

Report to the Governor and the General Assembly of Virginia

# Gaming in the Commonwealth

2019



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# Summary: Gaming in the Commonwealth

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## WHAT WE FOUND

### **Casinos authorized in SB 1126 are projected to generate about \$260 million annually in state gaming taxes and have a positive, but modest economic impact on local economies**

Resort-style casinos could be built and sustained in Bristol, Danville, Norfolk, Portsmouth, and Richmond, according to estimates from The Innovation Group, a national gaming consultant. These estimates assume an initial \$200 million to \$300 million capital investment and an annual gaming revenue state tax rate of 27 percent (the national median). Casinos in these five locations are projected to annually generate about \$970 million in net gaming revenue and approximately \$260 million in gaming tax revenue for the state. (For comparison, the Virginia Lottery generates over \$600 million annually after prizes are paid out.)

About one-third of total casino revenue is projected to be generated by out-of-state visitors. Out-of-state visitors would contribute especially to the viability of the Danville and Bristol casinos because of their small local markets; this would also make them vulnerable if casino development were to occur in North Carolina and Tennessee.

Each casino is projected to employ at least 1,000 people, which would have a more meaningful impact in Bristol and Danville because of the relatively small size of their local labor forces. The projected median wage of \$33,000 for casino employees would be below the median wage in the five SB 1126 localities. Not all casino jobs would represent a net gain of employment for the localities, and nearly half of the jobs would be low-skill and low-wage. Still, many casino jobs would require higher levels of skill and pay higher wages.

### **Authorizing a casino in the Northern Virginia market is projected to increase state revenue and economic benefits**

A casino in Northern Virginia, which was not authorized in SB 1126 but examined as part of this study, would increase statewide gaming tax revenue by an estimated additional \$155 million (59 percent) and employ an additional 3,200 workers. A Northern Virginia casino is projected to attract substantial revenue from out-of-state

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## WHY WE DID THIS STUDY

The 2019 General Assembly directed JLARC to conduct a review of casino gaming laws in other states, evaluate the Commonwealth's current and potential gaming governance structures, project potential revenues from expanding legal forms of gaming, and evaluate the impact of expanding gaming on the Virginia Lottery, historical and live horse racing revenue, and charitable gaming revenue. SB 1126 was passed by the 2019 General Assembly to authorize the development of casinos in five localities—Bristol, Danville, Norfolk, Portsmouth, and Richmond—and its enactment was made contingent on the JLARC review and approval by the 2020 General Assembly.

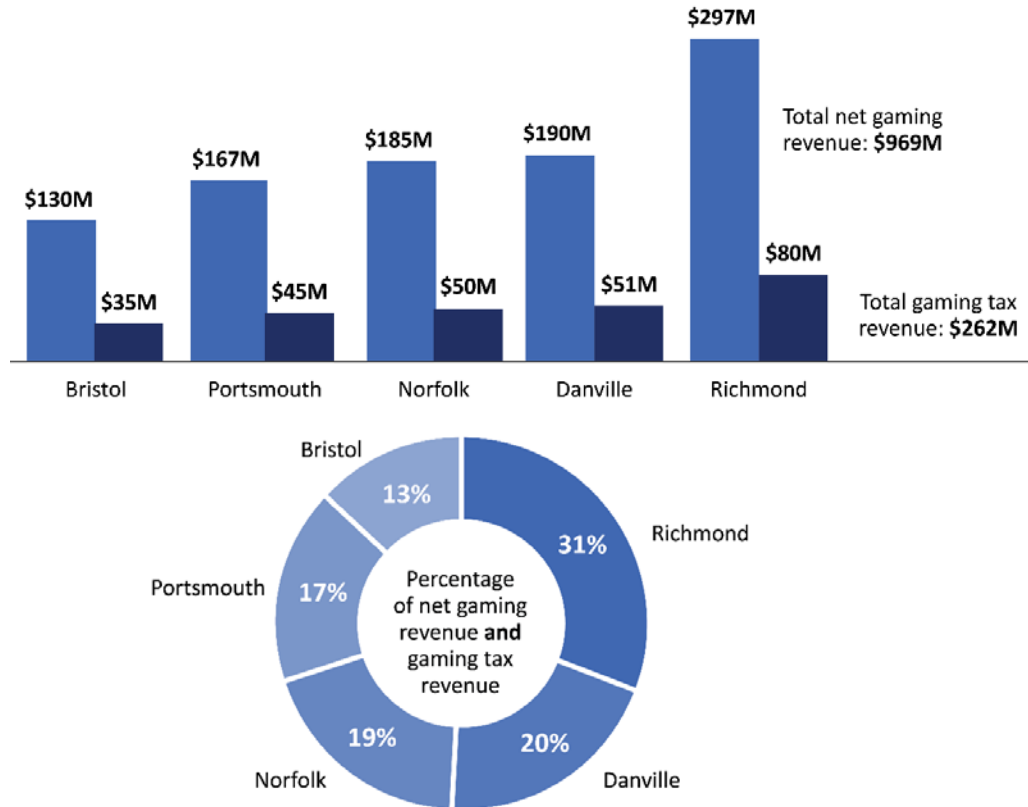
## ABOUT GAMING IN THE COMMONWEALTH

Gambling has long been prohibited in Virginia, with the exception of lottery, charitable gaming, and wagering on horse races. Virginians currently wager over \$1 billion annually on these forms of gaming, generating about \$600 million in revenue for various purposes, primarily K–12 education. Nearby states permit more forms of gambling than Virginia does, including casino gaming, sports wagering, and online casino gaming.

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customers and retain in state about \$100 million that Virginia residents are currently spending at casinos in other states.

**Five casinos projected to generate approximately \$260 million in state gaming tax revenue (2025)**



SOURCE: The Innovation Group.

NOTE: Assumes nationwide median effective tax rate of 27 percent. Reflects 2025 dollars. Numbers do not sum because of rounding.

## Casino employment as a proportion of labor force for casino localities

Region	Labor force*	Employed	Unemployed	Unemployment rate	Casino employees	Casino employees as % of labor force
Bristol	104,099	100,339	3,760	3.6%	1,067	1.0%
Danville	50,125	48,051	2,074	4.1	1,582	3.2
Norfolk	464,991	450,631	14,360	3.1	1,509	0.3
Portsmouth	553,100	535,529	17,571	3.2	1,384	0.3
Richmond	540,993	524,570	16,423	3.0%	2,050	0.4%

SOURCE: The Innovation Group and JLARC staff analysis of Bureau of Labor Statistics data and U.S. Census Bureau data.

NOTE: Casino employees are employees working directly at casinos; excludes secondary employment because secondary employment is often based in localities outside of the five host localities. Labor force data is 2018 annualized averages, comprising 2018 monthly data. Assumes 27 percent gaming revenue tax rate.

\* A casino region is defined as all localities from which at least 5 percent of workers in a casino host locality commute on a daily basis. For example, the Bristol region is defined as Sullivan, County TN; Bristol, VA; and Washington County, VA (Appendix B).

## Five casinos authorized by SB1126 would be viable under a nationwide median tax rate of 27 percent

The tax rate applied to casino gaming revenue significantly affects the total gaming tax revenue collected by the state. However, higher tax rates can affect casinos' profitability, and therefore the size and amenities of the casinos. Developers typically size the scale of their casinos to what a market can support, and there is no guarantee that developers will build a larger casino under a lower tax rate. However, casinos in more populous locations can typically remain profitable at a higher tax rate. SB 1126 did not include a tax rate although previous versions of the bill and other similar legislation included tax rates between 10 and 15 percent. TIG found all five SB 1126 casino markets would be able to support "resort-style" casinos at the national median tax rate of 27 percent.

## Sports wagering and online gaming are projected to have smaller fiscal and economic impacts

A fully developed sports wagering industry in Virginia could generate up to \$55 million in annual gaming tax revenue for the state, depending on how it is structured, and online casino gaming could generate about \$84 million each year. Unlike online casino gaming, which would most likely depend on the opening of casinos, sports wagering could be implemented without casinos and could be offered sooner.

## Beneficiaries of existing gaming would see proceeds decline, especially historical horse racing

Casino gaming is projected to negatively affect revenue generated by most forms of existing gaming in Virginia, which would in turn decrease the revenue available for the

causes they support. The biggest impact would be to revenue generated by historical horse racing (HHR), a small portion of which supports Virginia's revived live horse racing events. This revenue is projected to decline substantially (45 percent) from what it likely would have been without casino competition, and therefore tax revenue generated by HHR wagering would also decline. Lottery proceeds for Virginia's K-12 public education are projected to decline slightly (\$30 million or 3.6 percent). Charitable gaming proceeds are projected to decline slightly at the statewide level (\$3.1 million, or 4 percent), with larger localized impacts to charitable gaming operations located near casinos and the organizations they support.

### **Expanding gaming in Virginia will increase the number of people *at risk* of harm from problem gambling**

The prevalence of problem gambling in Virginia has not been measured, but evidence from national studies and states with a broad array of gaming options suggests that an estimated 5 to 10 percent of adults may experience gambling problems. While research does not consistently show an increase in the prevalence of problem gambling after the introduction of casinos in a state, more people will at least be *at risk* of experiencing problems as gambling opportunities increase.

The negative impacts of gambling are not limited to problem gamblers; research consistently shows adverse effects on others, most often a spouse or partner, but also the parents and children of problem gamblers, as well as other family members and close friends. The negative effects of problem gambling can be severe in a small portion of cases, and include financial instability and mental health and relationship problems.

Virginia's existing problem gambling prevention and treatment efforts are minimal despite the public's access to gambling through the lottery, historical horse race wagering, charitable gaming, and other avenues. States typically fund problem gambling prevention and treatment programs with gaming tax revenue, which should be considered even if the General Assembly does not authorize additional forms of gaming.

### **States award licenses for casinos using a competitive selection process and in-depth investigations of key personnel**

Most of Virginia's peer states use a competitive bidding process to award casino licenses, which creates market competition. Market competition helps ensure that the few available casino licenses are awarded to the most qualified and financially stable owners/operators who submit the most realistic and responsible proposals. A competitive selection process is especially important in a limited casino market in which the limited number of casino licenses effectively creates a monopoly for casino owners/operators. A limited casino market is contemplated in SB 1126, but a competitive bidding process is not included in the legislation. Virginia could use a



competitive process to maximize the financial and economic value of casino licenses and minimize risks to the state, localities, and the public.

A state's gaming regulatory board, or a designated selection committee, typically creates specific selection criteria for evaluating casino proposals and issuing an award to the proposal or proposals most qualified to successfully operate a casino. These criteria could include, for example, a specific capital investment threshold, plans to maximize positive local impacts, or plans to prevent and treat problem gambling, among other criteria.

Criteria can also be included to reflect the interests and preferences of state policymakers and host communities. For example, a host community may prefer the use of local assets (such as an existing building), resources (such as the local labor force), or local ownership to maximize local impact and reflect the character of the local community. The General Assembly could also stipulate that special consideration be given to awarding a license to a recognized tribal nation to own or operate a casino. Specifying such preferences in an RFP would be similar to the preferences that are commonly used in the state procurement process for goods and services, such as the preference for veteran-owned businesses.

In addition to vetting casino development proposals through a competitive selection process, states conduct in-depth background and financial investigations of casino executives and key personnel. These investigations ensure that the executives and other personnel who will be operating a state's casinos have a sound financial history and that they do not have a history of financial or other crimes.

### **Expanded gaming would be a major new undertaking, even if oversight and administration were assigned to the Virginia Lottery**

SB 1126 would assign administration and oversight of casinos and additional forms of gaming to the Virginia Lottery. Regulatory Management Counselors—one of JLARC's consultants for this study—and other industry experts indicated that a lottery agency can effectively oversee gaming. However, lottery would need to increase staffing by approximately 100 positions; the Virginia Lottery Board's role and composition would need to change substantially; and lottery would need to expand its longstanding mission of benefiting K–12 education. The state and lottery also would need to mitigate potential conflicts of interest that may arise from the dual responsibility of running a state lottery and regulating the private gaming industry. The state could also consider creating a stand-alone agency to regulate expanded gaming.

Regardless of whether lottery or a stand-alone agency were to oversee and administer expanded gaming, this oversight would be a major new undertaking for the state, costing at least \$16 million annually. Lottery's existing leadership and administrative structure may provide some limited economies of scale (an estimated \$2 million annually) for overseeing casino gaming compared to the creation of a new stand-alone

agency. However, the majority of lottery staff perform roles specific to lottery and would not offer any economies of scale for overseeing casino gaming.

### **Expanded gaming would generate positive net revenues for the state, but magnitude depends primarily on the gaming revenue tax rate**

Before expenses and reductions to other forms of revenue, total state revenue from the five SB 1126 casinos and additional forms of gaming would range from approximately \$154 million to \$571 million. Total revenue would depend on the extent to which gaming is implemented and the gaming tax rate applied to individual casinos' net gaming revenue. After deducting \$61 million to \$71 million in estimated administrative costs and reductions in HHR generated state taxes and lottery-generated K–12 proceeds, the estimated annual net revenue to the state could range from:

- as low as about \$81 million with the five SB 1126 casinos at a low gaming tax rate (12 percent), no other additional forms of gaming, and the highest oversight operational costs; to
- as high as \$510 million with a high casino gaming tax rate (40 percent), widespread availability of sports wagering (brick and mortar and mobile options), online casino gaming, and the lowest oversight operational costs.

The more realistic scenario is likely somewhere in between. For example, the state would be projected to see \$367 million in positive net revenues using a 27 percent tax rate on the five SB 1126 casinos, revenues from other state and local taxes, broad availability of sports wagering (brick and mortar and online), and online casino gaming. These revenues would be offset by negative impacts from existing forms of gaming and mid-point estimates of administration and oversight costs, including a problem gambling prevention and treatment program.

### **After expenses, state could collect net positive revenues from expanded gaming (\$ millions)**

<b>Source of revenue/cost</b>	<b>Estimated annual tax revenue/cost</b>
Casinos	\$262M
Other state taxes from casinos <sup>a</sup>	30
Online gaming	84
Sports wagering <sup>b</sup>	55
<b>Total revenue</b>	<b>\$431M</b>
Lottery proceeds to K–12	(\$30)
Gaming agency operations <sup>c</sup>	(17)
State taxes from HHR <sup>d</sup>	(14)
Problem gambling response	(4)
<b>Total cost</b>	<b>(\$65)M</b>
<b>Net state revenue</b>	<b>\$367M</b>

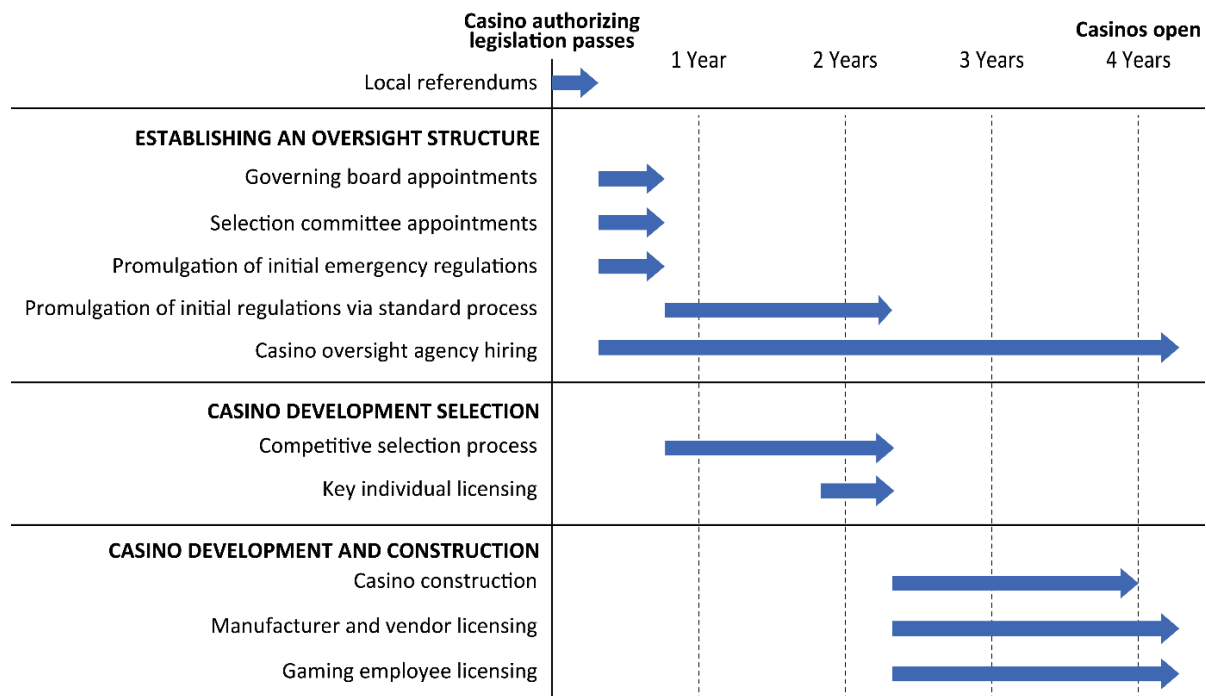
SOURCE: The Innovation Group and JLARC staff analysis of spending in other states.

NOTE: May not sum because of rounding. SB 1126 casino locations only. State revenue and costs only; does not include revenue or costs to localities or charitable gaming. <sup>a</sup> Other state taxes include personal income tax, sales tax, and corporate income tax. Projected revenue for casino gaming is estimated for 2025. <sup>b</sup> Sports wagering revenue presented for brick and mortar and mobile combined; all with a 12 percent tax rate in place. Sports wagering and online casino gaming tax revenue assumes fully mature market after five-year ramp up period. <sup>c</sup> Mid-point estimates of administration and oversight costs (assuming that role is filled by the Virginia Lottery.) Because of start-up costs, some gaming agency operational costs would occur before casinos or additional forms of gaming began producing revenue. A small portion of the estimated impact to lottery proceeds is attributable to HHR. <sup>d</sup> Includes state taxes paid on HHR gaming revenue and other state taxes generated by HHR operations such as sales and use taxes and personal income taxes paid by HHR employees. Does not include casino license fees, which could be substantial and used to offset a portion of agency operational costs.

## Casino development could take four years after authorization

Virginia casinos would likely open approximately four years after casino authorizing legislation passes if the process were similar to other states. Passing authorizing legislation represents the beginning of the casino development process. Following authorization in other states, authorized localities interested in hosting a casino have held popular referendums. Once at least one locality authorized gaming, states have undertaken activities that can be arranged broadly into three major phases: establishing the oversight environment, casino development selection, and casino development and construction. Chapter 10 outlines the key elements and decisions typically found in casino authorizing legislation.

### Timeline for casino development



SOURCE: JLARC staff analysis of casino implementation timelines in other states.

## **WHAT WE RECOMMEND**

This JLARC report offers projections and considerations to be used when deciding whether to authorize and how to implement casino gaming or other additional forms of gaming. The report does not attempt to recommend whether Virginia should pursue additional forms of gaming, or what types of gaming should be pursued. However, the report does include several recommendations should the General Assembly choose to expand gaming in the Commonwealth.

### **Legislative action**

- Establish a dedicated, stable funding source for problem gambling prevention and treatment, even if additional forms of gaming are not authorized;
- Include a requirement in any casino authorizing gaming legislation that:
  - applicants for a casino license submit a responsible gaming plan as part of their application, and casino operators obtain accreditation for responsible gaming practices;
  - casino licenses will be awarded through a competitive selection process, overseen by a designated committee whose members have experience in business finances and operations and represent state and local interests;
  - an independent consultant, hired by the state, assess the accuracy and feasibility of casino development proposals; and
  - owners and officers of any company vying for a casino operators' license submit to and pass in-depth background and financial investigations.

The complete list of recommendations is available on page ix.

## **Recommendations: Gaming in the Commonwealth**

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### **RECOMMENDATION 1**

The General Assembly may wish to consider including in any legislation authorizing additional forms of gaming a requirement that applicants for a gaming license submit a responsible gaming plan as part of their application and require casino operators to obtain accreditation for responsible gaming practices. (Chapter 5)

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### **RECOMMENDATION 2**

The General Assembly may wish to consider including in any legislation authorizing additional forms of gaming a requirement that Virginia's gaming oversight agency develop and administer a voluntary self-exclusion program and implement the program before any casinos open. (Chapter 5)

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### **RECOMMENDATION 3**

The General Assembly may wish to consider including in any legislation authorizing additional forms of gaming a requirement that the Department of Behavioral Health and Developmental Services contract with a university or other expert to conduct an ongoing evaluation of problem gambling in Virginia and the effectiveness of the state's prevention and treatment efforts. (Chapter 5)

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### **RECOMMENDATION 4**

The General Assembly may wish to consider amending the Appropriation Act to establish a dedicated stable funding source for problem gambling prevention and treatment, even if gaming is not expanded, and designate the Department of Behavioral Health and Developmental Services to administer the funding. (Chapter 5)

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### **RECOMMENDATION 5**

The General Assembly may wish to consider amending the Appropriation Act to direct the Department of Behavioral Health and Developmental Services to develop a plan and framework for a comprehensive problem gambling prevention and treatment program and to identify key elements, resource needs, and a schedule for implementation. (Chapter 5)

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### **RECOMMENDATION 6**

The General Assembly may wish to consider including a requirement in any casino authorizing legislation that casino licenses will be awarded through a competitive selection process. (Chapter 6)

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#### **RECOMMENDATION 7**

The General Assembly may wish to consider including a provision in any casino authorizing legislation that establishes a committee to evaluate and select proposals for the operation and development of casinos, and which comprises individuals with business, finance, and operations experience and who represent both the statewide and local perspectives. (Chapter 6)

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#### **RECOMMENDATION 8**

The General Assembly may wish to consider including a requirement in any casino authorizing legislation that an independent consultant, hired by the state, assess the accuracy and reasonableness of the projected financial, economic, and other benefits included in casino development proposals prior to selecting a winning proposal. (Chapter 6)

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#### **RECOMMENDATION 9**

The General Assembly may wish to consider including language in any casino authorizing legislation that requires casino operators to pay a fee for receiving a casino license. (Chapter 6)

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#### **RECOMMENDATION 10**

The General Assembly may wish to consider including a requirement in any casino authorizing legislation that the owners and executive officers of any company applying for a casino operator's license, as well as employees responsible for overseeing and managing the company's operations and finances, submit to in-depth background and financial investigations in order for the company to qualify for a casino license. (Chapter 6)

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#### **RECOMMENDATION 11**

The General Assembly may wish to consider including a requirement in any casino authorizing legislation that casino employees and gaming vendors and manufacturers be licensed by the gaming oversight agency and that licenses be awarded only after the prospective employees submit to a background check and a financial investigation appropriate to the position. (Chapter 7)

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#### **RECOMMENDATION 12**

The General Assembly may wish to consider including in any casino authorizing legislation a provision that designates state-issued licenses to casino owners or operators, their employees, and vendors as revocable privileges. (Chapter 7)

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### **RECOMMENDATION 13**

The General Assembly may wish to consider including language in any casino authorizing legislation that requires all casino personnel and companies subject to licensure to pay licensing fees to help defray the costs of licensure investigations and other licensing activities. (Chapter 7)

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### **RECOMMENDATION 14**

If the Virginia Lottery Board's responsibilities are broadened to include governing additional forms of gaming, the General Assembly may wish to consider amending §58.1-4004 of the Code of Virginia to increase the number of lottery board members from five to seven. (Chapter 8)

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### **RECOMMENDATION 15**

If the Virginia Lottery Board's responsibilities are broadened to include governing additional forms of gaming, the General Assembly may wish to consider amending §58.1-4004 of the Code of Virginia to designate one member who is a law enforcement officer, one member who is a certified public accountant, and one member who is a licensed and practicing attorney in Virginia. (Chapter 8)

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### **RECOMMENDATION 16**

If the Virginia Lottery Board's responsibilities are broadened to include governing additional forms of gaming, the General Assembly may wish to consider amending the Code of Virginia §58.1-4004 to require board members to adhere to additional ethics requirements related to the additional forms of gaming designed to prevent board members from engaging in activity that could present, or be perceived to present, a personal or financial conflict of interest. (Chapter 8)

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### **RECOMMENDATION 17**

If the Virginia Lottery Board's responsibilities are broadened to include governing additional forms of gaming, the lottery should arrange for training to be provided to the board on how to conduct its regulatory responsibilities in conformance with the Virginia Administrative Process Act. (Chapter 8)

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### **RECOMMENDATION 18**

The General Assembly may wish to consider amending the Code of Virginia to require the regulation of grey machines to ensure gaming integrity, protection to consumers, protection to businesses hosting the devices, and minimization of the adverse impacts to Virginia's existing authorized gaming. (Chapter 9)

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**OPTION 1**

The General Assembly could include in any legislation authorizing additional forms of gaming a requirement that the Department of Behavioral Health and Developmental Services and Virginia's gaming oversight agency establish and coordinate a stakeholder group to enable collaboration among prevention and treatment providers and gaming operators. (Chapter 5)

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**OPTION 2**

The General Assembly could consider requiring that (i) any competitive casino selection process include among the criteria used for evaluating casino proposals a criterion for casino ownership by a Virginia resident or Virginia Indian Tribe and (ii) such a criterion not receive greater weight than any other individual criterion used to select a casino proposal. (Chapter 6)

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**OPTION 3**

The General Assembly could consider including language in any casino authorizing legislation a requirement that nongaming vendors and nongaming employees be licensed by the gaming oversight agency. (Chapter 7)

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**OPTION 4**

The General Assembly could consider including language in any casino authorizing legislation that requires an evaluation of the roles, responsibilities, and performance of all Virginia gaming oversight agencies after additional forms of gaming have been implemented to determine whether any consolidation of gaming oversight responsibilities is warranted. (Chapter 8)

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# 1 Introduction

**SUMMARY** The 2019 General Assembly passed Senate Bill 1126 (SB 1126) to authorize casino-based gaming in the state and to authorize the development of five commercial casinos in Virginia. The bill includes a re-enactment clause, requiring the 2020 General Assembly to pass the bill again following a study by JLARC. SB 1126 permits a casino in Richmond, Norfolk, Portsmouth, Danville and Bristol; requires a minimum capital investment of \$200 million per casino; and requires each city to hold a voter referendum to approve the casinos. Under SB 1126, the casinos would be regulated and administered by the Virginia Lottery and its board. Several neighboring states offer casino gaming in addition to other forms of gaming not currently offered in Virginia. In those states, additional forms of gaming, primarily casinos, generate tax revenue and positive state and local economic impacts, as well as some risk of gambling-related harms, such as household financial instability. If the General Assembly were to enact legislation authorizing casinos or additional forms of gaming, these impacts, as well as many other factors, will need to be considered to establish a robust administrative and governance structure.

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Several forms of gaming are already permitted in Virginia—lottery, charitable gaming, and pari-mutuel wagering on horse racing (sidebar)—and the 2019 General Assembly considered several bills to legalize additional forms of gaming. The General Assembly passed Senate Bill 1126 (SB 1126), which establishes a broad framework for expanding gaming via commercial casinos. The bill has a re-enactment clause, which would require the 2020 General Assembly to pass the bill again for it to take effect.

The re-enactment clause in SB 1126 directs JLARC to conduct a review of gaming laws in other states, including casino gaming, lottery, historical horseracing, and pari-mutuel wagering on horse racing.

Additionally, a budget amendment in the 2019 Appropriation Act (item 31 #3c) directs JLARC to hire a consultant to examine potential gaming governance structures; current and potential gaming revenues for the Commonwealth; the impact of additional gaming on charitable gaming, existing thoroughbred racing, breeding, and related agribusiness industries, and the current and future revenues of the Virginia Lottery.

To address the study mandate, JLARC staff and its consultants conducted research in four primary areas: 1) assessing the fiscal and economic impact of additional forms of gaming at the state and local levels; 2) projecting the impact of additional forms of gaming on Virginia’s existing types of gaming; 3) identifying key considerations for

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For the purpose of this study, **casino gaming** refers to state-authorized gaming at a commercial casino, including slot machines and various types of table games such as blackjack, roulette, and poker.

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**Pari-mutuel wagering** is a betting system in which all bets of a particular type are placed together in a pool and payoff odds are calculated by sharing the pool among all winning bets. This type of wagering is common in horse racing.

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governing, regulating, and administering additional forms of gaming; and 4) preventing and treating negative effects of problem gambling, such as financial problems. Appendix B provides more detail about the research methods used in this study.

## **SB 1126 authorizes commercial casino gaming in Virginia pending legislative approval in 2020**

SB 1126, passed during the 2019 General Assembly session, authorizes casino gaming in Virginia to be regulated and overseen by the Virginia Lottery and its Board. The legislation requires the Lottery Board to develop regulations for additional forms of gaming and gives the board the authority to issue licenses to casino operators. It also vests the lottery director with authority to oversee and administer casino gaming.

The legislation limits casino gaming to five cities and requires each city to pass a referendum approving casino gaming before a casino operator license can be granted. The five cities include Bristol, Danville, Norfolk, Portsmouth, and Richmond. Only one license can be issued for each locality, limiting development to one casino per city. The legislation requires the referendum to take place between July 1, 2020 and January 1, 2021. To receive a state casino license, any casino gaming project must involve a minimum capital investment of \$200 million, which may include investments in land, facilities, infrastructure, equipment, and/or furnishings.

SB 1126 legislation would make the Pamunkey tribe the only owner eligible for a casino license in two of the five localities—Norfolk and Richmond. Under a state commercial casino license, the development and operation of a Pamunkey-owned casino would be subject to state laws, regulation, and gaming revenue taxes. If the Pamunkey tribe were to open a gaming facility under federal tribal gaming rules, the state would have limited legal and regulatory authority pertaining to tribal gaming operations (sidebar). While SB 1126 would allow the Pamunkey tribe to open Virginia casinos without federal approval, the legislation does not preclude the tribe from pursuing a federal tribal gaming facility in addition to the state commercial license process. More information about tribal gaming is included in Appendix E.

SB 1126 and other legislation considered by the General Assembly in 2019 would have permitted sports wagering to be offered in the Commonwealth (SB 1238, SB 1356, HB 1638, and HB 2210). Sports wagering only recently became legal in the U.S. The U.S. Supreme Court ruled in May 2018 that the national prohibition against state-sponsored sports wagering was unconstitutional.

## **Virginia's permitted forms of gaming generated nearly \$700 million in revenue in 2018**

Forms of legal gaming in Virginia are lottery, charitable gaming, and horse racing wagering (Table 1-1). Combined, legal gaming in Virginia generated over \$3 billion in

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The **Pamunkey Indian Tribe** is recognized by Virginia House Joint Resolution No. 54 (1983) and acknowledged by the United States Assistant Secretary-Indian Affairs as an Indian tribe that has the authority under federal law to conduct tribal gaming activities through the Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq.).

**Federal Tribal Gaming** comprises casinos, bingo halls, and other gaming operations on Indian reservations or other tribal land. As such, state oversight is limited to the terms of any compact that the parties may mutually enter. See Appendix E.

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sales and wagering in FY18 and generated nearly \$700 million in proceeds for the various purposes identified in statute.

- Virginia Lottery sales exceeded \$2.1 billion in FY18, generating \$606 million in proceeds for Virginia’s public K–12 public education system.
- Charitable gaming sales exceeded \$1 billion in CY18 generating over \$59 million for the organizations that hosted the games and approximately \$3.0 million for the general fund in FY18.
- Over \$100 million was wagered on horse racing in FY18, generating about \$12 million in revenue that is distributed to organizations that support the horse racing and breeding industry, the localities that host pari-mutuel wagering sites, and the Virginia Racing Commission (this does not include historical horse racing wagering, which did not begin until May 2019) (sidebar).

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**The Virginia Racing Commission (VRC)** regulates horse racing and traditional and historic horse racing wagering. Facilities hosting historical horse racing terminals, which are similar in appearance to slot machines, were established in 2019.

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**TABLE 1-1**  
**Types of gaming in Virginia**

<b>Type of Gaming</b>	<b>Description</b>
<b>Lottery</b>	Lottery offers games of chance, including daily drawing, scratch tickets, and nationwide jackpot games. Virginia Lottery operates the lottery, and products are sold statewide via sales agents and through subscription or MobilePlay services.
<b>Charitable gaming</b>	Charitable gaming includes bingo, pull-tabs, raffles and other gaming variations conducted by qualified nonprofit organizations to raise money to support the organization or for charitable purposes.
<b>Horse racing wagering</b>	Traditional horse race wagering is pari-mutuel wagering on the outcome of live horse races (in-person or via simulcast).  Historical horse racing wagering includes electronic gaming terminals similar in appearance to slot machines, and winning is determined by the results of previous live horse races.

SOURCE: Code of Virginia and JLARC staff analysis.

NOTE: This table does not include fantasy contests or unregulated electronic gaming devices.

## Majority of states allow more forms of gaming than Virginia

More than half of states nationwide offer one or more gaming options that are not currently legal in Virginia, including commercial casinos, sports wagering, and/or online casino gaming (Table 1-2).

**TABLE 1-2**  
**Forms of gaming offered in other states that are not permitted in Virginia**

Type of gaming	Description	Number of states where legal
Commercial casino gaming	Gaming at a casino, including slots and table games	24 (1 more in process)
Sports wagering	Wagering on outcomes of live or future sporting events	13 (6 more in process)
Online casino gaming	Casino gaming, including slots and table games, offered online or through a mobile application	4 <sup>a</sup>
Other forms of gaming: electronic gaming terminals and card rooms	Electronic gaming terminals, resembling slot machines, are offered at retail locations, taverns, or truck stops.	7 states
	Card rooms are facilities with offerings limited to specific card games, such as poker.	5 states

SOURCE: Code of Virginia and JLARC staff analysis.

NOTE: <sup>a</sup> Nevada online casino gaming includes only poker; not slots or other table games. Tribal Gaming exists in 28 states. Electronic gaming terminals refer to electronic games of chance. Electronic games that are intended to have a "skill" component, are not included in this table, but are available in at least six states.

States near Virginia already offer various additional forms of gaming that are not currently legal in Virginia. This includes commercial casino gaming, sports wagering, and online casino gaming in Delaware and Pennsylvania; casino gaming and sports wagering in West Virginia; and casino gaming in Maryland. Tennessee is in the process of implementing sports wagering.

**TABLE 1-3**  
**Status and year of authorization of commercial gaming in nearby states**

State	Casino gaming	Sports wagering	Online casino gaming
Delaware	✓ (1994)	✓ (2018 <sup>a</sup> )	✓ (2012)
Pennsylvania	✓ (2006)	✓ (2018)	✓ (2019)
West Virginia	✓ (1994)	✓ (2018)	✗
Maryland	✓ (2010)	✗	✗
Tennessee	✗	✓ <sup>c</sup>	✗
North Carolina <sup>b</sup>	✗	✗	✗
Kentucky <sup>d</sup>	✗	✗	✗

SOURCE: American Gaming Association and statute in other states.

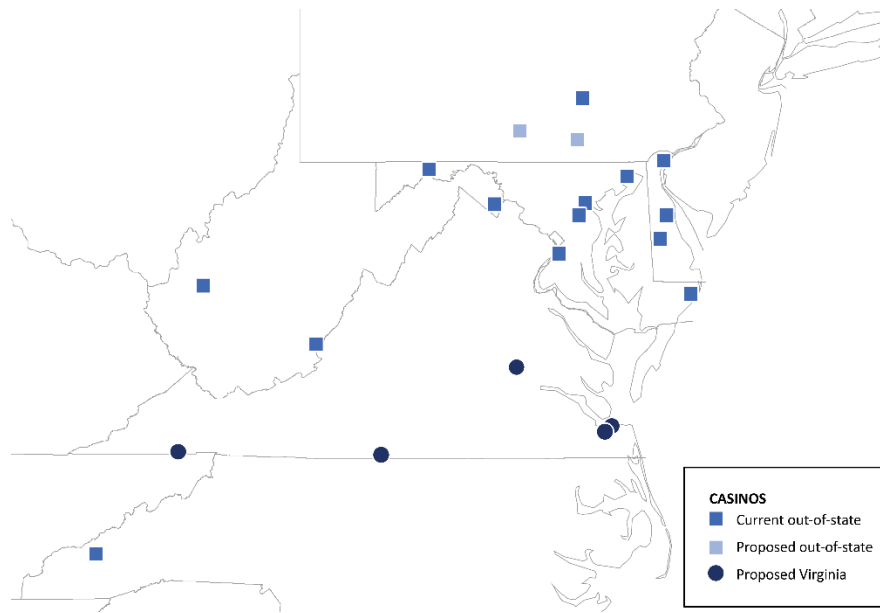
NOTE: <sup>a</sup> Delaware permitted limited sports betting offerings prior to 2018. <sup>b</sup> North Carolina has two Tribal Gaming casinos authorized by the Federal Indian Gaming Regulatory Act; sports wagering is authorized at tribal facilities.

<sup>c</sup> Not yet available, currently in process of being implemented. <sup>d</sup> Like Virginia, Kentucky offers historical horse racing wagering.

Casinos in nearby states would pose the greatest competition to any future casino development in Virginia. There are currently 14 casinos in operation that would compete with the Virginia market because they are considered to be within a reasonable drive from potential Virginia casino locations (Figure 1-1). These range from nationally competitive casinos, such as MGM National Harbor in Maryland,

which generated over \$700 million in gaming revenue in 2018, to smaller regional casinos, such as Mardi Gras Casino in Cross Lanes, WV, which generated approximately \$55 million in gaming revenue in 2018.

**FIGURE 1-1**  
**Location of casinos within Virginia's competitive market**



SOURCE: The Innovation Group.

NOTE: Competitive market is defined as the area within a 2-hour drive time from potential Virginia casino locations. Casinos further away, such as those in Atlantic City, New Jersey, are not shown.

## Casinos generate substantial state tax revenue

Gaming is generally governed and taxed at the state level, and casinos in particular can generate substantial state tax revenue. State revenue from casinos comes primarily from a tax on casinos' gaming revenue (sidebar). In 2017, commercial gaming facilities nationwide generated a total of \$41.7 billion in gaming revenue, of which \$9.7 billion was paid in taxes to host states (and localities in some states).

The amount of gaming tax revenue varies among states because it is a product of both the gaming revenue generated at commercial casinos and the tax rate(s) applied by the state. For example, Pennsylvania and New York generated over \$1 billion of direct gaming tax revenue from casinos in 2018, while three states generated less than \$100 million (Table 1-4). Gaming tax rates in casino states range from 7 percent (Nevada) to 50 percent (Rhode Island), and the national median is 27 percent.

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**Gaming revenue** is the amount of money from wagering that is kept by a casino after all winnings are paid out, but before any facility operating costs, capital expenses, or other taxes are paid.

**Gaming revenue taxes** are taxes levied on gaming revenue. They are in addition to other taxes that Virginia businesses are subject to, such as sales tax or corporate income tax.

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**TABLE 1-4**  
**Gaming and revenue in states with casinos: 2018 (\$ millions)**

<b>State</b>	<b>Gaming tax revenue</b>	<b>Gaming revenue</b>	<b>Number of casinos</b>
Pennsylvania	\$1,478	\$3,251	12
New York	1,102	2,588	13
Nevada	851	11,917	217
Maryland	710	1,746	6
Ohio	623	1,864	11
Louisiana	607	2,561	20
Indiana	600	2,241	13
Illinois	462	1,373	10
Missouri	447	1,754	13
Michigan	350	1,444	3
Iowa	339	1,467	19
Rhode Island	322	657	2
West Virginia	290	624	5
New Jersey	277	2,903	9
Mississippi	258	2,142	28
Delaware	208	433	3
Florida	199	569	8
Colorado	126	842	33
Kansas	110	409	4
Massachusetts <sup>a</sup>	109	273	2
New Mexico	109	235	5
Oklahoma	63	140	2
Maine	58	144	2
South Dakota	15	106	25
<b>Total</b>	<b>\$9,711</b>	<b>\$41,684</b>	<b>465</b>

SOURCE: American Gaming Association State of the States (2017).

NOTE: <sup>a</sup> Massachusetts' third casino opened in June 2019. Casinos include commercially operated land-based casinos, riverboat casinos, and horse race track casinos. Casinos can generate revenue from slots, table games, sports wagering, and online gaming (typically affiliated with a physical casino) where legal. Does not include Tribal Gaming. Tribal Gaming accounts for over 500 casinos, across 28 states, and generated \$32.4 billion in gross gaming revenue in 2017. Gross gaming revenue and gaming tax revenue in Illinois, Louisiana, Nevada, South Dakota, and West Virginia include revenue generated from electronic gaming device locations, which are *not* considered to be casinos. Arkansas authorized commercial casino gaming in 2018, but had not opened a casino by the end of the year.

While the largest positive fiscal impact of gaming is generated at the state level via gaming tax revenue, states and localities receive additional revenue through other taxes. These include sales and use, meals, or occupancy taxes generated by customers at the casino or in the surrounding areas. Casinos also pay local real estate tax on their capital investment and state corporate income tax. Casino employees pay personal income tax on their wages.

## Casinos also generate state- and local-level economic impacts

Casinos generate economic impact at the state and local level primarily through capital investment, jobs, and employee compensation. Casinos also may create additional economic activity for businesses that are located near the casino because of spending by casino patrons. Casinos can generate some economic activity in other sectors of the state economy by spending on goods and services such as food, supplies, or advertising.

The economic impact generated by a casino will vary based on the size and scale of the facility. A large, resort-style casino, with amenities such as meeting and conference space, a hotel, restaurants, and retail, tends to require higher capital investment and a larger workforce. This investment can result in a greater economic impact, primarily at the local level. Conversely, a smaller casino, or one focused primarily on low labor gaming activities such as slot machines, is likely to provide less of an economic impact in terms of capital investment or employment.

Some of the positive economic impact generated by a casino could be offset by associated declines in revenue from other types of entertainment (referred to as “economic substitution”). For example, some of the money spent at a Virginia casino might come from residents reducing spending on other forms of entertainment, dining, or lodging within the state. However, numerous studies have not found any conclusive evidence of the relationship between new casinos and other local spending (See appendix B and C).

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**Additional forms of gaming**, such as sports wagering and online casino gaming, have **less of an economic impact** because they tend to require less capital investment, have fewer employees because of automation, and often use software and hardware hosted by out-of-state companies.

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## Expanding gaming will increase risk of harm from problem gambling

Many people enjoy gambling as a form of entertainment and social interaction, whether at casinos or through other types of gaming. About 80 percent of adults in Virginia gambled in the past year (primarily through the lottery). Visitors to casinos may also benefit from other amenities at the casinos: hotels, dining, entertainment, meeting, and event space. Currently, Virginians who want to visit casinos must travel to other states.

Expanding access to gaming in Virginia will increase the number of people who are at risk of experiencing negative impacts, or “harm”, from problem gambling. Negative impacts include financial instability, emotional and psychological difficulties, and strained social relationships. Only a small percentage of individuals who gamble become problem gamblers.

## **Casino administration and governance would be a new government function for Virginia**

Overseeing casinos or any other additional forms of gaming would be an entirely new function for the Virginia Lottery and the Commonwealth. Substantial new state-level staff and resources—even with lottery as the administrative and governing entity—will be needed if legislation is enacted to authorize casinos and additional forms of gaming, as will new regulations and a regulatory framework. Key decisions that will need to be made include:

- deciding the types of additional forms of gaming that will be authorized (i.e., casino gaming, sports wagering, and/or online casino gaming);
- deciding whether to set a minimum capital investment threshold for casinos (and if so, at what amount) to help ensure a desired level of economic impact (Chapters 2 and 3);
- setting a tax rate for casino gaming revenue and/or revenue from other additional forms of gaming (Chapter 3);
- determining whether measures should be taken to minimize the impact of additional forms of gaming on the revenues generated by lottery, charitable gaming, and horse race wagering (Chapter 4);
- implementing and funding a comprehensive problem gambling prevention and mitigation strategy (Chapter 5);
- setting criteria, policies, and procedures to be used for selecting casino development proposals (Chapter 6);
- establishing a process for licensing casino owners, key personnel, other employees, and gaming equipment vendors (Chapters 6 and 7);
- determining the quantity and expertise areas of staff needed for casino oversight in order to ensure integrity in ongoing operations (Chapter 7);
- assessing the extent to which resources and expertise at existing state agencies could be leveraged and the additional staff and skillsets that would be needed (Chapter 8);
- selecting the appropriate governance body and setting requirements for membership (Chapter 8);
- designating the uses of gaming tax revenue (Chapter 10);
- understanding the timing and sequencing of the tasks that will need to be completed (Chapter 10).



## **Consultants analyzed impacts of additional forms of gaming and gaming regulation in other states**

JLARC's study team hired two national consultants to perform research and analysis for this study. JLARC selected The Innovation Group (TIG), a national consultant specializing in market research and analysis of gaming operations. The Innovation Group performed primary analysis related to gaming revenue projections; market analysis, such as capital investment and employment projections; gaming revenue tax rate sensitivity; economic impacts of casinos; other state and local taxes generated by casinos; and the impact of casino gaming on Virginia's existing forms of gaming. The Innovation Group partnered with Regulatory Management Counselors (RMC), a legal and consulting firm specializing in gaming regulation. RMC conducted research on governing, regulating, and administering gaming in other states; responsible gaming efforts provided by casino operators; and other policy considerations associated with additional forms of gaming.

JLARC staff also contracted with the Weldon Cooper Center for Public Service at the University of Virginia for additional expertise in economic modeling and forecasting. Dr. Terry Rephann with the Weldon Cooper Center reviewed assumptions, methods, and inputs related to The Innovation Group's economic modeling, as well as offered the study team additional support in areas such as reviewing research literature and other studies related to casino fiscal and economic impacts. Dr. Rephann has worked closely with JLARC staff as part of JLARC's oversight and evaluation of economic development incentives and has extensive expertise in economic impact modeling in Virginia and nationwide.

## **JLARC report offers guidance if Virginia authorizes casinos or other forms of gaming**

This JLARC report offers projections and considerations to be used when deciding whether to authorize and how to implement casino gaming or other additional forms of gaming. The report does not attempt to recommend whether Virginia should pursue additional forms of gaming, or what types of gaming should be pursued. All projections and considerations are prospective and represent conclusions drawn from the best information available at the time of the work.



## 2 Fiscal and Economic Impact of Casinos, Sports Wagering, and Online Gaming

**SUMMARY** The five casinos authorized by SB 1126 could generate \$262 million annually for the state from a tax on gaming revenue. Casinos are projected to add an estimated additional \$29 million to \$33 million in state revenue through personal income, sales, and corporate taxes. The five casinos would have a positive impact on local economies, but this estimated economic impact would be small in comparison to the total amount of economic activity in the host localities and the state as a whole. Casinos are projected to support over 10,000 total jobs and an estimated \$1.2 billion annually in GDP, but employment at each casino would make up 3 percent or less of the local labor force and account for less than 1 percent of each region’s GDP. The projected median wage of \$33,000 for casino employees would be below the median wage in the five SB 1126 localities, because many casino jobs would be low skill and low wage. A casino in Northern Virginia is projected to contribute a net gain of \$155 million (59 percent increase) in state gaming tax revenue, 41 percent more jobs, and about 57 percent more GDP over that from the five SB 1126 casinos combined. Other types of gaming that could be authorized—sports wagering and online casino gaming—would be expected to generate additional state gaming tax revenue but would have little additional economic impact. Sports wagering is estimated to generate state gaming tax revenue ranging from \$22 million to \$55 million each year, and online casino gaming is estimated to generate state gaming tax revenue of \$84 million each year.

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The Innovation Group (TIG), a national consultant specializing in gaming revenue and market analysis, projected the fiscal and economic impact of opening a casino in each of the five localities identified in SB 1126 (2019): Bristol, Danville, Norfolk, Portsmouth, and Richmond. The fiscal impact estimates include revenue from a tax applied directly to gaming revenue as well as other applicable state and local taxes. Economic impact was measured in terms of job creation and the contributions of casino operations to statewide economic output. Assumptions made about casino scale and amenities are described in Appendix C, but in general were consistent with “resort-style” casinos that include a hotel, restaurants, and other amenities, such as entertainment venues.

Additional scenarios were analyzed to estimate 1) gaming revenue generated by historical horse racing parlors in the absence of casinos; 2) the impact of a casino developed in Northern Virginia in addition to the five SB 1126 locations; and 3) the impact of casinos being built in areas of Tennessee and North Carolina (neighboring states that currently do not authorize casino gaming) that would pose direct competition to Virginia casino locations. TIG also assessed the fiscal and economic

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TIG analyzed a lower, median, and higher tax rate for casino revenue:

**12 percent** is close to the nationwide low and is an approximation of rates in proposed legislation during the 2019 General Assembly Session (i.e., 10 percent to 15 percent).

**27 percent** is the median rate nationwide.

**40 percent** is approximately the median tax rate in the mid-Atlantic region (West Virginia, Maryland, Pennsylvania, and Delaware).

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impact of sports wagering under various implementation models and estimated the fiscal impact of online casino gaming.

Fiscal and economic impact projections in this chapter assume a nationwide median tax rate applied to casino gaming revenue. The nationwide median tax rate is 27 percent, and represents an effective, or “blended” tax rate, which is the average amount paid across all types of casino gaming revenue (slots and table games) as well as all amounts (first dollar earned through last dollar earned). Legislation proposed in Virginia during the 2019 General Assembly session contemplated a casino gaming tax rate ranging from 10 to 15 percent, although a tax rate was not included in the final version of SB 1126. However, the nationwide median rate was selected for this chapter as it better reflects typical casino gaming taxation in other states and serves as a middle point from which to perform analysis. TIG also assessed a 12 percent effective tax rate and 40 percent effective tax rate for each casino scenario (sidebar). Details of these estimates are available in Chapter 3.

TIG projected casino fiscal and economic impacts but worked extensively with JLARC when planning analyses and developing assumptions and continually throughout the analysis and modeling period. JLARC staff reviewed key assumptions, economic impact modeling methodology and inputs, and preliminary data outputs. JLARC staff included JLARC’s chief methodologist, a regional economist at the University of Virginia’s Weldon Cooper Center, and JLARC analysts. The JLARC study team independently examined casino fiscal and economic impacts in other states to further verify TIG’s projections.

Projections represent TIG’s and the JLARC staff’s best estimates for casino revenue, tax payments, scale of facility, and economic impact. A “realistic but conservative” approach was followed in terms of the methodology and assumptions that were chosen. This study uses estimates based on casinos the market would likely support, but it may be possible that casino projects would exceed projected impacts because some casino developers might elect to pursue larger projects. However, the economic impact results presented in this chapter may partially overestimate some of the actual economic impacts because some of the spending at casinos may be offset by reductions in spending by Virginia residents on other goods and services produced in the state, such as dining, hotels, and entertainment (i.e. substitution). Because there is little conclusive evidence about the relationship between new casinos and spending on other local goods and services by residents, estimates in this chapter assume no substitution effects (Appendix B). The estimated increase in employment from casinos also likely overstates the increase in jobs for current Virginia residents because some jobs will be filled by workers coming to Virginia from other states.

## Five casinos authorized by SB 1126 could generate \$262 million annually in state gaming tax revenue, equal to about 1.3 percent of total state tax revenue

TIG estimates the net gaming revenue for each proposed casino location using a gravity model (sidebar) that is informed by several assumptions about customer behavior and casino patronage (Table 2-1). The model has been calibrated over time based on observed gaming behavior (i.e. number of customer visits to casinos and amount of gaming revenue per customer visit) at existing casinos nationwide (Appendix C).

**TABLE 2-1**  
**Assumptions used for projecting casino revenue**

- **Attraction of facility:** The relative attraction of a gaming venue as measured by its location, size, and amenities.
- **Competing facilities <sup>a</sup>:** Casinos and casino-like facilities within a reasonable drive time (approximately two hours).
- **Local market potential:** Visitation and revenue from residents in proximity to a gaming facility based on demographic characteristics of the local population, such as propensity to visit a gaming facility, frequency of visits, and average gaming spending per visit.
- **Out-of-market potential:** Visitation and revenue from customers who live *outside* of a local market and travel a long distance for the gaming experience, including tourism, those stopping to visit while en route to another destination, and customers traveling for a gaming experience.
- **Year of operation <sup>b</sup>:** Primary casino revenue analysis is reported for 2025, the estimated second year of casino operation. Assumptions include projected population and income levels for 2025.

SOURCE: The Innovation Group.

NOTE: <sup>a</sup> Assumes five Virginia historical horse racing gaming facilities with a total of 2,850 historic horse racing machines, including Chesapeake, Hampton, New Kent, Richmond, and Vinton. Does not include historic horse racing parlors in Danville or Dumfries as the facilities were not yet announced at the time of analysis and referendums required to authorize these facilities had not yet occurred. <sup>b</sup> Casinos are assumed to open in 2024, undergo a one year ramp up period, with net gaming revenue stabilizing to normal growth rates by 2025.

TIG projects the five casinos authorized by SB 1126 legislation, in total, would annually generate about \$970 million in net gaming revenue (sidebar) and approximately \$262 million in gaming tax revenue for the state when assuming a tax rate equal to the nationwide median (27 percent). This is equivalent to about 1.3 percent of total state tax revenue collected for the general fund in FY18 (sidebar).

