigative file and makes a recommendation. The matter may be resolved administratively by a corrective action plan, warning letter or other form of agreement with the affected party. Where he determines it to be warranted, the Director may initiate an action in the Superior Court for a civil penalty actions under the Delaware enabling statute.

Criminal Enforcement

Gaming Related:	Delaware Division of Gaming Enforcement
Non-Gaming Related:	Local Jurisdiction

MAINE

Type of Gaming	Year Authorized
Slot Machines	2004
Table Games	2010
Effective Tax Rate	
Slot Machines (all)	1% Gross ²⁰
racetrack	39% Net ²¹
non-racetrack	46% Net ²²
Table Games	
racetrack	16% Net ²³
non-racetrack	16% Net ²⁴
License Fee	<p>\$ 250,000 Non-refund. privilege fee</p> <p>\$5,000,000 applicable after 09/01/13 if an application is subject to competitive bid.</p>

²⁰ 1% of Gross Slot Machine Income is assessed for the administrative expenses of the Gambling Control Board. 8 M.R.S.A. § 1001 (21) defines Gross Slot Machine Income as the total value of money, tokens, credits or similar objects or things of value used to actually play a slot machine before payback is distributed to a player.

²¹ A casino operator of a commercial racetrack is assessed 39% of Net Slot Machine Income. 8 M.R.S.A. § 1002 (29-A) defines Net Slot Machine Income as money, token, credits or similar objects or things of value used to play a slot machine minus money credits, or prizes paid out to winners and amounts paid pursuant to 8 M.R.S.A. § 1036 subsection 1 (which is the 1% of Gross Slot Machine Income paid for administrative expenses of the Board). Per 8 M.R.S.A. § 1032-A promotional credits are included in Gross Slot Machine Income. Distributions from this category of licensee include, but are not limited to, administrative expenses of the Board, the host municipality, education and funds associated with the horse industry and to stabilize off track betting facilities.

²² A casino operator unrelated to a commercial racetrack is assessed 46% of Net Slot Machine Income. Distributions from this category of licensee generally mirror those of a casino operator with a commercial racetrack but also include a distribution of 4% of Net Slot Machine Income for the Tribal governments of the Penobscot Nation and the Passamaquoddy Tribe.

²³ 8 M.R.S.A. § 1001(29-B) defines Net Table Game Income as money, tokens, credits or similar objects or things of value used to play a table game minus money, credits or prizes paid out to winners.

²⁴ For casino operator unrelated to a commercial racetrack only, a distribution is made from the table game tax for charitable nonprofit organizations that were previously eligible to conduct beano games and games of chance.

Minimum Investment

None

Regulatory Structure

In 2004 Maine legislatively authorized slot machines at racetracks and in 2010 a referendum authorized table games. As of 2012, two facilities were operational, Hollywood Casino in Bangor with 925 slot machines and 16 table games and Oxford Casino with 739 slot machines and 22 table games.

Under 8 M.R.S.A. § 1020 (3) the maximum number of slot machines for the state is 3000 with no one operator authorized more than 1500.

Under 8 M.R.S.A. § 1012-A renewal of a slot machine operator license and casino license are tied to an approval process for the host municipality narrowly focused on the operator's actual impact on the public health and safety of the host municipality. Rights of appeal are first to the Gambling Control Board and then to the District Court.

The following summary reflects the regulatory model as of December 2013.

Gambling Control Board. See 8 M.R.S.A. § 1002

The Gambling Control Board ("Board") within the Maine Department of Public Safety ("Department") is the primary regulatory authority. It is responsible for licensing and all aspects of regulatory compliance with regard to operators, slot machine distributors, table game distributors, gambling service vendors and key employees as well as the registration of employees.

Generally, all license applications are filed with the Board and, upon a determination of completeness by the Executive Director of the Board, are referred to the Department for investigation and ultimately, a licensing recommendation. Upon receipt of the Department's recommendation, the Board acts on the application.

Membership

Five (5) member Board, all appointed by the Governor subject to:

Review by a joint standing committee of the legislature having jurisdiction over gambling matters; and

Confirmed by the Senate.

Chair appointed by the Governor.

Removal by the Governor for cause.

At least four members of the Board must have training or experience in at least one of the following fields: corporate finance, economics, law, accounting, law enforcement, computer science, or the gambling industry.

One member must have experience in the harness racing industry.

Three year staggered term. Statute does not specify terms of compensation but presumably at least expenses are compensated.

Under 8 M.R.S.A. § 1002(8) a Board member is subject to a two year employment restriction during his term and for a period of two years after the end of that board member's service. The restriction applies to immediate family.

Director, Gambling Control Board. See 8 M.R.S.A. § 1003.

The Commissioner of Public Safety, with the advice and the consent of the Board, and on a timetable directed by the Board, hires the Executive Director. The Board may delegate certain enumerated duties and responsibilities to the Executive Director, many of which are significant. Among the duties and responsibilities that may be delegated are rulemaking and denial, approval with conditions, suspension or revocation of any license or registration or the imposition of sanctions or penalties.

Department of Public Safety. See 8 M.R.S.A. § 1003.

Under the statute, the Maine Department of Public Safety ("Department") enjoys a significant amount of concurrent regulatory authority with the Board. In addition to its statutorily defined roles with regard to regulatory compliance, background investigations and the licensing recommendation, the Department is empowered to perform an extensive level of oversight on its own initiative.

Rulemaking Authority

Board

**Regulatory Enforcement and
Notice of Violation Recommendation**

As noted above, given that the enabling statute enumerates a significant level of concurrent authority for regulatory compliance between the Board and Department, both are active in this regard. The Board's 2012 annual report cites the presence in each facility of both civilian inspectors assigned to the Board and sworn personnel assigned to the Department. Generally, compliance concerns are investigated by the Department at the request of the Board or Executive Director. A matter may be resolved administratively by the Executive Director by a corrective action plan, warning letter or other form of agreement with the affected party. Where it is determined by the Executive Director to be warranted, he may initiate proceedings before the Board for a penalty or sanction. Appeal of a Board decision is to the Superior Court.

