The Costs of Addicted Gamblers: Should the States Initiate Mega-Lawsuits Similar to the Tobacco Cases?

John Warren Kindt[*,1]

University of Illinois, Champaign, IL, USA

INTRODUCTION

In 1999, *The Economist* cited to the critics of gambling activities and raised the spectre that 'there might be a lot of money to be made by suing the entities that knowingly get people addicted to gambling'.[1] This observation paralleled the long-held conclusions among gambling addiction experts such as the former executive director of the Council on Compulsive Gambling of New Jersey, Arnie Wexler, who highlighted the concerns of the gambling interests in 1997:

'I think the industry is sitting on its hands nervously looking at what's happening to the cigarette industry', said Wexler, a frequent lecturer about compulsive [i.e., 'pathological'] gambling. 'The stuff that happened to the cigarette industry is going to happen 10–20 years down the road, if not sooner'.[2]

As early as 1996, the Las Vegas gambling industry had a premonition of being saddled with mega-lawsuit problems similar to the tobacco industry, and had developed plans to counter the educational efforts of public interest groups,[3] such as the National Coalition Against Legalized Gambling (NCALG), an organization similar to Mothers Against Drunk Driving (MADD). In 1996, in the heart of Las Vegas, the local paper opined a wake-up call to the gambling industry:

Gambling and tobacco. Tobacco and gambling.

A leader in the national fight against the spread of legalized gambling is ... attempting to link the tactics of both industries in their separate battles for public relations legitimacy.
'It is out-and-out lying, and ... [the gambling industry is] in denial', said Tom Grey [executive director of the NCALG].[4]

By 1997, the strategies of anti-gambling groups combined with public interest groups were being readily detailed in the US press.

Anti-gambling crusaders are borrowing a page from the anti-smoking movement, trying to tar casinos and lotteries with some of the same criticisms leveled against the tobacco industry.
The critics say legalized gambling, too, depends on addiction for profits, runs ads that glamorize its offerings and targets minors for future customers.[5]

Similarly, it became apparent where the gambling industry was trying to focus the public's attention and frame the long-term strategic debate.

Gambling proponents stress their industry has acted to keep itself out of the same dock as tobacco, by trying to identify its addicted clientele for treatment.
Critics say those efforts are cosmetic, and that the $50-billion-a-year industry's profit margin depends on compulsive [i.e., 'pathological'] gamblers lured by marketing strategies to exploit their addition.[6]

This scenario was reminiscent of several public interest debates involving potentially harmful products—particularly tobacco.
In this context the pro-gambling commissioners on the 1999 National Gambling Impact Study Commission (1999 Gambling Commission) may

* Correspondence to: University of Illinois, Champaign, IL 61820, USA. Tel.: +1 217 3336018; fax: +1 217 2447969.
[1] Professor, Univ. Ill.; A.B., William and Mary, 1972; J.D. 1976, MBA 1977, Univ. Ga.; LL.M. 1978, SJD 1981, Univ. Va.

have voted for the 'smoking gun' of gambling liability. This occurred when to protect the big gambling companies' market shares, they joined with the entire Commission and voted unanimously to condemn and recommend a prohibition on 'convenience gambling'. Convenience gambling consists primarily of gambling in convenient locations via electronic gambling devices (EGDs), also known as video gambling machines (VGMs)—which sociologists term the 'crack cocaine'[7] of creating new addicted gamblers.[8] Specifically, recommendation 3-6 of the 1999 Gambling Commission stated that:

> The Commission received testimony that convenience gambling, such as electronic devices in neighborhood outlets, provides fewer economic benefits and creates potentially greater social costs by making gambling more available and accessible. Therefore, the Commission recommends that states should not authorize any further convenience gambling operations, and should cease and roll back existing operations.[9]

In other words, if the pro-gambling commissioners recognized that EGDs/VGMs constituted dangerous products for public use when located in convenience stores, a fortiori those EGDs/VGMs constituted dangerous products when crammed into casinos located anywhere.[10] These concerns capped the developing debate of the 1990s regarding the gambling industry and its promotion of gambling-oriented products and mechanisms—particularly as these products and mechanisms paralleled the potential harmful effects charged to other well-known industries.

