

Gambling in Minnesota

An Overview



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GAMBLING IN MINNESOTA: AN OVERVIEW

Gambling is not new to Minnesota. It has traditionally been a part of many, if not all Native American cultures, while records of different gambling activities of European settlers date back to territorial days. However, until the past 30 years, most gambling was informal, illegal, or both. Beginning in the 1980s, organized, legal gambling became a big business in Minnesota, and Minnesotans take ample advantage of numerous opportunities to place a wager. Last year three out of every four Minnesota adults reported making a bet on at least one activity.

The total amount wagered is not known, but it is certainly in the billions of dollars, and it is likely that player loss—the amount retained by gambling operators after prizes are paid out—well exceeds \$1 billion.¹ The State of Minnesota profits as well. During fiscal year 2010, the state took in \$159 million in taxes, license fees, and lottery proceeds.²

This report is an attempt to provide a summary of gambling in Minnesota that is both brief and comprehensive. It covers the history and legal status of gambling in the state, a description of each of the major (and some minor) forms of gambling, reviews proposals for expanding gambling in the state, and concludes with a discussion of underage gambling and problem gambling.

I. History³

Gambling in Minnesota predates written histories. In 1907 the Smithsonian published the 846-page *Games of the North American Indians*. The authors of this work identified 36 different kinds of games of chance and skill played by adults in 229 North American tribes. Gambling could take place on any of these games. Most games were restricted to one gender or the other and were often associated with specific festivals or religious ceremonies.⁴

Among those of European ancestry, gambling has been a part of Minnesota's culture since territorial days. Tales of Mississippi riverboat gamblers are well-known, and gambling was certainly a common activity among soldiers, railroad workers, and those spending long winters in northern Minnesota's logging camps.⁵ Many of the games played in the 1800s would be immediately recognized today, such as dice, poker, and roulette. Others, such as hazard (played with three dice) and faro (a card game), are unknown to most modern gamblers. Historian David Schwartz writes of a gambling syndicate called "the combination" that operated in Minneapolis in the 1870s and "ran the city's two first-class houses and a host of lesser resorts."⁶

Former Minnesota House of Representatives researcher John Williams (2005) wrote that "while the urge to gamble is probably older than written history, in Minnesota the urge to suppress gambling is older than statehood."⁷ Indeed, the 1851 territorial legislature prohibited all forms of gambling. And the Minnesota Constitution, when enacted in 1857, included a clause that "The legislature shall not authorize any lottery or the sale of lottery tickets." This language, common in states joining the union in the mid- and late-1800s, came about in response to the widespread corruption occurring in privately operated lottery games at that

¹ This figure should not be confused with profit as it includes all other expenses incurred by the operator.

² Included in this total are \$121 million in lottery funds, \$37 million in lawful (charitable) taxes and fees, and slightly less than \$1 million in taxes and fees from the state's two race tracks.

³ This history of Minnesota gambling is by necessity brief. A more extensive history was written in 2005 by John Williams of the House Research Department and is available from that office.

⁴ Gabriel, Kathryn (1996). *Gambler Way: Indian Gaming in Mythology, History, and Archaeology in North America*. Boulder, Colorado: Johnson Books. Pages 6-7.

⁵ The editors of Time-Life Books write that "western loggers were such chronic gamblers that one ... lumber company paid workers in vouchers drawn on local gambling houses." (Editors of Time-Life Books (1978). *The Gamblers*. New York: Time-Life Books. Page 11)

⁶ Schwartz, David (2006) *Roll the Bones: The History of Gambling*. New York: Gotham Books. Page 342.

⁷ Williams, John (2005). *Gambling in Minnesota: A Short History*. House Research Department.

time. Lotteries, during colonial times and the period immediately after the American Revolution, were what we now refer to as raffles and existed primarily to serve charitable purposes. Indeed, many colleges, schools, churches, roads, and other public institutions owe their existence to funds raised through lotteries. But by the mid-1800s these uses had been supplanted by charlatans and cheats who either never held the promised drawings or who awarded the prizes to persons well known to the operators. As governments found themselves unable to regulate the practice or to distinguish between “good” lotteries and “bad” lotteries, bans such as Minnesota’s were widely enacted.

Gambling, of course, continued regardless. In a public notice in the Cass Lake newspaper in 1901, the village Council President reported that “It (has) been brought to my knowledge that gambling and houses of ill fame are being maintained and conducted in the village” while the St. Paul Pioneer Press in 1909 found it necessary to editorialize against “gambling on wheat, corn, cotton, and other products of the farm.” This, of course, is what we now call the futures market, and it is indicative of how our views on what does and does not constitute gambling evolve over time. Slot machines, invented in San Francisco at the turn of the twentieth century, soon found their way to Minnesota and became a common feature in resorts and bars throughout the state. In 1946 the federal government collected taxes on 8,479 slot machines in Minnesota.⁸ (There is no way of knowing how many untaxed machines were also in existence, but the number was likely considerable.)

As previously mentioned, the legislature enacted a law in 1945 legalizing the conduct of bingo for charitable purposes. Bingo, a derivation of the old Italian game of lotto, had become a craze in America in the 1930s. The game had been imported from Germany in the 1920s, and a salesman who had begun to market home bingo kits soon realized that the game had greater potential as a fundraising device. He soon was proven correct, as bingo was quickly adopted by churches and charitable organizations across the country. Though bingo was illegal in most jurisdictions, historian Schwartz points out that “even the most doggedly enthusiastic district attorney blanched at locking up a parish priest for running wildly popular games.”⁹ Faced with this unpalatable prospect it is not surprising that the legislature responded by simply legalizing the activity.

One year after the legalization of bingo, Luther Youngdahl was elected governor of Minnesota. During his campaign, Governor Youngdahl had pledged to rid the state of slot machines and, upon taking office, he began to make good on his promise. The number of taxed slot machines dropped from 8,579 in 1946 to 797 in 1950 to two in 1952.¹⁰

No further changes were made to state gambling laws until 1963, when the legislature undertook a major recodification of the state’s criminal laws. While the new criminal code retained the longstanding prohibitions on gambling, it included a new provision exempting “private social bets not part of or incidental to organized, commercialized, or systematic gambling.”¹¹ This change was to play a major role in the negotiation of tribal gambling compacts years later.

In 1967 the legislature extended the state’s sales tax to bingo games. While certainly not a major contributor to state revenues, this event marked the first time the state budget directly benefited from the conduct of gambling. It was not to be the last. In 1972 the first state lottery proposal was introduced in the legislature, and while the bill did not progress, it did begin discussion of gambling with the primary purpose of raising state revenues.

⁸ Vitt, Michael J. (1993). Wagering the Future: Gambling and the Law in Minnesota. *The Bench & Bar of Minnesota*. May/June.

⁹ Schwartz, op. cit. page 378

¹⁰ Vitt (1993) op.cit.

¹¹ Laws 1963, ch 753, § 609.75, subd. 3

Charitable gambling, meanwhile, had expanded to forms beyond bingo, and the legislature acknowledged this reality in 1978 by legalizing raffles, paddlewheels (wheels of fortune) and tipboards (punchboards). The same law also allowed charitable gambling to be conducted in businesses with liquor licenses. The list of charitable games was expanded further in 1981 with the addition of pull-tabs, considered at the time to be only a minor form of gambling.

In a move little noted at the time, the first Native American high stakes bingo hall—Big Bucks bingo parlor—opened in 1981 on the Fond du Lac reservation near Cloquet, followed closely by the Little Six parlor on the Mdewakanton Sioux reservation near Shakopee. By 1987, Minnesota reservations were home to at least 14 high stakes bingo halls.¹²

The year 1982 proved momentous for Minnesota gamblers. A lottery bill passed the Minnesota Senate for the first time, though it did not succeed in the House. More significantly, the legislature placed a constitutional amendment allowing the conduct of horse racing on the ballot. While such an amendment was likely unnecessary, legislators were unsure of public acceptance of expanded gambling and decided that a public referendum would be the safer course of action. Their fears proved unfounded, as voters approved the measure that November by a margin of 64 percent to 36 percent. The 1983 legislature accordingly passed legislation establishing the Minnesota Racing Commission to issue licenses and regulate the new industry. The first track, Canterbury Downs in Shakopee, opened in 1985.

The 1984 legislature passed a major overhaul of charitable gambling laws, with the most notable feature being the shift of regulatory authority from local governments to the state. The Charitable Gambling Control Board (as it was known then—it is now simply the Gambling Control Board) was created to oversee the conduct of charitable gambling (since renamed “lawful gambling”). For the first time, the size of the charitable gambling industry became apparent; by 1988 the board was issuing over 3,400 licenses a year, with reported wagering of almost \$700 million.

Measures calling for the establishment of a state lottery continued to be introduced each legislative session, and a constitutional amendment was approved by the legislature and submitted to the voters for enactment in 1988. The measure, approved by voters by a 59 percent to 41 percent margin, amended the constitution’s prohibition of lotteries to permit “a lottery operated by the state.”¹³ Enabling legislation followed in 1989, and the first lottery tickets were sold on April 17, 1990. An interesting feature of this legislation was the establishment of a Department of Gaming with varying degrees of authority over the lottery, charitable gambling, and horse racing. Within two years the department was abolished on the recommendation of its first and only commissioner.

At the same time, federal legislation and court rulings were having a profound impact on the scope of gambling on tribal lands. The courts had long ruled that states had jurisdiction on reservations for violations of criminal law, but not for matters regarding civil or regulatory law. In 1987 the U.S. Supreme Court ruled that in the absence of a prohibition on all gambling, state gambling laws are regulatory and therefore not binding on tribal land. This ruling forced Congress into action in order to bring some structure into what was threatening to become a chaotic situation, and the result was the Indian Gaming Regulatory Act (IGRA) of 1988. In brief, the IGRA required states to negotiate compacts with individual tribes covering the regulation of many forms of gambling. These negotiations could, at the tribe’s request, include any form of gambling permitted in the state for any purpose, including social or charitable purposes. As such, the 1963 legalization of private social bets played a major role in the structure of the negotiations that followed. Minnesota entered into negotiations in 1989 and reached agreement with all 11 tribes governing video games of chance by 1991. Subsequent negotiations granted tribes the right to conduct blackjack in exchange for a tribal

¹² Williams, *op. cit.* page 30

¹³ Minnesota Constitution Article XIII, sect. 5

agreement to not pursue other forms of gambling.¹⁴ By 1992 there were 14 casinos in the state with more than 9,000 video gambling machines.

At this point gambling expansion virtually ceased. The general political consensus was expressed by Attorney General Hubert Humphrey III: “We’ve been expanding at a very rapid pace. We’ve got to stop, got to take a breath and see what we have, see how well it’s operating.”¹⁵ A proposed 1994 constitutional amendment to permit off-track betting on horse races failed by 7,000 votes out of almost 1.7 million cast. Proposals for further gambling continued to appear, most notably to benefit the construction of new sports stadiums, but until 2012 none achieved a critical mass of support. For the most part the landscape of gambling in Minnesota remained unchanged from the early 1990s through 2011, the notable exceptions being the 1999 authorization of card clubs at licensed racetracks and the 2005 legalization of limited Texas Hold’Em tournaments at restaurants and bars.

