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Internet Gambling: Policy Issues for Congress

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Summary

Gambling, once widely outlawed, is now a regulated, taxed activity that is legal in some form—bingo, card games, slot machines, state-run lotteries, casinos, and even online—in all states except Hawaii and Utah. Like so many other industries, the gambling industry is being transformed by technology that has begun to shift patronage from casinos, bingo halls, or stores selling lottery tickets to desktop computers and tablets connected to the Internet and to mobile devices that may communicate by telephone or direct satellite links. According to one private estimate, annual revenue in the global Internet gambling market, less gamblers' winnings, is around $50 billion.

State governments have the main responsibility for overseeing gambling. Congress, however, historically has played a key role in shaping the industry. The Unlawful Internet Gambling Enforcement Act (UIGEA; P.L. 109-347) of 2006 prevents payments to illegal gambling-related businesses, but does not outlaw all forms of Internet gambling. In December 2011, a Department of Justice (DOJ) interpretation of the 1961 Wire Act (18 U.S.C. §1084), which has been used to prosecute Internet gambling, authorized states to allow online gambling, except for sports betting. As a result, states and Indian tribes are allowed to permit Internet gambling within their territory if certain conditions are met.

With the increasing interest in online gambling, debate over the appropriate federal role has become more prominent. A survey by the American Gaming Association reported that 4% of U.S. adults who gambled in 2014 did so over the Internet. Currently, a majority of states allow Internet betting on horse racing, and a few now permit Internet lottery games. A number of Indian tribes and gaming companies have created entities to develop Internet gambling, and seem likely to expand them rapidly if the legal issues are clarified. Delaware, Nevada, and New Jersey have implemented online gambling programs within their borders. Several more states are considering whether to legalize Internet gambling, although some have laws that expressly prohibit online gambling. A growing number of states have taken a legislative interest in new forms of online gaming, such as daily fantasy sports.

The gambling industry is divided over Internet gambling. Some companies and Indian tribes see it as a promising revenue source. Others fear loss of patronage at brick-and-mortar casinos. One bill introduced in the 114th Congress, H.R. 2888, would allow online poker, overseen by a new Office of Internet Poker Oversight in the Department of Commerce. An opposing group that also includes prominent casino owners, the Coalition to Stop Internet Gambling, supports the Restoration of America's Wire Act (H.R. 707, S. 1668), which would prohibit the use of communications networks to gamble over the Internet. Another bill, S. 3376, would prohibit financial institutions from processing Internet gambling transactions. Perhaps reflecting divisions within the gambling industry, Congress has not acted on any of these proposals. No legislation affecting Internet gambling has been enacted since UIGEA.

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Introduction

Gambling, once widely outlawed, is now a heavily regulated, taxed activity that is legal in some form in all states except Hawaii and Utah. While state governments have the main responsibility for overseeing gambling, Congress historically has played a significant role in shaping the industry. Congressional actions date back to 1960s-era antiracketeering laws, a 1988 statute setting policy for Indian gambling, and a 1992 law banning sports betting in all but four states.[1]

Like so many other industries, the gambling industry has been transformed by developments in computing and telecommunications. Antigua and Barbuda offered the first Internet gambling sites in the mid-1990s.[2] The first online poker site, Planet Poker, was launched from Costa Rica in 1998. Online gambling is now legal in more than 85 countries, although some of the biggest potential markets, including China, Japan, South Korea, and the United States, continue to prohibit many forms of gambling over the Internet. Delaware, Nevada, and New Jersey are the only states that currently allow intrastate Internet gambling.[3] Online gambling is also legal in the U.S. Virgin Islands, but it has not yet gone live.[4] It is explicitly outlawed in several states, including Indiana, Louisiana, Montana, and Washington.

Many of the most popular sites are licensed in the European Union (EU), which accounts for approximately 40% of the worldwide online gambling market.[5] According to one private estimate, annual gross global revenue from online, television, and mobile gambling is now around $50 billion, and is forecast to exceed $65 billion by 2021 (see **Figure 1**).[6] H2 Gambling Capital, a consulting firm, estimates that Americans gambled $2.1 billion on foreign gambling websites in 2016.[7] An American Gaming Association (AGA) survey showed that 4% of U.S. adults who gambled in 2014 did so over the Internet.[8]

[1] CRS Report 97-619, *Internet Gambling: An Overview of Federal Criminal Law*, by Charles Doyle. Laws include the 1961 Wire Act, 18 U.S.C. §1084; the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §2701; and the Professional and Amateur Sports Protection Act, 26 U.S.C. §3701.

[2] In 2003, Antigua and Barbuda lodged a complaint against the United States with the World Trade Organization (WTO) contending that a U.S. ban on wagers made over the Internet by U.S. residents violated a WTO agreement on services. A WTO panel ruled in favor of Antigua. The United States has not complied with the WTO ruling, and it has not reached a settlement with Antigua and Barbuda. For additional information, see WTO, "DS285—Measures Affecting the Cross-Border Supply of Gambling and Betting Services," https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds285_e.htm.

[3] Internet or online gambling, or gaming, is wagering of something of value, usually money, on the outcome of an event or game. Internet gambling refers to a range of gambling activities, including poker, casinos, sports betting, and lotteries.

[4] GamblingCompliance, *U.S. Internet Gambling Tracker*, October 2016, pp. 3-7.

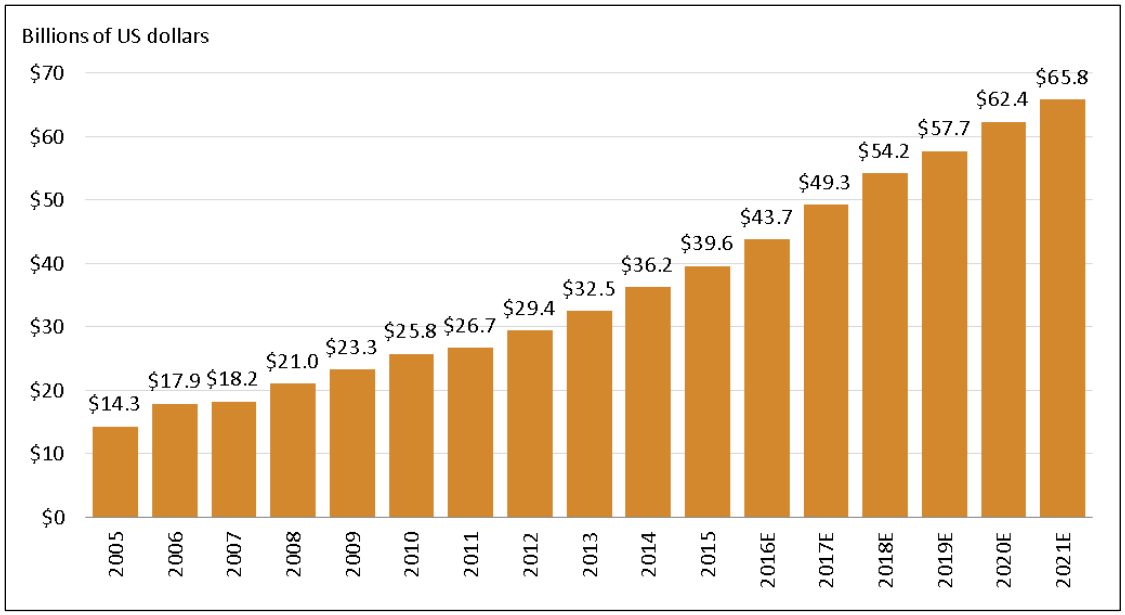
[5] Brian Pempus, "Global Online Gambling Market to Near $1 Trillion by 2021, New Research Says," *CardPlayer*, September 15, 2016, http://www.cardplayer.com/poker-news/20828-global-online-gambling-market-to-near-1-trillion-by-2021-new-research-says.

[6] H2 Gambling Capital Consultants, data furnished to CRS by email on October 14, 2016. Gross gambling revenue (GGR), which is defined as the amount wagered minus winnings returned to players, measures the economic value of gambling. GGR equals net receipts before taxes, salaries, and other expenses are paid.

[7] Data provided to CRS by email from H2 Gambling Capital, October 31, 2016.

[8] Data from an AGA survey conducted in May 2014 with the Mellman Group & Public Opinion Strategies, which AGA provided to CRS by email on October 27, 2016.

Figure 1. Global Internet Gross Gambling Revenues



Source: H2 Gambling Capital, October 2016.

Notes: These figures show revenues after payouts of winnings. "E" signifies projected revenues.

Debate over the appropriate federal role has become more prominent with the increasing interest in online gambling. No federal legislation governing Internet gambling has been passed in recent Congresses, but there have been major developments at the state level. The spread of Internet gambling worries some casino operators, including many Indian tribes. With overall U.S. casino revenues barely growing, these opponents fear that easier access to Internet gambling could reduce patronage of casinos and related hotels and restaurants.[9] Other casino owners disagree, seeing Internet gambling as a potentially significant new revenue source and a possible complement to land-based casino operations.[10] This division within the gambling industry is one reason that bills concerning Internet gambling, including some that would subject it to federal licensing and others that would ban it altogether, have gained little traction in Congress.

U.S. Law and Internet Gambling

The U.S. government has acted against Internet gambling under a series of 1960s statutes, including the Wire Act,[11] which makes it a federal crime to use telecommunications to conduct illegal gambling. In one of the best-known cases, Jay Cohen, a co-operator of the Antigua-based World Sports Exchange, was arrested in 1998 and charged with violating the Wire Act for advertising his company's services in the United States and accepting wagers from bettors in

[9] Tom Hamburger, "GOP Megadonor Sheldon Adelson Faces Conservative Rebellion Over Online Gambling," *Washington Post*, November 20, 2014.

[10] Chris Grove, "Boyd CEO Demolishes Myth That Regulated Online Gambling Will Cannibalize Land-Based Casino Revenue," *Online Poker Report*, February 17, 2014.

[11] 18 U.S.C. §1084.

states where such gambling was illegal. Cohen was sentenced to 21 months in prison and fined $5,000.[12] The U.S. Supreme Court declined to hear his appeal.

In 2003, the U.S. Department of Justice (DOJ) warned media outlets that running advertisements for gambling websites could violate the Wire Act.[13] Microsoft, Google, and Yahoo agreed in 2007 to pay a combined total of $31.5 million to resolve DOJ claims that they were promoting illegal gambling by running advertisements for certain websites.[14]

In 2006, partly in response to the recommendations of a congressionally created commission, Congress passed the Unlawful Internet Gambling Enforcement Act (UIGEA; P.L. 109-347).[15] The law bars gambling-related businesses from accepting payment that is outlawed by state or federal statutes. UIGEA makes it illegal for banks and credit card firms to process payment to online gambling companies.[16] However, UIGEA does not outlaw any specific types of gambling over the Internet and allows states and tribes to permit Internet gambling within their borders if they apply certain safeguards.[17] While UIGEA included exceptions for certain intrastate and tribal Internet gambling operations, including state lotteries and Indian casinos, it did not clarify the scope of older laws that DOJ has used to prosecute Internet gambling, such as the Wire Act.

On April 15, 2011, which online poker players have dubbed "Black Friday," the U.S. Attorney for the Southern District of New York indicted the founders of three major Internet poker websites—PokerStars, Full Tilt Poker, and Absolute Poker/Ultimate Bet—for allegedly using phony corporations and websites to disguise illegal payments to their operations.[18] DOJ charged that the companies, which were located overseas but took bets from U.S. players, violated UIGEA, the Wire Act, and other federal laws. In September 2011 DOJ filed a civil suit against Full Tilt Poker, which had an estimated 60% of the global Internet poker market, for allegedly defrauding bettors.[19] On July 31, 2012, all civil complaints against PokerStars and Full Tilt Poker were dismissed following agreements with DOJ, payments of $731 million to settle the claims, and the

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[12] *United States of America v. Jay Cohen*, 260 F.3d 68 (2nd Cir., 2001).

