

## CHAPTER 2. GAMBLING IN THE UNITED STATES

In 1999 the gambling landscape is varied and complex. This chapter provides a snapshot of the scope and location of legal gambling activities in the United States,<sup>1</sup> which occurs in a variety of places and takes many forms. The chapter also outlines each form of gambling, describing its scope and availability, and introducing some of the issues raised by each type of gambling.<sup>2</sup>

### LOTTERIES

Lotteries held a prominent place in the early history of America, including an important role in financing the establishment of the first English colonies. Lotteries frequently were used in colonial-era America to finance public works projects such as paving streets, constructing wharves, and even building churches. In the 18th century, lotteries were used to finance construction of buildings at Harvard and Yale. Several lotteries operated in each of the 13 colonies in 1776.

Most forms of gambling and all lotteries were outlawed by the states beginning in the 1870's, following massive scandals in the Louisiana lottery—a state lottery that operated nationally—and which included bribery of state and federal officials. The federal government outlawed the use of the U.S. mail for lotteries in 1890 and, in 1895, invoked the Commerce Clause to forbid shipments of lottery tickets or advertisements across state lines, effectively ending all lotteries in the United States.

The revival of lotteries began in 1964 when New Hampshire established a state lottery. New York followed in 1966. New Jersey introduced its lottery in 1970 and was followed by 10 other

states by 1975. In 1999, 37 states and the District of Columbia have operating lotteries.

### *Growth of Lotteries*

Along with the lottery's rapid expansion, lottery revenues have increased dramatically over the years. In 1973 lotteries were found in 7 states and had total sales of \$2 billion. In 1997 lotteries existed in 37 states and the District of Columbia and garnered \$34 billion in sales, not counting electronic gambling devices (EGD's) sales<sup>3</sup>. This rapid growth is a result of both the expansion of lotteries into new states and increased per capita sales, from \$35 per capita in 1973 to \$150 in 1997.<sup>4</sup> (See Table 2-1 and Figure 2-1.)

In addition to expansion and increased per capita sales, technological advances have played a major role in lottery growth, especially on-line computer links between retail outlets and the central computer, which are required for the daily numbers games and lotto. Changing technologies also have allowed lotteries to branch out into new games enabling them to compete with casino-style gambling.

### *Types of Lottery Games*

Before the mid-1970's state lotteries were little more than traditional raffles, with the public buying tickets for a drawing at some future date, often weeks or months away. The introduction of new types of games has almost entirely displaced the original sweepstakes form of the lottery. Today, states offer five principle types of lotteries: instant games, daily numbers games, lotto, electronic terminals for keno, and video lottery.

- Instant games utilize a paper ticket with spaces that can be scratched off, revealing

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<sup>1</sup>For a discussion on Native American gambling, please refer to the chapter, "Native American Tribal Gambling."

<sup>2</sup>Recommendations based on the Commission's findings will be included in subsequent chapters.

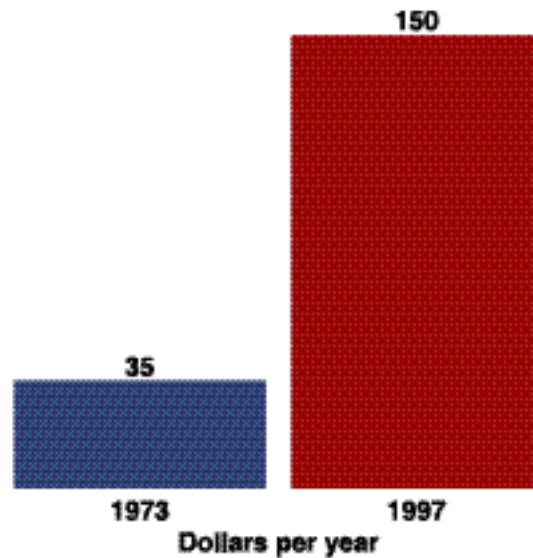
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<sup>3</sup>Charles T. Clotfelter, Philip J. Cook, et.al., "State Lotteries at the Turn of the Century: A Report to the National Gambling Impact Study Commission" at 2 (April 1, 1999).

<sup>4</sup>Ibid.

Figure 2-1

**Per capita lottery sales in states with lotteries: 1973 versus 1997\***



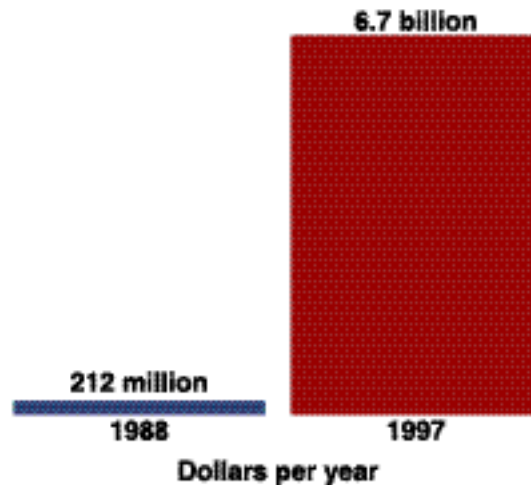
\*Per capita based on total lottery sales/population of all states with lotteries.

NOTE: Sales in billions.

SOURCES: Clotfelter and Cook, "Redefining 'Success' in the State Lottery Business," *Journal of Policy Analysis and Management* 9, 1990, Table 1, p. 100. *Gross Annual Wager*, *International Gaming and Wagering Business Magazine*, April 1988, p. 44, June 1998, pp. 48-49.

Figure 2-2

**Increase in tribal gambling revenues: 1988 versus 1997**



SOURCES: See chart entitled "Trends in Tribal Casino Gaming Revenues, 1988-1997." Amounts are in constant 1997 dollars based on the CPI-U-X1 index in the *Economic Report of the President*, February 1999, p. 398. For Indian gaming revenues from 1988 and 1995, see U.S. General Accounting Office, *Tax Policy: A Profile of the Indian Gaming Industry*, May 1997, p. 6. For Indian gaming revenues in 1996 and 1997, see *Gross Annual Wager*, *International Gaming and Wagering Business*, August supplements, 1998, p9

numbers or words indicating whether the ticket wins or loses.

- Daily numbers games allow players to choose their own three or four digit number. Often there are a variety of bets that can accompany these numbers, each with a different probability and a different payout.
- The Lotto allows bettors to choose their own numbers by picking from a large set of possibilities. Drawings of winning numbers take place at regular intervals.
- Video Keno requires bettors to choose a few numbers out of a larger group of numbers, with drawings held quite often, sometimes several times an hour. The payoff is a function of how many numbers the bettor chose, which corresponds to the probability of winning in each case.
- EGD's require a terminal that can be programmed to carry a wide variety of games, such as video poker. These games offer bettors a chance to play a game and receive immediate payouts for winning bets.<sup>5</sup>

### ***The Contradictory Role of State Governments***

The lottery industry stands out in the gambling industry by virtue of several unique features. First, it is the most widespread form of gambling in the United States. It also is the only form of commercial gambling that a majority of adults report having played. Furthermore, the lottery industry is the only form of gambling in the United States that is a virtual government monopoly. State lotteries have the worst odds of any common form of gambling, but promise the greatest potential payoff to the winner in absolute terms, with prizes regularly amounting to tens of millions of dollars.

