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A CONTEMPORARY REVIEW OF LEGALIZED GAMBLING IN NEW JERSEY*

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Introduction

Gambling has been a controversial topic in New Jersey policy circles for decades. Major steps in the state's gambling policy have usually been accompanied by dispute and discord. Gambling was such a contentious issue at the 1947 constitutional convention that it threatened to undo the work of the delegates and lead to the rejection of the new charter at the polls. In 1939, New Jersey's adoption of a constitutional amendment permitting horserace betting climaxed years of legislative strife and partisan division, and the 1953 amendment legalizing bingo and raffles was enacted in the face of open disregard of the state's anti-gambling laws. The state's voters approved an amendment authorizing a state lottery in 1969, at a time when lotteries in New Hampshire and New York were producing disappointing results, and in 1976, on the second try, New Jersey sanctioned the establishment of casinos even though many voters thought

* This paper was prepared at the request of the Governor's Advisory Commission on Gambling. It responds to the provisions of the statute that created the Commission, chapter 115 of the laws of 1986, the interests and requirements of the Commission, and the topics covered in other papers prepared for the Commission.

The statement that the views and analyses contained in this paper are the responsibility of the author should be taken seriously. The regulation of gambling is a new policy area. I have organized data and structured analyses in ways that are sometimes unconventional, and occasionally provocative. I have done this to clarify themes that emerge from my examination of the conduct of gambling policy in the state. Others have and will interpret these issues differently. No one should infer that my views and analyses are the opinions of the Governor's Advisory Commission on Gambling.

TABLE I.
PUBLIC QUESTIONS ON GAMBLING UNDER 1947 CONSTITUTION

<i>Question</i>	<i>Year</i>	<i>Outcome</i>	<i>Votes</i>	
			<i>In Favor</i>	<i>Against</i>
<i>BINGO AND RAFFLES</i>				
Permit Bingo and Raffles	1953	Adopted	947,676	374,818
Allow Senior Citizen Groups to Conduct Bingo	1972	Adopted	1,968,434	341,816
Allow Senior Citizen Groups to Conduct Raffles	1984	Adopted	2,074,417	342,344
<i>RACING</i>				
Permit Betting on Horse Races at Night	1966	Adopted	945,495	577,002
Permit Betting on Horse Races on Sunday	1980	Rejected	996,006	1,285,074
Permit Betting on Horse Races that are Simulcast	1985	Adopted	1,040,117	533,926
<i>LOTTERY</i>				
Authorize a State Lottery	1969	Adopted	1,593,239	362,947
<i>CASINOS</i>				
Permit Gambling Casinos	1974	Rejected	790,777	1,202,638
Permit Atlantic City Casinos	1976	Adopted	1,535,249	1,180,799
Increase Flexibility in Use of Casino Revenues	1981	Adopted	1,105,957	524,496
Allow Use of Casino Revenues for Homestead Rebates	1985	Rejected	573,555	943,740
<i>OTHER FORMS OF GAMBLING</i>				
Permit Amusement Games	1959	Adopted	917,291	630,800
Permit Amusement Games at Agricultural Fairs	1961	Adopted	768,372	445,816
Permit Larger Fees and Prizes—Amusement Games	1976	Rejected	907,007	1,359,860
Permit Jai Alai Gambling	1978	Rejected	671,793	966,254
Allow Legislature to Change Rules for Amusement Games	1980	Rejected	977,766	1,191,128
Permit Larger Fees and Prizes—Amusement Games	1981	Adopted	927,680	688,679

that the casinos would be dominated by organized crime. Opinions on gambling topics are deeply held in New Jersey, and policy decisions have usually been difficult to reach.

Gambling has not only been a controversial topic in New Jersey policy circles, but a persistent one as well. The first amendment to the 1947 constitution concerned gambling, and seventeen of the fifty-five public questions placed before the voters in subsequent years, that were not related to bond issues, also involved gambling. Dozens of reports, scores of public hearings, hundreds of legislative committee meetings, and thousands of legislative proposals have contributed to the state's gambling policy.

While the fundamental allure of gambling has not changed during these years, the governmental context of gambling in New Jersey has been profoundly transformed. In 1939, the constitutional prohibition of all forms of gambling was still in effect. By 1988, an array of state agencies used an elaborate framework of statute, regulation, and judicial decision to supervise a multi-billion dollar industry that employs tens of thousands of workers and contributes hundreds of millions of dollars to state coffers.

As a consequence of governmental decisions, legalized gambling is today a major activity in New Jersey that affects the lives and fortunes of all the state's residents. Table 2 depicts the magnitude of legalized gambling in New Jersey by reporting an estimate of the gambling losses state residents incur through state-approved gaming. In 1987, state residents lost approximately \$761 million in casinos, \$560 million through the state lottery, \$229 million on horserace betting, and \$62 million with bingo games and raffles. The losses reported here reflect the difference between the amount New Jersey residents bet and the amount they receive back in prizes. In 1987, the total gambling losses by state residents at state-sanctioned games are estimated at \$1.6 billion, or approximately \$210 per person. As comparison, this amount equals 57 percent of the amount the state received in 1987 through the sales tax.¹ (These estimates assume that betting by non-New Jersey residents at New Jersey bingo, horserace, and lottery events are essentially equal to out-of-state betting by New Jersey residents.)

This paper examines the course the state's gambling policy has followed from the 1947 constitutional convention to the present day. After noting the constitutional status of gambling, the first section of the paper reviews

¹ Sales tax receipts in F1987 were \$2,822 million. See State of New Jersey, *Budget Fiscal Year 1988-1989*, p. C-4.

TABLE 2.
ESTIMATED GAMBLING LOSSES BY
NEW JERSEY RESIDENTS IN LEGAL GAMES
Fiscal Year 1987

<i>Form of Gambling</i>	<i>Estimated Loss</i>	<i>Proportion of Loss</i>
Bingo and Raffles	\$ 62 million	4%
Casinos	761 million	47%
Horseracing	229 million	14%
Lottery	<u>560</u> million	<u>35%</u>
Total Loss	\$1,612 million	100%
Loss per capita	\$210	

Sources: Legalized Games of Chance Control Commission, *Financial Report, Fiscal Year 1986-1987*; Atlantic City Casino Association, *Fact Sheet*; New Jersey Racing Commission, *Annual Report 1986 and 1987*; and New Jersey Lottery, *Annual Report 1987*.

Notes: Bingo and Raffles: Gross receipts for bingo and raffles in 1987 were \$141 million; net proceeds to charities were \$56 million; and non-prize expenses are estimated to be \$6 million. Resident losses are sum of administrative costs and proceeds to charities. *Casinos:* Gross revenue was \$2,379 million. Thirty-two percent of patronage is attributed to New Jersey residents, on basis of Touche Ross & Co., *Casino Industry's Economic Impact on New Jersey*, Exhibit 17, October 20, 1987. *Horseracing:* The amount reported is the mean of the Total Amount Distributed by the Commission for calendar 1986 and 1987. *Lottery:* Gross revenue for lottery was \$1,117 million, and prize awards equalled \$557 million. Resident losses are calculated by subtracting prize awards from gross revenues.

sequentially the history of bingo and raffles, horseracing, the lottery, and casino gambling in the state. It explores the process of approval of the different forms of gambling, the goals that gambling was to achieve when it was legalized, and the issues that were prominent at the time of legalization. The discussion here considers the major administrative decisions that affected the various forms of gambling, changes that occurred in each gambling area through legislative amendment, and public issues that emerged subsequent to legalization.

Section Two of the paper examines the public finance of New Jersey gambling by reviewing the revenues and expenditures of the state's gambling institutions, the contributions gambling makes to public purposes, and the share of the state budget provided by legalized gambling. The paper's third section analyzes the information presented in sections One and Two. It highlights similarities and contrasts that appear in the development of New Jersey's four forms of legalized gambling by examining

such factors as the patterns of support and opposition, the approach adopted in the different pieces of enabling legislation, the mix of public and private responsibilities, and responses to declines in revenues. The final section of the paper draws upon the material presented in earlier sections to suggest perspectives that may be constructive in addressing future policy issues.

Despite the controversies surrounding the state's gambling policies, or perhaps, in part, because of them, New Jersey has adopted innovative policies in each of the four areas of legalized gambling. The state has sought to use gambling to achieve a variety of public purposes without losing sight of the need to maintain restraints to limit the social and governmental costs that usually accompany legalized gambling. The creation of the Governor's Advisory Committee on Gambling continues the state's tradition of innovative approaches to managing gambling policy.

SECTION ONE

FORMS OF LEGALIZED GAMBLING IN NEW JERSEY

Constitutional Background. The present forms of gambling in New Jersey—bingo and raffles, horserace betting, the lottery, and casino gambling—are rooted in the state's constitutional history. The 1947 constitution provided New Jersey both a framework for a modernized and strengthened state government and a formula for addressing gambling controversies that was acceptable to the state's voters and political leadership.

Lotteries and horseracing were common forms of entertainment in colonial New Jersey, but the constitution of 1776 was silent on the question of gambling. Gambling policy was not elevated to constitutional status until the constitution of 1844, when the framers of that reform era document included a provision that explicitly prohibited both state-sanctioned lotteries and the sale within state borders of lottery tickets from other states.

The 1844 constitution was amended only four times during the century it was in force, and two of those amendments dealt directly with gambling. The prohibition on lotteries was first extended in 1897 to include betting on horseraces and all other forms of gambling, and, then, in 1939, the state reversed itself and amended the constitution to allow parimutuel betting at horseraces.²

The legalization of horserace betting in 1939 influenced the tenor of debate that occurred over gambling at the 1947 convention. While staunch opponents of gambling wanted to insert a simple prohibition of gambling in the new charter, racing had become too deeply entrenched for such an option to win wide support. In 1947, for example, parimutuel betting contributed \$8 million to the state treasury.³ The convention committee responsible for the gambling question was headed by pro-gambling delegates. After a full airing of gambling issues, the committee defined four possible courses of action.⁴

² Julian B. Boyd, ed., *Fundamental Laws and Constitutions of New Jersey, 1664-1964* (Princeton, 1964), p. 174, D. Van Nostrand Co. New Jersey Historical Series.

³ New Jersey Racing Commission, *Annual Report 1947*.

⁴ Richard N. Baisden, *Charter for New Jersey: The Constitutional Convention of 1947* (Trenton, N.J.: Division of the State Library, Archives and History, N.J. Dept of Education, 1952), p. 34. See also, Report of the Committee on the Legislature, New Brunswick 1947. pp. 8-9.

- (a) Eliminate any reference to gambling in the new constitution:
- (b) Retain present provision, allowing parimutuel betting at race tracks but prohibiting all other forms of gambling;
- (c) Liberalize the present clause to permit, in addition to parimutuel betting, bingo and games of chance operated by charitable, religious, fraternal or veterans organizations;
- (d) Liberalize the present gambling clause to permit specified games of chance, subject to local referendum, without reference to charitable or religious organization.

Forces that sought to prohibit gambling had little support within the convention, and attention focused on maintaining the status quo or providing some degree of liberalization.⁵ Fearful that any provision it could draft might jeopardize the fate of the constitution at the polls, the committee was unable to overcome its own differences and simply presented the issue to the full convention. After much debate, Senator Arthur Lewis proposed a compromise amendment on the convention floor that was adopted overwhelmingly and included almost verbatim in the 1947 Constitution. That original passage reads:

No gambling of any kind shall be authorized by the Legislature unless the specific kind, restrictions and control thereof have been heretofore submitted to, and authorized by a majority of the votes cast by the people at a special election or shall hereafter be submitted to, and authorized by a majority of the votes cast thereon by, the legally qualified voters of the State voting at a general election.⁶

This provision would maintain the status quo for gambling until the voters themselves authorized a change, and it separated the fate of the new constitution from the question of gambling. The clause was regarded as a masterful compromise by the delegates who met in New Brunswick, but, at the same time, it set the stage for numerous battles in the years to come over the features of the state's gambling policy.