In 2012, however, two forces converged to create the first significant expansion of gambling in years. Charitable gambling interests were looking for a way to stem a multi-year trend of declining revenues, while a coalition of sports enthusiasts, team owners, and local officials were looking for ways to fund a new stadium for the Minnesota Vikings. The result was authorization of an electronic form of pull-tabs and electronically linked bingo games. More details on these new gambling forms can be found in Section V.

II. The Present Day

Minnesotans have many opportunities to gamble. They can bet on gaming machines or blackjack at 18 casinos on tribal land (plus small facilities within the boundaries of the White Earth reservation in Mahnommen County), buy lottery tickets at more than 3000 retail outlets statewide, play charitable games such as pull-tabs at another 3000 locations, go to the racetrack, or play cards at the racetrack or at limited Texas Hold’Em tournaments. They can leave the state to gamble at resort casinos in places like Nevada or Mississippi, play at riverboat casinos in Iowa or Illinois, visit a “racino” in Iowa, play gaming machines in bars and restaurants in South Dakota or Manitoba, or play charitable blackjack in North Dakota. And they can, and do, participate in unregulated and possibly illegal activities such as sports pools and wagering on the Internet.

Many take advantage of these opportunities. Each year, the Minnesota State Lottery and St. Cloud State University have collaborated on a survey of Minnesota adults covering both their gambling experience and their attitudes and opinions about gambling.¹⁶ These surveys have consistently found a large majority of Minnesotans engaging in some form of gambling activity. In 2012, 76 percent of Minnesota adults reported wagering on at least one form of gambling in the year preceding the survey, a number unchanged from the 76 percent reported in 1995. More than nine in ten (93 percent) reported making a bet at some point in their lives.¹⁷

They do not, however, all bet on the same activities. The most common forms of gambling in 2012 were charitable raffles and the Minnesota State Lottery, with 45 percent and 44 percent (respectively) of survey

¹⁴ At the time of compact negotiations, so-called “grey machines”—video games of chance that resembled gambling devices but were operated “for amusement only”—were permitted under state law. These machines provided the rationale for including gaming machines in compact negotiations. Other forms of casino gambling were considered under the private social bet provision.

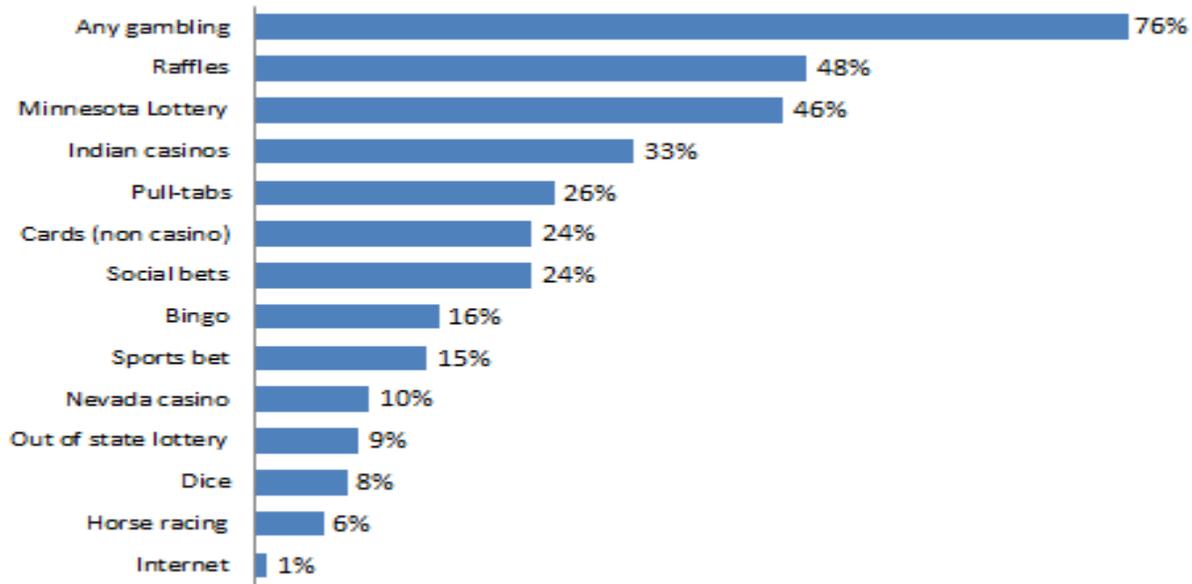
¹⁵ “Humphrey Proposes Moratorium, New Laws to Keep Gambling Clean,” *Minneapolis Star Tribune*, September 6, 1991, 1A.

¹⁶ While the survey design has not been identical each year, core questions on gambling behavior have remained relatively consistent. Each survey has been taken by telephone, with callers identified as being from St. Cloud State University. Cell phones were added to the sample starting in 2010. Sample sizes range from 2000 to 2400, with most surveys taken in late winter or early spring. A complete description of survey methodology is available from the Minnesota State Lottery or the SCSU Survey.

¹⁷ All data in this report pertaining to gambling participation among Minnesota adults is taken from the 2012 survey unless otherwise specified.

participants reporting a lottery purchase in the previous year.¹⁸ They were followed by Indian casinos at 32 percent. No other form of gambling saw greater than 25 percent participation. There is, however, considerable diversity in gambling experience. The average Minnesota adult has bet on four different types of gambling in their lifetime, with one in four betting on seven activities or more. Again, this figure has been quite stable over time.

Figure 1: Past year gambling participation, February 2012



Gamblers may be found among both genders and all age groups and social classes. Men are more likely to have gambled in the past year than women (82 percent compared to 71 percent) and, on the average, have gambled on more activities (three to two). While a sizeable majority in each age group gamble in a given year, it is most common among those between the ages of 25 and 64, with about four out of every five members of this age group reporting past year gambling. Gambling is less common among young adults between the ages of 18 and 24 (62 percent)¹⁹ and older Minnesotans, with 59 percent of those 75 or older reporting past year gambling.

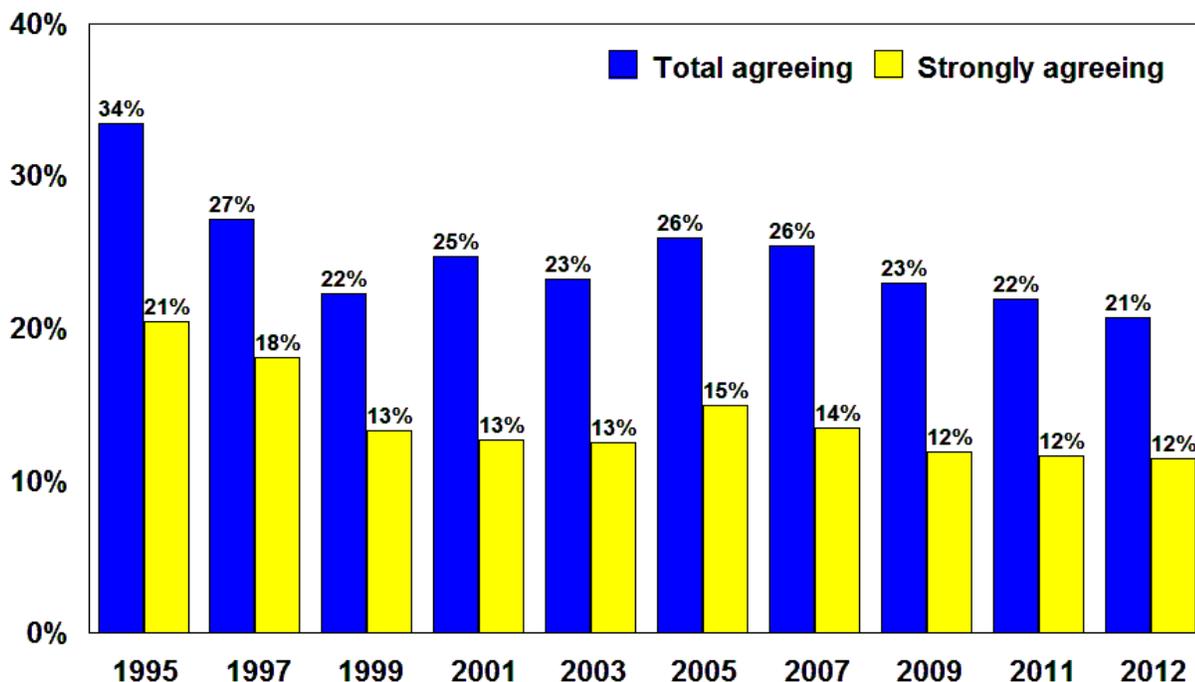
Household income also does not appear to be a significant determinant of gambling behavior with one exception: those living in households with annual incomes of \$35,000 or less are less likely to gamble than those in households with incomes over \$35,000. Eighty-four percent of Minnesotans with incomes greater than \$50,000 reported past year gambling compared to 71 percent of those with lower incomes. There is no significant variation between income groups over \$25,000. Likewise, educational attainment is not a major determinant of gambling participation, with the exception of a notably lower rate among those who have not completed high school.²⁰

¹⁸ Lottery participation varies greatly with the size of Powerball jackpots available in any given year. Extremely high jackpots attract many who do not play on a regular basis. There were no extremely high jackpots in 2011, and consequently lottery participation was the lowest seen in the last 10 years. By contrast, 61 percent of adults reported buying a lottery ticket in the 2006 survey, a year that saw multiple drawings with Powerball jackpots over \$300 million.

¹⁹ Low gambling participation among younger adults may result in part from the inability of those under 21 to gamble in age-controlled establishments. However, their gambling participation is also low in many forms of gambling that are available in places other than those serving alcoholic beverages.

²⁰ It is likely that this difference is more a function of age than of education. Minnesota adults who have not completed high school are overwhelmingly either 18 years old and still in school or are over the age of 75. The 18 year olds have had less

Figure 2: Percent agreeing that they are “opposed to gambling for moral or religious reasons.”



The attitude of Minnesotans towards gambling has become more tolerant since the Lottery and casinos were introduced to the state over 20 years ago. In 1995, 21 percent of those surveyed strongly agreed with the statement “I am opposed to gambling for moral or religious reasons” while another 13 percent “agreed somewhat” with the statement. By 1999 the number strongly agreeing had shrunk by more than one-third to 13 percent with another 9 percent agreeing somewhat. Moral opposition has remained at the 1999 level ever since. The number of people believing that “all gambling should be outlawed” has also declined substantially, from 26 percent in 1995 to 14 percent in 2012, though in this case the decline has been more gradual. It should be noted that only 7 percent strongly agree with this statement. Finally, the number of adults believing that “there is too much gambling in Minnesota” has dropped in half, from 52 percent in 1995 to 26 percent in 2009.

