



# **GAMING MARKET ANALYSIS AND REGULATORY ASSESSMENT:**

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## **Charitable Gaming in New Hampshire**

Prepared for the New Hampshire Charitable Gaming Study Commission  
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## Executive Summary

The New Hampshire Charitable Gaming Study Commission, via the State Lottery Commission (“Lottery”), in February 2024 contracted Spectrum Gaming Group (“Spectrum,” “we” or “our”) to undertake an independent study of market and regulatory aspects of the state’s charitable gaming program. Following are key findings and recommendations resulting from our research and analysis.

New Hampshire has 10 casinos with historical horse racing (“HHR”),<sup>1</sup> with up to eight more to come. By comparison, the four other New England casino states combined have nine casinos, and in the 13-state Northeast region, only one state – New York, with 14 times the population and five times the land area – has more casino facilities (23) than New Hampshire could have.

Absent a legislative design, New Hampshire has effectively found itself with a free-market approach to casino gaming, although a seven-year extension of a moratorium on new HHR licenses enacted this year will, importantly, provide both the State and the operators needed clarity to move forward in a more controlled manner. It is possible that significant expansion by one or more operators – both in facility sizes and new locations – could lead to a shakeout in which smaller, less-capitalized (or less willing) operators are crowded out. At this point, however, it would be conjecture to say if or how that might happen.

Spectrum does not expect to see New Hampshire populated with large-scale casinos. Spectrum found that the charitable gaming operators are, for the most part, expanding their facilities to fit their respective local markets. In a sign of their prudent approach, New Hampshire’s operators are expanding their facilities predominantly in older or underused buildings as opposed to spending on new-build projects.

Spectrum estimated the total available market in which New Hampshire’s casinos operate to be \$2.7 billion, as measured by gross gaming revenue (“GGR”). After accounting for out-of-state competition, the addressable market – i.e., the population that New Hampshire casinos can effectively reach when considering competing casinos in Maine and Massachusetts – is \$1.1 billion. The state’s casinos are currently capturing 16% of this amount. As New Hampshire’s casino industry is still in its nascency, we expect this capture rate to grow significantly in the next few years.

**Figure A: Estimated New Hampshire addressable casino revenue, 2025**

State	Est. NH Casino Market Population (No. of Potential Casino Patrons)	Est. NH GGR from Addressable Market 2025
Maine	248,529	\$83,440,000
Massachusetts	1,527,496	\$402,190,000
New Hampshire	1,337,722	\$544,050,000
Vermont	137,859	\$36,570,000
<b>Addressable Market</b>	<b>3,251,606</b>	<b>\$1,066,250,000</b>

Sources: IRS, Spectrum Gaming Group

<sup>1</sup> New Hampshire casinos, formally classified as Game Operator Employers, are required to have table games, which are formally classified as Games of Chance.

Spectrum estimates that the state could reasonably support 6,342 HHR machines based on the addressable market potential; currently there are 1,985 in operation. The market will determine how many facilities and machines it can support. The State has effectively capped the number of HHR gaming licenses at 18 for the next seven years, and the number of HHR machines need not be capped, as no operator is going to install more machines than necessary to meet demand.

In comparing New Hampshire's gaming-tax rates with those of its neighboring competitors, Spectrum found:

- Slots: New Hampshire's effective gaming-tax rate on HHR revenue equals that of Massachusetts slots and is more favorable than that of the closest Maine competitor, Oxford Casino. New Hampshire's effective rate of 25% includes 16.25% to the State and 8.75% to charities.
- Table games: New Hampshire's effective rate of 45% is significantly higher than that of either neighboring state. In fact, New Hampshire has the highest effective table-games tax in the country; West Virginia has the second-highest at 35%. In states that tax slot and table games revenue at different rates, the table games tax is always much lower in recognition of the significantly higher labor costs associated with table games operations. New Hampshire's effective rate of 45% includes 10% to the State and 35% to charities.

Spectrum found no compelling reason to change either tax rate, especially given that the public purpose of its gaming industry is to benefit charitable organizations.

When comparing New Hampshire to the most prominent HHR states of Kentucky and Virginia, Spectrum found that net gaming revenue ("NGR") was about 8.9% of handle in each state. HHR gaming tax paid to the state, as a percentage of NGR, in Kentucky, New Hampshire and Virginia was 7.5%, 16.25% and 7.21%, respectively. New Hampshire does not distribute HHR revenue to the racing industry by statute or contract and does not require gaming operators to operate costly live horse racing. That explains, in part, why the State of New Hampshire is able to receive 16.25% of NGR, nearly 9 percentage points more than Kentucky and Virginia. The operators' share of HHR NGR in Kentucky, New Hampshire and Virginia, after accounting for contractual agreements with horsemen and before factoring in net costs of live racing, was 70.9%, 75.0% and 78.8%, respectively, indicating that New Hampshire's HHR distributions for operators and the State were competitive with major HHR jurisdictions.

New Hampshire's casinos, however, do not compete against the gaming facilities in Kentucky and Virginia. They do compete directly with bona fide casino slot machines in Maine and Massachusetts. Spectrum found that it is more costly for New Hampshire casinos to operate HHR machines than it would be to operate slot machines, as they must pay the supplier of the required HHR pari-mutuel totalizer system between 6% and 18% of gaming revenue (each operator negotiates its own deal with the totalizer provider, and the higher end of that range may include lease fees for HHR games).

Spectrum found that New Hampshire's regulatory system is generally consistent with other gaming jurisdictions regarding casino operations. The areas that may be considered for modification to potentially increase gaming revenue would be to increase the maximum amount that can be wagered for HHR and table games and to increase the hours of operation. We note that an increase in wagering limits was recently implemented for table games. Spectrum also notes that, with respect to the regulatory

system, as its gaming industry continues to grow, the staffing levels of the New Hampshire Lottery should be adjusted accordingly to adequately meet the demands of an expanding industry.

**Figure B: Comparison of select New Hampshire regulations with other New England casino states**

	MA	ME	NH	RI	CT
Legal Age	21	21	18	18	21
Complimentary Alcohol	Yes	No	No	Yes	Yes
Smokefree Casino	Yes	Partial	Partial	Partial	Yes
Statewide Voluntary Self-Exclusion Program	Yes	Yes	No	Yes	Yes
Casino Credit	Yes	No	No	Partial	Yes
Hours of Operation	24 hours	24 hours	8 a.m.-4 a.m.	24 hours	24 hours
Tips for Table-Games Dealers	Pooled	Pooled	Pooling is operator choice	Pooled	Pooled
Audits	Yes	Yes	Yes	Yes	Yes
On-Site Inspections	Yes	Yes	Yes	Yes	Yes

Source: State regulators and statutes, Spectrum Gaming Group research. Note: Vermont does not have casinos.

Given that New Hampshire could have 18 Game Operator Employers (i.e., casinos with HHR), and that there are, or are planned to be, companies with multiple locations, Spectrum recommends that the State act to avoid potential economic concentration among casino owners to ensure that one company does not dominate the market through the ownership of multiple properties. Although we do not believe such economic concentration exists currently, despite the ownership of four casinos (and soon six) by one operator, the State should adopt appropriate legislation as a safeguard against undue economic concentration in casino operations.

Spectrum identified key challenges ahead, all of which are related to the rapid growth of the charitable gaming industry. They include:

- The New Hampshire Lottery keeping pace with the rapid expansion of the HHR industry.** The Lottery has had to become a casino regulatory agency rather quickly and without legislative design, which has meant attracting, retaining and training sufficient numbers of staff for inspections, licensing, enforcement and other functions that in other states are typically handled by an independent agency or a specific gaming division within a state’s lottery organization. The staffing levels of the New Hampshire Lottery should be adjusted accordingly to adequately meet the demands of an expanding industry.
- Competitive pressures.** As the casinos continue to expand and grow their revenues, pressures will increase on the State to accommodate the growth by being competitive with out-of-state casinos in areas such as alcoholic-beverage policies, casino-credit policies, maximum bets, responsible-gaming policies, and – the big one, eventually – authorizing true casino slot machines.
- Assessing and harnessing scope of the casino industry:** If the State did not see fit to impose legislative or regulatory limitations on the industry’s size at the outset, doing so now – during the industry’s nascency – could penalize operators and investors who have made substantial

commitments under the current rules. For now, the seven-year moratorium extension provides the State with a safeguard against having an HHR casino in every town.<sup>2</sup>

- **Attracting and retaining employees**, particularly experienced gaming managers and table games dealers.

New Hampshire’s charitable gaming industry is a work in progress regarding its performance, operation and regulation, but based on the research and analysis for this study Spectrum believes it is growing in a responsible manner from a business perspective and a regulatory perspective. We found that there is a symbiotic relationship between the New Hampshire Lottery and the casino operators, as they share the mutual goal of maximizing gaming revenues so as to maximize the proceeds for registered charities, who in 2023 received 18.3 cents<sup>3</sup> from every dollar of net gaming revenue.

Spectrum observed that the statewide problem-gambling efforts in New Hampshire appear to lag behind those of the comparison states – an observation confirmed in conversations with problem-gambling professionals familiar with New Hampshire’s programs. Of particular concern, there is no statewide voluntary self-exclusion program whereby gamblers can bar themselves from playing at all of the casinos. Commensurate with the rapid growth of its new casino industry, Spectrum believes it is now incumbent upon the State of New Hampshire to thoroughly assess the funding, scope and efficacy of problem gambling/responsible gambling programs from a 360-degree perspective. Such an assessment should address awareness, resources available to players, industry responsibility, training programs, and healthcare options.

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<sup>2</sup> The moratorium does not affect the number of facilities with only Games of Chance (table games).

<sup>3</sup> Blended rate based on combined proceeds from HHR and table games.

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## Introduction

The New Hampshire Charitable Gaming Study Commission (“Commission”), via the State Lottery Commission (“Lottery”), in February 2024 contracted Spectrum Gaming Group (“Spectrum,” “we” or “our”) to undertake an independent study of certain aspects of the state’s charitable gaming. Per the Commission’s Request for Proposals issued December 2023, the selected consultant is to:

... review two areas of charitable gaming within New Hampshire and compare them to other gaming facilities within the United States: financial and oversight/regulatory. The report should include, at a minimum, the surrounding states and the HHR [historical horse racing] jurisdictions of Kentucky and Virginia. The consultant(s) will generate a report on each area, with ways for the state to improve the application of charitable gaming.

As stated in our successful proposal, Spectrum utilized the following scope and methodology to fulfill the State’s required tasks:

**Financial:** We will estimate the total potential HHR market in New Hampshire, as measured by gross gaming revenue. This will include determining the addressable market, which is the share of the total available market likely to be captured by New Hampshire charitable casinos. Among factors that impact the addressable market area are out-of-state competing casino gaming operations. We will estimate the current market potential and develop estimates for the market going forward, and we will map the market potential by ZIP Code.

We will evaluate whether New Hampshire’s HHR facilities are – or in the near future are likely to be – performing to their potential. We will determine whether the HHR supply in New Hampshire is adequate to reach its potential, examining both the number and locations of facilities, as well as the numbers of HHR machines in operation. We will further benchmark New Hampshire’s HHR performance against the HHR and casino slot performance in competing and peer states, using daily win per machine, win per adult, and other industry metrics

Another important aspect to the study is an evaluation of the financial relationships between the operators, the charities and the State. This will include comparing similar arrangements in neighboring states (to the extent relevant) and in other jurisdictions that have similar operating and oversight relationships., such as Iowa.

**Regulatory:** Spectrum will research and assess the regulatory structures for casino gaming in Maine, Massachusetts, Rhode Island and Connecticut – because they currently attract patrons from New Hampshire and/or have gaming facilities whose market-catchment areas overlap with those of New Hampshire HHR operators – to determine whether there are distinct competitive advantages resulting from their respective regulatory structures and oversight provisions.

Additionally, we will research and assess key HHR regulations and laws in the prominent HHR states of Kentucky and Virginia and, of course, New Hampshire. Based on Spectrum’s knowledge of HHR in Alabama, Idaho, Kansas, Louisiana, Nebraska, Oregon and Wyoming, we do not believe there are additional regulatory/legal aspects beyond those in Kentucky and Virginia that are of relevance, or could be of use, to our assessment of HHR in New Hampshire.

Spectrum’s focus in both the relevant casino and HHR states will be on those regulations and laws that impact performance and returns to the host states and stakeholders. Based on this evaluation, Spectrum would recommend certain procedures and regulations governing charitable gaming to maximize revenue for the State and its charity stakeholders, without compromising the integrity of gaming.



In completing this study, Spectrum:

- Reviewed and analyzed volumes of financial and regulatory charitable gaming data and information provided by the New Hampshire Lottery;
- Reviewed and analyzed financial and regulatory gaming data and information from comparison states;
- Interviewed via video meetings seven of the eight current charitable gaming operators in New Hampshire;
- Toured 10 of the state’s charitable gaming casinos, where we also talked with property management and staff; and
- Relied on the collective decades of gaming, regulatory and pari-mutuel expertise of the Spectrum professionals participating in this project.

Throughout the course of this project, we received high levels of cooperation from the Lottery, the Commission, and the operators of the charitable gaming facilities.

## A. Definition of Terms

The following terms are used in this report:

- **Adjusted Gross Income (“AGI”):** Total income minus deductions, or “adjustments” to income that taxpayers are eligible to take.
- **Breakage:** The difference between what winning players should be paid on winning bets and what they are paid, breakage is the rounding down of the return to the next lowest multiple of 10, 5 or 1 and equal to the net pool minus payout.
- **Gaming Position:** 1 gaming position = 1 slot machine or 1 seat at a gaming table. For comparative purposes, we assume six seats per table games.
- **Games of Chance (“GOC”):** Term used by the State of New Hampshire for casino-style table games.
- **Game Operator Employer (“GOE”):** Term used by the State of New Hampshire for the operator of a charitable gaming facility (i.e., casino).
- **Gross Gaming Revenue (“GGR”) or Win:** The amount of revenue retained from handle after winning wagers have been paid but before any other deductions. Viewed another way, it is the amount of gamblers’ losses.
- **Gross State Product (“GSP”):** The dollar value of all goods and services produced within a given state; similar to gross domestic product at the national level.
- **Handle:** The amount wagered.
- **Historical Horse Racing (“HHR”):** A pari-mutuel system that allows players to wager on previously run, anonymized horse races, with results displayed on slot-like machines. Virtually all wagers are made via the machine’s auto-handicap feature, giving them the look and play functions of a casino slot machine.
- **LTM:** Last 12 months of data.

- **National Council on Problem Gambling:** Per the organization: “The only national nonprofit organization that seeks to minimize the economic and social costs associated with gambling addiction. NCPG is neutral on legalized gambling.” It has affiliates in 35 states.
- **Net Gaming Revenue (“NGR”):** The amount of revenue retained from handle after subtracting player winnings, breakage, tax-exempt free play, revenue allocated to pool growth, or other allowed deductions before gaming taxes are calculated.
- **Racino:** A portmanteau from “racetrack” and “casino,” they are horse racetracks where casino-style gaming takes place.
- **Totalizer:** A totalizer or other similar equipment is used to calculate all the pari-mutuel data required for the operation of HHR and includes amounts wagered, wagering pools, amounts won, takeout (commissions), breakage and provides all the necessary reports by terminal.
- **Video Lottery Terminal (“VLT”):** A slot-machine-like gaming device that is based on a continuously run lottery game. Offered in jurisdictions or facilities where bona fide slot machines are not authorized.
- **Win per Unit (“WPU”):** The average daily GGR generated by a slot machine, HHR machine, VLT or other gaming device.

## B. About Spectrum Gaming Group

This report was prepared by Spectrum Gaming Group, an independent consultancy founded in 1993 that specializes in the economics, regulation and policy of legalized gambling worldwide. Our principals have backgrounds in operations, economic analysis, law enforcement, regulation, research and journalism.

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

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

Spectrum serves as Executive Director of the non-partisan National Council of Legislators from Gaming States, a testament to the credibility, quality and independence of our work

Our clients in 44 US states and territories, and in 48 countries on 6 continents, have included government entities of all types and gaming companies (national and international) of all sizes, both public and private. In addition, our principals have testified or presented before the following governmental bodies:

- Brazil Chamber of Deputies
- British Columbia Lottery Corporation
- California Assembly Governmental Organization Committee

- Connecticut Public Safety and Security Committee
- Florida House Select Committee on Gaming
- Florida Senate Gaming Committee
- Georgia House Study Committee on the Preservation of the HOPE Scholarship Program
- Georgia Joint Committee on Economic Development and Tourism
- Illinois Gaming Board
- Illinois House Executive Committee
- Indiana Gaming Study Commission
- Indiana Horse Racing Commission
- International Tribunal, The Hague
- Iowa Racing and Gaming Commission
- Louisiana House and Senate Joint Criminal Justice Committee
- Massachusetts Gaming Commission
- Massachusetts Joint Committee on Bonding, Capital Expenditures, and State Assets
- Michigan Senate Regulatory Reform Committee
- National Gambling Impact Study Commission
- New Hampshire Gaming Study Commission
- New Jersey Assembly Regulatory Oversight and Gaming Committee
- New Jersey Assembly Tourism and Gaming Committee
- New Jersey Senate Legislative Oversight Committee
- New Jersey Senate Wagering, Tourism & Historic Preservation Committee
- New York Senate Racing, Gaming and Wagering Committee
- New York State Economic Development Council
- North Dakota Taxation Committee
- Ohio House Economic Development Committee
- Ohio Senate Oversight Committee
- Pennsylvania Gaming Control Board
- Pennsylvania House Gaming Oversight Committee
- Puerto Rico Racing Board
- US House Congressional Gaming Caucus
- US Senate Indian Affairs Committee
- US Senate Permanent Subcommittee on Investigations
- US Senate Select Committee on Indian Gaming
- US Senate Subcommittee on Organized Crime
- Washington State Gambling Commission
- West Virginia Joint Standing

## I. Overall Assessment of New Hampshire Charitable Gaming

New Hampshire has taken a circuitous route to legalization that is unique among the 44 states that have casinos. Whereas the casino industries in other states resulted from enabling casino legislation, the organic growth of or state compacting with Native American tribes, or the conversion of horse racing tracks into video lottery terminal racinos, New Hampshire gaming evolved from low-stakes charity games housed in low-key facilities routinely described as “mom-and-pop” operations into a casino jurisdiction deemed attractive by highly experienced national gaming operators. The operators are collectively investing tens of millions of dollars to capitalize on what Spectrum estimates to be \$1.1 billion of available gross gaming revenue (“GGR”) in the market catchment area. As of this writing, the state had 10 historical horse racing (“HHR”) casinos, with up to eight more to come.<sup>4</sup> By comparison, the four other New England casino states combined have nine casinos, and in the 13-state Northeast region, only one state – New York, with 14 times the population and five times the land area – has more casino facilities (23<sup>5</sup>) than New Hampshire could have. All but one of the existing New Hampshire casinos (that being Aces & Eights in Hampton Beach) are operated by companies with considerable experience in other jurisdictions, as the “big guys” have bought out the “little guys” over the last few years.

