



REVISED – NOTICE OF MEETING AND AGENDA

Pursuant to the Massachusetts Open Meeting Law (G.L. c. 30A, §§ 18-25), St. 2022, c. 107, and St. 2023, c. 2, notice is hereby given of a public meeting of the **Massachusetts Gaming Commission**. The meeting will take place:

Thursday | November 30, 2023 | 10:00 a.m.
VIA REMOTE ACCESS: 1-646-741-5292
MEETING ID/ PARTICIPANT CODE: 111 686 8202
All meetings are streamed live at www.massgaming.com.

Please note that the Commission will conduct this public meeting remotely utilizing collaboration technology. Use of this technology is intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public. If there is any technical problem with the Commission's remote connection, an alternative conference line will be noticed immediately on www.massgaming.com.

All documents and presentations related to this agenda will be available for your review on the morning of the meeting date by visiting our website and clicking on the News header, under the Meeting Archives drop-down.

PUBLIC MEETING - #490

1. Call to Order – Cathy Judd-Stein, Chair
2. Minute Minutes
 - a. March 8, 2023 **VOTE**
 - b. March 9, 2023 **VOTE**
3. Administrative Update – Todd Grossman, Interim Executive Director & General Counsel
 - a. Update regarding the Mashpee Wampanoag Litigation – Carrie Torrisi, Deputy General Counsel, Caitlin Monahan, Deputy General Counsel
 - b. Update regarding DOR regulation on sports betting – Derek Lennon, Chief Financial and Administrative Officer
4. Research & Responsible Gaming – Mark Vander Linden, Director of Research & Responsible Gaming, Dr. Bonnie Andrews, Research Manager
 - a. Presentation of Report: Encore Boston Harbor, First Three and a Half Years of Operation: Economic Impacts Report – Dr. Rachel Volberg, Principal Investigator, Social and Economic Impacts of Gambling in Massachusetts (SEIGMA) study, Dr. Mark Melnik, Director, Economic and Public Policy



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Research, UMass Donahue Institute, Thomas Peake, Senior Research Analyst, Economic and Public Policy Research, UMass Donahue Institute

5. Racing – Dr. Alexandra Lightbown, Director of Racing and Chief Veterinarian
 - a. Amendment of 2023 Plainridge Racing Meeting License Regarding Number of Race Days **VOTE**

6. Finance – Derek Lennon, Chief Financial and Administrative Officer
 - a. Annual Raises **VOTE**

7. Sports Wagering Division – Bruce Band, Director of Sports Wagering; Andrew Steffen, Interim Sports Wagering Operations Manager
 - a. Fan Duel: Request for House Rules Amendments – Andrew Winchell, Regulatory Affairs Director **VOTE**
 - b. DraftKings: Request to Void Wagers – Jacob List, Senior Director of Regulatory Operations **VOTE**

8. Community Affairs Division – Joe Delaney, Chief of Community Affairs
 - a. Review of potential re-allocation of unexpended funds regarding Springfield’s 2020 Public Safety Grant **VOTE**

9. Licensing Division – Karalyn O’Brien, Licensing Division Chief
 - a. Approval of Form for Request for Renewal of a Temporary License to Conduct Sports Wagering **VOTE**

10. Legal and IEB – Todd Grossman, Interim Executive Director & General Counsel, Caitlin Monahan, Deputy General Counsel, Heather Hall, Interim IEB Director & Chief Enforcement Counsel, Bruce Band, Director of Sports Wagering
 - a. Discussion and Possible Adoption of Policy and Procedures for Administration of Certain Non-Compliance Matters Arising Under G.L. c. 23N and 205 CMR 232. **VOTE**

11. IEB – Heather Hall, Interim IEB Director & Chief Enforcement Counsel
 - a. IEB Report Regarding EBH Floor Plan Expansion – Burke Cain, Chief, Gaming Agent Division Chief, Luis Lozano, Casino Regulatory Manager, Gaming Agent Division
 - (i) Executive Session
The Commission anticipates that it will meet in executive session in accordance with G.L. c. 30A, § 21(a)(7) and G. L. c. 4, § 7(26)(n) (certain records for which the public disclosure is likely to jeopardize public safety or cyber security) and G.L. c.30A, §21(a)(4) to discuss



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information related to casino surveillance staffing, the disclosure of which is likely to jeopardize public safety or cyber security. The public session of the Commission meeting will not reconvene at the conclusion of the executive session. **VOTE**

b. Security at MGM Springfield **VOTE**

(ii) Executive Session

The Commission anticipates that it will meet in executive session in accordance with G.L. c.30A, §21(a)(4), to discuss the use and deployment of security personnel or devices, or strategies with respect thereto at MGM Springfield, specifically with regard to firearms. The public session of the Commission meeting will not reconvene at the conclusion of the executive session. **VOTE**

12. MGC Office Lease Update – Todd Grossman, Interim Executive Director & General Counsel, Derek Lennon, Chief Financial & Administrative Officer, Maryann Dooley, Executive Assistant to the Executive Director & Office Operations Manager **VOTE**

a. Executive Session

The Commission anticipates that it will meet in executive session in accordance with G.L. c.30A, §21(a)(6) to consider the lease of real property, specifically the Commission’s office space at 101 Federal Street in Boston, and associated considerations, as discussion at an open meeting may have a detrimental effect on the negotiating position of the Commission. The public session of the Commission meeting will not reconvene at the conclusion of the executive session. **VOTE**

13. Executive Session Meeting Minutes – Commissioners Eileen O’Brien, Bradford Hill

a. December 16, 2021

b. December 20, 2021

c. December 21, 2021

d. December 9, 2021 **VOTE**

(i) Executive Session

The Commission anticipates that it will meet in an executive session to review minutes from previous executive sessions, as their discussion at an open meeting may frustrate the intended purpose for which the executive sessions were convened, in accordance with G.L. c. 30A, §21(a)(7) to evaluate a matter relative to the Nondisclosure Agreement between the Commission and Wynn MA, LLC pursuant to G.L. c. 23K, §21(a)(7) and 205 CMR 139.02; and G.L. c. 30A, § 21(a)(3) to discuss strategy with respect to collective bargaining and litigation.



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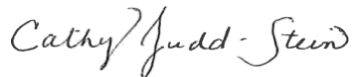
The public session of the Commission meeting will not reconvene at the conclusion of the executive session. **VOTE**

14. Commissioner Updates

15. Other Business - Reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that this Notice was posted as “Massachusetts Gaming Commission Meeting” at www.massgaming.com and emailed to regs@sec.state.ma.us. Posted to Website: November 28, 2023 | 10:00 a.m. EST. | **Amended:** **November 28, 2023 | 5:15 p.m. EST**

November 28, 2023



Cathy Judd-Stein, Chair

If there are any questions pertaining to accessibility and/or further assistance is needed, please email Gertrude.Lartey@massgaming.gov.



Massachusetts Gaming Commission

United States Court of Appeals For the First Circuit

No. 23-1197

DAVID LITTLEFIELD; MICHELLE LITTLEFIELD; TRACY ACORD; DEBORAH CANARY; FRANCIS CANARY, JR.; VERONICA CASEY; PATRICIA COLBERT; VIVIAN COURCY; WILL COURCY; DONNA DEFARIA; ANTONIO DEFARIA; KIM DORSEY; KELLY DORSEY; FRANCIS LAGACE; JILL LAGACE; DAVID LEWRY; KATHLEEN LEWRY; MICHELE LEWRY; RICHARD LEWRY; ROBERT LINCOLN; CHRISTINA ALMEIDA; CAROL MURPHY; DOROTHY PEIRCE; DAVID PURDY,

Plaintiffs, Appellants,

v.

U.S. DEPARTMENT OF THE INTERIOR; DEBRA HAALAND, in her official capacity as Secretary of the Interior; BUREAU OF INDIAN AFFAIRS; BRYAN NEWLAND, in his official capacity as Assistant Secretary for Indian Affairs; MASHPEE WAMPANOAG INDIAN TRIBE,

Defendants, Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

[Hon. Angel Kelley, U.S. District Judge]

Before

Montecalvo, Lynch, and Rikelman,
Circuit Judges.

David H. Tennant, with whom Kathy L. Eldredge, Law Office of David Tennant PLLC, David J. Apfel, and Goodwin Procter LLP were on brief, for appellants.

Christopher Anderson, Attorney, Department of Justice, Environment and Natural Resources Division, with whom Todd Kim, Assistant Attorney General, and Mary Gabrielle Sprague, Attorney,

were on brief, for federal appellees.

Tami Lyn Azorsky, with whom V. Heather Sibbison, Suzanne R. Schaeffer, Samuel F. Daughety, Catelin Aiwohi, and Dentons US LLP were on brief, for appellee Mashpee Wampanoag Indian Tribe.

October 31, 2023

LYNCH, Circuit Judge. Appellants David and Michelle Littlefield and twenty-two others assert the district court erred in rejecting their challenge to a decision by the Department of the Interior's Bureau of Indian Affairs ("BIA"), made in 2015 and reaffirmed in 2021, to take two parcels of land in Massachusetts into trust for the Mashpee Wampanoag Indian Tribe ("the Tribe"). The Secretary of the Interior has the power to take land into trust pursuant to the Indian Reorganization Act ("IRA") "for the purpose of providing land for Indians." 25 U.S.C. § 5108. Appellants have abandoned any Chevron challenge to the Secretary's legal interpretation of section 19 of that statute, 25 U.S.C. § 5129, defining the term "Indians." Accordingly, we determine only whether the BIA's application of its legal interpretation to the facts was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" under the Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2)(A). We uphold the BIA's determination and affirm on somewhat different reasoning than the district court.

I.

A. Prior relevant legal proceedings

The Secretary of the Interior may, under the IRA, "acquire land and hold it in trust 'for the purpose of providing land for Indians.'" Carcieri v. Salazar, 555 U.S. 379, 381-82

(2009) (quoting 25 U.S.C. § 5108, then codified at 25 U.S.C. § 465). Section 19 of the statute defines the term "Indian" as:

[1] all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and [2] all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include [3] all other persons of one-half or more Indian blood.

25 U.S.C. § 5129 (numbers in brackets added).

In Carcieri, the Supreme Court, interpreting the word "now" in the first definitional phrase in this section, held that it "unambiguously refers to those tribes that were under the federal jurisdiction of the United States when the IRA was enacted in 1934." Carcieri, 555 U.S. at 395. As such, the Secretary must first have determined, before acquiring land for a tribe pursuant to the first definition of "Indian," that the tribe was under federal jurisdiction in 1934. Id. The Carcieri decision did not address the meaning of the phrase "under Federal jurisdiction."

In Littlefield v. Mashpee Wampanoag Indian Tribe, a decision of this Court concerning the Mashpee Tribe, we held that the clause "under Federal jurisdiction" contained in the first definition of "Indian" also applies to the second definition. 951 F.3d 30, 40-41 (1st Cir. 2020). The term "such members" in that definition refers to the entire antecedent clause "members of any recognized Indian tribe now under Federal jurisdiction." See id.

In 2014, the Solicitor of the Department of the Interior issued a legal interpretation of the phrase "under Federal jurisdiction" in a memorandum ("the M-Opinion").¹ U.S. Dep't of Interior, M-37029, The Meaning of "Under Federal Jurisdiction" for Purposes of the Indian Reorganization Act (Mar. 12, 2014). The M-Opinion also addressed whether a tribe must have been "recognized" as of 1934. M-Opinion at 23-24; see 25 U.S.C. § 5129 (defining as "Indian," among others, "all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction" (emphasis added)). The M-Opinion, agreeing with Justice Breyer's concurrence in Carciari, found that "the IRA does not require that the agency determine whether a tribe was a 'recognized Indian tribe' in 1934; a tribe need only be 'recognized' at the time the statute is applied." M-Opinion at 25.

The D.C. Circuit and the Ninth Circuit have upheld against Chevron challenges the M-Opinion's interpretation of the phrase "under Federal jurisdiction," as well as its conclusion that recognition need only be shown as of the time that the Secretary invokes the statute. Confederated Tribes of Grand Ronde

¹ The M-Opinion is binding on the Department and its officials unless withdrawn. Mashpee Wampanoag Tribe v. Bernhardt, 466 F. Supp. 3d 199, 208 (D.D.C. 2020). Interior withdrew the M-Opinion in March 2020, id. at 217, but reinstated it in April 2021. The agency applied the M-Opinion's standards in the decision that is at issue in this case.

Cmty. of Or. v. Jewell, 830 F.3d 552, 561, 564-65 (D.C. Cir. 2016); County of Amador v. U.S. Dep't of the Interior, 872 F.3d 1012, 1024, 1027 (9th Cir. 2017).

B. Prior relevant determinations

In 2007, the BIA granted formal recognition to the Tribe.² Final Determination for Federal Acknowledgment of the Mashpee Wampanoag Indian Tribal Council Inc. of Massachusetts, 72 Fed. Reg. 8007-01 (Feb. 22, 2007). Shortly after the recognition decision, the Tribe requested that Interior take into trust for its use two parcels of land in Massachusetts, one in Mashpee and the other in Taunton.

In 2015, Interior issued a Record of Decision ("2015 ROD") approving the Tribe's request. The BIA found that the Tribe was eligible to have land taken into trust because it qualified under the second definition of "Indian" in the IRA. See 25 U.S.C. § 5129 ("The term 'Indian' as used in this Act shall include . . . [2] all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian

² The BIA's 2015 Record of Decision provides a summary of the Tribe's history, in a section that is incorporated in the 2021 Record of Decision that is at issue in this case. Bureau of Indian Affairs, Record of Decision: Trust Acquisition and Reservation Proclamation for 151 Acres in the City of Taunton, Massachusetts, and 170 Acres in the Town of Mashpee, Massachusetts, for the Mashpee Wampanoag Tribe, at 101-17 (Sept. 18, 2015), https://www.bia.gov/sites/bia.gov/files/assets/public/oig/pdf/id_c1-031724.pdf.

reservation. . . ."). The agency did not consider whether the Tribe met the requirement of being "under Federal jurisdiction" in 1934.

In February 2016, a group of Taunton residents (the appellants in this case plus another individual), who opposed the Tribe's plan to develop the land commercially, filed suit against Interior in the U.S. District Court for the District of Massachusetts, challenging the 2015 ROD. Littlefield v. U.S. Dep't of Interior, 199 F. Supp. 3d 391, 393 (D. Mass. 2016), aff'd sub nom. Littlefield v. Mashpee Wampanoag Indian Tribe, 951 F.3d 30 (1st Cir. 2020). The district court agreed with the plaintiffs that the second definition of "Indian" in the IRA unambiguously incorporates the "now under Federal jurisdiction" requirement from the first definition. Littlefield, 951 F.3d at 34. Because BIA had found the Tribe to be eligible under the second definition without considering whether it was under federal jurisdiction in 1934, the court vacated the agency's decision. Id. In a subsequent order, the court clarified that Interior was permitted to consider, on remand, whether the Tribe met the "now under Federal jurisdiction" requirement. Id. In February 2020, this Court affirmed the district court's ruling. Id. at 41.

Meanwhile, in 2018, Interior issued a new Record of Decision ("2018 ROD") finding that the Tribe was not "under Federal jurisdiction" in 1934, and so did not qualify to have lands taken

into trust. Id. at 34. The Tribe then sued Interior in the U.S. District Court for the District of Columbia ("D.D.C."), arguing that the agency had misapplied the standards in the M-Opinion. Mashpee Wampanoag Tribe v. Bernhardt, 466 F. Supp. 3d 199, 217 (D.D.C. 2020). The court agreed. Id. at 217-18. In a decision issued in June 2020, it found that the "Secretary [had] misapplied the M-Opinion by evaluating each piece of evidence in isolation," id., whereas the M-Opinion had stated that "a variety of actions when viewed in concert may demonstrate that a tribe was under federal jurisdiction," id. (quoting M-Opinion at 19). The court also found that the Secretary's treatment of several pieces of evidence was inconsistent with the M-Opinion's standards, e.g., id. at 220, and with the agency's treatment of similar types of evidence in prior decisions, and that the agency had not offered a reasoned explanation for those inconsistencies, e.g., id. at 227. As such, the court vacated the 2018 ROD and remanded to Interior "for a thorough reconsideration and re-evaluation of the evidence . . . consistent with this Opinion, the 2014 M-Opinion, . . . and the Department's prior decisions."³ Id. at 236.

Interior revisited the issue in response to the vacate and remand order and, in 2021, issued a new Record of Decision.

³ Interior filed a notice of appeal but later moved to dismiss the appeal. See Mashpee Wampanoag Tribe v. Bernhardt, No. 20-5237, 2021 WL 1049822, at *1 (D.C. Cir. Feb. 19, 2021).

Bureau of Indian Affairs, Mashpee Wampanoag Tribe, Trust Acquisition Decision Letter (Dec. 22, 2021) [hereinafter "2021 ROD"]. The agency reevaluated the evidence in light of the M-Opinion's standards and the D.D.C.'s instructions on remand, concluding that the Tribe met the "under Federal jurisdiction" requirement. 2021 ROD at 25. Interior also found that the Tribe could conduct gaming activities on the land taken into trust because the land qualified as the Tribe's "initial reservation" under the Indian Gaming Regulatory Act ("IGRA"). 25 U.S.C. § 2719(b)(1)(B)(ii); 2021 ROD at 31-54.

C. Procedural history of the litigation that gives rise to this appeal

The appellants in this action then filed suit in the U.S. District Court for the District of Massachusetts, challenging the 2021 ROD as "arbitrary, capricious, . . . or otherwise not in accordance with law" under the APA. 5 U.S.C. § 706(2)(A). They argued that the Tribe did not, as of 1934, qualify as a "tribe" within the meaning of the IRA, and that it was not "under Federal jurisdiction." They also claimed that the parcel of land located in Taunton was not eligible for gaming activities under the IGRA.⁴

After considering the parties' motions, the district court granted summary judgment in favor of Interior and the Tribe, finding that the 2021 ROD was not arbitrary or capricious.

⁴ The appellants have abandoned this challenge.

Littlefield v. U.S. Dep't of the Interior, No. 22-CV-10273, 2023 WL 1878470, at *15 (D. Mass. Feb. 10, 2023). The plaintiffs appealed.

II.

We review de novo the district court's decision on the parties' cross-motions for summary judgment. Bos. Redevelopment Auth. v. Nat'l Park Serv., 838 F.3d 42, 47 (1st Cir. 2016). Under the APA, we "hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2) (A). "Because the APA standard affords great deference to agency decisionmaking and because the Secretary's action is presumed valid, judicial review, even at the summary judgment stage, is narrow." Visiting Nurse Ass'n Gregoria Auffant, Inc. v. Thompson, 447 F.3d 68, 72 (1st Cir. 2006) (quoting Associated Fisheries of Maine, Inc. v. Daley, 127 F.3d 104, 109 (1st Cir. 1997)).

We find agency action to be "arbitrary and capricious when the agency 'relie[s] on improper factors, fail[s] to consider pertinent aspects of the problem, offer[s] a rationale contradicting the evidence before it, or reache[s] a conclusion so implausible that it cannot be attributed to a difference of opinion or the application of agency expertise.'" Bos. Redevelopment Auth., 838 F.3d at 47 (quoting Daley, 127 F.3d at 109). Although

the standard of review is highly deferential, we must conduct a searching examination to ensure that the agency's decision is reasonably supported by the administrative record. See, e.g., id. at 48-49. Still, we "uphold an agency determination if it is 'supported by any rational view of the record.'" Marasco & Nesselbush, LLP v. Collins, 6 F.4th 150, 172 (1st Cir. 2021) (quoting Atieh v. Riordan, 797 F.3d 135, 138 (1st Cir. 2015)).

III.

The appellants' principal argument on appeal is that the 2021 ROD is "not in accordance with law," 5 U.S.C. § 706(2)(A), because the Supreme Court's decision in Carcieri precludes a finding that the Mashpee Tribe was "under Federal jurisdiction" in 1934. The appellants also argue that the Secretary's failure to consider this argument makes the 2021 ROD arbitrary or capricious under the APA.

The Carcieri case did not involve the Mashpee Tribe, but, rather, the Narragansett Tribe, which is another tribe that has historically resided in southern New England. See Carcieri, 555 U.S. at 383. The Court held in Carcieri that the Narragansett Tribe was not under federal jurisdiction in 1934. Id. at 395-96. The appellants argue that the "Narragansetts' historical record is indistinguishable from the Mashpees['] from the 17th century on," and so the Secretary cannot conclude that the Mashpee Tribe was

"under Federal jurisdiction" in 1934 "except by conflicting with Carcieri."

This argument rests on many faulty premises, starting with the appellants' misreading of Carcieri. The Court there held:

None of the parties or amici, including the Narragansett Tribe itself, has argued that the Tribe was under federal jurisdiction in 1934. . . . Moreover, the petition for writ of certiorari filed in this case specifically represented that "[i]n 1934, the Narragansett Indian Tribe . . . was neither federally recognized nor under the jurisdiction of the federal government." Respondents' brief in opposition declined to contest this assertion. Under our rules, that alone is reason to accept this as fact for purposes of our decision in this case. We therefore reverse the judgment of the Court of Appeals.

Carcieri, 555 U.S. at 395-96 (internal citations omitted and alterations and second omission in original). The Court "accept[ed] . . . as fact" that the Narragansett Tribe was not under federal jurisdiction in 1934 because Interior had failed to contest petitioners' assertion to that effect. Id. Although the Court did suggest that the extremely limited evidence in the record before it was not indicative of federal jurisdiction in 1934, see id. at 395, its conclusion rested on the parties' concessions rather than on an analysis of the Narragansett Tribe's history, id. at 395-96. Indeed, given the Secretary's pre-Carcieri interpretation of the statute, which did not consider a tribe's jurisdictional status in 1934, "it is not surprising that neither

he nor the Tribe raised a claim that the Tribe was under federal jurisdiction in 1934: they simply failed to address an issue that no party understood to be present." Carcieri, 555 U.S. at 401 (Souter, J., concurring).

The Carcieri holding with respect to the Narragansett Tribe does not compel the Department as a matter of law, then, to find that the Mashpee Tribe was also not "under Federal jurisdiction" in 1934. The appellants point to some surface similarities between the Mashpees and the Narragansetts, such as the fact that they both had contact with 17th-century colonists and were both subject to "assimilation/citizenship/detribalization laws that ma[de] the[ir] tribal members citizens of the[ir respective] state[s]." But those alleged similarities do not require Interior to conclude that the Narragansetts' history is indistinguishable from the Mashpees' in all relevant respects, and much less that the two tribes' administrative records are identical. As explained, Interior had no reason to compile evidence that the Narragansetts were under federal jurisdiction in 1934 because its pre-Carcieri interpretation of the statute obviated that requirement. See M-Opinion at 3 n.15 ("The issue of whether the Narragansett Tribe was 'under federal jurisdiction in 1934' was not considered by the BIA in its decision [that led to Carcieri], nor was evidence concerning that issue included in the administrative record before the courts.").

For the same reasons, we reject the argument that the Secretary failed, arbitrarily, to compare the Mashpee Tribe's history to the Narragansett's.⁵

IV.

The appellants also argue that the 2021 ROD is "not in accordance with law" under the APA because, at the time the IRA was enacted, the Mashpee Tribe was not a "tribe" within the meaning of the first definition of "Indian" in the IRA. That definition comprises "all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction." 25 U.S.C. § 5129. The appellants claim that, because a "tribe" must have been "under Federal jurisdiction" in 1934, it must, as a matter of logic, have been in existence at that time.⁶ We do not express a view on this question of statutory interpretation because appellants have not shown, as a matter of law, that the Mashpee Tribe did not qualify as a "tribe" in 1934.

⁵ Because we dispose of the appellants' argument on the merits, we do not consider whether the D.D.C.'s rejection of the same argument in prior litigation between the parties, see Bernhardt, 466 F. Supp. 3d at 215 n.9, would preclude the appellants from raising it again here.

⁶ The appellants do not contend that the Tribe must have been "recognized" as of 1934. To the extent that they advance this argument in their reply brief, it is waived. United States v. Vanvliet, 542 F.3d 259, 265 n.3 (1st Cir. 2008) ("Arguments raised for the first time in a reply brief are waived.").

The federal government formally acknowledged the Mashpee Tribe as an Indian tribe in 2007. Final Determination for Federal Acknowledgement of the Mashpee Wampanoag Indian Tribal Council, Inc. of Massachusetts, 72 Fed. Reg. 8007-01 (Feb. 22, 2007). As part of that process, Interior evaluated the Tribe's historical record and determined, among other things, that the Tribe has been "identified . . . as an American Indian entity on a substantially continuous basis since 1900," id. at 8007 (citing 25 C.F.R. § 83.7(a) (2007)), that "a predominant portion" of the Tribe "comprise[d] a distinct community and has existed as a community from historical times until the present," id. (citing 25 C.F.R. § 83.7(b) (2007)), and that the Tribe "has maintained political influence or authority over its members as an autonomous entity from historical times until the present," id. at 8008 (citing 25 C.F.R. § 83.7(c) (2007)). Given those findings, a determination that the Mashpee existed as a tribe in 1934 is supported by a rational view of the record. See Collins, 6 F.4th at 172 ("[C]ourts should uphold an agency determination if it is 'supported by any rational view of the record.'" (quoting Riordan, 797 F.3d at 138)).

The appellants argue that the Secretary was in error because the modern criteria for federal acknowledgment of a tribe are irrelevant, as they postdate passage of the IRA, and the term "tribe" in the statute unambiguously refers to the definition

proposed by the Supreme Court in Montoya v. United States, 180 U.S. 261 (1901). Interpreting a statute not at issue here, the Court noted in that case that "[b]y a 'tribe' we understand a body of Indians of the same or a similar race, united in a community under one leadership or government, and inhabiting a particular though sometimes ill-defined territory." Id. at 266. The Court referenced that definition in a later case, finding that a statute limiting alienation of land "from any Indian nation or tribe of Indians" was "more reasonabl[y] view[ed] . . . in the sense" given in Montoya, such that Pueblo Indians were "easily include[d]." United States v. Candelaria, 271 U.S. 432, 441-42 (1926).

The appellants argue that "Congress in 1934 is presumed to have incorporated that common law definition into the IRA." They claim, then, that the Secretary's failure to test the Mashpee's status as a "tribe" under the Montoya definition was arbitrary or capricious. We disagree, because the IRA did not unambiguously incorporate that definition and so the Secretary was not required to consider it.

This Court has noted that "when Congress uses a common law term and does not otherwise define it, it is presumed that Congress intended to adopt the common law definition." United States v. Gray, 780 F.3d 458, 466 (1st Cir. 2015) (quoting United States v. Patterson, 882 F.2d 595, 603 (1st Cir. 1989)). But, contrary to the appellants' assertion, the term "tribe" is neither

a "common law term" of art nor is it "otherwise [un]define[d]" in the statute. See id. at 466.

In the IRA, Congress defined both "Indian" and "tribe" in particular ways, without mentioning the Montoya definition. See 25 U.S.C. § 5129. And, although the Montoya Court had provided a definition of "tribe" in the context of interpreting a different statute, the term "tribe" is not a "term[] of art in which [is] accumulated the legal tradition and meaning of centuries of practice," such that Congress, in "borrow[ing]" the term, should be presumed to "know[] and adopt[] the cluster of ideas that were attached . . . and the meaning its use will convey to the judicial mind." See Morissette v. United States, 342 U.S. 246, 263 (1952); Carter v. United States, 530 U.S. 255, 264 (2000) ("Th[e] limited scope of the canon on imputing common-law meaning has long been understood."). The cases that appellants cite to are inapposite: the term "tribe" is not, like the term "prosecution," a "familiar legal expression[]" used in a "familiar legal sense," Bradley v. United States, 410 U.S. 605, 609 (1973) (quoting Henry v. United States, 251 U.S. 393, 395 (1920)), nor is it a term, like "bequest," with a "judicially settled meaning," United States v. Merriam, 263 U.S. 179, 187 (1923). The Montoya definition applied to the statute at issue in that case, but it was not incorporated as a matter of law into the IRA.

For that reason, we also reject the appellants' argument that Interior acted arbitrarily in failing to consider a 1978 jury verdict determining that the Tribe did not meet the Montoya definition at particular times.

v.

The appellants' final challenge is that the 2021 ROD is arbitrary or capricious in its treatment of the evidence, for a number of reasons. The appellants concede that Interior's M-Opinion provides the controlling standards,⁷ but they disagree with the Secretary's application of those standards to the Tribe's historical evidence.

We begin by describing the M-Opinion's interpretation of "under Federal jurisdiction." The M-Opinion first determined that the phrase is ambiguous and that the agency's reasonable interpretation of it should be entitled to deference. M-Opinion at 17. The M-Opinion then rejected the view that "Congress' constitutional plenary authority over tribes is enough to fulfill the 'under federal jurisdiction' requirement." Id. at 17-18.

⁷ At the district court, the appellants contested the validity of the M-Opinion, but they have abandoned this argument on appeal. At oral argument, the appellants emphasized that they challenged the M-Opinion and the 2021 ROD to the extent that they "treat BIA school attendance as a 'tag, you're it' form of federal jurisdiction, where the attendance of a single child at such a school becomes the basis" for "under Federal jurisdiction" status that can then be terminated only through express congressional action. We address that argument below.

Instead, after reviewing "the text of the IRA, its remedial purposes, legislative history, and the Department's early practices, as well as the Indian canons of construction, [the M-Opinion] construe[d] the phrase . . . as entailing a two-part inquiry." Id. at 19. The Secretary must first "examine whether there is a sufficient showing in the tribe's history, at or before 1934, that it was under federal jurisdiction." Id. If that is the case, the Secretary then "ascertain[s] whether the tribe's jurisdictional status remained intact in 1934." Id.

With respect to the first part of the inquiry, the focus is on "whether the United States had, in 1934 or at some point . . . prior to 1934, taken an action or series of actions . . . for or on behalf of the tribe or in some instance[s] tribal members . . . establish[ing] or . . . reflect[ing] federal obligations, duties, responsibility for or authority over the tribe." Id. The M-Opinion noted that while in certain cases particular actions "may in and of themselves demonstrate that a tribe was . . . under federal jurisdiction," in other situations "a variety of actions when viewed in concert may demonstrate" that as well. Id.

The M-Opinion listed, as examples of actions demonstrating the exercise of federal jurisdiction, the negotiation or ratification of treaties with the tribe, "the approval of contracts between [the] tribe and non-Indians," "enforcement of the Trade and Intercourse Acts," "education of

Indian students at BIA schools," and "provision of health or social services to [the] tribe." Id. But those examples are not exhaustive and other actions may show that a tribe was under federal jurisdiction. Id.

If the United States' actions towards a tribe, viewed either individually or "in concert," show that the tribe was under federal jurisdiction before 1934, the Secretary proceeds to examine whether that "jurisdictional status remained intact in 1934." Id. Some evidence, such as a tribal vote on "whether to opt out of the IRA in the years following enactment," may be so conclusive that it obviates the need for further inquiry. Id. at 19-20. In other cases, "it will be necessary to explore the universe of actions or evidence that might be relevant" to a determination that the tribe's jurisdictional status was retained. Id. at 19. And "there may be periods where federal jurisdiction exists but is dormant," such that "the absence of any probative evidence that a tribe's jurisdictional status was terminated or lost prior to 1934 would strongly suggest that such status was retained in 1934." Id. at 20. The M-Opinion notes, further, that "evidence of executive officials disavowing legal responsibility in certain instances cannot, in itself, revoke jurisdiction absent express congressional action." Id.

In the 2021 ROD, Interior evaluated four categories of evidence of "federal dealing with the Mashpee Tribe from 1820 to

1934," 2021 ROD at 25: (1) the federal government's consideration in the 1820s of whether to remove the Mashpee Tribe to the western part of the United States and its decision not to do so, id. at 12-16; (2) the attendance of Mashpee children at the federally operated Carlisle Indian School, id. at 16-19; (3) federal surveys and reports discussing the Tribe, id. at 20-23; and (4) the enumeration of the Tribe and its members in federal census records, id. at 23-25. "[V]iew[ing] in concert the totality of the evidence," Interior found that the Tribe was under federal jurisdiction prior to 1934. Id. at 25.

Proceeding to the second step of the M-Opinion's test, Interior examined whether the Tribe's jurisdictional status remained intact as of 1934. See id.; M-Opinion at 19. Interior considered two additional lines of evidence: first, that the federal government "did not seek to implement [the] IRA for the Tribe" in the years following its enactment, 2021 ROD at 26, and second, that some federal officials at the time wrote letters tending to disclaim responsibility over the Tribe, id. at 27-28. Viewing the "greater weight of the probative evidence . . . in its entirety," Interior determined that the federal government had not terminated its jurisdictional relationship with the Tribe. Id. at 29.

The appellants challenge the Secretary's application of the M-Opinion's standards by asserting that, to satisfy the "under

Federal jurisdiction" standard, the Secretary must point to specific actions by the federal government and cannot rely simply on evidence of Congress's and the United States' reserved or unexercised plenary power over Indian affairs. See Haaland v. Brackeen, 599 U.S. 255, 143 (2023) ("In a long line of cases, we have characterized Congress's power to legislate with respect to the Indian tribes as '"plenary and exclusive.'"") (quoting United States v. Lara, 541 U.S. 193, 200 (2004)). We agree with this general proposition, and so does the M-Opinion. See M-Opinion at 17-18. If the Secretary's decision were to rest solely on evidence of Congress's potential, but not actually exercised, power over Indian affairs, that would be in error, as it would thwart Congress's intent in imposing the limitation expressed in the "under Federal jurisdiction" requirement. See id. at 9-12 (reviewing the legislative history and concluding that it was inconclusive as to the meaning of the requirement but that it "indicat[ed] a desire to limit the scope of eligibility for IRA benefits"); see also United States v. Flores, 968 F.2d 1366, 1371 (1st Cir. 1992) ("Courts should not lightly read entire clauses out of statutes, but should, to the exact contrary, attempt to give meaning to each word and phrase.") But, for the reasons elaborated below, we do not view the Secretary as having committed any such error in the 2021 ROD.

We reject at the outset, also, the appellants' general argument that the Secretary was not free in the 2021 ROD to depart from the positions taken in the 2018 ROD. That argument is self-evidently wrong. The 2018 decision was vacated by judicial order and the agency was required to reconsider the evidence in accordance with the remand instructions. Bernhardt, 466 F. Supp. 3d at 236. Interior was then allowed to "change its existing position . . . 'as long as [it] provide[d] a reasoned explanation for the change.'" Housatonic River Initiative v. U.S. EPA, 75 F.4th 248, 270 (1st Cir. 2023) (first alteration in original) (quoting Encino Motorcars, LLC v. Navarro, 579 U.S. 211, 221 (2016)). Interior did so. The 2021 ROD specifically addressed why the Secretary evaluated several pieces of evidence differently than in the 2018 ROD. 2021 ROD at 15, 19, 22-23, 25. Generally, in the 2021 ROD, Interior considered all of the evidence "in concert" to determine whether the Tribe was "under Federal jurisdiction." In the 2018 ROD, by contrast, Interior had evaluated only whether each piece of evidence "in and of itself" could unambiguously establish such jurisdiction. See Bernhardt, 466 F. Supp. 3d at 218. Interior's revised approach in the 2021 ROD was in accordance with the M-Opinion and the D.D.C.'s remand order. See M-Opinion at 19; Bernhardt, 466 F. Supp. 3d at 218 ("On remand, the Secretary must follow the directive of the M-

Opinion and consider the probative evidence 'in concert' with each piece of other probative evidence.").