⁵ See also Richard J. Connors, *The Movement for Constitutional Revision in New Jersey 1941-1947*, Columbia University Masters thesis, 1950, pp. 111-13 and 143; and Robert G. Cutler, *Charter Reviewed: The New Jersey Constitution 1947-1957*, Princeton University, Ph.D. dissertation, 1957, pp. 46-49.

⁶ State of New Jersey Constitutional Convention of 1947, *Convention Proceedings*, Vol. II., pp. 1065-66 contains the exact wording of various proposals.

Bingo and Raffles

ORIGINS

The legalization of bingo was one of the issues that was extensively debated at the 1947 constitutional convention. Even though it did not legalize bingo, the convention urged the legislature to consider placing the question of legalization before the voters.⁷ Proposals to legalize bingo were introduced into every legislature from 1948 until 1953 when a constitutional amendment legalizing bingo and raffles was approved by the voters.⁸

Playing bingo was widespread in New Jersey before it had legal sanction. In fact, one national magazine described New Jersey as the state with “the most-wide-open bingo” in the nation.⁹ In 1948, the issue presented to the legislature was “charitable gambling.” Representatives of charitable, veterans, fraternal, and church groups appeared before the legislature to argue that they should be permitted to raise funds for their organizations through bingo games and raffles. Respected groups acknowledged that they had depended for years on revenues from illegal gaming for their charitable work and for their very existence. While opposed to “commercial” bingo, the religious and charitable groups proposed a municipal or state licensing process that would authorize them to raise money for their activities through bingo games and raffles. Voicing the one major dissent from the pro-bingo theme, representatives of Protestant churches testified vigorously against this and other gambling proposals.

Governor Driscoll opposed the bingo measure in 1948, and it received only scattered support in the assembly, mostly from legislators representing Hudson County.¹⁰ In the 1949 gubernatorial election, Governor Driscoll’s opponent differed with the Governor and emphasized his sup-

⁷ Richard N. Baisden, *Charter for New Jersey: The Constitutional Convention of 1947* (Trenton: Division of State Library, 1952), p. 38.

⁸ In 1948, the proposals were A374 by Kafes, A501 by Vogel, and A518 by Reiffin. In 1949, S54 by Vogel. In 1950, S44 by Vogel and A426 by Mackey. In 1951, S8 by Vogel and A133 by Wegner. In 1952, S20 by Vogel and S26 by Forbes. In 1953, S85 by Vogel; A376 by Forbes; SCR8 by Stout, Dumont, and Forbes; SCR9 by Stout, SCR10, Stout and Dumont; A367 by Csciano; and A651 by Beadleston and Bowkley.

⁹ See Public Hearing before Senate Judiciary Committee, on Senate Bill 26, the Bingo Bill, March 13, 1952; and Bill Davidson, “Is Bingo Getting Too Big?,” *Colliers*, December 10, 1954, pp. 34-38.

¹⁰ On May 12, 1948, for example, only fourteen members of the Assembly voted to remove a bingo bill from the Judiciary Committee, and eight of the fourteen represented Hudson County.

port for a referendum to legalize bingo.¹¹ Driscoll's failure to back the referendum and his subsequent reelection kept the bingo issue from center-stage until 1952.

In 1952, future gubernatorial candidate Malcolm Forbes introduced his "Bingo Legalization Law," which would have led to an amendment that permitted municipalities to issue licenses to charitable groups to operate bingo games under state supervision. The bill's prospects were aided by provisions to prevent "commercial" bingo and by antagonisms produced by county prosecutors who moved at this time to close down existing bingo games and gambling wheels.¹² Forbes succeeded in securing passage of the bill through the legislature, but it was vetoed by Governor Driscoll on the grounds that it did not adequately safeguard against commercialization. In his veto message, Driscoll also expressed opposition to increased gambling in any form:¹³

We must ask ourselves . . . whether this is the time to expand and promote gambling activities in this State. In my judgment, it would be a great mistake for the State to put its stamp of approval on any increase in gambling activities.

News accounts the next year reported that the bingo issue had again thrown Trenton into turmoil.¹⁴ The controversy in 1953 became acute when police chiefs, under pressure from a state supreme court decision, were instructed to enforce every aspect of the state's anti-gambling laws. Opposition to the bingo crackdown from charitable groups became a "swelling storm," and some cities instructed their police departments to

¹¹ "Wene Plugs Bingo Issue," *Newark Evening News*, October 27, 1949.

¹² "Bingo Faces Shutdown, Statewide Campaign Against Games and Wheels of Chance Gets Underway Tomorrow," *Newark Evening News*, June 3, 1951.

¹³ Driscoll's veto message of Forbes' bill, S26, is found in the *Journal of the Senate*, May 27, 1952.

¹⁴ "Bingo Crackdown Set," *Newark Evening News*, April 10, 1953; "Orders Out on Gambling," *Newark Evening News*, April 11, 1953; "Bingo Called Legal: Jersey City and Bayonne Counsels Advice Police Not to Halt Games" and "Once Prosaic Raffles Now Crime," *Newark Evening News*, April 21, 1953; "Bingo Vote Seems Sure; Troast Endorsement of Referendum Comes as Surprise" and "Bingo Storm Swells," *Newark Evening News*, April 28, 1953; "Meyner for Bingo Action Jointly by Both Parties," *Trenton Evening Times*, May 18, 1953; "Legislative Maneuvers Dominated by Bingo," *Trenton Evening Times*, May 19, 1953; "Leans to Bingo Law," *Newark Evening News*, June 16, 1953; and "Bingo Vote November 3," *Newark Evening News*, June 26, 1953.

See also, Public Hearing before Senate Judiciary Committee, To consider proposed amendments to the Constitution dealing with the holding of Bingo, Raffles, and games of chance to be conducted by charitable, religious, veteran, fraternal organizations, volunteer fire companies, and first aid squads, June 15, 1953.

disregard orders from Trenton and allow bingo gambling to continue. Support for a referendum legalizing bingo was announced by would-be Republican and Democratic candidates for governor. Legislative maneuvering was dominated by bingo, and other problems were set aside as legislators sought to frame a bingo policy. After an animated public hearing, the legislature adopted a concurrent resolution that placed the bingo question on the November ballot. The five votes against the resolution in the assembly and all the dissenting votes in the senate were cast by Republicans.¹⁵ Governor Driscoll was quoted as saying that he had never seen a bingo bill that he could sign, but the concurrent resolution placing bingo on the ballot did not require his approval.

In 1953, veterans organizations were again prominent backers of the bingo proposal before the legislature and during the fall campaign, and they were supported by Catholic groups and by both the Democratic and Republican candidates for governor. Protestant clergy led the campaign to reject the measure, but their efforts failed as Robert Meyner was elected governor, and the bingo amendment was endorsed by seventy percent of the voters.¹⁶

STATUTE

Shortly after election day, Governor-elect Meyner appointed an ad hoc committee to examine charitable gambling in New Jersey in light of the approval of the amendment and to draft legislation creating an administrative system to regulate bingo and raffles.¹⁷

The committee based its work on two premises. First, bingo is "tolerable only when conducted on a small or moderate scale. It is harmful when conducted as a commercial enterprise or as an end in itself, or when it grows to such size that it is a significant factor in the economic or social life of the community." Second, the committee saw its primary task to be the design of a regulatory system which would safeguard bingo from domination by racketeers and protect it as a revenue source for deserving

¹⁵ See *Journal of the Senate*, for June 22, 1953; and *Assembly Minutes*, for June 25, 1953.

¹⁶ "Jersey Legion Gets Bingo Aid Pledges; Troast and Meyner Say They Favor Legalizing the Game and Promise Safeguards," *New York Times*, September 12, 1953; "Wants 'No' Bingo Vote," *Newark Evening News*, October 29, 1953; "Legion Backing Vote for Bingo, Widows' Tax Cut," *Newark Evening News*, October 29, 1953; "Bingo-raffles Defeat Urged," *Newark Evening News*, October 29, 1953; "Clergy in Jersey Preach on Bingo; Roman Catholics Call for 'Yes' Vote, While Protestants Urge Proposal's Defeat," *New York Times*, November 2, 1953; and "Pastors in Pro, Con Pleas," *Newark Evening News*, November 2, 1953.

¹⁷ "Bingo Study Unit Named," *Newark Evening News*, December 9, 1953. The committee was chaired by former-judge John O. Bigelow.

charities.¹⁸ The action of the committee can be examined under three headings: division of authority between localities and the state; restrictions on gaming operations; and public revenues.

State-local Authority. The state government had no experience regulating bingo and raffles before the 1953 amendment, and some argued that the state should play only a minimal role in the future. A representative of the Hudson County Democratic Organization and the mayor of Jersey City proposed to the ad-hoc committee that licenses should be granted to appropriate groups and that they then be allowed to operate as they saw fit. In a home-rule state, others wanted the communities rather than the state to be the locus of regulation and control.¹⁹

The outcome of this debate was a statutory scheme that assigned primary responsibility for control to the municipalities but reserved to the state ruling-making and oversight authority.²⁰ A five-member Legalized Games of Chance Control Commission was created to develop rules and regulations and to “supervise the administration” of the bingo and raffles law. Municipalities were to receive application requests from the charitable groups, investigate the applicants, issue licenses to qualifying organizations, supervise the conduct of the games, and receive financial reports. The state commission would hear appeals from decisions of the local governments and investigate the administration of the laws by the municipalities, but the commission did not itself have authority to impose penalties other than suspending or revoking an organization’s license.²¹

Restrictions on Operations. Restrictions were imposed on bingo and raffles activities both to prevent racketeering and to guarantee the “moderate” character of the games. The licensing process, the investigation of license applicants, and the requirement that a complete financial report be

¹⁸ Committee Appointed by Governor-Elect Robert B. Meyner to Study Problems Involved in Enacting Legislation Relative to Bingo and Other Games of Chance, *Report and Draft Statutes*, January 15, 1954, p. 1.

¹⁹ See “Public Hearing before N.J. Committee Appointed by Governor-Elect Robert B. Meyner to Study Problems Involved in Enacting Legislation Relative to Bingo and Other Games of Chance . . .”, December 19, 1953, p. 56; the Committee, *Report and Draft Statutes*; and “Bingo Plan Provisions,” *Newark Evening News*, January 22, 1954; and “Bingo Bills Hearings Set; Legislative Unit Hopes to Use Best Features of 5 Measures,” *Newark Evening News*, January 26, 1954.

²⁰ The statutes here were Chapters 5, 6, and 7 of the Laws of 1954, entitled respectively, “Raffles Licensing Law,” “Bingo Licensing Law,” and An Act to create a Legalized Games of Chance Control Commission.

²¹ There was substantial discussion during the development of the enabling legislation about the requirement that the municipality approve the conduct of raffles or bingo within its boundaries, including issues such as the procedure for approval, the timing, and the mechanism for revocation of approval.

filed within fifteen days of each bingo or raffle event were intended to prevent corruption.

Other provisions emphasized the charitable purposes bingo and raffles were to serve in New Jersey. The games were to be operated by current members of the sponsoring organizations, and none was to be paid. The value of the raffle prizes was limited, the top prize on any bingo game was set at \$250, and the total value of bingo prizes offered in all the games played on any one occasion was limited to \$1000. There was to be no advertising directed toward the general public, no gaming on Sundays, and no participation by persons under 18. These limitations not only kept the games at a moderate level; they also reduced the attractiveness of legalized bingo and raffles as targets for racketeers.

