

LOUISIANA STATE RACING COMMISSION AND
LOUISIANA GAMING CONTROL BOARD

HOUSE RESOLUTION No. 130
2014 REGULAR SESSION



PERFORMANCE AUDIT SERVICES
MARCH 4, 2015

**LOUISIANA LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
POST OFFICE BOX 94397
BATON ROUGE, LOUISIANA 70804-9397**

LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

ASSISTANT LEGISLATIVE AUDITOR
FOR STATE AUDIT SERVICES
NICOLE B. EDMONSON, CIA, CGAP, MPA

DIRECTOR OF PERFORMANCE AUDIT SERVICES
KAREN LEBLANC, CIA, CGAP

**FOR QUESTIONS RELATED TO THIS PERFORMANCE AUDIT, CONTACT
KAREN LEBLANC, PERFORMANCE AUDIT DIRECTOR,
AT 225-339-3800.**

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

March 4, 2015

The Honorable John A. Alario, Jr.,
President of the Senate
The Honorable Charles E. "Chuck" Kleckley,
Speaker of the House of Representatives

Dear Senator Alario and Representative Kleckley:

This report provides the results of our performance audit on the Louisiana State Racing Commission (Racing Commission) and the Louisiana Gaming Control Board (Gaming Control Board), as requested by House Resolution No. 130 of the 2014 Regular Legislative Session. The purpose of this audit is to determine whether the Racing Commission and the Gaming Control Board are ensuring regulatory compliance with respect to horse racing and off-track betting facilities and the allocation of resources to horse racing versus the operation of slot machines and video poker devices.

The report contains our findings, conclusions, and recommendations. Appendix A contains the responses of the Racing Commission and the Gaming Control Board. I hope this report will benefit you in your legislative decision-making process.

We would like to express our appreciation to the management and staff of the Racing Commission and the Gaming Control Board for their assistance during this audit.

Sincerely,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/aa

HR130 2015

Louisiana Legislative Auditor

Daryl G. Purpera, CPA, CFE



Louisiana State Racing Commission & Louisiana Gaming Control Board

March 2015

Audit Control # 40140011

Introduction

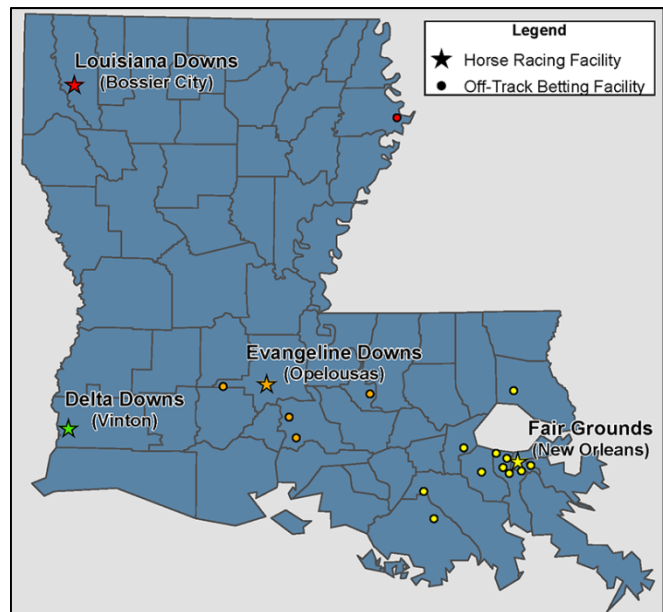
This audit was conducted as requested by House Resolution No. 130 of the 2014 Regular Session. This resolution asked us to determine whether the Louisiana State Racing Commission (Racing Commission) and the Louisiana Gaming Control Board (Gaming Control Board) are ensuring regulatory compliance with respect to horse racing and off-track betting (OTB) facilities and the allocation of resources to horse racing versus the operation of slot machines and video poker devices.

La R.S. 4:144 created the Racing Commission to institute and maintain a regulatory program for the business of racing horses that assures public health, safety, and welfare. The Racing Commission, comprised of 13 members appointed by the Governor, has the authority to prescribe rules and regulations and conditions under which all horse racing is conducted, including the condition of racetracks and OTBs.

Louisiana has four licensed racing associations (racetracks) with live horse racing and pari-mutuel wagering.¹ Three of the racetracks operate OTBs, where patrons can place bets on live horse racing. Exhibit 1 shows the location of the four racetracks and their respective OTBs in Louisiana.

To support the horse racing industry, racetracks are allowed by law to operate slot machines at their racing facilities and video draw poker (video poker) devices at their OTBs. As specified in law, certain percentages of these gaming revenues contribute to the horse racing industry, including funding to the Horsemen's Benevolent and Protective Association, Louisiana Thoroughbred Breeders Association, Louisiana Quarter Horse Breeders Association, and funding to supplement horse racing purses.² In fiscal year 2013, racing purses and horsemen groups received approximately \$99.3 million.

Exhibit 1
Louisiana Racetracks and Associated OTBs



Source: Prepared by legislative auditor's staff using information provided by the Racing Commission.

¹ Pari-mutuel wagering is defined as a form of betting on horse races, in which those holding winning tickets divide the total amount bet in proportion to their wagers, less a percentage for the management.

² Purses are monies offered by racetracks for any given race. Purses are distributed to owners.

The Gaming Control Board regulates the operation of slot machines and video poker devices at racetracks and OTBs. LA R.S. 27:15(B)(1) grants the Gaming Control Board regulatory authority, control, and jurisdiction, including the investigation, licensing, and enforcement, over all aspects of gaming activities. As established in R.S. 27:20, Louisiana State Police (LSP) acts as the enforcement arm for the Gaming Control Board.

To evaluate if the Racing Commission and the Gaming Control Board are ensuring compliance with respect to horse racing facilities and OTBs, we developed the following three audit objectives:

Objective 1: Determine whether the Racing Commission is ensuring horse racing facilities and OTBs comply with health, safety, and welfare standards required by law and administrative rule.

While the Racing Commission has developed licensing, monitoring and enforcement processes to regulate the sport of racing, it has not developed sufficient regulations and processes to ensure that the racetracks themselves comply with health, safety, and welfare standards. In addition, prior to 2014, the Racing Commission did not inspect the pari-mutuel wagering side of OTBs for compliance with regulations.