[13] Letter from U.S. Department of Justice, Criminal Division to National Association of Broadcasters, June 11, 2003, http://www.igamingnews.com/articles/files/NAB_letter-030611.pdf.

[14] UIGEA was passed in the 109th Congress as part of an unrelated bill, The Security and Accountability for Every (SAFE) Port Act of 2006 (H.R. 4954). Elizabeth A. Ritvo and Samantha L. Gerlovin, *Legal Guide*, Massachusetts Broadcasters Association, September 2008, pp. 76-78, http://www.massbroadcasters.org/wp-content/uploads/2013/05/MBA-Legal-Guide-FINAL-Updated-2008-09.pdf.

[15] National Gambling Impact Study Commission, *National Gambling Impact Study Commission Final Report, Chapter 5: Internet Gambling*, 1999, http://govinfo.library.unt.edu/ngisc/reports/5.pdf. Citing the potential for increased underage gambling and fraud, the commission recommended that the federal government "should prohibit, without allowing new exemptions or the expansion of existing federal exemptions to other jurisdictions, Internet gambling not already authorized within the United States or among parties in the United States and any foreign jurisdiction."

[16] Violators are subject to criminal fines of up to $250,000 (or $500,000 if the defendant is an organization), imprisonment of up to five years, or both.

[17] UIGEA made it difficult for Americans to make certain deposits into gambling accounts. See CRS Report RS22749, *Unlawful Internet Gambling Enforcement Act (UIGEA) and Its Implementing Regulations*, by Brian T. Yeh and Charles Doyle.

[18] U.S. Department of Justice, "Manhattan U.S. Attorney Charges Principals of Three Largest Internet Poker Companies with Bank Fraud, Illegal Gambling Offenses and Laundering Billions in Illegal Gambling Proceeds," April 15, 2011, http://www.justice.gov/usao/nys/pressreleases/April11/scheinbergetalindictmentpr.pdf. Indictment is available at http://www.scribd.com/doc/53107543/Indictment-DOJ-vs-Scheinberg-Bitar-Tom-et-al.

[19] United States Attorney's Office, Southern District of New York, "Manhattan U.S. Attorney Moves to Amend Civil Complaint Alleging that Full Tilt Poker and Its Board of Directors Operated Company as a Massive Ponzi Scheme Against Its Own Players," press release, September 20, 2011, http://www.justice.gov/usao/nys/pressreleases/September11/amendedfulltiltpokercomplaintpr.pdf.

purchase of Full Tilt by PokerStars.[20] Fulltiltpoker.com reopened in Europe. With the exception of New Jersey, Americans cannot gamble on the Full Tilt or PokerStars websites. PokerStars in 2015 acquired licenses to operate in New Jersey, allowing it to offer games involving real money to players physically located in the state.[21]

DOJ announced a major shift in its view of Internet gambling in December 2011, when it concluded that the Wire Act applies only to sport-related gambling activities. This reversed its long-held assertion that all forms of Internet gambling are illegal.[22] DOJ's opinion has been widely interpreted to mean that states can allow online gambling if it does not involve sports.[23]

A number of states and tribes have taken advantage of the DOJ memo to allow online betting on horse races and Internet lotteries.[24] Nevada now permits online poker, and Delaware and New Jersey have authorized all forms of Internet gambling (poker, slots, and various table games), with the exception of sports wagering. Internet gambling is also regulated in the U.S. Virgin Islands, another tiny Internet gambling market.[25] These state-authorized activities rely on software that uses global positioning technology, Internet addresses, and other data to ensure that gamblers are physically located within the state's borders and are old enough to gamble legally.[26] Regulations to implement UIGEA have also made it easier for state lotteries and other legal gambling operators to receive payment via credit cards and other electronic methods.[27]

With at least some restrictions now lifted, many participants in the gambling industry have been exploring ways to increase their involvement in Internet gambling. Companies not involved in the traditional gambling industry are also interested. Social gaming—games hosted on social networking sites such as Facebook and Google+—provides a way to play online games in the United States, but without cash prizes.[28] Internet sweepstakes cafés, where consumers buy phone

[20] United States Attorney's Office, Southern District of New York, "Manhattan U.S. Attorney Announces $731 Million Settlement Of Money Laundering And Forfeiture Complaint With Pokerstars And Full Tilt Poker," press release, July 31, 2012, http://www.justice.gov/usao/nys/pressreleases/July12/pokersettlement.html.

[21] Amaya, "Amaya Receives Regulatory Approval to Operate PokerStars and Full Tilt in New Jersey," press release, September 30, 2015, http://www.psimg.com/pdf/press/amaya-receives-regulatory-approval-to-operate-pokerstars-and-full-tilt-in-new-jersey.pdf.

[22] The Department of Justice opinion stems from a 2009 request by Illinois and New York for clarification of whether Internet lottery ticket sales and sales through out-of-state vendors violated the Wire Act. "Memorandum Opinion for the Assistant Attorney General, Criminal Division, Whether Proposals by Illinois and New York to Use the Internet and Out-of-State Transaction Processors to Sell Lottery Tickets to In-State Adults Violate the Wire Act," September 2011, http://www.justice.gov/olc/2011/state-lotteries-opinion.pdf.

[23] Gambling on sports is unlawful under the Professional and Amateur Sports Protection Act of 1992, although four states that then allowed sports lotteries or pools were permitted to continue allowing intrastate sports betting.

[24] GamblingCompliance, *U.S. Internet Gambling Tracker*, October 2016, pp. 17-19.

[25] The U.S. Virgin Islands (USVI) in 2001 enacted the Internet Gambling and Enforcement Act, 23 V.I.C. §601. Despite the original law and a 2013 opinion letter from the Virgin Islands attorney general confirming that Internet gambling is legal within its borders, no online gambling websites are currently available in the territory. USVI Host and St. Croix Internet Group have concluded so-called "master service provider agreements" with the USVI authorities to provide web hosting services and license approved applicants to conduct Internet gambling. The USVI has one commercial casino and a lottery. See GamblingCompliance, *U.S. Internet Gambling Tracker*, October 2016, p. 7.

[26] Geolocation technology is reported to have accuracy rates of between 85% and 98% at the state level and more than 99% at the national level. See Kevin F. King, "Geolocation and Federalism on the Internet: Cutting Internet Gambling's Gordian Knot," *Columbia Science and Technology Law Review*, 2010, http://www.stlr.org/html/volume11/king.pdf; also see Letter from Davd Rebuck, Director, Division of Gaming Enforcement,, January 2, 2015, p. 4, http://www.nj.gov/oag/ge/2015news/Internetgamingletter.pdf.

[27] Nelson I. Rose, "The New UIGEA Regulations: Opportunities for Operators," *Gambling and the Law*, June 1, 2010, http://www.gamblingandthelaw.com/index.php/articles/261-the-new-uigea-regulations-opportunities-for-operators.

[28] Michael Gentile, "Zynga Launches Real Money Poker on Facebook," *Pokerfuse*, January 13, 2014.

cards that, as a bonus, include sweepstakes entries and then use the cards to play games that resemble slot machines, are estimated to take in $10 billion to $15 billion annually nationwide,[29] but Ohio, Florida, Mississippi, and California have outlawed them.[30] Daily fantasy sports (DFS), where players assemble imaginary teams on online platforms for a chance to win cash jackpots based on the statistical performance of players in real-life games, is another form of gambling that can be played over the Internet. In 2014, DFS operators were reported to have $86 million in revenue after payouts to winning players.[31] At the state level, a patchwork approach is being used to regulate DFS.[32] Nevada, for example, requires a DFS operator to obtain a license. A few states, including Kansas, allow DFS companies to operate without regulation. And some states, such as Washington, expressly prohibit Internet gambling, including online fantasy sports wagering.[33]

Online and Traditional Gambling

Many traditional forms of gambling, which can require substantial capital investments, could be affected in significant ways by the legalization of additional Internet gambling. Currently, 19 states permit commercial casino gambling.[34] On the one hand, online gambling could allow land-based casinos to expand their businesses and promote their brands. Yet it could also present a new competitive challenge if fewer customers frequent brick-and-mortar gambling establishments. Casinos that rely heavily on slot machines, especially those that primarily serve day trippers, may face the greatest challenges.

Taken together, gambling industries and casino hotels employed about 400,000 people nationwide in 2015 (see **Figure 2**). Of these, 129,100 worked in gambling, while 265,800 were employed in casino hotels. Nearly two-thirds of these jobs were located in Nevada, New Jersey, Louisiana, or Mississippi. Gambling industry and casino hotel employment fell 7% between 2005 and 2015.[35] According to the Bureau of Labor Statistics, the average annual wage in 2015 for gambling industry employees was $31,814, and casino hotel workers earned an average of $36,983.

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[29] GamblingCompliance, *Legislative Approaches to Internet Sweepstakes Cafes*, January 2013, p. 2, https://gamblingcompliance.com/files/Internet%20Sweepstakes%20Paper%20Jan%202013.pdf; and *Legislative Approaches to Internet Sweepstakes Cafes—2014 Update*, 2015. Internet sweepstake cafes—establishments where patrons can play computer-simulated casino-style games—offered in 12 states are often located in strip malls, gas stations, or convenience stores. Pamela M. Prah, "States Scramble to Stop Illegal Gambling at Internet Sweepstakes Cafes," *Government Technology*, March 24, 2014, http://www.govtech.com/internet/States-Scramble-to-Stop-Illegal-Gambling-at-Internet-Sweepstakes-Cafes.html/; see also Maura Dolan, "Sweepstakes' Games at Internet Cafes are Illegal, State High Court Rules," *Los Angeles Times*, June 25, 2015, http://www.latimes.com/local/lanow/la-me-ln-sweepstakes-games-20150625-story.html.

[30] AGA, *Internet Sweepstakes Cafes*, October 20, 2014, http://www.americangaming.org/government-affairs/priority-issues/internet-sweepstakes-cafes.

[31] Adam Krejcik, "Daily Fantasy Sports: The Future of U.S. Sports Wagering?" Eilers Research, October 16, 2014, pp. 3, 10.