Criminal Enforcement

Gaming related

Department (includes potential referral to
the Attorney General)

Non-Gaming related

Local Jurisdiction

FOR DISCUSSIONS PURPOSES ONLY

MARYLAND

Type of Gaming	Year Authorized
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Video Lottery Terminals	2008
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Table Games	2012
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Effective Tax Rate

Video Lottery Terminals	See below ²⁵
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Table Games	20% ²⁶
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Annual Fee (Problem Gaming Fund)	\$425/VLT \$500/table
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License Fee

VLT License Fee	At least three (3) million per 500 VLT (competitive process - reduced for resort facility).
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Table Game License Fee	None
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Minimum Investment

At least twenty-five million per 500 VLT (competitive process; reduced for resort facility; investment includes construction and related costs.)

²⁵ Md. Code § 9 - 1A -01 defines "Proceeds" as the part of the amount of money bet through video lottery terminals and table games that is not returned to successful players. Subject to certain enumerated conditions, "Proceeds" does not include money given away by a video lottery operation licensee as free promotional play and used by players to wager at a video lottery terminal or at a table game.

In conjunction with the November 2012 referendum authorizing a sixth gaming facility, an additional 1,500 VLTs and the conduct of table games, Md. Code § 9 - 1A -27 was amended to reflect a significant increase in Maryland's then 33% of Proceeds distribution to video lottery operator licensees. The revised statute retains the distribution of Proceeds back to a video lottery operation license at 33% for all operators except for the licensee located in Worcester County (smallest non-resort) where it is now 43% and for the operator in Allegany County (resort operator) where it is now 50%. In addition, all licensees are slated to receive additional distributions in the 6% - 8% range tied to assumption of ownership of video lottery terminals by the operator and further additional distributions in the 6% to 8% range tied to promotional costs and capital improvements in their facilities. In accordance with Md. Code § 9 - 1A -27, Proceeds are allocated to cover the cost of regulation and to several funds including local impact grants and racing.

²⁶ Casino operators receive 20% of the Proceeds from table game operations with the remaining 80% distributed to the Maryland Education Trust Fund.

Regulatory Structure

A November 2008 referendum authorized up to 15,000 video lottery terminals ("VLTs") at five specifically enumerated regional locations denoted as Qualified Locations via a competitive process. Under the inaugural statute, the Maryland State Lottery Commission was granted primary authority to regulate VLTs subject to the competitive selection process described below by the Maryland Lottery Facility Location Commission. In the inaugural statute, the Maryland State Lottery Agency was charged with assisting the Maryland State Lottery Commission in the performance of its duties.

Following the success of a November 2012 referendum authorizing a sixth gaming facility, an additional 1,500 VLTs and the conduct of table games, the Maryland State Lottery Commission was reconstituted as the State Lottery and Gaming Control Commission and the Maryland State Lottery Agency was reconstituted as the State Lottery and Gaming Control Agency.

As noted in Footnote #14, the state initially owned both the video lottery terminals and the state's central control computer system. It is in the process of moving away from this model and going forward expects to only retain an ownership, lease or license interest in the central control computer system.

The following summary reflects the current regulatory model.

Maryland Lottery Facility Location Commission ("Location Commission").
See MD. Code §9-1A-36.

The Location Commission is authorized to "award" but not "issue" up to six video lottery operation licenses to *qualified* applicants through a competitive process. Qualified applicants are persons found suitable by the State Lottery and Gaming Control Commission ("Commission") (discussed below) to hold the license, if selected. The actual video lottery operation license includes table games and is "issued" by, and concurrent authorization to conduct table games is granted by, the Commission. By statute, the Location Commission expires January 1, 2015, subject to reconstitution by the Governor, the expectation being that all six locations will have been selected by that date. The State Board of Contract Appeals decides an appeal of a decision by the Location Commission.

Membership

Seven Member Commission. Appointed as follows subject to enumerated experiential and conflict criteria:

Three by the Governor
Two by the President of the Senate
Two by the Speaker of the House of Delegates.

Chair must be a gubernatorial appointment.

Part time; four (4) year term.

No compensation other than expenses.

Removal by the Governor, in consultation with the President of the Senate and the Speaker of the House, for inefficiency, misconduct in office or neglect of duty.

One year post-employment restriction.

State Lottery and Gaming Control Commission ("Commission"). See MD. Code § 9-1A-04.

The Commission is the primary regulatory authority and is authorized to determine whether an applicant for a operator, casino servicer provider or employee license, including any qualifiers, satisfies the enumerated licensing criteria. Once the license is issued the Commission is responsible for all matters related to the regulation of that licensee including the grant of authority to conduct table game operations under MD. Code § 9-1A-04 and the issuance, suspension and revocation of a license.

Key Divisions within the Commission include:

Gaming Division - responsible for compliance audits, responsible gaming, technical standards and the management of the central control computer system.

Enforcement Division - This Division maintains a presence in each licensed facility.

Background investigations are performed by civilian Commission staff dedicated to that purpose and supervised by a senior member of the Maryland State Police assigned to the Commission. Under MD. Code § 9-1A-20 a background investigation may be outsourced. Upon receipt of the staff recommendation as to suitability and assessment of all other relevant obligations and conditions, the Commission proceeds with the licensing decision.

Membership

Seven Member Commission. Appointed by the Governor with the advice and consent of the Senate subject to enumerated experiential and conflict criteria.

Commission members elect Chair.

No more than five members from the same party.

May be full time; five year staggered term; no more than two full terms.

