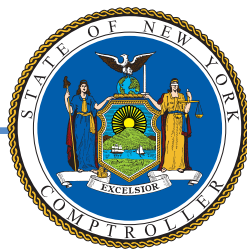


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# **A Question of Balance**

## **Gaming Revenues and Problem Gambling in New York State**



**OFFICE OF THE NEW YORK STATE COMPTROLLER**  
Thomas P. DiNapoli, State Comptroller

**November 2020**

# Message from the Comptroller

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November 2020

Many New Yorkers enjoy buying Lottery tickets and taking a chance on a big prize. Some play the slot machines and other games in the State's eight Video Lottery Terminal (VLT) facilities, four commercial casinos and seven Native American casinos. Sports wagering and interactive fantasy sports are now part of the gambling picture, and traditional betting on horses continues at racetracks and off-track betting locations.

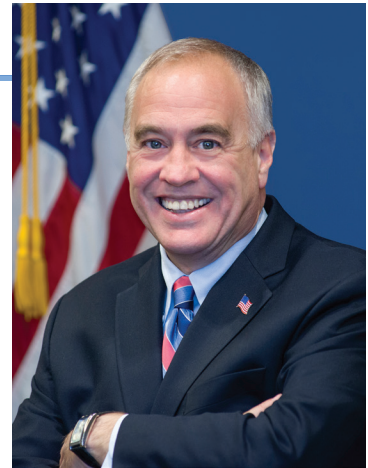
All told, the State collected \$3.7 billion in revenue from these activities in its 2019-20 fiscal year – an important contributor to the budget. The Lottery spent more than \$90 million to market its products and maximize its contribution to education funding, and the State Gaming Commission is awaiting a consultant's report on potential steps that could bring in more revenue.

It's also true that gambling causes serious problems for some individuals, their families and the community overall. While the State Office of Addiction Services and Supports provides prevention, treatment and recovery services related to problem gambling, policymakers should consider whether resources for such programs appropriately balance the dollars spent to promote State-authorized gaming.

In 2013, voters approved an amendment to the State Constitution to authorize up to seven commercial casinos, and four have opened to date. Supporters of casinos argued they would provide new revenues to the State and a significant boost to upstate regions that have struggled economically. Actual revenues, however, have been about two-thirds of projected levels and, thus far, economic benefits appear to be modest.

There will always be tension between the State's interest in maximizing revenue from legal gaming and the need to avoid contributing to the problem of compulsive gambling. Finding an appropriate balance may require more careful attention to the social and economic impacts of State-sanctioned gaming activities, including explicit consideration of the impacts of the Lottery's marketing. More comprehensive reporting by the Gaming Commission on casinos' employment and revenues, relative to projections, could help inform consideration of any future expansion of casinos in New York. The data and analysis in this report are intended to be helpful to current and future debates over gaming in New York State.

Thomas P. DiNapoli  
State Comptroller



# Executive Summary

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More than a half-century after the advent of its modern Lottery, New York's policies regarding state-sanctioned gambling represent two broad approaches that are inherently, and perhaps increasingly, in conflict.

First, the State generates revenue for its budget and for localities through traditional Lottery games, Video Lottery Terminals (VLTs), racetrack wagering, casinos, sports betting and other authorized activities. New York leads all other states in total revenues from legal gambling, collecting nearly \$3.7 billion in State Fiscal Year (SFY) 2019-20. The State spent more than \$90 million in the last fiscal year marketing the Lottery, and the State Gaming Commission has hired a contractor to identify ways to achieve full revenue potential at gaming facilities.

On the other hand, the State recognizes that some individuals struggle with compulsive gambling, and takes certain steps to prevent and address the problem. The State's Office of Addiction Services and Supports (OASAS) has engaged two contractors to analyze the prevalence of problem gambling among adult and younger New Yorkers, and legislation enacted in 2019 requires a more comprehensive report on gambling in the State by December 2023. The agency also launched a statewide media campaign to raise awareness of problem gambling, which disproportionately occurs among males, African Americans and adults who live in disadvantaged neighborhoods. According to OASAS, State spending on prevention, treatment and recovery services related to problem gambling in SFY 2019-20 was expected to total \$5.7 million.

This report analyzes the balance between the revenues that the State generates from gaming activities and steps that the State has taken to address problem gambling, as policy makers consider new initiatives in both areas.

In 2013, New York voters approved an amendment to the State Constitution authorizing up to seven commercial casinos. The Upstate New York Gaming Economic Development Act of 2013, which provides statutory authorization for four casinos, states that such facilities "can boost economic development, create thousands of well-paying jobs and provide added revenue to the state." However, the casinos have fallen short of producing the State revenues their operators projected when applying for licenses from the State Gaming Commission, collectively generating roughly just two-thirds of projections. Casino revenues to the State in the last fiscal year totaled \$188 million, or 0.2 percent of State Operating Funds receipts. Some of that revenue likely resulted from gaming activity that previously occurred at VLT facilities, reducing the net fiscal benefit to the State.

As with revenues, the casinos' net economic impact also appears modest in the scope of the overall upstate economy. Ongoing public disclosure of employment and payroll levels at the casinos, and any offsetting losses elsewhere, could assist policymakers in assessing whether the goals of the Gaming Act are being met.

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Traditional Lottery games remain the dominant contributor to gaming revenues, providing two-thirds of total gaming receipts in SFY 2019-20. They generated \$2.5 billion while VLTs, which are legally part of the Lottery, added \$944 million. The Division of the Budget projects total gaming revenues will decline by \$616 million this year, primarily because of mandatory COVID-related closings of casinos and VLT facilities for six months starting in mid-March.

In addition to the Lottery's marketing expenditures, VLT facilities reported marketing allowances totaling nearly \$182 million in SFY 2018-19, bringing combined marketing resources for State-sanctioned gaming activities to more than \$272 million. Figures on such expenditures by commercial casinos are not readily available.

As the Gaming Commission considers potential steps to increase revenues from gambling operations already authorized, ongoing policy discussions have included consideration of additional locations for the Lottery's Quick Draw games, expansion of legalized sports betting, and additional commercial casinos.

Given the inherent tension between the State's interests in maximizing revenue versus avoiding harm to New Yorkers from problem gambling, policy makers should consider:

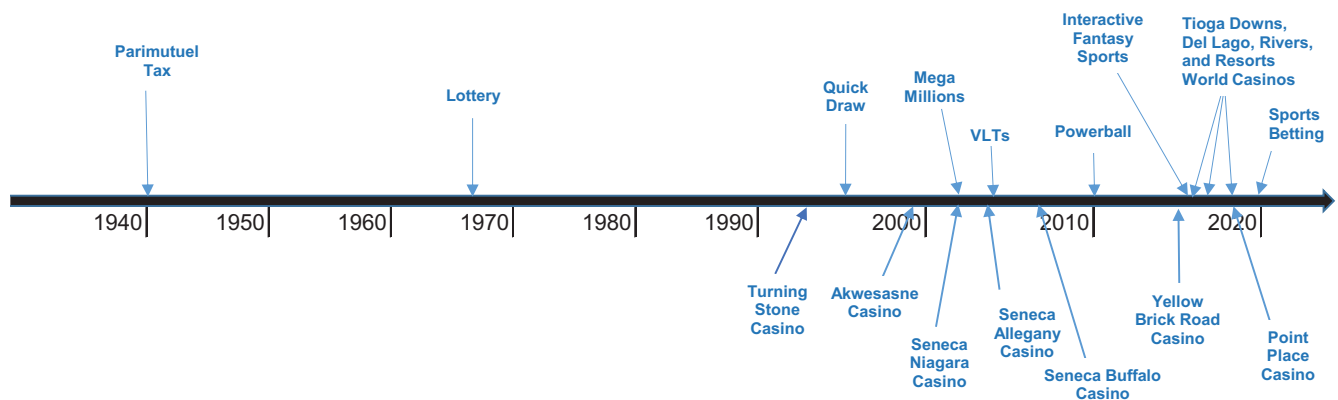
- Whether the State strikes an appropriate balance between the marketing resources devoted to increasing gambling activity and those devoted to preventing and ameliorating problem gambling. As part of this, the Gaming Commission and OASAS should report annually on the levels of such expenditures;
- Enhancing oversight of whether commercial casinos are delivering expected revenue and economic benefits. The Gaming Commission should be required to report regularly on how actual casino revenues to the State and job numbers compare to original projections, and factors underlying any variance;
- Clearly identifying the social and economic impacts of the Lottery and other gaming activities. While expanding legalized gaming repeatedly, the State has taken few, if any, steps to determine whether maximizing revenue may harm New Yorkers who are susceptible to compulsive gambling, and whether this may exacerbate the disproportionate impacts on certain segments of the populace. Discussion of potential gaming expansions should be informed by comprehensive information on social and economic impacts, as well as those related to revenue; and
- Providing more comprehensive initiatives to address problem gambling associated with all forms of gaming, including the Lottery.

# State-Supported Gambling in New York

New York State's first modern revenues from gambling activities came in 1940, the year the pari-mutuel tax on horse race wagering became effective.<sup>1</sup> In 1966, a Constitutional Amendment authorizing the State Lottery was approved, with the first tickets sold the following year. Over the next 20 years, the Lottery was periodically expanded with new games such as Lotto, Daily Numbers, Pick 4 and Pick 10 as well as instant game tickets.

The 1990s saw the introduction of new gaming venues to the State's residents. New York's Native American tribes offered casino gambling with the opening of the Turning Stone Casino by the Oneida Nation in 1993 and the Akwesasne Mohawk Casino by the St. Regis Mohawk Tribe in 1999. In addition, the State Lottery rolled out Quick Draw in 1995, providing the opportunity to play the lottery beyond the usual retail establishments.

**FIGURE 1**  
**State-Supported Gambling in New York: Key Dates**



Source: New York State Gaming Commission, New York State Division of the Budget  
Note: Dates reflect years of initial operation. Casinos noted on the bottom half of the timeline are Native American casinos.

Over the next two decades, gambling options available in the State proliferated, as shown in Figure 1. The lottery was expanded to include two multi-state games, Mega Millions and Powerball, and the number of Native American casinos increased from two to seven. In 2004, the first four Video Lottery Terminal (VLT) facilities were established, with an additional four opening within the next two years. Over the next decade, three more facilities were located at the Aqueduct Racetrack and certain Off-Track Betting (OTB) parlors.

<sup>1</sup> New York and some other states used lotteries as revenue sources in the first decades of U.S. history. An amendment to the State Constitution enacted in 1821 banned the practice in New York until the 1966 amendment again authorized lotteries operated by the State.

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In 2013, voters approved a Constitutional amendment authorizing the creation of seven commercial casinos in the State. The Upstate New York Gaming and Economic Development Act, enacted the same year, provided for the creation of four of these seven casinos. The first, Tioga Downs Casino in Nichols, Tioga County, opened in December 2016, with the Rivers Resort Casino in Schenectady and Del Lago Casino in Waterloo, Seneca County, following in February 2017. The last of the four, Resorts World Catskills in Monticello, opened in February 2018.

In 2016, the State legalized Interactive Fantasy Sports (IFS), such as fantasy football and fantasy baseball leagues. In addition, on May 14, 2018, the U.S. Supreme Court struck down the federal Professional and Amateur Sports Protection Act (PASPA), which banned betting on sports nationwide except in Delaware, Montana, Nevada, and Oregon. The Gaming Act of 2013 included a provision to allow sports wagering at the four commercial casinos should federal law be changed. As a result of regulations that were approved in June 2019, in the wake of the PASPA ruling, sports betting at the State's four casinos began that summer.

In addition, State-approved gambling includes pari-mutuel betting on horse races at 11 tracks in New York and at off-track betting (OTB) centers throughout the State. These activities generate a modest amount of revenue for the State through the pari-mutuel tax, \$14 million in SFY 2019-20. The State also permits certain nonprofit organizations to operate bingo and games of chance for fundraising purposes.

## **Gambling Revenue**

New York is one of five states nationwide that has authorized lotteries, casinos, racinos and sports betting.<sup>2</sup> New York collected more overall gaming revenue than any other state in 2019, more than \$1 billion ahead of second-place Pennsylvania, according to data from the Urban Institute-Brookings Institution's Tax Policy Center. Relative to state population, New York's gambling revenue of more than \$187 per resident was nearly twice the national average.

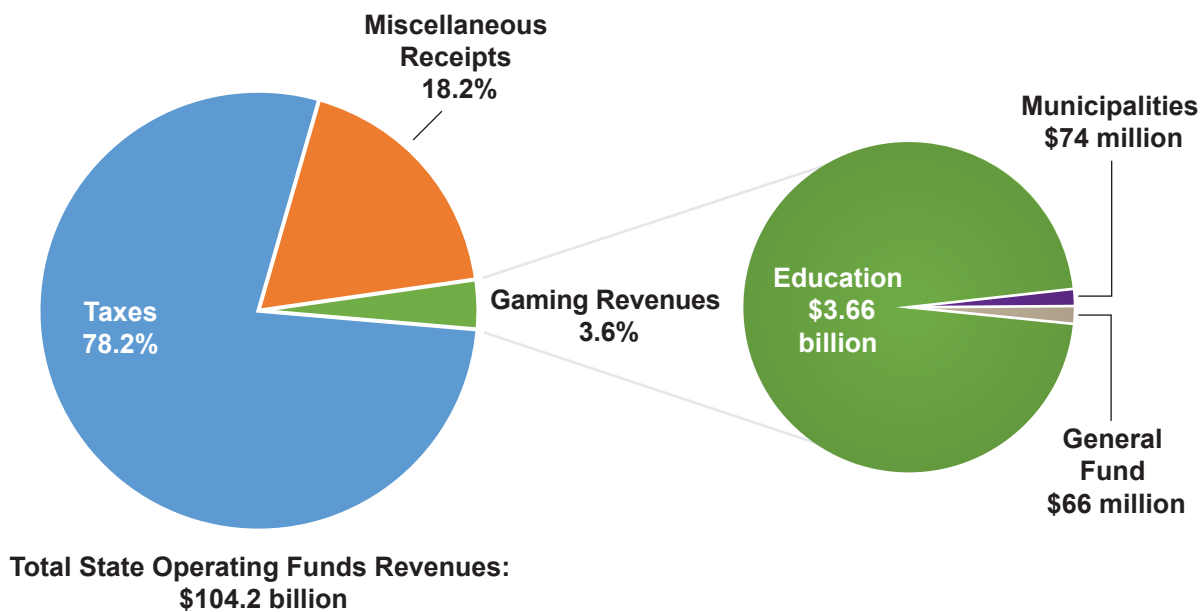
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<sup>2</sup> Lucy Dadayan, "Are States Betting on Sin? The Murky Future of State Taxation," Urban Institute-Brookings Institution Tax Policy Center, October 2019, available at [https://www.urban.org/sites/default/files/publication/101132/are\\_states\\_betting\\_on\\_sin-the\\_murky\\_future\\_of\\_state\\_taxation.pdf](https://www.urban.org/sites/default/files/publication/101132/are_states_betting_on_sin-the_murky_future_of_state_taxation.pdf).