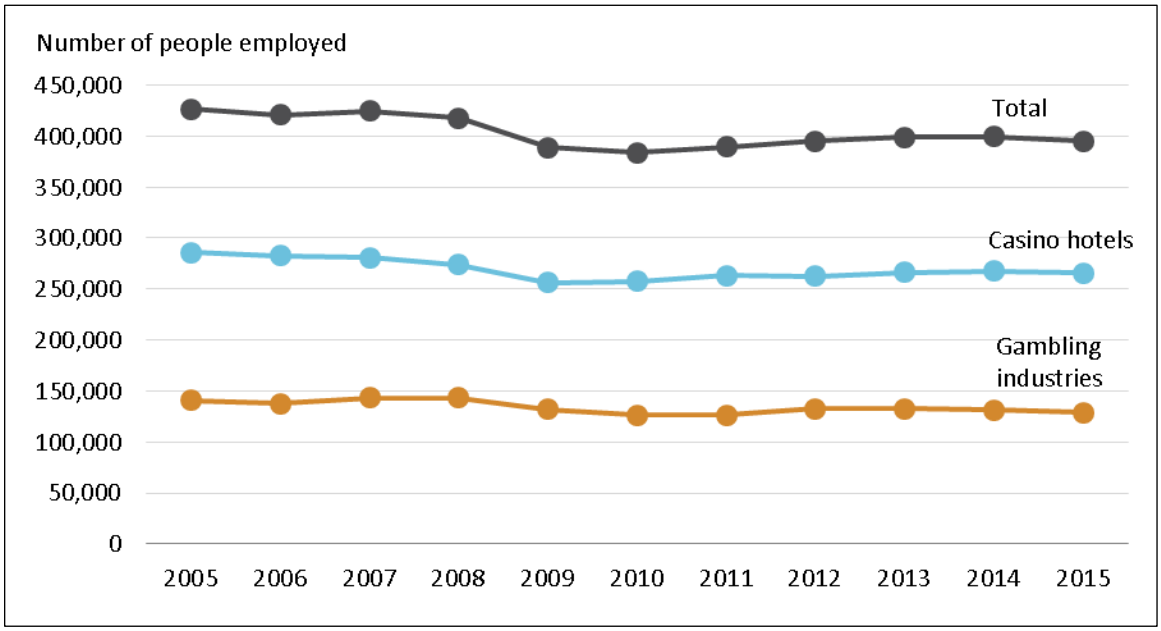
[32] CRS Report R44398, *Daily Fantasy Sports: Industry Trends, Legal and Regulatory Issues, and Policy Options*, by Michaela D. Platzer, Brian T. Yeh, and David H. Carpenter.

[33] Dustin Gouker, "DFS State Watch: Monitoring Daily Fantasy Sports Action in State Government," *Legal Sports Report*, September 8, 2016, http://www.legalsportsreport.com/dfs-state-watch/.

[34] Lucy Dadayan, *State Revenues from Gambling: Short-Term Relief, Long Term Disappointment*, The Nelson A. Rockefeller Institute of Government, April 2016, p. 12.

[35] Bureau of Labor Statistics (BLS), Quarterly Census of Employment and Wages, NACIS 7132 and 72112, accessed October 3, 2016. The North American Industry Classification System (NAICS) places gambling industries into NAICS 7132, which comprises establishments primarily engaged in operating gambling facilities or providing gambling services including bingo, off-track betting, slot machine parlors, lotteries, bookmakers, and card rooms. Casino hotels are classified in NAICS 72112.

Figure 2. Gambling Industries and Casino Hotel Employment



Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages for NACIS 7132 and 72112.

The U.S. market for gambling consists of several distinct sectors, each with its own business model and technology.

Lotteries

Lotteries, generally defined as games of chance with the winner chosen via the drawing of lots, are the most widespread form of gambling in the United States. Regulated by state governments, lotteries are now run in 44 states and the District of Columbia.[36] Unlike many other countries, including Ireland, the United Kingdom, and Germany, the United States does not have a national lottery.

Since New Hampshire reinstituted the modern lottery in 1964, state offerings have moved from rudimentary games with preprinted tickets and weekly or monthly drawings to instant scratch-off tickets, lotto games (in which players pick their own combination of numbers), and, in a growing number of states, video lottery terminals, commonly referred to as VLTs, that offer casino-type games such as blackjack and poker.[37] According to the Rockefeller Institute of the State University of New York, the majority of states transfer 20% to 30% of gross lottery revenues to their state treasury.[38]

[36] Alabama, Alaska, Hawaii, Mississippi, Nevada, and Utah do not operate lotteries. See the Council of State Governments, "State Lotteries," June 2013, http://knowledgecenter.csg.org/kc/system/files/cr_lotteries_.pdf. Also see Elle Hull, "Lotteries Provided State Funding Through Recession," E-Newsletter, September/October 2016, http://www.csg.org/pubs/capitolideas/enews/issue117_4.aspx.

[37] According to the National American Association of State and Provincial Lotteries (NASPL), "[u]nlike slot machines, video lottery terminals do not dispense money. Rather, a winning player is provided a ticket that is redeemed by the retailer for prizes."

[38] Lucy Dadayan, *State Revenues from Gambling: Short-Term Relief, Long-Term Disappointment*, The Nelson A. Rockefeller Institute of Government, April 2016, p. 9, http://www.rockinst.org/pdf/government_finance/2016-04-12-Blinken_Report_Three.pdf. NASPL estimates that commissions and bonuses to lottery retailers account for (continued...)

States have banded together to offer lottery games such as Powerball across state lines, working through the Multi-State Lottery Association and the Mega Millions consortium.[39] The two lottery groups in 2010 agreed to cross-sell tickets.[40] Such mega-games offer jackpots that can be in the millions of dollars, increasing demand. In 2016, Powerball made history with a jackpot of $1.6 billion.[41]

Lottery gross gambling revenues reached $31.4 billion in FY2015, according to the North American Association of State and Provincial Lotteries (NASPL).[42] This represented an increase of about 3% from FY2014. In recent years, state lottery administrators have experimented with strategies to increase revenue, such as online sales. Illinois was the first state to privatize the management of its lottery in 2011, in the expectation that a private operator might be better able to boost sales while the state would benefit from an up-front payment.[43] Illinois's lottery privatization has not been smooth. In 2015, the state canceled its contract with Northstar Lottery Group, a private company, primarily because the company failed to meet the contracted revenue targets for several straight years; however, Northstar will manage the Illinois Lottery until January 1, 2017, or until a new private company is chosen.[44] Illinoisans can continue to buy lottery tickets on a website or by using an app on their mobile phones, even though the law authorizing the sales expired in March 2016.[45] Illinois's Internet lottery sales totaled about $10 million in FY2016.[46] Indiana and New Jersey have also privatized their lotteries.[47]

As of September 2016, Georgia, Illinois, Michigan, and Kentucky were the only states selling lottery tickets online.[48] Colorado has expressly prohibited online lottery sales until at least July 1, 2017,[49] and Minnesota suspended the sale of lottery scratch-off and draw tickets through a website or self-service device in 2015.[50]

(...continued)

approximately 6% of total sales.

[39] Multi-State Lottery Association, http://www.musl.com; Mega Millions, http://www.megamillions.com.

[40] Multi-State Lottery Association, MUSL Mega Millions (M2GS) Product Group Rules, last amended June 15, 2016.

[41] Dough Stnglin and Jessica Estepa, "Winners in 3 States to Split Record $1.6B Powerball Jackpot," *USA Today*, January 14, 2016.

[42] NASPL provided this information to CRS by email on October 12, 2016.

[43] Leonard Gilroy and Lisa Snell, *Annual Privatization Report 2015 State Government Privatization*, Reason Foundation, June 8, 2015, http://reason.org/files/apr-2015-state-privatization.pdf.

[44] Office of the Governor of Illinois, "Administration Reaches Deal Over Botched Lottery Management Contract," press release, September 18, 2015, http://www3.illinois.gov/PressReleases/ShowPressRelease.cfm?SubjectID=2&RecNum=13345.

[45] The Illinois state lottery was started as a pilot program in March 2012 and was scheduled to expire in March 2016, but it appears the program has been made permanent. Celeste Bott, "Illinois Lottery Online Sales to Expire This Month," *Chicago Tribune*, March 3, 2016. Also see Illinois Lottery, "Statement on the Internet Pilot Program," March 25, 2016, http://www.illinoislottery.com/en-us/press-releases/PressReleasePages/March2016/InternetPilotProgram.html.

[46] State of Illinois, Office of Management and Budget, Illinois Performance Reporting System, Agency Performance Metric Reports FY16 Quarter 4, 458 Department of the Lottery, https://www.illinois.gov/gov/budget/IPRS%20Reports/458_Department_of_the_Lottery.pdf.

[47] Leonard Gilroy and Lisa Snell, *Annual Privatization Report 2015 State Government Privatization*, Reason Foundation, May 14, 2015, pp. 18-22.

[48] GamblingCompliance, *U.S. Internet Gambling Tracker*, October 2016, pp. 17-18.

[49] Colorado Legislative Council Staff Fiscal Note, *Final Fiscal Note: Prohibit Electronic Sales of Lottery Tickets*, HB14-1142, June 10, 2014.

[50] Steven Stradbrooke, "Gov. Mark Dayton Mulls Fate of Minnesota Lottery Online Scratchers," CalvinAyre.com, May (continued...)

Commercial Casinos

According to the Rockefeller Institute, at the end of FY2015 there were about 450 land- or riverboat-based commercial casinos in the United States, along with 55 racinos (gambling venues located at race tracks).[51] In addition, AGA has reported there are more than 400 card rooms in the United States.[52] As of October 2016, commercial casinos, owned and managed by private companies without the involvement of Indian tribes, operate in 18 states.[53] State-licensed boat or barge casinos are now permitted in six states, namely Illinois, Indiana, Iowa, Louisiana, Mississippi, and Missouri.[54] Racinos currently operate in 13 states. AGA reports gross revenues for commercial casino operators at $38.3 billion in 2015 (see **Figure 3**). But the industry's rapid expansion is over. With new casino properties open in nearby states, five Atlantic City casinos have been shuttered since 2014.[55] In Mississippi, three casinos have also closed since 2014, including Harrah's in Tunica, MS.[56] The number of commercial casinos in Colorado dropped from 40 in 2013 to 36 in 2015.[57]

AGA reports that slot machines now account for 70% of revenue on commercial casinos' floors, up from about 40% in the 1970s. The machines are increasingly sophisticated, using electronic screens that display a variety of games, and offering combined jackpots that can run into the millions of dollars.[58] Commercial casinos in South Dakota and Iowa earn more than 90% of their revenues from slot machines.[59] In Nevada, where table games are more important than in other states, slot machines accounted for more than 60% of gambling revenues in 2015.[60]

(...continued)

14, 2015, http://calvinayre.com/2015/05/14/business/gov-dayton-mulls-fate-minnesota-lottery-online-scratchers/.

[51] Lucy Dadayan, *State Revenues from Gambling: Short-Term Relief, Long-Term Disappointment*, The Nelson A. Rockefeller Institute of Government, April 2016, pp. 30 and 33.

[52] AGA, *2013 State of the States*, p. 4.

[53] The most recent casino was opened in June 2015 in Massachusetts. According to the Massachusetts Gaming Commission, Plainridge Park Casino has taken in $206 million in gross gaming revenue through September 2016. Two more casinos are under development in the state. See Massachusetts Gaming Commission, Revenue Report, October 17, 2016, http://massgaming.com/wp-content/uploads/Revenue-Report-9-2016.pdf.

[54] Karl R. Geisler, "Riverboat Casino Gambling Impacts on Employment and Income in Host and Surrounding Counties," *The Annuals of Regional Science*, vol. 56, no. 1 (January 2016).

[55] New Jersey Department of Law & Public Safety, Division of Gaming Enforcement, *Historical Statistics, Annual Casino Win Data Detail*, 2013, 2014, and 2015, http://www.nj.gov/oag/ge/historicalstatistics.html.

[56] Mississippi Gaming & Hospitality Association, *Mississippi State of the Industry Annual Report*, 2016, p. 20.

[57] Colorado Division of Gaming, *2015 Fact Book & Abstract*, May 2016, p. 16, https://www.colorado.gov/pacific/enforcement/node/39161.

[58] David Stewart, Ropes & Gray, LLP, *Demystifying Slot Machines and Their Impact in the United States*, White Paper for AGA, July 2010, p.1, http://www.americangaming.org/Publications/AGA_studies.cfm.

[59] "Iowa Casino Gaming Revenue Analysis," *Casino News Daily*, June 2, 2015, and "South Dakota Casino Gaming Revenue Analysis," *Casino News Daily*, June 2 and June 12, 2015, http://www.casinonewsdaily.com/2015/06/02/iowa-casino-gaming-revenue-analysis/.

