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# Charitable Gambling in Minnesota

An information brief on legislative history, rules and regulations, and the outlook for charitable gambling. This information brief is only a summary of the law and rules governing charitable gambling.

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This information brief has four parts.

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## **Charitable Gambling Licensing and Control**

### **State Agencies Governing Gambling**

Charitable gambling regulation, licensing, taxation, auditing, and enforcement now is divided among three state agencies—the Gambling Control Board, the Alcohol and Gambling Enforcement division of the Department of Public Safety, and the Department of Revenue. It also comes under the jurisdiction of a fourth agency, the Attorney General’s Office.

The agencies and their functions are as follows:

**Gambling Control Board** adopts rules for the conduct of gambling, approves all gambling equipment for use, issues licenses, provides training and education to organizations, conducts compliance reviews and site inspections, and imposes penalties for violations. The board has delegated to its director the power to issue or deny licenses and permits under board guidelines.

The board receives the financial reports of licensed organizations and verifies gross receipts, prize payouts, expenses, and expenditures of net profits for lawful purposes. The board may investigate alleged violations of law or rule, issue consent orders, and impose civil penalties. Suspected criminal violations are referred to the Alcohol and Gambling Enforcement division.

**Alcohol and Gambling Enforcement Division, Department of Public Safety**, created as the Gambling Enforcement division in 1989 and merged with the Liquor Control division in 1996, has the responsibility of enforcing laws and rules that relate to charitable gambling and other forms of legal and illegal gambling. By law this division, rather than any other state agency, is the “primary investigation entity where enforcement rests” regarding suspected criminal violations relating to gambling.

Some of the division’s employees are peace officers with power of arrest. The division is empowered to inspect all premises where gambling is conducted, and to audit the books and records of any licensed organization.

**Special Taxes Division, Department of Revenue** collects all taxes on charitable gambling and audits tax returns.

**Gambling Division, Attorney General’s Office** investigates and prosecutes criminal gambling violations as well as providing legal counsel to the board.

### **Types of Gambling Allowed**

Since 1980 the only types of gambling that may be conducted by nonprofit organizations are **pull-tabs, bingo, paddlewheels, tipboards, and raffles**.

## License and Permits

Charitable gambling may only be conducted by a licensed organization. A fraternal, veterans, religious, or other nonprofit organization may apply for licensing if it has been in existence for at least three years and has at least 15 active members.

**Gambling licenses** are issued by the director of the Gambling Control Board under criteria set by the board. Licenses are valid for two years. The annual fee for an organization license is \$350, except that the fee may be waived for organizations that expect to receive less than \$100,000 per year in gross receipts.

In addition to the licensing requirements, organizations are required to obtain a separate **premises permit** from the director of the board for each location where gambling will be conducted. Like licenses, premises permits are valid for two years. The fee for each premises permit is \$150 per year plus 0.1 percent of monthly gross receipts at the premises. The fee revenue, along with revenue from other license fees the board charges, goes into a lawful gambling regulation account, which is available for appropriation by the legislature to pay the board's operating costs. Organizations may conduct gambling away from the permitted premises only for a few days each year in connection with special events.

The board also licenses distributors (wholesalers), distributor salespersons, manufacturers of gambling equipment, and the owners of bingo halls. Annual license fees range from \$4,000 for bingo halls to \$9,000 for manufacturers. The board also charges a fee of \$25 for each item of gambling equipment submitted for its approval and \$100 for each item it tests.

## Use of Proceeds

An organization's gross profits from gambling (gross receipts minus prizes) can be used only for "allowable expenses" and expenditures for "lawful purposes" (including gambling taxes).

**Allowable expenses** are defined as any expenses directly related to the conduct of gambling. The law limits expenses for bingo to a maximum of 70 percent of gross profit less the state bingo tax. For pull-tabs and other forms of gambling the maximum expense percentage is 55 percent.