Attitudes and behavior, however, are not always consistent. Half of those strongly agreeing that they are morally opposed to gambling also reported gambling on at least one activity in the past year, as did two-thirds of those who “agreed somewhat” with the statement. Similarly, half of those strongly agreeing that all gambling should be outlawed had gambled in the past year.

III. Legal Status

Minnesota law defines a “bet” as “a bargain whereby the parties mutually agree to a gain or loss by one to the other of specified money, property or benefit dependent upon chance, although the chance is accompanied by some element of skill.”²¹ This definition requires that three elements be present for an activity to be considered gambling. The first is chance. The outcome must be determined mostly, though not exclusively, by random means. A game of skill at a carnival, for example, though it has much in common with gambling, is not considered gambling. The second is prize. You must be able to win something of value. The third is consideration. You must risk something of value to be eligible to receive the prize. A

opportunity to participate in gambling and cannot gamble at establishments serving alcohol, and as we have previously seen, those over 75 are less likely to gamble regardless of education levels.

²¹ Minnesota Statutes §609.75 Subd. 2.

sweepstakes or drawing that requires the purchase of a product to enter, for example, is considered illegal gambling, while one that anyone can enter at no cost is not. In general, bets are considered illegal unless specifically exempted. Legal off-reservation gambling is limited to the Minnesota State Lottery, “lawful” (or charitable) gambling (including raffles, bingo, pull-tabs, paddlewheels, and tipboards), pari-mutuel horse racing, card clubs at race tracks, limited poker tournaments, and social bets.

Social bets are further defined as private bets that are not part of “organized, commercialized, or systematic gambling.”²² The Division of Alcohol and Gambling Enforcement of the Department of Public Safety interprets this provision to mean that “the owner of the location of the social bet cannot derive any profit from the bet, organize regular occasions for such bets, or advertise their occurrence. Potentially, any gambling that occurs in a business establishment could constitute illegal gambling because the owner of the establishment derives the indirect benefit of increased patronage.”²³

Gambling is referenced in the Minnesota Constitution only twice. As referenced above, the original document included a prohibition on lotteries that was modified in 1988 to permit lotteries operated by the state. Second, in 1982 the constitution was amended to allow pari-mutuel horse racing.

The question of what constitutes a lottery for constitutional purposes remains unresolved. A narrow reading would have the provision only apply to lotteries as they existed in 1857, that is to say, raffles. A broader reading would have the provision apply to any game of chance, which in turn raises the question of games containing elements of both chance and skill.

There are several sections of statute that govern the conduct of gambling. Chapter 240 includes laws relating to horse racing, chapter 349 covers lawful (charitable) gambling, and chapter 349A governs the state lottery. Chapter 299L establishes the Division of Alcohol and Gambling Enforcement in the Department of Public Safety. Chapters 609 and 609B include those sections of the criminal code that relate to gambling. State involvement in the conduct of gaming on the state’s Indian reservations is not covered in statute but by tribal-state compacts as called for in federal law and further discussed in section VI of this report.

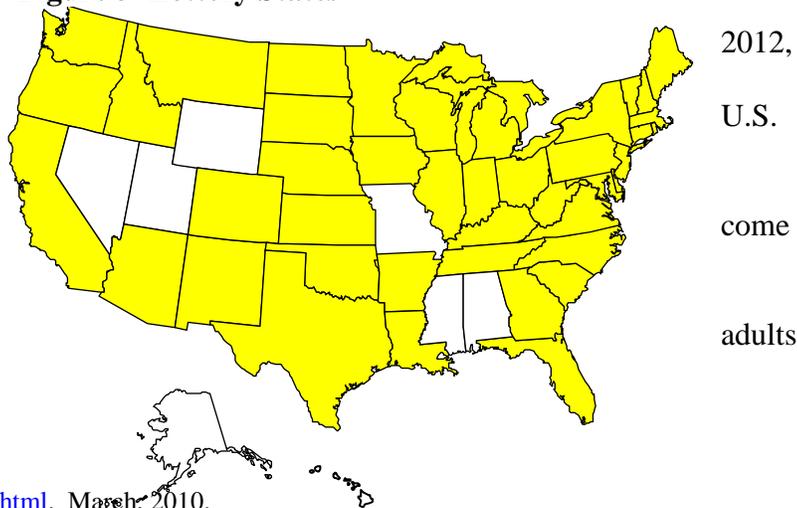
The federal government has left the regulation of gambling to the states with four notable exceptions. First, gaming on Indian reservations is regulated under the National Indian Gaming Regulatory Act of 1988 (see section VI). Second, as discussed in section VIII, commercial wagering on sports events is prohibited in 46 of the 50 states. Third, the Interstate Wire Act of 1961 restricts the ability of states to authorize betting on sports events. Finally, an 1895 law prohibits the interstate sale of lottery tickets.

IV. The Minnesota State Lottery

The Minnesota State Lottery sold its first ticket on April 17, 1990, making Minnesota the 33rd lottery established in the U.S. As of 2012, lotteries are operated in 43 states, plus the District of Columbia, Puerto Rico, and the Virgin Islands. Lotteries are common throughout the rest of the world as well. Members of the World Lottery Association come from over 90 countries on six continents.

Last year an estimated 1.8 million Minnesota (44 percent) purchased a Minnesota State

Figure 3 Lottery States

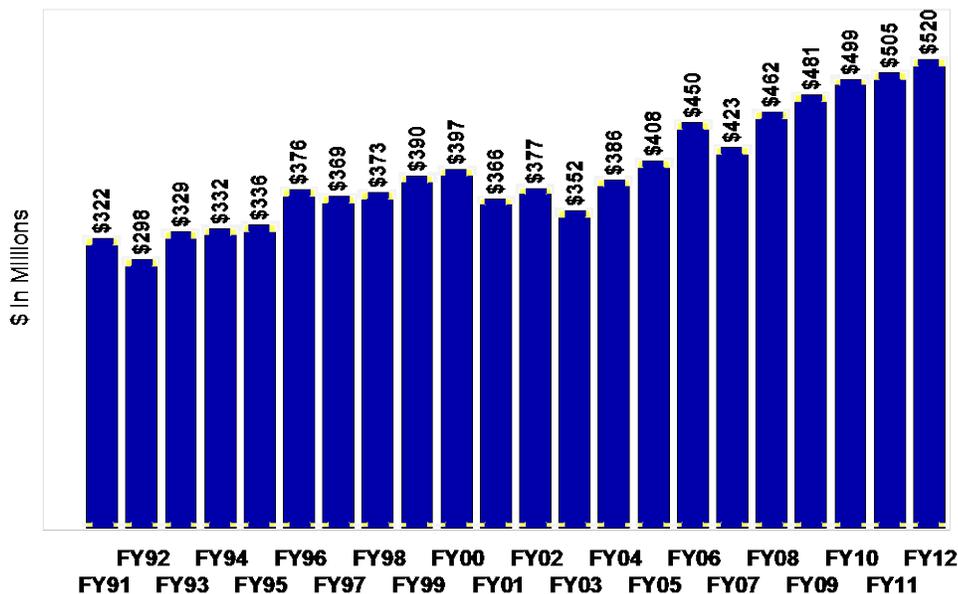


²² Minnesota Statutes §609.75 Subd. 3.

²³ <http://www.dps.state.mn.us/alcgamb/gamenf/gamfaq.html>. March, 2010.

Lottery ticket, more than any other form of gambling in the state. More than 3,100 retailers sold \$520 million in lottery tickets in fiscal year 2012, a record amount for the lottery’s 20 year existence. These sales resulted in a contribution of \$124 million to state programs.

Figure 4: Minnesota State Lottery sales by fiscal year

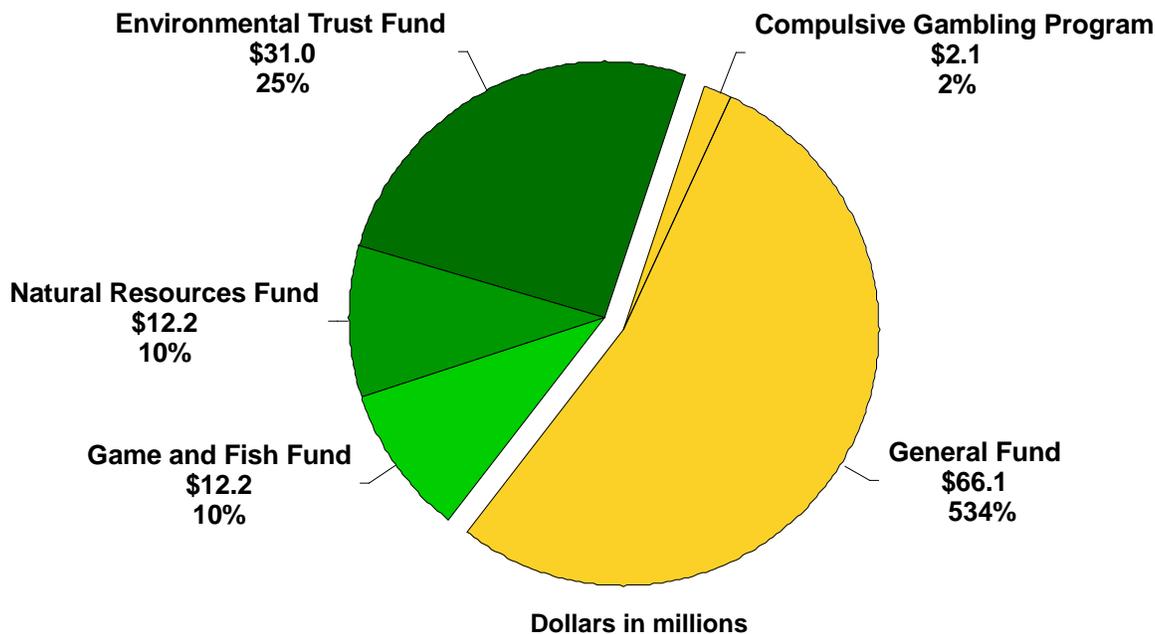


Revenues from the Lottery are divided between the state’s General Fund and several environmental programs. The Minnesota Constitution requires that 40 percent of net proceeds—the amount remaining after all expenses have been paid—goes to the Environment and Natural Resources Trust Fund through the year 2024.²⁴ The remaining 60 percent is appropriated at the discretion of the legislature and is currently dedicated to the General Fund, including a specific appropriation to problem gambling programs.