[60] UNLV Center for Gaming Research, *Nevada Gaming Revenues, 1984-2015*, Calendar Year Revenues for Selected Reporting Areas, January 2016, p. 2, http://gaming.unlv.edu/reports/NV_1984_present.pdf.

Figure 3. U.S. Commercial Casino Revenues

Source: American Gaming Association and RubinGaming Statistics.

With more than 270 locations with each grossing more than $1 million in gambling revenue, Nevada had the largest number of commercial casinos in 2015.[61] The state is home to 60% of all U.S. casino facilities.[62] Other major locations with commercial casinos are Atlantic City, the Chicago area (including neighboring parts of Indiana), Detroit, Connecticut, Philadelphia, St. Louis, and the Mississippi Gulf Coast. Each generated $2 billion or more in casino revenues in 2014 (see **Table 1**). While many casinos, such as riverboat casinos, cater to day visitors, major casinos in Las Vegas, Atlantic City, and other select areas market themselves as vacation destinations, with high-end amenities, convention and meeting facilities, and big-name entertainers.[63] For example, Las Vegas casinos have become increasingly reliant on hotel rooms, food, night clubs, and entertainment for revenue. Gambling revenue on the Las Vegas Strip accounted for slightly less than 35% of total revenue of casino hotels in 2015, compared to nearly 59% in 1984.[64]

[61] Nevada State Gaming Control Board, *Nevada Gaming Abstract*, 2015, p. 1-1, http://gaming.nv.gov/modules/showdocument.aspx?documentid=10752.

[62] Lucy Dadayan, *State Revenues from Gambling*: *Short-Term Relief, Long-Term Disappointment*, The Nelson A. Rockefeller Institute of Government, April 2016, p. 13.

[63] Tuna N. Amobi, *Industry Surveys, Hotels, Restaurants & Leisure*, S&P Capital IQ, June 2016, p. 53.

[64] University of Nevada, Las Vegas (UNLV) Center for Gaming Research, *Nevada Casinos: Departmental Revenues, 1984-2015*, 2016, p. 1, http://gaming.unlv.edu/reports/NV_departments_historic.pdf.

Table 1. Top U.S. Casino Markets, by Annual Gross Revenue
(in billions of U.S. dollars, 2014)

Rank	Casino Market	Gross Revenue
1	Las Vegas Strip, NV	$10.2
2	Atlantic City, NJ	$5.1
3	Chicagoland, IL/IN	$3.2
4	Detroit, MI	$2.4
5	Connecticut[a]	$2.2
6	Philadelphia, PA	$2.2
7	St. Louis, MO/IL	$2.1
8	Biloxi/Gulf Coast, MS	$2.1
9	The Poconos, PA	$1.0
10	Tunica/Lula, MS	$1.0
11	Kansas City, MO (includes St. Joseph)	$0.9
12	Boulder Strip, NV	$0.9
13	Shreveport/Bossier City, LA	$0.8
14	Lake Charles, LA	$0.8
15	Yonkers, NY	$0.8
16	Reno/Sparks, NV	$0.7
17	Pittsburgh/Meadow Lands, PA	$0.7
18	Black Hawk, CO	$0.7
19	Lawrenceburg/Rising Sun/Belterra, IN	$0.7
20	New Orleans, LA	$0.7

Source: American Gaming Association and Statistic Brain Research.

a. Includes only slot machine revenues from Connecticut's tribal casinos.

Commercial casinos are regulated by the states. States generally mandate background checks for key employees, specify the level of payouts to players, and require audits and inspections. Many large casino companies, such as Caesars Entertainment, MGM Resorts International, Wynn Resorts, and Las Vegas Sands Corporation, are publicly traded on U.S. stock exchanges, making them subject to Securities and Exchange Commission financial reporting requirements.

Tribal Gambling

According to the National Indian Gaming Commission (NIGC), an independent federal regulatory agency within the Department of the Interior, 244 of the 566 federally recognized tribes[65] ran gambling operations across 29 states in 2016.[66] More than 470 Indian facilities

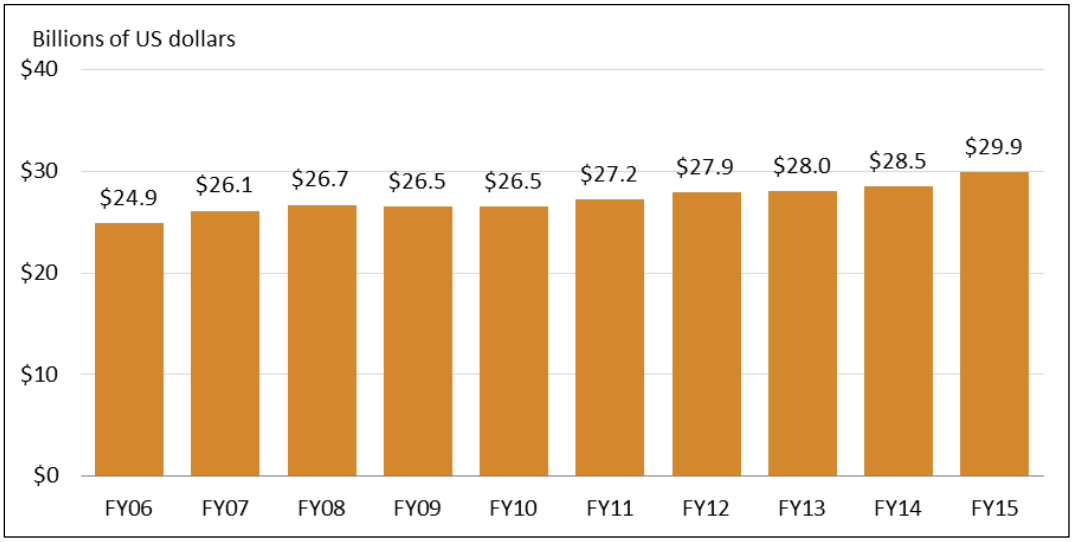
[65] Department of the Interior, "Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs," 80 *Federal Register* 1942-1948, January 14, 2015.

[66] In 2013, Massachusetts and the Mashpee Wampanoag Tribe became the most recent state and tribe to enter into a compact governing tribal gaming, but legal issues over the tribe's application for the casino site have delayed the construction and opening of a tribal casino. See National Indian Gaming Commission (NIGC), *Gaming Ordinances,* (continued...)

generated $29.9 billion in gross gambling revenue in FY2015 (see **Figure 4**).[67] Notwithstanding the recession-related declines in 2009 and 2010, Indian gambling revenues have risen steadily since the Indian Gaming Regulatory Act (IGRA; P.L. 100-497) was passed in 1988.[68]

Many Indian gambling establishments are relatively small,[69] but tribes also own major casinos such as the Mohegan Sun, operated by the Mohegan Tribal Gaming Authority Management Board, and Foxwoods Resort Casino, owned and operated by the Mashantucket Pequot Tribal Nation. Foxwoods is not only the nation's largest tribal casino, but one of the largest casinos in the United States.[70] Both are located in Connecticut. According to a private report, the largest casinos (estimated to account for about the top 6% of all Indian gaming facilities) accounted for about 40% of tribal gambling revenues in 2015.[71]

Figure 4. Indian Gambling Revenues



Source: National Indian Gaming Commission.

Some tribes are interested in sponsoring online gambling, including California's Alturas Indian Rancheria tribe, California's Iipay Nation of Santa Ysabel,[72] and the Iowa Tribe of Oklahoma.[73] The Tribal Internet Gaming Alliance, which currently includes the Lac du Flambeau Band of Lake Superior Chippewa Tribe and the Bad River Band Chippewa Tribe, was established in 2013

(...continued)

http://www.nigc.gov/general-counsel/gaming-ordinances.

[67] NIGC, "Indian Gaming Continues to be a Strong Force for Tribal Economic Development," press release, July 19, 2016, http://www.nigc.gov/news/detail/live-from-indian-country-the-nigc-announces-largest-tribal-revenue-gain-in.

[68] NIGC regulates Indian casinos under IGRA, which sets rules defining eligible Indian tribes, their relationship with states, and requirements for oversight of gambling operations.

[69] According to NIGC, the majority of tribes generate less than $25 million annually in gross gaming revenue. NIGC, U.S. Department of the Interior, *Strategic Plan for Fiscal Years 2014-2018*, p. 2, http://www.nigc.gov/images/uploads/NIGC_Strategic_Plan_Final.pdf.

[70] Clyde W. Barrow, *Northeastern Casino Gaming: Update, 2015*, Pyramid Associates, LLC, pp. 4-9, http://www.nathaninc.com/sites/default/files/Pub%20PDFs/2015_Northeastern_Casino_Gaming_Update.pdf.

[71] Alan Meister, *Indian Gaming Industry Report, 2016 Edition*, Casino City Press.

[72] "Federal, State Lawsuits Combined in Iipay Nation Online-Gambling Battle," *FlushDraw*, September 22, 2015.

[73] Brian Pempus, "Iowa Tribe Plans International Poker Site," *CardPlayer*, January 5, 2016.

to help shape federal Internet gambling policy.[74] The Indian tribes that operate casinos generally have not weighed in on daily fantasy sports, but some are concerned that the DFS industry could affect the near $30 billion in annual revenue from their existing gambling facilities. Recently, the Mille Lacs Band of Ojibwe launched a DFS platform, Grandfantasysports.com, which is open to customers in 11 states, including California, Colorado, Mississippi, Nebraska, South Dakota, and Wisconsin.[75] (For more on daily fantasy sports, see "Sports Betting" below.)

Indian Gaming Regulatory Act

Congress passed the IGRA after the Supreme Court held in 1987 that state law does not apply to tribal gambling on tribal lands.[76] IGRA authorizes three classes of gambling:

- Class I social gaming, for prizes of minimal value or in connection with traditional tribal ceremonies, is subject to tribal regulation.
- Class II bingo and card games, excluding baccarat and slots, are subject to joint tribal and federal regulation.
- Class III gaming includes all other kinds of gambling and is subject to both state and tribal control through a tribe-state compact, which must comply with a federal framework.

For a tribe to offer class II and class III gambling on a reservation or land held in trust, the tribe must be "located in a State that permits such gambling for any purpose by any person, organization or entity." Federal courts have interpreted this provision to permit tribes to conduct any type of gambling permitted in the state, but without state limits or conditions. For example, tribes in states that permit "Las Vegas" nights for charitable purposes may seek to negotiate a compact with a state that allows for class III casino gambling. On the other hand, the fact that state law permits some form of lottery is not, in itself, sufficient to permit a tribe-state compact allowing all forms of casino gambling.[77]

There has been controversy regarding so-called reservation shopping, in which tribes, often in rural areas, seek to locate casinos on land closer to urban centers in order to attract more customers.[78] The Secretary of the Interior has authority to approve tribe-state compacts. NIGC oversees class II gaming, tribal gaming ordinances, and some regulatory issues. Its chairman is appointed by the President and confirmed by the Senate. The other two commissioners are appointed by the Secretary of the Interior.

IGRA places limits on the use of tribal revenues from Indian gambling. Among the permissible uses are education, health care, tribal government and other development activities, charitable giving contributions to local governments, and per capita distributions to tribal members.[79] Because Indian tribes are sovereign nations under federal law, they are not subject to regulations

[74] Tribal Internet Gaming Alliance (TIGA), Launch, Implement, and Expand, http://www.kanjikatzen.com/wp-content/uploads/2013/10/2013.10.29-TIGA-PPt.pdf.