Casinos located in localities with, or near, larger populations would be expected to generate the greatest revenue. TIG estimates that annual net gaming revenue on a casino-by-casino basis would range from a low of \$130 million in Bristol to a high of \$297 million in Richmond, generating \$35 million and \$80 million in annual state

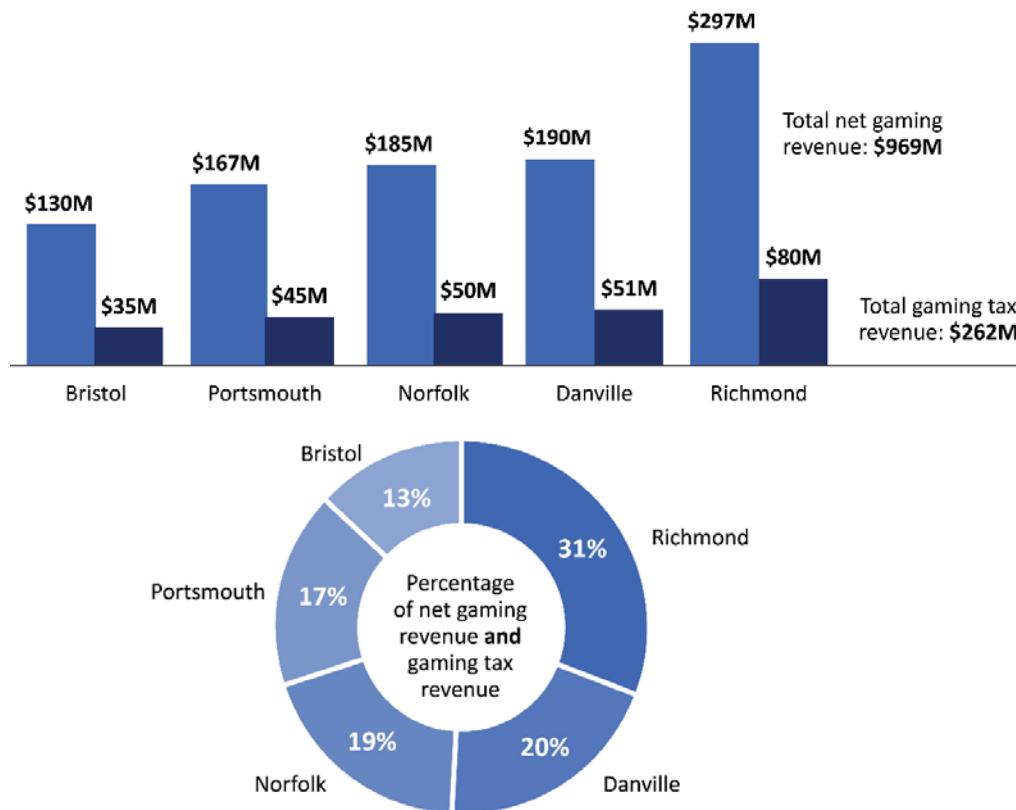
A gravity model quantifies the effect of distance on the behavior of a potential customer, and considers the impact of competing venues. The Innovation Group has developed its gravity model to incorporate demographic data such as population and income at the zip code level, the propensity and frequency at which people gamble, and the attractiveness of certain types of gaming facilities versus others.

TIG's projections are based on **net gaming revenue**, which refers to the amount wagered minus prizes awarded *and* allows for other deductions, such as the value of redeemed free play credits. Several existing casino jurisdictions in the Virginia region (Maryland, Pennsylvania, and West Virginia) define gaming revenue in a similar fashion. Also commonly referred to as *adjusted gaming revenue*.

The Virginia Department of taxation collected \$19.2 billion in **state tax revenue for the general fund** in FY18. Taxes in this category primarily include individual income tax, state sales and use tax, and corporate income tax.

gaming tax revenue respectively (Figure 2-1). The Hampton Roads market area is projected to annually produce approximately \$351 million in net gaming revenue and \$95 million in state gaming tax revenue, which would be split between the Norfolk and Portsmouth casinos (this does not include an additional \$85 million in net gaming revenue projected to be generated concurrently by two historical horse racing facilities in the region).

**FIGURE 2-1**  
Projected net gaming revenue and gaming tax revenue by casino (2025)



Customers living in proximity to a casino generate a majority of revenue at that facility. TIG estimates that only 4 percent to 10 percent of casino revenue is generated by customers residing outside of a casino's local market area (approximately two-hour drive time). Only the Las Vegas and Atlantic City markets, two traditional gaming destinations, have generated more meaningful portions of gaming revenue from out-of-market visitors.

Nearly all of the revenue from out-of-state customers would be expected to come from large population bases in nearby areas of North Carolina and Tennessee that are within a reasonable driving distance of casinos.

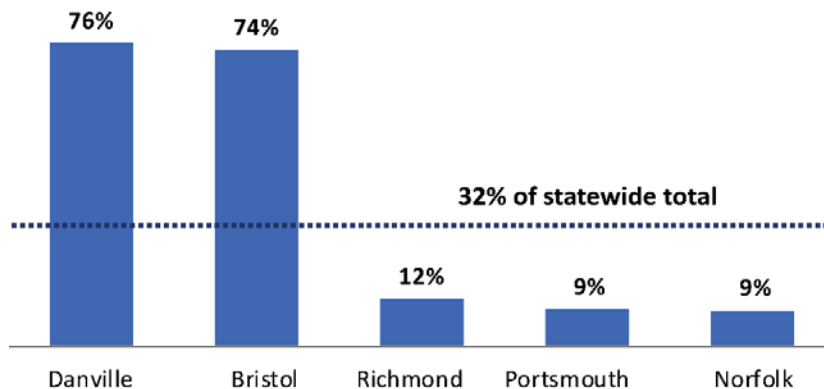
SOURCE: The Innovation Group.

NOTE: Assumes nationwide median effective tax rate of 27 percent. Reflects 2025 dollars. Numbers may not sum because of rounding.

### **One-third of statewide casino gaming revenue would come from out-of-state visitors, a majority of whom would visit the Bristol and Danville casinos**

Danville and Bristol casinos would generate a substantial portion of their gaming revenue from out-of-state customers, while the other three locations would mostly attract Virginia customers (sidebar). Gaming revenue from spending by out-of-state customers is more beneficial, because the fiscal and economic impact generated by out-of-state visitors represents a net gain to the Virginia economy. Because customers living in proximity to a casino are the most likely to patronize the facility, only casinos

located near a population center in another state are likely to attract a substantial portion of revenue from out-of-state customers. As a result, Danville and Bristol casinos are estimated to generate about three-quarters of their revenue from out-of-state customers. Conversely, only about 10 percent of gaming revenue at the Richmond, Portsmouth, and Norfolk casinos would be expected to come from out-of-state visitors (Figure 2-2). As a result, about 75 percent (\$230 million out of \$310 million) of the total out-of-state revenue generated by Virginia casinos would come from Bristol and Danville locations.

**FIGURE 2-2****Percentage of net gaming revenue from out-of-state customers by casino**

SOURCE: The Innovation Group and JLARC staff analysis.

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**Repatriation** is the revenue generated at Virginia casinos by Virginia residents that otherwise would have been spent at an out-of-state casino in the absence of an in-state option.

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Some Virginia casino revenue would come from repatriation of spending on gaming by Virginia residents who currently gamble at casinos in other states (sidebar). Repatriation is projected to account for about \$86 million (9 percent) of total net gaming revenue statewide. Because of its relative proximity to large casino markets in Maryland and West Virginia, a Richmond casino would be expected to repatriate the greatest amount of Virginia residents' casino gaming spending, primarily from those customers who currently travel to casinos in states north and west of Virginia (e.g. Maryland and West Virginia).

The Danville and Bristol casinos would be the most vulnerable to future out-of-state competition because of their reliance on revenue from out-of-state customers, primarily from northeastern Tennessee and north-central North Carolina. TIG assessed the estimated impact of casino development in neighboring states (sidebar). In this scenario, a Danville casino's annual net gaming revenue is estimated to decrease by approximately 36 percent and Bristol's by 13 percent. Gaming tax revenue generated by each would decline proportionately to net gaming revenue.

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Given the Bristol and Danville casino's projected reliance on customers from neighboring states, TIG assessed the potential impact of future **out-of-state casino competition** in northern North Carolina (Raleigh-Durham area) and a casino in northeastern Tennessee (Knoxville area). These casino locations are intended only for estimating potential future impact; there are no current proposals for casinos in these locations.

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## Competition from casinos is projected to reduce historical horse racing gaming revenue and associated state gaming tax collected

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Historical horse racing facilities are required to pay a **state tax on gaming revenue**. The state tax is equal to approximately 9.4 percent of net gaming revenue (0.75 percent of total wagering).

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State tax revenue generated from historical horse racing (HHR) is projected to decline after casinos open, and this decline would offset a small portion of expected state revenue from the casino gaming tax (sidebar). HHR net gaming revenue is estimated to decrease by 45 percent once the competitive impact of the five SB 1126 casinos was realized. As a result, state gaming tax collected on this revenue would be reduced by \$12.6 million from what otherwise would have been paid in 2025. This reduction in state tax revenue from HHR would be equal to about 5 percent of the total state casino gaming tax revenue that would be generated by casinos. Virginia Lottery and charitable gaming are also projected to be negatively impacted by casino gaming, but that impact would occur to gaming proceeds rather than in the form of state taxes. (More information on the impact of casinos on existing gaming is available in Chapter 4.)

## Casinos would generate additional revenue through other local and state taxes

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At the statewide level, **personal income tax and state sales tax** are the state's two largest sources of tax revenue. Combined, they account for over 90 percent of total state tax revenue to the general fund.

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Casino gaming would generate additional state and local tax revenue beyond gaming revenue taxes. TIG estimated the state's personal income tax revenue generated by casino employees, local real estate tax based on the value of the casino, and state and local sales tax paid on non-gaming spending at the casino, such as retail sales.

### Casinos are projected to generate additional state tax revenue

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Among the five SB 1126 localities, the **real estate tax and the local sales tax option** account for an average of 43 percent of total revenue from all sources in 2018 (local, state, and federal).

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Casino gaming is projected to generate about \$29 million to \$33 million in additional state tax revenue, as a result of economic activity associated with casino operations (direct and secondary) (sidebar). This additional state revenue is equal to about 11 percent to 12 percent of the amount generated by casino gaming taxes. The spending activity generated by the five SB 1126 casinos is projected to result in nearly \$17 million in state sales tax, which is equal to about 0.5 percent of the \$3.4 billion of total statewide sales tax collection in 2018. Likewise, the jobs created by the five SB 1126 casinos are projected to contribute nearly \$11 million in personal income tax, which is about 0.1 percent of the \$14.1 billion in total statewide personal income tax collection in 2018. If corporate income taxes generated by casinos grew proportionately to the other state taxes, additional corporate income tax collection as a result of casinos would be approximately \$900,000 to \$4.3 million annually.

### Casinos are projected to generate between 1 percent and 8 percent in additional local tax revenue

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The state sales tax is 4.3 percent statewide. There is an additional **local sales tax** that is 1 percent in most of the state (5.3 percent total), but 1.7 percent in the Northern Virginia and Hampton Roads regions (6 percent total) and 2.7 percent in the Historic Triangle region (7 percent total).

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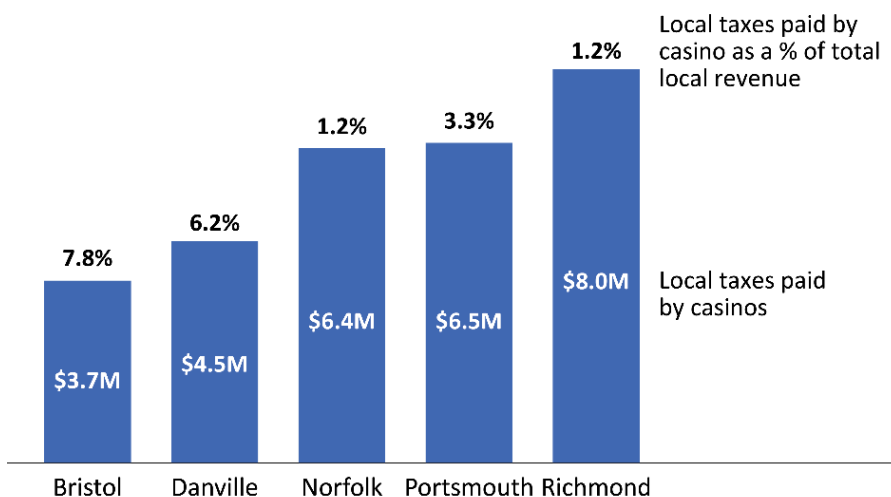
Real estate and local sales taxes generated by casinos would contribute increases in local tax revenue (sidebar). Local real estate tax revenue and local sales tax revenue generated by a casino is projected to range from approximately \$3.7 million annually in Bristol to \$8.0 million annually in Richmond (Figure 2-3). Bristol, Danville, and



Portsmouth would be expected to experience the greatest net gain in local tax revenue relative to their total current local revenue; representing an increase of 7.8 percent, 6.2 percent, and 3.3 percent respectively. A majority of estimated new local tax revenue would be generated by the casino development itself, rather than from additional spending by casino customers at other businesses in the locality (such as restaurants, hotels, gas stations, and other entertainment). According to TIG, only a small portion of casino customer spending occurs at businesses outside of the casino itself.

**FIGURE 2-3**

**Local taxes paid by casinos would increase local revenue (\$ millions)**



SOURCE: The Innovation Group, JLARC staff analysis, Auditor of Public Accounts Comparative Report FY 2018.

NOTE: Casino real estate tax revenue and local sales tax revenue are reported in 2025 dollars. Casino tax payment estimates are based on casino activity that would take place at a nationwide median 27 percent gaming revenue tax rate. Revenue from local sources as of FY18; includes local taxes, fees, and charges for services, and other sources of local revenue. In FY18, total local revenue is: Richmond \$658 million, Norfolk \$519 million, Portsmouth \$199 million, Danville \$72 million, and Bristol \$47 million.

Virginia host localities could receive *additional* local revenue from payments by the casino directly to the locality (i.e. “host payments”) or from a share of state casino gaming tax revenue allocated to the locality. Many states with commercial casino gaming require a portion of state gaming tax revenue generated by a casino be paid directly to the host locality or be distributed by the state to the locality (Appendix G). This generally ranges from 1 percent to 5 percent of net gaming revenue. In other states, localities can negotiate payments from casinos they host that are in addition to state taxes levied on gaming revenue. Each 1 percent of casino gaming revenue would account for between \$1.3 million (Bristol) and \$3 million (Richmond) annually under TIG’s projected casino gaming revenue for a casino in each locality.

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Historical horse racing facilities are required to pay a **local tax on gaming revenue**. The local tax is equal to approximately 6.3 percent of net gaming revenue (0.5 percent of total wagering). By statute, host localities receive half of the local tax payment from the facility, and New Kent County, the home of Colonial Downs racetrack, receives the other half. Host localities include Chesapeake, Hampton, New Kent, Richmond, and Vinton.

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**Gross Domestic Product (GDP)** is a measure of the value of all the final goods and services produced in a region. Higher GDP means more income available to pay worker wages, profits for businesses, and government taxes. An increase in GDP per capita means an economy produces more income per person, on average, and therefore provides a higher standard of living.

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TIG used **IMPLAN economic impact modeling** for economic impact analysis. The IMPLAN input-output model identifies the relationships between various industries and estimates the effects of expenditures by one industry on other industries to determine the total impact.

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## **Competition from casinos is projected to reduce local taxes paid by historical horse racing gaming facilities by 45 percent**

Casino competition would reduce gaming revenue for historical horse racing facilities, which would reduce the local taxes paid on that revenue (sidebar). It is projected that the impact of casino gaming to historical horse racing revenue would result in an \$8.4 million (45 percent) decrease in local tax payments from what otherwise would have been paid in 2025. Of this amount, a reduction of \$4.8 million would be realized in New Kent County (the home of Colonial Downs), with the remaining \$3.6 million of reduction shared across the other four historical horse racing host localities. This includes a reduction of \$1.4 million in Richmond, which would offset about 18 percent of the projected \$8 million gain in local revenue from a Richmond casino.

## **Casinos would have a positive economic impact, but impact would be small relative to local economies**

The economic impact generated by casino gaming and other forms of gaming are best measured in terms of expected employment and the gross domestic product (GDP) resulting from the casino industry (sidebar). Economic impact from employment is largely a product of the number of jobs created by casinos (or other types of gaming) as well as the compensation paid to these workers. Consumer spending on gaming and non-gaming activities, the spending of wages earned by casino employees, and casino spending on goods and services all contribute to GDP.

TIG projected the economic impact of casinos using economic impact modeling (sidebar). The total economic impact of a casino or other type of gaming is the sum of its estimated direct and secondary economic impact.

- **Direct economic impact** is the economic activity that occurs from the casino itself, such as construction, casino employment and wages, and a casino's spending on goods and materials.
- **Secondary economic impact** (commonly referred to as indirect and induced effects) includes the 1) spending of income received by other business sectors, such as an advertising firm, from their sales of goods and services to casinos, and 2) spending of income received by casino employees.

The economic impact of casinos and other types of gaming can be measured as *ongoing* impacts that accrue from annual operations and as a *one-time* impact that results from the construction phase of a project. Ongoing economic impact, measured annually, is generated by casino employment and payroll, spending at the casino, and spending by the casino on other goods and services to support its operations. The *one-time* impact from construction will only temporarily stimulate the economy and will dissipate after construction is complete (Appendix C).

The projected scale of a casino in each SB 1126 location served as the basis for estimating the economic impact of a casino industry in Virginia. TIG performed a return-on-investment analysis on the proposed SB 1126 casino locations to estimate levels of revenue (gaming and non-gaming revenue), capital investment (sidebar), and employment (number of employees and employee wages) at each casino (Table 2-2) (Appendix C). These estimates of revenue, capital investment, and jobs serve as the inputs to the economic impact model, which then generates estimates of one-time and ongoing economic impacts such as GDP, secondary job creation, and other state and local tax revenue generated.

**TABLE 2-2**  
**Projected casino employment and investment at 27 percent tax rate**

	Total annual casino revenue <sup>a</sup>	Casino direct employment	Casino capital investment
Bristol	\$151M	1,067	\$226M
Danville	221	1,582	308
Norfolk	215	1,509	299
Portsmouth	194	1,384	266
Richmond	339	2,050	403
<b>Total</b>	<b>1,119</b>	<b>7,592</b>	<b>1,502</b>

SOURCE: The Innovation Group.

NOTE: <sup>a</sup> Includes net gaming revenue and non-gaming revenue, such as food and beverage, retail, and hotel spending in 2025 dollars. The revenue and scale of a casino facility is affected by the gaming tax rate applied to net gaming revenue. Lower tax rates can encourage, but do not guarantee, higher levels of investment by casino developers and operators. Twenty-seven percent was selected for this analysis because it is the median gaming revenue tax rate levied by states with commercial casinos. Numbers may not sum because of rounding.

### **Five SB 1126 casinos are projected to create more than 10,000 jobs statewide, equivalent to 0.2 percent of statewide employment**

Total ongoing statewide employment from all SB 1126 casinos is projected to be 10,792, 70 percent of which (7,592) would be directly employed at casinos (Figure 2-4). The 10,792 jobs represent about 0.2 percent of the statewide labor force (4.3 million workers) as of 2018. The Bristol casino is estimated to have the lowest amount of employment with 1,067 workers employed directly at the facility while generating about 400 additional jobs in other industries through secondary impacts. A Richmond casino is estimated to have the highest level of employment with 2,050 workers employed directly at the facility, while supporting another 1,000 jobs through secondary impacts. These estimates do not include the *one-time* jobs for construction (sidebar).

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The Innovation Group defines **capital investment** as physical casino construction, fixtures, furnishings, equipment, gaming equipment, architectural and engineering work, permits and site work, land costs, casino application fees, working capital, and pre-opening costs. For the purposes of estimating the economic impact of casino development, land costs and casino license fees are excluded.

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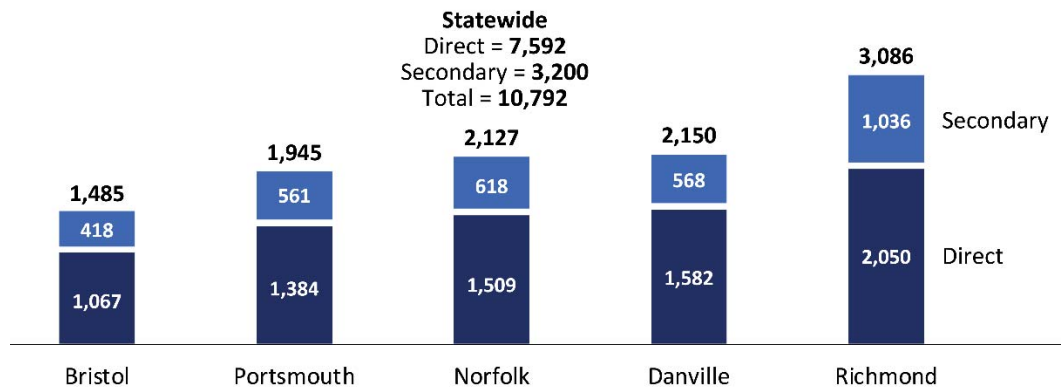
**Construction phase employment** would be a one-time impact of jobs created during the construction process, both by firms that are directly constructing the casino and by the businesses that supply and support them. Although construction employment may occur over a period of several years, estimated employment is reported as a one-year equivalent (i.e. 500 jobs over two years would be equal to 1,000 jobs for a single year).

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TIG estimates a one-time impact of 13,445 jobs with an average compensation of \$53,596.

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**FIGURE 2-4**  
**Projected employment generated by SB 1126 casinos**



SOURCE: The Innovation Group.

NOTE: Norfolk and Portsmouth casino were modeled concurrently for the Hampton Roads region; share of secondary jobs created by each of the two casinos is based on relative scale and revenue of the two facilities compared with one another; therefore the number of secondary jobs created by each facility do not overlap. Numbers may not sum because of rounding.

JLARC staff defined a casino locality's **overall local labor force** as the labor force in any locality from which 5 percent, or more, of workers in a casino locality reside. For example, at least 5 percent of individuals working in Richmond live in Richmond or in the counties of Henrico, Chesterfield, or Hanover. Therefore, those four localities are considered the overall Richmond local labor force (Appendix B).

### **Casinos are projected to each employ at least 1,000 people, representing between 0.3 and 3 percent of a locality's labor force**

All five SB 1126 localities had unemployment rates that are equal to or higher than the statewide average of 3 percent during 2018, so the impact of casinos on local employment levels has the potential to be one of the more meaningful benefits for local economies. This is especially true in Bristol and Danville, which had the highest unemployment rates and the smallest local labor forces.

Jobs at casinos would account for a relatively small proportion of the overall labor force in and around casino localities (sidebar). The greatest impact to the local labor force would occur in areas with smaller populations. Projected employment directly at casinos would be equivalent to 3.2 percent of the overall Danville labor force and 1 percent of the Bristol area labor force. Projected casino employment would be equivalent to less than 1 percent of the total labor force in Norfolk, Portsmouth, and Richmond (Table 2-3). Individual economic development projects, such as a casino, are rarely large enough to produce large impacts on the total number of jobs in a locality.

**Table 2-3**  
**Casino employment as a proportion of labor force for casino localities**

Region	Labor force*	Employed	Unemployed	Unemployment rate	Projected casino employees	Casino employees as % of labor force
Bristol	104,099	100,339	3,760	3.6%	1,067	1.0%
Danville	50,125	48,051	2,074	4.1	1,582	3.2
Norfolk	464,991	450,631	14,360	3.1	1,509	0.3
Portsmouth	553,100	535,529	17,571	3.2	1,384	0.3
Richmond	540,993	524,570	16,423	3.0	2,050	0.4

SOURCE: The Innovation Group and JLARC staff analysis of Bureau of Labor Statistics data and U.S. Census Bureau data.

NOTE: Casino employees are employees working directly at casinos, excludes secondary employment because secondary employment is often based in localities outside of the five host localities. Labor force data is 2018 annualized averages, comprising 2018 monthly data. Assumes 27 percent gaming revenue tax rate.

\* A casino region is defined as all localities from which at least 5 percent of workers in a casino host locality commute on a daily basis. For example, the Bristol region is defined as Sullivan County, TN; Bristol, VA; and Washington County, VA (Appendix B).

Not all casino-generated employment (direct and secondary) would result in a net gain of employment for current residents of the locality or state. Many individuals hired by a casino would already be employed in the state and would be leaving one job for another rather than *entering* the labor force. Some casino workers would also come from out-of-state (commuting daily from out-of-state or moving to Virginia from another state). For example, 42 percent and 9 percent of individuals working in Bristol and Danville respectively reside out-of-state and commute to Virginia. (Four percent or fewer of workers commute from out-of-state in the other three SB 1126 localities.) Furthermore, some prospective local workers, including those who are currently unemployed, may not be employable by a casino because they might be disqualified as a result of required background checks, credit checks, and criminal history checks, which are generally required of casino job applicants. (Detailed information about background checks typically conducted by a casino can be found in Chapter 6.)

### **Majority of casino jobs are projected to pay wages that are less than regional median**

Jobs at a casino are projected to have a median wage of about \$33,086 annually (excluding benefits) for full-time equivalent employees in 2025 (Table 2-4). Casino jobs would be a mix of skilled and unskilled positions. The highest wages would be about \$200,000 for a typical executive employee (1 percent of total employees). Managers, accountants and other professionals, and dealers would be expected earn more than \$50,000 annually. However, a projected 43 percent of jobs would be low skill and low wage (primarily housekeeping and food and beverage workers), typically with wages of about \$25,000. Larger casinos employ more staff, but most of the additional staff required are unskilled positions such as housekeeping staff and food and beverage workers.

**TABLE 2-4**  
**Representative employment and wages at a typical casino (2025 dollars)**

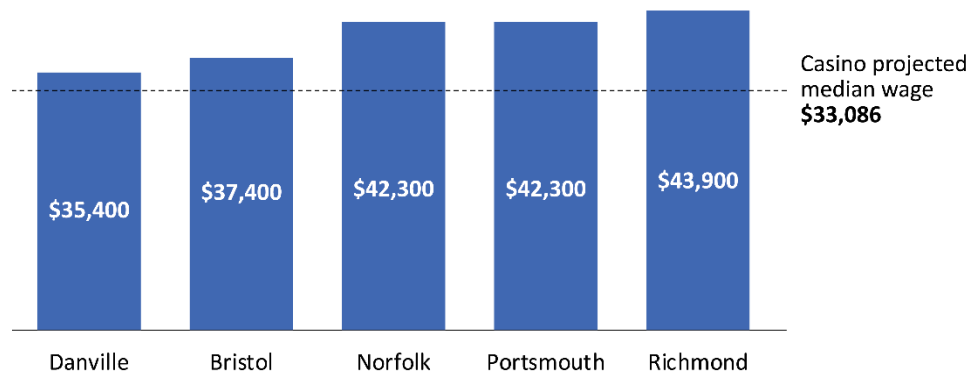
Position	Annual wages	Percentage of total employees by position
Executive	\$219,766	1%
Managerial & supervisory	62,608	19
Accounting & other professional	59,007	2
Table game dealers	54,854 <sup>a</sup>	15
Technical & mechanical	43,906	5
Security & surveillance	33,086	9
Administrative	32,517	1
Cage & cashier	29,587	5
Food & beverage	25,990 <sup>a</sup>	31
Housekeeping	20,246	12
<b>Median wage</b>	<b>\$33,086</b>	<b>100</b>

SOURCE: The Innovation Group.

NOTE: Annual wages exclude benefits, and represent the average wage within a position category for full-time employees. Based on 2019 salaries and wages with five years of annual wage growth applied. Employee distribution represents employment for a representative casino with 1,500 slot machines, 40 table games and a 200-room hotel. Wages would likely be higher for a Northern Virginia casino to compensate for difference in local wages. <sup>a</sup> Projected tips are included for table game dealers and food & beverage employees.

The projected 2025 median wage for casino employees in Virginia of \$33,086 would be close to the projected median wage among all workers in the Danville region, but lower than the projected overall median wage in each of the other four SB 1126 regions (Figure 2-5).

**FIGURE 2-5**  
**Projected median wage by casino region (2025)**



SOURCE: U.S. Bureau of Labor Statistics, Occupational Employment Statistics.

NOTE: 2025 median wages were calculated using 2018 wage data and adjusted for projected wage growth to 2025 (the year in which casinos are assumed to become operational). Wages for Richmond represent the Richmond metropolitan area, wages for Norfolk and Portsmouth represent the Virginia Beach-Norfolk-Newport News metropolitan area, wages for Bristol represent the Kingsport-Bristol(TN)-Bristol(VA) micropolitan area, and wages for Danville represent the Southside Virginia nonmetropolitan area.

### **Competition from casinos is projected to reduce employment generated by historical horse racing by about 600 jobs (40 percent)**

TIG also projects a reduction in employment at historical horse racing facilities and the industries that they support (both primary and secondary employment). Lower net gaming revenue (45 percent decrease) at historical horse racing facilities caused by competition from casinos would mean fewer employees at those facilities and less spending that contributes to secondary job creation elsewhere in the economy. TIG estimates a reduction of nearly 600 jobs, or 40 percent, associated with historical horse racing gaming from what it otherwise would have been in 2025. These employment losses are projected to be approximately evenly split between employment directly at HHR facilities and secondary employment in other industries. About half of the decrease in employment would be associated with historical horse racing facilities in Hampton Roads (Chesapeake and Hampton), about 40 percent in the Richmond region (Richmond and New Kent), and the remaining 10 percent in the southwest region (Vinton). In total, this is equivalent to 5 percent of the total jobs projected to be generated by casino gaming.

### **Five SB 1126 casinos are projected to contribute less than 1 percent to the gross domestic product of host regions**

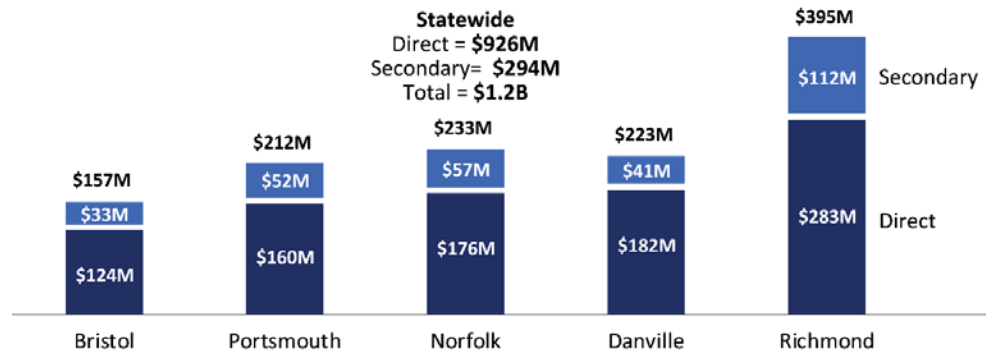
The five SB 1126 casinos are projected to contribute \$1.2 billion to the state's GDP on an ongoing basis if approved and developed (sidebar page 18). A majority (76 percent) of casino contribution to state GDP would be anticipated to come directly from activity at the casinos themselves, with the remaining portion generated by secondary impacts from purchases made by the casino operator or when casino employees spend their wages (Figure 2-6). A Richmond casino is estimated to have the largest GDP impact at nearly \$400 million annually, while a Bristol casino would have the lowest at an estimated \$157 million contribution to GDP.

Estimated GDP generated by each of the five casinos would represent less than 1 percent of the total economic activity in the host regions in a given year (sidebar). The Danville casino is projected to have the greatest impact on the economic activity of its host region (Southside), with a contribution equal to approximately 0.9 percent of annual GDP (Table 2-5). While the Hampton Roads and Richmond casinos would produce the greatest total GDP, the impact to the regional GDP would be less than 0.5 percent because of their comparatively larger economies. Conversely, the Southwest region has relatively less economic activity, but the Bristol casino's activity would contribute just 0.5 percent of regional GDP because of the more modest projected scale of the project.

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TIG divided Virginia into **regions** for the purpose of calculating GDP impacts, because GDP created by the casino tends to be spread throughout the region rather than confined to the host locality alone (Appendix C).

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**FIGURE 2-6****Projected annual gross domestic product generated by SB 1126 casinos**

SOURCE: The Innovation Group.

NOTE: 2025 dollars. Norfolk and Portsmouth casinos were modeled concurrently for the Hampton Roads region; share of GDP created by each of the two casinos is based on relative scale and revenue of the two facilities compared to one another; therefore the amount of secondary GDP generated by each facility does not overlap. Numbers may not sum because of rounding.

**TABLE 2-5****Estimated casino GDP impact as a percentage of regional GDP (\$ millions)**

Region	Annual casino GDP <sup>a</sup>	Annual regional GDP	Casino GDP as percentage of regional GDP
Southwest (Bristol casino)	\$154	\$33,606	0.5%
Southside (Danville casino)	216	24,030	0.9
Hampton Roads (Norfolk & Portsmouth casinos)	439	91,776	0.5
Richmond (Richmond casino)	392	88,574	0.4

SOURCE: The Innovation Group.

NOTE: <sup>a</sup> Casino GDP includes only GDP activity occurring in casino's host region; 98.5 percent total casino economic activity is estimated to occur in its host region. Includes direct and secondary GDP contribution in 2025 dollars. Norfolk and Portsmouth casino GDP reported in combination because they are both in the Hampton Roads region; Norfolk casino annual GDP projected to be \$190 million and Portsmouth projected to be \$162 million.

The estimated direct GDP contributions from the five SB 1126 casinos combined would have a negligible impact on statewide GDP. The projected \$926 million GDP contribution produced directly by the five casinos in aggregate would represent less than 0.2 percent of Virginia's statewide GDP in 2018 (\$534 billion). In comparison, projected GDP contribution directly from the five casinos would be less than the GDP levels of Virginia's agriculture industry (\$1.6 billion); mining, quarrying, oil, and gas industry (\$1.6 billion); and arts, entertainment, and recreation industries (\$3.5 billion).

Casino development is also projected to have a one-time impact on statewide GDP during the construction phase of the project. TIG estimates that the construction phase of the five SB 1126 casinos would contribute a one-time total of \$1.1 billion to the statewide GDP.



## A casino in the Northern Virginia market would generate additional positive fiscal and economic impact

A casino in Northern Virginia is estimated to generate substantial additional positive fiscal and economic impact beyond that of the five SB 1126 casinos based on the region's large population and prosperity. Northern Virginia would support a larger casino, which is projected to have total revenue (gaming and non-gaming), employment, and capital investment that are more than twice as large as the average of the five SB 1126 casinos. This includes nearly 3,200 jobs directly at the casino and approximately \$657 million in capital investment – indicating a substantial amount of amenities (Table 2-6).

**TABLE 2-6**

**Projected casino employment and investment of Northern Virginia casino compared with average of SB 1126 casinos (27 percent tax rate)**

	<b>Total annual casino revenue <sup>a</sup></b>	<b>Direct casino employment</b>	<b>Casino capital investment</b>
Northern Virginia casino	\$663M	3,170	\$657M
Average SB 1126 casino	\$224M	1,518	\$300M
<b>Difference</b>	<b>\$440M</b>	<b>1,652</b>	<b>\$357M</b>

SOURCE: The Innovation Group.

NOTE: 2025 dollars. <sup>a</sup> Includes net gaming revenue and non-gaming revenue, such as food and beverage, retail, and hotel spending in 2025 dollars. The revenue and scale of a casino facility is affected by the gaming tax rate applied to net gaming revenue. Lower tax rates can encourage, but do not guarantee, higher levels of investment by casino developers and operators. Twenty-seven percent was selected for this analysis because it is the median gaming revenue tax rate levied by states with commercial casinos. Numbers may not sum because of rounding.

A casino in Northern Virginia would increase the amount of gaming tax revenue collected by the state by an estimated 59 percent. TIG projects that a casino in Northern Virginia would produce \$595 million of net gaming revenue annually; resulting in over \$161 million per year in gaming tax revenue from a Northern Virginia casino (at a 27 percent rate) (Figure 2-7). Nearly all gaming tax revenue from a Northern Virginia casino would represent a net gain to the state since it would pose little competition to SB 1126 casinos because of geographic separation (sidebar). When accounting for the small negative impact of a Northern Virginia casino on gaming revenue at other casinos, its \$161 million in gaming tax revenue would result in a net gain of \$155 million (59 percent increase) in statewide gaming tax revenue. Total state gaming tax revenue from a Northern Virginia casino in addition to the five SB 1126 casinos is projected to be \$417 million, equivalent to 2.1 percent of total state tax revenue.

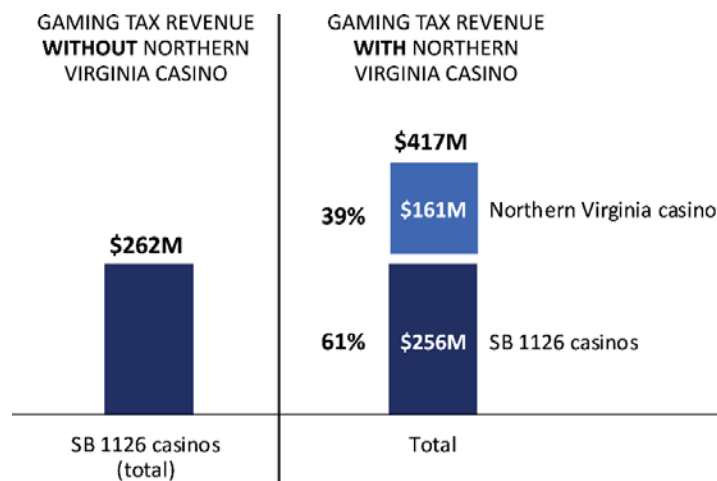
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A Northern Virginia casino is expected to **pose little competition to SB 1126 casinos** because of its physical distance from the five localities. Only Richmond would be expected to experience a material decrease in net gaming revenue (-5.5 percent) as a result of a Northern Virginia casino.

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**FIGURE 2-7**

**Northern Virginia casino net gaming revenue and gaming tax revenue compared with five SB 1126 locations total**



SOURCE: The Innovation Group.

A casino in Northern Virginia would generate positive economic impact beyond that of the five SB 1126 casinos. TIG projects a Northern Virginia casino to have a \$700 million annual contribution to state GDP; equivalent to 57 percent of the economic activity at the five other casino locations combined (Figure 2-8). Furthermore, a Northern Virginia casino would be estimated to generate an additional 4,424 jobs (of which over 70 percent would be directly at the casino). This would represent a 41 percent increase in total jobs created by the casino industry when compared with the five SB 1126 casinos alone. However, despite the larger scale of a Northern Virginia casino, GDP and employment generated by the casino would be small relative to existing regional levels because of the large size of the Northern Virginia economy (comparable to the impact of a casino on the Richmond and Hampton Roads regions).

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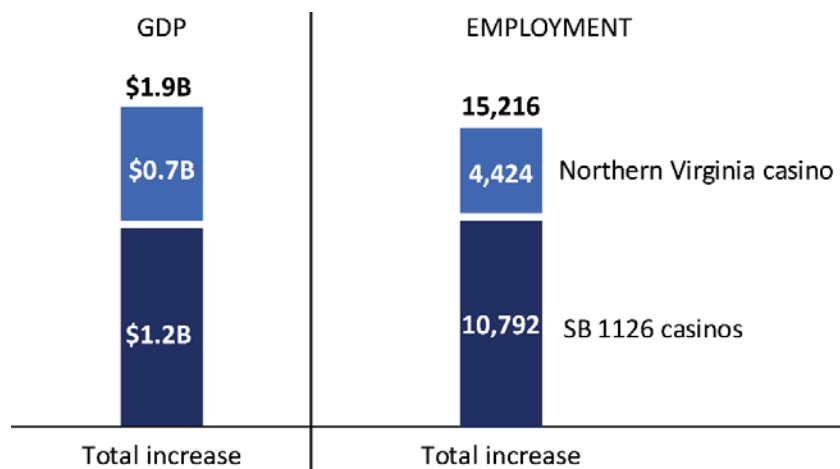
TIG estimates some Maryland casinos, such as MGM at National Harbor and Live! (Hanover), generate about 30 percent of their gaming revenue from Virginia residents.

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Finally, because of its scale and proximity to large populations in neighboring states, a Northern Virginia casino would attract substantial amounts of revenue from out-of-state customers and result in repatriation of a large amount of gaming by Virginia residents (sidebar). TIG estimates that a Northern Virginia casino would have \$211 million in net gaming revenue from out-of-state customers, compared with about \$300 million in total net gaming revenue from out-of-state customers from all five SB 1126 casinos combined. Furthermore, a Northern Virginia casino is estimated to increase repatriation of existing Virginia residents' gaming spending by about \$100 million, which is larger than the other five SB 1126 casinos combined.

FIGURE 2-8

Projected economic impact of Northern Virginia casino compared with five SB 1126 casinos



SOURCE: The Innovation Group.

NOTE: Includes direct and secondary employment and GDP. 2025 dollars.

## Other types of gaming would have lower fiscal and economic benefit than casinos but could be offered sooner

Sports wagering and online gaming are the most common forms of expanded gaming, beyond casinos, currently available in other states. TIG projected net gaming revenue, gaming tax revenue, and the economic impact that could be generated if Virginia offered sports wagering and online casino gaming. Net gaming revenue for these types of games generally increases for several years after their introduction as technology improves and a customer base develops. Therefore, TIG estimates for both types of gaming are for a fully mature market in 2028 (sidebar).

### Sports wagering can supplement casino gaming but has less tax revenue and economic impact potential

Sports wagering has expanded quickly since it became legal following a Supreme Court ruling in 2018. Sports wagering is currently authorized in 13 states (Appendix D). It can be implemented in several ways, resulting in a wide range of access and availability, which can greatly influence how much revenue it generates (sidebar). At one end of the spectrum, sports wagering can be limited to in-person bets in a brick and mortar location, such as a casino and/or pari-mutuel facility (i.e., historical horse racing or off-track betting venues). Sports wagering also can be offered via internet or mobile device and accessed anywhere in the state. Within this range of options, there are various licensee and operator structures that can be utilized (Appendix D).

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TIG estimates that sports wagering and online casino gaming will **reach full maturity** (realize full revenue potential) in their fifth year of operation. The TIG analysis assumed a first year of operation of 2024 in tandem with SB 1126 casinos and full maturity in 2028.

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TIG projected sports wagering revenue for **four implementation scenarios**, ranging from narrow to broad availability. These include: 1) brick and mortar casinos only, 2) brick and mortar casinos and pari-mutuel wagering facilities, 3) mobile only, and 4) brick and mortar casinos, pari-mutuel wagering facilities, and mobile.

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Sports wagering tax is assumed to be 12 percent of net gaming revenue. Sports wagering is typically taxed at a lower rate than casino gaming because it has comparatively low profit margins.

Sports wagering in Virginia would be projected to have a relatively modest positive fiscal impact compared with that of casino gaming. TIG estimated the gaming revenue of a fully mature sports wagering industry in Virginia across four different levels of availability (Table 2-7). Projections range from \$184 million in net gaming revenue and \$22 million in gaming tax revenue if sports wagering were offered at brick and mortar casino locations only (five SB 1126 locations), to \$462 million in net gaming revenue and \$55 million in gaming tax revenue if sports wagering were available at casinos, pari-mutuel facilities, and via mobile device. The \$22 million to \$55 million range in sports wagering tax revenue would be equivalent to between 8 and 17 percent of the amount of gaming tax revenue projected for the five SB 1126 casinos (sidebar). Sports wagering is not anticipated to negatively impact the revenue generated by casino gaming (sidebar).

TABLE 2-7  
Projected sports wagering net gaming revenue and gaming tax revenue  
(\$ millions)

Availability	Sports wagering net gaming revenue	Sports wagering gaming tax revenue (12 percent)
Casinos only	\$184M	\$22
Casinos & pari-mutuel facilities	208	25
Mobile only	399	48
Casinos, pari-mutuel facilities, & mobile	462	55

SOURCE: The Innovation Group.  
NOTE: Reported as 2028 projection. Assumes sports wagering becomes available in 2024, undergoes a five-year ramp up period in net gaming revenue until 2028. Assumes five SB 1126 casino locations. Virginia currently has seven pari-mutuel facilities at least another two proposed. Virginia Racing Commission regulations limit the number of pari-mutuel facilities to 10 statewide.

Sports wagering is believed to supplement casino gaming as it attracts customers to a casino who otherwise would not have visited. These customers, or their accompanying guests, partake in casino gaming and generate additional revenue which can offset any decrease in casino gaming revenue resulting from the competition presented by sports wagering.

Sports wagering likely would have a modest economic impact relative to casino gaming. Brick and mortar sports wagering operations at a casino or pari-mutuel facility would result in some capital spending and requires employees to operate the sportsbook section of an establishment. However, sports wagering is less capital and labor intensive than a full casino operation. In total, the various scenarios for implementing sports wagering are projected to generate a net increase in employment and GDP ranging from 6 percent to 10 percent of full casino operations. Mobile-only sports wagering is estimated to have a negligible economic impact since the process is automated and likely to be operated by an out-of-state vendor.

One potential advantage of sports wagering is that the state may be able to implement it before brick and mortar casinos are operational, thus making sports wagering available to customers and generating gaming tax revenue for the state at an earlier date. This could be achieved through mobile implementation and/or availability at brick and mortar locations, such as pari-mutuel facilities or other authorized retail locations. The state could then decide if, and how, to incorporate sports wagering in brick and mortar casinos once they are in operation (Appendix D).

## **Online casino gaming would generate tax revenue for state but would have negligible economic impact**

Online casino gaming is available in New Jersey and Pennsylvania, with two other states offering a more limited suite of casino gaming online (i.e. poker only). New Jersey is the only mature market with a full suite of gaming and generated approximately \$299 million in online casino gaming revenue in 2018.

Online casino gaming could have a moderate positive fiscal impact for the state in terms of gaming tax revenue. TIG estimates that a fully mature online casino gaming market in Virginia would generate approximately \$312 million in net gaming revenue and \$84 million in gaming tax revenue (sidebar). This amount of gaming tax revenue would be equivalent to about 30 percent of the amount of gaming tax revenue projected for the five SB 1126 casinos. Like sports wagering, online casino gaming would likely not have a meaningful negative impact on casino gaming revenue (sidebar). Online casino gaming is not projected to have a material economic impact in Virginia since it is automated and operations are likely to be contracted to an out-of-state vendor.

Online casino gaming is typically implemented by providing a license to a brick and mortar casino that allows the casino to offer one or more internet or mobile products to customers. If Virginia were to follow the traditional model of hosting online casino gaming with an existing brick and mortar casino, it could not be offered until brick and mortar casinos are in operation.

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**Online casino gaming tax rate** is assumed to be 27 percent for this analysis. Online casino gaming tax rate is typically in-line with the brick and mortar casino gaming tax rate in the same state.

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According to TIG, online casino gaming is **not expected to negatively impact revenue of brick and mortar casino gaming**, noting that there has been no observable negative impact to brick and mortar casinos in New Jersey. Online gaming allows casinos to acquire customers who do not visit brick and mortar casinos, and this can offset any reduction at casinos.

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# 3 Core Gaming Tax Rate Principles and Tradeoffs

**SUMMARY** States that limit the number of casino licenses—which Virginia would do under SB 1126—typically apply a gaming revenue tax rate of at least 23 percent. The Innovation Group projects that all five SB 1126 casinos would be viable at the nationwide median casino gaming revenue tax rate of 27 percent, and that at this tax rate all five casinos would meet the level of capital investment needed to develop a “resort-style” casino. A lower tax rate is estimated to modestly increase the economic impact of casinos but substantially reduce state gaming tax revenue. Casinos in markets with larger populations would be able to pay a higher tax rate and still be profitable. Conversely, casino operators in smaller markets are more likely to increase casino size and add amenities under a lower tax rate. The state can use different strategies to optimize both state revenue and local economic impact. These include applying different tax rates to different casino markets or levying a graduated tax that is higher on larger amounts of gaming revenue.

The tax rate applied to casino gaming revenue is a key decision for states that expand gaming. The tax rate makes a significant difference in the amount of tax revenue states can collect. However, the tax rates can affect the size and amenities of the casinos and, by extension, their fiscal and economic impacts. Higher tax rates can reduce the amount of local economic impact generated by a casino if the casino owner minimizes or reduces investments to maintain profitability under a higher tax burden. However, there is no guarantee that casino developers will use additional profit from a lower tax rate to build a larger casino or add amenities.

To decide on a tax rate and structure, states must determine the tax rate casino locations can support. Profitable casinos are more likely to add to the size and amenities of the casino development, which will have positive economic impacts. Casinos in larger markets can be profitable with a higher tax rate because, despite paying more in taxes, the size of the market helps ensure the casino will draw a larger volume of customers and spending. This is not the case in smaller markets that have lower potential casino revenue, so these casinos are more likely to require lower tax rates to be profitable and to invest in the size and amenities of the property. Incentivizing larger developments can be more important in smaller markets because casinos can have a larger impact relative to the size of the local economy.

Casino gaming tax rates vary greatly by state, and in 2017 the median effective tax rate nationwide was 27 percent. Casino gaming taxes are assessed on gaming revenue (sidebar). Other types of casino revenue, such as retail sales, food and beverage sales, or charges for hotel accommodations, are subject to regular state and local taxes. SB 1126, as passed, does not include a gaming revenue tax rate. Earlier versions of the

A **casino’s market** is the population and demographic characteristics, such as income levels and propensity to gamble, of its surrounding region (primarily within a two-hour drive time). Casinos closer to larger populations, more wealth, or populations that tend to gamble more, have higher gaming revenue earning potential.

Some states levy casino gaming taxes on **net gaming revenue** while others levy taxes on **gross gaming revenue**. Net gaming revenue typically deducts revenue generated by gaming activities such as free play given to customers. Gross gaming revenue does not.

**Gaming floor** is the term for the area of a casino that is dedicated to gaming, such as slot machines and table games.

A **resort-style casino** has space dedicated to amenities beyond a gaming floor, such as a hotel, restaurants, retail, and meeting and event space.

**Non-gaming revenue** at a casino includes customer spending on activities such as retail, food and beverage, entertainment, and hotel accommodations. TIG projects that on average, non-gaming revenue comprises about 15 percent of total casino revenue, with gaming revenue making up the remainder.

bill, and other legislation proposed for casino gaming in Virginia, included tax rates ranging from 10 percent to 15 percent.

## General Assembly has expressed a preference for ‘resort-style’ casinos

SB 1126 sets a minimum capital investment of \$200 million that must be met by a casino to receive a license. This minimum investment is designed to ensure that Virginia casinos would be “resort-style” casinos with attractive amenities. During and after the 2019 General Assembly session, stakeholders in Virginia expressed the policy preference for casino projects that would offer various amenities beyond just a gaming floor (sidebar). The goal of a resort-style casino is for greater economic impact through the additional capital investment, employment, and non-gaming revenue associated with amenities (sidebar). Furthermore, a casino facility with non-gaming amenities may attract a broader customer demographic.

According to The Innovation Group (TIG), SB 1126’s proposed \$200 million capital investment minimum would ensure that, at minimum, Virginia attracts small resort-style casinos with modest levels of hotel rooms and amenities (Table 3-1). Larger capital investments allow casinos to increase the scale and type of amenities that they offer. For example, a casino with \$400 million or \$600 million in capital investment would include more food and beverage options, higher-capacity event space, and more hotel rooms than a \$200 million casino.

**TABLE 3-1**

### Examples of casinos with various levels of capital investment

Feature	~\$200 million	~\$400 million	~\$600 million
<b>Employment</b>	1,067	2,050	3,170
<b>Gaming activity</b>			
# of slot machines	1,500	2,600	3,500
# of table games	40	105	180
Gaming floor space (sq. ft.)	62,640	116,280	183,200
<b>Non-gaming amenities</b>			
Hotel rooms	200	300	400
Event space (sq. ft.)	12,750	25,500	34,000
Capacity – theatre style	1,500	3,000	4,000
Capacity - banquet style	671	1,342	1,789
Retail space (sq. ft.)	1,500	1,500	1,500
Food and beverage venues	4	7	9
Seating capacity	380	930	1,330

SOURCE: The Innovation Group.

NOTE: Cost of capital investment includes assumed license application fee of \$500,000 as well as cost of land, site work, construction permitting, design, studies, and other pre-opening costs; together estimated to be about 15 percent of total capital investment expenditure. Estimates also include projected cost of parking and parking structures, which are not displayed in table.



A casino near the \$200 million capital investment minimum could be a small resort-style casino, but also could be a casino that focuses primarily on gaming with only a few amenities offered (Table 3-2). For example, a casino with an investment of approximately \$200 million that focuses more on *gaming* than other amenities might include 1,440 slot machines and 59 table games but just 150 hotel rooms and five food and beverage options (ranging from a snack bar to a gourmet restaurant). In contrast, a casino with an approximately \$200 million investment that focuses more on *amenities* than gaming might include 1,500 slot machines and 40 table games, as well as 200 hotel rooms, multi-purpose event space (that fits 1,500 people for entertainment or 670 people for banquet-style events), and four food and beverage options.

**TABLE 3-2**

**Examples of amenities offered at a casino with an approximately \$200 million capital investment**

Feature	~\$200 million Gaming focus	~\$200 million Amenity focus
<b>Employment</b>	1,231	1,067
<b>Gaming activity</b>		
# of slot machines	1,440	1,500
# of table games	59	40
Gaming floor space (sq. ft.)	64,476	62,640
<b>Non-gaming amenities</b>		
Hotel rooms	150	200
Event space (sq. ft.)	0	12,750
Capacity – theatre style	n/a	1,500
Capacity - banquet style	n/a	671
Retail space (sq. ft.)	1,500	1,500
Food and beverage venues	5	4
Seating capacity	505	380

SOURCE: The Innovation Group.

NOTE: Cost of capital investment includes assumed license application fee of \$500,000 as well as cost of land, site work, construction permitting, design, studies, and other pre-opening costs; together estimated to be about 15 percent of total capital investment expenditure. Estimates also include projected cost of parking and parking structures, which are not displayed in table.

## Gaming revenue tax rate may affect size of a casino and its economic impact

Lawmakers should consider the tradeoff between gaming revenue tax rates and the size and amenities of casinos. Gaming tax revenue has the potential to be meaningful for the state. TIG estimates that the five SB 1126 casinos would produce approximately \$970 million of net gaming revenue, which would be subject to gaming revenue taxes. Each single percentage point of gaming revenue tax is estimated to generate nearly \$10 million in revenue annually for the state, and a gaming tax rate of 27 percent is projected to generate about \$262 million in total gaming tax revenue annually (sidebar).