In addition, a 6.5 percent in-lieu-of-sales tax (collected by the Lottery rather than individual retailers) on lottery tickets is also available for legislative appropriation. Under current law, these proceeds are divided between the Game and Fish Fund (36.2 percent), the Natural Resources Fund (36.2 percent) and the General Fund (27.8 percent). The Natural Resources Fund appropriation is further divided between state parks and trails (16.3 percent), metropolitan parks and trails (16.3 percent), local parks (2.2 percent), and the state’s three zoos (1.4 percent). Prizes not claimed after one year also benefit the General Fund. In fiscal year 2012, the General Fund received \$68.3 million from the Lottery (including \$2.1 million for problem gambling programs), the Environment and Natural Resources Trust Fund received \$31 million, and the Game and Fish Fund and Natural Resources Fund received \$12.2 million each.

Figure 5: Fiscal year 2012 distribution of lottery proceeds

²⁴ Minnesota Constitution Article XI, Sect. 14



The Minnesota State Lottery is an independent state agency led by a director who is appointed by and serves at the pleasure of the Governor. The Lottery offers two principal types of products: scratch games and lotto games. Scratch games, which range in price from \$1 to \$30, accounted for 68 percent of lottery sales in fiscal year 2012. They consist of a paper ticket with a coating that when scratched off, reveals if a player has won. During fiscal 2012 the Lottery introduced 75 new scratch games, each featuring different prizes, themes, or style of play

Lotto games require players to match numbers on a computer-generated ticket with numbers selected in a random drawing and accounted for 32 percent of fiscal 2011 sales. Games currently available in Minnesota include Powerball[®], Mega Millions[®], Gopher 5[®], Hot Lotto[®], Northstar Cash[®], Daily 3[®], Progressive Print-N-Play games[®], and the annual Minnesota Millionaire Raffle. Powerball, Mega Millions, and Hot Lotto are played in multiple states under an agreement with the Multi-State Lottery Association.²⁵ Each member state keeps all proceeds from sales in their jurisdiction with all members sharing in the cost of jackpot prizes. Both Powerball and Mega Millions are known for their large jackpots. Jackpots start at \$12 million (Mega Millions) or \$40 million (Powerball).

Lottery products are sold at more than 3,100 retail outlets located throughout the state. While many business types are represented in this network, convenience stores account for approximately 80 percent of sales, with supermarkets and grocery stores accounting for another 15 percent.

Lottery sales vary from year to year, with the frequency of large jackpots weighing heavily on overall results. In Minnesota, the overall trend for the last seven years has been positive, however. Since fiscal year 2003 sales have increased by 44 percent while revenues to the state have grown by 57 percent.

V. Lawful (Charitable) Gambling

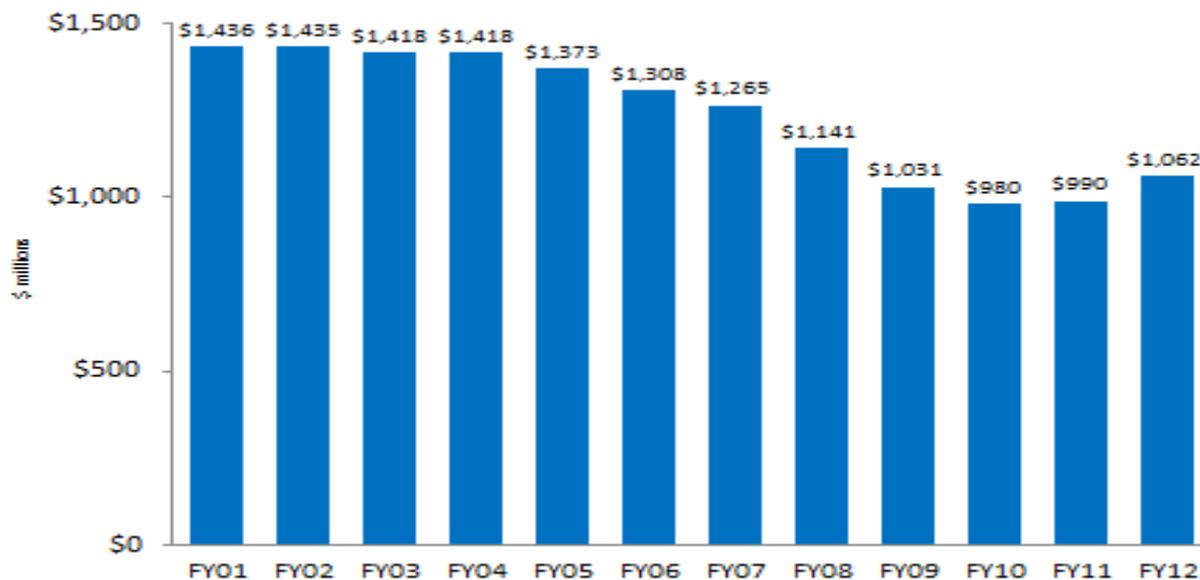
Minnesotans wagered \$1.1 billion on the five forms of lawful (charitable) gambling during fiscal year 2012. Of this amount, \$969 million was spent on pull-tabs, \$62 million on bingo, \$15 million on paddlewheels, \$8 million on raffles (an additional \$31 million was spent on tax-exempt raffles conducted by organizations not required to be licensed), and \$8 million on tipboards.²⁶ Most, though not all, of this activity takes place in licensed liquor establishments. While Minnesota is generally acknowledged to have one of the nation's

²⁵ The directors of each of the 33 member lotteries constitute the Board of Directors of the Multi-State Lottery Association.

²⁶ Minnesota Gambling Control Board (2012). *Annual Report of the Minnesota Gambling Control Board, Fiscal 2012*.

largest charitable gambling industries, differences in reporting requirements from state to state make a definitive ranking impossible.

Figure 6: Lawful gambling gross receipts



While this seems (and is) a substantial amount of activity, lawful gambling revenue has declined substantially in recent years. As recently as fiscal year 2004, wagering exceeded \$1.4 billion. A 2009 report from the Gambling Control Board cited eight factors as possible contributors to the decline. These include the statewide smoking ban, competition from venues where smoking is still permitted, competition from other gambling entities, the economy, the reduction in the permissible blood alcohol level (for driving) from 0.1 percent to 0.08 percent, the closing of a significant number of bars and restaurants where lawful gambling was conducted, an aging population interested in playing charitable games, and a general loss of interest in games that have not changed over the years.²⁷ In this context, the growth in receipts from FY10 to FY12, while small, is worth noting. It remains to be seen if this is a short-term phenomenon or a change in the overall trend.

Lawful gambling was conducted at 2,770 locations by more than 1,200 nonprofit organizations, ranging from fraternal organizations such as the Elks or Knights of Columbus to veterans organizations to churches to athletic associations, conservation groups, chambers of commerce, and others.²⁸ All told, these organizations raised almost \$44 million for the causes they support while paying \$41 million in state gambling taxes.

Regulation of lawful gambling is primarily the responsibility of the Gambling Control Board. The Board is charged by the legislature “to regulate lawful gambling, to insure the integrity of operations, and to provide for the use of net profits only for lawful purposes.”²⁹ It consists of seven members, including five appointed by the governor, one by the attorney general, and one by the commissioner of public safety. The staff of 30 is responsible for licensing, rulemaking and enforcement, and training. The Alcohol and Gambling Enforcement division of the Department of Public Safety assists the Board with investigations of possible

²⁷ Minnesota Gambling Control Board (January 2009). *Lawful (Charitable) Gambling in Minnesota: Challenges Facing the Industry*. Page 13.

²⁸ As recently as FY06 there were 1,419 organizations conducting gambling out of 3,356 locations.

²⁹ Minnesota Statutes §349.11

criminal violations, while the Department of Revenue is responsible for the collection of state gambling taxes.

While almost twice as much is wagered on lawful gambling than on the Minnesota State Lottery, fewer people participate in most charitable games. In 2012, 26 percent of the state's adults reported purchasing a pull-tab in the past year, 48 percent purchased a raffle ticket, and 16 percent played bingo. Despite the drop in pull-tab sales, the number of people reporting a pull-tab purchase has remained relatively stable over the past 10 years—the 26 percent participation rate in 2012 is identical to that reported in 2002—suggesting that Minnesotans who purchase pull-tabs are either doing so less frequently, spending less when they do visit, or both.

The 2012 Legislature authorized two new forms of lawful gambling: electronic pull-tabs and electronic linked bingo. Linked bingo allows players to use electronic devices to compete against players in other locations, typically for prizes larger than those found in traditional bingo. Electronic pull-tabs are played on hand-held, portable electronic devices that, when activated, simulate paper pull-tabs. The devices may not mimic slot machines and do not accept cash or tokens for play. The first such games were offered to players in September, 2012 at a limited number of locations.

VI. Native American Gaming

A. Nationwide

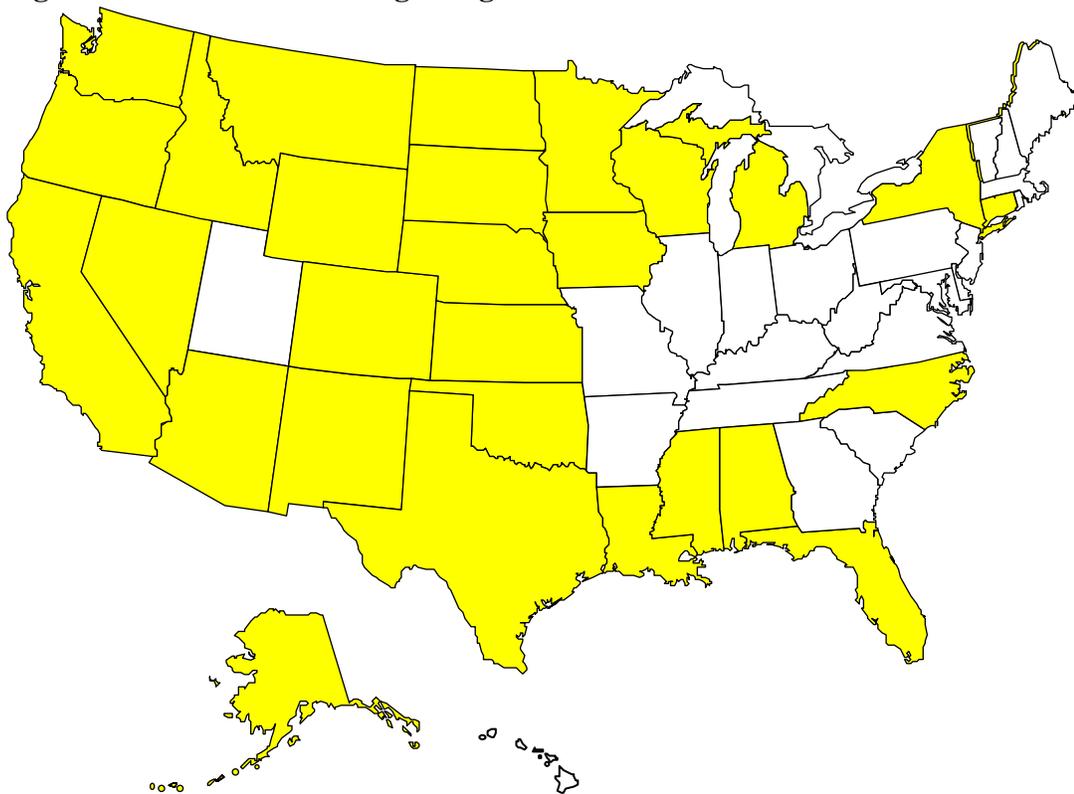
The federal Indian Gaming Regulatory Act (IGRA) of 1988 paved the way for the development of Native American gaming in the United States. Today Native American gambling facilities exist in 28 states, where the most recent statistics show 239 tribes operating 448 gaming facilities³⁰ ranging from some of the world's largest casinos to remote locations with a handful of gaming machines. These facilities reported net revenue (after prize payout but before deduction of expenses) of \$26.7 billion dollars in 2010, plus additional revenues of \$3.2 billion from related hospitality and entertainment businesses.³¹ Overall, revenue from Indian gaming facilities accounted for 44 percent of all U.S. casino gaming.³²