We proceed to the appellants' other challenges as they pertain to the Secretary's consideration of each line of evidence in the 2021 ROD.

A. Decision not to remove the Tribe

First, the Secretary considered evidence related to the federal government's decision, in the 1820s, not to remove the Mashpee Tribe from their lands in Massachusetts to the western parts of the United States. 2021 ROD at 12. As the 2021 ROD notes, "[d]uring the almost 30-year period between 1815 and 1845, federal Indian policy focused almost entirely on removal of tribes like the Mashpee from the east to relatively less populated areas to the west." Id.

The Secretary evaluated a report from 1822 (the "Morse Report"), commissioned by the federal government, which, after discussing the conditions of the Mashpee and listing it as a "tribe[] within the jurisdiction of the United States," id. at 13 (emphasis removed), recommended against removing the Tribe "due to their industriousness and tenacious ties to their land," id. at 15. The full report was "circulated to Congress, as well as within the Executive, and debated in the House of Representatives." Id. at 14. "President James Monroe and the executive" also "relied"

on the report "when formulating the . . . removal policy and the decision" not to apply it to the Mashpee Tribe. Id.

The Secretary determined that "[t]he Morse Report and federal officials' subsequent reliance on it[] provide probative evidence that the Federal Government actively considered the Mashpee within its jurisdiction and subject to the removal policy." Id. at 15. While the 2018 ROD had assessed this evidence as "show[ing]" only the "potential[]" and not the "actual[]" "exercise of federal Indian authority," the 2021 ROD viewed it as demonstrating that "the United States took specific action" by "consider[ing] and ultimately reject[ing] application of the removal policy to the Mashpee." Id. (emphasis removed).

The appellants argue that, under the M-Opinion's standards, only "affirmative actions" can show federal jurisdiction, and the government's decision not to remove the Tribe was "in-action[] . . . that left the Mashpees exactly where they had always been." We agree with the appellants that mere passivity or neglect towards a tribe would not demonstrate the exercise of federal jurisdiction under the M-Opinion's standards, which require evidence of "actions . . . reflect[ing] federal obligations, duties, responsibility for or authority over the tribe." M-Opinion at 19. But we view the Secretary's determination that the federal government took "specific action" in this case as not arbitrary or capricious. The federal

government commissioned a report that examined, among other things, the condition of the Mashpee Tribe and its susceptibility to removal; it issued a specific recommendation not to remove the Tribe; the recommendation was adopted by the Executive Branch and transmitted to Congress; and the Mashpee were exempted from the removal policy. 2021 ROD at 13-15. The decision not to remove the Tribe was the culmination of a process, or a "series of actions," conducted by the federal government and "reflect[ing] . . . responsibility for or authority over the tribe." M-Opinion at 19; see Bernhardt, 466 F. Supp. 3d at 229-30 (finding "the 2018 ROD's treatment of the Morse Report [to be] arbitrary and capricious" partly because "[t]he making of a recommendation is, in and of itself, an action").⁸

⁸ At oral argument, counsel for the appellants advanced, for the first time, the somewhat different argument that, because the federal government's decision supposedly encompassed all of the Indian tribes in Massachusetts, and not just the Mashpee Tribe, it should be viewed as unexercised plenary power rather than as an action showing federal jurisdiction over the Tribe specifically. Setting aside the factual issue of whether all tribes in Massachusetts were exempted from removal, which appellants have not proven to be the case, the argument is waived, as it was not raised in the briefs. United States v. Leoner-Aguirre, 939 F.3d 310, 319 (1st Cir. 2019). We note, too, that the Morse Report -- as quoted in the 2021 ROD -- recommends against removal of the Mashpee Tribe in particular, and contains a rationale for exempting the Tribe that is specific to it: "They are [of] public utility here as expert whalers and manufacturers of various light articles; have lost their sympathy with their brethren of the forest; are in possession of many privileges, peculiar to a coast, indented by the sea; their local attachments are strong; they are tenacious of their lands." 2021 ROD at 13-14.

As such, the Morse Report constitutes probative evidence of federal jurisdiction over the Tribe, "[w]hen viewed in concert [with] the totality of the evidence." 2021 ROD at 25. Indeed, the Secretary does not rest the finding that the Tribe was "under Federal jurisdiction" solely on this or on any other single factor in and of itself, but, rather, views all of the evidence "in concert" as establishing that conclusion. Id. That approach accords with the M-Opinion's standards, see M-Opinion at 19, and so we hold that the Secretary's treatment of this evidence was not arbitrary or capricious.

B. Attendance at the Carlisle School

The Secretary also considered evidence related to the attendance of Mashpee children at the Carlisle Indian School, a federally operated institution, "every year between 1905 and 1918." 2021 ROD at 16, 18.

The Carlisle School was established in 1882 through congressional appropriations for the purpose of educating Indian children. Id. at 17. To ensure compliance with the "regulations regarding admission," the school would evaluate each "student's tribe, blood quantum," and whether he or she had been "living in 'Indian fashion.'" Id. at 18. The overarching goal, the Secretary noted, was to advance the federal government's prevailing "'civilization' policy," id. at 16, which involved promoting the assimilation of Indians "into a Western, capitalist way of life,"

as a scholar quoted in the ROD explained, id. (quoting Addie C. Rolnick, Assimilation, Removal, Discipline, and Confinement: Native Girls and Government Intervention, 11 Colum. J. Race & L. 811, 826-27 (2021)). To that end, the Carlisle students were "subject to significant federal control" over their "education, finances, physical health, and freedom of movement." 2021 ROD at 17-18. They were essentially "treat[ed] . . . as wards of the federal government." Id. at 18.

Citing the M-Opinion, the Secretary noted that the federal government's actions toward individual "tribal members" may "in some instances" constitute probative evidence that the tribe was "under Federal jurisdiction." Id. at 19 (citing M-Opinion at 19). In this case, the "extraordinary control" exercised by "federal Indian agents" over Mashpee students' "education, finances and health," as well as the "provision of health and social services" to those students, "constitute[d] a clear assertion of federal authority over the Tribe and its members." Id.; see also M-Opinion at 19 (listing, as examples of probative evidence, the "education of Indian students at BIA schools" and "provision of health or social services to [the] tribe").

The appellants counter with three arguments. First, they claim that Interior "multipli[ed]" the significance of the school-related evidence by considering, as though they were

"separate categories" of evidence, different types of actions undertaken by federal officials at the school -- like control over the students' finances, health care, and education -- that should all "logically collapse into one" category of evidence. But Interior merely examined the multiple "actions," within the meaning of the M-Opinion, that the federal government took in connection with the Carlisle School. We do not see a reason why Interior should be precluded from considering different ways in which certain evidence may be probative.

Second, the appellants argue that the Mashpee children who attended Carlisle School did so voluntarily, which contradicts the Secretary's "rhetoric-filled narrative" that they were forced to attend the school. But, contrary to the appellants' representation, nowhere did the Secretary claim that the Mashpee children were educated at Carlisle without their parents' ostensible consent. See 2021 ROD at 8, 17-19. Setting aside this dispute, the Secretary's reasoning as to why the school-related evidence is probative did not rely on whether the Mashpee children attended the school voluntarily or not. The key factor, uncontested by the appellants, was the degree of control exercised by federal officials over all aspects of those students' lives. Only by way of context did the Secretary explain that such control served a broader policy of assimilation.

The appellants argue that the M-Opinion and the 2021 ROD "irrationally" treat "attendance of a single child" at a BIA school like Carlisle as "the basis for a tribe being under federal jurisdiction in 1934 even when the attendance" ended in 1918, when the Carlisle School closed. But that proposition misrepresents the M-Opinion and the 2021 ROD, under which "BIA school attendance" is a probative piece of evidence supporting the existence of federal jurisdiction but not necessarily the entire basis for such a finding.

Having rejected the appellants' arguments, we find that the Secretary's treatment of the Carlisle School evidence was not arbitrary or capricious.

C. Federal reports

Next, the Secretary evaluated evidence related to three reports commissioned or produced by federal officials that documented, among other things, the Mashpee Tribe's conditions at the time of the reports. Id. at 20-23. Because the reports "provided detailed information regarding the Tribe's status and set forth plans for exercising federal authority over the Tribe," and the government "relied on these reports in making significant decisions regarding the Tribe," they "constitute probative evidence of ['under Federal jurisdiction' status]." Id. at 23.

Appellants argue these reports "resulted in no actions" toward the Tribe. But, again, the Secretary found that the federal

government's collecting information about the Tribe, setting it out in a report that makes recommendations, and subsequently relying on that report to make decisions regarding the Tribe (even the decision not to interfere with it) all constituted "federal actions" under the M-Opinion. Id. at 22-23. The appellants assert those actions should be viewed as "inactions", but they do not explain why, aside from suggesting that they are not "affirmative" or "major" actions. That argument goes to the weight that the Secretary should accord the evidence, and not to whether it constitutes acceptable evidence under the M-Opinion's standards. But the Secretary did not view any individual report or even all of the reports considered together as establishing the existence of federal jurisdiction "in and of [themselves]," but only when they were viewed "in concert" with the totality of the evidence. Id. at 23. We cannot conclude that the reports were given undue weight.

D. Federal census records

Interior considered evidence that the federal government had classified Mashpee tribal members as "Indians" on multiple general censuses and had also included them in specially prepared censuses covering BIA schools such as the Carlisle School. Id. at 23-24. The agency found that those "consistent efforts to enumerate the Tribe and its members in federal reports and census records . . . are probative of and demonstrate the Tribe's

jurisdictional relationship with the Federal Government[,] [w]hen viewed in concert with other probative evidence." Id. at 25.

The appellants claim that enumeration of tribal members in the general censuses "is no different from the principle of plenary power," and only censuses conducted by the Office of Indian Affairs constitute evidence of a tribe's being "under Federal jurisdiction." But this rule is not supported by the M-Opinion, and the appellants do not provide any other authority for it. We uphold, then, the Secretary's determination that inclusion of Mashpee tribal members in federal census rolls is probative of the Tribe's being "under Federal jurisdiction."

E. Determination that the Tribe continued to be "under Federal jurisdiction" as of 1934

After determining that the Tribe had been under federal jurisdiction prior to 1934, when the IRA was enacted, the ROD proceeded to examine whether the relationship remained intact as of that year. See id. at 25; M-Opinion at 19. The Secretary evaluated two lines of evidence and found that they did not show the Tribe had lost its jurisdictional status. 2021 ROD at 26-28.

First, the Secretary considered the fact that, following the IRA's enactment, the federal government "did not seek to implement [the statute] for the Tribe." Id. at 26. The IRA "directed the Secretary to conduct elections for Indians residing on a reservation to vote to accept or reject application of the

Act," but no such election was organized for the Mashpee Tribe. Id. But, the Secretary noted, "federal officials made several errors in their effort to implement the IRA," and "certain tribes were later recognized as eligible" under the statute even though they had not held an IRA election. Id. As such, "the failure to implement the IRA for the Tribe is not an indication that the Tribe's jurisdictional status was terminated." Id.

Second, the Secretary reviewed a body of correspondence from the 1930s in which BIA officials "generally disclaim[ed] federal jurisdiction over the Tribe." Id. at 27. In particular, Commissioner for Indian Affairs John Collier, denying a Mashpee Tribe member's request for assistance, explained that the Tribe's needs "w[ould] have to be met . . . through local and State channels" until such time as "the Federal Government should undertake further provision for small Eastern groups under the States." Id. The Secretary found that "Collier's letter reflect[ed] the contemporaneous federal policy of deferring to state jurisdiction over New England tribes," as well as "[p]ractical budgetary constraints . . . exacerbated by the Great Depression," and that it "did not rest on a legal analysis as to whether the BIA had legal authority over the Tribe." Id. at 27-28. Other letters disclaiming responsibility over the Mashpee contained erroneous statements. Id. at 28. The Secretary concluded, then, that the letters were "best characterized as

reflections of evolving federal policy, practical constraints on implementing the IRA, and factual mistakes, rather than termination of the Tribe's jurisdictional relationship with the Federal Government." Id. at 27.

As an additional reason not to view the letters' disclaimers as signifying termination of the Tribe's jurisdictional status, the Secretary observed, quoting the M-Opinion, that "evidence of executive officials disavowing legal responsibility in certain instances cannot, in itself, revoke jurisdiction." Id. at 29 (quoting M-Opinion at 20). And "Congress never adopted nor considered any termination legislation regarding the Tribe." Id. So, considering all the "probative evidence . . . in its entirety," the Secretary determined that "the Tribe's jurisdictional status remained intact through 1934." Id.

The appellants argue that BIA officials' failure to apply the IRA to certain tribes that were later found to be eligible does not establish that they committed the same error with respect to the Mashpee Tribe. But the Secretary did not find that the implementation errors proved in and of themselves that the Tribe was under federal jurisdiction, but only that they diminished the weight of the letters' disavowal of responsibility. Id. at 26-28. That determination is not arbitrary or capricious.

The appellants also challenge the 2021 ROD and the M-Opinion to the extent that they set up the principle that only

Congress, acting expressly, can terminate "under Federal jurisdiction" status once it is established. That principle is indeed doubtful. But we do not understand the Secretary's determination as resting on any such broad proposition. Rather, the 2021 ROD concluded that the Tribe's jurisdictional status still existed in 1934 because, as the Secretary determined, the letters disclaiming jurisdiction had been motivated by error or prevailing policy considerations, and not by Interior's considered termination of its jurisdiction over the Tribe. Id. As such, there was little probative evidence showing that jurisdiction had been lost, and "the greater weight of the probative evidence, when viewed in its entirety," showed that it had "remained intact through 1934." Id. at 29. The Secretary did not act arbitrarily or capriciously in making that determination.

VI.

For the foregoing reasons, we affirm the judgment of the district court.



TO: Chair Judd-Stein and Commissioners Hill, Maynard, O'Brien, and Skinner
FROM: Todd Grossman, Interim Executive Director and Derek Lennon CFAO
DATE: November 30, 2023
RE: DOR Regulation Change for MA Withholdings on Sports Wagers

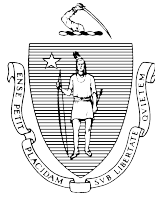
Summary:

On July 20, 2023 the MA Department of Revenue (DOR) filed emergency regulations to amend 830 CMR 62B to add a section for Sports Wagering. The regulation requires sports wagering operators to withhold MA income taxes from winning sports wagers that would require withholdings under Federal law (the payout is in excess of \$5,000 and at least 300 times the initial bet). Below is an excerpt from the regulation and the change filed with the Secretary of State's office is attached to this memorandum.

(b) Payers of Gambling or Sports Wagering Winnings. Payers of gambling winnings or sports wagering winnings are required to withhold 5% on winnings, with the exception of winnings from horse and dog racing, if:

1. the winnings are subject to tax under M.G.L. c. 62; and
2. either:
 - a. the winnings are subject to withholding under Code §§ 3402(q) and 3406; or
 - b. for lottery winnings, the winnings are \$600 or greater (for tax periods beginning on or after January 1, 2005).

As of November 18, 2005, Code § 3402(q) generally requires withholding if the proceeds of the wagering transaction are greater than \$5,000 and at least 300 times as large as the amount wagered. Code § 3402(q) requires withholding on state-conducted lotteries, sweepstakes, wagering pools, pari-mutuel pools, jai alai, lotteries, and proceeds from a wager, but does not require withholding on winnings from a slot machine, keno, and bingo. While 830 CMR 62B.2.1 does not reflect changes made to Code § 3402(q) after November 18, 2005, Massachusetts automatically adopts such changes.

**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**

Secretary of the Commonwealth

Notice of ComplianceRegulation Filing *To be completed by filing agency*CHAPTER NUMBER: **830 CMR 62B.00**CHAPTER TITLE: **Withholding and Estimated Taxes**AGENCY: **Department of Revenue**

THIS REGULATION WAS ORIGINALLY FILED AS AN EMERGENCY:

*Published in Massachusetts Register
Number:***1501**

Date:

8/4/23

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Approved by the Secretary of Administration and Finance on July 12, 2023.**Notice to the Local Government Advisory Commission sent on July 20, 2023.**

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **08/30/2023**

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: **September 27, 2023**AGENCY CONTACT: **Rebecca Forter, Deputy
Commissioner**PHONE: **617-852-3106**

ADDRESS:

**Department of Revenue, Rulings and Regulations Bureau, 100 Cambridge Street,
7th floor, Boston, MA 02114**ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.*
ATTEST:

SIGNATURE:

SIGNATURE ON FILE

DATE:

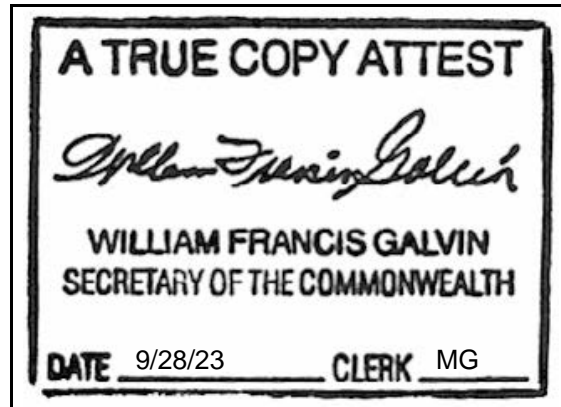
Sep 28 2023

MASSACHUSETTS REGISTER NUMBER: 1506 DATE: 10/13/23

EFFECTIVE DATE: 7/20/23

CODE OF MASSACHUSETTS REGULATIONS

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93 & 94	93 & 94



62B.2.1: continued

8. for certain services performed by United States citizens living abroad;
 9. for certain services performed by a minister or religious leader;
 10. for certain services performed by a newspaper delivery person under the age of 18;
 11. for certain services not in the course of the employer's trade or business paid in a medium other than cash;
 12. to, or on behalf of, an employee or an employee's beneficiary:
 - a. from or to a trust described in Code § 401(a);
 - b. under or to a Code § 403(a) annuity plan;
 - c. for a payment described in Code § 402(h)(1) and (2) if it is reasonable to believe that the employee will be entitled to an exclusion;
 - d. under an arrangement to which Code § 408(p) applies;
 - e. under or to an eligible deferred compensation plan under Code § 457(b) (for distributions after December 31, 2001);
 13. pursuant to certain service performed under the Peace Corps Act;
 14. in the form of group-term life insurance on the life of an employee;
 15. to or on behalf of an employee for certain moving expenses that are reasonably expected to be deductible under Code § 217;
 16. as tips if the employee receives tips in a medium other than cash or receives less than \$20 in tips in a calendar month in the course of employment with one employer;
 17. for certain service on a fishing boat described in Code § 3121(b)(20);
 18. for payments or benefits to an employee that are reasonably expected to be excluded from income under Code § 127 (educational assistance programs) or Code § 129 (dependent care assistance programs) or Code § 134(b)(4) (dependent care assistance programs as a qualified military benefit);
 19. for benefits that are reasonably expected to be excluded from income under:
 - a. Code § 74(c) (certain employee achievement awards);
 - b. Code § 117 (qualified scholarships);
 - c. Code § 132 (certain fringe benefits);
 20. for medical care reimbursement paid under a self-insured medical reimbursement plan as defined in Code § 105(h)(6);
 21. for certain contributions to or for the benefit of an employee under a medical savings account as defined in Code § 106(b).
 22. any payment to or for the benefit of an employee if the employee could exclude the payment from income under Code § 106(d) (contributions to health savings accounts).
- (c) Differences between Withholding Requirement and Taxability. A determination of the requirement to withhold is not the same as a determination of taxability. Differences between withholding requirements and taxability occur for two reasons. First, income may be taxable in Massachusetts but not subject to withholding, either because it is excluded from the definition of wages for withholding purposes, or because of differences between federal and state taxable income. Second, Massachusetts withholding law is based on the current Code, while taxation of income is generally based on the Code as of a certain date. Because of these differences between withholding requirements and taxability, employers may meet their withholding obligations yet employees may still be required to pay estimated taxes or agree to additional withholding in order to avoid the imposition of underpayment penalties. 830 CMR 62B.2.1 addresses only withholding requirements.

(4) Employers and Other Persons Required to Withhold; Amount to Withhold.(a) Employers and their Agents.

1. Employers. Employers that maintain an office or transact business within Massachusetts and that make payment of wages taxable to a resident or nonresident individual shall deduct and withhold a tax from such wages for each payroll period. Employers not maintaining an office or transacting business within Massachusetts may, as a convenience to employees, withhold Massachusetts income taxes for employees who reside in Massachusetts and who request that their employer withhold Massachusetts taxes. Employers that withhold as a convenience to employees must meet all reporting, return, and payment obligations established under 830 CMR 62B.2.1.

62B.2.1: continued

2. Agents of Employers. If the person for whom the individual performs the services does not have control of the payment of the wages for such services, the term “employer” means the person having control of the payment of such wages. The federal approval of an agent under Code § 3504 is effective for Massachusetts income tax withholding purposes. All provisions of 830 CMR 62B.2.1 that are applicable to an employer shall be applicable to a fiduciary, agent, or other person having control of the payment of wages subject to withholding.
3. Amount Withheld. An employer shall withhold amounts determined according to tables prepared by the Commissioner. Amounts withheld shall be substantially equivalent to the tax imposed by M.G.L. c. 62.
- (b) Payers of Gambling or Sports Wagering Winnings. Payers of gambling winnings or sports wagering winnings are required to withhold 5% on winnings, with the exception of winnings from horse and dog racing, if:
1. the winnings are subject to tax under M.G.L. c. 62; and
 2. either:
 - a. the winnings are subject to withholding under Code §§ 3402(q) and 3406; or
 - b. for lottery winnings, the winnings are \$600 or greater (for tax periods beginning on or after January 1, 2005).
- As of November 18, 2005, Code § 3402(q) generally requires withholding if the proceeds of the wagering transaction are greater than \$5,000 and at least 300 times as large as the amount wagered. Code § 3402(q) requires withholding on state-conducted lotteries, sweepstakes, wagering pools, pari-mutuel pools, jai alai, lotteries, and proceeds from a wager, but does not require withholding on winnings from a slot machine, keno, and bingo. While 830 CMR 62B.2.1 does not reflect changes made to Code § 3402(q) after November 18, 2005, Massachusetts automatically adopts such changes.
- (c) Payers of Unemployment Compensation. If the recipient of an unemployment compensation payment, as defined in Code § 85(b), has elected withholding of federal income tax on such payment, then the payment shall be treated as if it were payment of wages by an employer to an employee. The payer of such benefits shall withhold the amount set forth in M.G.L. c. 151A, § 29E, and shall follow the applicable employer withholding schedule.
- (d) Trustees of Retirement Funds. If an individual recipient of a periodic or nonperiodic payment as defined in Code § 3405 has elected federal income tax withholding on such income, the payer shall withhold the amount of Massachusetts income tax withholding substantially equivalent to the amount reasonably anticipated to be due.
- (e) Trustees of Pooled Income Funds and Charitable Remainder Annuity Trusts or Unitrusts. Resident trustees of pooled income funds and resident trustees of charitable remainder annuity trusts or unitrusts who make payment to resident beneficiaries are required to withhold taxes, or pay estimated taxes, under M.G.L. c. 62, §§ 11A and 11B at the applicable tax rates.
- (f) Withholding Agents Paying Compensation to Performers or Performing Entities.
1. A person or entity that pays performers or performing entities compensation for one or more performances shall withhold. Compensation may not be paid to a performer or a performing entity unless the required tax has been withheld. Any person or entity that transfers funds ultimately payable in part or in full to a performer or performing entity may be held responsible for withholding and subject to the penalty and interest provisions described in 830 CMR 62B.2.1(12). If there is more than one contract for the same date and venue with a performer or performing entity, there may be a different withholding agent for each contract. The withholding agent shall be:
 - a. The Massachusetts venue or, if the venue is not a party to the contract with the performer or the performing entity, the lessee of the venue; or
 - b. If the venue or lessee of the venue is not a party to the contract with the performer or performing entity, the promoter; or
 - c. If there is no promoter, or if the promoter is not a party to the contract with the performer or performing entity, the payroll service provider making payments to performers, or the vendor selling merchandise for which a performer or performing entity will receive a percentage of the sales price; or
 - d. Notwithstanding the requirements of 830 CMR 62B.2.1(4)(f)1.a, b, and c, any person or entity the Commissioner designates who pays a performer or performing entity compensation for one or more performances.



TO: Chair Judd-Stein, Commissioners O'Brien, Hill, Skinner, and Maynard

FROM: Mark Vander Linden, Director of Research and Responsible Gaming,
Bonnie Andrews, Research Manager

CC: Todd Grossman, Interim Executive Director

DATE: November 30, 2023

RE: Encore Boston Harbor, First Three and a Half Years of Operation: Economic Impacts Report

The Massachusetts Gaming Commission has an Interagency Service Agreement (ISA) with the University of Massachusetts, Amherst to carry out social and economic research as defined in [Chapter 23k Section 71](#). Since 2013, the team of researchers, collectively known as Social and Economic Impacts of Gambling in Massachusetts (SEIGMA), has produced a range of studies to inform the Commission and stakeholders about the impacts resulting from the introduction of casinos in the Commonwealth. A complete library of this research can be found on the MGC website: <https://massgaming.com/about/research-agenda/>.

Through the establishment of the casino industry in Massachusetts, lawmakers provided avenues for the creation of new jobs, revenue, and economic growth in the state. The purpose of this Operating Report is to use casino data to estimate the economic impact of the Encore Boston Harbor casino (EBH) on the Massachusetts economy during its first three and a half years of operation (June 2019-December 2022).

To estimate the economic impacts, the UMass Donahue Institute's Economics and Public Policy Research unit (UMDI) included two key sources of economic impact: casino operations (spending on vendors, employees and government entities) and patron spending (within the casino, as well as in Everett and the surrounding region). This report allowed the SEIGMA team to gain valuable insight into the ways that EBH interacted with Massachusetts' economy as it resumed normal operations after the COVID-19 pandemic. Findings include insights about employment, spending by EBH and patrons, and revenues.

Attached are the final report, the research snapshot, and the presentation.



Massachusetts Gaming Commission



UNIVERSITY OF MASSACHUSETTS SCHOOL OF PUBLIC HEALTH AND HEALTH SCIENCES

Encore Boston Harbor, First Three and a Half Years of Operation: Economic Impacts Report

Prepared by the UMass Donahue Institute's
Economic & Public Policy Research Group

November 2023

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Acknowledgements

Financial support for the Social and Economic Impacts of Gambling in Massachusetts (SEIGMA) study comes from the Massachusetts Gaming Commission. This multi-year project was competitively bid and awarded to the University of Massachusetts Amherst in April 2013. In June 2019, the Massachusetts Gaming Commission issued a subsequent Request for Response (BD-19-1068-1700-1-40973) for Research Services and the University of Massachusetts Amherst was awarded the contract effective January 2020.

We would like to thank Mark Vander Linden, Director of Research and Responsible Gaming, whose leadership and research insights have contributed to our work. We would also like to thank Bonnie Andrews, Crystal Beauchemin, and Joe Delaney at the Massachusetts Gaming Commission for helping us to acquire data critical to this report. Finally, we would like to express gratitude to Lisa McKenney at Plainridge Park Casino, Juliana Catanzariti and Jacqui Krum at Encore Boston Harbor, and Daniel Miller at MGM Springfield for providing us with the data necessary to complete this project.

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A PDF OF THIS REPORT CAN BE DOWNLOADED AT: umass.edu/seigma/reports

Executive Summary

Through the establishment of the casino industry in Massachusetts, lawmakers provided avenues for the creation of new jobs, revenue, and economic growth in the state. The Social and Economic Impacts of Gambling in Massachusetts (SEIGMA) study, of which the Economic and Public Policy Research unit at the University of Massachusetts Donahue Institute (UMDI) is a part, strives to understand the impact of the casinos on the people and economy of the Commonwealth.

The purpose of this Operating Report is to estimate the economic impact of the Encore Boston Harbor casino (EBH) on the Massachusetts economy during its first three and a half years of operation (June 2019-December 2022). To estimate the economic impacts, the UMass Donahue Institute's Economics and Public Policy Research unit (UMDI) includes two key sources of economic impact: casino operations (spending on vendors, employees and government entities) and patron spending (within the casino, as well as in Everett and the surrounding region). These data help us to understand the impacts of Encore Boston Harbor's continued operation. To conduct the analysis, UMDI obtained operator data collected by the Massachusetts Gaming Commission. These include employment, payroll, and purchasing data obtained directly from the casino. We also obtained revenue data from the Massachusetts Gaming Commission and data on patron spending from a survey of casino patrons conducted by the SEIGMA team. From there, UMDI employed the PI⁺ model from Amherst, MA-based Regional Economic Models Inc. (REMI) to measure direct and spin-off effects in the Massachusetts economy.¹

Employment

An analysis of payroll data found Encore Boston Harbor employed an average of 4,118 workers in 2019. That number fell in 2020 and 2021 as the casino's operations were disrupted by the COVID-19 pandemic but recovered over late 2021 and 2022. Despite facing a shutdown followed by operating restrictions for over a year, Encore Boston Harbor was able to retain many of its workers over the course of the pandemic.

Spending

UMDI analyzed data on spending by Encore Boston Harbor to outside entities, primarily private-sector vendors supplying goods and services to the casino. Over the course of the study period, Encore Boston Harbor paid \$290 million to outside entities, approximately half (52.7%) of which were Massachusetts-based firms. Most of Encore Boston Harbor's in-state vendor spending went to firms in industries such as wholesale trade, transit and ground transportation, laundry services, and construction, offering products and services where proximity to the casino is important. After falling from 2019 to 2020, vendor spending has increased in each subsequent year.

Government Revenues

State and local government entities collected \$538.6 million in tax revenue from the casino's operations. State tax revenues from the casino were heavily affected by the COVID-19 pandemic but reached a new high in 2022 at \$197.4 million. As with other casinos, these funds continue to be distributed to various state funds, including local aid, via a formula set by the Commonwealth.

¹ This study looks at the impacts generated by a single casino operation. The SEIGMA project's integrative report, due in June of 2024, will discuss social impacts.

Patrons

Based on our survey of casino patrons and available data from Encore Boston Harbor and the Massachusetts Gaming Commission, we estimate that over the nearly four-year study period, casino patrons spent almost \$3.8 billion at the casino and off-site during their visit. This includes spending on gambling and non-gambling activities at the casino, as well as non-gaming expenditures made off-site during their visit. Of those funds, we estimate 77 percent to have originated from patrons that reported they would not have spent their money in-state without the casino (this represents recaptured and new spending). Casino patrons spent an estimated \$330.1 million at Massachusetts businesses outside of Encore Boston Harbor in the course of their trip. Despite the economic benefits of recaptured and new spending, \$818.9 million in patron expenditures were reallocated away from other businesses in Massachusetts and towards the casino.

Total Combined Impacts

Although Encore Boston Harbor has been open since the summer of 2019, 2022 was its first full year of operation without any shutdowns or restrictions related to the COVID-19 pandemic. At times in the report, we focus on 2022 for this reason. In 2022, the \$1.1 billion dollars spent in and around Encore Boston Harbor by casino patrons supported an average of 3,282 positions at the casino, paying \$206 million in compensation, and created demand for \$85.4 million of intermediate goods and services purchased from vendors by Encore Boston Harbor. The casino also paid \$197.4 million in payments to government entities, although on net, consumers shifted \$167.6 million in spending away from other goods and services and towards the casino. These findings served as inputs which we used to inform our economic impact model, which estimates the secondary and tertiary 'spin off' effects of an economic event. In addition to the 3,282 jobs directly supported by the casino, new spending from vendors, government entities, and new employees, along with shifts in spending from casino patrons led to another 6,635 jobs on net, for a total of 9,917 jobs supported by the casino. The majority of those jobs are located in the Metro Boston region. Encore Boston Harbor also supported \$1.1 billion in new personal income and \$1.7 billion in new output (sales) within the Massachusetts economy, of which \$1.3 billion was value added (i.e., net new economic activity or gross state product).²

² This estimate is based on the REMI PI+ model's estimates of value added. For more information on output and value added in the context of economic modeling, see Appendix 5. The Concepts of Output and Value-Added.

Introduction

Background to the Research Project

In November of 2011, Governor Deval Patrick signed the Expanded Gaming Act into law, an act tasked with establishing the grounds for casino legalization in the Commonwealth. Through the establishment of the casino industry in Massachusetts, lawmakers provided avenues for the creation of new jobs, revenue, and economic growth in the state. To ensure these needs are met, the Massachusetts Gaming Commission (MGC)—established to oversee the implementation of the Expanded Gaming Act—organizes protective measures for communities threatened by potential social and economic impacts of gaming establishments. The UMass Donahue Institute (UMDI), as a part of the Social and Economic Impacts of Gambling in Massachusetts (SEIGMA) Research Team, is tasked with producing various analyses of economic and fiscal impacts in fulfillment of the MGC’s research agenda and mandates.

The gaming legislation allows for the creation of up to three commercial resort-style casinos in the state and one slots parlor. To reduce internal competition among casinos, the Commonwealth was divided into three licensing regions, shown in Figure 1, with each region able to attract no more than one full resort-style casino license. The slots-parlor license is not geographically limited. To date, two full resort-style licenses and one slots-parlor license have been awarded. In Region A, Plainridge Park Casino—the state’s singular slots-parlor—launched the casino industry with its opening in Plainville, Massachusetts in July of 2015. MGM Springfield, located in Springfield, Massachusetts, started as the first resort-style casino in the state, having taken residence in Region B in August of 2018. Encore Boston Harbor opened in Everett, Massachusetts in June of 2019, joining Plainridge Park Casino as the second casino in Region A and joining MGM Springfield as the second resort casino in the Commonwealth.

Figure 1. Massachusetts Gaming Commission Regions



Source: Massachusetts Gaming Commission

Methodology

Overview

The process of assessing economic impacts began with collecting primary data on any economic variable which was likely to change as a result of the casino's operations. Many of these measures were provided directly by Encore Boston Harbor, including employment counts, wages, and detailed vendor spending data. Other data, such as information on the collection and disbursement of taxes on EBH's gross gaming revenue, was provided to UMDI from state government sources. Finally, data on patron expenditure, origin, and consumption response to EBH was collected by the SEIGMA team, which administered an on-site patron survey at EBH in April 2022.

Patron Survey Methodology

SEIGMA members from both the social and economic teams collaborated closely on the Encore Boston Harbor Patron Survey, working together to create and implement the survey, and later to analyze the data and report on the findings. One of the important and unique aspects of this survey was the great lengths the team went to in order to capture a representative sample of patrons. Methodological differences between the Encore Boston Harbor Patron Survey and prior patron surveys include the timing of the survey as it relates to the opening date of the casino. Both Plainridge Park Casino and MGM Springfield were initially surveyed within a year of opening (8 months and 6 months, respectively). Although Encore Boston Harbor opened on June 23, 2019, due to the COVID-19 pandemic, with its related casino closures, gaming restrictions, and public health concerns, it was not feasible to conduct the Encore Boston Harbor Patron Survey in 2020 or 2021. Also, while past winter surveys were conducted the last weekend of February and first weekend of March, pandemic numbers were still high during that period, so the decision was made to delay this survey until April 2022.