Revenues. The planning committee recommended and the statute agreed that the state should receive no revenues from bingo and raffles. Aside from administrative costs for the municipalities, all the proceeds from bingo and raffles were to go to the charities. The committee warned that “. . . if the State derives revenue, and so becomes a partner in bingo and raffles, there will be added pressure to encourage their multiplication and growth, or to relax the restrictions and controls.”²²

DEPARTURES FROM INITIAL DESIGN

Local Government Role. The greatest departure from the original statutory plan is the absence of a vigorous municipal role in the supervision of bingo and raffle activities. Municipal clerks issue licenses and receive financial reports, but they have been less willing to investigate applicants and supervise the conduct of games. To compensate for this, the Legalized Games of Chance Commission requires charitable organizations to obtain from it a registration number before applying for a license from a municipality. The commission also monitors gaming activities on its own and has acquired statutory authority to impose sanctions beyond suspending or revoking licenses. The Commission describes the control system as essentially “self-regulation.”²³

Proposals for Liberalization. Complaints that the bingo and raffle rules were too rigid and required liberalization greeted the Commission at its

²² Committee Appointed by Governor-Elect Robert B. Meyner to Study . . . Bingo and Other Games of Chance, *Report and Draft Statutes*, p. 2. The bingo bill itself was drafted by Joseph Weintraub.

²³ See, “Bingo Law is Defined: Organizations Warned They Must Register with N.J.,” *Newark Evening News*, April 8, 1954; Legalized Games of Chance Control Commission, *Annual Report 1957*, p. 13; “Bingo Board ‘Over-zealous’—Meyner,” *Trenton Times*, September 24, 1958; and c. 57, P.L. 1957.

first meeting. Particular targets were the statutory requirement that bingo prizes be limited to \$1000 per evening, the prohibition on advertising, and the requirement that the games be run by volunteer members of the sponsoring organization. Even though complaints have been directed against these requirements for more than three decades, they remain essentially intact.²⁴

The complaints were originally dismissed as protests from “commercial” bingo interests who would be closed down under state regulation. The continuation of the criticisms revealed an important division of opinion among the charitable groups conducting bingo and raffle games. Throughout this period, operators of larger games wanted higher prizes and more advertising to draw patrons from “high stakes” games in New York and Pennsylvania and to compete with other gambling attractions in New Jersey. Operators of smaller games, however, opposed relaxation of the rules because they feared they would not be able to compete. They had smaller halls and fewer patrons. Larger prizes or any other increase in their costs could probably not be recouped by increases in revenues, but, unless they offered top prizes, they would probably lose existing patrons and existing revenues. The representatives of smaller games have usually opposed enhancement of the games, and, until recently, the Legalized Games of Chance Control Commission has usually sided with the smaller groups and opposed larger prizes, advertising, and similar promotions.²⁵

Fears of Siphoning Off Funds. Prior to the adoption of the Bingo Law, professional gamblers operated games for charities and drained off the proceeds. To prevent this from recurring, the statute required that sponsoring groups own rather than rent bingo and raffle equipment. This pro-

²⁴ “Backs Bingo Law Change,” *Newark Evening News*, August 24, 1954; “Bingo Special Session is Urged by Berry,” *Newark Evening News*, August 31, 1954; “Meyner is Parley on Bingo,” *Newark Evening News*, September 15, 1954; “Differ Over Cash Prizes for Bingo: Two Catholic Groups Give Views at Hearing on Raising Maximum,” *Newark Evening News*, October 3, 1954; “2 Bingo-raffles Groups to Discuss Law Changes,” *Newark Evening News*, January 21, 1955; “Would Ease Game Rules,” *Newark Evening News*, January 28, 1955; “Bingo Changes Clouded,” *Newark Evening News*, January 29, 1955; “Ads for Raffles Blocked,” *Newark Evening News*, June 27, 1972; “Jersey Asked to OK Rise in Bingo Prizes,” *Jersey Journal*, November 17, 1972; “Esposito Drops Higher Prize Bingo Bill,” *Jersey Journal*, December 12, 1972; “Bingo Groups Fight Bill to Boost Prizes,” *Newark Star Ledger*, August 26, 1973; “Hearings Begin on Bingo, Raffles,” *Newark Star Ledger*, November 8, 1975; and “Sunday’s Bingo Ban Under Repeal Test,” *Asbury Park Press*, May 7, 1978.

See also letter to Commission from Elizabeth Lodge #289 B.P.O.E., July 9, 1954; Legalized Games of Chance, *Annual Report 1957*, p. 5; L. 1955, c. 160; and Bingo and Raffles Study Commission, *Report*, November 1, 1977.

²⁵ See, for example, the discussion of bus charters in Legalized Games of Chance, *Annual Report 1957*, p. 8.

vision was later relaxed when it was found to be impractical, but the Commission won statutory authority to regulate the rental of meeting halls in which some organizations hold their games to preclude the siphoning off of funds.²⁶

Arbitrary and Excessive Regulation. Complaints of arbitrary and excessive regulation by the Legalized Games of Chance Control Commission began in the first year of the commission's existence and climaxed in a series of sensational legislative hearings in 1958 and 1959. The following indictments were made of the commission:

**The paperwork required by the commission was excessive;²⁷

**The approach of the commission reflected a suspicion that the charities were "deliberately attempting to violate the law" and made the volunteers feel like "second-class citizens."²⁸

**The commission imposed severe penalties for minor infractions and made "life as miserable as possible for the charitable groups."²⁹

**The commission abused its authority by demanding financial records it had no right to obtain and seeking to regulate activities of the organizations that were unrelated to gaming.³⁰

The commission defended its actions by contending that "limited gambling for charitable purposes had never been successful before" and that the "entire nation has been watching the experiment."³¹

We feel that any relaxation would result in widespread violations of the law and would be an open invitation to commercial interests and worse with a resulting revulsion on the part of the general public leading eventually to the repeal of the entire laws. Such repeal would deprive charitable organizations . . . (of) millions of dollars per year.

A special legislative committee held six days of public hearings and numerous closed-door sessions and then released a report graphically entitled

²⁶ See c. 162 of L. 1955, and c. 57 of L. 1957.

²⁷ Legalized Games of Chance Commission, *Annual Report 1955*.

²⁸ Public Hearing before Senate Special Committee Created Under Senate Resolution No. 6, June 5, 1958, p. 45; and Public Hearing before Senate Special Committee, May 8, 1959, p. 2.

²⁹ Senate Special Committee to Investigate the Administration of the Bingo Licensing Law, *Control Through Fear*, pp. 158-59.

³⁰ Public Hearing before Senate Special Committee Created Under Senate Resolution No. 6, June 5, 1958, pp. 47-48 and 16-17.

³¹ Legalized Games of Chance Commission, *Annual Report 1957*, pp. 1-2.

Control Through Fear that substantiated most of the accusations made against the commission. Even though the governor subsequently backed the commission and praised its “tough” decision-making, the Legalized Games of Chance Commission moderated some of the regulations which the veterans and religious organizations found most objectionable.³²

Administrative Costs. Beginning in 1961, the commission began reconsidering the policy of relying exclusively on state general fund revenues to finance the activities of the commission. During the next decades, the commission began gathering licensing fees and other charges from the groups and firms involved in bingo and raffle activities, and the state now depends entirely on these revenues to finance the administrative costs of the commission. The municipalities also receive revenues from fees and charges to offset their administrative costs.³³

Senior Citizens. By constitutional amendments in 1972 and 1984, senior citizen groups were allowed to operate bingo games and raffles and use the proceeds on their own activities.

Horseracing

ORIGINS

The history of horseracing and horserace betting in New Jersey is an extensive one.³⁴ An early step in the contemporary story of horseracing occurred in 1933, when the legislature established a State Racing Commission to charter corporations and to authorize them to sponsor race meetings.³⁵ A companion measure that would have legalized horserace wagering died in the senate. Standing alone, the racing commission bill was described in the press as a “subterfuge to revive gambling.”³⁶

In 1934, the state declared an emergency in the finances of municipalities and authorized by statute greyhound racing and parimutuel betting.³⁷

³² “Gaming Report Rapped,” *Newark News*, November 30, 1960; “Tough Bingo Rule Lauded,” *Newark News*, April 28, 1961; and “Governor Vetoes Bingo Czar,” *Philadelphia Inquirer*, July 18, 1962.

³³ Legalized Games of Chance Commission, *Annual Report-1961; 1964; 1965; and 1971*, and L. 1969, c. 206.

³⁴ See *First Report to the Attorney General of the Racing Task Force*, October 6, 1977, pp. 1-3.

³⁵ A3 passed the assembly on March 13, 1933, by a 32 to 19 vote, and the senate on June 20, 1933, by an 11 to 1 margin, and was signed on June 27, 1933, as c. 333, Laws of 1933.

³⁶ See “Racing Measure Passes Senate,” *Newark Evening News*, June 21, 1933; “Legislature Ends After Long Grind,” *Newark Evening News*, June 22, 1933; and “Horse Racing Bill Is Law, Other Measures Approved,” *Newark Evening News*, June 28, 1933.

³⁷ Chapter 56, P.L. 1934, declared the financial emergency, and C.179, P.L. 1934, authorized the State Racing Commission to regulate greyhound racing.

The municipalities where tracks were located were to receive 1½% of the total money handled, and an equal amount was to go to the state. Four greyhound tracks were in operation by summer 1934, and the meets produced hundreds of thousands of dollars in revenues for both the municipalities and the state. The Racing Commission argued that this experience demonstrated the value of horseracing as a revenue source for the state and urged the adoption of the necessary amendments. In September 1934, however, the courts declared the greyhound enterprise to be contrary to the state constitution and shut it down.³⁸

The full legalization of horseracing and parimutuel betting occurred in 1939, and was entangled in a dispute within and between political parties.³⁹ In these years, Mayor Frank Hague of Jersey City was at the height of his power in the Democratic Party and in the state. A reform faction in the Republican party argued that the leadership of the Republican party worked too closely with Mayor Hague and with other Democratic leaders. The reformers were strong enough to win the Republican gubernatorial nomination in the 1937 primaries, but they lost the general election to the Democratic candidate.

In 1937 and 1938, a coalition of Democrats and traditional Republicans backed the racing amendment in the face of opposition from the reform Republicans, and the measure was finally placed on the ballot in a special election in June 1939.⁴⁰ Mayor Hague and the Hudson County Organization supported the measure, and they were joined by traditional Republicans and groups from resort areas. The opposition was led by the reform Republicans, Protestant church groups, and women's organizations, and endorsements opposing the amendment were received from business and agricultural associations.⁴¹ After an aggressive contest, parimutuel betting at race tracks was approved by a vote of nearly three to two.

³⁸ This account is based on the New Jersey State Racing Commission, *First Annual Report*, 1934. See for bill, *New York Times*, March 8, 1933, p. 11:6; March 20, 1933, p. 10:5; March 28, 1933, p. 24:5; and May 9, p. 10:1. See for court rulings, *New York Times*, September 9, 1933, p. 35:7; and September 12, 1933, p. 10:5.

³⁹ This account follows closely Baisden, *Charter for New Jersey*, pp. 28-30.

⁴⁰ Under the procedure then in force, a proposed constitutional amendment had to pass two successive sessions of the legislature before it was placed on the ballot.

⁴¹ See, "On Betting," *Newark Evening News*, June 19, 1939, and "Racing Majority Is 156,660," *Newark Evening News*, June 21, 1939. See also, *New York Times*, January 19, 1939, p. 11:2; February 25, 1939, p. 32:1; June 21, 1939, p. 1:4; and June 22, 1939, p. 7:1.

STATUTE

The partisan conflict that dominated the adoption of the constitutional amendment and the special election campaign continued during the preparation of the enabling legislation.⁴² When the Republican Speaker of the Assembly declared the chamber adjourned at one late night session, a coalition of Democrats and pro-gambling Republicans seized control of the Assembly, elected a temporary speaker, and advanced their legislation to regulate the racing industry.⁴³ After much turmoil, the measure was finally passed over the opposition of the Republican reformers and signed into law in March 1940.

The 1940 legislation created a four-member New Jersey Racing Commission that was given authority to license tracks, owners, jockeys, attendants, and other employees.⁴⁴ There were to be no more than four tracks in the state. Each could operate for up to fifty weekdays a year between April and November, at times between noon and 6:00 p.m. The tracks would apply to the commission for dates, and there were to be no conflicts among racing dates at different tracks. There was to be at least one race per track every six days which would be limited to horses foaled in New Jersey. The commission would designate a steward, accountant, and veterinarian who would be present at races and be paid by the tracks. Up to 10 percent of the parimutuel pool could be withheld, with 4 percent going to the state and up to 6 percent going to the permit holder.