Compensated with salary and expenses.

Removal by the Governor for cause with notice and opportunity to be heard.

Governor appoints one member of the Commission to serve as a liaison to the State Racing Commission.

At least one member must reside in a municipality that has a video lottery facility.

One year post-employment restriction.

Maryland State Lottery and Gaming Control Agency ("Agency"). See MD. Code § 9-107, 111.

The Agency is the primary regulatory authority over Lottery but is charged only with assisting the Commission in the performance of its duties with regard to VLTs and table games. The Agency is headed by a Director, appointed by the Governor with the advice and consent of the Senate, who serves as the executive officer of the Agency. The Director serves at the pleasure of the Governor and is Secretary of the Commission.

Rulemaking Authority: Commission

**Regulatory Enforcement and
Regulatory Notice of Violation Recommendation**

Regulatory enforcement authority rests with the Commission. Civilian Commission staff investigate alleged regulatory violations which are typically resolved administratively by a corrective action plan, warning letter or other form of agreement with the affected party. Where determined to be warranted, the Attorney General may initiate proceedings before the Commission for a penalty or sanction on the licensee.

Criminal Enforcement

Gaming Related

Local law enforcement and State's
Attorney

Non-Gaming Related

Local law enforcement and State's
Attorney

Non-Gaming Related

Local Jurisdiction

FOR DISCUSSIONS PURPOSES ONLY

MASSACHUSETTS

Type of Gaming

Category 1 License	Permits operation of table games and slot machines.
Category 2 License	Permits no more than 1,250 slot machines; no table games.

Year Authorized

Category 1 License	2011
Category 2 License	2011

Effective Tax Rate

Category 1 License	25% GGR ²⁷
Category 2 License	40% GGR ²⁸ 9% GGR
Slot Machine Annual Fee	\$600/slot

License Fee

Category 1 License	Not less than \$ 85,000,000 ²⁹
Category 2 License	Not less than \$ 25,000,00

²⁷ Gross gaming revenue is defined as the total of all sums actually received by a gaming licensee from gaming operations less the total of all sums paid out as winnings to patrons; provided, however, that the total of all sums paid out as winnings to patrons shall not include the cash equivalent value of any merchandise or thing of value included in a jackpot or payout; and provided further, that "gross revenue" shall not include any amount received by a gaming licensee from simulcast wagering or from credit extended or collected by the gaming licensee for purposes other than gaming; provided further, that the issuance to or wagering by patrons of a gaming establishment of any promotional gaming credit shall not be taxable for the purposes of determining gross revenue.

²⁸ Under Section 55 of the Massachusetts Gaming Act:

Category 1 licensee - 25% of gross gaming revenue;
Category 2 licensee - 40% of gross gaming revenue plus an additional 9 % of gross gaming revenue to the State's Race Horse Development Fund.

²⁹ Under Section 10 of the Massachusetts Gaming Act, the minimum investment is determined by the Massachusetts Gaming Commission on a regional basis in the context of a competitive selection process.

Minimum Investment

Category 1 License	Not less than \$500,000,000
Category 2 License	Not less than \$125,000,000

Regulatory Structure

In November 2011 Massachusetts adopted *An Act Establishing Expanded Gaming in the Commonwealth* ("Act"). At the time of its adoption, Massachusetts already had developed gaming sectors including racing, lottery and charitable gaming. The Act legislatively authorized three casino resorts, one each in three designated regions and one at large slots only facility. The designated regions are:

Region A (Suffolk, Middlesex, Essex, Norfolk & Worcester Counties);
Region B (Hampshire, Hampden, Franklin & Berkshire); and,
Region C (Bristol, Plymouth, Nantucket, Dukes & Barnstable Counties).

To date, no licenses have been issued by the Commission. The following summary reflects the regulatory model contemplated by the Act.

Massachusetts Gaming Commission. See Section 3 of the Act.

The Massachusetts Gaming Commission ("Commission") is the primary regulatory authority. It is responsible for all aspects of regulatory compliance as well as licensing decisions related to applicants for Category 1 and Category 2 licenses and their qualifiers (Section 8 of the Act), gaming vendors (Section 29 of the Act) and key employees and gaming employees (Section 29 of the Act).

The Commission has authority to appoint an Executive Director to manage and administer the operations of the Commission. The Executive Director serves at the pleasure of the Commission.

Note: Under Section 26 of the Act, like New Jersey the Commission has authority to grant all licenses prerequisite to the consumption of alcoholic beverages in the gaming establishment.

Note: Under Section 32 of the Act, labor organizations seeking to represent employees of gaming establishments must register with the Commission.

Note: Effective May 20, 2012 the Commission assumed all regulatory duties and responsibilities related to horse racing.

Membership

Five Member Commission. Appointed as follows subject to enumerated experiential and conflict criteria.

One by the Governor
One by the Attorney General
One by the Treasurer and Receiver General
Two by a majority vote of the Governor, Attorney General and Treasurer and Receiver General.

Chair appointed by the Governor.

Removal by the Governor if a Commissioner (1) is guilty of malfeasance in office, (2) substantially neglects his duties, (3) is unable to discharge his duties, (4) commits gross misconduct or (5) is convicted of a felony.

Five year staggered term. Maximum years of service ten (10).

Full time, salary of the Chair equal to the salary of the commissioner of administration under the state employment system; salary of a commissioner equal to three-quarters the salary of the commissioner of administration under the state employment system.

Commission members are subject to an ethics policy and three year post employment restriction.

Investigations and Enforcement Bureau ("IEB"). See Section 12 of the Act.

Housed within the Commission, IEB is charged with the investigation of all license applicants under the Act. See Section 12 of the Act. IEB is expected to be staffed predominantly by civilian investigative personnel. Under Section 6 of the Act it is designated as a law enforcement agency and its employees, civilian and otherwise, are construed as having enforcement powers commensurate with the purposes of the Act.