Objective 2: Determine if the Gaming Control Board ensures video poker devices and slot machines at horse racing facilities and OTBs are operated in compliance with requirements.

Overall, we found that the Gaming Control Board, through LSP, ensures that video poker devices and slot machines at horse racing facilities and OTBs are operated in compliance with requirements. However, we found that certain processes, such as the inspection of video poker devices at OTBs and slot machines at horse racing facilities, could be strengthened to provide further assurance of their compliance with requirements.

Objective 3: Determine if the Racing Commission and the Gaming Control Board are enforcing compliance with the amount of resources horse racing facilities and OTBs are allocating to horse racing versus the operation of slot machines and video draw poker devices.

State law does not contain any provisions that direct racetracks to spend a certain portion of their resources on horse racing versus gaming. However, state law does require that certain percentages of proceeds from pari-mutuel wagering, slot machines at racetracks, and video poker at OTBs be distributed to horsemen associations and purses. Overall, we found that the Gaming Control Board has sufficient processes to ensure that net gaming revenue is accurate. The Racing Commission has also developed some processes that appear sufficient at ensuring that pari-mutuel and gaming revenue to the horsemen are accurately distributed. However, additional testing of these processes will be performed during a subsequent LLA financial audit.

In fiscal year 2013, approximately \$99.3 million was allocated to the horse racing industry, while the state received approximately \$71.6 million. The horse racing industry

receives more than the state because state law allows the industry to receive its portion of gaming revenues prior to the state taxing it. If the state taxed net gaming proceeds prior to the horsemen receiving their portion, the state would have received approximately \$15.3 million in additional revenue in fiscal year 2013.

Appendix A contains the responses of the Racing Commission and the Gaming Control Board, Appendix B details our scope and methodology, and Appendix C provides additional background on the gaming industry relative to this report.

Objective 1: Determine whether the Louisiana State Racing Commission is ensuring horse racing and OTBs comply with health, safety, and welfare standards required by law and administrative rule.

The Racing Commission regulates the sport of horse racing through its licensing, monitoring, and enforcement processes. Specifically, the Racing Commission issues licenses to jockeys, trainers, and other racing personnel, monitors all races, conducts random drug tests of both jockeys and horses, and issues fines when prohibited drugs are identified. However, the Racing Commission has not developed sufficient regulations and processes to ensure that the racetracks themselves comply with health, safety, and welfare standards. Overall, we found the following:

- The Racing Commission needs to develop sufficient regulations to ensure racetracks comply with health, safety, and welfare standards. Current regulations do not contain sufficient provisions and are not specific enough to consistently hold racetracks accountable.
- The Racing Commission needs to develop a formal inspection process to document racetrack compliance with health, safety, and welfare standards. A documented inspection would provide stronger evidence that the Racing Commission ensured racetracks comply with regulations.
- The Racing Commission needs to develop a formal enforcement process that consistently addresses instances of noncompliance with regulations. Although the Racing Commission has issued fines to jockeys and other racing personnel, it has never issued fines to racetracks or OTBs.
- The Racing Commission did not conduct inspections of the pari-mutuel wagering side of OTBs prior to 2014. However, in February 2014 it developed an agreement with LSP to conduct these inspections on the Racing Commission's behalf. As of December 2014, all but one of the OTBs had been inspected.

The Racing Commission needs to develop sufficient regulations to ensure racetracks comply with health, safety, and welfare standards.

La R.S. 4:144 requires that the Racing Commission institute and maintain a regulatory program for the business of racing horses that assures public health, safety, and welfare. The Racing Commission has established rules and regulations in Titles 35 and 46 of the Louisiana Administrative Code, which are collectively known as the *Rules of Racing*. However, these rules

and regulations are not sufficient or specific enough to ensure that facilities clearly understand what is expected of them.

We compared Louisiana state law and regulations regarding health, safety, and welfare standards of horse racing facilities and OTBs to the Association of Racing Commissioners International's (ARCI) Model Rules of Racing³ and identified instances where the Racing Commission does not have certain provisions in regulations. For example, the Racing Commission's regulations do not require the presence of an equine ambulance at races, inside and outside rails at the tracks, backup lighting systems, safety requirements for the surface of the racetrack, or adequate drainage systems for the track, all of which affect the health, safety, and welfare of horses and the public at racetracks.⁴ Insufficient regulations limit the Racing Commission's ability to enforce compliance. For example, inadequate track drainage was one of the primary concerns at the New Orleans Fair Grounds because it resulted in nearly half of the horse races to be run on the turf track being cancelled in the 2013 race meet. Had track drainage requirements been specified in the regulations, the Racing Commission could have held the Fair Grounds more accountable for addressing them. Appendix D contains a list of all Model Rules that are not in the Racing Commission's current regulations.

We also reviewed the racing requirements of four other states⁵ and found that all of them have additional requirements from the Model Rules in their regulations that are not found in Louisiana's regulations. In addition, some states, such as California and Texas, have made their regulations even more specific. For example, California's regulations are more specific regarding the living quarters for stable employees, as they require that rooms have at least one exterior window, have battery-operated smoke detectors, and that the room dimensions be not less than 50 square feet per person. However, Louisiana's regulations are more general, as they only specify adequate and sanitary living quarters for stable employees.

State law gives the Racing Commission broad authority to address any issues that affect public health, safety, and welfare at racetracks and OTBs. However, according to the Racing Commission, it has been hesitant to use this authority given the broad nature of the regulations. Therefore, having more specific regulations would better help ensure that the Racing Commission holds racetracks accountable to the same standards. For example, we visited all four racetracks to compare their facilities and check for basic safety provisions, such as the presence of rails, clean accommodations, adequate restrooms, a racetrack in good working order, and an adequate drainage system. Based on our observations, the conditions of the facilities varied widely at each track, especially in the backside areas (i.e., the stalls and living quarters of the attendants). For example, racetracks varied in the cleanliness of bathroom facilities, size of living quarters, conditions of the road, and stall construction.