Throughout the 20th century, the trend in the US was to hold corporations liable for the harm their products caused the general public.[11] Asbestos, lead, and particularly tobacco, were the leading products that raised liability issues.[12] As potentially harmful gambling activities were legalized throughout the 1980s and 1990s, a 1992 Harris Poll indicated that the proliferation of legalized gambling failed to raise concern among a majority of the American public.[13] However, by the mid-1990s, the public's awareness, coupled with US Congressional concerns had increased, and eventually culminated in the 1996 National Gambling Impact Study Commission Act,[14] which was enacted into law on 3 August 1996. This statute established the National Gambling Impact Study Commission, which charged nine commissioners with producing a report within 2 years.[15]

In this context, Tom Grey, the executive director of the NCALG, planned to utilize the public meetings of the 1996–1999 Gambling Commission to voice the concerns of public interest groups. Grey wondered if 'gaming industry executives might commit political suicide and follow the lead of tobacco executives who reportedly lied to members of Congress during hearings on the effects of cigarette smoking'.[16]

This was not an unrealistic expectation, because the gambling industry appeared to be vulnerable to various types of mega-lawsuits, as well as Congressional scrutiny. For example, Law Professor Dan Polsby of Northwestern University, predicted 'an upswing in class-action lawsuits, if lawyers score[d] big with tobacco'.[17] Furthermore, Polsby indicated that there were 'a lot of industries that... [were] ripe for tobacco-settlement kinds of détente',[18] including '[l]iquor, firearms, gambling'.[19]

Retreating into the unexpected posture of gambling as an old 'vice' during the Gambling Commission's hearings, by 1998, the Las Vegas gambling interests evidenced more defensive concerns.

> Of course, the alcohol and cholesterol pushers may have to wait for their turn in the crosshairs. Next up could be gambling. The... federal gaming panel will inevitably lead to meddling in Nevada's primary industry, whether in the form of regulation, taxation or both'.[20]

By focusing on regulation and taxation issues, however, the gambling industry was missing the real threat of mega-lawsuits initiated by the states.

This analysis will compare the gambling industry to the tobacco industry. It predicts that in the future the gambling industry will be held financially liable by the states for the social and economic impact gambling has on US society. Furthermore, this analysis concludes that the gambling industry will be vulnerable to state-initiated mega-lawsuits—even without specific costs being delimited either for individual 'pathological gamblers' or for individual 'problem gamblers'. Thus, definitional debates and academic debates regarding socio-economic costs may be largely irrelevant with regard to the states' mega-lawsuits because the gambling industry's lobbyists at the American Gaming Association (AGA) acting on behalf of the gambling industry, and individual gambling companies have acknowledged that the industry has created *new* pathological and problem gamblers during the 1990s.

DELIMITATION OF PROBLEMS

The Basic Economic and Legal Policy Rules Governing Gambling: The Problem of Public Misperceptions and Government Decision-Making

Owing to the addicted gamblers, bankruptcies, and crime caused by gambling activities, all gambling was criminalized throughout the US and much of the world during the latter half of the 19th century. Consequently, decision-makers had no pressing need to be educated about gambling economics and the associated social issues. With the widespread legalization of various US gambling activities in the 1980s and 1990s, and with the concomitant export of US gambling technology to the international community, the educational need emerged to inform the public, government decision-makers, and even the educational community. Furthermore, as the world's economic leader, the US government needed to establish its strategic economic base (which includes primarily the entire US economy along with its import–export components) as being either primarily a nongambling economy or a 'gambling economy'.[21]

Within the relevant regional market (termed the 'feeder market' by gambling companies), legalized gambling activities do not create net new economic development, or net new jobs because increased demand for gambling is mirrored by decreased demand for other sectors of the relevant market. The illusion of net new economic development and jobs occurs when gambling activities, such as new casinos, are concentrated in a local market, but job losses within the 'relevant regional market', or 'feeder market' are outside the local market. When the entire strategic economy is growing, the transfer of consumer dollars into gambling dollars is largely hidden.

Economic Misperceptions According to Nobel Prize-winning economist Paul Samuelson,[22] it is basic textbook 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.[23]

Legalized gambling does provide recreation which is a service no different than a concert or a

play. However, from a political/economic viewpoint, Professor Jack Van Der Slik has summarized the basic principles emanating from reasoning equivalent to Samuelson's echoing in much of the academic community: '[State-sponsored gambling] produces no product, no new wealth, and so it makes no genuine contribution to economic development'.[24]

Sometimes government officials have difficulty differentiating between the various forms of gambling that might become the subject of state lawsuits. Gambling industry economists have been criticized for taking advantage of uninitiated government officials by obfuscating the issues with analyses that switch between the various types of gambling. Generally, the various types of gambling are irrelevant to government decision-making when viewed in their proper strategic market.[25]

In gambling industry studies, the underlying focus is usually on: (1) how *fast* money can be extracted from the public, and (2) how *efficiently* money can be extracted from the public.[26] The techniques utilized to accomplish these goals usually consist of: (1) new, more and faster gambling technology, and (2) new and more sophisticated marketing.[27]

The speed (and not the *type*) of the gambling is the proper focus.[28] In a focused cost–benefit analysis, socio-economic costs, tax revenues, and other considerations should be calculated as a *function of the degree of gambling* (i.e., 'amounts lost' or 'gross revenues').[29] In this context, lotteries are generally considered the slowest type of gambling because the wagering historically occurred once per time period (such as once per year, or more modernly, once per week). Whereas, gambling via EGDs, particularly as they interface with the Internet, constitute the *fastest* forms of gambling. As the socio-economic negatives associated with gambling activities are a correlated function of the amounts lost, the *speed* with which the money is lost (and not the *type* of gambling) is the proper focus.