DEPARTURES FROM INITIAL DESIGN

Strengthen Procedures to Enhance Integrity. Governmental procedures designed to maintain the integrity of sensitive activities such as horseracing have become more rigorous in the years since the legislation creating the New Jersey Racing Commission was enacted in 1940. At least as far back as 1946, a gubernatorial commission prepared a "Special Report on

⁴² This section is based on "Horse Racing Delay Causes House Revolt," February 13, 1940; "McClave Plans Racing Test," February 14, 1940; "To Caucus on Racing Bill," February 19, 1940; "Racing in 1940 Now Assured," February 20, 1940; "No Rush for Race Licenses," February 22, 1940; "Race Bill Near Vote in Senate: Action Is Urged to Speed Track Revenues," March 11, 1940; "Race Bill Goes to Governor: Adopted 12-7 After Hour's Debate in Senate," March 12, 1940; and "Racing Commission Named by Moore," March 18, 1940, all in *Newark Evening News*.

⁴³ See State Service Bureau, *Legislative Index*, February 19, 1940, p. 71; February 24, 1940, pp. 97 and 101; and March 16, 1940, p. 165.

⁴⁴ C. 17, P.L. 1940.

Horse Racing and the Pari-Mutuel System” and concluded that procedures to maintain integrity needed to be tightened.⁴⁵

In 1946, the governor’s commission argued that licensing standards and investigation procedures should be strengthened for the associations staging the meets and for the employees who worked at the tracks so that the state could “know who our licensees are.”⁴⁶ In order to prevent doping of horses, the commission wanted the state to establish a laboratory at the site of the track staffed by state employees.⁴⁷ The governor’s commission recommended that the personnel designed by the Racing Commission to safeguard the state’s interests in the operations of the track be paid by the state rather than by the race tracks so that they were not subjected to “divided loyalties.”⁴⁸ Finally, the governor’s commission concluded the state did not receive adequate financial records to determine that the state interests as a partner of the license holders in the operations of the track were being well represented. It recommended that a uniform method of financial accounting and record keeping be required of the various associations.⁴⁹

The attorney general convened a task force on racing in 1977 and the State Commission of Investigation undertook an inquiry between 1983 and 1986 that repeated many of the same recommendations. In 1986, the SCI praised the Racing Commission for the progress made in some of these areas, but it also noted that financial restraints and changes in the character of the industry precluded action on other important recommendations.⁵⁰

Despite the progress that had been made, the SCI concluded its 1986 statement by linking the issue of integrity to the decline of horseracing in New Jersey. “Does the betting public believe,” the SCI asked, “that racing can’t be trusted? Has the excitement of witnessing a horse race been deflated by a suspicion that the odds are stacked against making a worthwhile wager on any race’s outcome?”⁵¹ Integrity issues remain an important issue for the racing industry.

Expansion of Racing. Under the state’s initial legislation, racing was

⁴⁵ New Jersey Commission on State Administrative Reorganization, *Special Report on Horse Racing and the Parimutuel System*, submitted to Governor Walter E. Edge, February 1946.

⁴⁶ *ibid.*, p. 3.

⁴⁷ *ibid.*, p. 6.

⁴⁸ *ibid.*, p. 7.

⁴⁹ *ibid.*, p. 8.

⁵⁰ Attorney General’s Task Force on Racing, *First Report*, October 6, 1977; and New Jersey Commission of Investigation, letter to Racing Commission, October 7, 1986.

⁵¹ Commission of Investigation, letter to Racing Commission, October 7, 1986, p. 11.

limited to fifty days a year at each track. With three tracks in operation until 1958, no more than one hundred and fifty racing days occurred.⁵² When a fourth track opened in 1959, the number of racing days increased to two hundred, and in 1962, the number of racing days was temporarily increased to raise funds for disaster relief along the New Jersey shore.⁵³ Once the initial limit of fifty days per track per year was broken, the total number of racing days increased continuously. In 1987, racing was authorized on eight hundred and thirty-seven days at the various tracks in the state.⁵⁴

During these years the racing industry argued that it was facing unfair competition from neighboring states and difficult economic conditions. One state report from 1960 concluded that "continuity of operations" would enhance the quality of racing in New Jersey and attract patronage while, at the same time, reducing the burden to the owners of their fixed costs.⁵⁵ Similar arguments were presented to support the adoption of the constitutional amendment in 1966 that permitted night racing. The Racing Commission noted then that night racing "vastly increased the revenue potential of racing in the State" and gave the industry the "opportunity to compete more actively with neighboring states, both for revenue and for the best quality harness sport."⁵⁶ Later, the same arguments were again made to support simulcasting and Sunday racing.

Revenues to State. Parimutuel betting on horseracing was initially presented to the state's voters as a revenue source which might preclude the need for new state taxes. The state received 4 percent of the amount wagered in the early years and a larger share in later years as state revenue needs increased. In the mid-1950s, the state did, in fact, receive almost 10 percent of its general fund revenues from horserace betting.

Beginning in the late 1950s and becoming explicit in the 1960s and 1970s, the justification for permitting horseracing in New Jersey changed. Rather than a state revenue source, parimutuel revenues were

⁵² Data on the number of racing days comes from New Jersey Racing Commission, *Annual Report*, various years.

⁵³ For an account of the proposal, see Public Hearing before Senate Judiciary Committee, *Assembly Bill No. 588 (Increasing racing days)*, March 23, 1962, and Chapter 17, P.L. 1962. For a review of the controversy that followed, see Public Hearings before Special Senate Committee to Examine Reports, Audits and Returns in Connection with Special Horse Race Meetings held in 1962, May 24, 1963; July 12, 1963; and July 25, 1963; and the Special Senate Committee, *Report on Special 1962 Running Race Meeting*, December 1963.

⁵⁴ New Jersey Racing Commission, *Annual Report 1987*, Attachment I.

⁵⁵ Vincent P. Biunno, *A Study of Pari-Mutuel Tax Revenue in New Jersey*, p. 46.

⁵⁶ New Jersey Racing Commission, *Annual Report 1966*, p. 1.

now presented as a means of subsidizing New Jersey's horse industry. In a 1978 public hearing, the industry argued that it should receive subsidies because it created jobs, preserved open space, and constituted a "tourist attraction" in the state. Like a public utility, a spokesman argued that it should be guaranteed a profit.⁵⁷

In past decades, the share of the amount bet not returned to the bettors has grown to approximately 20 percent. In the last ten years as well, the state's share of the amount withheld has fallen to one half of one percent. The balance is now divided among the tracks, breeding programs, and horsemen.

Sports and Exposition Authority. The creation of the Sports and Exposition Authority transformed New Jersey's commitment to horseracing and parimutuel betting. The Sports and Exposition Authority Law passed the assembly and senate by large margins in spring 1971, and the measure was enthusiastically signed by Governor Cahill in May 1971.⁵⁸

The statute's declaration of policy stated that the "Legislature hereby finds and declares that the general welfare, health and prosperity of the people of the State will be promoted by the holding of . . . horse racing and other spectator sporting events. . . ."⁵⁹ The authority was empowered to provide horserace facilities, football stadiums, and other sports facilities.

The funds that the authority was to borrow to finance its projects were not to be an obligation of the state. The debts were to be a simple obligation of the authority itself. The statute expresses this without qualification:

Bonds and notes of the authority issued under the provisions of the act shall not be in any way a debt or liability of the State . . . and shall not create or constitute any indebtedness, liability or obligation of the State. . . .⁶⁰

The principal source of revenue for the authority was to be a share of the proceeds from parimutuel betting at the race track.

The Meadowlands Racetrack opened in 1976, and the Sports and Ex-

⁵⁷ See Public Hearing before Assembly State Government, Federal and Interstate Relations and Veterans Affairs Committee, *P.L. 1978, c. 31, Which provided certain financial benefits to private racetracks and horsemen during 1978*, October 25, 1978.

⁵⁸ Chapter 137, Laws of 1971, was introduced by DeKorte as A2319 on April 1, 1975. It passed the Assembly on April 26, 1971, by a vote of 53 to 6, and the Senate on May 3, 1971, by a margin of 28 to 2. See Governor's Press Releases dated March 24, 1971, announcing impending legislation, together with Fact Sheet, and April 19, 1971, concerning amendments. The bill was signed on May 10, 1971.

⁵⁹ See C. 5: 10-2, N.J.S.A.

⁶⁰ See C. 5: 10-10.e, N.J.S.A.

position Authority boasts that it has now become "the nation's leading harness track."⁶¹ The track is the most important single element in horseracing in New Jersey. In 1986, the Meadowlands Racetrack had an attendance of 3.5 million visitors, equalling 55 percent of total attendance of all New Jersey tracks in that year. In the same year, almost 60 percent of the Total on Track Handle of all the state's racetracks, the amount bet on live races, was also wagered at the Meadowlands.⁶²

In the last decade, the Meadowlands has also contributed a critical element to the emergence of New Jersey's new national image. At the same time, the Sports and Exposition Authority remains dependent on pari-mutuel betting for most of its operating income. In 1987, the authority derived 80 percent of its excess of operating revenues over operating expenses from the Meadowlands Racetrack.⁶³ As a consequence, one element of New Jersey's improved national image now depends on the state's willingness to defend and enhance parimutuel wagering on horseracing.

State Lottery

ORIGINS

Efforts to create a state lottery began immediately after the adoption of the 1947 Constitution. These efforts were originally driven by proposals to pay a bonus to military veterans, but the lottery initiative was soon overshadowed by the campaign to legalize bingo.

The year after the state approved the 1947 constitution, the assembly minority leader from Hudson County introduced a bill that set the pattern for lottery proposals for the next two decades.⁶⁴ This bill envisioned a lottery patterned after the Irish Sweepstakes. It would be based on a horserace, and it would be held no more than twice a year. Under this proposal, the proceeds would be used to pay a bonus to veterans who had served in World War II, a popular cause in these years. The Commission on State Tax Policy was directed to study the financing of a state bonus for veterans, but its report dismissed a lottery as a serious technique for raising state revenue.⁶⁵ Two discharge petitions were intended to bring the

⁶¹ New Jersey Sports and Exposition Authority, *Annual Report 1987*, p. 5.

⁶² New Jersey Racing Commission, *Annual Report 1986*.

⁶³ New Jersey Sports and Exposition Authority, *Annual Report 1987*, "Statement of Revenues and Expenses."

⁶⁴ A482 was introduced by Assemblyman T. James Tumulty on May 3, 1948.

⁶⁵ The Commission on State Tax Policy, *Fourth Report: Financing a State Bonus for Veterans of World War II*, August 27, 1948. The study was directed by ACR12, introduced by Mehorter on May 10, 1948.

lottery proposal from the judiciary committee to the floor, but they both failed, and the bill died in committee at the end of the session.⁶⁶

Similar bills authorizing a lottery called the "Garden State Sweeps" were introduced in the 1949 session.⁶⁷ This lottery was to be operated by a new Department of the State Lottery, and the tickets were to be sold by motor vehicle agents and other state personnel. These bills, too, were unable to win broad support. The lottery campaign suffered a critical setback on election day 1949, when a bond issue to finance a veterans bonus program was narrowly rejected by the voters, and when Governor Driscoll, with his anti-gambling sympathies, was reelected governor.⁶⁸ No lottery measure was proposed again in the legislature until 1954.