"**Lawful purposes**" include the following:

- Any expenditure by or contribution to a **501(c)(3) tax-exempt organization**, or to a 501(c)(4) organization that conducts a community festival, if the organization meets board operating and expenditure standards
- Contributions to individuals or families to **relieve poverty, homelessness, or disability**
- Contributions for treatment of **delayed post-traumatic stress syndrome or compulsive gambling**
- Contributions to an accredited **educational institution**

- Contributions to a **scholarship fund** where funds are awarded through an open and fair selection process
- Activities that **recognize humanitarian or military service**
- **Recreational, community, and athletic facilities** primarily for persons under 21, provided they do not discriminate on the basis of gender
- State, local, and federal **taxes on gambling**, state unrelated business income tax on gambling, and state **license and premises permit fees**
- **Property taxes on gambling premises** an organization owns (or, in the case of a veterans organization, leases), up to the amount that board rules allow a renting organization to pay as rent for bingo, and up to \$35,000 per year for premises used for other forms of gambling
- **Contributions to government** and government agencies (except a direct contribution to a law enforcement or prosecuting agency)
- Contributions to or expenditures by a **religious organization**
- Cost of mandatory annual **audits** of gambling accounts if filed in a timely manner
- DNR-approved expenditures on public **snowmobile and ATV trails**
- Expenditures on **wildlife management projects** when approved by the state agency having jurisdiction over the project
- **Nutritional programs, food shelves, and congregate dining programs** primarily for disabled persons or persons age 62 and older
- Contributions to community **arts** organizations or expenditure to sponsor arts programs in a community
- In the case of a veterans organizations, payment of certain **utilities** on the building used as the organization's primary headquarters, and spending up to \$5,000 in a year for meals and other membership events for members and spouses that recognize military service

With limited exceptions, "lawful purposes" do not include the building, repair, maintenance, or improvement of a building that an organization owns or leases, unless (1) the building will be used exclusively for a lawful purpose, (2) the building will be used extensively as a meeting place by other nonprofit organizations or service groups with no rental fee, or (3) the building replaces another building owned by the organization and destroyed or taken by eminent domain.

Also excluded from "lawful purpose" are (1) expenditures to influence governments or elections; (2) contributions to a parent organization if the parent organization gives any money to the contributing organization; and (3) contributions from one organization to another unless the contribution is approved by the board.

## Gambling Locations

Organizations may conduct gambling only on premises they own or lease.

**Leases.** Leases may be for an entire building or part of a building, and can be for as small a space as a booth for selling pull-tabs in a bar or restaurant.

Rent limits are based on a percentage of gambling gross profit. Apart from bingo, most leased premises are in bars and restaurants and are used for selling pull-tabs or tipboards. There are different limits for establishments selling pull-tabs through booth operations, or *booth-ops* (where sales and redemptions are made by an organization employee within an enclosure that is separate from the area where food and beverages are sold) and bar operations, or *bar-ops* (where sales and redemptions are made by an employee of the bar or restaurant from the area where food and beverages are also sold).

<b>Rent Limits</b>	
<b>Booth Operations</b> (including booth-ops that are both booth-ops and bar-ops, and those that have pull-tab dispensing machines)	<b>Bar Operations</b> (including bar-ops that also have pull-tab dispensing machines)
<ul style="list-style-type: none"><li>• Monthly gross profit up to \$4,000, up to \$400 per month</li><li>• Monthly gross profit over \$4,000, up to \$400 plus 10 percent of amount over \$4,000</li><li>• Total for all booth operations at a single location, up to \$1,750 per month</li></ul>	<ul style="list-style-type: none"><li>• Monthly gross profit up to \$1,000, up to \$200</li><li>• Monthly gross profit over \$1,000, \$200 plus up to 20 percent of amount over \$1,000</li><li>• Total for all bar-ops at a single location, up to \$2,500 per month</li></ul>

(The new limits apply only to leases that took effect after August 1, 2003. Leases entered into before that date for premises other than bingo will be allowed to continue until they expire, and are subject to the old rent maximum of \$1,000 per month.)

Board rules limit bingo rent to \$200 to \$400 per occasion depending on total square footage.

Rent limits are intended to be inclusive of all services provided and expenses paid by the lessor, including in the case of bar operations compensation paid to the organization by the lessor for cash shortages.

Leases cannot begin before the effective date of the premises permit for the leased premises, and must expire on the same day the premises permit expires.

**Illegal gambling.** Under board rules an organization may be barred from a location where illegal gambling has taken place. Bans can run from 90 days to permanently, depending on the number of previous violations at the location. By law, the board cannot take action against an organization's premises permit because of illegal gambling unless it determines that the

organization participated in the illegal gambling, or knew of it and failed to ask the establishment to stop it. The board cannot take action against an organization's license because of illegal gambling unless the organization's chief executive officer or gambling manager or assistant managers participated in or authorized the illegal gambling.

## **Organization Responsibility**

An organization is responsible for all gambling conducted in its name. If an organization leases premises for gambling, the lessor may not directly or indirectly manage the conduct of gambling. The same prohibition applies to gambling equipment wholesalers and their employees.