One theme that emerged at the Commission hearings is the contradictory role of state government as an active promoter of lotteries while imposing a heavy "sin" tax on the lottery buyer. According to experts, states have "gone

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<sup>5</sup>Ibid.

into business selling a popular consumer product, and they have carried on with Madison Avenue gusto and an unfettered dedication to the bottom line. The complete about-face from prohibition to promotion in one state after another is remarkable, to say the least."<sup>6</sup>

Lotteries are established and run exclusively by state governments and the government of the District of Columbia. Since the beginning of the wave of lotteries in the 1960's, state governments have seized on the lottery as a state-operated monopoly. State governments have become dependent on lottery sales as a source of revenue, and have tried to justify the money by earmarking it for good causes, such as education.

The lotteries are used to finance various state programs and services. Of the 38 state lotteries, the revenue from only 10 go into their general funds. Of the remaining states, 16 earmark all or part of the lottery revenues for education, making that the most common use of lottery funds.<sup>7</sup> For example, in Georgia lottery money is used for the HOPE Scholarship Program, which provides college scholarships, and for kindergarten education for 65,000 children.<sup>8</sup> Georgia also sets aside several hundred thousand dollars of lottery profits for gambling treatment programs.<sup>9</sup> Other uses range from the broad (parks and recreation, tax relief, and economic development) to the narrow (Mariner's Stadium in Washington and police and fireman pensions in Indiana).<sup>10</sup>

Although earmarking might be an excellent device for engendering political support for a lottery, there is reason to doubt if earmarked

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<sup>6</sup>Charles T. Clotfelter and Philip J. Cook, *Selling Hope: State Lotteries in America* (1989).

<sup>7</sup>Charles T. Clotfelter and Philip J. Cook, "State Lotteries at the Turn of the Century: Report to the National Gambling Impact Study Commission," at April 1, 1999.

<sup>8</sup>Rebecca Paul, Testimony Before the National Gambling Impact Study Commission, Boston, Massachusetts, at 82 (March 16, 1998). (Director of the Georgia Lottery, Past President of the National Association of State and Provincial Lotteries).

<sup>9</sup>Ibid.

<sup>10</sup>La Fleur's Lottery World (<http://lafleurs.com>) 1/11/99.

lottery revenues in fact have the effect of increasing funds available for the specified purpose. When expenditures on the earmarked purpose far exceed the revenues available from the lottery, as is the case with the general education budget, there is no practical way of preventing a legislature from allocating general revenues away from earmarked uses, thus blunting the purpose of the earmarking.<sup>11</sup>

Although lotteries often are seen as a principal source of state revenue, actual contributions to state budgets are exceedingly modest. In 1997 total own-source general revenues from the 38 lotteries ranged between .41 percent in New Mexico to 4.07 percent in Georgia.<sup>12</sup> By contrast, state general-sales taxes and income taxes each averaged one-quarter of all own-source general revenue collected by states.<sup>13</sup>

Another important issue regarding lotteries is the ability of government at any level to manage an activity from which it profits. In an anti-tax era, many state governments have become dependent on “painless” lottery revenues, and pressures are always there to increase them. The evolution of state lotteries is a classic case of public policy being made piecemeal and incrementally, with little or no general overview. Authority is divided between the legislative and executive branches, with the result that the general public welfare is taken into consideration only intermittently. Policy decisions taken in the establishment of a lottery are soon overcome by the ongoing evolution of the industry. It is often the case that public officials inherit policies and a dependency on revenues that they can do little or nothing about.

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<sup>11</sup> Charles T. Clotfelter and Philip J. Cook, *Selling Hope: State Lotteries in America* (1989).

<sup>12</sup> Clotfelter and Cook, “State Lotteries,” table 4 (April 1999).

<sup>13</sup> Own-source general revenue excludes intergovernmental grants as well as special sources of revenue such as that generated by utilities or liquor stores. U.S. Bureau of the Census (1998, Table 515, p. 138).

## **CONVENIENCE GAMBLING AND STAND-ALONE ELECTRONIC GAMBLING DEVICES**

The terms “convenience gaming” and “retail gaming” have been used to describe legal, stand-alone slot machines, video poker, video keno, and other EGD’s that have proliferated in bars, truck stops, convenience stores, and a variety of other locations across several states. However, these terms do not adequately convey the range of locations at which EGD gambling takes place, nor do they describe the spectrum of laws and regulations that apply (or fail to apply) to EGD’s. Some states, including Louisiana, Montana, and South Carolina, permit private sector businesses to operate EGD’s; in other states, such as Oregon and California, this form of gambling is operated by the state lottery.

In Nevada, slot machines can be found in many public locations, including airports and supermarkets. Montana was the first state after Nevada to legalize stand-alone EGD’s, specifically video poker in bars.<sup>14</sup> In California, video keno operated by the state lottery can be found in most traditional lottery outlets and in many other locations as well. The following table shows the number of EGD’s reported in several of the states in which this form of gambling is legal.

**Table 2-1**

<b>State</b>	<b>Reported Number of Machines</b>	<b>Year of Report</b>
Louisiana	15,000	1999
Montana	17,397	1998-99
Nevada	17,922	1999
New Mexico	6,300	1999
Oregon	8,848	1999
South Carolina	34,000	1999
South Dakota	8,000	1998

South Carolina, where video poker has been legal for 8 years, reports by far the largest

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<sup>14</sup> Paul E. Pozin et al., “From Convenience Stores to Casinos: Gambling—Montana Style.” 36 *Montana Business Quarterly*. No. 4.2. (January 1, 1998).

number of legal, non-casino EGD's. In that state video poker machines, which can be played 24 hours a day excluding Sundays,<sup>15</sup> operate in about 7,500 separate establishments, including bars, restaurants, gas stations, convenience stores, and "video game malls."<sup>16</sup> Video poker machines started as arcade games where players could only win credits to replay the game, but in 1991, the South Carolina Supreme Court ruled that cash payoffs were legal if the money did not come directly from the gaming device. According to recent figures from the South Carolina Department of Revenue, EGD's in that state generated \$2.5 billion in annual gross machine receipts (cash in) and paid prizes (cash out) to players of \$1.8 billion, a payout rate of approximately 71 percent.<sup>17</sup> Video poker licensing fees yielded \$60 million during the most recent fiscal year.<sup>18</sup>

Although several states have legalized stand-alone EGD's, illegal and quasi-legal EGD's offering a similar if not identical gambling experience to legal EGD's are common in the bars and fraternal organizations of many other states, including West Virginia, New Jersey, Alabama, Illinois, and Texas. Quasi-legal EGD's are often referred to as "gray machines" because they exist in a gray area of the law. Typically, they are legal as long as no winnings are paid out—in fact, they are often labeled "For Amusement Only." In practice, however, winnings are not paid out directly by the machine, but are instead paid more or less surreptitiously by the establishment in either monetary or non-monetary forms.