The passage of the constitutional amendment permitting bingo and raffles in 1953 cleared the way for a revival of interest in lottery proposals. A new constitutional amendment authorizing a lottery was proposed by another Hudson County legislator in 1954, and pro-lottery measures were introduced every year until the lottery was placed on the ballot in 1969.⁶⁹

Revenues from a lottery were originally proposed to fund veterans bonuses, but, over the years, a variety of other purposes were considered: aid to education; support for state institutions; highway construction; local government; hospital costs; and the state's general fund expenditures.⁷⁰

The most vigorous supporters of a lottery in the early years were veterans groups, but in later years officials from Hudson and Camden counties, labor unions, and even the New Jersey Jaycees appeared as pro-lottery advocates. Protestant clergy were consistent critics of lottery proposals.

⁶⁶ The first effort lost on May 5, 1948, by a vote of 15 to 41, and the second was rejected on September 1, 1948, by a 15 to 33 margin. *Assembly Minutes*.

⁶⁷ A79 was introduced by Tumulty on January 17, 1949, and S63 was introduced by Hull on January 24, 1949.

⁶⁸ The \$105,000,000 bond issue to fund a bonus program for World War II veterans was defeated by a margin of 578,933 to 596,484. *Legislative Manual: State of New Jersey-1987*, p. 903.

⁶⁹ ACR12 was introduced by Assemblyman Musto.

⁷⁰ See public hearings before Assembly Committee on Public Safety, Defense and Veterans on ACR#7, February 24, 1959; before same committee on September 15, 1959; before Assembly Judiciary Committee on ACR#2 and ACR#4 on April 30, 1964; before Senate Judiciary Committee on SCR#7 on June 1, 1966; before Assembly Judiciary Committee on ACR#22 on May 7, 1968; and before Assembly Committee on Taxation on ACR3#2 on March 5, 1969. See also, for example, "Lottery Urged to Assist Local Governments," *Philadelphia Inquirer*, November 11, 1964; and "Urge Hospital Lottery," *Newark Sunday News*, November 1, 1964.

Lotteries were promoted by their supporters as a revenue technique. The principal sponsor of the final lottery proposal explained the rationale: "The primary reason (for the measure) is to provide the State of New Jersey with much needed funds in a relatively painless way."⁷¹ Many legislators, however, were suspicious of the revenue claims.

In 1963, the Commission on State Tax Policy again opposed the creation of a state lottery. Although supportive of legalizing other forms of gambling, the commission concluded that a lottery would be an insubstantial and unreliable source of revenue.⁷² Further skepticism about a lottery's revenue potential emerged in 1964, when the New Hampshire lottery became operational, and its revenue yields were less than anticipated. The 1965 gubernatorial campaign began with both the Republican and Democratic candidates cool to the idea of a lottery for New Jersey.⁷³

During this period, the form of lottery that the advocates were championing began to change. Newspaper accounts reported that "A subtle change in attitude toward a state lottery is taking place in Gov. Hughes (sic) administration."⁷⁴ While still emphasizing their support for a New Hampshire-style lottery, lottery proponents acknowledged that New Jersey's lottery might take a different form. They indicated that the details should be left to a future legislature.

The failure of the New Hampshire and later the New York lottery to produce the expected revenue, "should not be ascribed to the lottery concept," they explained, "but to the manner in which it has been implemented." The sponsor of the 1969 lottery resolution would not discuss the mechanics of a lottery before the legislative committee, but he argued, obliquely, that "if run as efficiently as the illegal operations now run it, the revenues derived (from the state lottery) would far exceed the most optimistic estimates."⁷⁵

A resolution calling for a lottery amendment passed the Assembly in

⁷¹ Statement of Assemblymen John F. Brown, at *Public Hearing before Assembly Committee on Taxation*, on ACR #32, March 5, 1969, p. 1.

⁷² Commission on State Tax Policy, *Tenth Report: Increased State Aid to Public Schools and Distribution of the Cost of Expanding Public Services*, January 10, 1963, p. 143.

⁷³ "Dumont, Hughes Cool to Lottery," *Camden Courier Post*, June 16, 1965.

⁷⁴ "Jersey is Weighing State Lottery Again to Build Up Funds," *New York Times*, July 7, 1965; "To Explore Operation Carefully," *Jersey Journal*, July 10, 1965; and "A Lottery for Jersey?" *Star-Ledger*, September 30, 1965.

⁷⁵ These statements come sequentially from Musto, *Public Hearing* of April 30, 1964; Musto, *Public Hearing* of May 7, 1968, p. 29; and Brown, *Public Hearing* of March 5, 1969, p. 4. See also, "Chances Dim For Lottery Referendum," *Trenton Times*, June 14, 1966.

1968, but it was bottled up in the Senate Judiciary Committee.⁷⁶ A lottery proposal was finally placed on the November ballot in 1969, by margins of 55 to 12 in the Assembly and 26 to 12 in the Senate.⁷⁷ The measure was backed by all Democrats who voted in both chambers and by a significant number of the Republicans. All the votes against the lottery measure in the Assembly and the Senate were cast by Republicans. Some commentators believed that the lottery question would attract additional Democratic voters to the polls in the general election and, thus, improve the prospects of the Democratic candidate for governor in November 1969.⁷⁸ But it didn't happen that way. In the general election, the Republican candidate was elected governor, and the lottery referendum was supported by more than 80% of the voters.

STATUTE

Two weeks after the adoption of the amendment, the legislature created the State Lottery Planning Commission composed of legislators, public members, and the state treasurer.⁷⁹ The planning commission proposed that the lottery should be managed by a commission and a director and that raising state revenue should be the lottery's primary goal. It stressed the need to allow the commission flexibility in running the lottery:

. . . this Commission recommends most strongly that the permanent commission and director . . . be allowed the maximum possible flexibility commensurate with preserving the full trust and confidence of the citizens of this State. In particular, it is important to avoid unnecessary rigidities in the legislation which will inhibit the lottery commission's ability to modify the lottery so as to increase public interest and participation. . . . The danger which must be avoided is the establishment of unnecessarily stringent conditions on the operation of the lottery.⁸⁰

The planning commission proposed that lottery drawings be held more than once a month, as was then the practice in New York, but that "daily

⁷⁶ ACR22 of 1968 passed the assembly on May 20, 1968, by 52 to 15 margin; it was referred to the Senate Judiciary Committee where it remained. *Assembly Minutes*, May 20, 1968.

⁷⁷ *Assembly Minutes*, April 2, 1969; and *Journal of the Senate*, May 1, 1969.

⁷⁸ "Lottery Referendum May Die in Senate," *Newark Evening News*, April 3, 1969; "Senate Approval Seen for State," *Newark Evening News*, May 1, 1969; and "Ballot to Resolve State Lottery Issue," *Newark Evening News*, May 2, 1969.

⁷⁹ The Commission was established by JR#11, adopted November 20, 1969.

⁸⁰ State Lottery Planning Commission, *Report*, February 9, 1970, pp. 5 and 8.

drawings should be approached with caution.”⁸¹ It recommended convenient sales outlets, low ticket prices, annuity payments to reduce the cost to the state of large prizes, computerization, extensive contracting with private vendors, and substantial expenditures for advertising and promotion.⁸²

The planning commission also considered a second lottery goal, competing with illegal gambling organizations. While the planning commission was sitting, the U.S. attorney for New Jersey released a report that expressed this goal quite succinctly:

The citizens of New Jersey, by directing that a State Lottery be established, have thus afforded the State a golden opportunity to go into direct competition with the lotteries run by organized crime, thereby substantially reducing profits from these illegal enterprises.

To accomplish this desired result (and the equally important one of raising substantial revenue for the State) the State must present a lottery which is as accessible and attractive as the prevalent illegal ‘numbers’ operation. There should be frequent pay-offs to winners, perhaps daily. The payoff should be at ratios exceeding the 600 to 1 figures which is tops for numbers games.

. . .

The price of participation is an important consideration. Illegal numbers operators will often take bets in amounts as small as five cents. If the State Lottery is to attract the person who customarily plays the ‘numbers’, it must permit participation at a low price. . . .⁸³

The planning commission feared that the state might be compelled to give up too much revenue in prizes if it sought to compete with illegal gambling organizations, but it urged the lottery to explore this issue and the legalization of other forms of gambling as it gained experience in the future.

The legislation developed by the Lottery Planning Commission established the commission and executive structure for the lottery and then left most operating decisions to the judgment of the new agency. These proposals were accepted by the legislature, and the lottery statute passed the

⁸¹ *ibid.*, p. 22.

⁸² *ibid.*, pp. 7, 12, 21, and 28.

⁸³ Frederick B. Lacey, *Recommendations to the 1970 Session of the New Jersey Legislature Concerning . . . Organized Crime*, January 20, 1970, pp. 30-31.

Assembly and the Senate without opposition in February 1970.⁸⁴ By offering more frequent drawings, more numerous sales outlets, and cheaper tickets, New Jersey hoped to surpass the limited success of the New Hampshire and New York lotteries.

DEPARTURES FROM INITIAL DESIGN

Marketing. The State Lottery has become a far more sophisticated and aggressive marketing organization than was envisioned when the lottery was discussed by voters or even when the Lottery Planning Commission drafted its report.

After enjoying growing sales during the period of the public's initial enthusiasm for a state lottery, the novelty of the lottery faded, and ticket sales fell sharply. From \$138 million in 1972, sales fell to \$77 million in 1975. To reverse the decline, the State Lottery inaugurated a daily lottery to complement its weekly game. In announcing the decision, the press release presented these justifications:

To gain new revenues to ease the burden on the state's taxpayers and to weaken the impact of the illegal numbers racket, Governor William T. Cahill announced today that New Jersey will become the first state to inaugurate a daily lottery. . . . Governor Cahill said the advent of a daily lottery will give the New Jersey Lottery the kind of resurgence it needs to reverse the downward trend of weekly lottery sales. . . .⁸⁵

Despite the Governor's hopes, the daily lottery did little to revive sales. It was not until the advent of a game that allowed the customer to select his or her own number that lottery sales began again to grow. After years of doubt, the lottery recognized that in order to sustain sales, it must keep its games "fresh and appealing." A successful lottery could not simply collect the public's money. To sustain public interest, a lottery must make continual "product changes to rejuvenate the various games by introducing variety, enhancements and new elements. . . ."⁸⁶

Interest in Other Forms of Gambling. The State Lottery Commission has followed the recommendation of the Lottery Planning Commission by sustaining interest in legalizing other forms of gambling. In 1974, the

⁸⁴ A616 sponsored by Assemblymen Coleman of Monmouth and Kean of Essex was introduced on February 9, 1970. It passed the assembly on February 16, by a vote of 64 to 0, and the senate on the same day by 36 to 0. It was signed as chapter 13, L. 1970, and became effective on February 16, 1970.

⁸⁵ As quoted in State Lottery Commission, "Minutes of Meeting," October 3, 1972.

⁸⁶ New Jersey Lottery, *Annual Report 1986*, p. 1; and State Lottery Commission, "Minutes of Meeting," January 9, 1986.

newly-designated lottery director announced plans to transform the lottery commission into a superagency responsible for the operation and supervision of casinos and other forms of gambling.⁸⁷ In later years, the lottery has followed off-track-betting and sports betting issues.⁸⁸

Other Legislative Amendments. Given the growth of the state lottery, there have been remarkably few significant amendments to the original lottery statute. In 1983, the state treasurer became an ex officio member of the lottery commission, and a sixth public member was added.⁸⁹ In the same year, the use of video slot machines was prohibited in games operated by the state lottery.⁹⁰ The other amendments concerned technical issues.⁹¹ The State Lottery has raised far more revenue for the state than had been originally projected without any important changes in its legal structure.

Gambling Casinos

ORIGINS

The constitutional amendment that legalized casino gambling had its contemporary origins in a resolution proposed in 1969 by a Sussex County legislator. Sussex was emerging as a recreation center, and a company active there already operated casinos in Great Britain.⁹² The 1969 resolution died in committee, but two similar measures were introduced the next year. Four public hearings were held on the new resolutions, and the issues discussed there foreshadowed the debates that would occur in New Jersey for the next six years.⁹³

Two issues raised during the casino hearings were distinctive. The first was the question of the ownership and operation of casinos. Some casino supporters advocated the establishment of casinos that would be owned

⁸⁷ "Lottery agency umbrella to cover all state gaming," *Newark Star Ledger*, January 1, 1974.