## **Gambling Managers**

**Gambling manager required.** Each organization must have a single gambling manager who is responsible for overseeing all the organization's gambling activities. The manager must be bonded for \$10,000 and must be licensed by the board. The gambling manager's license runs concurrently with the organization's license. The annual license fee is \$100.

**Training.** Each gambling manager must receive training and obtain continuing education from the board in gambling law and management procedures. All newly licensed gambling managers must pass an examination on gambling laws and rules and gambling manager responsibilities.

**License actions.** Gambling managers can lose their licenses for committing gambling violations or for engaging in conduct the board considers harmful to the integrity of gambling.

## **Gambling Records and Accounts**

**Separate accounts required.** An organization must keep its gambling accounts separate from all its other accounts. Records of gambling transactions must be kept for at least three and one-half years. Organization records must account for the organization's assets, liabilities, and fund balances.

**Reports.** Each organization must report monthly to its membership and to the Department of Revenue on its gambling gross receipts, prizes, expenses, and "lawful purpose" contributions. Lawful purpose contributions must also be reported to the Gambling Control Board and be itemized by date, amount, payee, and purpose. Checks or electronic fund transfer authorizations must be signed by at least two persons authorized to make expenditures for the organization.

**Financial reviews and audits.** Each organization with more than \$150,000 in annual gross receipts from gambling must have an annual audit or financial review, depending on its gambling volume, performed by a licensed accountant.

## Prizes

**Bingo.** Except for cover-all games (where all spaces must be covered to win) and progressive bingo games (where jackpots not won may carry over to another day), the maximum prize for any single bingo game is \$200. A “cover-all” bingo game prize may exceed that amount if the total value of all cover-all prizes in a bingo occasion is not more than \$1,000. Prizes for a progressive game may begin at \$500 and increase by up to \$100 per occasion, and consolation prizes of up to \$200 may be awarded in such a game if the cumulative jackpot is not won. Progressive bingo jackpots of up to \$2,000 for a single game are allowed, but total prizes awarded by an organization in progressive prizes are limited to \$48,000 in a year.

Not more than \$2,800 can be awarded in total prizes for a bingo occasion (\$3,800 for occasions where a cover-all game is played).

“Linked bingo,” meaning a bingo game played at two or more locations simultaneously that are linked electronically, are not subject to these limits but each participating organization may contribute no more than \$300 per bingo occasion to a linked bingo prize pool. A participating organization must deduct these contributions from the maximum amount it can give for all cover-all games at the occasion where linked bingo is offered.

**Other gambling.** Other prize limits include:

- single pull-tab, \$599
- raffles, per year per organization, \$100,000
- raffles, maximum cash prize awarded in a single day, \$12,000
- paddlewheels with or without a table, single prize, \$70 (prize payoff limits on paddlewheels that use a paddlewheel table range from 2:1 on an odd-even bet to 40:1 on a single number)
- tipboards, \$500

**Prize payout restrictions.** Beginning January 1, 2004, organizations may not offer any pull-tab or tipboard games that have a prize payout of more than 85 percent of the ideal gross (the gross receipts if all pull-tabs or tipboard tickets in the game are sold), including any “last sale prizes” added by the distributor.

**Prize posting.** When it has reason to believe that an organization or seller is giving certain players an unfair chance to win at pull-tabs by giving them information on remaining winning tickets in a game, the board may require the organization to post the names of major prize winners in each game.



## Gambling Taxes

There are three separate state taxes on charitable gambling:

- A tax of 1.7 percent of the “ideal gross” from **pull-tabs and tipboards**, collected from the wholesaler at the time of sale to an organization. The “ideal gross” of a deal (package) of pull-tabs and tipboards is the potential gross receipts from the retail sale of each pull-tab or tipboard in the deal.
- A “combined receipts tax” on the gross receipts from **pull-tabs and tipboards**, graduated according to the organization’s gross receipts from those gambling forms:

Annual Gross Receipts	Tax
Not more than \$500,000	0
\$500,001 - \$700,000	1.7 percent of amount over \$500,000
\$700,001 - \$900,000	\$3,400, plus 3.4 percent of amount over \$700,000
Over \$900,000	\$10,200, plus 5.1 percent of amount over \$900,000

- A tax of 8.5 percent of gross profit (gross receipts minus prizes) from **bingo, raffles, and paddlewheels**.