The exact number of gray machines available has not been accurately measured, but there are estimates for some states. For example, in West Virginia, there are approximately 15,000 to

30,000 gray machines.<sup>19</sup> In New Jersey, it is estimated that there are at least 10,000 machines.<sup>20</sup> The Alabama Bureau of Investigation estimated that there were 10,000 illegal EGD's across that state in 1993.<sup>21</sup> Illinois is estimated to have 65,000.<sup>22</sup>

### Issues

One controversial feature of legal and illegal EGD's is their location. Because this form of gambling occurs in close proximity to residential areas and/or at consumer oriented sites, patrons regularly encounter them in the course of their day-to-day activities. Most other forms of gambling take place at gambling-oriented sites, such as casinos and racetracks, which patrons visit specifically for the purpose of gambling and other entertainment. EGD's proliferate rapidly because they can be purchased and installed quickly at existing sites with a relatively small capital investment. By contrast, casinos and racetracks require substantial capital investment and cannot be built overnight.

This form of gambling creates few jobs and fewer good quality jobs, and it is not accompanied by any significant investment in the local economy.

Opponents of convenience gambling argue that electronic gambling creates dependency and should not be widely available or legalized. Robert Hunter, a clinical psychologist in Las Vegas who specializes in problem and pathological gambling, calls electronic gambling devices "the distilled essence of gambling." He claims that video poker's hold on people is caused by the game's rapid pace (an experienced player can play 12 hands a minute), the ability to play for long periods of time, and the

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<sup>15</sup>"Industry Stirs Money. Controversy: South Carolina illustrates how gambling can impact a state," *Sarasota Herald-Tribune*. February 22, 1999, p 1, section A.

<sup>16</sup>Letter from D. John Taylor, Manager, South Carolina Department of Revenue. Gaming Section, Regulatory Division to National Gambling Impact Study Commission (April 26, 1999).

<sup>17</sup>Ibid.

<sup>18</sup>Ibid.

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<sup>19</sup>Phil Kabler. "Legislature may legalize, ignore or ban gray machines in 1999." *Charleston Gazette*. August 29, 1998.

<sup>20</sup>Report on Video Gambling by New Jersey State Commission of Investigation, September 1991.

<sup>21</sup>"Video poker in running at dog track." *Montgomery Advertiser*, March 22, 1999, p. 1A.

<sup>22</sup>Cam Simpson. "Gambling raid in west suburbs," *Chicago Sun-Times*. November 17, 1997.

mesmerizing effect of music and rapidly flashing lights. Of problem and pathological gamblers who use these machines, Mr. Hunter, says “They sort of escape into the machine and make the world go away. It’s like a trip to the Twilight Zone.”<sup>23</sup>

Hunter is widely quoted as calling EGD’s “the crack cocaine of gambling.”<sup>24</sup> Former Gov. David Beasley of South Carolina called the machines “a cancer.” Anti-gambling advocates in South Carolina are in the process of filing a class action suit to collect millions on behalf of gambling victims.<sup>25</sup> Currently in the discovery stage, the suit has named 36 plaintiffs, with well over a 100 more to join. The class action suit will go after “all profits illegally obtained over the past five years” on behalf of gambling victims.<sup>26</sup> According to Columbia, South Carolina attorney Pete Strom, the “illegally obtained” profits are those that break the South Carolina gambling laws, such as the restriction of \$50 in losses to any one gambling in one sitting.

Despite being lucrative, the proliferation of convenience gambling machines is controversial. Much of the controversy regarding convenience gambling stems from its disparate locations outside of traditional gambling venues, its rapid proliferation, the belief that this form of gambling provides fewer economic benefits and higher social costs than more traditional forms of gambling.

## CASINOS

Before the beginning of this decade, legalized casinos operated in two jurisdictions: Nevada and Atlantic City. Casinos are now legalized in 28 states. With the multiplication of locations,

there was a metamorphosis of the types of casinos. In addition to Las Vegas resort casinos, there are now nearly 100 riverboat and dockside casinos in six states and approximately 260 casinos on Indian reservations.<sup>27</sup> The expansion of gambling to these new sites has been called the “most significant development” in the industry in the 1990s.<sup>28</sup>

Casinos are an important source of entertainment, jobs, and income. The largest casino markets are: Nevada, with 429 full-scale casinos, 1,978 slots-only locations, one Indian casino, and gross casino revenues for 1997 of \$7.87 billion; New Jersey, with 14 casinos and gross casino revenues for 1997 of \$3.9 billion; and Mississippi, with 29 state-regulated casinos, one Indian casino, and gross casino revenues for 1997 of \$1.98 billion.<sup>29</sup>

The largest concentration of casinos are in urban areas, including Clark County and Las Vegas, with 211 casinos, 30.5 million visitors in 1997, and gross casino revenues for 1997 of \$6.2 billion accounting for 79 percent of the Nevada market; Atlantic City, where all of New Jersey’s 14 casinos are located, with 34.07 million visitors in 1997, and gross casino revenues for 1997 of \$3.9 billion accounting for 100 percent of the New Jersey market; and Tunica County (Mississippi), with 10 casinos, approximately 17.4 million visitors in 1997 and gross casino revenues for 1997 of \$933.3 million accounting for 47 percent of the Mississippi casino market.<sup>30</sup>

For many people, casinos symbolize the gambling industry. Hence, casino locations are often viewed as indicative of a community's embrace of the gambling industry.

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<sup>23</sup>“Video poker in running at dog track.” *The Montgomery Advertiser*, March 22, 1999, p.1, section A.

<sup>24</sup>Ibid.

<sup>25</sup>“Gambling and its Discontents,” *The American Spectator*, March 1999.

<sup>26</sup>Ibid.

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<sup>27</sup>Ibid.

<sup>28</sup>Harold Vogel, 4 *Entertainment Industry Economics* (1998).

<sup>29</sup>Bear Stearns, 1998 *Global Gaming Almanac*, at 19 (1998).

<sup>30</sup>“Industry Stirs Money, controversy: South Carolina Illustrates How Video Gambling Can Impact a State,” *Sarasota Herald-Tribune*. February 22, 1999, page 1, section A.

## **RIVERBOAT CASINOS**

Riverboat casinos are a relatively new, and uniquely American, phenomenon. Riverboat casinos began operating in Iowa in 1991, and quickly expanded throughout the Midwest. By 1998 there were over 40 riverboat casinos in operation in Illinois, Indiana, Missouri, Iowa, and nearly 50 riverboat and dockside casinos in Louisiana and Mississippi.<sup>31</sup> In 1997 revenues for riverboats totaled \$6.1 billion. The same year, riverboats paid over \$1 billion in gambling privilege taxes. And growth has continued, with revenues up 11.3 percent from 1996 to 1997.<sup>32</sup>

With these original states now approaching saturation point, several state governments have decided to take a closer look at the record compiled so rapidly by this industry. Iowa, the pioneer state, recently legislated a 5-year moratorium on the expansion of casinos, in part to allow time to assess the impact to date; Indiana has established a commission to examine and report on the economic and social effects stemming from the state's experience with gambling.

In this regional pause, advocates for and against casinos strive to make their arguments heard. The record of state decisionmaking regarding riverboats is not comforting. In the hierarchy of considerations of state policymakers, the original arguments in favor of tourism and economic development have often been displaced by the need to generate and maintain tax revenues. The various states' decisions have been driven to a surprising extent not by a steadfast concern for the public welfare but by a fierce interstate competition for tax dollars (and in the process revealing remarkably similar patterns of decisionmaking).