In SFY 2019-20, just over \$51 billion was wagered through the Lottery, VLTs and commercial casinos in New York, a decrease of 5.3 percent from the previous year.<sup>3</sup> Wagering on all other forms of gambling (horse racing, internet fantasy sports, and charitable gaming) totaled over \$1.8 billion in calendar year 2018, a decline of 1.8 percent from 2017.<sup>4</sup>

The State collected nearly \$3.7 billion in gaming revenue in SFY 2019-20, 3.6 percent of State Operating Fund receipts. As shown in Figure 2, the majority of this revenue is used to support education, while the remainder is either distributed to the municipalities in which certain gaming venues are located or deposited to the State’s General Fund.

**FIGURE 2**  
**Gaming Revenues as a Share of State Operating Funds Revenues and Their Distribution**  
**SFY 2019-20**



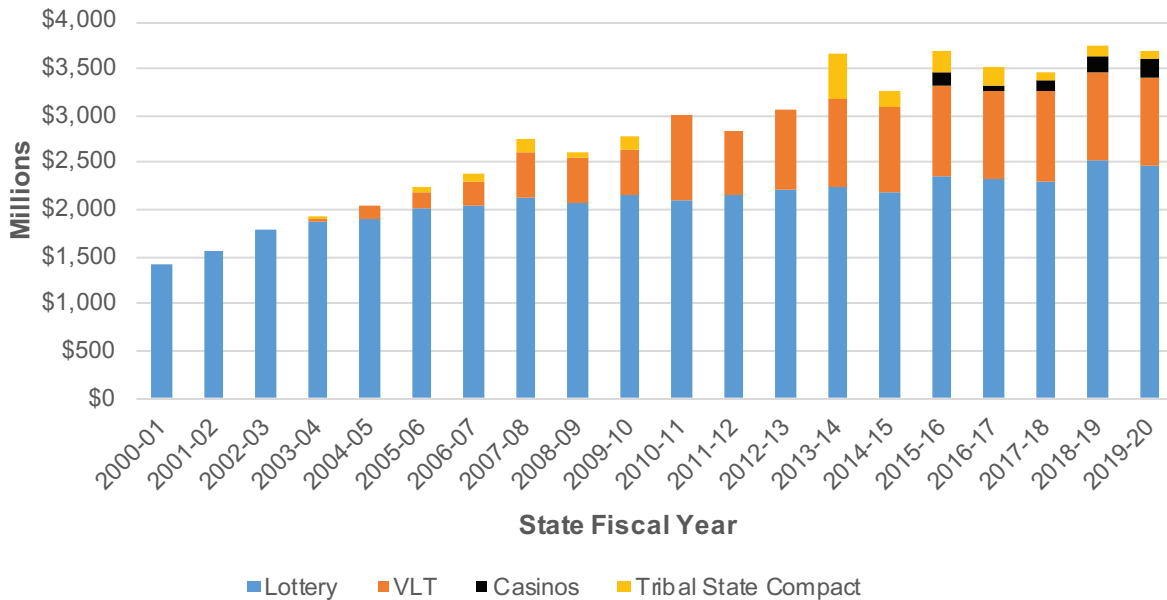
Source: New York State Division of the Budget

<sup>3</sup> Annual reports for the Lottery and other gaming are available through the New York State Gaming Commission website at <https://www.gaming.ny.gov/about/index.php?ID=3>. Amounts wagered through VLTs and commercial casinos include the total credits played, or “churn,” on the slot/video lottery machines; that is, any winnings that are re-wagered as well as the original wager. These amounts do not include moneys wagered at the Native American casinos.

<sup>4</sup> Latest data available. Annual reports for the State’s racetracks, OTBs, and IFS published by the New York State Gaming Commission are available only on a calendar-year basis.

Figure 3 shows gaming revenues by source since SFY 2000-01. In SFY 2019-20, just over two-thirds of gaming revenue was from traditional lottery games. While VLTs are legally considered part of the Lottery, their revenues are presented separately within the State’s Financial Plan and in this report.

**FIGURE 3**  
**Gaming Revenues by Source, SFY 2000-01 through SFY 2019-20**



Source: New York State Division of the Budget, Office of the State Comptroller analysis  
 Note: Other gaming revenues not shown include pari-mutuel taxes and taxes on Interactive Fantasy Sports, which averaged a combined \$21.7 million annually during the period. Any collections from sports betting are included in casino revenues. Lottery and VLT revenues include only those received for aid to education. The Division of the Budget excludes those used for the administration of the Gaming Commission in its published reports.

Revenues from traditional Lottery games have grown an average of 3.8 percent annually since 2000, partly resulting from the addition of Mega Millions and Powerball and other new games. In SFY 2019-20, these revenues totaled \$2.5 billion, a decrease of 2.4 percent, due primarily to the absence of significant jackpots for the multi-state games compared to the previous year.<sup>5</sup>

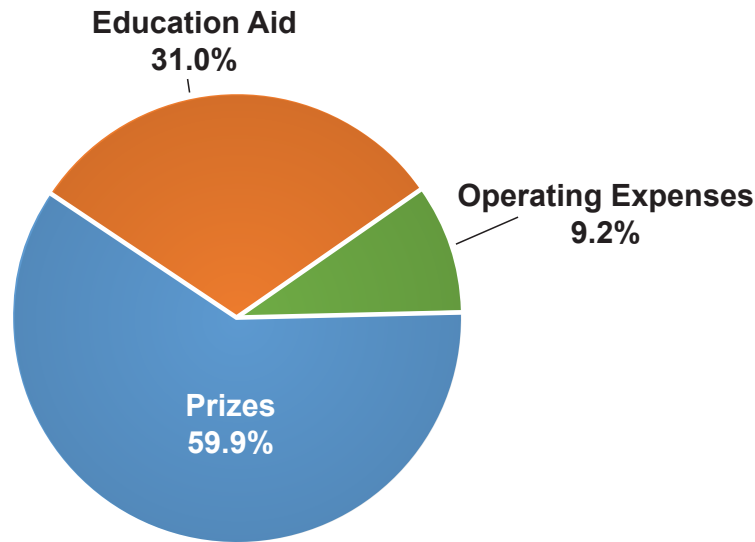
A majority of the \$7.7 billion in gross revenues from traditional lottery game sales in FY 2019-20 went to prizes, as shown in Figure 4. Nearly one-third of the proceeds flowed into the State budget, where under the State Constitution they must be dedicated to education aid. The remainder was used for administration expenses, such as commissions to the lottery retailers and marketing.

<sup>5</sup> For example, Mega Millions had a record jackpot of \$1.5 billion in October 2018.



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**FIGURE 4**  
**Distribution of Revenues from Traditional Lottery Sales, SFY 2019-20**



Source: New York State Gaming Commission

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VLT revenue has become an important supplement to the traditional Lottery, reaching a peak of more than \$961 million in SFY 2015-16 before declining slightly in the following four years. VLT receipts in some years have been affected by one-time events, such as a payment in SFY 2010-11 by the operator of the newly authorized VLT facility at the Aqueduct Racetrack.

The State also provides aid for 16 local governments in areas where VLT facilities are located. Payments due to these localities this year include \$19.6 million and \$2.3 million to the cities of Yonkers and Saratoga Springs, respectively, and more than \$1.7 million to the town of Farmington.