[75] The Minnesota tribe's new DFS platform is being offered to other tribes in states where DFS is legal. See Dustin Gouker, "A Daily Fantasy Sports Site Network for Gaming Tribes? Minnesota Casinos Launch Grand Fantasy Sports," *Legal Sports Report*, September 7, 2016.

[76] *California v. Cabazon Band of Mission Indians*, 480 U.S. 202.

[77] CRS Report RL34325, *Indian Gaming Regulatory Act (IGRA): Gaming on Newly Acquired Lands*, by M. Maureen Murphy. The law requires states to negotiate compacts in good faith.

[78] Chris Nichols, "San Diego Tribes Keep Close Eye on Prop. 48," *San Diego Union-Tribune*, October 25, 2014.

[79] NIGC, "Frequently Asked Questions," http://www.nigc.gov/About_Us/Frequently_Asked_Questions.aspx.

by state or local governments and do not pay taxes on income generated by commercial activities. Tribes pay employment taxes, however, and are taxed on wagering.[80] In negotiating compacts with state governments, some tribes have agreed to share a portion of proceeds from class III gambling with the states.

Financing Uncertainty

As is the case with commercial casinos, some tribal operations that expanded in recent years have had difficulty meeting or restructuring debt obligations. The Mashantucket Pequot Nation, which operates the Foxwoods casino, defaulted in 2009 and completed the restructuring of its debt of $2 billion on July 1, 2013.[81] According to recent news reports, Foxwoods remains in a precarious financial position, with outstanding loans of around $1.7 billion.[82] The Mohegan Tribal Gaming Authority, which refinanced $1.64 billion of long-term debt in March 2012, announced layoffs involving hundreds of employees at the Mohegan Sun in several years since then.[83] Because tribes are sovereign nations, there are emerging complications for lenders. For example, the Mohegan tribe's constitution gives its Gaming Disputes Court, made up of a trial court and an appeals court, exclusive jurisdiction over disputes involving gambling. The Mohegan Sun *2015 Annual Report* spelled out some of the potential legal issues:

> We, the Tribe and our wholly-owned subsidiaries may not be subject to, or permitted to seek protection under, the federal bankruptcy laws since an Indian tribe and we, as an instrumentality of the Tribe, may not be a "person" eligible to be a debtor under the U.S. Bankruptcy Code. Therefore, our creditors may not be able to seek liquidation of our assets or other action under federal bankruptcy laws. Also, the Gaming Disputes Court may lack powers typically associated with a federal bankruptcy court, such as the power to non-consensually alter liabilities, direct the priority of creditors' payments and liquidate certain assets. The Gaming Disputes Court is a court of limited jurisdiction and may not have jurisdiction over all creditors of ours or our subsidiaries or over all of the territory in which we and our subsidiaries carry on business.[84]

An ongoing dispute between Wells Fargo Bank and Saybrook Investors LLC, and Wisconsin's Lac du Flambeau Band of Lake Superior Chippewa Indians could affect gaming financing. Wells Fargo has sued the tribe over its failure to make monthly payments on a $50 million tribal bond to consolidate debt and invest in a riverboat casino operation in Mississippi. The U.S. District Court for the Western District of Wisconsin in 2010 found that the bond deal was invalid because it had not been reviewed by the National Indian Gaming Commission, as the court said was required under IGRA.[85] The complicated and long-running dispute has continued after a remand in September 2011 by the Seventh Circuit Court of Appeals.[86] It may take more years and possibly a

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[80] Internal Revenue Service, *Gaming Tax Law and Bank Secrecy Act Issues for Indian Tribal Governments*, 2008, http://www.irs.gov/pub/irs-pdf/p3908.pdf. Income of certain corporations set up as separate and distinct from a tribe can be taxed.

[81] Clyde W. Barrow, *Northeastern Casino Gaming: Update 2015*, Pyramid Associates, LLC, March 2015, p. 6.

[82] "Foxwoods, Mashantuckets in a Tenuous Debt Position," HartfordBusiness.com, December 30, 2015, http://www.hartfordbusiness.com/article/20151230/NEWS01/151239995/foxwoods-mashantuckets-in-a-tenuous-debt-position.

[83] Mohegan Tribal Gaming Authority, Annual Report 10-K, for fiscal year ended September 30, 2014, pp. 39-43.

[84] Mohegan Sun, *2015 Annual Report*, p. 23.

[85] *Wells Fargo Bank N.A. vs. Lake of the Torches Economic Development Corporation*, United States District Court, Western District of Wisconsin, 677 F. Supp. 2d 1056, January 5, 2010.

[86] "Lac du Flambeau Band Loses Ruling in Messy Casino Bond Case," Indianz.com, December 2, 2015.

few more appeals for a ruling on the validity of the bond documents other than the bond indenture.[87]

Pari-Mutuel Betting

Legal in 43 states,[88] pari-mutuel betting is defined as "player-banked betting with all the bets pooled and prizes awarded from the pool."[89] The most common examples in the United States are dog and horse racing and jai alai (a game played on a court with a ball and wicker racket), and other sporting events in which participants finish in ranked order.

In recent years, the industry has developed an extensive system of Internet and off-track wagering. In 2000, Congress approved legislation to amend the definition of "interstate off-track wager" in the Interstate Horseracing Act (15 U.S.C. §§3001-3007). Proponents claim the amendment permits tracks to accept bets online from individuals located in states where pari-mutuel betting is legal (although not necessarily where either off-track or online betting is legal); the Department of Justice disagrees.[90] A bill introduced in the 114th Congress, H.R. 707, would have clarified that the Wire Act and other laws do not apply to the Interstate Horseracing Act.

Despite the legal uncertainty, interstate pari-mutuel betting with remote devices is growing through the use of advance deposit wagering (ADW). Players first set up accounts with companies such as Twinspires (owned by the Churchill Downs racetrack), Xpressbet, or TV Games Network. They then use the accounts to place bets on races over the phone, on a computer, with mobile devices, or with set-top remote control devices linked to television channels that broadcast horse racing. The Oregon Racing Commission, which licenses and audits many of the largest firms taking advance deposit wagers, reports that online wagering via its licensed companies rose to $2.9 billion in 2015, from $962 million in 2005.[91]

Sports Betting

Congress in 1992 passed the Professional and Amateur Sports Protection Act (PASPA; P.L. 102-559) with strong support from the National Basketball Association, the National Football League (NFL), Major League Baseball, the National Hockey League, and the National Collegiate Athletic Association, among others. The law generally barred state governments from licensing, sponsoring, operating, advertising, promoting, or engaging in sports gambling.[92] It contained exceptions for Nevada, Oregon, Delaware, and Montana, each of which allowed certain types of

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[87] Sam Cohen, "7th Circuit Court of Appeals Voids Tribal Gaming Loan and Asks the NIGC to Promulgate Regulations as to Permissible Financing Agreements for Indian Gaming Projects," *Indian Gaming*, January 2012, http://www.indiangaming.com/istore/Jan12_SamCohen.pdf.

[88] Alaska, Georgia, Hawaii, Mississippi, North Carolina, South Carolina, and Utah are the only states that do not offer legal pari-mutuel wagers.

[89] William N. Thompson, *Gambling in America: An Encyclopedia of History, Issues and Society* (Santa Barbara, CA: ABC-CLIO, 2001), p. 289.

[90] CRS Report 97-619, *Internet Gambling: An Overview of Federal Criminal Law*, by Charles Doyle. The language of the Interstate Horseracing Act (P.L. 106-553) was amended to read "'interstate off-track wager' means a legal wager placed or accepted in one State with respect to the outcome of a horserace taking place in another State *and includes pari-mutuel wagers, where lawful in each State involved, placed or transmitted by an individual in one State via telephone or other electronic media and accepted by an off-track betting system in the same or another State, as well as the combination of any pari-mutuel wagering pools*." 15 U.S.C. §3002(3); §629, 114 Stat. 2762-108 (2000).

[91] https://www.oregon.gov/Racing/docs/handle/2016/2016_June%20qt_hub_handle_through_Aug1.pdf.

[92] All pari-mutuel wagering on horse racing, dog racing, and jai alai is excepted from PASPA.

sports betting at the time of passage.[93] New Jersey failed to pass legislation in time to qualify for the PASPA exemption. Currently, Nevada is the only state to permit wagers on a full complement of sporting events and leagues.[94] According to the University of Nevada, Las Vegas Center for Gaming Research, casino-goers in Nevada wagered about $4.2 billion on sporting events in 2015, a rise from $3.4 billion in 2012.[95]

Delaware, which allowed only limited multigame or parlay betting[96] on NFL contests at the time the 1992 law was passed, enacted a law in 2009 to create a state sports lottery. The NFL and other sports leagues challenged the law, and the U.S. Third Circuit Court of Appeals ruled that the state was limited to offering narrow betting, similar to what existed in 1992. The U.S. Supreme Court in May 2010 declined to hear an appeal, effectively ending Delaware's effort to expand sports betting.[97] After its voters authorized sports betting at casinos and racetracks in 2011, New Jersey mounted other court challenges to the constitutionality of PASPA.[98] In February 2016, the U.S. Third Circuit Court of Appeals ruled that New Jersey's sports wagering law conflicts with PASPA and could not be implemented.[99] The Supreme Court may consider whether to hear New Jersey's appeal of the lower court ruling.[100] According to an estimate by AGA, Americans spent around $150 billion on illegal sports betting in 2015.[101]

Two bills have been introduced in the 114th Congress related to sports gambling. The New Jersey Betting and Equal Treatment Act of 2015 (H.R. 457) would expressly exempt New Jersey from PASPA. The Sports Gaming Opportunity Act (H.R. 416) would create an exemption from the PASPA prohibitions for any state that establishes sports gambling through laws enacted on or after January 1, 2015, and that go into effect no later than January 1, 2019.

Regulation of Internet Gambling

Federal Internet gambling legislation could benefit some sectors of the gambling industry more than others, depending on how it is crafted. State lottery officials, for example, have expressed concern that proposals that would give existing gambling establishments preference for online poker licenses could give those businesses an advantage in the market.[102] By the same token, commercial casinos are worried that under the existing legal framework, online state lottery

[93] A state was exempt from PASPA if it conducted sports betting at any time between 1976 and 1990.

[94] CRS Report 97-619, *Internet Gambling: An Overview of Federal Criminal Law*, by Charles Doyle.

[95] David G. Schwartz, *Nevada Gaming Win 2015 and 2012*, Center for Gaming Research, University of Nevada, Las Vegas (UNLV), 2015.

[96] A parlay bet is a wager that links two or more bets. The bettor wins only if all the linked wagers fall his or her way. The potential payout is higher, but the odds of winning are longer.

[97] *Office of the Commissioner of Baseball v. Markell*, 579 F.3d 293 (3d. Cir., 2009); Warren Richey, "Supreme Court turns back Delaware bid to expand sports betting," *Christian Science Monitor*, May 3, 2010, http://www.csmonitor.com/USA/Justice/2010/0503/Supreme-Court-turns-back-Delaware-bid-to-expand-sports-betting.

[98] Christopher L. Soriano, "The Efforts to Legalize Sports Betting in New Jersey—A History," *New Jersey Lawyer*, April 2013, pp. 22-25.

[99] "New Jersey Sports Betting," *Legal Sports Report*, 2016, http://www.legalsportsreport.com/nj/.

[100] Dustin Gouker, "Hail Mary: New Jersey Will Appeal Sports Betting Case to U.S. Supreme Court," *Legal Sports Report*, October 4, 2016.

[101] AGA, *Law Enforcement Summit on Illegal Sports Betting: After-Action Report*, September 21, 2016, p. 12, https://www.americangaming.org/sites/default/files/After%20Action%20Report_PDF-Web.pdf.