Prominent in each state's calculations have been the twin desires of securing tax revenues from

the citizenry of neighboring states while also blocking those same states from undertaking a similar raid of their own. Riverboat casinos seemed to be ideal instruments for delivering this budgetary nirvana: when located on the borders of other states, often conveniently near major population centers across the river, they could be assured of drawing at least some of their revenues (and thus tax receipts) from the populations of their benighted neighbors. Unfortunately, the spectacle of their citizens' taxes going to benefit other jurisdictions proved too stress-inducing for the public officials in the targeted states, who quickly retaliated with riverboats of their own in the name of "recapturing" the revenues of their wayward citizens. The fact that they were not above attempting their own raids by locating a portion of their new boats near the casino-deprived populations in states far afield from the original aggressor meant that the pattern tended to be self-propagating.

Despite the intense search for money from outside their borders, the resulting counteractions have meant that the net revenue gains from, and losses to, non-resident populations tend to cancel each other out. But the very same strategy has ensured that every state's population is now within an easy commute of the casinos. In setting out to tap into their neighbors' pocketbooks, state governments have ended up tapping into that of their own citizens.

Measuring the impact of a single industry in a dynamic economy is often complicated by an inability to determine a clear cause-and-effect relationship. For example, a 1994 study by the Illinois Economic and Fiscal Commission on the impact of riverboats found that there had in fact been a measurable increase in non-gambling-related commercial activity in the riverboat communities, but concluded that although some locations did appear to have benefited economically from the casinos, in most locations the improvement was more likely due to an upturn in the general economy than to the riverboats. It did find, however, that those gains

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<sup>31</sup>The term "riverboat" casino refers to a boat that is capable of self-contained operation away from land whether or not it ever leaves the dock. "Dockside" casinos float on water but are permanently moored.

<sup>32</sup>*Gross Annual Wager*, International Gaming and Wagering Business Magazine (August 1998).

that did occur tended to be greater the smaller the community.<sup>33</sup>

Similarly, a separate study of the Illinois riverboat communities concluded that “[o]ne fact is clear: any city fortunate enough to be selected as a site for a riverboat casino is guaranteed a windfall.” However, the same report continues with the caveat that “little is known about the impact that gambling has had on the dozens of municipalities in the region surrounding each riverboat.”<sup>34</sup> Thus, it is possible that the benefits to a host community may come at the expense of the surrounding area.

Opponents counter claims of local benefit with the specter of “cannibalization.” This term refers to the phenomenon where the apparent increased economic activity produced by a casino may actually be the result of its having drained money away from local non-gambling businesses. The fate of an area’s restaurants is a commonly used example: subsidized facilities on riverboats may thrive by taking customers away from their land-based, non-casino counterparts. Thus, opponents allege, what appears as an increase in spending on restaurants due to the presence of a casino may in fact represent only a simple transfer of customers and spending from one place to another.

There has also been much information provided to this commission that counters this view. Arthur Andersen’s study of the gaming industry considered “cannibalization,” or the “substitution theory” as it is sometimes called, and reported the following:

First, the size of the U.S. economy is not fixed; rather, it expands over time as new jobs are created. Second, at the macroeconomic level, the industries which some maintain have been affected by consumer spending on gaming have grown concurrently with the gaming industry. Third, economists have known for centuries that for an economy to grow, it must

produce the goods and services which consumers prefer. Fourth, casino gaming relies more heavily than most industries on domestic labor and domestic supplies (including capital). In addition, spending by foreigners in U.S. casinos also represents an export activity for the domestic economy.<sup>36</sup>

The study conducted by Arthur Anderson of the micro-economic impacts of casino gambling also contained information relative to the “substitution theory.” In each jurisdiction surveyed, this study documented the creation of economic growth fostered by the casino gaming industry.

For example, in Biloxi/Gulfport, Mississippi<sup>37</sup>:

- Prior to the arrival of casinos, the combined value of commercial construction permits in 1991 and 1992 was \$12 million. During the three years following the arrival of casinos, the combined total was \$447 million.
- From 1990 to 1995, the construction industry added almost 1,300 new jobs—an increase of 50 percent.
- Retail sales growth rates increased from an average of 3 percent a year from 1990 through 1992 to approximately 13 percent between 1993 and 1995.

However, the record of riverboat casinos in promoting general tourism development is mixed: It appears to have been most successful in places such as Galena, Illinois, where the tourism industry was already well established.<sup>38</sup> But in other places, the expected boom has yet to appear. The most important reason for this lagging development is that the “evidence shows that most gambling at riverboat casinos is from regional, or day-trip, patrons who do not incur the expense of an overnight stay.” These day-trippers, or “excursionists,” tend to concentrate almost entirely on gambling and to spend little or

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<sup>33</sup>Truitt, pp. 92-94.

<sup>34</sup>Ibid.

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<sup>36</sup>Arthur Andersen, *Macro Study*, p. 9.

<sup>37</sup>Arthur Andersen, *Micro Study*, Executive Summary, p. 7.

<sup>38</sup>Truitt, pp. 91-92.



no time and money at non-gambling locations. Thus, there is often little boost to the local tourist industry in the form of hotel occupancy, retail sales, increased patronage at restaurants, etc.<sup>39</sup>

The key to large-scale tourism development is inducing gamblers to stay a least one night, and preferably more, which requires attracting individuals from beyond the radius of an easy roundtrip by car. Becoming such a “destination” resort, including the lucrative market of mainstream conventioners, however, involves considerably more investment of capital than has been the case with the vast majority of riverboats, including the creation of an infrastructure of non-gambling-related attractions, such as golf courses and theme parks, as well as airports and highways.

Some critics assert that riverboat casinos that draw their customers primarily from the local population have a regressive economic impact on the community because the profits go to owners outside of the community and the benefits of taxes raised locally are distributed throughout the state. The possibility of a regressive impact becomes more clouded when placed in the context of economic development. Riverboat casinos have often been located in poorer neighborhoods with the specific intention of stimulating economic development there. However, some observers contend that, as a result, a disproportionate amount of the casino’s winnings are drawn from residents of this same community who tend to be poorer and less educated than the state average, thereby hurting the very people the riverboat casino was intended to help.<sup>40</sup> According to one critic, casinos have drawn monetary resources away from depressed communities and away from individuals who are economically poor—those who can least afford the costs of gambling.

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<sup>39</sup>“The Economic and Fiscal Impacts of Riverboat Casino Gambling in Illinois: Phase One: Direct Impact Data 1991-1995,” Illinois Gaming Board, p. 12.

<sup>40</sup>Conversation with Terrence Brunner.

## NATIVE AMERICAN TRIBAL GAMBLING<sup>41</sup>

Large-scale Indian casino gambling is barely a decade old. Most Native American tribal gambling started after 1987, when the United States Supreme Court issued a “landmark decision”<sup>42</sup> in *California v. Cabazon Band of Mission Indians*. This decision, in effect, confirmed the inability of states to regulate commercial gambling on Indian reservations.<sup>43</sup> In an effort to provide a regulatory framework for Indian gambling, Congress passed the *Indian Gaming Regulatory Act (IGRA)* in 1988.<sup>44</sup> IGRA provides a statutory basis for the regulation of Indian gambling, specifying several mechanisms and procedures and including the requirement that the revenues from gambling be used to promote the economic development and welfare of tribes. For casino gambling—which IGRA terms “Class III” gambling—the legislation requires tribes to negotiate a compact with their respective states, a provision that has been a continuing source of controversy and which will be discussed at length later in this chapter.