Overall gaming revenues to the State also fluctuate due to collections from the State's Native American tribes as a result of the tribal-state compacts. These are agreements required under the federal Indian Gaming Regulatory Act between tribes and states for the privilege of operating casinos. The compacts also include exclusivity provisions which preclude the State from siting commercial casinos within the regions where the tribal casinos operate.

In March 2017, the Seneca Nation announced it was discontinuing its portion of Tribal State Compact payments. On January 8, 2019, a three-member arbitration panel ruled the Seneca Nation must resume the payments and that \$255 million in outstanding payments were owed to the State. In June 2019, the Seneca Nation filed a federal lawsuit to vacate the arbitration. As of late October, the Nation had yet to make any outstanding payments during the current fiscal year.

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## Commercial Casinos

In 2013, a Constitutional amendment authorized the creation of seven commercial casinos in the State, subject to enabling legislation. The Upstate New York Gaming and Economic Development Act (Gaming Act), approved by the Legislature in June 2013, authorized up to four of these seven casinos, with all of the four to be located in upstate regions. The Gaming Commission was authorized to issue licenses for the four casinos for a 10-year period, with renewal at the discretion of the Commission.

The Constitutional provisions allow three additional casinos based on further statutory action by the Legislature. However, the Gaming Act provides that any additional venues may not be awarded a casino license until at least seven years after the first casino license was awarded, which would be December 2022.<sup>6</sup>

The Gaming Act established the New York Gaming Facility Location Board (Siting Board) under the Gaming Commission to determine where the four casinos would be located. The statute provided criteria for the Siting Board to use in evaluating applicants for casino licenses, including maximization of both revenues to the State and localities and “quality jobs” in the gaming facility.

The Siting Board recommended awarding casino licenses to Montreign Resort Casino (now Resorts World Catskills), Rivers Casino & Resort, and Del Lago Resort and Casino in December 2014, and to Tioga Downs Casino in October 2015.<sup>7</sup> Licenses for the first three casinos were awarded in December 2015 with the license for Tioga Downs being awarded in August 2016.

## Revenues

Commercial casino revenues to the State totaled just over \$188 million, or 5.1 percent of total gaming revenues, in SFY 2019-20, as shown in Figure 3. These receipts represented a small fraction, less than 0.2 percent, of overall State Operating Funds receipts.

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<sup>6</sup> If future statutory changes allow any additional licenses to be awarded before December 2022, the State would be required to refund the license fees to the four current facilities. The amount to be refunded would be prorated based on the time remaining in the seven year period.

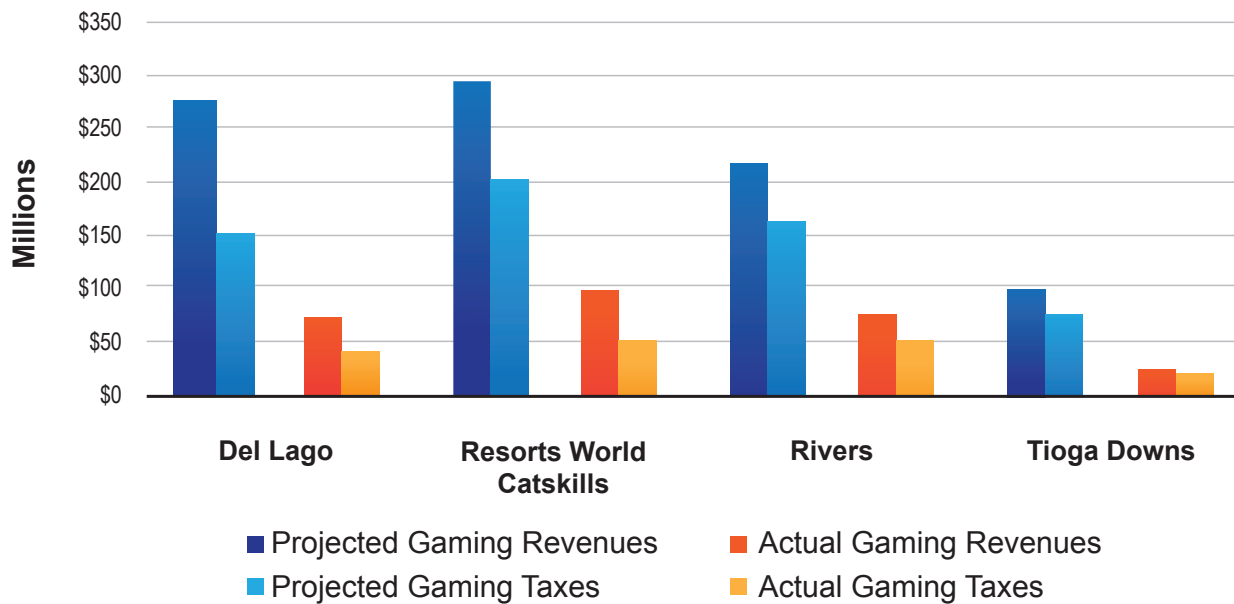
<sup>7</sup> See Report and Findings of the New York Gaming Facility Location Board, February 27, 2015, <https://www.gaming.ny.gov/pdf/02.27.15.GFLBFinalAppendicesWebSmall.pdf>; and Selection of the New York Gaming Facility Location Board, October 14, 2015, <https://www.gaming.ny.gov/pdf/10.14.15.GFLBSelection.pdf>.

Applicants for casino licenses submitted projections of gross gaming revenues and State receipts from gaming taxes on a calendar year basis.<sup>8</sup> For calendar 2019, gross gaming revenues for the four casinos totaled \$618.3 million, nearly \$295 million below the applicants' projections. State receipts from gaming taxes, \$188 million during the calendar year, were more than \$108 million below applicants' projections.

Figure 5 compares the actual and projected gross gaming revenues and State gaming tax receipts for each of the casinos in 2019. As shown, none of the casinos have met projections, collectively generating approximately two-thirds of the amount forecasted. Tioga Downs was closest to its projections for both categories at 78 percent and 88 percent, respectively.

The Del Lago casino lagged the furthest behind its projections for gross gaming revenue, realizing 56 percent of the projected amount. Resorts World Catskills ranked lowest for meeting its projected gaming tax revenue, collecting under 54 percent of what was forecasted.

**FIGURE 5**  
**Actual and Projected Gross Gaming Revenue and State Gaming Tax Receipts by Casino, 2019**



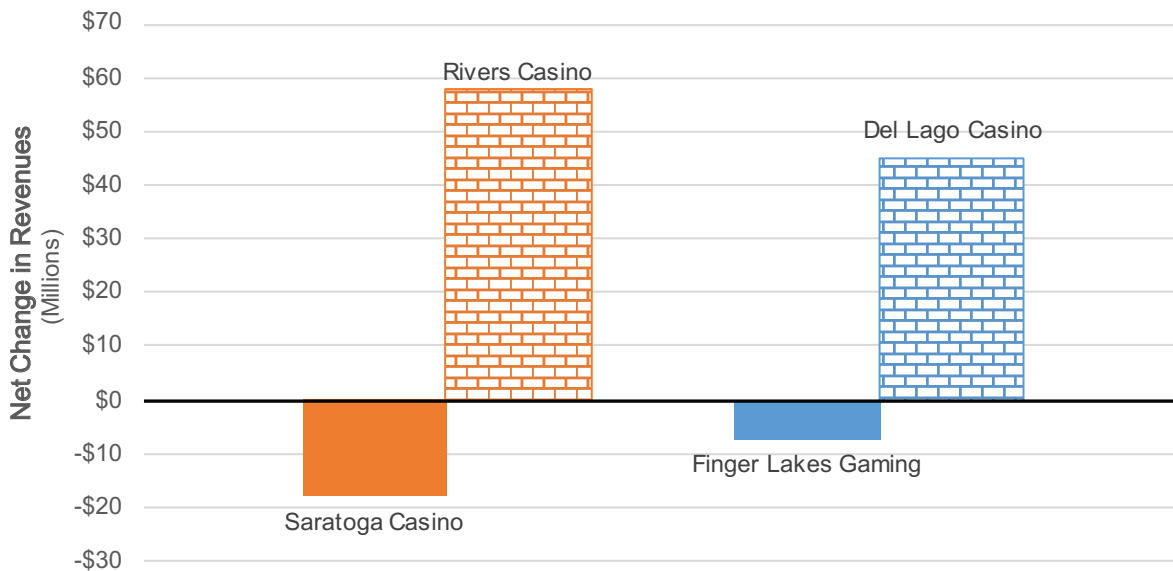
Source: New York State Gaming Commission