Note: Criminal history checks are performed by the Commonwealth's criminal history system board upon the request of IEB.

Note: Pursuant to Section 30 of the Act, persons not considered to be gaming employees, key employees or employees requiring access to restricted areas shall have no licensing requirement but shall be required to register with IEB.

Gaming Enforcement Unit, Division of State Police ("Gaming Enforcement Unit"). See Section 6 of the Act.

The Gaming Enforcement Unit, formed within the Massachusetts State Police, will assign personnel directly to the Commission to supplement and assist IEB in the performance of its investigative and regulatory enforcement duties. These officers will be employees of the Commission.

Division of Gaming Enforcement, Office of the Attorney General ("Division"). See Section 6 of the Act.

The Division, formed within the Attorney General's Office concurrent with adoption of the Act, has powers beyond the four gaming establishments to be developed pursuant to the Act. The Division is responsible for the enforcement of civil and criminal gaming laws throughout the Commonwealth and attorneys assigned to the Division will prosecute regulatory violations on behalf of IEB.

Generally, license applications are filed with the Commission and, upon a determination of completeness by the Commission's Director of Licensing, are referred to IEB for investigation and ultimately, a licensing recommendation. Upon receipt of IEB's recommendation, the Commission acts on the application. Prior to a Commission decision an applicant may request a hearing to contest findings of fact by IEB. Once the Commission rules on the application an applicant is not entitled to further review.

For Category 1 and Category 2 applicants competing for the four available licenses the process is more complex. For these applicants the Commission is following a phased licensing approach where Phase 1 is the suitability determination and Phase 2 is an assessment of the balance of the licensing criteria and requirements. Category 1 and Category 2 applicants are obligated to enter into Host and Surrounding Community Agreements defining all responsibilities between the community and the applicant. The Host Community Agreement must further be approved by referendum. The Host and Community Agreements and a successful Host Community referendum need not be completed before the Phase 1 suitability determination but must be in place and complete before Phase 2's final selection process.

Rulemaking Authority: Commission

**Regulatory Enforcement and
Regulatory Notice of Violation Recommendation.**

The Commission's Investigations and Enforcement Bureau ("IEB") is expected to have an compliance/audit section that has primary responsibility for regulatory enforcement. As note above, IEB is expected to be staffed predominantly by civilian investigative personnel and, like IEB's investigative functions, its compliance/audit section will be supplement by personnel from the Gaming Enforcement Bureau.

IEB shall notice criminal violations to the Division of Gaming Enforcement, Office of the Attorney General ("Division"). IEB and the Division shall cooperate in a determination as to whether to proceed with civil or criminal sanctions, or both.

Criminal Enforcement

Gaming Related: The Gaming Enforcement Unit shall exercise exclusive police jurisdiction over any criminal activity connected with the operation of the gaming establishment or relating to the games and gaming within the gaming establishment. The gaming establishment is defined to include hotels, restaurants and other amenities.

Non-Gaming Related: Massachusetts State Police shall exercise concurrent jurisdiction with local law enforcement over all other policing matters.

FOR DISCUSSIONS PURPOSES ONLY

NEW JERSEY

Type of Gaming	Year Authorized
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Slot Machines	1976
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Table Games	1976
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Internet Wagering	2013
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Effective Tax Rate

Slot Machines and Table Games 8% tax on gross gaming revenue plus an investment alternative tax levy of 2.5% of gross gaming revenue or an alternative investment equal to 1.25% of gross revenue.³⁰

Internet Gaming 15% tax on Internet gaming gross revenue plus an investment alternative tax levy of 5% of Internet gaming gross revenue or an alternative investment equal to 2.5% of Internet gaming gross revenue.³¹

Annual Slot License Fee	\$500/slot
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License Fee	Fact specific - at least \$200,000
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Minimum Investment

The New Jersey Casino Control Act ("Act") does not specify a dollar threshold for minimum investment but does require a casino to be housed in an approved hotel. NJSA 5:12-83 enumerates specifications for an approved hotel and expressly provides that an approved hotel be "... in all respects a superior, first-class facility of exceptional quality which will help restore Atlantic City as a resort, tourist and convention destination."

In New Jersey, commercial casinos are permitted only in the City of Atlantic City. The Constitutional amendment passed by referendum in 1976 was squarely focused on

³⁰ NJSA 5:12-24 defines "gross revenue" as all sums actually received by a casino licensee from gaming operations, including operation of a sports pool, less only the total of all sums actually paid out as winnings to patrons; provided, however, that the cash equivalent value of any merchandise or thing of value included in a jackpot or payout shall not be included in the total of all sums paid out as winnings to patrons for purposes of determining gross revenue. "Gross Revenue" shall not include any amount received by a casino from casino simulcasting pursuant to the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et al.).

Note: NJ has a mechanism that does, to a specified dollar threshold, exclude non-cashable promotional credits from the gross revenue calculation.

³¹ NJSA 5:12--28.2 defines "Internet gaming gross revenue" as the total of all sums actually received by a casino licensee from Internet gaming operations, less only the total of all sums actually paid out as winnings to patrons.

funding the economic revitalization of that City. As originally adopted, the Act required each licensee to reinvest 2% of gross revenue in Atlantic City. Amendments to the Act in 1984 formalized this process through the creation of a Casino Reinvestment Development Authority ("CRDA"). As noted above, under the revised terms of the statute casino licensees may choose to either reinvest directly 1.25% of gross revenue through the CRDA or pay an additional 2.5% of gross revenue to the State.

Regulatory Structure

In February 2011 the Act was amended to materially revise the apportionment of duties and responsibilities between New Jersey's Casino Control Commission and its Division of Gaming Enforcement.

The following summary reflects the current regulatory model.

