

**Testimony of Steve Silver, Chair of the Maine Gambling Control Board
In Opposition To LD 1777 - “An Act to Create Economic Opportunity for Wabanaki
Nations Through Internet Gaming”**

January 3, 2024

Senator Hickman, Representative Supica, and Members of the Committee on Veterans and Legal Affairs, my name is Steve Silver. I am the Chair of the Maine Gambling Control Board and an adjunct professor of gaming law at the University of Maine School of Law. I am writing to voice my opposition to LD 1777 as it is currently written.¹

Maine *absolutely* should consider legalizing Internet Gaming (“iGaming”). It is my personal belief that adult Mainers should be free to enjoy legal, regulated gaming in all its forms. But I also believe that any qualified operator should have the ability to obtain an iGaming license including the Wabanaki Nations. Cutting out Oxford and Hollywood Casinos entirely from offering iGaming is ill-advised in my opinion. Below I will outline the reasons why LD 1777 should not pass as currently written.

1. Copying Sports Wagering Legislation Does Not Work for iGaming

LD 1777 essentially copies LD 585, which, in part, legalized sports wagering in Maine. However, iGaming and sports wagering are dramatically different and require different regulatory, licensing, and taxation schemes.

A. Low Tax Rate Without Differentiation For Game Type Is Wrong

The 10% tax rate on sports wagering makes sense given that sports wagering is a low-margin offering. The national average hold (the percent a sportsbook wins) is currently 8.3%.² That does not leave much room for profit – hence the low tax rate. Moreover, sports wagering is one offering. Casinos offer a variety of games from slots to table games like craps and roulette. The win rates vary substantially depending on the game. This is why Maine implemented a tiered taxation structure for casinos. Hollywood Casino pays a 40% tax on slot revenue and a 16% tax on table games. Oxford Casino pays a 46% tax on slot revenue and a 16% tax on table games. Yet, LD 1777 proposes a flat 10% tax with no differentiation between slots and table games. This is improper and irresponsible to the citizens of Maine who will lose out on the missed tax revenue.

In addition to those taxes, the casinos also must pay employees, property taxes, payroll taxes, and maintain physical buildings. Operating iGaming requires none of those expenses. It is simply turning on an application. There is no local investment required whatsoever. That is why the six current states with legalized iGaming use graduated tax rates ranging from 15% in West Virginia up to 54% for slots in Pennsylvania, with New Jersey, Connecticut, and Pennsylvania (for tables games and poker) applying rates of 16-18% and a graduated rate of 20-28% in Michigan

¹ The views expressed herein are my own and not the Board’s.

² <https://www.legalsportsreport.com/sports-betting/revenue/>

depending on the game and revenue thresholds.³ Using a 10% flat tax copied from sports wagering is a handout to iGaming operators at the expense of Maine citizens.

B. The Gambling Control Board – not the Unit Regulates Casino Games

Also, LD 1777 puts all regulatory authority for iGaming in the hands of the Director of the Gambling Control Unit with no oversight by the Gambling Control Board. Yet, Maine law (Title 8, Chapter 31 § 1003) vests the power of regulating, supervising, and controlling the operation of slot machines and table games to the Gambling Control Board. By doing so, Maine law gives Mainers a more representative governing body since Board members must be appointed by the Governor and confirmed by the Senate with staggered terms. LD 1777 short circuits that democratic Board and divests the Board of authority over slots and table games (whether in physical or online form) in violation of Maine law.

C. LD177’s Definition of “Internet gaming” Effectively Ends Consumer Sweepstakes and Business Promotions in Maine

Another glaring problem with LD 1777 is that it uses an overly broad definition of “Internet gaming” that will harm almost every business that operates in Maine. LD 1777 defines “Internet gaming” as “a game of skill or chance offered through the Internet in which an individual wagers money or something of monetary value for the opportunity to win money or something of monetary value.” LD 1777 further provides that only a federally recognized Indian nation, tribe or band is eligible to operate “Internet gaming.” But LD 1777’s definition of “Internet gaming” is so broad that it will prevent any business from conducting any sweepstakes or contest in Maine.

For example, online trivia contests would be effectively banned in Maine unless the operator was a Tribal entity. The traditional Coke bottle sweepstakes where you buy a bottle of soda and enter the code into a website for a chance at a prize would similarly be limited to only Tribal entities. The Maine Lottery also offers second chance games where a consumer enters in a code from a lottery ticket online to enter various prize drawings. I cannot imagine this Committee intends to ban all these activities. I recommend an amendment limiting “Internet gaming” to specific casino-style games. Otherwise, no business – nor the Maine’s own state lottery – can offer a skill game or game of chance with an Internet component without partnering with a Tribal entity.

2. LD 1777 Will Cut Revenue for K-12 Education in Maine, Agricultural Fairs, Veterans’ Assistance, and Many Other Worthy Causes

Oxford and Hollywood Casinos are major employers and taxpayers in Maine. In 2022, the casinos generated \$68.2 million in tax revenue through slots and table games.⁴ The casinos also generated about \$2 million in sales, hotel, beverage, and meal taxes. Yet, as it is currently written, LD 1777 will lead to dramatic cuts in that tax revenue with no plan for replacing the revenue lost by the recipients of that revenue. For example, earlier this year, the Maryland Lottery and Gaming Control Agency commissioned a study to determine the impact legalizing iGaming would have on

³ <https://igaming.lnw.com/wp-content/uploads/2022/08/US-iGaming-State-Tax-Revenue-Potential-v3.pdf>

⁴ The casinos are on track to reach similar numbers in 2023.

land-based casinos. The study concluded that the “cannibalization rate” was approximately 10% of land-based casino gaming revenue.⁵

Although iGaming revenue would certainly make up for that cannibalization in the global sense, LD 1777 does not provide any way for the specific recipients of that lost revenue to recoup those losses. LD 1777 provides for taxes to go to the General Fund, Gambling Addiction Prevention and Treatment Fund, E-9-1-1 Fund, Opioid Use Disorder Prevention and Treatment Fund, and Emergency Housing Relief Fund. Those five Funds are certainly worthy recipients.

