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I.

INTRODUCTION

According to Nobel Prize winning economist Paul Samuelson, it is basic economics that:

[Gambling] involves simply sterile transfers of money or goods between individuals, creating no new money or goods. Although it creates no output, gambling does nevertheless absorb time and resources. When pursued beyond the limits of recreation, where the main purpose after all is to "kill" time, gambling subtracts from the national income.

Similarly, from a political science/economic viewpoint, Professor Jack Van Der Sluis has summarized these basic principles echoing much of the academic community: "[State-sponsored gambling] produces no product, no new wealth, and so it makes no genuine contribution to economic development."

Government leaders of the United States are also beginning to raise some concerns. For example, in 1992, U.S. Senator Paul Simon of Illinois—a state which has rapidly legalized various gambling activities—read into the Congressional Record an article written by an authoritative economics professor. According to Senator Simon, the article confirmed his own instinct that "Communities and States and the Nation should be careful when

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3. Jack R. Van Der Sluis, Legalized Gambling: Predatory Policy, ILLINOIS ISSUES, Mar. 1990, at 30, 30. This particular article was printed in a publication directed toward employees of the state of Illinois. Illinois is a developing gambling state.
they look for easy revenue cures that may do more damage than they realize."5 Based upon these concerns, in 1993, Senator Simon introduced to the Senate the Gambling Impact Study Commission Act6 which was designed to "conduct a thorough study of all matters relating to the impact of gambling on States, political subdivisions of States, and Native American tribes,"7 and to explore "possible alternative sources of revenue."8

Similarly, on September 21, 1994, Congressman John J. LaFalce, the Chair of the House Committee on Small Business, held a hearing on the socio-economic impacts of the trend toward legalized gambling activities.9 At the hearing, the committee received testimony from various experts, all of whom criticized the impacts legalized gambling activities inflict upon social-welfare budgets,10 the criminal justice system,11 small businesses12 and the United States economic base.13 Among other conclusions presented, legalized gambling—as a strategy for economic development—was thoroughly discredited.14 Indeed, at the start of the hearing, Congressman LaFalce expressed his own concerns for the issue,15 and expressed a need for a national policy.16 However, despite these expressed concerns, legalized gambling activities continue to spread across the nation.17

5. *Id.* (statement of Sen. Paul Simon).
7. *Id.* § 4(a)(1).
8. *Id.* § 4(a)(2)(B).
10. See, e.g., *Cong. Hearing,* supra note 9, at 82-86 (statement of Valerie C. Lorenz, Ph.D., Compulsive Gambling Ctr). The only generally positive testimony was by a local administrator from Tunica, Mississippi who focused on the initial economic flash in the local economy and not on the regional economy. *Id.* at 50-55 (testimony of Webster C. Franklin, Tunica County, Mississippi). In contrast, the "expert testimony" was quite negative. E.g., *id.* at 42-49, 56-70, 71-76, 82-88.
13. See *Cong. Hearing,* supra note 9, at 4-8 (testimony of Professor Robert Goodman, University of Massachusetts).
14. See *Cong. Hearing,* supra note 9, at 57, 76, 81, 86, 88, 100-01, 105-06.
17. See, e.g., Terry Ganey & Mark Schlinkmann, Hancock II Out: Slot Games In, ST. LOUIS POST-DISPATCH, Nov. 9, 1994, at A6 [hereinafter *Slot Games In*] ("After three tries, full-blown riverboat gambling in Missouri became a reality as voters approved the 'games of chance' amendment 54 to 46 percent."). Multiple re-votes are commonly utilized as a strategy by
With the legalization of various types of gambling activities sweeping the United States and much of the international community, the issue is whether this trend constitutes an economic boom, a harmless recreational pastime, or an actual threat to the strategic economic base of the industrialized world, and in particular, of the United States. Business-economic history indicates that the legalization of gambling activities precipitates a classic "boom and bust" economic cycle. Accordingly, this Article concludes that because widespread legalized gambling activities represent such a threat to the strategic U.S. economic base and to stability of expectations, Congress should seriously consider federal legislation to re-criminalize or severely limit practically all types of legalized gambling activity. As an interim measure, Congress should consider withholding federal funds from those states intent on experimenting with legalized gambling activities, for individual states should not be allowed to engage in a type of economic secession which threatens the nation's

legalized gambling proponents to wear-down and out-spend their opponents. See id.; see also infra note 24 (giving examples of multiple re-votes in different states, as recorded in the congressional hearing on Sept. 21, 1994).


19. See Cong. Hearing, supra note 9, at 77 (statement of Professor John W. Kindt, University of Illinois).

20. This particular Article is summary in scope, but it was conceived within the penumbra of the McDougall/Lasswell model for decision-making. In the areas of legal and government policy, which subsume strategic socio-economic and business concerns, the classic decision-making models were formulated by the post legal realists, in particular, Professor Myres McDougall and Professor Harold Lasswell who postulated a conceptual framework for legal decision-making in a landmark article directed toward legal educators and law professors. Harold D. Lasswell & Myres S. McDougall, Legal Education and Public Policy: Professional Training in the Public Interest, 52 Yale L.J. 203 (1943); see also Harold D. Lasswell & Myres S. McDougall, Criteria for a Theory about Law, 44 S. Calif. L. Rev. 362 (1971); Myres S. McDougall, Jurisprudence for a Free Society, 1 Ga. L. Rev. 1 (1966); John W. Kindt, An Analysis Of Legal Education And Business Education Within The Context Of A J.D./MBA Program, 31 J. Legal Educ. 512, 517-18 (1981); John W. Kindt, An Analysis Of Legal Education And Business Education Within The Context Of A J.D./MBA Programme, 13 Law Teacher 12, 14-16 (1979). The decision-making concepts which McDougall and Lasswell introduced were later expanded to include international law and U.S. domestic law, as these areas interfaced with "policy-oriented jurisprudence." See John N. Moore, Prolegomenon to the Jurisprudence of Myres McDougall and Harold Lasswell, 54 Va. L. Rev. 662 (1968); The Lasswell-McDougall Enterprise: Toward a World Public Order of Human Dignity, 14 Va. J. Int'l L. 535 (1974).