An organization’s income from gambling, along with its income from other business activities unrelated to the organization’s main purpose, may also be subject to state taxes on unrelated business income.

## Exempt or Excluded Gambling

Certain low-volume or infrequent charitable gambling is exempt or excluded from licensing and from most state rules, as long as the operators notify the Gambling Control Board in advance of the event, report to the board afterwards on the disposition of receipts, and use the net profits only for lawful purposes. Exempt or excluded gambling generally includes:

- raffles with annual prizes of under \$1,500 in a year;
- bingo conducted for not more than 12 days in a year in conjunction with a county fair or civic celebration;
- gambling conducted on five or fewer occasions in a year and not generating prizes of more than \$50,000 in that year.

Gross receipts and profits from exempt and excluded gambling are not subject to state gambling taxes or to the state sales tax.

## **Local Authority**

Even though the legislature abolished local licensing of gambling activity in 1984 the law still allows for extensive local authority in licensing and regulation.

**Approval.** Each premises permit must be approved in advance by the city or county having jurisdiction over the location. A city or county can require that all or part of lawful purpose expenditures raised from gambling within its jurisdiction be spent on activities within the government's trade area (as it defines the term). A city or county can require an organization within its jurisdiction to contribute up to 10 percent of its net gambling profits for lawful purposes that the city or county specifies.

**Local taxes.** Cities and counties may levy a tax of up to 3 percent of an organization's gross gambling receipts, as long as the revenues are used for gambling regulation.

**Local regulation.** Cities and counties may adopt gambling regulations that are more stringent than state law, including the complete prohibition of gambling within their jurisdiction, but except in the case of paddlewheels any local regulation must apply equally to all forms of gambling.

## **Rules on Conduct of Gambling**

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### **General**

The restrictions that cover all forms of gambling include:

- **No person under age 18 may play or participate in gambling**, except for bingo that is exempt or excluded from licensing, or bingo conducted by a licensed organization at an annual community event if the underage person is accompanied by a parent or guardian.
- Organizations may not **take checks** or **extend credit** for gambling other than accepting checks for raffle tickets.
- With limited exceptions, all **sales must be made and prizes awarded on the permitted premises only**.
- Odds and house rules must be **posted** on the premises.

### **Pull-tabs**

- Prizes may not be given for lost or altered pull-tabs.
- No pull-tab may be sold for more than \$2.
- Separate cash banks must be kept for each pull-tab game except for (1) commingled games, (2) games where the organization uses a cash register that can keep track of each game separately, or (3) games sold with a pull-tab dispensing device.
- Seller must deface all winning pull-tabs.
- A prize receipt must be completed for pull-tabs with a prize value of \$50 or more and the winner's identification verified by the seller.
- When ordered to do so by the board, an organization must post major pull-tab prizes (prizes 50 times or more greater than the face value of the pull-tab) and the names of major prize winners. The board may order this when it has reason to believe that an organization has been providing "inside information" on prizes won.
- Each game must have a poster, called a "flare," that displays prize amounts and the price of each pull-tab.

### **Bingo**

- All hard card and bingo paper sales must be made at the bingo location.
- All bingo paper must be numbered and may not be used for more than one bingo occasion. (Organizations that grossed less than \$150,000 a year from bingo in the most recent fiscal year may use bingo hard cards that are reusable).
- Drawn numbers must be immediately announced and displayed.

- Gross receipts must be compared to the records for each occasion and discrepancies of \$20 or more must be reported to the board.
- Bingo occasions may last from one and one-half to four hours and must include at least 15 games.

## **Paddlewheels**

- Paddlewheels may be played only with paddlewheel tickets, or with chips when a paddlewheel table is used.
- All tickets on a card must be sold before a wheel is spun.
- No ticket may be sold for more than \$2. For paddlewheel tables, the maximum wagers are \$50 aggregate, \$10 on a single number, and \$25 for a line (multiple numbers) or odd/even.
- Records of winners must be kept as for pull-tabs and tipboards.
- No more than two paddlewheel tables may be operated at a single location.
- Paddlewheels must be covered or disabled when not in use.

## **Raffles**

- Each ticket must be sold separately.
- Each ticket must be sold for the same price.
- Each ticket must have a consecutively numbered detachable stub with space for the buyer's name, address, and telephone number.
- Each ticket must identify the conducting organization, time and place of the drawing, price of the ticket, and the prizes to be awarded.
- Each raffle must provide that winners need not be present at the drawing.
- Winning tickets must be drawn from a receptacle.
- Each ticket must have an equal chance to be drawn.
- Prizes must be awarded on the date shown on the ticket unless the board approves a different date.