<sup>8</sup> Revenues are for calendar year 2019 as included in reports by the Siting Board. Gaming tax revenues are State revenues only. Applicants for the casino licenses were required to submit projections of gross gaming revenues for at least the first 10 years, and for State and local tax revenues for at least the first five years. The Siting Board used its own gaming consultants to provide revenue projections.

As part of the selection process for the locations of the four casinos, the Siting Board considered the potential cannibalization of revenues from existing gaming facilities in the area and/or whether the revenue from the new casino would exceed that of an existing facility. Some movement of gaming revenues appears to have occurred, at least at certain facilities.

Since the casinos opened, two VLT facilities have closed – Tioga Downs and Monticello Casino and Raceway. The Tioga Downs facility was replaced by the Tioga Downs Casino, as anticipated when the Siting Board approved the casino. The VLT facility at Monticello Casino and Raceway closed in April 2019. The creation of a new VLT facility in Orange County to replace Monticello was authorized by the Legislature in June 2019; however, there are no projections as to when this new facility will open.

**FIGURE 6**  
**Change in State Revenues from Selected VLT Facilities and Commercial Casinos**  
**SFY 2016-17 through SFY 2019-20**



Source: New York State Gaming Commission

Of the seven remaining VLT facilities, two (Saratoga Casino and Finger Lakes Gaming) are within the same market areas as new casinos (Rivers and Del Lago, respectively). While VLT revenues statewide have increased since the opening of the casinos, those from these two facilities have declined, as shown in Figure 6 above.

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Over the four fiscal years ending in SFY 2019-20, revenues to the State from the Rivers Casino increased by nearly \$56 million. Over this same period, revenue from the Saratoga Casino declined by almost \$18 million, effectively offsetting nearly one-third of the Rivers casino revenue. The increase in the State's revenue from the new Del Lago casino, over \$45 million over the four years, was partly offset by a \$7.6 million decline in revenue from Finger Lakes Gaming during the period.

## Employment

Legislation for the casinos touted the goal of economic development. Among other legislative findings, the Act concluded that "...the state does not fully capitalize on the economic development potential of legalized gambling," and "... Four upstate casinos can boost economic development, create thousands of well-paying jobs and provide added revenue to the state..." The Act required the Siting Board to evaluate potential licensees on the ability to provide the highest number of high quality jobs in the gaming facility, among other factors. The licensees selected for the four commercial casinos projected a total of over 4,700 jobs to be created.<sup>9</sup>

The Act requires casino operators to provide weekly and monthly financial reports to the Gaming Commission which, in turn, is required to make such reports publicly available. However, no such reporting is required with respect to employment levels at the casinos. As of March 16, 2020, the four commercial casinos and the VLT facilities had closed in response to the COVID-19 pandemic. The four casinos each filed reports with the State Department of Labor indicating they laid off a collective 3,958 employees. It is not clear whether casino employment before the closures reached the levels forecast during the licensing process. Ongoing public reporting by the Gaming Commission on the employment levels at each of the commercial casinos would allow policymakers and other interested parties to assess whether job creation projections, and the goals of the Constitutional amendment and legislation, are being met.



<sup>9</sup> See Report and Findings of the New York Gaming Facility Location Board, February 27, 2015, <https://www.gaming.ny.gov/pdf/02.27.15.GFLBFinalAppendicesWebSmall.pdf>; and Selection of the New York Gaming Facility Location Board, October 14, 2015, <https://www.gaming.ny.gov/pdf/10.14.15.GFLBSelection.pdf>.

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## Impact of COVID-19 Pandemic

As a result of the closures in response to the COVID-19 pandemic, less than \$25 million was collected from commercial casinos and VLT facilities during the first six months of the current fiscal year, a decline of 95 percent from the same period in SFY 2019-20.

On September 3, the Governor announced the State's casinos and VLT facilities could reopen on September 9. The facilities are only allowed to operate at 25 percent capacity, and table games allowed only if physical barriers are in place. Currently, all four commercial casinos and the eight VLT facilities have reopened. In the First Quarterly Update to the Enacted Budget Financial Plan, DOB projects casino and VLT revenues of \$70 million and \$313 million, respectively, in SFY 2020-21.

In addition to the lost revenue to the State, the closure of the casinos and VLT facilities resulted in employee layoffs. According to notices filed with the State Department of Labor under the Worker Adjustment and Retraining Notification (WARN) Act, nearly 7,000 workers at these 12 facilities were laid off at various points after the facilities were closed. It is not clear how many workers have been rehired after facility reopenings.

While lottery games have been available without interruption, those revenues were also impacted by the pandemic. Through September 2020, lottery revenues totaled \$958 million, a decline of nearly \$132 million from the same period in 2019. Lottery revenues for the current fiscal year are projected to decline by \$293 million or 11.8 percent from the previous year.

The Native American casinos also closed in March as a result of the pandemic, and have since reopened. Through September, the State collected \$23 million under the tribal-State compacts, just less than half the total during the same period last year. DOB projects collections from the tribal-state compacts to total \$524 million, primarily on the expectation the Senecas will resume making payments to the State.

# Problem Gambling

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While the State encourages individuals to buy Lottery tickets and has significantly expanded legal gambling opportunities in recent decades, the Legislature has also instituted certain steps to address problem gambling.

The Office of Addiction Services and Supports (OASAS) is the State agency with the statutory responsibility “for developing plans, programs and services related to compulsive gambling education, prevention and treatment” in New York.<sup>10</sup> State regulations governing OASAS problem gambling treatment and recovery services define problem gambling as behavior that meets certain criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (DSM-5).<sup>11</sup> For example, such criteria include whether an individual needs to gamble with increasing amounts of money in order to achieve desired excitement; is restless or irritable when attempting to cut down or stop gambling; has made repeated unsuccessful efforts to control, cut back, or stop gambling; or is often preoccupied with gambling.<sup>12</sup>

Spending on problem gambling-related prevention, treatment and recovery services in SFY 2019-20 was expected to total \$5.7 million, according to OASAS.<sup>13</sup> Total spending on such services is not designated in the State’s Financial Plan.