The sea change for New Hampshire occurred just three years ago, when the State<sup>6</sup> authorized HHR as an additional form of pari-mutuel wagering; the first machines were put into operation in April 2022. HHRs look like casino slot machines, play like casino slots, and have many of the same popular game titles as casino slots. When coupled with a fivefold increase in effective maximum wagers to \$50 at games of chance (“GOC”; i.e., table games) in 2023, New Hampshire rather quickly became a viable option for many patrons who otherwise would visit casinos elsewhere in New England. Indeed, New Hampshire charitable gaming operators interviewed by Spectrum said that significant percentages of their business are coming at the expense of casinos in Massachusetts and Maine, as patrons prefer the convenience of playing closer to home – as well as having a greater choice of casinos nearby.

Almost every casino operator in New Hampshire has invested, or is investing, significant sums to improve and expand their operation – and some are planning to, or hoping to, relocate to larger facilities in locations they deem more advantageous. Most prominently, ECL Entertainment said it is spending more than \$250 million<sup>7</sup> to relocate the tiny Lucky Moose casino in Nashua to the former Sears retail space at the Pheasant Lane Mall on the Massachusetts border – an all-new casino called The Nash that will have a

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<sup>4</sup> Additional HHR entrants include two licensees that currently have only table games, two licensees that are closed, and four that are eligible to apply for HHR licenses before the newly enacted seven-year moratorium expires in 2031.

<sup>5</sup> New York count includes commercial casinos, video lottery terminal casinos, and Class III Native American casinos; it excludes Class II Native American gaming facilities.

<sup>6</sup> Where “State” is capitalized in this report it refers to the government.

<sup>7</sup> Inclusive of all its New Hampshire investment costs, per interview with Marc Falcone, Managing Partner, ECL Entertainment, July 10, 2024.

gaming floor about 15 times larger (as measured by number of gaming positions) than the Lucky Moose’s – and will be, by far, the state’s largest casino.

However, based on our market analysis and operator interviews, Spectrum expects that The Nash will be the exception; we do not expect to see the state populated with large-scale casinos.<sup>8</sup> Spectrum found that most operators are expanding their facilities to fit their respective markets; Aaron Gomes, chief operations officer of Peninsula Pacific Entertainment, which operates four New Hampshire casinos, told us that his company seeks to “grow organically” in the state. In most cases, New Hampshire casinos are, or will be, locals-oriented casinos that pale in size compared to major casinos like Encore Boston Harbor and MGM Springfield in Massachusetts. Andrew Gentile, general manager of Gate City Casino in Nashua, told Spectrum that it’s like comparing a convenience store to a Walmart. In a sign of their prudent approach, New Hampshire’s charitable gaming operators are expanding their facilities predominantly in older or underused buildings as opposed to spending on new-build projects.

The rapid growth from mom-and-pop gaming rooms to bona fide casinos has created challenges. Chief among them: How much is too much? Unlike in almost every other commercial-casino state,<sup>9</sup> the State of New Hampshire has set no limits on the numbers or sizes or locations of casinos. Absent a legislative design, New Hampshire has effectively found itself with a free-market approach to casino gaming, although a seven-year extension of a moratorium on new HHR licenses enacted this year will, importantly, provide both the State and the operators needed clarity to move forward in a more controlled manner. It is possible that significant expansion by one or more operators – both in facility sizes and new locations – could lead to a shakeout in which smaller, less-capitalized (or less willing) operators are crowded out. At this point, however, it is conjecture to say if or how that might happen.

The Lottery commissioned this independent study to help it understand the path ahead, including an estimate of the industry’s revenue potential, identification of the challenges currently and in the foreseeable future, and an assessment of the state’s place in the greater regional gaming landscape. Spectrum identified challenges ahead that include the following, all of which are rooted in the rapid growth of the industry:

- **The New Hampshire Lottery keeping pace with the rapid expansion of the HHR industry.** The Lottery has had to become a casino regulatory agency rather quickly and without legislative design, which has meant attracting, retaining and training sufficient numbers of staff for inspections, licensing, enforcement and other functions that in other states are typically handled by an independent agency or a specific gaming division within a state’s lottery organization. Spectrum found that the New Hampshire Lottery is, to a certain extent,

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<sup>8</sup> Spectrum subjectively defines a “large-scale casino” as one with more than 1,000 gaming positions. The closest to that threshold in New Hampshire is The Brook at approximately 745 positions.

<sup>9</sup> Nevada is the only other state that does not restrict the number and locations of state-regulated casinos. Iowa has no express limit on the number or locations, but the Racing and Gaming Commission must approve any new casino based on market-competition factors and other conditions. Mississippi and New Jersey have no limits on the numbers of casinos, but they do have geographic restrictions that effectively limit how many casinos can operate in those states.

learning from the charitable gaming operators themselves, most of whom have extensive experience being strictly regulated by the other states in which they are, or were, present.

- **Competitive pressures.** As the casinos continue to expand and grow their revenues, pressures will increase on the State to accommodate the growth by being competitive with out-of-state casinos in areas such as alcoholic-beverage policies, casino-credit policies, maximum bets, responsible-gaming policies, and – the big one, eventually – authorizing true casino slot machines, which typically perform better (i.e., have a higher average daily win per unit in head-to-head markets) than HHRs and typically have lower operating costs. The casinos in New Hampshire’s three primary competing states – Connecticut, Maine and Massachusetts – operate slots. New Hampshire is one of six states where HHRs are active, the closest one being Virginia.
- **Assessing and harnessing scope of the casino industry:** If the State did not see fit to impose legislative or regulatory limitations on the industry’s size at the outset, doing so now – during the industry’s nascency – could penalize operators and investors who have made substantial commitments under the current rules. For now, the seven-year moratorium extension provides the State with a safeguard against having an HHR casino in every town.<sup>10</sup> Looking ahead, toward the end of the moratorium on new HHR licenses in 2031 – by which time the gaming industry is likely to have reached a mature state – Spectrum recommends that the State reassess whether the industry is performing to its potential and whether there are under-penetrated markets. It is likely that the competitive landscape surrounding New Hampshire will have changed by then, with the potential for online gaming, online lottery, and/or more casinos in neighboring states (and maybe within New Hampshire itself) – additions that could impact the potential of New Hampshire charitable gaming casinos. At that time, the State will be in a much better position to address potential limits on the number of charitable gaming facilities, number of HHRs, and facility locations – and the charitable gaming operators will have had opportunity to achieve acceptable returns on their investments.
- **Attracting and retaining employees,** particularly experienced gaming managers and table games dealers. There is no statewide dealer-training school in the state, meaning that experienced dealers are in demand. Properly trained dealers are the first line of defense against casino cheats. Operators have exported casino managers from their properties in other states or recruited them from rival facilities, both in state and out of state. It may be in the industry’s best interest to create a collective, private dealer-training school or work with a New Hampshire community college or other educational institutional to develop one.<sup>11</sup>

The New Hampshire charitable gaming industry is still in its infancy as a casino industry – facilities are still expanding, and some are relocating; additional casinos are still to open in locations such as Conway, Littleton and Rochester; some casinos do not yet have their desired complement of HHR

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<sup>10</sup> The moratorium does not affect the number of facilities with only Games of Chance (table games).

<sup>11</sup> In Massachusetts, Cambridge College, in collaboration with Encore Boston Harbor and under the licensure of the Massachusetts Gaming Commission, has created the pioneering Greater Boston Gaming Career Institute; see <https://www.encorebostonharbor.com/bet-on-u>. MGM Springfield has its own dealer school; see <https://mgmspringfield.mgmresorts.com/en/community/gaming-school.html>. In Maryland, Anne Arundel Community College has a Dealer School; see <https://www.aacc.edu/programs-and-courses/job-training/casino-dealer-school/>.

machines; marketing programs are still being developed; and the state’s casinos are realizing only 16% of the gaming revenue that Spectrum estimates is available. Spectrum estimates that the state could reasonably support 6,342 HHR machines<sup>12</sup> based on market potential; currently there are 1,985 in operation.<sup>13</sup> The market will effectively determine how many facilities and machines it can support, and where those facilities can succeed; the State has effectively capped the number of HHR gaming facilities at 18 for the next seven years, and the number of HHR machines need not be capped, as no operator is going to install more machines than it can support to meet demand.

Although New Hampshire’s charitable gaming industry is a work in progress regarding its performance, operation and regulation, based on the research and analysis for this study Spectrum believes it is growing in a responsible manner from a business perspective and a regulatory perspective. We found that there is a symbiotic relationship between the Lottery and the casino operators, as they share the mutual goal of maximizing gaming revenues so as to maximize the proceeds for registered charities, who in 2023 received 18.3 cents<sup>14</sup> from every dollar of net gaming revenue.

We encourage the State to act to avoid potential undue economic concentration among casino owners to ensure that one company does not dominate the market through the ownership of multiple properties. We do not believe such economic concentration exists currently, despite the ownership of four casinos (and potentially six) by one operator (New Hampshire Group LLC; i.e., Revo casinos). Given the relatively small size of New Hampshire’s casinos and their young age as casinos, Spectrum can envision a scenario whereby one company would want to take a major stake through the ownership of numerous properties.

Although beyond the scope of this report, Spectrum did observe that the statewide problem-gambling efforts in New Hampshire appear to lag those of the comparison states – an observation confirmed in conversations with problem-gambling professionals familiar with New Hampshire’s programs. Of particular concern, there is no statewide voluntary self-exclusion program whereby gamblers can bar themselves from playing at all of the casinos; the four other New England gaming states do have statewide voluntary self-exclusion programs. New Hampshire has two organizations devoted to problem gambling (New Hampshire Council on Problem Gambling and New Hampshire Council for Responsible Gaming), neither of which is affiliated with the National Council on Problem Gambling (“NCPG”). We note that the NCPG does have affiliates in the four other New England casino states. Visitors to the New Hampshire Department of Health & Human Services website on the topic of “Gambling” are provided with an “Answer” that consists only of hyperlinks to the NCPG and two other national organizations.<sup>15</sup> Commensurate with the rapid growth of its new casino industry, Spectrum believes it is now incumbent upon the State of New Hampshire to thoroughly assess the funding, scope and efficacy of

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<sup>12</sup> Calculated by applying the East Coast average daily win per electronic gaming device of \$324 by Spectrum’s estimated New Hampshire HHR potential of \$750 million.

<sup>13</sup> As of July 2024.

<sup>14</sup> Blended rate based on combined proceeds from HHR and table games.

<sup>15</sup> New Hampshire Department of Health & Human Services, “Gambling.” <https://www.dhhs.nh.gov/node/4121> (accessed July 15, 2024)



problem gambling/responsible gambling programs from a 360-degree perspective. Such an assessment should address awareness, resources available to players, industry responsibility, training programs, and healthcare options.

## II. New Hampshire Gaming Market Analysis

### A. New Hampshire Casino Performance vs. Neighboring States

New Hampshire’s gaming industry competes primarily against casinos in neighboring Maine and Massachusetts. The following table provides key performance metrics for the three states.

**Figure 1: Neighboring states’ casino performance vs. New Hampshire, 12 months ending May 2024**

	Maine	Massachusetts	New Hampshire
Slot GGR	\$128,188,283	\$723,895,413	\$123,488,281
Table Games GGR	\$24,286,079	\$389,826,657	\$42,444,366
<b>Total GGR</b>	<b>\$152,474,362</b>	<b>\$1,113,722,070</b>	<b>\$165,932,647</b>
Pct. of GGR from Slots/HHR	84.1%	65.0%	74.4%
Est. Population 18+ (as of 7/23)*	1,147,283	5,657,130	1,149,684
Slot Win per Adult	\$112	\$128	\$107
Table Win per Adult	\$21	\$69	\$37
Total Win per Adult	\$133	\$197	\$144
Est. Gross State Product Q1 2024	\$94.0B	\$759.5B	\$114.7B
Casino Win as % GSP	0.16%	0.15%	0.14%

Sources: US Census Bureau, Bureau of Economic Analysis, Spectrumetrix, Spectrum Gaming Group. The legal casino gambling age in Maine and Massachusetts is 21.

As can be seen in Figure 1, the current performance of the New Hampshire casinos is fairly strong relative to the casinos in neighboring states. Win per adult is higher than in Maine but lower than in Massachusetts. Casino revenue as a percentage of gross state product (“GSP”) trails both slightly, but is strong given the newness of the casino industry in New Hampshire. Using GGR as a percentage of GSP as a benchmark normalizes casino spend across states with different levels of wealth in the same way that measuring revenue against population normalizes for more populated states.

It is important to note that the locations of the casinos in Maine and Massachusetts cater primarily to their residents. The New Hampshire casinos are mostly positioned near the population concentrations in northern Massachusetts, making cross-border play comparisons imperfect.

As the New Hampshire casino market grows, and as the New Hampshire casinos draw more patrons from Massachusetts, we anticipate that the New Hampshire casino win as a percentage of New Hampshire GSP will increase, as we will be including out-of-state derived casino revenue for comparison to an in-state GSP number.

#### 1. The Importance of Gaming-Tax Rates

One of the most important public-policy decisions a state makes with respect to its regulated gaming industry is setting the tax rate on gross gaming revenue. The casino gaming-tax rates vary widely across the country – from 6.75% in Nevada to 74% on video lottery terminal (“VLT”; i.e., slot machine) revenue in Rhode Island. The tax rate affects key aspects of any state’s gaming industry, including the level of capital investment (and thus direct employment) and marketing programs (thus affecting GGR

potential). The following table compares New Hampshire with other New England casino states and the key historical-horse racing states of Kentucky, Virginia and Wyoming.

**Figure 2: Gaming-tax rates in comparison states**

State	Gaming-Tax Rate(s)	
Connecticut	Slots: 25% of GGR as exclusivity fee; tables: not taxed	
Kentucky	1.5% of HHR handle	
Maine	Racino slots: 39% GGR plus 1% handle; tables 16% of GGR	Casino slots: 46% of GGR; table games: 16% of GGR
Massachusetts	Slot parlor: 49% of GGR	Casino 25% of GGR (slots and table games)
New Hampshire	HHR: 25% of GGR; table games: 45% of GGR (both inclusive of 8.75% and 35%, respectively, of required GGR proceeds for charities)	
Rhode Island	VLTs: 68.85% to 74% of GGR; table games: 17% or 19% of GGR	
Virginia	Casino: 18% up to \$200M of GGR; 23% for \$200M to \$400M of GGR; 30% for \$400M+ of GGR	HHR: 1.25% of handle for initial 3,000 machines authorized. Will be 1.6% of handle on 2,000 additional terminals (not yet operational) authorized by 2020 legislation.
Wyoming	1.9% of HHR handle	

Source: American Gaming Association, Spectrum Gaming Group

Vastly different tax rates between competing border states can be a significant, sustainable competitive advantage for operators in the lower-tax state. In Connecticut, for example, Foxwoods and Mohegan Sun pay an effective gaming tax of 25% on slot revenue and no tax on table-games revenue, whereas Bally’s Twin River less than 60 miles away pays the highest effective gaming tax in the country – up to 74% on VLT revenue, as well as up to 19% on table games revenue. This has allowed the two Connecticut casinos to invest substantially more in their facilities and offer more generous promotional programs to customers.

For competitive purposes, New Hampshire’s gaming-tax rates should be compared against those of the Maine and Massachusetts casinos:

- **Slots:** New Hampshire’s effective rate on HHR revenue equals that of Massachusetts slots and is more favorable than that of the closest Maine competitor, Oxford Casino. New Hampshire’s effective rate of 25% includes 16.25% to the State and 8.75% to charities.
- **Table games:** New Hampshire’s 45% effective rate is significantly higher than that of either state. In fact, New Hampshire has the highest table-games tax in the country; West Virginia has the second-highest at 35%. In states that tax slot and table games revenue at different rates, the table games tax is always much lower in recognition of the significantly higher labor costs associated with table games operations. However, in New Hampshire most of the table games effective tax is directed to charities (35%, with the State retaining 10%).

Spectrum believes there is no compelling reason for the State of New Hampshire to change the tax rate on HHR revenue. Operators told us that they are further burdened by having to pay a commission of between 6% and 18%<sup>16</sup> of GGR to the providers of their HHR totalizer systems. Although this is not, in

<sup>16</sup> The higher end of that range may include lease rates on HHR machines.

our opinion, a persuasive reason to lower the tax rate on HHR revenue, the cost of doing business in New Hampshire should be a consideration in any discussion of adjusting gaming tax rates.

With respect to the high table-games tax rate, New Hampshire clearly is an outlier. However, given that the State is receiving only 10% of the table-games GGR and charities are receiving 35%, Spectrum sees little to no room to reduce the rate, given that we assume the percentage allocated for charities will remain undisturbed.

## B. New Hampshire Gaming Revenue Potential

To estimate the casino gross gaming revenue potential in New Hampshire, Spectrum relied on publicly available data from the American Gaming Association on commercial and tribal casino revenues in 2019.<sup>17</sup> The Internal Revenue Service reports on the annual nationwide adjusted gross income (“AGI”) from all tax returns filed. The Tax Foundation has compiled this data for tax year 2019 (paid in 2020).<sup>18</sup> By combining these two data points we can develop a nationwide estimate of casino spending as a percentage of AGI. The year 2019 was used to establish the benchmark because it was the most recent available year for which AGI data and casino revenue data were not impacted by the Covid-19 pandemic.

Because we are analyzing the level as a ratio of gaming revenue to AGI, applying the ratio to estimated future AGI derives an estimate of the market potential going forward.

**Figure 3: Estimate of casino revenue as a percentage of adjusted gross income**

	2019	% of AGI
National Adjusted Gross Income	\$11,882,850M	
Tribal Casino Revenue	\$33,370M	0.28%
Commercial Casino Revenue	\$43,610M	0.37%
Nationwide Casino Revenue	\$76,980M	0.65%

Sources: The Tax Foundation, American Gaming Association

The Internal Revenue Service publishes data on AGI by ZIP Code. Using data on the total adjusted gross income by ZIP Code, and the national percentage of AGI spent on casino gaming, Spectrum developed an estimate of the casino revenue potential of each ZIP Code across the country. Nationwide, the percentage of AGI spent on casino gaming was 0.65%.

This methodology has the benefit of focusing on available income, not population. Casino gaming is a form of entertainment. People with higher incomes spend more per capita on entertainment. Using this ratio, the market potential from each ZIP Code is weighted by AGI. A ZIP Code with 500 taxpayers each with AGI of \$100,000, has the same casino spending potential as a ZIP Code with 1,000 taxpayers each with AGI of \$50,000.