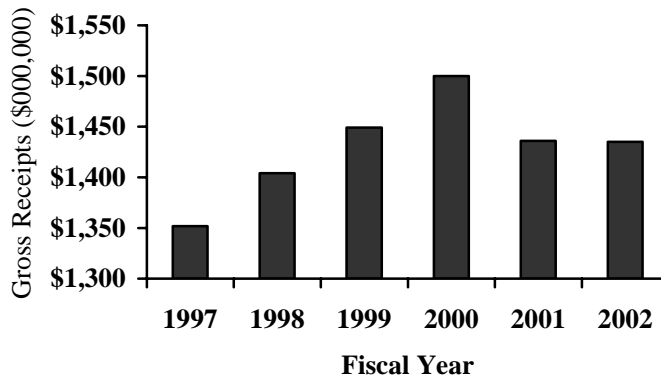
## **Tipboards**

- All games must be played with tipboard tickets.
- Each tipboard placard must list the number and value of prizes.
- Prizes may not be given for lost or altered tipboard tickets.
- No ticket may be sold for more than \$2.
- A seal on the game placard must conceal the winning number or symbol.

## Charitable Gambling Statistics

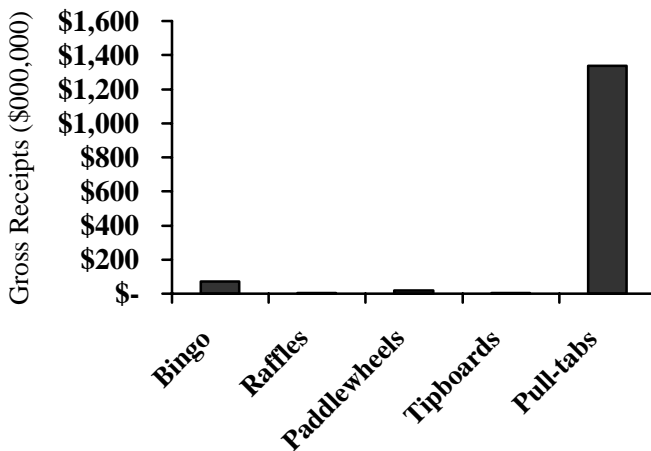
Annual gross receipts from charitable gambling in fiscal 2002 were \$1.435 billion, almost exactly even with fiscal year 2001. Charitable gambling's gross receipts have grown by an average of about 1.5 percent per year over the past ten years.

**Charitable Gambling Gross Receipts  
 1997-2002**



Pull-tabs remain by far the dominant form of charitable gambling, annually accounting for about 93 percent to 94 percent of gross receipts, with bingo accounting for another 5 percent to 6 percent.

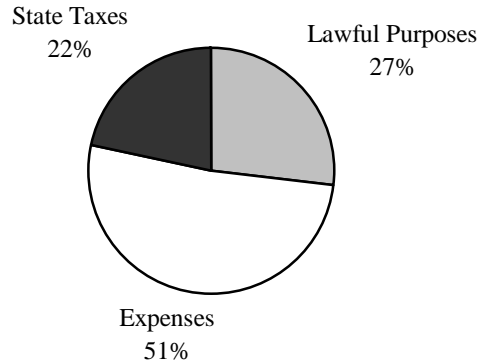
**Types of Charitable Gambling, 2002**



Bingo	\$71.9
Raffles	\$4.3
Paddlewheels	\$19.3
Tipboards	\$2.9
Pull-tabs	\$1,337

Prizes paid out represent about 82 percent of gross receipts. By law the remainder, called “gross profit,” may go only for gambling expenses or lawful purposes, including state and local taxes. With over 20 percent of gross profit going for state taxes, the state is the largest single beneficiary of charitable gambling.

**Spending of Gross Profit FY 2002 (\$259 million)**



According to figures compiled by the National Association of Fundraising Ticket Manufacturers, Minnesota is the highest-ranking state in overall charitable gambling gross receipts, thanks largely to its dominance in pull-tab sales.