³⁰ Meister, Alan (2012). *Indian Gaming Industry Report*. Newton, MA: Casino City Press. Page 15

³¹ *Ibid* Page 17

³² *ibid* Page 2

Figure 7: States with Indian gaming facilities



The IGRA defines three classes of Indian gaming. Class I gaming encompasses traditional tribal games played for minimal prizes. These games are not subject to any non-tribal regulation. Class II games include bingo, bingo-like games (including pull-tabs), and “non-banked” card games (games where players compete against each other and not against the house) such as poker. In addition, certain gaming machines have been designed to fit under the Class II definition. These machines differ from traditional slot machines in that outcomes are determined by a central computer and that players compete against each other for a common prize. Class II games are subject to tribal regulation under agreements with the National Indian Gaming Commission. States have no authority over these games. Class III games encompass everything else, including most traditional casino games, slot machines, and pari-mutuel racing. These games are subject to negotiated compacts between tribal and state governments. IGRA requires states to negotiate in good faith upon the request of tribal governments. It does, however, limit negotiations to forms of gaming permitted in the state for any purpose. Compacts must be approved by the secretary of the interior and tribes must adopt gaming ordinances that are approved by the National Indian Gaming Commission. Failure to agree on compacts leads first to the appointment of a mediator and ultimately to terms being prescribed by the secretary of the interior “in consultation with the Indian tribe.” Of the 28 states with Indian gaming, 24 have some form of Class III gaming while four have only Class II games.³³

Gambling revenues from individual tribes and bands are not generally available. However, compacts in some states provide for the release of aggregate data, and independent observers have made estimates in other states. These data make it clear that a relatively small number of states account for the bulk of Indian gaming activity. California and Oklahoma alone accounted for 38 percent of total U.S. Indian gaming revenue in 2010³⁴ while the top 10 states (adding Connecticut, Arizona, Florida, Washington, Minnesota, Wisconsin, New York and Michigan) contribute 86 percent of gaming revenue.

IGRA limits the subjects for compact negotiations to seven categories. These include:

- The application of criminal and civil laws directly relating to the regulation of gambling,

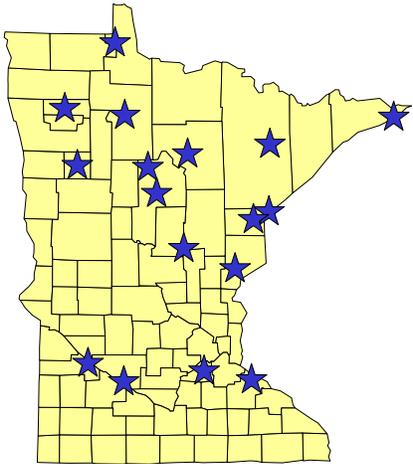
³³ *Ibid.* Page 14

³⁴ *Ibid.* Page 2

- Civil and criminal jurisdiction for the enforcement of these laws,
- Assessments by the state to defray the costs of regulation,
- Taxation of gaming activity by the Indian tribe,
- Remedies for breach of contract,
- Standards for operation of gambling, and
- Other subjects directly related to the operation of gambling.

B. Native American Gaming in Minnesota

Figure 8: Minnesota Indian casinos



Minnesota's 11 Native American bands operate 18 casinos in accordance with their compacts with the state. These compacts permit wagering on electronic gaming machines and blackjack.³⁵ In addition, the tribes can offer bingo and certain card games as Class II games. In 2009, Minnesota's casinos offered 22,252 gaming machines and 372 gaming tables.³⁶ The White Earth Reservation also operates Class II gaming machines at 17 locations (as of 2010) within reservation boundaries in Mahnommen County.³⁷ Native casinos in Wisconsin, Iowa, and the Dakotas also attract Minnesota clientele and in some cases can offer games (such as roulette and craps) not permitted under Minnesota compacts. All four bordering states have tribal casinos located within a few miles of the Minnesota border.

Tribal governments are not required to disclose the amount of money spent at their facilities. The most widely cited estimate of Indian gaming, found in Dr. Alan Meister's *Indian Gaming Report*, places Minnesota tribal gaming revenue (revenue remaining after prizes but before any expenses are paid) at \$1.4 billion in 2010³⁸, a level virtually unchanged from 2009³⁹. This level of revenue, according to Meister, places Minnesota seventh in the nation in Indian gaming revenue, behind California, Oklahoma, Connecticut, Florida, Washington, and Arizona.⁴⁰ (Note that Meister is circumspect about the methods he uses to derive his estimates, and they cannot be independently verified.)

In the 2012 Minnesota gambling survey, 33 percent of adults reported visiting a casino on an Indian reservation in Minnesota or a bordering state. While this number has remained stable over the last several years, it is significantly lower than the 46 percent reported in 1999.

VII. Pari-Mutuel Racing

Pari-mutuel racing in Minnesota is currently limited to thoroughbred and quarterhorse racing at Canterbury Park in Shakopee (Scott County) and standardbred (harness) racing at Running Aces in Columbus (Anoka County). The legislation governing horse racing also permits racing at county fairs, though no fair is currently doing so. Both tracks also offer wagering on races simulcast from tracks in other parts of the country, and both feature card clubs (which will be discussed more extensively in the next section).

³⁵ It is a frequent misconception that the compacts grant exclusive rights to these forms of gambling. They do not.

³⁶ *Ibid.* Page 16

³⁷ *Ibid.* Pages 121-125

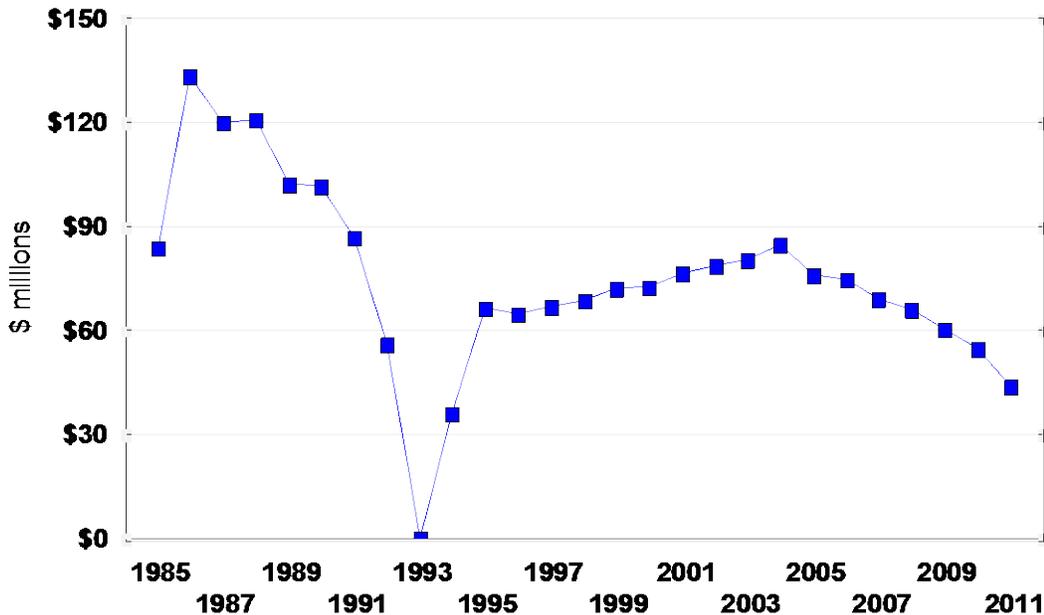
³⁸ *Ibid.* Page 23.

³⁹ *Ibid.* Page 25.

⁴⁰ *Ibid.* Page 23.

Live racing took place for 56 days at Canterbury Park and 46 days at Running Aces in 2011.⁴¹ A total of \$10.5 million was wagered on 908 live races at both tracks, with an additional \$33.7 million on simulcast wagering for a total of \$44.2 million.⁴² Wagering in 2011 was significantly affected by the July state government shutdown which forced cessation of all operations at both tracks. The shutdown resulted in the loss of 12 racing days. Canterbury Park has estimated a revenue loss of more than \$2 million as a result, with another \$1.5 million lost at Running Aces.⁴³

Figure 9: Wagering on horse racing in Minnesota (live racing and simulcasting)



Wagering on horse races peaked at \$134 million in 1986, the second year of operations at Canterbury Downs (as it was known then). Wagering then declined to the point where the track closed in 1993. The track reopened under new ownership for simulcasting in 1994 and live racing in 1995. Wagering increased from \$67 million in 1995 to a post-closure peak of \$82 million in 2004. Between 2004 and 2010 wagering on horse racing declined by 36 percent despite the opening of Running Aces in 2008.⁴⁴ This decline is less than the 45 percent decline reported nationally over the same period,⁴⁵ though the national figure includes all forms of pari-mutuel racing. Net revenue, or “takeout” (the amount not returned to bettors as winnings) was \$10.0 million in 2011.

Six percent of Minnesota adults reported making a bet on a horse race in the year preceding the February 2012 Minnesota gambling survey. While this is twice the level recorded in the 1995 survey, declining handles in recent years suggests that while people are more likely to go at least once, they either do so less frequently or wager less when they attend.

Racing in Minnesota is overseen by the Minnesota Racing Commission. The commission consists of nine members appointed by the governor and confirmed by the Senate. Commissioners serve six year terms. The commission hires an executive director and other staff, with a full-time staff of 10 as of February 2012.⁴⁶ Part-time staff, including stewards, judges, and veterinarians are hired during the racing season.

⁴¹ Minnesota Racing Commission (2012). *2011 Annual Report*. Page i.

⁴² *Ibid.* Pages 11-12.

⁴³ *Ibid.* Page 20.

⁴⁴ Minnesota Racing Commission. Annual Reports 2001 through 2011.

⁴⁵ Casino City Press (2012). *North American Gaming Almanac*. Page 111.