<sup>17</sup> American Gaming Association, “State of the States 2020,” p. 6. [https://www.americangaming.org/wp-content/uploads/2020/06/AGA-2020-State\\_of\\_the\\_States.pdf](https://www.americangaming.org/wp-content/uploads/2020/06/AGA-2020-State_of_the_States.pdf)

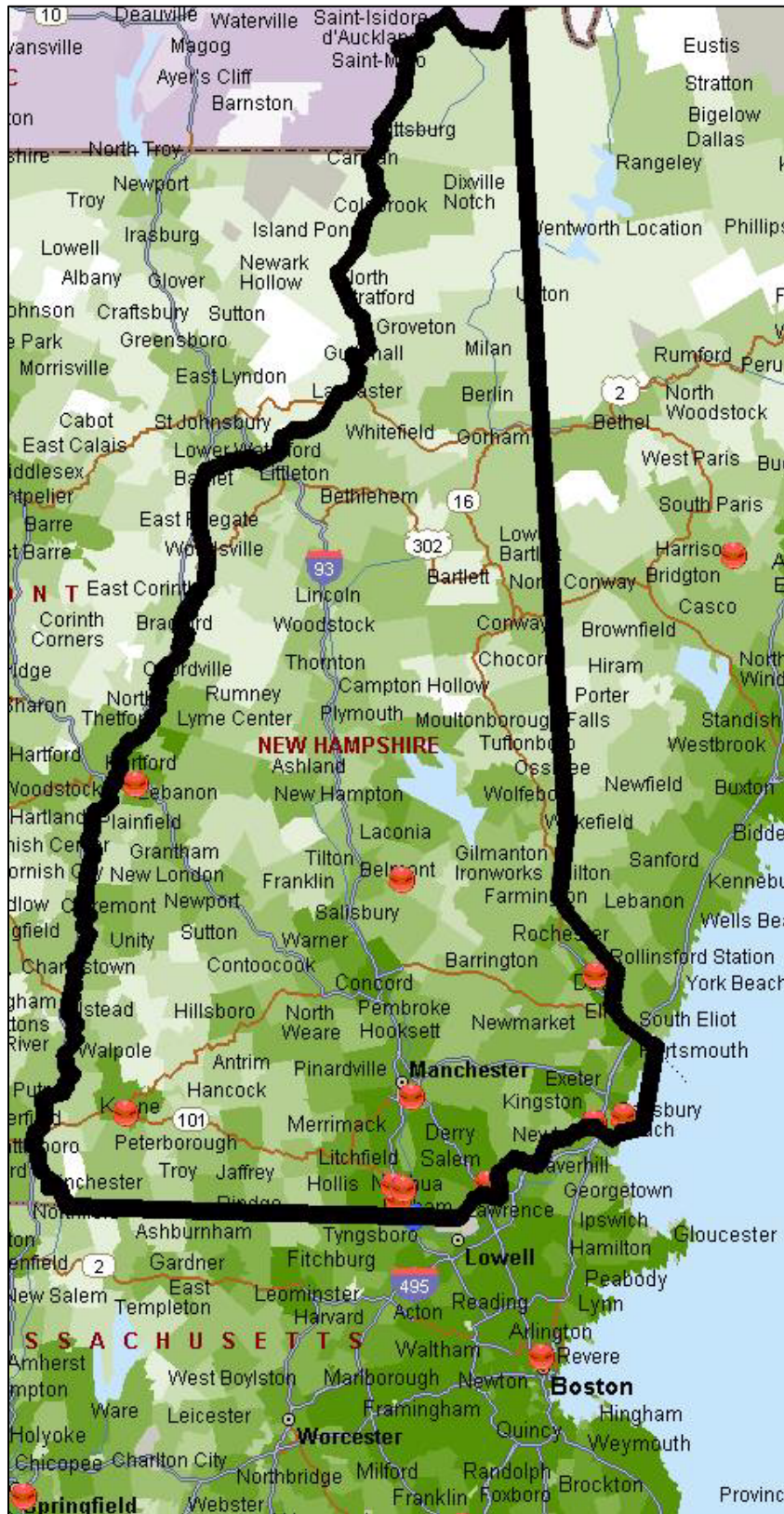
<sup>18</sup> Erica York, Summary of the latest Federal Income Tax Data, 2022 Update, The Tax Foundation. <https://taxfoundation.org/publications/latest-federal-income-tax-data/>

A nationwide figure discounts the effect that living near a casino has on casino visitation. A nationwide figure includes Alabama, Hawaii, Georgia, South Carolina, Utah, Vermont and other states that in 2019 did not have casinos. Because large-scale gaming, be it HHR or house-banked table games, is relatively new to New Hampshire, Spectrum believes that the 0.65% ratio provides a sound estimate of casino gaming potential.

Using the 2021 AGI by ZIP Code as a base and inflating the number to arrive at a 2025 AGI estimate, we then applied the 0.65% ratio to the AGI in each ZIP Code to derive the estimated casino gaming potential from that area. For New Hampshire, Spectrum defined the primary market area as the entire state plus out-of-state locations within a 60-minute drive from a New Hampshire charity casino.

On the following page, Figure 4 maps the New Hampshire casinos' total available market area, casinos in the marketplace, and the 2025 New Hampshire GGR potential. Deeper shades of green indicate higher potential casino revenue. Estimated potential by Forward Sortation Area ("FSA") in Canada is presented in purple.

**Figure 4: Map of New Hampshire casinos' total available market area and 2025 revenue potential**



Sources: IRS, Stats Canada, Spectrum Gaming Group. Deeper shades of green indicate higher casino revenue potential.



The map in Figure 4 includes all of New Hampshire and portions of Maine, Vermont, Massachusetts and Quebec. We estimate the total potential market to be approximately \$2.7 billion, with the majority of the potential residing in northeast Massachusetts.

**Figure 5: New Hampshire market area total estimated casino GGR potential, 2025**

State	Est. Population	Est. GGR Potential 2025
Massachusetts	3,165,219	\$1,677,550,000
Maine	406,126	\$122,880,000
New Hampshire	1,373,983	\$544,050,000
Vermont	628,830	\$187,540,000
Quebec (in US\$)	398,920	\$163,900,000
<b>Total Potential</b>	<b>5,973,078</b>	<b>\$2,695,920,000</b>

Source: IRS, Stats Canada, Spectrum Gaming Group

Convenience is a driver of visitation choice. The closer one lives to an attraction, be it a pizza parlor, a ski slope or a casino, the more visits one makes to that site. A 2010 research paper from the University of Nevada Las Vegas with 590 survey participants confirms the anecdotal evidence: Some 42% of the respondents had traveled less than 25 miles to visit their casino or racino destination, and 61% had traveled less than 50 miles. In terms of determining whether to visit a particular casino or racino, word-of-mouth (my friend/family told me; 39.1%) and past experience or visit (28.3%) were the two most popular reasons cited by the respondents. The third most popular item cited was, “I live in the neighborhood,” with 24.1%.<sup>19</sup>

### C. Addressable Market

The factor of proximity determines the addressable market for casinos. The addressable market is the share of the total available market that we expect can be captured in the face of entrenched competition, and across distances. As can be seen in Figure 6 below, the addressable New Hampshire gaming market is restricted by the accessibility of established casinos in Maine and Massachusetts. We did not include any revenue from Quebec, as current casino locations in New Hampshire are too distant from Canada. Further, Quebec has a thriving casino industry and offers online casino gaming. There is little incentive for a Quebecker to travel to a New Hampshire casino.

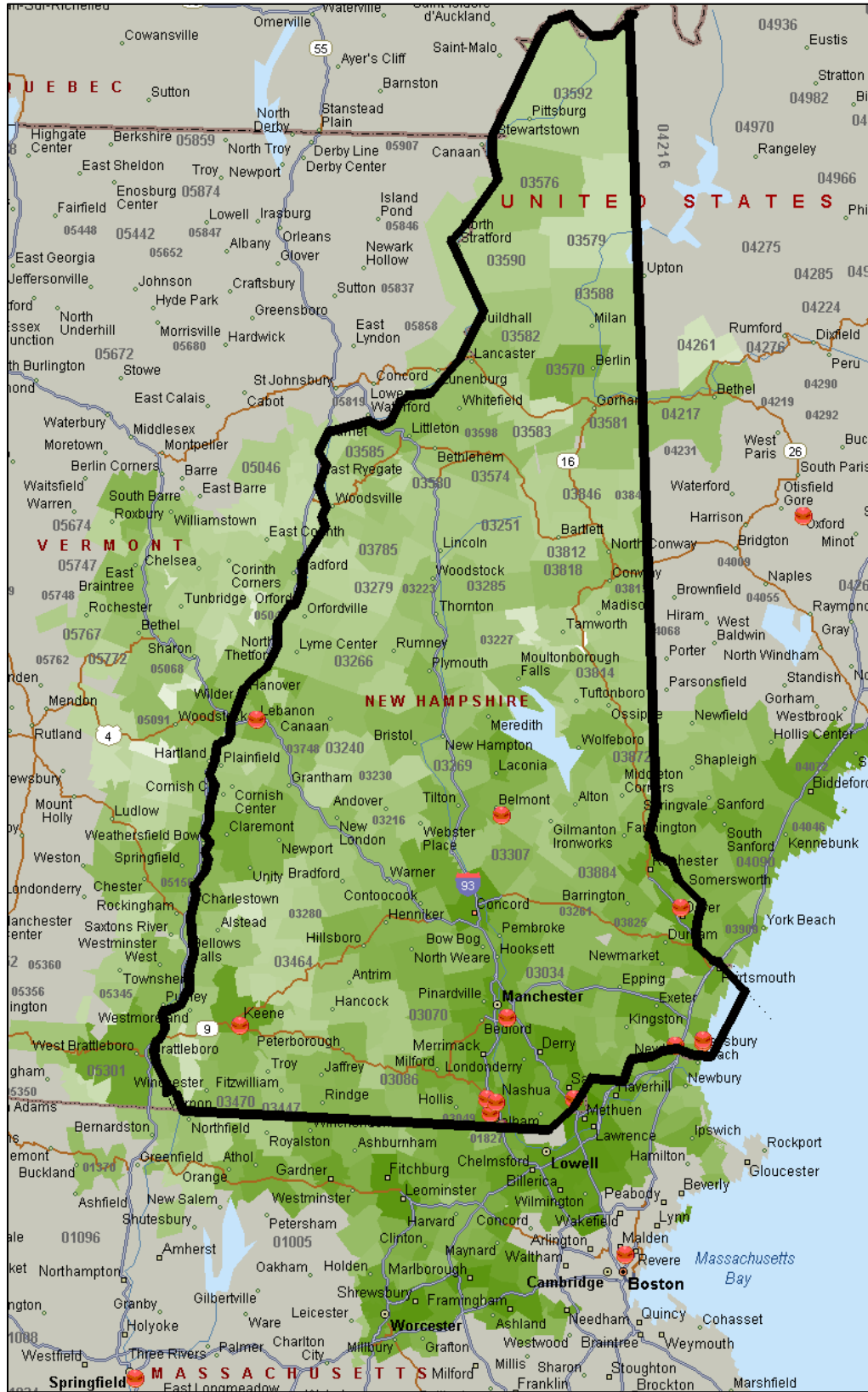
The map in Figure 6 below depicts the “addressable market” in green; that is the portions of the total available market (which is depicted in Figure 4) that can be reasonably captured by New Hampshire’s charitable casinos. Deeper shades of green represent a greater revenue potential based on population and income.

<sup>19</sup> Shelia A. Scott-Haskell, et al., “Trip Characteristics of Casino and Racino Visitors in a Midwestern State,” *UNLV Gaming Research Journal*, Vol 14. Issue 1, 2010.

<https://digitalscholarship.unlv.edu/cgi/viewcontent.cgi?article=1100&context=grrj>



Figure 6: New Hampshire charity casino addressable market, 2025



Sources: IRS, Spectrum Gaming Group

To arrive at our estimate of the addressable market, we mapped the locations of the area casinos. We then allocated market share to New Hampshire or out-of-state properties in areas of overlap based on several factors, including distance to the out-of-state casino, the amenities and offerings at the out-of-state properties, and the established marketing programs the existing properties have.

Due to population and accessibility, we restricted the catchment area of the New Hampshire casinos to 60-minute drive times from the casinos. We believe the casinos in the southeast of the state will draw a large portion of their revenues from Massachusetts. The New Hampshire casinos offer easier access for many in the area north of Boston relative to Encore Boston Harbor in Everett, MA. MGM Springfield will continue to draw play, but many players closer to the New Hampshire border are likely to be drawn to the more northerly casinos.

Based on our market analysis, we believe that of the \$2.7 billion in potential GGR in the total available marketplace, nearly \$1.1 billion can reasonably be targeted by New Hampshire’s charitable casinos.

**Figure 7: Estimated New Hampshire addressable casino revenue, 2025**

State	Est. NH Casino Market Population (No. of Potential Casino Patrons)	Est. NH GGR from Addressable Market 2025
Maine	248,529	\$83,440,000
Massachusetts	1,527,496	\$402,190,000
New Hampshire	1,337,722	\$544,050,000
Vermont	137,859	\$36,570,000
<b>Addressable Market</b>	<b>3,251,606</b>	<b>\$1,066,250,000</b>

Sources: IRS, Spectrum Gaming Group

Based on the relative inaccessibility of out-of-state casinos, our estimate reserves the entire state of New Hampshire for in-state operators, while allocating about half the overall market to other states.

## 1. Assessing the Number of HHR Machines

Based on the current New Hampshire’s current GGR ratio of HHR vs. GOC, 75% of the potential revenue would be driven by HHR gaming.

**Figure 8: New Hampshire charitable GGR by game segment, fiscal year to date May 2024**

	FY TD, May 2024	% of GGR
HHR “Commission” (GGR)	\$48,579,652	75%
Games of Chance (table games)	\$16,217,802	25%
<b>Total</b>	<b>\$64,797,454</b>	

Source: New Hampshire Lottery

Based on Spectrum’s addressable market potential of \$1.1 billion, approximately \$750 million of the potential charitable casino revenue would be from HHR devices. To get a sense of how many HHR machines may be needed to accommodate the market potential, Spectrum applied the average daily win per unit (“WPU”) from East Coast casinos to the estimated potential HHR revenue in New Hampshire.

**Figure 9: East Coast number of casino slots, slot win, and win per unit LTM, May 2024**

State	No. Slots	Slot Win	Average Daily Win per Unit
Connecticut	6,710	\$847,358,626	\$346
Delaware	5,208	\$414,251,021	\$218
Florida	6,812	\$469,936,941	\$189
Maine	1,615	\$140,069,455	\$238
Maryland	9,694	\$1,336,052,993	\$378
New Jersey	15,489	\$2,107,815,706	\$373
New York	22,536	\$3,061,303,441	\$372
Pennsylvania	25,028	\$2,439,113,221	\$267
Rhode Island	4,899	\$525,964,376	\$294
Virginia	5,957	\$892,475,737	\$410
West Virginia	4,408	\$575,632,825	\$358
<b>All East Coast</b>	<b>108,356</b>	<b>\$12,809,974,342</b>	<b>\$324</b>

Source: Spectrumetrix, from state regulators. Massachusetts is not included because it does not break out slot GGR.

Applying the WPU from the East Coast casinos to the estimated \$750 million potential HHR revenue results in an estimated 6,342 total HHR devices to accommodate the potential demand in New Hampshire. Such an exercise is designed to provide a ballpark figure; many casinos and states produce a higher average win per unit, which if applied to New Hampshire would reduce the number of HHR machines needed to accommodate the potential. (For comparison purposes, New Hampshire’s HHR machines averaged a daily win per unit of \$247 in June 2024.)

As noted earlier, New Hampshire is not yet close to reaching its market potential. Spectrum believes that the market – casino gamblers – will ultimately decide how many HHR machines the casinos operate in what is quickly becoming a highly competitive Maine-New Hampshire-Massachusetts market. We find no compelling reason, or see no need, for the State of New Hampshire to set limits on the number of HHR machines, whether statewide or by operator or by location. If such a limit were contemplated, Spectrum believes it should have been set when HHR gaming was legalized, not after industry operators have made their substantial investments and strategic plans in the state.

## D. Current Market Capture

Of the estimated \$1.1 billion in available GGR, New Hampshire’s casinos are capturing 16%, based on the \$166 million generated over the 12-month period ending May 2024.

Spectrum expects there will be significant growth in the New Hampshire charitable casino GGR as the market matures, as we have seen in other states. Ohio added video lottery terminals (“VLTs”) to horse racetracks beginning in 2012, with additional racinos opening through 2015. By 2015, VLTs were operating at seven tracks across the state. Ohio’s rapid growth may offer parallels for New Hampshire.

**Figure 10: Ohio VLT unit, revenue and win per unit growth, 2014-2017**

Ohio Racino VLTs	2014	2015	2016	2017	% Change from 2014	CAGR*
No. of VLTs	5,586	10,052	10,587	10,963	96.3%	18.4%
Total GGR (Win)	\$437,576,360	\$772,956,258	\$868,914,542	\$926,646,264	111.8%	20.6%
Win per Unit per Day	\$215	\$211	\$225	\$232	7.9%	1.9%
YoY GGR Growth		76.6%	12.4%	6.6%		

Source: Ohio Lottery, Spectrum Gaming Group. \* CAGR – compound annual growth rate.

New Hampshire will be adding both more HHR facilities (up to eight more) and more HHR machines at existing locations, leading Spectrum to believe that there will be a period of rapid growth, as seen in Ohio and as Spectrum has seen in other new or underserved gaming markets.

**Figure 11: Potential New Hampshire charitable casino revenue growth at Ohio growth rates**

	LTM 5/24	2025	2026	2027	% Change from 2024	CAGR
Charitable Casino GGR	\$165,932,647	\$293,111,534	\$329,499,724	\$351,392,080	111.8%	20.6%
YoY Rev Growth		76.6%	12.4%	6.6%		

Sources: Ohio Lottery, Spectrummetrix, Spectrum Gaming Group

Applying the same growth rates to the New Hampshire casinos shows there will remain significant untapped potential in the market. How the casinos develop, expand and market will determine how much of this addressable market can be captured by the New Hampshire casinos, though we caution that the state’s charitable casinos are unlikely to capture anywhere near the entire addressable market in the foreseeable future.

## E. New Hampshire HHR Performance vs. Other HHR States

Although historical horse racing in New Hampshire is just over two years old, the state has quickly established itself as a prominent player in this gaming segment that includes, most prominently, Kentucky, Virginia and Wyoming. Whereas Kentucky has no other forms of casino gaming, there are three commercial casinos in Virginia and four Native American casinos in Wyoming.

Benchmarking the performance of the New Hampshire HHR operations against the longer-established operations in these three states may provide a guide as to the potential growth of the market.

**Figure 12: HHR performance in New Hampshire and other HHR states, LTM May 2024**

	Kentucky	Virginia	Wyoming	3 States Combined	New Hampshire
HHR GGR	\$783,966,757	\$356,684,408	\$153,035,317	\$1,293,686,483	\$123,488,281
Est. Age 18+ Population 2023	3,507,769	6,833,107	454,396	10,795,273	1,149,684
Q1 2024 GSP	\$285.5B	\$732.6B	\$51.4B	\$1,069.4B	\$114.7B
HHR as % GSP	0.27%	0.05%	0.30%	0.12%	0.11%
HHR GGR per 18+	\$223	\$52	\$337	\$120	\$107

Sources: US Census Bureau, Bureau of Economic Analysis, Spectrummetrix, Spectrum Gaming Group

Including Virginia in the comparable set skews the results, as it is far more urbanized and populated than New Hampshire, Kentucky and Wyoming. Using the combination of Kentucky and

Wyoming as performance benchmarks provides a better indicator of potential performance in New Hampshire.