Gambling has grown in an ad hoc "copy cat" manner as states follow each others' leads, responding to revenue shortfalls and the fear that neighboring states or Indian tribes will
entire economic base.\(^2\)

The strategic economic threat to the United States is immediate and should be addressed quickly before newly developing constituencies in the legalized gambling industry become widespread enough to dictate economic policy.\(^2\)

For example, the legalized gambling industry drafted a state constitutional referendum in Florida which aimed to “mandate” the introduction of casino-style gambling activities—even into communities which voted unanimously against such activities.\(^2\)

It is thereby not surprising that testimony presented

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siphon off their gambling dollars. \(...\) Once gambling ventures are legalized and governments become dependent on their revenues, the future form and spread of gambling within a state becomes extremely difficult to control.

Id. at 16.

22. **Cong. Hearing, supra** note 9, at 10 (oral testimony of Economics Professor Earl L. Grinols, University of Illinois). According to Professor Grinols, the threat exists because of the fact that:

State representatives have no incentive to view gambling in terms of its overall effect on the country. To [states] it is a way to raise tax money—hopefully from people of neighboring States who will take their problems back home—even though the social costs for an additional dollar of tax raised through gambling is in the range of $3.50 per dollar raised, compared to only $1.45 for raising taxes the old fashioned way, by raising taxes.

Id.

23. For an authoritative analysis supporting this recommendation, see **CED REPORT, supra** note 21, at 18. Many policymakers are concerned that legalized gambling interests have large budgets to support efforts to legalize various forms of gambling throughout the United States. For example, New Jersey has restrictions prohibiting political contributions from casinos. *Id.*

By comparison, in 1990 Illinois lifted its ban on contributions from racetracks and had no limitations on political contributions by interests promoting legalized gambling. All such contributions were legal. Between January 1, 1993 and April 10, 1994, the Chicago Sun-Times reported that Illinois Governor James “Edgar and state legislators . . . [had] received at least $674,772 from gambling interests,” not including “tens of thousands of dollars in donations from lawyers, lobbyists and consultants who are representing gambling clients.” Mark Brown & Ray Long, *Gambling: A Political Jackpot: New Funding Powerhouse Aids 2 in 3 Legislators*, Chi. SUN TIMES, Apr. 10, 1994, at 1A, 16A.

24. See Martin Dyckman, *Misleading the Public*, ST. PETERSBURG TIMES, Nov. 1, 1994, at A13. Proposition 8 on the Florida ballot for November 8, 1994, would have initially allowed 47 casinos in Florida. The public relations tactics of the proponents for legalized casinos were criticized in the press for misrepresenting the effect and impact of Proposition 8. *Id.* For example, during the week of November 1, 1994, a commercial supporting legalized casinos in Florida ran with the identifier of a former “Chief Justice, Florida State Supreme Court (Ret.)” and read as follows:

This is the State Constitution. As a chief justice of the Florida Supreme Court, I worked to uphold it. . . . When I wrote Proposition 8, Limited Casinos, I made sure that strict limits on the number of casinos were put right here. That means politicians won’t have the authority to change or weaken the limits. Only you can put the limits in the Constitution by voting yes on limited casinos. And only a vote by you can change those limits. With Limited Casinos, you have the final say.

Dyckman, *supra*, at A13. According to one critical account in the press, “[t]he effect of the
at the 1994 congressional hearing indicated that in the future franchised legalized gambling parlors may be as widespread as the fast-food hamburger chains are today.25

Thus, the gravamen of the 1994 hearing was that U.S. policymakers should heed the wake-up call to develop a national policy on increased legalized commercial—whether intended or not—[was] . . . to wrap . . . [the former chief justice’s] sleazy new clients in his old judicial robes.” Id. The account further noted that voters could easily take the justice’s statement to mean that there could be slot machines on every street corner unless they voted for Proposition 8:

The fact is that casino gambling is not only against existing Florida law but, in the opinion of Attorney General Bob Butterworth, against the present Constitution as well. The present limit on casinos is zero, 0, none. If voters fall for . . . [the former chief justice’s] line, the new limit will be 47. That is a far cry from 0.

What’s more, 30 of those casinos are reserved, forever, for the existing horse tracks, dog tracks and jai alai plants. Another, on Miami Beach, as well described by my colleague Jenny Dean last weekend, is reserved for a millionaire German carpetbagger . . . , who maneuvered Roberts into a corner. These people would have a perpetual monopoly on 31 of the 47 licenses, and for . . . [the former chief justice] to cast that as a virtue in his scheme is for him to take the voters as blubbering fools. Finally, local voters who might not want casinos in their neighborhoods will have NO SAY if . . . [the former chief justice’s] ingenious proposition is approved statewide.

Id.

Legalized gambling proponents reportedly hired firms to get this referendum question on the ballot at a cost of $2 to $3 per signature. See, e.g., Casinos Group to Ante Up $5-Million for TV Ads, ST. PETERSBURG TIMES, Jun. 28, 1994, at B4. The chairman of the casino drive reportedly said that “the proliferation of ballot initiatives has inflated the cost of professional petition peddlers to $2.25 a signature.” Id. Placing Proposition 8 on the ballot required 429,428 certified signatures at a cost of approximately $3 million. Id.