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TIG analyzed three tax rates for casino revenue:

**12 percent** is close to the nationwide low and is an approximation of rates in legislation proposed during the 2019 General Assembly Session (i.e. 10 percent to 15 percent). Tax rates this low are more typically used in open license casino markets, which is not the type of market being contemplated in Virginia.

**27 percent** is the median rate nationwide among all states with commercial casino gaming, including both open and limited license markets.

**40 percent** is approximately the median tax rate in the mid-Atlantic region, which consists entirely of limited license casino markets (West Virginia, Maryland, Pennsylvania, and Delaware).

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Virginia's historical horse racing (HHR) facilities pay an effective tax rate of approximately 22.5 percent of net gaming revenue. This includes a state tax equivalent to 9.4 percent of net gaming revenue, a local tax equivalent to 6.3 percent of net gaming revenue, and a payment to the Virginia horse industry of 6 percent of net gaming revenue under \$60 million and 7 percent of net gaming revenue over \$60 million.

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While a higher tax rate will produce more tax revenue, it will also reduce a casino's profitability. A reduction in profitability could cause casino owners to make smaller investments in casino size, amenities, and/or the number of casino employees. Lower levels of investment and employment translate to less economic impact from the casino, which is primarily felt in the local area in and around the host community. In contrast, a lower tax rate produces less state revenue but can result in higher profits for the casino operator, and therefore, allows the operator to *potentially* use that profit toward investment in a larger scale casino and more amenities.

The extent to which a lower tax rate incentivizes a larger scale casino is not guaranteed and depends on several factors. A casino operator will aim to build a casino to a scale that its market will support. Therefore, a low tax rate might not incentivize any meaningful additional investment by a casino owner if the casino can be built to a scale that meets market demand even at a higher tax rate. For example, if a 75,000-square-foot casino is the maximum size that a local market can support—and the operator can afford to build that property at a 25 percent tax rate—then a 12 percent tax rate would not necessarily incentivize the casino operator to build a larger casino facility with additional amenities. Instead, it would result in significant forgone state revenue without any additional economic impact. In addition, the scale and amenities of a facility, in part, are determined by the operational preferences of the casino owner. With all things equal in terms of market size and tax rates, some casino ownership groups tend to build larger casinos with more amenities, while others focus primarily on gaming activities. A competitive operator selection process can be used to ensure the state selects a casino operator and development plan that maximizes potential economic impact in each locality under the state's selected tax rate. (This casino selection process is outlined in Chapter 6.)

Projections in this chapter for casino size and amenities at the 12, 27, and 40 percent tax rates are meant to be representative illustrations. In practice, material difference in casino size and amenities may not occur under two relatively similar tax rate environments. For example, a casino built and operated at a 12 percent tax rate may not be materially different than if the rate were 10 percent or 15 percent. Likewise, a 36 percent tax rate may result in a similar sized facility as a 40 percent tax rate.

## **Casinos would be viable under a median tax rate of 27 percent; and a lower rate would create only modest additional economic impacts**

TIG assessed three casino gaming revenue tax rates and found that lower rates can positively affect the local economic impact from Virginia casinos but would substantially reduce the amount of gaming revenue tax collected by the state. For example, TIG projects that if the five SB 1126 casinos were taxed at a 12 percent rate instead of a 27 percent tax rate, combined they would hire an additional 636 employees, spend an additional \$349 million in initial capital investment, and generate

an additional \$72 million in GDP annually (Figure 3-1). However, the state would forgo approximately \$140 million annually in gaming tax revenue. This is equivalent to approximately \$220,000 in forgone annual state revenue per additional job at a casino. Likewise, TIG projects that a 40 percent tax instead of a 27 percent tax rate would result in the five casinos employing 799 fewer workers, spending \$326 million less in initial capital investment, and generating \$51 million less in GDP annually. In return, the state would collect an estimated \$116 million more in gaming tax revenue. At a 40 percent tax rate, a casino in the Bristol market, and potentially others such as Portsmouth or Danville, may not be able to meet the \$200 million minimum capital investment set forth in SB 1126 (a threshold which is intended to ensure “resort-style” casinos are built).

**Lower tax rate could result in greater investments in Danville and Bristol casinos, but additional economic impact would likely be modest and come at the cost of substantial state revenue**

Investments in casinos and amenities would be most likely to be greater under a lower tax rate in Bristol and Danville. Casinos in these localities would rely heavily on customers from the most distant areas of their local market (customers with approximately a two-hour drive time), which include the more heavily populated areas of northern North Carolina and eastern Tennessee. At a lower tax rate, casinos in both localities could include a larger gaming floor, more non-gaming space and amenities, and a larger hotel. These investments could help the property attract customers from farther away and create additional accommodations to host them for an overnight stay. The casinos’ increase in revenue from these additional customers would likely justify the additional investments.

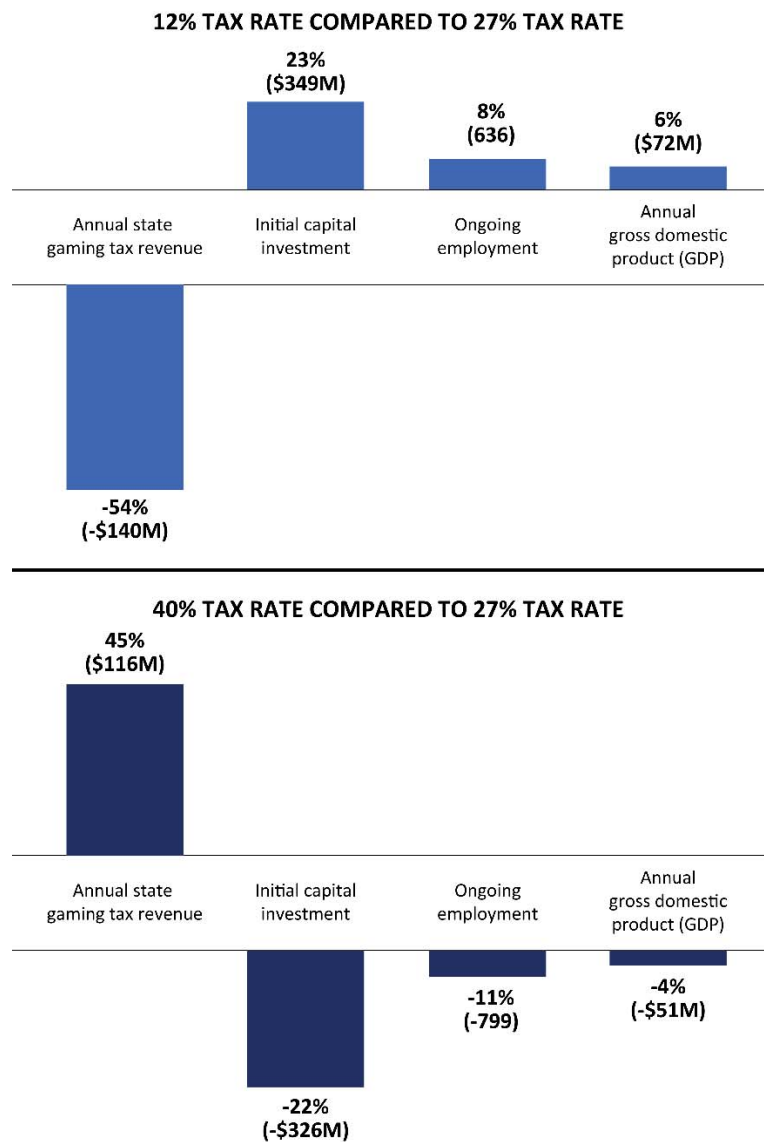
The additional scale of a Bristol or Danville casino under a lower tax rate is projected to result in moderately greater economic impact in terms of capital investment, employment, and casino revenue. Compared with a median tax rate of 27 percent, at a 12 percent tax rate Bristol and Danville casinos each would be projected to have an additional approximately 200 jobs, about \$100 million in additional capital investment—including 100 to 200 additional hotel rooms—and to generate approximately \$8 million in additional non-gaming revenue (36 percent and 25 percent increase, respectively) (Table 3-3).

However, the additional economic impact that could be generated by the Bristol and Danville casinos at a lower tax rate would come at the expense of a reduction in state tax revenue. Bristol and Danville casinos are projected to generate \$18 million and \$27 million less in state gaming tax revenue each year (\$45 million combined) at the 12 percent gaming revenue tax rate compared with the 27 percent tax rate. For comparison, this is about \$100,000 of forgone *annual* gaming tax revenue for each additional casino job. Therefore, a tax rate as low as 12 percent might not strike the optimal balance between local economic impact and tax revenue for the state, but a tax rate as high as 27 percent may not adequately incentivize capital investment.

**FIGURE 3-1**

Changes to casino gaming tax rates are projected to have a greater impact to annual gaming tax revenue than to economic impact produced by casinos

	Low tax rate 12%	Compared to median rate	Median tax rate 27%	Compared to median rate	High tax rate 40%
<b>Casino impact</b>					
Initial capital investment	\$1,851M	\$349M (23%)	\$1,502M	-\$326M (-22%)	\$1,176M
Direct casino employment	8,228	636 (8%)	7,592	-799 (-11%)	6,793
Annual casino GDP	\$1.29B	\$72M (6%)	\$1.22B	-\$51M (-4%)	\$1.17B
<b>State revenue</b>					
Annual gaming tax revenue	\$122M	-\$140M (-54%)	\$262M	\$116M (45%)	\$378M



SOURCE: The Innovation Group.

NOTE: Five Senate Bill 1126 casino locations combined. 2025 dollars. Assumes all casinos pay an equal tax rate.

Bristol casino is projected to not meet a \$200 million initial capital investment under a 40 percent tax rate.

**TABLE 3-3****Projected Bristol and Danville casino size and annual revenue at a 12 percent tax rate compared with a 27 percent tax rate**

SOURCE: The Innovation Group.

	Location	12% tax rate	27% tax rate	Difference \$	Difference %
<b>Casinos</b>					
Annual net gaming revenue	Bristol	\$140M	\$130M	\$10M	8%
	Danville	\$206M	\$190M	\$15M	8%
Initial capital investment	Bristol	\$310M	\$226M	\$84M	37%
	Danville	\$410M	\$308M	\$101M	33%
Annual non-gaming revenue	Bristol	\$29M	\$21M	\$8M	36%
	Danville	\$38M	\$30M	\$8M	25%
Ongoing employment	Bristol	1,244	1,067	177	17%
	Danville	1,770	1,582	188	12%
Hotel rooms	Bristol	400	200	200	100%
	Danville	500	300	200	67%
<b>State</b>					
Annual gaming tax revenue	Bristol	\$17M	\$35M	-\$18M	-52%
	Danville	\$25M	\$52M	-\$27M	-52%

NOTE: 2025 dollars. May not sum because of rounding.

One of the reasons that the positive fiscal impact to the state is greatly reduced at a lower tax rate, but the economic benefit only increases marginally, is because casino owners are expected to retain a higher proportion of revenue as profit in a low-tax environment. At a lower tax rate, TIG projects that casino owners in both Bristol and Danville would experience an annual increase in their return on investment (sidebar). For example, over the course of five years at a lower tax rate (12 percent instead of 27 percent), the Bristol and Danville casinos would pay an estimated \$90 million and \$135 million less to the state in the form of gaming revenue taxes. Of those tax savings, only about half is projected to be invested into a larger casino facility or greater employment; while the other half would be, at least initially, retained by the owner as profit. However, according to TIG, some of the additional profit may be reinvested into the casino over the longer term, as the casino industry tends to reinvest profits to maintain or increase its return on investment.

Furthermore, differences in overall economic impact are primarily driven by activity from the casino itself (construction, customer spending, employee spending, casino facility spending, and employment) and not from additional spending made by casino customers elsewhere in the locality. According to TIG, most casino customer spending occurs at the casino because most amenities are provided by the facility itself, including hotel, restaurants, and retail. In TIG's experience, the biggest beneficiaries from increased casino visitation (outside of casinos) include budget hotels for customers looking for less expensive accommodations than offered by the casino and gas stations for customers buying fuel for their drive.

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TIG calculates a **return-on-investment** for casino owners based on the projected amount of expenditures (investment, debt, and employment) as a percentage of total revenue after expenses. It is assumed that casino owners will make expenditures in a lower tax environment, up until the point where they can meet local market demand and/or maintain an acceptable level of return on their overall investment.

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Finally, TIG projects that Bristol and Danville may not be able to support a large-scale casino operation at a 40 percent tax rate. At this tax rate, hotel accommodations would be scaled back and capital investment in Bristol is projected to be below \$200 million, while Danville would be only slightly above that threshold. At this level of investment, casinos are likely to offer fewer amenities and be restricted to primarily gaming activities. Reduced amenities would impair Bristol's and Danville's ability to attract customers from the further reaches of their market, resulting in less visitation from out-of-state customers and less overall revenue.

**Larger SB 1126 localities could support a resort-style casino development at a 27 percent tax rate and possibly at the regional median 40 percent tax rate**

TIG estimates that at a 27 percent tax rate, casino owners/operators in Norfolk, Portsmouth, and Richmond would be able to build a resort-style casino facility at a scale large enough to serve their market. The three larger SB 1126 markets are projected to generate a majority of their revenue from nearby customers because of their larger local populations. As a result, a lower tax rate (12 percent) would likely only result in modest additional positive economic impact in these markets. However, even these modest impacts would not be guaranteed because the casinos are expected to be able to support their local market demand at a higher tax rate. Therefore, casino owners may take the tax savings as profits instead of making greater investment, and the state will have forgone substantial amounts of tax revenue.

Because the larger SB 1126 markets would be viable at a 27 percent tax rate and there is no certainty that developers would increase the scale of casinos at a lower tax rate, the more relevant consideration for these markets may be whether to impose tax rates closer to 27 percent or 40 percent.

***Scale of Norfolk and Portsmouth casinos might be reduced at a 40 percent tax rate because of competition with one another***

Portsmouth and Norfolk could both support resort-style casinos with a nationwide median 27 percent gaming revenue tax rate, but the scale of casino operations would likely be scaled back at the higher regional median tax rate (40 percent). This is primarily because Norfolk and Portsmouth, even though they are in a market with a large population, would directly compete with one another (as well as with two nearby historical horse racing facilities in Hampton and Chesapeake). TIG projects that at a 40 percent gaming tax rate, each property would be expected to barely meet the \$200 million required capital investment. Under a 40 percent tax rate, casinos would need to reduce costs, such as employing fewer workers, to maintain the profitability required to meet operating and debt service costs (Table 3-4).

**TABLE 3-4**

**Projected Norfolk and Portsmouth casino size and annual revenue at a 40 percent tax rate compared with a 27 percent tax rate**

	Location	40% tax rate	27% tax rate	Difference \$	Difference %
<b>Casinos</b>					
Annual net gaming revenue	Norfolk	\$180M	\$185M	-\$5M	-3%
	Portsmouth	\$163M	\$167M	-\$4M	-3%
Initial capital investment	Norfolk	\$224M	\$299M	-\$75M	-25%
	Portsmouth	\$201M	\$266M	-\$66M	-25%
Annual non-gaming revenue	Norfolk	\$25M	\$30M	-\$6M	-19%
	Portsmouth	\$23M	\$28M	-\$5M	-18%
Ongoing employment	Norfolk	1,333	1,509	-176	-11%
	Portsmouth	1,231	1,384	-153	-11%
Hotel rooms	Norfolk	150	300	-150	-50%
	Portsmouth	150	250	-100	-40%
<b>State</b>					
Annual gaming tax revenue	Norfolk	\$72M	\$50M	\$22M	44%
	Portsmouth	\$65M	\$45M	\$20M	44%

SOURCE: The Innovation Group.

NOTE: 2025 dollars. May not sum because of rounding.

A tax rate near the nationwide median (27 percent) would allow for both Norfolk and Portsmouth to support a resort-style casino, but would come at the expense of a large reduction in gaming tax revenue for the state compared with a higher tax rate. At a 40 percent tax rate, the Norfolk and Portsmouth casinos are projected to generate \$22 million and \$20 million (\$42 million) in additional gaming tax revenue annually when compared with a 27 percent tax rate.

***Richmond market likely could support a large-scale casino at a 40 percent tax rate, and a lower tax rate would result in only marginal increases to the scale of the facility***

A Richmond casino would have a large market population and no direct competition from any other SB 1126 casinos. Therefore, a higher tax rate would not substantially reduce the scale of the facility. TIG projects that a Richmond casino could be scaled to meet market demand and could operate profitably with a 40 percent tax rate. When compared with the median tax rate (27 percent), a Richmond casino at a 40 percent tax rate is projected to have only modest reductions in ongoing employment (95 jobs), capital investment (\$45 million), hotel rooms (50 rooms), net gaming revenue (\$4 million annually), and non-gaming revenue (\$2 million annually) (Table 3-5). Therefore, applying the median tax rate to a Richmond casino, compared with the higher tax rate, would be expected to result in just marginal gains in economic impact from the facility while producing substantially less gaming tax revenue for the state; estimated at approximately \$37 million less annually.

**TABLE 3-5**

**Projected Richmond casino size and annual revenue at a 40 percent tax rate compared with a 27 percent tax rate**

	40% tax rate	27% tax rate	Difference \$	Difference %
<b>Casinos</b>				
Annual net gaming revenue	\$293M	\$297M	-\$4M	-2%
Initial capital investment	\$358M	\$403M	-\$45M	-11%
Annual non-gaming revenue	\$40M	\$41M	-\$2M	-4%
Ongoing employment	1,955	2,050	-95	-5%
Hotel rooms	250	300	-50	-17%
<b>State</b>				
Annual gaming tax revenue	\$117M	\$80M	\$37M	46%

SOURCE: The Innovation Group.

NOTE: 2025 dollars. May not sum because of rounding.

A Richmond casino would likely not have much additional scale and economic impact at a lower tax rate, and therefore, would generate a far greater profitability under a lower tax rate. TIG projects that the Richmond casino owner, over the course of five years at a lower tax rate (27 percent instead of 40 percent) would pay approximately \$190 million less to the state in the form of gaming revenue taxes. However, only about 40 percent of those tax savings, at least initially, would be projected to be invested into a larger casino facility or greater employment; while the majority would be expected to be retained by the owner as profit. However, according to TIG, some of the additional profit may be reinvested into the casino over the longer term, as the casino industry tends to reinvest profits to maintain or increase its return on investment.

### **Northern Virginia casino would likely be profitable even at a 40 percent tax rate**

A Northern Virginia casino likely would be able to support a higher tax rate and would likely not make meaningful additional capital investment or employment at a lower tax rate. Because of the large revenue-generating potential of a Northern Virginia casino, driven by its large local market, a casino operator could likely develop a casino to adequately serve the market area at a 40 percent tax rate. At a lower tax, the casino operator would likely have little incentive to add to the scale of the casino since the local market could be served by a facility that could have been built in a higher tax environment. Therefore, a lower gaming revenue tax rate for a Northern Virginia casino is projected to create little or no additional economic benefit.

A lower tax rate for a Northern Virginia casino would result in substantially less state revenue. Compared with a 40 percent tax rate, the state would receive an estimated \$77 million less in annual gaming tax revenue at a 27 percent tax rate and \$166 million less in gaming tax revenue at a 12 percent tax rate.



## State has several gaming tax policy options

The state has several options to set a casino gaming tax policy to help optimize state fiscal impact and local economic impact. The state can set a tax rate for casino gaming revenue and designate the way in which it is levied (tax structure) (sidebar).

### States that limit the number of casino licenses, like Virginia, tend to levy higher tax rates

States that limit casino licenses tend to have higher tax rates. A limited license market is one in which the state restricts the number of casino licenses statewide, often separating casino locations into geographic zones or regions (sidebar). This is in contrast to an open casino market, where there is an unlimited number of casino licenses available across the state or within a smaller geographic area, such as a region or city. Casinos in a limited license market have less competition than those in an open market and generally realize greater profits. Greater profitability means that casinos in a limited license market are generally capable of paying a higher tax rate and still remaining financially viable. Moreover, the value of the exclusivity of a casino license in a limited casino market could further justify a higher tax rate. All states with a limited casino market assess an effective tax rate of 23 percent or higher except for Oklahoma (sidebar) (Table 3-6). Conversely, states with open casino markets tend to have more casinos, which leads to more competition, and therefore, assess lower taxes (ranging from an effective rate of 7 to 15 percent).

Because it is uncommon for casinos in states with a limited license market (like Virginia would be under SB 1126) to pay an effective tax rate that is less than about 23 percent of gaming tax revenue, Virginia would have to carefully consider whether the potential additional economic activity that could occur at a lower tax rate could justify the substantially lower amount of state tax revenue collected.

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**Casino gaming revenue tax structure** includes the tax rate or rates, as well as how the tax rate is levied (flat, graduated by amount of revenue, differentiated between types of games).

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**Limited license casino markets** are states in which the number of casino licenses available statewide (or by region) is limited. Thirteen of 25 states with commercial casinos have a limited casino market. Another six states limit casino gambling to horse racetracks (racinos). Only six states have an open casino market where the number of casino licenses is not limited.

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**Oklahoma commercial casinos** compete with 130 in-state tribal gaming facilities.

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**TABLE 3-6**

**States with limited casino license markets have higher gaming tax rates than states with open casino license markets (2017)**

State	Effective Tax Rate	Number of casinos
<b>Open casino license market</b>		
Nevada	7%	215
New Jersey <sup>a</sup>	9	7
Mississippi	12	28
Colorado <sup>a</sup>	15	33
South Dakota <sup>a</sup>	15	26
<b>Median (open license markets)</b>	<b>12</b>	<b>-</b>
<b>Limited casino license market</b>		
Oklahoma	19	2
Iowa <sup>b</sup>	23	19
Louisiana	24	20
Massachusetts <sup>c</sup>	24	3
Michigan	24	3
Missouri	26	13
New Mexico	26	5
Indiana	27	13
Kansas	27	4
Ohio	33	11
Illinois	34	10
Florida	35	8
Maryland	36	6
Delaware	39	3
Maine	40	2
New York	43	12
Pennsylvania	44	12
West Virginia	47	5
Rhode Island	50	2
<b>Median (limited license markets)</b>	<b>33</b>	<b>-</b>
<b>Median (all states)</b>	<b>27</b>	<b>-</b>

SOURCE: JLARC staff analysis of American Gaming Association State of the States Report (2018)

NOTE: Effective tax rates shown are the actual tax rate paid across all casinos, amount of revenue, and game types. Effective rates are calculated as gaming tax revenue as a percentage of total gaming revenue. Some states have tax rates that differ by type of game (slot machines versus table games) or use a graduated tax rate that is a higher percentage assessed on greater amounts of revenue. Other fees, such as the casino admissions fee, are included in the effective tax rate. <sup>a</sup> Colorado, New Jersey, and South Dakota do not limit the number of casinos or licenses but do restrict casino development to certain locations. <sup>b</sup> Iowa does not have a total limit on the number of casino licenses, but the award of a license is contingent on the new licenses having minimal negative impact to the revenue of an existing license holder; a process that greatly restricts the award of further licenses. <sup>c</sup> Massachusetts's has a 49 percent tax rate that applies to a slot machine only facility; tax rate on full "resort-style" casinos is 24 percent (one resort-style casino opened in 2018 and one in 2019). Arkansas has authorized casino gaming with a limited license market; casinos are not yet in operation; the tax rate will be 13 percent on the first \$150 million of net gaming revenue and 20 percent on net gaming revenue exceeding \$150 million.

## Gaming tax structures vary by state, and no approach is viewed as a best practice

In addition to setting tax rates on gaming revenue, states with commercial casinos use several different tax structures. These structures include:

- A flat tax rate applied to all casino gaming revenue, regardless of the quantity of revenue or type of game. For example, Michigan and Massachusetts assess a flat 24 percent and 25 percent tax respectively on all casino gaming revenue.
- A differential tax structure that applies a different tax rate to revenue from slot machines and revenue from table games. For example, Pennsylvania assesses a differential tax rate of 55 percent on slot machine revenue and 16 percent on table game revenue.
- A graduated tax that increases as revenue increases. Oklahoma has a graduated tax structure starting at a 10 percent tax on the first \$10 million of gaming revenue generated by a casino and increases to a maximum rate of 20 percent on all gaming in excess of \$70 million.

Some states assess additional taxes and fees beyond a gaming tax, but these tend to generate little additional revenue and can add complexity for operators and the state (sidebar).

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Some other states also generate casino revenue through **additional taxes and fees** such as an admission fee to enter a casino (generally \$3 or less), or an annual fee based on the number of slot machines or table games that are in a casino.

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## Flat tax is simple, but inflexible, and may not optimize state revenue and economic impacts

According to TIG and other industry experts interviewed for the study, applying a flat tax rate evenly to all types of casino gaming revenue (slots and table games) is often a simple and efficient tax structure. The flat tax is straight-forward for casino operators and easy to implement for the state. However, a flat tax rate does not give the state flexibility to levy a higher tax as casino gaming revenue increases or differentiate the amount of tax paid by gaming type or casino location. This could make it difficult for Virginia to set a tax rate that optimizes state revenue and local economic impact across casinos in markets of varying sizes. A flat tax at a higher rate could also cause casinos to reduce the number of table games offered (sidebar).

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In a state with a **differential tax rate**, gaming revenue from slot machines is typically taxed higher than revenue from table games. Slot machines require much less labor than table games (i.e. no dealers) and have a faster pace of play that can generate revenue more quickly than table games. High taxes on table game revenue may result in casinos **reducing the number of table games** offered, which in turn, reduces the employment at the casino. As a result, states with higher tax rates on slot machines (usually over 30 percent) will often levy a lower tax on table game revenue.

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## Setting different tax rates in each casino market could optimize state revenue and economic impacts but would raise equity concerns

One way to balance fiscal impact to the state and local economic impact is to levy a different tax rate by host locality (or region). For example, the gaming revenue tax rate could be set higher in larger markets like Richmond and lower in smaller markets like Danville and Bristol. Only a few states, like Maryland and Illinois, levy a different gaming tax rate on casinos in different locations. The differences across casinos in Maryland are relatively small (less than 10 percentage points and on slot machine revenue only). Illinois has set a special tax rate for a Chicago casino that is far greater than other localities in the state. Setting a different gaming revenue tax rate for each

casino location or region can raise equitability concerns because two casinos with the same amount of gaming revenue could pay different amounts of gaming tax to the state. This could prompt some operators to lobby for reductions in tax rates in future years.

### **Increased tax rate on higher gaming revenue allows market to drive taxes paid**

Another way to balance fiscal impact to the state and local economic impact would be to implement a graduated tax based on the amount of net gaming revenue generated by a casino. Doing so would allow casinos in smaller or more competitive markets, which are likely to generate less gaming revenue, to pay a lower effective tax rate. That lower tax rate could incentivize additional investment and spur additional local economic impact. At the same time, casinos with a higher net gaming revenue would pay a higher tax rate on a portion of their revenue, which would result in a substantially greater fiscal benefit for the state. A graduated tax rate, however, could cause casino owners to limit the overall scale of a casino operation and maintain a lower level of net gaming revenue to achieve a lower effective tax rate.

### **Northern Virginia casino could be subject to its own unique tax structure**

If the state were to grant a Northern Virginia casino license, the state should ensure that a tax rate applied to gaming revenue in the Northern Virginia market is high enough to maximize state revenue. A lower tax rate would not likely incentivize meaningful additional investment and economic impact. The state could achieve this through a higher gaming revenue tax rate that is unique to the Northern Virginia region or a graduated tax structure. Virginia currently has examples of tax rates that are unique to Northern Virginia (or other regions), including a slightly higher sales tax and a motor fuels tax surcharge.

### **General Assembly has several considerations when setting a casino gaming tax**

If the General Assembly chooses to authorize casino gaming, policy makers will have to take several considerations into account when setting a casino gaming revenue tax. These include decisions about both the tax structure and the tax rate(s), including determining:

**A casino gaming revenue tax rate that balances fiscal impact to the state from casino gaming tax revenue and economic impact for localities.** All SB 1126 casinos are projected to be viable at a 27 percent tax rate. Small markets like Bristol are more likely to attract casinos built at a larger scale that have a greater economic impact at a lower rate. A larger market, such as Richmond, is more likely to get an optimal casino with a higher rate that produces greater revenue for the state.

**A casino gaming revenue tax structure that balances simplicity with optimal fiscal and economic impact.** A flat tax rate on all types of games and all levels of revenue would be the simplest to implement but may not be effective for balancing fiscal and economic impact across markets that vary in size. A graduated tax rate or separate tax rates for different casinos could be used to optimize the tax rate in each market. A differential tax rate that is higher for slots revenue and lower for table games revenue could be used in a higher tax environment to ensure casinos do not reduce the number table games, which support more employment.



# 4 Impacts of Casino Gaming on Lottery, Horse Racing, and Charitable Gaming

**SUMMARY** Virginia offers several types of gaming, each of which is required to set aside specified gaming revenues for a designated cause or industry. Casino gaming will reduce revenue generated by currently authorized forms of gaming, which will decrease the revenue available for the causes they support. Lottery sales and the resulting proceeds for Virginia K–12 public education are projected to decline slightly (3.6 percent). Revenue generated by historical horse racing games, a portion of which supports live horse racing, is projected to decline substantially (45 percent) from its projected revenue without casino competition. The projected lower revenues may prevent the horse industry from meeting future goals to expand its live racing schedule. Charitable gaming proceeds are projected to decline slightly at the statewide level (4.4 percent), but there would be larger localized impacts to organizations located near casinos. This decline in revenues could result in meaningful impacts to some nonprofit organizations’ ability to generate proceeds to support their operations. The impact of sports wagering and online casino gaming on existing gaming in Virginia is estimated to be minimal.

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Virginia’s currently authorized forms of gaming are statutorily required to support designated causes. Lottery generates revenue for Virginia public K–12 education, charitable gaming generates revenue for Virginia nonprofits and charitable organizations, and pari-mutuel wagering (horse racing and historical horse racing) generates revenue for the Virginia horse racing industry. In 2018, gaming activity in Virginia generated nearly \$700 million in revenue for designated causes.

The Innovation Group (TIG) estimated the impact of casino gaming on existing forms of gaming in Virginia. To do so, TIG created a baseline estimate of future revenue for each type of gaming and then estimated the impact of casino gaming on sales and revenue. The Innovation Group estimated the impact of casino gaming on currently authorized forms of gaming in Virginia. All estimates assume a casino is built in each of the five SB 1126 localities, and casino operation will commence in 2024.

The projections in this chapter do not account for the impact of grey machines on existing gaming in Virginia (sidebar). Grey machines have proliferated recently in Virginia, much of which occurred after this analysis was conducted. Furthermore, grey machines are not regulated in Virginia, so there is a lack of reliable data to use for analysis. Grey machines are discussed in greater depth in Chapter 9.

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**Grey machines** are commonly referred to as **games of skill** by the media and device manufacturers. The term grey machines refers to the notion that these machines operate in a grey area of the law; it is unclear whether or not they are legal.

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## Lottery sales and proceeds would decline slightly from casino gaming

The total dollars spent by consumers on gaming are referred to as “sales” for both lottery and charitable gaming and as “wagering” for horse racing.

The dollars allocated to the intended purpose of each type of gaming is referred to as “proceeds” for lottery and charitable gaming and as “revenue” for horse racing. (Horse racing revenue is shared between wagering facility operators and the racing industry.)

The Virginia Lottery offers games such as scratch tickets and daily number drawing games (Appendix F). Virginia lottery products are sold statewide by licensed sales agents, via lottery’s subscription service, and through MobilePlay.

In FY18 lottery ticket sales totaled over \$2.1 billion with net proceeds totaling \$606 million after the subtraction of payments for prizes, retailer compensation, operating expenses, and ticket printing (Table 4-1). All lottery proceeds are contributed to the Lottery Proceeds Fund, which is constitutionally mandated to support local public education.

TABLE 4-1  
Lottery sales, expenses, proceeds (FY18)

Category	Amount (\$ millions)	As a percentage of sales
Prizes	\$1,308	61%
Operating costs	227	11
Proceeds	606	28
Sales	\$2,141	100%

SOURCE: Virginia Lottery 2018 annual report.

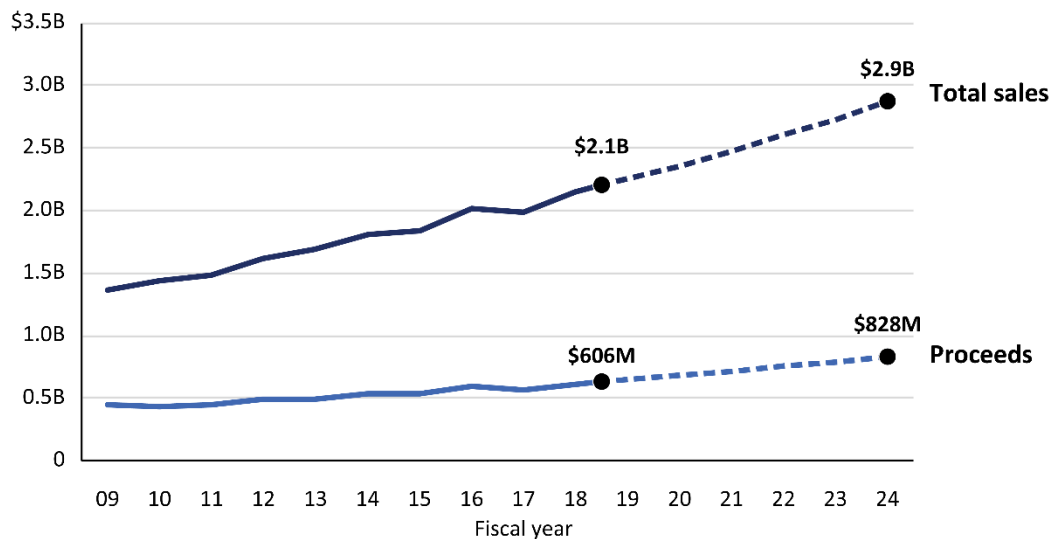
NOTE: Operating costs include retailer compensation, ticket printing and gaming services, and lottery operating expenses. Proceeds include approximately \$1 million of non-operating revenue.

## Lottery sales and proceeds are estimated to continue to grow in future years

Without casinos in Virginia, TIG projects that lottery purchases will grow 5 percent annually to nearly \$2.9 billion in sales and \$828 million in proceeds by 2024 (Figure 4-1). Lottery sales have grown 5.1 percent annually from FY09 to FY18. This trend is in part due to the growth of existing lottery products and the introduction of new lottery games. TIG anticipates that lottery’s introduction of MobilePlay (sidebar), in the same way that new games contributed to growth in the past, will allow lottery sales to continue to grow 5 percent annually over the next six years.

Virginia Lottery launched **MobilePlay** in 2019. MobilePlay allows customers to purchase tickets and play mobile lottery games on a Bluetooth enabled mobile device when on the premises of a lottery retailer.



**FIGURE 4-1****Actual and projected lottery sales and proceeds, without casinos (2009–2024)**

SOURCE: Virginia Lottery annual reports, The Innovation Group, and JLARC staff analysis.

NOTE: Proceeds are reported net of expenses for agency operating costs, prizes, ticket printing and gaming services, and compensation to ticket retailers. Future lottery proceeds as a percentage of total sales are estimated to reflect five-year average of 28.9 percent.

### Casino gaming is estimated to have a slight negative impact on lottery proceeds

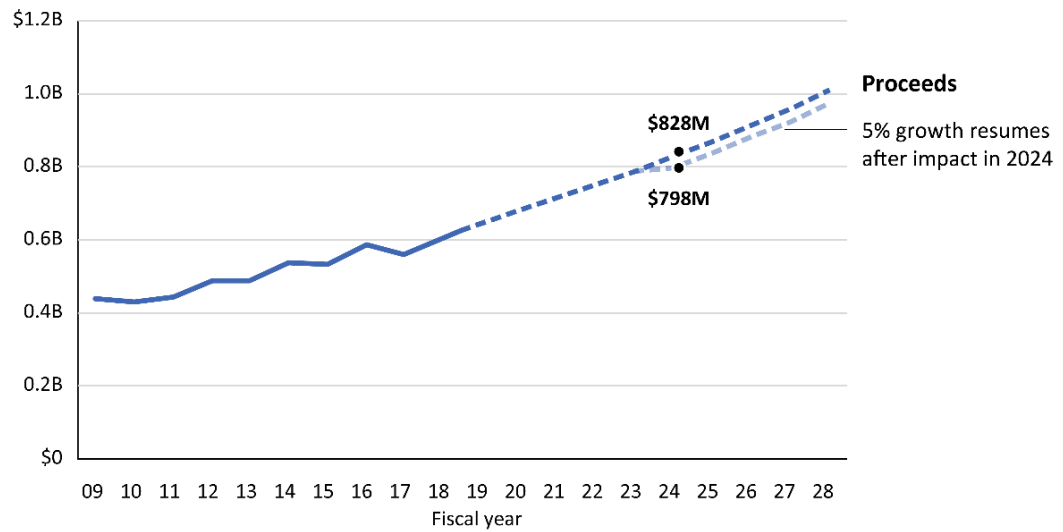
TIG estimates that the introduction of casino gaming and historical horse racing wagering combined would result in a 3.6 percent decrease to lottery sales (\$105 million) and proceeds (\$30 million) in 2024, compared with a scenario in which there is no casino gaming or HHR wagering (Figure 4-2) (sidebars). Based on observed experience in other states and industry expertise, TIG projects that lottery sales and proceeds will experience a 3.6 percent reduction from the opening of casinos, then will return to a 5 percent growth rate in future years (assuming no additional casinos are opened at a later date). However, despite the return to a 5 percent growth rate, the reduction in lottery sales and proceeds attributable to casinos would be factored into all future years, resulting in a projected cumulative reduction in lottery proceeds of nearly \$170 million during the five-year period from 2024 to 2028.

The approximately \$30 million annual reduction in lottery proceeds would be equal to 0.5 percent of Virginia's state funding for K–12 education. It represents funding that would need to be replaced by a different source, such as the general fund or by local funding, if school funding were to be maintained at the same level as it would have been in the absence of casino gaming.

The 3.6 percent estimated reduction to lottery sales and proceeds is attributable to both casinos (2.6 percent) and HHR gaming (1 percent) combined. The impact of historical horse racing gaming on lottery will occur earlier than 2024 as the facilities become operational. However, TIG projected the impact from HHR gaming to occur concurrently with casino gaming in 2024 to simplify the analysis and to offer insight into the relative magnitude of impact caused by HHR and casinos.

TIG primarily used a 2014 Cummings & Associates report conducted in Maryland to inform estimates of the impacts of casino gaming on a state lottery. (*The Effect of Casino Proximity on Lottery Sales: Zip Code-Level Evidence from Maryland.*) The report was selected because of Maryland's proximity and similarity to Virginia and because Maryland had a well-established lottery when casinos were introduced.

Based on the report's observations, TIG estimates that localities hosting a casino or within an average drive time of less than 30 minutes would experience a 10 percent reduction in lottery sales.

**FIGURE 4-2****Projected impact of SB 1126 casinos on lottery proceeds (2009–2028)**

SOURCE: Virginia Lottery annual reports, The Innovation Group analysis, and JLARC staff analysis.

NOTE: Future lottery proceeds are estimated to reflect a five-year average of 28.9 percent of total sales. Projections do not account for anticipated impact from historical horse racing wagering until 2024, at which point the projected impact from casinos and historical horse racing are both included in the estimate.

**Traditional horse racing wagering methods** include betting at the race track via ticket window or kiosk, off-track betting (OTB) on televised (simulcast) racing at an authorized pari-mutuel wagering facility, and advanced deposit wagering (ADW) where bettors wager via internet using a pre-funded account.

TIG's projected impact of casinos on lottery is consistent with observed impacts to lottery sales from the introduction of casinos in other states, including Indiana, Iowa, Missouri, and Pennsylvania. Generally, upon introduction of casinos, other states witnessed a small decline in lottery sales or a slower growth rate in years immediately following the introduction of new casino gaming. However, lottery sales began to increase in future years at previously experienced levels (when controlling for other factors such as economic downturns).

### **iLottery could mitigate negative impacts to lottery revenue**

Lottery staff indicate that implementation of an iLottery product could serve as a means to mitigate potential negative impacts to lottery sales attributable to casino gaming. Internet lottery sales are currently prohibited by the Code of Virginia. JLARC staff and TIG did not assess the potential impact of introducing iLottery on lottery sales and revenue.

Six states have implemented iLottery products: Georgia, Illinois, Kentucky, Michigan, New Hampshire, and Pennsylvania. The six states that have implemented iLottery are in the early stages of implementation—each implemented iLottery in the last two to three years. Of these states, in 2018 Michigan had the highest iLottery sales as a percentage of total lottery sales. Its \$125 million in iLottery sales that year represented 3.5 percent of its *total* sales. If the Virginia Lottery implemented iLottery and experienced similar sales and proceeds rates to Michigan in the first year, the Virginia Lottery would have iLottery sales of around \$78 million, which would translate into

**iLottery** refers to internet sales of lottery products via smart phones, computers, and other internet-enabled devices. iLottery games can often resemble casino-style gaming, such as slot machines, in appearance and gameplay.

additional lottery proceeds of around \$12 million. This assumes that iLottery does not negatively impact traditional lottery sales.

## Casinos are projected to reduce historical horse racing revenue, which could hinder horse industry's expansion goal for live racing

Traditional horse racing wagering and historical horse racing (HHR) generate revenue for the horse racing industry in Virginia (sidebar). Historical horse racing is a new form of gaming in the Commonwealth following legalization by the General Assembly in 2018. TIG projected the impact of casino development on horse racing wagering revenue, as well as on the agribusiness industries supporting horse racing. If casino gaming were introduced, HHR revenue is estimated to substantially decrease, but the revenue from traditional horse racing wagering is not. The reduction in HHR revenue would decrease contributions to the Virginia Equine Alliance (VEA), which primarily funds prize money distributed among the owners of competing race horses—"purses." The reduction in money available for racing purses may make it difficult to support the horse industry's goal to essentially double the number of live horse racing days from its 2019 racing schedule.

### Revenue generated by horse racing wagering primarily supports race purses and industry stakeholder groups

Traditional horse racing wagering and HHR generate revenue for the horse racing industry in Virginia (Table 4-2). Traditional horse racing wagering involves betting on live races taking place in Virginia or elsewhere in the nation. HHR wagering is done on electronic terminals, similar in appearance to a slot machine, for which winning combinations and payouts are based on the actual results of previously run horse races rather than computer-generated chance.

Statute specifies that certain percentages of net gaming revenue support several recipients associated with the horse industry. Traditional horse racing wagering revenue is distributed to

- a fund for live racing purses;
- several horse industry stakeholders, including the Virginia Equine Alliance (VEA), the Virginia Racing Commission, and the Virginia Breeders Fund (sidebar); and
- localities that host pari-mutuel wagering facilities (via gaming taxes applied to wagering).

HHR wagering revenue is allocated to fewer recipients (Figure 4-3). HHR revenues are primarily retained by the Colonial Downs Group, operator of Colonial Downs and HHR facilities, with the remainder distributed to

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Several horse industry groups benefit from revenue generated by horse racing wagering.

**Virginia Equine Alliance (VEA)** is a nonprofit organization that includes several industry stakeholders. Its purpose is to sustain, promote, and expand the horse breeding and horse racing industries in the Commonwealth.

**The Virginia Racing Commission (VRC)** is the state commission and agency staff that regulate and oversee horse racing.

**The Virginia Breeders Fund** is a financial incentive program to encourage thoroughbred and standardbred breeding in the Commonwealth.

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Virginia operates three different types of live horse racing throughout the state: **thoroughbred racing** at Colonial Downs in New Kent, **harness racing** at Shenandoah Downs in Woodstock, and **steeplechase racing** at Great Meadow in Fauquier.

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The Virginia-Certified Residency Program is a financial incentive program, funded by the Virginia Equine Alliance, to encourage owners with horses foaled (born) outside of Virginia to house their horses in the state to generate additional economic activity in Virginia's horse industry.

- the Virginia Equine Alliance (VEA) primarily to fund live racing purses, as well as to support the Virginia-Certified Residency Program (sidebar) and to cover operating costs associated with conducting harness and steeple-chase racing;
- localities that host HHR facilities and New Kent County (home of Colonial Downs race track); and
- the state general fund.

TABLE 4-2  
Traditional horse racing and HHR wagering distribution (sidebar)

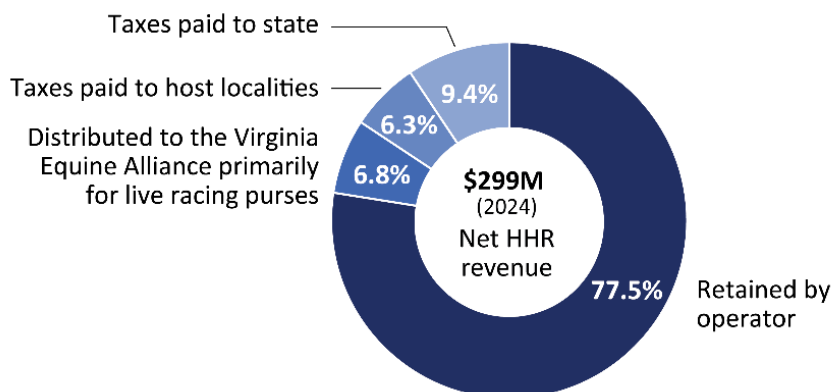
	Amount (\$ millions)	As a percentage of total wagering
<b>Traditional horse racing (2018)</b>		
Prize payout	~\$93	~80%
Operators	~11	~9
Contributions to purses for live racing	4	4 <sup>a</sup>
Virginia Racing Commission	2	2
Other horse industry stakeholders	5	4
<b>Total wagering</b>	<b>\$117</b>	<b>100</b>
<b>HHR (2025) <sup>b</sup></b>		
Prize payout	3,439	92
Gaming revenue to operator, taxes, and the Virginia Equine Alliance to fund purses for live racing (Figure 4-3)	299	8
<b>Total wagering</b>	<b>\$3,738</b>	<b>100%</b>

A Revenue Sharing Agreement was established that requires Colonial Downs Group to make payments to a subset of horse racing stakeholder groups. Colonial Downs Group must pay 6 percent of annual HHR net gaming revenue for wagers up to \$60 million and 7 percent of HHR net revenue in excess of \$60 million to this subset of horse racing stakeholder groups.

The fund for racing purses receives 5 to 9 percent of total traditional horse racing wagering revenue depending on the method and source of the wager.

SOURCE: Virginia Racing Commission and The Innovation Group.  
NOTE: May not sum because of rounding. <sup>a</sup> Contributions to live racing purses reflect an approximately 40 percent rebate on total payments from Advanced Deposit Wagering providers to Virginia's horse racing industry. Other stakeholders include the Virginia Equine Alliance; the Virginia Breeder's Fund; the Virginia-Maryland College of Veterinary Medicine; the Virginia Horse Center Foundation, which hosts equestrian events; the Virginia Horse Industry Board, which promotes and develops economic opportunities for the horse industry; and the Virginia Thoroughbred Association, which promotes and advocates for thoroughbred horses' contribution to the agribusiness and racing industry and administers the Breeders Fund. <sup>b</sup> 2025 projections produced by TIG were used to show HHR industry at full maturity. HHR was first introduced in May 2019. Impact from casinos in 2024 not included.

**FIGURE 4-3**  
**Distribution of historical horse racing net gaming revenue**



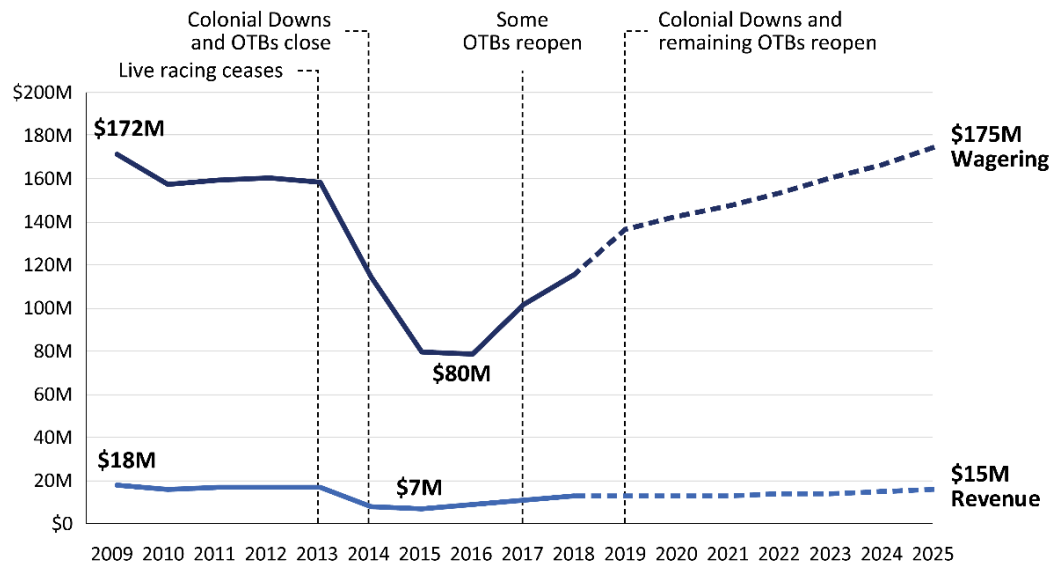
SOURCE: Virginia Racing Commission and TIG.

NOTE: Assumes historical horse racing machine net gaming revenue is 8 percent of total dollars wagered. Taxes paid are calculated as percentage of total wagering, with 0.75 percent of total wagering to state tax, and 0.5 percent of total wagering to local tax.

One of the primary beneficiaries of revenue from both traditional horse racing wagering and HHR wagering is the fund for live racing purses, which is fundamental to the live horse racing industry. The purse is the total amount of prize money distributed to the owners of horses that compete in live racing. Individual prize amounts depend on a horse's finishing position in a race. Higher revenues from traditional horse racing wagering and HHR wagering result in larger amounts contributed to race purses, which allows racetracks to attract a higher number of and better quality horses. A vibrant racing program supports the state's horse industry in general, because more horses are raced, housed, and bred in the state. During Colonial Downs' 2019 15-day race meet, participants competed for a total of \$7.4 million in race purses, with an average daily purse of \$492,000, and individual race purses ranging from \$10,000 to \$250,000. (These races were supported solely by revenues from traditional horse racing wagering accrued from previous years because HHR facilities were not established until 2019 and will not begin contributing to racing purses until 2020.)

***Traditional horse racing wagering is expected to rebound because of the reopening of Colonial Downs and new off-track betting facilities***

JLARC staff estimate that net gaming revenue from traditional horse racing wagering will be approximately \$12.3 million in 2019 and reach approximately \$15.3 million by 2025 (Figure 4-4). This expected growth in traditional horse racing revenue is attributable to the 2019 re-opening of the Colonial Downs racetrack, Virginia's only thoroughbred racing facility, accompanied by up to 10 off-track betting facilities.

**FIGURE 4-4****Actual and projected traditional horse racing wagering and revenue**

SOURCE: Virginia Racing Commission data.

NOTE: Actual revenue from 2014 to 2018. 2009 to 2013 revenue estimated based on the average of revenue as a percentage of horse racing wagering from 2014 to 2018. Wagering occurring during period when Colonial Downs and off-track betting facilities were closed was primarily from advanced deposit wagering via phone or internet. Total wagering and revenue from 2019 to 2025 are the projected midpoint estimates. Assumes approximately 40 percent of payments from advanced deposit wagering to Virginia horse racing industry is rebated back to providers and that the same rate of rebate is continued in all future years.

***Without casinos, historical horse racing is expected to generate substantial new revenue for live horse racing***

In 2018, the General Assembly passed HB 1609, allowing for the operation of **historical horse racing (HHR)** machines. Regulations were developed by the Virginia Racing Commission that allow for up to 10 off-track betting facilities and a maximum of 3,000 HHR machines statewide, with limits ranging from 150 to 700 machines based on the population of the host locality.

Traditional horse racing wagering revenue is not sufficient to support live thoroughbred racing in Virginia and was one reason Colonial Downs closed in 2013. As a result, the state established a new revenue source for live racing purses through the legalization of HHR in 2018 (sidebar). The first HHR venues opened in 2019.

Contributions to racing purses from HHR net gaming revenue is projected to be substantial and would make up a majority of financial support necessary to meet the horse industry's future expanded goals for live racing in Virginia. In 2019, the current live racing schedule included 15 days of thoroughbred racing at Colonial Downs and 10 days of harness racing at Shenandoah Downs. Virginia horse racing industry stakeholders want to expand that schedule to a level that would be sufficient to sustain a healthy horse racing industry in the state. This schedule would essentially double the current schedule to 30 days of thoroughbred racing and 15 to 20 days of harness racing each year. To meet the expanded schedule, the industry says it would need between \$16.5 million and \$20 million of purse funding each year. Traditional horse racing wagering is projected to contribute only about \$6.2 million to fund racing purses in 2025.

Without competition from casinos, HHR contributions would generate sufficient additional funds needed to support live racing purses. These additional funds would allow the Virginia horse industry to entirely meet its future expanded live racing goals. TIG estimates that the five HHR facilities that are currently planned or in operation would generate approximately \$20.3 million in contributions annually to the VEA by 2025, which would be primarily used to fund purses for live racing. Once other projected VEA revenue sources and expenses (i.e., the Virginia-Certified Residency Program and operating costs to conduct steeplechase and harness races) are accounted for, a total of \$16.4 million from HHR contributions is projected to be available to fund live racing purses. When combined with the estimated \$6.2 million in purse contributions from traditional horse racing wagering in the same year, HHR and traditional horse racing wagering would generate an estimated \$22.6 million for racing purses.

### **Reduced historical horse racing revenue from casino competition is projected to support current live horse racing schedule but not the industry's future expanded live racing goals**

If all five casinos were established, funds available for live racing purses would be projected to decrease by \$9.4 million (about 40 percent). TIG predicts net gaming revenue from HHR to be 45 percent less in 2025 than it would be without competition from casinos. That equates to net gaming revenue of \$165 million instead of \$299 million, a decrease of \$134 million (sidebar). As a result, contributions to the VEA would be reduced from approximately \$20.3 million to \$11 million (\$9.4 million). Assuming the VEA maintains the same level of deductions for other expenses (the Virginia-Certified Residency Program and operating costs for conducting steeplechase and harness races) just \$7 million of its contribution from HHR is estimated to remain available to fund racing purses.