The SFY 2020-21 Enacted Budget includes a \$3.6 million OASAS appropriation designated exclusively for community-based problem gambling education, prevention, recovery and treatment services. This authorization, the same as was provided in the SFYs 2018-19 and 2019-20 State budgets, is up 9.1 percent from the \$3.3 million appropriated in SFY 2017-18. Funding for these appropriations comes from:

- An annual \$500 license fee imposed on each slot machine and gaming table approved by the Gaming Commission for use at the four commercial casinos;<sup>14</sup>
- Any forfeited cash or prizes won by certain persons prohibited from gaming in those facilities; and

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<sup>10</sup> See New York Mental Hygiene Law §19.07(a). Formerly known as the Office for Alcoholism and Substance Abuse Services, OASAS was renamed through Chapter 281 of the Laws of 2019.

<sup>11</sup> The American Psychiatric Association publishes the DSM-5, which is widely used as a guide for diagnosing psychiatric disorders.

<sup>12</sup> See the website of the National Council on Problem Gambling for a listing of these criteria, available at <https://www.ncpgambling.org/wp-content/uploads/2014/08/DSM-5-Diagnostic-Criteria-Gambling-Disorder.pdf>.

<sup>13</sup> See the testimony of Commissioner Arlene González-Sánchez to the New York State Assembly Committee on Racing and Wagering and the Assembly Committee on Alcoholism and Drug Abuse Public Hearing on Problem Gambling, December 18, 2019, available at [https://nystateassembly.granicus.com/MediaPlayer.php?view\\_id=8&clip\\_id=5298](https://nystateassembly.granicus.com/MediaPlayer.php?view_id=8&clip_id=5298).

<sup>14</sup> The Act allows the State Gaming Commission to adjust the \$500 slot machine and table fee annually for inflation, starting five years after award of an original gaming license. The licenses for the Rivers Casino & Resort, the Del Lago Resort & Casino and the Montreign Resort Casino were awarded December 21, 2015, while the license for the Tioga Downs Casino was awarded August 30, 2016.



- Any sanctions or fines imposed by the Gaming Commission on facilities willfully violating regulations prohibiting certain persons from gaming in them.<sup>15</sup>

Proceeds from the license fees and any other receipts are deposited into the Problem Gambling Services Sub Fund within the Commercial Gaming Revenue Fund, which was established by the Act in 2013. Figure 7 shows total receipts of nearly \$3.6 million for SFYs 2016-17 and 2017-18 combined, but no disbursements in either year. Actual disbursements for SFYs 2018-19 and 2019-20 are fairly close to actual receipts for each year, except for a \$1.5 million transfer to the General Fund in SFY 2018-19. At the close of SFY 2019-20, the fund balance for the Problem Gambling Services Sub Fund was over \$1.7 million, nearly double that of three years earlier.

**FIGURE 7**  
**Problem Gambling Services Sub Fund Activity**  
 (Thousands of Dollars by State Fiscal Year)

	2016-17	2017-18	2018-19	2019-20	2020-21
Opening Balance	0	935	3,572	2,158	1,721
Receipts	935	2,637	3,411	2,951	3,300
Local Assistance Disbursements			3,325	3,388	3,300
Transfers to General Fund			1,500		0
Total Disbursements			4,825	3,388	3,300
Closing Balance	935	3,572	2,158	1,721	1,721

Sources: Office of the State Comptroller for actual amounts for SFYs 2016-17, 2017-18 and 2018-19; and the SFY 2020-21 Enacted Budget Financial Plan for actual and projected amounts for SFYs 2019-20 and 2020-21, respectively.

Disbursements from the Problem Gambling Services Sub Fund support the seven new regional problem gambling resource centers developed across the State since October 2018. The regional resource centers are located in Albany, East Syracuse, Hawthorne (Westchester County), New York City, Rochester, Uniondale (Nassau County) and Williamsville (Erie County). They provide education and training, referral, assessment, treatment and recovery support services.<sup>16</sup>

<sup>15</sup> See Racing, Pari-Mutuel Wagering and Breeding Law §§ 1345 and 1348.

<sup>16</sup> A listing of services provided by New York's Problem Gambling Resource Centers and county-level links to PGRC contacts can be found at <https://nyproblemgamblinghelp.org/services/>.



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In addition to the funding from the Problem Gambling Services Sub Fund, the OASAS budget for SFY 2020-21 includes approximately \$2.3 million in General Fund support for problem gambling programs, including nearly \$1.4 million in statewide services provided by the New York Council on Problem Gambling (NYCPG) and \$700,000 in treatment, education, assessment and referral services provided by community-based organizations. Among other activities, the NYCPG is responsible for collaborating with casinos, racinos and other gambling facilities overseen by the Gaming Commission to ensure education and awareness materials, as well as referral information, are readily available. The NYCPG is also charged with providing training tools to healthcare professionals to assess and treat persons with gambling-related problems and conducting research to document the need for problem gambling services.<sup>17</sup>

OASAS itself has not performed a study to determine the need for problem gambling services in the State since 2006.<sup>18</sup> In March 2020, the agency awarded a one-year, \$349,886 contract to the Research Triangle Institute, a North Carolina corporation, for a problem gambling prevalence survey of adults 18 years of age and older. The resulting report is expected to estimate the “prevalence of gambling and problem gambling; demographic characteristics; attitudes and behaviors towards gambling; and awareness of resources for problem gambling services.” The Research Triangle Institute is expected to provide a final report for OASAS approval by December 15, 2020.

Separately, OASAS has entered into a contract with International Survey Associates, a Georgia company, to conduct bi-annual statewide surveys to assess alcohol, substance use and gambling prevalence among students in grades 7 through 12. The four-year agreement extends from January 1, 2020 through December 31, 2023. The last time OASAS conducted this survey was during the 2014-15 school year.

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<sup>17</sup> More information about NYCPG activities is available at <https://nyproblemgambling.org/about-nycpg/>.

<sup>18</sup> See Office of the State Comptroller Division of State Government Accountability Report 2018-S-39, “Problem Gambling Treatment Program,” available at <https://www.osc.state.ny.us/audits/allaudits/093019/sga-2019-18s39.pdf>.

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Statutory authority for the funding and oversight of gambling treatment and prevention services was transferred from the Office of Mental Health (OMH) to OASAS in 2005.<sup>19</sup> The name of the agency was revised in 2019 to include reference to addiction services.<sup>20</sup> In addition to the services funded by the Problem Gambling Services Sub Fund and the General Fund described above, the 12 OASAS-operated addiction treatment centers (ATCs) are now able to provide inpatient problem gambling treatment services.<sup>21</sup> In January 2017, an initial expansion of OASAS problem gambling services included inpatient, residential care at six of the 12 ATCs.<sup>22</sup> These facilities, which help New Yorkers living with alcohol and/or chemical dependencies, or compulsive gambling disorder, provide problem gambling awareness services for all individuals they serve.<sup>23</sup>

To further expand access to problem gambling services, OASAS has permitted certified outpatient programs to apply for waivers from regulatory restrictions to allow them to serve individuals with a problem gambling diagnosis, even if they do not have a co-occurring substance use disorder. OASAS also revised its regulations to allow any OASAS-certified program to apply for a designation to serve gambling-only patients.<sup>24</sup> In addition, starting in March 2020, certain OASAS-licensed residential or outpatient community-based addiction rehabilitation programs were authorized to bill the State's Medicaid program for problem gambling disorder treatment, further expanding access to care throughout the State, according to OASAS.

In 2019, OASAS also launched a \$1 million statewide media campaign to raise awareness of problem gambling services in the State. The "You're Not Alone" media campaign targeted the areas around the four commercial casinos and includes billboards, posters in local convenience stores and near treatment centers, and ads on public buses, according to OASAS.<sup>25</sup> As a result of the campaign, OASAS says its problem gambling webpages received over 140,000 new "clicks."