The public relations budget for convincing the voters to approve this referendum question on November 8, 1994, was apparently $16.5 million—significantly more than the combined budgets of the two gubernatorial candidates, Jeb Bush and Governor Lawton Chiles. Louis Lavalle, Voters Deal Loss to Casinos: Gambling Backers Lose Despite $16.5 Million Campaign, TAMPA TRIBUNE, Nov. 9, 1994, at 1, 5 [hereinafter $16.5 Million Campaign]; Casinos Gamble, and Lose, Again, FLORIDA SUN, at A1, A6 ($16.7 million raised by casino proponents and $1.6 million raised by opponents).

Similar scenarios and multiple re-votes have occurred in other states:
The proposal for casino gambling in Chicago has been defeated three times in Illinois, but the prognosis is that it will be brought up again and again until the gambling promoters succeed. . . . In spite of millions of dollars in gambling advertising, Missourians voted down a change to their constitution in April [1994] to allow games of chance, but the question is being put back on the ballot this fall, 6 months later. The phenomenon of staging multiple revotes [if gambling is defeated] is a scenario being played out in Detroit, Iowa and other places. . . . Is this good Government?

Cong. Hearing, supra note 9, at 10 (oral testimony of Economics Professor Earl L. Grinols, University of Illinois).

25. See Cong. Hearing, supra note 9, at 9-10 (oral testimony of Economics Professor Earl L. Grinols, University of Illinois).
gambling activities. Furthermore, the potential economic drain which the advent of legalized gambling activities has on the pre-existing economy is so large that states should be prohibited from questionable exemptions de jure of legalized gambling activities from common antitrust principles. At a minimum, a “foresightful national policy should be developed to counteract the false short term incentives for states to individually introduce gambling to their common long term harm.” A review of the strategic U.S. economy and the business-economic impacts of widespread legalized gambling activities supports these recommendations.

II. THE STRATEGIC U.S. ECONOMIC BASE AND THE BUSINESS/ECONOMIC IMPACTS OF THE LEGALIZATION OF GAMBLING ACTIVITIES

In 1974, sixty-one percent of the U.S. public participated in legalized gambling activities; by that time, the total legal wager was only $17.3 billion. By 1993, however, the U.S. public legally wagered $394.3 billion, approximately $150 billion more than the U.S. Defense Budget. That year, the total U.S. consumer dollars “won” by legalized gambling operators as generated revenues amounted to $34.7 billion, including $12.8 billion in gross revenues to the state lotteries. In other words, the consumer dollars drained from pre-existing businesses and redirected toward—or “won” by—legalized gambling operators increased by 2,100% since 1974.

26. Cong. Hearings, supra note 9, at 13 (statement of Hearing Chairman LaFalce, stating that “there is a crying need for a national policy.”).
27. Cong. Hearings, supra note 9, at 11 (written testimony by Economics Professor Earl L. Grinols, University of Illinois).
30. Eugene M. Christiansen, Handle up 17.12% to $394B; Revenue Up 14.2% to $34.7B, INT'L GAMING & WAGERING BUS., Aug. 5, 1994, at 14, 15 [hereinafter Handle Up].
31. Off. MGM'T & BUDGET, BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1994 apps. 5 & 6 (budget authority is $250.7 billion, outlay is $265.2 billion for 1994).
32. Handle Up, supra note 30, at 19 (table 2).
33. Id. By comparison, worldwide lottery “sales” in 1993 were $83.7 billion. Lottery Sales Worldwide Top $83.7B In '93, INT'L GAMING & WAGERING BUS., May 5, 1994, at 1, 30. The United States was first in lottery “sales” with $25.3 billion followed by Germany ($9.7 billion), Japan ($6.3 billion), Spain ($5.5 billion), France ($5.5 billion), and Canada ($3.7 billion). Id. at 30.
34. This presumes that the average percent (approximately 9%) of the amount legally wagered in 1974 or $1.57 billion was “won.” In 1993, the amount “won” was $34.7 billion (a 14.2% increase from 1992). Handle Up, supra note 30, at 14, 19, table 2. Therefore the increase from 1974 to 1993 was approximately 2,100%. Of course, these numbers are not
If this trend continues throughout the United States, within a short period of time, these numbers—high as they are—could easily begin to increase exponentially. In addition, it has been estimated that the net economic effect could be equivalent to an additional recession every eight to fifteen years. If this phenomenon were to combine with a regular cyclical recession, the U.S. economy could face double jeopardy.

In addition, a brief consideration of other U.S. economic data lends support to the suggestion noted earlier by economist Paul Samuelson that “gambling subtracts from the national income.” Specifically, in 1992, the most recent year for which statistics are available, the U.S. national income was reported at $4,837 billion whereas the gross legal wager was $330 billion and the gross revenues retained by the gambling industry were $29.9 billion. Significantly, while the gross legal wager and gross industry revenues increased 8.4% and 12%, respectively, over the figures reported in 1991, the 1992 national income increased only 6.4% over the prior year. Initially, these relative increases in the 1992 gambling totals may appear small when compared to the U.S. national income. However, they are actually quite significant; in fact, the gambling figures increased in proportional significance to the national income in 1992 because the U.S. gambling industry is presently growing more rapidly than any other industry in the United States.

adjusted for inflation.

35. See Cong. Hearing, supra note 9, at 73 (written testimony of Economics Professor Earl L. Grinols, University of Illinois).

36. SAMUELSON, supra note 2, at 425. Since 65% or more of the “gambling dollar” is wagered by 10% of the public, this market segment is theoretically wagering “beyond the limits of recreation” and would ostensibly constitute a fairly direct subtraction from the national income. For a preliminary analysis of the issues involving the percentages of the public who will gamble and how much, see Economic Impacts, supra note 18, at 60-61, 73-75, 77.

37. BUR. ECON. ANALYSIS, U.S. DEP’T COMMERCE, SURVEY OF CURRENT BUSINESS, Jan. 1994, at 11 (1994) (table 1.14). That year, the gross domestic product was reported at $6,038 billion, and the gross national product was $6,046 billion. Id. at 10 (table 1.9).