TIG projects that traditional horse racing wagering will not be materially affected by the introduction of casinos, as there is often little crossover between casino gaming and traditional horse racing wagering. Therefore, estimated annual revenue from traditional horse racing wagering is expected to remain unchanged at approximately \$6.2 million. Taken together, remaining VEA funds estimated to be available for purses (\$7.0 million) and funds for purses from traditional wagering (\$6.2 million) would equal \$13.2 million after the introduction of casinos.

### ***Future live racing goals might not be fully attainable after casinos because of reduced revenue for live racing purses***

Funding for live racing purses would need to approximately double for Virginia's racing industry to meet its future goals for an expanded live racing schedule. As of 2019, the *current* live horse racing schedule needs approximately \$8.5 million to fund racing purses. Thoroughbred racing needs approximately \$500,000 in purses per race day (totaling about \$7.5 million for 15 days) and harness racing needs \$100,000 in

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TIG's Historical Horse Racing (HHR) net gaming revenue projections assume five HHR locations with a total of 2,850 machines: Chesapeake, Colonial Downs, Hampton, South Richmond, and Vinton. Net gaming revenue was not projected for proposed facilities in Danville and Dumfries (Appendix F).

The projected impact of casinos on HHR net gaming revenue is for 2025. This assumes a casino opens in all five SB 1126 localities in 2024 and that customer behavior between HHR and casino facilities will stabilize by 2025.

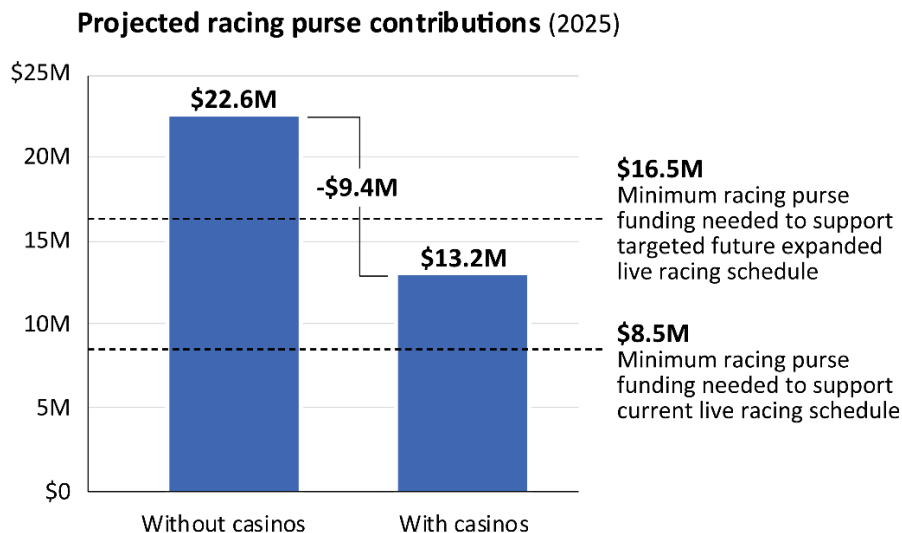
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purses per race day (totaling \$1 million for 10 days of racing). Racing is projected to need at least \$8.5 million in additional purse money to reach stakeholder goals of doubling the number of thoroughbred and harness racing days.

Without casino competition, total revenue contributions to racing purses are estimated to be sufficient to meet the purse amounts required to meet the current racing schedule *and* future live racing goals in Virginia. However, if casinos become operational, reduced purse contributions are projected *not* to be sufficient to support the future expanded racing goals. The projected \$9.4 million reduction in contributions from HHR revenue after casinos are introduced would ultimately leave the racing industry almost \$4 million short of what would be required for the proposed expanded race schedule (Figure 4-5).

**FIGURE 4-5**

**Projected racing purse contributions available and required to meet targeted racing schedule (\$ millions)**



SOURCE: The Innovation Group and JLARC staff analysis of Virginia Racing Commission data.

NOTE: Includes revenue from both traditional and historical horse racing wagering. Historical horse racing funding for purses, by way of the Virginia Equine Alliance, assumes deductions of other programs and operating expenses. Estimated racing purse contributions needed to meet targeted racing schedule is a product of a targeted live racing schedule comprising 30 days of thoroughbred racing with \$500,000 to \$600,000 in purses per day and 15 to 20 days of harness racing with \$100,000 in purses per day.

After the impact of casinos is realized the Virginia horse racing industry would likely not have sufficient funding for live racing purses to support future expanded live racing goals. This potential shortfall could be addressed through several measures. First, the horse racing industry could maintain a live racing schedule similar to the one currently run in 2019, or pursue a smaller expansion of future live racing by offering fewer live racing days or reducing purse payments per day. Second, the horse racing industry could change the way it allocates funds by using a larger portion of available revenue for racing purses while allocating less to other programs. For example, the Virginia-



Certified Residency Program is projected to receive \$3.9 million annually, which is approximately equal to the amount of additional funding for live racing purses needed to meet future racing schedule goals. Third, Virginia's horse industry currently has an agreement to rebate approximately 40 percent of the revenue that it receives from advanced deposit wagering providers *back to* the providers (sidebar). This agreement accounted for about a \$1.7 million reduction in contributions for live racing purses in 2018. This agreement could be renegotiated in an attempt to reduce or eliminate the rebate in future years.

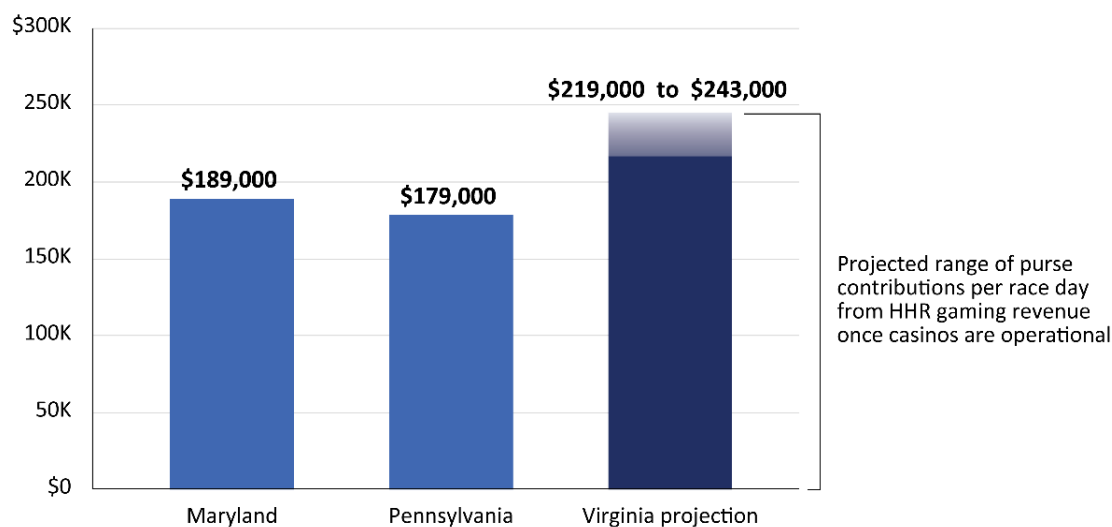
Even with competition from casinos, Virginia's contribution to the horse racing industry is projected to be in line with the contributions other states in the mid-Atlantic region provide to their horse racing industries. To conduct this analysis, TIG compared Virginia's projected HHR contributions with the money other states provide to their horse racing industries for purses for live racing, and normalized it per race day offered. At the projected \$11 million contribution to the VEA from HHR after the introduction of casinos, and a race schedule of between 45 and 50 race days per year, contributions to horse racing purses from Virginia's gaming industry (HHR) would be between \$219,000 per race day (50 days of racing) and \$243,000 per race day (45 days of racing) (Figure 4-6). For comparison, Maryland had an average purse contribution from gaming revenue of about \$189,000 per race day in 2017, and Pennsylvania had an average of about \$179,000 in purse contributions per race day in 2018. (The remaining funds needed to support racing purses would come from traditional horse racing wagering revenue.) This analysis assumes that HHR contributions are used entirely to fund purses for live racing and not used by the VEA to support other programs or operating costs. It also does not account for payments to other horse industry programs, such as breeding programs, that other states support with gaming revenue.

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**Advanced deposit wagering (ADW) is a form of traditional horse racing wagering** where bettors wager via internet using a pre-funded account. Four private operators provide ADW betting products in Virginia. By Virginia statute, a portion of all money wagered via ADW is required to be distributed to the state's horse racing industry. Currently, the Virginia horse racing industry has agreements to **rebate** approximately 40 percent of the revenue paid to the industry by ADW providers *back to* those providers. Because ADW wagering accounts for more than half of the total traditional horse racing wagering in the state, these rebates result in a meaningful reduction in overall revenue received by Virginia's racing industry from traditional forms of wagering.

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**FIGURE 4-6**  
**Average racing purse contributions per race day**



SOURCE: The Innovation Group and JLARC staff analysis.

NOTE: Assumes *all* historical horse racing contributions are used to fund live racing purses. Maryland and Pennsylvania 2018 contributions. Virginia projected 2025 contributions. Does not include Maryland and Pennsylvania gaming tax revenue contributions to other horse industry interests such as breeders' funds, development funds, and racing commissions. Accounts for projected impact to Virginia's historical horse racing and purse contributions as a result of casino gaming.

### ***HHR revenue would be substantial during the several years that casinos would be under development***

The negative impacts to HHR net gaming revenue and the corresponding impact to contributions to fund racing purses would not be felt until casinos began operations, which would likely be no sooner than 2024. As a result, annual contributions to racing purses (approximately \$22.6 million) would likely exceed what is needed to meet targeted live racing purses over the next five years (\$16.5 to 20 million). This period of increased revenue might give Virginia's horse racing industry the opportunity to plan and prepare for the anticipated impact of casinos on future revenues.

### **Casinos would have a negligible (<1 percent) negative economic impact on Virginia's overall horse industry**

The economic impact of Virginia's overall horse industry comes from expenditures on horse operations by households with horses, farms, breeders and boarding facilities; expenditures associated with horse shows and competitions; and expenditures connected with racing activities. Estimates of the total economic impact of the *overall* horse industry in Virginia range from \$670 million to \$2 billion in GDP annually, with the horse *racing* industry comprising approximately 7 to 10 percent of that overall GDP impact (\$51 million to \$190 million) (sidebar). A robust horse racing program, supported by wagering revenue contributions to purses for live racing, supports the state's agribusiness industry through purchases to support racing operations, such as feed, equipment, boarding, and veterinarian services.

The introduction of casinos in Virginia likely could have a small negative impact for the *overall* horse industry. This would be due to a \$9.4 million reduction in revenue to the VEA, most of which would be felt as a reduction in racing purses and would be realized by horse racing owners and employees that support race horses. The projected negative economic impact is small in relation to the overall statewide horse industry. TIG estimates a total annual reduction in employment of 75 FTEs and an annual negative impact of about \$6.2 million to the horse industry's GDP in 2025 (compared with what it would be without casinos), which accounts for less than 1 percent of both the overall horse industry's employment and GDP.

### **Virginia could offset the negative impact of casinos on the horse racing industry by allotting it a portion of casino gaming revenue**

Virginia could choose to offset a portion of the projected \$9.4 million negative impact from casinos to the horse racing industry by allotting a portion of overall casino

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The estimates of the *total economic impact of the horse industry in Virginia* are drawn from two studies:

1. The Economic Impact of the Horse Industry in Virginia, Weldon Cooper Center for Public Service, 2011 (\$670 million in GDP and 16,091 jobs).

2. Economic Impact of the Horse Industry in Virginia, The Innovation Group, 2018 (\$2 billion in GDP and 38,874 jobs).

The horse industry is a subset of the broader **agribusiness industry** in Virginia.

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gaming revenue to the horse racing industry. In some other states, contributions from gaming revenue are used to offset any potential negative impact to the horse racing industry caused by other forms of gaming. The majority of these contributions go to racing purses, but some states also use gaming tax revenue to generate revenue for breeders' funds, development funds, and racing commissions.

Virginia's contribution to the horse racing industry, via HHR revenue, appears comparable to other states' contributions to horse racing from their casino gaming revenue. Of the 19 other states that host horse racing *and* have commercial casino (or racetrack casino) gaming, 14 currently contribute a portion of the gaming revenue to their horse racing industry. The amount of gaming tax revenue distributed to the horse industry in other states ranged from \$1.4 million to \$242 million in 2018. This ranges from about 1 percent to 54 percent of the gaming tax revenue generated in other states. Unlike Virginia, nearly all of the states that contribute a portion of casino (or racetrack casino) gaming revenue to the horse racing industry *do not* have a separate type of gaming, such as HHR, that dedicates a portion of gaming revenue for horse racing. Virginia's projected \$11 million contribution to the racing industry from HHR after the impact of casinos is realized would represent 4 percent of gaming tax revenue, which falls within the range of the percentage of gaming taxes that other states contribute to their horse racing interests.

Virginia could attempt to generate additional revenue for the horse racing industry through expanded HHR operations rather than by allotting casino gaming revenue to the horse racing industry. This could potentially be achieved by increasing, or eliminating, the regulatory limit on HHR devices and locations (see sidebar on page 54). However, additional HHR devices or locations would present further competition to casino gaming and other forms of existing gaming, especially those in proximity to expanded HHR operations.

## **Charitable gaming proceeds would decline slightly statewide with larger localized impacts from casinos**

Charitable gaming is permitted in the Commonwealth to raise funds for qualified organizations. Qualified organizations include volunteer fire or emergency medical services units, athletic associations or booster clubs supporting school sponsored activities, associations of war veterans, fraternal associations, local chambers of commerce, or any nonprofit organization using funds for charitable, educational, religious, or community purposes. Statute sets forth the types of games that organizations may offer for charitable gaming, including bingo, raffles, and pull-tabs. Charitable gaming is governed by the Charitable Gaming Board and regulated by the Office of Charitable and Regulatory Programs (OCRP) at the Virginia Department of Agriculture and Consumer Services (VDACS) (Appendix F).

Charitable gaming is primarily conducted in two ways. First, organizations can conduct bingo events, where they are permitted to offer bingo games as well as several other

**Electronic pull-tabs**

resemble a traditional slot machine. They are played by selecting items (pull-tabs) on a screen; winning is determined by chance.

**Social venues** (referred to as **social quarters** in Code) refer to the areas of a charitable organization only accessible to members such as a VFW, Elk's Club, or Moose Lodge.

Electronic pull-tabs were first introduced to social venues in 2013.

In 2018, total charitable gaming sales and proceeds include \$250 million in sales and approximately \$27 million of proceeds from 302 organizations registered for bingo sessions, and \$790 million in sales and \$32 million in proceeds from electronic pull-tabs in social venues.

games, such as raffles and electronic pull-tabs (organizations can also host raffles outside of bingo events) (sidebar). Second, organizations can also house electronic pull-tab machines at their social venues that are available to their members and guests.

In 2018, charitable gaming generated \$59 million in proceeds for organizations from over \$1 billion in total sales (sidebar) (Table 4-3). Approximately 94 percent (\$980 million) of the total charitable sales is paid out in prizes or covers the games' operating expenses (i.e. electronic pull-tabs vendor payments, bingo material costs, and bingo hall rentals), with the remaining 6 percent retained as proceeds. Organizations hosting bingo events also paid fees of nearly \$3 million to the general fund (1.125 percent of sales), of which about \$1 million was allocated to support OCRP in 2018.

**TABLE 4-3****Virginia charitable gaming proceeds in 2018 (\$ millions)**

<b>Category</b>	<b>Amount (\$ millions)</b>	<b>As a percentage of sales</b>
Prizes	\$919	88%
Operating costs	60	6
OCRP fees to general fund <sup>a</sup>	3	<1
Total proceeds	\$59	6
<b>Total sales</b>	<b>\$1,040</b>	<b>100%</b>

SOURCE: JLARC staff analysis of Virginia Office of Charitable and Regulatory Programs data.

NOTE: Operating costs include bingo and raffle supplies, electronic pull-tabs vendor payments, facility rental costs, and associated business expenses. The Office of Charitable and Regulatory Programs receives data on electronic pull-tabs from the device manufacturers only for sales; therefore, 4 percent of total sales is estimated to be retained by charities in the form of proceeds, 4 percent retained by machine manufacturers, and the remainder being returned in the form of prizes. <sup>a</sup> About \$1 million of the OCRP fees contributed to the general fund are allocated to fund the Office of Charitable and Regulatory Programs licensing program. Office of Charitable and Regulatory Programs fees are reported by fiscal year while charitable gaming sales, prizes, and operating costs are reported by calendar year.

The proceeds generated by charitable gaming vary by organization. In 2018, the largest quantity of proceeds generated by an organization was \$1.6 million. However, charitable proceeds generated by many organizations are relatively small, with a median of about \$52,000 in proceeds per charity. About 5 percent of organizations had negative proceeds when their prizes and expenses exceed revenue from gaming sales.

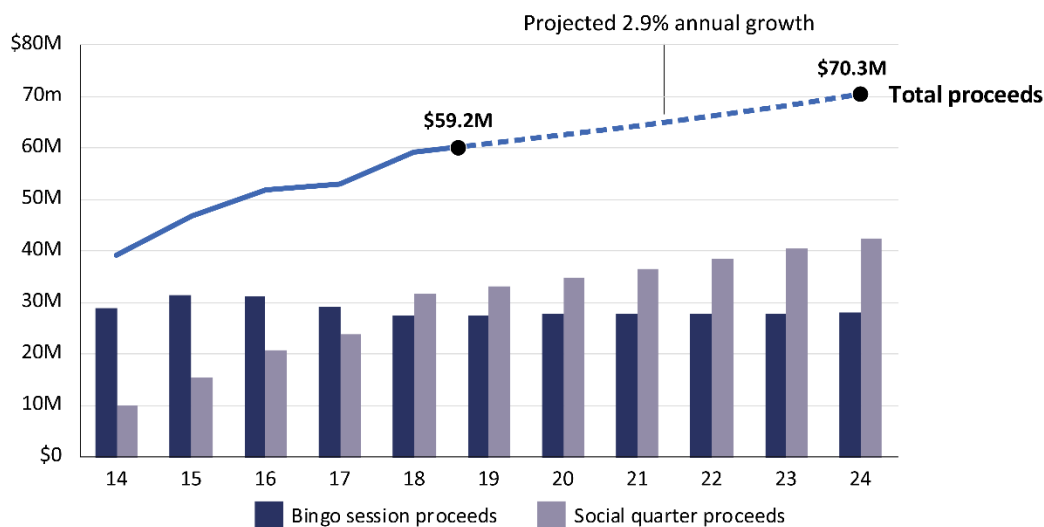
### **Total charitable gaming proceeds are estimated to continue to grow primarily because of electronic pull-tab machines**

From 2014 to 2018, total charitable gaming proceeds grew an average of 11 percent per year. This growth is primarily attributable to an annual 33 percent growth in sales and proceeds from electronic pull-tabs at social venues. Proceeds generated by bingo events declined by an average of 1.3 percent over the same time period. The decline in bingo proceeds is largely due to the decrease in sales from bingo and other raffle games. Sales from electronic pull-tabs offered during bingo sessions grew during this time period.

Without casinos, TIG estimates total charitable gaming proceeds to grow at 2.9 percent annually over the next five years, reaching a total of \$70.3 million by 2024 (from \$1.3 billion in sales) (Figure 4-7). Although TIG estimated that the rapid growth of proceeds for electronic pull-tabs at social venues will moderate as the number of newly introduced devices slows and this gaming category matures, they are still projected to grow 5 percent and largely drive the overall increase in charitable gaming. Total bingo session proceeds are estimated to grow by just 0.3 percent per year.

**FIGURE 4-7**

**Statewide charitable gaming proceeds to organizations; actual and projected, without casinos (2014–2024)**



SOURCE: The Innovation Group analysis and JLARC staff analysis of Virginia Office of Charitable and Regulatory Programs data.

NOTE: The Office of Charitable and Regulatory Programs receives data on electronic pull-tab total sales from the device manufacturers. Four percent of total sales is estimated to be retained by charities in the form of proceeds, 4 percent retained by machine manufacturers, and the remainder returned in the form of prizes. Bingo session proceeds include bingo and other raffle sales and electronic pull-tabs during bingo sessions.

### **Impact to charitable gaming expected to be small in aggregate but greater for charities in proximity to casinos**

TIG estimates that the introduction of casino gaming and historical horse racing would result in a 4.4 percent decrease to charitable gaming sales (\$58.6 million) and proceeds (\$3.1 million) in 2024, relative to a scenario in which there is no casino gaming (Figure 4-8) (sidebars). Based on observed experience in other states and industry expertise, TIG projects that charitable gaming sales and proceeds will experience this 4.4 percent decrease upon the opening of casinos, then will return to the previous growth rate in future years (assuming no further casinos are opened at a later date). However, despite the return to the previous growth rate, the reduction in sales and proceeds attributable to casinos would be factored into all future years,

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**TIG methodology** for estimating the impact of casino gaming on charitable gaming relied on observed impacts in Texas and Massachusetts and TIG's industry expertise. TIG estimated that organizations in localities hosting, or adjacent to, a casino would experience a decrease in proceeds from bingo games of 5 percent to 10 percent and a decrease in proceeds from electronic pull-tabs by 5 percent to 12.5 percent.

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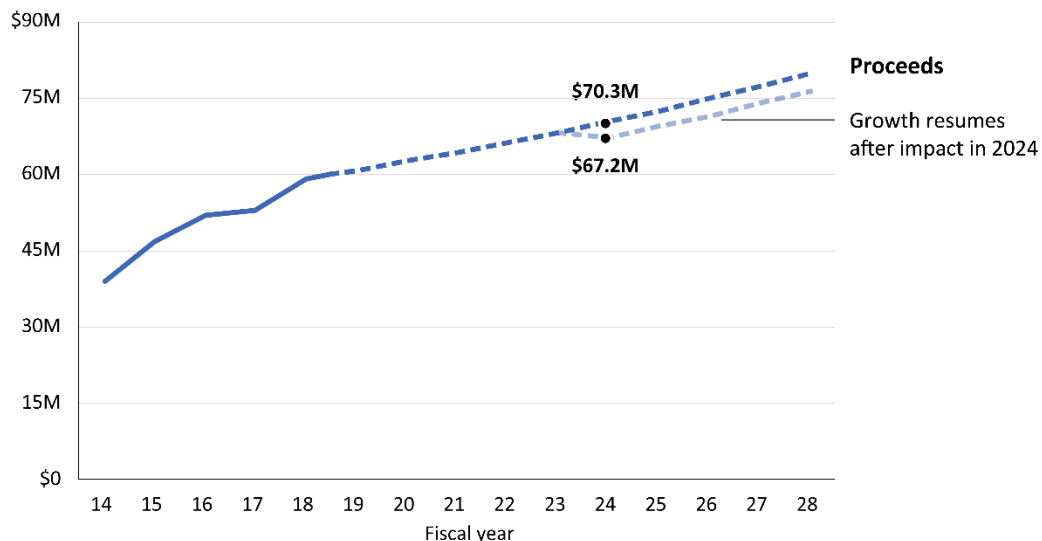
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The 4.4 percent estimated impact to charitable gaming is attributable to both casinos (3.4 percent) and historical horse racing games (1.1 percent) combined. The impact of historical horse racing gaming on charitable gaming will occur at a date earlier than 2024 as the facilities become operational. However, TIG projected the impact from HHR gaming to occur concurrently with casino gaming in 2024 to simplify the analysis and to offer insight into the relative magnitude of impact caused by HHR and casinos.

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resulting in a projected cumulative reduction in statewide charitable gaming proceeds of nearly \$17 million from 2024 to 2028.

**FIGURE 4-8**  
**SB 1126 casinos projected impact to charitable gaming proceeds (2024–2028)**



SOURCE: The Innovation Group analysis and JLARC staff analysis of Virginia Office of Charitable and Regulatory Programs data.

TIG's estimates are based on the assumption that the greatest negative impact to charitable gaming sales and proceeds will occur at organizations in localities closest to casinos and to gaming that most closely resembles casino games, such as electronic pull-tabs (which resemble slot machines). This is based on the observed impact of the development of casino gaming on charitable gaming venues located near casinos in Massachusetts and Texas. Furthermore, TIG's estimates assume that the greatest impact to charitable gaming proceeds will be experienced by organizations that rely heavily on charitable games that are most similar to casino-style games, such as electronic pull-tabs as opposed to other types of gaming like bingo. Customers who prefer that type of gaming are more likely to patronize a casino that offers a similar product.

The five SB 1126 casino host localities and their adjacent localities reported a total of \$18.9 million in charitable proceeds in 2018 (Table 4-4). A majority of proceeds was from bingo events, at \$11.5 million, with the remaining \$7.4 million from electronic pull-tabs at social venues. Overall, the proceeds generated in these localities represented nearly 32 percent of the total statewide proceeds from charitable gaming in 2018.

**TABLE 4-4**  
**Charitable gaming proceeds in casino host and adjacent localities (2018)**

<b>Casino host and adjacent areas</b>	<b>Percentage of total statewide proceeds</b>	<b>Percentage of statewide bingo proceeds</b>	<b>Percentage of statewide social quarter proceeds</b>
Norfolk	16.1%	23.1%	10.0%
Portsmouth	11.0	11.5	10.4
Richmond	8.4	9.2	7.6
Bristol	2.0	2.8	1.2
Danville	1.4	0.7	2.0
<b>Total proceeds in casino areas <sup>a</sup></b>	<b>31.9</b>	<b>41.6</b>	<b>23.4</b>

SOURCE: Virginia Office of Charitable and Regulatory Programs and JLARC staff analysis.

NOTE: Adjacent localities based on the U.S. Census Bureau definition of adjacent counties or county equivalent in the County Adjacency File. <sup>a</sup>Total proceeds in casino areas do not sum to the proceeds from the five individual locations because of the overlap of charities in Portsmouth- and Norfolk-adjacent localities. Proceeds from social quarter pull tabs is estimated by distributing the total statewide electronic pull-tab proceeds based on the number of machines in each locality.

The largest negative impacts would be felt by charities in casino localities that also rely on electronic pull-tabs sales. For example, the Bristol Regional Speech and Hearing Center Inc. generated nearly \$300,000 in proceeds from charitable gaming in 2018 (sidebar). TIG's methodology estimates (see sidebar page 59) the center would see a decrease of approximately \$36,000 annually in charitable gaming proceeds following the introduction of casinos. Similarly, Community Knights in Newport News (adjacent to Norfolk, a potential casino locality) generated \$414,000 in proceeds in 2018 and would be estimated to experience a decrease of approximately \$45,000.

The Commonwealth could take steps to potentially mitigate the initial negative impact of casino gaming on charitable gaming or to help organizations recapture some of the sales that are lost as a result of competition from casino gaming. Organizations benefiting from electronic pull-tabs proceeds would be the most negatively affected by casino competition because of the pull-tabs' similarity to slot machines. This competition is likely unavoidable and may be difficult to mitigate. However, steps could be taken to lessen some of the potential negative impact on bingo sales and proceeds. One way to partially mitigate the impact to charitable gaming would be to prohibit commercial casinos from offering bingo to prevent additional competition to bingo events. Another strategy could be to reduce restrictions on the number of bingo events and maximum prizes at charitable gaming, as statute currently restricts charitable bingo sessions to two days per week and a maximum prize of \$100 per bingo game. This could better allow bingo events to compete against additional forms of gaming that have greater availability and larger prizes. However, these measures likely would not fully offset the impact of casinos on charitable gaming bingo sessions.

Charitable gaming stakeholders, such as the Charitable Gaming Board and Virginia Charitable Gaming Council, are working to improve access to charitable gaming and maintain charitable proceeds growth. Legislation proposed during the 2019 session

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**Bristol Regional Speech and Hearing Center Inc.** uses charitable proceeds to provide scholarships to support patients' costs for communication needs.

**Community Knights Inc.** provides funding to address budget cuts in *public* schools and nonprofits on the Virginia Peninsula.

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**Legislation proposed in 2019 for charitable gaming included HB 2707 & SB 1527; HB 2302 & SB 1671; and HB 2379.** These bills sought to expand access to charitable gaming through various means, such as: increasing the number of bingo sessions and games that could take place, removing the bingo prize amount limit, and increasing the number of electronic pull-tabs permitted and the types of venues where they could be located.

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**New Jersey, which has the highest volume of sports wagering, has not experienced a decrease in horse racing wagering after the introduction of sports wagering.** TIG indicates that this could likely because horse racing facilities also offer sports wagering.

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sought to ease limitations on charitable gaming and place charitable gaming products in businesses (sidebar). However, none of the proposed legislation was passed.

## **Impact of sports wagering and online casino gaming on Virginia's existing gaming would be minimal**

Sports wagering or online casino gaming is estimated to have a minimal impact on Virginia's existing forms of gaming, according to TIG. Estimating their impact on existing forms of gaming is challenging because both types of gaming are relatively new and available in a limited number of states, and there is a lack of comprehensive data or observable trends. However, sports wagering and online casino gaming are different enough from Virginia's existing forms of gaming that they likely not detract too much from them.

TIG anticipates that sports wagering would not have a meaningful impact on lottery, charitable gaming, or historic horse racing. Customers who prefer to wager on live sports tend to be different from customers who enjoy games of chance. Traditional horse racing wagering could see the most negative impact from sports wagering because they both attract customers who enjoy betting on live sporting events. TIG suggests that the negative impact to traditional horse racing wagering from sports wagering could be mitigated if pari-mutuel wagering facilities (i.e., horse racing) were authorized to act as brick and mortar sports wagering venues. The increase in customers to pari-mutuel facilities because of sports wagering may offset some or all of the decrease in traditional horse racing wagering (sidebar).

TIG anticipates that online casino gaming would not have a meaningful impact on existing forms of gaming in Virginia but would likely have a meaningful negative impact on the iLottery, if iLottery were authorized at some date in the future. However, because of their similarities, TIG believes that the impact of online casino gaming on lottery's retail location sales, charitable gaming, and historic horse racing wagering would be minimal because the games are different (participating in person at a gaming facility versus playing online). Overall, online casino gaming's impact on other forms of gaming is difficult to estimate because of a lack of examples in other states. Only New Jersey has offered full online casino gaming for a significant amount of time.



# 5 Problem Gambling Prevention and Treatment

**SUMMARY** Additional gambling options in Virginia would increase the number of Virginians at risk of harm from problem gambling. These harms include financial instability and negative impacts on mental health and relationships. The percentage of adult Virginians who experience gambling disorder—a clinical addiction—would be small, but a larger number of gamblers would suffer negative effects, as well as their friends and family. Virginia’s current problem gambling prevention and treatment efforts are minimal and need to be enhanced, even if gaming is not expanded. States with casinos and other forms of gaming typically use a portion of their gaming tax revenue to fund problem gambling prevention and treatment efforts. An effective problem gambling prevention and treatment program in Virginia could cost \$2 million to \$6 million annually. An effective program would also require collaboration among gaming operators and the state, with the Department of Behavioral Health and Developmental Services leading the state’s efforts.

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If additional forms of gaming are authorized in Virginia, more Virginians will be at risk of negative consequences from problem gambling. All states with a wide array of gaming options fund and administer problem gambling prevention and mitigation efforts, and Virginia would need to do so as well. Virginia’s current efforts to prevent and treat problem gambling are minimal.

Findings in this chapter are based on interviews with state and national experts in the field of problem gambling and a review of approximately 200 studies on the potential negative impacts of gambling. In identifying research studies, preference was given to research published in the last 10 years, which builds on earlier research and takes into account the recent growth in gambling in the United States. Appendix G (available online) lists the studies reviewed. The JLARC consultant, Regulatory Management Counselors, contributed research on responsible gaming initiatives carried out by private casino operators.

## **Expanding gaming in Virginia would increase the number of people at risk of harm from problem gambling**

About 80 percent of adults in Virginia report having gambled in the past year, and it is likely that some Virginia residents already have gambling problems or have experienced negative effects from existing gambling options, including lottery, charitable gaming, horse racing wagering, historical horse racing, and unregulated electronic gaming machines. The helpline provided by Virginia’s Council on Problem

Gambling received 280 calls over the 12 months from September 2018 to August 2019, and Gamblers Anonymous has 10 meeting sites in Virginia. Studies in other states have found that gambling disorder existed even before casinos began operating in those states.

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To be diagnosed with a **gambling disorder**, an individual must meet four or more of nine designated behavioral criteria in a 12-month period. Examples of the criteria include a person who: has made repeated unsuccessful efforts to control, cut back, or stop gambling; often gambles when feeling stressed (e.g., helpless, guilty, anxious, depressed); and has jeopardized or lost a significant relationship, job, or educational or career opportunity because of gambling.

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If the General Assembly authorizes additional forms of gaming, the expanded opportunities and easier access to gaming will increase the number of Virginia residents who gamble at casinos. While research does not consistently show an increase in the prevalence of problem gambling after the introduction of casinos in a state, the addition of casinos to Virginia will at least place more people *at risk* of experiencing gambling problems.

A portion of Virginians are already experiencing problems from existing forms of gaming, but the current prevalence rate of problem gambling in Virginia is unknown. Studies in other states with broad legalized gaming (i.e., casinos) suggest that an estimated 5 percent to 10 percent of adults may experience gambling problems to some degree. This includes individuals with gambling disorder and subclinical gamblers (sidebar).

The most serious form of problem gambling is gambling disorder, which is classified as an addiction by the American Psychiatric Association. The most recent national study (for 2011–2013) estimated that 2.4 percent of adults in the U.S. had gambling disorder. Similarly, recent estimates of gambling disorder in some states with casinos range from 0.8 percent to 2.9 percent of adults, with an average rate of 1.8 percent.

In addition to people with gambling disorder, recent estimates at the state level indicate that an average of 8 percent of adults may be subclinical; that is, individuals who experience one to three of the symptoms of gambling disorder but are below the clinical threshold of four symptoms (sidebar). The severity of harm from problem gambling will vary across individuals, but on average subclinical gamblers will experience less severe negative impacts than disordered gamblers.

The negative impacts of gambling are not limited to problem gamblers. Research consistently shows adverse effects on others, most often a spouse or partner, but also the parents and children of problem gamblers, as well as other family members and close friends. For example, family members are affected if a problem gambler loses so much money that bills cannot be paid, loses his or her job, or neglects family responsibilities. Problem gamblers may borrow money from close friends that they do not repay. The severity of harm will vary across individuals, but on average family and friends affected by a problem gambler experience less severe negative impacts than the problem gamblers themselves.

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**Disordered gambler** refers to individuals who meet the clinical definition for gambling addiction.

**Subclinical gambler** refers to individuals who meet some of the criteria for gambling disorder but are below the clinical threshold.

**Problem gambler** refers to both disordered and subclinical gamblers.

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## **Problem gambling can negatively affect financial stability, mental health, and relationships, but the magnitude of impacts is difficult to quantify**

Certain populations are more vulnerable to developing gambling problems. Problem gambling commonly co-occurs with other addictions and disorders. Individuals with substance use disorder or other mental health issues, such as depression, trauma, or post-traumatic stress, are at greater risk of developing gambling problems. In addition, problem gambling is more prevalent in individuals with low income and education, young adults, the elderly, and military personnel and veterans.

### **Problem gambling can have financial consequences**

Gambling can have serious financial consequences for problem gamblers. These individuals may lose more money than they can afford and could have difficulty paying for essential expenses like housing or utilities. This is particularly a risk for low-income individuals. Some people borrow money from family or friends or withdraw cash from credit cards or retirement accounts to gamble. Some studies have found that most individuals with gambling disorder reduce their savings, a substantial portion increase their credit card debt, and smaller proportions lose a significant asset such as a car or a home, or declare bankruptcy because of their gambling problem. These negative consequences are much less likely to be experienced by non-gamblers.

At a community level, some studies have shown that exposure to casinos and other gaming modestly increases bankruptcy rates. These studies found that access to a casino or other gambling venue increased the total number of bankruptcies by 2 percent to 10 percent (Appendix G). Less than 1 percent of adults in the U.S. declare bankruptcy annually, most often because of medical bills. Other studies have not found a link between access to a casino and bankruptcy rates in a community.

### **Problem gambling can have negative consequences for mental health and relationships**

Gambling has negative impacts on mental health for some individuals, including emotional and psychological distress, depression, suicidal thoughts, and suicide attempts (sidebar). Research consistently finds that individuals with gambling disorder are much more likely than non-gamblers to have a mood, anxiety, or substance use disorder. For example, after attempting to account for other factors affecting mental health, one study found that individuals with gambling disorder were more than three times as likely as non-gamblers to have a mood or anxiety disorder. Rates of suicidal thoughts and suicide attempts are also much higher for individuals with gambling disorder. Because individuals with gambling disorder often have other disorders, these negative impacts are likely not due to gambling disorder alone.

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**Evidence from research on gambling harms** is limited because it is observational. This means that observed negative impacts cannot be attributed to gambling (as opposed to some other factor) with certainty. Some of the strongest evidence comes from longitudinal studies, which can show whether problems occurred before or after problem gambling arose. Detailed interviews with problem gamblers also provide evidence on the sources and types of harm.

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Problem gambling can negatively affect relationships. Compared to non-gamblers, individuals with gambling disorder are more likely to neglect family responsibilities, have relationship conflicts, and lose relationships. Several studies find an association between problem gambling and domestic violence.

### **Problem gambling can affect quality of life**

The total negative impact of problem gambling depends not just on financial costs but on negative effects that are difficult to quantify, such as relationship disruption and emotional and psychological distress. Some studies have attempted to estimate the social costs of gaming in dollars, but the accuracy of the results is uncertain because of the number of assumptions and subjective judgments required.

A few recent studies have attempted to quantify the effects of problem gambling by comparing it to the negative effects of other diseases on individuals' quality of life, rather than estimating costs in dollars. This is often referred to as a burden of disease approach (sidebar). At an individual level, the negative effects experienced by a disordered gambler were found to be comparable to quality-of-life reductions caused by severe alcohol use disorder, but less than the impact from heroin, other opioid dependence, or schizophrenia.

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**A burden of disease** methodology measures harm in terms of reductions in an individual's well-being or quality of life, often expressed as a decrease in years with a normal quality of life. Researchers have used the approach generally to estimate and compare the cost or health burden of chronic diseases and disorders, and to estimate the cost effectiveness of health interventions.

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## **Virginia's problem gambling prevention and treatment efforts are minimal compared with other states**

According to the National Council on Problem Gambling, Virginia provides less public funding per capita for problem gambling treatment and prevention than any of the 40 states that provide funding. Adopting additional forms of gaming would require a substantial increase in state efforts and resources dedicated to this issue. Virginia's current efforts are mainly by the lottery and include

- requiring that a helpline number be posted on lottery tickets, in charitable gaming facilities, and at horse racing wagering venues;
- dedicating one lottery staff member to work part time on problem gambling prevention and mitigation;
- using \$30,000 from the lottery to contract for problem gambling helpline services and to sponsor the Virginia Council on Problem Gambling, which is staffed by one part-time volunteer;
- training licensed lottery retailers on responsible gaming; and
- conducting a public awareness campaign during National Problem Gambling Awareness Month (every March).

Virginia has only one statutorily designated funding source for problem gaming services. The Code of Virginia requires that 30 percent of the "breakage" (sidebar)

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**Breakage** is the amount of money generated by rounding winning bet payouts down to the nearest penny or dime; for example, a payout of \$7.43 is rounded to \$7.40, and the remaining 3 cents is retained as breakage.

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In September 2019, horse racing wagering (historical and traditional horse racing wagering) generated about \$20,000 in breakage, which would equate to about \$240,000 annually.

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from betting on traditional and historical horse racing be used for “gambling addiction and substance abuse counseling, recreational, educational or other related programs.” Breakage generated in the past several years from traditional horse racing has been minimal because of the lack of live racing at Colonial Downs and the scaling back of off-track betting facilities. No breakage revenue has been used for problem gambling prevention or mitigation services.

## **States with casinos make efforts to prevent and treat problem gambling**

All states with commercial casino gaming have prevention and treatment programs to address gambling-related problems. These programs are typically funded by revenue from gaming taxes. In addition, gaming oversight agencies in some states oversee “responsible gaming” practices implemented and paid for by casino operators. These approaches complement each other and can help reduce gambling problems.

### **States take similar prevention and treatment approaches and typically rely on their public behavioral health systems**

State-funded problem gambling treatment services generally are led by a behavioral health agency and are often integrated with other behavioral health treatment services. Problem gamblers may be more likely to seek treatment for a co-occurring disorder, such as substance use disorder, and effective treatment for individuals requires addressing all disorders (sidebar). Most states with casinos provide ongoing training for behavioral health providers to treat problem gambling. Some states require behavioral health providers to be certified to treat problem gambling and to obtain ongoing education. Some states include screening for gambling disorder as part of broader behavioral health assessments, since gambling disorder often co-occurs with other mental health issues.

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Although access to treatment services for problem gamblers is critical and has been shown to be effective, only a small proportion of problem gamblers seek treatment specifically for problem gambling.

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Most states use similar problem gambling prevention and treatment strategies. Many states provide treatment at no cost to individuals without insurance coverage, removing a major barrier to seeking help, because individuals with gambling disorder may have limited financial resources by the time they seek treatment. Treatment programs often include counseling for family members, who can experience harms similar to problem gamblers. Furthermore, a few states provide funding for residential treatment for individuals with gambling disorder. All states with casinos provide educational outreach and promote awareness on the risks of gaming, information on how to reduce risks, and helplines.

### **States fund problem gambling prevention and treatment from gaming tax revenue**

Forty states, including all 24 states with commercial casinos in operation, provide public funding for problem gambling services. States with casinos most commonly

fund problem gambling prevention and treatment either by allocating a certain percentage of gaming tax revenue for problem gambling services or appropriating a fixed amount. The federal government does not provide funding for problem gambling treatment and prevention.

Funding amounts for problem gambling vary widely across states with casinos. In the seven peer states reviewed for this study, funding for problem gambling prevention, treatment, and research ranged from \$800,000 to \$10 million annually, with an average of \$4 million, or between 1 and 2 percent of a state's gaming tax revenue (Table 5-1).

**TABLE 5-1****Funding from gaming revenue for gambling treatment, prevention, and research**

State	Amount of funding (2018 or 2019)	Funding as a percent	
		of gaming tax revenue	Funding per capita (adults)
Kansas	\$800,000 <sup>a</sup>	0.7%	\$0.36
Delaware	1,300,000	0.6	1.70
West Virginia	1,500,000	0.5	1.04
Michigan	2,000,000 <sup>c</sup>	0.6	0.26
Maryland	5,200,000	0.7	1.11
Massachusetts	8,000,000 <sup>b</sup>	7.3	1.45
Ohio	10,300,000 <sup>d</sup>	1.7	1.13
<b>Average</b>	<b>4,157,000</b>	<b>1.7</b>	<b>1.01</b>
<b>Median</b>	<b>2,000,000</b>	<b>0.7</b>	<b>1.13</b>

SOURCE: Interviews with peer states and document review.

NOTE: <sup>a</sup> Includes \$620,000 from Problem Gambling and Other Addictions Fund and an estimated \$180,000 in compensation for the three state staff involved in problem gambling prevention and treatment. <sup>b</sup> Projected to increase from \$8 million in FY19 to \$16 million in FY20, because of the opening of a casino in the Boston area. <sup>c</sup>

About half of this amount is distributed to the Domestic Violence and Treatment Board. <sup>d</sup> \$7 million from casinos and \$3.3 million from racinos.

### Casino-based responsible gaming initiatives complement state-led problem gambling treatment and prevention efforts

States have specific “responsible gaming” requirements to reduce the negative effects of gambling, and casino operators typically have their own responsible gaming initiatives. The most common responsible gaming strategies are self-exclusion lists (sidebar), prohibiting credit advances and restricting the use of credits cards on the gaming floor, and providing disclosures, such as a problem gambling helpline number. Some states also impose restrictions on operators, such as limiting the availability of check cashing and ATMs for patrons; limiting advertising; restricting alcohol consumption and smoking in gaming venues; limiting hours of operation; and setting limits on wagering or allowing gamblers to set self-imposed limits on losses (Table 5-2). Experts recommend self-exclusion lists as an essential strategy. More generally, experts recommend that responsible gaming initiatives be clear about objectives; focus on vulnerable populations; teach people about the risks of gambling and how to gamble safely; give operators some flexibility in implementing responsible gaming;

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Individuals who put themselves on a voluntary **self-exclusion list** are banned from casino property. If they are caught gambling, any winnings are forfeited, and they may be prosecuted for trespassing. Self-exclusion periods vary but are typically two to five years.

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monitor effectiveness; and change as the industry and technology evolves. About half of the states with casinos require operators to submit a responsible gaming plan as part of their application for a gaming license. Such a plan can serve as a framework for all responsible gaming strategies.

**TABLE 5-2**  
**Number of commercial casino states with responsible gaming requirements, by requirement**

<b>Responsible gaming (RG) requirement</b>	<b>Number of states (out of 25)</b>	<b>Percent of casino states</b>
Self-exclusion list	22 <sup>a</sup>	88%
Credit restrictions	21	84
RG disclosure and property signage	21	84
Ad restrictions	18	72
Alcoholic beverage restrictions	16 <sup>b</sup>	64
Responsible gaming plan	13	52
Employee training	13	52
Wager/time limits	12	48
Financial instruments restrictions <sup>c</sup>	12	48

SOURCE: American Gaming Association, Responsible Gaming Regulations and Statutes, September 2019.

NOTE: <sup>a</sup> Applies only to promotional marketing, credit, and check-cashing in Nevada. <sup>b</sup> Complimentary drinks prohibited in Florida, Maryland, and New Mexico. <sup>c</sup> Financial instruments restrictions include limitations on cashing government-issued checks, ATM transactions, and credit or debit cards.

### **RECOMMENDATION 1**

The General Assembly may wish to consider including in any legislation authorizing additional forms of gaming a requirement that applicants for a gaming license submit a responsible gaming plan as part of their application and require casino operators to obtain accreditation for responsible gaming practices.

### **RECOMMENDATION 2**

The General Assembly may wish to consider including in any legislation authorizing additional forms of gaming a requirement that Virginia's gaming oversight agency develop and administer a voluntary self-exclusion program and implement the program before any casinos open.

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**Accreditation of responsible gaming plans** is offered by the Global Gambling Guidance Group and the Responsible Gambling Council of Ontario Canada. Accreditation helps ensure effectiveness by comparing responsible gaming activities to standards based on research and input from experts.

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### **Collaboration among behavioral health providers and gaming operators will improve effectiveness of prevention and treatment efforts**

State-led treatment and prevention services and casino operator-led responsible gaming initiatives are most effective when they are collaborative. Some states facilitate collaboration by establishing stakeholder groups of gaming operators and state

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**The Maryland Alliance for Responsible Gaming** is made up of three state agencies, legislative representatives, the state council on problem gambling, a research center, and casino representatives. The group meets approximately twice per year to discuss problem gambling mitigation activities.

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behavioral health staff. These groups meet regularly to discuss and evaluate the effectiveness of their efforts to reduce the negative impacts of problem gaming, and can also include other health agencies, gambling regulatory staff, problem gambling treatment providers, and interested community groups (sidebar). Experts recommend that stakeholder groups decide on common goals and measures; collect and report data on activities; conduct research to evaluate the effectiveness of harm reduction initiatives; and recommend changes to policies and regulations to make mitigation more effective.

Collaboration can take place in the casino locality in addition to, or instead of, the statewide level. For example, Kansas encourages and provides modest resources for community-based problem gambling stakeholder groups in localities that host casinos. State staff believe the local stakeholders play a vital role in mitigation efforts, in part because they know their community and can tailor efforts to meet local needs.

### **OPTION 1**

The General Assembly could include in any legislation authorizing additional forms of gaming a requirement that the Department of Behavioral Health and Developmental Services and Virginia's gaming oversight agency establish and coordinate a stakeholder group to enable collaboration among prevention and treatment providers and gaming operators.

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## **A problem gambling prevention and mitigation program for Virginia could be based on best practices in other states**

If additional forms of gaming are authorized in Virginia, a problem gambling program based on best practices in other states could include a prevention and mitigation plan with clear goals and key responsibilities; a requirement that casino operators lead responsible gaming initiatives based on criteria set at the state level; a stakeholder group to help facilitate collaboration between the state and casino operators and develop a strategy that includes objectives and measures for harm reduction practices; and a funding mechanism. An effective program would focus not just on individuals with gambling disorder but also on subclinical gamblers and family members of problem gamblers.

The Department of Behavioral Health and Developmental Services (DBHDS) and the agency designated for casino oversight could collaborate on Virginia's problem gambling prevention and mitigation plan. DBHDS could oversee problem gambling treatment and prevention efforts, including administering funding; training and certifying providers employed by community services boards (CSBs); overseeing a helpline; and evaluating effectiveness. The state agency designated to oversee gaming could coordinate responsible gaming efforts implemented by casino operators.



A stable funding mechanism for a problem gambling program is critical. Following other states, Virginia could allocate a percentage of gaming tax revenue or an annual fixed dollar amount from gaming taxes or other fees. An advantage of allocating a percentage of gaming tax revenue is that funding would grow proportionally as gaming expands. A fixed dollar amount, however, could provide more predictable funding and would provide revenue before casinos begin operating. A fixed dollar amount would need to be adjusted over time for inflation and changes in resource needs, especially if the scale of gaming grows. If funding for problem gambling prevention and treatment were administered by DBHDS, statutory language could ensure that these funds were not used for other purposes, and require collaboration with the gaming regulatory agency on how funds are allocated.

Any problem gambling program established in Virginia would need to be re-evaluated periodically to respond to changes in gaming practices and technology. For example, states have only recently begun to oversee internet gaming and sports wagering, and these types of gaming may require a different approach to treatment and prevention than casino gambling. Funding requirements could change, new initiatives may be needed, and problem gambling regulations may need to be modified to improve their effectiveness. Virginia could initially focus on prevention and increasing awareness of the risk of problem gambling and training providers. Resources could shift over time to treatment if the number of individuals seeking help for gambling disorder increases.

Many experts emphasize the importance of ongoing research and evaluation to determine the effectiveness of a state's problem gambling program. Research can also measure the number of people harmed by gaming, and how it changes over time. Several states contract with a university to assess harms and evaluate harm reduction (sidebar).

### RECOMMENDATION 3

The General Assembly may wish to consider including in any legislation authorizing additional forms of gaming a requirement that the Department of Behavioral Health and Developmental Services contract with a university or other expert to conduct an ongoing evaluation of problem gambling in Virginia and the effectiveness of the state's prevention and treatment efforts.

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**Some states are using universities to conduct studies on problem gambling.** The University of Massachusetts School of Public Health is conducting a longitudinal evaluation of the social and economic impacts of expanded gaming in that state at a cost of about \$1 million per year, and the University of Maryland School of Medicine is researching problem gambling in Maryland under a \$2 million annual contract with the state's Behavioral Health Administration.

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## **An effective problem gambling prevention and treatment program could cost \$2 million to \$6 million annually**

A problem gambling program in Virginia could require approximately five state staff. These staff could include three at DBHDS to oversee problem gambling prevention and treatment efforts (including training and certifying providers employed by CSBs) and two staff at the regulatory agency to oversee responsible gaming efforts. Funding

also would be needed for contracted services, including treatment for gambling disorder; a gaming helpline; a centrally administered self-exclusion list; outreach and education efforts; creation of a stakeholder group; and research and evaluation. Based on spending in other states, this would require a state investment of between \$2 million and \$6 million.

Virginia could adequately fund a problem gambling reduction program using a small proportion of gaming tax revenue. For example, allocating 1 percent of annual gaming tax revenue from casinos to problem gambling prevention and treatment—which would be in line with other states—would amount to approximately \$2.6 million per year based on estimated tax revenue from five Virginia casinos (at a nationwide median tax rate of 27 percent). If Virginia were to authorize sports wagering or online casino gaming, 1 percent of gaming revenue taxes would be equal to an estimated \$200,000 to \$550,000 for sports wagering and \$850,000 for online casino gaming. Additional funding of approximately \$100,000 annually could be allocated from the existing statutory provision of 30 percent of breakage generated by traditional and historical horse race wagering. Altogether, these sources would account an estimated \$4 million if all types of gaming are implemented (Table 5-3). The state could also consider a similar assessment from revenue produced by existing types of gaming, such as lottery, charitable gaming, and grey machines if they are regulated, since all types of gaming can have negative impacts.

**TABLE 5-3**

**Potential funds for problem gaming prevention and treatment efforts based on 1 percent of projected tax revenue**

<b>Source</b>	<b>Potential funding</b>
Casinos	\$2,600,000
Horse racing wagering	\$100,000
Sports wagering	\$200,000 to \$550,000
Online casino gaming	\$850,000
<b>Total</b>	<b>~ \$4 million</b>

SOURCE: JLARC estimates based on revenue projections.

NOTE: Funding from horse racing wagering is calculated as 30 percent of breakage for estimated traditional horse racing wagering and projected historical horse racing wagering.

Even without additional forms of gaming like casinos or sports wagering, Virginia's existing problem gambling efforts appear insufficient to address the potential magnitude of negative impacts from current forms of gaming like lottery, bingo and pull-tabs, historical horse race wagering, and unregulated electronic gaming machines. Therefore, the General Assembly could consider requiring that a proportion of all existing gaming tax revenues be dedicated to a more robust problem gambling reduction strategy. For example, because the lottery generates \$600 million per year in revenue, lottery could generate \$750,000 for problem gambling prevention and treatment with an allocation of 1/8 of 1 percent of its revenue each year. Adding the

statutorily required portion of breakage from horse race wagering would increase funding to almost \$1 million annually.