Casino Control Commission ("Commission") See NJAC 5:12-51

The Commission is an independent agency created in, but not of, the Department of Treasury. Under the revised regulatory approach, the Commission is limited to hearing and deciding applications for a casino license and interim casino authorization, including their respective qualifiers, matters relating to statements of compliance and key employee license applications. See NJSA 5:12-63. It is further charged with review and decision in connection with the appeal of a decision by the Director of the Division of Gaming Enforcement in the following areas: a notice of violation or penalty assessment, a determination regarding a casino service industry enterprise license, a "...ruling on an application for any other license or qualification under this Act . . .", revocation of a license or registration, any ruling on a statement of compliance or placement on the exclusion list.

The Commission's exercise of rulemaking authority is limited to that necessary to conduct the hearings for which it is responsible under NJSA 5:12-63 and any other matter for which it is specifically responsible. It is obligated to refer suspected regulatory violations to the Division of Gaming Enforcement for investigation and prosecution.

Membership

Three Member Commission appointed by the Governor with the advice and consent of the Senate subject to enumerated experiential and conflict criteria.

Chair is appointed by the Governor with the advice and consent of the Senate.

Removal may occur for (1) for misconduct in office, (2) willful neglect of duty or (3) "other conduct evidencing unfitness for his office, or for incompetence". Removal is initiated by the Attorney General in the Superior Court.

Five (5) year staggered term; no more than two (2) full terms.

Salary set by Governor not to exceed \$141,000 per year.

No more than two members may be from the same party.

Commission members are subject to an ethics policy and four year post-employment restriction.

Division of Gaming Enforcement ("Division") See NJSA 5:12-55

The Division is within the Department of Law and Public Safety. Its Director is an Assistant Attorney General under the supervision of the Attorney General ("Director"). The Director is appointed by the Governor and serves during the term of office of the Governor. The Director may be removed by the Attorney General for cause with notice and opportunity to be heard.

The Division is now the primary regulatory authority in New Jersey.

Under NJSA 5:12-69 the Division exercises broad rulemaking authority over all aspects of the regulatory scheme consistent with the purposes of the Act.

Under NJSA 5:12-76 the Division is responsible for all aspects of regulatory enforcement. It certifies gross revenue and may conduct audits and other forms of compliance assessment. The Division may issue, and its Director decide, a notice of violation or penalty assessment. A decision of the Director is subject to appeal before the Commission.

Under NJSA 5:12-76 the Division conducts all background investigations related to licenses or registrations issued pursuant to the Act. The Division issues a recommendation as to the suitability of all applicants over which the Commission exercises decision making authority, specifically applicants for a casino license and interim casino authority, their respective qualifiers, key employees and matters relating to statements of compliance. The Division itself makes the suitability decision and the Director decides applications involving casino service industry enterprise applicants, registration of employees and vendors and revocation of casino service industry enterprise licenses.

Under NJSA 5:12-56 the Superintendent of State Police assigns supervisory and investigative personnel and resources to the Division as is required to fulfill its purposes. NJSA 5:12 -77 expressly designates the Division as a law enforcement agency and it is authorized under that section to prosecute all criminal violations of the Act except those it may refer to the Division of Criminal Justice, also within the Department of Law and Public Safety.

Rulemaking Authority

The Division is the primary rulemaking authority with limited concurrent authority in the Commission related directly to hearings for which the Commission is responsible under NJSA 5:12-63.

Regulatory Enforcement and Regulatory Notice of Violation Recommendation.

Regulatory enforcement authority rests with the Division. The Division's Regulatory Enforcement Bureau does compliance testing and investigates suspected regulatory violations. A matter may be resolved administratively by a corrective action plan, warning letter or other form of agreement with the affected party. Where it determines it to be warranted, the Deputy Attorney Generals in the Division's Regulatory Prosecutions Bureau initiate an action for a penalty or sanction against the licensee. The Director is the decision maker on a notice of violation or penalty assessment. A decision of the Director is subject to appeal before the Commission.

Criminal Enforcement

Gaming Related:	Division/ NJ State Police assigned to the Division
Non-Gaming Related:	Concurrent jurisdiction: NJ State Police and local law enforcement

NEVADA

Type of Gaming	Year Authorized
Slot Machines	1931
Table Games	1931
Internet Wagering	2011

Effective Tax Rate

Nevada assesses a 6.75% tax on gross revenue from all forms of gaming.³²

In addition, Nevada collects an annual tax on each slot machine and table game and a quarterly license fee on each slot machine and table game. These fees vary for restricted and non-restricted licensees.³³ Generally, for a non-restricted licensee, these taxes and fees add an additional 1% to the effective tax rate. Modest fees and assessments, generally tied to impact, are often imposed at the local level.

³² NRS 463.0161 defines "gross revenue" as the total of all:

- (a) Cash received as winnings;
- (b) Cash received in payment for credit extended by a licensee to a patron for purposes of gaming; and
- (c) Compensation received for conducting any game in which the licensee is not party to a wager, less the total of all cash paid out as losses to patrons, those amounts paid to fund periodic payments and any other items made deductible as losses by NRS 463.3715. For the purposes of this section, cash or the value of noncash prizes awarded to patrons in a contest or tournament are not losses, except that losses in a contest or tournament conducted in conjunction with an inter-casino linked system may be deducted to the extent of the compensation received for the right to participate in that contest or tournament.

The term does not include:

- (a) Counterfeit facsimiles of money, chips, tokens, wagering instruments or wagering credits;
- (b) Coins of other countries which are received in gaming devices;
- (c) Any portion of the face value of any chip, token or other representative of value won by a licensee from a patron for which the licensee can demonstrate that it or its affiliate has not received cash;
- (d) Cash taken in fraudulent acts perpetrated against a licensee for which the licensee is not reimbursed;
- (e) Cash received as entry fees for contests or tournaments in which patrons compete for prizes, except for a contest or tournament conducted in conjunction with an inter-casino linked system;
- (f) Uncollected baccarat commissions; or
- (g) Cash provided by the licensee to a patron and subsequently won by the licensee, for which the licensee can demonstrate that it or its affiliate has not been reimbursed.