³ The ARCI is an umbrella organization of the officially-sanctioned governing rulemaking bodies for professional racing. They set standards for racing regulation, medication policy, drug testing laboratories, totalizator systems, racetrack operation and security, and off-track betting entities.

⁴ In some cases where these provisions are not specified in state law or regulations, the racetracks are complying with the provisions in practice. For example, there are no requirements defined in law or regulations for an equine ambulance at races; however, all tracks now have an equine ambulance at their races at the encouragement of the Racing Commission.

⁵ We reviewed racing facility requirements defined in regulations in California, Kentucky, New York, and Texas.

The Racing Commission has discussed backside conditions in past commission meetings. In August 2007, a Racing Commissioner on the Compliance Committee stated that current requirements defined in the regulations related to the backside were too vague to ensure that racetracks clearly understood the standards and expectations. Although the Commissioner suggested that the Racing Commission establish standards and more clearly-defined expectations for the racetracks, no changes to the regulations have been made. Having more specific requirements for racetracks defined in the regulations would ensure that racetracks clearly understand what is expected of them and better allow the Racing Commission to enforce these standards consistently.

Recommendation 1: The Racing Commission should develop more specific requirements that protect public health, safety, and welfare in the Louisiana Administrative Code and apply them consistently to all racetracks.

Summary of Management's Response: The Racing Commission agrees with this recommendation. See Appendix A for the Racing Commission's full response.

The Racing Commission needs to develop a formal inspection process to document racetrack compliance with health, safety, and welfare standards.

Currently, the Racing Commission does not conduct a formal physical inspection of racetracks to ensure these facilities are compliant with regulations, such as security of the stable area, fire prevention measures, and adequate and sanitary living quarters. Instead, the Racing Commission uses an informal, reactionary approach where they work with the racetracks to address problems as they arise during the course of the races. The Racing Commission's current process for ensuring compliance with regulations at the facilities is to have a constant presence at all horse races in the form of stewards who supervise the daily conduct of racing. However, the primary role of the steward is to ensure the integrity of the race itself. In addition, the Racing Commission has not developed any criteria, policies, or procedures for the stewards to follow to ensure facilities are compliant with regulations.

The Racing Commission also oversees racetrack conditions through verbal progress reports from each racetrack during the Commission meetings. In these verbal reports, each racetrack will update the Racing Commission on various areas, such as the total handle wagered on the races, gaming revenues, and facility conditions and improvements. According to the Racing Commission, these progress reports enable Commission members to stay updated on facility conditions, question and comment on any issues, and inquire about the progress of any work conducted at the facilities.

While the Racing Commission maintains a constant presence at the tracks during the races through its stewards and oversees the conditions of the facilities through progress reports, these processes are insufficient to proactively identify instances of noncompliance with regulations. For example, the Racing Commission has received complaints in the past from

horsemen groups regarding several years of substandard conditions at the racetracks which were not previously cited by the Racing Commission. In 2007, the Louisiana Horsemen's Benevolent and Protective Association sent a letter to the Racing Commission outlining problems with the backside area at all racetracks, including one facility without proper living facilities, hot running water, and sufficient restrooms. As a result of this complaint, the Racing Commission toured the facilities and made several recommendations to the racetracks to address the issues they identified.

Although meeting minutes and other correspondence provide some evidence that the Racing Commission holds racetracks accountable, a formal inspection process which documents a racetrack's compliance or noncompliance would provide stronger evidence that the Racing Commission is ensuring compliance with public health, safety, and welfare standards. A formal inspection process would also allow the Racing Commission to more proactively ensure facilities are in compliance by identifying and addressing issues in a timely manner.

Recommendation 2: The Racing Commission should develop a formal process, such as a periodic inspection, to document compliance with regulations and to ensure that racetracks are compliant with health, safety, and welfare standards.

Summary of Management's Response: The Racing Commission agrees with this recommendation. See Appendix A for the Racing Commission's full response.

The Racing Commission needs to develop a formal enforcement process that consistently addresses instances of noncompliance with regulations.

The Racing Commission does not have a formal enforcement process to consistently address issues of noncompliance with racing facility requirements. Examples of noncompliance with requirements may include the facility not providing 24-hour security or not providing adequate stable areas for horses. Instead of issuing enforcement actions, the Racing Commission works with the racetracks on a one-on-one basis to address issues as they arise. During the 2014 Regular Session, the Racing Commission was given more specific authority to fine racetracks up to \$100,000 for noncompliance and to suspend a racetrack's license for failure to meet criteria for licensing and maintaining suitable racing surfaces as determined by the commission.

Although the Racing Commission has the authority to issue fines to racetracks for noncompliance, it has never done so. Currently, the Racing Commission has a schedule of penalties for drug violations; however it does not have a fine schedule for violations of facility requirements. Having a set schedule would better allow the Racing Commission to address violations consistently among all racetracks.

More recently, and for the first time, the Racing Commission exercised its authority to condition a racetrack's license. The Racing Commission conditioned Churchill Downs' license of the Fair Grounds in New Orleans to address issues with the association's track, drainage,

backside facilities, and other issues. However, according to the Racing Commission, it was working with the Fair Grounds for more than a year prior to using this enforcement action. Having a formal enforcement process that addresses issues of noncompliance would better allow the Racing Commission to ensure compliance in a timely manner. For example, when a violation is identified, the Racing Commission could issue a formal compliance order. If compliance is not achieved, then the Racing Commission could use its penalty schedule to determine the appropriate fine. If the violation is still not addressed, the Racing Commission could take stricter measures such as conditioning or suspending the racetrack's license.

Recommendation 3: The Racing Commission should develop a formal enforcement process that consistently addresses issues of noncompliance at racing facilities.

Summary of Management's Response: The Racing Commission agrees with this recommendation. See Appendix A for the Racing Commission's full response.

The Racing Commission did not conduct inspections of the pari-mutuel wagering side of OTBs prior to 2014; however, in February 2014 it developed an agreement with LSP to conduct these inspections on their behalf.

During the scope of this audit, the Racing Commission did not have a formal process to ensure the pari-mutuel wagering side of OTBs were operating in compliance with standards, such as security over video and audio simulcasts, cleanliness of facilities, and proper licensing of employees. As a result, there is no evidence to determine if they ensured that these facilities met health, safety, and welfare standards. According to the Racing Commission, they did not have sufficient personnel to inspect the OTBs.