**Figure 13: Kentucky and Wyoming HHR performance benchmarks**

	Kentucky	Wyoming	KY & WY
LTM HHR 5/24	\$783,966,757	\$153,035,317	\$937,002,074
Est. 18+ 2023	3,507,769	454,396	3,962,166
Q1 2024 GSP	\$285,495,000,000	\$51,403,000,000	\$336,898,000,000
HHR as % GDP	0.27%	0.30%	0.28%
HHR GGR per 18+	\$223	\$337	\$236

Sources: US Census Bureau, Bureau of Economic Analysis, Spectrumetrix, Spectrum Gaming Group

When the benchmarks from Wyoming and Kentucky are applied to the New Hampshire data to benchmark current New Hampshire performance, the expected New Hampshire revenue more than doubles.

**Figure 14: Estimated New Hampshire HHR GGR using state benchmarks**

	New Hampshire Data	NH Current Performance	KY + WY Benchmark	New Hampshire Performance @ KY+WY Benchmark
LTM NH HHR through 5/24	\$123,488,281	N/A	N/A	N/A
		<b>Win per Adult</b>	<b>Win per Adult</b>	
Est. NH 18+ 2023	1,149,684	\$107	\$236	\$271,885,791
		<b>HHR Revenue as % of GSP</b>	<b>HHR Revenue as % of GSP</b>	
Est. NH GSP Q1 2024	\$114,733,000,000	0.11%	0.28%	\$319,102,693

Sources: US Census Bureau, Bureau of Economic Analysis, Spectrumetrix, Spectrum Gaming Group

It appears that the New Hampshire HHR casinos are not performing to the levels of the relevant benchmark states, which have been in operation longer (Kentucky since 2011 – originally under the Instant Racing brand – and Wyoming since 2013).

### III. Historical Horse Racing in New Hampshire

New Hampshire's casinos are formally classified as Game Operator Employers ("GOE") that operate casino-style charitable gaming facilities with table games, called games of chance ("GOC"), and pari-mutuel gaming terminals based on previously run horse races, a system widely referred to as historical horse racing. It is helpful to understand HHR in the context of the state's pari-mutuel history.

New Hampshire legalized pari-mutuel Thoroughbred and harness racing in 1933. The state's last live pari-mutuel Thoroughbred, greyhound and harness races occurred in 2004, 2008 and 2009, respectively.<sup>20</sup> Live and simulcast horse racing is still allowed, but the State banned live greyhound racing effective January 1, 2011,<sup>21</sup> and banned greyhound simulcasting effective January 1, 2027.<sup>22</sup> Racetracks with live horse or greyhound races in 2008 were:

- **The Lodge at Belmont** hosted greyhound racing and is now the site of Lakes Region Casino.
- **Rockingham Park** in Salem hosted Thoroughbred racing (most recently in 2002) and harness racing (most recently in 2009). The track was demolished for redevelopment starting in 2017. Churchill Downs Inc. purchased Chasers Poker room, across the street from Rockingham Park, in 2022 and plans to build a larger gaming facility in Salem.
- **Seabrook Greyhound Park** is the site of The Brook Casino, the only location where New Hampshire's bettors can wager on imported simulcasts of horse racing and greyhound racing.<sup>23</sup>
- **Hinsdale Greyhound Racing Association** was demolished in 2013. The nearest casino is Wonder Casino in Keene, 22 miles away.

Although GOC gaming has been legal in New Hampshire since 1977,<sup>24</sup> New Hampshire did not authorize HHR until June 8, 2021.<sup>25</sup> The Brook Casino was the first HHR facility to open in the state, on April 26, 2022. Initially, only GOEs licensed as of May 1, 2020, could apply for HHR licenses within a moratorium originally set to expire on July 1, 2024. SB 472 (2024) extended the moratorium through June

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<sup>20</sup> The last multi-day Thoroughbred race meet in New Hampshire occurred in 2002.

<sup>21</sup> NH HB 630 (2010). Relative to live racing in New Hampshire.  
<https://www.gencourt.state.nh.us/legislation/2010/HB0630.html>

<sup>22</sup> NH SB 363 (2024). Relative to wagering on simulcast dog racing.  
<https://legiscan.com/NH/text/SB363/id/2980260>

<sup>23</sup> The Brook, "Racebook." <https://www.livefreeandplay.com/racebook> (accessed August 19, 2024)

<sup>24</sup> New Hampshire Racing and Charitable Gaming Commission PowerPoint, September 15, 2009.  
<https://www.nh.gov/gsc/calendar/documents/nhrcgc.ppt>

<sup>25</sup> NH HB 626 (2021). Relative to historic horse racing. <https://legiscan.com/NH/text/HB626/2021>

2031 and opened HHR license eligibility within the moratorium to five additional entities that had applied for GOE licenses between January 1 and October 15, 2023.<sup>26</sup>

Figure 15 below summarizes the status of 18 HHR licenses available within the moratorium. Twelve charitable gaming facilities were open in April 2024, of which all had table games and 10 of which had HHR. Two HHR facilities were closed: Northwoods Casino in Berlin closed in March 2024 to pursue an alternative location in Berlin, and Concord Casino closed at the end of 2023 pending a forced sale. Five entities that applied for GOE licenses from January 1, 2023, through October 15, 2023, are also eligible to apply for HHR. The River Casino & Sports Bar, a GOE currently operating GOC, transferred its HHR license eligibility to The Lucky Moose and is not eligible for a separate HHR license at The River.

**Figure 15: Status of New Hampshire HHR licenses available prior to July 2031**

HHR License Status	Locations
HHR-Eligible GOEs Currently Operating GOC & HHR	10
HHR-Eligible GOEs Currently Operating GOC Only	1
HHR-eligible GOEs Currently Closed	2
2023 GOE License Applicants Eligible to Apply for HHR Licenses Prior to July 2031	5
<b>Maximum HHR licenses available prior to July 2031</b>	<b>18</b>

Source: New Hampshire Lottery, Spectrum Gaming Group

Figure 16 below shows New Hampshire’s GOE locations as of April 2024. The red buffers show 25-mile gaming facility radii and significant market overlap.<sup>27</sup> The southern buffer, excluding Northwoods Casino, which is closed, covers about two-thirds of New Hampshire’s land area and comprised 92% of 2023 lottery ticket sales.<sup>28</sup>

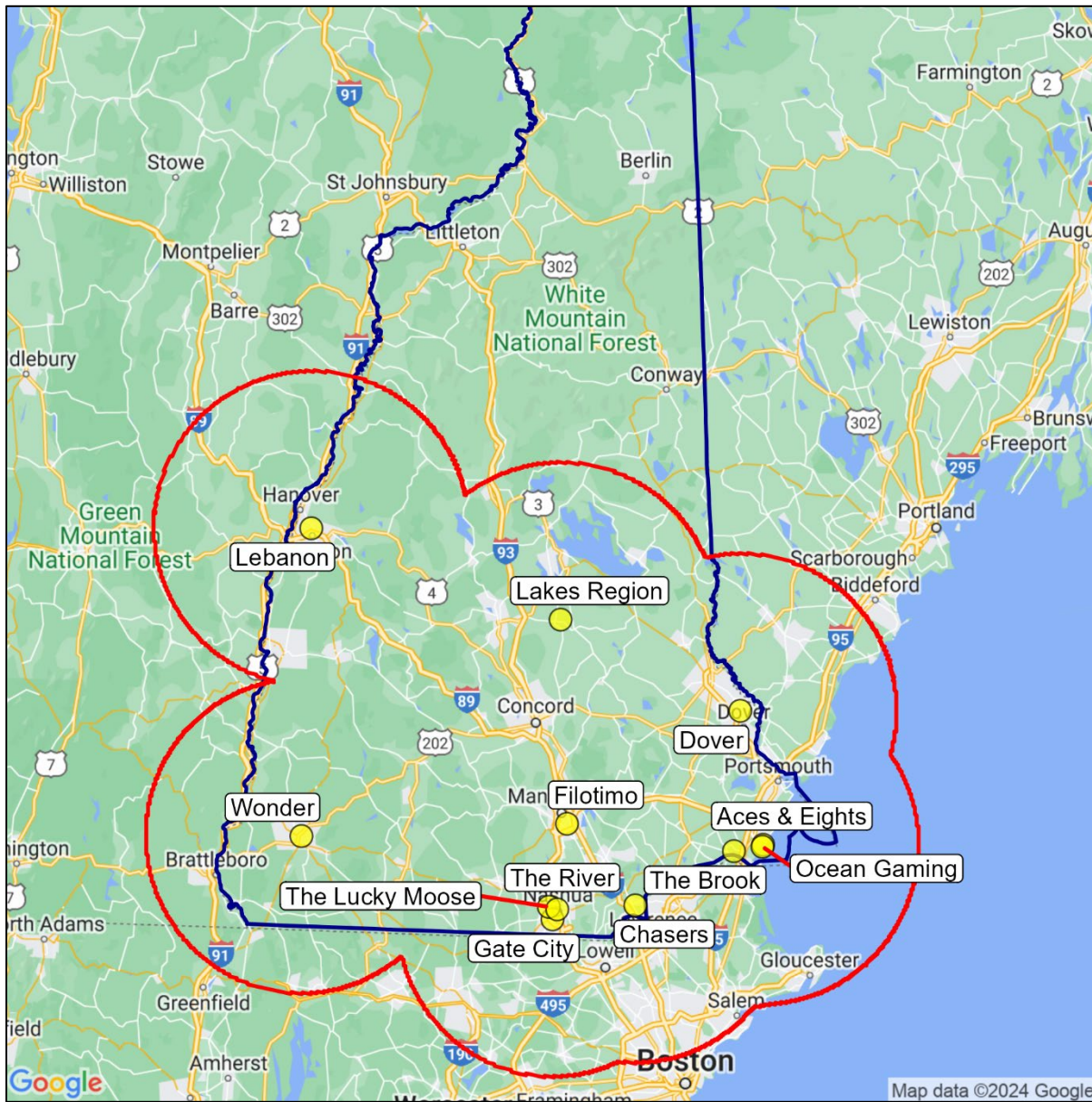
<sup>26</sup> NH SB 472 (2024). Relative to historic horse racing licensing, establishing operations of games of chance for the benefit of the host community, and relative to charitable gaming dates for municipalities and charitable organizations. <https://legiscan.com/NH/text/SB472/2024>

<sup>27</sup> 25-mile buffers were used to provide perspective and are not estimates of actual casino market areas.

<sup>28</sup> New Hampshire lottery ticket sales by ZIP Code were provided by the New Hampshire Lottery Commission.



Figure 16: Map of New Hampshire charitable gaming facilities as of April 2024, with 25-mile buffer



Source: Google Maps, New Hampshire Lottery, Spectrum Gaming Group

Figure 17 below lists New Hampshire’s existing and pending GOE licenses and HHR status as of March 31, 2024, when there were 15 licensed GOEs. Among 12 operational GOE facilities, all offered GOC and 10 also offered HHR.

**Figure 17: New Hampshire existing and eligible GOE licensees, and HHR status**

Facility Name	City	HHR Start Date	Status as of March 31, 2024
Lakes Region Casino	Belmont	10/6/2023	GOC & HHR
Wonder Casino	Keene	1/26/2023	GOC & HHR
Dover Poker Room	Dover	12/20/2022	GOC & HHR
Gate City Casino	Nashua	10/27/2022	GOC & HHR
Filotimo Casino	Manchester	12/8/2022	GOC & HHR
Aces & Eights Casino	Hampton	8/9/2023	GOC & HHR
Chasers Poker Room	Salem	TBD	GOC
Lebanon Poker Room	Lebanon	1/12/2023	GOC & HHR
The Lucky Moose Casino & Tavern	Nashua	10/14/2022	GOC & HHR
The River Casino & Sports Bar	Nashua	N/A	GOC (not eligible for an HHR license)
Northwoods Casino	Berlin	TBD	GOC. Closed Mar 29, 2024. Seeking alternative location
Ocean Gaming at Hampton Beach	Hampton	5/11/2022	GOC & HHR
The Brook	Seabrook	4/26/2022	GOC & HHR
Concord Casino	Concord	TBD	Licenses suspended pending forced sale or revocation
Pending GOE Applicant 1	Rochester	TBD	License approved. Under construction.
Pending GOE Applicant 2			Application received
Pending GOE Applicant 3			Application received
Pending GOE Applicant 4			Application received
Pending GOE Applicant 5			Application received

Source: New Hampshire Lottery

## A. Gaming Statutes and Distributions

The New Hampshire Lottery Commission’s Investigation and Compliance Division is charged with the regulation and oversight of pari-mutuel wagering, HHR, GOC, Bingo, and Lucky 7 ticket sales. The Compliance Division also provides investigative and auditing support to the Division of Sports Wagering. New Hampshire’s primary statutes pertaining to pari-mutuel wagering and charitable gaming are RSA 284, RSA 287-D and RSA 287-E, which refer to Horse and Dog Racing (along with lottery, keno and HHR), Games of Chance, and Bingo and Lucky 7, respectively.

New Hampshire’s gaming tax rates apply to net gaming revenue. Charities receive 35% of GOC NGR and 8.75% of HHR NGR. The State receives 10% of GOC NGR and 16.25% of HHR NGR. The remaining NGR is retained by GOEs. The Lottery Commission’s gaming oversight responsibilities are funded through the state’s share of HHR tax revenue, which accrues to a special fund for these purposes. The balance (a majority) of the fund’s HHR revenue, after lottery administration and enforcement expenses, is deposited into the education trust fund.<sup>29</sup>

HHR dime breakage, defined in RSA 284:22, I as “odd cents of all redistribution based on each dollar wagered exceeding a sum equal to the next lowest multiple of 10,” is remitted to the Lottery

<sup>29</sup> RSA 284:21-j, I.

Commission to pay for problem gambling services.<sup>30</sup> GOEs had charged rent to participating charities, but HB 1203 prohibits rental fees as of June 15, 2024.<sup>31</sup> SB 472, effective May 20, 2024, enables each gaming facility’s host town or city to receive a share of gaming revenue in place of a charity, at the same allocation percentage as charities, for 7 to 10 days per calendar year.

## 1. HHR Statutory Distributions

Figure 18 below lists statutory percentage distributions of HHR revenue, pursuant to RSA 284:22-23.

**Figure 18: New Hampshire HHR statutory distribution percentages**

RSA Citation	Distribution	HHR Revenue Source	Recipient
284:22-b, V	100.00%	HHR Breakage	Lottery commission for problem gambling services
284:23, I(d)	8.75%	HHR NGR (35% of 25% of NGR)	Charitable organizations
284:23, I(d)	16.25%	HHR NGR (65% of 25% of NGR)	Lottery special fund (primarily flows to education)
284:31	100.00%	HHR unclaimed tickets	Lottery special fund & state treasurer

Source: New Hampshire Revised Statutes Annotated, Spectrum Gaming Group

Figure 19 below lists HHR NGR distributions from the start of HHR (April 26, 2022) through March 2024. HHR operators and charities generally retain 75% and 8.75% of NGR, respectively. However, if total HHR NGR exceeds 6.33 times GGR for games of chance during a quarter, operators would retain 50% and charities would retain 33.75%.<sup>32</sup> A comparison of HHR NGR and GOC NGR in Figure 19 and Figure 21, respectively, shows that in CY 2022, CY 2023 and YTD March 31, 2024, the ratio of HHR NGR to GOC NGR was 0.37, 1.74 and 2.15, respectively. In CY 2024 Q1, the maximum ratio of HHR NGR to GOC NGR for individual facilities was 5.94. NH Admin Rules Lot 8203.01(o)-(p) pertaining to the 6.33 ratio refer to HHR “takeout” and GOC “gross gaming revenue,” both referred to in this chapter as NGR.

**Figure 19: New Hampshire HHR NGR and statutory distributions, 2022-1Q 2024**

Calendar Year	HHR NGR	Distributions					
		Charities (Before Rent)		Lottery (Special Fund)		Game Operator Employer (GOE)	
		Amount	Pct. of NGR	Amount	Pct. of NGR	Amount	Pct. of NGR
2022	\$19,740,589	\$1,708,279	8.65%	\$3,189,323	16.16%	\$14,842,987	75.19%
2023	\$107,966,875	\$9,447,101	8.75%	\$17,544,617	16.25%	\$80,975,156	75.00%
2024 YTD March 31	\$37,293,286	\$3,263,163	8.75%	\$6,060,159	16.25%	\$27,969,965	75.00%

Source: NH Lottery GOC-HHR Financials

<sup>30</sup> HHR games from vendor Ainsworth Game Technologies do not have breakage and have not contributed to problem gambling costs.

<sup>31</sup> NH HB 1203 (2024). Relative to prohibiting the charging of rent to charities by charitable gaming facilities. <https://legiscan.com/NH/text/HB1203/2024>.

<sup>32</sup> NH Admin Rules Lot 8203.01(o)-(p).

## 2. GOC Statutory Distributions

Figure 20 lists statutory percentage distributions of GOC revenue pursuant to RSA 287-D:19-20.

**Figure 20: New Hampshire GOC (table games) statutory distributions**

RSA Citation	Distribution	GOC Revenue Source	Recipient
287-D:19, III(f)	35%	GOC NGR	Charitable organizations
287-D:20, I	3%	Chips without monetary value (Tournaments)	Lottery special fund (primarily flows to educ.)
287-D:20, II	10%	Chips with monetary value	Lottery special fund (primarily flows to educ.)

Source: New Hampshire Revised Statutes Annotated, Spectrum Gaming Group

Below, Figure 21 lists GOC NGR distributions from January 1, 2022, through March 31, 2024.

**Figure 21: New Hampshire GOC (table games) statewide NGR and percentage distributions**

Calendar Year	GOC NGR	Distributions					
		Charities (Before Rent)		Lottery (Special Fund/Education)		Game Operator Employer (GOE)	
		Amount	Pct. of NGR	Amount	Pct. of NGR	Amount	Pct. of NGR
2022	\$54,033,287	\$18,838,740	34.87%	\$5,402,064	10.00%	\$29,792,484	55.14%
2023	\$62,159,615	\$21,738,660	34.97%	\$6,287,883	10.12%	\$34,133,072	54.91%
2024 YTD Mar 31	\$17,370,000	\$6,079,500	35.00%	\$1,762,434	10.15%	\$9,528,066	54.85%

Source: NH Lottery GOC-HHR Financials

## 3. New Hampshire Combined HHR and GOC Statutory Distributions

Figure 22 below lists statewide GOC and HHR revenue distributions from January 1, 2022, through March 31, 2024. HHR facilities share revenue with two charities per day. Gaming facilities without HHR share revenue with one charity per day. Charities that had game dates in 2020 were categorized as Tier I, or “Legacy” charities, and other charities were categorized as Tier II. When Tier I charities shared a game date with a Tier II charity, the Tier I charity received 100% of GOC revenue and 50% of HHR revenue. The tier system expired at the end of 2023.<sup>33</sup>

In 2024 Q1, GOC NGR totaled \$17.4 million and HHR NGR totaled \$37.3 million. Prior to HHR, charities would have received 35% of GOC NGR before rent, equivalent to \$6.1 million in 2024 Q1. Now, twice as many charities split 35% of GOC NGR plus 8.75% of HHR NGR before rent, or \$9.3 million in 2024 Q1. While there is more revenue for charities, the average amount received per charity has decreased due to the higher number of charities participating. The average amount received per charity will increase as total gaming revenue increases.