As used in this section, "baccarat commission" means:

- (a) A fee assessed by a licensee on cash paid out as a loss to a patron at baccarat to modify the odds of the game; or
- (b) A rate or fee charged by a licensee for the right to participate in a baccarat game.

³³ Pursuant to NRS 463.0189 a restricted license authorizes no more than 15 slot machines and no other game or gaming device at an establishment in which the operation of slot machines is incidental to the primary business of the establishment.

Pursuant to NRS 463.0177 a non-restricted license authorizes 16 or more slot machines, together with any other game, gaming device, race book or sports pool at one establishment, operation of a slot route, inter-casino linked system or a mobile gaming system.

By way of example, a typical non-restricted licensee would pay the following:

Slot Machine Annual Tax:	\$250/slot
Slot Machine Quarterly License Fee	\$ 20/slot
Table Game Annual Tax	\$16,000 + \$200/table over 16
Quarterly License Fee	\$20,300 + \$25/table over 35

Minimum Investment

None per se but the Nevada statute does enumerated situations tied to the population of a location where construction of a resort hotel is required.³⁴

Regulatory Structure

Although gambling was legalized in 1931, it was not until the late 1950s that any form of centralized regulatory scheme was imposed.

The following summary reflects the regulatory model as it currently exists.

Nevada Gaming Commission ("Commission") See NRS 463.022

The Commission is responsible for rulemaking, for all decisions related to the issuance of a license for restricted gaming, non-restricted gaming, a manufacturer, seller, distributor or service provider and their respective qualifiers and key employee licenses. It is also responsible for hearing regulatory enforcement complaints initiated by the Nevada Gaming Control Board. Although the Commission is responsible for key functions it is not the dominant regulating entity. The Board, discussed with specificity below, serves that purpose.

Membership

Five Member Commission appointed by the Governor subject to enumerated experiential and conflict criteria.

Chair appointed by the Governor.

³⁴ NRS 463.01865 defines a "resort hotel" as any building or group of buildings that is maintained as and held out to the public to be a hotel where sleeping accommodations are furnished to the transient public and that has:

1. More than 200 rooms available for sleeping accommodations;
2. At least one bar with permanent seating capacity for more than 30 patrons that serves alcoholic beverages sold by the drink for consumption on the premises;
3. At least one restaurant with permanent seating capacity for more than 60 patrons that is open to the public 24 hours each day and 7 days each week; and
4. A gaming area within the building or group of buildings.

Removal is by the Governor (1) for malfeasance in office or neglect of duty or (2) without stated cause with the concurrence of a majority of the Nevada legislative Commission.

Four year staggered term

Part time; salary and expenses

State Gaming Control Board ("Board") See NRS 463.030

The Board exercises overall regulatory enforcement authority. It conducts all licensing and regulatory investigations, conducts criminal investigations, collects and distributes gaming taxes and fees and registers and permits employees. Key Divisions within the Board include:

Audit Division This Division certifies gross revenue and performs audits and compliance testing.

Enforcement Division This Division conducts regulatory and criminal investigations including on site compliance testing of rules of the games and gaming equipment. This Division also conducts the criminal history checks and background investigations associated with employee registrations and permits. The Enforcement Division has law enforcement status and is staffed, at least in part, by state peace officers.

Investigations Division This Division is responsible for the background investigations associated with license applications.

Generally, license applications are filed with the Board and, upon a determination of completeness are referred to the Board's Investigations Division for investigation and ultimately issuance of a licensing recommendation by the Board. Upon receipt of the Board's recommendation, the Commission acts on the application.

Membership

Three Member Board appointed by the Governor subject to enumerated experiential and conflict criteria.

Chair is appointed by the Governor and also serves as the Board's Executive Director.

Removal is by the Governor for misfeasance, malfeasance or nonfeasance in office after notice and opportunity to be heard.

Four year staggered term

Full time; salary and expenses

Rulemaking Authority:

Commission

**Regulatory Enforcement and
Regulatory Notice of Violation Recommendation.**

Pursuant to NRS 463.310 the Board investigates regulatory violations identified by the Board's Audit and Enforcement Divisions. The matter may be resolved administratively within the Board by a corrective action plan, warning letter or other form of agreement with the affected party. Where it determines it to be warranted, the Board may initiate proceedings before the Commission for a penalty or sanction on the licensee. Pursuant to NRS 463.317 appeal of a final order or decision of the Commission is to the district court in the county in which the petitioner resides.

Criminal Enforcement

Gaming Related:
Division.

Gaming Control Board, Enforcement

Non-Gaming Related:
Division, Nevada Highway Patrol and local law enforcement exercise concurrent jurisdiction.

Gaming Control Board, Enforcement

PENNSYLVANIA

Type of Gaming

Category 1 License Licensed racetrack. Up to seven licenses may be granted. This category of licensee is limited to no more than 5,000 slot machines and must be authorized to exceed 250 table games.

Category 2 License Non-racetrack location. Up to five licenses may be granted, two are reserved for Philadelphia and one is reserved for Pittsburgh. This category of licensee is limited to no more than 5,000 slot machines and must be authorized to exceed 250 table games.

Category 3 License Resort hotel. Up to three licenses may be granted. This category of licensee is limited to no more than 600 slot machines and 50 table games.

Year Authorized

Slot machines

2004

Table games

2010.