In early 2014, the Racing Commission implemented a new process to ensure health, safety, and welfare standards at OTBs through annual inspections conducted by LSP. Through a memorandum of understanding with the Racing Commission, State Police troopers are granted authority to act as stewards of the Racing Commission (pursuant to R.S. 4:147(2)(d)) and inspect the pari-mutuel wagering side of OTBs using an audit form developed by the Racing Commission. LSP uses this form to inspect the physical facility for items such as number of televisions and pari-mutuel machines not in working order, apparent hazards inside the facility, maintenance issues, and proper permits.

As of December 16, 2014, LSP has inspected 15 of the 16 (93.8%) licensed OTBs. Based on their inspection results, troopers identified some violations, including unlicensed employees, televisions not working, closed kitchens, no live tellers present, and permits not properly displayed. According to the Racing Commission, the commission's process to address violations identified during these inspections is to notify the licensed racetrack operating the OTB of the inspection results and any potential non-compliance issues, and inform the racetrack that the issue will be placed on the next Commission agenda to address these issues.

Objective 2: Determine if the Louisiana Gaming Control Board ensures video draw poker devices and slot machines at horse racing facilities and OTBs are operated in compliance with requirements.

The Gaming Control Board, through LSP, ensures that video draw poker (video poker) devices and slot machines at horse racing facilities and OTBs are operated in compliance with requirements. However, we found that certain processes, such as the inspection of video poker devices at OTBs and slot machines at horse racing facilities, could be strengthened to provide further assurance of their compliance with requirements. Specifically, we found the following:

- Although LSP did not conduct annual inspections of all OTBs and their video poker devices, it has other processes that provide additional assurance that these devices operate in compliance with requirements.
- LSP conducted all required audits of slot machines we reviewed; however, it should develop a process to better verify that racetracks are using updated software in slot machines.

Although LSP did not conduct annual inspections of all OTBs and their video poker devices, it has other processes that provide additional assurance that these devices operate in compliance with requirements.

LSP troopers conduct annual inspections of OTBs and their video poker devices to ensure compliance with requirements such as device spacing, proper display of signs, a working video surveillance system, and other criteria required of the facility in regulations. However, we found that LSP did not meet its goal of annually inspecting all OTBs and their video poker devices. During fiscal years 2012 through 2014, LSP inspected only one of 15 OTB facilities according to their goal, and five were not inspected at all during this three-year period. According to LSP staff, they were unable to achieve this annual goal due to a lack of staff.

Although LSP did not conduct all inspections of OTBs and their video poker devices, they also have certification and electronic monitoring processes that provide assurance that video poker devices operate in compliance with requirements. Specifically, LSP, in conjunction with an independent laboratory, initially inspects and certifies a video poker device's software and hardware to ensure it operates in compliance with requirements. Once the video poker device passes the initial inspection, the device is connected to LSP's Video Poker Central System (VP System), which continuously monitors the device for any malfunctions. If an error occurs, the system will temporarily disable the device until the error is resolved.

Even though video poker devices are certified and continually monitored for noncompliance, the annual inspection is important to ensure that OTBs are in compliance with regulations. Therefore, LSP should take steps to ensure OTB facilities are inspected according to their goal. One recommendation is for troopers to conduct OTB video poker and OTB pari-mutuel inspections at the same time. As previously mentioned in Objective 1, LSP and the Racing Commission have recently developed a memorandum of understanding that grants LSP the authority to inspect the pari-mutuel side of the OTB facility on behalf of the Racing Commission. As of December 16, 2014, 15 of the 16 (93.8%) licensed OTBs had been inspected.

Recommendation 4: The Gaming Control Board should consider combining the OTB video poker device inspections with the OTB pari-mutuel inspections so that they can meet their annual OTB facilities inspection goal with their limited staff.

Summary of Management's Response: The Gaming Control Board agrees with this recommendation. See Appendix A for the Gaming Control Board's full response.

LSP conducted all required audits of slot machines we reviewed; however, it should develop a process to better verify that racetracks are using updated software in slot machines.

LSP auditors conduct different audits to ensure that slot machines at racetracks are operating in compliance with requirements. These audits include reviewing the removal of money from machines, the accuracy of the reported gaming revenue, and proper security and surveillance measures. We found that LSP auditors conducted all required audits we reviewed⁶ during calendar years 2011 to 2013.

LSP technicians, in conjunction with an independent laboratory, test each slot machine prior to operation to verify that software is approved for gaming. Throughout the year, LSP will also conduct random inspections on 8-10% of each racetrack's slot machines to ensure each machine is operating in compliance with requirements, such as updated software, proper display of signs, and functioning hardware. However, LSP could improve its process to ensure slot machines are operating in compliance with requirements by developing a formalized process to ensure racetracks have updated their slot machine's software.

When the independent laboratory identifies maintenance or other issues requiring mandatory upgrades they send notification to LSP. LSP then sends these notifications to the racetrack and will recertify the machine when it is updated. However, because LSP does not formally track these notifications, if the racetrack does not comply with the mandatory upgrade, LSP may not

⁶ We did not test all processes conducted by the LSP audit group but instead focused on those processes that were considered essential to ensure racetracks' slot machines were in compliance with requirements, such as the removal of money from machines, the accuracy of the reported gaming revenue, and proper security and surveillance measures.

inspect and verify the machine's software is currently updated. Although LSP checks for updated software in its random inspections, it only inspects 8-10% of all slot machines each year, which is not sufficient to verify that all machines were updated. According to LSP, it has identified slot machines with outdated software in past random inspections. Therefore, LSP should develop a formal process to verify that all slot machines have updated software.

Recommendation 5: The Gaming Control Board should develop a formal process to ensure all slot machines are verified with updated software after it is notified by the independent laboratory.

Summary of Management's Response: The Gaming Control Board agrees with this recommendation. See Appendix A for the Gaming Control Board's full response.

Objective 3: To determine if the Louisiana State Racing Commission and the Louisiana Gaming Control Board are enforcing compliance with the amount of resources horse racing facilities and OTBs are allocating to horse racing versus the operation of slot machines and video draw poker devices.