40. Wager Part I, supra note 38, at 12.

41. Wager Part II, supra note 39, at 12.

42. The U.S. national income in 1991 was $4,544 billion. BUR. ECON. ANALYSIS, U.S. DEP’T COMMERCE, SURVEY OF CURRENT BUSINESS, Jan. 1993, at 10 (table 1.14). In 1992, it increased by 6.4% to $4,837 billion. BUR. ECON. ANALYSIS, supra note 37, at 11 (table 1.14).

Furthermore, although gambling has just begun to expand in earnest, its sales already equal approximately two and one-half percent of Gross Domestic Product. 44

In any event, macro-economic theories and concomitant economic formulae do not address this growing phenomenon. With the policy changes in the former Soviet Union and elsewhere, the strategic U.S. economic base will also change rapidly in the next few years, and the U.S. Bureau of Economic Analysis (and its economic "multipliers"), 45 as well as other economic agencies will need to keep pace. Furthermore, U.S. policymakers should query whether an economy which is becoming so heavily influenced and dependent on legalized gambling activities—which involve "creating no new money or goods" 46—is similar to the oil-dependent U.S. economy of the early 1970s, which was vulnerable to the 1973-74 Arab Oil Embargo. 47

From a historical economic perspective, the "boom and bust" economic cycles created by legalized gambling activities appear throughout economic history, but the two most relevant and most recent occurred in the United States during the nineteenth century. 48 At the beginning of the 1800's, the United States had already interfaced its economic base with the gambling philosophy—primarily via lotteries. 49 While scandals provided a focus for gambling opponents, 50 these opponents had their positions bolstered by the socio-economic negatives which necessarily accompany legalized gambling activities. In most historical scenarios, these business/economic negatives were reflected in a decrease in the quality of life which translated into a loss of net jobs, the creation of large social problems, and the necessary increase in various taxes to address these problems. 51

44. Cong. Hearing, supra note 9, at 73 (written testimony of Economics Professor Earl L. Grinols, University of Illinois).
45. As of 1994, for example, the U.S. Bureau of Economic Analysis had no economic multipliers for the legalized gambling/riverboat industry. The CED Report indicated that the multipliers for legalized gambling activities are negative. CED REPORT, supra note 21, at 49-50; see Cong. Hearing, supra note 9, at 81 (statement of Professor John W. Kindt, University of Illinois).
46. Samuelson, supra note 2, at 424.
47. See John W. Kindt, Investment Interdependence as a Potential Response by the United States to Future Arab Oil Embargoes, 7 AUS. Y.B. INT'L L. 279 (1982).
49. Id. at 159.
50. Id. at 155, 159-63.
51. See generally Economic Impacts, supra note 18. The basic negative impacts do not change, although historical and demographical differences can provide for multiple variations.
Accordingly, most legalized gambling activities were re-criminalized in the 1820's and 1830's. After the American Civil War, gambling activities once again became fashionable and followed the expanding frontier. However, the same socio-economic problems occurred, and with recurring scandals as catalysts, virtually all gambling activities were re-criminalized by 1910.

The United States is now in a new, "third" wave of legalized gambling activities. Cynics would argue that if the United States wished to improve its economic position relative to the rest of the world, it should re-criminalize practically all legalized gambling activities in the United States, but encourage U.S. companies to conduct their gambling activities in international markets.

While the ethical questions of pursuing this latter option are beyond the scope of this analysis, widespread legalized gambling activities are nevertheless theoretically crippling the national economy.

In the 1800's, the strategic economic/military consequences were less destructive and less absolute; but in the modern world, the United States and its allies cannot afford to experiment with their strategic economies by elevating legalized gambling activities to the level where a strategic economic "boom and bust" cycle or a classic "speculative economic bubble" could occur. Unfortunately, because of the gambling industry and the vagaries of the U.S. legal system which protects the scope and speed with which the political constituencies supporting the legalized gambling industry develop, such experiments may already be so far advanced that they are beyond the control of U.S. policymakers.

Due to several large socio-economic negatives which are associated with legalized gambling activities but which neither occur in nor accompany other types of industries, it can be concluded that there are substantial business/economic reasons to believe that widespread (and even localized) legalized gambling activities are inherently recessionary in nature. These negatives include: modest increases in infrastructure costs, relatively high

52. Legal Gambling, supra note 48, at 159.
53. Id. at 159-60.
54. Id. at 160-64.
55. For a comparison of worldwide lottery sales, see supra note 33.
56. CED REPORT, supra note 21, at 18.
57. For example, the 1929 U.S. stock market scenario presents such a bubble. See PAUL A. SAMUELSON & WILLIAM D. NORDHAUS, ECONOMICS 204 (14th ed. 1992) ("Speculative Bubbles"); SAMUELSON, supra note 2, at 424-25. See also Cong. Hearing, supra note 9, at 71-73 (written testimony of Economics Professor Earl L. Grinols, University of Illinois).
60. CED REPORT, supra note 21, at 18.
61. See id. at 16; Economic Impacts, supra note 18, at 72; Cong. Hearing, supra note 9, at 46 (testimony of Jeffry L. Bloomberg, States Atty, Lawrence Co., S.D.).
increases in regulatory costs, large costs to the criminal justice system, and social-welfare and business-economic costs in the billions of dollars. These business/economic costs can easily translate into recessionary pressures and lost jobs from the rest of the economy; significantly, these costs do not generally accompany other industries. Furthermore, the net creation of jobs claimed by the legalized gambling industry is at best a breakeven proposition, and the evidence suggests that net job losses can easily occur—primarily because “consumer dollars” are drained from the rest of the economy. The literature frequently refers to this process as “ca-

62. See CED REPORT, supra note 21, at 16; Economic Impacts, supra note 18, at 72; Cong. Hearing, supra note 9, at 46 (testimony of Jeffrey L. Bloomberg, States Atty, Lawrence Co., S.D.).