⁸⁸ State Lottery Commission, "Minutes of Meeting," September 14, 1976; February 23, 1982; and April 1, 1982.

⁸⁹ L. 1983, c. 60.

⁹⁰ L. 1983, c. 80.

⁹¹ L. 1973, c. 173, made altering lottery tickets a misdemeanor. L. 1977, c. 169, permitted sale direct payments of prizes by agents. L. 1981, c. 182, exempted certain rules.

⁹² ACR51 of 1969, introduced by Littell. See also, "AC Wants To Buck Up Boardwalk With Gambling," *Trenton Evening Times*, March 7, 1969; and "Hugh Hefner Talks about Atlantic City," *New Jersey Monthly*, March 1979, p. 70.

⁹³ SCR39 and SCR74 sponsored by McDermott. Public Hearing before Senate and Assembly Judiciary Committees on SCR39, March 19, 1970; and Public Hearings before Senate Judiciary Committee on SCR74, December 8, 1970; February 10, 1971; and April 7, 1971.

and operated by state government, while others favored private ownership and private management. Champions of public ownership argued that the social impact of casinos could be managed more easily and the revenues to the state would be greater if casinos were owned by a government agency. Advocates of private ownership maintained that the state lacked the capital funds, administrative flexibility, and financial incentive needed to make New Jersey casinos a success. Only private ownership would allow the state to realize the goals of legalization.

The second issue debated at the legislative hearings was the location of the casinos. Casinos were viewed by most witnesses as an economic benefit to the area where they were to be located. Gambling had been an illicit attraction of Atlantic City and other shore resort areas in the past, and most discussion of casino gambling focused on Atlantic City. While it was widely agreed that Atlantic City needed whatever economic stimulation it could get, representatives of Sussex County and of hard-pressed urban areas contended that the economies of their regions also needed the stimulus that would come from the injection of new revenues.⁹⁴

The 1970 hearings heard from witnesses who would appear on numerous occasions in the years ahead. Representatives of Atlantic City business groups, the tourism industry, the government of Atlantic City, and organized labor contended that casino gambling would generate public revenues, create jobs, and rejuvenate the state's convention trade. In making the case against casinos, state fiscal officers, law enforcement officials, religious leaders, and civic figures argued that the claim made on behalf of casinos were exaggerated and that proponents overlooked the criminal, fiscal, and social problems that gambling would create.

The most important opponent of casino gambling in these years was Governor William Cahill, who regarded casinos as a boon to organized crime. During the early 1970s, Cahill opposed casino proposals, and the measures failed to win enough votes to be released from the Republican legislative caucus.⁹⁵

When Brendan Byrne was elected governor in November 1973, the governor's office was assumed by someone who had been a longtime advocate of casino gambling. As a former prosecutor from Essex County,

⁹⁴ A2004, 1971, sponsored by Caputo.

⁹⁵ " 'No Casinos' Cahill Insists," *Atlantic City Press*, January 12, 1972; "Cahill, GOP Clash on Gaming," *Jersey Journal*, February 8, 1972; "Governor Pledges Fight on Casino Bid," *Newark Evening News*, February 11, 1971; "Cahill: No Vegas here, but winter racing OK," *Newark Star Ledger*, March 10, 1970; and "GOP Caucus Says 'No' To Casinos," *Trenton Evening Times*, April 20, 1971. *New York Times*, April 20, 1971, p. 73; and *Wall Street Journal*, January 21, 1971, p. 1.

Byrne believed that gambling was an inescapable fact of life. In the late 1960s, Byrne had introduced pro-casino resolutions at various meetings. As a candidate during the gubernatorial campaign, Byrne had expressed his support for the legalization of casinos in Atlantic City.⁹⁶ While governor-elect, Byrne promised to propose a constitutional amendment to make casinos a reality.⁹⁷

In 1974, a new constitutional amendment was introduced in the legislature with the governor's support to legalize state-operated casinos in Atlantic City. The usual supporters and opponents were joined at legislative hearings by representatives of New Jersey horse-breeder associations and race track operators who feared that casino gambling would harm the state's racing industry.⁹⁸

Potential casino operators objected to the requirement of state operation of the casinos, but their desire to run their own casinos was quieted by a reminder that the governor had vowed to veto any legislation that permitted casinos to be owned by private interests. Representatives from areas outside Atlantic City succeeded in amending the resolution to permit casinos in all parts of the state, but Governor Byrne insisted that for five years he would only sign enabling legislation authorizing casinos in Atlantic City.⁹⁹

The resolution placing the amendment on the November 1974 ballot passed the assembly and senate by two-to-one margins, but the public was unconvinced of its value.¹⁰⁰ The referendum was defeated soundly at the polls, with three voters opposing casino gambling for every two who endorsed it. Only Atlantic and Hudson counties returned majorities in favor of casino gambling. Shortly after the referendum was defeated, planning for a new casino campaign was begun.

The centerpiece of the 1976 proposal was the limitation of casinos to Atlantic City and the use of casino gambling as a tool for the redevelopment of the city's economy. Casino advocates argued that the legalization

⁹⁶ Senate and Assembly Judiciary Committees, *Public Hearing on SCR39*, March 19, 1970, pp. 25-29.

⁹⁷ "Byrne Seeks Right N.J. 'Slot'," *Trenton Evening Times*, December 14, 1973; *New York Times*, December 7, 1973, p. 86.

⁹⁸ Senate Judiciary and Assembly State Government Committees, *Public Hearing on S2011, S2012, S2013, and A2015, A2016, A2017, on April 11, 1973: Assembly Judiciary Committee*, Public Hearing on ACR 128, April 26, 1974; and *New York Times*, May 9, 1974, p. 90.

⁹⁹ "Byrne Backs Referendum On State Casino Gambling," *New York Times*, April 4, 1974; Assembly Judiciary Committee, *Public Hearing on ACR128*, April 26, 1974; and Peter Loos and Robert Purcell, *A Study of Casino Gambling in the State of New Jersey*, p. 7.

¹⁰⁰ Assembly *Minutes*, April 29, 1974, pp. 367-68; and Senate, *Journal*, May 16, 1974, p. 320.

of casinos would be a major ingredient in the revitalization of the city, and they claimed that casino development would create between twenty and thirty thousand new jobs.¹⁰¹ Since the new plan relied on private investment to initiate the city's revival, Governor Byrne abandoned his call for public ownership of casinos.

The 1976 resolution received the same pattern of support in the legislature that had been given to the 1974 amendment, but the voters were more supportive than they had been two years earlier. When the measure came before the electorate in November 1976, 1.5 million citizens voted to approve the casino initiative while only 1.2 million voters registered their opposition. The amendment recorded its greatest victories in Atlantic City and Atlantic County, but it carried sixteen of the state's twenty-one counties. Some argued that the measure passed on the second try because casino advocates presented their case more effectively in 1976 than in 1974.¹⁰² Other explanations noted the higher turnout of marginal voters in the presidential election year of 1976 and the reduced fear of crime that characterized public opinion during the second campaign season.¹⁰³

STATUTE

The day after the 1976 election, the Byrne administration began to formulate plans to regulate casino development in the state.¹⁰⁴ A staff group assembled to prepare the enabling legislation focused on five topics: governance, licensing, operations, taxation, and urban development.¹⁰⁵ The legislature and the governor would eventually incorporate the major elements of the staff group design into the Casino Control Act.

Governance. The casino legislation established two separate state agencies to regulate the casino industry. By assigning rule-making, licensing, and adjudicatory responsibilities to one agency, and investigative, law enforcement, and prosecutorial tasks to another agency, the state sought to reduce the chances of abuse and mismanagement of regulatory authority.

Licensing. The Casino Control Act mandated a far-reaching system of licensing to maintain public confidence in the honesty of the state's casinos. Corporations seeking to operate casinos, their officers and principal

¹⁰¹ Economic Research Associates, "Impact of Casino Gambling," section 3.

¹⁰² Geoffrey Douglas, "The Selling of Casino Gambling," *New Jersey Monthly*, 1(1977), pp. 22-26.

¹⁰³ Richard Lehne, *Casino Policy* (New Brunswick: Rutgers University Press, 1986), pp. 35-42.

¹⁰⁴ Office of the Governor, press release, November 30, 1976.

¹⁰⁵ Walter R. Bliss, "Casino Gambling: Progress to Date," November 15, 1976; and Governor's Staff Policy Group on Casino Gambling, *Second Interim Report*, February 17, 1977.

owners, key management personnel in the casinos, dealers and gaming supervisors, ordinary employees, service industries, and labor unions were all subjected to state licensing procedures.

Restrictions on Operations. The staff group proposed to impose restrictions on casino operations for three distinct purposes. First, casinos in Atlantic City were to be one attraction in a resort area that would appeal to visitors on the basis of its beaches, its climate, its ocean breezes, convention facilities, celebrity entertainment, and sports programs. Atlantic City was to become a family resort with casinos that possessed European dignity rather than Las Vegas extravagance. Second, the staff group proposed to impose rules which would protect gamblers from unfair games and from their own impaired judgment. To prevent the unwary from gambling excessively, casino skills were prohibited, alcohol was restricted, rules and odds were to be posted, advertising limited, and similar regulations imposed. While the rigor of these restrictions was diluted during the legislative process, the fundamental objectives were retained. Third, additional restrictions would be imposed on the operations of the industry to prevent misconduct and criminality.

Revenues. Casinos were not introduced in New Jersey as a means of raising public revenue, and the staff group dismissed state revenues as the "least significant" factor in state planning for casino regulation. After last minute appeal from the Treasury for increased state revenue, the legislature imposed a tax of 8 percent on casino gross receipts and required the casino industry to pay all the costs of the state's system of regulation. As the constitutional amendment required, proceeds from the gross receipts tax were to be used to finance programs for senior and disabled citizens.

Urban Development. The staff group report argued that "the most significant consideration for planning" casino development was the role of casinos in promoting the redevelopment of the convention, entertainment, and resort industries in Atlantic City. The Casino Control Act agreed that the most effective way to stimulate the revival of Atlantic City's convention and tourist businesses was through the construction of large casino-hotel complexes that could serve as ". . . a permanent mooring against the tides of competition and urban decay. . . ." ¹⁰⁶ Specifications for the construction of casino-hotels were defined in the statute.

DEPARTURES FROM INITIAL DESIGN

Casino Operations. The scale of the New Jersey casino industry has exceeded the projections on which state planning was based. The costs of

¹⁰⁶ *ibid.*, p. 6.

casino complexes, the number of viable casino properties, total capital investment, the number of visitors, the magnitude of casino employment, and total gambling revenues are all far beyond initial expectations.¹⁰⁷

Atlantic City casinos were to be located half way between London and Las Vegas in style as well as geography. Many of the restrictions that were initially proposed for industry operations have been relaxed over the years in such areas as entertainment, junkets, staffing levels, and licensing. Some of these changes have resulted from increasing governmental understanding of casino operations and of the state's own objectives, and some changes reflect compromises with the positions of the industry.

The costs and pervasiveness of the state regulatory structure is also more extensive than had been anticipated. The intrusions of state regulators in casino operations have made industry charges of "overregulation" a frequent theme in the public life of the state, but the detailed provisions of the Casino Control Act underline the intention of the state to play a dominant role in the conduct of New Jersey casinos.

Atlantic City Development. The Casino Control Act earmarked no state funds for urban development. The statute assumed that investments in large casino-hotel complexes in Atlantic City would stimulate the redevelopment of the balance of the city through the private marketplace. The casinos were to be the engine that would generate economy activity in the resort town, attract private capital, and produce the local tax revenues needed to meet the community's housing, public service and infrastructure needs.