State law does not contain any provisions that direct racetracks to spend a certain portion of their resources on horse racing versus gaming. However, state law does require that certain percentages of proceeds from pari-mutuel wagering, slot machines at racetracks, and video poker at OTBs be distributed to horsemen groups and purses. Overall, we found that the Gaming Control Board has sufficient processes to ensure that net gaming revenue is accurate. We also found that the Racing Commission has developed some processes that appear to ensure that pari-mutuel and gaming revenue to the horsemen is accurately distributed.

In fiscal year 2013, approximately \$99.3 million was allocated to the horse racing industry, while the state received approximately \$71.6 million. The horse racing industry receives more than the state because state law allows the industry to receive its portion of gaming revenues prior to the state taxing it. If the state taxed net gaming proceeds prior to the horsemen receiving their portion, the state would have received approximately \$15.3 million in additional revenue in fiscal year 2013.

Although state law requires that certain percentages of gaming proceeds go to the horse-racing industry, it does not contain provisions for how much a racetrack should spend on racing versus gaming.

While state law does not require racetracks to allocate a portion of their resources to horse racing versus gaming, state law does require that certain percentages of pari-mutuel wagering and gaming proceeds go towards supporting the horse racing industry. Currently, state law requires portions of the proceeds from pari-mutuel wagering, slot machine, and video poker gaming at racetracks and OTBs be allocated to purse supplements and horsemen groups, such as the Horsemen's Benevolent and Protective Association, Louisiana Thoroughbred Breeders Association, and Louisiana Quarter Horse Breeders Association.

In fiscal year 2013, approximately \$99.3 million was allocated to the horse racing industry, while the state received approximately \$71.6 million. As shown in Exhibit 2, horsemen groups and purse supplements received more revenue than the state in fiscal year 2013.

Exhibit 2				
Gaming and Pari-Mutuel Wagering Revenues and Racing Distributions				
FY 2013				
Gaming Type	Revenue	Amount Distributed to Horsemen Groups and Purses Supplements	Percentage of Total Revenue Distributed to Horsemen Groups and Purse Supplements	State Taxes
Slots at Racetracks	\$402,057,410	\$72,370,286	18%	\$60,992,067
Video Poker at OTBs	42,066,271	8,581,519	20.4%	7,534,069
Pari-Mutuel Wagering	49,038,744	18,393,550	37.5%	3,147,776
Total Gaming and Racing	\$493,162,425	\$99,345,355	20.1%	\$71,673,912
Source: Prepared by legislative auditor's staff using information obtained from the Gaming Control Board Annual Report and information provided by the Racing Commission.				

The horse racing industry receives more than the state because state law allows the industry to receive its portion of gaming revenues prior to the state taxing it. R.S. 27:361B(4) requires that the racetracks pay a fixed percentage of 18% of their annual net slot machine proceeds to supplement purses, to the Horsemen's Benevolent and Protective Association, and to breeders' associations. However, this amount is deducted prior to the state deducting the 18.5% in state taxes (R.S. 27:393). In addition, state law also allows the horse racing industry to receive revenue from video poker machines at OTBs before the state receives its tax portion.⁷ R.S. 27:438 requires that the owner of a licensed establishment pay 20% of the net device revenue from video poker machines to supplement purses and to the Horsemen's Benevolent and Protective Association. While the purpose of these laws is to help support the horse racing industry in Louisiana, they both result in less revenue to the state. As shown in Exhibit 3, if the state taxed net gaming proceeds prior to the horsemen receiving their share, the state would have received approximately \$15.3 million in additional revenue in fiscal year 2013.

Exhibit 3	
Difference in Amount State Received and Amount State Could Have Received from Gaming Proceeds	
Amount state could have received from slots	\$74,380,621
Amount state received from slots	60,992,067
Difference	13,388,554
Amount state could have received from video poker	9,464,911
Amount state received from video poker at OTBs	7,534,069
Difference	1,930,842
Total state could have received	\$15,319,396
Source: Prepared by legislative auditor's office using data from the Gaming Control Board Fiscal Year 2014 Annual Report.	

⁷ The horse racing industry also receives a portion of video poker revenues from other establishments with video poker devices, such as hotels, bars, restaurants, and trucks stops.

The Gaming Control Board has sufficient processes to ensure gaming revenue is accurate.

The Gaming Control Board's primary role as it relates to gaming proceeds is to ensure that revenue reported from slot machines and video poker devices is accurate. For slot machines, as shown in Objective 2, LSP auditors conduct a variety of audits to ensure that slot machines operate correctly and report accurate revenue. Each racetrack has its own system that sends total revenue information directly to LSP. This information is uploaded into its LIGHTS system⁸ and generates electronic revenue reports which the LSP auditors compare to ledgers at the track to ensure that the figures match. For video poker, all devices in the state are directly linked to LSP's Video Poker Central System, and LSP constantly monitors the flow of revenue for accuracy as well as any technical issues that might occur with the devices. Taxable revenue from slot machines and video poker devices is deposited into accounts with the State Treasury for distribution to various funds.

The Racing Commission has developed some processes that appear to ensure pari-mutuel and gaming revenue is distributed accurately.

La R.S. 4:146(B) provides that the executive director of the Racing Commission is required to "verify licenses, verify that all fees, taxes, and money provided for in this Part are deposited, and supervise, check, and audit the operations of the pari-mutuel wagering pools, its conduct and distribution." The Racing Commission is also responsible for ensuring the accurate distribution of gaming revenues from slot machines and video poker devices to purse supplements and the horsemen groups.

Based on our review, it appears that the Racing Commission has developed some processes to ensure that gaming revenue to horsemen⁹ and the state is accurately distributed. Each racetrack contracts with a totalisator company for its electronic totalisator¹⁰ computer systems, which are pre-programmed with the statutory requirements regarding distribution of pari-mutuel revenue. These companies are licensed and approved by the Racing Commission. Currently, the Racing Commission ensures that pari-mutuel wagering information, including revenues and required distributions, are accurate by comparing these figures calculated in the track's totalisator system to what is calculated in their own system.