The unique approach was also reflected in the recruitment of patrons. Teams of surveyors, wearing UMass attire, were stationed at each of the exits in Encore Boston Harbor. The surveyors had three distinct roles, which they switched off every hour. **The counter** counted and kept a tally of all exiting patrons. When the fifth exiting patron was reached, **the solicitor** approached that patron and asked if they had 5-10 minutes to complete an anonymous, self-administered survey and receive a \$5 Starbucks gift card as compensation. If the patron indicated they were not exiting the facility (i.e., just going outside to smoke or use the ATM) the solicitor recorded a 'non-exit.' Importantly, if the patron declined to participate, the solicitor recorded, to the best of their ability, the gender, race, and age range of that patron.

If the patron agreed to participate, the solicitor escorted the patron to the table where **the table monitor** provided more information about the survey and offered the patron the survey electronically (via SurveyGizmo) or on paper, depending on the patron's preference. The purpose of the self-administered format was to maximize the validity of responses to potentially sensitive questions (e.g., gambling expenditure, income).

By counting every 5th person exiting the casino, the surveyors tracked a total of 3,480 individuals. Of those, 490 people were not eligible to complete the survey.³ Additionally, due to the physical logistics of

³ Ineligible people consisted of three groups: (a) those who were not permanently leaving (i.e., exiting the casino floor to partake in non-gambling activities, accessing the ATMs, and/or temporarily going outside to smoke), (b) patrons who had already completed the survey, and (c) people who were not Encore Boston Harbor patrons (i.e., non-uniformed Encore Boston Harbor employees).

the exit areas, 131 people were ‘missed,’ meaning we did not have a chance to solicit them, mostly due to their entry into the elevators before a solicitor could approach them. In total, 2,859 eligible patrons were invited or ‘solicited’ to participate in the survey. A total of 440 patrons agreed, for an overall response rate of 15.4%. Response rates for individual questions were above 83% for all but two of the questions (spending on tips to non-gambling employees in Encore and spending on activities in Massachusetts outside of Encore during visit to area).

The patron survey data were weighted to correct for sampling biases based on: (1) period of the week and (2) certain types of people being more or less likely to answer the questionnaire. The first step in the weighting process established the population characteristics during the sampling periods. This involved combining the age category, race/ethnicity category, and gender of people who completed the survey (and reported these demographic characteristics in their survey) with the age, race/ethnicity, and gender of people who declined to complete the survey (as recorded by the survey team). The demographics of people who completed the survey were then weighted to match the gender, race/ethnicity, and age range of the total population of casino patrons during the survey periods.

The reliability and validity of this weighting procedure depends on the accuracy of the survey team in correctly identifying the age, gender, and race/ethnicity of refusals and whether there are any systematic biases in the errors. A ‘Demography Accuracy Test’ (see Appendix E) consisting of 36 pictures of people of different known ages, genders, and race/ethnicities was developed for the 2016 Plainridge Park Casino Patron Survey (Salame et al., 2017) and was used again for the MGM Springfield and the EBH study. This accuracy test was administered to 29 surveyors.⁴ An average of 81 percent of all pictures were correctly identified by the 29 surveyors, with no significant difference in picture accuracy as a function of the age, gender or race/ethnicity of the person in the picture. Surveyors themselves had an average of 80.9 percent (29.1/36) pictures correct, ranging from 56 percent to 97 percent depending on the surveyor. These results confirm the ability of the surveyors to correctly identify age range, gender, and race/ethnicity of survey refusals with reasonable accuracy, which provides support for the validity of our weighting procedure.

More information about the Encore Boston Harbor Patron Survey, including methodology and weighting, the questionnaire, results, and summary findings, as well as the concurrent License Plate Survey, can be found in a separate report available on the SEIGMA website (<https://www.umass.edu/seigma/reports>).

Economic Modeling Methodology

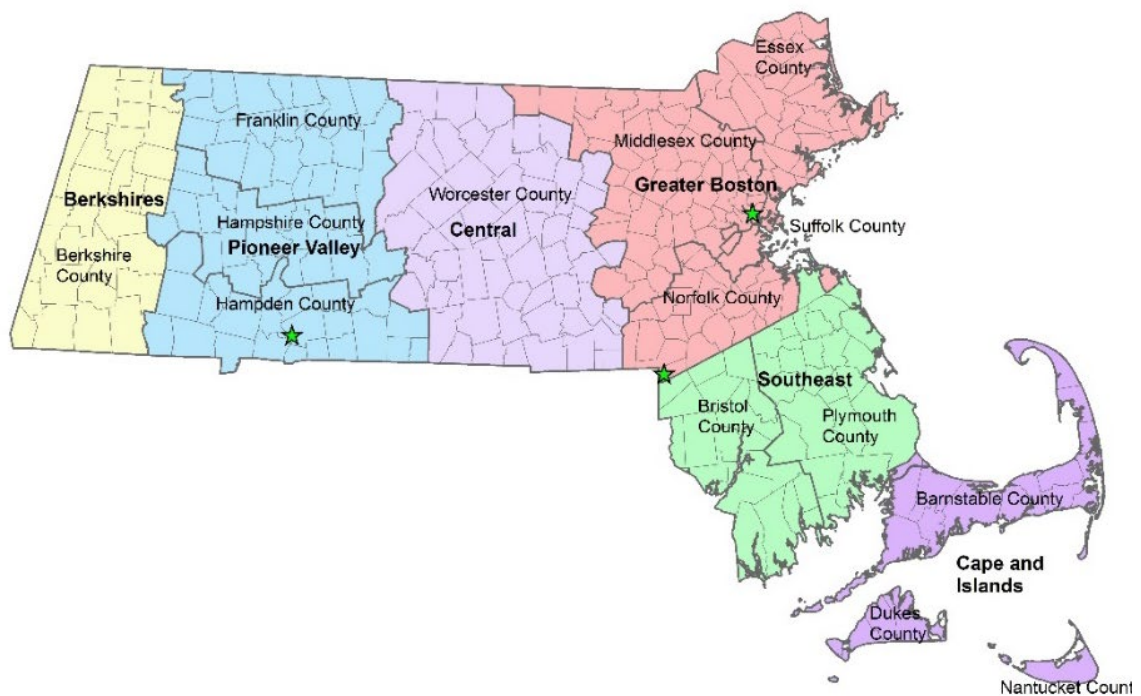
For this analysis as well as past and future economic analyses, the SEIGMA team has chosen the PI⁺ model from Massachusetts-based Regional Economic Models, Inc. (REMI). PI⁺ generates realistic year-by-year estimates of the total regional effects of specific initiatives. Model simulations using PI⁺ allow users to estimate comprehensive economic and demographic effects created by economic events such as the development and operation of a casino within a region. PI⁺ allows economists to assess a variety of effects including economic impact analysis; changes in policies and infrastructure; and state and local taxes. REMI allows for dynamic, multi-year modeling as compared to other, more simplistic modeling systems. REMI thus has significant advantages for analysis of major complex initiatives that: (a) have time-series based impacts that are likely to vary over time; (b) require the use and interpretation of

⁴ Although a total of 42 surveyors were hired for this project, due to the time and process associated with onboarding, not all were available prior to the survey to complete the Demographic Accuracy Test.

multiple economic variables; and (c) emphasize economic interactions between regions within the state that add up to a true state-level impact.

The REMI model purchased by SEIGMA is a six region, 70 sector model. Each of the six regions in the model is built from Massachusetts counties, and the 70 REMI industry sectors roughly correspond to the 3-digit codes of the North American Industry Classification System (NAICS). For the purposes of this study, PI⁺ used information on the economic concepts described above, all by region, to produce economic impact estimates. These inputs allow for the appropriate allocation of economic activity across the regions of the Commonwealth so that the model can calculate the total economic impacts for the state of EBH's operations and show how activity in one region impacts others.

Figure 2. REMI Regions



The detail and specificity of the data provided to UMDI allowed the modelers to replace some of the default assumptions of the model with project-specific information. For example, PI⁺ includes average wages by industry and region and the typical flows of goods and services among regions. The operations spending data from Encore Boston Harbor included specific information on each of these areas and therefore allowed the use of actual reported data rather than the averages built into the model which are needed in the absence of precise inputs. Appendices 2 and 3 provide detailed methodologies of the PI⁺ model and the data preparation. Appendix 5. *The Concepts of Output and Value-Added* provides a glossary of economic impact terminology.

Direct Impacts of Casino Operations

This section discusses the immediate economic impacts generated during Encore Boston Harbor’s first three and a half years of operation (June 2019-December 2022). As discussed in the Methodology section above, UMDI obtained data to measure and analyze primary spending at the casino, which serves as the basis for secondary economic effects as vendors, government entities, and employees spend the money they received from the operations of the casino. Many aspects of a firm’s operations have an immediate effect on the regional economy include hiring staff, paying wages, purchasing intermediate goods and services, and paying government taxes, fees, and community agreement payments. Direct spending in these ways triggers additional impacts in the economy. For example, Encore Boston Harbor’s spending on its own staff initiates secondary effects by creating new demand in Massachusetts as these employees spend their new paychecks. In addition to a firm’s payroll, a firm’s spending on intermediate goods and services—such as food, slot machines, and performers—supports employment and business expansion in other establishments. This section provides detail on this ‘first-round’ spending – discussing the ways Encore Boston Harbor’s primary spending and operations had a direct impact on the Massachusetts economy.

Employment and Wages

Encore Boston Harbor’s hiring and payroll represents one of its biggest economic contributions to the immediate region as well as to the broader economy. In 2022, Encore Boston Harbor’s most recent full year of operation, an average of 3,282 workers were employed at the casino in any given pay period. Collectively, employees worked over 5.7 million hours over this period, which earned them about \$206 million collectively.

Table 1 shows the regional distribution of Encore Boston Harbor’s average annual employment counts, as well as the associated totals for hours worked, and wages paid, for each year of its operation. These direct impacts are analyzed by region because workers are more likely to spend the money they earn at their job in the places where they live. Encore Boston Harbor opened approximately nine months prior to the COVID-19 pandemic, which seriously disrupted its operations.⁵ Notably, Encore Boston Harbor managed to retain and pay a substantial portion of their staff over the course of the pandemic.

⁵ For more information on the impact of the COVID-19 pandemic on the Commonwealth’s casino industry, see our previous report on this subject: Peake, T., Hall, A., Breest, K., Aron, E. (2022). *SEIGMA COVID-19 Impacts Report*. Hadley, MA: University of Massachusetts Donahue Institute, Economic and Public Policy Research Group.

Table 1. Encore Boston Harbor Employment, Hours Worked, and Wages Paid by Region, 2019 to 2022

Region	2019	2020	2021	2022
Average Annual Payroll Employment				
<i>Metro Boston</i>	3,506	2,761	2,266	2,834
<i>Southeast</i>	111	99	86	103
<i>Central</i>	40	34	28	35
<i>Pioneer Valley</i>	19	12	4	7
<i>Cape and Islands</i>	5	4	2	3
<i>Rest of World</i>	438	393	289	301
Total	4,118	3,303	2,675	3,282
Total Hours Worked				
<i>Metro Boston</i>	4,422,100	4,626,816	3,989,226	4,985,287
<i>Southeast</i>	137,986	162,047	146,243	171,233
<i>Central</i>	48,873	54,132	49,742	59,492
<i>Pioneer Valley</i>	22,646	19,054	5,938	9,947
<i>Cape and Islands</i>	6,229	6,821	1,986	5,053
<i>Rest of World</i>	555,914	666,426	501,132	507,425
Total	5,193,747	5,535,296	4,694,267	5,738,436
Total Wages Paid (Millions of Dollars)				
<i>Metro Boston</i>	\$118.1	\$132.0	\$130.1	\$176.4
<i>Southeast</i>	\$3.6	\$4.6	\$4.7	\$6.3
<i>Central</i>	\$1.3	\$1.6	\$1.7	\$2.4
<i>Pioneer Valley</i>	\$0.5	\$0.6	\$0.2	\$0.4
<i>Cape and Islands</i>	\$0.2	\$0.4	\$0.1	\$0.2
<i>Rest of World</i>	\$18.9	\$23.2	\$20.4	\$20.6
Total	\$142.7	\$162.3	\$157.2	\$206.2

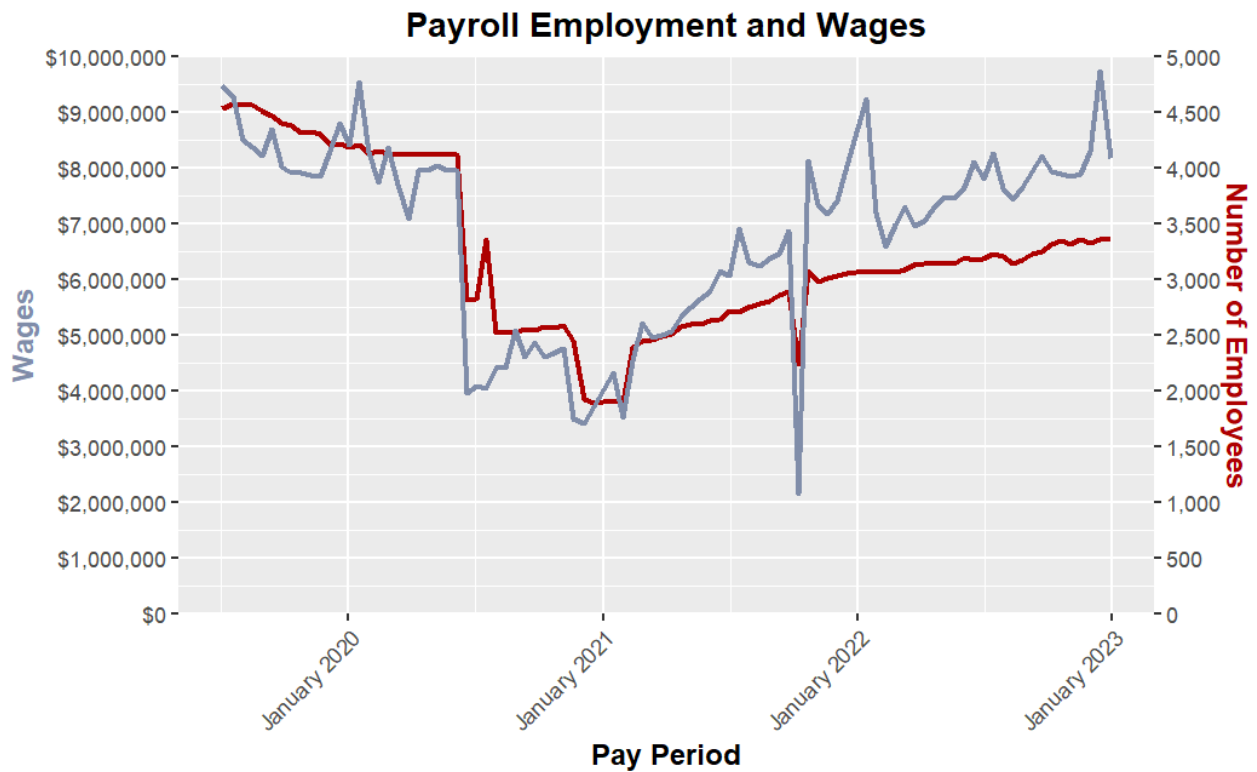
Source: Encore Boston Harbor

Note: "Rest of World" refers to employees living in regions outside of Massachusetts

Figure 3 shows the count of people employed at Encore Boston Harbor for each biweekly payroll date, as well as the total wages paid to employees during that pay period. The high point for employment at Encore Boston Harbor was shortly after opening, when just over 4,500 individuals were employed at the casino. The SEIGMA team has observed a similar trend in Massachusetts' two other casinos, Plainridge Park Casino and MGM Springfield, where employment was also highest in the first months of operation and gradually tapered off. It is, however, impossible to know whether this would have been the long-term trend at Encore Boston Harbor, had the operations of the casino not been disrupted by the COVID-19 pandemic. Wages follow a similar pattern to employment, falling during the early stages of the pandemic and rising after reopening, but even while the casino was entirely shut down, millions of dollars were being paid to employees each pay date. One thing to note is that in Figure 3, the substantial increase in wages in 2021 which is shown in Table 1 is not apparent. This suggests that much of the additional money paid to Encore Boston Harbor employees in 2021 did not occur as part of the regular pay periods. While it is not noted in the records supplied to the SEIGMA team, paychecks can occur

outside of those regular intervals for a number of reasons, with bonuses and paid time off (PTO) buyouts being two common reasons. This includes PTO buyouts that might occur in the case that an employee is terminated.

Figure 3. Average Bi-Weekly Employment and Wages Paid at Encore Boston Harbor, 2019-2022



Source: Encore Boston Harbor

Vendor Spending and Taxes

In addition to wages paid to employees, Encore Boston Harbor made millions of dollars in payments to various third parties in the course of its operation. Encore Boston Harbor relies on the business of different entities to provide the casino with goods and services. These payments include purchases of goods from vendors, such as food and alcohol, payments to utility companies and third-party service providers, along with payments made on behalf of employees to various unions and membership organizations and charitable contributions. Taken together, these payments amounted to \$290.4 million in Encore Boston Harbor’s first four years of operation, with \$153.1 million, or 52.7 percent of the total, going to Massachusetts-based firms mostly in industries where proximity to the casino is important.

Table 2 shows the top private industry sectors to receive payments from Encore Boston Harbor. The largest single industry in terms of spending by Encore Boston Harbor was wholesale trade, making up 16.6 percent of spending. Not far behind is the second largest industry spending category, payments for professional scientific, and technical services at 15.3 percent. Legal consulting, marketing, and IT services are some of the common vendors that are included in the professional, scientific and technical services industry. Retail trade is the third-most-prominent industry, with companies offering supplies to the casino on a smaller scale. Much of Encore Boston Harbor’s spending on transit and ground passenger transportation can be attributed to limousine and cab services.

Table 2. Top 10 Industries by Vendor Spending, 2019-2022 (in Millions of Dollars)

Industry	2019	2020	2021	2022	Total	Share
Wholesale trade	\$15.6	\$9.6	\$8.6	\$14.3	\$48.2	16.6%
Professional, scientific, and technical services	\$14.2	\$11.3	\$8.7	\$10.3	\$44.4	15.3%
Retail trade	\$7.6	\$3.4	\$8.2	\$12.0	\$31.1	10.7%
Transit and ground passenger transportation	\$6.6	\$7.9	\$7.8	\$6.6	\$28.8	9.9%
Construction	\$1.1	\$3.0	\$3.1	\$6.1	\$13.2	4.6%
Personal and laundry services	\$2.8	\$2.3	\$2.8	\$5.2	\$13.1	4.5%
Food manufacturing	\$3.6	\$2.4	\$3.1	\$3.9	\$13.1	4.5%
Motion picture and sound recording industries	\$3.6	\$2.4	\$3.0	\$3.7	\$12.7	4.4%
Insurance carriers and related activities	\$0.0	\$5.3	\$5.1	\$2.2	\$12.6	4.3%
Administrative and support services	\$4.3	\$2.4	\$2.1	\$3.3	\$12.2	4.2%
All Other Industries	\$16.6	\$12.3	\$14.2	\$17.8	\$61.0	21.0%
Total	\$75.9	\$62.3	\$66.7	\$85.4	\$290.4	100.0%

Source: Encore Boston Harbor

As shown in Table 3, approximately half of spending to vendors was to firms within Massachusetts, with the Metro Boston region of Massachusetts (Suffolk, Essex, Middlesex, and Norfolk Counties) being the largest in-state beneficiary of Encore Boston Harbor’s payments to vendors. Vendor spending to other regions of Massachusetts was relatively minor. Of the regions outside of Metro Boston, the Southeast region (Bristol and Plymouth Counties) was consistently the second-largest beneficiary.

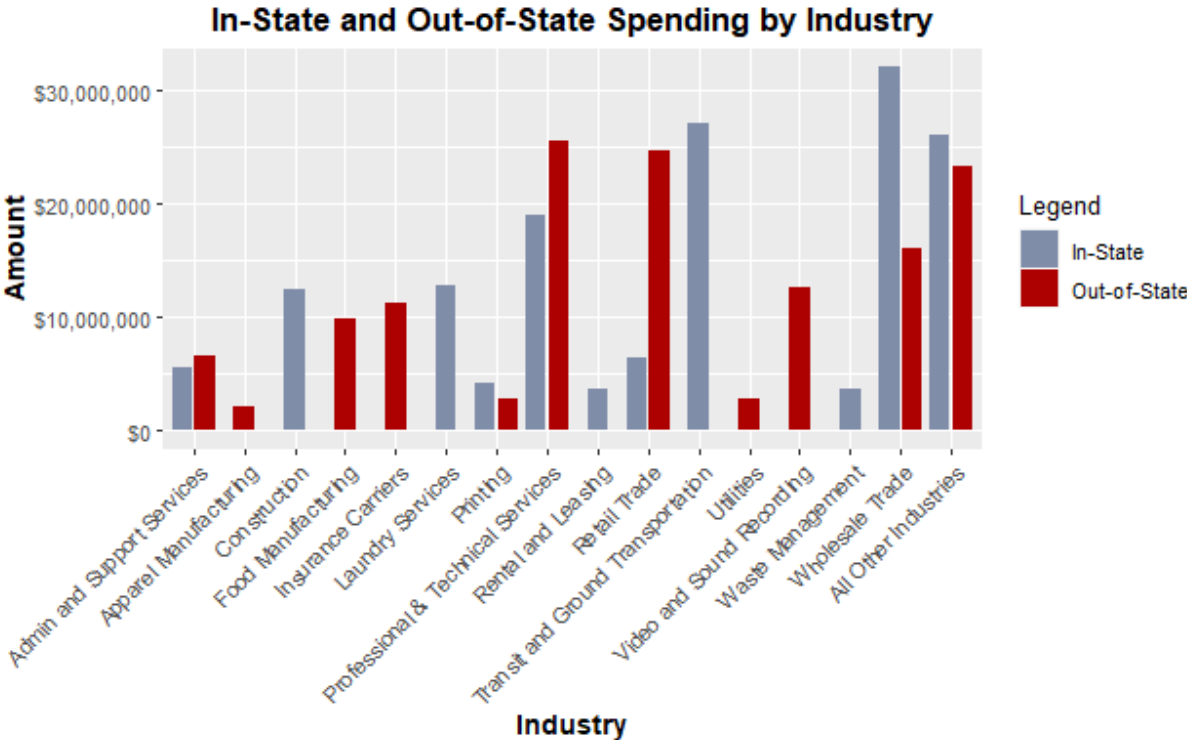
Table 3. Vendor Spending by REMI Region, 2019-2022 (in Millions of Dollars)

Region	2019	2020	2021	2022	Total	Share
Metro Boston	\$31.0	\$26.9	\$29.3	\$40.0	\$127.2	43.8%
Southeast	\$7.2	\$3.6	\$3.3	\$4.8	\$18.9	6.5%
Central	\$1.4	\$0.9	\$1.3	\$1.6	\$5.3	1.8%
Pioneer Valley	\$0.4	\$0.4	\$0.5	\$0.7	\$2.0	0.7%
Cape and Islands	\$0.0	\$0.0	\$0.0	\$0.0	\$0.1	0.0%
Rest of World	\$35.9	\$30.5	\$32.2	\$38.3	\$136.9	47.2%
Total	\$75.9	\$62.3	\$66.7	\$85.4	\$290.4	100.0%

Source: Encore Boston Harbor

Figure 4 shows Encore Boston Harbor’s expenditures to both in-state and out-of-state vendors from opening until the end of 2022. As has been observed with Massachusetts’ other two casinos, most of Encore Boston Harbor’s in-state vendor spending went to firms in industries such as wholesale trade, transit and ground transportation, laundry services, and construction, offering products and services where proximity to the casino is important. For other services, such as manufacturing, professional and technical services, and video and sound recording, Encore Boston Harbor spent most of its funds on out-of-state vendors. In many cases, these were likely vendors with which Wynn Resorts, Encore Boston Harbor’s parent company, had an existing relationship.

Figure 4. In-State and Out-of-State Spending by Encore Boston Harbor by Industry, 2019-2022

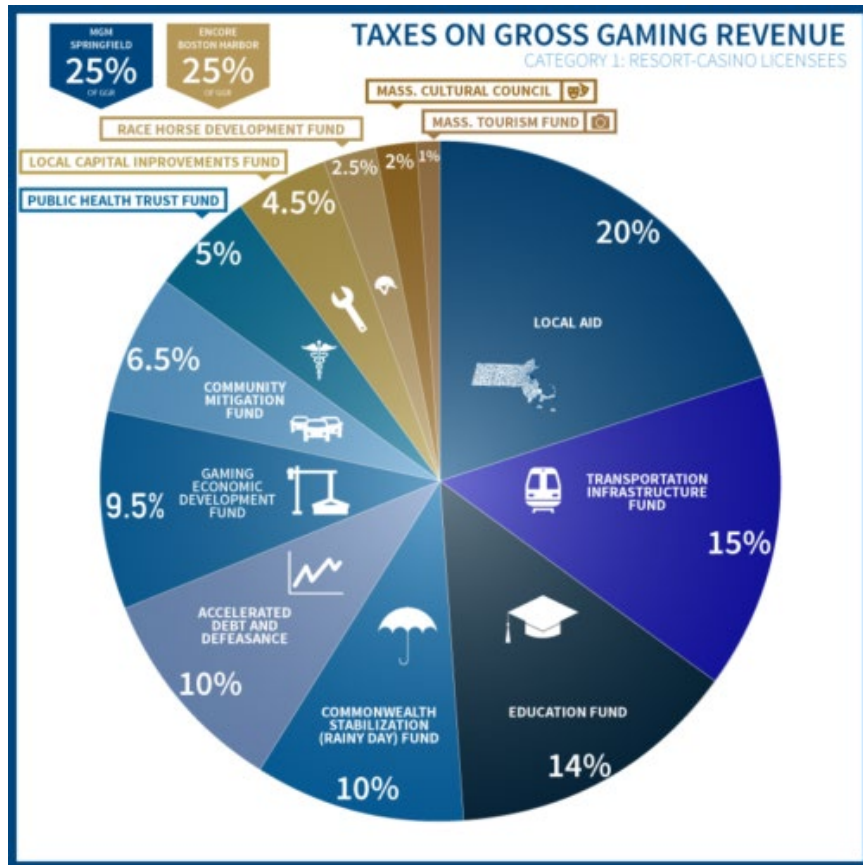


Source: Encore Boston Harbor

Public Sector Impacts from Gross Gaming Revenue

One of the most important economic impacts of a casino is the new revenue accrued by state and local governments. In exchange for exclusive rights to operate a casino within a multi-county region, Massachusetts casino operators agree to pay substantially higher state taxes than other businesses and agree to host agreements with local municipalities. These new state and local revenues result in higher levels of government spending,⁶ which creates new demand for goods and services that are difficult to attribute to the casino. Gross gaming revenue (GGR) is sourced from the bets that patrons place while gambling both on slot machines and on table games, this is referred to as 'coin-in'. The casino sets a hold percentage on these bets, which indicates the amount of coin-in to be retained as revenue. The remainder of coin-in is then returned to bettors in the form of a 'payout'. The percentage of coin-in that EBH keeps is considered its GGR. From this GGR, a resort-style casino in Massachusetts like Encore Boston Harbor is subject to a 25 percent state tax. The total collected is then divided among 12 different public funds in the state, with the majority (20%) going to Local Aid.

Figure 5. Disbursement of Taxes on Encore Boston Harbor's Gross Gaming Revenue

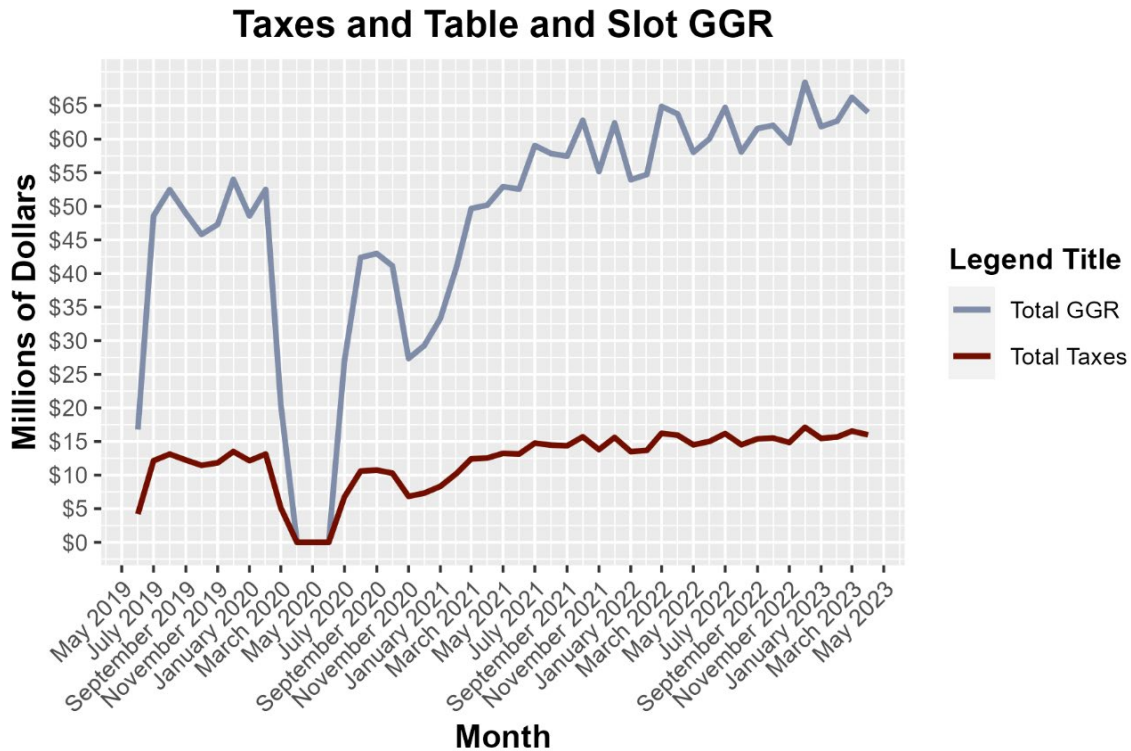


Source: Massachusetts Gaming Commission

⁶ For the purposes of economic modeling, we assume that all the revenues received by the state are spent. It is also possible that the state could save the funds or use them to offset tax increases that would otherwise be necessary. The nature of state budgetary processes makes it impossible to know with any certainty how a state's fiscal policy would have been different without a particular revenue source, so simplifying assumptions are necessary.

Figure 6 shows Encore Boston Harbor’s monthly gross gaming revenue, and the state taxes collected from that revenue from opening through May of 2023. Predictably, revenues at Encore Boston Harbor cratered when the casino shut down due to the COVID-19 pandemic. This meant that revenue to the Commonwealth decreased as well.⁷ Since the last pandemic-related restrictions were lifted, the casino’s gross gaming revenue has gradually trended upward, with some month-to-month volatility. In turn, new revenue to the state has also gradually increased.

Figure 6. Encore Boston Harbor Casino Monthly Gross Gaming Revenue, June 2019-April 2023



Source: Massachusetts Gaming Commission

Taxes on Encore Boston Harbor’s gross gaming revenue are allocated according to a formula set in place by the Expanded Gaming Act. Other taxes paid by Encore Boston Harbor are not earmarked for a specific purpose by the local, state, or federal government entities collecting them. Of the \$401.9 million in tax revenues collected from Encore Boston Harbor from 2019 to 2022, 20 percent (\$80.4 million) went to local aid for Massachusetts cities and towns, while the remaining 80 percent was allocated to various state funds using the formula pictured in Figure 5.

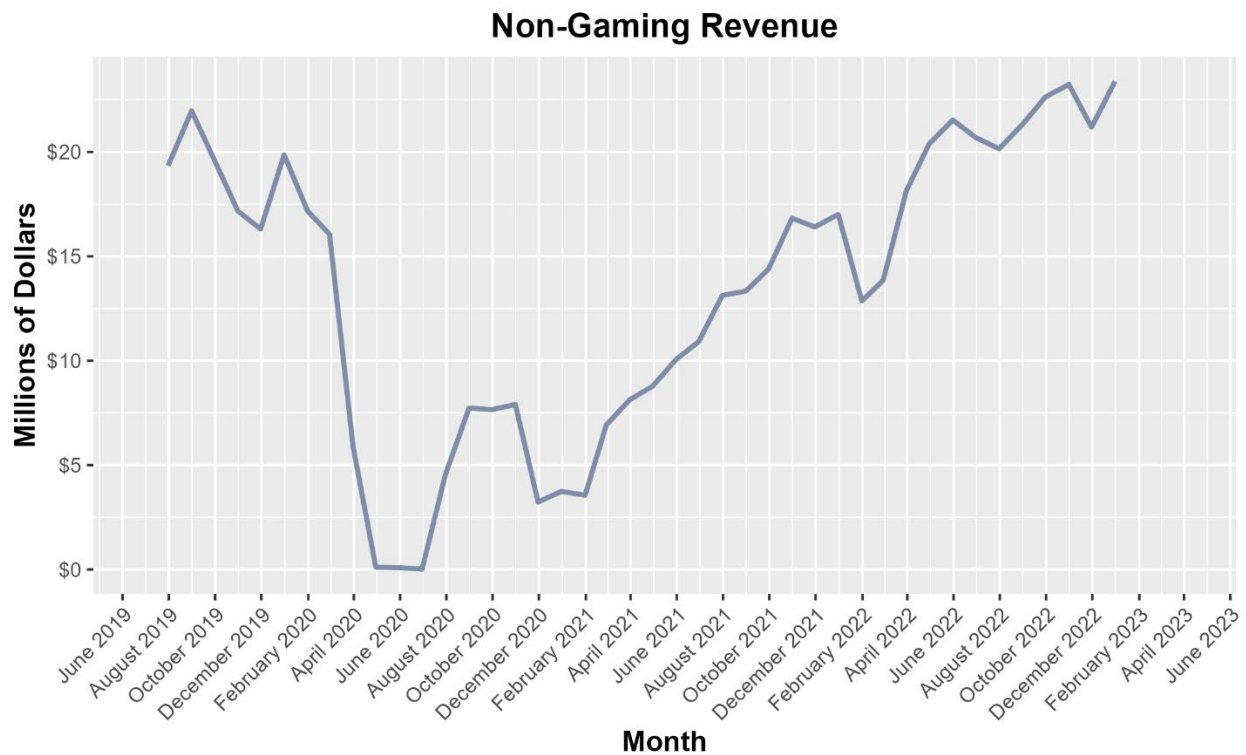
It should be noted that many of the funds which receive revenue from taxes on Encore Boston Harbor’s gross gaming revenue also receive funds from other sources, such as budget appropriations from the state legislature. There is no way to know precisely how resources would have been allocated to these funds if the Commonwealth did not receive revenue from Encore Boston Harbor and the other casinos. It is possible that an increase in funds from taxes on Encore Boston Harbor’s gross gaming revenue

⁷ In addition to these payments, Encore Boston Harbor, as well as the other license awardees, paid licensing fees which were distributed according to a different formula. Because this report seeks to study the impacts of Encore Boston Harbor’s operation, these payments are not modeled, but they may be addressed in a future report.

allowed the legislature to decrease their appropriation to a fund while preserving its operating budget. Because of the fungible nature of government funds, UMDI did not thoroughly model the exact economic impact of each fund, but rather chose to model the new funds to state and local government as new general state and local government spending.