[102] Ross Choma, *Don't Bet the House: Online Gaming Ban Faces Uncertain Future*, Center for Responsive Politics, May 12, 2014, https://www.opensecrets.org/news/2014/05/dont-bet-the-house-online-gaming-ban-faces-uncertain-future/.

promotions, such as keno-type games, could encroach on their turf. If the United States passes federal online gambling legislation and all states opt in during the next 12 months, H2 Gambling Capital predicts a U.S. online gambling market of $15 billion to $16 billion by 2021.[103]

Interest groups and gambling companies are at odds over remote gambling. One of the strongest proponents of legalized online poker is the Poker Players Alliance.[104] Caesars Entertainment and MGM are among the large casino operators that have urged Congress to adopt federal legislation to regulate Internet gambling to avoid a patchwork of state regulations and different tax rates. These interests formed the Coalition for Consumer and Online Protection in 2014.[105] Aligned against them are others, including most prominently the Coalition to Stop Internet Gambling.[106] The North American Association of State and Provincial Lotteries (NASPL)[107] and the National Conference of State Legislatures (NCSL)[108] want individual states to have the right to legalize, license, and tax Internet gambling.[109] In 2015, the National Council of Legislators from Gaming States (NCLGS) adopted a list of 10 policy standards for Internet gambling legislation addressing topics such as player protections, taxation, licensing, enforcement, payment processing, and geolocation standards.[110] The National Governors Association largely echoes this view, and it has called on lawmakers to include state input before acting on any online gambling legislation.[111]

Many Indian tribes have declared their opposition to any federal gambling regime, although some of the larger tribes are now beginning to reverse their previous positions, viewing online gambling as a possible business opportunity.[112] The National Indian Gaming Association (NIGA) has a set of conditions it wants to see met in any bill to legalize interstate Internet gambling.[113] The tribes, as sovereign nations, want to ensure that their Internet gambling revenues are not taxed, that qualified tribal operations are allowed to participate in the online market from the outset, and that existing state-tribal compacts are not undermined. NIGA has been concerned that some proposals could give commercial casinos and other established businesses early entry into the market, possibly putting tribal operations at a disadvantage.

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[103] H2 Gambling estimate provided to CRS by email on October 31, 2016.

[104] Poker Players Alliance (PPA), *PPA Talking Points*, http://theppa.org/resources/talking-points/.

[105] See the Coalition for Consumer & Online Protection at http://c4cop.com/.

[106] The Coalition to Stop Internet Gambling was formed in November 2013 with substantial financial support from Las Vegas Sands CEO Sheldon Adelson. Dozens of organizations are part of the coalition; see http://stopinternetgambling.com/about-coalition-to-stop-internet-gambling/.

[107] NASPL resolution opposed federal legislation that would encroach on the traditional state prerogative to regulate gaming within each state's borders, November 4, 2011; see http://www.publicgaming.com/index.php?option=com_content&view=article&id=9544%253Anorth-american-association-of-state-and-provincial-lotteries-naspl-resolution&catid=25%253Aworldwide-lottery&Itemid=105.

[108] In April 2014, NCSL wrote to Congress expressing its strong opposition to federal regulation of online gambling; see http://c4cop.com/wp-content/uploads/2014/04/NCSL-Letter_-Oppose-Restoration-of-Americas-Wire-Act.pdf.

[109] NCSL Resolution, State Sovereignty in Online Gaming, http://www.ncsl.org/documents/telecommunications/Online_Gaming_Resolution_.pdf.

[110] The National Council of Legislators from Gaming States (NCLGS), "Policy Framework for the Regulation of Internet Gambling," January 10, 2015, http://www.nclgs.org/PDFs/2015/01142015NCLGSPolicyGamblingNew.pdf.

[111] Letter from National Governors Association to Senator Harry Reid, May 16, 2014, http://www.nga.org/cms/home/federal-relations/nga-letters/economic-development—commerce-c/col2-content/main-content-list/internet-gaming-2014.html.

[112] Martin D. Owens Jr., "Will Gaming Tribes Win the Race to the Internet?," *Gaming Law Review and Economics*, vol. 19, no. 2 (2015).

[113] NIGA, "House Judiciary Subcommittee Holds Hearing on Internet Gaming," press release, March 26, 2015, http://www.indiangaming.org/issues/2015/5/11/house-judiciary-subcommittee-holds-hearing-on-internet-gaming.

Even if it leads to the growth of gambling revenues and employment at the national level, federal Internet gambling legislation has the potential to cause revenue and employment declines in certain locations. These effects may well depend upon the details of whatever legislation Congress passes and the specific actions taken by individual states in response.

Enforcement of Internet gambling laws also presents logistical difficulties, including monitoring myriad websites to make sure that minors do not gamble; verifying the geographic location of gamblers on sites that are limited to certain states or territories; and auditing websites and payment systems.[114] Consumers may experience difficulty resolving disputes with online operators whose physical locations may be in countries with weak law enforcement or extreme banking secrecy.

Federal rules to implement UIGEA require financial firms to engage in due diligence to ensure that businesses engaged in Internet gambling furnish proof of legal operating authority and that state or tribal gambling ordinances include requirements verifying the age and geographic location of clients.[115] Nonetheless, the Department of Justice, the Department of State, and state attorneys general have raised questions about the potential for fraud and money laundering. In December 2015, Joseph S. Campbell, assistant director of the FBI Criminal Investigative Division, cautioned that Internet poker could "give rise to potential criminal activity," and that "using online tools, like TOR networks and Virtual Private Networks, criminal actors could conceal their identity, location, and true gambling activity."[116]

The Oregon Racing Commission has addressed some of the regulatory issues in its procedures for licensing firms that provide advance deposit wagering (ADW) on horse races. Some ADW firms ran into difficulties after final regulations to implement UIGEA took effect, as several credit card issuers blocked payment to the companies out of concern that they might be linked to illegal gambling operations. Oregon now requires such firms to be licensed and audited by the commission, whether or not they are physically headquartered in the state.[117] ADW firms must provide financial information including resources and detailed projections of revenue, expenditures, and cash flows by month; a list of all personnel; a segregated account with a federally insured bank to hold the funds of its account holders; a $50,000 security fee; and proof of "an operational presence within the State of Oregon," such as a call center or a subcontract with an existing call center.

Problem Gambling

As states have expanded legal gambling, several have also created programs—funded through tax revenues or assessments on private companies—for treatment of individuals who are considered problem or pathological gamblers.[118] The National Council on Problem Gambling (NCPG)

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[114] PR Newswire, "Internet Poker Vulnerable To: Money Laundering by Terror Groups; Cheating; and Fraud, Warn Four Experts and the FBI," press release, January 7, 2014, http://www.undetectablelaundering.com/docs/DearColleagueFBIOnlineGambling.pdf.

[115] American Bankers Association, "UIGEA Final Rule, Frequently Asked Questions," http://www.aba.com/compliance/documents/6711ed3c0a294287bb1acb329ed409bfuigeafaqs.pdf.

[116] U.S. Congress, House Committee on Oversight and Government Reform, *A Casino in Every Smartphone: Law Enforcement Implications*, 114th Cong., 2nd sess., December 9, 2015, p. 2.

[117] Oregon Racing Commission, http://arcweb.sos.state.or.us/rules/OARS_400/OAR_462/462_220.html.

[118] According to the National Council on Problem Gambling, problem gambling is characterized by an increasing preoccupation with gambling, a need to bet more money more frequently, restlessness or irritability when attempting to stop, "chasing" losses, and loss of control manifested by continuation of the gambling behavior in spite of mounting, (continued...)

estimates, based on previous research, that about 1% of the population can be classified as pathological gamblers and another 3% as problem gamblers.[119] It has estimated that problem gambling affects 6 million to 8 million Americans. Adolescents and males are considered to be at higher risk of a gambling disorder.[120] In April 2012, NCPG released standards for responsible Internet gambling, which are intended to provide guidance to new online operators and regulators.[121]

According to a survey by the Association of Problem Gambling Service Administrators, nearly 40 states offer some type of publicly funded gambling addiction service; about 15 states fund employees who work full-time on the issue.[122] Spending ranges from nothing in a dozen states to a high of about $1.42 per capita in Delaware.[123]

Opponents of legislation to expand Internet gambling cite the potential for an increase in problem gambling if the ease of online gambling encourages even more people to gamble.[124] As dissenting members of the House Financial Services Committee wrote in opposing a bill in the 111th Congress that would have allowed Internet gambling (H.R. 2906),

> [y]oung people are particularly at risk. John Kindt, Professor of Business Administration at the University of Illinois says: "It's 'click the mouse, lose your house.' It puts gambling at every work desk and every school desk and in every living room. It would increase problem gambling rates exponentially." By approving this bill, the largest expansion of gambling in history, the Committee has taken steps to open casinos in every home, dorm room, library, iPod, Blackberry, iPad and computer in America.[125]

Because Internet gambling has developed only recently, the scientific literature on its effects on problem gambling is in its infancy.[126] In 2013, the American Psychiatric Association classified problem gambling as an addictive disorder[127] akin to alcoholism. Gambling addiction experts at Washington University in St. Louis found that "based on available research, it is unclear if the

(...continued)

serious, negative consequences. The American Psychiatric Association defines pathological gambling as "[p]ersistent and recurrent maladaptive gambling behavior" that meets at least five of 10 criteria.

[119] NCPG, citing H. J. Shaffer, M. N. Hall, and J. Vander Bilt, "Estimating the prevalence of disordered gambling behavior in the United States and Canada: A research synthesis," *American Journal of Public Health*, vol. 89, no. 9 (September 1999), pp. 1369-1376.

[120] NCPG, "Advancing Health Through System Reform-Problem Gambling," May 22, 2009.

[121] NCPG, *Internet Responsible Gambling Standards*, April 23, 2012, http://www.ncpgambling.org/files/faq/Internet%20Responsible%20Gambling%20Standards%20April%2023%202012.pdf.

[122] Jeff Marotta, Mark Vander Linden, Keith Whyte, *2013 National Survey of Problem Gambling Services*, Problem Gambling Solutions, Inc., prepared for the National Council on Problem Gambling and the Association of Problem Gambling Services Administrators, March 2014, p. 26, http://www.ncpgambling.org/files/public/2013NationalSurveyofProblemGamblingServices%20FINAL.pdf.

[123] NCPG, "Funding for Gambling Addiction Falls Short as Gambling Expands," press release, March 26, 2014, http://www.ncpgambling.org/files/Advocacy/APGSA%20NCPG%20Release%20National%20Survey%20of%20Gambling%20Services%20March%202014.pdf.

[124] June Cotte and Kathryn A. Latour, "Blackjack in the Kitchen: Understanding Online Versus Casino Gambling," *Journal of Consumer Research*, 2008, http://ejcr.org/preprints/2009/february/cotte-preprint-feb09.pdf.

[125] H.Rept. 111-656, Part 1, p. 56, http://www.gpo.gov/fdsys/pkg/CRPT-111hrpt656/pdf/CRPT-111hrpt656-pt1.pdf.

[126] Sally M. Gainsbury, "Online Gambling Addiction: The Relationship Between Internet Gambling and Disordered Gambling," *Technology and Addiction*, vol. 2, no. 185-193 (April 11, 2015).

[127] Christine Reilly and Nathan Smith, "The Evolving Definition of Pathological Gambling in the DSM-5," National Center for Responsible Gaming, May 19, 2013, http://www.ncrg.org/sites/default/files/uploads/docs/white_papers/ncrg_wpdsm5_may2013.pdf.