As HHR revenue increases as a percentage of total charitable gaming revenue, the blended percentages of combined HHR and GOC revenue distributed to charities, the State and operators shift. Prior to HHR, the distributions of GOC NGR to charities, the State and operators were 35%, 10% and 55%, respectively. In 2024 Q1, combined GOC and HHR NGR distributions to charities, the State and operators

<sup>33</sup> NH Admin Rules Lot 8203.01(f).



before rent were 17.1%, 14.3% and 68.6%, respectively. Despite shifts in revenue splits, total distributions to charities, the State and operators have increased.

**Figure 22: GOC & HHR statewide revenue and distributions**

Calendar Year	Statewide GOC & HHR NGR	Distributions Through March 31					
		Charities (Before Rent)		Lottery (Special Fund/Education)		Game Operator Employer (GOE)	
		Revenue	Pct. of NGR	Revenue	Pct. of NGR	Revenue	Pct. of NGR
2022	\$73,773,877	\$20,547,019	27.85%	\$8,591,387	11.65%	\$44,635,470	60.50%
2023	\$170,126,490	\$31,185,761	18.33%	\$23,832,500	14.01%	\$115,108,228	67.66%
2024 YTD March 31	\$54,663,287	\$9,342,663	17.09%	\$7,822,593	14.31%	\$37,498,031	68.60%

Source: NH Lottery GOC-HHR Financials.

## B. New Hampshire Gaming Facility Charitable Allocations Example

As an example of gaming’s impact on charities, Figure 23 summarizes The Brook Casino’s 2023 revenue and related charity participation rates and allocations. Each day, gaming facilities without HHR designate one charity to receive a share of the day’s gaming revenue, and facilities with HHR designate two charities to receive a share of gaming revenue. Individual charities can participate for up to 10 days per calendar year.

The Brook generated \$54.3 million in combined GOC and HHR revenue in 2023, or about half of statewide gaming revenue. Seventy-six charities received allocations from The Brook in 2023, including 70 charities that participated for 10 days each and six charities that participated for five days each. Calendar year 2023 allocations to individual charities ranged from \$41,204 to \$182,237. Lower amounts were due to 5-day vs. 10-day participation. Mean and median allocations were \$106,345 and \$109,956, respectively. The Brook generally charged each charity \$375 in rent per day, totaling \$272,250 in 2023, or 3.4% of charity allocations. HB 1203, effective June 15, 2024, prohibits the charging of rent to charities.

**Figure 23: The Brook Casino combined GOC and HHR charity allocations, 2023**

Statistic	Value
Participating Charities	76
Charities with 10-Day Participation	70
Charities with 5-Day Participation	6
GOC NGR	\$12,686,144
HHR NGR	\$41,623,638
Total GOC & HHR NGR	\$54,309,782
GOC Charity Allocations (35% of GOC NGR)	\$4,440,150
HHR Charity Allocations (8.75% of HHR NGR)	\$3,642,068
Total GOC & HHR Charity Allocations	\$8,082,219
Mean Charity Allocation before Rent	\$106,345
Median Charity Allocation before Rent	\$109,956
Maximum Charity Allocation before Rent	\$182,237
Minimum Charity Allocation before Rent	\$41,204
Charity Rent (Generally \$375 per Charity per Day)	\$272,250

Source: New Hampshire Lottery GOC and HHR financials, Spectrum Gaming Group

## C. Problem Gambling Services Funding

Most states’ gaming statutes earmark a share of gaming revenue for problem gambling services. New Hampshire funds problem gambling services with HHR dime breakage, equivalent to 0.15% of NGR in 2023. New Hampshire’s breakage funding for problem gambling has shortcomings including (1) breakage can fluctuate each month as a percentage of NGR; (2) some games have no breakage; and (3) breakage adds to takeout indirectly. A more direct approach in New Hampshire would be to fund problem gambling services with a direct share of NGR.

Figure 24 below lists problem gambling funding sources for selected states. Kentucky funds problem gambling services with 2.5% of revenue received by the sports wagering administration fund from licensing fees and a sports wagering excise tax of 9.75% of on-track (“retail”) wagers and 14.25% of online and off-site wagers.<sup>34</sup> Retail sports betting in Kentucky started on September 7, 2023, and online sports betting started on September 28, 2023. During September 2023, when sports wagering started, through February 2024, online and retail sports wagering NGR was \$163.8 million and \$5.6 million, respectively, resulting in a 0.3525% blended percentage of all-sources sports wagering NGR for problem gambling services, or about \$600,000 in the first six months.<sup>35</sup> New Hampshire funds problem gambling services with HHR breakage, equivalent to 0.15% of NGR in 2023.<sup>36</sup> Ohio VLT operators provide problem gambling services funding of 0.335% of NGR.<sup>37</sup> Pennsylvania provides 0.2% of NGR from terminal revenue, fantasy contests, interactive gaming and sports wagering, with a minimum of \$2 million guaranteed from terminal revenue.<sup>38</sup> Virginia funds problem gambling services with a tax of 0.01% of HHR handle, equivalent to 0.11% of NGR in 2023.<sup>39</sup>

**Figure 24: Problem gambling funding sources for selected states**

State	Problem Gambling Funding Source
Kentucky	Blended rate of 0.3525% of sports betting NGR
New Hampshire	HHR breakage, equivalent to 0.15% of NGR
Ohio	0.335% of VLT NGR
Pennsylvania	0.2% of most forms of gaming NGR
Virginia	HHR: 0.01% of handle, equivalent to 0.11% of NGR; Casinos: 0.8% of the graduated tax or casino revenue is deposited in the Problem Gambling Treatment and Support Fund

Source: State regulators, Spectrum Gaming Group research

A study of Kentucky’s pari-mutuel breakage found that more than 92% of breakage on Kentucky’s races occurred off-track, primarily out-of-state, where breakage revenue accrued to out-of-state

<sup>34</sup> KY KRS 138.522.

<sup>35</sup> Kentucky Horse Racing and Gaming Corporation, “September 2023 - February 2024 Sports Wagering Market Report.” <https://khrc.ky.gov/Documents/SportsWageringReportUpdated.pdf>.

<sup>36</sup> NH RSA 284:22-b, V.

<sup>37</sup> Ohio Lottery Commission, VLT Revenue Reports, FY to-date 2024 (July 2023-May 2024). <https://www.ohiolottery.com/about/about-the-ohio-lottery/financial/vlt-revenue>

<sup>38</sup> Pa. Act 42 of 2017.

<sup>39</sup> Va. Code 59.1-392.

interests.<sup>40</sup> Pursuant to KRS 230.3615, Kentucky switched from dime breakage to penny breakage, effective July 14, 2022. Kentucky’s HHR breakage totaled \$802,514 in Fiscal Year (“FY”) 2022 (just prior to the switch to penny breakage) and \$216,604 in FY 2023, a 73% reduction in breakage despite a 20.4% increase in HHR handle.

In New Hampshire, HHR breakage is used to fund problem gambling services. In traditional pari-mutuel wagering, while breakage varies from game to game or day to day, it does not vary to a great extent over time. For budgeting purposes, total breakage is as predictable as handle or takeout. Not all HHR terminal vendors deduct breakage from pari-mutuel pools in New Hampshire and other jurisdictions. For example, Ainsworth Game Technology’s HHR games are designed not to generate breakage, leading to shortfalls in budgeted amounts for problem gaming in New Hampshire.<sup>41</sup> Therefore, to consistently fund problem gambling equitably among all operators, the funding mechanism could be changed from breakage to a percentage of NGR, as in Kentucky, or a percentage of handle, as in Virginia. This would treat all operators and vendors equally regarding the funding of problem gambling.

## D. HHR in Kentucky and Virginia

To help place New Hampshire’s fast-growing historical horse racing industry in context, we provide background and analysis of the two clear leaders in HHR: Kentucky and Virginia. Kentucky has no other types of gaming facilities, whereas Virginia also has three commercial casinos (with a fourth authorized).

### 1. Kentucky

Pursuant to SB 299 (2024) and KRS 230.210 (amended 2024), effective July 1, 2024, the Kentucky Horse Racing and Gaming Corporation assumed the responsibilities previously administered by the Kentucky Horse Racing Commission, including oversight of HHR gaming.

The Kentucky Horse Racing Commission (“KHRC”) passed rules in July 2010 that allowed HHR to operate as a pari-mutuel activity. Kentucky Downs was the first HHR facility to open, in September 2011, followed by Ellis Park in 2012, the Red Mile in 2015, and Derby City in 2018. There were 12 HHR gaming facilities operating as of May 2024.

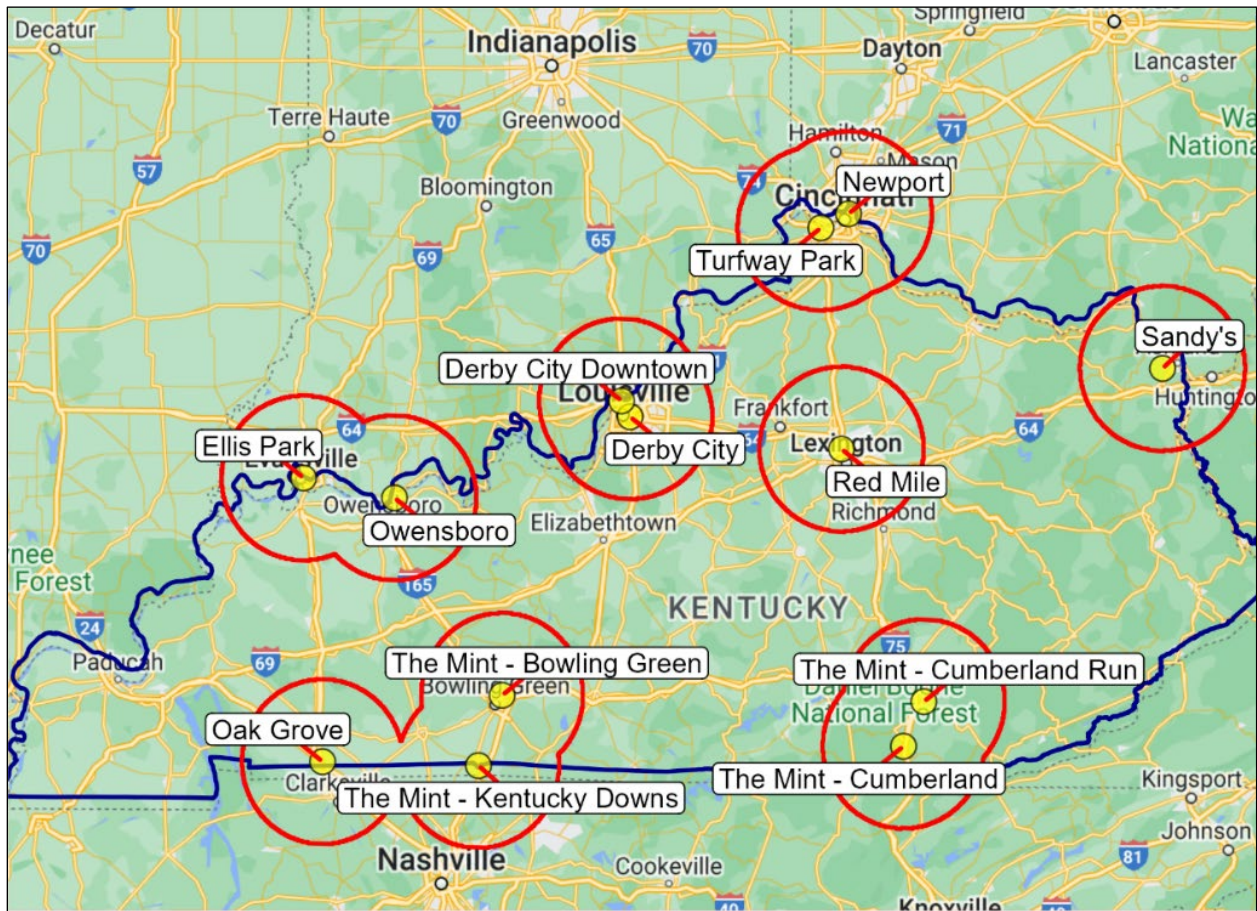
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<sup>40</sup> Patrick Cummings, “Breakage Reform – Pari-Mutuel Wagering Taxation Task Force,” Kentucky Legislature, November 19, 2021. <https://apps.legislature.ky.gov/CommitteeDocuments/349/13533/Nov%2019%202021%20TIF%20Breakage%20Reform%20-%20PMWTF%20Presentation.pdf>.

<sup>41</sup> Sruthi Gopalakrishnan, “Gaming Company skips funding for problem gambling efforts,” *Concord Monitor*, May 8, 2024. <https://www.concordmonitor.com/Gaming-Commission-NH-Problem-Gambling-55017220>



Figure 25: Map of Kentucky HHR gaming facilities as of May 2024, with 25-mile buffers



Source: Kentucky Horse Racing Commission, Google Maps, Spectrum Gaming Group

The table below (Figure 26) lists Kentucky’s 13 HHR facilities (including one scheduled to open in the first quarter of 2025). Seven properties are owned and operated by subsidiaries of Churchill Downs; four properties, branded The Mint Gaming Hall, are owned and operated by subsidiaries of ECL Entertainment. Kentucky limits the number of racetrack licenses, which are required to host HHR, to nine.<sup>42</sup> Pursuant to KRS 230.380 and KRS 230.210(33), each racetrack licensee can have an HHR facility at the racetrack and one HHR facility away from the racetrack, referred to here as a “satellite” HHR facility.

<sup>42</sup> KRS 230.377(3).

**Figure 26: Kentucky HHR facilities**

Casino Name	Type	Operator	City	Opened
Derby City Gaming and Hotel	Racetrack	Churchill Downs Racetrack, LLC	Louisville	9/14/2018
Derby City Gaming Downtown	Satellite	Churchill Downs Racetrack, LLC	Louisville	12/6/2023
The Mint Gaming Hall Cumberland Run	Racetrack	ECL Corbin, LLC	Corbin	7/26/2023
The Mint Gaming Hall Cumberland	Satellite	ECL Corbin, LLC	Williamsburg	8/31/2022
Ellis Park Racing & Gaming	Racetrack	Ellis Entertainment, LLC	Henderson	8/31/2012
Owensboro Racing & Gaming	Satellite	Ellis Entertainment, LLC	Owensboro	2025 Q1
The Mint Gaming Hall Bowling Green	Satellite	Kentucky Downs, LLC	Bowling Green	11/29/2021
The Mint Gaming Hall Kentucky Downs	Racetrack	Kentucky Downs, LLC	Franklin	9/1/2011
Red Mile Gaming & Racing	Racetrack	Lexington Trots Breeders Association, LLC	Lexington	9/12/2015
Sandy's Racing and Gaming	Racetrack	Revolutionary Racing Kentucky, LLC	Ashland	10/26/2023
Newport Racing & Gaming	Racetrack	Turfway Park, LLC	Newport	9/29/2020
Turfway Park Racing & Gaming	Racetrack	Turfway Park, LLC	Florence	8/30/2022
Oak Grove Racing, Gaming & Hotel	Racetrack	WKY Development, LLC	Oak Grove	9/18/2020

Source: Kentucky Horse Racing Commission, Spectrum Gaming Group

### a. Kentucky HHR Statutes and Distributions

The Constitution of Kentucky § 226 authorized a state lottery, charitable lotteries and charitable gift enterprises, and prohibited other lotteries and gift enterprises. No other forms of gambling (e.g., pari-mutuel wagering or sports betting) are specifically addressed in the state constitution, and the courts have generally accepted that the state legislature has the authority to regulate other (non-lottery) gambling.<sup>43</sup>

Several legal challenges based on the state constitution and pari-mutuel statutes have played out since the inception of HHR in Kentucky, delaying the expansion of HHR until well after its 2011 inception.

On September 24, 2020, the Kentucky Supreme Court ruled that HHR did not fall within the statutory definition of pari-mutuel wagering.<sup>44</sup> SB 299 (2021), effective February 22, 2021, changed the statutory definition of pari-mutuel wagering to include HHR, as follows:

KRS 230.210(18): “Pari-mutuel wagering,” “pari-mutuel system of wagering,” or “mutuel wagering” each means any method of wagering previously or hereafter approved by the racing commission in which one (1) or more patrons wager on a horse race or races, whether live, simulcast, or previously run. Wagers shall be placed in one (1) or more wagering pools, and wagers on different races or sets of races may be pooled together. Patrons may establish odds or payouts, and winning patrons share in amounts wagered including any carryover amounts, plus any amounts provided by an association less any deductions required, as approved by the racing commission and permitted by law. Pools may be paid out incrementally over time as approved by the racing commission;

<sup>43</sup> Wallach Legal LLC, Statement to the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations: Constitutionality of Sports Betting, December 16, 2019. [https://apps.legislature.ky.gov/CommitteeDocuments/50/12167/Wallach%20Witness%20Statement\\_12\\_16\\_19\\_2.pdf](https://apps.legislature.ky.gov/CommitteeDocuments/50/12167/Wallach%20Witness%20Statement_12_16_19_2.pdf)

<sup>44</sup> 2018-SC-0630-TG. Family Trust Foundation of Kentucky, Inc. v. Kentucky Horse Racing Commission. <https://cases.justia.com/kentucky/supreme-court/2020-2018-sc-0630-tg.pdf>

Kentucky's HHR tax rates and distributions are defined in KRS 138.510. A 1.5% excise tax is imposed on total HHR handle, from which statutory distributions are made. Distributions vary by type of live horse racing, and some distributions are capped at maximum amounts.

Kentucky Administrative Regulations 810 KAR 6:010(6)(2) requires racing associations with HHR, categorized as "exotic wagers," to have agreements with horsemen's organizations with provisions allocating a percentage of the takeout for purses. These agreements typically also allocate a percentage of takeout for breeders' awards. A 2021 document prepared by Churchill Downs Inc. stated, "Contractual Purses paid to Kentucky Horsemen are 15% of net revenue, after free play and taxes (includes 14% to association purses, 1% to Breeders Incentive Fund). Contracts typically run for 10 years."<sup>45</sup> Kentucky's HHR operators do not receive a tax exemption for free play. HHR operators typically pay companies that provide HHR terminals and related technology a "system and game fee" likely in the range of 12% of net gaming revenue.

Churchill Downs Inc. explained its costs for HHR "system and game fees" in Virginia in a 2023 SEC filing.<sup>46</sup> (CDG is Colonial Downs Gaming, which is owned by Churchill Downs Inc.)