#### **RECOMMENDATION 4**

The General Assembly may wish to consider amending the Appropriation Act to establish a dedicated stable funding source for problem gambling prevention and treatment, even if gaming is not expanded, and designate the Department of Behavioral Health and Developmental Services to administer the funding.

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#### **RECOMMENDATION 5**

The General Assembly may wish to consider amending the Appropriation Act to direct the Department of Behavioral Health and Developmental Services to develop a plan and framework for a comprehensive problem gambling prevention and treatment program and to identify key elements, resource needs, and a schedule for implementation.

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## **Casinos may increase workload for local law enforcement**

Crime tends to increase in the immediate vicinity of casinos, due primarily to the increase in visitors to an area. According to research studies and interviews with experts, the amount of crime in an area increases with a casino. However, some growth in the number of crimes and calls to police would be expected for any venue or event that draws visitors, such as sporting events, malls, and nightclubs. An increase in the number of crimes is likely to impose costs on local law enforcement and the criminal justice system.

The crimes most frequently associated with gambling venues are credit card theft, burglary, and cheating during gaming. Studies that include interviews with problem gamblers find that a substantial proportion of problem gamblers report committing crimes or stealing to fund gambling or pay debts, including stealing from family members and friends. Violent crime has not typically been found to be associated with problem gambling. Experts suggest that organized crime is not involved with casinos, in part because of stricter regulatory and licensing requirements than existed in the early days of casinos. According to Virginia State Police data, most crimes currently associated with gaming facilities in Virginia during the past five years (primarily pari-mutuel wagering facilities) involved theft, cheating, and counterfeiting and forgery.



# 6 Considerations for Awarding a Casino License

**SUMMARY** A competitive bidding process to award casino operator licenses can help ensure states maximize casinos' potential financial and economic benefits and reduce exposure to the associated risks of casino gaming. Most of Virginia's peer states use a competitive bidding process to award casino licenses. A well-defined selection process can enable states to evaluate proposals for several important criteria, including the experience, quality, and financial stability of potential casino operators. States also can use the help of an independent consultant to determine the feasibility of proposals' capital investment, employment, and gaming revenue projections. Because casinos create benefits and risks for their host communities, local governments should be involved in the selection process. In addition to evaluating casino proposals and companies, the competitive selection process should evaluate the integrity and competency of the would-be casino owners and their key employees. States also should charge appropriate fees for casino licenses to compensate the state for the value of the license.

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Most states authorize new forms of gaming—in particular casinos—to generate fiscal and economic benefits for the state and specific communities. States should seek to maximize those potential benefits at the outset of a casino project while taking steps to mitigate project risks. An unsuccessful casino project could fall short of meeting anticipated benefits or fail altogether, resulting in the locality making unnecessary infrastructure improvements and other public investments.

States with casinos have sought to maximize benefits and minimize risks by using a competitive selection process. During this process, states solicit casino development proposals from the gaming industry and select a winning proposal based on specific criteria chosen by the state. This is especially important for states that restrict the number of casino facilities in a limited license casino market and grant long terms for operator licenses. SB 1126 would need to be amended if policy makers wish to ensure a competitive casino development selection process occurs.

Information in this chapter is the product of independent research by JLARC staff and collaboration with the JLARC consultant, Regulatory Management Counselors (RMC). RMC contributed research on the casino selection process and licensing process in other states and advised JLARC staff during the development of findings.

## Issuing a casino license through a competitive selection process maximizes potential benefits and minimizes public risks

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**Limited license casino markets** are states in which the number of casino licenses available statewide (or by region) is limited. Thirteen of 25 states with commercial casinos have a limited casino market. Another six states limit casino gaming to horse racetracks (racinos). Only six states have an open casino market where the number of casino licenses is not limited.

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JLARC staff and Regulatory Management Counselors (RMC) reviewed casino governance and oversight structures and practices in **five peer states**: Kansas, Maryland, Massachusetts, Michigan, and Ohio. These peer states were selected based on their gaming environment, population size, geographic proximity, and other socio-economic factors (see Appendix B). Other states were reviewed for specific topic areas, such as the selection process.

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A competitive licensing process introduces market competition into an environment where casinos will ultimately operate as monopoly-like businesses. A limited casino market (sidebar) caps the total number of casinos in the state, which reduces or eliminates market competition. Because of the potentially large profits of a casino, especially in a limited market with monopoly-like control, a casino license is a valuable commodity that the state controls. Requiring competition for casino licenses in a limited license market can encourage businesses to operate with reputable business practices, maximize their investment, and offer additional amenities. Requiring competition for a highly valuable casino license helps to ensure that potential casino operators are incentivized to propose quality casino projects that maximize economic and fiscal benefits.

Furthermore, a competitive process lends transparency and builds public confidence. When potential casino operators are required to develop casino proposals that will be vetted in a public process, the process can help ensure the selection made is in the public's interest and is free of corruption or political influence. In addition, a competitive licensing process improves transparency by allowing the public to observe the process.

### Most states with a limited casino market use a competitive selection process

JLARC's consultant and four national casino operators interviewed by JLARC staff indicated that a competitive selection process is standard practice among states. Eleven of 13 states with limited casino markets used a competitive process to select casino operators. This includes all of Virginia's peers (Maryland, Kansas, Michigan, and Massachusetts) except for Ohio (sidebar).

States with limited casino markets use their casino selection process to survey the private market and to identify the casino proposal that is projected to maximize fiscal and economic impact. This impact is often measured in terms of capital investment, tax revenue generation, job creation and wages, and sometimes other goals like promoting tourism or redeveloping a particular community. Massachusetts is an example of a state with a competitive selection process that successfully attracted and identified a project that would maximize local economic impact (Case Study 6-1).

### **CASE STUDY 6-1**

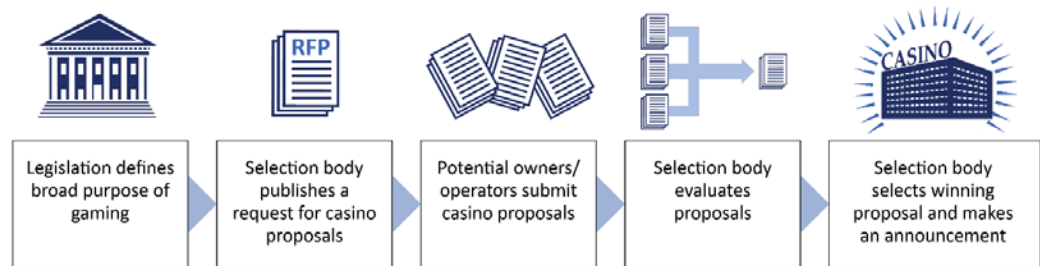
#### **Massachusetts's competitive selection process allowed decision makers to compare potential economic impacts across multiple proposals**

The Massachusetts Gaming Commission conducted a competitive process to select a casino proposal for the Boston region. The commission received two proposals: one proposal for a casino with a \$1.3 billion investment and the creation of just over 2,500 new jobs and a second proposal that would invest \$1.6 billion and create over 3,200 jobs with higher average wages. A third-party verified the reasonableness of the projections, and the commission awarded the gaming license to the proposal with the higher proposed capital investment and projected jobs and wages.

A competitive selection process reduces the risk that a casino project will be unsuccessful by identifying operators who are qualified, financially stable, and experienced. For example, states generally evaluate the extent to which proposals detail the amount, source, and associated repayment plans for the capital used to develop and build the casino. States also typically independently evaluate the reasonableness of gaming revenue projections and evaluate whether it is sufficient to cover the casino's operating costs and debt payments. When proposals do not demonstrate financial stability or a sound financing plan, states disqualify the proposals. Maryland's selection committee, for example, disqualified a casino development proposal because of deficiencies in the financing and business plans, which prevented the committee from being able to determine whether the project would be financially viable.

A competitive selection process for casino developments is similar to Virginia's commonly used process to award public contracts. This procurement process is designed to maximize the value of awarded contracts, minimize risk to the state, and ensure the transparency of publicly funded purchases. This process includes a request for proposal, proposals submitted by vendors, and a review of those proposals. Selections are made based on the vendor or product that offers the greatest value (Figure 6-1). The Virginia Public Procurement Act requires that any purchase of goods or services expected to exceed \$100,000 uses a competitive bidding process, while the act directs state agencies to use "competition wherever practicable" for purchases below this threshold. Casino developments typically involve capital investments worth hundreds of millions of dollars and gaming revenue potential that exceeds \$100 million annually.

FIGURE 6-1

**Competitive casino development selection processes follow similar steps to public procurement**

SOURCE: JLARC staff analysis.

**SB 1126 does not include a competitive selection process for casinos**

SB 1126 does not require a competitive casino development selection process. SB 1126 requires each locality permitted to host a casino to hold a referendum that 1) allows voters to decide whether to authorize casino gaming in their locality *and* 2) identifies the specific location of the proposed casino. The legislation does not specify how a specific casino project would be selected, and in its current form could result in automatically granting a license to individual property owners through a referendum. Specifically, if the proposed location in the referendum were privately owned and the owner was interested in developing a casino on the property, a successful referendum would essentially guarantee a casino license for the owner.

Public referendums have been used in other states to determine whether casino gaming would be authorized in a state or locality, but they rarely have been used to select a casino owner or operator. For example, Virginia uses local referendums to decide whether pari-mutuel wagering will be allowed in specific localities, but the referendums do not stipulate where the wagering facility will be located or who will own and operate it.

Ohio is the only peer state that did not use a competitive process to select casino development proposals. Originally, Ohio's referendum authorized casino gaming statewide and *simultaneously* named specific casino locations. Because these locations were privately owned, these owners became the casino owners. The process that Ohio used to award casino licenses, via referendum, is similar to what would occur if the current version of SB 1126 is enacted. By using a non-competitive process to select casino development, Ohio may not have maximized the potential financial and economic benefits that could have been achieved through these casino projects. In fact, after the licenses were awarded, Ohio's governor publicly questioned whether the state had maximized its fiscal and economic benefits from casinos. Additionally, the lack of a competitive process in Ohio appears to have contributed to the subsequent passage of a constitutional amendment requiring that when a ballot referendum would award a monopoly to a nonpublic entity, the voters must also approve a second ballot



measure naming the specific entity to be awarded the monopoly, such as a casino license.

### **A competitive selection process adds at least one year to casino development**

A competitive process to select casino developments adds at least one year to the time that elapses between the passage of casino authorizing legislation and the opening of casinos. Peer states using a competitive selection process took an average of 18 months to select casino developments after the state authorized casino gaming. Maryland conducted the fastest competitive selection process, requiring a year (or less in some cases) to select a winning casino proposal.

Several factors can influence how many casino development proposals a state receives, but states typically receive a manageable number to review. In peer states, the number of proposals received for each license ranged from zero to six, and averaged two to three. Generally, a state's minimum requirements (such as minimum capital investments and upfront licensing fees) to submit a casino proposal will limit the number of operators who apply to a manageable number. Additionally, the location of the license can influence how many operators may be interested. For example, Maryland received one proposal for its Worcester County license, but received three proposals for its Prince George's County (metropolitan Washington, D.C.) license. Additionally, the strength of the economy can also influence the number of casino proposals. Kansas, for example, began its casino bidding process at the same time that an economic recession was beginning in 2008. As a result, several potential operators withdrew their proposals, and some licenses did not receive any bids.

If legislation is enacted to permit casinos to operate in Virginia, it should require the use of a competitive selection process to solicit casino development proposals, review the proposals to assess the potential risks and rewards of each project, and select a proposal that most closely fulfills the state's goals and criteria for successful casino development. Other states require a competitive selection process by law, and so the General Assembly would need to amend SB 1126 or introduce new legislation to add such a provision to state law.

### **RECOMMENDATION 6**

The General Assembly may wish to consider including a requirement in any casino authorizing legislation that casino licenses will be awarded through a competitive selection process.

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**States rely on a committee of experts and local input to evaluate strength of casino proposals**

States either use their existing gaming regulatory board or a separate appointed committee to develop criteria for evaluating casino development proposals and for awarding licenses to casino operators. States also use various strategies to include local input during the selection process.

**States set criteria for evaluating and selecting casino operators and their proposals, which could include ownership or other preferences**

A state’s casino authorizing legislation usually provides broad parameters for the criteria that should be used to evaluate casino project proposals in the competitive selection process. The state’s gaming regulatory board or a selection committee then creates more specific selection criteria that are included in the state’s request for proposals (RFP). Selection criteria generally fall into several broad categories aimed at attracting operators and proposals that will maximize financial and economic impacts and minimize the state’s exposure to risk. These include potential operators’ background, experience, and organizational plans; proposed capital investment; economic development impacts; revenue projections; general public interest; and plans to mitigate the negative impacts of gaming (Table 6-1).

**TABLE 6-1**  
**Sample casino development proposal selection criteria**

<b>Criteria to maximize impact</b>	<b>Criteria to minimize risks</b>
✓ Total value	✓ Feasibility and sustainability
✓ Design creativity	✓ Casino operation experience
✓ Capital investment	✓ Operator’s financial health (e.g. debt)
✓ Employment	✓ Local community support
✓ Tourism impacts	✓ Security plans
✓ Redevelopment of an area of a city	✓ Traffic mitigation plans (or other negative effects)
✓ Wages and benefits	✓ Strength of the business plan
✓ State and local tax revenues	

SOURCE: State statutes and regulations, and city ordinance.

The General Assembly could authorize the inclusion of criteria to reflect the interests and preferences of state policymakers and host communities. For example, a host community may prefer the use of local assets (such as an existing building), resources (such as the local labor force), or local ownership to maximize local impact and reflect the character of the local community. In such instances, the RFP could specify these preferences. These preferences would be similar to the preferences that are commonly used in the state procurement process for goods and services, which include a preference for vendors that are small, women-owned, minority-owned, or veteran-owned businesses.

The General Assembly could also consider establishing a preference for certain groups such as the Pamunkey Tribe, which has a historical connection to Virginia and has been pursuing casino gaming. The Pamunkey Tribe is in the process of finalizing an intergovernmental agreement and land sale agreement with the City of Norfolk that would allow it to purchase land owned by the city for the purpose of developing a casino. The tribe is also seeking federal approval to operate Class III *tribal* casinos in Norfolk and Richmond, but has indicated that it would be open to pursuing a *commercial* casino license through the state instead.

SB 1126 would award the Pamunkey Tribe two commercial casino licenses for Norfolk and Richmond. Awarding exclusive casino licenses to specified groups without requiring competition or vetting, however, will mean that the state and localities could lose the benefits of requiring competition for those licenses. A noncompetitive casino license award could subject the state to a legal challenge. One other state has awarded a commercial casino license to a tribe without an open, competitive process and has faced legal challenges (see Appendix E).

Using a competitive selection process that includes a preference can ensure that certain applicants receive an advantage in the selection process. A disadvantage of incorporating a preference is that it may reduce the number of owners and operators willing to submit a proposal. However, by preserving the competitive selection process, the state and localities would at least be able to evaluate the benefits and risks associated with the different applicants, which would enhance the likelihood that casino licenses would be awarded to the most qualified owners and operators who are committed to developing casinos and operating them in a way that maximizes the benefits to the state and localities. Criteria that are directly related to minimizing risks and maximizing value (e.g., the companies' financial health and casino operation experience, the feasibility and sustainability of the proposed development, and the proposed capital investment) should be the primary criteria used to select a proposal. An ownership preference should be only one of several criteria used to evaluate casino proposals and should not necessarily have any greater weight than any other individual criterion.

## **OPTION 2**

The General Assembly could consider requiring that (i) any competitive casino selection process include among the criteria used for evaluating casino proposals a criterion for casino ownership by a Virginia resident or Virginia Indian Tribe and (ii) such a criterion not receive greater weight than any other individual criterion used to select a casino proposal.

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### **Some states appoint a dedicated committee to select a casino proposal**

Using a dedicated committee to select casino developments, rather than the gaming regulatory board, has several advantages. After a state first authorizes casinos, the primary advantage of a separate selection committee is that it can reduce the amount of time it takes to start soliciting proposals and ultimately award licensees. A dedicated committee can focus on developing the RFP and soliciting and reviewing proposals, while the primary regulatory board focuses on developing casino regulations and overseeing the establishment of the casino oversight agency. A dedicated committee also can allow states to require that members have specific qualifications relevant to evaluating proposals. For example, Maryland required that its committee members be knowledgeable in fiscal matters by having at least 10 years of experience as an executive with fiduciary responsibilities for a large organization or foundation; such positions could include economists, financial analysts, accountants, or other similar professions. Kansas, likewise, requires members to have experience in business development. As discussed below, a committee also creates an opportunity to add local input into the proposal selection process.

If Virginia authorizes the development and operation of casinos, the evaluation and selection of casino development proposals should be led by a state-level committee. Individuals appointed to serve on the selection committee should have knowledge and experience that is appropriate for evaluating the strengths and weaknesses of casino proposals, including the reasonableness of their fiscal and economic impact estimates, the financial health of the owners/operators, the strength of their business plan, and the qualifications and experience of the individuals who will be involved in the project. Other states have prohibited elected officials from serving on such a committee in order to avoid political influence. Members of the committee could be appointed by the governor, each chamber of the General Assembly, or some combination of the governor and General Assembly.

### **Local input can help ensure the casino's potential impact on the host community is factored into the selection decision**

While casinos have benefits and risks for localities, the majority of states that utilized a casino selection process designated a state committee to oversee the process. States usually conduct the casino selection process because they are ultimately responsible for regulating them and receive most of the gaming tax revenue. Still, some states have incorporated local input into the competitive process for selecting casino projects, including Massachusetts, Illinois, Michigan, and Kansas. However, the state generally had final authority in selecting the operator.

Virginia could involve local governments and interests in the casino project selection process. One of the primary goals of allowing casino gaming in Virginia is to bolster local economies, and therefore local input on casino development selection is justified

and beneficial. Moreover, any negative impacts of casino development, such as increased traffic or crime, will most directly affect host communities, and so local input is necessary to ensure that proposals adequately address any potential negative impacts. There are at least two ways that local input could be incorporated, such as including representatives on the casino proposal selection committee, or involving local officials in the development of the RFP. Strategies to ensure local input should not diminish the state's ability to select a proposal using a competitive process. For example, although having a local referendum ensures local input, if the referendum results in both permitting casino development *and* selecting the owner/operator of the casino (e.g. Ohio), then the benefits of competition are not realized.

Virginia could ensure local input is factored into the casino development selection process by reserving at least one seat on the dedicated selection committee for an individual representing the host locality. One or more individuals representing the host locality could be non-elected local officials, such as a city manager or economic development officer, to avoid political influence. Most of the seats on the committee could be reserved for individuals representing statewide interests who also have experience with business finance or business development. These individuals could serve on the committee for the selection of each casino development throughout the state. The seat or seats reserved for individuals representing host localities would be occupied by a different local representative for each casino development selection process.

#### **RECOMMENDATION 7**

The General Assembly may wish to consider including a provision in any casino authorizing legislation that establishes a committee to evaluate and select proposals for the operation and development of casinos, and which comprises individuals with business, finance, and operations experience and who represent both the statewide and local perspectives.

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#### **States use expert consultants in the competitive selection process to independently verify the feasibility of casino development proposals**

Casino development proposals that overpromise the anticipated revenue or economic impact from a project can have negative consequences for the state and host locality. In an effort to win a bidding contest, applicants may propose large, lavish facilities with a large capital investment. To generate a profit, the projected gaming revenue must exceed the operating costs of the facility (which include tax payments), as well as the cost of paying back loans that were used to finance construction of the facility. When the facility fails to generate a profit or even meet its operating expenses, casino operators may seek changes to establish a profitable casino. These changes may include laying off workers or seeking additional types of gaming, a reduced tax rate, or reduction in scale of community enhancements (such as transportation projects or

investments in community colleges.) If a casino cannot be profitable, the casino may close or declare bankruptcy.

Casinos in several jurisdictions have sought changes to achieve profitability. A casino in upstate New York, for example, originally invested \$1.2 billion to develop and build a casino resort; however, in the first year of operation, the casino's revenues were far below its projections. To make up for the lower revenue, the casino reduced the number of slot machines at the facility, lobbied the state legislature for the ability to open a new slot parlor near New York City, closed a horse racetrack that it owned, and is reportedly considering bankruptcy. A Louisiana casino is an example of a winning proposal that was so unrealistic that it declared bankruptcy before the permanent casino facility opened, resulting in layoffs (Case Study 6-2).

### **CASE STUDY 6-2**

#### **Louisiana casino declared bankruptcy before opening and laid off thousands of workers**

In the mid-1990s, a casino development in New Orleans struggled to achieve the fiscal and economic impact projections made in its proposal. These projections included large numbers of employment, capital investment, and gaming revenue that were nearly unmatched by any other casino in the region or even the country (including large-scale Las Vegas casino operations). The projections also did not account for competition from future planned casinos in Louisiana and Mississippi. As a result, the project eventually declared bankruptcy and laid off 1,600 construction workers and the 2,500 gaming employees who had been working at a temporary casino the company had built in the city.

States can help mitigate the risk of selecting an unrealistic proposal by hiring consultants to independently verify whether financial projections, specifically those related to gross gaming revenue, are reasonable for the proposed casino. Maryland, during its competitive selection processes, used teams of consultants with expertise in different areas (such as fiscal impact analysis, economic impact analysis, business plan development) to assess and evaluate all aspects of casino proposals. In another example, Kansas hired a consultant to independently evaluate the reasonableness of each proposal's fiscal and economic impact projections (Case Study 6-3).

### **CASE STUDY 6-3**

#### **Kansas used an independent consultant to evaluate whether proposed financial and economic benefits of casino proposals were reasonable**

Kansas had three finalist proposals for one of its casino regions—with capital investment projections of \$70 million, \$84 million, and \$145 million. An independent consultant determined that the largest proposal’s revenue and visitor estimates were unrealistically high. Therefore, because the casino would be unable to meet revenue projections, it would likely have difficulty making debt payments on its large capital investment, and the project would be at risk of failure. Kansas awarded the casino license to the proposal with the lowest capital investment, \$70 million, because the consultant could independently confirm that the projected gaming revenues were realistic and could cover costs of the development, including debt payments on the capital investment.

Virginia could ensure that proposals are thoroughly and independently evaluated by requiring the use of independent consultants to analyze and verify fiscal and economic projections in casino development proposals. The state could hire a consultant to perform this work at the start of a competitive selection process. The consultant should evaluate and verify the proposals and report their findings on each proposal to the selection committee.

### **RECOMMENDATION 8**

The General Assembly may wish to consider including a requirement in any casino authorizing legislation that an independent consultant, hired by the state, assess the accuracy and reasonableness of the projected financial, economic, and other benefits included in casino development proposals prior to selecting a winning proposal.

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## **States typically charge substantial fees for long-term casino licenses**

States typically maximize the state’s fiscal impact from casino gaming by charging casino operators and developers a license fee in exchange for the right to operate a casino for a specified amount of time. A limited casino market provides a monopoly-like market for the casino operators. Limited (or no) competition increases operators’ profits, and therefore, the license has intrinsic monetary value. A substantial license fee could also help ensure that the submitted proposals come from companies that are the most financially prepared to operate a casino.

States establish long-term relationships with casino operators by issuing casino licenses. Long-term casino licenses, typically 10 to 15 years in length, are standard practice in most states that offer a limited number of casino licenses. States offer long-term licenses because they invest substantial time and resources when selecting license

holders, so conducting the license process on a more frequent basis would not be cost-effective or practical. Furthermore, operators receiving a license are making a large capital investment and need to be assured they will have rights to the license (as long as they stay in good standing) for a period long enough to recoup their investment and to generate a profit.

States typically establish options that allow incumbent license holders to renew their licenses, under certain conditions. Maryland, for example, requires incumbent license holders to notify the state of their intent to renew the license two years before its expiration. This gives the state time to plan for a new bidding process if an incumbent plans to relinquish its license at the end of the term.

License fees and terms vary significantly across states. Virginia's peer states generally pair long license terms with large licensing fees. Kansas (\$25 million), Maryland (\$4 million to \$23 million), and Massachusetts (\$85 million) charge casino operators a license fee once every 15 years (Table 6-2).

**TABLE 6-2**  
**Sample casino license terms and fees in peer states**

<b>State</b>	<b>Initial license term and fee</b>	<b>Renewal license term and fee</b>
Delaware	1 year \$1 million	1 year \$1 million
Kansas <sup>a</sup>	15 years \$5.5 million to \$25 million	15 years \$5.5 million to \$25 million
Massachusetts	15 years \$85 million	15 years \$85 million
Maryland <sup>b</sup>	15 years \$4 million to \$23 million	10 years \$4 million to \$23 million
Ohio	3 years \$50 million	3 years \$1.5 million

SOURCE: State statutes and regulations, Regulatory Management Counselors.

NOTE: <sup>a</sup> Kansas charged a reduced licensing fee of \$5.5 million in one of four casino regions. <sup>b</sup> Maryland's license fee was based on the number of video lottery terminals proposed for the casino and charged \$3 million per 500 terminals. Maryland also waived the initial license fee for the casino operator in a rural locality.

JLARC staff **annualized license fees** to make equal comparisons across states and casinos. Most states do not actually set fees using this method.

When annualized by JLARC staff to make comparisons across states and casinos, on average, Virginia's peer states charge a license fee that is equivalent to 0.5 percent to 1 percent of a casino's annual gross gaming revenue (Table 6-3). Maryland charges the average smallest license fee at just 0.3 percent of annual casino gaming revenue. Kansas and Ohio charge the average largest license fees at 0.9 percent of annual casino gaming revenue.



**TABLE 6-3****Peer states annualized casino license fees as a percentage of annual gross gaming revenue**

<b>State</b>	<b>Annualized casino license fee as percentage of gross gaming revenue</b>
Delaware	0.7%
Kansas	0.9%
Maryland	0.3%
Ohio	0.9%
<b>Average</b>	<b>0.7%</b>

SOURCE: JLARC staff analysis of state statutes and regulations, Regulatory Management Counselors.

When setting license fees, Virginia would need to consider several factors, including the revenue potential of each casino market. The state could try to maximize revenue from the highly valuable casino licenses awarded in a limited license market, but a license fee that is too high may negatively affect the capital investment or employment commitments that a casino operator is willing to make or may discourage owners and operators from bidding on casino projects. Several factors could affect the size of the fee that casino owners are willing to pay:

**Tax rate** – A lower gaming revenue tax rate would yield additional profit for casino owners and operators, potentially allowing them to afford to pay a higher license fee without negatively affecting their commitments to capital investment or employment. Owners and operators subject to a relatively high tax rate may be unwilling to pay a higher license fee or may have to reduce the level of capital investment and employment that they plan to afford the higher fee.

**Casino market size** – A casino license for a larger, more prosperous market has greater value and could be priced higher. For example, there is strong interest in bidding for casino licenses in populous areas like Boston or the Washington, D.C. metropolitan area, and so higher license fees are feasible in those markets. However, to attract casino developers to bid on licenses in more sparsely populated regions, both Kansas and Maryland had to reduce license fees.

Virginia could consider varying casino licensing fees based on the anticipated gaming revenue of each location. One approach would be to equate the fee to the average annualized license fee assessed in peer states. On an annualized basis, peer states levy a license fee that is equivalent to an average of about 0.7 percent of gaming revenue generated by a casino each year. These licensing fees could be charged annually or once every 15 years as is most common in peer states. Using this methodology, a Bristol casino would pay about \$1 million for each year of a license term, or about \$15 million for a 15-year term. Likely, a Richmond casino would pay about \$2.2 million for each year of a license term, or about \$33 million for a 15-year term (Table 6-4).

**TABLE 6-4**

**Illustrative license fees for potential Virginia casinos based on peer states  
(\$ millions)**

<b>Casino location</b>	<b>Annualized license fee</b>	<b>License fee for 15-years</b>
Bristol	\$1.0	\$15.0
Portsmouth	\$1.3	\$19.5
Norfolk	\$1.4	\$21.0
Danville	\$1.4	\$21.0
Richmond	\$2.2	\$33.0

SOURCE: JLARC staff analysis of state statutes and regulations, Regulatory Management Counselors.

### **RECOMMENDATION 9**

The General Assembly may wish to consider including language in any casino authorizing legislation that requires casino operators to pay a fee for receiving a casino license.

## **States require key executives from potential casino operators to undergo in-depth investigations**

### **Key executives include:**

**Owners** are those individuals who invested in developing the casino business and have rights to the gaming profits, including equity and debt investors above a certain threshold of ownership, such as 5 percent.

**Key employees** are individual employees that control the casino business operation. Typically, these employees will have titles such as chief executive officer, chief financial officer, chief technology officer, and casino operations manager.

In addition to reviewing casino proposals and the companies submitting them, states often help ensure the integrity of casino gaming by investigating the backgrounds of the key executives involved in operating a proposed casino (sidebar). States usually require these casino license applicants to undergo in-depth background and financial investigations.

In-depth licensing investigations are performed to mitigate the risk of key executives with a history of committing crimes (particularly of a financial nature) or acting dishonestly, from entering the state's casino market. State laws typically give casino oversight agencies broad authority to determine which individuals receive the highest degree of scrutiny. In the past, casinos have been able to employ unsuitable individuals by assigning them job titles that do not correspond to the level of control exercised by the individual. Providing the oversight agency broad authority ensures that individuals with key operational roles, regardless of job title, can be made subject to the appropriate level of scrutiny.

Licensing investigations of key executives are the most burdensome type of investigation conducted by gaming oversight agencies. These investigations involve elements commonly found in other pre-employment investigations, such as a fingerprint criminal background check and a credit history check. However, they also include an in-depth personal and financial investigation of an individual. For example, in the course of an in-depth financial investigation, the investigator may analyze every financial transaction in an applicant's bank accounts over a five or 10-year period to determine cash flow, assets and liabilities, and the source of funds. Likewise, in the

course of an in-depth personal investigation, the licensing investigator may interview the individual applicant, friends, family, and co-workers in an effort to determine the nature of the applicant's character and whether any pertinent information was omitted from the application. Additionally, licensing investigators typically re-investigate any lawsuits in which the applicant was involved, rather than relying on the court's disposition of the case.

States typically disqualify key executives associated with casino license applications or revoke a casino operator license when an individual or individuals associated with the operation threaten the integrity of casino operations. For instance, most states disqualify casino license applicants if the applicants have connections to organized crime. States also tend to reject applicants or revoke licenses when pertinent information is concealed from gaming regulators. When a key executive is in danger of having his or her license revoked or application denied, that key executive will typically be removed from the operation to maintain the casino license. If the individual is an owner, his or her share of the business will be purchased by other individuals who can qualify for a license. If the individual is a key executive, the individual is typically replaced by someone else who can qualify for a license. As a result, a casino operator license is rarely revoked because the organization will usually replace the individual or individuals in question.

As part of the process and criteria used to issue casino licenses, Virginia should require in-depth investigations of key executives associated with companies applying for a casino license, including the company owners, officers, and employees responsible for overseeing and managing the company's operations and finances. This in-depth investigation should be completed prior to the award of the casino license.

#### **RECOMMENDATION 10**

The General Assembly may wish to consider including a requirement in any casino authorizing legislation that the owners and executive officers of any company applying for a casino operator's license, as well as employees responsible for overseeing and managing the company's operations and finances, submit to in-depth background and financial investigations in order for the company to qualify for a casino license.

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# 7 Functions and Costs of a State-Level Gaming Oversight Agency

**SUMMARY** States create gaming oversight agencies to help ensure the integrity of gaming operations, which involve daily transactions valued at millions of dollars. State oversight agencies are charged with enforcing state policies governing casinos. These policies include the licensure of casino employees and casino suppliers; enforcement of casino operational rules and restrictions; the accounting and auditing of casino finances; and oversight of technology standards for gaming machines. Personnel costs constitute the bulk of other states' expenditures on gaming oversight functions. Based on staffing approaches taken in other states and assuming that all five SB 1126 casinos open, an effective gaming oversight agency in Virginia would most likely require between 95 and 121 employees, at a cost of approximately \$16 million to \$19 million annually. If fewer than five casinos opened, staffing and associated costs for a gaming oversight agency would be lower.

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Gaming oversight agencies are essential to protect consumers at casinos and the states and communities that host them. Players wager millions of dollars at casinos each day, which creates risk of criminality if not managed properly. Effective state oversight agencies help ensure that casino employees are unlikely to engage in criminal activity; gaming laws and regulations are consistently enforced; gaming revenue is properly accounted for; and gaming devices and technology are secure and fair.

Gaming oversight agencies are staffed primarily to oversee *casino* gaming. In states with casinos and additional forms of gaming, such as sports wagering or online casino gaming, casino gaming still accounts for a vast majority of agency personnel because these other forms of gaming are usually hosted by a casino.

Information in this chapter is the product of independent research by JLARC staff and collaboration with the JLARC consultant, Regulatory Management Counselors (RMC). RMC contributed research on gaming oversight roles and resources in other states and advised JLARC staff during the development of findings.

## **Gaming oversight agencies have several responsibilities to ensure integrity and fairness**

State governments typically implement a substantial number of detailed operational policies to which casinos must adhere. Broadly, these operational policies establish: casinos' employee and vendor licensing requirements; requirements and restrictions related to daily casino operations such as casino hours, the types of games that are allowed, minimum and maximum wagers, and advertising restrictions; requirements

for sound financial management practices; and requirements related to the security and fairness of gaming technology.

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JLARC staff and Regulatory Management Counselors (RMC) reviewed casino governance and oversight structures and practices in **five peer states**: Maryland, Ohio, Michigan, Massachusetts, and Kansas. These peer states were selected based on their gaming environment, population size, geographic proximity, and other socio-economic factors (see Appendix B). Other states were reviewed for specific topic areas, such as the selection process.

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Gaming oversight agencies employ staff with specialized knowledge of these policies who are trained to monitor and enforce compliance with them at each casino. The number of employees increases with the number of casinos because agency staff work, such as enforcement, is actually carried out at the casino itself.

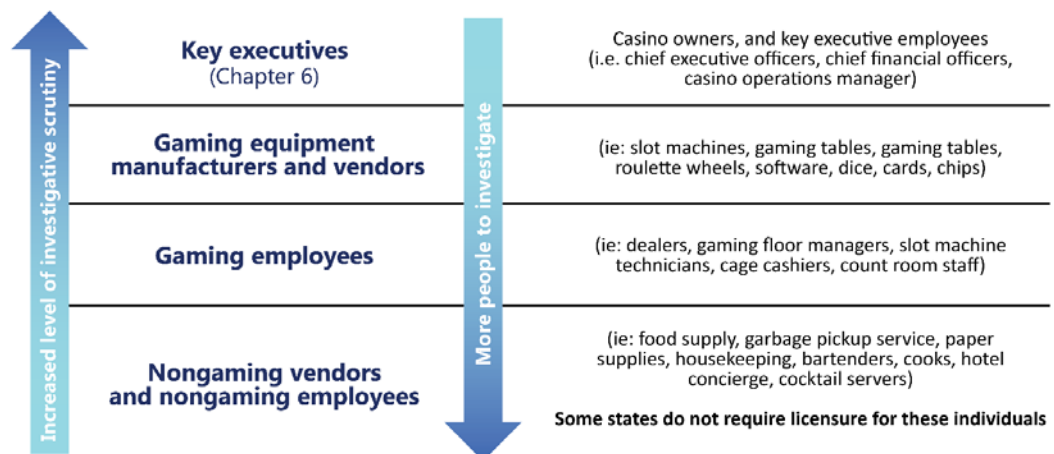
### Gaming oversight agencies determine who can work at casinos through licensing and investigations

Government oversight agencies play a key role in helping to determine who can work at a casino. All peer states require that certain casino employees or suppliers receive licenses, which require prospective employees to pass a background check and financial investigation (sidebar). Licensure is required to minimize the risk that casino personnel or suppliers will undermine the integrity of gaming operations by engaging in criminal or unethical activity.

Most casino licensing requirements are arranged in a risk hierarchy (Figure 7-1). As discussed in Chapter 6, the small number of individuals exercising the highest degree of control over the casino, key executives, are subjected to the highest degrees of investigative scrutiny. Employees and suppliers who have less direct control over casinos, such as equipment vendors or gaming employees (dealers, cage cashiers, count room staff), are subject to lower levels of investigative scrutiny.

**FIGURE 7-1**

**Casino licensing requirements are arranged in a risk hierarchy with most stringent requirements on key executives**



SOURCE: JLARC staff analysis of casino licensure processes in other states.

Not only does the investigation and licensure of key casino executives coincide with the casino proposal selection process, as discussed in Chapter 6, but it also occurs on an ongoing basis. Throughout the life of a casino enterprise, ownership interests may

change and key executives (such as chief executive officers, chief financial officers, and casino operations managers) may turn over. As these changes in key executives occur, the casino oversight agency conducts new in-depth investigations to license these individuals prior to their participation in the industry. Typically, these investigations need to conclude and the individual be awarded a license before finalization of any ownership changes or the individual starts work as a key executive.

States set two levels of criteria for determining whether individuals qualify for licensure. According to a University of Nevada Las Vegas (UNLV) Gaming Press book, states create fixed and discretionary criteria to determine who qualifies to be employed at casinos (sidebar). Some fixed criteria automatically disqualify any applicant, such as a felony conviction or misdemeanor involving gambling, theft, dishonesty, or fraud. States also can use discretionary criteria to give the state flexibility to determine whether applicants are qualified for licensure. Examples of discretionary criteria may include whether an applicant is of good character, whether the applicant is reliable and competent, or whether the applicant is honest and has integrity.

All of Virginia's peer casino states require licensure of casino employees or vendors that participate directly in gaming. These employees and vendors perform functions—such as handling cash, operating table games, and accessing gaming equipment and programming—that could provide opportunities for theft, embezzlement, money laundering, cheating, or other crimes (Table 7-1).

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UNLV's Gaming Press' 2018 book, *Regulating Land Based Casinos: Policies, Procedures, and Economics*, provides an overview of a broad framework that can be used to develop a licensing structure and discusses considerations policymakers should take into account when determining licensing criteria.

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**TABLE 7-1**  
**Employees and entities commonly requiring gaming licensure**

Category	Definition	Examples
<b>Always require licensure</b>		
Gaming employees	A casino employee who is directly involved in operations of the casino gaming floor, handles money, operates or maintains slot machines, or is involved in the operation of a race or sports book.	Dealer, floor manager, cashier, count room personnel, slot technician, surveillance personnel, accountants, human resources personnel
Gaming manufacturer, supplier, or vendor	A person who is engaged in the business of designing, building, constructing, assembling, manufacturing, or selling any gaming equipment or software.	Manufacturers or sellers of slot machines, gaming tables, playing cards, dice, gaming chips, or slot machine software
<b>Sometimes require licensure</b>		
Nongaming employee	A person employed by a gaming establishment who is not directly involved in operating any gaming activity and whose duties are related solely to nongaming activities such as entertainment, hotel operation, food and beverage preparation, or food and beverage service.	Cook, hotel concierge, housekeeping, cocktail server
Nongaming supplier or vendor	A person who provides or sells nongaming equipment or supplies to a gaming establishment.	Building and construction services, garbage handling and pickup, linen supplies, laundry services, landscaping, limousine services

SOURCE: State statutes and regulations.

### **RECOMMENDATION 11**

The General Assembly may wish to consider including a requirement in any casino authorizing legislation that casino employees and gaming vendors and manufacturers be licensed by the gaming oversight agency and that licenses be awarded only after the prospective employees submit to a background check and a financial investigation appropriate to the position.

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States' licensure requirements for nongaming vendors and employees vary. Peer states tend to require licensure of nongaming vendors, but only those vendors that conduct over a certain dollar threshold of business with the casino. Few states license nongaming employees because of the large number of these employees, frequent employee turnover in these jobs, and the minimal involvement in casino operations they have.

### **OPTION 3**

The General Assembly could consider including language in any casino authorizing legislation a requirement that nongaming vendors and nongaming employees be licensed by the gaming oversight agency.

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The license provided to individuals participating in the gaming industry are commonly defined as privilege licenses. Defining a gaming license as a privilege provides clear discretion to the oversight agency to award, deny, or rescind individuals' or companies' ability to participate in the gaming industry. All peer states and Nevada specifically define their gaming licenses as revocable privileges.

States typically disqualify gaming license applicants or revoke gaming licenses when the participation of an applicant or licensee threatens the integrity of casino operations. Most states disqualify individuals from obtaining a gaming license or will revoke a gaming license if an individual has been convicted of a felony involving gambling, theft, or moral turpitude. Most states also require applicants and licensees to demonstrate "good moral character," which results in most states disqualifying applicants who provide false information in their gaming license applications.

### **RECOMMENDATION 12**

The General Assembly may wish to consider including in any casino authorizing legislation a provision that designates state-issued licenses to casino owners or operators, their employees, and vendors as revocable privileges.

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States generally require potential licensees to bear, at least to some extent, the costs of the licensing investigation. Key executives requiring an in-depth investigation typically pay for the actual cost of the investigation. States often collect the expected cost of the investigation from the applicant upfront and reconcile any discrepancy when the



investigation has concluded. In Nevada, the cost of an investigation for a key executive can range from \$40,000 to \$60,000; however, if the applicant has business or residences in multiple or overseas jurisdictions, the investigation costs more. Fees for licensure of lower-level employees are typically fixed amounts. Ohio, for example, charges gaming employees \$500 in total fees for initial licensure, and \$150 for a renewal license (licenses must be renewed every three years). Maryland charges \$437 for gaming employee licenses, which must be renewed every five years.

Virginia should require applicants to bear the cost of investigations. For key executives, applicants should pay the actual costs of conducting the investigations, which can vary significantly depending on the breadth and depth of each applicant's business and personal interests. For other gaming employees and vendors, licensing fees should be set at a fixed amount, such as \$500 per application, that is expected to cover the casino oversight agency's costs to conduct licensing investigations. Typically, the costs of these types of investigations do not vary significantly.

### RECOMMENDATION 13

The General Assembly may wish to consider including language in any casino authorizing legislation that requires all casino personnel and companies subject to licensure to pay licensing fees to help defray the costs of licensure investigations and other licensing activities.

Licensing investigations are typically conducted by a state's casino oversight agency and performed by professional investigative staff. These staff have backgrounds in business administration, finance, or criminal justice (sidebar). These are essential skills, particularly for the in-depth, stringent background investigations required for key executives. They may include interviews with the applicant, friends, family, acquaintances, and co-workers; re-investigation of any lawsuits the applicant was involved in; and financial investigations that typically analyze every financial transaction in an applicant's bank accounts over a five- or 10-year period to determine cash flow, assets and liabilities, and the source of funds. Licensure investigations of other gaming industry participants, such as equipment vendors or gaming employees, are less stringent than those for key executives. When required, these investigations are generally limited to the typical types of pre-employment screenings used by some employers, such as fingerprint criminal record searches and credit history checks.

The number of licensing staff at oversight agencies depends on the number of casinos in a state (Table 7-2). The average salary for licensing employees in the five peer states was \$56,981.

If casino gaming were authorized in Virginia and all five SB 1126 casinos were opened, based on the staffing ratios in these five states, Virginia would require an estimated 17 to 26 licensing staff at a cost of between \$969,000 and \$1.5 million for salaries. These licensing staffing estimates represent the staffing level needed for five casinos

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Licensing fees can be a barrier to obtaining a job as a gaming employee. Some casinos pay the licensing fee for potential employees and deduct the cost from their paychecks in installments.

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**Nevada Gaming Commission** investigative staff are viewed as the nationwide standard. They typically are required to have interviewing, writing, and interpersonal skills, and an understanding of business and financial practices. These investigators receive extensive on-the-job training and are subject to ethical requirements to ensure that they conduct investigations in a neutral fashion.

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employing at least 4,400 individuals requiring licensure. The cost of salaries and fringe benefits (health insurance, retirement benefits, etc.) combined would range between \$1.6 million and \$2.4 million. The number of staff required would partially depend on whether Virginia required licensure of only gaming staff or both gaming and nongaming staff—this analysis assumes that only gaming staff would be licensed. If nongaming casino staff were required to obtain licenses, the oversight agency would need approximately double the number of licensing employees. Additionally, fewer state licensing employees would be needed if fewer casinos open.

**TABLE 7-2**  
**Licensing staffing and salaries in other states**

<b>State</b>	<b>Average licensing staff salary</b>	<b>Total licensing staff employed</b>	<b>Casino employees per one state licensing employee</b>
Kansas	\$40,118	12	171
Maryland	55,441	47	182
Massachusetts	72,108	12	233
Ohio	58,105	11	264
<b>Average</b>	<b>\$56,981</b>	<b>-</b>	<b>213</b>

SOURCE: JLARC staff analysis of staffing data from peer states.

NOTE: Michigan is excluded because its licensing staff ratio is an outlier.

Cost estimates for staff were calculated using the average salary of similar staff in peer states, and adding the cost of fringe benefits. Overhead costs (costs of office space, supplies, travel, computer systems, and other items) are addressed at the end of the chapter.

Licensing staff are typically employed by a state's central gaming oversight agency, but some states rely on state police to provide some or all licensing services. Massachusetts, for example, assigns a few state police officers to the Massachusetts Gaming Commission to assist the commission in conducting in-depth background investigations on applicants. If Virginia State Police were to provide licensing investigation services for casino gaming employees, they would require 17 to 26 additional employees to conduct licensing and investigation activities, as well as administrative support. Additionally, if state police were given the responsibility for licensing and investigation, it would create the need for coordination between them and the gaming oversight agency. This would include clear direction to the state police as to what types of criteria disqualify a candidate as well as the expected timing and prioritization for licensing casino employees.

If a central gaming oversight agency were to perform licensing investigations, the agency, like lottery does currently, would rely on Virginia State Police data to perform criminal record searches on casino license applicants. This type of arrangement is common for other functions of state government (such as criminal record searches for child care providers). According to state police, to accommodate this volume of additional criminal record searches, they would require one additional employee to process criminal record search requests at a total annual cost of approximately \$75,000 (wages plus benefits).

## Gaming oversight agencies establish and enforce policies governing day-to-day casino operations

States with casinos set operational policies to govern day-to-day casino operations and vest gaming oversight agencies with the authority to oversee enforcement of these rules. States set general operational rules in state statute, and gaming oversight agencies create regulations that provide greater detail and describe how the rules will be enforced. These operational rules are designed to ensure that casino gaming is free of corrupt, dishonest, or unprincipled practices. State statute and regulations are usually fairly comprehensive and address every aspect of casino operations (Table 7-3).

**TABLE 7-3**  
**Major categories of operational rules and examples**

Major categories of operational rules	Examples
Admittance policy	Minimum age to enter a casino or place a wager, hours of operation
Game restrictions	Games allowed, game rules, wager amounts, payout amounts
Credit policy	Credit/debit card use, procedures for granting/collecting credit
Casino surveillance	Types of surveillance, equipment used, remote state access
Equipment testing	Equipment that requires testing, entities allowed to perform testing
Advertising	Advertising restrictions, limits on complimentary gifts
Compliance	Obligation to report suspected criminal or license violations
Problem gaming	Obligations to post information and intervene, self-exclusion lists

SOURCE: Cabot, A. (2015). A Checklist: Questions That New Gaming Jurisdictions Need to Consider in Adopting Gaming Laws and Regulations. *UNLV Gaming Research & Review Journal*, 19(1), 67–73.

Gaming oversight agencies employ enforcement staff to ensure compliance with casino operational policies. These staff are typically sworn law enforcement officers and have a physical presence at each casino at all times. Typically, several enforcement employees are assigned to each casino. Other states employ nine to 14 enforcement staff per casino (Table 7-4). Across five states with dedicated enforcement units, the average salary of an enforcement agent was \$59,147.

**TABLE 7-4**  
**Enforcement staffing and salaries in peer states**

<b>State</b>	<b>Average staff salary</b>	<b>Total staff employed</b>	<b>Staff employed on a per casino basis</b>
Kansas	\$41,570	47	12
Maryland	45,042	68	11
Massachusetts	78,323	26	13
Michigan	64,607	26	9
Ohio	66,195	55	14
<b>Average</b>	<b>\$59,147</b>	<b>-</b>	<b>12</b>

SOURCE: JLARC staff analysis of peer states' staffing data. Employees per casino is subject to rounding.

If all five SB 1126 casinos were opened, based on the staffing ratios in these five states, Virginia would require an estimated 45 to 70 enforcement staff at an estimated salary cost of between \$2.7 million and \$4.1 million annually. The cost of salaries and fringe benefits (health insurance, retirement benefits, etc.) combined would range between \$4.2 million and \$6.6 million. Fewer enforcement employees would be needed if fewer casinos were opened.

Casino enforcement staff are typically employed by a state's central gaming oversight agency rather than relying on state or local police to enforce gaming regulations because of the specialized nature of enforcing casino operational policies. For example, an enforcement officer may need to understand how specific casino games operate to monitor compliance with a state's maximum wager policies, or an enforcement officer may need to understand the casino's specific surveillance policy to monitor a casino's compliance. Furthermore, because casino oversight agencies are often funded by a tax on casino gaming revenue, the industry itself funds the cost of enforcement, as opposed to state or local tax dollars.

Some states rely on their state police to conduct casino enforcement. In these examples, the state police typically have a designated unit of officers that receive special training in casino gaming law and enforcement. If Virginia State Police were to be given this responsibility in Virginia, they would require 45 to 70 additional employees to carry out enforcement activities, as well as administrative support. These state police employees would remain under Virginia State Police control, and they would closely coordinate with the central casino oversight agency as they conducted their enforcement activities. This would include staying up to date with any changes to casino gaming regulations.

Casino enforcement applies to the enforcement of gaming related laws and regulations. It appears that in other states, enforcement of *non-gaming laws*, such as petty theft or assault, on casino property are handled by local law enforcement. However, there is the potential for state police involvement depending on the nature or scope of criminal activity.

## Gaming oversight agencies establish financial accounting and audit policies to ensure gaming operators manage funds with integrity

Another key responsibility of gaming oversight agencies is to ensure proper accounting and auditing of the millions of dollars flowing through casinos (sidebar). The large amount of funds that flow through casinos, projected to be at least \$10 billion in total wagers annually in Virginia if all five SB 1126 casinos open, increases the risk of embezzlement, money laundering, and tax evasion. Enforcement of financial accounting and audit policies reduces the risk of these financial crimes and ensures that the state is receiving the appropriate amount of gaming tax revenue. Additionally, accounting and audit policies minimize risk to the state and local communities by monitoring the financial health and viability of casinos.

Accounting and audit policies generally require that each casino adhere to internal controls that address all areas of the casino's operation. These policies provide detailed descriptions of the types of accounting records the casino must maintain and usually require that casinos submit monthly, quarterly, and annual financial and statistical reports to the state. These reports include detail about the total amount wagered and gross gaming revenue, as well as other statistics, such as the number of table games and slot machines in operation. Regulations in other states also require that casinos hire independent auditors to conduct quarterly and annual audits.

Gaming oversight agencies employ staff with backgrounds in accounting and internal audit to oversee casinos' adherence to accounting and audit policies, as well as conduct periodic random and special audits of casinos. Four of Virginia's peer states (Ohio, Michigan, Maryland, and Kansas) have dedicated audit staffs. On average, these states employed one auditor per \$103 million in total gross gaming revenue earned in the state (Table 7-5). The average salary for audit employees in these four states was \$60,716.

If all five SB 1126 casinos were opened, based on the staffing ratios in other states, Virginia would require eight to 12 audit staff at an estimated salary cost between \$486,000 and \$729,000 annually. The total cost of salaries and fringe benefits (health insurance, retirement benefits, etc.) combined would range between \$772,000 and \$1.2 million. These audit staffing estimates represent the staffing level needed for five casinos with approximately \$969 million in total statewide gross gaming revenue—fewer audit employees would be needed if fewer casinos opened, and additional audit employees would be needed if more casinos open.

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States typically use statute to vest authority to conduct audits of casinos and oversee accounting policies in the casino oversight agency. Regulations establish specific audit policies, such as how frequently audits are conducted, what accounting records must be maintained, what reports must be submitted to the agency on a regular basis, and internal control standards.

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Nevada employs a large audit staff, all of whom possess a bachelor's or master's degree in accounting or business administration and have also completed all coursework necessary to sit for the state's certified public accountant (CPA) exam.

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**TABLE 7-5**  
**Audit staffing and salaries in peer states**

<b>State</b>	<b>Average auditor salary</b>	<b>Total auditors employed</b>	<b>Millions in gross gaming revenue per single auditor</b>
Kansas	\$45,000	4	\$98
Maryland	62,059	14	127
Michigan	66,646	15	102
Ohio	69,157	11	83
<b>Average</b>	<b>\$60,716</b>	<b>-</b>	<b>\$103</b>

SOURCE: JLARC staff analysis of peer states' staffing data. Employees per casino is subject to rounding.

NOTE: Massachusetts does not have a dedicated audit staff because it uses a central control computer system for tracking slot machine transactions.

Often referred to as **Video Lottery Terminals** (VLTs), slot machines in some states are **owned by the state** and leased to the casino. The goal of state ownership of equipment is to maintain more control over the types of equipment being used and types of gaming that are offered. However, state ownership of equipment has proven to be costlier, and experts suggest it can stifle innovation of gaming. Maryland has transitioned its state ownership of slot machine equipment to private casino ownership.

West Virginia, Delaware, and Massachusetts have reduced their need for extensive audit staffs by using a central monitoring and audit system that connects every slot machine in the state. The system provides the state casino oversight agency immediate access to every machine. This allows the state to detect any anomalies and ensure proper collection of state taxes centrally and through automation. Oversight agencies using these systems typically need fewer auditors because casino revenue from slot machines is under continuous automated observation. While a central monitoring and audit system can reduce the need for extensive numbers of audit staff, it also requires a large initial information technology investment and ongoing technology expenses. For example, Maryland's contract for a central monitoring and audit system monitoring slot machines at five casinos for five years cost \$21 million in 2015. A central monitoring and audit system can be used for both state-owned and casino-owned gaming equipment (sidebar).