Effective Tax Rate

Table games - standard	12% GTGR ³⁵
Table Games - fully automated electronic	34% GTGR
Slot Machines	55% GTR ³⁶

³⁵ "Gross table game revenue" is defined as:

- (1) Cash or cash equivalents received in the playing of a table game minus the total of:
 - (i) Cash or cash equivalents paid to players as a result of playing a table game.
 - (ii) Cash or cash equivalents paid to purchase annuities to fund prizes payable to players over a period of time as a result of playing a table game.
 - (iii) The actual cost paid by the certificate holder for any personal property distributed to a player as a result of playing a table game. This does not include travel expenses, food, refreshments, lodging or services.
- (2) Contest or tournament fees or payments, including entry fees, buy-ins, re-buys and administrative fees, imposed by a certificate holder to participate in a table game contest or tournament, less cash paid or actual cost paid by a certificate holder for prizes awarded to the contest or tournament winners.
- (3) The total amount of the rake collected by a certificate holder.

The term does not include counterfeit cash or chips; coins or currency of other countries received in the playing of a table game, except to the extent that the coins or currency are readily convertible to cash; or cash taken in a fraudulent act perpetrated against a certificate holder for which the certificate holder is not reimbursed.

³⁶ "Gross terminal revenue." means the total of:

- (1) cash or cash equivalent wagers received by a slot machine minus the total of:
 - (i) Cash or cash equivalents paid out to players as a result of playing a slot machine, whether paid

License Fees

Category 1 License	
License Fee - slot machines	\$50,000,000
License Fee - table games	\$16,500,000 ³⁷
Category 2 License	
License Fee - slot machines	\$50,000,000
License Fee - table games	\$ 7,500,000 ³⁸
Category 3 License	
License Fee - slot machines	\$ 5,000,000
License Fee - table games	\$ 7,500,000

Minimum Investment

Category 1, 2 & 3 Licenses	No explicit amount, competitive selection
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Regulatory Structure

In 2004 Pennsylvania adopted the Pennsylvania Race Horse Development and Gaming Act ("Act") permitting slot machines in 14 locations throughout the Commonwealth. Pursuant to the Act, licenses are awarded on a competitive basis in accordance with a regional placement scheme outlined in the Act. In 2010, the Act was amended to permit table games and an additional resort location.

The following summary reflects the regulatory model contemplated by the Act.

Pennsylvania Gaming Control Board. See 4 Pa. C.S. § 1201.

The Pennsylvania Gaming Control Board ("Board") is the primary regulatory authority. It is responsible for all aspects of regulatory compliance as well as licensing decisions related to applicants for Category 1, 2 and 3 licenses, management companies, junket enterprises, manufacturers, suppliers, gaming service providers and their respective qualifiers as well as key employees. The Board also grants occupational permits to employees.

manually or paid out by the slot machine.

(ii) Cash or cash equivalents paid to purchase annuities to fund prizes payable to players over a period of time as a result of playing a slot machine.

(iii) Any personal property distributed to a player as a result of playing a slot machine.

This does not include travel expenses, food, refreshments, lodging or services. (2) cash received as entry fees for slot machine contests or slot machine tournaments.

³⁷ License fee rose to \$24,750,000 if applied for after June 1, 2010

³⁸ License fee rose to \$11,250,000 if applied for after June 1, 2010

The Board has authority to appoint an Executive Director to manage and administer the operations of the Board. The Executive Director serves at the pleasure of the Board.

Note: Due to the fact that Pennsylvania issued slot machine licenses several years before the approval of table games, a table game operation certificate supplements the slot machine license rather than a single operation certificate as in the case, for example, in New Jersey.

Generally, license applications are filed with the Board and, upon a determination of completeness by the Board's Director of Licensing, are referred to BIE (discussed with specificity below) for investigation and ultimately, issuance of a licensing recommendation by BIE's Office of Enforcement Counsel. Upon receipt of BIE's recommendation, the Board acts on the application. Pursuant to 4 Pa. C.S. § 1204, the Supreme Court of Pennsylvania has exclusive appellate jurisdiction to consider appeals of any final order, determination or decision by the Board involving the approval, issuance, denial or conditioning of a slot machine license or the award, denial or conditioning of a table game operation certificate

Membership

Seven Member Board. Appointed as follows subject to enumerated conflict criteria.

Three by the Governor
One by the President Pro Tempore of the Senate
One by the Minority Leader of the Senate
One by the Speaker of the House
One by the Minority Leader of the House

Ex Officio Members: Secretary of Revenue
Secretary of Agriculture
State Treasurer

4 Pa C.S. § 1201(f) imposes what is referred to as a qualified majority vote requirement on the approval, issuance, denial or conditioning of any license by the Board, the making of any order or the ratification of any permissible act done or order made by one or more of the members. A qualified majority vote requires the vote of at least one gubernatorial appointee and the four legislative appointees. All other decisions require a majority of the full Board.

Chair appointed by the Governor.

Removal is by the appointing authority (1) for misconduct in office, willful neglect of duty or conduct evidencing unfitness for office or incompetence or (2)

upon conviction of an offense graded as a felony, an infamous crime, an offense under the Act or an equivalent offense under Federal law or the law of another jurisdiction.

Gubernatorial appointees serve a three year term; no more than two full consecutive terms.

Legislative appointees serve a two year term; no more than three full consecutive terms.

Modified full time. Board member are not permitted outside employment or service contracts in excess of 15% of gross salary derived from the Board.

Board members are subject to an ethics policy and two (2) year post-employment restriction.

Bureau of Investigations and Enforcement ("BIE"). 4 Pa C.S. § 1517.

Housed within the Board, but independent of the Board in matters relating to enforcement, BIE is charged with the investigation of all license and permit applicants under the Act. BIE's Office of Enforcement Counsel prepares the final background investigation report used by the Board in determining suitability. BIE is staffed by civilian investigative personnel. Under § 1517 (a) it is classified as a criminal justice agency under 18 Pa. C.S. § 91.