Figure 7 shows Encore Boston Harbor’s revenue from activities other than gambling. Non-gaming revenue has comprised between 18 and 28 percent of EBH’s annual revenue, depending on the year. Over the first four years of the casino’s operation, non-gaming revenue has generally followed a trend similar to that of gaming revenue, although non-gaming revenue increased more gradually than gambling revenue after reopening.

Figure 7. Non-Gaming Revenue, August 2019-January 2023



Source: Encore Boston Harbor

Local Aid

The term ‘local aid’ in the Commonwealth of Massachusetts refers to “money that flows from the state budget to city and town budgets, helping them fund vital local services such as schools, police and fire protection, parks and public works”.⁸ Local aid is categorized into three distinct categories: General Local Aid; Chapter 70 Education Aid; and Categorical Local Aid. General Local Aid, or Unrestricted General Government Aid, primarily comprises revenues generated from the state lottery. This fund is used by the state as a mechanism to offset inequality of local services that would otherwise exist if cities and towns primarily funded their budgets with local property tax revenue. Cities and towns have flexibility in how they allocate these funds, using them to support general government spending. This

⁸ https://massbudget.org/reports/pdf/demystifying_general_local_aid.pdf

flexibility allows cities and towns to distribute resources across different programs and priorities as needed. Chapter 70 Education Aid is the most substantial portion of local aid and flows directly into school districts. Categorical Local Aid serves as financial assistance for smaller, targeted programs that address specific local needs. For General Local Aid, The Commonwealth makes direct, monthly local aid payments to cities and towns using the state’s General Fund to distribute the balance of the State Lottery and Gaming Fund, and additional funds from the General Fund and the Gaming Local Aid Fund.⁹ By statute, 20 percent of the taxes on Encore Boston Harbor’s gross gaming revenue are allocated to general local aid and thus added to these existing sources of funding. These funds are allocated to cities and towns using the same distribution formula which had previously been used, resulting in each city and town continuing to receive its expected share of a now-greater pool of local aid funds.¹⁰ The formula currently set by the Massachusetts legislature distributes local aid funds based on a city or town’s population, income, and property values. Indeed, large and economically distressed communities received the largest share of new local aid funds from Encore Boston Harbor.

When aggregated into the regions that we used for our PI+ model, 59.8 percent of local aid funds are distributed to the Metro Boston region. This may be attributed to the high population density of the region and to the fact that many of the Commonwealth’s more economically distressed cities and towns are within this region. As discussed later, contributions to the public sector, which generate spending in many areas, are one of Encore Boston Harbor’s largest economic impacts in regions of Massachusetts outside of Metro Boston.

Table 4. Distribution of Local Aid from Encore Boston Harbor Gross Gaming Revenue by REMI Region, 2019-2022 (in Millions of Dollars)

Fund/Source	2019	2020	2021	2022
Gross Gaming Revenue (GGR)	\$313.9	\$331.7	\$634.4	\$729.7
Taxes Collected from GGR	\$78.5	\$82.9	\$158.6	\$182.4
Total New Local Aid	\$15.7	\$16.6	\$31.7	\$36.5
Region	2019	2020	2021	2022
Berkshires	\$0.3	\$0.4	\$0.7	\$0.8
Cape and Islands	\$0.2	\$0.2	\$0.3	\$0.4
Central	\$1.8	\$1.9	\$3.7	\$4.2
Metro Boston	\$9.4	\$9.9	\$19.3	\$21.8
Pioneer Valley	\$1.8	\$1.9	\$3.7	\$4.2
Southeast	\$2.2	\$2.3	\$4.5	\$5.1

Source: Massachusetts State Legislature, UMDI Calculations

⁹ See Governor’s Budget FY2024 Recommendations. Section 3, Local Aid Distribution. <https://budget.digital.mass.gov/govbudget/fy24/local-aid/>. Downloaded 10/10/23.

¹⁰ For more information on local aid distribution, see https://budget.digital.mass.gov/bb/h1/fy18h1/os_18/h3.htm

Changes in Consumer Spending: Patrons and their Spending Patterns

Encore Boston Harbor's revenue is obtained through the expenditures of its patrons. Although Encore Boston Harbor's expenditures create new economic activity in the Commonwealth, one potential downside to any new, large consumer attraction is that customers might shift their spending away from other local businesses and towards the new attraction, leading to a decline in revenue for other businesses.¹¹ The casino's direct operating impacts, as described in the previous section, are therefore an incomplete accounting of Encore Boston Harbor's economic footprint. To fully capture the impact of Encore Boston Harbor's operations, we needed to estimate the magnitude and nature of these shifts in spending. These include shifts in consumer spending away from other Massachusetts businesses and toward the casino, as well as new consumer spending outside of Encore Boston Harbor by casino patrons. The following section describes our process for forming those estimates.

Patron Spending

The SEIGMA team collected data on patron spending through an on-site survey of patrons at Encore Boston Harbor. One of the greatest challenges facing researchers conducting economic impact studies is conceiving of a counterfactual for consumer behavior.¹² To determine how changes in patron behavior affect the economy, it is critical to understand how money spent at the casino would have been spent if Massachusetts had not expanded in-state gaming. To do this, SEIGMA's Encore Boston Harbor patron survey gathers information from patrons about where they live, whether they would have come to Everett without the casino, and whether they would have gambled in another state were it not for the existence of Encore Boston Harbor.¹³ Based on the patrons' answers, they are categorized into one of six patron types created by UMDI. Descriptions of the six patron types and how they were derived are given in Appendix 3. *Detailed Methodology for Data Preparation*. Patron types are then used to determine how patrons' spending is treated within our economic model and to come up with spending estimates for each patron type.

All patron spending at or around Encore Boston Harbor is classified into three spending types. **New spending** is spending which would not have occurred within Massachusetts if not for the casino. This

¹¹ In order to model the economic impacts of Encore Boston Harbor, UMDI had to model the amount of money spent at Encore Boston Harbor which would otherwise have been spent on other goods and services within Massachusetts. UMDI used the patron survey to identify patrons who likely would not have spent their money in Massachusetts were it not for the casino, and then reduced consumer spending from the remaining patrons based on the geographic origins of the patrons surveyed. Although this assumption simplifies how patrons finance their visits to Encore Boston Harbor (some patrons may spend out of savings or take on debt), UMDI believes that this assumption adequately captures the flows of regional spending in the long run, as diminished savings or greater debt will likely lead to a decrease in consumer spending at some point.

¹² In the parlance of economic modeling, a counterfactual is a statement of what would be different if something which is currently true were not true. In this case, finding a counterfactual for consumer behavior would mean finding an estimate for how Encore Boston Harbor patrons would have spent their money if Encore Boston Harbor had never opened.

¹³ Self-reported gambling expenditure tends to be somewhat unreliable due to a tendency, particularly among heavy and/or problem gamblers, to report being a 'winner.' This is despite its implausibility and objective evidence to the contrary (Williams, Volberg, Stevens et al., 2017; Wood & Williams, 2007). The analytical approach employed with these data has been shown to improve the validity of self-reported expenditures and has been used in previous reports. Consequently, the patron survey study adopted this protocol as a best-practice approach and to maintain consistency across reports. For detailed information on the patron survey, including a copy of the survey instrument, see *Patron and License Plate Report: Encore Boston Harbor 2019*. SEIGMA. June 2020 available here: www.umass.edu/seigma/reports.

includes spending by recaptured patrons (patrons who indicated that they would have travelled out-of-state to gamble if an in-state option was not available) and out-of-state patrons who indicated that they would not have made their visit to Massachusetts if the casino had not opened. **Reallocated spending** is spending from patrons whose survey responses indicate that they would have spent their money in Massachusetts regardless of whether the casino opened. This group is important to track because a key concern from some groups leading up to the opening of the casinos was that consumers would shift their spending away from other local businesses and towards the casino. Finally, **incidental spending** is spending which would have occurred regardless of whether the casino opened. On-site spending at the casino cannot be incidental but off-site spending can be; because many casino patrons would have been in Everett or the surrounding area, their off-site economic activity cannot be fully attributed to the casino. On-site and off-site patron spending is modeled differently in our economic modeling exercise depending on whether it is classified as new, reallocated, or incidental.

Although prior patron surveys had been conducted in the first year of the casino's operations, the COVID-19 pandemic forced the SEIGMA team to delay the patron survey until 2022. In a way, this is the most appropriate year regardless, as 2022 was the casino's first full year of operation without any pandemic-related restrictions, and its highest year in both gaming and non-gaming revenues. Unfortunately, it means that we were unable to gather any data on what ways the patrons who visited the casino while COVID-19 restrictions were in place were different from the ones who visited the casino once the restrictions had been lifted. In the following sections, we use the weighted shares of spending derived from the 2022 patron survey to apportion spending for all years, but we acknowledge that it is possible that those shares may have been somewhat different had the survey been conducted in those prior years.

Patron Spending at Encore Boston Harbor

Based on the results of the 2022 Patron Survey, the SEIGMA team estimates that most patrons of Encore Boston Harbor would not have spent the money they spent at the casino in Massachusetts if not for the casino. Many of these patrons are recaptured patrons who live in Massachusetts, but who would have travelled out-of-state to gamble even if the casino had never opened. A smaller number are out-of-state patrons who indicated that they would not have made the trip to Massachusetts if not for the casino. In either case, the economic impact is the same; the spending of these patrons would not have occurred in the Commonwealth had it not been for the casino. These patrons also account for a disproportionate share of total spending, a pattern that we have observed in other casinos as well. The remaining patrons are individuals whose survey responses led UMDI to conclude that the money they spent at Encore Boston Harbor would have otherwise been spent elsewhere in the Commonwealth. Their spending represents UMDI's estimate of the total spending reallocated away from other types of spending in Massachusetts and toward Encore Boston Harbor.

As shown in Table 5 65.4 percent of reported gambling spending at Encore Boston Harbor is new to Massachusetts. This is slightly higher than the 60.7 percent of patrons, whose spending the SEIGMA team identified as new to Massachusetts according to our method as described above. The remaining 34.6 percent of spending would likely have been spent on other types of goods and services within Massachusetts.

Table 5. Share of On-Site Gambling Spending by Spending Type at Encore Boston Harbor, 2019-2022

Class	Share of Respondents	Share of Spending	2019	2020	2021	2022
New	60.7%	65.4%	\$205,377,833	\$217,005,167	\$415,013,861	\$477,377,126
Reallocated	39.3%	34.6%	\$108,565,346	\$114,711,703	\$219,381,629	\$252,347,647
Total	100.00%	100.00%	\$313,943,179	\$331,716,870	\$634,395,490	\$729,724,773

Source: SEIGMA Encore Boston Harbor Patron Survey

The share of survey respondents whose on-site non-gambling spending is considered new to the Commonwealth is slightly higher than the share for gambling spending (63.3% in Table 6 versus 60.7% in Table 5). This discrepancy is the result of patrons who did not report spending money on both gambling and non-gambling activities during their stay and is to be expected, as not all casino patrons will partake in both forms of activities. This discrepancy becomes much wider when considering these patrons' shares of spending, where the SEIGMA team estimates 82 percent of non-gambling spending to be new to Massachusetts. This is a more dramatic example of the trend observed in gambling spending, where patrons whose spending is considered to be new account for a disproportionate share of the casino's revenue. Table 6 shows the breakdown of on-site non-gambling spending.

Table 6. Share of On-Site Non-Gambling Spending by Patron Type at Encore Boston Harbor, 2019-2022

Spending Type	Share of Respondents	Share of Spending	2019	2020	2021	2022
New	63.3%	82.0%	\$98,478,843	\$60,813,250	\$114,388,658	\$196,364,023
Reallocated	36.7%	18.0%	\$21,583,212	\$13,328,195	\$25,070,102	\$43,036,313
Total	100.0%	100.0%	\$120,062,054	\$74,141,445	\$139,458,759	\$239,400,335

Source: SEIGMA Encore Boston Harbor Patron Survey

Patron Spending Off-Site

Of patrons surveyed by the SEIGMA team, 39.1 percent indicated that they spent money off-site during their trip to Encore Boston Harbor. The largest off-site spending was seen in attendance at an event, show, or exhibit (33.5%), with additional spending for off-site food or beverage (21.0%), bars, pubs, or nightclubs (11.3%), and retail shopping (9.8%). In order to model new or reallocated off-site spending, UMDI utilized translator variables within the REMI model, which provide estimates of how visitors might spend their money during their visits.¹⁴

As mentioned earlier, not all the reported off-site spending at Encore Boston Harbor is new spending to the region. Based on patron survey responses, UMDI estimates that 8.7 of all the reported off-site spending by Encore Boston Harbor patrons, would have occurred regardless of whether the casino ever opened. Of the remaining spending, UMDI estimates that 71 percent is new spending which would not have occurred in Massachusetts if Encore Boston Harbor had not opened, while the remaining 20.3

¹⁴ Translator variables inside the REMI model represent a basket of goods and services purchased by a certain type of tourist, based on data provided by the US Bureau of Economic Analysis. For recaptured in-state patrons and new out-of-state patrons, their off-site spending is modeled using the translator variable for resident households, or day trippers, because most of those patrons do live within driving distance. When considering reallocated spending from out-of-state patrons who would have visited Massachusetts regardless of whether or not Encore Boston Harbor opened, the translator variable for nonresidents is used. See *Appendix 3. Detailed Methodology for Data Preparation*.

percent is reallocated spending that would have occurred elsewhere in the Massachusetts economy. Table 7 shows the breakdown of off-site spending at Encore Boston Harbor by spending type.

Table 7. Share of Off-Site Non-Gambling Spending by Encore Boston Harbor Patron Type, 2019-2022

Spending Type	Share of Respondents	Share of Spending	2019	2020	2021	2022
New	55.9%	71.0%	\$53,759,511	\$33,197,898	\$62,444,664	\$107,194,942
Reallocated	31.9%	20.3%	\$15,409,046	\$9,515,487	\$17,898,465	\$30,725,202
Incidental	12.2%	8.7%	\$6,567,233	\$4,055,438	\$7,628,207	\$13,094,878
Total	100.00%	100.00%	\$75,735,791	\$46,768,823	\$87,971,337	\$151,015,021

Source: SEIGMA Encore Boston Harbor Patron Survey

Combined Economic Impacts: REMI Results

This study involved collecting data from Encore Boston Harbor to determine the economic footprint of its operations, including employment, wages, vendor spending, and fiscal impacts from taxes and other assessments paid to the state. These activities, known as primary activities, are used both for informative analysis as well as inputs for a REMI PI+ economic model, to calculate the total economic impacts of this new activity. A second part of the analysis involved patron spending data. Survey data from patrons at the casino highlighted shifts of patron spending patterns and doubled as inputs for a REMI PI+ economic model. The resulting model of economic impact on Massachusetts details effects in the private sector, such as the shift in private sector activity (i.e., employment and wages, vendor spending and reallocation of patron spending) as a result of the casino, and in the public sector, such as the economic activity resulting from new state and local government spending made possible by taxes and other government revenue from Encore Boston Harbor.

Casino Operations

Daily casino operation involves spending money in a number of ways, each of which generates economic impacts locally, regionally and across the state. Casino operations generate new job openings in the Commonwealth yielding paychecks for Massachusetts households. Operational spending results in revenue for other private sector firms, including many in Massachusetts, as well as taxes and fees paid to government entities. The year 2022 was Encore Boston Harbor’s first full calendar year of operation without pandemic-related operation restrictions. To use that year as an example, revenue generated by the casino in 2022 enabled Encore Boston Harbor to employ an average of 3,282 workers and pay \$206 million in wages. At the same time, Encore Boston Harbor spent \$85.4 million on vendors, membership organizations, and charitable causes. An additional \$197.4 million went to state and local government entities in Massachusetts. In total, Encore Boston Harbor spent \$489 million in payments to various persons, firms, and government entities in 2022.

Table 8. Summary of Primary REMI Inputs, 2019-2022
Inputs based on operator data and government reports

Measure	Units	2019	2020	2021	2022
Average Employment	Jobs	1,963	3,303	2,675	3,282
Total Wages	Millions of Dollars	\$142.7	\$162.3	\$157.2	\$206.2
Intermediate (e.g., B2B) Spending	Millions of Dollars	\$75.9	\$62.3	\$66.7	\$85.4
Government Revenue	Millions of Dollars	\$86.0	\$87.6	\$167.6	\$197.4

Source: Encore Boston Harbor; SEIGMA Encore Boston Harbor Patron Survey

Note: Employment numbers for 2019 were adjusted to account for the casino opening part-way through the year

Patron Spending at Encore Boston Harbor

Patron survey data was used in the REMI modeling exercise to estimate the amount of money which left the rest of the Massachusetts economy as casino patrons shifted their spending away from their usual activities and towards the casino (reallocation). Although on-site patron spending drives Encore Boston Harbor’s revenues, patron spending at Encore Boston Harbor is not an economic impact in and of itself. Rather, the impacts of patron spending on the local economy are seen when the casino uses those revenues to pay employees and purchase goods and services from other firms, or when state and local governments spend revenues collected from the casino. The SEIGMA team conducted a survey on Encore Boston Harbor patrons because questions about the origin and behavior of Encore Boston

Harbor’s patrons have broader public policy implications beyond direct economic impacts. The economic implications of those survey findings are explored in the Patron Spending section of this report, and the results are described in further detail in SEIGMA’s Encore Boston Harbor Patron Survey report.¹⁵

Based on the findings of that report, the SEIGMA team estimates that, in each year of its operation, Encore Boston Harbor attracted visitors who spent millions of dollars in new off-site spending in the course of their visits. Annual estimates range from as low as \$42.7 million in 2020 to \$137.9 million in 2022, with the pandemic playing a major role in the magnitude of that spending. Shifts in consumer spending affected Massachusetts businesses outside of the casino in both positive and negative ways. The SEIGMA team was able to estimate many of these impacts based on patron survey responses. On one hand, we estimate that patrons spent \$330.1 million at businesses outside of Encore Boston Harbor during their visits over the course of the study period. On the other hand, we also estimate that patrons shifted \$818.9 million away from other Massachusetts businesses during the same time, and instead spent that money at the casino leading to a net loss in consumer spending to businesses outside the casino. It should be noted that the source of this spending is patrons only, and in this discussion is not counterbalanced by new spending by casino employees, or the spending of firms that did business with the casino.¹⁶ Table 9 shows the components of that change from 2019 to 2022. Details on these figures and the data used to derive them can be found in the full patron survey report entitled *Patron and License Plate Survey Report: Encore Boston Harbor 2019*.

Table 9. Net Change in Consumer Spending Outside of Encore Boston Harbor, 2019-2022

Measure	Units	2019	2020	2021	2022
New Off-Site Spending by Casino Visitors	Millions of Dollars	\$69.2	\$42.7	\$80.3	\$137.9
Reallocated In-State Consumer Spending	Millions of Dollars	-\$135.9	-\$129.8	-\$247.7	-\$305.5
Net Off-Site Consumer Spending	Millions of Dollars	-\$66.7	-\$87.1	-\$167.3	-\$167.6

Source: SEIGMA Encore Boston Harbor Patron Survey

Combined Economic Impacts

The employment and spending impacts of the casino discussed in detail above form the basis of inputs to the REMI model. Modeling these direct employment and spending impacts allows us to estimate the magnitude of the ‘ripple effects’ of that initial spending known as secondary impacts. In its first year of operation, the direct employment, wages, vendor spending, and fiscal activity associated with Encore Boston Harbor generated an annualized¹⁷ total of 6,309 jobs, with 5,207 of those jobs existing in the private sector. The remainder were government positions supported by the revenue generated by Encore Boston Harbor, along with additional taxes collected from new economic activity. These estimates, along with estimates of output (sales), value added (i.e., net new economic activity or gross state product), and personal income, shown in Table 10, represent the net economic impact of Encore Boston Harbor’s operating impacts, which were overwhelmingly positive, and its impacts on consumer

¹⁵ This report and other reports from the SEIGMA research team can be found at www.umass.edu/seigma/reports.

¹⁶ This estimate does not include new consumer spending from casino employees or vendors, which are estimated using the REMI model. These spending estimates, along with the operational impacts, are the inputs to that model.

¹⁷ Encore Boston Harbor opened in June 2019. Because REMI models make certain assumptions about the compensation and labor productivity of workers over the course of the year, employment numbers for 2019 were adjusted to reflect the share of the year that the casino was operational. The casino’s actual economic impact was certainly substantially smaller prior to the opening of the casino, and substantially larger after, with the number presented here acting as a sort of annual average.

spending outside of the casino, which, although mixed, were on net negative. Over the next three years, these economic impacts, both positive and negative, would grow in magnitude, but on net, the casino's economic contribution would continue to grow.

By 2022, for example, we estimate Encore Boston Harbor's operating impacts created or supported 11,082 jobs in the Commonwealth, while shifts in consumer spending towards the casino and away from other firms are estimated to have cost the Commonwealth 1,164 jobs. On net, we estimate the casino's economic footprint in 2022 to be 9,917 jobs, with 7,533 of those jobs being in the private sector.¹⁸ The casino also contributed a net of \$1.7 billion in output in Massachusetts, with \$1.3 billion of that being net new, or value added, and \$1.1 billion in net new personal income.

Table 10. Economic Impacts of Encore Boston Harbor, 2019-2022

Component	2019	2020	2021	2022
Total Employment				
Operating Impacts	6,309	8,619	9,074	11,082
Consumer Spending Impacts	-485	-537	-1,045	-1,164
Net Impacts	5,823	8,081	8,028	9,917
Private Non-Farm Employment				
Operating Impacts	5,207	7,391	6,969	8,640
Consumer Spending Impacts	-469	-513	-1,001	-1,106
Net Impacts	4,736	6,877	5,967	7,533
Output (Millions of Dollars)				
Operating Impacts	\$894.9	\$1,694.4	\$1,497.8	\$2,006.8
Consumer Spending Impacts	-\$103.4	-\$124.9	-\$247.3	-\$310.4
Net Impacts	\$791.3	\$1,569.3	\$1,250.3	\$1,696.0
Value Added (Millions of Dollars)				
Operating Impacts	\$639.9	\$1,106.6	\$1,156.1	\$1,525.1
Consumer Spending Impacts	-\$63.4	-\$76.0	-\$150.7	-\$190.4
Net Impacts	\$576.4	\$1,030.5	\$1,005.3	\$1,334.4
Personal Income (Millions of Dollars)				
Operating Impacts	\$542.8	\$773.3	\$892.8	\$1,178.6
Consumer Spending Impacts	-\$38.3	-\$45.9	-\$90.7	-\$114.9
Net Impacts	\$504.4	\$727.3	\$802.0	\$1,063.5

Source: Regional Economic Models, Inc., UMDI Calculation

Note: 2019 Employment Numbers are Annualized

Encore Boston Harbor, and the state government which receives revenue from it and many of the vendors that support it, are located in the large Metro Boston region which makes up the economic hub of the Commonwealth. It is therefore not surprising that in each of these measures, economic impacts are concentrated in that region. Many of the impacts in outlying regions can be attributed to wages from commuters, payments to vendors, or spending by state or local government entities that received

¹⁸ The REMI model's footprint analysis estimates the number of jobs supported, which could be in the form of new jobs or in the form of new support for existing jobs.

funding from Encore Boston Harbor’s operations. Table 11 shows the distribution of Encore Boston Harbor’s economic impacts by region.

Table 11. Regional Economic Impacts of Encore Boston Harbor, 2019-2022

Topic/Region	2019	2020	2021	2022
Total Employment				
<i>Metro Boston</i>	4,482	6,632	5,944	7,434
<i>Southeast</i>	520	586	735	896
<i>Pioneer Valley</i>	291	290	510	592
<i>Central</i>	412	448	655	771
<i>Berkshires</i>	31	31	54	63
<i>Cape and Islands</i>	86	95	130	161
Total	5,823	8,081	8,028	9,917
Private Non-Farm Employment				
<i>Metro Boston</i>	3,849	5,905	4,737	6,039
<i>Southeast</i>	401	454	508	632
<i>Pioneer Valley</i>	140	136	228	266
<i>Central</i>	266	295	380	452
<i>Berkshires</i>	15	14	23	27
<i>Cape and Islands</i>	65	73	91	115
Total	4,736	6,877	5,967	7,533
Output (Millions of Dollars)				
<i>Metro Boston</i>	\$589.4	\$1,319.8	\$879.6	\$1,222.2
<i>Southeast</i>	\$78.5	\$100.4	\$134.6	\$173.4
<i>Pioneer Valley</i>	\$42.1	\$47.4	\$84.3	\$106.3
<i>Central</i>	\$63.5	\$79.2	\$118.7	\$150.6
<i>Berkshires</i>	\$4.6	\$5.2	\$9.2	\$11.6
<i>Cape and Islands</i>	\$13.3	\$17.2	\$23.9	\$31.9
Total	\$791.3	\$1,569.3	\$1,250.3	\$1,696.0
Value Added (Millions of Dollars)				
<i>Metro Boston</i>	\$456.4	\$882.4	\$785.1	\$1,052.5
<i>Southeast</i>	\$46.5	\$59.4	\$79.6	\$102.8
<i>Pioneer Valley</i>	\$25.1	\$28.2	\$50.2	\$63.3
<i>Central</i>	\$37.7	\$47.0	\$70.6	\$89.6
<i>Berkshires</i>	\$2.7	\$3.1	\$5.4	\$6.9
<i>Cape and Islands</i>	\$8.0	\$10.4	\$14.4	\$19.3
Total	\$576.4	\$1,030.5	\$1,005.3	\$1,334.4
Personal Income (Millions of Dollars)				
<i>Metro Boston</i>	\$383.2	\$569.5	\$590.7	\$796.8
<i>Southeast</i>	\$52.7	\$71.5	\$86.3	\$110.7
<i>Pioneer Valley</i>	\$18.9	\$21.4	\$38.0	\$46.8
<i>Central</i>	\$39.4	\$51.9	\$68.2	\$85.4
<i>Berkshires</i>	\$2.0	\$2.2	\$3.9	\$4.9
<i>Cape and Islands</i>	\$8.3	\$10.8	\$14.8	\$18.9
Total	\$504.4	\$727.3	\$802.0	\$1,063.5

Source: Regional Economic Models, Inc., UMDI Calculation

Note: 2019 Employment Numbers are Annualized

Table 12 shows the shares of employment impacts associated with various sources of employment demand. The largest among these sources of demand is the casino itself, which consistently employs just over half of the individuals within its economic footprint. Some jobs are supported by intermediate demand, or employment demand created by business-to-business spending, either from the casino itself or from other firms that have benefitted from its economic activity. Additional demand for employment is generated through induced employment demand, or the additional demand for goods and services created when individuals, including casino employees and vendors, spend additional money in their communities, and when new economic activity induces additional investment from government entities and private-sector firms. Finally, some of the demand for new employees comes directly from state and local government entities, who can hire new workers with the additional revenue they receive from Encore Boston Harbor’s operations.

Table 12. Employment Impacts of Encore Boston Harbor by Demand Source, 2019-2022

Employment Impacts by Employment Source	2019	2020	2021	2022
Private Non-Farm	4,736	6,877	5,967	7,533
Casino Employment	1,963	3,303	2,675	3,282
Business to Business	935	1,005	965	1,295
Induced	1,838	2,570	2,327	2,956
<i>Consumption-Based</i>	917	1,154	799	1,188
<i>Other Induced</i>	921	1,416	1,528	1,768
Government	1,087	1,204	2,061	2,384
Total	5,823	8,081	8,028	9,917

Source: Regional Economic Models, Inc., UMDI Calculation

Note: 2019 Employment Numbers are Annualized

Overall, by 2022, the \$1.1 billion dollars¹⁹ spent in and around Encore Boston Harbor by casino patrons supported an average of 3,282 positions at the casino, paying \$206 million in compensation, and created demand for \$85.4 million of intermediate goods and services purchased from vendors by Encore Boston Harbor. The casino also paid \$197.4 million in payments to government entities, although on net, consumers shifted \$167.6 million in spending away from other goods and services and towards the casino. This new economic activity led to an estimated 9,917 jobs in Massachusetts (including the 3,282 jobs at the casino), the majority of which (7,434) are within the Metro Boston region.

¹⁹ Calculated as the sum of gross gaming revenue, non-gaming spending, and estimated off-site spending.

Conclusion

Although Encore Boston Harbor has been open since the summer of 2019, 2022 was its first full year of operation without any shutdowns or restrictions related to the COVID-19 pandemic. Therefore, we assume that 2022 was the most normal year of operations so far, and for this reason can use data from that year to draw conclusions about EBH's operating impacts. In 2022, the \$1.1 billion dollars spent in and around Encore Boston Harbor by casino patrons supported an average of 3,282 positions at the casino, paying \$206 million in compensation, and created demand for \$85.4 million of intermediate goods and services purchased from vendors by Encore Boston Harbor. The casino also paid \$197.4 million in payments to state and local government entities. This number includes the tax payments on gross gaming revenue that were made to the state. In addition to these gains for government, net impacts for state business was negative. On net, consumers shifted \$167.6 million in spending away from other goods and services and towards the casino.

These findings about direct impacts served as inputs which we used to inform our economic impact model, which estimates the secondary and tertiary 'spin off' effects of an economic event. In addition to the 3,282 jobs directly supported by the casino, new spending from vendors, government entities, and new employees, along with shifts in spending from casino patrons led to another 6,635 jobs on net, for a total of 9,917 jobs supported by the casino. The majority of those jobs are located in the Metro Boston region. Encore Boston Harbor also supported \$1.1 billion in new personal income and \$1.7 billion in new output within the Massachusetts economy, of which \$1.3 billion was value added (i.e., net new economic activity or gross state product).

About this Report

Previous iterations of this report examining the economic impacts of Plainridge Park Casino and MGM Springfield focused on the casino's first year of operations. Due to logistical and public health delays, the SEIGMA team was not able to conduct a survey of Encore Boston Harbor patrons until April of 2022, which meant that was the first year that we could make estimates of patron behavior which are important to our economic impact model. This seemed appropriate, because, as stated elsewhere, 2022 was Encore Boston Harbor's first full year of operation without shutdowns or restrictions related to the pandemic. In writing this report, the SEIGMA team did not emphasize the minutiae of the regulatory landscape faced by the casino over those years, or the casino's responses to that landscape, as that was the topic of another report just last year. In comparison to previous reports, the SEIGMA team also took a more focused approach, emphasizing the regional economic impacts of the casino's operation. Analysis of the casino's hiring and spending decisions in terms of equity and worker well-being will get more coverage in another report which is being produced at the same time as this one.

As this report is being produced, the SEIGMA team is discussing changes to our methodology for surveying casino patrons and generating regional spending estimates. Although our team members worked hard to collect the data necessary for this project under difficult circumstances, the cost of the process has prompted us to explore alternative methods for producing these analyses that may allow the team to generate estimates of the casinos' economic impacts on a more frequent basis.

This report allowed the SEIGMA team to gain valuable insight into the ways that Encore Boston Harbor interacted with Massachusetts' economy as it resumed normal operations after the COVID-19 pandemic. Unfortunately, with only nine months of operation prior to its closure due to pandemic restrictions, we can only speculate as to how the pandemic changed Encore Boston Harbor's long-term growth trajectory, or how closely current operations resemble a long-term normal state for the casino's operations. A potentially interesting topic for future study would be to examine how Massachusetts' other casinos, which were open for a longer period of time prior to the shutdown, operated during the same window of time.