### **Gaming oversight agencies establish technology policies to ensure gaming devices operate fairly and securely**

Casino states typically give their gaming oversight agencies broad authority to set technology standards and testing protocols. Technology standards address all aspects of how gaming devices, such as slot machines, operate. For example, these standards address how a device is physically secured, how a device communicates with servers, or how gaming software is configured.

Technology oversight is conducted by staff at the gaming oversight agency in coordination with an independent private testing lab. Technology staff have backgrounds in computer science, computer engineering, or electrical engineering. The technology staff is typically small because states use private testing labs to evaluate and inspect gaming devices that are deployed in casinos. Oversight agency technology staff review private testing lab reports on slot machines, evaluate gaming devices already deployed in casinos, conduct statistical analysis of games, and perform analyses of gaming devices based on patron complaints or disputes. Across five states with

technology staff, most states have the equivalent of about one technology employee per casino. The average salary of these employees is \$67,414 (Table 7-6).

If all five SB 1126 casinos were opened, based on the staffing ratios in other states, Virginia would require five to 10 technology staff at an estimated salary cost between \$337,000 and \$674,000 annually. The cost of salaries and fringe benefits (health insurance, retirement benefits, etc.) combined would range between \$528,000 and \$1.1 million. These staffing estimates represent the staffing level needed for five casinos—fewer technology employees would be needed if fewer casinos were opened.

**TABLE 7-6**  
**Technology staffing and salaries in peer states**

<b>State</b>	<b>Average salary</b>	<b>Total employed</b>	<b>Employees on a per casino basis</b>
Kansas	\$39,035	4	1
Maryland	62,219	5	1
Massachusetts	95,000	1	1
Michigan	73,661	4	2
Ohio	67,155	4	1
<b>Average</b>	<b>\$67,414</b>	<b>-</b>	<b>1</b>

SOURCE: JLARC staff analysis of peer states' staffing data. Employees per casino is subject to rounding.

### **Gaming oversight agencies need executive and administrative staff for day-to-day operations**

Gaming oversight agencies typically employ executive staff and administrative support staff to run the day-to-day management and operations of the agency. Executive staff usually act as the final authority in hiring and firing staff, executing contracts, and issuing any punitive actions necessary, such as license revocations or compliance penalties. Executive staff include an executive director, deputy directors, and their administrative assistants. Across peer states, there are five to 11 executive staff at casino oversight agencies, with average salaries just over \$100,000. Therefore, gaming oversight in Virginia would be estimated to require five to 11 executive staff at an estimated salary cost between \$504,000 and \$1.1 million annually. The cost of salaries and fringe benefits combined (health insurance, retirement benefits, etc.) would range between \$753,000 and \$1.7 million.

**TABLE 7-7**  
**Executive staffing and salaries in peer states**

State	Average salary	Total employed
Kansas	\$79,000	5
Maryland <sup>a</sup>	109,573	11
Massachusetts	113,299	8
Michigan	100,102	5
Ohio	102,523	9
<b>Average</b>	<b>\$100,899</b>	<b>8</b>

SOURCE: JLARC staff analysis of peer states' staffing data.

NOTE: <sup>a</sup> Maryland's executive staff also oversees the state lottery functions.

The range of administrative staff required was derived by applying the average ratio of administrative employees to other casino oversight employees across peer states (1 administrative employee per 6 other casino oversight agency employees) to the minimum (81), average (104), and maximum (131) number of other casino oversight agency employees that would be needed for a Virginia casino oversight agency (Table 7-9).

Administrative staff perform the agency's day-to-day operations, including human resources, finance, information technology, and legal services. These employees typically are in charge of processing payroll, maintaining IT assets, managing contracts, and managing personnel matters. Administrative staffing numbers generally reflect the size of the total agency employment. Therefore, administrative staff are standardized across gaming oversight agencies in terms of number of administrative staff per number of oversight employees. Across peer states, there is typically one administrative employee for every six oversight agency employees, and administrative employees have an average salary of about \$67,000. A gaming oversight agency in Virginia would require 14 to 22 administrative staff at an estimated salary cost of between \$938,000 and \$1.5 million annually. The cost of salaries and fringe benefits (health insurance, retirement benefits, etc.) combined would range between \$1.5 million and \$2.3 million.

**TABLE 7-8**  
**Administrative staffing and salaries in peer states**

State	Average salary	Total employed	Number of oversight employees served per one administrative employee
Kansas	\$53,500	10	8
Maryland <sup>a</sup>	63,171	39	4
Massachusetts	95,000	19	2
Michigan	50,763	19	6
Ohio	66,071	10	9
<b>Average</b>	<b>\$66,994</b>	<b>-</b>	<b>6</b>

SOURCE: JLARC staff analysis of peer states' staffing data.

NOTE: <sup>a</sup> Maryland's executive staff also oversee the state lottery functions. Number of employees served per one administrative employee are subject to rounding.



## The annual cost of the casino oversight staff in Virginia would be at least \$16 million

Casino oversight would be a new government function for Virginia, and it would require a significant investment of funds and resources. Because of the absence of casino gaming in the state, most of the functions performed by casino oversight agencies in other states are not being performed by any existing agency or staff in Virginia. If all five SB 1126 casinos were to be developed and operated, Virginia would require at least 95 employees working in a casino oversight agency (Table 7-9). The majority of these new staff would be performing licensing and enforcement functions.

**TABLE 7-9**  
**Estimated total numbers and functions of gaming oversight agency staff**

Function	Estimated staff needed if five Virginia casinos open		
	Minimum	Average	Maximum
Licensing	17	21	26
Enforcement	45	60	70
Audits and accounting	8	9	12
Technology	5	5	10
Responsible gaming	1	1	2
Executive	5	8	11
Administration	14	17	22
<b>Total employees</b>	<b>95</b>	<b>121</b>	<b>153</b>

SOURCE: JLARC staff analysis of peer states' staffing data. Staffing numbers are subject to rounding.

The cost to create a new casino oversight function would be primarily driven by personnel costs. For most casino oversight agencies, personnel cost is the largest expense because casino oversight primarily involves staff observing or reviewing casino activities (sidebar). The annual cost of an oversight agency for five Virginia casinos would be at least \$16 million (Table 7-10). In addition to personnel costs and overhead, the estimated cost of a contract for a central monitoring system is included in the agency's projected costs.

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**Non-personnel costs** – such as rent, information technology expenses, and supplies, accounted for an average of 16 percent of personnel costs in peer states' casino oversight agencies.

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**TABLE 7-10****Estimated total cost to staff a gaming oversight agency in Virginia**

	<b>Estimated oversight agency cost if five Virginia casinos open (\$M)</b>		
	<b>Minimum</b>	<b>Average</b>	<b>Maximum</b>
<b>Personnel costs</b>			
Licensing	\$1.6	\$1.9	\$2.4
Enforcement	4.2	5.7	6.6
Audits and accounting	0.8	0.9	1.2
Technology	0.5	0.5	1.1
Responsible gaming	0.1	0.1	0.2
Executive	0.8	1.2	1.7
Administration	1.5	1.8	2.3
<b>Overhead costs</b>			
Office space, supplies, travel and other overhead	1.5	1.9	2.5
Central monitoring and audit system	4.8	4.8	4.8
<b>Virginia State Police</b>			
Criminal record search employee	0.1	0.1	0.1
<b>Total costs <sup>a</sup></b>	<b>\$15.8M</b>	<b>\$18.9M</b>	<b>\$22.7M</b>

SOURCE: JLARC staff analysis of peer states' staffing data.

NOTE: <sup>a</sup> The total cost estimate includes the cost of a central monitoring and audit system *and* a typical audit and accounting staff. A central monitoring and audit system could reduce the need for audit and accounting staff since accounting for slot machines will be largely automated, resulting in slightly lower total cost than reported here. Assumes non-personnel overhead costs (excluding central monitoring and audit system) are 16 percent of personnel costs. Central monitoring and audit system cost based on costs paid by Maryland for central monitoring and audit system. Staffing numbers are subject to rounding.

If fewer than five casinos open in Virginia, fewer staff would be needed. At a minimum, 25 staff would be needed if one casino opened, and a minimum of 76 staff would be needed if four casinos opened (Table 7-11). Since staffing is the largest portion of an oversight agency's costs, costs for a smaller oversight agency would also be lower if fewer than five casinos opened (Table 7-12).

As casinos begin to open in Virginia, the casino oversight agency would have to gradually add staff as it could be overseeing and regulating fewer than five casinos initially. The oversight agency would likely use this time, when fewer than five casinos are open, to develop its approach to regulation and oversight and recruit personnel with the appropriate skill sets. With fewer than five casinos open, the casino oversight agency might initially staff at the minimum level, and then increase or reconfigure its staffing once it had developed its approach and additional casinos opened.

If casinos were permitted to operate in additional localities and the total number of casinos in Virginia exceeded five, additional oversight staff would be needed. The amount of staffing needed would depend on the number of additional casinos, and, in part, the scale of those facilities. For example, larger casinos that generate more revenue and employ more workers would require a greater amount of additional auditing and licensing staff resources, when compared with smaller casinos.

**TABLE 7-11**

**Estimated minimum numbers and functions of gaming oversight agency staff for fewer than five casinos**

<b>Function</b>	<b>Estimated minimum staff needed</b>			
	<b>One casino</b>	<b>Two casinos</b>	<b>Three casinos</b>	<b>Four casinos</b>
Licensing	3	7	10	13
Enforcement	9	18	27	36
Audits and accounting	2	3	5	6
Technology	1	2	3	4
Responsible gaming	1	1	1	1
Executive	5	5	5	5
Administration	4	6	9	11
<b>Total employees</b>	<b>25</b>	<b>42</b>	<b>60</b>	<b>76</b>

SOURCE: JLARC staff analysis of peer states' staffing data.

NOTE: Assumes staffing ratio at the low end of the staffing ratio range. Staffing numbers are subject to rounding.

**TABLE 7-12**

**Estimated minimum cost to Virginia of staffing a gaming oversight agency for fewer than five casinos**

	<b>Estimated minimum oversight agency cost (\$M)</b>			
	<b>One casino</b>	<b>Two casinos</b>	<b>Three casinos</b>	<b>Four casinos</b>
<b>Personnel costs</b>				
Licensing	\$0.3	\$0.6	\$0.9	\$1.2
Enforcement	0.8	1.7	2.5	3.4
Audits and accounting	0.2	0.3	0.5	0.6
Technology	0.1	0.2	0.3	0.4
Responsible gaming	0.1	0.1	0.1	0.1
Executive	0.8	0.8	0.8	0.8
Administration	0.4	0.6	0.9	1.2
<b>Overhead costs</b>				
Non-personnel cost	0.4	0.7	1.0	1.2
Central monitoring and audit system	1.0	1.9	2.9	3.8
<b>Virginia State Police</b>				
Criminal record search employee	0.1	0.1	0.1	0.1
<b>Total costs</b>	<b>\$4.2</b>	<b>\$7.0</b>	<b>\$10.0</b>	<b>\$12.7</b>

SOURCE: JLARC staff analysis of peer states' staffing data.

NOTE: Assumes underlying staffing ratios at the low end of the staffing ratio range. Assumes non-personnel overhead costs (excluding central monitoring and audit system) are 16 percent of personnel costs. Central monitoring system cost based on costs paid by Maryland for central monitoring system.



# 8 Options for Virginia's Oversight of Casino Gaming

**SUMMARY** Regulatory Management Counselors and other industry experts indicated to JLARC staff that a lottery agency could effectively oversee casino gaming. The Virginia Lottery is the only existing Virginia state agency capable of overseeing casinos and additional forms of gaming. However, lottery would need to increase staffing by approximately 100 positions; the Virginia Lottery Board's role and composition would need to change substantially; and lottery would need to expand its longstanding mission of benefiting K–12 education to accommodate oversight of other forms of gaming. The state and lottery also would need to mitigate potential conflicts of interest that may arise from the dual responsibility of running a state lottery and regulating the private gaming industry. An alternative option would be to establish a stand-alone casino oversight agency, which would avoid the potential for conflicts of interest and allow for more focused ongoing oversight of casino gaming. However, this option would have slightly higher upfront and ongoing costs and would take longer to accomplish than placing the function at lottery. In either case, gaming oversight would be a major state government undertaking, and the difference in cost between assigning it to lottery versus a brand new agency would amount to only about \$2 million annually.

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Governing and overseeing expanded gaming would be a new government function for Virginia. The scope and complexity of expanded gaming oversight would require several activities not currently performed for Virginia's existing gaming types. Oversight of casinos in particular is a substantial state undertaking that takes a well-equipped governance board, a clearly defined mission, and the investment of funds and staffing resources.

SB 1126 gives the Virginia Lottery the responsibility for expanded gaming, with the lottery board serving as the governance body and the lottery director responsible for carrying out oversight activities. In contrast, other states most commonly use a stand-alone gaming oversight agency to regulate casinos, separate from their lottery agencies. However, Virginia Lottery officials are receptive to regulating the operation of casinos and other forms of gaming despite the operational challenges inherent in such a broad expansion of the agency's scope. The lottery's strong reputation for the effective and efficient administration of Virginia's most established form of gaming makes it a reasonable option for overseeing other forms of gaming, but the agency would need to undergo significant changes in staffing and governance to effectively regulate five casinos in addition to lottery and potentially other forms of gaming.

Information in this chapter is the product of independent research by JLARC staff and collaboration with the JLARC consultant, Regulatory Management Counselors

(RMC). RMC contributed research on gaming governance and oversight in other states and advised JLARC staff during the development of findings.

## **Lottery is the only existing state agency that could oversee casino gaming but would require many staff and structural changes**

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**Lottery** maintains a staff of 308 employees, compared with approximately 25 employees at the **Office of Charitable and Regulatory Programs** and three employees at the **Virginia Racing Commission**.

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The Virginia Lottery is the only existing state agency currently engaged in overseeing large-scale gaming activities. Virginia's other two gaming agencies are too small and narrowly focused to regulate and oversee gaming (sidebar). (Appendix F includes more information about the structure, staffing, and roles of these agencies.)

It is uncommon for lottery agencies to oversee non-lottery forms of gaming in other states. Out of 25 states with casino gaming, only four—Maryland, Delaware, West Virginia, and Rhode Island—use their lottery agency to oversee casinos. RMC and other experts indicated to JLARC staff that a lottery agency could effectively oversee casino gaming. However, appropriate steps would be required to prepare the Virginia Lottery Board for its new role, and the agency would require additional staff and financial resources.

## **The lottery board's responsibilities and composition would need to change substantially to govern other forms of gaming**

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The **Virginia Lottery board** is a five-member citizen board appointed by the governor for five-year terms. One seat on the board has been vacant since January 2019.

**Gaming governance boards in other states** are composed of five or seven full-time members who are appointed by the state's governor and/or the legislature.

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The membership and activities of the current lottery board resemble those of a private-sector corporate board. This is due to the business-like nature of the lottery's current activities. Casino regulatory boards in other states typically reserve some seats for individuals with legal, law enforcement, and financial expertise. Currently, lottery board members are not required to have any particular expertise to serve on the board, and none of the current members has experience in law enforcement. If designated to govern expanded gaming, lottery board membership should be expanded to accommodate the additional workload, and seats should be reserved for members with specific types of expertise. Additionally, the board would need to place a much greater focus on the regulatory functions that it rarely exercises in relation to lottery.

### ***The lottery board would need to increase in size and include members with certain expertise to effectively govern other forms of gaming***

Current statute does not require lottery board appointees to have any specific background or expertise, whereas most gaming governance boards in other states require at least one board member to be an accountant, one to be a lawyer, and one to be a law enforcement officer. These qualifications are typically required to enable the board to effectively oversee the oversight agency and make key regulatory decisions. For example, in most states, the governance board makes final casino licensing decisions based on investigatory evidence and recommendations provided by

oversight agency staff. Having an accountant would help the board effectively review the oversight agency's conclusions and recommendations on casino financial reporting. Boards for other Virginia agencies and functions have similar requirements (sidebar).

The lottery board's membership does not currently have the experience and background necessary to effectively govern casino gaming. The business acumen of current board membership would be useful to help board members understand the gaming industry and perspectives of private casino operators. However, to most effectively govern casino gaming, the board's size would need to be expanded to accommodate additional members with additional skills, specifically law enforcement experience. These additional skill sets would help the board effectively oversee the lottery and make independent decisions about the reasonableness of recommendations and actions.

#### **RECOMMENDATION 14**

If the Virginia Lottery Board's responsibilities are broadened to include governing additional forms of gaming, the General Assembly may wish to consider amending §58.1-4004 of the Code of Virginia to increase the number of lottery board members from five to seven.

#### **RECOMMENDATION 15**

If the Virginia Lottery Board's responsibilities are broadened to include governing additional forms of gaming, the General Assembly may wish to consider amending §58.1-4004 of the Code of Virginia to designate one member who is a law enforcement officer, one member who is a certified public accountant, and one member who is a licensed and practicing attorney in Virginia.

#### ***The lottery board would need to comply with additional ethical requirements to mitigate potential conflicts of interest with additional forms of gaming***

Ethical requirements for governance boards are meant to ensure that board members do not have conflicts of interest that could influence their decisions and prevent them from making decisions that are in the best interest of the public. Most states impose ethical requirements on board members specifically tailored to casino gaming (Table 8-1). Lottery board members are currently subject to ethical requirements, but those requirements are narrowly focused on issues related to lottery (sidebar).

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**The Code of Virginia often requires some qualifications for members of certain agencies or other boards.** For example, one seat on the Charitable Gaming Board is reserved for a law enforcement officer. Other boards with requirements for specific qualifications include the Board of Trustees of the Virginia Retirement System and the State Board of Health.

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**Lottery board members** are currently subject to ethical requirements meant to ensure that they do not have conflicts of interest that could influence their decisions related to lottery. For example, the Code of Virginia prohibits lottery board members from purchasing lottery tickets.

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TABLE 8-1

**Illustrative topics and rules for an enhanced ethics policy for a gaming governance board**

<b>Ethics topic</b>	<b>Examples</b>
Gifts	Cannot solicit or receive complimentary service, commission, bonus, discount, gift or reward from any entity regulated by the board
Licensee facilities	Cannot stay overnight in a hotel room owned or operated by any entity licensed by the board
Wagers	Cannot place any wager within the boundaries of the state, or outside the state at any establishment owned by the licensee
Nepotism	Cannot solicit, request, suggest, or recommend the employment of any of their relatives by an entity regulated by the board
Duty to report	Must report any conduct believed to be a violation of gaming laws
Recusal	Cannot accept employment in the gaming industry during, or for a period of time after, board membership

SOURCE: Massachusetts Gaming Commission (2018); Enhanced Code of Ethics, Second Edition.

**RECOMMENDATION 16**

If the Virginia Lottery Board's responsibilities are broadened to include governing additional forms of gaming, the General Assembly may wish to consider amending the Code of Virginia §58.1-4004 to require board members to adhere to additional ethics requirements related to the additional forms of gaming designed to prevent board members from engaging in activity that could present, or be perceived to present, a personal or financial conflict of interest.

***The lottery board's responsibilities and activities would need to expand to effectively govern other forms of gaming***

The lottery board could govern casino gaming, but statute would need to be amended to grant it new powers. The Virginia Lottery Board was created as a policy board with regulatory and broad oversight powers in relation to the lottery (sidebar). If lottery were to be assigned responsibility for overseeing casino gaming, its authorities would need to be expanded. For example, the board would need the authority to

- adopt, amend, and repeal regulations related to casinos or additional forms of gaming;
- accept, modify, or reject agency recommendations for actions related to casino key executive, employee, and gaming equipment vendor licenses; and
- hear appeals of any gaming licensing decisions, similar to its existing authority related to lottery retailer licensing decisions.

The focus of the lottery board would also need to change to oversee expanded gaming. Currently, the lottery board rarely has a need to develop regulations or serve in a judicial capacity to conduct appeals hearings. Instead, meetings primarily focus on overseeing how the business of the state lottery is being run. This includes reviewing

The defining characteristic of a **policy board** is the power to adopt, amend, and repeal regulations.

**Lottery board responsibilities** include governing the establishment and operation of the lottery; adopting regulations; authorizing lottery revenue projections; hearing appeals of sales agent licensing decisions; initiating capital projects; monitoring the lottery for criminal activity; and studying potential operational changes and efficiencies to the lottery.



financial results of different games, marketing strategies, financial forecasts and budgets, business development plans, and lottery game designs, prize structures, and odds of winning. The lottery board has not taken any regulatory action in the past two years and has heard just one formal appeal of a licensing decision in the past three years. In interviews, lottery board members indicated that if their responsibilities are expanded to include other forms of gaming, they will need training on the regulatory process and hearing licensing appeals cases.

#### **RECOMMENDATION 17**

If the Virginia Lottery Board's responsibilities are broadened to include governing additional forms of gaming, the lottery should arrange for training to be provided to the board on how to conduct its regulatory responsibilities in conformance with the Virginia Administrative Process Act.

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#### ***Lottery board members' time commitment would need to increase to accommodate gaming oversight***

If the lottery board's responsibilities were to include other forms of gaming, the monthly time commitment for board members will increase, especially in the first few years of implementation. For example, the board will need to develop regulations, which has been a comprehensive and lengthy process in other states. Michigan adopted 224 gaming regulations, and Ohio adopted 179 gaming regulations related to casino gaming. To accommodate this regulatory responsibility, the board's meetings may need to increase from quarterly to monthly. Furthermore, whereas the current workload for lottery board members is fairly limited, board members would likely have substantially more material to review before meetings if their responsibilities are expanded. Currently, board members estimate that they spend only about two to three hours every quarter reviewing meeting materials and about half a day attending a board meeting.

#### **Lottery would need to expand its longstanding mission to regulate additional forms of gaming**

Lottery's staff and board are committed to its longstanding mission to raise funds for K–12 public education through lottery sales. This mission has been the same since 2000 when Virginia voters approved a referendum that amended the state constitution to stipulate that lottery revenues may only be spent on Virginia public education. Lottery's website, annual reports, and monthly financial reports prominently describe the lottery's mission to sell lottery games to fund Virginia public education. Lottery staff and board members also emphasized their commitment to lottery's mission in conversations with JLARC staff.

Casino gaming oversight would significantly expand lottery's mission to include ensuring the integrity of additional forms of gaming. Lottery's existing mission of overseeing and managing lottery sales and business for the benefit of Virginia's

K–12 public education could remain intact, but charging lottery's leadership and board with overseeing both lottery and other forms of gaming could result in both real and perceived conflicts of interest. Board members and staff would need to ensure that actions to regulate the casino industry are not motivated, in reality or in appearance, by a desire to protect lottery revenue from casino competition. Oversight actions related to casinos or other forms of gaming regarded as unfair or overly punitive may be perceived as lottery attempting to give competitive advantage to lottery sales. Fair and transparent processes and close adherence to the requirements of the Administrative Process Act in performing its regulatory function could help to reduce real and perceived conflicts of interest.

Creating a parallel governance board to oversee non-lottery gaming could be one approach to avoid a conflict of interest and protect lottery's historic focus on K–12 education. This approach would ensure accountability for lottery's casino gaming responsibilities without directly creating conflicts of interest. However, it could be challenging for agency staff to serve two governance boards with potentially competing missions. This could also create an unclear reporting structure and hierarchy for agency staff.

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The Ohio Lottery oversees the state's racinos (racetrack casinos). Proceeds from both the Ohio Lottery's traditional lottery products and racino slot machine taxes go toward Ohio K–12 public education.

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If the General Assembly decided to dedicate casino gaming proceeds to K–12 education, the potential conflicts of interest issue could be alleviated. Ohio uses this approach for slot machines at racetrack facilities, which are regulated by the Ohio Lottery (sidebar). Maryland similarly dedicates a portion of gaming tax revenue to K–12 public education, the same beneficiary as lottery funds. West Virginia and Delaware, which both use lottery agencies and boards to oversee casino and additional forms of gaming, both dedicate gaming tax revenues to the same purposes as the state lottery. (Appendix G contains more information about the causes supported by gaming tax revenue in other states.)

While the risk for a conflict of interest exists, other states whose lotteries also oversee gaming have said this is not a problem. Maryland, West Virginia, and Delaware all use their lottery agencies and lottery boards to govern and regulate casino gaming. In conversations with JLARC staff, staff at these states' lottery agencies did not report that they had encountered any conflict of interest issues relating to their status as lottery and gaming agencies. These states also dedicate at least some portion of gaming tax proceeds to the same purposes as lottery funds, thereby mitigating competition for funds.

Expanding the lottery's mission to include oversight of expanded gaming could also present a risk to lottery's current effectiveness and its positive culture. JLARC staff discussions with other legislative staff, Department of Planning and Budget (DPB) staff, and Auditor of Public Accounts staff indicated that Virginia Lottery is perceived to have a high-quality staff that effectively carries out agency operations. Additionally, lottery appears to have a positive workplace culture with strong staff morale. Furthermore, although JLARC staff did not conduct a full evaluation of lottery operations, it does not appear that lottery has major shortcomings in agency operations. Expanding

the lottery's mission to include oversight of casinos or additional forms of gaming would expand the scope of work and place an additional workload on existing staff, especially leadership staff. An expanded scope and workload could adversely impact the effectiveness of agency operations or staff morale. To avoid this, lottery leadership would need to carefully consider how the agency and its mission are expanded to ensure that existing staff's workload would be effectively managed and staff morale would not be affected.

## **A stand-alone agency may allow for more focused oversight and alleviate potential conflict of interest**

Virginia could create a stand-alone agency to oversee casino gaming. This alternative approach, instead of vesting authority in the lottery, would require creation of a board whose members possess expertise suited for overseeing additional forms of gaming. The board and agency would have a singular mission of ensuring gaming integrity, as opposed to multiple potentially conflicting missions that could occur with lottery as the oversight agency. Thirteen out of 25 gaming states oversee gaming with a stand-alone agency, and an additional eight states oversee gaming through an independent division of an existing public safety or revenue agency.

Although SB 1126 delegated casino oversight authority to the lottery, other bills have contemplated establishing a stand-alone agency for expanded oversight. In the 2019 General Assembly session, SB 1238 would have created a stand-alone agency, the Virginia Sports Betting Department, to regulate sports betting. In the 2018 General Assembly session, SB 90 would have created the Virginia Casino Gaming Commission to regulate and oversee casino gaming. Legislation that would have created a stand-alone agency to regulate and oversee casino gaming in Virginia was also introduced in 2017, 2016, 2015, 2014, and 2013.

The board and director of a stand-alone agency could make decisions based solely on the agency's responsibility to monitor and enforce the gaming operators' compliance with the law. This may not be the case at lottery. For example, if lottery were overseeing additional forms of gaming and both online casino gaming and iLottery were made legal, lottery would oversee both, even though the two new products could be considered competitors (sidebar). The lottery board and director could be faced with a decision about whether to authorize new forms of online casino games that could compete with iLottery games. Certain types of online casino games are highly similar to iLottery games, and because they could negatively impact lottery revenue, the lottery board and director may not be inclined to authorize them. In contrast, the board and director of a stand-alone agency would be more likely to authorize new types of games based on the most relevant factors such as their legality and their revenue potential.

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**Some casino operators consider iLottery games to be competition to their online casino offerings.** Pennsylvania casino operators sued the Pennsylvania Lottery in 2018 because its iLottery games imitated casino-style games.

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## **Lottery would provide some economies of scale, but staffing would need to increase 30 percent**

Lottery's existing leadership and administrative structure may provide some limited economies of scale for overseeing casino gaming compared with the creation of a new stand-alone agency. Lottery has leadership and administrative staff, and these staff could help initiate the process of expanding the agency's role and could provide support for the ongoing associated workload.

Over one-third (38 percent) of lottery's staff work in executive or administrative roles, which include the agency's leadership team, human resources, finance, internal audit, and information technology units (Figure 8-1). These 117 executive and administrative positions can likely support the new gaming oversight function. A limited number of additional executive and administrative staff may be needed to handle the additional workload and to create a leadership structure that is adequately focused on the implementation of additional forms of gaming.

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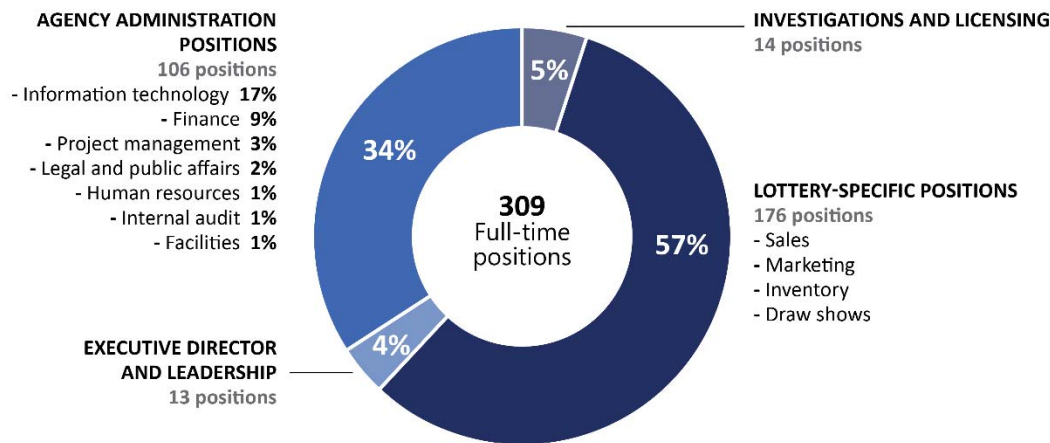
Lottery conducts an initial **criminal record search** on every new retailer applicant. If an applicant has a criminal record, lottery investigators will open a case and investigate the nature of the case to determine whether the issue is detrimental to the individual's ability to act as a lottery retailer.

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Lottery has just 14 existing investigations and licensing staff, which would not be sufficient to perform the investigations and licensing requirements for casinos. Based on other states' staffing, lottery would need to approximately triple the number of investigators and licensing staff. Over the past five years, lottery has run criminal record searches on an average of 677 new retailer applicants annually (sidebar). If five casinos were fully open and operational in Virginia, it is likely that the casinos would employ at least 4,400 gaming employees who would require licenses. Additionally, five casinos would likely include 100 to 200 key executives (owners, operators, and key employees) who would require more in-depth investigations than any currently conducted by lottery staff. In-depth investigations for key executives typically involve more work than a criminal record search, including a review of all financial transactions made by that individual over a five-year period, interviews with acquaintances and colleagues, and reinvestigation of any legal action or court cases involving the individual.

**FIGURE 8-1**

**Over one-third of lottery's staff is dedicated to executive and administrative functions**



SOURCE: Virginia Lottery organizational charts.

Lottery's existing audit function would also need to be expanded and refocused because it does not currently perform the type of financial audits and reviews that would be required for a casino oversight function. Currently, lottery has a small internal audit team and a draw show audit team (sidebar). The internal audit team performs investigations into lottery's operations and financial management, but these investigations are limited in scope and not nearly as complex as investigations of casino financial operations would be.

Finally, the majority of lottery staff perform roles specific to lottery and would not offer any economies of scale for overseeing casino gaming. These staff include sales agents, warehouse inventory staff, lottery marketing and business development staff, and lottery draw show auditors.

Most of the savings of putting expanded gaming oversight with lottery would come from lottery's ability to use existing executive staff. A stand-alone agency would require hiring an entirely new executive leadership staff and administrative staff. For example, using average staffing and compensation levels of peer states' casino oversight agency staffing, a stand-alone oversight agency would require an estimated 25 executive and administrative employees at a cost of approximately \$3.5 million (includes salaries, fringe benefits, and associated overhead costs). The lottery could require some additional staffing in executive and administrative areas to handle the increased workload, but those additions would likely be far less than what would be needed at a stand-alone casino gaming oversight agency. JLARC staff's overall staffing analysis assumes that no additional executive and administrative staff would be needed at lottery.

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**Draw shows** are the televised broadcasts of drawings for lottery games, such as Cash 5, Pick 4, or Pick 3.

**Draw show auditors** monitor the draw shows and test equipment to ensure that the drawings are completely random and not tampered with in any way.

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**Core casino oversight** employees are those employees who are directly working to ensure casino integrity and risk mitigation. These employees include those working in licensing, enforcement, audit, gaming technology, and responsible gaming. This group does not include agency operations or executive staff.

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JLARC staff used Virginia Lottery's salary and employee information data from the Department of Human Resource Management (DHRM). Average salaries for lottery employees were compared to staff with similar responsibilities at casino oversight agencies in other states. When comparing staff in other states, JLARC staff used salaries for only the lottery employees who have been employed for 10 years or fewer. This was done to control for the fact that some lottery staff have higher salaries because of long tenures at the agency.

However, *core* gaming oversight staffing at lottery may cost more than at a stand-alone casino oversight agency as a result of lottery's relatively high employee salary structure (sidebar). On average, Virginia lottery employee salaries are approximately \$10,000 greater than the salaries for employees with similar roles at peer states' casino oversight agencies (Table 8-2). For example, the average salary for an enforcement staff member at a peer state gaming oversight agency is approximately \$59,000, while the average salary of a similar employee at lottery is approximately \$69,000. The positions used for comparison are not in all circumstances an exact match in terms of job responsibilities and therefore cannot be used to precisely determine the exact salaries that lottery would pay.

Despite the potentially higher salaries of core gaming oversight staff at lottery compared with at a stand-alone casino oversight agency, lottery would achieve some efficiencies by requiring fewer new executive and administration staff. Lottery is estimated to be able to administer casino gaming with up to 25 fewer staff and approximately \$2 million in savings annually compared to using a stand-alone agency (Table 8-3).

**TABLE 8-2**  
**Average salaries at lottery are higher than those in peer states' gaming oversight agencies**

<b>Function area</b>	<b>Average salary at peer states gaming oversight agencies</b>	<b>Average salary at Virginia Lottery</b>
<b>Licensing</b>	\$56,981	\$68,220
<b>Enforcement</b>	\$59,147	\$68,701
<b>Audit</b>	\$60,716	\$71,155
<b>Technology</b>	\$67,414	\$75,884

SOURCE: JLARC staff analysis of staffing data from peer states and the Virginia Lottery.

NOTE: Average salaries for Virginia Lottery staff are based on the actual salaries of comparable employees who had 10 or fewer years of state service. Peer states included Kansas, Maryland, Massachusetts, Michigan, and Ohio. Median salary figures include salaries only, not the cost of benefits or overhead.

TABLE 8-3

Costs for core casino oversight would be higher at lottery than at a stand-alone agency, but overall costs would be lower

Function area	Average number of staff at gaming oversight agency	Estimated cost at stand-alone agency <sup>b</sup> (\$ millions)	Estimated cost at Virginia Lottery (\$ millions)
<b>Personnel costs (salaries plus fringes)</b>			
Licensing	21	\$1.9	\$2.2
Enforcement	60	5.7	6.4
Audit	9	0.9	1.0
Technology	5	0.5	0.6
Responsible gaming	1	0.1	0.1
Administration <sup>a</sup>	17	1.8	negligible
Executive <sup>a</sup>	8	1.2	negligible
<b>Overhead</b>			
Non-personnel costs	-	1.9	1.7
Central monitoring and audit system	-	4.8	4.8
<b>Virginia State Police</b>			
Criminal record search employee		0.1	0.1
<b>Total costs</b>	121 (stand-alone) 96 (Lottery)	\$18.9	\$16.9

SOURCE: JLARC staff analysis of staffing data from peer states and the Virginia Lottery.

NOTE: <sup>a</sup> Assumes administrative and executive staff would be needed only for a stand-alone gaming agency.

<sup>b</sup> Assumes average salaries paid by gaming oversight agencies in peer states. Estimated costs include benefits costs. The same benefit and overhead factors were used for the stand-alone agency estimate and the Virginia Lottery.

## State should evaluate effectiveness and efficiency of gaming oversight structure over time

If additional forms of gaming are authorized, Virginia's gaming oversight approach should be evaluated over time. An evaluation after the creation of the oversight function and the implementation of additional forms of gaming would give the General Assembly the ability to determine whether the gaming oversight and regulatory structure is effective and whether it has enough resources. For example, if casino oversight is placed under the lottery, an evaluation could assess whether the agency has mitigated potential conflicts between its historical K–12 mission and its new responsibility for ensuring gaming integrity.

JLARC staff did not evaluate whether Virginia's authorized forms of gaming—specifically horse racing wagering, historical horse racing, and charitable gaming—should be subsumed by the new regulatory structure. A post-implementation review could evaluate this question. Consolidation could allow for consistency across gaming regulations and a more efficient and focused use of staffing resources. For example,

electronic gaming devices—such as slot machines, electronic pull tabs and historical horse racing terminals—all require compliance inspections. The regulation of these similar devices across several entities could result in varying compliance standards that could unintentionally give a competitive advantage to one industry over another. Additionally, placing all gaming oversight responsibility in one agency may create efficiencies. Processes such as licensing employees or equipment vendors could be handled by the same staff instead of duplicative staff across agencies.

Several states combine oversight of multiple types of gaming into a single agency (Table 8-4). For example, Kansas, Massachusetts, and Michigan all use a single agency to regulate casino gaming and horse racing. New York has a single gaming commission that oversees all forms of gaming that are authorized in the state: casino gaming, lottery, horse racing, and charitable gaming.

Moving all forms of gaming in Virginia under a single agency umbrella should be considered, but not until the scale and regulatory demands of any newly authorized gaming are understood. An incremental approach to consolidating all of Virginia's gaming under one regulatory structure would allow the gaming oversight function to be established and stabilized. Michigan used an incremental approach to combining oversight responsibility for multiple types of gaming. The Michigan Gaming Control Board was created in 1997 for oversight of newly introduced commercial casino gaming. The Gaming Control Board first developed its oversight approach to casinos and proved its effectiveness and was later given oversight responsibility for horse racing and wagering (2010) and some types of charitable gaming (2012).

#### **OPTION 4**

The General Assembly could consider including language in any casino authorizing legislation that requires an evaluation of the roles, responsibilities, and performance of all Virginia gaming oversight agencies after additional forms of gaming have been implemented to determine whether any consolidation of gaming oversight responsibilities is warranted.

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**TABLE 8-4**  
**Most nearby states have more than one agency overseeing gaming**

<b>State</b>	<b>Agency</b>	<b>Casino gaming</b>	<b>Lottery</b>	<b>Horse racing</b>	<b>Charitable gaming</b>
Delaware	Delaware Lottery	✓	✓		
	Thoroughbred Racing Commission			✓	
	Board of Charitable Gaming				✓
Indiana	Indiana Gaming Commission	✓			✓
	Hoosier Lottery		✓		
	Indiana Horse Racing Commission			✓	
Kansas	Kansas Racing and Gaming Commission	✓		✓	
	Kansas Lottery		✓		
	Kansas Department of Revenue				✓
Maryland	Maryland Lottery and Gaming Control Agency	✓	✓		
	Maryland Racing Commission			✓	
	Local governments				✓
Massachusetts	Massachusetts Gaming Commission	✓		✓	
	Massachusetts Lottery		✓		✓
Michigan	Michigan Gaming Control Board	✓		✓	✓
	Michigan Lottery		✓		✓
New York	New York State Gaming Commission	✓	✓	✓	✓
Ohio	Ohio Casino Control Commission	✓			
	Ohio Lottery		✓		
	Ohio State Racing Commission			✓	
	Attorney General				✓
Pennsylvania	Pennsylvania Gaming Control Board	✓			
	Pennsylvania Lottery		✓		
	State Horse Racing Commission			✓	
	Department of Revenue				✓
	County treasurers				✓
Rhode Island	Rhode Island Lottery	✓	✓		
	Department of Business Regulation			✓	
	State Police				✓
West Virginia	West Virginia Lottery Commission	✓	✓		
	West Virginia Racing Commission			✓	
	State Tax Department				✓

SOURCE: JLARC staff analysis of state agency information.



# 9 Unregulated Electronic Gaming Devices

**SUMMARY** Proliferation of unregulated electronic gaming devices, or “grey machines” around the state could pose direct competition to Virginia’s authorized gaming such as lottery, charitable gaming, and historical horse racing, as well as any additional forms of gaming that could be authorized in the future. These unregulated grey machines create risks for players and businesses. Virginia currently uses a local approach to enforce the legality of the devices, which has led to inconsistent and insufficient oversight. Other states have addressed grey machines, through regulation or an outright ban on the devices.

Virginia, like other states, is grappling with the rapid spread of unregulated electronic gaming devices, or “grey machines,” found in bars, convenience stores, gas stations, and restaurants across the state (sidebar). The term grey machine refers to the notion that these machines operate in a grey area of the law. Grey machines are not specifically permitted or prohibited in Virginia’s gaming statute and without specific statutory authority language, the legality of some aspects of the machines could be questioned.

It is difficult to determine how many of these machines exist in Virginia, but estimates indicate there could be more than 9,000 as of October 2019. Because they are unregulated, however, the state currently does not track the location or number of devices, or the specific game operators or manufacturers. These devices, similar in appearance to slot machines, are likely competing with Virginia’s existing forms of gaming. Multiple manufacturers (approximately six to eight) operate these gaming devices in Virginia, and the game play and operation may vary by manufacturer.

The legality of grey machines rests on the amount of skill versus chance involved in the game (sidebar). Games on grey machines typically start like a slot-machine style game. After the initial spin, according to manufacturers, players on grey machines can adjust the symbols to create a winning pattern. According to manufacturers, players also can complete a memory-style game after losing a game in an effort to win back their original bet. Manufacturers contend that because players can adjust the outcome, their games are skill based rather than chance based. However, questions have been raised about their legality and whether these games are illegal forms of gambling or if the devices are permitted under current law.

Grey machines currently operate in Virginia without any licensing requirements, regulations, or taxation on the machine’s gaming revenue, which is likely substantial. Grey machine manufacturers indicate this gaming revenue is shared among the businesses hosting the machines, game vendors, and the game manufacturers. Multiple manufacturers operate in Virginia, and the revenue-sharing arrangements vary by

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**Grey machines** are commonly referred to as **games of skill** by the media and device manufacturers.

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Code of Virginia defines and prohibits **gambling** and **gambling devices**.

Code of Virginia § 18.2-325 defines gambling as having three components: a consideration or bet, a prize or payout, and chance.

Virginia authorizes certain forms of gambling and exempts these games from prohibition: including bingo, lottery, and pari-mutuel wagering.

Currently, Virginia does not specifically authorize grey machines.

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manufacturer. Currently, the state receives no gaming tax revenue from these machines.

## **Grey machine revenues are substantial and likely depress revenues from authorized gaming**

Grey machines are widely distributed across the state and are likely generating substantial revenue for their manufacturers. However, estimating this revenue or the impact to other types of gaming is difficult because the number of devices, amount of customer play, payout percentages, and locations are generally unknown to the state.

JLARC staff estimate annual statewide revenue from grey machines could range from \$83 million to \$468 million as of October 2019 (Appendix B). These estimates are based on revenue generated by Virginia's authorized gaming that is comparable to grey machines—such as electronic pull-tab machines—as well as revenue generated by similar devices in other states.

Grey machines are competing with other forms of authorized gaming for the same limited amount of discretionary spending. These devices pose direct competition to authorized forms of gaming, such as lottery and charitable gaming, and likely have a meaningful negative impact on their revenue. Lottery is likely most affected because many of these devices are found in the same retail locations that sell lottery products, and grey machines are reportedly present in nearly all Virginia localities. As of September 2019, lottery staff estimated 4,500 grey machines are located in 1,350 lottery retailers (approximately 25 percent of total lottery retailers). Overall, estimates on the total number of machines range from 4,500 to as many as 9,200. Staff at the Office of Charitable and Regulatory Programs (OCR), the Charitable Gaming Board, and lottery have expressed concern with grey machines and their negative impacts on authorized gaming.

The number of grey machines likely will continue to increase in Virginia. While the Commonwealth is estimated to have up to 9,200 machines, other states with similar populations as Virginia have several times the number of grey machines. For example, Pennsylvania has 52,000 to 82,000 machines, and Illinois has over 32,000 electronic gaming devices spread across non-casino locations.

## **Unregulated grey machines create risks for players and businesses**

Grey machines pose a risk for fraudulent activity because there are no state regulations, audits, or compliance activities for the devices, manufacturers, or vendors. In the absence of regulation, there are no mechanisms to ensure gaming integrity for businesses hosting grey machines and the customers who play them.

Regulation and oversight could mitigate risks to businesses hosting grey machines. In the absence of regulation, grey machine manufacturers are not required to impose age restriction on play, instead leaving that responsibility to business owners. Furthermore, businesses hosting machines may not have mechanisms to safeguard and account for cash transactions related to the gaming devices, such as separating gaming revenue from other business transactions. Not separately tracking gaming revenue obscures financial transactions related to the machines even though they could account for a substantial amount of money. This presents the opportunity for gaming funds to be inaccurately accounted for and makes the transactions more susceptible to fraud. For example, casinos and lottery retailers have strict procedures for handling funds, including maintaining separate accounts for gaming and non-gaming transactions, to prevent mishandling of funds and fraud. Additionally, without oversight businesses have no assurance that they are receiving appropriate revenue from grey machines (sidebar).

Customers who play grey machines are also at risk without regulation and oversight. For example, customers have no assurances that the grey machines are routinely inspected for compliance. Compliance inspections are important because they monitor device performance, including measuring whether the machine's software allows for a fair chance of winning. Other forms of gaming, such as electronic pull-tabs and historical horse racing machines, are routinely inspected by an independent inspector contracted by OCRP or the Virginia Racing Commission to test the games' integrity. Furthermore, in the absence of regulation and oversight there is no centralized reporting system or an objective audit mechanism to resolve customer disputes. Finally, grey machines are not required to offer protection or consideration for problem gamblers and do not contribute funds for prevention and treatment of problem gambling.

## Virginia's local approach to enforcement could lead to inconsistent and insufficient oversight

Grey machines have rapidly proliferated throughout the state after the Virginia Alcoholic Beverage Control Authority (ABC) determined in 2017 that devices offered by one grey machine manufacturer could be placed at ABC-licensed establishments. In that determination, ABC said the devices did not violate the Code of Virginia's prohibition of illegal gambling devices in an ABC-licensed establishment (sidebar). ABC determined that the specific game in question required "significant levels of skill" and was not a gambling device. Following that determination, grey machines from several manufacturers began appearing in ABC-licensed establishments, such as restaurants, bars, and retailers, excluding ABC stores.

In 2019, under further guidance from the Office of the Attorney General (OAG), ABC issued a new policy advising that the local commonwealth's attorneys would instead determine the legality of various grey machines by jurisdiction (sidebar). Under

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Grey machines vendors **contract with businesses** and agree to pay a portion of device revenue to the business in exchange for locating the device in an establishment.

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**ABC's initial determination in 2017** was made after the Office of the Attorney General (OAG) provided guidance enabling Virginia ABC to issue a determination upon the request from a grey machine manufacturer. The determination did not apply to any other grey machine manufacturers or their grey machines, of which there are several currently operating in the state.

**ABC's subsequent 2019 determination** advised ABC licensees that the new policy to refer the legality of grey machines to local commonwealth's attorneys also applies to the grey machines that had previously been reviewed by ABC.

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the new policy, ABC would impose penalties on an ABC licensee who hosted a machine only after a local commonwealth's attorney found the devices to be illegal.

Based on this guidance from the OAG, commonwealth's attorneys are responsible for factually determining the legality of grey machines under Virginia law. Any determination that the devices were illegal likely would be challenged in court. However, any court decision would apply only to the specific manufacturer's grey machines that are in question and only apply to that local jurisdiction.

Leaving the determination of the legality of grey machines to local prosecutors likely will be problematic. There is potential for jurisdictions to reach different conclusions about the legality of grey machines. This inconsistency across the state has the potential to create confusion among consumers, law enforcement, and businesses as to the machines' legality. Furthermore, manufacturers continually refine games and technology which means that a prosecutor's determination or a court ruling may have extremely limited application to a particular version of a single game.

The commonwealth's attorneys in Charlottesville and Grayson County have issued opinions on the grey machines. Both commonwealth's attorneys determined that the machines constitute illegal gambling and ordered their removal from establishments within their respective jurisdictions. To date, game manufacturers are challenging the Charlottesville opinion in court. The Office of Attorney General (OAG) has not issued an opinion on the legality of these grey machines.

## States have addressed grey machines in several ways

Several states have tried to regulate or provide oversight of these devices. Four general strategies have emerged to govern grey machines, including: a court process to determine their legality (like Virginia), the development of statewide regulations, regulation and sponsorship by charities, and complete bans of the devices (Table 9-1).

Georgia and Iowa both regulate these machines, allowing the state to register and collect gaming tax revenues from them. Georgia has authorized its lottery to grant licenses to operate the devices and splits revenue from devices among the device owners, host retailers, and the lottery fund. Georgia has developed licensing standards, financial compliance rules, and a central monitoring and audit system to ensure integrity from the devices (sidebar). Iowa requires the machines to be registered with the Department of Inspections and Appeals and has capped the number of devices statewide. Both states have restricted the number of devices in any one location. The regulations are designed to protect consumers by monitoring machine payouts and conducting game inspections. The regulations also give the state a formal mechanism to monitor device compliance, collect revenue, and conduct enforcement if necessary. Both states also require that device prize payouts are to be in the form of credits (rather than cash) that can be used for nominally priced merchandise at the host

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Georgia implemented an **automated statewide central monitoring and audit system** for video terminals. Upon implementation of the system, the state found revenue from video terminals to be nearly double the amount previously reported by device manufacturers.

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establishment (i.e. snacks and drinks at a convenience store), or in Georgia, towards the purchase of lottery products.

Georgia's Lottery has a highly developed process of regulation and enforcement for these devices, but it is challenging and costly (sidebar). Georgia Lottery staff indicated that even with substantial resources allocated to regulation and oversight of the devices, it is likely that not all violations are detected and enforced. Staff indicated that typical violations include "inducements" paid to host retailers (sidebar), host retailers providing cash prize payouts instead of store or lottery credits, and host retailers not generating sufficient amounts of non-gaming revenue (i.e. acting primarily as a gaming parlor instead of selling merchandise). Furthermore, Georgia Lottery staff indicated that the agency conducts 20 to 30 judicial review hearings per month as part of their judicial review process for violations. The outcomes of the agency hearing can be challenged in state courts and appeals courts, which adds additional time and expense. In total, Georgia Lottery's cost of regulating grey machines was \$15 million in the most recent fiscal year, which included the personnel costs of 47 additional agency staff (~\$4 million) and the cost of a central monitoring and audit system (~\$9 million), as well as other non-personnel expenses.

Legislation introduced during the 2019 General Assembly session would have regulated grey machines through OCRP. The legislation, SB 1721, would have required devices to have a charitable sponsor. The proposed legislation would have had the Charitable Gaming Board (Appendix F) create regulations for electronic gaming devices, such as grey machines. The devices would have been registered with the board and sponsored by a charitable organization that would receive a predetermined percentage of the gaming revenue. SB 1721 legislation was not passed.

Ohio's regulatory approach has had the effect of banning grey machines, while Colorado has banned the devices through statute. The Ohio Casino Control Commission has the authority to determine whether a gaming device is based on skill or on chance. Using this authority, the commission determined that the grey machines were slot machines and are illegal to operate unless they are housed in a casino facility. Colorado defined prohibited devices in statute as any simulated (i.e. electronic) gambling devices operating in non-casino establishments where results are determined by chance and/or the skill of the player. Colorado statute clarifies this does not apply to genuine amusement devices (i.e. pin ball, air-hockey).

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**Georgia Lottery** regulates 23,000 video terminals in 4,600 locations. **Video terminals** refer to the same type of grey machines operating in Virginia. In FY19, Georgia's video terminals generated approximately \$800 million in net gaming revenue, of which the Georgia lottery received \$80 million in the form of gaming taxes on device revenue (10 percent tax rate in 2019). After regulatory and oversight expense of \$15 million are deducted, the lottery fund retained \$65 million.

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**Inducements** are illegal payments from video terminal owners to host retailers that are meant to incentivize the retailer to host that specific owner's device(s). These types of payments are illegal in Georgia, but are generally untraceable and therefore difficult to detect and enforce.

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There is currently a **legislative proposal in Pennsylvania** to ban grey machines through statutory changes.

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**TABLE 9-1**  
**Strategies for governing grey machines in other states**

<b>Strategy</b>	<b>Example(s)</b>
Court process	North Carolina, Nebraska, Wyoming, Virginia
Regulation	Georgia, Iowa
Complete ban <sup>a</sup>	Colorado, Ohio

SOURCE: JLARC staff analysis of other states' laws and regulations.

NOTE: SB 1721 was introduced during the 2019 General Assembly session, and it would have regulated the devices and required devices be sponsored by a charity. SB 1721 did not pass.

<sup>a</sup> The Pennsylvania Legislature is currently considering proposed legislation that would ban grey machines.

Some states offer electronic gaming devices in retail and restaurant locations that are owned and operated by the state lottery (video lottery terminals). This could potentially be an option in Virginia if the state wishes to offer gaming devices in these locations and generate additional lottery revenue. However, offering video lottery terminals would not address unregulated grey machines currently in Virginia that are privately owned and operated.

## **Protecting consumers and businesses and preventing impacts to other forms of gaming should be priorities if regulation is pursued**

Some companies have expressed interest in working with the General Assembly to regulate the grey machines that they manufacture and operate. If the General Assembly chooses to regulate grey machines, it would need to vest a state agency with that responsibility. Other states have given authority to the lottery, a gaming commission, or inspection agencies. The proliferation of the devices and constant technological changes will require the designated agency to respond to a constantly evolving landscape. Furthermore, the agency given the responsibility will likely need additional staffing and resources because of the large number of devices already in place.

The General Assembly would also need to determine the rate at which the manufacturers' net gaming revenue would be taxed. Tax rates on net gaming revenue from electronic gaming devices are 7 percent in Iowa, 10 percent in Georgia, and 30 percent in Illinois. A portion of tax revenue could be used to pay for the staff and other resources required for regulating the devices.