The result of those two developments was a rapid expansion of Indian gambling. From 1988, when IGRA was passed, to 1997, tribal gambling revenues grew more than thirty-fold, from \$212 million to \$6.7 billion.<sup>45</sup> (See Figure 2-2.) By comparison, the revenues from non-Indian casino gambling (hereinafter termed “commercial gambling”) roughly doubled over

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<sup>41</sup>Native American tribal gambling is discussed more fully in the chapter devoted to that topic.

<sup>42</sup>David H. Getches, Charles F. Wilkinson, and Robert A. Williams, Jr., 4 Cases and Materials on Federal Indian Law, at 739 (1998).

<sup>43</sup>480 U.S. 202.

<sup>44</sup>25 U.S.C.A. §2701-2721.

<sup>45</sup>See chart entitled “Trends in Tribal Casino Gaming Revenues, 1988-1997.” Amounts are in constant, 1997 dollars based on the CPI-U-X1 index in the *Economic Report of the President* (February 1999), p. 398. For Indian gaming revenues from 1988 and 1995, see U.S. General Accounting Office, *Tax Policy: A Profile of the Indian Gaming Industry* (May 1997), p. 6. For Indian gaming revenues in 1996 and 1997, see International Gaming & Wagering Business, *The Gross Annual Wager* (August supplements, 1997 and 1998).

the same period, from \$9.6 billion to \$20.5 billion in constant 1997 dollars.<sup>46</sup>

As was IGRA's intention, gambling revenues have proven to be a very important source of funding for many tribal governments, providing much-needed improvements in the health, education, and welfare of Native Americans on reservations across the United States.

Nevertheless, Indian gambling has not been a panacea for the many economic and social problems that Native Americans continue to face.

More than two-thirds of Indian tribes do not participate in Indian gambling at all. Only a small percentage of Indian tribes operate gambling facilities on their reservations. According to the Bureau of Indian Affairs (BIA), there are 554 federally recognized tribes in the United States, with 1,652,897 members, or less than 1 percent of the U.S. population. Of these 554 tribes, 146 have Class III gambling facilities, operating under 196 tribal-state compacts.<sup>47</sup> In 1988, approximately 70 Indian casinos and bingo halls were operating in a total of 16 states; in 1998, approximately 298 facilities were operating in a total of 31 states.<sup>48</sup>

For the majority of tribal governments that do run gambling facilities, the revenues have been modest yet nevertheless useful. Further, not all gambling tribes benefit equally. The 20 largest

Indian gambling facilities account for 50.5 percent of total revenues, with the next 85 accounting for 41.2 percent.<sup>49</sup> Additionally, not all gambling facilities are successful. Some tribes operate their casinos at a loss and a few have even been forced to close money-losing facilities.

Only a limited number of independent studies exist regarding the economic and social impact of Indian gambling. Some have found a mixture of positive and negative results of the impact of gambling on reservations,<sup>50</sup> whereas others have found a positive economic impact for the tribal governments, its members and the surrounding communities.<sup>51</sup> This is an area greatly in need of further research. However, it is clear from the testimony that the Subcommittee received that the revenues from Indian gambling have had a significant, and generally positive, impact on a number of reservations.

## PARI-MUTUEL WAGERING

The pari-mutuel industry, so called for the combining of wagers into a common pool,

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<sup>46</sup>See chart entitled, "Trends in Commercial Casino Gaming Revenues, 1988-1997." Amounts are in constant, 1997 dollars based on the CPI-U-X1 index in the *Economic Report of the President* (February 1999), p. 398. For commercial casino revenues, see International Gaming & Wagering Business, *The Gross Annual Wager* (August Supplements, 1988 to 1997).

<sup>47</sup>Figures obtained by Commission Staff in oral communication with the Bureau of Indian Affairs, March 4, 1999. The larger number of compacts is due to some tribes operating more than one gambling facility.

<sup>48</sup>See charts entitled, "States with Tribal Gaming in 1988" and "States with Tribal Gaming in 1998." For 1988, there was no centralized information source, and the data was compiled from numerous sources, including the National Indian Gaming Commission; the Bureau of Indian Affairs; newspaper and magazine articles; and the *Indian Gaming Magazine, Directory of North American Gaming* (1999). For 1998, see National Indian Gaming Commission, "Report to the Secretary of the Interior on Compliance with the Indian Gaming Regulatory Act" (June 30, 1998).

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<sup>49</sup>Letter from Penny Coleman, Deputy General Counsel, NIGC to Donna Schwartz, Research Director, National Gambling Impact Study Commission, dated December 4, 1998.

<sup>50</sup>See General Accounting Office, Tax Policy: A Profile of the Indian Gaming Industry, GAO/GGD-97-91 (Letter Report, May 5, 1997) (as of December 31, 1996, 184 tribes were operating 281 gaming facilities with reported gaming revenues of about \$4.5 billion); Stephen Cornell, Joseph Kalt, Matthew Krepps, and Jonathan Taylor, *American Indian Gaming Policy and Its Socioeconomic Effects: A Report to the National Gambling Impact Study Commission* (July 31, 1998) (a study of five tribes that found gambling was an "engine for economic growth" and "the number of compulsive gamblers ... has grown" but that "head counts of compulsive gamblers ... pale in importance beside the demonstrable improvements in social and economic indicators documented for gaming tribes." At iii-iv); William Bennett Cooper, III, Comment: What is in the Cards for the Future of Indian Gaming? 5 Vill, *Sports & Entertainment Law Forum* 129 (1998) (discussion of the law and economics of Indian gambling that examines revenue increases, Indian cultural backlash, compulsive gambling, and crime); and Gary C. Anders, "Indian Gaming: Financial and Regulatory Issues, Gambling: Socioeconomic Impacts and Public Policy," *The Annals* V. 556 (March 1998), pp. 98-108 (survey and discussion of a number of positive and negative aspects of Indian gambling).

<sup>51</sup>*The Connecticut Economy* (Published by the Department of Economics, University of Connecticut) (Spring 1997), p. 6.

consists of horse racing, greyhound racing, and jai alai. Pari-mutuel wagering provides for winnings to be paid according to odds, which are determined by the combined amount wagered on each contestant within an event. The increased interest in racing and jai alai in the twentieth century is largely attributed to the rise in the pari-mutuel style of betting.

### ***The Horse-Racing Industry***

The largest sector within pari-mutuel gambling is the horse-racing industry. Historically rooted with tradition, the first American horse race was run in Hempstead, New York, in the late 1660's. Following the race, the British governor of New York, Colonel Richard Nichols ordered the regular running of races so as to improve the stamina and speed of the horses.<sup>52</sup> Today, several of the larger racing venues, such as Churchill Downs in Louisville, Kentucky, have been operational since the 1800's.