The redevelopment of Atlantic City has not occurred. The "story" from Atlantic City remains the contrast between the gleaming casino complex and the impoverished ghetto, between consumption and deprivation, between the high-roller and the homeless street person. Economic activity in Atlantic City has outpaced the projections of the industry's most optimistic champion, but the town has also experienced the disruption of development. The casinos have brought the opportunities of employment and development to many in the community, but they have added to the woes of other residents who lacked the skills or resources to benefit from the economic transformation that has occurred.

In response to the plight of the city and to popular rhetoric, the Casino Reinvestment Act was passed by the legislature in 1984 and approved by the governor. The legislation sought to accelerate the redevelopment pro-

¹⁰⁷ (New Jersey Treasury), "Major Features of Revised Tax Provisions," undated.

cess by requiring casino companies to become a continuing source of capital funds for public projects.¹⁰⁸

Casino investment and employment have not yet constituted an adequate stimulus for effective urban revitalization. The state continues to play a restrained role in the development process in the city and allow primary responsibility for the creation of a constructive social climate to remain with the city government. Whether the private marketplace can function to rebuild the city in such circumstances has not yet been demonstrated.

¹⁰⁸ See Casino Reinvestment Development Authority, *Annual Report 1986*.

SECTION TWO

FISCAL PERSPECTIVES

Gaming policy in New Jersey has combined respect for the rights of individual citizens to make their own decisions, a vague distrust of gambling, and a desire to use gambling to achieve worthy public goals. A good statement of the peculiar mixture of concerns that has guided New Jersey policy comes from a report prepared for Governor Meyner on parimutuel revenues:

It is probably a fair statement to say that existing policy is to permit parimutuel wagering within tolerable limits, on condition that it provides a reasonable revenue for the support of the State. The 1939 amendment and the enabling legislation certainly spell out the idea that the public did not want parimutuel operations to be conducted without restrictions or control; they also imply that so long as it did not reach excessive levels, the activity, although controversial, should be permitted from a realistic point of view. It recognizes the wide freedom of choice according to varying preferences, which is typical of our society.¹⁰⁹

Each of the four types of gambling discussed in this paper was legalized to achieve a specific public purpose. The constitutional amendments authorizing wagering on horseracing and the lottery were presented as means of raising state funds and preventing the need for a tax increase. Bingo was legalized to provide revenue for charitable organizations, and casino gambling was adopted as a stimulus for capital investment and job creation in a depressed region of the state. It is appropriate to review the financial contributions that the different forms of gambling have made toward accomplishing their original objectives.

Contribution to State Revenues. Table 3 reports the revenues that the state government received from the different forms of gambling between 1950 and 1985. Until the early 1970s, the only type of gambling that generated revenues for the state was racing. In the early 1970s, the state began receiving income from the lottery, and in the late 1970s it began receiving casino revenues. In 1985, racing contributed \$7 million to state general revenues, the lottery added \$391 million, and casinos revenues equalled \$167 million.

¹⁰⁹ Vincent P. Biunno, *A Study of Pari-mutuel Tax Revenues in New Jersey*, June 26, 1960, pp. 53-54.

TABLE 3.
TRENDS IN NEW JERSEY GAMING REVENUE, 1950-1985
(\$ millions)

<i>Fiscal Year</i>	<i>State General Revenues</i>	<i>Racing</i>	<i>Lottery</i>	<i>Casinos</i>	<i>Total Gaming</i>	<i>Percent of Total General Revenues</i>
1950	\$ 174	\$ 12			\$ 12	6.8%
1955	256	23			23	8.8
1960	396	25			25	6.3
1965	590	29			29	4.9
1970	1366	35			35	2.6
1975	2393	36	\$ 36		72	3.0
1980	4654	16	146	\$ 58	220	4.7
1985	7981	7	391	167	565	7.1

Source: State of New Jersey, *Budget*, for years 1952, 1957, 1962, and 1967; and State and Local Government Expenditure and Revenue Policy Commission, "New Jersey Gaming Revenues: Issues and Options."

The state's total revenues from gaming grew during this period, from \$12 million in 1950 to \$565 million in 1985. Despite this absolute growth, the proportion of state revenues coming from gaming has not consistently grown during this period. Gaming revenues constituted 6.8% of the state's total general revenues in 1950. This share increased to 8.8% in 1955 and then began a pattern of decline that allowed it to contribute only 2.6% in 1970. Since 1970, the share of state revenues coming from gaming has grown once again, and in 1985 gaming accounted for 7.1% of state general revenues.

The state received the greatest share of its budget from gambling revenues in the mid 1950s. Although the amount produced by racing in these years appears today modest, it constituted a substantial share of the resources then available to the state government. Gambling today accounts for a smaller share of state general revenues than in the early 1950s, but the absolute size of the state budget today is substantially greater.

Estimated Gambling Revenues. Table 4 reports the revenues produced by the four gambling activities that have been legalized by the state. The revenues displayed here are the differences between what people wager in the different games and what they receive back in prizes. What the gambling institutions gain in revenues, of course, is equal to the amount gamblers lose. In 1987, the revenues gathered from bingo and raffles are estimated at \$62 million, casino revenues equalled \$2,379 million, horseracing produced \$229 million, and state lottery revenues were \$572 million. Total revenue from the four forms of gambling was \$3,242 million.

This table reports the revenues from the various forms of gambling regardless of the residence of the gambler. While Table 2 above reported

TABLE 4.
ESTIMATED GAMBLING REVENUES
PRODUCED BY GAMING ACTIVITIES, 1987
(\$ millions)

<i>Form of Gaming</i>	<i>Estimated Revenue</i>
Bingo-Raffles	\$ 62
Casinos	2379
Horseracing	229
Lottery*	<u>572</u>
Total Revenue	\$3242

Source: See Table 2.

Note: * This amount includes "Other Income."

only the amounts lost by residents of New Jersey, Table 4 includes all revenues received through gaming regardless of the residence of the gambler. Approximately one half of the revenue received through gaming in New Jersey comes from New Jersey residents, \$1,612 million, and approximately one half, \$1,630 million comes from non-New Jersey residents.

The revenues gained from non-New Jersey residents come entirely through casino gambling. This contribution of \$1.6 billion to New Jersey's economy is probably the greatest benefit that comes to New Jersey from legalized gambling.

Estimated Distributions of Gambling Revenues. Table 5 describes the manner in which gambling revenues are distributed. This review rests on the premise that it is appropriate to examine how gambling revenues are used since these revenues are raised under the authority of state decisions to legalize the various forms of gambling.

Table 5 examines the distributions of gambling revenues under three headings, Statutory Purposes, Administrative Agencies, and Gaming Operations. By statute, gambling revenues are used to provide income for charitable, fraternal and religious groups; for programs for senior and disabled citizens; for investments in Atlantic City and other areas; to contribute to the state general fund; to guarantee the Meadowlands debt service; and to help support the state educational and other institutions. The total amount expended for these purposes in 1987 was \$799 million, or approximately 25 percent of the total revenues produced through gaming.

Approximately \$73 million, or 2 percent of gambling revenues, is used to finance the state's administrative agencies, principally the Casino Control Commission, the Division of Gaming Enforcement, and the State Lottery Commission. Approximately \$2,374 million of gambling proceeds is used to pay the costs of operating the various forms of gambling. This amount equals approximately 73 percent of gambling revenues. (The administrative and operating costs of the Meadowlands are classified as operating costs rather than state administrative costs).

An estimated \$56 million of the \$62 million in revenues raised through bingos and raffles, or approximately 90 percent, flows to the charities. Approximately \$472 million of the \$572 million received by the lottery, or 83%, is used for the statutory purposes of education and institutions. Of the \$229 million in racing-generated revenues, 19 percent, or \$43 million is used for the Meadowlands debt service or given to the general fund. Casino revenues equalled \$2,379 million in 1987, and 10 percent of this amount was used to finance statutory investments obligations and programs for senior and disabled citizens.

TABLE 5.
ESTIMATED DISTRIBUTIONS
FINANCED BY GAMBLING INCOME, 1987
(\$ millions)

<i>Purpose</i>	<i>Source</i>	<i>Amount</i>	<i>Percent of Total Distributions</i>
<i>Statutory Purposes</i>			
Charitable Groups	Bingo-Raffles	\$ 56	
Senior-Disabled	Casinos	198	
Investment Obligation	Casinos	30	
General Fund	Racing	6	
Meadowlands Debt Service*	Racing	37	
Education-Institutions	Lottery	<u>472</u>	
Subtotal		\$ 799	25%
<i>Administrative Agencies</i>			
Legalized Games of Chance	Bingo-Raffles	\$ 1	
Law and Public Safety	Casinos	28	
Treasury	Casinos	20	
N.J. Racing Commission**	Racing	3	
State Lottery Commission	Lottery	<u>21</u>	
Subtotal		\$ 73	2%
<i>Gaming Operations</i>			
Bingo-Raffles	Bingo-Raffles	\$ 6	
Casinos	Casinos	2,103	
Tracks-Owners	Racing	186	
Agents-Contractors	Lottery	<u>79</u>	
Subtotal		\$2,374	73%
TOTAL DISTRIBUTIONS		\$3,243	100%

Sources: Legalized Games of Chance Control Commission, *Financial Report, Fiscal Year 1986-1987*; Atlantic City Casino Association, *Fact Sheet*; New Jersey Racing Commission, *Annual Report 1986 and 1987*; New Jersey Lottery, *Annual Report 1987*; New Jersey Sports and Exposition Authority, "Proposed 1988 Operating Budget"; and State of New Jersey, *Budget Fiscal Year 1988-1989*.

Notes: * This number is for F1988; it covers all Meadowlands facilities. ** The administrative costs of the Racing Commission are supported from the General Fund. Number included here for comparison. It is not included in Total Distributions.

It should be noted that the statute legalizing casino gambling stipulated that the major benefits of casinos to the state were to come in capital investment and job creation. Thus, it is appropriate that a somewhat smaller proportion of casino-generated gambling revenues should appear as explicit expenditures for state-approved projects than is provided by other forms of gambling, such as the lottery.

SECTION THREE

PATTERNS IN THE DEVELOPMENT OF LEGALIZED
GAMING

Sections One and Two of this paper have examined the four forms of gambling that have been legalized in New Jersey. This section seeks to identify patterns in the development of gambling that might be helpful in addressing gambling issues in the future.

Positions on Gambling. The arguments offered by supporters and opponents of gambling have changed very little since the 1930s. Regardless of the gambling issue being discussed, the same justifications and the same criticisms have been offered in public debate. The arguments presented at the first legislative hearing on gambling after the constitutional convention illustrate the positions that became familiar in the legislative hearings to succeeding decades. (This hearing was held in August 1948, and concerned the legalization of bingo and raffles.)¹¹⁰

Advocates of gambling made three major points:

Gambling is a proper social pastime enjoyed by many citizens. No moral distinctions can or should be made among the various forms of gambling. The self-destructive abuse of gambling by some citizens is not adequate grounds for outlawing gambling.

Gambling can be a meaningful source of revenues for important public purposes.

The substitution of legalized for illegal gambling would allow citizens to gamble without violating the law and would reduce illicit revenues that now flow to organized crime.

Opponents of gambling responded as follows:

Gambling creates anti-social attitudes that undermine the work ethic and diminish a sense of community responsibility.

Gambling diverts money from family needs and attention from family concerns.

The legalization of gambling creates compulsive gamblers.¹¹¹

¹¹⁰ Public Hearing on Assembly Bill #518 before the Committee Appointed to Hear the Same, August 10, 1948.

¹¹¹ *ibid.*, testimony of Robert E. Carl, "Nobody feels he or she is going to be a professional

The revenue claims made by gambling advocates are temporary or even illusory because they do not consider the economic activities that are harmed when dollars are withdrawn to support gambling.

Gambling is a regressive and administratively inefficient means of raising public revenues.

The legalization of gambling does not reduce illegal gambling but creates, instead, new clients for illegal gambling.