For slots at the racetracks and video poker at OTBs, the Racing Commission receives reports from the Gaming Control Board on device revenues. The Racing Commission uses the statutory percentages to calculate what is owed for purses and the horsemen groups. The Racing Commission then sends these amounts to the horsemen groups to certify the accuracy and will

⁸ This is LSP's database that receives total revenue reports from each racetrack's internal slot systems.

⁹ This does not include money for purses.

¹⁰ The totalisator system is an electronic system that records pari-mutuel wagers, calculates payout odds, and produces tickets for bettors to collect their winnings. This electronic system receives and manages the pari-mutuel wagers from Louisiana and from other states betting on Louisiana races.

periodically verify the amounts with bank statements from the horsemen groups. In addition, horsemen groups are required to have independent audits performed each year.

While these processes appear sufficient, due to resource and time constraints, we were unable to test whether the Racing Commission's processes ensure that pari-mutuel and gaming proceeds are accurately distributed to the horsemen groups. However, this process will be tested in a subsequent audit performed by the LLA Financial Audit Services section.

APPENDIX A: MANAGEMENT'S RESPONSES

Bobby Jindal
Governor

Bob F. Wright
Chairman

Judy W. Wagner
First Vice Chairperson

Dion Young
Second Vice Chairman



Commissioners
Keith W. Babb
R. Hamilton "Hammy" Davis
Kevin S. Delahoussaye
Thomas H. Grimstad, M.D.
Benjamin J. Guilbeau, Jr.
Richard M. "Dick" Hollier, Jr.
Mike R. McHalfey
Kenneth "Kenu" Romero
Delia A. Taylor
Luke Turner

Charles A. Gardiner III
Executive Director

LOUISIANA STATE RACING COMMISSION

February 24, 2015

Mr. Daryl C. Purpera, CPA, CFE
Legislative Auditor
P.O. Box 94397
Baton Rouge, LA 70804-9397

Dear Mr. Purpera:

The Louisiana State Racing Commission respectfully accepts the Legislative Auditor's recommendations pursuant to the recent Performance Audit mandated by House Resolution 130. The Racing Commission has already begun discussions as to the manner in which it will adopt the recommendations.

On behalf of the Louisiana State Racing Commission, I want to commend the Performance Audit team headed by Ms. Karen Leblanc. They were cordial, fair, professional, and thorough.

With kind regards, I am,

Sincerely,

A handwritten signature in blue ink that reads "Charles A. Gardiner III". The signature is written in a cursive style.

Charles A. Gardiner III
Executive Director

CAG/sm



Louisiana Legislative Auditor
Performance Audit Services

Checklist for Audit Recommendations

Agency: Louisiana State Racing Commission

Audit Title: Louisiana State Racing Commission & Louisiana Gaming Control Board – House Resolution No. 130 of the 2014 Regular Session

Audit Report Number: 40140011

Instructions to Audited Agency: Please fill in the information below for each finding and recommendation. A summary of your response for each recommendation will be included in the body of the report. The entire text of your response will be included as an appendix to the audit report.

Finding 1: The Racing Commission needs to develop sufficient regulations to ensure racetracks comply with health, safety and welfare standards.
<i>Recommendation 1: The Racing Commission should develop more specific requirements that protect public health, safety, and welfare in the Louisiana Administrative Code and apply them consistently to all racetracks.</i>
Does Agency Agree with Finding? Agree <input checked="" type="checkbox"/> Disagree <input type="checkbox"/>
Agency Contact Responsible for Finding:
Name/Title: Charles A Gardiner, III/ Executive Director
Address: 320 N. Carrollton Ave., Ste 2B
City, State, Zip: New Orleans, LA 70119
Phone Number: (504)483-3354
Email: cgardiner@lrc.state.la.us

Finding 2: The Racing Commission should develop a formal inspection process to document racetrack compliance with health, safety, and welfare standards.
<i>Recommendation 1: The Racing Commission should develop a formal process, such as a periodic inspection, to document compliance with regulations and to ensure that racetracks are compliant with health, safety, and welfare standards.</i>
Does Agency Agree with Finding? Agree <input checked="" type="checkbox"/> Disagree <input type="checkbox"/>
Agency Contact Responsible for Finding:
Name/Title: Charles A. Gardiner, III/Executive Director
Address: 320 N. Carrollton Ave., Ste. 2B
City, State, Zip: New Orleans, LA 70119

<i>Phone Number:</i>	(504)483-3354
<i>Email:</i>	cgardiner@lrc.state.la.us

Finding 3: The Racing Commission should develop a formal enforcement process that consistently addresses instances of noncompliance with regulations.	
<i>Recommendation 1: The Racing Commission should develop a formal enforcement process which consistently addresses issues of noncompliance at racing facilities.</i>	
Does Agency Agree with Finding? Agree <input checked="" type="checkbox"/> Disagree <input type="checkbox"/>	
Agency Contact Responsible for Finding:	
<i>Name/Title:</i>	Charles A. Gardiner, III/Executive Director
<i>Address:</i>	320 N. Carrollton Ave., Ste. 2B
<i>City, State, Zip:</i>	New Orleans, LA 70119
<i>Phone Number:</i>	(504)483-3354
<i>Email:</i>	cgardiner@lrc.state.la.us



State of Louisiana
Gaming Control Board

BOBBY JINDAL
GOVERNOR

RONNIE JONES
CHAIRMAN

February 20, 2015

Transmitted via electronic mail

Mr. Daryl G. Purpera
Louisiana Legislative Auditor
1600 North Street
Baton Rouge, Louisiana 70804

Re: **Audit Report Number:** 40140011

Dear Mr. Purpera:

On February 13, 2015 Karen Leblanc of your office provided us with a draft copy of the performance audit prepared pursuant to House Resolution No. 130 of the 2014 Regular Legislative Session. My staff and I, in addition to the Louisiana State Police Gaming Division, have reviewed the report and responded with suggested technical corrections. Those concerns have been addressed by your staff.

The Division, acting on our behalf, has completed the Checklist for Audit Recommendations and concurs with both recommendations. A copy is included with this e-mail. Any corrective action as may be required in furtherance of this audit will be carried out by the Board or the Division.