CDG entered into an agreement (along with its amendments) with a third party to provide CDG with HHR machines to be used at Colonial Downs and CDG's satellite wagering facilities. The agreement calls for an upfront purchase price per unit plus a system and game fee totaling 12.0% of HHR machine revenue for the first 3,000 HHR machines. Upon certain triggering events as defined in the agreement, the system and game fee decreases to between 7.0% - 9.0% of HHR machine revenue for additional terminals. The initial term of the agreement is ten years from the opening of Colonial Downs (subject to unlimited three-year renewal provisions). During the year ended December 31, 2021, the CDG expensed \$32.6 million in system and game fees related to this agreement and is recorded in HHR expense on the combined and consolidated statement of operations.

Figure 27 lists Kentucky's HHR excise tax and statutory distributions as a percentage of handle. About half of the excise tax is used to fund breed-development programs. Up to \$2.64 million is used to fund state university and community college equine industry programs, breed-incentive programs and equine drug testing. The remainder, about half, accrues to the General Fund. In addition to excise tax distributions, HHR operators are required to have contracts in place with horsemen's groups. For example, Churchill Downs Inc. reported in 2021 that it allocates 14% of net revenue, after free play and taxes, for purses and 1% for breeders. Applying Churchill Downs' contractual amounts statewide for FY 2023, contractual allocations would have been 0.91% of HHR handle and 10.23% of HHR NGR.

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<sup>45</sup> Churchill Downs Inc, "Analysis of Kentucky Historical Horse Racing Tax Rates," September 17, 2021. <https://apps.legislature.ky.gov/CommitteeDocuments/349/13531/Sep%2013%202021%20HHR%20Tax%20Analysis.pdf>

<sup>46</sup> Churchill Downs Inc. (2024). Form 8-K/A. Filing date January 17, 2023, p. 23. <https://ir.churchilldownsincorporated.com/static-files/28bc483b-d55d-415f-8c62-859ef2594a9c>

**Figure 27: Kentucky HHR statutory distributions**

KRS Citation	Pct. of Handle	Track Breed	Summary
138.510(1)(c)	1.50%	All	Excise Tax to State Treasury for Distribution as follows:
138.510(1)(d)(1)(a)	0.75%	Thoroughbred	Thoroughbred Development Fund up to \$45 mil
138.510(1)(d)(1)(a)	0.40%	Thoroughbred	Thoroughbred Development Fund above \$45 mil.
138.510(1)(d)(2)(a)	1.00%	Standardbred	Standardbred Development Fund up to \$20 mil.
138.510(1)(d)(2)(a)	0.40%	Standardbred	Standardbred Development Fund above \$20 mil.
138.510(1)(d)(2)(b)	1.00%	Standardbred	By contract with at least 50% of funds to the Standardbred Development Fund up to \$20 mil
138.510(1)(d)(2)(b)	1.00%	Standardbred	By contract with at least 40% of funds to the Standardbred Development Fund above \$20 mil
138.510(1)(d)(3)	1.00%	Other Breeds	Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund
138.510(1)(d)(4)	0.20%	All	Distributed in equal amounts as listed below:
138.510(1)(d)(4)(a)	0.067%	All	University of Louisville equine programs up to \$850k
138.510(1)(d)(4)(b)	0.067%	All	University of Kentucky equine programs up to \$400k
138.510(1)(d)(4)(c)	0.067%	All	Bluegrass Community and Technical College equine programs up to \$250k
138.510(1)(d)(4)(d)(i)		All	After KRS 138.510(1)(d)(4)(a-c) distribution limits are met, Kentucky Thoroughbred Breeders Incentive Fund up to \$400k.
138.510(1)(d)(4)(d)(i)		All	After KRS 138.510(1)(d)(4)(a-c) distribution limits are met, Kentucky Standardbred Breeders Incentive Fund up to \$100k.
138.510(1)(d)(4)(e)		All	After KRS 138.510(1)(d)(4)(a-d) distribution limits are met, balance of related funds to General Fund
138.510(1)(d)(5)(a-d)	0.10%	All	Construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities up to \$320k.
138.510(1)(d)(6)	0.10%	All	KHRC for equine drug testing up to \$320k

Source: Kentucky Revised Statutes, Spectrum Gaming Group

Figure 28 lists Kentucky’s HHR revenue distributions during FY 2023. The equine industry share comprised:

- \$68 million from a share of the 1.5% excise tax on HHR handle
- \$90 million (estimated) in contractual purses paid to horsemen, calculated as 15% of NGR, after free play and taxes, with 14% for association purses and 1% for the Breeders Incentive Fund.

**Figure 28: Kentucky HHR revenue distributions in fiscal year ended June 31, 2023**

Statewide HHR Handle (FY Ended June 31, 2023)	Amount	Pct. of Handle	Pct. of NGR
HHR Handle	\$8,200,696,666		
Returned to Public	\$7,456,688,355	90.93%	
Pool Growth	\$11,568,816	0.14%	
Breakage	\$216,604	0.003%	
NGR	\$732,222,911	8.93%	
Equine Industry (purses, breeders, equine education, drug testing)	\$158,030,529	1.93%	21.58%
General Fund	\$54,933,955	0.67%	7.50%
Operator Commission	\$519,258,427	6.33%	70.92%

Source: Kentucky Horse Racing Commission monthly pari-mutuel reports and Churchill Downs’ September 17, 2021, presentation titled, “Analysis of Kentucky Historical Horse Racing Tax Rates.”

## 2. Virginia

Pursuant to 11VAC10-20, “Pari-mutuel wagering on historical horse racing shall be conducted so as to maintain horse racing in the Commonwealth of Virginia of the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled practices and to maintain in horse racing complete honesty and integrity.”

The Virginia Racing Commission (“VARC”) regulates HHR and approved HHR licensing for Colonial Downs Group (“CDG”), a subsidiary of Colonial Downs Inc., at its December 13, 2018, meeting.<sup>47</sup> CDG, the state’s only HHR operator, opened its first HHR facility at Colonial Downs racetrack in New Kent on April 23, 2019. Unlike in Kentucky and New Hampshire, CDG competes in-state with Class III casinos that can be built in five cities that meet eligibility requirements: Bristol, Danville, Norfolk, Portsmouth and Richmond.<sup>48</sup> Two temporary facilities and one full-scale Class III gaming facility have opened, with the other full-scale casinos expected to open starting in late 2024. Virginia has seven federally recognized tribes and 11 state-recognized tribes. Some of Virginia’s commercial casinos are operated by tribes, although not by Tribal-State Gaming Compact.

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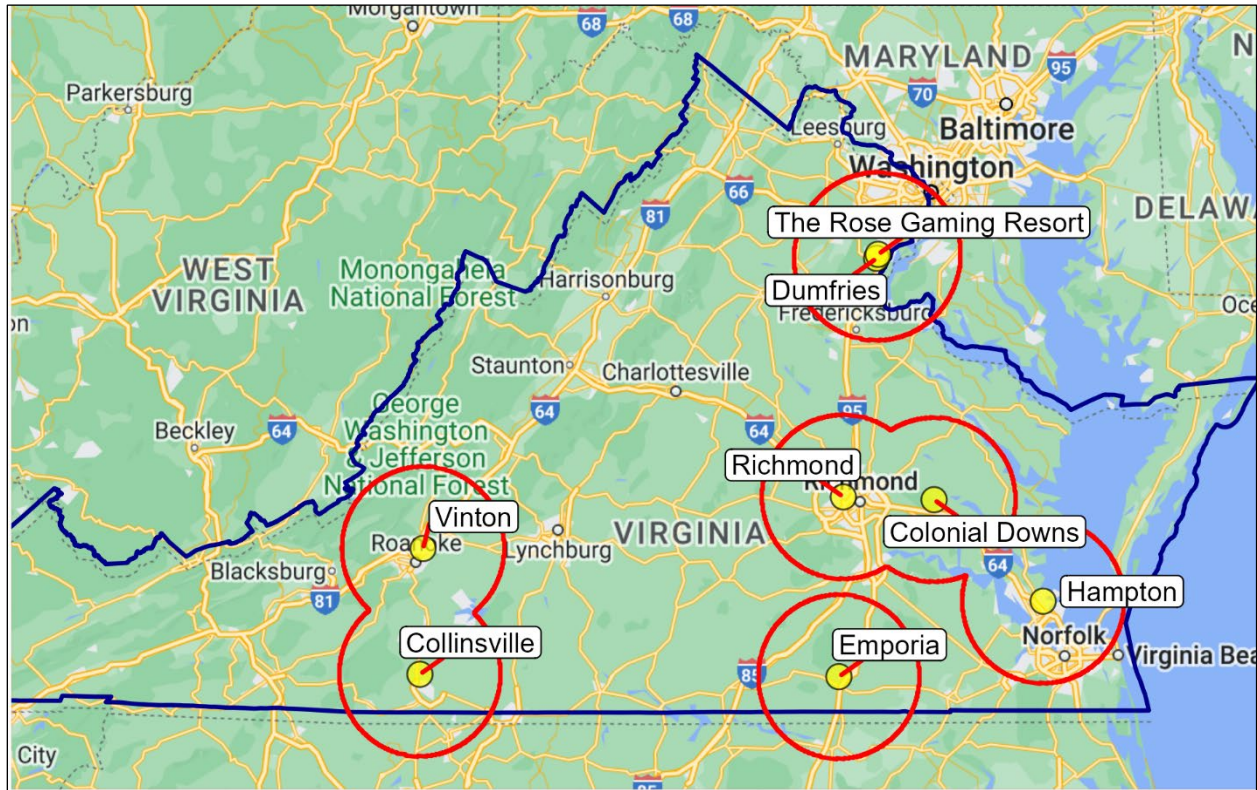
<sup>47</sup> Virginia Racing Commission, Meeting transcript, December 13, 2018.

<https://www.vrc.virginia.gov/2018agendasminutes/VA%20Racing%20Commission%20Dec%2013,%202018%20Mtg.pdf>

<sup>48</sup> Va. Code § 58.1-4107.



**Figure 29: Map of Virginia HHR facilities as of April 2024, with 25-mile buffers**



Source: Virginia Racing Commission, Google Maps, Spectrum Gaming Group

Figure 30 lists information about Virginia’s HHR locations. The Rose Gaming Resort in Dumfries is scheduled to open in the third quarter of 2024, when the existing smaller facility, Rosie’s at Dumfries, will close.

**Figure 30: Virginia HHR locations and locality tax distributions**

Location	Debut	City	Locality Type	HHR Facility Locality Tax Recipient	Racetrack Locality Tax Recipient	Locality Tax	Racetrack Locality Tax
Rosie’s at Collinsville	7/22/2021	Collinsville	CDP (Henry County)	Henry County	New Kent County	0.250%	0.250%
Rosie’s at Colonial Downs	4/23/2019	New Kent	CDP (Henry County)	New Kent County	New Kent County	0.250%	0.250%
Rosie’s at Dumfries	1/8/2021	Dumfries	Town	Town of Dumfries	New Kent County	0.250%	0.250%
Rosie’s at Emporia	9/25/2023	Emporia	Independent City	City of Emporia	New Kent County	0.250%	0.250%
Rosie’s at Hampton	10/29/2019	Hampton	Independent City	City of Hampton	New Kent County	0.250%	0.250%
Rosie’s at Richmond	7/1/2019	Richmond	Independent City	City of Richmond	New Kent County	0.250%	0.250%
Rosie’s at Vinton	6/7/2019	Vinton	Town	Town of Vinton	New Kent County	0.250%	0.250%
The Rose Gaming Resort	2024 Q3	Dumfries	Town	Town of Dumfries	New Kent County	0.250%	0.250%

Source: Virginia Racing Commission monthly historical horse racing reports, Spectrum Gaming Group

### a. Geography for Locality Taxes

Virginia distributes 0.25% of HHR handle to the localities in which HHR gaming facilities are located and 0.25% of HHR handle to the localities where HHR operators' racetracks are located.<sup>49</sup>

There are three types of census-recognized localities that host Virginia's HHR gaming facilities.

- **Towns:** Towns are incorporated places with legally defined boundaries and a functioning governmental structure. The towns of Dumfries and Vinton host HHR facilities.
- **Census designated places ("CDP"):** CDPs are statistical equivalents of incorporated places and represent unincorporated communities that do not have a legally defined boundary or functioning governmental structure. Counties typically serve as the governing entities for CDPs. Collinsville and New Kent CDPs, governed by Henry County and New Kent County, respectively, host HHR facilities.
- **Independent cities:** Independent cities are incorporated and have a functioning governmental structure. They are unaffiliated with a county and considered the statistical equivalent of counties. Virginia has 95 counties and 39 independent cities. Some independent cities in Virginia are wholly encompassed by a county, e.g., Emporia, which along with Hampton and Richmond, host HHR facilities. For perspective, the only other independent US cities are Baltimore, MD; St. Louis, MO; and Carson City, NV.

### b. HHR Statutes and Distributions

Virginia's statutes regarding the distribution of retained HHR taxes are found in: Code of Virginia, Title 59.1. Trade and Commerce, Chapter 29. Horse Racing and Pari-Mutuel Wagering, Article 5. Taxation and Audits, Section 59.1-392, Percentage retained; tax, (Va. Code 59.1-392). Virginia's administrative code regarding HHR is found in: Virginia Administrative Code (VAC), Title 11. Gaming, Agency 10. Virginia Racing Commission, Chapter 47. Historical Horse Racing (11VAC10-47).

Figure 31 summarizes Virginia's HHR tax distribution percentages. HHR tax revenue is distributed to the Commonwealth (0.64% to 0.85% of handle), licensee capital improvements (70% of breakage), racing benevolence (30% of breakage), problem gambling services (0.01% of handle), localities (0.50% to 0.64% of handle) and equine industry programs (0.1% of handle). As a percentage of 2023 HHR NGR, payments to the Commonwealth, localities, the equine industry and problem gambling were 7.21%, 5.63%, 1.13% and 0.11%, respectively. Separately, CDG paid 7.09% of NGR to the Virginia Equine Alliance ("VEA") by contract to support the equine industry.

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<sup>49</sup> CDG, which owns Colonial Downs, is the only HHR operator in Virginia. Thus, New Kent County, the governing authority for New Kent, the census designated place where Colonial Downs Racetrack is located, receives 0.25% of HHR handle from all HHR facilities and 0.5% of HHR handle generated at Colonial Downs.



**Figure 31: Virginia HHR tax and distribution percentages as of July 2024**

VA Code Citation	Pct. of Handle	Recipient
59.1-392(T)(1)	70% Breakage	Licensee Capital Improvements
59.1-392(T)(2)	30% Breakage	Racing Benevolence Fund
59.1-392(U)	1.25% tax on handle on first 3,000 terminals authorized	
59.1-392(U)(1)(a)	0.50% Handle Generated at a Racetrack	Locality in which racetrack is located
59.1-392(U)(1)(b)	0.25% Handle generated at satellite facility	Locality in which satellite facility is located
59.1-392(U)(1)(b)	0.25% Handle generated at satellite facility	Locality in which racetrack is located
59.1-392(U)(2)	0.01% Handle	Problem Gambling Treatment and Support Fund
59.1-392(U)(3)(i)	0.025% Handle	Virginia Breeders Fund
59.1-392(U)(3)(ii)	0.025% Handle	VA-MD Regional College of Veterinary Medicine
59.1-392(U)(3)(iii)	0.025% Handle	Virginia Horse Center Foundation
59.1-392(U)(3)(iv)	0.025% Handle	Virginia Horse Industry Board
59.1-392(U)(4)	0.64% Handle	Commonwealth
59.1-392(V)	1.6% tax on handle on 2,000 terminals authorized in 2020	
59.1-392(V)(1)(a)	0.64% Handle Generated at a Racetrack	Locality in which racetrack is located
59.1-392(V)(1)(b)	0.32% handle generated at satellite facility	Locality in which satellite facility is located
59.1-392(V)(1)(b)	0.32% handle generated at satellite facility	Locality in which racetrack is located
59.1-392(V)(2)	0.01% handle	Problem Gambling Treatment and Support Fund
59.1-392(V)(3)(i)	0.025% Handle	Virginia Breeders Fund
59.1-392(V)(3)(ii)	0.025% Handle	VA-MD Regional College of Veterinary Medicine
59.1-392(V)(3)(iii)	0.025% Handle	Virginia Horse Center Foundation
59.1-392(V)(3)(iv)	0.025% Handle	Virginia Horse Industry Board
59.1-392(V)(4)	0.85% Handle	Commonwealth

Source: Virginia Code, Spectrum Gaming Group

Virginia’s HHR licensee allocates portions of HHR revenue through:

- **Taxes.** Virginia has a 1.25% tax on handle for the first 3,000 terminals and 1.6% for additional terminals.
- **Contract.** CDG is required to contract with the recognized horsemen’s group, Virginia Equine Alliance, to fund various equine industry initiatives including horse racing events, purses and a Virginia horse residency incentive program. In 2022 and 2023, the VEA received 7% of HHR NGR. In 2023, about 80% of the VEA’s revenue went to purses, with 80% for Thoroughbred racing and 20% for harness racing.<sup>50</sup> Additionally, in 2023 the VEA distributed \$5.7 million for the Virginia Certified Residency program that incentivizes the owners of horses conceived and foaled outside of Virginia to board the horses in Virginia for at least six months prior to the end of its two-year-old year.<sup>51</sup> CDG also agreed to pay the VEA \$2.5 million per year for a period of five years beginning in June 2019.

<sup>50</sup> Virginia Racing Commission. Meeting transcript. 14 Dec. 2022.

<https://www.vrc.virginia.gov/2023agendasminutes/December%2014,%202022%20VARC-signed.pdf>

<sup>51</sup> Virginia Racing Commission, monthly pari-mutuel wagering reports to the House Appropriations and Senate Finance and Appropriations Committees, January-December 2023. <https://rga.lis.virginia.gov/Published/>

- **Live horse racing.** Pursuant to Va. Code 59.1-369(17), CDG is required to conduct live horse racing, with at least one live race day per 100 HHR terminals. CDG had 2,790 HHR terminals and 27 live race days in 2023.

Figure 32 provides an overview of Virginia’s 2023 HHR handle and distribution components. More detailed distributions of NGR are addressed in Figure 31, Figure 33 and Figure 34. Virginia taxes handle from the first 3,000 HHR terminals at the rate of 1.25% of handle. CDG has not yet exceeded 3,000 terminals. HHR handle from terminals in addition to the initially authorized 3,000 terminals will be taxed at the rate of 1.6% of handle, which could apply when The Rose Gaming Resort replaces Rosie’s at Dumfries in the third quarter of 2024.

**Figure 32: Virginia HHR handle components, 2023**

Handle Component	Amount	Pct. of Handle
Total Handle	\$4,159,568,944	100.00%
Returned to Bettors	\$3,789,653,887	91.11%
Breakage	\$794,497	0.02%
Net Gaming Revenue (NGR)	\$369,120,560	8.87%
NGR Distribution		
State Tax	\$51,994,612	1.25%
Operator’s Contractual Payments to Horsemen	\$26,171,320	0.63%
Operator	\$290,954,628	6.99%
<b>Total NGR Distribution</b>	<b>\$369,120,560</b>	<b>8.87%</b>

Source: Virginia Racing Commission monthly reports

Figure 33 lists 2023 distributions of HHR revenue relative to HHR NGR. Distributions to the equine industry include a portion of the 1.25% tax on HHR handle and contractual payments made by CDG to the horsemen’s group.