Internet contributes to more gambling problems, but we know that those who choose to gamble using the Internet and experience problems are often involved in other forms of gambling as well."[128] Likewise, a survey of more than 4,500 participants in Internet gambling in Australia showed that "online gamblers were not more likely to be classified as problem gamblers than non-online gamblers."[129] Iowa's Department of Public Health recently studied the potential health issues related to legalizing Internet poker in Iowa. Among other findings, the study said that "the literature cannot support a claim that Internet poker will cause people to become problem or pathological gamblers; however, researchers have asserted that Internet gambling has the potential to contribute to problem gambling."[130] Some groups also oppose all forms of gambling, including online gambling, for moral reasons, arguing that the "national explosion of gambling may well be the most underrated dimension of America's moral crisis."[131]

Gambling as a Government Revenue Source

Gambling is a way for states to raise revenue. Revenues from lotteries, taxes on commercial casinos, and other gambling in most states represented between 2.0% and 2.5% of state own-source general revenues, according to the Rockefeller Institute of Government.[132] State gambling revenues rose from $20.7 billion in FY2005 to $27.7 billion in FY2015, in part because more casinos, racinos, and lottery products entered the market (see **Figure 5**).

State revenues from casinos have fallen or been largely flat since 2013, and 9 of 17 states with commercial casinos experienced revenue declines in FY2015. West Virginia and Indiana reported the sharpest declines.[133] Revenue from lotteries has been rising slowly. Changing consumer behavior, especially among younger people who may view gambling as a less attractive leisure activity than their parents and grandparents, is a contributing factor to the more recent softening in the growth of gambling revenues.[134]

Although minor on a national scale, gambling taxes are extremely important for certain states. In Nevada, gambling taxes made up about 20% of the state's general fund revenue in 2015, compared with 30% from sales and use taxes.[135] In Delaware, the state lottery was the fourth-largest source of general fund revenue in FY2016,[136] and Rhode Island's general fund received

[128] Jessica Martin, "Gambling Addictions Expert Warns of Dangers of Internet Gambling, Especially on Youth," Washington University in St. Louis, March 16, 2012, http://www.sciencedaily.com/releases/2012/03/120316145655.htm.

[129] Sally M. Gainsbury, Nerilee Hing, and Alex Blaczczynski, et al., *An Investigation of Internet Gambling in Australia*, Center for Gambling Education and Research, Southern Cross University, Lismore, NSW, 2011, pp. 7-8, http://epubs.scu.edu.au/cgi/viewcontent.cgi?article=1720&context=tourism_pubs.

[130] Melvin G. Gonnerman and Gene M. Lutz, *Internet Poker: A Public Health Perspective*, Iowa Department of Public Health, September 2011, p. 30.

[131] John Stemberger, *Is Gambling Morally Wrong?*, Florida Family Policy Council, December 2011, https://flfamily.org/wp-content/uploads/2011/12/Our-Opposition-to-Gambling1.pdf.

[132] Lucy Dadayan, *State Revenues from Gambling: Short-Term Relief, Long-Term Disappointment*, The Nelson A. Rockefeller Institute of Government, April 2016, p. 7.

[133] Ibid., p. 32.

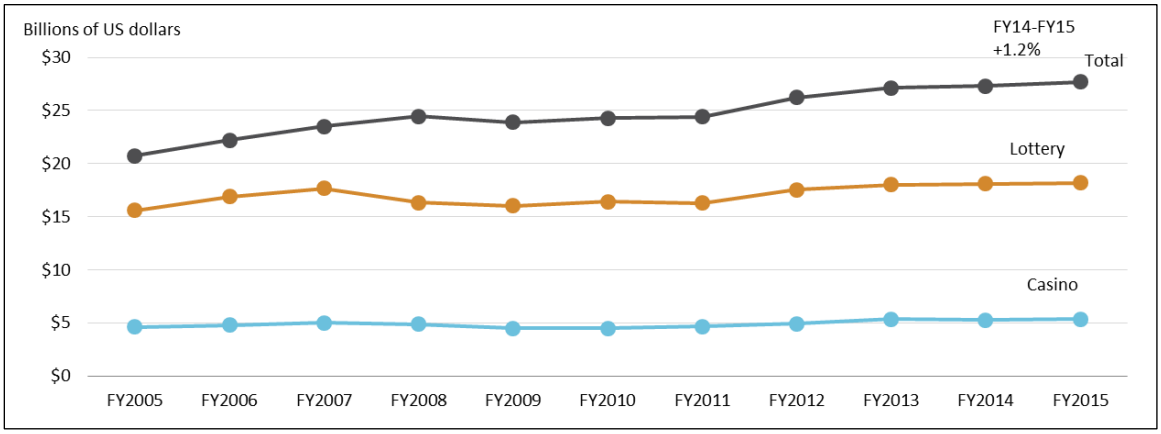
[134] Elaine S. Povich, *State Gambling Revenue Takes Hit as Millennials Bring New Habits to Casinos*, The Pew Charitable Trusts, September 15, 2015, http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/09/15/state-gambling-revenue-takes-hit-as-millennials-bring-new-habits-to-casinos.

[135] State of Nevada, Legislative Counsel Bureau, Policy and Program Report, Research Division, Revenue and Budget, p. 3, April 2016, http://www.leg.state.nv.us/Division/Research/Publications/PandPReport/19-RB.pdf.

[136] Delaware Lottery Games, Backgrounder, http://www.delottery.com/backgrounder.asp, updated July 2016.

more than 10% of its revenue from the state lottery.[137] Even though Las Vegas is the nation's number one gambling venue, Pennsylvania collected more commercial casino tax revenue in 2015 ($1.4 billion) than Nevada ($907 million).[138] Tax rates may partly explain the difference. Pennsylvania taxes at a rate of 55% of gross slot machine revenue and 16% of table games revenue, whereas Nevada's rate tops out at 6.75% of gross gambling revenue, with additional county fees and levies.[139]

Figure 5. Trends in State Gambling Revenue



Source: Nelson A. Rockefeller Institute of Government.

Notes: Total also includes pari-mutuel betting and racinos. Totals based on state fiscal years. FY2015 data are the most recent available at the time this report was prepared.

Federal licensing of Internet gambling could potentially bring additional revenue to the federal government. In 2010, the Joint Committee on Taxation estimated that licensing fees under the proposed Internet Gambling Regulation, Consumer Protection, and Enforcement Act (H.R. 2267, 111th Congress) would result in a net federal revenue increase of $283 million over a 10-year period.[140] That legislation would have authorized the Secretary of the Treasury to license and regulate Internet wagering, subject to additional oversight and licensing investigations performed by recognized state gaming authorities. The Joint Committee on Taxation also estimated that the federal government would collect an additional $42 billion over 10 years under H.R. 2230, the Internet Gambling Regulation and Tax Enforcement Act of 2011, which would have imposed a license fee equal to 2% of all funds deposited by customers into special accounts that could be used for online wagering; the revenue estimate was based on the assumption that no states opted out of the proposed system.[141]

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[137] Michael DiBiase, *Comprehensive Annual Financial Report*, State of Rhode Island, June 30, 2015, p. 38, http://controller.admin.ri.gov/documents/Financial%20Reports//117_Comprehensive%20Annual%20Financial%20Report_06-30-2015.pdf.

[138] RubinBrown, *Gaming Statistics 16*, 2016, p. 10, http://www.rubinbrown.com/Gaming_Stats.pdf.

[139] Lucy Dadayan, *State Revenues from Gambling*: *Short-Term Relief, Long-Term Disappointment*, The Nelson A. Rockefeller Institute of Government, April 2016, p. 31.

[140] Congressional Budget Office Cost Estimate, *H.R. 2267*, Internet Gambling Regulation, Consumer Protection, and Enforcement Act, September 22, 2010, http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/118xx/doc11883/hr2267.pdf.

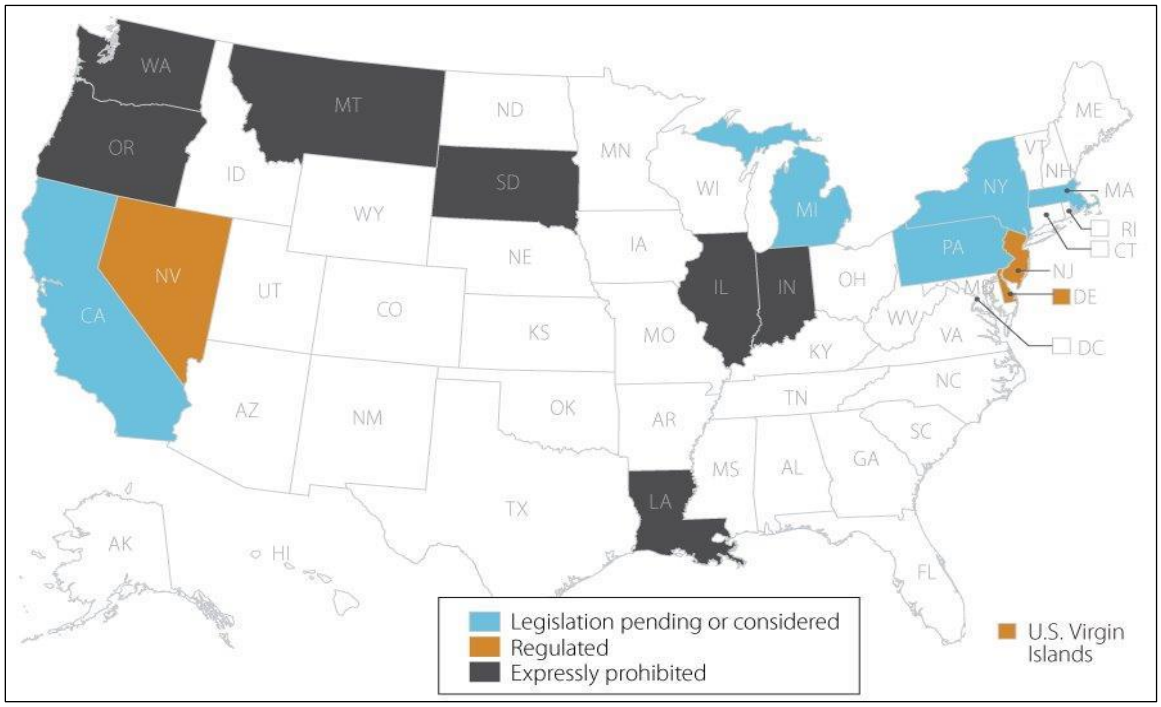
[141] Joint Committee on Taxation, letter to Rep. Jim McDermott, October 23, 2009, http://www.safeandsecureig.org/sites/default/files/InternetGamblingScore.pdf.

State Action on Internet Gambling

In recent years, a few states have legalized online gambling, others have considered legislation on Internet gambling, and still others have made it illegal (see **Figure 6**).

Figure 6. State Online Gambling Legislation

(current as of October 2016)



Sources: Congressional Research Service, based on information from the National Conference of State Legislatures, Gambling Compliance, and The Nelson A. Rockefeller Institute of Government.

Among recent developments at the state level are the following:

- Nevada in 2001 became the first state to develop a regulatory framework for online gambling. It awards online gambling licenses for poker only.[142] By federal law, online poker games approved in Nevada can only be played within the state. Before any online system can go live, the licensees must "prove their systems are capable of identifying players by location and that players are of legal age."[143] Only 2 of Nevada's 271 casinos currently offer online poker.[144] In November 2014, Ultimate Poker, the nation's first licensed online poker room, ceased

[142] Nevada licensed UltimatePoker, the nation's first legal online poker site, in April 2013, followed by the World Series of Poker (WSOP), which is owned by a subsidiary of Caesars Entertainment. Nevada's gambling statutes and regulations, including Regulation 5A on the Operation of Interactive Gaming, can be accessed at http://gaming.nv.gov/modules/showdocument.aspx?documentid=2942.