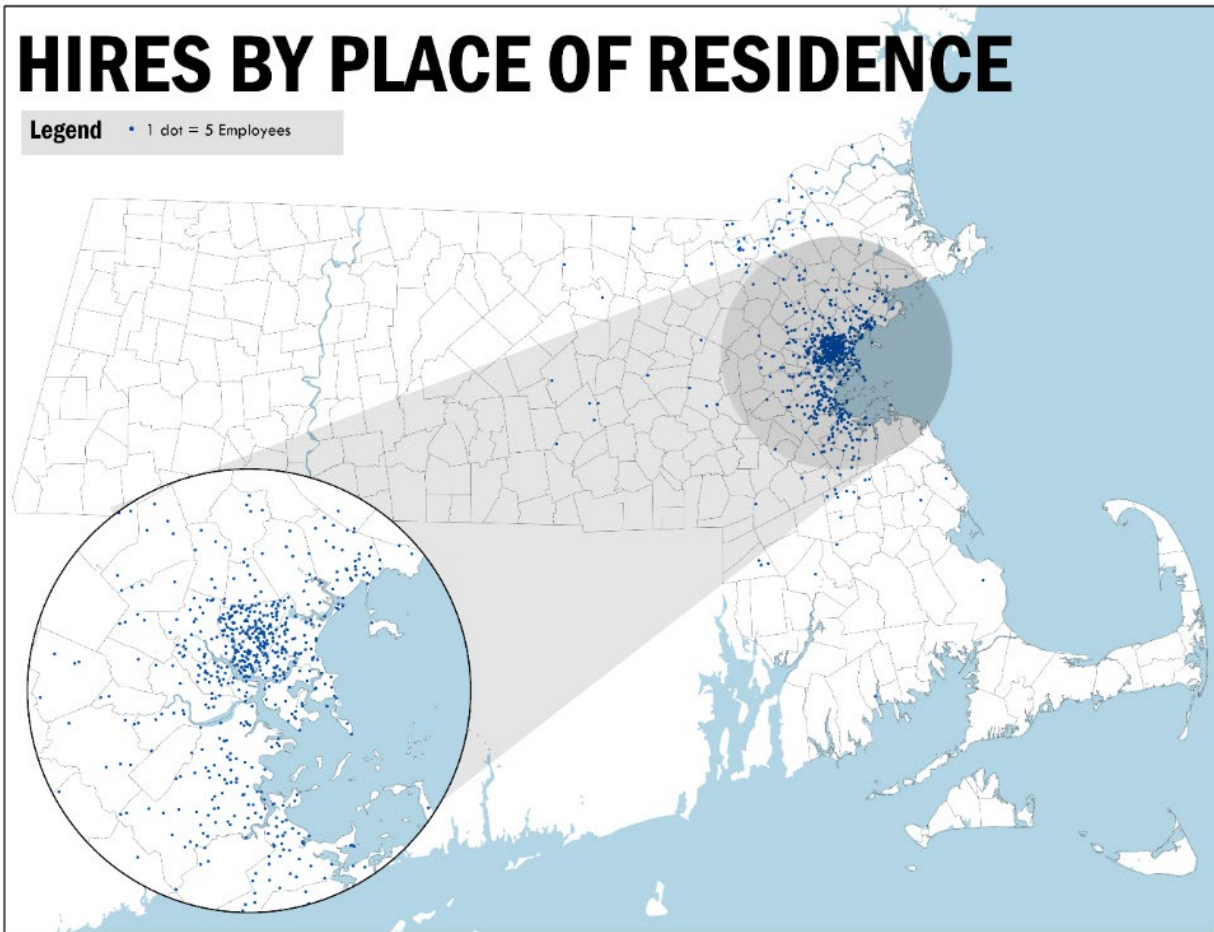
Appendix 1. Local Direct Impacts

Table 13. Average Annual Employment by Place of Residence, 2019-2022

City	2019	2020	2021	2022	Share
Everett	530	420	319	412	12.6%
Boston	563	399	290	364	12.1%
Malden	374	330	298	373	10.3%
Revere	239	181	141	181	5.5%
Quincy	132	123	120	181	4.2%
Lynn	155	119	94	121	3.7%
Chelsea	152	117	87	108	3.5%
Medford	143	111	87	92	3.2%
Somerville	120	92	83	103	3.0%
Saugus	45	41	38	53	1.3%
All Others	1,665	1,370	1,120	1,295	40.7%
Total	4,118	3,303	2,675	3,282	100.0%

Source: Encore Boston Harbor

Figure 8. Map of Encore Boston Harbor Employees, 2019-2022



Source: Encore Boston Harbor

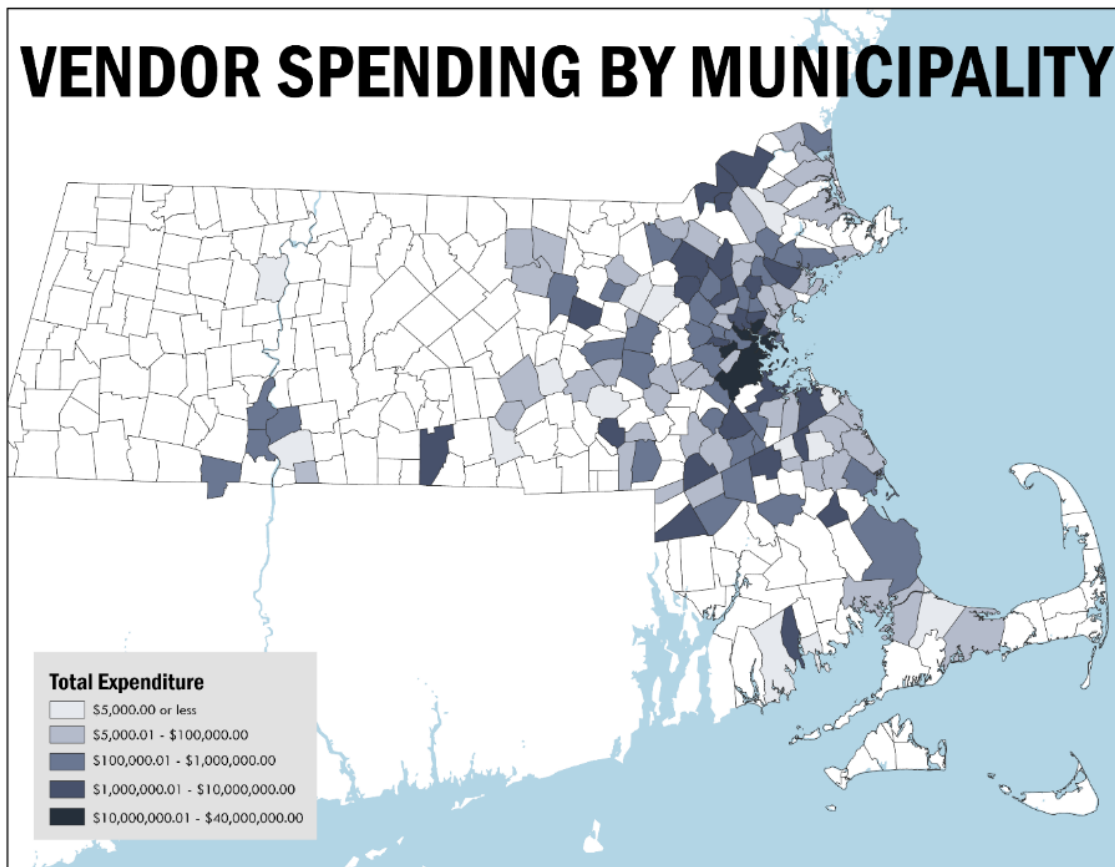
Note: Each dot represents five hires at Encore Boston Harbor within the ZIP code area derived from their most recent paycheck between June 2019 to December 2022. The total number of hires (3,827) differs from the average total employment because it includes all individuals who held a job at Encore Boston Harbor at any point from 2019 to 2022, including people may have quit or been terminated at any point during that period.

Table 14. Encore Boston Harbor Vendor Spending in Massachusetts by City/Town, 2019-2022

City	2019	2020	2021	2022	Share
Boston	\$8.7	\$8.2	\$9.1	\$11.1	24.2%
Everett	\$5.5	\$7.6	\$8.1	\$7.4	18.7%
Somerville	\$3.0	\$1.7	\$2.3	\$4.4	7.5%
Chelsea	\$2.5	\$1.6	\$1.4	\$2.3	5.1%
Brockton	\$2.0	\$1.5	\$1.5	\$2.3	4.7%
Wilmington	\$0.4	\$0.5	\$0.9	\$3.4	3.4%
New Bedford	\$0.9	\$1.0	\$1.0	\$1.5	2.9%
Peabody	\$0.7	\$0.8	\$0.5	\$0.8	1.8%
Woburn	\$1.2	\$0.5	\$0.5	\$0.6	1.8%
Malden	\$0.7	\$0.7	\$0.5	\$0.6	1.6%
All Others	\$14.1	\$7.7	\$8.6	\$12.6	28.1%
Total	\$39.8	\$31.6	\$34.6	\$47.1	100.0%

Source: Encore Boston Harbor

Figure 9. Map of Encore Boston Harbor Vendor Spending in Massachusetts by City/Town, 2019-2022



Esri, HERE, Garmin, FAO, NOAA, USGS, EPA, NPS. Basemap and Layout by Kazmiera Breest, 2023.

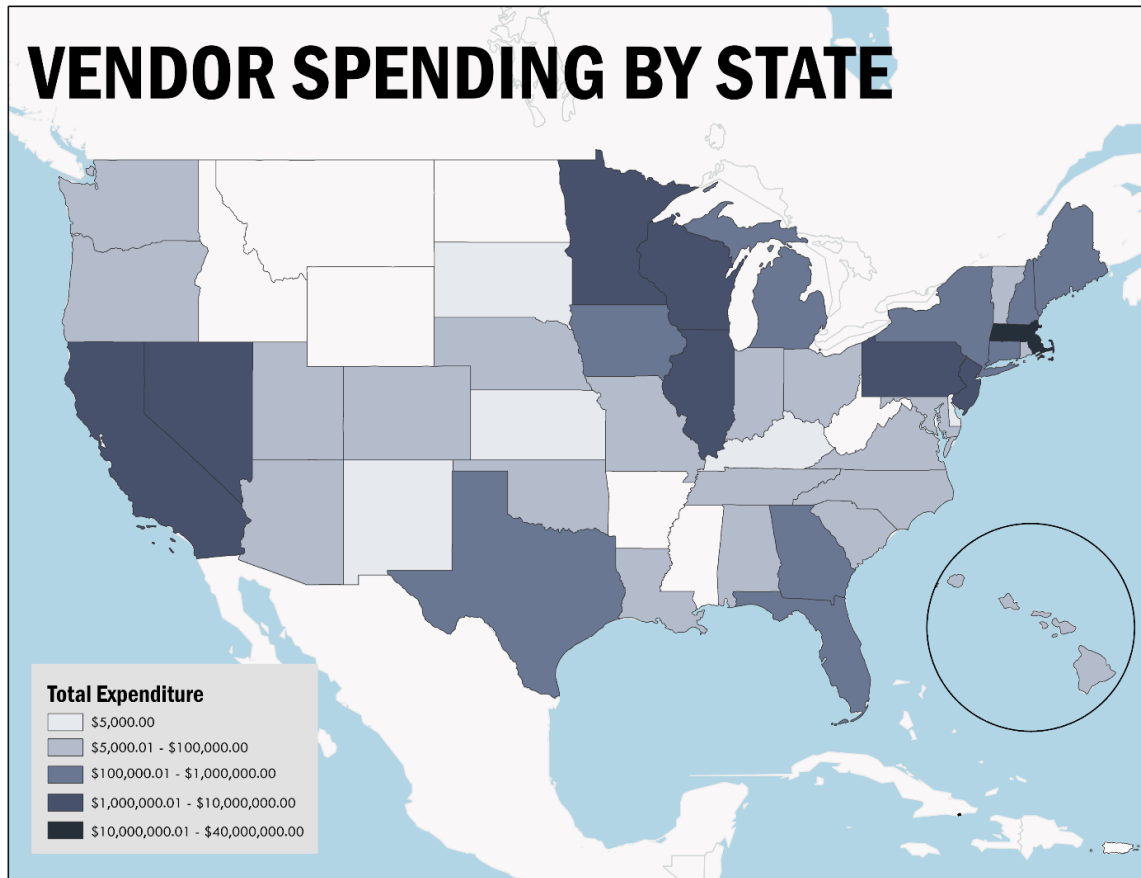
Source: Encore Boston Harbor

Table 15. Encore Boston Harbor Vendor Spending by State, 2019-2022

State	2019	2020	2021	2022	Share
Massachusetts	\$39.8	\$31.6	\$34.6	\$47.1	52.7%
California	\$10.0	\$5.2	\$2.4	\$5.0	7.8%
Illinois	\$3.8	\$2.8	\$2.9	\$3.6	4.5%
Minnesota	\$0.1	\$5.5	\$5.4	\$1.6	4.3%
Wisconsin	\$3.0	\$2.4	\$3.0	\$3.6	4.1%
Pennsylvania	\$0.3	\$0.7	\$4.0	\$6.7	4.0%
Nevada	\$4.2	\$1.7	\$1.8	\$3.5	3.9%
New Jersey	\$3.8	\$1.6	\$2.4	\$2.9	3.7%
Connecticut	\$1.9	\$1.4	\$2.0	\$2.7	2.7%
New York	\$1.2	\$1.4	\$1.9	\$2.5	2.4%
All Others	\$7.9	\$8.0	\$6.8	\$6.2	10.0%
Total	\$75.9	\$62.3	\$67.0	\$85.5	100.0%

Source: Encore Boston Harbor

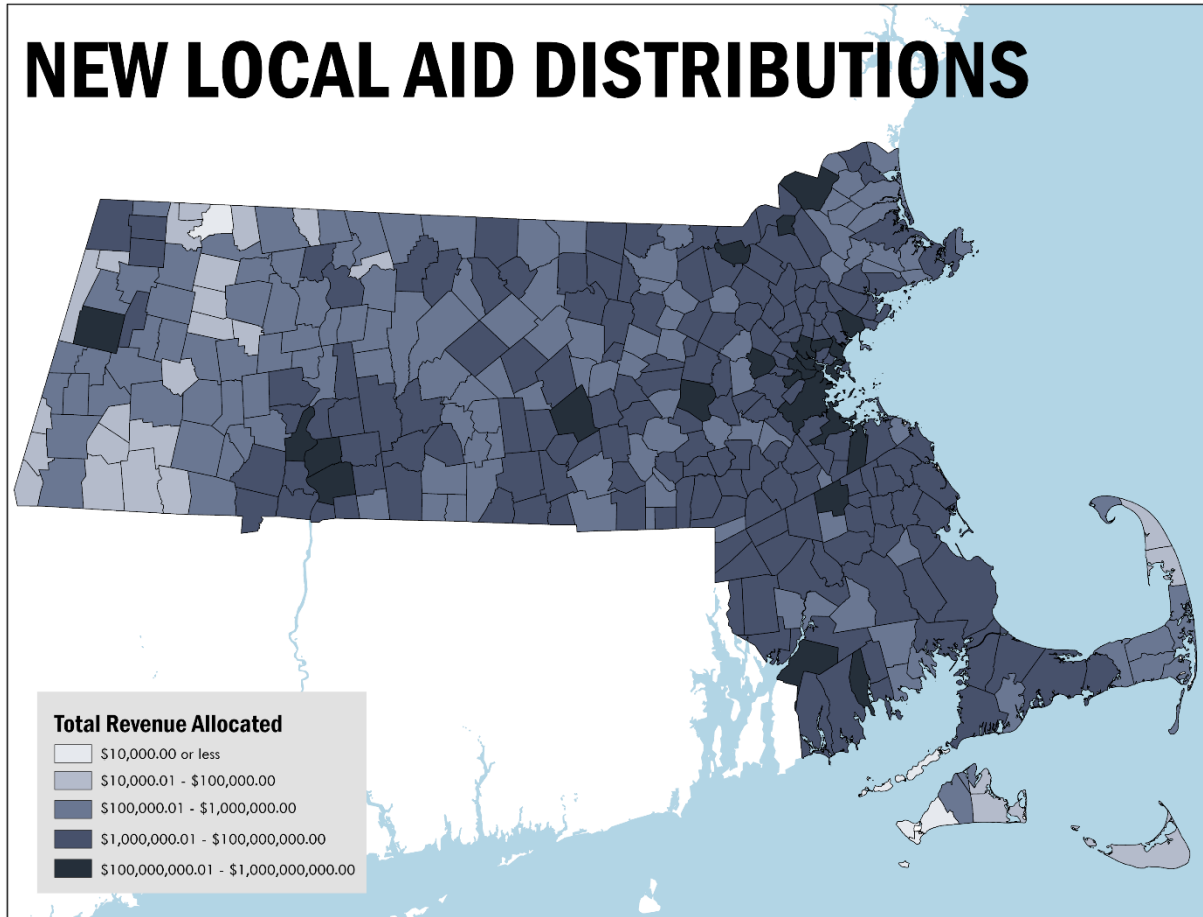
Figure 10. Map of Encore Boston Harbor Private Vendor Spending by State, 2019-2022



Esri, HERE, Garmin, FAO, NOAA, USGS, EPA, Esri, Garmin, FAO, NOAA, USGS, EPA. Basemap and Layout by Kazmiera Brest, 2023.

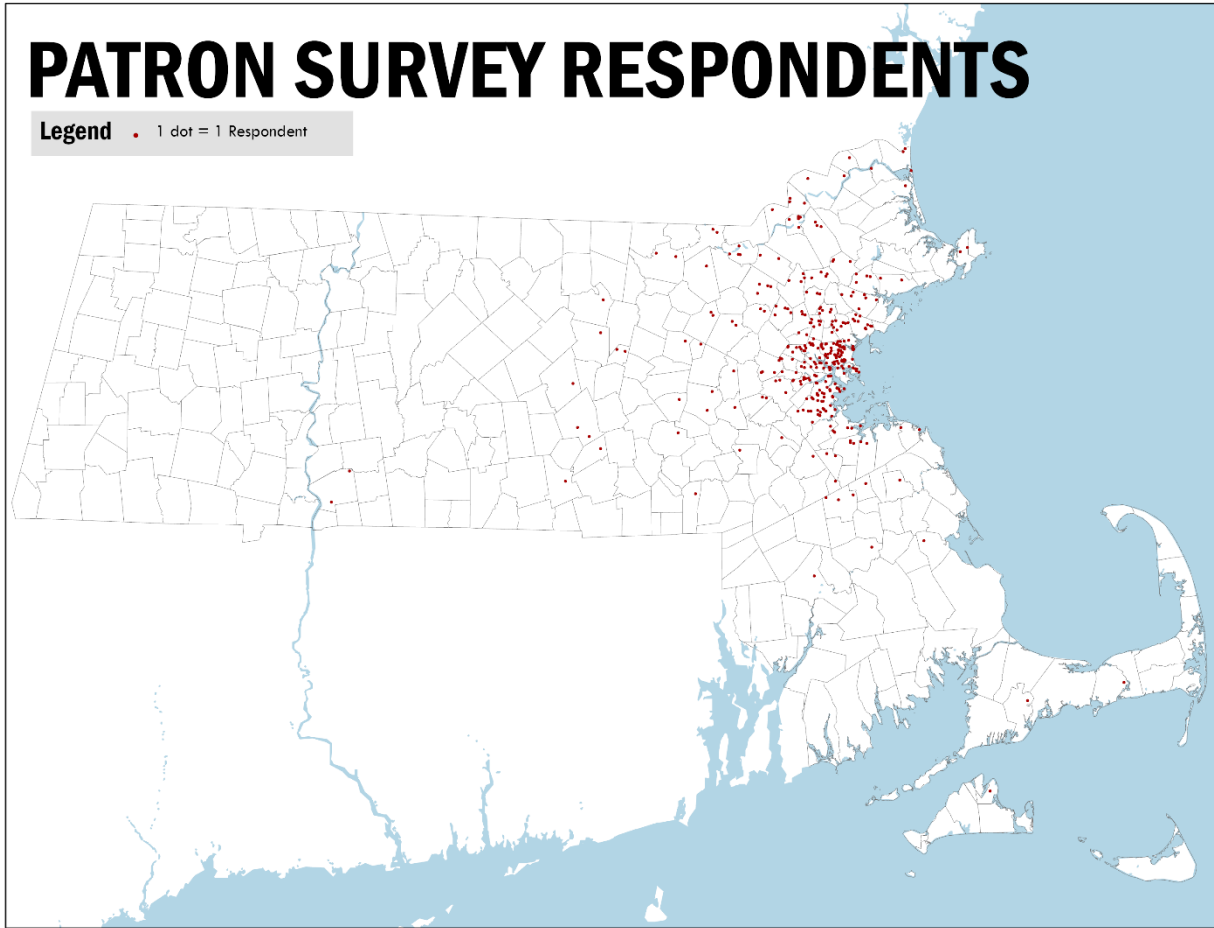
Source: Encore Boston Harbor

Figure 11. New Local Aid Money from Encore Boston Harbor Gross Gaming Revenue by City/Town, 2019-2022



Source: Massachusetts State Legislature, UMDI calculations

Figure 12. Map of Survey Respondents by Encore Boston Harbor Patron Type, 2019-2022



Esri, HERE, Garmin, FAO, NOAA, USGS, EPA, NPS. Basemap and Layout by Kazmiera Breest, 2023.

Source: Encore Boston Harbor Patron Survey

Appendix 2. The PI+ Model

PI+ is a structural economic forecasting and policy analysis model. It integrates input-output, computable general equilibrium, econometric, and economic geography methodologies. The model is dynamic, with forecasts and simulations generated on an annual basis and behavioral responses to compensation, price, and other economic factors.

The model consists of thousands of simultaneous equations with a structure that is relatively straightforward. The exact number of equations used varies depending on the extent of industry, demographic, demand, and other detail in the specific model being used. The overall structure of the model can be summarized in five major blocks: (1) Output and Demand, (2) Labor and Capital Demand, (3) Population and Labor Supply, (4) Compensation, Prices, and Costs, and (5) Market Shares. The blocks and their key interactions are shown in Figure 13 and Figure 14.

Figure 13. REMI Model Linkages

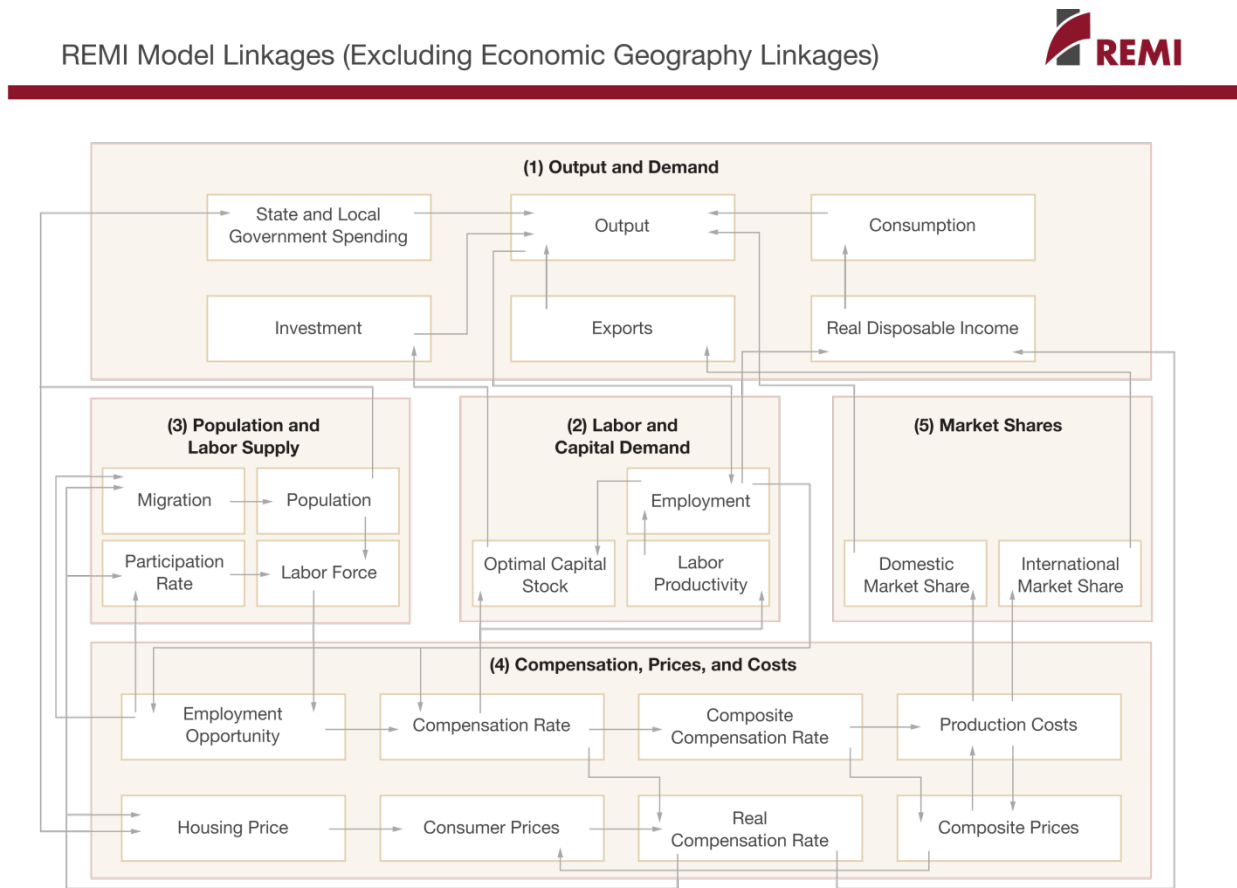
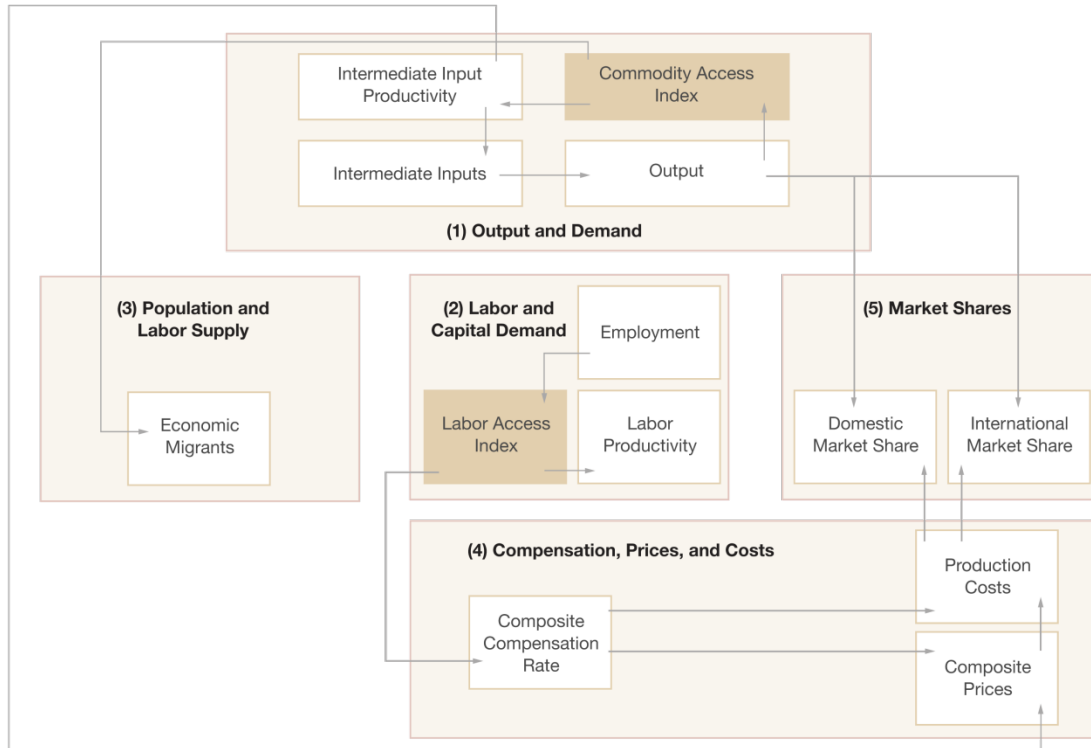


Figure 14. Economic Geography Linkages



The Output and Demand block consists of output, demand, consumption, investment, government spending, exports, and imports, as well as feedback from output change due to change in the productivity of intermediate inputs. The Labor and Capital Demand block includes labor intensity and productivity as well as demand for labor and capital. Labor force participation rate and migration equations are in the Population and Labor Supply block. The Compensation, Prices, and Costs block includes composite prices, determinants of production costs, the consumption price deflator, housing prices, and the compensation equations. The proportion of local, inter-regional, and export markets captured by each region is included in the Market Shares block.

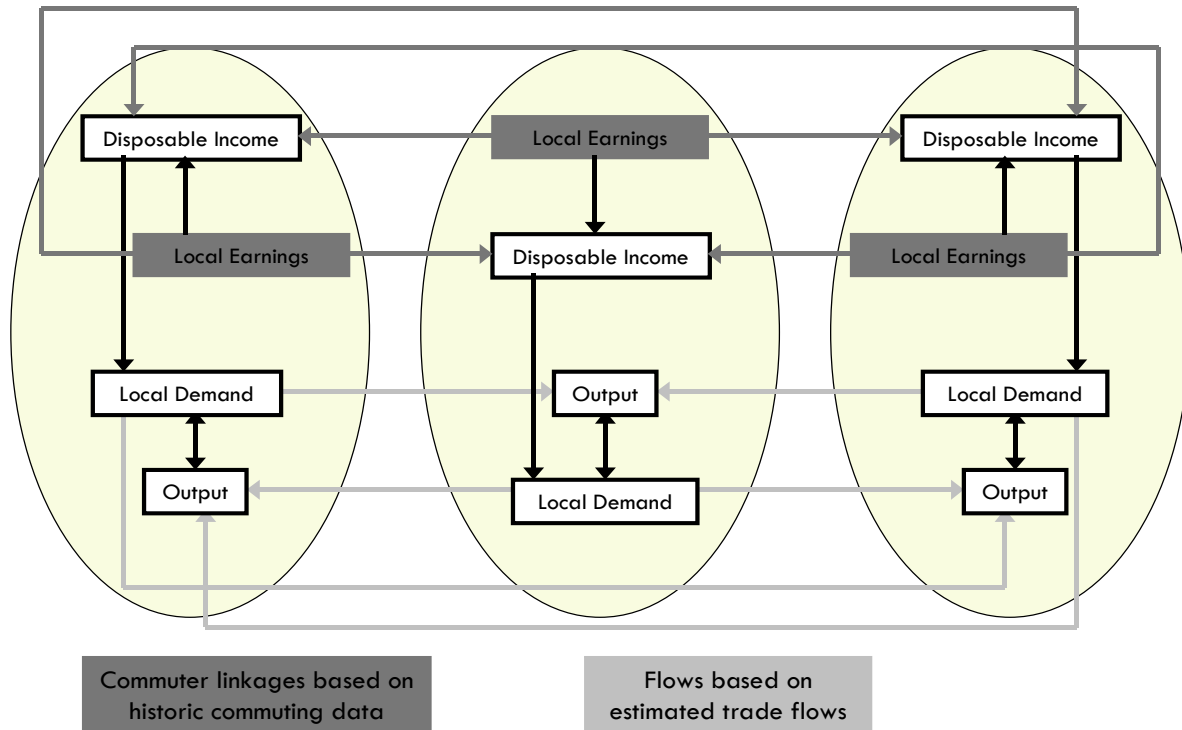
Models can be built as single region, multi-region, or multi-region national models. A region is defined broadly as a sub-national area, and could consist of a state, province, county, or city, or any combination of sub-national areas.

Single-region models consist of an individual region, called the home region. The rest of the nation is also represented in the model. However, because the home region is only a small part of the total nation, changes in the home region do not have an endogenous effect on the variables in the rest of the nation.

Multi-regional models have interactions among regions, such as trade and commuting flows. These interactions include trade flows from each region to each of the other regions. These flows are illustrated for a three-region model in Figure 15.

Figure 15. Trade and Commuter Flow Linkages

Trade and Commuter Flow Linkages



Multiregional national models also include a central bank monetary response that constrains labor markets. Models that only encompass a relatively small portion of a nation are not endogenously constrained by changes in exchange rates or monetary responses.

Block 1. Output and Demand

This block includes output, demand, consumption, investment, government spending, import, commodity access, and export concepts. Output for each industry in the home region is determined by industry demand in all regions in the nation, the home region's share of each market, and international exports from the region.

For each industry, demand is determined by the amount of output, consumption, investment, and capital demand on that industry. Consumption depends on real disposable income per capita, relative prices, differential income elasticities, and population. Input productivity depends on access to inputs because a larger choice set of inputs means it is more likely that the input with the specific characteristics required for the job will be found. In the capital stock adjustment process, investment

occurs to fill the difference between optimal and actual capital stock for residential, non-residential, and equipment investment. Government spending changes are determined by changes in the population.

Block 2. Labor and Capital Demand

The Labor and Capital Demand block includes the determination of labor productivity, labor intensity, and the optimal capital stocks. Industry-specific labor productivity depends on the availability of workers with differentiated skills for the occupations used in each industry. The occupational labor supply and commuting costs determine firms' access to a specialized labor force.

Labor intensity is determined by the cost of labor relative to the other factor inputs, capital, and fuel. Demand for capital is driven by the optimal capital stock equation for both non-residential capital and equipment. Optimal capital stock for each industry depends on the relative cost of labor and capital, and the employment weighted by capital use for each industry. Employment in private industries is determined by the value added and employment per unit of value added in each industry.

Block 3. Population and Labor Supply

The Population and Labor Supply block includes detailed demographic information about the region. Population data is given for age, gender, and race, with birth and survival rates for each group. The size and labor force participation rate of each group determines the labor supply. These participation rates respond to changes in employment relative to the potential labor force and to changes in the real after-tax compensation rate. Migration includes retirement, military, international, and economic migration. Economic migration is determined by the relative real after-tax compensation rate, relative employment opportunity, and consumer access to variety.

Block 4. Compensation, Prices and Costs

This block includes delivered prices, production costs, equipment cost, the consumption deflator, consumer prices, the price of housing, and the compensation equation. Economic geography concepts account for the productivity and price effects of access to specialized labor, goods, and services.

These prices measure the price of the industry output, considering the access to production locations. This access is important due to the specialization of production that takes place within each industry, and because transportation and transaction costs of distance are significant. Composite prices for each industry are then calculated based on the production costs of supplying regions, the effective distance to these regions, and the index of access to the variety of outputs in the industry relative to the access by other uses of the product.

The cost of production for each industry is determined by the cost of labor, capital, fuel, and intermediate inputs. Labor costs reflect a productivity adjustment to account for access to specialized labor, as well as underlying compensation rates. Capital costs include costs of non-residential structures and equipment, while fuel costs incorporate electricity, natural gas, and residual fuels. The consumption deflator converts industry prices to prices for consumption commodities. For potential migrants, the consumer price is additionally calculated to include housing prices. Housing prices change from their initial level depending on changes in income and population density.

Compensation changes are due to changes in labor demand and supply conditions and changes in the national compensation rate. Changes in employment opportunities relative to the labor force and occupational demand change determine compensation rates by industry.

Block 5. Market Shares

The market shares equations measure the proportion of local and export markets that are captured by each industry. These depend on relative production costs, the estimated price elasticity of demand, and the effective distance between the home region and each of the other regions. The change in share of a specific area in any region depends on changes in its delivered price and the quantity it produces compared with the same factors for competitors in that market. The share of local and external markets then drives the exports from and imports to the home economy.

Choice of Model and How it Was Built

SEIGMA assesses indirect economic impacts in two ways. The first is by measuring changes in economic indices (e.g., employment, business starts/failures) in secondary data sources (e.g., labor market statistics). The second is by economic modeling, using proprietary programs (i.e., REMI) that model the Massachusetts economy and project the likely impacts of new economic activity after inputting the direct/known casino impacts listed above.

The research team is experienced in building complex economic impact models and has used economic modeling to complete impact analyses and assess the economic contributions of many different types of facilities and industries throughout the state. The SEIGMA team has been using a customized REMI PI+ model of Massachusetts with six sub-state regions that align with existing economic linkages in the Commonwealth. The PI+ model is built using a variety of public sector data series and is built from county-level data and aggregated to larger regions, as needed. The PI+ software generates realistic year-by-year estimates of the total regional effects of specific initiatives.

We chose the REMI PI+ model for the SEIGMA project because it allows for dynamic, multi-year modeling as compared to other, more simplistic modeling systems (e.g., IMPLAN, RIMS II). REMI thus has significant advantages for major complex initiatives that: a) have time-series based impacts that are likely to vary over time; b) require the use and interpretation of multiple economic variables; and c) emphasize economic interactions between regions within the state that add up to a true state-level impact.

The PI+ model serves to provide two critical elements to assess the economic impacts of casinos. First, the modeling allows us to estimate how the changes created directly by the casinos and the taxes they generate ripple through the rest of the state economy. Second, the economic impact modeling is the best way to measure the net impact of the casinos after accounting for the reallocation of spending around the state and among industry sectors.

The analysis to estimate the total contribution of the casinos economic activities is built on the basic premise that an initial investment in one sector and region of an economy (i.e., through the operation of a casino) spurs additional economic activity in other sectors and regions as the money is re-spent. The total economic contribution of the investment is estimated by tracing the flow of money between industries and households until all of the initial investment eventually leaves the region or state through foreign or domestic trade or is collected as a tax.

However, to measure statewide net economic impacts requires a more rigorous analysis that accounts for economic activity that is *net new* to the state versus *re-distributive*. In particular, we use information from the patron and population surveys which are part of the full SEIGMA study to determine what proportion of visitor expenditures are from out-of-state trips, recaptured trips (money kept in state rather than leaving to be spent elsewhere), and reallocated (money diverted from other uses in the state). This kind of careful accounting—combined with data on the location of casino facility expenditures and the residential location of employees—is necessary to credibly isolate the effects of casino impacts on the broader regional and state economies.

Use of Patron Survey Data to Customize the Model

The research uses key quantitative data inputs as the basis for the economic impact modeling. However, there is some information needed for the model that cannot be gathered as quantitative data. The actual amount of spending is easy to determine as this information is reported in data sets provided to the MGC. However, ultimately, the economic impact of those expenditures depends on the spending behavior of the patrons. For example, the casino spending of a patron who used to gamble in Connecticut who is now gambling in Massachusetts has a different economic impact than a patron who never gambled out of state and would otherwise have spent money on goods and services in the local economy. In short, there is no way to apportion the known amounts of spending without the use of subjective data, in this case collected through the Patron Survey.