**Figure 33: 2023 Virginia distribution of HHR NGR**

Recipient	Amount	Pct. of NGR
Equine Industry	\$30,330,889	8.22%
Commonwealth	\$26,621,241	7.21%
Localities	\$20,797,845	5.63%
Problem Gambling	\$415,957	0.11%
Licensee	\$290,954,628	78.82%
<b>Total NGR</b>	<b>\$369,120,560</b>	<b>100.00%</b>

Source: Virginia Racing Commission monthly reports

Churchill Downs Inc. explained CDG’s revenue-sharing agreement with Virginia horsemen in a 2023 SEC filing.<sup>52</sup>

CDG entered into a Revenue Sharing Agreement (“RSA”) with the Virginia Equine Alliance and related horseracing entities (together, the “VEA”). Under the RSA, CDG agreed to pay the VEA, in addition to any statutory purses or fees, and subject to a one year grace period at Colonial Downs and each satellite

<sup>52</sup> Churchill Downs Inc., Form 8-K/A, January 17, 2023, p. 23. <https://ir.churchilldownsincorporated.com/static-files/28bc483b-d55d-415f-8c62-859ef2594a9c>

wagering facility, 6.0% of net HHR revenue up to \$60.0 million of revenue and 7.0% of net HHR revenue thereafter. The RSA is for a period of 10 years from the opening of Colonial Downs. During the year ended December 31, 2021, CDG expensed \$17.1 million, related to the RSA and is recorded in HHR expense on the combined and consolidated statement of operations.

### 3. Comparison of New Hampshire, Kentucky and Virginia

In the following table, we compare the HHR revenue and distributions among Kentucky, New Hampshire and Virginia. Spectrum found that NGR was about 8.9% of handle in each state. HHR gaming tax paid to the State, as a percentage of NGR, in Kentucky, New Hampshire and Virginia was 7.5%, 16.25% and 7.21%, respectively. New Hampshire does not distribute HHR revenue to the racing industry by statute or contract and does not require gaming operators to operate costly live horse racing, which explains, in part, why the State of New Hampshire is able to receive 16.25% of NGR, nearly 9 percentage points more than Kentucky and Virginia. The operators' share of HHR NGR in Kentucky, New Hampshire and Virginia, after accounting for contractual agreements with horsemen and before factoring in net costs of live racing, was 70.9%, 75.0% and 78.8%, respectively, indicating that New Hampshire's HHR distributions for operators and the State were competitive with major HHR jurisdictions.

**Figure 34: HHR revenue and distributions – comparison table**

Recipient	Kentucky (FY 2023)			New Hampshire (CY 2023)			Virginia (CY 2023)		
	Amount	Pct. of Handle	Pct. of NGR	Amount	Pct. of Handle	Pct. of NGR	Amount	Pct. of Handle	Pct. of NGR
Total HHR Handle	\$8,200,696,666			\$1,212,950,568			\$4,159,568,944		
Bettors	\$7,456,688,355	90.93%		\$1,104,821,778	91.09%		\$3,789,653,887	91.11%	
Pool Growth	\$11,568,816	0.14%		\$0	0.00%		\$0	0.00%	
Breakage	\$216,604	0.00%		\$161,915	0.01%		\$794,497	0.02%	
Free Play	\$9,518,898	0.12%	1.30%	\$8,759,415	0.72%	8.11%	Not Avail.		
Free Play Tax Credit	\$0	0.00%	0.00%	\$8,759,415	0.72%	8.11%	\$0	0.00%	
Net Gaming Revenue	\$732,222,891	8.93%		\$107,966,875	8.90%		\$369,120,560	8.87%	
Tax Distributions		1.50%			2.23%	25.00%		1.25%	
Equine Ind. (KY, VA) or Charity (NH)	\$68,076,495	0.83%	9.30%	\$9,447,101	0.78%	8.75%	\$4,159,569	0.10%	1.13%
State	\$54,933,955	0.67%	7.50%	\$17,544,617	1.45%	16.25%	\$26,621,241	0.64%	7.21%
Localities	\$0	0.00%	0.00%	\$0	0.00%	0.00%	\$20,797,845	0.50%	5.63%
Problem Gambling	\$0	0.00%	0.00%	\$161,915	0.00%	0.00%	\$415,957	0.01%	0.11%
Operator	\$609,212,441	7.43%	83.20%	\$80,975,156	6.68%	75.00%	\$317,125,948	7.62%	85.91%
Est. Contractual Costs									
Purses & Breeders	\$89,954,032	1.10%	12.29%	\$0	0.00%	0.00%	\$26,171,320	0.63%	7.09%
Racetrack Operations	Not Avail.			\$0	0.00%	0.00%	Not Avail.		
Total Non-Operator Rev.	\$212,964,482	2.60%	29.08%	\$27,153,634	2.24%	25.15%	\$78,165,932	1.88%	21.18%
Total Operator Rev.	\$519,258,409	6.33%	70.92%	\$80,975,156	6.68%	75.00%	\$290,954,628	6.99%	78.82%

Sources: KHRC monthly pari-mutuel reports; Churchill Downs, Inc. report: Analysis of Kentucky Historical Horse Racing Tax Rates (Sep 13, 2021); NH Lottery: GOC-HHR Financials – CY 2023; VARC monthly HHR reports (Dec 2023); VARC monthly reports to the state legislature (Jan-Dec 2023); VARC Dec 14, 2022, meeting transcript. Note: Statewide Kentucky free play and contractual costs, in red, were estimated based on Churchill Downs' 2021 analysis of tax rates that stated its free play was 1.3% of NGR and

its contractual payments to horsemen were 15% of NGR after subtracting taxes and free play. Kentucky switched to penny breakage in FY 2023 and operators can return breakage to wagering pools. New Hampshire allocates dime breakage to problem gambling services. Virginia allocates dime breakage to licensee capital improvements (70%) and the Racing Benevolence Fund (30%).

## E. Cost Considerations: HHR Machines vs. Slot Machines

Whether via lease or purchase, the cost to obtain slot machines is about the same as that to obtain HHR machines, according to gaming operators interviewed by Spectrum. However, New Hampshire gaming operators must pay the provider of the required HHR pari-mutuel totalizer system an additional fee – which can range from 6% to 18% of GGR (inclusive of any machine lease fees at the higher end of the range<sup>53</sup>), operators told Spectrum. The actual rates are subject to negotiation between the operators and the suppliers. The totalizer fee is on top of the 25% effective gaming tax paid by the HHR operators.

In addition to not requiring a totalizer system, slot machines have other advantages over HHR machines, including:

- Faster speed of play, which means players potentially play more games per hour, resulting in potentially higher revenue
- Greater number of titles and game types, as there are more manufacturers serving a global market, resulting in greater variety on the gaming floor and potentially increasing its appeal to customers
- Faster speed to market for popular game titles, as popular slot games must be converted to HHR before coming to market with the same title; the lag can be several months, operators told Spectrum

Spectrum believes that if the State of New Hampshire were to authorize slot machines, its gaming industry would be better able to fulfill its market potential by providing a product that is more competitive with casinos in neighboring states and by affording operators the opportunity to convert some of the totalizer-fee cost savings into marketing dollars, which would drive increased gaming revenues.

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<sup>53</sup> Machine lease fees can also negotiated as a flat daily fee.

## IV. New Hampshire Regulatory Assessment

Spectrum examined the regulatory requirements for charitable gaming and historic horse racing in New Hampshire, and, for comparison purposes, the casino gaming regulatory systems in the other New England casino states (Connecticut, Maine, Massachusetts and Rhode Island). We analyzed the different regulatory structures to determine if there are any specific provisions, practices or requirements that could be considered for modification to enhance the profitability of New Hampshire's casino gaming industry and perhaps make it more competitive with the other states in the region while not negatively impacting regulatory integrity. Spectrum also interviewed all but one of the New Hampshire charitable gaming operators to solicit their views on the effectiveness of the State's regulatory process.

Our findings are set forth below, including a table for comparison purposes addressing relevant provisions in the various states as: legal age for gambling, hours of operation, smokefree gaming area, self-exclusion, credit, complimentary alcohol for patrons, tipping for table game dealers, audits of operations, and periodic on-site inspections of gaming facilities.

The framework of New Hampshire's casino gaming industry is markedly different from the industry that has flourished in the region's other states, as it is inextricably linked to charitable gaming, with a specified portion of the gaming revenues directly earmarked for designated charitable organizations. In addition, rather than housing slot machines like the state's competitors, the gaming establishments in New Hampshire have HHR terminals, which are similar in appearance to slot machines but different in their operation methodology.

Legalized HHR currently operates in six states: New Hampshire, Alabama, Kentucky, Louisiana, Virginia, and Wyoming; Kansas is scheduled to commence in September 2025. The regulatory agencies overseeing HHR operations in these states are primarily the state racing commissions. New Hampshire is the only state that regulates HHR through its lottery rather than by a racing commission. This is because the enabling legislation authorized HHR gaming at charitable gaming locations that were previously regulated by the New Hampshire Lottery. The Lottery's Investigation and Compliance Division is responsible for regulating HHR and charitable gaming operations. The Lottery is assisted in this endeavor by the State Attorney General and local police (NH RSA 287-D:2). The Lottery has broad rule-making authority to carry out its oversight duties and responsibilities (NH RSA 287-D:3).

It is undeniable that New Hampshire's gaming industry escalated rapidly after HHR gaming was authorized. The enabling legislation placed no restrictions on the number of facilities, which created legitimate concern for the possibility of oversaturation of the market. In response, the legislature imposed a moratorium to limit the number of licensed HHR operators that was due to expire on July 1, 2024. Legislation enacted shortly before the expiration date extended the moratorium for an additional seven years. Currently, there are 10 casinos operating HHR devices, with potentially nine more to open (see Figure 17 for status).

Chapter 287-D of the New Hampshire code regulates games of chance. The administrative rules for games of chance are set forth in Lot 7200. The statute for HHR is NH RSA 284:22-b. The HHR regulations

are embodied in NH Administrative Rules Lot 8200. The general requirements for HHR operations are set forth in Lot 8204.01 of the regulations:

- (a) All terminals and related equipment shall be subject to inspection by the commission.
- (b) Each terminal used for wagering on historical horse racing shall:
  - (1) Be tested by an independent testing laboratory to ensure its integrity, proper working order, and compliance with RSA 284 and this chapter. Any material modifications made to the terminal shall require re-testing;
  - (2) Use only race data from a pari-mutuel facility, within the United States or other regulatory jurisdictions recognized by the commission, licensed at the time the race was actually held;
  - (3) Provide race information that is current as of the day the horse race was actually run;
  - (4) Not accept a wager in excess of \$25.00; and
  - (5) Not be in the nature of a slot machine.

Spectrum found that New Hampshire's statutory and regulatory provisions are generally consistent with those found in other jurisdictions for HHR oversight. The license standards and requirements for New Hampshire are consistent with other gaming jurisdictions, requiring a demonstration of suitability, financial stability, integrity and responsibility. The individuals who are required to establish their suitability in conjunction with the operator's license application must complete a multi-jurisdictional personal history disclosure form, which is the standard practice and procedure utilized on a global basis for casino gaming operations. The Lottery conducts background investigations for the designated individuals and entities. Thereafter, the office of the Attorney General reviews the results and makes determinations regarding suitability. (NH RSA 284:3-a.) Currently, the investigative fees for these background investigations are capped at \$5,000. (NH RSA 287-D:11, IV.) The standard practice in the casino industry, followed by the other regional New England states, requires the casino operator to pay the entire cost of the background license investigations, without limitation. (See, for example, 205 CMR 114.01 for Massachusetts).

Game Operator Employer licenses are issued for three years and then may be renewed annually upon disclosure of any changes to the information contained in the license application (NH RSA 287-D:8, VI). The license fee for Game Operator Employers is \$750 per year. During the license term, the Game Operator Employer is required to attest annually to any changes that have occurred and pay the annual fee.

In NH RSA 287D:1, VIII, a Game Operator Employer is defined as a business entity or individual who employs, supervises, and controls game operators and who is hired by a charitable organization to operate games of chance on its behalf. The owner of 10% or more of the entity, partner, managing member, or chief executive of a business entity who serves as a Game Operator Employer must be listed as a part of the game operator license application. In accordance with Lot 7203.03(d) of the Regulations, a criminal record check shall be required of:

1. Each owner, partner or trustee holding 10% or more ownership interest in the underlying business;

2. In the case of a corporation, each officer, director or shareholder holding more than 10% of the stock; or
3. In the case of a limited liability company, each manager or member.

Notably, the 10% threshold for owners and shareholders is higher than the commonplace percentage requirement of 5% for determining the owners needing to be subject to a background investigation. The other New England states have adopted the 5% threshold for determining qualification status for owners.

There is no provision in New Hampshire for the waiver of qualification for institutional investors holding their ownership interest in publicly traded companies for passive investment purposes only. Institutional investors generally include such entities as corporations, banks, investment advisors, insurance companies, retirement funds, and pension funds. It is commonplace in casino regulation to allow for a waiver of the qualification requirements for institutional investors who demonstrate that they purchased their stock in the applicant company or its holding company for investment purposes only and do not have any intention to influence or affect the affairs or operations of the applicant company or holding company. For example, In Massachusetts, the waiver provision extends to those institutional investors holding up to 15% of the stock.

The scope of licensing requirements for employees is standard for the casino gaming industry. NH RSA 287-D:9 provides that, “other than members of a charitable organization, any person who is involved in conducting, managing, supervising, directing, or running games of chance shall be licensed under this section; including but not limited to gambling operation managers and assistant managers, managers or supervisors of security employees, pit bosses, shift bosses, credit executives, and cashier operations supervisors.”

However, unlike the common practice applicable for casino gaming regulation, there is no requirement in New Hampshire’s regulatory scheme for licensing the vendors who conduct business with the casinos and supply gaming equipment and other gaming-related services. NH RSA 287-D:14, XXI does require operators to maintain a list of manufacturers and distributors detailing the type of gaming equipment purchased from each. The information shall be detailed enough to permit the Lottery Commission to research the origin of any piece of gaming equipment. All devices and equipment used to conduct games of chance shall be subject to inspection by duly authorized law enforcement or lottery commission officials (NH RSA 287-D:17).

The state’s HHR regulations require compliance with anti-money-laundering procedures pursuant to NH Administrative Rules Lot 8202(b)(2)m. Pursuant to Lot 8202.(b)(2)i-k, there is a requirement for a security plan and approved internal control procedures, including surveillance. In addition, the state requires the operators to implement and enforce a responsible gaming program (NH Administrative Rules Lot 8202.04). However, unlike the neighboring gaming jurisdictions of Massachusetts, Maine, Connecticut, and Rhode Island, New Hampshire does not have a statewide voluntary self-exclusion program. We note that self-exclusion procedures are widely regarded as an integral component of an effective responsible gaming program. Absent such a program, the State’s commitment to responsible gaming may be viewed as somewhat questionable. Spectrum believes this is certainly an area that should



be rectified to ensure that responsible gaming is viewed as a priority for the state's regulators and operators.

New Hampshire has imposed certain limitations pertaining to the operation of HHR. For example, pursuant to NH Administrative Rules Lot 8203.01 (m), the portion of the active gaming area allocated for the operation of HHR shall not exceed 70%, with the remaining 30% allocated to games of chance. To be considered an active gaming area, the games of chance area shall be staffed or capable of being staffed upon demand, and ready for immediate or on-demand play. Moreover, there are prescribed limits on the amount of money that can be wagered for HHR. The maximum wager for HHR shall not exceed \$25, pursuant to NH RSA 284:22-b, 111(b). The hours of operation are from 8 a.m. to 4 a.m., which represents an increase in the hours of operation from the previous 11 a.m. to 1 a.m. (RSA287-D:14, VII). By comparison, the hours of operation for the neighboring casino states are 24 hours a day, with no interruption of service. This is one item that may be modified in an effort to be more competitive with the other regional casino gaming jurisdictions.

Legislation adopted in 2023 increased the maximum wager for a table game at a charitable casino from \$10 to \$50. The bill also raised the maximum amount a player may wager during the course of a single game from \$150 to \$2,500 (NH RSA 287-D:16). The impetus for the legislation was a desire to increase gaming revenue. The same motivation may apply regarding a potential increase for the maximum wager for HHR, but any decision in this regard must strike a delicate balance with legitimate concerns about the risks surrounding problem gambling. Ensuring responsible gaming is a paramount regulatory function.

In the vast majority of casino states, the authorized age for gambling is 21, but in New Hampshire it is 18 (RSA 287-D:14, VI). Rhode Island also has set 18 as the legal age for gambling, while the other New England states follow the general rule of thumb and set the legal age for gambling at 21.

Pursuant to NH RSA 179:44, complimentary alcohol to patrons is prohibited in New Hampshire's casinos. Maine also prohibits complimentary alcohol, while the other three New England casino states permit operators to offer this patron-friendly service.

In New Hampshire, the Gate City casino operated by Delaware North is a smokefree property. The other casinos in the state allow smoking. Massachusetts (by statute) and Connecticut (voluntarily by operator) have smokefree casinos. Maine requires the casinos that opened after July 1, 2003, to be smokefree, but the racetrack casino that opened before that date may have a smoking room. Rhode Island currently allows smoking in casinos, but legislation was introduced in May 2024 that would prohibit smoking inside the state's casinos.

In New Hampshire, there is no statutory requirement for the pooling of tips by the dealers at table games, contrary to the standard practice in the industry. NH Administrative Rules Lot 7207.04(n) provides: "The game operator shall collect and store his or her tips in a tip box or in a clearly designated area of the gaming table." Spectrum notes that the pooling of tips is important to discourage collusion between the player and the dealer.

New Hampshire's casinos are strictly prohibited from extending credit for gambling purposes. NH Administrative Rules Lot 7207.04(m) states that "[n]o licensed charitable organization or game operator

employer shall extend credit to any patron at any time.” Massachusetts permits casino operators to extend credit to gaming patrons, in accordance with detailed credit regulations prescribing the procedures that need to be employed for determining the creditworthiness of the patron and verification of patron information. Credit is not offered to casino patrons in Maine. In Rhode Island, the casinos can lend up to \$50,000 per player in cash. A pending bill – if signed into law – would increase the maximum credit amount in Rhode Island to \$100,000. The two native American casinos in Connecticut – Foxwoods and Mohegan Sun – both offer credit to gamble at the casino.

The distribution of gaming revenue for HHR is as follows. NH Administrative Rules Lot 8203.03 provides:

- (a) As set forth in RSA 284:22-b, V, the HHR licensee shall collect a takeout on all historic horse racing pari-mutuel pools at a rate of not greater than 12%.
- (b) In accordance with RSA 284:23, I(d), the HHR licensee shall distribute 25% of the takeout as following:
  - (1) The 2 charitable organizations sponsoring the event shall share in 35% of the funds; and
  - (2) The remaining 65% of the funds shall be paid to the commission monthly.

This distribution of gaming revenue distinguishes the state from its regional competitors.