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19 Part I of Chapter 58 of the Laws of 2005.

20 See press release, "NYS OASAS Announces Name Change From the Office of Alcoholism and Substance Abuse Services to the Office of Addiction Services and Supports," issued October 29, 2019, available at <https://oasas.ny.gov/news/nys-oasas-announces-name-change>.

21 See the testimony of Commissioner Arlene González-Sánchez to the New York State Assembly Committee on Racing and Wagering and the Assembly Committee on Alcoholism and Drug Abuse Public Hearing on Problem Gambling, December 18, 2019, available at [https://nystateassembly.granicus.com/MediaPlayer.php?view\\_id=8&clip\\_id=5298](https://nystateassembly.granicus.com/MediaPlayer.php?view_id=8&clip_id=5298).

22 See the news release, "NYS OASAS Announces Expansion of Services for New Yorkers Struggling with Problem Gambling," issued January 6, 2017, and available at <https://oasas.ny.gov/news/nys-oasas-announces-expansion-services-new-yorkers-struggling-problem-gambling>.

23 See the testimony of Commissioner Arlene González-Sánchez cited above.

24 See Agency Comments on pages 15 and 16 of Office of the State Comptroller, Division of State Government Accountability Report 2018-S-39, "Problem Gambling Treatment Program," available at <https://www.osc.state.ny.us/audits/allaudits/093019/sga-2019-18s39.pdf>.

25 See OASAS news release, issued December 10, 2018, "The New York State Office of Alcoholism and Substance Abuse Services Announces New Actions to Increase Availability and Awareness of Problem Gambling Services," available at <https://apps.cio.ny.gov/apps/mediaContact/public/view.cfm?parm=03E9BC38-5056-907F-6F8528187433E213&backButton>.

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A February 2019 audit by the Office of the State Comptroller of the OASAS problem gambling treatment program indicated that it was not possible to determine whether OASAS had sufficient treatment services for those in need because OASAS had not conducted a comprehensive needs assessment or social impact study since 2006. The audit also found that 40 of the State's 62 counties did not have an OASAS problem gambling treatment program. In addition, the audit found that OASAS was taking various steps to identify and address the need for problem gambling treatment programs statewide. However, the audit recommended OASAS conduct a comprehensive needs assessment and social impact study for problem gambling, and continue efforts to ensure problem gambling treatment programs are reasonably accessible to all State residents, regardless of their ability to pay. OASAS agreed with both recommendations and, as indicated above, is taking steps to "perform a study to determine the need for problem gambling services" and "conduct a statewide Youth Development Survey of school age youth on the prevalence of their substance use and gambling activities."<sup>26</sup>

These steps and other OASAS initiatives to understand and address problem gambling issues in New York, while important, are funded at levels significantly below the public and private resources devoted to promoting gambling in the state.



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<sup>26</sup> See Office of the State Comptroller Division of State Government Accountability Report 2018-S-39, op. cit.

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## Marketing the Lottery and other gaming

The Lottery spent \$90.8 million on marketing in SFY 2019-20, according to the Lottery's annual financial statement.<sup>27</sup> Annual marketing expenses in recent years for which figures are readily available ranged from \$75.8 million to \$95.8 million.

The marketing allowance for racetracks with VLTs (commonly known as racinos) and for OTBs with VLTs equaled \$181.7 million in SFY 2018-19.<sup>28</sup> Along with Lottery expenditures, combined marketing resources for State-sanctioned gaming activities that year totaled more than \$272 million. Figures on marketing efforts by the four upstate casinos are not readily available, but would likely add significantly to the total.



## Other efforts to address problem gambling

Much of the recent focus on expanding access to problem gambling services is related to the four upstate casinos that started opening in 2017. The authorizing Act requires all four casinos to establish a problem gambling plan that includes training employees to identify patrons who exhibit problems with gambling, implementing procedures to prevent underage gambling, and providing a list of public and private treatment services or addiction therapy programs designed to prevent, treat or monitor problem gamblers. Each resort has to submit quarterly plan updates and an annual report on its adherence to the plan to the Gaming Commission and abide by advertising restrictions that prohibit ads showing anyone under 21 engaging in gaming activities, while requiring all ads to “clearly and conspicuously” state a problem gambling hotline number.<sup>29</sup> The NYS HOPEline (877-846-7369 or text 467369) is a confidential support and referral hotline for individuals in need of problem gambling treatment and/or self-help.

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27 Lottery financial statements for SFYs 2018 through 2020 are available at [https://www.gaming.ny.gov/pdf/Annual\\_Report/2017-18\\_CAFR.pdf](https://www.gaming.ny.gov/pdf/Annual_Report/2017-18_CAFR.pdf) and [https://edit.nylottery.ny.gov/sites/default/files/2020-09/final\\_NYSL\\_FS\\_2020.pdf](https://edit.nylottery.ny.gov/sites/default/files/2020-09/final_NYSL_FS_2020.pdf).

28 See State Gaming Commission report on statewide video gaming marketing allowances for SFY 2018-19, available at [https://www.gaming.ny.gov/pdf/finance/Web\\_Site\\_Report\\_-\\_Statewide\\_Totals.pdf](https://www.gaming.ny.gov/pdf/finance/Web_Site_Report_-_Statewide_Totals.pdf).

29 Title 7 of Article 13 of the Racing, Pari-mutuel Wagering and Breeding Law.

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Since 1989, New York Tax and Mental Hygiene laws have required the posting of signs in facilities regulated by the State Lottery, Horse Racing and Gaming divisions “advising patrons where to get help in dealing with a compulsion to gamble.”<sup>30</sup> Such signs, as well as information required to be posted on the internet, must include notice of the availability of one or more organizations approved by the OASAS Commissioner that offer assistance in the prevention and treatment of compulsive gambling.

State Gaming Commission regulations require video lottery gaming agents to establish responsible gaming programs, including the display of announcements encouraging responsible play in all video lottery gaming, reception and cashier areas. In addition, each racing association or OTB corporation maintaining a website on the internet must post a message on its home page of the availability of one or more organizations offering assistance in dealing with the problem of compulsive gambling.

Since 2013, according to the Gaming Commission, it has been working with OASAS and the NYCPG to address problem gambling issues in New York through the Responsible Play Partnership.<sup>31</sup> The Partnership’s functions include: enforcing age restriction laws for gambling in the State, improving the consistency and effectiveness of policies to exclude self-identified problem gamblers who ask to be prohibited from entering gaming facilities or participating in gaming activities, and evaluating the measures VLT locations, OTB facilities and race tracks are taking to identify and assist individuals showing signs of problem gambling. State law prohibits gambling by people under the age of 18 at all OTBs, horse racing facilities and casinos. The legal purchase age for Lottery tickets is 18 and, in establishments selling alcoholic beverages, 21. Violations can result in fines, license suspensions or license revocation.<sup>32</sup>

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30 Tax Law Section 1604-a and Mental Hygiene Law Section 19.09(h).

31 See State Gaming Commission press release announcing formation of the Responsible Play Partnership, February 20, 2013, available at [https://www.gaming.ny.gov/pdf/press\\_022013.pdf](https://www.gaming.ny.gov/pdf/press_022013.pdf).

32 Ibid.



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In May 2019, the Assembly and Senate passed legislation establishing a legislative task force on responsible gaming to:

- Identify policies and programs that mitigate the risks and consequences associated with compulsive gambling, and that promote responsible gaming practices for all gaming activities authorized in the State.
- Recommend policies and procedures to ensure responsible gaming in all facilities licensed or enfranchised in the State.
- Recommend a structure for enforcing all responsible gaming regulations.
- Identify methods to measure the effectiveness of responsible gaming procedures.
- Ensure responsible gaming practices are included in legislation authorizing casino style gaming facilities in the State.

