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# Should Limits Be Placed on Legal Gambling in Minnesota? You Betcha!

Kay Coles James

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Kay Coles James, a senior fellow at the Heritage Foundation in Washington, D.C., chaired the National Gambling Impact Study Commission. Among the other positions she has held are dean of the School of Government and professor of government at Regent University in Virginia Beach, Virginia; Virginia secretary of health and human resources; senior vice president of the Family Research Council; associate director of the White House Office of National Drug Control Policy; assistant secretary for public affairs at the U.S. Department of Health and Human Services; executive vice president and chief operating officer with the One to One Partnership, a national umbrella organization for mentoring programs; and director of public affairs for the National Right to Life Committee.

A graduate of Hampton University, she has received numerous honorary degrees and is the author of an autobiography, *Never Forget* (1993), and of *Transforming America: From the Inside Out* (1995).

In her introduction to the national gambling commission's executive summary, James writes that "although the growth of gambling is a national phenomenon, gambling itself is of greatest concern to the individual communities in which it operates or is proposed to operate. It is at that level that its impact is felt most keenly and where the debates surrounding this issue are most energetically contested. Those communities form no common front: one community may welcome gambling as an economic salvation, while its neighbor may regard it as anathema. . . . There are few areas in which a single national, one-size-fits-all approach can be recommended."

James spoke to an October 1999 Center of the American Experiment forum, one of a series led by Distinguished Senior Fellows Vin Weber and Tim Penny on issues raised in the Minnesota Policy Blueprint, published by American Experiment in early 1999.

**T**ough problems and controversial issues tend to seek me out, no matter how much I may hide. I would like to think that when the National Gambling Impact Study Commission was being formed, there were conversations on Capitol Hill along these lines: This is going to be an extraordinarily difficult task, and we need someone who has just the right skills and personality and wisdom to make this work; the only person who could possibly do it is Kay James.

That's what I'd like to think. But it probably was more like this: This could be really controversial. It could blow up in our faces and be a huge embarrassment. Who can we offer up as a sacrificial lamb?

And so I became chairman of the national commission on what I now believe to be one of the most compelling public policy issues in America. The document we produced is meant to contribute to the debate that's going on right now all around the country.

We need to think this issue through very carefully, and I commend Center of the American Experiment for doing just that in the chapter on gambling in its Minnesota Policy Blueprint. Many of your recommendations and ours are parallel. Great minds really do think alike—or you might say that common sense prevails.

## Is This What We Intended?

The U.S. gambling industry has grown tenfold since 1975. Today, a person can make a legal wager of some sort in every state except Utah, Hawaii, and Tennessee. Thirty-seven states and the District of Columbia have lotteries. Twenty-eight states authorize casino gambling, including commercial casinos and Class III Indian casinos. Forty-three states have pari-mutuel betting.

Between 1976 and 1997, revenues from legal wagering grew nearly 1,600 percent. And gambling expenditures more than doubled as a percentage of personal income, from a mere 0.3 percent to 0.74 percent. In 1982, gross gambling revenues totaled \$10.4 billion. I thought that was astronomical until we found that in 1997, gross gambling revenues hit \$50 billion. With that kind of money involved, Congress decided that we ought to take a look at this phenomenon.

There has been a metamorphosis of the types of casinos that exist in America. We moved from just destination resorts, those in Nevada and in Atlantic City, to over 100 riverboats and dockside casinos in six states, approximately 260 casinos on Indian reservations, and state lotteries. In 1973, only seven states had lotteries, with total sales of \$2 billion. By 1997,

state lotteries operated in more than five times as many states and garnered about \$34 billion in sales. That's a lot of money—a lot of impact.

The commission made some distinctions that had not previously been made between convenience or retail gambling and gambling at destination resorts. Some states, including

Gambling on the Internet presents a whole new challenge. Internet gambling gross revenues doubled between 1997 and 1998, when they reached an estimated \$651 million. If Internet gambling is left unchecked and unregulated, that figure could hit \$2 billion in 2001.