63. See, e.g., CED REPORT, supra note 21, at 16; Economic Impacts, supra note 18, at 72; Cong. Hearing, supra note 9, at 46 (Jeffrey L. Bloomberg, States Atty, Lawrence Co., S.D.).

64. See, e.g., MD. DEP’T HEALTH & MENTAL HYGIENE, ALCOHOL & DRUG ABUSE ADMIN., TASK FORCE ON GAMBLING ADDICTION IN MARYLAND (1990) (Valerie C. Lorenz & Robert M. Politzer, co-chairs 1990) [hereinafter cited as MARYLAND REPORT]. For example, “[p]athological gamblers cost Maryland and its citizens about $1.5 billion annually in lost work productivity and embezzled, stolen or otherwise abused dollars.” Id. at 2. “The total cumulative indebtedness of Maryland’s pathological gamblers exceeds $4 billion.” Id. Furthermore, untreated pathological gambling activities affects thousands of lives and costs Maryland billions of dollars. Id. See also Cong. Hearing, supra note 9, at 83 (statement of Valerie C. Lorenz, Ph.D., Compulsive Gambling Ctr.).

65. See, e.g., Cong. Hearing, supra note 9, at 10 (oral testimony of Economics Professor Earl L. Grinols, University of Illinois) (“The social costs for an additional dollar of tax raised through gambling is in the range of $3.50 per dollar raised, compared to only $1.45 for raising taxes the old fashioned way, by raising taxes.”).

66. See, e.g., Cong. Hearing, supra note 9, at 34 (statement of Congressman Richard H. Baker).


68. Grinols, Bluff Or Winning Hand? Riverboat Gambling And Regional Employment And Unemployment, 51 ILL. BUS. REV., Spring 1994, at 8-11 (indicating Illinois riverboats have not created a net increase in employment and may even have cost net jobs). Since gambling activities take jobs from the rest of the economy, the creation of jobs is an illusory claim. This principle is so basic that it is in the WORLD BOOK ENCYCLOPEDIA. WORLD BOOK YEAR BOOK 398 (1994) (“The employment increases resulting from most gambling operations are illusory.”). See also Cong. Hearing, supra note 9, at 71 (written testimony of Economics Professor Earl L. Grinols, University of Illinois).

69. This business/economic principle is another principle which is so basic that it is in the WORLD BOOK ENCYCLOPEDIA. WORLD BOOK YEAR BOOK 398-400 (1994). See supra note 68 and accompanying text; CED REPORT, supra note 21, at 49-50.
nnibalization" of the pre-existing economy—including the pre-existing "tourist" economy. For example, a report from the Governor's Office in California reflected this transfer of dollars and its effect on the regional economy:

In the midst of continued (and justified) concern over the emigration of businesses and productive taxpayers out of California, another, long-standing migration has been overlooked. That is the migration of dollars out of California to the casinos of Nevada. . . .

Gambling by Californians pumps nearly $3.8 billion per year into Nevada, and probably adds about $8.8 billion—and 196,000 jobs—to the Nevada economy, counting the secondary employment it generates. This is a direct transfer of income and wealth from California to Nevada every year. 12

As of 1993, not one of the fifty states had a plan concerning the statewide development of various legalized gambling activities. The only baseline study was a 1976 federal report by the U.S. Commission on the Review of the National Policy Toward Gambling, entitled Gambling in America. This 1976 report was apparently prompted by the proposed economic development of Atlantic City, New Jersey, via the legalization of land-based casino gambling. Considering that in general the Atlantic City economy has significantly worsened since 1976, serious questions should be raised about extending this experiment nationwide.

Because some demographics can easily allow the initial profit margins of many legalized gambling activities to be extremely large, it should be

70. CEO REPORT, supra note 21, at 51; Cong. Hearing, supra note 9, at 87-88 (statement of Congressman Frank R. Wolf). See also Cong. Hearing, supra note 9, at 34 (statement of Congressman Richard H. Baker); Cong. Hearing, supra note 9, at 57 (statement of Professor Robert Goodman, Hampshire C.)

71. See, e.g., Press Release, Florida Dep't Com., Sept. 19, 1994 (summarizing the 1994 report by the Fla. Dep't Com.) ("A consistent result of the introduction of casino gambling has been the cannibalization of pre-existing tourism industry."). FLA. DEP'T COM., IMPLICATIONS OF CASINO GAMBLING AS AN ECONOMIC DEVELOPMENT STRATEGY (1994) [hereinafter cited as FLA. DEP'T COM. REPORT].


73. CEO REPORT, supra note 21, at 16. In 1994, however, the Florida Department of Commerce issued a report which indicated that legalized casino-style gambling would "cannibalize" the pre-existing Florida economy. FLA. DEP'T COM. REPORT, supra note 71, at 5.