⁴⁶ Minnesota Racing Commission (2011). *Op.cit.* Page 3

Outside of Minnesota, horse racing takes place at 122 tracks in 32 states. California led the nation with \$784 million in takeout among the 39 states with some form of pari-mutuel racing in 2009. Minnesota ranked 28th.⁴⁷

VIII. Card Games

Minnesotans can legally bet on card games in one of four ways: at a tribal casino, at the card clubs at Canterbury Park or Running Aces, tournaments that do not provide any direct profit to the organizer, or informal social games, and 24 percent of Minnesota adults did so in 2012. Among these card players, social games with friends were by far the most popular, with 77 percent of the past year card players wagering money on that sort of game. Sixty percent played at a casino, 13 percent in a tournament, 16 percent at a racetrack card club, and 4 percent on the Internet. Poker and blackjack were equally popular, with 72 percent of card players reporting poker play and 72 percent blackjack.

Minnesota casinos offer blackjack as a Class III game in accordance with tribal-state compacts and most, though not all, offer various forms of poker as Class II games. The two card clubs offer different forms of poker, blackjack, and baccarat. For games such as poker, the venue earns money by retaining a percentage of each pot known as the “rake.” Casino rakes typically range from 5 percent to 10 percent of each pot, but they are frequently capped at a relatively low amount such as \$3. While wagering is not tracked at any of Minnesota’s card venues, the rake at the two card clubs was \$43.5 million in 2011, of which \$23.4 million came from Canterbury Park and \$20.2 million from Running Aces.⁴⁸ Rakes cannot be directly translated to wagering, but they are indicative of the amount of wagering taking place. They have more than tripled since the opening of the card club at Canterbury Park in 2000, a testament to the growth in popularity of poker and other games. Card rooms at racetracks are regulated by the Minnesota Racing Commission.

Limited stakes card tournaments may be conducted at places of business providing that the business makes no direct profit from the game and that players are not charged a fee to enter. Prizes are capped at \$200 per tournament, and no one player can win more than \$200 a day at any one location.⁴⁹

IX. Sports Wagering

Wagering on sports events in Minnesota is either a social bet (where no third party makes a profit) or illegal. In 2012, 15 percent of Minnesota adults reported betting on a sports event in the past year. The amount wagered, of course, is unknown. By federal law, commercialized sports betting is limited to Delaware, Montana, Nevada, and Oregon, though not all of these states are active at the present time.⁵⁰ New Jersey recently enacted a law authorizing sports wagering in that state, which has resulted in a legal challenge of federal restrictions.

X. Internet Gambling

Internet gambling has long been an unsettled area of law. Most recent discussion has centered on the Wire Act,⁵¹ a law that predates the Internet. The Wire Act makes it illegal to use a wire communication facility to engage in the business of wagering in interstate or foreign commerce of bets “on a sporting event or contest.” While the U.S. Court of Appeals ruled in 2002 that the Wire Act only applies to sports betting and not forms

⁴⁷ Casino City Press (2012) *Op. cit.*. Pages 109-110

⁴⁸ Minnesota Racing Commission (2011). *op. cit.* Page 6

⁴⁹ Minnesota Statutes (2010) §609.671 subd .3.

⁵⁰ Casino City Press (2010). *op. cit.* Page 113.

⁵¹ 18 U.S.C. §1084

of casino gambling, until recently the Department of Justice (DoJ) took the position that it prohibited all Internet gambling.

A December, 2011 memorandum from the DoJ reversed this position.⁵² The department now believes that the Wire Act's reach does not extend beyond sports wagering and that states are free to legalize Internet wagering on any other games as long as those games are legal in the state and that both the person making the bet and the organization receiving the bet are located in that state. States are now free to authorize or operate games such as Internet poker, and some are taking steps in that direction. The Nevada Gaming Commission has passed regulations governing the conduct of Internet poker in that state, while the District of Columbia passed legislation authorizing Internet poker earlier in 2011, though implementation has been delayed.⁵³ Other states, notably Illinois, Maryland, New Jersey and Iowa, are actively considering a variety of online gambling options.

The DoJ memorandum, however, may leave several legal issues unresolved. Included in these is the effect on gambling offered by Native American tribes. Can they offer Internet gambling to customers outside the reservation? And to what degree does Internet gambling fall within the National Indian Gaming Regulatory Act? Also unresolved is the issue of potential interstate agreements, or whether states can enter into agreements with offshore jurisdictions or businesses.

Legislation was introduced in the 2012 Congress to place Internet gambling under federal regulation. This legislation would limit wagering to Internet poker that could only be offered by existing brick-and-mortar casinos and would prohibit any new offerings under state auspices.⁵⁴ While the legislation did not pass, it will likely be re-introduced in 2013.

Legal issues aside, the reality is the existence of hundreds, if not thousands, of Internet gambling sites with little, if any, practical way of blocking transactions with U.S. citizens. Some of the largest and most closely regulated overseas operators will not accept wagers originating in the U.S., while others have no such restrictions. Approaches around the world have varied. In some jurisdictions, such as Atlantic Canada, British Columbia, and Sweden, government lotteries provide gambling opportunities to residents using the Internet. Other countries, such as the United Kingdom, have opted to license and regulate private operators. Still others, such as the U.S., have made various attempts at prohibition.

The Minnesota gambling survey has included questions on Internet gambling since 1998. At that time, only one respondent (out of 2400) acknowledged ever making a wager using the Internet. By 2012 that number had grown to 4 percent of Minnesota adults. While that is not an insignificant number of people, Internet gambling is still the least popular form of gambling widely available in Minnesota. Not surprisingly, two-thirds of the Internet gamblers in Minnesota are male, and half are under the age of 35.⁵⁵

XI. Proposals for Additional Forms of Gambling

Over the last several years, a number of proposals have surfaced for new or expanded gambling in Minnesota. Some would result in significant new revenue for the state, while others would produce revenues that are either small or primarily accrues to other organizations.

This section of the report attempts to summarize these proposals and cite revenue estimates where possible. Readers should remember, however, that revenues depend greatly on the specifics of any particular proposal. Details such as tax rates, up-front fees, limits on games or other facets of operation, or designated

⁵² Rose, I. Nelson (2011). *A Present from the DoJ: Internet Lotteries (and Poker?) Are Legal*. www.GamblingAndTheLaw.com

⁵³ *Nevada Sets Framework for Internet Poker*. Wall Street Journal. 22 Dec. 2011. Online edition

⁵⁴ www.nationaljournal.com/tech/reid-kyle-online-gambling-bill-not-a-good-bet-20121115 (11/15/12)

⁵⁵ Maki, T. and D. Feeney (2009). *Characteristics of Internet Gamblers in Minnesota*. Presented at the 14th International Conference on Gambling and Risk Taking, Stateline, NV.

beneficiaries can significantly alter revenues to the state. As such, estimates provided here should be considered as rough guides to potential revenue. It is also important to remember that adopting multiple proposals may well lead to revenues less than the sum of individual estimates. New gambling venues will likely compete both with each other and with existing forms of gambling. While competition with existing gambling has been taken into account where possible, the effect of simultaneously adopting new forms of gambling cannot be estimated with any certainty. Nor do revenue estimates take into account external social and economic costs (such as the effects of competition with existing businesses), the benefits of any employment increase, effects on problem gambling, or benefits or costs to non-state parties.

- **Additional gambling opportunities at existing tribal casinos:** Current state-tribal compacts limit gambling at tribal casinos to video games of chance (gaming machines) and blackjack, while other games such as bingo are conducted as Class II games outside the state’s purview (see Section V). Additional casino games like keno, craps, roulette, and baccarat could be the subject of new negotiations, as could pari-mutuel racing and/or simulcasting. The existing compacts limit prize payouts on gaming machines to 95 percent for games involving no skill and 98 percent for games involving player skill (such as video blackjack or poker). Other states have higher limits. Wisconsin compacts, for example, allow for payouts up to 100 percent. All these could be subject to negotiation should the state and tribal governments wish to enter into new discussions. Revenue to the state would be subject to negotiation; under the current compacts no additional revenue would be realized.

The economic benefits to tribal casinos would likely be small. While casinos in neighboring states might have some competitive advantage by offering games that Minnesota casinos cannot, in reality these games are far less popular than the games currently offered.⁵⁶

It would also be possible to discuss the opening of new facilities off of existing reservations. However, the land for such facilities would have to be taken in trust by the Secretary of the Interior through a complex process requiring “consultation” with state and local governments and other Indian tribes and a determination by the Secretary that gambling on this land is in the best interest of the tribe and the surrounding community.⁵⁷

- **State-tribal cooperative casino:** The 2003 and 2004 legislatures considered a proposal under which the Minnesota State Lottery would partner with Native American governments to operate a casino in the Twin Cities area. The state would have been the owner of the facility (thus bypassing issues with off-reservation gambling outlined above) but would contract with a tribe or tribes for significant management responsibilities. Under these proposals the Lottery would be responsible for the operating of gaming machines while the tribes would be responsible for construction and management of the facility and the conduct of card games. A fiscal note for the 2004 proposal estimated revenues to the state of \$98 million annually.
- **Gaming machines at racetracks (Racino):**

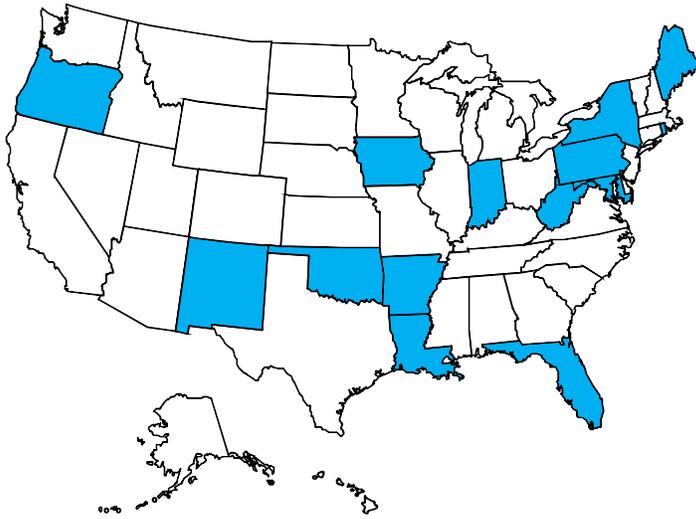
In 2008, 65 racetracks around the country offered some type of casino gaming. These “racinos” featured a total of 80,300 gaming machines and 1800 table games⁵⁸ and are found in 15 states.