There was also growing concern in Congress about the impact of exponen-

### Gambling in the United States

- Gambling in some form is legal in forty-seven states and the District of Columbia.
- Sports gambling is legal in two states: Nevada, through casino sports books, and Oregon, through a state lottery game based on National Football League games.
- A landmark 1987 U.S. Supreme Court decision in effect limited states' ability to regulate commercial gambling on Indian reservations.
- Congress passed the Indian Gaming Regulatory Act in 1988 to provide a regulatory framework for gaming on Indian reservations.

### Gambling in Minnesota

- The Minnesota constitution originally outlawed organized gambling. Almost a hundred years later, in 1945, it became legal for charities in the state to sponsor bingo games.
- Charitable gambling in Minnesota bars—sales of pull tabs—began in 1978. After expenses (rent, advertising, taxes) and money paid back to gamblers as prizes, about 5 percent of the gross goes to the sponsoring charities.
- Minnesota voters authorized a state-run lottery in 1988.
- The legal age for participation in the Minnesota State Lottery is eighteen.

—From the Minnesota Policy Blueprint and the National Gambling Impact Study Commission's executive summary

Louisiana, Montana, and South Carolina, permit private businesses to operate electronic gambling devices; these were a special challenge to us.

The Indian Gaming Regulatory Act, passed by Congress in 1988, provided a regulatory framework within which to take a look at Native American gaming in America.

tial growth in American gambling on individuals and their lives. What is the impact in terms of people who may be at risk, people who may be problem or pathological gamblers? The commission struggled with this; in our report, you will see a range of figures estimating the number of problem gamblers. We thought it was far more important to

make the point that it is an issue than to argue about exactly how many pathological gamblers there are. We acknowledged in our report that there are between 2.5 and 3.2 million adults in the United States who meet the criteria

basic question: Is this where we meant to go?

The commission came to the conclusion that this growth happened without a lot of debate or analysis of the impact on people and places.

### The Minnesota Policy Blueprint on Gambling

Guiding principles underlying recommendations on gambling in the Minnesota Policy Blueprint, sponsored and published by Center of the American Experiment, include the following:

- Gambling is a regressive source of revenue.
- The negative social consequences of gambling fall more heavily on low-income people than on the wealthy.
- Social costs appear to outweigh the economic benefits, so gambling cannot be justified as a form of economic development.
- State revenue from gambling is unreliable because the amount fluctuates.
- It is difficult for taxpayers to hold state government accountable for gambling revenues, as they can for tax revenues.

The Blueprint points out that “it seems unlikely that a governor could take a strong position either for or against gambling without expending an inordinate amount of time and political capital” and recommends that the governor “adopt a generally anti-gambling stance and work to reduce moderately the amount of gambling

allowed in Minnesota . . . to assure the highest degree of integrity in the gambling industry, and to protect vulnerable segments of society.”

The recommendations put forward in the Blueprint are:

- Oppose expansion of gambling in Minnesota.
- Do not earmark state gambling revenues for specific purposes.
- Direct a greater share of the benefits to the charities that derive funding from gambling.
- Put rational limits on gambling advertising.
- Raise the legal gambling age to twenty-one.
- Promote gambling education in schools.
- Encourage Congress to amend the Indian Gaming Regulatory Act of 1988 to require termination dates in compacts between the states and Indian tribes (to allow the state to renegotiate its compacts with Indian tribes with the goal of regulating gambling in Indian casinos as it regulates other gambling in the state).

for lifetime or pathological gambling.

No matter what you think about gambling, no matter what you think about the industry, you can see why Congress wanted an answer to a very

### No Prisms

A lot of people suggested that this commission was programmed for failure from the very beginning because of the diversity among the commissioners.

We had the chairman and CEO of a major casino—Terry Lanni of MGM Grand—who was an excellent representative of the industry. We had Dr. James Dobson, who heads a conservative, pro-family organization and who was very expressly anti-gambling. We had John Wilhelm, who headed one of the largest unions in the country and represented casino employees; he made sure that we did not lose sight of the fact that casinos provide good jobs with good benefits.