<b>Total Charitable Gambling Gross Receipts 2001</b> (in millions)			<b>Pull-Tab Gross Receipts 2001</b> (in millions)			<b>Bingo Gross Receipts 2001</b> (in millions)		
1	<b>Minnesota</b>	\$1,424.9	1	<b>Minnesota</b>	\$1,329.4	1	Indiana	\$494.5
2	Washington	\$901.6	2	Ohio	\$557.0	2	Texas	\$477.5
3	Ohio	\$748.4	3	Washington	\$500.2	3	Virginia	\$229.2
4	Kentucky	\$607.0	4	Kentucky	\$475.7	4	Ohio	\$191.3
5	Indiana	\$576.2	5	New York	\$324.2	15	<b>Minnesota</b>	\$70.0

Source: National Association of Fundraising Ticket Manufacturers, *Charity Gaming in North America 2001 Annual Report*

## **Legislative History**

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### **The Early Law: 1945 Bingo Law**

Before 1945, bingo and all other lotteries, whether for charitable purposes or not, were illegal. The 1945 bingo law:

- Allowed bingo to be conducted only by nonprofit organizations and prohibited profits from going to individuals,
- Gave local units of government the power to prohibit bingo within their borders,
- Exempted bingo from the criminal statutes prohibiting all forms of lotteries, and
- Was amended only once until 1975, to limit bingo's workers' compensation to \$8 per worker for each bingo occasion.

However modest the scope of this law, it embodied principles of regulation still in effect today. The law established that bingo was to be played only as a noncommercial fundraising activity because it limited bingo to nonprofit organizations, limited compensation to workers, and prohibited private use of profits. Through the local-veto provision, the legislature gave local governments a strong role in regulating legal gambling.

As the "declaration of policy" in the law stated, bingo was to be a "mild form of social recreation designed to raise funds for the benefit of religious, charitable, fraternal or other associations. . ."

### **The 1976 Bingo Law**

In 1976, the legislature substantially extended the scope of bingo regulation with a law based largely on a St. Paul city ordinance. Declaring that its intent was to "regulate the conduct of bingo and prevent its commercialization," the legislature did the following:

- Required organizations conducting bingo to obtain a license from a local unit of government
- Allowed organizations to deduct only certain items (prizes, rent, utilities) from bingo gross receipts and to use the net profits only for specified "lawful purposes"
- Limited organizations to two bingo occasions a week
- Required that organizations conduct bingo only on premises they owned or leased
- Set daily and weekly prize limits for bingo
- Required organizations conducting bingo to have a bingo manager in charge of the operation
- Required organizations to report monthly to its members and to the local licensing authority on bingo receipts and distribution of profits

- Raised bingo compensation from \$8 to \$12 per worker but allowed it to be paid only to members of the organization or their spouses
- Made violation of the law a gross misdemeanor

The 1976 law was a response to concerns about bingo becoming a business to benefit individual operators rather than the “mild form of social recreation” the legislature intended. While its provisions were far more extensive than the 1945 law, the purpose of preventing commercialization remained the same.

### **New Forms of Gambling: The 1978 and 1981 Amendments**

The 1976 bingo law was expanded in 1978 to legalize and regulate certain previously illegal forms of lotteries:

- paddlewheels (wheels of fortune)
- tipboards (variants of punchboards)
- raffles

These gambling forms were to be regulated in the same manner as bingo, except that their prizes were to be limited to:

- \$500/day per organization on paddlewheels and tipboards
- \$15,000/year per organization for all paddlewheel, tipboard, and raffle prizes combined

In 1981, the legislature added pull-tabs (cards on which tabs could be pulled off to reveal winning combinations) to the list of permitted gambling activities.

### **1984 Charitable Gambling Law**

The 1984 Legislature enacted a major change in the regulation of charitable gambling by transferring regulation from local governments to a newly created state Charitable Gambling Control Board. But in many respects, the 1984 law was a continuation of the policy the legislature had first adopted in 1945: a goal of making gambling a charitable fund-raising device rather than a commercial activity.

In adopting state control, the legislature was responding to two concerns. First, it attempted to provide a uniform level of enforcement of gambling laws around the state in the face of fears that enforcement was becoming increasingly spotty. Second, it sought to improve the collection of taxes on gambling following indications that sizable amounts of sales tax on gambling receipts were going uncollected.



The state board was given the following authority:

- Issue, suspend, and revoke licenses for organizations to conduct gambling, previously held by local governments
- License distributors of gambling equipment, who previously had not been licensed at the state or local level
- Issue rules governing the operation of charitable gambling, which had never been done by any state agency

The 1984 law also replaced the 6 percent sales tax on gross receipts from gambling, collected by the Department of Revenue, with a 10 percent tax on gambling receipts, minus prizes, collected by the board.