Many economic and traditional aspects of the horse-racing industry stem from the agro-industrial sector. This base is responsible for the diversity of racing's economic impact. Beyond directly related occupations such as track operators, trainers, owners, breeders, and jockeys, the beneficiaries of the racing industry include veterinarians, stable owners, etc. The total employment for the horse-racing industry has been estimated at 119,000.<sup>53</sup>

Pari-mutuel wagering on horse racing is legal in 43 states, generating annual gross revenues of approximately \$3.25 billion.<sup>54</sup> While there are over 150 operational racetracks, most wagering takes place away from the venue of the originating race. Fueling this development is the availability of satellite broadcasting making it possible to simultaneously broadcast races either between racetracks or at Off-Track Betting sites

(OTB), where no racing occurs at all. The simulcasts provide for larger betting pools by increasing patron access to numerous racetracks. Until recently, simulcasting races did not include at-home, pari-mutuel betting. However, several companies have made the transition into cable and are broadcasting races through 24-hour racing channels. Furthermore, one U.S. company is presently broadcasting races through the Internet. Through the process of setting up accounts at racing venues, patrons in eight of the nine states that permit account wagering can telephone their wagers from anywhere, including their homes.<sup>55</sup> Approximately \$550 million was wagered through account wagering in 1998.<sup>56</sup>

### ***The Greyhound Industry***

The greyhound industry began in 1919 with the first track in Emeryville, California.<sup>57</sup> Today there are 49 tracks operating in 15 states.<sup>58</sup> Greyhound racing is responsible for approximately 14 percent of the total handle of pari-mutuel betting.<sup>59</sup> In 1996 the gross amount wagered in the greyhound industry totaled \$2.3 billion with \$505 million in revenues.<sup>60</sup> The industry accounts for approximately 30,000 jobs directly related to the operation of the racetracks and other agricultural operations.<sup>61</sup>

Over the last decade, the greyhound industry has experienced significant financial decline,

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<sup>55</sup>Account wagering is currently available in eight of the nine states that allow account wagering, including Connecticut, Kentucky, New Mexico, Maryland, Nevada, Ohio, Pennsylvania, Oregon and New York. Florida, Texas, California, Illinois, New Hampshire, Washington, Maryland and New Jersey are presently considering OTB establishments and wagering over the telephone.

<sup>56</sup>The American Horse Council, written testimony to the National Gambling Impact Study Commission.

<sup>57</sup>"Economic Benefits of the Greyhound Racing Industry in the United States," Racing Resource Group, Inc. 1998.

<sup>58</sup>Ibid.

<sup>59</sup>"Pari-mutuel Racing: A Statistical Summary," Association of Racing Commissioners International, Inc. (1996).

<sup>60</sup>Economic Benefits of the Greyhound Racing Industry in the United States," Racing Resource Group, Inc. 1998.

<sup>61</sup>Ibid.

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<sup>52</sup>Thomas H. Meeker, "Thoroughbred Racing – Getting Back on Track Equine Law Symposium," *Kentucky Law Journal* 78(1990).

<sup>53</sup>*Gross Annual Wager*, International Gaming and Wagering Business (Aug. 1997).

<sup>54</sup>Eugene Christiansen, *Gaming and Wagering Business* (July and Aug., 1998).

dropping \$300,000 in handle annually.<sup>62</sup> One example is the Wichita Greyhound Park in Kansas, which experienced a 22-percent decline in attendance and a 16-percent decline in betting between 1995 to 1996.

### **Jai Alai**

Jai alai, the smallest segment of the pari-mutuel industry, involves players hurling a hard ball against a wall and catching it with curved baskets in a venue called a “fronton.” With a handle of approximately \$275,000 annually, Jai alai accounts for less than 2 percent of the total handle among the three pari-mutuel sectors. Originating in Spain, the sport of jai alai was brought to the United States by a group of wealthy Bostonians.<sup>63</sup>

Jai alai has experienced a dramatic decline in overall revenues over the last decade. Jai alai hit its peak in the early 1980’s with over \$600 million wagered annually.<sup>64</sup> By 1996, the total amount wagered was less than \$240 million.<sup>65</sup> Florida, once home to more than 10 frontons, remains the leader in the industry with only 6 facilities throughout the state. Other states with jai alai include Rhode Island and Connecticut. Efforts to rejuvenate the industry include Florida’s state legislature passing a law to change the taxing structure on jai alai profits, and a recently proposed bill in that state to allow electronic gambling devices at all pari-mutuel venues, including frontons.

### **Issues**

The issues facing pari-mutuel wagering have changed dramatically in the last 30 years. Legalizing slot machines and other EGD’s is a

highly contentious issue throughout the pari-mutuel industry. Even with the increased availability to racing information and account wagering, the pari-mutuel industry is facing economic problems. Industry officials point to the expansion of different forms of gambling as the reason for the downward financial turn. They say that competing for gambling dollars is making it increasingly difficult to maintain wagering pools large enough to pay for the cost of running the races. In response, several members of the pari-mutuel industry have fought for and received the opportunity to provide for alternative forms of gambling at racetracks. Presently, several states—such as Delaware, Rhode Island, South Carolina and West Virginia—permit EGD’s at the racing venues. Proponents of installing EGD’s point to increased revenues raised at the racetracks from both the machines and from larger number of patrons betting on the actual races.<sup>66</sup> Other states have fought off the battle for increasing forms of gambling at pari-mutuel venues and are looking for alternatives to keep the industry alive within their state. Recently, Maryland provided \$10 million in subsidies to the state’s ailing horseracing industry to stave off another round of campaigning to provide slot machines at racetracks.<sup>67</sup>

### **EGD’s and the Pari-Mutuel Industry**

A separate area of controversy regarding EGD’s—and an example of how they can blur the former distinctions regarding gambling—are efforts by many dog track, horse track, and jai alai owners to install them at their facilities. Proponents in the pari-mutuel industry contend that they seek a “level playing field” that will allow them to compete with State lotteries and Indian gambling facilities. They argue that the EGD’s will draw larger crowds to racetracks and thereby save existing jobs connected with racing

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<sup>62</sup>“Pari-mutuel Racing: A Statistical Summary,” Association of Racing Commissioners International, Inc. (1996).

<sup>63</sup>Edmund Mahoney and Lyn Bixby, “Did the FBI Hinder the Investigation into the 1980’s Jai Alai Killings?”*The Hartford Courant* (Nov. 9, 1997), A1.

<sup>64</sup>International Gaming and Wagering Business, “*The Topline Numbers*,” (Aug. 1997), S12.

<sup>65</sup>Ibid.

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<sup>66</sup>*Gross Annual Wager*, International Gaming and Wagering Business (Aug. 1997).

<sup>67</sup>Daniel LeDuc and Amy Argetsinger, “Maryland Approves a Prosperity Budget; Assembly Agrees to Funding for New Schools, Racetracks.” *The Washington Post* (April 13, 1999), A1.

or even create new jobs. Conversely, opponents contend that track owners view EGD's as means of transforming their businesses into quasi-casinos, thereby allowing them to capture the much larger profits characteristic of that form of gambling, and that the pari-mutuel aspect of the business will be allowed to wither. They also oppose the further spread of casino-style gambling in the form of assisting racetracks. Currently, Delaware, Rhode Island, South Carolina, and West Virginia allow EGD's at their racetracks. According to the National Council Against Legalized Gambling, efforts to legalize EGD's at pari-mutuel facilities have failed in 12 states since 1995.