We crossed political lines. We had a former lieutenant governor of California, Leo McCarthy, a well-known Democrat. We had Richard Leone, a former treasurer of New Jersey.

Some people wanted to predict how this commission was going to come down based on party affiliation or political philosophy or ideology, or perhaps moral predispositions. But—to coin a phrase—all bets were off when this commission came together. This issue defies all those descriptions. Anyone who looked at the commission through any of those prisms could not make sense of where we were going.

Let me give you an example. I met with the conservative legislative caucus from a southern state to go over their agenda for the coming legislative session. First we talked about welfare reform; they asked for, and I gave them, some ideas and some advice on language. Then we talked about education reform and school choice and vouchers. So far, we were all together. And then they said they believe strongly in the value and the sanctity of human life and asked for ideas to advance the ball in

that area. They were very appreciative.

And then they said, “Now, you’re on that gambling commission, aren’t you? Leave our lottery money alone! That’s how we balance our state budget.”

That was my first clue that the gambling issue crosses philosophical lines. The fact that people call themselves conservatives does not necessarily translate into being anti-gambling. It also became clear that people who call themselves liberals aren’t necessarily pro-gambling. As it turns out, some of the most ardent and articulate spokespeople against gambling were Leo McCarthy and Richard Leone. This issue defies party lines and moral designations.

I’m known as a social conservative, and when I became chair of this commission, I came under attack by people who were frightened about what that meant. Where they missed the boat is this: they presented a flat picture of what it means to be a social conservative and overlooked the fact that I am an economic conservative as well.

Those who opposed the commission feared that we were going to recommend major federal regulation and a “sin tax” on gambling. Anyone who has followed my activities at all knows that I have made a career out of not calling for federal regulation. I don’t believe there is a federal solution for every problem that exists in America, nor do I believe in regulating people’s behavior through the tax code.

When we finished, opponents thought they had done a great job of persuading the commission not to recommend federal regulation, when in

## The National Gambling Impact Study Commission

The National Gambling Impact Study Commission, formed in 1997, was charged by Congress with the following:

- A review of existing federal, state, local, and Native American tribal government policies and practices with respect to the legalization or prohibition of gambling, including a review of the costs of such policies and practices.
- An assessment of the relationship between gambling and levels of crime, and of existing enforcement and regulatory practices that are intended to address any such relationship.
- An assessment of pathological or problem gambling, including its impact on individuals, families, businesses, social institutions, and the economy.
- An assessment of the impact of gambling on individuals, families, businesses, social institutions, and the economy generally, including the role of advertising in promoting gambling and the impact of gambling in depressed economic areas.
- An assessment of the extent to which gambling provides revenues to state, local, and native American tribal governments, and the extent to which possible alternative revenue sources may exist for such governments.
- An assessment of the interstate and international effects of gambling by electronic means, including the use of interactive technologies and the Internet.

In testimony on how gambling has affected individuals' lives, the commission heard about both benefits and drawbacks.

"When the casinos came to Atlantic City," one person told the committee, "I got employed as a pantry person making sandwiches. Then the casino sent me to school to further my education in the culinary field, I became a cook, shortly thereafter a relief cook, making money that I didn't imagine I could be making and being able to provide for my family."

Another person said, "I was a good family man, a good man in my church and a good businessman, but after gambling in Atlantic City, I turned into a thief and a bum."

The commission's recommendations are directed primarily to state and local decision makers. Among them are:

- Restrict gambling—and access to areas where gambling occurs—to persons who are twenty-one and older.
- Ban aggressive advertising, particularly aggressive advertising that targets young people and people in impoverished neighborhoods.
- Encourage gambling operations to adopt and follow enforceable advertising guidelines.
- Conduct or require impact statements before introducing or expanding any form of gambling.
- Prohibit (at the federal level) new and expanded forms of gambling on the Internet.
- Ban credit card cash advance machines and other devices activated by debit or credit cards from the immediate gambling area.
- Recognize that destination resorts create more jobs and better-quality jobs than casinos that cater to a local clientele.