Also noteworthy is the uniqueness of New Hampshire’s table games multiplier: the total takeout from historic horse racing shall not exceed 6.33 times the gross gaming revenue for games of chance as assessed annually for the first year of operation and quarterly thereafter. There is no similar regulatory requirement elsewhere.

Pursuant to Lot 8204.08(g), the commission or its authorized representatives may, at any time, conduct an audit or inspection of the financial reports, software, terminals, or other equipment used by an HHR licensee in conducting operations under this chapter. This section affords wide latitude to the agency in conducting audits and on-site inspections. This is an important regulatory function and is standard practice in the casino gaming industry. New Hampshire’s requirements and procedures are consistent with the other regional states.

The gaming operators spoke very highly of the New Hampshire Lottery staff, commenting that they were extremely accommodating, efficient, and cooperative in carrying out their duties and responsibilities. The one area they believed could be improved was to increase the number of staff for regulatory oversight. As would be expected with a rather new industry, the staff generally lacks the collective gaming regulatory experience found in more established state regulatory agencies. Nevertheless, the operators said the staff compared favorably with their experiences in other gaming jurisdictions. With respect to gaming operations, some of the operators advocated increasing the maximum amount that could be wagered for HHR, beyond the current \$25 restriction, to enhance gaming revenues.

## **A. Regulatory Overview of Other New England States**

Spectrum reviewed the regulatory structures utilized in the neighboring states, which are summarized in the following table, followed by state-by-state discussion. (Vermont does not have casinos.)

**Figure 35: Comparison of select New Hampshire regulations with other New England casino states**

	CT	MA	ME	NH	RI
Legal Age	21	21	21	18	18
Complimentary Alcohol	Yes	Yes	No	No	Yes
Smokefree Casino	Yes	Yes	Partial	Partial	Partial
Statewide Voluntary Self-Exclusion Program	Yes	Yes	Yes	No	Yes
Credit	Yes	Yes	No	No	Partial
Hours of Operation	24 hours	24 hours	24 hours	8 a.m.-4 a.m.	24 hours
Tips for Table-Games Dealers	Pooled	Pooled	Pooled	Pooling is operator choice	Pooled
Audits	Yes	Yes	Yes	Yes	Yes
On-Site Inspections	Yes	Yes	Yes	Yes	Yes

Source: State regulators and statutes, Spectrum Gaming Group research

**Figure 36: Comparison of New Hampshire gaming license fees with other New England casino states**

	CT	MA	ME	NH	RI
Initial Casino License Fees	None	\$85 million	\$225,000	\$750	None
Renewal Casino License Fees	None	\$600 per slot machine annually	\$80,000 annually	\$750 annually	None

Source: State regulators and statutes, Spectrum Gaming Group research

## 1. Maine

Maine offers commercial casino gaming at one casino resort and one racino. Both properties offer slot machines and table games and are subject to oversight by the Maine Gambling Control Board and Gambling Control Unit.

Commercial casino gaming was first authorized in 2003 after voters approved a statewide referendum allowing slots at Bangor Raceway, which developed into what is now Hollywood Casino Bangor. In 2011, Hollywood Casino received approval to add table games. Maine’s second casino, located in Oxford County, was authorized pursuant to a separate voter referendum held in 2010.

Under Maine’s regulatory framework, a maximum of two commercial casino gaming facilities may be operated after approval in a local referendum. Both table games and slot machines are permitted. There is a statewide cap of 3,000 electronic gaming devices, with the allocation split evenly between the two properties (Me. Rev. Stat. tit. 8 § 1020(3)). Under legislation approved in 2022, Maine’s two commercial casinos and licensed racing simulcast facilities also are authorized to offer retail sports betting, while the state’s federally recognized Indian tribes are authorized to partner with commercial operators to offer mobile sports wagering within Maine.

The Maine Gambling Control Board was established in 2004, following the approval of slot machine gambling by Maine voters. There are five members of the Gambling Control Board, all appointed by the governor to serve three-year terms. Title 8 Chapter 31 of the Maine Revised Statutes contains the laws that regulate the operation and licensing of casino-style gambling in the state.

In Maine, for casinos, 3% of the slot tax revenue is dedicated to responsible gaming programs. The authorized gambling age is 21. There is a statewide voluntary self-exclusion program. Credit is not permitted for gambling purposes. The casinos have partial smoke-free areas. Complimentary alcohol is not permitted. The authorized hours of operation are 24 hours per day.

Maine's two commercial casinos are subject to different tax rates. Hollywood Casino, as a racino property, pays 39% of slot revenue and 1% of slot handle in taxes. Oxford Casino, as a standalone casino, is subject to a tax rate of 46% of slot revenue. Both casinos pay 16% of their table game revenue in taxes.

The state imposed a casino license fee of \$225,000, with an annual license renewal fee of \$80,000.

## **2. Massachusetts**

Massachusetts offers commercial casino gaming at two casino resorts operating slot machines, table games and sports betting, as well as at one racino, which is restricted to slot machines and sports betting. Casino gaming was legalized in 2011 when the legislature passed a law authorizing commercial gaming at three casino resorts in different regions of the state, plus an additional "Category 2" facility limited to slots. The law also established the Massachusetts Gaming Commission to issue licenses for the four properties and to regulate their operations.

In 2015, Massachusetts' Category 2 casino was opened alongside Plainridge Park, a harness racing track in Plainville. The MGM Springfield and Encore Boston Harbor casino resorts opened in 2018 and 2019, respectively. The license for Massachusetts' fourth and final casino was designated under a 2011 law that allowed the Mashpee Wampanoag Tribe to develop a tribal casino in the southeastern region of the state. The Mashpee project has faced a series of legal challenges, however, while the Massachusetts Gaming Commission has thus far declined to move forward with licensing an alternative commercial casino project in the same region.

When Massachusetts authorized commercial casino gaming in 2011, it established different tax rates for its Category 1 and Category 2 licensees. Whereas Plainridge Park, which holds the Category 2 license, is subject to a 49% tax on slot revenue, MGM Springfield and Encore Boston Harbor are subject to a lower rate of 25% of both slot and table game revenue. The lower overall rate reflects, in part, the greater staff cost involved in the hosting of live table games, as well as the larger amounts Category 1 licensees were required to invest to develop their casino properties. In addition to the taxes on revenue, all commercial casino facilities must pay a \$600 annual fee for each of their electronic gaming devices.

At least \$5 million annually plus 9% of total sports betting tax revenue is allocated for responsible gaming. The lawful age for gambling is 21. There is a statewide voluntary self-exclusion program. The state's casinos are smokefree. Complimentary alcohol is permitted for gambling patrons. Credit is permitted for gambling purposes. The hours of operation are 24 hours per day.

Massachusetts required an applicant for a Category 1 license to make a capital investment of at least \$500 million. The initial license fee was \$85 million. Notably, the large-scale casino hotel complexes in Massachusetts are not comparable in size to those facilities found in New Hampshire and the required investments are disparate. The license term for a Category 1 casino license is 15 years. The Gaming

Commission is afforded broad latitude to establish procedures for the renewal of casino licenses, including setting license renewal fees based on the costs associated with evaluating the suitability of the licensee.

### **3. Rhode Island**

Rhode Island offers commercial casino gaming at two casinos operated under the authority of the Rhode Island Lottery. In 1992, the Rhode Island legislature passed a bill permitting video lottery terminals at the state's two pari-mutuel wagering venues. In 2012, state voters approved the addition of table games at Twin River Casino in Lincoln. In 2016, voters approved a ballot measure permitting the Newport Grand Casino to relocate to the town of Tiverton on the Massachusetts border and to offer table games. In June 2018, the legislature passed a bill authorizing the state lottery to operate sports betting at both commercial casinos. Subsequent legislation the following year authorized online sports betting. In 2023, legislation was passed to authorize igaming in Rhode Island, with operations expected to begin in 2024.

A minimum of \$200,000 annually is dedicated for responsible gaming. The authorized age for gambling is 18. There is a statewide self-exclusion program. Complimentary alcohol is permitted for gambling patrons. There are partial smokefree areas. The hours of operation are 24 hours per day. Credit is permitted under certain conditions. There is no annual license-renewal fee.

The tax rate is 68.85% to 74% on VLT revenue and 17% to 19% on table game revenue, with the percentage depending on each casino's total net revenue in relation to the previous fiscal year. If a property's revenue is greater than the prior year, it pays an additional two percentage points.

Rhode Island does not require a casino license fee, as the facilities are lottery vendors.

### **4. Connecticut**

Connecticut's casino gaming landscape consists of two Native American casino resorts, Mohegan Sun and Foxwoods, operated by the Mohegan Sun and Mashantucket Pequot sovereign tribal nations on their reservation lands. The two properties opened in the mid-1990s.

The Mohegan Tribe and the Mashantucket have both established tribal gaming councils to oversee all gaming operations on their reservations and to ensure regulatory integrity. Tribal inspectors and investigators are tasked with ensuring that all regulations are strictly followed and enforced. The tribal gaming councils also interact with the Gaming Division of the Connecticut Department of Consumer Protection to ensure the proper licensing of all employees and to approve new games and policy changes.

Under each of their respective compacts, the Mohegan and Mashantucket Pequot have agreed to pay the state 25% of their gross slot machine revenue. Tribes are subject to an 18% gross gaming revenue tax on interactive slots and tables for the first five years of operation. This amount increases to 20% from the sixth year of operations and beyond.

Both facilities operate 24 hours a day. The authorized age for gambling is 21. Complimentary alcohol may be offered to gaming patrons.

As gaming facilities operated by sovereign Native American entities, the casinos are not subject to a state licensing fee (although there are other state fees associated with the operation and regulation of the facilities).

## B. Conclusion

New Hampshire's regulatory system is generally consistent with other gaming jurisdictions regarding casino operations. To increase GOE gaming revenues, Spectrum recommends that the State consider increasing – or eliminating altogether – the maximum wagering limits for both HHR and GOC. We note that in the other New England states, the operators and not the regulators set their own wager limits, depending on business volumes and their own risk tolerances. We further recommend that New Hampshire consider allowing 24-hour gaming, which would be consistent with the other New England casino states. We note that both actions may impact on the critical area of responsible gaming.

Spectrum also notes that, with respect to the regulatory system, as casino gaming and HHR further develop, the staffing levels of the New Hampshire Lottery should be adjusted accordingly to adequately meet the demands of an expanding industry.

Given that New Hampshire could have 18 Game Operator Employers, and that there are, or are planned to be, operators with multiple locations, Spectrum recommends that the State consider the issue of undue economic concentration, whereby one or more casino operators dominate the market through the ownership of multiple properties. Spectrum emphasizes that we do not believe such a condition is present in the marketplace at this time, but we do recommend that the State safeguard against the possibility in the future. The concern is that free competition will be impeded if a single operator maintains a dominant market share. It is in the public interest to avoid undue economic concentration and to encourage and preserve free competition in the casino gaming marketplace.

Some gaming jurisdictions have tried to deal with this potential problem by expressly limiting the number of properties a single operator is permitted to have. For example, in the original enabling legislation adopted in New Jersey authorizing casino gaming, a single operator was permitted to own or operate a maximum of three casino properties. Subsequently, the three-casino rule was abolished, but the underlying principle of preventing undue economic concentration was maintained by virtue of the amended gaming statute. N.J.S.A 5:12-82e now provides that no person would be permitted to hold a casino license if the issuance of the license results in undue economic concentration, which is defined as a person having actual or potential domination of the casino gaming market in Atlantic City that substantially impedes or suppresses competition among casino licensees or adversely impact the economic stability of the casino industry in Atlantic City. The statute provided guidelines for determining whether undue economic concentration would result from the ownership of multiple properties; they are as follows:

N.J.S.A. 5:12-82e states that the Casino Control Commission shall consider the following criteria:

(1) The percentage share of the market presently controlled by the person in each of the following categories:

- The total number of licensed casinos in this State;

- Total casino and casino simulcasting facility square footage;
- Number of guest rooms;
- Number of slot machines;
- Number of table games;
- Net revenue;
- Table game win;
- Slot machine win;
- Table game drop;
- Slot machine drop; and
- Number of persons employed by the casino hotel.

(2) The estimated increase in the market shares in the categories in (1) above if the person is issued or permitted to hold the casino license;

(3) The relative position of other persons who hold casino licenses, as evidenced by the market shares of each such person in the categories in (1) above;

(4) The current and projected financial condition of the casino industry

(5) Current market conditions, including level of competition, consumer demand, market concentration, any consolidation trends in the industry and any other relevant characteristics of the market;

(6) Whether the licensed casinos held or to be held by the person have separate organizational structures or other independent obligations;

(7) The potential impact of licensure on the projected future growth and development of the casino industry and Atlantic City;

(8) The barriers to entry into the casino industry, including the licensure requirements of this act, P.L.1977, c.110 (C.5:12-1 et seq.), and whether the issuance or holding of a casino license by the person will operate as a barrier to new companies and individuals desiring to enter the market;

(9) Whether the issuance or holding of the license by the person will adversely impact on consumer interests, or whether such issuance or holding is likely to result in enhancing the quality and customer appeal of products and services offered by casino licensees in order to maintain or increase their respective market shares;

(10) Whether a restriction on the issuance or holding of an additional license by the person is necessary in order to encourage and preserve competition and to prevent undue economic concentration in casino operations; and

(11) Any other evidence deemed relevant by the commission.

Currently, New Hampshire has no restrictions pertaining to ownership of multiple properties. Therefore, it is possible for a single operator to assume control over multiple properties to dominate the market. In our judgment, the State should adopt appropriate legislation to prevent undue economic concentration in casino operations.



## V. Examples of States' Compensation to Host Municipalities

The State of New Hampshire subsequently requested that Spectrum assess how other gaming states, by statute, compensate host municipalities for the additional services and costs brought on by the presence of a casino, which generate high patrons. We provide five such examples below.

**Indiana:** A portion of gaming taxes paid by Indiana commercial casinos is distributed to the host communities, and defined in statute. The percentage and annual totals vary by property.<sup>54</sup>

**Iowa:** Iowa casino licenses are held by charities, called Qualified Service Organizations (“QSO”). Each QSO executes an operating agreement with a casino operator. In the operating agreement, the QSO must receive an annual payment of at least 3% of the adjusted gross receipts of the casino operator.<sup>55</sup> Iowa regulations also stipulate payments to casino host communities. The taxes imposed by this section on adjusted gross receipts from gambling games authorized under this chapter shall be paid by the licensee to the treasurer of state within 10 days after the close of the day when the wagers were made and shall be distributed as follows:

- a. If the gambling excursion originated at a dock located in a city, one-half of one percent of the adjusted gross receipts shall be remitted to the treasurer of the city in which the dock is located and shall be deposited in the general fund of the city. Another one-half of one percent of the adjusted gross receipts shall be remitted to the treasurer of the county in which the dock is located and shall be deposited in the general fund of the county.
- b. If the gambling excursion originated at a dock located in a part of the county outside a city, one-half of one percent of the adjusted gross receipts shall be remitted to the treasurer of the county in which the dock is located and shall be deposited in the general fund of the county. Another one-half of one percent of the adjusted gross receipts shall be remitted to the treasurer of the Iowa city nearest to where the dock is located and shall be deposited in the general fund of the city.<sup>56</sup>

**Missouri:** Pursuant to section 313.822, RSMo., Missouri’s 13 casinos pay a gaming tax of 21% on their adjusted gross receipts. 10% of the taxes collected is paid to the home dock city or county where each casino is located.<sup>57</sup> The casinos pay an admission fee per guest of \$2. This fee is divided evenly between the host community and the State.

**Virginia:** Virginia’s HHR tax distributions to localities to-date apply to the initial 3,000 HHR terminals authorized – a number not yet exceeded. Currently, Virginia distributes a total of 0.5% of HHR handle to localities, comprising 0.25% to the localities where HHR facilities are located and 0.25% to New Kent County, the governing authority for New Kent, the census designated place where Colonial Downs

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<sup>54</sup> Indiana Code Chapter 33. <https://iga.in.gov/laws/2023/ic/titles/4#4-33-12.5-6>

<sup>55</sup> Iowa Code Chapter 99F.6. <https://www.legis.iowa.gov/docs/ico/code/99F.pdf>

<sup>56</sup> Iowa Code Chapter 99F.11.

<sup>57</sup> Missouri Gaming Commission Annual Report, 2023. [https://www.mgc.dps.mo.gov/annual\\_reports/AR\\_2023.pdf](https://www.mgc.dps.mo.gov/annual_reports/AR_2023.pdf)

Racetrack is located.<sup>58</sup> Virginia authorized an additional 2,000 HHR terminals through 2020 legislation. HHR tax distributions to localities applicable to the 2,000 HHR terminals authorized in 2020 will total 0.64% of HHR handle, comprising 0.32% for localities in which HHR facilities are located and 0.32% for New Kent County.<sup>59</sup>

**Wyoming:** Wyoming distributes a total of 1% of HHR handle to localities. If the HHR facility is located within the boundaries of a city or town, 0.5% of handle is transferred to the county and 0.5% of handle is transferred to the city or town. If the HHR facility is not located within the boundaries of a city or town, 1% of handle is transferred to the county.<sup>60</sup>

## A. States with Charitable Requirements

Although the US casino industry is well regarded for giving to charitable organizations – in 2017 the industry reported \$367 million in total charitable giving<sup>61</sup> – Iowa is the only state other than New Hampshire in which the primary public policy of its state-regulated gaming industry is to benefit charities.

As noted above, it is qualified service organizations – i.e., charities – that hold the casino licenses in Iowa. Each QSO negotiates an agreement with the operator that requires the QSO receive an annual payment of at least 3% of the adjusted gross gaming receipts. As the Iowa Gaming Association stated in a 2022-2023 report,<sup>62</sup>

Each QSO operates with their own board of directors as an ‘arms-length’ decision making nonprofit entity. These QSO’s each establish the criteria that is best suited to their region for the types of grants they will consider funding; their primary areas of emphasis vary based on what will best benefit their locales. 2023 continued to be an impactful year where these QSO’s focused awarding their grants to help the most.

Thousands of grant applications are received each year requesting dollars for a diverse array of community and charitable causes. Considerable deliberation takes place by the respective board of directors to score these requests to then award millions of dollars to many worthwhile initiatives!

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<sup>58</sup> Va. Code 59.1-392(U)(1)(a-b).

<sup>59</sup> Va. Code 59.1-392(V)(1)(a-b).

<sup>60</sup> W.S. 11-25-105(b)(iii).

<sup>61</sup> “Corporate Social Responsibility in the Gaming Industry,” prepared by The U.S. Chamber of Commerce Foundation for the American Gaming Association, 2019. [https://www.americangaming.org/wp-content/uploads/2019/02/CSR\\_Gaming\\_Industry\\_Report.pdf](https://www.americangaming.org/wp-content/uploads/2019/02/CSR_Gaming_Industry_Report.pdf)

<sup>62</sup> Iowa Gaming Association, Iowa Economic Development Authority, and Iowa Council on Foundations, “Building Iowa’s Communities through Philanthropy,” 2022-2023, p. 51. <https://iowacommunityfoundations.org/wp-content/uploads/2024/02/CEFP-2022-23.pdf>