Figure 10: Racino states

⁵⁶ Casinos in Missouri, for example, typically only devote between 10 percent and 15 percent of their table game positions to games other than blackjack and forms of poker. (Missouri Gaming Commission. www.mgc.dps.mo.gov)

⁵⁷ 25 U.S.C. §2719

⁵⁸ Casino City Press (2012). *Op. cit.* Page 106



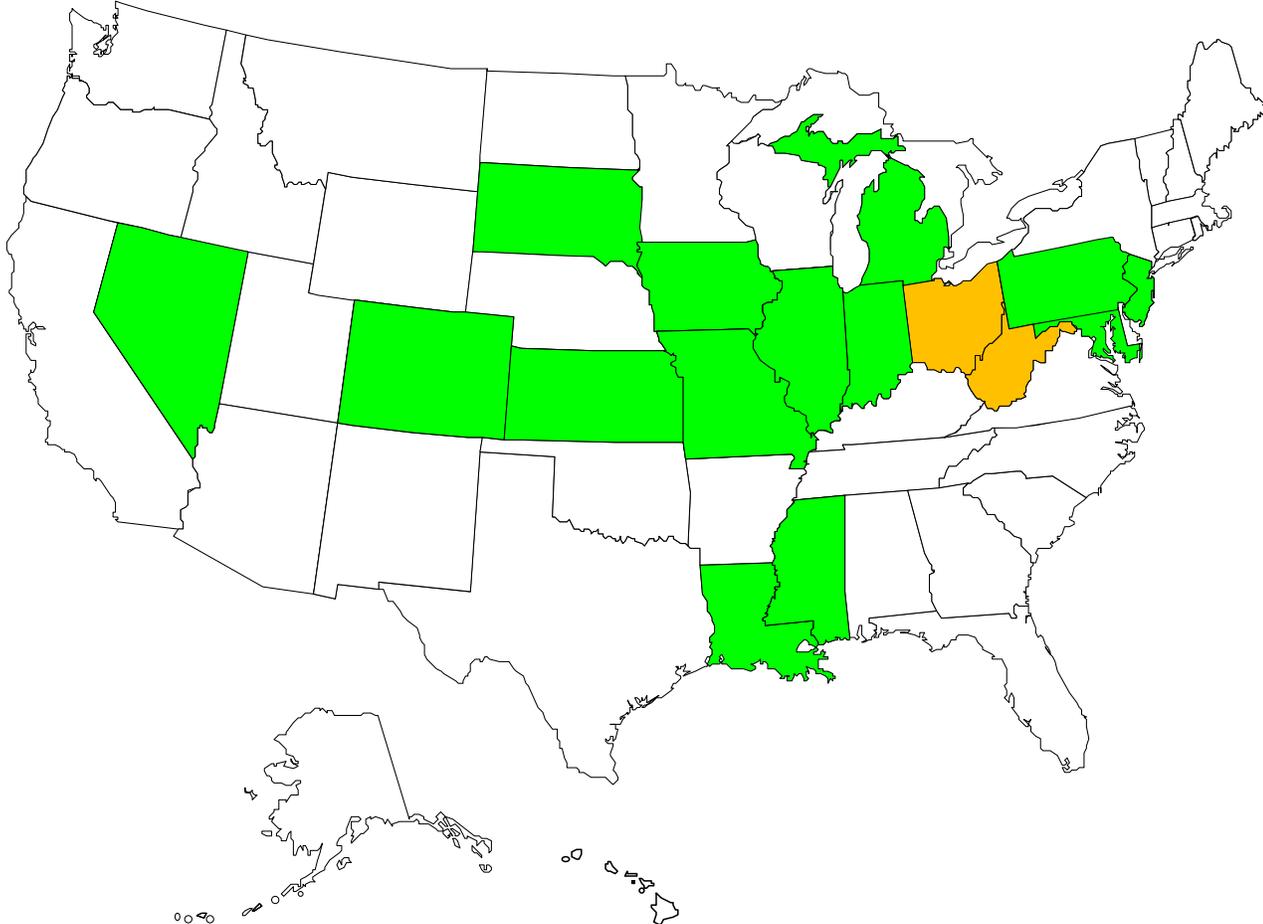
Several bills have been introduced over the years to require the Lottery to install and operate gaming machines at either or both of the state's horse racing tracks. The machines would be linked to a central control system at lottery headquarters where play would be recorded and the amount due to the state calculated. The owners of the track would be responsible for the physical facility and routine day-to-day operation and would work with the Lottery on security.

A fiscal note prepared for the 2011-12 session estimated net revenues from racinos (revenue after prizes but before operating expenses are deducted) at \$432 million a year. This analysis assumed a total of 4,000 gaming machines at the two locations. A 2010 House Research Department report estimated net revenue between \$107 million and \$431 million. However, these estimates were based on between 1,000 and 4,000 machines. The amount of revenue realized by the state would depend on the specific allocations called for in any particular bill.

- **Commercial casino:**

Commercial casinos (not including racinos or tribal casinos) operate in 16 states,⁵⁹ including seven in the Midwest (Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, and South Dakota). Several states, including Illinois, Indiana, and Missouri, limit operation to “riverboat” casinos. These casinos, however, are not required to sail, are rarely actual boats, and in some cases are not even directly on the river. Some are large hotel-casino complexes where the gaming floor just happens to be over or adjacent to the water. Taxes on these enterprises can be a significant source of revenue for state governments. 2011 tax

Figure 11: Casino States



revenues ranged from \$13 million in Kansas to \$1.5 billion in Pennsylvania.⁶⁰ Establishment of commercial casinos in Minnesota would likely require a constitutional amendment and would also require creation of a sizeable regulatory structure.

- State owned and operated casino:** It is possible for the state to own and operate a casino without entering into a partnership with another entity. While there are numerous instances of states owning and operating gaming machines at privately-owned facilities such as racinos, there are no states that operate a casino facility. (The State of Kansas owns a casino, but it is operated by a private management company.) However, the Canadian provinces of Quebec, Ontario, Manitoba, and British Columbia do operate casinos. A fiscal note prepared for the 2011 legislative session estimated that a state casino, if built in the Twin Cities urban area, could produce net revenues of \$421 million

⁵⁹ Massachusetts has authorized casinos, but they are not yet in operation.

⁶⁰ American Gaming Association (2012). *2012 State of the States. The AGA Survey of Casino Entertainment*

annually. Again, the amount received by any one program or fund would depend on the specifics of legislation.

- **Airport casino:** Several proposals have been introduced in recent years calling for the establishment of a casino at the Minneapolis-St. Paul International Airport. Unlike other casino proposals, patrons of this facility would be required to present a boarding pass to enter. A fiscal note prepared in 2009 estimated revenue to the state at \$12.9 million per year.
- **Keno:** Fast draw keno is most commonly a casino game, but in recent years it has become a lottery product now offered by 12 state lotteries. In these states, it is typically (though not always) played in bars and restaurants with drawings held every four or five minutes. Per capita sales range from \$3.46 per year in California to \$116.40 in Massachusetts.⁶¹ This enormous range indicates how dependent keno revenues are to limits on location and other factors in legislation. Should Minnesota perform at the average level of these states, we would expect annual sales of \$182 million with resulting revenue to the state of approximately \$66 million.
- **Video lottery terminals:** In outward appearances, video lottery terminals (VLTs) are indistinguishable from slot machines. When first invented, they were distinguished from slot machines by their connection to a central computer system that monitored the conduct of the games and in some cases determined the outcome of each wager through use of a random number generator and by their use of a video display instead of the traditional mechanical spinning reels. In recent years, this distinction has rapidly become moot as more and more facilities use some sort of central system and mechanical devices have become nearly extinct. Many of the gaming machines at racetracks are VLT systems, but they have also been placed in locations such as bars and restaurants in Louisiana, Montana, Oregon, South Dakota, and West Virginia, as well as in several Canadian provinces. Oregon, South Dakota, and West Virginia operate the system through their state lotteries, while in Louisiana and Montana the systems are privately owned but regulated by the State Police and Department of Justice, respectively.

In each of these five states the number of terminals in any one location is small—typically between five and 10—but the number of potential locations results in the generation of considerable revenue. The governments in Oregon and West Virginia each earned over \$450 million in fiscal year 2012.⁶² As with other measures, specific provisions in any bill will considerably affect the income that could be realized in Minnesota. A fiscal note prepared for a bill in the 2010 legislative session estimated annual revenues after operating expenses at \$855 million. The bill called for the establishments hosting the terminals to receive almost \$300 million in commissions, leaving approximately \$560 million for state programs.

- **Expanded Internet Gambling:** The recent memorandum from the Department of Justice (see section X) raises the possibility of state operated or regulated Internet gambling. Internet gambling can take many forms, from the sale of traditional lottery products to card games such as poker, other casino games, or games of skill.

While the amounts wagered on Internet gambling are significant, it has not become the dominant form of wagering in any of the jurisdictions where it is legally available. British Columbia, for example, has offered a wide range of Internet gambling options (including sports wagering) since 2005, yet this program still accounts for less than 10 percent of total gambling revenues.⁶³ Revenues from an Internet gambling program in Minnesota would depend very much on the types of gambling

⁶¹ LaFleur, T. and B. LaFleur (2012). *LaFleur's 2012 World Lottery Almanac*. Page 259. Rockville, MD. TLF Publications Inc.

⁶² Markle, T. (2012). *LaFleur's Fiscal 2012 VLT Special Report*. Rockville, MD: TLF Publications. Page 7.

⁶³ British Columbia Lottery Corporation (2012). Personal communication

made available. The use of British Columbia as a role model suggests, though, that revenues could reach \$80 to \$105 million annually.

It is important to remember that any additional forms of gambling would incur some cost. Each of these proposals would require some expansion of the regulatory structure. Some, such as a new casino, would require new infrastructure including road improvements and utilities. In addition, it is impossible to determine the impact of any proposal on problem gambling. While there is increasing evidence suggesting that the levels of problem gambling in an area are not closely related to changes in the types of gambling available, this evidence is not yet to the point where it would be considered definitive.

XII. Underage Gambling

Gambling among children and adolescents has come under increasing attention from those concerned with problem gambling. As early as 1987, researchers were noting the existence of gambling problems in adolescents,⁶⁴ and some have concluded that youth are at greater risk of developing gambling problems than adults.⁶⁵ In addition, other researchers have found that underage gambling can predict the development of gambling problems in adults,⁶⁶ though it is not clear whether early gambling leads to problem gambling or if those predisposed to an addiction are more likely to gamble early.

In Minnesota, the legal age for almost all forms of commercial gambling is 18.⁶⁷ This is not to say, however, that gambling is unknown among those 17 and younger. The 2010 Minnesota Student Survey conducted by a team of several state agencies and analyzed by University of Minnesota psychologist Dr. Randy Stinchfield found that 51 percent of 9th grade boys and 23 percent of 9th grade girls reported at least some gambling activity.⁶⁸ Frequent gambling in this age group, however, is rare, with 12 percent of boys and 3 percent of girls reporting gambling weekly or more.

Stinchfield reports that most gambling in this age group is in informal games such as cards, games of personal skill, and sports betting. Frequent lottery play, casino gambling, or Internet gambling was quite rare. However, 14 percent of underage boys and 8 percent of underage girls reported at least one instance of lottery play. He also reports on gambling among 12th grade students. Not surprisingly, they gamble considerably more than 9th graders. However, many 12th graders are of legal age at the time they take the survey.