The Operating impacts analysis leverages the data from the Encore Patron Survey to customize the model and its assumptions. We use the Patron Survey data to estimate flows of spending where no better data exists. For example, to estimate the impact of casinos, we need to determine the share of patron spending which is recaptured versus reallocated from other in-state expenditures. For this study, Patron Survey questions are the only source of information allowing the team to determine these spending patterns.

Player card data would enable us to develop more precise estimates in some areas. However, the SEIGMA team has been unable to obtain player card data from the casinos. Furthermore, the Patron Survey provides critical data on spending that is not captured by Player Card data. For example, player card data does not include information about patron choices about spending and thus would not give us a way to estimate whether a patron's spending is recaptured or reallocated.

For more information on recaptured and reallocated spending and how the Patron Survey questions enable these estimates, see the Patron Survey and License Plate reports at www.umass.edu/seigma/reports.

Appendix 3. Detailed Methodology for Data Preparation

Employment, Wages, Value Added, and Output

Employment data was provided to UMDI directly from EBH. Since not all employees worked the full year, and because employees were a mixture of full-time and part-time, an employment number for the PI⁺ model was calculated by dividing the total number of hours worked by Encore Boston Harbor employees by the average yearly hours worked for an employee of a non-hotel casino in 2016. Average annual hours were calculated using the average weekly hours worked for workers in a casino without a hotel from the Bureau of Labor Statistics and multiplying this number by 52.

The PI⁺ model makes certain assumptions about the expected wages, value-added, output, and intermediate inputs based on employment numbers, region, and industry. Because UMDI had more precise data for all of these values based on actual wages, sales, and vendor spending data, the policy variables for wages, value added, and output were adjusted to reflect known values rather than expected averages. Intermediate inputs were modified as described below.

Intermediate Inputs

EBH provided UMDI with quarterly records of vendor spending, including the vendor name, amount spent, and the zip code of the vendor. The data did not contain information about the industry of the vendor, so UMDI manually assigned NAICS codes to each vendor, making educated guesses when detailed information on the vendor was not available online. These records were then combined and used to populate a list of policy variables for intermediate demand by industry and region, replacing the intermediate demand which would be assumed by the model. Spending on vendors located outside of the state was not modeled because UMDI was using a PI⁺ model that only included regions of Massachusetts. This may slightly underestimate the actual economic impact of Encore Boston Harbor, as new business in other states may have 'downstream' effects which positively impact Massachusetts. These effects would likely be very small and are impossible to estimate within the limitations of UMDI's current model.

Commuter Adjustment

A higher share of Encore Boston Harbor employees in Metro Boston commute than what would be assumed by the model based on historic commuting patterns. UMDI took the difference between the model's assumptions of wage leakages from the Metro Boston region and the actual wage leakages and used the Commuter Earnings policy variable within the PI⁺ model to adjust them.

Government Spending

As is typical in economic-impact modeling exercises, the assumption was made that any new state or local government revenue would be spent in the same year. Therefore, the amount of government spending imputed into the model is equal to the amount of new government revenue calculated. UMDI also chose to adhere to the best practice of not modeling the fiscal impacts of EBH's federal tax revenue, as federal fiscal policy is considerably more complex and difficult to estimate.

State government spending was calculated by adding up all of the state taxes paid by Encore Boston Harbor (except for taxes on gross gaming revenue) and spreading them across the model's six regions based on their previous shares of state government spending.

Local government spending was calculated by adding up all of the taxes and host and surrounding community payments paid by Encore Boston Harbor to local governments, by region, and adding to it each region's share of new local aid funds coming from taxes on Encore Boston Harbor's gross gaming revenue.

Consumer Spending

Although it may seem counterintuitive, no attempt was made to model the patron spending at Encore Boston Harbor. The reason for this is that the impacts of that spending – Encore Boston Harbor's employment, wages, vendor spending, and tax payments – are already known, so modeling this spending would create a problem of 'double-counting.' Instead, SEIGMA's patron survey was used to capture the spending which did not directly occur at Encore Boston Harbor, that is, the new off-site spending by Encore Boston Harbor visitors, and spending reallocated by Massachusetts residents and visitors from other Massachusetts businesses to Encore Boston Harbor.

For the purposes of this analysis, UMDI used Encore Boston Harbor's gross gaming revenue as reported by the MGC to capture the total amount of patron gambling spending at EBH. EBH provided non-gaming revenue numbers for June through December of 2019 and calendar year 2020, 2021, and 2022. Off-site patron spending was estimated by taking a ratio of reported off-site non-gambling spending to reported on-site spending and applying it to the figure for on-site non-gambling spending.

UMDI estimated the total amount of off-site spending by Encore Boston Harbor visitors by taking the ratio of reported off-site spending to the reported on-site non-gambling spending and applying it to the actual on-site non-gambling spending of \$91.9 million. The resulting \$83.6 million was then allocated across regions and patron types based on shares of reported off-site spending. The off-site spending of patrons who indicated that they would have been in the area regardless of whether Encore Boston Harbor had opened or not (reallocated in-state incidental patrons and captured out-of-state incidental patrons) was excluded because it cannot be attributed to Encore Boston Harbor. This money was then allocated as new consumer spending on a basket of goods and services estimating the spending behavior of tourists on daytrips. Their consumption was modeled using a translator variable within the REMI model.

In order to calculate the reallocated spending of in-state patrons, UMDI added up the total amount of reallocated spending (all spending by reallocated in-state patrons and all on-site spending by reallocated in-state incidental patrons) and assigned it to a consumption reallocation variable, based on the home region of the patrons. This variable assumes that the patrons spend less on a general basket of goods and services as they spend more at Encore Boston Harbor, with a built in elasticity assumption which designates some consumption items as easier to consume less of than others (for example, it is easier to spend less at restaurants and bars than it is to spend less on rent).

For reallocated out-of-state incidental patrons (out-of-state patrons whose visit to Massachusetts was not prompted by Encore Boston Harbor and who would not have otherwise spent their money at an out-of-state casino), spending was reduced using a tourism translator variable which represents a basket of typical goods and services purchased by nonresident tourists. In our analysis of Plainridge Park Casino, this spending was then spread across the six regions in the model based on each model's share of consumption of each good or service, but given the Pioneer Valley's relative distance from the

commercial and population centers in Massachusetts, UMDI determined that it would be best to concentrate that reallocated spending within the Pioneer Valley.

Patron Types

Patron Type Definitions

The SEIGMA team collected data on patron spending through an on-site survey of patrons at Encore Boston Harbor. The six patron types are defined by a combination of attributes based on questions in the survey. A **captured** or **recaptured** patron is someone who indicated that, had Massachusetts never expanded in-state gaming, they would have spent the money that they spent at Encore Boston Harbor at an out-of-state casino. A **reallocated** patron is someone who indicated that, had Encore Boston Harbor never opened, they would have spent the money they spent at Encore Boston Harbor on other goods and services within Massachusetts. A **new** patron is an out-of-state patron who would not have visited Massachusetts were it not for Encore Boston Harbor. An **incidental** patron is someone whose visit to Everett (if from Massachusetts) or to Massachusetts (if from out-of-state), was not prompted by Encore Boston Harbor.

Recaptured in-state patrons are people who live in Massachusetts but who would have gambled out-of-state if not for the in-state option. For modeling purposes, UMDI treats all spending reported by recaptured in-state patrons as new to the state. This includes their off-site spending, as UMDI assumes that, if Encore Boston Harbor did not exist, recaptured in-state patrons would be spending money on similar off-site expenditures in another state. Technically speaking, the on-site spending of recaptured in-state patrons is not used as an input in the model because the casino's revenues, which go to hire and pay employees, purchase intermediate goods and services, and pay state and local governments, are already captured in greater detail elsewhere in the modeling process.

Reallocated in-state patrons are people from Massachusetts who would not have visited Everett were it not for the casino, but who also would not have gambled out-of-state. In other words, these are patrons who, were it not for the casino, would have likely spent their money on goods and services other than gambling. Therefore, the decision to visit Encore Boston Harbor implies a movement (or reallocation) of spending from an activity in one region to a different activity in another. For simplicity, this is represented in the model as a decrease in consumption of a general basket of goods and services in the region where the patron lives, equal to the on-site and off-site expenditures of the patron. It is offset by an increase in off-site spending in the region that hosts the casino. On-site spending is already captured in the modeling of casino revenues.

Reallocated in-state incidental patrons are like reallocated in-state casino visitors, except that they indicated that Encore Boston Harbor did not prompt their visit to Everett. For example, they may live in Everett itself, or they may have been running errands or visiting family in Springfield. In any case, they would have been in the area regardless of the presence of a casino. The primary way that this affects the economic modeling is that UMDI cannot assume that their spending outside of the casino would not have occurred if not for the existence of Encore Boston Harbor. Therefore, it is neither added to the model as new spending nor reallocated from another region.

New out-of-state patrons are visitors from other states who would not have visited Massachusetts were it not for Encore Boston Harbor. Though these residents live outside of Massachusetts, for modeling

purposes, they are exactly the same as recaptured in-state patrons, as their expenditures during that visit would not have occurred within the Commonwealth if not for Encore Boston Harbor.

Captured out-of-state incidental patrons are people who would have visited Massachusetts regardless of whether Encore Boston Harbor existed, but who chose to gamble here rather than in their home state now that it does exist. These are patrons who live out of state, who reported that Encore Boston Harbor did not prompt their visit to Massachusetts, but also reported they would have spent the money that they spent at Encore Boston Harbor on gambling at an out-of-state casino if Encore Boston Harbor did not exist. Similar to reallocated in-state incidental patrons, these patrons are drawn to Everett by a purpose unrelated to the existence of the casino, but their stay would probably have been shorter and less expensive were it not for Encore Boston Harbor. The survey responses of these patrons do not have any effect on the economic model because their spending at Encore Boston Harbor is already captured through employment, payroll, vendor spending, and fiscal data. Any spending these patrons do off-site is also assumed to be part of the regular course of their visit to Massachusetts, which would have occurred without the casino.

Reallocated out-of-state incidental patrons are patrons whose visit to Massachusetts was not prompted by Encore Boston Harbor, and who would not have otherwise spent the money they spent at Encore Boston Harbor on gambling out-of-state. In other words, they are out-of-state visitors who would have come to Massachusetts without the casino and instead chose to spend their time and money at Encore Boston Harbor rather than elsewhere in Massachusetts. Our economic model treats these patrons in a similar way to the reallocated in-state casino visitors. The one exception is that instead of having their spending reallocated from a regional consumption basket to casino revenues, it is reallocated from a basket of goods and services frequently consumed by tourists in Massachusetts.

Table 16. Patron Type Definitions

Patron Type	Q1 Origin	Q20 Would have gambled elsewhere	Q5 Casino prompted visit (from MA)	Q6 Casino prompted visit (not from MA)	On Site Spending	Off Site Spending
Recaptured In-State	In-State	Yes	N/A	N/A	Not Modeled	Modeled, New
Reallocated In-State	In-State	No	Yes	N/A	Modeled, Reallocated	Modeled, Reallocated
Reallocated In-State Incidental	In-State	No	No	N/A	Modeled, Reallocated	Not Modeled
New Out-of-State	Out-of-State	N/A	N/A	Yes	Not Modeled	Modeled, New
Captured Out-of-State Incidental	Out-of-State	Yes	N/A	No	Not Modeled	Not Modeled
Reallocated Out-of-State Incidental	Out-of-State	No	N/A	No	Modeled, Reallocated	Modeled, Reallocated

Appendix 4. Glossary for Economic Impacts

In this section, UMDI defines terms common to economic modeling and analysis that are used in this report. They are as follows:

Employment: Employment is a count of jobs, not people, by place of work. It counts all jobs with the same weight regardless of whether the position is full- or part-time or the labor of a self-employed proprietor. Additionally, jobs are counted as job-years, which are equivalent to one job lasting for one year. This is a similar concept to 'person-hours.' Jobs often carry over from year to year and therefore the jobs in one year include many of the same jobs as in the previous year. For example, if a new business opens with 10 employees, then the host community of that business will have 10 more jobs than it would have had in every future year that the company maintains its workforce. For example, over 5 years, the business will have created 50 job-years (10 jobs at the company x 5 years = 50 job-years) though it is possible that it is not the same 10 people who are working there over time. When reviewing changes in employment across multiple years, knowledge of the concept of job-years is vital to proper interpretation.

Output: Output is the total economic value of production, sales, or business revenues, whether final (i.e., purchased by the end user) or intermediate (used by another business to produce its own output). It includes the value of inputs to production, wages paid to employees, capital expenses, taxes, and profit. It is useful as an indicator of business activity, but it should not be construed as net new economic activity.

Personal Income: Personal income is income and benefits from all sources earned by all persons living in an area. It excludes the income earned by non-resident workers who commute into an area but includes the income of residents who commute out.

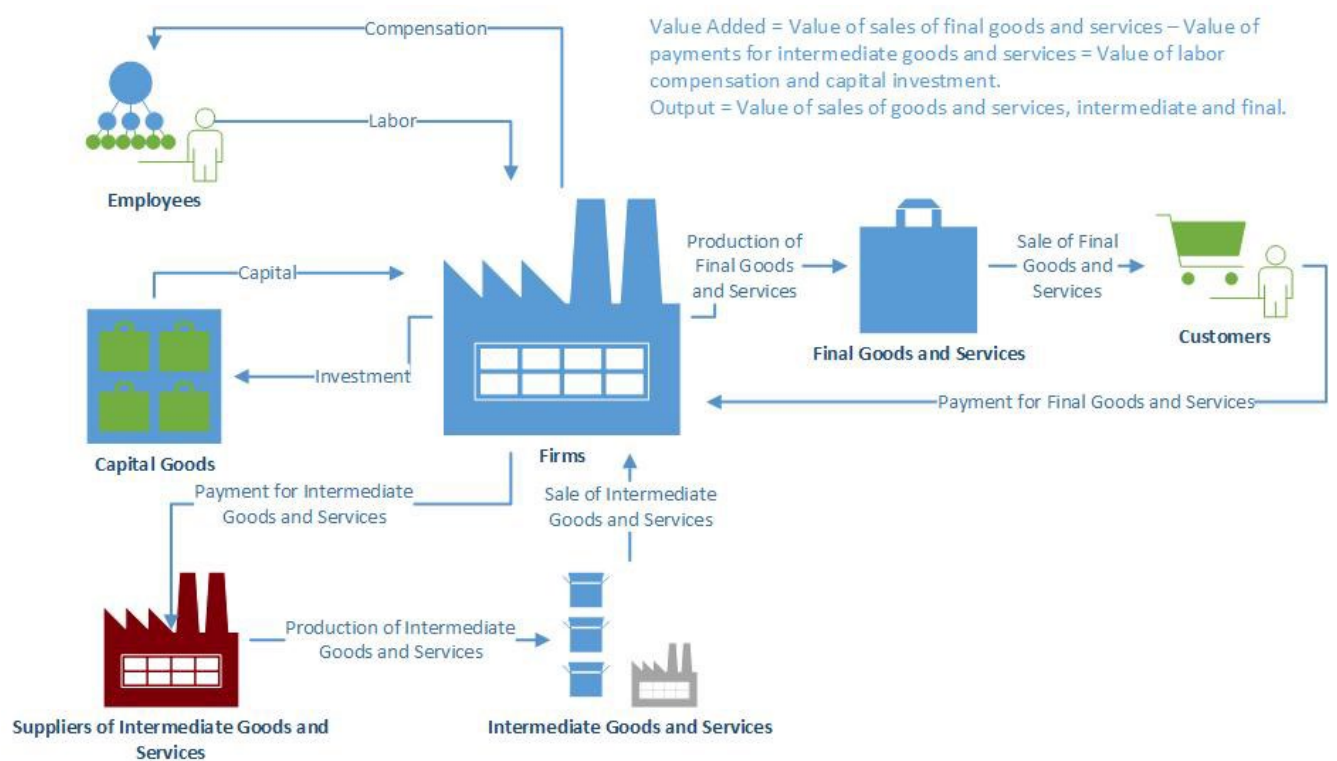
Value Added: Value added is the value of all final goods and services created in an economy. It represents new economic activity and is also known as gross product or net economic impact. It differs from output by the value of inputs to production. Value added provides a useful summary of the economy which is why all nations and U.S. states report their economic growth in this way, calling it either gross domestic product or gross state product as appropriate. Its usefulness derives from the elimination of the double-counting inherent in output, which stems from the inclusion of inputs. An example of the double-counting of inputs can be found and simplified in the process of making and selling a loaf of bread. A farmer sells wheat to a mill, which then sells flour to a baker, who then sells bread to the final customer. The sale price of the bread includes the cost of all necessary inputs including growing the wheat, milling the flour, and baking the bread. Value added only counts the sale price of the bread to the final consumer which is the net new value created in the economy. On the other hand, output counts the revenues earned by every business in the supply chain which means that the value of the wheat and flour are counted more than once.

Appendix 5. The Concepts of Output and Value-Added

This appendix serves to clarify the distinctions between two related economic concepts discussed in this report – output and value added.

For any firm to produce goods and services to be sold on the market, it needs to pay for the things required to produce them. It needs to compensate workers for their labor and invest in the capital goods (machinery, for example) which those workers will use. It also needs to purchase intermediate goods and services from other firms. Workers then use the firm’s capital goods to turn the intermediate goods and services purchased from other firms into final goods and services. These final goods and services are the output of the firm, and are equivalent to the value of its sales or revenue.

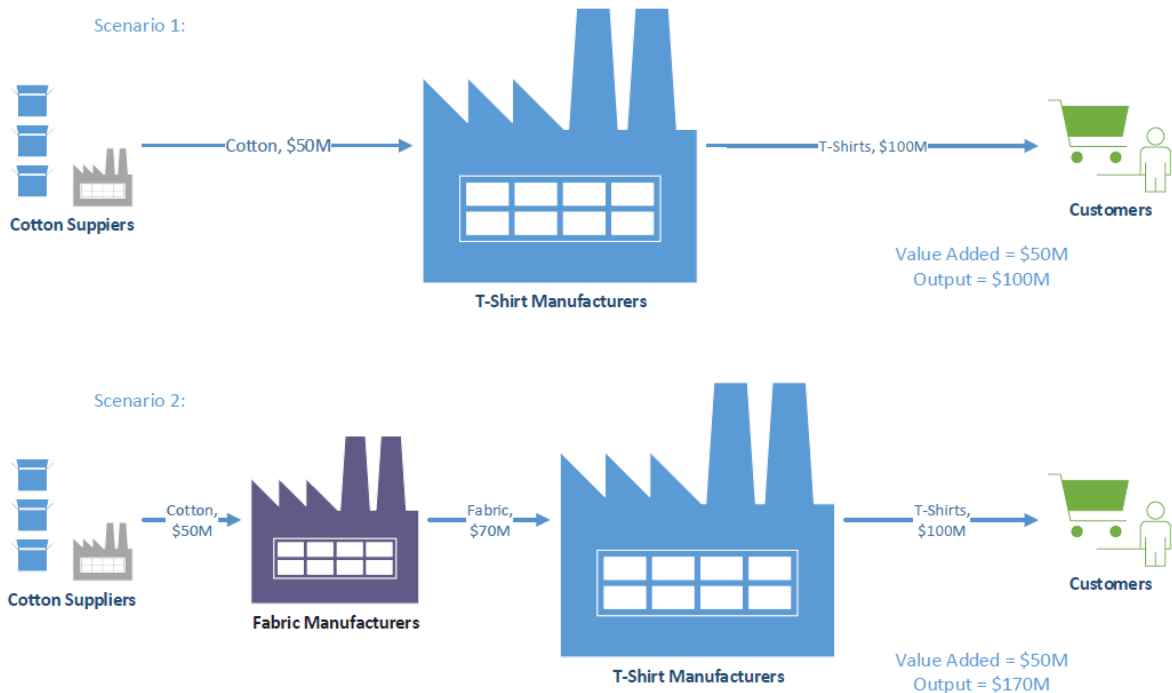
The concept of **value added** captures only the portion of the output which is directly created by the firm’s capital goods and labor. In other words, value added is the value of the final goods and services produced minus the cost of the intermediate goods and services which were purchased to produce them. This can be interesting when examining an individual firm, because two firms can have similar outputs but very different value added, depending on the cost of their intermediate inputs.



Consider the example of two different t-shirt manufacturers whose economic impact on a region is being evaluated. Both of the manufacturers ultimately sell \$100 million in t-shirts, and in order to produce them, both manufacturers use \$50 million in cotton. However, the structure of their supply chains is different. One of the firms takes the cotton and performs every step required to turn the

cotton into t-shirts at their facility. For this firm, value added is \$50 million (\$100 million in t-shirts minus \$50 million in cotton) and output is \$100 million. The other manufacturer instead opts to purchase fabric from a third-party fabric manufacturer, which has taken the \$50 million in cotton and turned it into \$70 million in fabric. When considering the economic impact of this operation, both firms will need to be considered. The fabric manufacturer has a value added of \$20 million (\$70 million in fabric minus \$50 million in cotton) and an output of \$70 million. The t-shirt manufacturer has a value added of \$30 million (\$100 million in t-shirts minus \$70 million in fabric) and an output of \$100 million, the same as the original factory. Considered together, this second operation has a combined value added of \$50 million, the same as the first example, but a combined output of \$170 million, much higher than the initial example. The lesson from this is that though output is a useful economic metric in many cases, it has the potential to double count the production of some goods and services and is best presented alongside value added for context.

Example: How change in supply chains can change output without changing value added



Appendix 6. Patron Survey Tables

Table 17. Share of On-Site Gambling Spending at Encore Boston Harbor by Patron Type

Patron Group	Share of Respondents	Share of Spending	2019	2020	2021	2022
Recaptured	44.2%	45.2%	\$141,824,697	\$149,854,010	\$286,589,911	\$329,655,178
Reallocated In-State Casino Visitor	26.4%	24.3%	\$76,385,798	\$80,710,330	\$154,355,338	\$177,549,992
Reallocated In-State Incidental	9.2%	9.0%	\$28,156,429	\$29,750,487	\$56,896,639	\$65,446,378
New Out-of-State	13.4%	18.9%	\$59,230,697	\$62,584,004	\$119,689,451	\$137,674,934
Captured Out-of-State Incidental	3.1%	1.4%	\$4,322,440	\$4,567,152	\$8,734,499	\$10,047,014
Reallocated Out-of-State Incidental	3.8%	1.3%	\$4,023,119	\$4,250,886	\$8,129,652	\$9,351,277
Total	100.0%	100.0%	\$313,943,179	\$331,716,870	\$634,395,490	\$729,724,773

Source: SEIGMA Encore Boston Harbor Patron Survey

Note: An asterisk indicates estimates are unreliable, relative standard error > 30%, while two asterisks indicate that the cell size is less than 6.

Table 18. Share of On-Site Non-Gambling at Encore Boston Harbor Spending by Patron Type

Patron Group	Share of Respondents	Share of Spending	2019	2020	2021	2022
Recaptured	46.0%	64.4%	\$77,353,796	\$47,767,983	\$89,850,740	\$154,241,277
Reallocated In-State Casino Visitor	25.0%	11.1%	\$13,352,798	\$8,245,701	\$15,510,019	\$26,625,102
Reallocated In-State Incidental	6.6%	4.4%	\$5,290,299	\$3,266,897	\$6,144,977	\$10,548,707
New Out-of-State	12.9%	15.7%	\$18,815,167	\$11,618,856	\$21,854,864	\$37,516,911
Captured Out-of-State Incidental	4.3%	1.9%	\$2,309,879	\$1,426,411	\$2,683,054	\$4,605,834
Reallocated Out-of-State Incidental	5.1%	2.4%	\$2,940,114	\$1,815,597	\$3,415,106	\$5,862,504
Total	100.0%	100.0%	\$120,062,054	\$74,141,445	\$139,458,759	\$239,400,335

Source: SEIGMA Encore Boston Harbor Patron Survey

Note: An asterisk indicates estimates are unreliable, relative standard error > 30%, while two asterisks indicate that the cell size is less than 6.

Table 19. Share of Off-Site Patron Spending by Patron Type

Patron Group	Share of Respondents	Share of Spending	2019	2020	2021	2022
Recaptured	44.1%	59.7%	\$45,215,672	\$27,921,855	\$52,520,520	\$90,158,770
Reallocated In-State Casino Visitor	24.9%	16.8%	\$12,699,436	\$7,842,233	\$14,751,102	\$25,322,316
Reallocated In-State Incidental	6.8%	5.5%	\$4,178,307	\$2,580,214	\$4,853,337	\$8,331,426
New Out-of-State	11.8%	11.3%	\$8,543,839	\$5,276,043	\$9,924,144	\$17,036,172
Captured Out-of-State Incidental	5.4%	3.2%	\$2,388,926	\$1,475,224	\$2,774,871	\$4,763,451
Reallocated Out-of-State Incidental	7.1%	3.6%	\$2,709,610	\$1,673,255	\$3,147,363	\$5,402,885
Total	100.0%	100.0%	\$75,735,791	\$46,768,823	\$87,971,337	\$151,015,021

Source: SEIGMA Encore Boston Harbor Patron Survey

Table 20. Share of On-Site Gambling Spending at Encore Boston Harbor by REMI Region

REMI Region	Share of Respondents	Share of Spending	2019	2020	2021	2022
Central	2.0%	0.8%	\$2,487,409	\$2,628,232	\$5,026,390	\$5,781,695
Metro Boston	95.4%	98.0%	\$307,635,213	\$325,051,782	\$621,648,771	\$715,062,631
Pioneer Valley	0.5%	0.4%	\$1,407,735	\$1,487,434	\$2,844,658	\$3,272,119
Southeast	1.5%	0.8%	\$2,412,822	\$2,549,423	\$4,875,671	\$5,608,328
Total	100.0%	100.0%	\$313,943,179	\$331,716,870	\$634,395,490	\$729,724,773

Source: SEIGMA Encore Boston Harbor Patron Survey

Table 21. Share of On-Site Non-Gambling at Encore Boston Harbor Spending by REMI Region

REMI Region	Share of Respondents	Share of Spending	2019	2020	2021	2022
Central	2.0%	0.8%	\$2,487,409	\$2,628,232	\$5,026,390	\$5,781,695
Metro Boston	95.4%	98.0%	\$307,635,213	\$325,051,782	\$621,648,771	\$715,062,631
Pioneer Valley	0.5%	0.4%	\$1,407,735	\$1,487,434	\$2,844,658	\$3,272,119
Southeast	1.5%	0.8%	\$2,412,822	\$2,549,423	\$4,875,671	\$5,608,328
Total	100.0%	100.0%	\$313,943,179	\$331,716,870	\$634,395,490	\$729,724,773

Source: SEIGMA Encore Boston Harbor Patron Survey

Table 22. Share of Off-Site Patron Spending by REMI Region

REMI Region	Share of Respondents	Share of Spending	2019	2020	2021	2022
Central	2.0%	0.8%	\$2,487,409	\$2,628,232	\$5,026,390	\$5,781,695
Metro Boston	95.4%	98.0%	\$307,635,213	\$325,051,782	\$621,648,771	\$715,062,631
Pioneer Valley	0.5%	0.4%	\$1,407,735	\$1,487,434	\$2,844,658	\$3,272,119
Southeast	1.5%	0.8%	\$2,412,822	\$2,549,423	\$4,875,671	\$5,608,328
Total	100.0%	100.0%	\$313,943,179	\$331,716,870	\$634,395,490	\$729,724,773

Source: SEIGMA Encore Boston Harbor Patron Survey

MGC Research Snapshot

Encore Boston Harbor, First Three and a Half Years of Operation: Economic Impacts Report

November 2023

What you need to know

In 2022, the \$1.1 billion dollars spent in and around EBH by casino patrons supported an average of 3,282 positions at the casino, paid \$206 million in compensation, and created demand for \$85.4 million of intermediate goods and services EBH purchased from vendors. EBH paid \$197.4 million to government entities, comprised mostly of tax revenue on gross gaming revenues. Net consumer impacts for state business were negative, as on net, consumers shifted \$167.6 million in spending away from other goods and services and towards the casino. However, new spending and shifts in spending led to a net total of 9,917 jobs supported by the casino, with the majority of jobs located in the Metro Boston region. EBH also supported \$1.1 billion in new personal income and \$1.7 billion in new output within the Massachusetts economy, of which \$1.3 billion was value added.

What is this research about?

Through the establishment of the casino industry in Massachusetts, lawmakers provided avenues for the creation of new jobs, revenue, and economic growth in the state. The Social and Economic Impacts of Gambling in Massachusetts (SEIGMA) study, of which the Economic and Public Policy Research unit at the University of Massachusetts Donahue Institute (UMDI) is a part, strives to understand the impact of the casinos on the people and economy of the Commonwealth.

The purpose of this Operating Report is to use casino data to estimate the economic impact of the Encore Boston Harbor casino (EBH) on the Massachusetts economy during its first three and a half years of operation (June 2019-December 2022).

What did the researchers do?

To estimate the economic impacts, UMDI considers two key sources of economic impact: casino operations (spending on vendors, employees and government entities) and patron spending (within the casino, as well as in Everett and the surrounding region).

To conduct the analysis, UMDI obtained operator data collected by the Massachusetts Gaming Commission. These include employment, payroll, and purchasing data obtained directly from the casino. UMDI also obtained revenue data from the Massachusetts Gaming Commission and data on patron spending from a survey of casino patrons conducted by the SEIGMA team.

From there, UMDI used the PI+ model from Amherst, MA-based Regional Economic Models Inc. (REMI) to measure direct and additional effects in the Massachusetts economy. This model generates realistic year-by-year estimates of the total regional effects of EBH's operations, can calculate the total economic impacts for the state, and show how activity in one region impacts other regions.

Although EBH has been open since the summer of 2019, 2022 was its first full year of operation without shutdowns or restrictions related to the COVID-19 pandemic. The report focuses on 2022 at times for this reason.

What did the researchers find?

Findings include insights about employment, spending by EBH and patrons, and revenues.

Employment: An analysis of payroll data found EBH employed an average of 4,118 workers in 2019. That number fell as the casino's operations were disrupted by the COVID-19 pandemic but recovered over late 2021 and 2022. Despite facing a shutdown followed by operating restrictions for over a year, Encore Boston Harbor was able to retain many of its workers over the course of the pandemic.

Spending: Over the course of the study period, Encore Boston Harbor paid \$290 million to outside firms, the majority (52.7%) of which were Massachusetts-based. After falling from 2019 to 2020, vendor spending has increased in each subsequent year.



Government revenues:

- State and local government entities collected \$538.6 million in tax revenue from the casino's operations over the course of the study period.
- State and local tax revenues from the casino were heavily affected by the COVID-19 pandemic but reached a new high in 2022 at \$197.4 million. As with other casinos, these funds continue to be distributed to various state funds, including local aid, via a formula set by the Commonwealth.

Patrons:

- UMDI estimates that over the study period, casino patrons spent almost \$3.8 billion at the casino and off site. This includes spending on gambling and non-gambling activities at the casino, as well as non-gaming expenditures made during their casino visit.
- Of those funds, UMDI estimates 77% to have originated from patrons that would not have spent their money in-state without the casino.
- Casino patrons spent an estimated \$330.1 million at businesses outside of Encore Boston Harbor in the course of their trip, but also reallocated \$818.9 million in funds away from other expenditures in Massachusetts and towards the casino.

Total Combined Impacts

- In 2022, the \$1.1 billion dollars spent in and around EBH by casino patrons supported an average of 3,282 positions at the casino, paying \$206 million in compensation, and created demand for \$85.4 million of intermediate goods and services EBH purchased from vendors.
- EBH paid \$197.4 million to state and local government entities. This number includes the tax payments on gross gaming revenue that were made to the state.
- Net consumer impacts for state business were negative. On net, consumers shifted \$167.6 million in spending away from other goods and services and towards the casino.
- In addition to the 3,249 jobs directly supported by the casino, new spending from vendors, government entities, and new employees, along with shifts in spending from casino patrons led to an additional 6,635 jobs on net, for a total of 9,917 jobs supported by the casino. The majority of those jobs are located in the Metro Boston region.
- Encore Boston Harbor also supported \$1.1 billion in new personal income and \$1.7 billion in new output (sales) within the Massachusetts economy, of which \$1.3 billion was value added (i.e., net new economic activity or gross state product).

About the researchers

Kazmiera Breest, Ellen Aron, Rye McKenzie, Thomas Peake, and Barbara Talagan are with the Economic and Public Policy Research unit at the University of Massachusetts Donahue Institute. For more information about this report, please contact Thomas Peake at tpeake@donahue.umass.edu.

Conclusion and Recommendations

This report allowed the SEIGMA team to gain valuable insight into the ways that EBH interacted with Massachusetts' economy as it resumed normal operations after the COVID-19 pandemic. With only nine months of operation prior to its closure due to pandemic restrictions, it is uncertain how the pandemic changed EBH's long-term growth trajectory or how closely current operations resemble a long-term normal state for the casino's operations.

The research team notes that they are currently exploring alternative methods for assessing patron behavior that may allow the team to generate estimates of the casinos' economic impacts on a more frequent and less costly basis. They also noted a possible area of future study as an examination of how Massachusetts' other casinos, which were open for a longer period of time prior to the shutdown, operated and recovered during the same window of time.

Citation

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<https://massgaming.com/about/research-agenda-search/?cat=economic-impact>

Key Words

Economic Impact; Everett

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About this Snapshot

MGC Snapshots are intended to translate lengthy and sometimes technical reports into an easily understandable overview of the research. The findings and recommendations in the Snapshot are those of the researchers and do not necessarily reflect the position of the MGC.