Regulation and oversight of grey machines should prioritize protecting consumers and businesses and minimizing impacts on existing gaming. Key components could include the following

- **Device inspection and compliance:** Provides assurances to consumers and host businesses that machines are operating fairly
- **Establishing/limiting payout procedures:** Prevents forms of money laundering and reduces likelihood of financial crimes



- **Statewide cap on number of machines or locations:** Limits adverse impacts on other forms of authorized gaming
- **Cap on the number of machines at a single location:** Reduces impact to other forms of gaming nearby; reduces zoning and capacity concerns
- **Central monitoring and audit system:** Ensures ability to audit and account for machine revenues and distributions in an accurate and timely manner
- **Licensure:** Ensures businesses, vendors and manufactures meet certain gaming integrity standards
- **Taxation of gaming revenue:** Ensures sufficient revenue is raised to cover the costs of regulation
- **Cap on gaming revenue for host business:** Prevents locations from operating like gaming establishments.

Virginia’s approach to regulating lottery, charitable gaming, and historical horse racing includes many of the key regulatory components mentioned above that are needed to effectively regulate grey machines (Table 9-2).

**TABLE 9-2**  
**Regulatory components in Virginia’s authorized gaming**

<b>Component</b>	<b>Lottery</b>	<b>Charitable gaming (electronic pull- tabs)</b>	<b>Historical horse racing</b>
Device inspection	✓	✓	✓
Payout procedures & cash handling practices	✓	✓	✓
Statewide cap on number of machines or locations		✓ <sup>a</sup>	✓
Cap on the number of machines at a single location		✓	✓
Central monitoring and audit system	✓	✓ <sup>b</sup>	✓
Licensure	✓	✓	✓
Tax gaming revenue <sup>c</sup>			✓
Revenues dedicated to statutorily defined public purpose	✓	✓	✓
Cap on gaming revenue for host business			

SOURCE: JLARC staff analysis of Virginia Code and regulations.

NOTE: <sup>a</sup> Electronic pull-tabs have no statutory or regulatory statewide cap on the number of machines, but the machines are limited to operate only during charitable bingo sessions or in the social venues of qualified organizations. <sup>b</sup> Device manufacturers have a central monitoring and audit system and provide data to the Office of Charitable Gaming and Regulatory Programs. <sup>c</sup> Lottery and charitable gaming do not pay state taxes, but do generate proceeds for statutorily designated purposes of K—12 education and qualified nonprofit organizations respectively; charitable gaming also collects fees from charitable gaming operations—\$2.7 million in 2018—that are allocated to the general fund.

## RECOMMENDATION 18

The General Assembly may wish to consider amending the Code of Virginia to require the regulation of grey machines to ensure gaming integrity, protection to consumers, protection to businesses hosting the devices, and minimization of the adverse impacts to Virginia’s existing authorized gaming.



# 10 Key Decisions and Actions for Implementing Casino Gaming

**SUMMARY** Lawmakers need to consider multiple factors, including several benefits and costs, when considering implementation of casino gaming. For example, casino gaming would generate tax revenue for the state and create jobs, but would increase the risk of negative impacts from problem gambling and decrease revenues and proceeds of existing gaming in Virginia. Successful implementation of new gaming policies requires comprehensive authorizing legislation that establishes key provisions for maximizing the fiscal and economic benefits of gaming while minimizing risks to the state, localities, and the public. Key elements that should be included in legislation include the number and location of casinos, state gaming tax rate and structure, casino development selection process, and the uses of gaming tax revenues. It could take four or more years after the General Assembly passes casino authorizing legislation before the first casinos would open.

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Introducing casino gaming and other additional forms of gaming in Virginia would be a significant undertaking, requiring numerous decisions and actions by both the state and local governments, as well as upfront costs. Virginia could follow implementation timelines similar to other states. However, it would be up to the General Assembly and the governor to make the key decisions that would shape Virginia-specific gaming policies, such as the location of casinos, tax rates, the owner/operator selection process, and the uses of gaming tax revenue.

## Casinos and other forms of gaming are projected to have net positive fiscal and economic benefits

Both the benefits and costs of casinos and other additional forms of gaming should be examined when considering whether, and to what extent, to expand Virginia's gaming options.

The *benefits* of casinos and other forms of gaming include

- additional revenues for both the state and localities hosting casinos, including attracting out-of-state spending and redirecting out-of-state spending by Virginians back to Virginia, and
- additional jobs and capital investment created primarily in the hosting localities and regions.

The *costs* include

- decreased revenue and proceeds generated by existing forms of gaming;
- initial upfront and ongoing state expenditures for administration and oversight of gaming; and
- societal impacts of problem gambling and investments in problem gambling treatment and prevention.

In addition to financial and social costs, the level of state effort required to develop a statutory, regulatory, and administrative structure that is effective at maximizing the benefits of gaming while safeguarding the public's interests will be substantial.

### **Casinos would generate state and local revenue, but impacts are projected to be small relative to state and local budgets/economies**

The largest fiscal impact from additional forms of gaming would be generated by taxes levied on casino gaming revenue. Gaming tax revenue collected by the state would depend largely on the tax rate applied to gaming revenue. For the five SB 1126 localities, the tax rates modeled by TIG are estimated to generate revenue ranging from \$122 million at a 12 percent tax rate, \$262 million at a 27 percent tax rate (median of other states), or \$363 million at a 40 percent tax rate (median of states in the region), with the Bristol location at a lower rate to meet a \$200 million capital investment minimum (Table 10-1). This tax revenue estimate assumes casinos would be operating in all five locations.

Furthermore, these five casinos could generate between \$28 million and \$33 million annually in *other* state taxes through sales tax revenue, personal income tax, and corporate income tax (Table 10-1). Casinos would also generate additional annual local tax revenue, ranging from \$3.7 million in Bristol (equal to 7.8 percent of Bristol's total local tax revenue) to \$8 million in Richmond (equal to 1.2 percent of Richmond's total local tax revenue). This does not include any *additional* share of revenue from state casino gaming taxes.

If the General Assembly authorizes additional forms of gaming, these estimates would change based on how new gaming policies are implemented. For example, estimated revenue from casino gaming taxes would be lower if opening the five SB 1126 casinos is contingent on the passage of local referenda and one or more referenda does not pass. Another consideration would be whether casinos are authorized in locations in addition to—or other than—the localities identified in SB 1126. For example, a single casino in Northern Virginia would be projected to increase state gaming tax revenue from casinos by \$70 million to \$230 million, depending on the tax rate.

### **Casinos are projected to generate local economic benefits, which would be most noticeable in smaller localities like Bristol and Danville**

Casinos in the five SB 1126 locations could generate a total of 10,000 jobs, about 70 percent of which would be directly at the casinos and the remainder created indirectly. This would be equivalent to a negligible proportion of the state's total labor force (0.2 percent). However, each casino could directly employ at least 1,000 people, which could be meaningful at the local level, particularly considering the size of some of the regions' labor forces and the unemployment rate. In addition to ongoing employment, construction for all five casinos is projected to have a one-time impact of more than 13,000 jobs.

Conversely, a portion—between 5 percent and 13 percent—of the economic impact from additional gaming would be offset by decreases in the number of jobs and GDP generated by HHR gaming. This is due to the reduction in HHR revenue that The Innovation Group (TIG) projected would occur because of competition between HHR gaming and casino gaming.

### **Gaming could cost the state, localities, and other stakeholders at least \$61 million in administrative costs and reductions to other forms of gaming revenue**

Casino gaming would decrease revenues and proceeds from Virginia's existing gaming. TIG estimates that lottery proceeds for K–12 education will decrease 3.6 percent (\$30 million annually) after the introduction of casino gaming (Table 10-1). Net gaming revenue and proceeds from HHR wagering are projected to substantially decrease if casino gaming is authorized, reducing state tax revenue by \$14.7 million (45 percent) (Table 10-1). Beyond impacts to the state, local taxes paid by HHR facilities, proceeds generated by HHR for horse industry stakeholder groups, and proceeds generated for organizations that conduct charitable gaming would also be expected to decrease as a result of competition from casinos (sidebar).

The estimated annual cost of oversight and administration of *casino gaming* ranges from \$14 million to \$23 million. If Virginia Lottery were given the responsibility of oversight and administration, savings would be about \$2 million compared to the creation of a standalone agency (Table 10-1).

An effective problem gambling prevention and mitigation program is estimated to cost \$2 million to \$6 million annually (Table 10-1). In addition, new gambling options could increase the number of Virginians at risk of experiencing financial, mental health, or relationship problems due to problem gambling.

### **Sports wagering and online casino gaming are projected to generate additional state revenue and would not add substantial other costs**

Sports wagering and online casino gaming could generate additional tax revenue for the state, but would have little to no additional economic impact. TIG estimated that

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**Local taxes paid by HHR facilities** are projected to decrease by \$8.4 million (45 percent) spread across five host HHR host localities.

**Proceeds to organizations that conduct charitable gaming** are projected to decrease by about \$3.1 million statewide (4.4 percent), with greater impacts to organizations near casinos.

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online casino gaming could generate \$37 million to \$125 million in gaming tax revenue depending on the tax rate, with a middle estimate of \$84 million assuming a 27 percent tax rate (Table 10-1). TIG estimates that sports wagering could generate as little as \$22 million in gaming tax revenue if sports wagering were offered at brick-and-mortar casino locations only, or up to \$55 million if mobile sports wagering is permitted along with sports wagering at brick-and-mortar locations (Table 10-1). Sports wagering could also be offered without the development of casinos, but online casino gaming typically accompanies the presence of physical casinos.

Sports wagering would be estimated to contribute jobs and additional economic activity (measured in gross domestic product) but would be much smaller (10 percent or less) than the economic activity created by casinos. Online casino gaming is anticipated to have negligible economic impact.

Costs for overseeing and regulating gaming could be higher if additional forms of gaming or regulation, such as sports wagering and grey machines, were pursued. The impact of overseeing and regulating sports wagering or online casino gaming tends to be small compared to costs for the same functions related to brick and mortar casinos. Additionally, few states regulate grey machines, but costs of oversight and regulation could be substantial for these devices (\$14 million annually in Georgia).

Sports wagering and online casino gaming are not anticipated to have a meaningful negative impact on Virginia's existing forms of gaming, in most cases. Impacts to live horse racing wagering from sports wagering could be mitigated if pari-mutuel wagering facilities were able to offer sports wagering. Online casino gaming would likely have a meaningful adverse impact on iLottery gaming if iLottery were to be authorized in Virginia.

**After accounting for associated costs, expanded gaming is projected to generate positive state net revenues, but their magnitude depends primarily on the gaming revenue tax rate**

Before expenses and reductions to other forms of revenue, total state revenue from casinos and additional forms of gaming would range from approximately \$154 million to \$571 million depending on the extent to which gaming is implemented and the gaming tax rate applied to individual casinos' net gaming revenue. After deducting the estimated \$61 million to \$71 million for administrative costs and reductions in HHR-generated state taxes and lottery-generated K-12 proceeds, the estimated annual net revenue to the state could range from \$83 million to \$510 million. For example, a projected revenue of about \$83 million would result from the five SB 1126 casinos at a low gaming revenue tax rate, along with no other additional forms of gaming and the highest oversight operational costs. A projected revenue of \$510 million would result from the five SB 1126 casinos at a high gaming revenue tax rate, widespread availability of sports wagering (brick and mortar and mobile options), online casino gaming, and the lowest oversight operational costs.

More realistically, total net revenue to the state could be closer to \$367 million (\$432 million in revenue and \$65 million in costs) with five SB 1126 casinos at a gaming revenue tax rate of 27 percent, broad availability of sports wagering (brick and mortar and online), and online casino gaming, partially offset by negative impacts to revenue from existing forms of gaming and mid-point estimates of administration and oversight costs (assuming that role is filled by the Virginia Lottery).

**TABLE 10-1**

**After expenses, state is estimated to collect net positive revenues from additional forms of gaming (\$ millions)**

	<b>Low</b>	<b>Middle</b>	<b>High</b>
<b>State revenue</b>			
Casinos			
Casino gaming tax revenue	\$122M	\$262M	\$363M <sup>c</sup>
Other state taxes generated by casinos <sup>a</sup>	28	30	33
Additional forms of gaming			
Online casino gaming	37	84	\$125
Sports wagering <sup>b</sup>	22	48	55
<b>Total revenue (all combinations of gaming) \$154M to \$571M</b>			
<b>State costs</b>			
Reduction in lottery proceeds to K–12 education	\$30	\$30	\$30
Gaming agency operations <sup>d</sup>	14	18	23
Reduction in state gaming taxes paid by HHR	13	13	13
Reduction in other state taxes from HHR	1	1	1
Problem gambling response	2	4	6
<b>Total costs \$61M to \$73M</b>			
<b>Net state revenue (all combinations of gaming) \$81M to \$510M</b>			

SOURCE: The Innovation Group and JLARC analysis of spending in other states.

NOTE: May not sum because of rounding. SB 1126 casino locations only. State revenue and costs only; does not include revenue or costs to localities or charitable gaming. Low-end estimates for some categories could accompany high-end estimates for other categories; for example, high casino gaming tax revenue due to a high tax rate in combination with low gaming agency operations costs.

<sup>a</sup> Other state taxes include personal income tax, sales tax, and corporate income tax. Projected revenue for casino gaming is estimated for 2025. <sup>b</sup> Sports wagering revenue presented for range of availability, including brick and mortar only, mobile only, and brick and mortar & mobile combined; all with a 12 percent tax rate in place. Sports wagering and online casino gaming tax revenue assumes fully mature market after five-year ramp-up period. <sup>c</sup> Assumes 40 percent tax rate applied to each SB 1126 casino, except Bristol, where a 27 percent tax rate is in place to allow a \$200 million minimum capital investment minimum to be met. <sup>d</sup> Because of start-up costs, some gaming agency operational costs would occur before casinos or additional forms of gaming began producing revenue. Does not include casino license fees, which could be substantial and used to offset a portion of agency operational costs. A small portion of the estimated impact to lottery proceeds is attributable to HHR.

## **Comprehensive legislation would establish the state's gaming principles and priorities in law**

States use the legislative process to establish the policy framework that would be necessary to operate and oversee additional gaming, and it would make sense to have

the General Assembly set the parameters through statute in Virginia. The General Assembly would need to make numerous key decisions to establish policies and principles in casino authorizing legislation. The most important of these decisions include:

- establishing the public purpose of gaming;
- defining key gaming terminology;
- determining the number of casino locations allowed in the state and their locations;
- establishing how casino developments will be selected;
- identifying the governing board and regulatory agency that will exercise gaming oversight and administration;
- establishing the tax rate and structure that will be imposed on gaming revenue; and
- determining how gaming tax revenues will be used.

States implement policies that govern gaming through detailed regulations developed by their oversight agency and board. These regulations dictate detailed operational requirements for casino owners and operators. This approach allows a legislature to express its intent for gaming regulation, while allowing the governing agency and board to determine how best to operationalize that intent. In addition, because regulations are typically easier to amend than legislation, they give states the flexibility to respond to changes in the gaming environment.

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Nevada's legislation indicates that gaming is integral to economic development of the state. As a result, Nevada's gaming oversight agency has taken a more cooperative rather than a punitive approach to oversight. For example, the Nevada Gaming Control Board encourages the industry to seek agency input into the development of new games and gaming equipment, so that the agency can help the industry ensure that these new developments will comply with state laws and regulations.

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### **States establish the public purpose of gaming in statute**

Stating the state's objectives for permitting additional forms of gaming helps guide the development of gaming regulations. Many states have codified legislative intent through a policy statement that precedes expanded gaming authorization language. Several states cite local economic development as the purpose of legalized commercial gaming (sidebar). Others cite the state's need for additional revenue sources or designate support of a particular industry, such as horse racing. The Code of Virginia contains this type of policy statement for several functions of state government, including one for each form of existing gaming. For example, statute describes the purpose of horse racing wagering as promoting, sustaining, and growing the state's native horse industry.

### **States clearly define key gaming terminology in statute**

Setting clear and specific definitions in casino authorizing legislation helps avoid confusion about how to apply key statutory and regulatory provisions. For example, gaming revenue (e.g., gross gaming revenue, net gaming revenue, adjusted gaming revenue) would have to be clearly defined to ensure the gaming tax is being applied



appropriately to casino revenue (Table 10-2). Clearly defining the games that are legal in a casino would also be prudent.

**TABLE 10-2**  
**Sample gaming terminology**

- 
- **Key executive:** Any executive, employee, agent or other individual who has the power to exercise significant influence over decisions concerning any part of a casino operation.
  - **Manufacturer:** A person who produces, programs, designs, or modifies a gaming device, associated equipment, cashless wagering system, mobile gaming system, or interactive gaming system in the state.
  - **Gaming revenue:** Cash received as winnings less the total of all cash paid out as losses to patrons. May be defined as gross gaming revenue, which includes all gaming revenue, or net (or adjusted) gaming revenue, which allows for certain deductions from gross gaming revenue, such as the cost of free play credits.
  - **Slot machine:** Any mechanical, electrical, or other device or machine which, upon insertion of a coin, token, ticket, or similar object, is available to play, the play or operation of which makes individual prize determinations for individual participants in cash, premiums, merchandise, tokens, or anything of value.
  - **Table game:** A game played with cards, dice, or any mechanical, electro-mechanical or electronic device or machine for money, casino credit, or any representative of value. "Table game" does not include slot machines.
- 

SOURCE: Ohio Revised Code §3772.01; Michigan Compiled Laws §432.202.

### **States determine the number of casino licenses available and where they can operate**

Casino authorizing legislation shapes a state's casino industry by creating either a limited or open casino market. A limited license market restricts the number of casino licenses in a state, often separating casino locations into zones or regions that create geographic separation. This is in contrast to an open casino market, where there is an unlimited number of casino licenses available. Casinos in a limited license market have less competition than those in an open market and will likely realize greater profits.

Only six of 25 states with commercial casinos have an open casino market and do not limit the number of casino licenses: Nevada, New Jersey, Iowa, Colorado, South Dakota, and Mississippi (although some do limit the location of casinos to certain cities or regions). Another six states limit casino gambling to horse racetracks (racinos), including Delaware and West Virginia. Thirteen states have a limited casino market, limiting the number of casinos and specifically where they can be located. These states include: Maryland, Massachusetts, Michigan, Ohio, Kansas, Pennsylvania, and Indiana. SB 1126, as currently drafted, would create a limited casino market in Virginia.

### **States specify in statute how casino developments and operators will be selected**

Authorizing legislation would need to specify how casino projects will be selected, the government entity that will make the selection, and any minimum requirements for selection. States typically use a competitive selection process to solicit casino development proposals, review the proposals to assess the potential risks and rewards of each project, and select a proposal that most closely fulfills the state's goals and criteria for successful casino development and operation. The evaluation and selection of casino development proposals tends to be led by a state-level committee, the composition of which is typically spelled out in statute.

Authorizing legislation should specify any minimum requirements for casino proposal selection, as well as any preferences that should be considered in the selection process. For example, most states set a minimum capital investment and set casino license fees in legislation. Additionally, if legislators prefer local investments or ownership by a recognized tribal nation, these preferences should be described in authorizing legislation.

### **States specify the governing board and regulatory agency that will oversee additional forms of gaming**

Casino authorizing legislation should specify the state board that will govern expanded gaming and specify the powers of the governing body. At a minimum, statute would need to delegate to the state entity the authority to

- adopt, amend and repeal regulations related to casinos or additional forms of gaming;
- accept, modify, or reject agency recommendations for actions related to licensing key casino executives and personnel, employee, and gaming equipment vendors; and
- hear appeals of any gaming licensing decisions.

State statute should specify the agency that will administer and enforce gaming regulations. Statute also should broadly define the roles and responsibilities of the gaming oversight agency. In most states, the gaming oversight agency is vested with the authority to

- investigate casino license applicants wishing to participate in the state's gaming industry;
- issue, renew, and rescind gaming licenses;
- enforce the state's requirements and restrictions related to gaming operations, such as casino hours, the types of games that are allowed, minimum and maximum wagers, game play rules, and advertising restrictions;

- ensure that casino games and facilities operate with integrity and fairness through monitoring of operational processes, such as cashiering, table game dealing, and cash drops and counts;
- ensure that gaming establishments adhere to sound financial management practices, through issuing accounting policies and conducting periodic and special audits of gaming establishments; and
- issue and enforce requirements related to the security and fairness of gaming equipment.

### **States set the tax structure and tax rates applied to casino gaming and additional forms of gaming**

The tax rate applied to casino gaming revenue is a key consideration for states because it greatly influences how much tax revenue a state generates from casinos. Authorizing legislation should set the tax structure and rates applied to casino gaming and additional forms of gaming. The state has options to establish a casino gaming tax policy that may optimize state fiscal impact and local economic impact. Overall tax revenue is a product of (1) the tax rate applied to casino gaming revenue and (2) the tax structure, such as a flat rate, different rates for different types of gaming, or graduated rates based on the amount of gaming revenue.

### **States specify how gaming revenue will be used**

States typically use casino gaming authorizing language to establish how casino gaming tax revenue will be used. The legislation typically specifies the initiatives, funds, or causes that will receive a portion of casino gaming tax revenue, and the percentage or amount to be dedicated for each.

Across the country, states use casino gaming revenue taxes for similar purposes (Table 10-3). The most common recipients of gaming tax revenue are the state general fund, local governments, and gaming related purposes (regulatory agency operations, problem gaming programs, and the horse racing industry). Public education is the most common program area to receive gaming tax revenue proceeds. Other common purposes include economic development, tourism and promotion funds (including for gaming marketing purposes), and other major state initiatives, such as capital improvement projects, local property tax (real estate tax) relief, debt reduction, and rainy day funds. Some states also distribute casino gaming tax revenue to specific groups of citizens, such as veterans, or to miscellaneous policy areas, such as research and development.

**TABLE 10-3**  
**National gaming tax revenue distributions**

<b>Purpose</b>	<b>Most common</b>	<b>Common</b>	<b>Less common</b>
General fund	✓		
Local governments	✓		
Gaming related <sup>a</sup>	✓		
Public education	✓		
Economic development		✓	
Tourism and promotion		✓	
Major state initiatives		✓	
Specific groups of citizens <sup>b</sup>			✓
Other policy areas <sup>c</sup>			✓

SOURCE: State statutes and National Conference of State Legislatures.

NOTE: <sup>a</sup> Gaming related purposes include regulatory agency operations, program gaming, and the horse racing industry. <sup>b</sup> Specific groups of citizens include veterans, senior citizens, and individuals with disabilities. <sup>c</sup> Other policy areas include mental health and addiction; public safety and criminal justice; agriculture; research and bioscience; early childhood initiatives; historic preservation; workers' compensation; and small, women-owned, and minority-owned businesses.

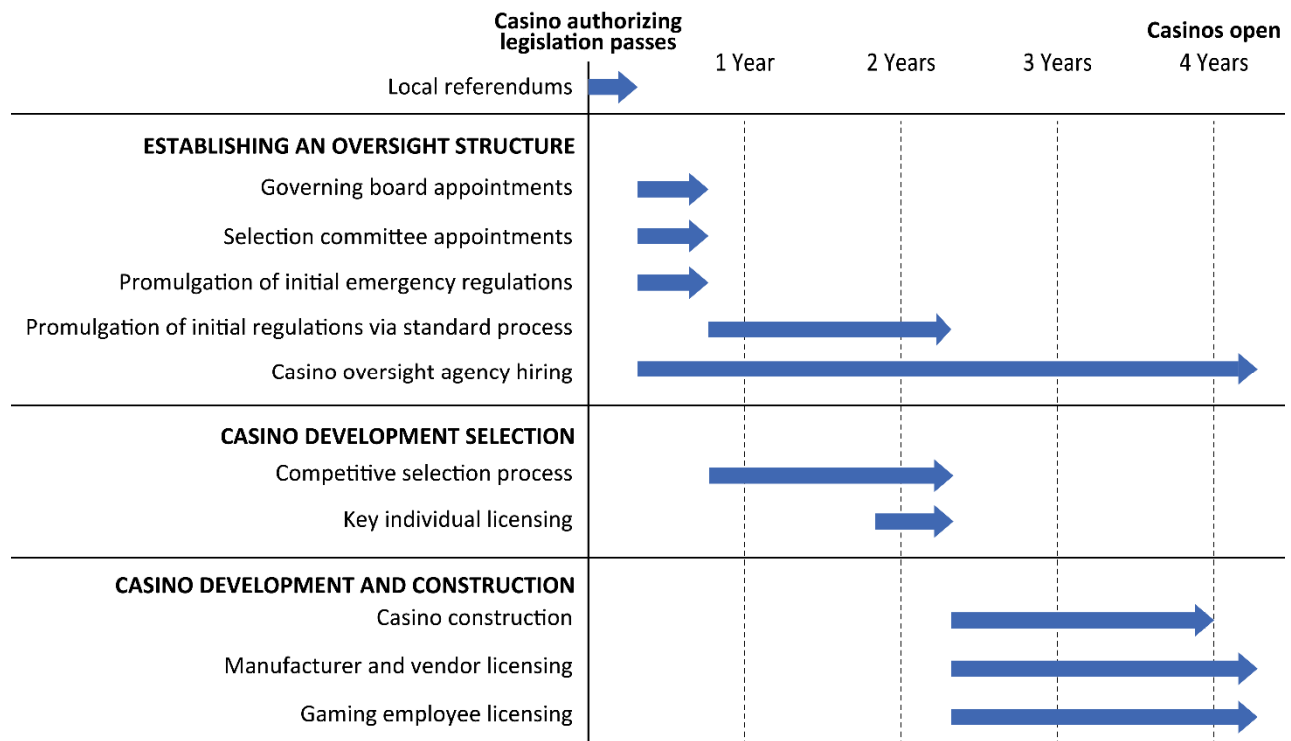
## Casino development would take four years after authorizing legislation

Implementation of casino gaming is a major undertaking for a state, and the future success of the casinos could depend on taking a thoughtful, measured approach to implementation. This process should prioritize prudent decision-making over the temptation to earn revenue quickly or the compulsion to meet casino developers' and owners' ambitious timelines.

Virginia casinos would likely open approximately four years after casino authorizing legislation passes if the process were similar to other states (Figure 10-1). Passing authorizing legislation represents the beginning of the casino development process. Following authorization, authorized localities interested in hosting a casino would hold popular referendums to authorize casino gaming in the locality. These referendums could be held within months of authorizing legislation becoming effective. Once at least one locality authorizes gaming, states undertake activities that can be arranged broadly into three major phases: establishing the oversight environment, casino development selection, and casino development and construction.

**FIGURE 10-1**

Several steps occur between the passage of casino authorizing legislation and the opening of casinos



SOURCE: JLARC staff analysis of casino implementation timelines in other states.

### Establishing an oversight structure could take up to six months

Once one or more referendums to authorize casino gaming passed, the state would need to establish an oversight structure, which would take up to six months to complete. This includes appointing members to a governing board and to a dedicated selection committee (if the state chooses to establish one). At the same time, the gaming oversight agency could begin to hire staff. Typically, this includes executive staff needed for planning and guiding agency development or expansion and some investigation staff to handle the licensing investigations required for key executives in the casino selection process.

The gaming governing board would also need to issue initial regulations on gaming. At a minimum, regulations on the casino development selection and key executives' licensing processes would need to be issued to start the casino selection process. To avoid a lengthy regulatory process, the board could first develop emergency regulations for these initial regulations. Emergency regulations become effective immediately upon publication and require approval through the standard regulatory process within 18 months (sidebar). To use the emergency regulatory process, the General Assembly would need to require the issuance of regulations within 280 days of the enactment of legislation authorizing casino gaming. Otherwise, the governor would need to

**Emergency regulations** can be issued when regulations need to be issued more quickly than the standard regulatory process allows. When an agency issues emergency regulations, the regulations become effective the day they are published. Emergency regulations are only effective for 18 months. By the end of 18 months, the regulations must have gone through a standard process, with public comment, to remain in effect.

determine, and the attorney general would need to concur, that an emergency exists requiring the issuance of regulations that were immediately effective. Promulgating emergency regulations for issues such as the casino selection process and licensing would allow the process to move forward to the casino selection process. Once the casino selection process was underway, the gaming oversight agency could begin the standard regulatory process to make the casino selection and licensing regulations permanent, as well as begin developing regulations on other topics, such as gaming conduct and gaming equipment specifications. If the emergency regulatory process were not used, it would take about 18 to 24 months to develop these regulations which would delay the start of the casino selection process.

### **Selecting casino proposals to be awarded operators' licenses could take 18 months**

The process required to select casino developments typically requires about 18 months to complete. The competitive process involves developing a request for proposals (including the criteria against which proposals will be judged), giving the market time to respond to the proposal, reviewing proposals, determining the feasibility of proposals, interviewing finalists, and making a final selection. In peer states, the median time between casino authorization and the completion of a casino development selection process was 18 months. Maryland selected casino developments in the shortest period of time, taking approximately one year to select three casino developments. The casino development selection process in Michigan required just under 18 months to complete. However, the process in other states ranged from two years to over three years. In most cases, when the process required more than 18 months to complete, a particular site had not received any bids, or litigation had delayed the process.

While the casino development selection is ongoing, state agency oversight employees could begin to investigate key executives. In some states, state oversight agency staff complete licensing investigations on key executives associated with a casino proposal before the casino development selection process. Doing so can delay the selection process if there are multiple bidders that require investigation or if any of the investigations are overly complex. To avoid delays in the selection process, some states begin to conduct investigations during the selection process but complete the investigations within six months after the conclusion of the casino development process. In practice, this means that the selection body preliminarily selects a casino development, but the casino license is not awarded until the in-depth key executive investigations are completed and all associated individuals are found suitable. Conducting the investigations in this sequence, however, means that if key executives are not found suitable for the Commonwealth's casino industry, those individuals will need to be removed from the project, or the casino development bidding process will need to be reopened.

### **Building casinos could take 20 months**

Casino development and building activities make up the third phase, and these activities are primarily controlled by casino owners and operators. In peer states, the median time between the finalization of the casino development selection process and the first casino opening was around 20 months. The time required to complete casino development and construction includes time needed to complete any local permitting processes.

The casino oversight agency could engage in several activities during the approximately 20 months that would elapse between the casino development selection and the opening of the casinos. First, the oversight agency would likely continue to hire and train additional staff that would be needed to conduct ongoing oversight activities once casinos open. Second, the casino oversight agency would likely begin licensing manufacturers and vendors, as well as gaming employees. Additionally, during this time, the state's behavioral health agency, the Department of Behavioral Health and Developmental Services (DBHDS), could begin to develop an approach to problem gaming mitigation and treatment.

In the first three to four years that a gaming oversight agency is operating, but casinos are not yet open and paying taxes on gaming revenue, the casino oversight agency would need a revenue source to support its operations. (Most states use tax proceeds on gaming revenue to fund gaming oversight agency operations.) Options to fund the oversight agency operations temporarily include using general funds, a treasury loan to be repaid once gaming tax revenues are available, or casino licensing fees.

### **Authorizing and regulating additional forms of gaming could impact timeframe**

Additional forms of gaming beyond casinos could also be authorized and would need to be regulated and overseen. These additional forms of gaming could include sports wagering and currently unregulated grey machines. If the same agency, such as lottery, were given responsibility for these in addition to casinos, it could affect the timeframe. Placing additional responsibilities on the gaming oversight agency could slow the introduction of new regulations, require additional staffing, and affect other functions such as contracting with operators (sports wagering) or setting up a new central auditing system (grey machines).





## Appendix A: Study mandates

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### 2019 Session

SENATE BILL NO. 1126

#### **AMENDMENT IN THE NATURE OF A SUBSTITUTE**

2. That the Joint Legislative Audit and Review Commission shall conduct a review of casino gaming laws in other states. For purposes of the review, “casino gaming” shall have the same meaning as set forth in § 58.1-4002 of the Code of Virginia, and shall also include the lottery, historical horseracing, and horse racing and pari-mutuel wagering. The Joint Legislative Audit and Review Commission shall report any findings and recommendations to the Chairmen of the Senate Committee on General Laws and Technology and the House Committee on General Laws on or before December 1, 2019.

Budget Amendments - HB1700 (Conference Report)

#### **JLARC Funding to Analyze Proposals for Expanding Legalized Gaming in Virginia**

##### **Item 31 #3c**

##### **Language**

I. Included within the appropriation for this item is \$200,000 in the first year from the general fund for the Joint Legislative Audit and Review Commission to contract with one or more third-party independent reviewers to evaluate the Commonwealth’s current and potential gaming governance structures, current and potential revenues to the Commonwealth, and any other relevant subjects it deems necessary pursuant to the study. In conducting this evaluation, the Joint Legislative Audit and Review Commission shall consider the impact of additional gaming and sports wagering, including both physical casino facilities and online gaming and sports wagering, as well as increased charitable gaming, on existing thoroughbred racing, breeding and related agribusiness industries, as well as the current and future revenues of the Virginia Lottery. The Joint Legislative Audit and Review Commission shall coordinate the study, and all state agencies, public bodies, and officials shall cooperate with the Joint Legislative Audit and Review Commission pursuant to completion of the study, as it deems necessary, upon its request.

##### **Explanation**

(This amendment provides \$200,000 from the general fund in fiscal year 2019 to support consultant costs associated with JLARC's analysis of proposals to expand legalized gambling in Virginia.)

## Appendix B: Research activities and methods

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JLARC staff conducted the following primary research activities:

- contracted with consultants to produce reports on: the estimated fiscal and economic impact of gaming expansion; the gaming governance, regulatory, and administrative structures utilized in peer states; and strategies for preventing and mitigating problem gambling and other social costs;
- conducted structured interviews with state lottery agency staff, other state regulatory agencies including the Office of Charitable and Regulatory Programs and the Virginia Racing Commission, gaming agency staff in peer states, local economic developers and other local officials, national gaming industry experts, tribal groups, problem gambling prevention and treatment experts, and other industry stakeholders;
- visited existing gaming facilities in Virginia;
- attended an educational seminar regarding casino regulation hosted by the International Center for Gaming Regulation at the University of Nevada, Las Vegas;
- reviewed research literature and documents; and
- collected and analyzed other states' gross gaming revenue, tax, and demographic data.

### Contracted with consultants

JLARC contracted with The Innovation Group (TIG), a research and advisory firm in the gaming industry, to produce reports supplementing the research activities of JLARC staff. TIG also contracted with Regulatory Management Counselors, P.C. (RMC), experts on the legislative, regulatory, and licensing systems involved with the casino industry. TIG's report focused on the estimated fiscal and economic impacts of gaming expansion in Virginia under several scenarios. RMC's portion of the report focused on a review and synthesis of peer states' commercial gaming governance, regulatory, and administrative structures; as well as problem gambling and responsible gambling initiatives nationwide. Additionally, JLARC contracted with Dr. Terance Rephann, an economist at the Weldon Cooper Center for Public Service, to assist in reviewing the consultants' work related to the economic impact analysis.

### *The Innovation Group*

TIG was contracted to produce a report to supplement JLARC staff analysis of the potential fiscal and economic impacts of expanded gaming in the Commonwealth of Virginia. The report contains: a gaming market assessment, including the fiscal and economic impact of the five casino locations designated in SB 1126, as well as a sixth casino in Northern Virginia; the impact future casino competition in other states could have on Virginia casinos; the impact of potential casino development on historical horse racing (HHR), the Virginia horse industry, the Virginia Lottery, and charitable gaming; and the projected fiscal and economic impacts from potential sports betting and online casino gaming in Virginia.

### ***Regulatory Management Counselors, P.C.***

RMC's portion of the consultants' report consisted of an in-depth review of other states' gaming governance, regulatory, and administrative structures and priorities related to legal gambling. The review assembled information that could be used by the Commonwealth of Virginia to guide decisions related to establishing a gaming regulatory and oversight structure. RMC's review focused on seven states (Delaware, Kansas, Maryland, Massachusetts, Michigan, Ohio, and West Virginia). Peer states were selected based on the structure of their state's casino industry and their demographic and geographic similarity to Virginia. JLARC staff used data from the American Gaming Association's 2019 State of the States to collect data on each state's casino industry. State level data from the U.S. Census Bureau on geographic location and size, population size and density, and population demographics (median household income, percentage of households at or below the federal poverty limit, and percentage of population with a bachelor's degree) was used to identify states similar to Virginia. JLARC staff identified Kansas, Maryland, Massachusetts, Michigan, and Ohio as those states with gaming environments most similar to what was contemplated in SB 1126, as well as being similarly situated to Virginia in terms of geographic location and size, population size and density, and population demographics. Additionally, West Virginia and Delaware were included for review because of their geographical proximity to Virginia. RMC also reviewed five other states on a limited scope pertaining to site and operator selection (Illinois, Indiana, Iowa, New York, and Pennsylvania). RMC primarily used case studies, interviews with industry experts and staff at gaming oversight agencies in other states, and document reviews to assemble its report.

RMC also conducted research on problem gambling prevention and mitigation. This section of work included interviews with experts in the area of problem gambling, as a review of prevention and mitigation practices in other states including responsible gaming initiatives conducted by casino operators.

### **Structured interviews**

Structured interviews were a key research method for this report. JLARC staff conducted over 90 structured interviews. Key interviewees included:

- Virginia Lottery agency staff and board members,
- other Virginia gaming agency staff and board members,
- other Virginia state agency staff,
- legislative staff,
- gaming agency staff in peer states (often in conjunction with RMC),
- local economic developers and other local officials,
- national gaming industry experts, including, industry associations and stakeholder groups,
- tribal groups,
- problem gambling experts, and
- other industry stakeholders.

### ***Virginia Lottery staff and board members***

JLARC staff and consultants conducted nine interviews with lottery board members, agency leadership, and other staff members of various departments within the lottery agency. JLARC staff interviewed lottery staff in the following departments:

- administration,
- audit and security,
- digital,
- licensing, and
- public affairs and community relations.

The topics of these interviews included lottery's current operating functions, the agency's governance and organizational structure, lottery's perspective on expanded gaming in Virginia, the roles and responsibilities of the board and key staff members, challenges faced by the agency, strategic initiatives and future plans, responsible gaming programs and initiatives, the licensing and investigations process, and the potential role of lottery in regulating expanded gaming.

### ***Other Virginia gaming agency staff and board members***

JLARC staff conducted in-person structured interviews with other state agency staff and board members who operate within the existing gaming Virginia. These interviews were conducted with staff or leadership of the following agencies:

- Virginia Racing Commission;
- Office of Charitable and Regulatory Programs, Department of Agriculture and Consumer Services; and the
- Charitable Gaming Board.

The topics of these interviews included the roles and responsibilities of existing agencies, boards, and commissions in regulating existing gaming in the Commonwealth, the governance and organizational structure of these entities, enforcement of current regulations, challenges and strategic initiatives, how current regulatory and enforcement bodies interact with each other and lottery, the views of staff and leadership on expanded gaming and the potential regulatory needs and challenges of casino regulation.

### ***Other state agency staff***

JLARC staff conducted in-person structure interviews with other state agency staff that interact with gaming agencies or could be impacted by expanded gaming. JLARC staff interviewed staff at the following agencies:

- Auditor of Public Accounts,
- Department of Planning and Budget,
- Office of the Secretary of Finance,
- Department of Behavioral Health and Developmental Services, and
- Virginia State Police.

The topics of these interviews included the performance of Virginia's existing gaming agencies; Virginia's existing problem gambling and responsible gaming programs; potential regulatory needs and challenges of casino regulation; potential problem gambling mitigation and treatment needs; potential fiscal and economic impacts of expanded gaming; and general views on expanded gaming.

### ***Legislative staff***

JLARC staff conducted interviews with staff from the Senate Finance Committee, House Appropriations Committee, and the Division of Legislative Services. These interviews included discussion of the provisions in SB 1126, the potential role of lottery in regulating expanded gaming, and other general background information on the gaming environment in Virginia.

### ***Other state gaming agency staff***

JLARC staff, in conjunction with members of the consultant team, conducted interviews with the staff and leadership of gaming agencies in several other states. These agencies included:

- Kansas Racing and Gaming Commission,
- Georgia Lottery Corporation,
- Maryland Lottery and Gaming Control Agency,
- Massachusetts Gaming Commission,
- Michigan Gaming Control Board,
- Ohio Casino Control Commission,
- Ohio Lottery Commission,
- Pennsylvania Gaming Control Board, and
- West Virginia Lottery Commission.

These interviews focused on topics such as agency budgets and funding sources, agency size and organization, the scope of gaming the agency was responsible for regulating, the benefits and drawbacks of casino gaming and other types of gaming regulation being housed in the same agency, the evolution of gaming regulations over time, the casino operator and site selection process, the licensing process for operators and vendors, and responsible gaming programs.

Peer states selected for interviews were selected based on the structure of their state's casino industry and their demographic and geographic similarity to Virginia. JLARC staff used data from the American Gaming Association's 2019 State of the States to collect data on each state's casino industry. State level data from the U.S. Census Bureau on geographic location and size, population size and density, and population demographics (median household income, percentage of households at or below the federal poverty limit, and percentage of population with a bachelor's degree) was used to identify states similar to Virginia. JLARC staff identified Kansas, Maryland, Massachusetts, Michigan, and Ohio as those states with gaming environments most similar to what was contemplated in SB 1126, as well as being similarly situated to Virginia in terms of geographic location and size, population size and density, and population demographics. Although not identified as peer states, personnel at the casino oversight agencies in West Virginia and Pennsylvania were also interviewed because of their geographic proximity to Virginia.

### ***Local economic developers and officials***

JLARC staff conducted structured interviews with economic developers and officials from each of the five localities identified in SB 1126: Bristol, Danville, Norfolk, Portsmouth, and Richmond. The officials included city managers, counsel, intergovernmental relations specialists, and consultants representing the localities. These interviews focused on the localities' ongoing involvement with a potential casino, the challenges each locality faces, their views on the potential impacts (positive and negative) that a casino may have on their locality, their perception of the appetite for expanded gaming in their localities, their views on the casino site and operator selection process, and their views on the roles of the state and individual localities in the process of adopting and implementing expanded gaming.

### ***National gaming industry experts***

JLARC staff conducted a number of structured interviews and held discussions with national gaming industry experts. These interviews and discussions were held with:

- researchers at the Center for Gaming Research at the University of Nevada, Las Vegas,
- former and current members of the Nevada Gaming Control Board,
- American Gaming Association staff, and
- industry consultants.

The topics covered in the interviews and discussions included general trends in gaming expansion nationally; regulatory agency creation and start-up; taxation rates and structures; best practices related to governance, regulation, and administration of gaming; and the proliferation of sports wagering and related topics, including the expansion of other types of gaming like online casino gaming.

### ***Tribal groups***

JLARC staff also conducted structured interviews with tribal gaming-related groups, including the Pamunkey tribe, the Nansemond tribe, and the National Indian Gaming Commission. The topics of these interviews primarily consisted of the goals of tribal groups related to gaming in the Commonwealth; tribes' involvement in, and desire to pursue, commercial gaming; the process of securing federal authorization for gaming under the Indian Gaming Regulatory Act; potential challenges to operating tribal or commercial gaming facilities as a federally recognized tribe; and the role of the local, state, and federal government in potential expanded gaming involving tribal groups.

### ***Problem gambling experts***

JLARC staff conducted structured interviews with state and national problem gambling experts. Key interviews included individuals from:

- Virginia Council on Problem Gambling,
- Iowa Department of Public Health, Office of Gambling Treatment and Prevention,
- Kansas Department for Aging and Disability Services, problem gambling program,
- Maryland Center of Excellence on Problem Gambling,
- Delaware Council on Gambling Problems Inc.,

- Massachusetts Gaming Commission, Office of Research and Responsible Gaming,
- First Choice Services, West Virginia (problem gambling prevention and treatment administrator),
- Ohio Casino Control Commission, Problem Gambling Services,
- Minnesota Lottery (former official),
- Harvard Medical School, Cambridge Health Alliance, Division on Addiction,
- University of Massachusetts-Amherst School of Public Health and Health Sciences, center for Social and Economic Impacts of Gambling in Massachusetts,
- College of Charleston Department of Economics,
- National Center for Responsible Gaming,
- National Council on Problem Gambling,
- Association of Problem Gambling Service Administrators,
- Gambling Research Exchange Ontario (Canada),
- Gaming Laboratories International, and the
- University of Florida, Department of Epidemiology.

The primary topics covered in these interviews included the prevalence of problem gaming, the negative impacts of gaming, magnitude and measures of the costs of problem gambling, mitigation and treatment of problem gambling and its impacts, prevention strategies, and funding for responsible gaming programs.

### ***Other industry stakeholders***

JLARC staff conducted structured interviews with a variety of other stakeholders with interests in the expansion of commercial gaming in the Commonwealth of Virginia. These stakeholders included:

- Colonial Downs Group,
- Chmura Economics,
- daily fantasy sports operators and industry representatives,
- grey machine operators/manufacturers,
- The United Company,
- Virginia Equine Alliance, and
- casino operators.

The interviews were primarily concerned with the organizations' or individuals' opinions on expanded gaming, the impact expanded gaming may have on their organization or industry, the role their organization plays in the current gaming sector in the Commonwealth, the potential role their organization or industry may play in an expanded gaming scenario, and best practices in other states with casino gaming or other additional forms of gaming.

### **Site visits**

JLARC staff conducted site visits of various existing gaming facilities throughout the Commonwealth of Virginia and in other states. These sites included:

- bingo games hosted by charitable organizations,
- private social quarters of charitable organizations that house electronic pull-tab machines,
- lottery retailers,
- Colonial Downs race track,
- Virginia historical horse racing facilities, and
- commercial casinos in other states.

JLARC staff conducted these site visits to better understand the current gaming landscape in Virginia. The visits provided insight into how gaming is currently operated in the state, how the current regulatory system functions, and how expanded gaming may fit into the current structure of legal gaming. Additionally, JLARC staff visited the cities of Bristol, Danville, Norfolk, and Portsmouth to meet with local economic development officials and tour potential casino development sites.

### **Attended educational course**

JLARC staff attended a five-day educational course entitled “Fundamentals of Regulation for Land-Based Casinos” at the International Center for Gaming Regulation at the University of Nevada, Las Vegas. The course was taught by professors at the university, as well as current staff at the Nevada Gaming Control Board. The course covered a breadth of issues including licensing investigations and suitability standards, financial investigations, casino audit and internal controls, enforcement and compliance, gaming technology and testing, patron dispute processes, anti-money laundering (AML) laws, sports betting, and casino game play. The course also included a site visit to an integrated casino resort in the Las Vegas area. Attending the course expanded JLARC staff’s knowledge base of the casino regulatory landscape.

### **Document and research literature review**

Document and literature review was a key method for this study. JLARC staff conducted an extensive review of literature and documents related to various aspects of gaming in Virginia and nationwide, including:

- documents and reports from national groups and individual states pertaining to the scope and scale of the gaming environment in other states, such as the American Gaming Association State of the States report and state fiscal and economic impact reports;
- documents, statutes, regulations, and reports from Virginia’s existing gaming agencies, the Virginia Lottery, Virginia Racing Commission, and Charitable Gaming board;
- gaming statutes and regulations from other states;
- academic research on the negative impacts of gambling (Appendix G); and
- documents and reports related to the function and organization of gaming agencies in other states, such as organizational charts, budgets, and annual reports.

### **Data collection and analysis**

JLARC staff collected and analyzed three main types of data for this report: gaming revenue and tax reports from national sources, demographic data from sources such as the U.S. Census Bureau and



Bureau of Economic Analysis, and data from existing Virginia gaming agencies related to gaming locations and revenues. This data was used to help inform the analysis of the fiscal and economic impacts of expanded gaming, as well as to estimate the impact of expanded gaming on existing gaming in Virginia.

Additionally, TIG collected and analyzed extensive data as part of its report. TIG's analysis focused on estimating the potential fiscal and economic impacts of expanded gaming utilizing a gravity model, an analytical tool that defines the behavior of a population based on travel distance and the availability of goods or services at various locations, and estimating the economic and fiscal impacts of expanded gaming scenarios. TIG used IMPLAN, a data supplier and software platform, to conduct its economic impact analysis. The demographic data used in TIG's model was purchased from a vendor (Nielsen Claritas) and is based on census demographic data. TIG also conducted a return-on-investment (ROI) analysis to identify the different levels of capital investment that would be viable under alternative tax scenarios (Appendix C).

### ***Analysis of the fiscal and economic impact of expanded gaming***

TIG used its proprietary gravity model to estimate gaming revenue, casino visitation propensity and frequency, and the impact of casino gaming on HHR revenue. Gaming revenue was estimated for four main scenarios:

- five HHR locations (Colonial Downs, Richmond, Vinton, Chesapeake, and Hampton);
- five HHR locations and five casinos in the localities identified in SB 1126;
- five HHR locations, five casinos in localities identified in SB 1126, with competing casinos located in North Carolina and Tennessee; and
- five HHR locations, five casinos in localities identified in SB 1126, and a casino located in Northern Virginia.

The forecasts begin with 2025, the first anticipated year of stabilized casino operations. TIG assessed a 12 percent, 27 percent, and 40 percent effective tax on casino gaming revenues to determine the sensitivity of fiscal and economic impact projections to different tax rates (Appendix C).

### ***Labor force and median wage analysis***

In conjunction with TIG analysis, JLARC staff used data from the Bureau of Labor Statistics (BLS) and the United States Census Bureau to estimate the impact of casino gaming on the labor force and to compare the median casino wage to regional wages for the SB 1126 localities.

A locality's labor force often includes workers who do not reside within the specific geographic boundaries of a city or county and, rather, commute to that locality from surrounding areas. To understand the impact of casinos on employment in the five SB 1126 localities, JLARC staff used U.S. Census data on commuter patterns to construct labor force regions for each SB 1126 locality. If commuters from a nearby locality made up 5 percent or more of the workers in a casino locality, then that nearby locality is considered to be part of the labor force for the casino host locality. This allowed JLARC to determine the overall size of the labor force for each potential casino host locality, what percentage of that labor force would be made up of casino employees, the percentage of the labor force that resides outside of the Commonwealth, and the unemployment rate of the local labor force.

BLS data was used to provide a 2018 median wage for the region that hosts each SB 1126 casino. Regions are defined as metropolitan or micropolitan statistical areas. The 2018 median wage for each region was estimated to grow by 1.5 percent annually to produce a median wage estimate for 2024.

### ***Substitution effect from spending at casinos***

The economic impact estimates presented in this report may overestimate actual economic impacts because some of the spending at casinos may be offset by reductions in spending by Virginia residents on other goods and services produced in the state. For example, some of the money spent at a Virginia casino might come from residents reducing spending on other forms of entertainment, dining, or lodging within the state. The net increase in spending in-state would be larger when casinos attract visitors from out-of-state to spend at casinos in Virginia, and when Virginia residents reduce their spending at casinos outside the state. Evidence on the impact of casinos on state spending and employment is limited. There is little conclusive evidence on the relationship of new casinos and reduced spending on other local goods and services by residents, but there is also little evidence that new casinos substantially improve state-level economic growth. Estimates of the number of jobs overstate the number of jobs filled by current Virginia residents who are unemployed, because many jobs will be filled by individuals moving to Virginia or commuting from other states.

### ***Analysis of the impact of expanded gaming on existing gaming***

JLARC staff collected data pertaining to gaming locations and revenue from existing gaming agencies in the state. In conjunction with analysis by TIG, this data was used to project the potential impact of expanded gaming on existing gaming in the state.

#### Impact on Lottery

JLARC staff used historical data from FY09 to FY18 of lottery sales and proceeds data provided by the Virginia Lottery, in conjunction with TIG's analysis, to project future lottery sales and proceeds through FY24. TIG primarily used a 2014 Cummings and Associates report conducted in Maryland to inform its projections of the impact of casino gaming on lottery sales and proceeds beyond FY24. This study provided the basis for the assumption that the greatest negative impact to lottery sales and proceeds would occur in localities nearest to casinos. To simplify the analysis, TIG projected the impact of HHR to occur concurrently with casino gaming in 2024, although HHR impacts to lottery are likely to occur at an earlier date. TIG's projected impacts to lottery sales and proceeds were further supported by analyzing observed impacts of casino gaming on lottery sales in other states, including Indiana, Iowa, Missouri, and Pennsylvania.

#### Impact on traditional horse racing and HHR

JLARC staff collected data on past traditional horse racing wagering and revenue from the Virginia Racing Commission (VRC). Using this VRC data, JLARC staff projected the future growth of traditional horse racing wagering and revenue through 2025. A range of wagering and revenue estimates was projected based on traditional horse racing wagering and revenue data from 2014 to 2018. The projected wagering and revenue estimates from 2019 to 2025 can be considered conservative as they are based on a five-year average of live racing wagering that includes a period of declining wagering from Colonial Downs. The projections also assume no growth in live racing

wagering above the 2019 schedule. The midpoint estimates of the projected range were reported. TIG also projected no material impact on traditional horse racing wagering because of a lack of previously observed crossover between casino gambling and traditional horse race wagering.

Traditional horse racing wagering revenue projections were then combined with TIG projections of HHR revenue to estimate the amount of total revenue that would be contributed to live racing purses with and without casino gaming in 2025. TIG used its gravity model to develop a benchmark projection of HHR revenue for 2025. This HHR benchmark projected location and number of HHR machines as assumed in April 2019 (700 in Chesapeake, 600 at Colonial Downs, 700 in Hampton, South Richmond 700, Vinton 150). TIG then estimated the impact of casinos on HHR wagering and revenue, assuming casino operations stabilized in 2025.

Using these projections, JLARC staff estimated the impact of casino gaming on traditional horse racing, primarily in terms of contributions to live racing purses. Projections of contributions to live racing purses from traditional horse racing revenue and HHR revenue were compared to targets set by the Virginia horseracing stakeholder groups for number of live racing days and purse amounts.

JLARC staff and TIG also estimated the economic impact of casino gaming on the horse industry. This economic impact from casinos was estimated using estimates of the total economic impact of the horse industry published in two reports: *The Economic Impact of the Horse Industry in Virginia* from the Weldon Cooper Center for Public Service and the *Economic Impact of the U.S. Horse Industry* from The Innovation Group. As part of the JLARC study, TIG projected economic impact to the horse industry from casino gaming in terms of potential reduction in employment and GDP, which was then compared to the baseline overall horse industry from the two reports.