Adolescent gambling in Minnesota appears to be on the decline. Gambling questions were first included on the student survey in 1992 and have been asked every three years since that time. In the first survey, 73 percent of all students surveyed (grades 9 and 12) reported some form of gambling. By 2010 this rate had dropped to 45 percent, with frequent gambling declining as well, though there was a spike in 2004 at the peak of the poker craze. The greatest decline was seen in lottery play. In 1992, 42 percent of 9th grade boys and 38 percent of 9th grade girls reported lottery play, but by 2010 these rates had declined to 11 percent and 7 percent respectively.⁶⁹

⁶⁴ Lesieur, H.R. & R. Klein (1987). Pathological gambling among high school students. *Addictive Behaviors*, 12, 129-135

⁶⁵ See, for example, Gupta, R. & J. Derevensky (1998). Adolescent gambling behavior: A prevalence study and examination of the correlates associated with problem gambling. *Journal of Gambling Studies*, 14, 319-345.

⁶⁶ Volberg, R.A. (1994). The prevalence and demographics of pathological gamblers: Implications for public health. *American Journal of Public Health* 84:237-241.

⁶⁷ There are limited circumstances under which someone under the age of 18 may participate in bingo (M.S. §349.181). In addition, those under 18 can make “social bets” that are not considered gambling.

⁶⁸ Stinchfield, R. (2012). Gambling among Minnesota Public School Students from 1992 to 2010: Declines in Youth Gambling. Report to the Northstar Problem Gambling Alliance.

⁶⁹ The survey does not ask how the students obtained lottery tickets. While some may have illegally purchased them at a lottery retailer, others may have had them provided by a parent, friend, or relative of legal age. Giving a lottery ticket to a minor is, however, illegal (M.S. §349A.12 subd. 5), and those under 18 cannot claim winning tickets (M.S. §349A.12 subd.1).

XIII. Problem Gambling

The history of problem gambling is as old as the history of gambling. There is evidence that the Roman emperors Claudius and Nero would now be considered pathological gamblers⁷⁰ and it has been suggested that Mozart's financial difficulties resulted from excessive gambling.⁷¹ The term "problem gambling" encompasses a wide range of behaviors and consequences, ranging from occasional abuse to addictive behavior. The latter, commonly referred to as "compulsive gambling" but also as pathological gambling or disordered gambling, is recognized by the American Psychiatric Association as a "mental disorder" characterized by "a continuous or periodic loss of control over gambling, a preoccupation with gambling and with obtaining money with which to gamble, irrational thinking, and a continuation of the behavior despite adverse consequences."⁷²

A thorough discussion of problem gambling is beyond the scope of this report.⁷³ Research in this field has dramatically advanced our knowledge. We have a much greater understanding of the nature of gambling addiction, how it relates to other addictions, what underlying factors may contribute to its cause, and how best to treat it than we did 20 or even 10 years ago. Our view of problem gambling has changed from one of moral weakness to one of a complex interaction between biological factors, life history, the social environment, and exposure to the object of addiction.⁷⁴ The consequences, however, have long been well-known. A 1713 column in the *Guardian* noted the "hallow eyes, haggard looks, and pale complexions" of the excessive gambler⁷⁵ while in 1838 a Dr. Taylor described the "guilt, shame, and secrecy of the excessive gambler, along with an associated pattern of neglecting one's spouse and family, engaging in illegal acts, and even committing suicide."⁷⁶

Most people who gamble never experience problems with their gambling.⁷⁷ Estimates of those reaching the level of pathology vary, in large part depending on the assessment instrument used. Most studies done in accordance with the American Psychiatric Institute's definition place the past year rate of pathological gambling at about 1 percent or less of the population, regardless of the population being studied. The national study done in 1999 for the National Gambling Impact Study Commission placed the past year rate for adults at 0.6 percent.⁷⁸ While this rate may appear low, it is consistent with or higher than many other mental health disorders such as schizophrenia and bipolar disorder.⁷⁹ It is, however, lower than reported rates of both alcohol dependence and drug dependence.⁸⁰ There are many more people, of course, who experience some difficulties with gambling but whose problems are not severe enough to be considered pathological.

A recent study analyzed problem gambling prevalence data from around the world collected over the past 20 years. The authors concluded that "there has been a general worldwide downward trend in both gambling

⁷⁰ Wildman, R.W. (1997). *Gambling: An Attempt at an Integration*. Edmonton: Wynne Resources.

⁷¹ cf Bauer, G. (2000). *Was Mozart Ruined by Gambling?* Presented at the 11th International Conference on Gambling and Risk Taking, Las Vegas, NV.

⁷² National Research Council (1999). *Pathological Gambling: A Critical Review*. Washington, D.C. National Academy Press.

⁷³ Although written in 1998, the National Research Council's *Pathological Gambling: A Critical Review (op. cit.)* is still a useful introduction to the subject.

⁷⁴ Shaffer, H. J. and R. Kidman. Gambling in the public health. In Grant, J.E. and M. N. Potenza (eds) (2004). *Pathological Gambling: A Clinical Guide to Treatment*. Arlington, VA: American Psychiatric Publishing.

⁷⁵ Wildman, R.W. (1997) *op. cit.*

⁷⁶ Petry, N.M. (2005). *Pathological Gambling: Etiology, Comorbidity, and Treatment*. Washington, D.C.: American Psychological Association.

⁷⁷ Shaffer, H.J., M.N. Hall, and J.V. Bilt (1997). *Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-Analysis*. Cambridge, MA: Harvard Medical School Division on Addictions.

⁷⁸ Gerstein, D.R., R.A. Volberg, M.T. Toce, et. al (1999). *Gambling Impact and Behavior Study: Report to the National Gambling Impact Study Commission*. Chicago: National Opinion Research Center.

⁷⁹ Petry, N.M. (2005) *op. cit.*

⁸⁰ National Research Council (1999) *op. cit.*

and problem gambling rates beginning in the late 1990s for North America (C)urrent rates of problem gambling are now very close or even lower than they were in the late 1980s to early 1990s prior to the main period of gambling expansion.” Among the possible causes they cite for this decline are increased public awareness of the potential harm of gambling, the wearing off of the novelty of gambling, and “increased industry and/or government efforts to provide gambling more safely, to enact programs to prevent problem gambling, and to provide treatment resources. . . .”⁸¹

For years, the prevailing view has been that addictions involving a behavior (such as gambling) and those involving a substance are fundamentally different. This is no longer seen to be the case. Psychologists have long observed commonalities in behavior between addictions, and some have suggested that all addictions are manifestations of a single underlying disorder.⁸² More recently, psychiatrists and neurobiologists have noted that those with “behavioral” addictions such as gambling experience symptoms such as tolerance and withdrawal similar to substance and addictions, and have uncovered evidence that the brain response to all addictions is very similar, whether the addiction involves a substance or not.⁸³ The acceptance of this viewpoint is borne out by the recent move by the American Psychiatric Association to group gambling addiction with substance addictions in a single “addictions and related disorders” category.⁸⁴

Problem gambling is strongly associated with a large number of other addictions and mental health disorders. A large-scale national study found that 50 percent of pathological gamblers also had a mood disorder (such as depression or bipolar disorder), 41 percent had an anxiety disorder (such as post-traumatic stress disorder or panic disorder), and 61 percent had a personality disorder (such as schizophrenia).⁸⁵ Even more striking are the rates of other addictions found among those with pathological gambling. The same survey found that nearly three-quarters of pathological gamblers also had a history of alcohol use, while 38 percent had a drug use disorder. As a result, those treating patients for substance abuse are increasingly urged to screen for gambling problems, while those treating gamblers should also screen for substance abuse.⁸⁶

Problem Gambling in Minnesota

No studies of the prevalence of pathological gambling have been done in Minnesota since 1994, and that study used a measurement method now widely considered obsolete. However, the relative uniformity of studies done in other locales suggests that applying rates from national studies to the Minnesota population will produce a reasonable estimate. The 0.6 percent rate cited earlier suggests that approximately 24,000 Minnesota adults would meet the criteria for pathological gambling.

Minnesota is fortunate in having one of the largest networks of treatment providers in the country. As of June 2012, 56 providers in 67 locations throughout the state are approved by the Minnesota Department of Human Services.⁸⁷ The department reported that during the fiscal year 2010 894 people sought treatment through one of these programs.⁸⁸ In addition, there are 77 Gamblers Anonymous meetings active in the state

⁸¹ Williams, R., R. Volberg, & R. Stevens (2012). *The Population Prevalence of Problem Gambling: Methodological Influences, Standardized Rates, Jurisdictional Difference, and Worldwide Trends*. Report prepared for the Ontario Problem Gambling Research Centre and the Ontario Ministry of Health and Long Term Care. May 8, 2012.

⁸² Jacobs, D.F. (1989). A general theory of addictions: Rationale for and evidence supporting a new approach for understanding and treating addictive behaviors. In *Compulsive Gambling: Theory, Research and Practice*. H.J. Shafer et al. Eds. Lexington, MA: Lexington Books.

⁸³ Nelson, S. (2010). And the list goes on: More similarities between problem gambling and substance abuse disorders. *The Wager* 15(8).

⁸⁴ O'Brien, C. (2011), Addiction and dependence in DSM-V. *Addiction*, 106:866-867

⁸⁵ Petry, N.M., F.S. Stinson, B.F. Grant (2005). Comorbidity of DSM-IV pathological gambling and other psychiatric disorders: results from the National Epidemiologic Survey on Alcohol and Related Conditions. *Journal of Clinical Psychiatry*. 66(5):564-74.

⁸⁶ Petry, N.M. (2005) *op cit*.

⁸⁷ www.dhs.state.mn

⁸⁸ Minnesota Department of Human Services (2011). *Governor's Report on Compulsive Gambling*.

as of January, 2013.⁸⁹ Referrals to these programs are made through the Problem Gambling Helpline (800-333-HOPE), a service available 24 hours a day, seven days a week and funded through the Department of Human Services. During fiscal year 2012 the helpline received 906 calls for assistance.⁹⁰ Many other callers requested general information about problem gambling, or asked for advice on dealing with someone else's gambling problem.

In addition to the Department of Human Services compulsive gambling program, the nonprofit Northstar Problem Gambling Alliance works to raise awareness of problem gambling in Minnesota and provides training for those who may work with problem gamblers. The Alliance is the Minnesota affiliate of the National Council on Problem Gambling.

Both the Department of Human Services compulsive gambling program and the Northstar Problem Gambling Alliance receive funding through the Minnesota State Lottery. This appropriation is made by the legislature from the Lottery's prize fund. In fiscal year 2012 the Lottery provided \$2.23 million for these programs. In addition, legislation enacted in 2012 requires that a portion of charitable gambling taxes be dedicated to these two programs. As of January, 2013, neither program had received any revenue from this source.

⁸⁹ www.minnesotaga.com

⁹⁰ Department of Human Services, personal communication