74. COMM'N ON GAMBLING, supra note 29.


76. For example, the largest hotel in the United States, the Excalibur in Las Vegas, "stunned market analysts by announcing it had already paid off . . .[its] mortgage from operating revenues" in less than two years. James Coates, Vegas' Tip to Chicago: Casino Is Family Fun, CHI. TRIB., Apr. 10, 1992, §1, at 1, 10. See, e.g., Mary Ellen Podmolik, EMPRESS INVESTORS WIN BIG, CHI.
anticipated that major U.S. corporations are not only pursuing opportunities in the realm of legalized gambling activities, but also divesting themselves of their traditional business lines in some instances.77

As growing numbers of people work in the gambling industry, and come to be economically dependent on it, new pro-gambling constituencies will develop to protect these jobs. This will make gambling ventures difficult for government to curtail or terminate.78

State and local governments are already utilizing taxpayer dollars to subsidize, and even maintain, some legalized gambling operations. This trend is projected to intensify and create new economic problems:

A major result of market saturation has been a tendency towards more lax government gambling regulation and public subsidies to help competing private gambling operations survive. There are likely to be serious economic and social costs to communities as the result of this boom and bust type of development.79

Furthermore, state and local governments have been enticed by the initial tax revenues without considering the social and economic consequences:

Funding specific state programs with gambling revenues has tended to make them gambling-dependent. It has also tended to make those groups who benefit from them part of pro-gambling political constituencies.80

In this context, the main benefits allegedly generated by increased legalized gambling activities include not only new tax revenues, but also new jobs and positive economic development. The potential profit margins are so large that companies will invest millions of dollars to encourage the legalization of gambling activities in various states.81 In 1994, for example, at least $16.5 million was spent in a losing campaign to bring casino gambling to Florida,82 and at least $15 million was spent during two years on campaigns (including $8 million in the 1994 winning campaign) to bring video gambling terminals to Missouri.83 In 1992, approximately $5 million84 was spent by

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78. CEO REPORT, supra note 21, at 18.
79. Id.
80. Id.
81. See, e.g., $16.5 Million Campaign, supra note 24.
82. Id.
83. Slot Games In, supra note 17, at 6 ($15 million spent within two years by riverboat gambling proponents).
84. See, e.g., Patrick T. Reardon & Rick Pearson, Casino Firms Say Patience Tapped Out, CHI. TRIB., Dec. 4, 1992, §2, at 1, 7 ($5 million). See also Stephen F. Simurda, When Gambling
three companies to promote the possibility of a $2 billion casino complex in Chicago. However, skeptical economists emphasize that "any" influx of money to a community will create the appearance of economic development, and the socio-economic costs should not be overlooked.

Several studies by the gambling industry allegedly bolster the claims of economic benefits, and to examine these claims the Ford Foundation and the Aspen Institute funded a comprehensive 1994 report by the Center for Economic Development at the University of Massachusetts, which was entitled *Legalized Gambling as a Strategy for Economic Development* (CED Report). The CED Report analyzed fourteen industry studies, and in general, was highly critical of them. Emphasizing that no state had a comprehensive development plan which analyzed legalizing gambling activities, the CED Report concluded that "hiding the costs" was apparently widespread and that legalizing gambling activities acted as economic "cannibalism" on the pre-existing economy and on other businesses.

In the social-welfare context, legalized gambling is widely accepted as constituting a regressive tax on the poor. In other words, governmental policies directed toward "legalizing" and encouraging gambling activities make poor people poorer and intensify many pre-existing social-welfare problems. These socio-economic negatives are calculated to be extremely costly, and they parallel the negatives associated with alcohol and drug addiction. Substantial changes and, in many instances, unpredictable consequences can be anticipated throughout the insurance industry (i.e., increased fraud in the

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88. *Id.* at 16-19.

89. *Id.* at 16.

90. *Id.* at 16, 39, 51. *See also* Gold, supra note 58, at 30.

91. *Id.* at 18, 39, 51. *See also* Gold, supra note 58, at 30.

92. *Id.* at 18, 39, 51. *See also* Gold, supra note 58, at 30.


94. *See Economic Impacts,* supra note 18, at 61-70.

billions of dollars), the banking industry (i.e., extended credit losses) and the general business community, including, for example, increased personnel costs, lost work productivity, and bankruptcies.

In the national media, the cost/benefit debate involving increased legalized gambling has been growing in scope. As this trend continues, a 1994 article in the Columbia Journalism Review cautions the news media to "flat out ask [experts, academics, and even other reporters] if they make money off the industry."[

96. Compulsive Gambling, supra note 28, at 45 (In 1992, insurance fraud due to legalized gambling activities was estimated at $1.3 billion); see also Henry R. Lesieur & Kenneth Puig, Insurance Problems and Pathological Gambling, J. GAMBLING BEHAV., Summer 1987, at 123.

97. One interesting trend consists of legalized gaming establishments extending credit to customers. Having just been authorized in 1991, the Illinois riverboats during 1993 were already legally extending $115 million in credit. Toby Eckert, Riverboats Give Gamblers $115 Million in Credit in '93, PEORIA J. STAR, Apr. 17, 1994, at A1.

98. Many of these increased personnel costs can be directly attributed to calculable increases in compulsive gamblers caused by the legalization of gambling activities. "Average" compulsive gamblers are those compulsive gamblers in the intermediate stage of gambling addiction. By comparison, the larger social costs are reflected in those compulsive gamblers who are in the later stages of gambling addiction and have "bottomed-out." ROBERT M. POLITZER ET AL., REPORT ON THE SOCIETAL COST OF PATHOLOGICAL GAMBLING AND THE COST-BENEFIT/EFFECTIVENESS OF TREATMENT at 9, 10 (1981). See also MARYLAND REPORT, supra note 64, at 2, 59-61. It should be noted that virtually all of these estimates are based on male subjects as recorded in the MARYLAND REPORT. When adjusted for inflation as of 1992, the $52,000 per year cost for each compulsive gambler increases to $53,000 per year. BETTER GOV'T ASSOC. REPORT, supra note 85, at 14.

"Abused dollars" are defined as: "[e]stimates of the average annual amount obtained legally and/or illegally by the pathological gambler which otherwise would have been used by the pathological gambler, his family, or his victims for other essential purposes. These abused dollars include earned income put at risk in gambling, borrowed and/or illegally obtained dollars put at risk in gambling, borrowed and/or illegally obtained dollars spent on basic needs and/or provided to the family which otherwise would have been used for gambling, and borrowed and/or illegally obtained dollars for the partial payment of gambling related debts." POLITZER ET AL., supra, at 9, as cited in BETTER GOV'T ASSOC. REPORT, supra note 85, at 15.