Please convey my appreciation to your staff for conducting a thorough and fair review of the regulatory activities of the Board.

Should you have any questions or concerns please do not hesitate to call.

Sincerely,

Ronnie Jones
Chairman



Louisiana Legislative Auditor
Performance Audit Services

Checklist for Audit Recommendations

Agency: Louisiana Gaming Control Board

Audit Title: Louisiana State Racing Commission & Louisiana Gaming Control Board – House Resolution No. 130 of the 2014 Regular Session

Audit Report Number: 40140011

Instructions to Audited Agency: Please fill in the information below for each finding and recommendation. A summary of your response for each recommendation will be included in the body of the report. The entire text of your response will be included as an appendix to the audit report.

Finding 1: Although State Police did not conduct annual inspections of all OTBs and their video poker devices, it has other processes that provide additional assurance that these devices operate in compliance with requirements
<i>Recommendation 1: LSP should consider combining the OTB video poker device inspections with the OTB pari-mutuel inspections so that they can meet their annual OTB facilities inspection goal with their limited staff.</i>
Does Agency Agree with Finding? Agree <input checked="" type="checkbox"/> Disagree <input type="checkbox"/>
Agency Contact Responsible for Finding: Mike Noel
<i>Name/Title: Major Mike Noel</i>
<i>Address: 7919 Independence Blvd.</i>
<i>City, State, Zip: Baton Rouge, LA 70806</i>
<i>Phone Number: 225-925-1736</i>
<i>Email: Mike.Noel@la.gov</i>
Response: State Police concurs in the Legislative Auditor’s recommendation and has already instituted this policy. At the recent request of the Racing Commission, Gaming Division agents assist the Racing Commission by conducting limited inspections of OTB racing areas, in conjunction with licensed Video Poker Establishments located at the OTBs. The compliance inspections are conducted in unison, but deficiencies are submitted on separate reports to the Racing Commission (OTB Racing Issues) and/or to the Gaming Control Board (Video Poker Gaming Violations).

Finding 2: State Police conducted all required audits of slot machines we reviewed; however it should develop a process to better verify that racetracks are using updated software in slot machines.

Recommendation 1: LSP should develop a formal process to ensure all slot machines are verified with updated software after it is notified by the independent laboratory.

Does Agency Agree with Finding? Agree Disagree

Agency Contact Responsible for Finding: Mike Noel

Name/Title: Major Mike Noel

Address: 7919 Independence Blvd.

City, State, Zip: Baton Rouge, LA 70806

Phone Number: 225-925-1736

Email: Mike.Noel@la.gov

Response: While the Division believes its Technicians adequately reviewed and ensured compliance with mandatory electronic gaming device software updates and upgrades issued by its independent gaming lab, State Police agrees with the auditors' recommendation to create a formal policy. The Division will add to our current policies the procedures necessary to ensure compliance with mandatory upgrades issued by our independent gaming lab to ensure consistency in each of our field offices. The policy will include communicating requirements to the casinos, performing appropriate fieldwork based on the type of upgrade, and documenting our work for future reference.

APPENDIX B: SCOPE AND METHODOLOGY

We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes (R.S.) of 1950, as amended. In the 2014 Legislative Regular Session, House Resolution No. 130, authored by State Rep. Patrick Connick, directed our office to perform a performance audit of the Louisiana State Racing Commission (Racing Commission) and the Louisiana Gaming Control Board (Gaming Control Board) and its regulatory efforts with respect to horse racing facilities and off-track betting facilities (OTBs) located in the parishes of Orleans and Jefferson. We expanded the initial scope of the audit from facilities located in the parishes of Orleans and Jefferson to include all horse racing facilities and OTBs in the state and covered the time period of fiscal years 2012-2014. The audit objectives were:

Objective 1: Determine whether the Racing Commission is ensuring horse racing facilities and OTBs comply with health, safety, and welfare standards required by law and administrative rule.

Objective 2: Determine if the Gaming Control Board ensures video draw poker devices and slot machines at horse racing facilities and OTBs are operated in compliance with requirements.

Objective 3: Determine if the Racing Commission and the Gaming Control Board are enforcing compliance with the amount of resources horse racing facilities and OTBs are allocating to horse racing versus the operation of slot machines and video draw poker devices.

This performance audit was conducted in accordance with generally-accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and recommendations based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our finding and recommendations based on our audit objectives. To answer our objectives, we reviewed internal controls relevant to the audit objectives to mitigate the risk of inaccurate data and performed the following audit steps:

- Researched Louisiana Revised Statutes, Administrative Code, Executive Budget documents, the Racing Commission and the Gaming Control Board websites, and the Racing Commission meeting notes to understand the Racing Commission's and the Gaming Control Board's legal authority, role in the regulation of horse racing and pari-mutuel wagering facilities, and policies and procedures as it relates to regulation of horse racing and pari-mutuel wagering facilities.
- Interviewed State Rep. Patrick Connick and State Rep. Major Thibaut to obtain an understanding of House Resolution No. 130.

- Interviewed the Racing Commission staff to obtain an understanding of the policies and procedures and practices related to the regulation of horse racing and pari-mutuel wagering facilities.
- Interviewed racing association staff from all four racetracks and accompanied them on site visits to obtain an understanding of the Racing Commission's role in the regulation of horse racing and pari-mutuel wagering facilities and to compare the conditions of each track's facilities.
- Interviewed the Gaming Control Board and Louisiana State Police (LSP) staff to obtain an understanding of the policies and procedures and practices related to the regulation of horse racing and pari-mutuel wagering facilities, more specifically, the slot machines and video poker devices located at those facilities.
- Obtained and summarized data from the Racing Commission meetings to determine if the Racing Commission ensured compliance of horse racing and pari-mutuel wagering facilities with health, safety, and welfare standards.
- Obtained and reviewed the Racing Commission slot machine, video poker, and pari-mutuel audit spreadsheets to gain an understanding of how gaming and racing revenue is distributed between racing entities.
- Obtained and summarized financial audits of racetracks to determine the allocation of resources towards horse racing versus the operation of gaming devices.
- Obtained and analyzed data from LSP's database to determine if LSP, on behalf of the Gaming Control Board, adhered to its policies and procedures as it related to the regulation of slot machines and video poker devices, specifically at horse racing and pari-mutuel wagering facilities. This data included annual OTB inspection data to determine if LSP adhered to its goal, and inspections of slot machine processes to determine if LSP inspected according to its goal. We assessed the reliability of the data using reasonableness tests and sample testing. When we identified reliability issues with the data, we either corroborated the data with documentation or disclosed the limitations of the data.
- Selected the Association of Racing Commissioners International Model Rules as an entity and set of rules to compare requirements for horse racing facilities with Louisiana requirements.