After two years of work, the commission published a sixty-four-page executive summary of its final report in June 1999. The commission's full report and research reports are available on its Web site: [www.ngisc.gov](http://www.ngisc.gov).

fact it was never on the table. One of our key principles is that this issue—apart from the Internet and some of the concerns about Native American gambling, which have implications for the federal government—is best resolved at the state level. I trust the people of Minnesota to decide how to live their lives.

## Consensus Conclusions

I wanted the commission to produce a document that would be helpful in the public policy debate. And, since I am an economic conservative, I wanted it to come in on time and under budget. I don't know if it's ever been done before, but I wanted to return some money to the federal treasury.

Well, we did all of those things. We produced a document that I believe to be helpful, and we did it on time and under budget.

It's important to note, too, that this is a consensus document; all of the recommendations were voted on unanimously by the commission. We believed that if, with all of our differences, we could agree, that would both strengthen our recommendations and be a model for state and local discussions.

The following are some highlights for state decision makers to consider.

We said that gambling does not require federal intervention; we trust the people at the state level to make their own decisions.

We recommended twenty-one as the minimum age for gambling, considering the impact of gambling on people's lives, and particularly on our vulnerable youth.

We said that cruises to nowhere don't make a whole lot of sense, so maybe it's worth taking a look at riverboat casinos.

We recommended that states refuse to allow the introduction of casino-style gambling into pari-mutuel facilities for the primary purpose of saving a pari-mutuel facility that the market has determined no longer serves the community, or for the purpose of competing with other forms of gambling.

There are some seventy-six recommendations in this document. Some of the most significant ones have to do with what we don't know. After two years of study, research, public testimony, and site visits all over the country, we were not able to answer the most fundamental question: how to weigh the economic benefits of gambling expansion against the social costs. How do you weigh job opportunities and more money in tax coffers against bankruptcies and families destroyed by addicted gamblers?

It gets even more complicated than that. Not only are there some economic benefits to a community, there are some economic downsides. In Atlantic City, we heard stories about jobs and what gambling had done for the economy, but there were also people who told us that they had to close their small businesses as a result of the casinos coming in. Restaurants, for example, closed because people get subsidized food at the casinos; consequently, it is difficult to find a restaurant outside the casino environment.

We heard testimony over and over again about lives that were improved as

a result of a casino coming into a community, and you cannot dispute that. In the Native American gaming community, it was a very mixed bag. How can you argue with a community that says casino jobs and money have dramatically improved the lives of the people on the reservation?

Navigating this whole cost-benefit analysis is tricky and treacherous, and we were not entirely successful because of the lack of information that was available to us. That's why many of our recommendations have to do with additional data and research. This commission was a starting point, not an end point. We encourage researchers to begin to take on this subject. We encourage universities to support research on this issue. Federal agencies ought to be gathering information so that we can make informed decisions.

In light of all that we know—and all that we don't know—we believe that it is important for any locality that is considering either expanding or limiting gambling to do an economic and social impact study first.

I trust that as you struggle with these issues locally, our recommendations will be an important part of your decision-making process.

Following her talk, Kay Coles James talked with American Experiment senior fellows Tim Penny and Vin Weber and took questions from the audience.

Tim Penny: Could you share some observations about the qualitative differences between state-run lotteries

and other types of gambling, and the effects that they have on the gambling population and on the social welfare system?

Kay James: We made a distinction between privately run and state-run gambling. One of our conclusions was that if there is going to be gambling—and we believe that there will be, since Americans love to gamble—it should not be state run. There are enough questions about the effects on individuals, families, and communities that state-run gambling is not a good idea.

States are not regulated to the same degree that private casinos are, and as a result, we were concerned about how some states operate their lotteries. We were concerned about the implications for poor people. The commission felt that lotteries are regressive, with a disproportionate impact on poor people and even on minorities. Some state lotteries are far better than others. Some states do a far more credible job in terms of advertising, and in putting the money where they say the money is going to go.