99. "Lost work productivity" equates to the sociological concept of "lost productivity" and is defined as "[e]stimates of percent of time not engaged in the production of goods and services for which the individual was employed, multiplied by the average gross annual salary." POLITZER ET AL., supra note 98, at 8 (emphasis in original), as cited in BETTER GOV'T ASSOC. REPORT, supra note 85, at 15. Characteristic problems of the compulsive gambler include "inattention to work," pursuant to the American Psychiatric Association’s DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 324 (3d ed. rev. 1987) [hereinafter DSM-III].

100. Significant increases in bankruptcies occurred in South Dakota after the advent of legalized gambling activities, particularly casino gambling and video lottery terminals (VLTs) in 1989. See Todd Nelson, S.D. Bankruptcies Down 5 Percent: Judge: Gambling Caused Most Cases, ARGUS LEADER, Jan. 15, 1993, at 1.

101. COLUM. JOURNALISM REV., supra note 84, at 37-38.
Instinctively, several prestigious U.S. business groups have responded to these concerns. For example, in September of 1993, the eighty-five member Greater Washington, D.C. Board of Trade unanimously rejected the Mayor's proposal to bring casino-style gambling to Washington, D.C.\(^\text{102}\)

The gravamen of much of this debate is that state governments, by legalizing gambling activities, are creating large socio-economic problems which did not previously exist. It is well-established that by "legalizing" gambling activities (the "acceptability factor") and making those activities available to the public (the "accessibility factor"), state governments are creating a new population of addicted gamblers—a recognized addictive activity pursuant to the American Psychiatric Association (APA),\(^\text{103}\) with parallels to alcohol and drug addictions.\(^\text{104}\) From a baseline of .77%,\(^\text{105}\) the percentage of the adult population who are compulsive gamblers can easily rise to between 1.5 and 5% once gambling is legalized.\(^\text{106}\) The percentage of teens who become compulsive gamblers generally ranges between four and six percent, but this range appears to be increasing.\(^\text{107}\)

It is significant that compulsive gambling will probably hover at approximately .77% of the population\(^\text{108}\) no matter what ethicists and

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103. DSM-III, supra note 99, § 312.31 (Pathological Gambling).
104. See Jacobs, supra note 95, at 252.
105. COMM'N ON GAMBLING, supra note 29, at 73.
106. For a table showing prevalence rates of problem and probable pathological gamblers at between 1.7 and 6.9% for adults, see ALTA. LOTTERIES AND GAMING, GAMBLING AND PROBLEM GAMBLING IN ALBERTA at 18 (1994) (Native Americans in one study equaled 14.5%).
107. Id. (showing prevalence rates between 3.6 and 12.4% for teenagers); BETTER GOV'T ASSOC. REPORT, supra note 85, at 30 (between 4 and 15% of high-schoolers are "problem gamblers"—not to be confused with "compulsive gamblers" which are subsumed in the category of "problem gamblers"). For analyses of compulsive and problem gambling among teenagers, see Jacobs, supra note 95, at 252 (reporting five studies). See also Robert Ladaueur & Chantel Mireault, Gambling Behaviors Among High School Students in the Quebec Area, 4 J. GAMBLING BEHAV. 3 (1988); Henry R. Lesieur & Robert Klein, Pathological Gambling Among High School Students, 12 ADDICTIVE BEHAV. 129 (1987). See generally Michael L. Frank, Underage Gambling in Atlantic City Casinos, 67 PSYCHOL. REP. 907 (1990). Clinical Professor of Psychiatry Durand Jacobs of the Loma Linda University Medical School sets the overall percentage of teenage compulsive gamblers at 4 to 6%.
108. COMM'N ON GAMBLING, supra note 29, at 73. This study apparently provides the most authoritative historical baseline in this as well as other gambling-related issue areas. It should be noted that there are considerable definitional debates regarding what constitutes a "compulsive or pathological gambler," a "probable compulsive gambler," and a "potential compulsive gambler." The South Oaks Gambling Screen (SOGS) appears to be the most generally accepted current mechanism for delimiting these categories. Henry R. Lesieur & Sheila B. Blume, The South Oaks Gambling Screen (the SOGS): A New Instrument for the Identification of Pathological Gamblers, 144 AM. J. PSYCHIATRY 1184 (1987).
governments do to eradicate or solve this problem. However, the interesting statistic is that once state governments legalize gambling—once gambling receives the *imprimatur* of government and becomes not only "sociologically acceptable" but also is advertised as such—the number of compulsive gamblers will increase from .77% to between 1.5 and 5% of the population. Thus, in a state with a population of 10 million, the number of compulsive gamblers would increase from 77,000 to between 150,000 and 500,000. There is some debate about how fast this increase will occur, but it will definitely occur. For example, in South Dakota—[which had no legalized gambling per se before the state lottery in 1987, but which initiated more legalized gambling in October 1989 via land-based casinos and video-lottery terminals (VLT’s)—the best data strongly suggests that an additional one percent of the population (approximately 7,000 people) became "addicted" within two years. These numbers include the adolescent population, which is already reflecting twice the addiction rate of the adult population.

The social, business, economic and governmental costs of this phenomenon are potentially catastrophic. The average socio-economic cost per compulsive gambler per year has been calculated at $53,000. Therefore, by "legalizing" land-based casino gambling and VLT’s, the South Dakota legislature has created, within two years, an additional $371 million per year in economic and social costs to its citizens. The negative numbers generated by this phenomenon are so large that they demand to be checked and rechecked, but even if they are smaller by half, the negative numbers are significant enough to predict major problems for U.S. society, business and government.