Encore Boston Harbor, First Three and a Half Years of Operation: Economic Impact Report

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Economic and Public Policy Research
UMass Donahue Institute

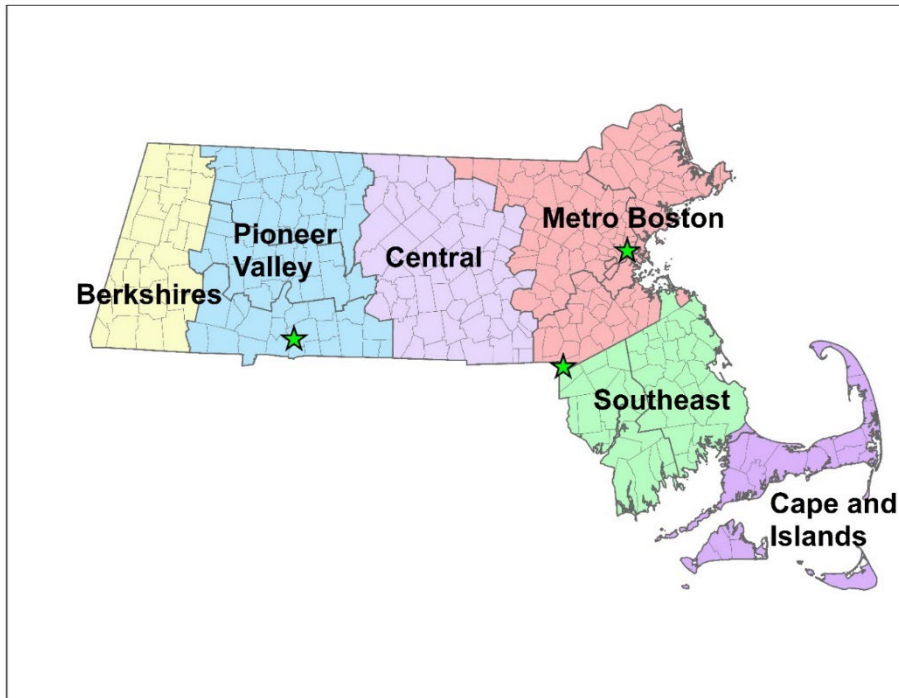
Overview

- The SEIGMA team analyzed operating data for Encore Boston Harbor from 2019-2022
- Encore Boston Harbor operated for about six months prior to the start of the COVID-19 pandemic
- 2022 was Encore's first full year of operation without any pandemic-related restrictions or shutdowns

Summary of Findings (2022)

- An average of 3,249 jobs at Encore Boston Harbor, paying \$206 million
- Total statewide economic impact of 9,917 net jobs, \$1.1 billion in personal income, and \$1.3 billion in value-added output.
- \$85.4 million in spending to vendors for intermediate goods and services
- \$197.4 million in payments to government entities
- \$137.9 million in new off-site spending from casino visitors
- \$305.5 million reallocated to casino-related spending from the rest of the economy
- 71 percent of patron spending was to be new to the state

Economic Modeling Exercise

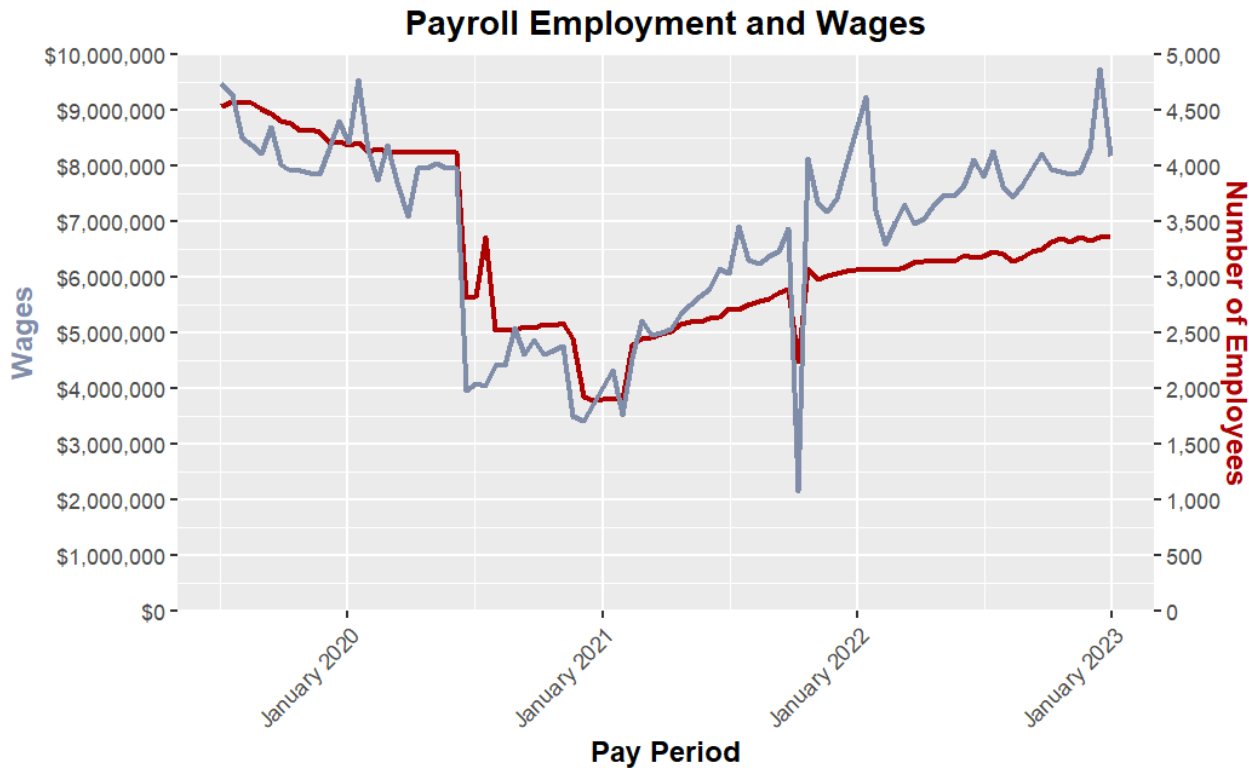


Data collected for the model include:

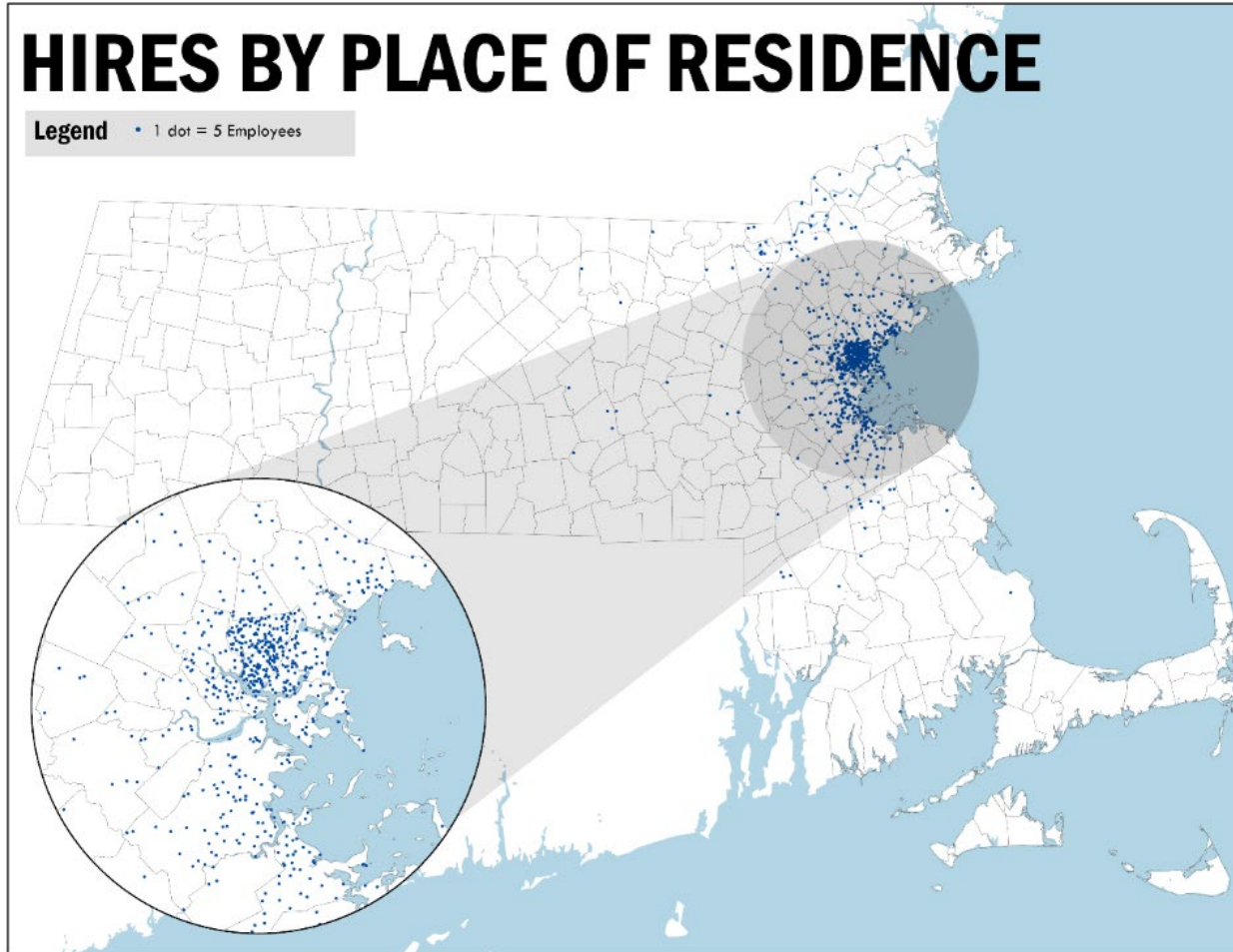
- Employment data from Encore (employees, wages, hours worked, places of residence)
- Expenditure data (vendor spending, payments to government entities, etc.)
- Gross gaming revenue (GGR) from the MGC
- Estimated change in consumer spending from SEIGMA Patron Survey

Employment at Encore Boston Harbor, 2020-2022

*Employment has gradually increased since January 2021.
Encore retained employees through much of 2020*



Place of Residence for Encore Boston Harbor Employees



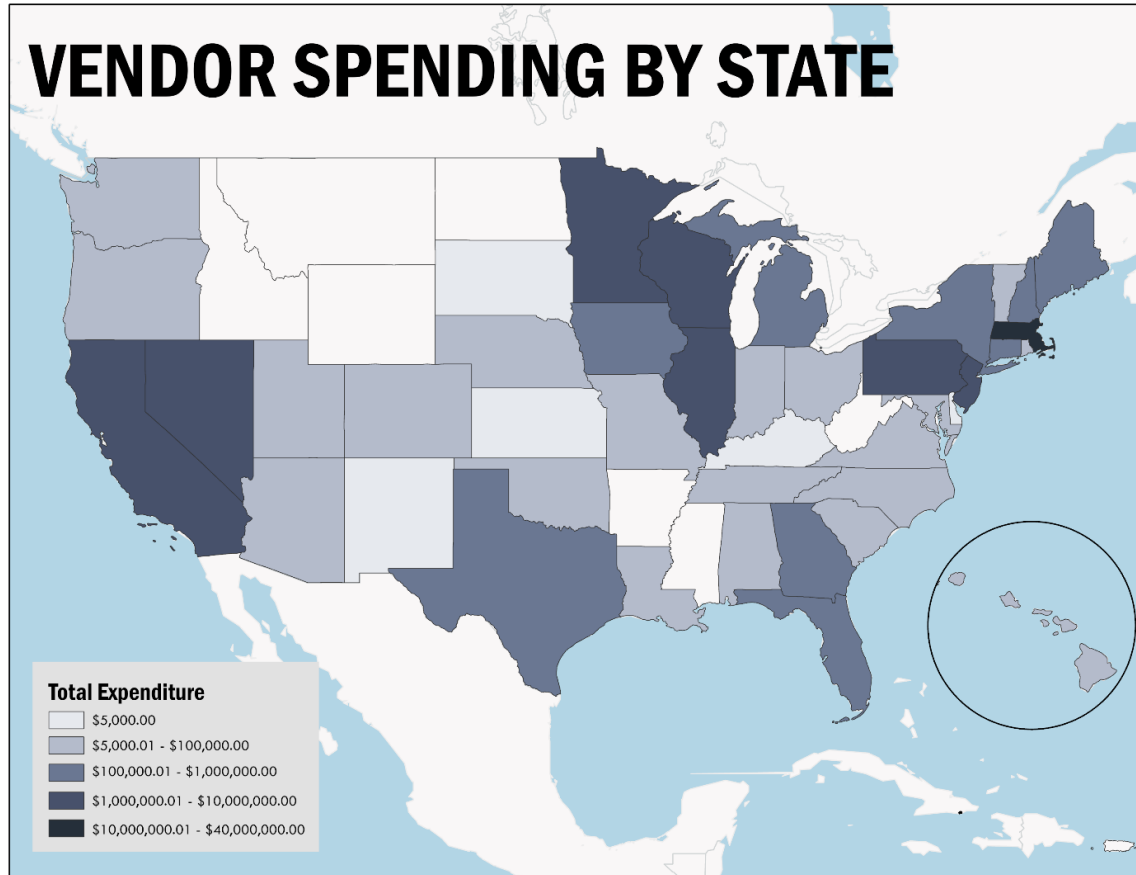
Esri, HERE, Garmin, FAO, NOAA, USGS, EPA, NPS, City of Boston, Esri, HERE, Garmin, SafeGraph, FAO, METI/NASA, USGS, EPA, NPS

Payments to Third Parties

Most payments to outside entities went to private sector vendors, but payments to government entities (especially state and local governments) were also prominent

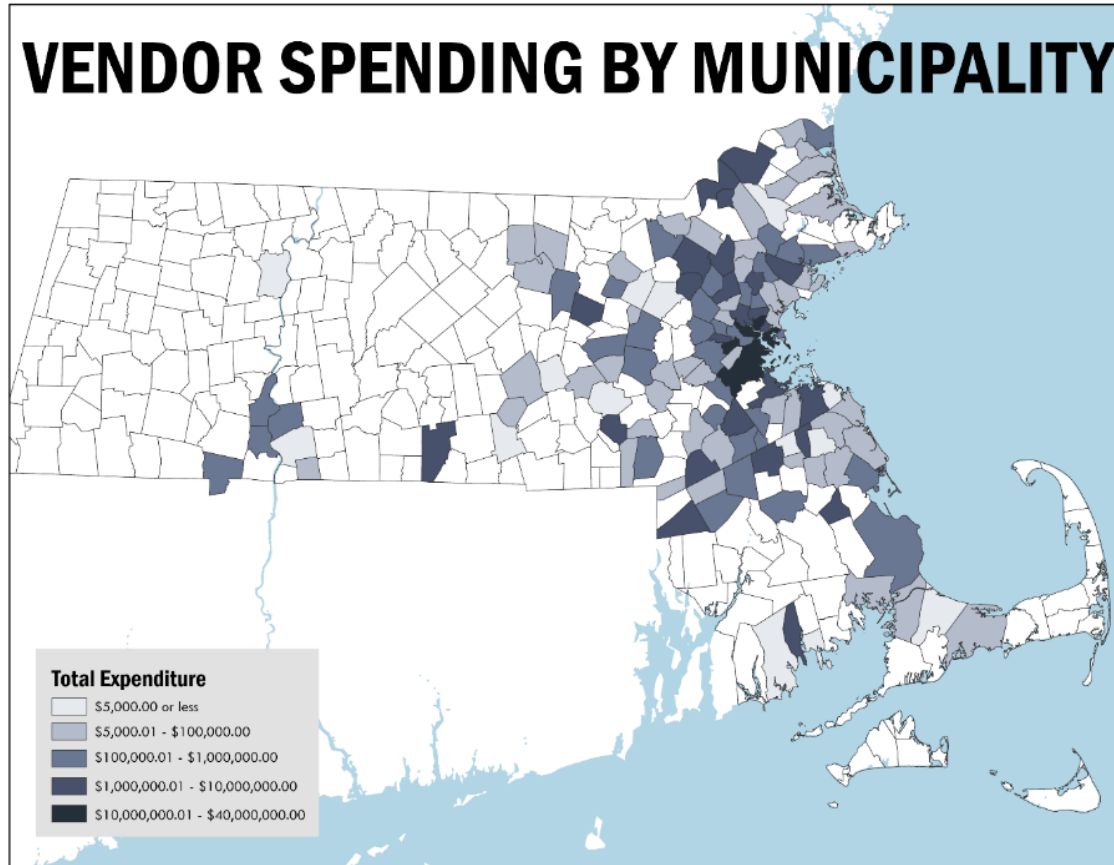
Industry	2019	2020	2021	2022	Total	Share
Wholesale trade	\$15.6	\$9.6	\$8.6	\$14.3	\$48.2	16.6%
Professional, scientific, and technical services	\$14.2	\$11.3	\$8.7	\$10.3	\$44.4	15.3%
Retail trade	\$7.6	\$3.4	\$8.2	\$12.0	\$31.1	10.7%
Transit and ground passenger transportation	\$6.6	\$7.9	\$7.8	\$6.6	\$28.8	9.9%
Construction	\$1.1	\$3.0	\$3.1	\$6.1	\$13.2	4.6%
Personal and laundry services	\$2.8	\$2.3	\$2.8	\$5.2	\$13.1	4.5%
Food manufacturing	\$3.6	\$2.4	\$3.1	\$3.9	\$13.1	4.5%
Motion picture and sound recording industries	\$3.6	\$2.4	\$3.0	\$3.7	\$12.7	4.4%
Insurance carriers and related activities	\$0.0	\$5.3	\$5.1	\$2.2	\$12.6	4.3%
Administrative and support services	\$4.3	\$2.4	\$2.1	\$3.3	\$12.2	4.2%
All Other Industries	\$16.6	\$12.3	\$14.2	\$17.8	\$61.0	21.0%
Total	\$75.9	\$62.3	\$66.7	\$85.4	\$290.4	100.0%

Encore Boston Harbor Vendors by State



Esri, HERE, Garmin, FAO, NOAA, USGS, EPA, Esri, Garmin, FAO, NOAA, USGS, EPA. Basemap and Layout by Kazmiera Brest, 2023.

Encore Boston Harbor Vendors in MA by City/Town



Esri, HERE, Garmin, FAO, NOAA, USGS, EPA, NPS. Basemap and Layout by Kazmiera Breest, 2023.

Types of Patron Spending

- **New** - Spending which would not have occurred in Massachusetts if Encore Boston Harbor had never opened
 - Includes “recaptured” patrons and new tourists
- **Reallocated** - Spending which would have occurred in Massachusetts, but on other goods and services.
- **Incidental** - Spending which would have occurred whether or not Encore Boston Harbor opened
 - Only off-site spending can be incidental

Spending by Encore Boston Harbor Patrons

Most spending by Encore patrons was gambling spending, and most non-gambling spending occurred on-site

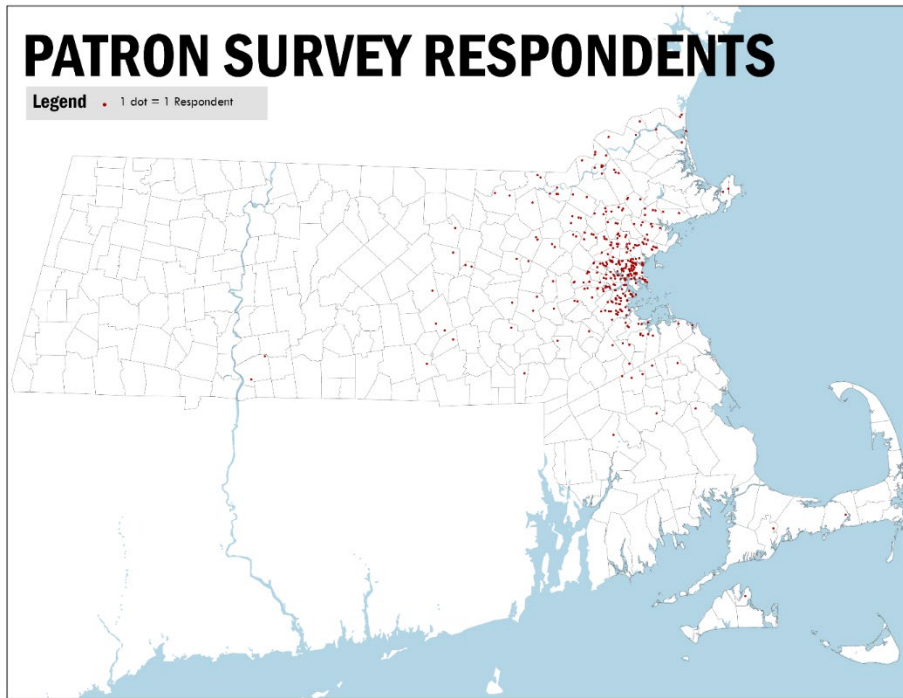
Spending Type	Share	2019	2020	2021	2022
Gambling	65.15%	\$313,943,179	\$331,716,870	\$634,395,490	\$729,724,773
Non-Gambling	21.37%	\$120,062,054	\$74,141,445	\$139,458,759	\$239,400,335
Off-Site	13.48%	\$75,735,791	\$46,768,823	\$87,971,337	\$151,015,021
Total	100%	\$509,741,024	\$452,627,138	\$861,825,586	\$1,120,140,129

Most spending at or around Encore Boston Harbor came from patrons who reported they would have spent money out-of-state without in-state casino gambling

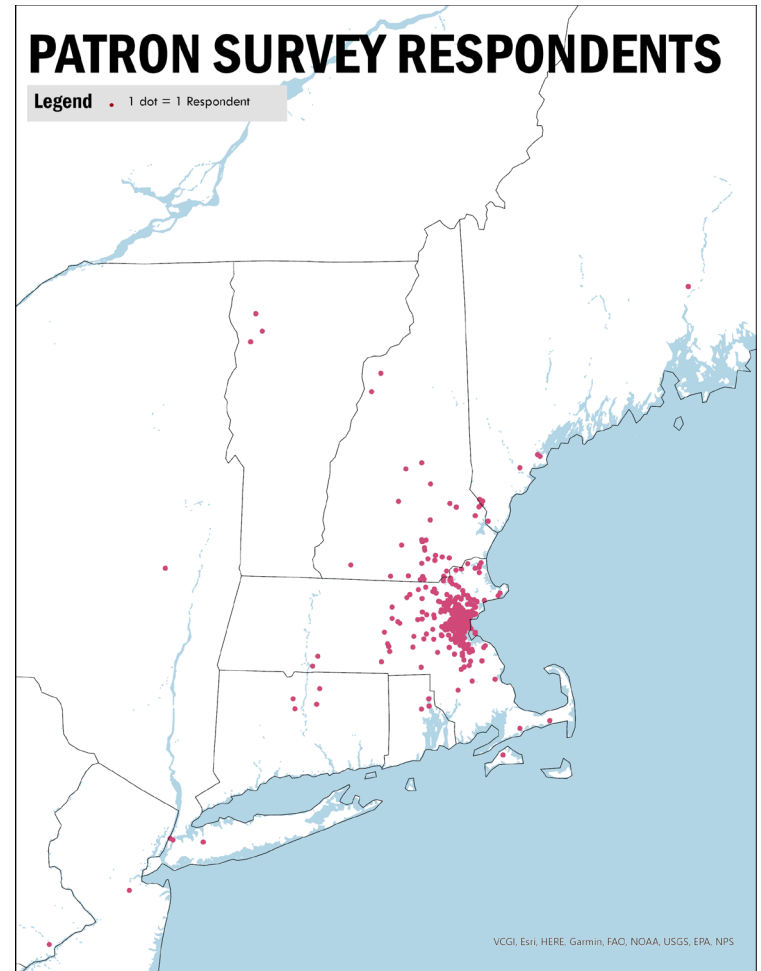
Spending Type	Share	2019	2020	2021	2022
New	69.72%	\$357,616,187	\$311,016,315	\$591,847,183	\$780,936,091
Reallocated	29.11%	\$145,557,604	\$137,555,385	\$262,350,196	\$326,109,162
Incidental	1.17%	\$6,567,233	\$4,055,438	\$7,628,207	\$13,094,878
Total	100.00%	\$509,741,024	\$452,627,138	\$861,825,586	\$1,120,140,131

Patrons by Place of Residence

*Most patrons surveyed lived in the Metro Boston region.
Relatively few came from out-of-state.*



Esri, HERE, Garmin, FAO, NOAA, USGS, EPA, NPS. Basemap and Layout by Kazmiera Breest, 2023.



VCGI, Esri, HERE, Garmin, FAO, NOAA, USGS, EPA, NPS

Inputs to Economic Impact Model

Impacts from Encore Boston Harbor operations

Measure	Units	2019	2020	2021	2022
Average Employment	Jobs	1,963	3,303	2,675	3,282
Total Wages	Millions of Dollars	\$142.7	\$162.3	\$157.2	\$206.2
Intermediate (e.g., B2B) Spending	Millions of Dollars	\$75.9	\$62.3	\$66.7	\$85.4
Government Revenue	Millions of Dollars	\$86.0	\$87.6	\$167.6	\$197.4

Impacts from shifts in consumer spending

Measure	Units	2019	2020	2021	2022
New Off-Site Spending by Casino Visitors	Millions of Dollars	\$69.2	\$42.7	\$80.3	\$137.9
Reallocated In-State Consumer Spending	Millions of Dollars	-\$135.9	-\$129.8	-\$247.7	-\$305.5
Net Off-Site Consumer Spending	Millions of Dollars	-\$66.7	-\$87.1	-\$167.3	-\$167.6

Total Economic Impacts of Encore Boston Harbor

Encore's 2019 impacts were smaller for having only operated part of the year. All impacts increased substantially in 2022.

Component	2019	2020	2021	2022
Total Employment	5,823	8,081	8,028	9,917
Private Non-Farm Employment	4,736	6,877	5,967	7,533
Output (Millions of Dollars)	\$791.3	\$1,569.3	\$1,250.3	\$1,696.0
Value Added (Millions of Dollars)	\$576.4	\$1,030.5	\$1,005.3	\$1,334.4
Personal Income (Millions of Dollars)	\$504.4	\$727.3	\$802.0	\$1,063.5

Regional Employment Impacts of Encore Boston Harbor

Most economic impacts are concentrated in Metro Boston, but some activity, such as vendor spending and fiscal impacts, supports employment in all regions

Component	2019	2020	2021	2022
Metro Boston	4,482	6,632	5,944	7,434
Southeast	520	586	735	896
Pioneer Valley	291	290	510	592
Central	412	448	655	771
Berkshires	31	31	54	63
Cape and Islands	86	95	130	161
Total	5,823	8,081	8,028	9,917

Employment Impacts by Employment Source

Only about 1/3 of Encore's employment impact is jobs at the casino itself. Business-to-business impacts, induced spending, and new government revenue make up there rest.

Employment Source	2019	2020	2021	2022
Private Non-Farm	4,736	6,877	5,967	7,533
Casino Employment	1,963	3,303	2,675	3,282
Business to Business	935	1,005	965	1,295
Induced	1,838	2,570	2,327	2,956
<i>Consumption-Based</i>	917	1,154	799	1,188
<i>Other Induced</i>	921	1,416	1,528	1,768
Government	1,087	1,204	2,061	2,384
Total	5,823	8,081	8,028	9,917

Thank You!

EPPR Team



Division of Racing

TO: Cathy Judd-Stein, Chair
Eileen O'Brien, Commissioner
Bradford Hill, Commissioner
Nakisha Skinner, Commissioner
Jordan Maynard, Commissioner

FROM: Alexandra Lightbown, Director of Racing

CC: Todd Grossman, Interim Executive Director and
General Counsel

DATE: November 30, 2023

RE: Plainridge Park Casino Request to Amend 2023
Plainridge Racing Meeting License

Dear Commissioners:

Steve O'Toole, Director of Racing, Plainridge Park Casino, is requesting approval to amend the 2023 Plainridge Racing Meeting License from 108 days of racing to 107 to reflect the cancellation of September 11, 2023 after one race due to heavy rains and track conditions. This change was originally approved through the Massachusetts Gaming Commission's Authorization For Director Of Racing with the best interests of the human and equine participants in mind. That Authority specifies that the Director of Racing may:

- 3) approve cancellation of a race day requested by a licensee upon a showing of good cause, or upon their own initiative based on health, safety, or integrity related concerns (e.g.- in both cases this could include weather related concerns, personnel or participant related matters, and/or track or facility related concerns);
- 4) approve the rescheduling of a cancelled or postponed race day; provided, however, that any permanent change in the length of the racing meeting schedule (i.e. adding to or subtracting from the total number of race days) will be considered an amendment to the racing meeting license and must be presented to the Commission for approval;

With the one cancellation in 2023, Plainridge will still race over the 100 days required to simulcast.



Massachusetts Gaming Commission

GL.c. 128C includes the following definitions:

- "Racing day", a day on which 1 or more racing performances are conducted.
- "Racing performance", the conduct of at least seven live races during one day.

G.L. c. 128C § 2 states "provided, however, that no racing meeting licensee shall simulcast live races in any racing season unless the racing meeting licensee is licensed to and actually conducts at least 900 live races over the course of not less than 100 calendar days during that racing season with no fewer than 7 races completed on any of those 100 calendar days.

Recommendation: That the Commission approve the request of Plainridge Park Casino to amend their 2023 racing schedule from 108 days to 107 days.



Massachusetts Gaming Commission



PLAINRIDGE PARK
CASINO

November 27, 2023

Alexandra Lightbown
Director of Racing
Massachusetts Gaming Commission
101 Federal St.
Boston, MA 02110

Dear Director Lightbown,

Plainridge Park Casino respectfully requests amending the 2023 racing schedule to reflect 107 racing days from the approved 108 racing days. This request to amend reflects the unfortunate cancellation of the September 11th day card that was cancelled after one race was completed due to torrential rains that occurred after the racing program had started, created washouts on the track which made it unrepairable and impossible to complete the program providing a safe racetrack

Sincerely,

Steve O'Toole
Director of Racing
Plainridge Park Casino
Plainville Gaming and Redevelopment, LLC



TO: Chair Judd-Stein and Commissioners Hill, Maynard, O'Brien, and Skinner

FROM: Todd Grossman, Interim Executive Director and Derek Lennon, CFAO

DATE: November 30, 2023

RE: FY24 Staff Raises

Summary:

The Massachusetts Gaming Commission began its annual employee performance review process in October and is very close to completing the process. Once the review is completed, we would like to provide raises for employees. Historically the Commission has tried to stay close to what the Executive branch of MA state government is recommending for its employees. In FY23 staff received a 3% raise and Commissioners did not receive a raise. Commissioners' salaries and raises, by statute, are tied to the Secretary of Administration and Finance.

In a memo dated July 26, 2023, the MA, Human Resources Division (HRD) announced non-union employees raises for FY24. The memo included a raise of 4% effective July 2, 2023, and then another raise of 4% effective January 14, 2024. The Executive branch plans to implement the increases when the "recently negotiated bargaining unit increases take effect... Eligible managers will receive retroactive pay between July 2, 2023, and the date the increases take effect."

The Commission approved raises of 5% in its annual budget process for Fiscal Year 2024. The raises outlined above would equate to a 6.08% raise because the second 4% raise would only be for ½ of the fiscal year.

Background:

During the Commission's annual budget approval process (June of 2023), staff included a 5% recommendation for annual raises for staff. In late July of 2023 the MA HRD announced its annual recommendations for raises for non-union employees in the Executive branch. Below are the eligibility requirements, effective dates, and percentage raises:

- July 2, 2023 – 4% increase:
 - Managers who were in a management position on July 2, 2023, are eligible for the 4% increase.
- January 14, 2024 – 4% increase:
 - Managers who are in a management position on January 14, 2024, are eligible for the 4% increase.
- Excluded from eligibility for both increases:
 - Managers who entered a management position after July 2, 2023, are not eligible for the July 4% increase.
 - Managers who enter a management position after January 14, 2024, are not eligible for the January 4% increase.
 - Managers in post-retiree positions are not eligible for the July 2023 and January 2024 increases.



The combination of these raises would be a 6.08% cost to our annual budget. Below is an example using an annual salary of \$100K to illustrate how the two raises amount to a 6.08% cost to the FY24 budget:

Annual Salary	\$ 100,000.00
4% Raise Effective 7/2/23	\$ 4,000.00
New Salary Effective 7/2/23	\$ 104,000.00
4% Raise Effective 1/14/24	\$ 4,160.00
New Salary Effective 1/14/24	\$ 108,160.00
Cost for FY24*	\$ 106,080.00
% increase for FY24	6.08%
<p>*While the salary of the individual is up 8.16%, only half of the raise effective on 1/14/24 hits FY24 because the fiscal year ends on June 30th.</p>	

The Commission approved an FY24 budget that included 5% raises for all staff. To remain competitive with the Executive branch we would need to increase our line item for raises from 5% to 6.08%, which would be an additional \$127K broken out across gaming, racing, community mitigation, sports wagering and research and responsible gaming as shown below:

Appropriation	5% Included in Budget	Additional 1.08%
10500001 (Gaming)	\$ 373,232.00	\$ 80,618.11
10500003 (Racing)	\$ 37,277.01	\$ 8,051.83
10500004 (Community Mitigation)	\$ 10,188.69	\$ 2,200.76
10501384 (Sports Wagering)	\$ 151,408.94	\$ 32,704.33
40001101 (Research and Responsible Gaming)	\$ 15,951.45	\$ 3,445.51
Totals:	\$ 588,058.09	\$ 127,020.55

The Executive branch has not implemented the FY24 raises for non-union staff yet because the funding for the raises for recently negotiated bargaining units is currently making its way through the Legislative process in a supplemental budget.

Recommendation:

We are recommending that the Commission approve an additional 1.08% in funding to remain consistent with raises being recommended in the Executive branch. We do recommend allowing post-retirement positions to be eligible for the raises. We recommend moving forward with the first 4% raise in December and having it retro-active to July 2, 2023. This initial 4% is already within our approved budget. We recommend holding off on the additional 4% raise until either January 14, 2024, or until the Legislature funds the Executive branch increases, whichever comes later.



TO: Chair Cathy Judd-Stein
Commissioner Eileen O'Brien
Commissioner Bradford Hill
Commissioner Nakisha Skinner
Commissioner Jordan Maynard

FROM: Andrew Steffen – Interim Sports Wagering Operations Manager

CC: Todd Grossman – Interim Executive Director
Bruce Band – Sports Wagering Division Director

DATE: November 22, 2023

RE: Update to Licensee's House Rules

Pursuant to 205 CMR 247.02(4), the Commission reviews all changes proposed by a licensee to their house rules. A Sports Wagering Operator shall not change or modify the House Rules without the prior written approval of the Commission.

EXECUTIVE SUMMARY:

FanDuel Sportsbook has requested changes to their online sportsbook house rules. A full detailed summary of changes can be found in Exhibit A.

The summary of changes are as follows:

1. **Football:** Adjustment of verbiage surrounding First Play Attempt of Drive markets to reduce ambiguity in scenarios where NFL.com publishes "No Play".
2. **Baseball:** Adjustment to Hit First Home Run Verbiage to clarify scenario when no HR's are hit. Adjustment to Hit Nest Home Run to remove "Position" when referring to listed players. Addition of Pitcher Out, Pitcher Saves, 1st Inning Strikeouts, 3 Up 3 Down, Pitcher Velocity & Pitcher Per Plate Appearance. Addition of Verbiage for; Award Markets, Regular Season Player Totals, Regular Season Stat leaders, Daily Slate Specials. Adjustment to Live Specials, Playoff Stat Specials. Addition of All Star Game Verbiage surrounding Tie Breaker scenarios.
3. **Basketball:** Addition of verbiage surrounding In-Season Tournament Games and their effects on other markets, including Regular Season Wins, Most Regular Season Wins, To



Sports Wagering Division

Make the Play In Tournament. Adjustment of verbiage surrounding Regular Season Props in the event a player doesn't play the required number of games.