Note: Criminal history checks are performed by the Pennsylvania State Police and transferred to BIE.

Pennsylvania Department of Revenue ("Revenue"). 4 Pa C.S. § 1517(b).

The central control computer system managing slot machines in Pennsylvania is selected and contracted for by Revenue and is maintained under its control with the Board authorized access as required to fulfill the purposes of the Act. Revenue is responsible for all aspects of the tax collection and distribution.

Pennsylvania State Police ("State Police"). 4 Pa C.S. § 1517(c).

Pennsylvania State Police assign personnel to each licensed facility to enforce the criminal provisions of the Act. State Police also supplement and assist IEB, as requested by the Board, in the performance of its investigative and regulatory enforcement duties. State Police fingerprint all applicants for licensing.

Gaming Unit, Office of the Attorney General ("Attorney General"). See 4 Pa C.S. § 1517(c.1).

By and through its Gaming Unit, the Attorney General exercises concurrent authority to investigate and, following consultation with the appropriate district attorney, to institute criminal proceedings for a violation of the Act.

Rulemaking Authority: Board

**Regulatory Enforcement and
Regulatory Notice of Violation Recommendation.**

Regulatory enforcement authority rests with the Board. Pursuant to 4 Pa. C.S. § 1517, the Board's Bureau of Investigations and Enforcement Bureau ("BIE") investigates suspected regulatory violations identified by the Board's audit and compliance staffs. Under the express terms of § 1517, BIE is functionally independent of the Board in matters relating to regulatory enforcement. Attorneys assigned to BIE's Office of Enforcement Counsel prosecute regulatory complaints before the Board.

BIE notices criminal violations to the Pennsylvania State Police.

Criminal Enforcement

Gaming Related: The Pennsylvania State Police exercise exclusive police jurisdiction over any criminal activity in a licensed facility.

Non-Gaming Related: Local law enforcement, State Police and the Attorney General exercise concurrent jurisdiction in accordance with 4 Pa. C.S. § 1517.

RHODE ISLAND

Type of Gaming	Year Authorized
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Video Lottery Terminals	1992
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Table Games	2012
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Effective Tax Rate

Video Lottery Terminals	71% ³⁹
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Table Games	18% ⁴⁰
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License Fees

N/A: state owned / operated.

Minimum Investment

N/A: state owned / operated.

Regulatory Structure

A condition precedent to offering video lottery terminals ("VLT") in Rhode Island is a Pari-Mutuel License issued by the Rhode Island Department of Business Regulation, Division of Racing and Athletics to conduct dog racing under Rhode Island General Laws 41-3.1 et seq. or Jai-alai under Rhode Island General Laws 41-3.1 et seq.

In 2012, the Rhode Island General Assembly enacted legislation that called for referendums in November of that year aimed at permitting table games at both of Rhode Island's VLT facilities, Twin Rivers (4,750 VLTs) and Newport Grand (1,099 VLTs). Passage statewide and locally was required. Table games were implemented at Twin Rivers in June 2013, Newport Grand remains VLT only as while the statewide referendum passed, the local referendum failed.

Pursuant to a Constitutional mandate that the state oversee all aspects of legal gambling, the State Lottery Division ("Division") established within the Rhode Island Department of Revenue, by and through its Director ("Director"), manages and controls all aspects of gaming in Rhode Island. While entities denoted as retailers own or operated the facilities where gaming is conducted, the Director manages and controls all aspects of

³⁹ Net terminal income is defined as an amount equal to total currency placed into a VLT less total credits issued from that terminal redeemable for cash by players. This definition does not treat non-cashable promotional credits as revenue.

⁴⁰ Net table game revenue is defined as win from table games minus counterfeit currency.

each gaming operation. For video lottery terminals and a central control system the Director enters into license agreements with technology providers to furnish, maintain and staff the number of terminals he determines to be optimal for each facility as well as to furnish and staff the Division's central control system. As compensation, video lottery terminal providers receive a share of net terminal income approximating 7% and the system provider receives a 2.5% revenue share. Retailers supply the equipment and staff resources necessary to operate the number of table games determined to be optimal by the Director for each facility. Their 82% revenue share in net table revenue reflects these costs.

The Director is appointed by the Governor with the advice and consent of the Senate. His appointment is vetted with a Permanent Joint Committee on the State Lottery. The Director is removable by the Governor for cause only.

Based upon background investigations conducted by the Rhode Island State Police or Rhode Island Department of Attorney General, the Director is empowered to authorize the granting of a license to Pari-Mutuel Licensees qualifying to be Retailers, central communications system providers, technology providers, and any other entity required to be licensed. The license is administratively issued by the Rhode Island Department of Business Regulation upon its receipt of the Director's authorization. Video Lottery and Table Game Retailers are responsible for the compliance of their respective employees and independent contractors. There is no key employee or employee licensing or registration scheme.

Note: This model reflects an extremely comprehensive approach to the "state operated" regulatory model. In most states following that model, for example Delaware, the primary regulatory authority (Lottery) owns or leases the VLTs and central system but does not direct day to day operations as does Rhode Island.

Rulemaking Authority: Director

**Regulatory Enforcement and
Regulatory Notice of Violation Recommendation**

The Director, by and through an inspection staff within the Division, is responsible for regulatory compliance. Where a deviation or deficiency is identified the Director exercises full discretion to resolve the matter administratively by a corrective action plan, warning letter or penalty of not more than \$1,000 per violation. In the alternative, the Director may initiate a hearing before the Division to pursue penalties or sanctions in excess of \$1,000. Standard Rhode Island administrative procedures apply.

Criminal Enforcement

Gaming Related: Rhode Island State Police Gaming Unit

Non-Gaming Related: Local Jurisdiction