And some states do a terrible job. They collect the money, it's fungible, it goes into the budget and disappears; it does not go where the voters think it's going.

When people voted to allow lotteries, they often thought it was a scratch ticket or numbers that came up once a week. They thought that was benign enough. But there are a lot of people all over America who, when they voted for lotteries, had no idea that it meant video machines, lottery machines, appearing in convenience stores



around the state. They were surprised and offended by that.

Vin Weber: As you know, we have tribal casinos in Minnesota, and every now and then, the notion of for-profit companies coming in and running casinos raises its head—and usually gets it shot off pretty quickly. Did you address the issue of corporate gaming alongside or in competition with tribal gaming?

Kay James: We spent a great deal of time looking at that, and in our full report—which you can find on the Web at [www.ngisc.gov](http://www.ngisc.gov)—there's an extensive discussion of just that issue. We came to the conclusion that we didn't have the power to get the information we needed to make decisions about the many issues related to Native American gaming. We literally could not get the information.

Vin Weber: Is that because of the nature of tribal government?

Kay James: That's right. We didn't have the authority to make them give up that information.

Vin Weber: The corporate gaming interests make the argument that you can have a stronger regulatory regime, full disclosure, and greater transparency with corporate gaming.

Kay James: I would not take issue with that perspective. With the expansion of tribal gaming around America, we need fuller disclosure and more information in order to regulate that industry and make recommendations. We literally could not get the information, and therefore could not comment on a great many of those issues.

King Wilson: Would you place limits on legal gambling in Minnesota, and if so, how?

Kay James: I wouldn't. I think it's important for the people of Minnesota to do that.

Mitch Pearlstein: Let's make believe you're from Minnesota. What would you do?

Kay James: First, I would say that there should be no expansion without an impact statement that looks very carefully at the social and economic implications. I would say that you would be going in the right direction with an age limit of twenty-one. I would look at state lottery advertising to make sure that it is appropriate, that there aren't billboards in poor communities saying "Here is your one chance out." In some places around the country, there are.

I don't know specifically what's going on in Minnesota. These are the kinds of things I would say in any state.

Vin Weber: How do you affect advertising, given free speech?

Kay James: We're talking about state-run lotteries, so states can and should make decisions about advertising. And a percentage of gambling profits should go toward helping problem gamblers.

Eric Lipman [Minnesota deputy secretary of state]: How can policy makers—particularly white policy makers—address or argue for increased regulation that might fall more heavily on Native American business interests without exposing themselves to the

charge that they are motivated by racial or religious bigotry?

Kay James: Just don't care. What I mean by that is do the right thing, no matter what it is. If it's a good business practice, then apply it across the board.

As a black, female, pro-life, conservative Republican, I'm used to taking my lumps for doing the right thing, and I encourage other people to do it. It's really rewarding.

Charles Lutz: I've been with Minnesotans Against Gambling for the last several years. I'm a social liberal who is convinced that gambling is a social cancer in our society. I resent the money the state spends on advertising the lottery, but even more than that, I resent the dishonesty of it and the failure to report the odds, if I may use that term, to people who hear the ads. Does your report address the issue of state-sponsored advertising of state lotteries and the issue of truth in advertising?

Kay James: Yes, it does. And if you look at our Web site, you will see the testimony we received in that area. All of the original research is available on the Web site. We had a panel that looked at advertising. Some states were just horrible. And the lotteries, incidentally, have the worst odds of any form of gambling. Your chances of winning in the lottery are worse than in any other game of chance. States don't do a good job of explaining that to their citizens.

We recommended that states look at best practices, and we even made some recommendations about what

best practices would be. State representatives who are interested in legislation might want to compare the best practices model to what you actually have here in Minnesota to highlight where you need to take action.

Jim Rhodes [a member of the Minnesota House of Representatives]: I'm chair of the House Governmental Operations Committee, which deals with gambling issues. The argument to leave the gambling age at eighteen is that eighteen-year-olds can fight for their country, die for their country, and vote, so they should be able to gamble. The tribal casinos are going to keep their gambling age at eighteen; it's in their contract. What are your comments about raising it to twenty-one, then?