[143] "Nevada Online Poker," Safestpokersites.com, 2016, http://www.safestpokersites.com/nevada/.

[144] David G. Schwartz, *Nevada Statewide Casino Employment: Productivity, Revenues, and Payroll: A Statistical Study, 1990-2015*, UNLV Center for Gaming Research, February 2016, p. 2, http://gaming.unlv.edu/reports/nvst_emp.pdf.

operations, citing sluggish revenue and a limited pool of players.[145] In 2014, Internet poker revenue totaled $16.5 million.[146] In October 2015, Nevada became the first state to require gambling licenses for DFS operators.[147]

- Delaware became the first state to authorize full online casino-style gambling (poker, table games, and video lottery games), legalizing it in June 2012.[148] Full-scale online gambling was launched in November 2013 at the state's three racetrack casinos.[149] The state's tax revenue from Internet gambling has failed to meet forecasts, totaling only $1.8 million in FY2015.[150] In February 2014, the governors of Nevada and Delaware signed the Multi-State Internet Gaming Agreement, the first-of-its-kind Internet gambling deal.[151] Delaware's authorized online casino and poker offerings are operated by a single provider, 888 Holdings.[152]
- New Jersey's regulations governing online gambling took effect in October 2013, allowing licensed casinos to offer poker, table games, and slots over the Internet.[153] Each of the state's seven brick-and-mortar casinos offers online gambling in partnership with an online gaming operator, such as Gibraltar-based Bwin.party Digital Entertainment and 888 Holdings.[154] Gross gambling revenues from New Jersey's virtual casinos totaled $149 million in 2015, an uptick from $123 million in 2014.[155]
- Bills to authorize Internet gambling have been debated, but not adopted, by state legislatures including those in California, Pennsylvania, and Michigan.
- Colorado, Indiana, Mississippi, Missouri, New York, and Tennessee legalized online DFS betting in 2016.[156] Because of the state's new law, New York's

[145] Brett Collson, "Ultimate Poker Shuts Down Operations in Nevada," *PokerNews*, November 14, 2014.

[146] Because fewer than three locations offer online poker, Nevada has stopped reporting as a separate item how much revenue the state receives from interactive poker websites. December 2014 was the last time Nevada's State Gaming Commission reported interactive poker gaming revenue figures. See http://gaming.nv.gov/index.aspx?page=149.

[147] A.G. Burnett, Chairman, Nevada Gaming Control Board, *Legality of Offering Daily Fantasy Sports in Nevada*, October 15, 2015, http://gaming.nv.gov/modules/showdocument.aspx?documentid=10481. In June 2016, USFantasy was the first company to obtain a DFS license by any regulatory body in the United States.

[148] Jason Glatzer, "Online Gaming Doing Well in Delaware," *PokerNews*, June 16, 2016.

[149] Delaware's Gaming Competitiveness Act of 2012 allows the state's three casinos and the Delaware Lottery to offer online versions of slot machines and table games, including blackjack and poker, under the control and monitoring of state lottery officials. See http://legis.delaware.gov/LIS/lis146.nsf/vwLegislation/HB+333/$file/legis.html?open.

[150] Delaware Lottery Games, *Delaware IGaming Net Proceeds (Unaudited), 2014 and 2015*, http://www.delottery.com/games/igaming/finalstats.asp.

[151] State of Delaware, Multi-State Internet Gaming Agreement, February 25, 2014, http://governor.delaware.gov/docs/MultistateInternetGamingAgreement140224.pdf.

[152] Chris Grove, "Nevada and Delaware Agree to Compact for Online Poker. Who Wins and What's Next," *Online Poker Report*, February 25, 2014, http://www.onlinepokerreport.com/11124/nevada-online-poker-deal-with-delaware/.

[153] http://www.nj.gov/oag/ge/docs/Regulations/MasterMergedInternetRegulations031114.pdf.

[154] See New Jersey's Division of Gaming Enforcement for a list of authorized Internet gambling sites at http://www.nj.gov/oag/ge/gamingsites.html.

[155] New Jersey Division of Gaming Enforcement, Monthly Internet Gross Revenue Reports, http://www.nj.gov/oag/ge/igrtaxreturns.html.

[156] Dustin Gouker, "Colorado Becomes Fifth State to Enact Fantasy Sports Laws in 2016," *Legal Sports Report*, June 10, 2016.

Gaming Commission has issued temporary permits to almost a dozen fantasy sports operators,[157] including DraftKings, FanDuel, and Yahoo.[158]

Congressional Action on Internet Gambling

Since 2013, committees in both houses of Congress have held hearings on Internet gambling.[159] In 2015, the House Judiciary Subcommittee on Crime, Terrorism, Homeland Security, and Investigations held a hearing on the Restoration of America's Wire Act (RAWA; H.R. 707),[160] and the House Committee on Oversight and Government Reform also held an informational hearing on RAWA.[161] The bill, also introduced as S. 1668, would amend the Wire Act to prohibit all forms of Internet gambling in the United States, including in the three states where online gambling has already been licensed and regulated. This bill would not make online games themselves illegal, but rather would prohibit use of the communications network to play games like poker or bingo over the Internet, restoring the original interpretation of the Wire Act. It contains exemptions for online interstate horse race wagers, fantasy sports competitions, and state-licensed computer-generated retail lottery sales. The Coalition to Stop Internet Gambling supports these bills.[162]

In 2015, the Senate Committee on Indian Affairs held an oversight hearing on Internet gambling and how it might affect Indian tribes.[163] S. 3376, introduced in September 2016, would prohibit financial institutions from processing Internet gambling transactions, and it aims to overturn the Department of Justice's 2011 memorandum, which interpreted the Wire Act as applying only to sports gambling and not to other forms of online gambling, including casinos and poker.

Another online gambling measure introduced in the 114th Congress, the Internet Poker Freedom Act of 2015 (H.R. 2888), would allow a state or tribal gambling oversight commission approved by a new Office of Internet Poker Oversight in the Department of Commerce to license online poker sites only. Registered sites would be subject to regulation and inspection to, among other things, prevent minors from playing, stop money laundering, and identify problem gamblers. The bill would prohibit the use of credit cards on poker websites. Certain established gambling businesses would initially have preference for licenses.

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[157] "New York Daily Fantasy Sports," *Legal Sports Report*, August 3, 2016.

[158] New York State Gaming Commission, "NYS Gaming Commission Announces Draft Kings, FanDuel, Yahoo, Fantasy Draft, and Draft May Operate in New York State," press release, August 22, 2016, https://www.gaming.ny.gov/pdf/08.22.16.IFSTempPermits.pdf.

[159] See, for example, House Energy and Commerce Committee Subcommittee on Commerce, Manufacturing, and Trade, "The State of Online Gaming," December 10, 2013; and Senate Subcommittee on Consumer Protection, Product Safety and Insurance of the Commerce, Science, and Transportation Committee, "The Expansion of Internet Gambling: Assessing Consumer Protection Concerns," July 17, 2013.

[160] U.S. Congress, House Committee on the Judiciary, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations, H.R. 707, *The "Restoration of America's Wire Act,"* 114th Cong., 1st sess., March 25, 2015, https://judiciary.house.gov/hearing/hearing-hearing-on-h-r-707-the-restoration-of-america-s-wire-act/.

[161] U.S. Congress, House Committee on Oversight and Government Reform, *A Casino in Every Smartphone—Law Enforcement Implications*, 114th Cong., 2nd sess., December 9, 2015, https://oversight.house.gov/hearing/a-casino-in-every-smartphone-law-enforcement-implications/.

[162] See Coalition to Stop Internet Gambling, "Restoration of America's Wire Act Bill Introduced in the Senate," June 24, 2015, http://stopinternetgambling.com/restoration-americas-wire-act-bill-introduced-senate/.

[163] U.S. Congress, Senate Committee on Indian Affairs, *Oversight Hearing on "Safeguarding the Integrity of Indian Gaming,"* 114th Cong., 2nd sess., July 22, 2015, http://www.indian.senate.gov/hearing/oversight-hearing-safeguarding-integrity-indian-gaming.

Appendix. A Short History of U.S. Gambling and Lotteries

Government-supported gambling has been part of America's development since the earliest days of colonization, starting with a 1612 London lottery to raise money for the Virginia Colony.[164] While gambling restrictions were imposed in some of the colonies, the Continental Congress used lotteries to raise funds for forces during the Revolutionary War. Lotteries were used to finance public works projects and establish universities, including Harvard, Yale, Columbia, Dartmouth, and Princeton.[165] By 1832, there were more than 400 lotteries in eight states.[166] Annual ticket sales came to 3% of national income and were several times larger than the federal budget.[167]

Public opinion began to sour due to high-profile scandals and graft in lotteries, and by the time of the Civil War legal lotteries basically had been halted.[168] Some gambling and gamblers moved west with the Gold Rush. During Reconstruction, Louisiana created a special lottery to help rebuild the state, drawing players from around the nation. The Louisiana Lottery continued for years, despite evidence of mismanagement and theft. Congress intervened, passing legislation in 1876 banning the use of mail for lottery advertising. Congress approved a second bill in 1890 to ban the use of mail to sell lottery tickets, and in 1895 banned the transport of lottery tickets in interstate commerce.

By 1910, U.S. legal gambling, with the exception of horse racing, was moribund. State-sanctioned gambling began a comeback during the Great Depression as a means to raise money for charity and government services. States began to legalize bingo games in the 1930s, and Nevada legalized casino gambling in 1931.

Illegal gambling also proliferated, leading Congress in 1950 to investigate organized crime and gambling casinos. In 1951 lawmakers passed the Johnson Act, which barred transport of gambling machines in interstate commerce unless they were being moved to a legal jurisdiction. A second round of congressional investigations (from 1955 to 1960) resulted in a series of laws to combat gambling and racketeering.

In 1964, New Hampshire became the first state to reinstate a lottery, and, in 1976, New Jersey voted to allow casinos in Atlantic City. In 1979, Indian gambling began on the Seminole reservation in Florida.[169] In 1987, the Supreme Court upheld the right of Indian tribes to offer unregulated gambling on sovereign lands, so long as they did not violate state criminal laws. In response, Congress in 1988 passed the Indian Gaming Regulatory Act (IGRA) providing for Indian gambling to be regulated under compacts negotiated between state governments and tribes. In 1992, Congress passed the Professional and Amateur Sports Protection Act (PASPA) limiting states' ability to offer sports gambling. In 2006, Congress passed the Unlawful Internet Gambling Enforcement Act (UIGEA), which prevents payments to illegal gambling-related businesses but does not outlaw all forms of Internet gambling.

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[164] Many of the dates in this section come from the Chronology of Gambling Events in William N. Thompson, *Gambling in America: An Encyclopedia of History, Issues and Society*.

[165] Roger Dunstan, California Research Bureau, *Gambling in California*, CRB-97-003, January 1997, http://www.library.ca.gov/crb/97/03/crb97003.html#toc.

[166] Rex M. Rogers, *Gambling: Don't Bet on It* (Grand Rapids, MI: Kregel Publications, 2005), p. 31.

[167] William N. Thompson, *Gambling in America: An Encyclopedia of History, Issues and Society*, p. 227.

[168] Roger Dunstan, *Gambling in California*.

[169] 500 Nations, "Brief History of Indian Casinos," http://500nations.com/news/Indian_Casinos/history.asp.

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