The Governor vetoed the legislation in November 2019. The veto message indicated that the Act authorizing casino style gaming facilities, for which the legislative task force would be making recommendations, became law in 2013, “making this bill unnecessary and untimely.”

In December 2019, the Governor signed legislation requiring OASAS, in consultation with the State Gaming Commission, to commission a statewide evaluation of gambling by State residents. The evaluation, required to be prepared by an independent entity and due no later than December 1, 2023, must include the percentage of state residents participating in the lottery, horse racing, Native American casinos, internet gambling, sports betting and poker by age, race, income, education, sex and any other demographic information relevant to the evaluation. The evaluation must also estimate the amount of money being wagered and lost by state residents in each gambling activity.<sup>33</sup>

Until the results of OASAS’s substance use and gambling youth development and problem gambling prevalence surveys are released, it is difficult to gauge the extent of problem gambling in New York or the characteristics of those in need of problem gambling services.

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<sup>33</sup> See subdivision (k) of Section 19.09 of the Mental Hygiene Law, as added by Chapter 576 of the Laws of 2019.

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However, recent research on the predictors of problem gambling among U.S. adults by scientists at the University of Buffalo Clinical and Research Institute on Addictions provides some insight into the individuals in need of services. This research, funded by the National Institute on Alcohol Abuse and Alcoholism, shows that convenience of gambling opportunities is one highly significant factor: “By whatever path an individual is inclined towards problem gambling, his or her chances of being a problem gambler are enhanced by actual easy contact with gambling opportunities.”<sup>34</sup>

Among other factors, researchers have found that males, persons in the 31-40 age range, African Americans, and individuals with limited education had the highest average number of problem gambling symptoms; adults who lived in disadvantaged neighborhoods also had the most problem gambling symptoms. Individuals who attended religious services most often reported the fewest problem gambling symptoms. Adults who are more impulsive or depressed reported more problem gambling symptoms than those who are less impulsive or depressed. Adults with friends who approve of gambling reported more problem gambling symptoms than those with friends who do not approve of gambling.<sup>35</sup>



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34 John W. Welte et al., “Predictors of Problem Gambling in the U.S.,” *Journal of Gambling Studies*, June 2017, available at <https://link.springer.com/article/10.1007/s10899-016-9639-1>.

35 Welte et al., *ibid.*

# A Question of Balance

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New York State’s policies regarding gambling constitute two broad approaches that inherently conflict. On the one hand, the State creates opportunities for its residents to wager through the Lottery, casinos and other means to generate revenue for the State and its localities; the \$3.7 billion in gaming revenue during SFY 2019-20 represented an important contribution to the State budget. Meanwhile, the State recognizes the potential harmful effects of these activities, and takes steps to prevent and address problem gambling.



Current initiatives by OASAS and the Gaming Commission illustrate the longstanding contradiction in State policies: OASAS has engaged one contractor in an effort to analyze how many New Yorkers may suffer from the harmful effects of compulsive gambling and another to assess, among other factors, gambling prevalence among students in grades 7 through 12. At the same time, the Gaming Commission has hired a contractor, Spectrum Gaming Group, to study topics including ways “to achieve full revenue potential” at gaming facilities. Spectrum Gaming has indicated it will also analyze a variety of social impacts of expanded gambling.

Meanwhile, a new option for gaming, sports betting, began in SFY 2019-20. In addition, ongoing policy discussions have included consideration of further gaming opportunities through additional Quick Draw locations, expanded sports betting platforms or additional casinos.

During the three State fiscal years ending in SFY 2019-20, the Lottery spent an average of \$87.7 million annually on marketing, according to its financial statements. VLT operators, which are private companies but conduct games that legally are part of the Lottery, also spend millions of dollars to encourage betting. Such expenditures dwarf the State’s spending on efforts to prevent and mitigate problem gambling, as shown in Figure 8.

State policy makers may wish to consider whether the current levels of resources that are intended to increase gaming activity, and those devoted to mitigating harmful impacts of such activity, strike an appropriate balance.



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**FIGURE 8**  
**State Spending on Lottery Marketing and Problem Gambling Services**  
(Millions of dollars)



Note: The Lottery marketing amount is the average of marketing and advertising expenses for SFYs 2017-18 through 2019-20, as indicated in New York State Lottery annual financial reports for those years. The problem gambling services amount represents projected spending in SFY 2019-20, as provided by OASAS at a New York State Assembly hearing on problem gambling on December 18, 2019. Comparable figures for identical years are not readily available.

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Policy makers should also consider steps including:

- **Reviewing whether the current commercial casinos have delivered expected economic and fiscal benefits.** As outlined earlier in this report, State revenue from the four new casinos has not come close to the projections the casino developers made in license applications to the Gaming Commission. Whether these new facilities have generated the promised numbers of new jobs is not clear, in part because the Commission does not require public reporting of employment levels. Given that allowing the State to “fully capitalize on the economic development potential of legalized gambling” was a primary purpose of the legislation authorizing casinos, the Commission should be required to report regularly on total employment and payroll at all casinos. In addition to making the existing monthly financial reports available on its website, the Commission should analyze, at least on a quarterly basis, how actual revenues to the State and employment compare to initial projections, and factors underlying any variance. Such reports should also include analysis of any change in gaming revenues that may have resulted from cannibalization among the State’s various forms of gambling.

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- **Clearly identifying the social and economic impacts of the Lottery and other State-sanctioned gaming activities.** The State has taken few, if any, steps to determine whether its efforts to maximize gaming revenue harm New Yorkers who may be susceptible to problem gambling. The reports from Gaming Commission and OASAS contractors described above may provide important new insights into the social impacts of New York’s policy choices regarding the Lottery, casinos and other gaming activities. The statewide evaluation of gambling by New York State residents required by December 2019 legislation is not due until December 2023. The possibility of major gaming-related policy decisions in the nearer-term future requires that State policy makers and other interested parties have access to comprehensive, current information in this area. The State should also consider establishing, as soon as possible, an ongoing, publicly transparent center of research into the social and economic effects of expanded gambling opportunities in New York, similar to a statutorily required annual research agenda now in place in Massachusetts.<sup>36</sup>
  - **Taking steps to address problem gambling associated with all forms of gaming, including the Lottery.** As described earlier in this report, the 2013 legislation authorizing commercial casinos includes several provisions reflecting a recognition that new gambling opportunities may increase problem gambling. Traditional Lottery games remain the largest contributor to overall gaming revenues and, for many New Yorkers, are the most readily accessible gambling opportunity. Yet the State’s standards with regard to problem gambling appear to be different for commercial casinos and VLT facilities than for the State Lottery and horse racing. For example, in contrast to the casinos, the Lottery is not required to develop a plan and report on efforts to prevent and address compulsive gambling.
  - **Requiring OASAS and the Gaming Commission to publicly report annually on spending for programs addressing problem gambling, and on marketing for all State-operated or -regulated gaming activities.** Such information is essential for policy makers and the public to analyze the overall impacts of the State’s gaming-related policies and programs, and to consider any changes as needed.

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<sup>36</sup> Massachusetts legislation enacted in 2011 requires the Massachusetts Gaming Commission to establish “an annual research agenda” to understand the social and economic effects of casino gambling in the state. Additional information is available at <https://massgaming.com/about/research-agenda/>.



## Contact

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