Kay James: The state would have control only over the lotteries, not over what happens on a Native American reservation. It sounds like the state has no opportunity to influence that decision here, so you're stuck.

The commission spent a great deal of time talking through this issue, listening to testimony, understanding how a gambling dependency develops. I think it's a little disingenuous to say that people can die for their country before they're twenty-one; they can also develop a terrible gambling addiction by the time they're twenty-one. The role of government is to protect citizens, not to make gambling addicts out of them.

Vin Weber: Let me shift to politics for a second. Almost overnight, gam-

bling has become one of the largest suppliers of political funds. We now have a gambler running for president. Should we look upon this as just another industry that's seeking to represent itself and protect itself legitimately, or is there a problem we ought to be looking at here?

Kay James: The commission looked at the influence of the gambling industry on the political process. There are those who believe that the governor's race in South Carolina turned on this issue, and untold millions of dollars were spent on a referendum in California.

A number of people on the commission, though, were squeamish about industry-specific remedies. Why single out this particular industry? That was balanced against concern expressed by representatives of both political parties about an industry having so much influence on the political process. One person said that when the gambling industry comes into a community, it's not that they get all the best lobbyists, they get all the lobbyists. It's troubling for any industry to have that much influence.

Vern Bergstrom: I'm director of Minnesotans Against Gambling. At first we thought we could promote the anti-gambling agenda by influencing legislation, but let's face facts: the gambling industry will far outspend anybody. It happened, as you mentioned, in California, and it happens all over the place.

Are we naive to think that we might approach the issue as consumer

education? Gambling is a bad product, so don't buy it. Or is that just my take?

Kay James: If you had asked me that question two months ago, I would have said yes. But based on what just happened in Alabama and in South Carolina, I would say no. In an Alabama lottery referendum, it was predicted that the pro-gambling forces would prevail in huge numbers, and they did not. And it came about as the result of a grassroots initiative and appealing to the consumer.

Vern Bergstrom: Wasn't it an appeal by ministers who got together?

Kay James: It was ministers and a lot of other people as well. My understanding is that it was a broad-based coalition.

As we go forward with the debate about gambling, there is a tremendous opportunity to affect public policy. I hope it will be an informed debate, with more light than heat.

Tim Penny: I'm in the ambivalent middle on this issue. I'm personally uncomfortable with gambling, but as a matter of public policy, I wrestle with it. I'm not a fan of lotteries because it's a something-for-nothing game that we play with our voters. You promise them a big payoff, but essentially it's a money-making scheme for the state. Sometimes states use the money prudently and dedicate it to a particular purpose that everybody understands. Other times, it just gets lost in the flow of cash to the state. I'm a little uncomfortable with the state's involvement in this industry.

I appreciate the national commission's having advanced the need for a more thoughtful public dialogue on this issue. The real strength of its report is in trying to quantify the problems, distinguishing between types of gambling activity, and focusing on a more informed public debate so that we can sort it out for ourselves. That is the American way.

Vin Weber: I'm ambivalent, too. I don't gamble myself, but I belong to a church where bingo has outlasted Latin, so I can't really claim a deep-seated moral objection.

Tim Penny: When Vin and I were in Congress, we both represented farmers, who of course are the biggest gamblers around. You know the joke: A farmer who won the lottery said he was going to continue to farm until the money was gone.

Vin Weber: It is astounding to me to think about how rapidly this transformation of our culture has taken

place. I grew up in Slayton, a farming town in southwestern Minnesota. My parents took a vacation to Las Vegas just once; that was about the norm if a family in my hometown went gambling. Now there are buses to Jackpot Junction almost nightly, and people who never thought of gambling—or the children of people who never thought of gambling—do it all the time.

Gambling has become so pervasive so quickly that it alarms the small-c conservative instincts in me, just in terms of how fast this has happened. I don't think that we're going to roll this back in any meaningful way, but it is encouraging that people with radically different views of gaming came together to look at the issue. n