Although these provisions involved several significant policy changes, much of the 1976 and 1978 law was left substantially intact. The policy of keeping charitable gambling noncommercial—by restricting the use of proceeds, limiting prizes, bingo occasions, and gambling locations and by requiring regular reporting to members—was retained in the 1984 enactment.

## **1989 Reorganization Law**

In 1989, the legislature authorized a state lottery and in the process made an extensive reorganization of all forms of legal gambling. A state Department of Gaming was created with divisions governing the various forms of legalized gambling. The commissioner of the department was made a member of the Charitable Gambling Control Board and the state Racing Commission as well as of the new lottery advisory board.

The gambling board, an independent agency when it was created in 1984, had been transferred by executive order to the Department of Revenue in 1988, partly in response to concerns about its effectiveness in governing the burgeoning industry. The 1989 law renamed it the Lawful Gambling Control Board and reconstituted it as part of the gambling control division in the new Department of Gaming.

The 1989 reorganization law, and the tax bill passed in the 1989 special legislative session, tightened licensing requirements for distributors of gambling equipment, raised license fees, restricted distributor involvement in the actual conduct of gambling, and imposed new taxes on large-volume organizations.

## **1990: Criticism and Reform**

1989 saw a series of reports and allegations of abuses and ineffective controls in charitable gambling, including an extensive series of newspaper articles and critical reports from the attorney general and the legislative auditor. In response, the 1990 legislative session produced

another extensive reworking of gambling law and substantially increased the number of state employees regulating gambling. The 1990 law increased penalties for violations, imposed new licensing requirements on gambling managers, made much more specific the list of legal uses of net gambling profits, and provided mechanisms for reducing fraud in pull-tab games.

In one of the most potentially far-reaching changes, the 1990 law also required that all pull-tabs sold after July 1, 1992, be manufactured within Minnesota. In late 1990 this provision was overturned by a United States district court on the grounds that it violated the interstate commerce clause of the federal constitution.

## **1990-1995: Reversing the Trend**

Since 1990, the legislature has passed several bills relating to charitable gambling and a trend has become clear. Through the 1990 session the legislative agenda had been set by the critics of gambling, and the result was legislation that raised the levels of regulation and enforcement. Beginning as early as 1991, the legislature began giving a more sympathetic ear to the gambling industry's own agenda, and the results were reversals of several of the reforms that the industry had considered among the most onerous.

*1991.* The 1990 law had dealt with the problem of pull-tab "insider trading" (sellers giving information to favored players as to which games still have major prizewinning tickets unsold) by requiring all organizations that sell pull-tabs to post the names of winners of major prizes as they are paid out. In response to claims by organizations that this requirement had severely cut into their sales, the 1991 Legislature repealed it and substituted a provision that allows the gambling board to impose a posting requirement only if it has reason to believe that an organization is giving illegal information to players.

The 1991 law also repealed features of the 1990 act that required recipients of gambling net profit contributions to register with the board. The bond posted by gambling managers, which had been raised from \$10,000 to \$25,000 in 1990, was reduced back to \$10,000 in 1991. It reversed another earlier initiative by abolishing the short-lived Department of Gaming and the office of its commissioner. The gambling board, lottery, and racing commission again went back to being independent agencies.

The 1991 law "deregulated" gambling expenses by eliminating the board's authority to adopt rules defining allowable expenses. Instead, the board would decide on a case-by-case basis whether particular expenses are directly related to the conduct of gambling. Other notable elements of the 1991 law were an extension of the term of gambling licenses and permits from one to two years, an increase from \$600 to \$1,000 in the maximum monthly rent that board rules could provide for gambling premises, and new restrictions on paddlewheels.

*1994-95.* In 1994 the legislature passed its first major gambling bill since 1991. Although long (over 125 pages) and comprehensive, touching on almost every aspect of legal gambling, the bill contained few major policy changes. It provided more uniform licensing procedures and gave the board new authority to take disciplinary action against licensees. Prize

limits for pull-tabs and progressive bingo games were increased, and the board was given authority to permit sales of pull-tabs through vending machines. The 1994 law also strengthened enforcement of the requirement that youth athletic and recreational programs not discriminate on the basis of gender.