III. CONCLUSION

Throughout the twentieth century, the U.S. economy has operated within a type of pristine economic environment uncontaminated by widespread legalized gambling. However, because pro-gambling philosophies are spreading rapidly throughout the United States, and the governmental infatuation with legalized gambling is so pervasive, the impacts of legalized gambling will soon be felt throughout the local, state and federal governmental systems—regardless of whether a particular state has or has not legalized a

111. See BETTER GOV'T ASSOC. REPORT, *supra* note 85, at 14 ($53,000/yr. is adjusted for inflation in 1992 dollars) (citing to POLITZER ET AL., *supra* note 98). By 1994 the range of cost estimates began to fluctuate between $13,200 and $53,000, with most estimates beginning to group around $13,200 to $35,000. See Cong. Hearing, *supra* note 9, at 80 n.12 (statement of Professor John W. Kindt, University of Illinois) (citing studies).
112. See *supra* note 111 and accompanying text.
particular form of gambling. Academic disciplines will change and the standard economic formulas will have to be modified to accommodate the economic impacts of the gambling industry. Education will suffer both philosophically and fiscally as educational budgets are redirected toward addressing the increasing social-welfare costs.

The criminal justice system will incur not only increased costs, but the types of crimes will change to redress new forms of misconduct like gamblers unfairly beating the odds or "cheating" the legalized gambling operations. Financial institutions and banks will experience rapid and perhaps destabilizing impacts as pre-existing assets and large proportions of fixed consumer assets are diverted into legalized gambling activities. Bad debts and increased insurance fraud are projected to increase significantly.\footnote{113}

If the gambling trends of the 1990's continue, the negative impacts of gambling activities will prolong recessionary trends and slow recoveries in local, state and national economies. The economic history of the United States has indicated that the U.S. public has intermittently flirted with gambling and repeatedly rejected it as economically and sociologically unworkable. Legislators who forget this economic history and promote legalized gambling are subject to being criticized as mere mechanics.\footnote{114} Those who forget the economic lessons of history are condemned to relive them.\footnote{115}

If the U.S. public liked the "War on Crime" and the "War on Drugs," the public will be enthralled with the forthcoming "War on Gambling."\footnote{116} The tragedy is that unlike the first two "wars" on social ills, the "War on Gambling" can still be avoided—simply by not decriminalizing or otherwise legalizing gambling activities. In other words, it will take affirmative government action to magnify a minor social ill into a major socio-economic problem.

\begin{footnotes}
\item[113] See supra notes 96-97 and accompanying text.
\item[114] This statement is a paraphrase of "[a] lawyer without history or literature is a mechanic..." Guy Mannering, as quoted in J. BARTLETT, FAMILIAR QUOTATIONS 520 (14th ed. 1968).
\item[115] Id. at 507. While this phrase has been paraphrased by many authors, it probably originated with historian Georg Hegel.
\end{footnotes}

As this report reflects, it has been clearly demonstrated in other jurisdictions that a significant increase in crime and its consequences accompanies casino gambling. FDLE joins a large number of other criminal justice entities in opposition to any form of legalized casino gambling. Id. at 2. See also \textit{Comm'n on Gambling, supra} note 29, at 1; \textit{N.J. Report and Recommendations of the Governor's Advisory Comm'n on Gambling} 19 (1988).
Governmental officials are increasingly being enticed to accept and then impose upon the public those discredited economic philosophies which claim that gambling activities increase jobs, foster economic development, and generate new tax revenues—all without raising taxes on the electorate. In reality, the regional and strategic impacts of legalized gambling almost invariably result in a net loss of jobs, increased taxes, and a negative economic spiral which is inherently recessionary.

In 1988, the national societal costs of alcohol abuse were calculated at $120 billion, and the costs of other substance abuse were calculated at $60 billion.\textsuperscript{17} By comparison, the national societal costs for compulsive gambling were calculated at $80 billion and were found to be increasing rapidly,\textsuperscript{18} however, unlike alcohol and substance abuse, the costs of compulsive gambling are less obvious because the abused substance is money,\textsuperscript{19} and some of these costs translate into lost work productivity.

In practically all disciplines, the strategic negatives associated with gambling activities are so large that the conclusions in this analysis might seem somewhat alarmist. The strategic figures, however, appear to constitute the best evidence available within those parameters which academic authority can establish at this juncture in business-economic history. As confirmed by the 1994 CED Report,\textsuperscript{120} the Florida Department of Commerce Report,\textsuperscript{121} and the 1994 congressional hearing,\textsuperscript{122} the gambling adherents have little solid data or authority supporting their statements about the many alleged social benefits of legalized gambling activities.\textsuperscript{123}

Regardless of these considerations, it appears to be widely-accepted that U.S. economic strength constitutes a \textit{sine qua non} of worldwide economic stability. Any industry which has a growth rate as substantial as that of the legalized gambling industry and which has the potential to cannibalize the pre-existing economy with a potential negative multiplier effect\textsuperscript{124} needs to be closely examined. At a minimum, a national commission to investigate the economic claims of the industry is necessary. In the interim, prudent strategic national policy necessitates that there be a federal moratorium on any increases in the various forms of legalized gambling activities or increases in its geographical expansion.

\textsuperscript{17} MARYLAND REPORT, \textit{supra} note 64, at 60.
\textsuperscript{18} \textit{Id.} at 59.
\textsuperscript{19} \textit{See id.} at 20-28.
\textsuperscript{20} CED REPORT, \textit{supra} note 21, at 16-19.
\textsuperscript{21} FLA. DEP'T COM. REPORT, \textit{supra} note 71, at 2, 5-6.
\textsuperscript{22} \textit{See Cong. Hearing, supra} note 9 \textit{passim}.
\textsuperscript{23} BETTER GOV'T ASSOC. REPORT, \textit{supra} note 85, at 2-21.
\textsuperscript{24} \textit{See supra} notes 45, 90-92 and accompanying text.