JLARC staff and TIG also collected data on other states' contributions from gaming revenue to their respective horse racing industries. This data was then used to compare Virginia's estimated contributions from HHR to other states' (particularly mid-Atlantic states) contributions on a per race day basis. The total amount of revenue contributed from gaming revenue to the horse industry was divided by the number of live racing days hosted per year in the state. This method allows for a better comparison of states' contributions to the horse industry from gaming revenues.

#### Impact on Charitable Gaming

JLARC staff used historical charitable gaming sales and proceeds data (from 2014 to 2018) provided by the Office of Charitable and Regulatory Programs, in conjunction with TIG analysis, to project future charitable gaming sales and proceeds through 2024. TIG used observed impacts in Massachusetts and Texas and TIG's industry expertise to inform its projections of the impact of casino gaming on charitable gaming sales and proceeds beyond 2024. These observed experiences and industry expertise provided the assumption that the greatest impact to charitable gaming sales and proceeds will occur at organizations in localities closest to casinos and to gaming that most closely resembles casino games, such as electronic-pull tabs. To simplify the analysis, TIG projected the impact of HHR to occur concurrently with casino gaming in 2024, although HHR impacts to charitable gaming are likely to be occur at an earlier date.

### ***Casino oversight agency staffing and cost estimates***

JLARC staff collected data on staffing and budgets from the casino oversight agencies in Kansas, Maryland, Massachusetts, Michigan, and Ohio. Using this data, JLARC staff determined staffing ratios for each of the major functional areas of the agency, including licensing, enforcement, audits and accounting, technology, responsible gaming, executive leadership, and administration. For licensing, the staffing ratio was determined based on the number of casino employees per state oversight agency licensing employee. For enforcement and technology, the staffing ratios were determined based on the number of state oversight agency employees per casino operating in the state. For audits and accounting, the staffing ratio was determined based on the state's total gross gaming revenue per state oversight audit and accounting employee. Finally, the staffing ratio for administration was determined based on the number of core casino oversight employees served by each administrative employee. These ratios were used to estimate the number of casino oversight employees that Virginia would need.

The range of estimated costs for a Virginia casino oversight agency includes personnel salary and fringe benefits costs, non-personnel overhead costs (office rent, supplies, travel, etc.), and the cost of a central monitoring system. JLARC staff used information collected from the five other states' casino oversight agencies to determine an average employee salary for each of the major functional areas within the agency. This average salary was multiplied against the estimated staff a Virginia casino oversight agency would need to determine the salary cost for each functional area. JLARC staff calculated the cost of fringe benefits (health insurance, retirement contributions, Medicare contributions, and Social Security contributions) by using rates published in the Department of Planning and Budget's 2020 Decision Package Instructions, and adding this to the salary estimates to arrive at the total estimated cost range for personnel. Non-personnel overhead costs were estimated by using the average percentage of non-personnel costs to personnel costs for states that did not have a central monitoring system, which was approximately 16 percent. Finally, the cost of a central monitoring system was added to the total costs, which was estimated by using the cost that Maryland paid for a central monitoring system for five casinos for five years in 2015 and inflating it to 2022 dollars using the annual percent change in the Consumer Price Index 2015 and 2019.

To determine how costs of the casino oversight function may be different if the function were placed within the existing lottery agency, JLARC staff collected data on lottery's staffing structure and pay structure. JLARC staff used Department of Human Resources Management (DHRM)'s compensation and employment information data for Virginia Lottery employees in September 2019 to identify lottery employees in similar positions to licensing, enforcement, audit and technology positions at a casino oversight agency that had 10 or fewer years of state service. The average salaries for these lottery employees was compared against the average salaries for similar employees at casino oversight agencies. To calculate the cost of placing the casino oversight function at lottery, average lottery employee salaries replaced average casino oversight employees' salaries in other states.

### ***Grey machines revenue estimates***

The total number of grey machines operating in Virginia is unknown, but JLARC staff estimate that it could range from at least 4,500 machines to up to 9,200 machines. The low end of this range is

based on the number of grey machines that lottery staff counted in lottery retailer locations in September 2019. However, grey machines are observed in many other locations. The high end of the range of grey machines in Virginia is based on media reports and information provided from a game manufacturer.

Electronic gaming machines that are similar to Virginia’s gaming machines had a revenue per machine per day that ranged from \$90 to \$139 (Table B-1). Revenue per machine per day is a commonly used metric for the profitability of any type of electronic gaming machine—revenue per machine per day is the total dollars the machine collects from players on a daily basis after accounting for winnings paid to the players. JLARC staff used data from the Georgia Lottery Corporation, which regulates and oversees video terminals operating throughout the state, to estimate the potential revenue that could be generated by grey machines in Virginia. Georgia is one of only a few states that regulates these types of machines and collects data on them. In 2019, Georgia had 23,000 machines operating in the state with an average revenue per day per machine of \$96. Annualized net gaming revenue from the machines in Georgia was approximately \$800 million. JLARC staff also used data from Illinois’ electronic gaming machines to estimate potential revenue generated by grey machines in Virginia. Illinois electronic gaming devices gameplay may operate differently from Virginia’s grey machines, however, they offer a similar gaming experience to customers and are located in similar types of locations (such retail, gas station, and dining locations). In 2018, Illinois had 30,649 electronic gaming devices that generated \$1.5 billion in gaming revenue, which equates to \$139 in revenue per machine per day. Some Virginia charitable organizations offer electronic pull-tab machines, which may offer a similar play experience to grey machines. In 2018, 2,067 electronic pull-tab machines at Virginia charitable organizations generated \$103.9 million in gaming revenue, resulting in a revenue per day per machine of \$138.

**TABLE B-1**

**Revenue from Virginia electronic pull-tabs, Georgia video terminals and Illinois electronic gaming devices**

<b>Type of game</b>	<b>Total machines</b>	<b>Revenue per machine per day</b>	<b>Annualized revenue (millions)</b>
Virginia electronic pull-tabs <sup>a</sup>	2,067	\$138	\$103.9 <sup>d</sup>
Georgia video terminals <sup>b</sup>	23,000	96	800.0
Illinois electronic gaming devices <sup>c</sup>	30,694	139	1,500.0

SOURCE: JLARC staff analysis of data from Virginia Office of Charitable, The Innovation Group, Georgia Lottery Corporation and Illinois Gaming Board.

NOTE: <sup>a</sup> Electronic pull tabs include devices during bingo sessions and during social quarters in 2018. <sup>b</sup> Georgia Lottery Coin Operated Amusement Machines Class B revenue per machine per day as reported in FY19. <sup>c</sup> Illinois electronic gaming devices revenue per machine per day as reported in 2018 located in non-casino locations throughout the state. Illinois electronic gaming devices had an observed hold rate of 8 percent. <sup>d</sup> Virginia organizations with electronic pull tabs typically split revenue with the device manufacturer.

JLARC staff estimated potential grey machine revenue in Virginia by comparing machine win per day to similar devices in other states and for a variety of “hold rates.” Hold rate is the percentage of funds played on an electronic gaming machine that is retained by the machine. These rates are typically calculated on average over a long period of time, such as a month or a year. Grey machine manufacturers indicated to JLARC staff that grey machines they operate in Virginia have a hold rate as low as 4 percent of total wagering, which is lower than the observed hold rates of 11 percent for

electronic pull-tab machines at charitable organizations and the typical hold rates of 8 percent at commercial slot machines. Because grey machines are not regulated and declined to provide data to the JLARC study team, JLARC staff were unable to verify grey machine hold rates. However, to produce a range of revenue estimates, JLARC staff computed Virginia electronic pull-tab machines revenue with lower hold rates. JLARC estimated that at an identical amount of play, but with a lower hold rate (4 percent) and a moderate hold rate (8 percent), electronic pull tabs would have between \$50 and \$100 respectively in revenue per machine per day. Based on the estimated range of grey machines operating in Virginia (4,500 to 9,200) and the range of revenue earned per machine per day in Virginia and other states (\$50 to \$139), JLARC staff estimated annual statewide revenue from grey machines could range from \$83 million to \$468 million (Table B-2). Estimating revenue for grey machines or their impact to other types of gaming is difficult because of the unregulated nature of the industry. The of number devices, amount of customer play, payout percentages, and locations are generally unknown to the state. Furthermore, one of the prominent device manufacturers declined to provide the JLARC study team data on machine revenues.

**TABLE B-2**

**Estimated grey machines revenue statewide at various assumed amounts of play and payout levels**

<b>Amount of play comparable to:</b>	<b>Revenue as a portion of sales</b>	<b>Estimated revenue per machine per day</b>	<b>Estimated annual revenue (\$ millions)</b>	
	<b>(hold rate)</b>		<b>4,500 grey machines</b>	<b>9,200 grey machines</b>
Virginia electronic pull tabs	low	\$50	\$82.5	\$168.6
	moderate	100	164.9	337.1
Georgia video terminals		96	157.7	322.4
Illinois electronic gaming devices		139	228.9	467.9

SOURCE: JLARC staff analysis.

NOTE: Hold rate may vary by machine or by player. Assumes low hold rate of 4 percent and moderate hold rate of 8 percent. The count of grey machines is estimated based on lottery estimates, media reports, and information provided from a game manufacturer. Illinois electronic gaming devices revenue per machine per day as reported in 2018 for approximately 30,000 machines located in non-casino locations throughout the state. Illinois electronic gaming devices had an observed hold rate of 8 percent. Estimated annual revenue is calculated as revenue per day per machine, multiplied by 365 days per year, multiplied by estimated number of grey machines.

The number of grey machines will likely continue to increase from the estimated 4,500 to 9,200 currently in Virginia. Other states with similar populations have more devices. For example, Pennsylvania has 52,000 to 82,000 grey machines, and Illinois has over 32,000 electronic gaming devices spread across non-casino locations.

## **Appendix C: Technical methods**

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This appendix details the analytical methods employed by The Innovation Group (TIG) in its report. TIG's analysis consisted primarily of the use of gravity model in a gaming market analysis; a return-on-investment analysis to assess different levels of capital investment viable in potential casino locations under alternative tax scenarios; an economic impact analysis using IMPLAN, and analysis of the impacts of casino gaming on Virginia's existing forms of gaming.

The full text of Appendix C is available online at the JLARC website:

<http://jlarc.virginia.gov/reports.asp>.

## Appendix D: Sports wagering and online casino gaming

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This appendix describes two additional forms of expanded gaming: sports wagering and online casino gaming.

### Main takeaways

- Thirteen states currently have active sports wagering operations, with an additional six in the process of implementation.
- Sports wagering produces relatively little revenue compared with casinos and lottery.
- Sports wagering can be offered through a number of different models across a spectrum of accessibility, from only brick and mortar to fully online.
- Successful sports wagering operations typically contract out at least a portion of responsibilities to a third-party operator.
- Multiple operators in a competitive environment with the availability of mobile products maximizes revenue potential.
- Virginia has limited options for brick-and-mortar sportsbooks without casinos, and requiring operators to be tied, or “tethered,” to existing brick-and-mortar facilities may result in monopoly concerns.
- Virginia could launch sports wagering ahead of casinos by employing an online operator-only market, regulated by the Virginia Lottery or new gaming oversight agency.
- Online casino gaming is only legal in three states, is tied to brick-and-mortar casinos, and produces relatively little revenue compared with traditional casinos.

### Sports wagering has been adopted by several states in the past year and produces less revenue than casino gaming

Four bills were introduced during the 2019 General Assembly session to authorize sports wagering: SB 1238, SB 1356, HB 1638, and HB 2210. None of the bills passed.

SB 1238 would have allowed any existing pari-mutuel wagering site (i.e., racetrack or off-track betting facility), or any locality that had previously approved pari-mutuel wagering via referendum, to apply for a sports wagering license to open a standalone sports wagering facility. Additional localities would have been able to authorize sports wagering through a future referendum. The legislation would have also created the Virginia Sports Betting Board and Virginia Sports Betting Department to regulate sports wagering. The bill included a tax rate of 10 percent of sport wagering revenue, which would have been distributed to: host localities, sports betting oversight operations, a Problem Gambling Treatment and Support Fund, and the Virginia Foundation for Community College Education Fund.

SB 1356 would have amended the current statute to expand the Virginia Lottery to the Virginia Lottery and Sports Wagering Department and rename the Lottery Board the Virginia Lottery and Sports Wagering Commission. The bill would have authorized the commission to contract with a third party to operate a sports wagering program, a sports wagering facility, and an online sports wagering platform, with the state retaining ownership of the program. As the owner of the sports wagering program, the state would have received all revenues from sports wagering. The bill would have



allocated a majority of this sports wagering revenue to the general fund with smaller portions reserved for the department's operating costs and a Problem Gambling Treatment and Support Fund.

HB 1638 would have directed the Virginia Lottery to regulate sports wagering in the state. The Lottery Board would have been able to issue up to five permits to operators to conduct sports wagering operations through online platforms. Applicants would have been required to pay a \$250,000 application fee and renewal fee of \$200,000 every three years. The bill would have also permitted the sale of lottery tickets over the internet. The bill would have created a voluntary exclusion program, which would have applied to both lottery purchases and sports wagering, as well as a Problem Gambling Treatment and Support Fund. The bill included a tax rate of 15 percent of sports wagering revenue. The majority of tax collected would have been allocated to a newly created Major Research Project Subfund within the Virginia Research Investment Fund (Virginia Code § 23.1-3131), with small portions reserved for the lottery's operating expenses and the Problem Gambling Treatment and Support Fund.

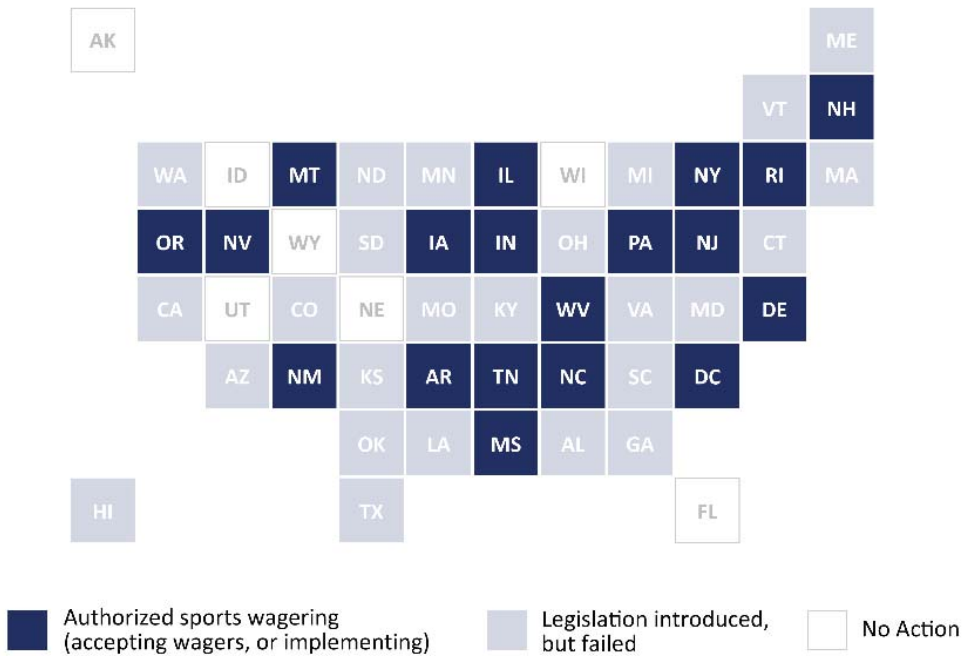
HB 2210 would have directed the Virginia Lottery to regulate online and mobile sports betting. The legislation would have placed no limit on the number of operators that could be awarded a license to conduct sports betting operations. Applicants would have been required to pay a \$5,000 application fee and an annual renewal fee of \$1,000 for a sports wagering license. The bill included specific protections for vulnerable populations, would have established a voluntary exclusion program, and would have created a Problem Gambling Treatment and Support Fund to be administered by the Department of Behavioral Health and Developmental Services. The bill included a tax rate of 10 percent of sports wagering revenue. Three percent of the tax revenue (as well license application and renewal fees) would have been retained by lottery to defray costs associated with overseeing sports wagering operators. The remaining 97 percent of tax revenue would have been allocated to the Problem Gambling Treatment and Support Fund. This bill would have also authorized the lottery to sell products over the internet.

### ***Legalization of sports wagering is occurring rapidly throughout the country***

On May 14, 2018, the Supreme Court ruled that the Professional and Amateur Sports Protection Act (PASPA) was unconstitutional. This ruling removed the national prohibition on state-sponsored sports wagering and created a pathway for states to legalize sports wagering operations. Since the ruling, approximately 43 states (including Virginia) have introduced some form of legislation regarding the legalization of sports wagering.

As of September 2019, sports wagering is legal in 13 states, with an additional six states/districts that have passed legislation allowing legalized sports wagering and are in various stages of implementation. Twenty-five other states have introduced legislation to legalize sports wagering, but the measures were not passed.

**FIGURE D-1**  
**Status of sports wagering in the United States**

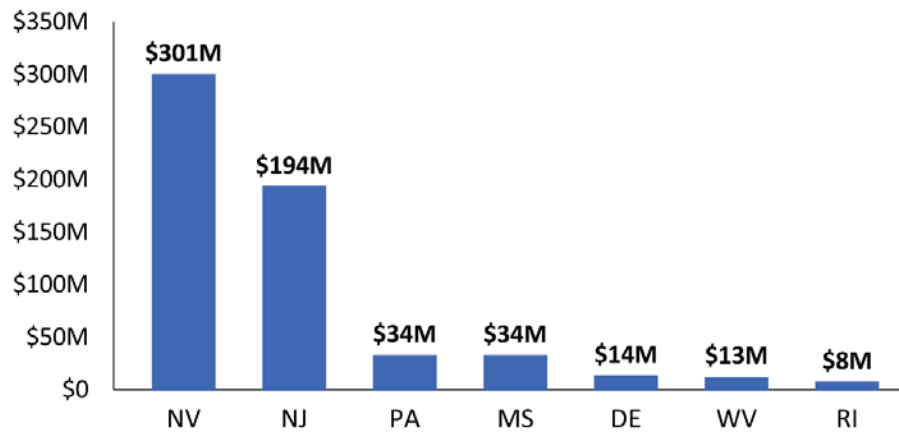


SOURCE: JLARC staff and ESPN "United States of sports betting." As of September 2019.

***Early data shows that sports wagering generally accounts for a relatively small portion of total gaming revenue***

Sports wagering accounts for a relatively small portion of states' total gaming revenue. Only seven states have been operating sports wagering for at least six months (Figure D-2). Of those, Nevada is the largest market and produced just over \$300 million of sports wagering revenue in 2018 (2.5 percent of total state gaming revenue). New Jersey is the second-largest market, producing \$194 million in revenue (6.7 percent of total gaming revenue) during its first year of operation (June 2018 through June 2019). In the remaining states, sports wagering produced annualized revenue of \$28 million or less. However, even in states with large amounts of sports wagering revenue, such as Nevada and New Jersey, sports wagering makes up just a small portion of total gaming revenue (about 3.3 percent or less) when all types of gaming are included.

**FIGURE D-2**  
**Annualized sports wagering revenue**



SOURCE: Revenue amounts drawn from individual state lotteries, AGA State of the States Report, and PlayUSA.

NOTE: Does not represent actual annual revenue. Revenue totals are annualized figures that are derived from the average monthly revenue collected during months of operation.

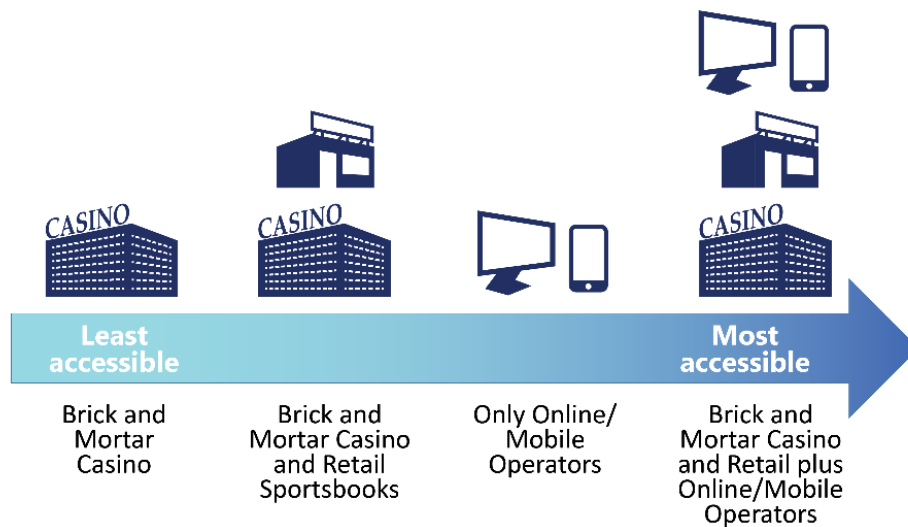
Sports wagering revenue is taxed at varying rates across states, but tax rates tend to be lower than those levied on casino gaming revenue. In general, taxes on sports wagering revenue range from 7 percent to 20 percent. Of the 13 states that currently offer sports wagering, only Pennsylvania, Rhode Island, and Delaware have tax rates higher than 20 percent. During interviews with the JLARC study team, industry stakeholders and experts expressed the opinion that a 10 percent to 15 percent tax rate would allow sports wagering operators to maintain a sufficient level of profitability. According to operators, a sufficient level of profitability is important for them to be able to offer competitive pricing, promotions, marketing, and innovation, all of which are important for maximizing player participation and revenue. Online sports wagering operators that do not have a brick-and-mortar sportsbook may be able to support a slightly higher tax rate since they do not have the staffing or capital investment costs associated with a physical location. For this report, TIG assessed sports wagering assuming a tax rate of 12 percent (Chapter 2).

### **Sports wagering is offered through several models with varying levels of accessibility to customers**

Sports wagering is offered through several general models, each of which offers a different level of accessibility to customers. These models of availability range from brick-and-mortar locations only to a fully mobile product (Figure D-3). In the first model, licenses are granted solely to brick-and-mortar casinos, and bettors must physically place their bets at the sportsbook within the casino. This is the least accessible model for bettors and generally has the lowest revenue potential for the state. States using this model include Arkansas, Delaware, Mississippi, New Mexico, and New York. In the second model, licenses are granted to both casinos and standalone retail sportsbook operators, which can sometimes be co-located with an existing pari-mutuel wagering facility such as a race track or off-track betting facility. This model slightly increases accessibility by allowing for additional wagering locations, but still generally requires bettors to be physically present at the location to place a bet.

The other two models for sports wagering include an online component. They consist of online sports wagering *only* or online sports wagering in *combination* with a brick-and-mortar retail component. The availability of online sports wagering offerings has the potential to significantly enhance the sports wagering revenue. Online sports wagering products allow for increased consumer accessibility because a customer can place a wager from anywhere in the state. The increased accessibility and convenience is also believed to offer a greater ability to capture customers from the illegal market, which is estimated to generate about \$8 billion in revenue annually nationwide and is currently dominated by online, offshore sportsbooks that are accessible to players on mobile devices. New Jersey, Pennsylvania, and West Virginia are among states that use a model that combines brick-and-mortar sportsbook locations with an online or mobile product. Oregon and Tennessee are implementing an online-only model, with no brick-and-mortar locations.

**FIGURE D-3**  
Sports wagering models by level of customer accessibility



SOURCE: JLARC staff analysis of sports wagering models in other states.

NOTE: Retail sportsbooks can include pari-mutuel wagering facilities.

### Sports wagering typically requires expert third-party operators

Sports wagering typically requires some or all operations to be contracted out to an expert third-party operator to reduce the risks and labor burden for the sports wagering license holder (i.e., casino or state agency). Successfully operating sports wagering relies on substantial information technology infrastructure, research and analysis, and continuous updating of odds. Furthermore, unlike other types of gaming, sports wagering carries the risk that specific outcomes, such as a local sports team winning a championship, can result in large payouts that create losses for a sports wagering operator. The operator must therefore have the financial sustainability to meet these large unexpected payouts. Only a few of the largest casinos in the country do not use a third-party operator for sports wagering.

Brick-and-mortar facilities with a sports wagering license contract varying responsibilities to a third-party operator. In the most limited arrangement, a license holder will construct, staff, and own the sportsbook, while a third party is primarily responsible for handling the wagering functions (i.e., setting

odds, accepting wagers, and paying winners). A broader arrangement uses a third-party operator for a greater set of responsibilities, including handling wagering; constructing the physical sportsbook within that space; providing all necessary equipment, software, and staff; and managing the operations of the sportsbook. Third-party operators generally charge a casino more for services when they have greater levels of responsibility. Solely online or mobile sports wagering, with no brick-and-mortar component, will be conducted entirely by a third-party operator.

### **A sports wagering model that allows multiple operators to compete tends to generate the greatest revenue**

States that allow multiple sports wagering operators to compete with one another have generated the greatest amount of revenue. According to The Innovation Group and other industry experts, a system with multiple competing operators encourages operators to increase promotional and marketing spending, offer better odds and payouts for players, and undertake more rapid innovation of technology and products. These factors are believed to contribute to a better player experience and increased customer participation (often from capturing sports wagering currently occurring in the illegal market), both of which result in greater overall revenue potential. Conversely, the lack of competition in single-operator markets can provide less incentive for an operator to innovate and offer competitive odds, which can result in lower overall wagering and revenue and reduced ability to compete with the illegal wagering market.

Some states that have chosen to create a single-operator market, in which the state lottery acts as both the regulator and sole operator of sports wagering, have achieved lower revenue totals. These states include Rhode Island, Delaware, and Washington, D.C. Both Rhode Island and Delaware have fallen short of initial revenue projections, while Washington, D.C. is not yet operational. A consultant analysis of the sports betting market potential of Washington, D.C. found that a multiple operator market could generate nearly one-and-a-half times the amount of tax revenue as the proposed single-operator product to be offered by the D.C. Lottery.

### **Virginia has limited options for brick-and-mortar sports books before casinos open, and state could opt for an online-only market**

It is possible for Virginia to launch sports betting ahead of potential casino operations by passing legislation to allow the Virginia Lottery, or a new Virginia gaming oversight agency, to regulate and oversee a sports wagering market. Virginia could offer sports wagering before casinos became operational by using existing pari-mutuel wagering facilities as sportsbook locations, using solely an online model, or through a combination of both. Virginia is unique because it is considering adding both sports wagering and casino gaming at the same time. Other states that have legalized sports wagering in recent years have had either an established casino industry or adopted sports wagering as a standalone expansion of gaming.

#### ***Virginia would have limited options for brick-and-mortar sportsbooks before casinos open***

If online sports wagering were authorized, Virginia would need to determine whether online operators could offer a product solely online or if they are required to be tied—or “tethered”—to a brick-and-mortar gaming facility. Most states that already have established casinos or pari-mutuel wagering

facilities require sports wagering operators to have a brick-and-mortar sportsbook in those locations to be able to offer an online sports wagering product. In these arrangements, the online mobile product is responsible for a majority of the revenue generated by the operators. However, the requirement to be tethered to a brick-and-mortar facility is in place to ensure that operators are required to invest staffing and capital resources in brick-and-mortar facilities to have the privilege of offering an online product in the state. Furthermore, some casino or pari-mutuel facility owners assert that a sportsbook is an important part of a larger casino operation because it acts as an additional amenity to attract customers who otherwise may not visit the casino.

Without casinos, Virginia would have limited options to require that online sports wagering be tied to a brick-and-mortar location. Pari-mutuel wagering facilities, all of which are owned and operated by the Colonial Downs Group, are the only existing gaming facilities in Virginia that would be able to host a sportsbook for this purpose. Colonial Downs currently owns nine facilities (that are open or in development) across the state. However, some stakeholders have expressed concern that requiring tethering of an online product and using Colonial Downs Group's facilities as the sole host of brick-and-mortar sportsbooks would give the group a competitive advantage over potential casinos that may be years away from operations. Additionally, this arrangement could lead to a single-operator system, which has been observed to limit the revenue potential of the sports wagering market as a result of a lack of competition in the market. On the other hand, allowing the Colonial Downs Group to contract with multiple third-party operators to run multiple online brands, or "skins," might help to enhance revenue potential through competition.

If Virginia decided to expand casino gaming, it could opt to delay sports wagering implementation until casinos become operational to alleviate the potential for concerns of a monopoly or an unfair advantage for the pari-mutuel facility operator. Doing so would allow casinos to enter the Virginia market on an even playing field where other competitors had not already established a market presence. However, this would mean delaying sports wagering implementation approximately four years, the minimum length of time that would be required to develop casinos.

***Virginia could launch sports wagering before casinos are operational by using a solely online model***

Virginia could offer sports wagering before potential casinos are operational, or without casinos, by authorizing an online sports wagering model that does not include brick-and-mortar sportsbooks. In this model, lottery, or a gaming oversight agency, would oversee and regulate online sports wagering operators that offer a mobile product statewide. The operators would not be required to be tethered to a brick-and-mortar sportsbook facility. This would allow for the fastest implementation of sports wagering because there would be no time needed to construct brick-and-mortar facilities. However, an online-only model would not provide the modest economic impacts (employment and capital investment) that accompany brick-and-mortar sportsbooks (as discussed in Chapter 2).

Offering online sports wagering in Virginia before potential casinos became operational could make sports wagering at casinos less feasible. A fully online sports wagering product, with approximately four years to be implemented and mature (the time expected before casinos could be developed), could result in the sports wagering market being fully served before casinos were operational. As a

result, casinos could have difficulty attracting interested, high-quality, third-party sportsbook operators because of the perceived lack of potential for further market growth.

### **Virginia would need to determine which sports are eligible for wagering and who can participate in sports wagering**

If Virginia implemented sports wagering, it would be necessary to determine whether college sporting events are eligible for wagering. Wagering is commonly allowed on college sports, but some states restrict its availability. The primary argument for restricting wagering on college sports is to protect the integrity of collegiate athletics. Some stakeholders, including the Council of Presidents of Virginia's colleges and universities, express concern that the legalization of sports wagering will expose college athletes and staff to potential negative influences that may place them in compromising positions. Examples of how states restrict wagering on college sporting events include

- not allowing wagering on any college sports (Oregon and Delaware);
- allowing wagering on college sports, but not on any in-state college teams (Illinois, New Jersey, New Mexico, New York, and Rhode Island);
- allowing wagering on college sports, but not on any collegiate events hosted in the state (Illinois, New Jersey and New York); and
- allowing wagering on college sports, but restricting the type of wagers that can be made, such as prohibiting bets on individual player performances (Iowa and Indiana).

In states without major professional sports teams, like Mississippi, wagering on college sports tends to make up the majority of sports wagers. Wagering on youth sports (including high school sports) is prohibited in all states that have authorized sports wagering.

Additionally, Virginia would need to determine who can participate in sports wagering. It is common practice to prohibit any employees of the sports wagering governing and regulatory body from participating in sports wagering. In other states that have sports wagering, the legal age for gambling is typically 21 years old. Some states (Montana, Rhode Island) set the legal gambling age, including sports wagering, at 18 years old. SB 1238 proposed setting the sports wagering age at 18 years old, while SB 1356, HB 2210 and HB 1638 proposed setting the age at 21 years old.

### **Online casino gaming**

Online casino gaming refers to any form of online, real money gambling, on games traditionally offered in a brick-and-mortar casino such as slots, poker, blackjack, craps, and roulette.

#### ***Only three states offer a full suite of online casino gaming***

Online casino gaming is a relatively immature market, and only three states offer a full suite of casino games online: Delaware, New Jersey, and Pennsylvania. In 2013, Delaware and New Jersey were the first states to offer online casino gaming. Pennsylvania began offering online casino gaming in mid-July 2019. West Virginia passed legislation authorizing online casino gaming in March 2019; however, its implementation is not expected until 2020 at the earliest. In addition to these states, Nevada offers only poker online (but no other types of games). Nevada began offering online poker in 2013 and later entered into an agreement with Delaware (2015) and New Jersey (2018) to create an online pool

of players across the states, allowing for a larger player pool with all revenue being retained in the state in which the player is located.

***Online casino games are typically tied to land-based casinos***

In the three states that offer a full suite of online casino gaming, the online offerings are tied, or tethered, to brick-and-mortar casinos. Those brick-and-mortar casinos typically partner with third parties, similar to sports wagering, to operate their online platforms.

- The three casinos in Delaware all partner with the same operator but have individually branded online platforms (websites).
- In New Jersey, each land-based casino is able to manage up to five online-branded platforms per online casino gaming license (skins). Currently, there are 21 online casino sites being offered by seven land-based casinos, using a variety of operators (as well as an additional seven online poker sites).
- Pennsylvania allows for an unlimited number of online platforms per casino license holder, provided that each platform has a clear connection to the physical casino license holder. As of July 2019, three casinos have launched online platforms in Pennsylvania, with five more planned for later in 2019 and four more with dates to be determined.

***Revenue from online casino gaming is growing, but remains a small portion of gaming revenue***

New Jersey has successfully generated meaningful revenue from online casino gaming, while Delaware has not. In 2018, New Jersey generated nearly \$300 million in online casino gaming revenue, accounting for approximately 10 percent of total gaming revenue across all legal gambling in the state. Delaware's \$2.5 million from online casino gaming in 2018 only accounted for approximately 0.6 percent of the state's total gaming revenue. Industry experts say New Jersey's revenue may be substantially larger because it has a multi-operator online casino market that incentivizes competition, which can lead to a better product that attracts more customers. Pennsylvania recently launched online casino gaming and has not yet published revenue figures, and Nevada does not publish online poker revenue separately from table game revenue in physical casinos.



## Appendix E: Tribal gaming

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This appendix provides additional information about tribal gaming and the process through which a tribe may become authorized to conduct tribal casino-style gaming in the Commonwealth. SB 1126 would restrict access to two state-regulated commercial casino licenses to the Pamunkey Tribe—in Norfolk and Richmond. This legislation, however, would not preclude the tribe from seeking casino gaming through the federal Indian Gaming Regulatory Act. The Pamunkey could pursue tribal casinos through this process regardless of whether Virginia approved commercial casino gaming in the state.

### **The Indian Gaming Regulatory Act provides the statutory and regulatory framework for tribal gaming**

Congress passed the Indian Gaming Regulatory Act (IGRA) in 1988 to establish the jurisdictional and regulatory framework for modern tribal gaming. The primary purpose of the IGRA was to recognize gaming as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments. In support of these goals, tribes often use gaming profits for a variety of purposes, including: supporting tribal government operations; developing tribal infrastructure; supporting tribal social and economic programs and services, such as health care and education; funding the development of other tribal enterprises; donating to charitable causes; and making payments to local governments or contracting for government services. In other instances, some tribes distribute revenue directly to individual tribe members through per capita payments.

The National Indian Gaming Commission (NIGC) is the main federal regulatory agency responsible for tribal gaming. The NIGC is tasked with the role of supporting tribal sovereignty and self-sufficiency and protecting the integrity of tribal gaming. In this role, the NIGC is responsible for reviewing and approving tribal gaming arrangements, providing technical assistance to tribes, and enforcing gaming regulations. IGRA granted some oversight and regulatory authority over tribal gaming to various offices housed in the Department of the Interior (DOI). Tribes themselves are the primary regulators of gaming operations within their casino or gaming facility.

### ***The Indian Gaming Regulatory Act divides gaming into three classes***

The Indian Gaming Regulatory Act divides gaming into three classes: Class I, Class II, and Class III. Class III gaming encompasses casino-style gaming and requires the most stringent level of authorization. To operate Class III gaming, a tribe must enter into a compact with the state (tribal-state compact) in which it plans to operate and gain approval of a tribal gaming ordinance from the NIGC, the primary regulatory body for Class III gaming (sidebar). The tribal-state compact must be approved by the secretary of the interior. Class I gaming encompasses traditional or social gaming and is regulated fully by the tribe. Class II gaming consists primarily of bingo and other similar games, including electronic bingo games, and is regulated by the tribe with additional oversight from the NIGC. Class I and II gaming does not require a tribal-state compact, but Class II (as well as Class III) gaming does require a separate tribal gaming ordinance to be approved by the NIGC.

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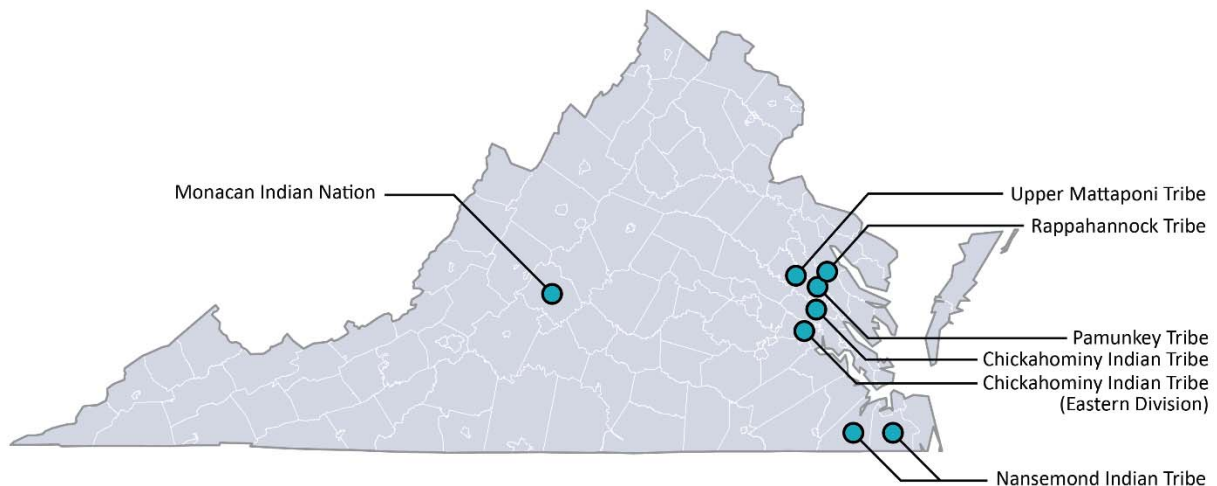
**Tribal-state compacts** are agreements between individual tribes and states that set out the rules for governing Class III gaming. These compacts deal with matters of jurisdiction, casino standards and regulations, and revenue sharing. **A tribal gaming ordinance** is adopted by a tribe's governing body, and submitted to the NIGC, which outlines how the tribe will internally manage and regulate their Class II or Class III gaming operations.

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***The Pamunkey Indian Tribe is the only tribe eligible to pursue federal authorization for gaming in Virginia***

Tribes must be recognized under 25 C.F.R. Part 83 through the Bureau of Indian Affairs in the DOI in order to be eligible to apply for federal authorization to conduct tribal gaming operations (Class I, Class II, or Class III). The Pamunkey Indian Tribe (Pamunkey) is the only Virginia tribe currently recognized in this manner after receiving its official recognition in 2015. An additional six tribes are also considered federally recognized in Virginia; however, they were recognized through an act of Congress (that was separate from the traditional Part 83 process) that specifically prohibits the tribes from participating in gaming activities. These tribes are: the Chickahominy Tribe, the Chickahominy Indian Tribe–Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, the Monacan Indian Nation, and the Nansemond Indian Tribe (Figure E-1). These tribes were unable to gain recognition through the traditional federal process because of a lack of necessary documentation. Therefore, they pursued recognition through legislation that provides them recognition as sovereign entities and makes them eligible for federal benefits, but prohibits them from conducting gaming activities. There are four additional tribes recognized by the Commonwealth of Virginia, which are not recognized by the federal government: the Mattaponi, the Cheroenhaka, the Nottoway, and the Patowomeck. It is possible that one of these tribes may gain federal recognition in the future and potentially pursue tribal gaming.

**FIGURE E-1**  
**Locations of the federally recognized tribes in Virginia**



SOURCE: Secretary of the Commonwealth of Virginia.

**The process of opening a tribal gaming facility is complex, involves several governing and regulatory bodies, and can take years to complete**

The process for gaining approval for Class III gaming is complex, and the timeline varies. The anticipated process for gaining approval for Class III gaming is outlined by the NIGC (Figure E-2). The process has four main steps.

The first step depends on whether a state already allows commercial gaming. If the state already permits commercial gaming by any person, organization or entity, then tribes are allowed to conduct Class II gaming activities on “*Indian lands*” without any state approval. If the tribe wishes to conduct Class III gaming, a tribal-state compact must be negotiated, regardless of whether the state already authorizes commercial versions of Class III gaming (i.e., full casino gaming).

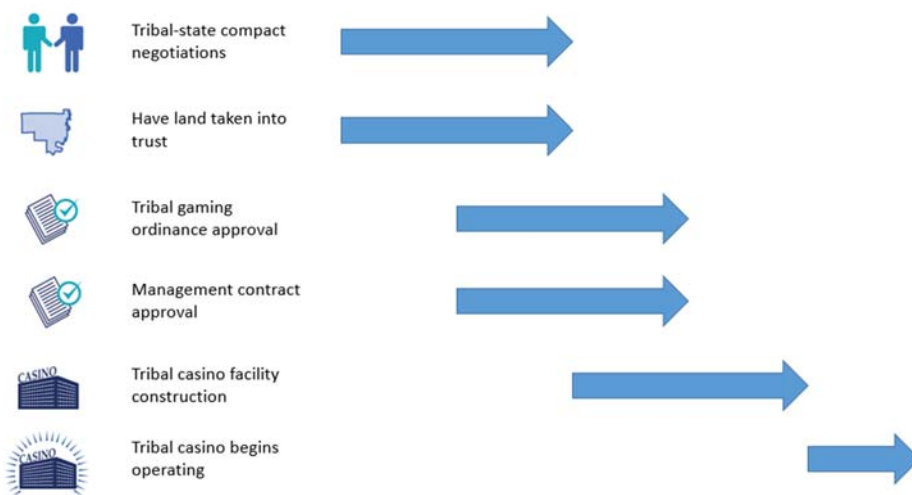
Second, tribal gaming must be conducted on Indian lands within a tribe’s jurisdiction. Those include lands within the boundaries of any tribal reservation or land that is held in trust by the United States for the benefit of the tribe. Therefore, a tribe must seek to have land taken into trust by the federal government through the DOI for the land to qualify as Indian lands for gaming purposes.

Third, the tribe must submit a tribal gaming ordinance to the NIGC for approval. The ordinance must demonstrate that the tribe will be the sole proprietary owner of the gaming facility and will be responsible for conducting gaming; detail how revenues will be distributed; demonstrate plans for annual audits; and show it has a process for licensing and background checks of primary management officials and key employees. The ordinance must be approved by the chair of the NIGC before gaming can occur.

Finally, the chair of the NIGC must review and approve a management contract if a tribe elects to have day-to-day casino operations performed by a third party. The tribe still must serve as the sole proprietary owner even when a third party is used to conduct day-to-day operations.

Often, some of the steps in the Class III tribal gaming process will occur concurrently, as the review and approval processes involved are lengthy and entail feedback and revisions. Similarly, tribes often begin casino construction before completion of other approvals. All steps must be completed before a tribe is able to begin conducting Class III gaming operations.

**FIGURE E-2**  
**Steps to opening a Class III tribal gaming facility**



SOURCE: NIGC.

NOTE: A management contract is required only when a third-party operator will be conducting day-to-day operations of a tribal casino. Steps often occur concurrently.

***The tribal-state compact allows states to have input in the operations of federal tribal gaming facilities***

Tribes are required to negotiate and agree on a tribal-state compact with the state in which a proposed Class III tribal gaming facility is to be located. Tribes are not required to enter into a tribal-state compact to operate Class I or Class II gaming (tribes are required to submit a tribal gaming ordinance to the NIGC for Class II gaming). Compacts generally include matters of jurisdiction related to civil and criminal laws and regulations; licensing and regulation of gaming activities; standards for casino operations; and potential revenue sharing (payment in lieu of taxes) and exclusivity agreements. Once agreed on by both parties, the compact is submitted to the secretary of the interior for review and approval.

States are unable to tax tribes on the revenue they generate from gaming on Indian lands because of recognized tribes' status as sovereign nations. However, many tribal-state compacts include some form of fees or revenue-sharing agreements (payments to the state in lieu of taxes). For these fees or revenue-sharing agreements to be permitted, the DOI requires states to provide "substantial economic benefit" to tribes in exchange for the payment. In most cases, states provide economic benefit through an exclusivity agreement, which protects tribal gaming from commercial competition in a specific geographic area. Because the DOI is required to ensure that negotiated agreements are fair to tribes, the economic impact is an important part of DOI's review and approval process.

Prior to 1996, states were required to negotiate tribal-state compacts with tribes in good faith or face possible legal recourse. However, the 1996 Supreme Court case *Seminole Tribe of Florida v. Florida* found that states retain sovereign immunity in such cases, preventing tribes from suing states for failure to negotiate a tribal-state compact. This ruling reduced tribal negotiating power and provided states a way to delay tribal gaming. If a tribe and a state cannot reach a voluntary agreement pertaining to the compact, and a state invokes its sovereign immunity, tribes may request the secretary of the interior to issue Class III gaming procedures. If approved, this process allows tribes to operate Class III gaming without a tribal-state compact. However, this strategy is rarely used, and the tribal-state compact process is the standard procedure.

***Land must be taken into trust by the federal government if a tribe wishes to conduct Class II or Class III gaming***

Class II and III gaming must be conducted on *Indian land* that is held in trust by the United States. Indian lands include land within a tribe's jurisdiction, which can include a tribe's reservation land or other lands acquired by tribes (18 U.S. Code § 1151). Any lands acquired by a tribe outside of a reservation for gaming purposes must be taken into trust by the federal government through the DOI Bureau of Indian Affairs (BIA). IGRA (Section 20) generally prohibits gaming on Indian land that was acquired after 1988, unless certain exemptions are met. If a tribe wishes to have land it acquired after 1988 taken into trust for gaming purposes, the tribe must demonstrate that it qualifies for one of six exemptions to Section 20 before the process to put land into trust can proceed. Land in trust is exempt from land taxes and any local or state zoning laws, giving the tribe significant autonomy over land use decisions.

The process of applying for and securing land in trust is often long and complicated. The application process includes a review of evidence of land ownership and a legal land survey; consultation with state and local officials who have regulatory jurisdiction over the land; a review of any agreements between the tribe and state and local governments, and a review of compliance with the National Environmental Policy Act, amongst other considerations. Furthermore, if the land was acquired after 1988, the requirement to meet at least one of six exemptions in IGRA Section 20 can add time and complexity to the process. There is no specified timeframe for the process, but previous applications have taken at least two to three years, and it is not uncommon to take up to 10 or more years. The time required for a land-into-trust application to be processed often depends on potential legal, political, or administrative challenges of each application. For example, the process may be further complicated if a tribe's claim to ancestral land is protested. In addition, few gaming-related land-into-trust applications have been approved under the current federal administration.

***The Pamunkey Tribe would need to have land taken into trust by the federal government and complete additional steps to conduct gaming in the state***

The Pamunkey Tribe currently does not have land that is eligible for gaming in Virginia and would therefore need to have land taken into trust by the federal government to conduct a tribal gaming operation anywhere in the state. Although the Pamunkey currently reside on land in King William County, this land is not currently a federally recognized reservation. Therefore, by federal definition, this land does not qualify as the *Indian land* required for conducting Class II or Class III gaming. The land is not currently federally recognized because the treaty that recognizes the Pamunkey reservation (Treaty of Middle Plantation 1677) predates the United States and was created as an agreement between the Colonial Governor of Virginia and the tribe. To conduct either Class II or Class III gaming, the Pamunkey Tribe would be required to have its current land, or any additional acquired land, taken into trust by the federal government, likely as its initial reservation.

If the Pamunkey succeeded in having land placed into trust by the federal government for gaming purposes, they would then need to fulfill additional regulatory requirements to conduct gaming. First, if Class III gaming were to be pursued, the Pamunkey would need to seek to negotiate a tribal-state compact with the Commonwealth. Second, the Pamunkey would be required to have a tribal gaming ordinance approved by the NIGC. Third, if the tribe sought to use any third-party entity to help manage its gaming operations, the management contract between the tribe and the third-party operator would have to be approved by the NIGC. These actions do not need to be sequential and would likely be pursued concurrently.

***The Pamunkey Tribe plans to pursue federal tribal gaming in the absence of commercial gaming in the Commonwealth***

The Pamunkey Tribe has begun the process to gain federal approval to operate a Class III tribal casino. The Pamunkey have focused their initial efforts on opening a Class III tribal casino in Norfolk, but are seeking to submit an application to the Department of the Interior to have multiple parcels of land in the Commonwealth placed into trust as part of their initial reservation. These parcels include land in the Norfolk and Richmond areas that may be used for gaming, as well as additional parcels that may be used for other tribal purposes. The Pamunkey plan to pursue negotiations regarding a

tribal-state compact with the governor that would outline the joint jurisdiction of the tribe and the Commonwealth to regulate gaming on any land taken into trust by the federal government.

In addition, the Pamunkey are in the process of finalizing an intergovernmental agreement and land sale agreement with the City of Norfolk that would allow the tribe to purchase 14 acres of land owned by the City of Norfolk for the purpose of developing a casino. As part of this agreement, the City of Norfolk would support the Pamunkey's application to have the land taken into trust by the federal government. The agreement also details matters of tribal and city jurisdiction, mitigation payments from the Pamunkey to the City of Norfolk in lieu of taxes, payments for problem gambling prevention and treatment, and various other technical matters. If Virginia approves commercial casino gaming in the near future, the agreement stipulates that the City of Norfolk will support the Pamunkey tribe's efforts to secure approval for a commercial casino on the same parcel of land.

### **Legal challenges to awarding commercial gaming licenses to a tribe have not been fully resolved**

SB 1126 would authorize casino gaming in five Virginia localities, two of which—Norfolk and Richmond—can only host a casino that is owned and operated by the Pamunkey. Few states have given federal tribes a statutory preference for a commercial gaming license. Connecticut's granting of a preference most closely parallels what is currently proposed in Virginia.

In 2015, Connecticut authorized the Mohegan and Mashantucket Pequot tribes to form a joint enterprise to seek out private land to develop a state-licensed commercial casino. A large private casino developer filed a lawsuit challenging the law on the basis that it violated the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution. The developer claimed that the Connecticut law discriminated on the basis of race or ethnicity by limiting the development rights to the two tribes. The private developer argued it should have the chance to compete for the rights to develop a casino in the Connecticut market. The case was dismissed, and the dismissal upheld upon appeal. The court found that the private casino developer lacked standing to sue, that the law did not exclusively favor the tribes, and that any competitive disadvantage to the private developer was too abstract to support a legal claim.

In 2017, following this ruling, Connecticut awarded a license to the tribal venture to build and operate a casino on a private, off-reservation site. Operating the new casino required an amendment to the tribal-state compact of both tribes (because both tribes were already operating tribal casinos regulated under IGRA in Connecticut), which had to be approved by the DOI. This approval process typically takes 45 days, but was subject to a number of political disputes and challenges that delayed the process. The approval was granted in March 2019. In response to this decision, the same large private casino developer has filed suit against the DOI. The developer argues that DOI has no authority to accept amendments to the tribal-state compact that pertain to commercial casino gaming conducted by a tribe on private land and that the accepted amendments grant Connecticut's Indian tribes an unfair competitive advantage over private competitors. The case is ongoing.

Connecticut's award of a commercial casino license to a tribe is similar to the proposed award in SB 1126. However, it should be noted that Connecticut does not currently authorize any commercial casinos other than the joint tribal venture. The existing casinos in Connecticut are tribal casinos

operated under IGRA. The decision to award the commercial license to the joint tribal venture was Connecticut's first expansion into commercial casino gaming, and commercial casino licenses were not offered to any other groups.

Massachusetts has also offered a preference to a tribe to conduct gaming; however, the Massachusetts example differs from SB 1126 because it does not provide tribes with a commercial license. In 2011, Massachusetts established casino gaming in the state and created three regions for which a casino license would be awarded, one of which would be reserved for a federally recognized tribe to operate a *tribal* casino (while the other two regions would host state-licensed commercial casinos under private operators). This decision was challenged by private developers in court on grounds that reserving one of the three regions of the state for a tribal gaming facility was a violation of the Equal Protection Clause, but the court concluded that the preference given to the tribe was considered to be an accommodation to the IGRA process. In addition, the court found no evidence of racial discrimination. Therefore, the tribe has proceeded in the process of placing land into trust for gaming in that region.

## **Appendix F: Lottery, charitable gaming, and horse racing in Virginia**

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Virginia statute currently authorizes three forms of gaming: state-run lottery, charitable gaming, and horse racing wagering (including historical horse racing terminals). Each of these three forms of gambling are governed by a different body and overseen by a different state agency. Appendix F provides an overview of lottery, charitable gaming, and horse race wagering in Virginia.

The full text of Appendix F is available online at JLARC's website:

<http://jlarc.virginia.gov/reports.asp>.



## **Appendix G: Problem gambling literature review**

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This appendix contains a review of the available academic literature related to problem gambling. The review covers topics related to definitions of problem gambling, the incidence of problem gambling, types and measures of harms and social costs associated with problem gambling, and prevention and mitigation efforts.

The full text of Appendix G is available online at JLARC's website:

<http://jlarc.virginia.gov/reports.asp>.

## Appendix H: Agency responses

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As part of an extensive validation process, the state agencies and other entities that are subject to a JLARC assessment are given the opportunity to comment on an exposure draft of the report. JLARC staff sent relevant sections of an exposure draft of this report to the Secretary of Agriculture and Forestry, the Secretary of Public Safety, the Secretary of Health and Human Resources, the Virginia State Police, the Virginia Department of Agriculture and Consumer Services, the Virginia Racing Commission, the Virginia Lottery, and the Department of Behavioral Health and Developmental Services. An exposure draft of this report was also provided to the JLARC consultants for review and comment. Appropriate corrections resulting from technical and substantive comments are incorporated in this version of the report.

This appendix includes response letters from

- Virginia Lottery,
- Virginia Racing Commission,
- Virginia Department of Behavioral Health and Developmental Services,
- Secretary of Health and Human Resources, and
- Virginia State Police.





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