However, in Maine, there are **19 different recipients** of casino taxes **including the Penobscot and Passamaquoddy tribes**.⁶ LD 1777 has no plan for a 10% loss (or more) of revenue to those recipients if Oxford and Hollywood casinos are excluded from offering iGaming. For 2022, here is how much each recipient received from Oxford and Hollywood casinos combined and the predicted shortfall if iGaming is legalized in a tribal monopoly format:

Recipient	2022 Total	Projected Loss with Tribal Monopoly iGaming Plan
General Fund	\$5,518,638.56	N/A due to LD 1777’s proposed cascade
Gambling Control Board Expenses	\$5,890,270.15	- \$589,027
Department of Education for Grades K-12	\$24,262,914.96	- \$2,426,291
Maine Maritime Academy	\$133,893.11	- \$13,389
Maine Community College System	\$3,141,324.53	- \$314,132
University of Maine System Scholarship Fund	\$4,350,338.76	- \$435,034
Fund to Encourage Racing at Maine’s Commercial Tracks	\$1,776,904.11	- \$1,446,631
Harness Racing Purses	\$5,341,293.11	- \$534,129
Sire Stakes Fund	\$2,231,710.92	- \$223,171
Agricultural Fair Support Fund	\$2,231,710.92	- \$223,171
Fund to Stabilize Off Track Betting	\$444,226.06	- \$44,422
Penobscot and Passamaquoddy Tribes	\$3,596,131.41	N/A due to proposed iGaming monopoly
Town of Oxford	\$2,155,484.43	- \$215,548
City of Bangor	\$590,857.40	- \$59,086
Oxford County	\$1,077,742.22	- \$107,774
Healthy Maine Fund	\$4,442,260.30	- \$444,226
Dairy Improvement fund	\$449,516.40	- \$44,951
Milk Pool	\$449,516.40	- \$44,951
Veterans’ Assistance	\$1,446,631.34	- \$144,663

⁵ <https://www.playmaryland.com/igaming-could-bring-900-million-annually/>

⁶ <https://www.maine.gov/dps/sites/maine.gov.dps/files/inline-files/annual-report-2022.pdf>

Maine is a small state with only so many gaming dollars to spread out. If the casinos see a 10% (or greater) cannibalization rate, what is the plan to replace the millions of dollars lost to the Department of Education for grades K-12? Where does the Maine Community College System find another \$314,000 annually? Do Oxford and Bangor now have to raise property taxes to make up for the six-figure shortfall? LD 1777 needs to include Oxford and Hollywood Casinos to maintain funding to these recipients or at least adopt a similar tax revenue cascade for iGaming.

At a minimum, if LD 1777 moves forward as proposed, Oxford Casino should no longer have to pay 4% of slot revenue to the Penobscot and Passamaquoddy Tribes if the Tribes obtain a monopoly for iGaming.

3. LD 1777 Will Lead To Job Losses

Legalizing iGaming does not create any new jobs in Maine. Like we saw from the legalization of sports wagering, the two mobile operators – DraftKings and Caesars – partnered with tribes and merely turned on an existing application. That is the same that will happen with iGaming. There is no local job creation and no local infrastructure development. That is fine if everyone is on the same playing field – casinos, Tribes, OTBs, etc.

However, Oxford and Hollywood Casinos employ nearly 1,000 Mainers. Legalizing iGaming *without* permitting Oxford and Hollywood to participate will lead to job cuts. I am willing to bet on it. A cannibalization rate of just 2% is a total combined revenue drop of \$3.2 million. A 10% drop as predicted by the state of Maryland would lead to a nearly \$16 million drop in annual revenue. Such a drop in revenue will lead to drastic cuts in the number of employees each facility can sustain. If LD 1777 moves forward with a Tribal monopoly plan, it should include a relief fund for the hundreds of employees likely to be affected by the drop in land-based casino revenue.

4. LD 1777 Will Increase Gambling Addiction

Although I am personally in favor of gaming expansion in Maine, we must all acknowledge that gambling can be addictive. By literally putting a casino in everyone's pocket, we can expect an increase in problem gambling issues in Maine.

In 2022 the Gambling Control Board recorded 133 Mainers who self-excluded from casino gambling – up from 92 in 2021, which is a 45% increase. That was also before the legalization of sports wagering.

In Connecticut – a state with both legalized sports wagering and iGaming – calls to the Connecticut Council on Problem Gambling's hotline *doubled* between 2019 and 2023.⁷ This problem skews younger due to the mobile nature of the gambling activity. Anytime there is an expansion of gambling, it is incumbent on legislators and regulators to ensure that the proper resources are available to deal with the foreseeable increase in problem gambling. To that end, allocating only 1% of adjusted gross Internet gaming receipts to the Gambling Addiction Prevention and Treatment Fund is not sufficient. LD 1777 proposed double that amount, 2% to the Opioid Use Disorder Prevention and Treatment Fund. Although a worthy endeavor to fund, why

⁷ <https://time.com/6342504/gambling-addiction-sports-betting-college-students/>

would we put double the amount into Opioid treatment without more toward treating the actual problem caused by iGaming legalization – increased gambling addiction?

Overall, LD 1777 needs more modification before moving forward. I urge you to adopt an open, free-market approach that includes the Tribes *and* the casinos while also reconsidering the proposed taxation and regulatory model.