### **SIMULCASTING AND ACCOUNT WAGERING**

In addition to EGD's and slot machines, the pari-mutuel industry is taking advantage of advances in communication technology and changes in regulations to expand gambling opportunities. In 1978, Congress passed the Interstate Horseracing Act (IHA), 15 U.S.C. Sec. 3001-3007, which extended authority for States and the pari-mutuel industry to provide regulated interstate wagering on races. The law allows the racing industry to create larger wagering pools by combining bets from sources beyond the originating track. To facilitate interstate wagering, the pari-mutuel industry uses satellite communications to instantaneously broadcast races, known as "simulcast" wagering. Even before passage of the IHA, wagering was available at off-track venues, commonly known as off-track betting (OTB) sites. In 1970, the New York legislature approved the first OTB operation. Since then, simulcast wagering has grown rapidly both in the United States and internationally.<sup>68</sup> Presently, at least 38 States have authorized simulcast interstate wagering.

Along with OTB sites, racetracks began offering telephone account wagering services to their

patrons. Racing patrons now can establish accounts with licensed racetracks in eight of the nine authorized states, which are Connecticut, Kentucky, Maryland, Nebraska, Nevada, New York, Ohio, Pennsylvania, and Oregon.<sup>69</sup> To establish accounts, individuals must appear in person or provide documentation by mail as well as deposit money in an account, which may be increased or reduced according to their wins and losses. According to the American Horse Council, most money wagered on races now occurs at sites other than where the originating race takes place.<sup>70</sup> Recent industry figures estimate that off-track and simulcast wagering constitute more than 77 percent of the total annual amount wagered on pari-mutuel races;<sup>71</sup> in 1997 they accounted for \$11.8 billion of the \$15 billion industry total.<sup>72</sup> In 1998 the amount wagered through telephone account wagering systems reached almost \$550 million.<sup>73</sup>

Although previously available in some regions for a number of years, various efforts are now underway to expand the broadcasting of races directly into the home, and in some cases, offer accompanying account wagering. Several companies are developing racing channels, which are offered either through basic cable or as a subscription-based channel. For example, Television Games Network (TVG) is a company that combines several communications technologies to provide coverage and account wagering in the home. United Video Group, under its parent company, TV Guide, Inc., operates TVG through the use of satellite technology to broadcast live horse races on a cable channel. To access this technology, hardware is installed on bettor's television set, enabling him or her to use special remotes to scroll through on-screen information menus. To

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<sup>69</sup> Ibid.

<sup>70</sup> The American Horse Council. Written testimony to the National Gambling Impact Study Commission (February 4, 1999).

<sup>71</sup> Robin A. Farley and Elizabeth Q. Davis, *Hit or Stand? The 1999 Gaming Industry Overview*. BT Alex Brown 28 (November 1998).

<sup>72</sup> Ibid.

<sup>73</sup> This figure excludes Nevada. Telisport W. Putsavage, Written submission to the National Gambling Impact Study Commission, (April 16, 1999).

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<sup>68</sup> The American Horse Council, Written testimony to the National Gambling Impact Study Commission, Subcommittee on Enforcement, Regulation and the Internet (May 21, 1998).

place bets, bettors deposit money in an account with Churchill Downs, the sponsoring racetrack, and place wagers after providing a user name and confidential PIN number. Although currently operating only in Kentucky, TVG has broadcasting agreements with a number of other racetracks in anticipation of offering a wider scale of racing to its patrons.<sup>74</sup> Many in the horse-racing industry see this system as an integral step toward expanding the base of the pari-mutuel clientele.<sup>75</sup>

## SPORTS WAGERING

Despite its popularity, sports wagering in America is illegal in all but two states. Nevada has 142 legal sports books that allow wagering on professional and amateur sports.<sup>76</sup> Oregon runs a game called “Sports Action” that is associated with the Oregon Lottery and allows wagering on the outcome of pro football games. Outside of these two states, wagering on sports is illegal in the United States.

According to Russell Guindon, Senior research analyst for Nevada’s Gaming Control Board, sports wagering reached \$2.3 billion in Nevada’s legalized sports books in fiscal 1998.<sup>77</sup> Nevada sports books took in \$77.4 million in revenue on college and professional sports wagering. According to one major strip resort, betting on amateur events accounted for 33 percent of revenue.<sup>78</sup> Estimates of the scope of illegal sports

betting in the United States range anywhere from \$80 billion to \$380 billion annually, making sports betting the most widespread and popular form of gambling in America.<sup>79</sup>

Many Americans are unaware of the risks and impacts of sports wagering and about the potential for legal consequences. Even when Americans understand the illegality of sports wagering, it is easy to participate in, widely accepted, very popular, and, at present, not likely to be prosecuted. One reason Americans may not be aware of the illegality of sports wagering is that the Las Vegas “line,” or point spread, is published in most of the 48 states where sports wagering is illegal. Some have argued that the point spread is nothing more than a device that appeals to those who make or solicit bets. Critics claim that the point spread does not contribute to the popularity of sports, only to the popularity of sports wagering.

Because sports wagering is illegal in most states, it does not provide many of the positive impacts that other forms of gambling offer. In particular, sports wagering does not contribute to local economies and produces few jobs. Unlike casinos or other destination resorts, sports wagering does not create other economic sectors.

## Issues

This Commission heard testimony that sports wagering is a serious problem that has devastated families and careers.<sup>80</sup> Sports wagering threatens the integrity of sports, it puts student athletes in a vulnerable position, it can put adolescent gamblers at risk for gambling problems, and it can devastate individuals and careers.

There is considerable evidence that sports wagering is widespread on America’s college campuses. Cedric Dempsey, executive director of the NCAA, asserts that “every campus has student bookies. We are also seeing an increase

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<sup>74</sup>The 16 racetracks that have partnerships with TVG include: Aqueduct Race Track, Churchill Downs, Gulfstream Park, Hollywood Park, Santa Anita, Laurel Park, Arlington International, Lone Star Park, Pimlico, Calder Race Course, Turfway Park, Suffolk Downs, Turf Paradise, Belmont Park, Del Mar, and Saratoga Race Course.

<sup>75</sup>The Television Games Network, Press Release, *NTRA, TVG Announce Agreement on Sponsorship, Joint Projects: New Entities Join Together to Pursue Strategic Development Initiatives* <http://www.televisiongames.com/NTRA.html> (last visited December 9, 1998).

<sup>76</sup>“Odds Against College Ban in Gambling,” *San Francisco Examiner*, May 18, 1999, D-8.

<sup>77</sup>Robert Macy, “Ban on College Sports Betting Could Cost State Books Millions,” *Las Vegas Review-Journal*, May 18, 1999, 4A.

<sup>78</sup>*Ibid.*

<sup>79</sup>*Ibid.*

<sup>80</sup>Testimony of Mitzi Schlichter before the National Gambling Impact Study Commission, Las Vegas, NV, November 10, 1998.

in the involvement of organized crime on sports wagering.”<sup>81</sup>

Students who gamble on sports can be at risk for gambling problems later in life. There is evidence that sports wagering can act as a gateway to other forms of gambling. Therefore, it is important to understand the scope of the problem and educate students to the dangers of sports wagering. The Commission needs to know how widespread the phenomenon of underage sports gambling is now, the relationship between sports wagering and other forms of gambling, and the ways to prevent its spread. Those who attempt to draw adolescents into illegal sports wagering schemes deserve the full attention of law enforcement efforts.