4. **Boxing:** Addition of CompuBox Markets and Verbiage surrounding definitions of each market.
5. **Cricket:** Addition of verbiage surrounding minimum required overs for wagers to stand, as well as definition of First Class Matches. Adjustment of verbiage in Specials Markets for reduction amount threshold from 20% to 10%. Removal of verbiage for "Method of Dismissal, Method of Next Wicket Dismissal, Either Batter Method of Dismissal & Man of the Match as language already existed within document and are duplications. Adjustment of verbiage surrounding Team of Top Batter to reflect when a tie is offered.
6. **Ice Hockey:** Adjustment of verbiage in specials markets to reduce ambiguity. Adjustment of Verbiage surrounding Xth Goal Scorer in the event no qualifying goal is scored in regulation/OT.
7. **Soccer:** Addition of Pass Markets & Goalkeeper Save Market Verbiage. Addition of Pass Markets & Goalkeeper Save Market Verbiage. Adjustment of Definitions of a Foul to reduce ambiguity.
8. **Tennis:** Addition of language surrounding settlement of Total Games Markets in the event of a retirement/disqualification.

CONCLUDING STATEMENT:

The Sports Wagering Division confirms all requirements have been met under 205 CMR 247.02 and has no reservations about moving forward on approving these changes.

Part C – Specific Sports Rules

1. American Football

1.3. Overview of Specific Markets

- First Play Attempt of Drive:
 - Settled based on results from the league's governing body.
 - Bets will be void if there is neither a pass or rush attempt. Settled off the first play from scrimmage of specified drive. If listed as "No Play" on NFL.com (e.g., Enforced Penalty), bets will have action and will be settled off the following play. Kickoff and punt return touchdowns will result in wagers being voided.

4. Baseball

4.3. Player Props

- To Hit First Home Run: Listed ~~position~~ players must record at least one plate appearance for bets to stand. If listed players do not record a plate appearance, bets on that player will be void. If a non-listed player is ruled the winner, bets on listed qualified players are action. ~~All bets will be voided~~ If no Home Runs are hit in the game, "No Home Run" will be deemed the winning selection.
- Pitcher Outs: Listed Pitcher must start for bets to stand. If the opposing Listed Pitcher does not start, then bets will still stand.
- Pitcher Saves: Save markets will be action regardless of whether the Listed Pitcher(s) appear in the game or not.
- 1st Inning Strikeout: A change to the status of either listed pitcher, or to either line-up, will have no bearing on the settlement of this market.
- 3 Up, 3 Down: This occurs when only three batters come to the plate and record official plate appearances during the listed half-inning. It is possible for players to reach base and for a "3 Up, 3 Down" to still occur (e.g., Runner caught stealing, double play, etc.).
- Pitch Velocity: Pitch velocity markets will be settled according to official results as published by MLB's Statcast. Should a batter or pitcher violation occur before a pitch is thrown in the plate appearance, wagers will be settled based on the first pitch thrown following the violation. For starting pitcher velocity markets, the listed batter vs. pitcher matchup must occur for wagers to have action. For relief pitcher velocity markets, the listed batter vs. pitcher matchup must occur in the listed inning for wagers to have action.
- Pitches Per Plate Appearance: Automatic balls/strikes that result from pitcher/batter violations will count as pitches. Markets will be void should an intentional walk be issued at any point prior to or during the plate appearance. Should the listed plate appearance not occur, bets on the market will be voided.

4.4. Futures Markets + Other Specials

- Award Markets: If an award is shared by two players (e.g., Cy Young, World Series MVP) dead-heat rules will apply. Award Markets are deemed All-In, selections may be requested but may only be available at FanDuel's discretion. Players do not need to meet any minimum playing time thresholds for bets to have action.
- Regular Season Player Totals (Over/Under): Batters must record at least one MLB regular season plate appearance and pitchers must face at least one MLB hitter during the regular season for bets to have action. Should these requirements not be met, wagers will be voided.
- Daily Slate Specials: All games scheduled to be played on the listed date must be played to completion (an official result) for bets to stand, unless the outcome has been unequivocally determined.
 - For example, if 15 games are scheduled on a given day, and one of the games was postponed/rescheduled to another date due to weather, markets that were unequivocally decided would be settled (e.g., "Will Any Player Hit a Grand Slam" would be settled if a Grand Slam was hit in one of the other games). However, markets affected by the postponement would be voided (e.g., "1+ Home Runs to be Hit in All Games" or "All Teams to Score 2+ Runs").
- Playoff ~~Series~~Statistical Leader Specials: Dead-heat rules apply if multiple players tie for ~~lead~~. Applies to outright markets such as ~~the lead of a statistical category~~ (e.g., "Player to Record Most Hits", "Player to Record Most Home Runs", etc.). Batters must record at least one MLB plate appearance and pitchers

must face at least one MLB hitter during the listed timeframe for bets to have action. Should these requirements not be met, bets will be voided.

- Live Specials: An official no-hit game occurs when a pitcher (or pitchers) allows no hits during the entire course of a game, which consists of at least nine innings (minimum 27 outs) thrown by the pitcher(s). For a perfect game, the pitcher(s) must comply with all requirements of the no-hitter, but also not allow any baserunners to reach via walk, HBP, uncaught third strikes, catcher's or fielder's interference, or fielding errors. No hitters and perfect games will be settled regardless of the number of pitchers used by the relevant team. If a singular pitcher is listed in the market, that pitcher must individually accomplish the feat for bets to be winners. If the market lists the team's name (e.g., Team X to Combine for a No-Hitter), rather than the name of an individual pitcher (e.g., Pitcher Y to Throw a No-Hitter), then multiple pitchers may be used to accomplish the feat. For live pitcher specials, all bets will stand if the listed pitcher starts the game. For live batter specials, all bets will stand if the listed player records at least one plate appearance in the game.
- All Star Game:
 - Any player statistic (e.g., Home Runs, Total Bases, RBI's, Runs Scored, etc.) accumulated during a potential Home Run Derby tiebreaker scenario will not be considered for settlement, unless specifically stated otherwise. All game markets will be settled after 9 innings of play, apart from the Moneyline market and those markets that specifically address events in a potential tiebreaker scenario.

5. Basketball

5.2. Overview of Specific Markets – NBA, NCAA and WNBA Basketball

- In-Season Tournament Markets: All Group Winner markets are resulted upon the team that wins their group and advances to the Knockout Round – Wild Card Teams are not included. The In-Season Tournament Winner will be resulted on which team received the NBA Cup Trophy.
- Regular Season Wins (NBA): For wagers to be action, teams must complete 80 scheduled regular season games. Should a team not complete the required number of games, all wagers on regular season win markets will be void, unless the result is already pre-determined, prior to an interruption or shortening of the season. As per the NBA's In-Season Tournament rules, all Group Play and Knockout Round games played within the In-Season Tournament will contribute to a teams' regular season Win/Loss record, however, the In-Season Tournament Final (Championship Match) outcome will be excluded from the participating teams' regular season Win/Loss record. Should a team not complete the required number of games, all wagers on regular season win markets will be void, unless the result is already pre-determined, prior to an interruption or shortening of the season.
- To Make the Play-In Tournament (NBA): Settled on the teams that have the 7th through 10th highest winning percentages in each conference and take part in the NBA's official Play-In Tournament. As per the NBA's In-Season Tournament rules, all Group Play and Knockout Round games played within the In-Season Tournament will contribute to a teams' regular season Win/Loss record, however, the In-Season Tournament Final (Championship match) outcome will be excluded from the participating teams' regular season Win/Loss record. Should the playoff format be changed during the season, all bets will be void.
- Most Regular Season Wins/Losses (NBA): For wagers to be action, all teams must complete 80 scheduled regular season games. Should a team not complete the required number of games, all wagers on regular season win markets will be void. As per the NBA's In-Season Tournament rules, all Group Play and Knockout Round games played within the In-Season Tournament will contribute to a teams' regular season Win/Loss record, however, the In-Season Tournament Final (Championship match) outcome will be excluded from the participating teams' regular season Win/Loss record. In the case two or more teams tie, dead heat rules apply.

5.3. Player Props – NBA, NCAA and WNBA Basketball

- Regular Season Props (NBA): Player most points/rebounds/assists/etc. or highest points/rebounds/assists/etc. average: Bets placed on this market will be settled on the player who makes the most of the relevant quoted statistic at the end of the competition excluding statistics recorded in the In-Season Tournament Final (Championship Game) or the postseason playoffs, unless otherwise stated. In case two or more players tie, dead heat rules apply. For NBA Regular Season League Leaders, a player must play 70% of their team's games (58 in 82-game season) as per NBA rules to win or remained the leader, had a player participated in the required number of games with their category total at seasons end, as defined by the NBA (i.e., The league leader may be settled as the player who would have led the league in category had he played the required category total). For example, if Player A played 56 games and scored 1,590 points ($1590/56 = 28.4$ ppq.), Player A could

still qualify for the league lead if his average with the same point total (1,590) over 58 games was higher than any other player (1590/58 = 27.4 ppg.).

6. Boxing and Mixed Martial Arts

6.1. Boxing

- Punch Stat Markets:
 - All markets below will be resulted against data received from CompuBox at the point of settlement.
 - For Round and Group Round Betting, in the event the fight ends prior to the round the bet has been placed on, bets will be settled as losers.
 - Total Punches Thrown
 - Total Punches Landed
 - Total Jabs Thrown
 - Total Jabs Landed
 - Total Power Punches Thrown
 - Total Power Punches Landed
 - Total Body Punches Landed
 - Most Punches Thrown
 - Most Punches Landed
 - Most Power Punches Landed
 - Most Jabs Landed
 - Most Body Punches Landed
 - Any other markets/selections composed of punches, jabs or power punches
 - Definitions of CompuBox punch markets can be seen below:
 - Thrown Punches: A Thrown Punch is any punch attempt at the scoring area of an opponent. Scoring area consists of the head and torso.
 - Jab: Straight punch with the fighter's lead hand.
 - Power Punch: Any non-jab punch such as uppercuts, crosses and hooks.
 - Landed Punches – A Landed Punch is a punch that lands inside the scoring area. A landed punch can be a deflected punch as well as a direct hit, providing that ultimately it connects to the scoring area.
 - Head/Body Punch Landed: Jabs and Power Punches categorized based on where in the scoring area the punch landed.

7. Cricket

- General Settlement
 - For all markets, in any instance where the minimum required overs has not been reached but the innings has reached its natural conclusion, bets will stand.
 - The term First Class matches refers to a match of three or more days duration between two sides of eleven players – this includes Test Matches.
- Method of Dismissal/Next Wicket Caught?
 - Description: How will the named batter be out?
 - If the specified batter is not out, all bets will be void.
 - If the specified batter retires, and does not return to bat later, all bets will be void. If that batter does return to bat later and is out, bets will stand.
 - Caught and bowled is included in fielder catch.
 - Should no further wickets be taken in the innings then bets on this market will be void.
 - For settlement purposes, a batsman retiring hurt/retiring out does not count as a wicket. In this instance bets will be settled on the next wicket to fall post this.
 - Where 'caught and bowled' is not offered as a selection, the wicket will be resulted as 'caught'.
- Method of Next Wicket Dismissal
 - Description: How will the next batter be out?
 - The result will be determined by the dismissal method of the next wicket that falls. A batter retiring hurt does not count as a wicket. If a batter is retired out, all bets will be void. If the specified wicket does not fall, all bets will be void.
 - Caught and bowled is included in fielder catch.
- Either Batter Method of Dismissal
 - Description: Will either of the named batters be dismissed in the specified method?
 - All bets will settle, regardless of whether either batter remains not out, or retired hurt, at the end of the innings.
- Man of the Match
 - Description: Who will be named Man of the Match?
 - Bets will be settled on the officially declared man of the match. Dead heat rules apply.

~~*—If no man of the match is officially declared then all bets will be void.~~

13. Ice Hockey

13.2. Overview of Specific Game Markets (US Ice Hockey)

- Daily Specials – Markets ~~for~~including but not limited to: daily goals scored, highest & lowest scoring teams, ~~and~~ highest & lowest scoring games, and team and player specials, are quoted with the listed date and number of games scheduled for the respective day.

13.5. Overview of Player Prop Markets (US Ice Hockey)

- Xth Goal Scorer Markets – All bets are action for players with any time on the ice. Bets will be void if quoted index goal is not scored in Regulation or Overtime.

23. Soccer

23.1. General Information

23.1.1 General Information

- For statistic related markets, the definitions provided within the “terminology” section will be used to determine the settlement of any bets which are placed on:
- Shots/Shots on Goal Markets
- Assists Markets
- Tackles Markets
- Cross Markets
- Pass Markets
- Goalkeeper Save Markets

23.1.5 Terminology

- ~~Foul conceded:~~ A foul ~~conceded~~ is defined as any infringement that is penalized as foul play by ~~athe~~ referee. For a foul to be awarded, play must be stopped and a free kick must be given. If the referee plays advantage and later distributes a yellow card once the ball goes out of play this will not count towards a foul as a free kick was never awarded. Offsides do not count as fouls.
- A pass is defined as any intentional played ball from one player to another. Passes include open play passes, goal kicks, corners and free kicks played as pass – but exclude crosses, keeper throws and throw-ins. All Player Passes bets are not given as a foul conceded settled on the basis of 90 minutes’ play (plus injury time) unless otherwise stated. For any Player Passes markets, all bets placed on players that are not part of the starting 11 will be void.
- A goalkeeper save is defined as a goalkeeper preventing the ball from entering the goal with any part of their body when facing an intentional attempt on goal from an opposition player. An attempt on goal that hits a defending player before being collected by the goalkeeper is not defined as a save and will be registered as a block. A touch from a keeper that is subsequently cleared by a defender is not defined as a save. Saves have the following attributes:
 - Body Part – Hands/Feet/Body
 - Save Type – Caught/Collected/Parried Safe/Parried Danger Area/ Fingertip
 - Goalkeeper Position – Diving/Standing/Reaching/Stopping

26. Tennis

- If a player or pairing retires or is disqualified in an ATP/WTA/Challenger Tour/Grand Slam/Davis Cup/Fed Cup/ATP Cup Match: (i) all match bets (i.e., bets placed on the winner of a given match) will be voided if the retirement/disqualification occurs prior to the conclusion of the first set and (ii) if the retirement/disqualification occurs following the conclusion of the first set, the player or pairing progressing to the next round (or winning the tournament in the case of a final) will, for the purpose of any match bets, be deemed the winner but match bets placed on the retiring player or pairing will be voided (and stakes in respect of those bets refunded accordingly). Bets on all other tournaments or matches (such as ITF or exhibition matches) and bets on other markets (i.e. other than match betting markets) will be voided where a player or pairing retires or is disqualified (regardless of whether the retirement occurs during or following the first set) unless, in the case of bets on other markets, (excluding Total Game Markets), the outcome of the bet had been unequivocally determined prior to the time of the retirement/disqualification (in which case, the bet shall stand and shall be settled accordingly). For the purpose of Total Games related markets, should a player retire or be disqualified, bets will settle as Win/Loss based off the minimum possible games should the match have been played to conclusion (e.g., A player retires with the score 6-4, 3-2. Total Games would be settled off the minimum amount of games left i.e., 6-4, 6-2).

- Total Games/Point Spread (Handicap) related markets: For the purposes of such markets, a tie-break is counted as one game. Forfeited points or games will count for final settlement purposes. For the purpose of Total Games related markets, should a player retire or be disqualified, bets will settle as Win/Loss based off the minimum possible games should the match have been played to conclusion (e.g., A player retires with the score 6-4, 3-2. Total Games would be settled off the minimum amount of games left i.e., 6-4, 6-2 in a 3 set match or 6-4, 6-2, 6-0 in a 5 set match).
-



TO: Chair Cathy Judd-Stein
Commissioner Bradford Hill
Commissioner Jordan Maynard
Commissioner Eileen O'Brien
Commissioner Nakisha Skinner

FROM: Andrew Steffen – Interim Sports Wagering Operations Manager

CC: Todd Grossman – Interim Executive Director
Bruce Band – Sports Wagering Division Director

DATE: November 27, 2023

RE: Request to Void Wagers

Pursuant to 205 CMR 238.35(2), the Commission reviews all requests and authorizes the cancellation or voiding of all wagers of a specific type, kind, or subject. A Sports Wagering Operator shall submit its request to cancel or void the Wager in writing. Under Section 4, the Commission shall issue a written order granting or denying the request to cancel or void the Wager.

EXECUTIVE SUMMARY:

DraftKings Sportsbook has submitted a request to void wagers after becoming aware of bets placed at incorrect odds by third-party vendor Sportcast. A total of 178 wagers were placed on these impacted markets by a total of 138 individual customers for a total handle of \$4,182.36 with a total liability of \$575,436.82.

On October 25, 2023, at approximately 13:36 ET, DraftKings informed the Sports Wagering Division of the incident, providing a detailed report of all 178 wagers requesting the Commission to void. On October 27, 2023, at approximately 15:47 ET, DraftKings, after completing its investigation, provided a detailed incident report and timeline to the Sports Wagering Division.

DISCUSSION:

As a continuation from the November 16 Public Meeting, DraftKings is requesting the Commission to void all affected wagers as a result of markets placed at incorrect odds. During the meeting, it was asked of DraftKings to provide updates on key pieces of information.

First, with regards to how other jurisdictions have handled this request, DraftKings has informed the Sports Wagering Division that 17 other jurisdictions have already voided the wagers. This includes Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan,



Sports Wagering Division

New Hampshire, New York, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and Wyoming. In the four jurisdictions of Arizona, Oregon, Washington, and Ontario (CA), no bets were taken with the incorrect totals. Other than the current pending status in Massachusetts, the sole jurisdiction of New Jersey is also in a pending state and still under investigation. Lastly, Connecticut is the only jurisdiction where these wagers have been paid out.

Next, with regards to customer treatment, DraftKings informed the Sports Wagering Division the unsettled status of these wagers began creating customer friction. DraftKings attempted to alleviate the resulting friction by issuing bonus bets to any customer they believed had not intentionally abused the incorrect odds. This was defined as a customer's parlay that contained less than 50% of the incorrect odds. This translated to bonus bets being issued to 14 of the 138 customers in Massachusetts.

Lastly, it was asked of DraftKings if there is an indemnity to cover the specific event which had occurred. DraftKings has informed the Sports Wagering Division they do not believe such indemnity exists.

CONCLUDING STATEMENT:

The Sports Wagering Division has reviewed the incident reported by the operator and confirms all requirements have been met under 205 CMR 238.35(2) and has no reservations about moving forward in processing the request to void all affected wagers with regards to this incident.



TO: Chair Cathy Judd-Stein and Commissioners Eileen O'Brien, Bradford Hill, Nakisha Skinner and Jordan Maynard

FROM: Joe Delaney, Mary Thurlow, Lily Wallace

CC: Todd Grossman, Interim Executive Director

DATE: November 21, 2023

SUBJECT: Springfield Change in Grant Scope of 2020 Grant and Reuse of Funding

Background:

The Springfield Police Department (SPD) received two grants (2021 and 2022) totaling \$24,000 to improve data connectivity between the Metro Unit and the GEU. Springfield recently bid the project and based on the attached quotes, the project cost is now \$29,027, or \$5,027 more than the total grant amounts.

In 2020, the SPD received a grant in the amount of \$110,000 for police equipment. Because of savings in the purchase of several items, there remains an unexpended balance of \$18,809.34.

Springfield is requesting that \$5,027 of the unexpended balance from the 2020 grant be transferred to the 2022 grant so that the data connectivity project can proceed. This is being brought to the Commission because the amount of the transfer is greater than 10% of the total project cost.

Staff Recommendation

Staff recommends that the Commission authorize the transfer of funds. This project is important to ensure that the SPD Metro Unit can communicate effectively with the Springfield Police Officers that are part of the GEU.

Massachusetts Gaming Commission



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Sean Pham
Senior Budget Analyst

Office of Administration & Finance
36 Court Street, Room 412
Springfield, MA 01103
Office: (413) 784-4883
Fax: (413) 750-2623



THE CITY OF SPRINGFIELD, MASSACHUSETTS

November 6th, 2023

Re: Budget Revision Request for Springfield Police 2020 Specific Impact Grant

Dear Mary Thurlow,

This memo is provided as a narrative explanation regarding the request for a revision to the 2020 funding.

The City of Springfield applied for funding for a Data Connectivity project with the 2021 Grant. Unfortunately, at the time of the request, the full scope of the project had not been realized and our request was underfunded having received \$8,000 towards the total project cost. The City attempted to secure additional funding in the 2022 request. The Mass Gaming Commission then awarded the City an additional \$16,000 bringing the total available funds to \$24,000.

At this time the project remains underfunded. The City now has all the necessary information pertaining to the total project cost as identified in the two attachments. The total project cost is currently \$29,027 leaving the city underfunded by \$5,027.

The City has fulfilled the Scope of Work as identified in the 2020 Mitigation Grant provided to the Springfield Police Department; there is a balance of \$18,809.34. The City is proposing to use this to fund the remaining balance of \$5,027 for the completion of the Data Connectivity project. Additionally, the City would like to request a six (6) month contract extension for the 2020 Mitigation Grant which is set to expire 02/01/2024.

Feel free to reach out with any additional questions or concerns and thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sean Pham'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Sean Pham
Senior Budget Analyst

Collins Electric

Information Systems Division

Founded 1906

53 Second Avenue, Chicopee, MA 01020
Telephone (413) 592-9221: Fax (413) 598-1034

November 6, 2023

George Rooney
Network Administrator
City of Springfield, Ma. 01103

Scope: 95 State Street MGM SPD police data and fiber install

- Installing 12 strands SM Armored fiber plenum rated from 101 State Street Access Plus D-mark to 2nd floor of 95 State Street SPD wall cabinet.
- Installing one wall cabinet in the office area of 95 State Street 2nd floor.
- Installing 1 rack mount fiber enclosure with 12 port LC adaptor pack in wall cabinet
- Terminating fiber at cabinet locations leaving fiber coiled at Access Plus D-mark location.
- Installing 9- 4 Cat 6 Plenum rated data locations in office area and counter.
- Installing 4- 2 Cat 6 Plenum rated Data locations in office area.
- Installing 1- 48 port patch panel in wall cabinet.
- Installing a dedicated 120-volt 20-amp quad outlet in the back of wall mount rack.
- Power is figured to be fed from normal power panel on the 2nd floor.
- ITC 71 with Prevailing Rate included.
- Terminate and test all Cat 6 cables with electronic reports.

Price \$ 28,527.00

Not Included

Copper and Fiber Patch cords
Permit Fee \$110.00

Any questions feel free to call thanks.

John Angelica
Collins Electric
Direct 413-598-1027
Cell 413-246-3642



REQUEST FOR RENEWAL OF A TEMPORARY LICENSE TO CONDUCT SPORTS WAGERING

BACKGROUND

Name of Licensed Entity and License Type (Category 1, 2, or 3)

Doing Business As (DBA)

Employer Identification Number

Name and Title of Individual Filing This Request

Date Found Preliminarily Suitable By MGC

Date Temporary License Issued

TEMPORARY LICENSE FEE

A request for a temporary license shall include a temporary renewal license fee of \$1 million payable to the Massachusetts Gaming Commission. For electronic wiring instructions, please contact Doug O'Donnell at douglas.odonnell@massgaming.gov

Has the temporary license renewal fee been remitted? Yes No

SIGNATURE AND INFORMATION

I swear or attest under the pains and penalties of perjury that the information provided as part of this request for a hearing is true and accurate to the best of my knowledge and understanding.

Signature of Authorized Agent of Entity

Date

Please submit this request via e-mail to: todd.grossman@massgaming.gov

Refer to 205 CMR 219 (Temporary Licensing Procedures), 205 CMR 231 (Renewal of a Sports Wagering License), and 205 CMR 221 (Sports Wagering License Fees) for further information.



TO: Chair Cathy Judd-Stein
Commissioner Brad Hill
Commissioner Jordan Maynard
Commissioner Eileen O'Brien
Commissioner Nakisha Skinner

FROM: Todd Grossman, Acting Executive Director & General
Counsel
Heather Hall, Acting IEB Director & Chief
Enforcement Counsel
Bruce Band, Director of the Sports Wagering Division
Caitlin Monahan, Deputy General Counsel

DATE: November 9, 2023

RE: Sports Wagering Compliance Matter Review Protocol

The attached draft Sports Wagering Compliance Matter Review Protocol was developed to implement 205 CMR 232.00: Discipline of Sports Wagering Operators and Other Licensees and Registrants. This protocol applies to all matters that the Commission may become aware of concerning potential noncompliance by a Sports Wagering Licensee with respect to any statutory or regulatory requirement. The protocol sets out steps for how a matter is to be addressed, including the processes by which matters are categorized, reviewed, and resolved.

We look forward to discussing the draft protocol with the Commission.



Massachusetts Gaming Commission

SPORTS WAGERING COMPLIANCE

MATTER REVIEW PROTOCOL

Scope

This protocol was developed to implement 205 CMR 232.00: Discipline of Sports Wagering Operators and Other Licensees and Registrants. This protocol applies to all matters that the Massachusetts Gaming Commission (“Commission”) may become aware of concerning potential noncompliance by a Sports Wagering Operator (“Operator”), Qualifier; Occupational Licensee; Sports Wagering Vendor (“Vendor”); or Sports Wagering Registrant (“Registrant”) (together, “Licensee(s)”) with respect to any statutory or regulatory requirement. For example, such matters may involve potential noncompliance with an approved internal control submission (205 CMR 238), with an advertisement or promotional standard (205 CMR 256), or with an intercept involving past due child support or tax obligations (G.L. c. 23N, § 24). All such matters, however identified (by Commission staff, self-reported by an operator, via a member of the public, etc.), and regardless of to whom it is initially reported, shall be promptly referred to the Sports Wagering Division (“SWD”) for processing.

Initial SWD Determination

Upon notification of a potential noncompliance incident, the SWD shall complete the *SW Noncompliance Matter Intake Form* (“form”) and review the information presented to determine the appropriate next steps. Where it is readily apparent on the face of the notification that the matter does not involve a violation of a statute, regulation, condition, or order, the SWD may address the matter without completing the form, but all matters shall be entered into the *Sports Wagering Noncompliance Inquiry Log* (“log”).

The purpose of the initial review performed by the SWD is to determine in which of the three following categories the matter should be classified. In each case, the SWD should proceed with the assumption that all allegations or facts presented are true for the purposes of the initial review. There is necessarily discretion that must be exercised by the SWD in making these determinations. Accordingly, the SWD may consult with other members of staff, including, but not limited to, counsel and the IEB, in reaching a decision. The three categories are as follows:

Group 1: These matters involve *relatively low-level* incidents which may be handled directly by the SWD without any referral to the IEB or Commission. In determining whether a matter is *relatively low-level*, the SWD shall consider, without limitation, the following:

- Whether the particular issue arose from the Licensee’s reasonable, but mistaken, interpretation of the governing statute, regulation, condition, or order;
- Whether the issue was relatively promptly detected and addressed by the Licensee;
- Whether the matter was self-reported by the Licensee;
- Whether the Licensee has a previous history of violations;

- Whether future occurrences of the issue can be avoided by instituting clear remedial measures;
- The total financial impact of the issue; and/or
- Any other consideration that the SWD finds relevant in evaluating the matter.

Examples of hypothetical Group 1 incidents could include an advertising violation where required language is missing from one advertisement, failure to submit information required by the internal controls in a timely fashion, or individual patron complaints.

Group 2: These matters involve *significant and consequential* incidents which shall be promptly referred to the IEB for handling as described below. In determining whether a matter is *significant and consequential*, the SWD shall consider, without limitation, the following:

- Whether the potential noncompliance event relates to any of the issues set out in 205 CMR 232.02(1)(a)-(f) or 205 CMR 232.03(1)(a)-(b);
- If the facts or impact of the matter are unclear and require further investigation based on a threshold review of the matter by the SWD;
- If the Licensee is non-responsive or uncooperative with the SWD in its initial review of the matter;
- If the Licensee's explanation as to the reason for the incident is unsatisfactory;
- Whether the SWD and Licensee attempted, but were unable to resolve the matter to the satisfaction of the SWD as a Group 1 matter;
- Whether the Licensee has a prior history of violations;
- Whether the incident may reasonably warrant a monetary penalty;
- Whether the financial impact of the incident (e.g.- total volume of wagers accepted, volume of advertising, etc.) is noteworthy;
- Whether the matter has garnered notoriety;
- Whether a statutory violation or a violation of a condition of a Sports Wagering License is implicated; and/or
- Any other consideration that the SWD or IEB find relevant in evaluating the matter.

Hypothetical examples of Group 2 incidents could include a situation where an operator allows wagering on an event that is not included in the sports wagering catalogue, or large-scale or repeated violation of an advertising regulation.

Group 3: These matters involve *severe* incidents of which the Commissioners shall promptly be notified. In determining whether a matter is *severe*, the SWD, in consultation with the IEB, shall consider, without limitation, the following:

- Whether the potential noncompliance event relates to any of the issues set out in 205 CMR 232.02(1)(a)-(f) or 205 CMR 232.03(1)(a)-(b);
- Whether a statutory violation or a violation of a condition of a Sports Wagering License is implicated;
- Whether suspension or revocation of a license may be implicated in the circumstances;
- Whether the incident may reasonably warrant a monetary penalty;
- Whether the matter may cause public concern;
- Whether the Licensee has a significant history of non-compliance;
- Whether the Licensee has a prior history of violations;
- Whether the incident goes to the heart of the integrity of the industry;
- Whether strict application of a regulatory provision under the circumstances would lead to an inequitable result; and/or
- Any other consideration that the SWD or IEB find relevant in characterizing the matter.

Hypothetical examples of Group 3 incidents could include a situation where serious allegations have been made against a qualifier or a situation where license suspension or revocation is a realistic possibility.

Group 1 Determination

If the SWD determines that a matter involves a Group 1 incident, it may resolve the issue in accordance with the following procedure:

- The matter shall be entered into the log;
- A form shall be completed;
- In completing the form, the SWD may inquire of any individuals (including the Licensee) with knowledge of the circumstances to gain an understanding as to what occurred, whether there was a violation of any statute, regulation, condition, and/or order and (where possible) the cause of the incident;
- Upon completion of the preceding step, the SWD shall make a determination as to whether the issue is likely a one-time occurrence based on a unique set of circumstances or is likely to reoccur;
- If the matter is likely to reoccur, the SWD shall determine whether adequate measures are in place to prevent such reoccurrence;

- While evaluating the matter, if the SWD determines that the facts give rise to a Group 2 or Group 3 classification, the matter shall be re-classified and handled in accordance with the relevant procedure; and
- Once the facts of the matter are determined to the satisfaction of the SWD, the matter may be resolved by issuance of a sports wagering notice of noncompliance form (SW NCF) describing the issue and violation(s), warning or reprimanding the Licensee, directing any necessary remedial measures, and setting a deadline for compliance. The SWD may negotiate with the Licensee in reaching a resolution. The SWD may also determine that no violation has occurred.
- The IEB and the SWD will meet regularly.

Group 2 Determination

If the SWD determines that a matter involves a Group 2 incident, the following procedures shall be followed:

- The matter shall be entered into the log;
- A form shall be completed;
- The form shall be forwarded to the Director and Chief Enforcement Counsel of the IEB so that the matter may be formally investigated;
- While evaluating the matter, if the IEB determines that the facts give rise to a Group 1 or Group 3 classification, the matter shall be re-classified and handled in accordance with the relevant procedure;
- Upon conclusion of its investigation of a Licensee, the IEB shall take one of the following actions:
 - Resolve the matter with the issuance of a sports wagering notice of noncompliance (SW NONC) describing the issue and violation(s), warning or reprimanding the Licensee, directing any necessary corrective actions¹, and setting a deadline for compliance;
 - If the Licensee in question is an Operator and the IEB finds that the Operator has violated a provision of 205 CMR 232.02(1), the IEB may provide a written recommendation to the Operator and the Commission (with a copy to the Office of General Counsel) that the Commission suspend, revoke, or condition the Operator's license. Either in conjunction with or in lieu of such a recommendation, the IEB may also recommend that the Commission assess a civil administrative penalty, assess a fine, or issue a reprimand upon said operator

¹ Corrective actions do not include conditions on a Licensee's license.

in accordance with G.L. c. 23N, sections 16 and 21 and 205 CMR 232.02(3). The recommendation shall meet the requirements of 205 CMR 232.02(2).

- If the Licensee in question is an Occupational Licensee, Vendor, or Registrant, and the IEB finds that the entity has violated a provision of 205 CMR 232.03(1), the IEB may issue a written notice to the entity and the Commission (with a copy to the Office of General Counsel) of its intent to reprimand, suspend, or revoke said license or registration, or to assess a civil administrative penalty on a license or registrant. The notice shall meet the requirements of 205 CMR 232.03(2); or
- Refer the matter to the Attorney General's Office.
- Determine that a noncompliance incident has not occurred.
- The IEB may negotiate with the Licensee in reaching one of the aforementioned actions.
- Once a recommendation or notice has been issued, the Licensee may request an adjudicatory hearing pursuant to 205 CMR 232.02(3). If an Operator does not request a hearing pursuant to 205 CMR 232.02(3), the Commission shall, at its next scheduled meeting, review the IEB's recommendation and either adopt it or reject it.

Group 3 Determination

If the SWD, in consultation with the IEB, determines that a matter involves a Group 3 incident, the following procedures shall be followed:

- The matter shall be entered into the log;
- A form shall be completed;
- Based on the information obtained, the SWD and IEB will notify the Commissioners of the incident as soon as is practicable;
- The IEB will perform a preliminary investigation/review of the incident;
- At the Commission's next scheduled meeting after the preliminary investigation/review is complete, the IEB shall brief the Commission on the matter;
- At that meeting, the Commission will review the high-level overview of the matter, but not deliberate (e.g.- by expressing an opinion as to the merits of a complaint, or the severity of an incident) for purposes of determining how it intends to proceed.
- The Commission may direct that any of the following procedures be employed:
 - (a) It may direct the IEB to further monitor or investigate the matter, prepare a report, (but not make a recommendation), and share the report with the Commission for further consideration as to how it would like to proceed;

- (b) It may elect to schedule an adjudicatory proceeding after the IEB's investigation is complete, in accordance with 205 CMR 101.02²;
- (c) It may elect to assess a civil administrative penalty in accordance with G.L. c. 23N, § 16; or
- (d) Reclassify the matter as Group 1 or 2 and proceed according to the applicable protocol.

SW Compliance Matter Intake Form

The *SW Noncompliance Matter Intake Form* shall be prepared by SWD personnel for all matters brought to its attention related to potential noncompliance with a statute, regulation, condition, or order by a Licensee. The only exception to the requirement shall be for matters where it is readily apparent on the face of the notification that the matter does not involve a violation of a statute, regulation, condition, or order. The form shall be designed to compile information relative to the background and nature of the incident, when the Licensee became aware of it, when it was reported to the Commission, and the SWD's classification under this protocol.

Sports Wagering Noncompliance Inquiry Log

The *Sports Wagering Noncompliance Inquiry Log* shall be updated by SWD personnel to include all potential noncompliance matters brought to its attention. The Log shall be made available to the Commissioners and Executive Director to ensure awareness of current matters being addressed. Any Commissioner may request that the Commission meet to determine whether a particular matter should be reclassified. Such requests must be made at an Agenda Setting Meeting or Public Meeting of the Commission. Further, any Commissioner may inquire about an entry in the Log, but care must be taken to ensure that the Commission does not deliberate over any pending matter that may ultimately be brought before it at an adjudicatory proceeding.

² At this time, the Commission may direct the IEB to act as a party in the adjudicatory hearing.