The 1995 legislative session saw still another “omnibus” gambling bill, but this too made relatively few policy changes. The most important was to increase from \$15,000 to \$35,000, the amount of property taxes on gambling premises that an organization could pay from net gambling profits. Extensive consideration was given to proposals to abolish the gambling control board and replace it either with a single director or by a commissioner of gambling with authority over other gambling areas as well. The legislature eventually decided against any reorganization in charitable gambling.

### **1996-2001: Achieving the Industry Agenda**

By 1996 the gambling industry’s agenda was clearly beginning to dominate legislative discussions of gambling. The industry had three major legislative initiatives—tax relief, an increase in permissible expenses, and a change in the penalties for illegal gambling at lawful gambling sites—and by 1998 it had won major victories on all of them.

**Taxes.** The gambling industry has long had two major objections to Minnesota’s system of taxing gambling: that tax rates were too high and that organizations were taxed on pull-tabs whether they sold them or not.

The unsold pull-tab issue was addressed in 1996. Under previous law, organizations that paid a 2 percent tax on the ideal gross of each package of pull-tabs bought from a distributor received no tax refund for pull-tabs that were not sold to customers, such as in the case of games withdrawn from play after all major prizes had been won. In those instances organizations had no opportunity to recover the tax from pull-tab buyers, and were forced to bear the tax burden themselves. The 1996 Legislature allowed organizations to claim a refund of 100 percent of the tax paid on pull-tabs put into play after June 30, 1996, but not sold.

After resolution of the unsold pull-tab problem the industry made a major effort to reduce gambling tax rates and achieved its first success 1998 with a 5 percent across-the-board reduction in all rates. Although falling considerably short of the 25 percent reduction that the principal industry lobbying group, Allied Charities of Minnesota, had originally sought, the change represented the first reduction in tax rates since special gambling taxes were established in 1984. Further reductions brought gambling taxes to 90 percent of their 1997 level in 1999, then down to 85 percent in 2000.

**Allowable expenses.** In 1997, the maximum percentage of gross profit that could be spent for expenses was raised from 50 percent to 55 percent for all forms of gambling except bingo, and from 60 percent to 65 percent for bingo. Gambling organizations had been seeking this change for several years, even though the average organization continues to spend significantly less than 50 percent of gross profit on expenses. Supporters argued that rising costs and relatively flat

revenues had put more and more organizations in danger of exceeding their maximum expense limits.

In 2001, the expense limit for bingo was raised again from 65 percent to 70 percent.

**Illegal gambling.** The 1997 law also extended some protection to organizations leasing premises where illegal gambling has occurred. Under previous board rules, such an organization could have its permit to conduct gambling at that location suspended for up to two years, even if it didn't participate in or even know about the illegal gambling. Under the new law, in order for the board to suspend the organization's premises permit, the board would have to determine that the organization either was involved in the illegal gambling or knew about it and took no steps to stop it. The law was further amended in 2001 to limit the board's authority to take action against an organization's gambling license as a result of illegal gambling on the premises.

### **2003: Fee Increases to Balance the Budget**

In 1989, the legislature was faced with a budget shortfall and as part of the solution enacted the combined receipts tax, aimed at pull-tabs and tipboards sold by the state's larger organizations. The tax had the effect of nearly doubling the state general fund's total revenue from charitable gambling.

In 2003 the legislature, faced with a budget shortfall that made the 1989 problem look minor by comparison, again looked to charitable gambling. The combined receipts tax, along with other gambling taxes, had been reduced three times since 1998 and that pattern, combined with the governor's pledge to veto any tax increases, effectively precluded increases in gambling taxes. It did not, however, rule out increases in fees paid by organizations.

Organization license and premises permit fees had always gone into the general fund. They did not balance appropriations from the general fund to the board—in fiscal 2002 the board's appropriation was \$2.4 million while total revenue from fees and fines totaled \$1.2 million. To relieve the general fund of the cost of operating the board, the legislature created a new lawful gambling regulation account, which will receive all fee revenue and from which future board appropriations will be made. To insure that revenue to the new account would balance appropriations from it, the legislature substantially increased license and premises permit fees charged by the board.

The "Gambling Locations" section on page 5 describes the new schedule of premises permit fees. In addition, license fees were raised for manufacturers and distributors of gambling equipment and for bingo halls. All these fees now go into the dedicated fund to pay for board operations.

In sharp contrast to tax reductions of the past few years, the new fees represent a significant cost increase to the industry. The governor's budget estimated that the premises permit fee increases alone would increase revenue by almost 500 percent, from about \$410,000 to \$2.34 million each year. Other fee increases were estimated to increase revenue by about 85 percent.