There is much justifiable concern about the rise of sports wagering on college campuses. For example, Dempsey has argued that “there is evidence more money is spent on gambling on campuses than on alcohol.” Dempsey claimed that “[e]very campus has student bookies. We are also seeing an increase in the involvement of organized crime in sports wagering.”<sup>82</sup> Bill Saum, who is the NCAA official who oversees efforts to address gambling, has called campus betting “the Number One thing in the 90s in college.”<sup>83</sup> Three years ago, *Sports Illustrated* called college betting “rampant and prospering.”<sup>84</sup> Gambling rings have been uncovered at Michigan State, University of Maine, Rhode Island, Bryant, Northwestern, and Boston College, among many other institutions.<sup>85</sup> While studies of college gambling

are sparse, Lesieur has found in a survey of six colleges in five states that 23 percent of students gambled at least once a week.<sup>86</sup> The same study found that between 6 and 8 percent of college students are “probable problem gamblers,” which was defined in that study as having uncontrollable gambling habits.<sup>87</sup> There is some concern that gambling by students may lead to problem or pathological gambling in later life.<sup>88</sup>

## INTERNET

Beginning with its introduction on the World Wide Web in the summer of 1995, Internet gambling is the newest medium offering games of chance.<sup>89</sup> While projected earnings are open to subjective interpretations, the previously small number of operations has grown into an industry practically overnight. In May of 1998, there were approximately 90 on-line casinos, 39 lotteries, 8 bingo games, and 53 sports books. One year later, there are over 250 on-line casinos, 64 lotteries, 20 bingo games, and 139 sportsbooks providing gambling over the Internet.<sup>90</sup> Sebastian Sinclair, a gambling industry analyst for Christiansen/Cummings Associates, estimates that Internet gambling revenues were \$651 million for 1998, more than double the estimated \$300 million from the previous year.<sup>91</sup> A separate study conducted by Frost and Sullivan shows that the Internet gambling industry grew

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<sup>81</sup> Cited in Gary Lundy, “NCAA Says Lady Vols Not Safe from Gamblers,” *Knoxville News-Sentinel*, August 6, 1998, C1.

<sup>82</sup> *Ibid.*

<sup>83</sup> Cited in Susan Yerkes, Gambling “Most Critical Issue for NCAA,” *San Antonio Express News*, March 30, 1998, C1.

<sup>84</sup> Tim Layden, “Better Education,” *Sports Illustrated* (April 3, 1995) at 68. Layden found that the college better speaks the language of the trade—juice, vig, tease, parlay, quarter (\$25), dollar (\$100), push—and sometimes deals in amounts that would buy sport-utility vehicles. It seems out of place in a youthful, academic setting. Gamblers come equipped with war stories of losing money and winning money, stories you expect to hear from older, harder men. They have the ability to make a campus hangout like a Keno lounge or a storefront off-track betting parlor.

<sup>85</sup> *Ibid.*

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<sup>86</sup> Henry Lesieur, et. al., Gambling and Pathological Gambling Among University Students, *Addictive Behavior* (1991) at 517-527.

<sup>87</sup> *Ibid.*

<sup>88</sup> Bill Saum, Director of Agent and Gambling Activities, National Collegiate Athletic Association, Testimony before the Senate Judiciary Subcommittee on Technology, Terrorism and Government Information 2 (March 23, 1999). “A growing consensus of research reveals that the rates of pathological and problem gambling among college students are higher than any other segment of the population.”

<sup>89</sup> Kevin A. Mercuri, *Interactive Policy Briefing* presented at the First International Symposium on Internet Gambling Law and Management, Washington, D.C. (November 11-13, 1997).

<sup>90</sup> Rolling Good Times, <http://www.rgtonline.com> (last visited May 21, 1999).

<sup>91</sup> Sebastian Sinclair, “The Birth of an Industry: Gambling and the Internet,” *The Internet Gambling Report III* (Anthony Cabot ed.).

from \$445.4 million in 1997 to \$919.1 million in 1998.<sup>92</sup> Both the Sinclair and the Frost and Sullivan studies estimate that revenues for Internet gambling doubled within 1 year.

Several factors have contributed to the dramatic growth. First, Internet access has increased throughout the world, particularly in the United States.<sup>93</sup> As interest in the Internet has increased, technologies that drive the Internet have continued to improved. Internet gamblers can participate instantaneously through improved software providing real-time audio and visual games and races. Additionally, the public's confidence in conducting financial transactions on-line has increased.<sup>94</sup> Furthermore, a number of foreign governments, such as Australia and Antigua, are licensing Internet gambling operators within their borders.

However, along with its meteoric rise, Internet gambling is raising issues never previously addressed and exacerbating concerns associated with traditional forms of gambling. While preventing underage gambling and reducing problems associated with problem and pathological gambling are concerns for all forms of gambling, reducing these concerns is particularly challenging for Internet gambling. The Internet provides the highest level of anonymity for conducting gambling to date. While "know your customer" is a motto of the gambling industry, this becomes particularly challenging through technologies available to Internet users. Screening clients to determine age or if they have a history of gambling problems is difficult at best. For the users of gambling, the Internet fuels concerns regarding the legitimacy of the games and the gambling operators.

General concerns about the relationship between gambling and crime, including money laundering, become particularly acute when considering gambling on the Internet.

Various public officials and interest groups are initiating efforts to address the concerns of Internet gambling. Several states have passed or are considering legislation to ban Internet gambling within their jurisdictions. Several attorneys general have brought lawsuits against Internet gambling operators. Individuals who have incurred credit card debt have brought lawsuits against their credit card companies and their respective banks. The Department of Justice has arrested or issued warrants for arrest on 22 Internet gambling operators and successfully indicted several individuals. Legislation to ban Internet gambling in the United States has been introduced during the 105th and 106th Congress, and is presently under consideration in the Senate. Groups that have supported these measures include state gambling regulators, professional and amateur sports associations, and a rare stance for federal involvement by the National Association of Attorneys General.

Still, mechanisms to enforce prohibitions have raised concerns regarding the role of Internet Service Providers and possible infringement on freedom of speech. Furthermore, most Internet gambling business operate offshore and are licensed by foreign governments, making it difficult to prevent access to illegal sites. Politically, sentiments surrounding Internet commerce are unique, as demonstrated by the President's declaration of the Internet as a free-trade zone.<sup>95</sup>

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<sup>92</sup> Glenn Barry, *Seven Billion Gambling Market Predicted* *Interactive Gaming News* (May 11, 1998) <http://www.igamingnews.com>.

<sup>93</sup> Market research firm INTECO Corp. conducted a survey comparing the first and last quarters of 1998. After polling 16,400 people throughout the United States, the survey concluded that 108 million adults, or approximately 55 percent of the adult population, accessed the Web during the last quarter of 1998.

<sup>94</sup> 35 million U.S. adults either placed a product order or made a reservation online during the last quarter of 1998. This number represents a 250 percent increase from the beginning of 1998.

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<sup>95</sup> Presidential Directive on Electronic Commerce, July 1, 1997.