The positions of groups and institutions on gambling have also remained surprisingly stable during these decades. The legalization of horseracing in the 1930s was an issue of dispute between pro-gambling groups led by Mayor Hague of Jersey City and the Hudson County Organization and opponents of gambling represented by reform elements within the Republican party and by Protestant church groups. This same fundamental division reappeared in subsequent years on most gambling issues voted on by the 1947 convention and by the legislature. Public and elite opinions today certainly accept gambling more fully than in past decades, but the heritage of conflict from the 1930s remains evident.

The basic exception to this rule is presented by groups that expected to benefit financially from the forms of gambling considered at specific times.

Enabling Legislation. The legislation enacted to regulate gambling after the adoption of the various constitutional amendments reflects strikingly different administrative orientations. The Lottery Planning Commission emphasized how little the state then knew about lotteries and stressed the need to allow the administrative agency maximum discretion to face unforeseen problems. The provisions of the Casino Control Act reflected an opposite viewpoint. State officials believed that casino regulators would be in a constant struggle with an aggressive industry seeking to subvert state rules. The only way to secure the state's purposes in casino gambling, it was thought, was to incorporate countless specific requirements into the statute.

The bingo legislation embodied yet a third orientation. The legislators who approved this measure identified a few critical aspects of bingo operations and incorporated specific decisions about these items in the statute. The statute limited nightly prizes to \$1,000, stipulated that people who operated the games should be unpaid, volunteer members of the

gambler or go into crime when they start gambling, but after they start, it gets some people and once they have started they can't stop," p. 136. See also the testimony of Vincent E. Hull.

sponsoring organizations, and prohibited advertising of the games to the general public. Having made these judgments in the statute, most other bingo issues were left to the discretion of the regulatory agency. (The racing statute comes from an earlier era and adds little to this comparison.)

How have the forms of gambling evolved under the different statutes? With great administrative discretion, the lottery has experienced a substantial transformation without the benefit of statutory amendment. The lottery has evolved from an infrequent drawing involving millions of dollars to an almost perpetual numbers game involving hundreds of millions of dollars.

The detailed statute has strengthened the hand and perhaps the resolve of casino regulators as they faced the contests with the industry that legislators had anticipated. Casino gambling has grown in scale from its early days and some regulations have been relaxed, but the form of casino operations has remained stable.

Bingo operations have probably remained truest to the assumptions that guided voters and state officials when the game was legalized. The games are modest, and the key elements of the state's initial regulatory judgments remain in force.

Part of the success of the bingo legislation is due to its identification of a few critical elements of regulation. The endurance of the system of bingo regulation is also a product of the emergence of a group of bingo operators who sought to preserve the status quo. They feared that the development of "high-stakes" bingo would diminish their revenue and drive them from business. Interest groups in favor of restraining the growth of bingo gambling have not played a meaningful role in the other gambling areas.

Policy Goals. Legalized gambling has existed in New Jersey for almost half a century. Horserace betting enjoyed monopoly status for a dozen years before the amendment legalizing bingo and raffles was adopted. Almost two decades later, the voters approved the creation of a state lottery, and then, after another five years, casinos were permitted to begin operations in Atlantic City. Have the initial purposes of legalization survived the passing decades, or have they been replaced by more contemporary goals?

In the years since legalization, parimutuel betting on horseraces has been transformed from a tool for raising revenue for the general fund into a means of funding substantial subsidies for the horserace industry.

These subsidies are now justified on the grounds of job creation, the preservation of farm land, and the contribution of the Meadowlands to the state's national image.

In another change from the original statutory decisions, casino corporations have recently been required to contribute to the financing of public facilities in Atlantic City and in other regions. Other than these items, legalized gambling in New Jersey has remained surprisingly faithful to its initial statutory purposes.

Mix of Public-Private Responsibility. Legalized gambling encompasses a complicated mixture of public and private activities. Casino, bingo, and horserace regulators in the early years all sought to defend state purposes and impose state regulations on private operators. Each encountered criticism from the institutions whose autonomy was being limited, and each has also become a defender of the institutions it was created to regulate.

The lottery, in contrast, is a public activity that relies on private agents to sell most of its tickets and private contractors to develop its games and manage its on-line computer network. The lottery supervises its own marketing program.

The emergence of the Meadowlands Racetrack as the centerpiece of the racing industry presents another pattern of public-private cooperation. The Meadowlands is a public agency with public employees that provides a setting for private horsemen to compete for funds raised through state-approved parimutuel betting. The actual supervision of the races has been a private function that is assuming an increasingly public character. The State Commission of Investigation has noted that the purchase of Monmouth Park by the Sports and Exposition Authority means that two of the five tracks in the state are now public entities and that the regulatory task facing the Racing Commission might be reduced.

Dedication of Revenues. Lottery funds are legally dedicated to support education programs and state institutions, the proceeds of the casino revenue tax are to fund programs for senior and disabled citizens, the casino investment obligation must support publicly-approved projects in Atlantic City and elsewhere, and casino license and administrative fees are earmarked to support the state regulatory system. In addition, charities are the beneficiaries of bingo and raffles revenues, and racing revenues support the Meadowlands debt service payments. While one half of one percent of the parimutuel handle goes into the state general fund, the balance of the proceeds from parimutuel betting is directed to the tracks and horsemen.

The significance of dedicated revenues is determined by amount of the dedicated funds and magnitude of the normal expenditures for designated purpose. Other things being equal, dedication of funds to a narrow purpose will have more significance than dedication to a broad purpose. The dedication of lottery proceeds to education and institutions is said to help lottery marketing, but state expenditure on these purposes are so enormous that the dedication probably has little fiscal significance.

The dedication of casino revenues to regulation, public facility investment, and senior and disabled citizen programs may have increased expenditures for these purposes beyond what they otherwise would be. There would probably be more restraint on the revenues going to tracks and owners if the funds came through the normal state appropriations process rather than through parimutuel proceeds.

A less formal type of "dedication" appears in the use of gambling funds to sustain gaming operations and state administrative agencies. While not a legal "dedication," gaming institutions are in position to secure gaming revenues for their own support. It can be argued, for example, that the problems of the Meadowlands Racetrack are not problems of declining revenues but of increasing costs.¹¹² In recent years, racetrack costs have increased more rapidly than revenues.

When gaming revenues are increasing comfortably, no one notices the increases in administrative costs. By the time that gaming revenues stabilize or decline, administrative costs may have grown so vigorously that they consume most available revenues. Some fear that the availability of revenues has permitted unnecessary growth in the casino, lottery, and racing agencies.

Responses to Declining Revenues. Not all claims of inadequate revenues should be taken at face value. Some institutions paint their financial position in darker colors than is warranted as part of a campaign to win added revenues or further regulatory concessions from the state.

Despite this caveat, each of the state's forms of gambling has experienced revenue problems. The 45 percent fall in lottery revenues between 1972 and 1975 transformed the lottery into a sophisticated marketing organization seeking new customers and broader public support. Faced with inadequate revenues, the lottery devised new games for different income groups, hired market research firms, created an incentive system for sales agents, modified the prize structure of the games, began the pub-

¹¹² New Jersey General Assembly Majority, "The New Jersey Sports and Exposition Authority: A Financial Review," n.d.

lic release of the names of lottery winners, implemented new marketing programs, moved the drawings to a later hour, and began advertising on television.¹¹³

At least as early as 1960, the racing industry began to fear that competition from neighboring states would lead to declines in track revenue. A number of suggestions were developed to neutralize the potential decline. These proposals provided confirmed gamblers more opportunities to gamble without necessarily enlarging the customer base for parimutuel betting. These techniques included lengthening the racing season, adding a ninth race, allowing pre-race wagering, permitting night operations, increasing the amount withdrawn from the handle, constructing additional racing facilities, or allowing additional betting opportunities on combinations of races.¹¹⁴

The Legalized Games of Chance Commission saw bingo proceeds reach \$114 million in 1982, and then fall 15 percent in subsequent years. Attendance at bingo games has also declined from 13.2 million in 1977, to 9.3 million in 1987, a decline of 30 percent. Faced with legal and political barriers to altering bingo rules, the commission began to relax the rules governing the operations of raffles. Between 1983 and 1987, raffles proceeds grew from \$27 million to \$42 million, an increase of 56 percent in what is regarded as a stagnant market.¹¹⁵

In the early 1980s, the increase in the number of casinos led to declines in the average revenue per casino. The response of the casino industry to the decline was to launch a campaign against the state regulations that the industry argued inflated their operating costs, reduced revenues, and interfered with the efficient operation of their casinos.

¹¹³ See State Lottery Commission, *Minutes*, May 2, 1972; October 3, 1972; February 6, 1973; March 20, 1973; April 3, 1973; April 17, 1973; December 4, 1973; March 5, 1974; September 14, 1976; and April 18, 1978.

¹¹⁴ Vincent P. Biunno, *A Study of Pari-Mutuel Tax Revenues*, p. 27.

¹¹⁵ Legalized Games of Chance Control Commission, *Financial Report*, 1983 through 1987.

SECTION FOUR

RECOMMENDATIONS AND CONCLUSIONS

1. *The state should prepare an annual report on gambling.*

Justification. There is currently no institutional procedure to examine the *cumulative impact* of the state's gambling decisions on the people or the economy of the state. Decisions, that appear inconsequential when examined alone, may be found to have considerable significance when seen in the context of a series of earlier actions. There is now, for example, no way to ask what limits, if any, should exist on the magnitude of publicly-sanctioned gambling.

There is now no way to consider the *interrelations* among the various forms of gambling. Many, but certainly not all, of the same people patronize the state's different gambling institutions. Emerging technology will blur the differences among the existing forms of gambling in the years ahead.

There is now no forum to discuss *common problems* and no mechanism to address issues that concern different forms of gambling. Similar problems may be approached in inconsistent ways. Topics such as age requirements and advertising provide examples. *Equitable treatment* of people and institutions in similar situations can now be difficult to achieve.

Finally, current limitations on the *availability of data* hamper analysis of important policy issues.

2. *A checklist of questions should be devised to examine proposals for the inauguration of new forms of gambling or expansion of current games.*

What is the motivation for the change?

Are there other ways of achieving the purpose of the change?

What is the likely impact of the change on the patron?

Will the change increase knowledge and awareness of the gambler, or will it place the gambler in an uninformed position?

From which current expenditures, income groups, or activities will the money come that is to be raised by the change?

What is the likely impact of the change on existing gambling and other institutions?

What financial benefits do the groups requesting increases in revenues now receive from the state?

Why should the problem not be addressed by a state appropriation?

3. *New Jersey agencies should consider forming an on-going research council on gambling topics. The state should emphasize continuity in its effort to examine issues that have implications for more than one gambling area.*

Explanation. Certain state gambling agencies now have statutory responsibility to review developments in some gambling areas. In recent decades, countless committees, study groups, and task forces have also been assembled to examine gambling issues. Many of the best minds in the state have addressed specific problems in these efforts and devised innovative solutions to the situations they encountered.

Because of the episodic nature of these projects, however, their cumulative value has been limited. Study groups frequently disband by the time they have mastered the complexity of a policy area, and administrative agencies understandably focus their attention on immediate regulatory or operating problems. Gambling issues are now of sufficient importance to the state that they merit continuing, systematic investigation. Unlike most policy areas, there is essentially no national research community focusing on most gambling issues to provide continuity for New Jersey's investigative efforts.

4. *Standards of effectiveness for the state's gaming agencies other than the revenues produced through gambling should be developed.*

The state agencies face pressure to sustain or increase revenues in their area of gambling. When gambling revenues fall, regulatory budgets receive intensified scrutiny, and administrative personnel changes are contemplated. From a state constitutional or statutory perspective, however, more gambling is not necessarily better. State agencies may be doing an appropriate job regardless of whether gambling revenues are rising or falling, and administrative standards should be devised to indicate that. Perhaps, the legislature should establish revenue targets for each agency and direct any excess revenues into a "rainy-day" fund.

5. *The three statutes involving bingo, raffles, and the Legalized Games of Chance Control Commission should be reviewed.*

These statutes have not faced comprehensive review in thirty-five years, and the conditions on which they are based have changed.