APPENDIX C: BACKGROUND

Louisiana State Racing Commission. Louisiana Revised Statute 4:144 created the Louisiana State Racing Commission (Racing Commission). The Racing Commission is composed of a chairman selected by the Governor and 12 other commissioners. The Racing Commission appoints an executive director to execute duties prescribed by the commission and keeps records of all proceedings, preserves all books, maps, documents, papers, records, and reports entrusted to its care, and keeps them open for public inspection. State law authorizes the LSRC to set race dates, issue racing licenses, appoint racing stewards, and make uniform rules and regulations for the holding, conducting, and operating of all racetracks, race meets, and races held in Louisiana. In fiscal year 2015, the Racing Commission had a budget of \$12,540,653 a staff of 81 full-time employees.

Louisiana Gaming Control Board. Louisiana Revised Statute 27.11 created the Louisiana Gaming Control Board (Gaming Control Board). The Gaming Control Board is composed of nine members appointed by the Governor and uses the Louisiana State Police as its enforcement arm, as authorized by R.S. 27:20. State law requires the board to regulate all gaming activities and operations in the state. The Gaming Control Board has all regulatory authority, control, and jurisdiction, including investigation, licensing, and enforcement, and all power incidental or necessary to such regulatory authority, control and jurisdiction over all aspects of gaming activities and operations, including the operation of video poker devices at pari-mutuel wagering facilities and slot machines at live horse racing facilities. In fiscal year 2015, the Gaming Control Board had a budget of \$938,879.

Evolution of Gaming at Racetracks. Racetracks and off-track betting facilities (OTBs) have historically made great contributions to the economic development of the state, particularly the agricultural and horse breeding industries. However, the popularity of horse racing in Louisiana has decreased with the legalization of additional forms of gaming, such as the lottery, riverboat gambling, and land-based casino gaming. As a result, tracks have seen a drop in race day attendance, reduced wagering handles, smaller purses, and thinning race fields. Due to this decline in the industry, the legislature authorized gaming at racing facilities. In 1991, the Louisiana Legislature authorized the operation of video poker devices at OTBs and in 1997 authorized slot machine gaming at eligible live horse racing facilities. The hope is that gaming will help revitalize and rehabilitate those facilities within strategically-located geographic areas of the state and will further result in overall economic development and additional revenues to the state and parishes where those facilities are located.

Racetrack and OTB Locations. There are four racing associations with racetracks in Louisiana, three of which have OTBs: Fair Grounds Race Course in New Orleans (11 OTBs), Evangeline Downs in Opelousas (4 OTBs), Delta Downs in Vinton, and Louisiana Downs in Bossier City (1 OTB). As allowed by state law, each association has slot machines at its racetracks, while the Fair Grounds and Evangeline Downs also have video poker devices at their OTBs. A percentage of the revenue derived from these gaming devices is to be used to

contribute to the horse racing industry, including funding to the Horsemen's Benevolent and Protective Association, Louisiana Thoroughbred Breeders Association, Louisiana Quarter Horse Breeders Association, and funding to supplement horse racing purses. Exhibit C-1 provides additional information on Louisiana racetracks.

Exhibit C-1 Louisiana Racetracks				
	Delta Downs	Evangeline Downs	Fair Grounds	Louisiana Downs
Owner	Boyd Gaming	Boyd Gaming	Churchill Downs	Harrah's
Location	Vinton	Opelousas	New Orleans	Bossier City
Number of OTBs	0	4	11	1
Video Poker Gaming	N/A	Yes	Yes*	No
Slots Gaming	Yes	Yes	Yes	Yes
Number of Race Days	88 TB; 46 QH	84 TB; 46 QH	81 TB; 12 QH	84 TB; 46 QH
QH Racing Season	April-July	October-December	August-September	January-March
TB Racing Season	October-March	April-August	November-March	May-September
*Fair Grounds has one OTB location (Covington) that does not provide video poker. Source: Prepared by legislative auditor's staff using information from each association's and the Gaming Control Board's websites.				

APPENDIX D: MODEL RULES NOT IN LOUISIANA ADMINISTRATIVE CODE

Association of Racing Commissioners International's (ARCI) Model Rules of Racing Not Contained in Louisiana Regulations	
Ambulance	An ambulance shall follow the field at a safe distance during the running of races, unless otherwise approved by the commission/stewards.
	An association shall provide a properly-equipped equine ambulance.
Track Safety and Maintenance	Racetracks shall have inside and outside rails.
	The surface of the racetrack, including the cushion, subsurface, and base, must be designed, constructed, and maintained to provide for the safety of the jockeys and horses.
	For races at night, the association shall maintain a backup lighting system.
	An association shall provide an adequate drainage system for the track.
	For turf tracks, an association shall maintain an adequate stockpile of growing medium and provide an adequate watering system.
	Prior to the first race meeting at the association, a licensed surveyor shall provide the Racing Commission with a certified report of the grade and measurements of the distances to be run.
	An association shall provide adequate equipment and personnel to maintain the track surface in a safe training and racing condition.
Fire Prevention	An association shall post a notice in the stable area listing prohibited activities in regard to fire prevention.
	An association shall deliver to the Racing Commission a copy of the state or local fire marshal's certification regarding compliance with fire safety regulations.
Security	An association conducting a race meeting shall maintain security controls over its grounds.
Communication	An association shall provide and maintain a communication system in good working order between the different areas/rooms/facilities of the association.
Source: Prepared and summarized by legislative auditor's staff using the rules found in the ARCI's Model Rules which do not have similar provisions in Louisiana regulations.	