Misperceptions by the Public and the Press The US has long had a tradition of gambling,[30] but since the end of the 19th century, the criminalization of US gambling activities had relegated gambling activities to a quasi-romanticized genre of friendly wagers, back alleys, and organized crime. With the trend toward legalizing gambling

activities at the end of the 20th century, the accessibility and acceptability of gambling began to 'hook' new gamblers. One conclusion of a 1997 report by the Harvard Medical School was that the number of US citizens with 'severe gambling disorders' increased by 55%[31] since the advent of Atlantic City gambling in 1977. In addition, 'the number of 'problem' gamblers— those who have lied, cheated, stolen, or suffered anxiety attacks as a result of gambling— [had] . . . climbed from 4% of the adult population to 7%'.[32] However, the pathological and problem gambling were not only confined to the adult population. Approximately 1.1 million adolescents from the age range from 12 to 18 were identified as pathological gamblers.[33] In addition, in states such as Louisiana, it was reported that one in seven 18–21 year olds had a chronic gambling problem.[34]

Misleading Studies and PR Financed by the Gambling Industry

Another strategy common to both the tobacco and gambling industries appears to be their tendency to be connected to any research project conducted on their respective products. Those familiar with the topics typically agree that it is difficult to find objective research regarding the impact of legalized gambling on communities.[35] In fact, '[m]uch of the research that has been used in government decision making was prepared by researchers with close ties to the gambling industry'.[36]

> 'There isn't one piece of research the industry has funded on the social costs of problem gambling that is academically respectable. It's all self-serving', says scholar Henry Lesieur of the Institute for Problem Gambling in Connecticut. 'It says a lot about the nature of the field that research funded by the industry is going to dominate the dialog for the next few years. That is a sad state'.[37]

A few government officials have recognized this and have expressed their frustration. The chief executive of the Illinois Gaming Board during the 1990s, Mike B. Belletire, noted, in reference to proposed riverboat gambling on the Mississippi River, 'Frankly, the analyses that were done were paid for largely by or on behalf of those who are proponents of this project . . . There is not a good reference base for me to understand

the economic effect of gaming either in the broad economy or the derived revenue to the state'.[38] As the Illinois administration changed in 1998, Belletire went from gambling regulator to the position of chief operating officer of special events at the National Jockey Club, Sportsman's Park racetrack—illustrating the problem of the 'revolving door' for government regulators being hired to become gambling industry advocates, and the need for enactment of the 1999 Gambling Commission's recommended 1-year ban between being a regulator and working for the gambling industry.[39]

The 1990s also witnessed similar attempts by the gambling industry to obfuscate public understanding which was bemoaned by the national press:

> [T]he industry saw opportunity in the narrow and poorly funded area of compulsive gambling research. Through lucrative grants, it has developed its own body of data and undermined studies critical of the industry, triggering a wave of white papers.[40]

In an accurate summary of a frequent gambling industry tactic, Commissioner Richard Leone, of the National Gambling Impact Study Commission, summarized that if the gambling industry can 'keep the focus of the camera tight enough, . . . [it] can show gains [from gambling]',[41] however, he indicated that the view would change as the camera zoomed out'[42] and the socio-economic negatives would become apparent.

Unlike most other studied public issue areas, gambling industry executives have targeted the academic community for harsh criticisms; for example,

> William Thompson of the University of Nevada at Las Vegas says he has felt the weight [of the gambling industry]. On several occasions after he released studies on gambling's social impact, Thompson says, he picked up the phone only to hear Mirage CEO Steve Wynn screaming profanities.
> Wynn's spokesman, Alan Feldman, says Thompson had it coming: 'Some of Mr. Thompson's theories are deserving of that kind of reaction because they're so off the wall'.[43]

Compared with the tobacco industry, these instances from gambling industry scenarios may be less tactfully executed, but the strategies appear to be quite similar.[44]

By comparison, tobacco companies were one of the largest sources of private funding for biomedical research[45] by the mid-1990s. The 1998 *British Medical Journal* revealed a global campaign by the tobacco industry to mold public opinion on passive smoking in Europe, the Far East, the Pacific-Rim (e.g., Australia), and Central and South America.[46] The Philip Morris Company reportedly 'set up a network of scientists throughout Europe who were paid to cast doubt on the risks of passive smoking and highlight other possible causes of respiratory problems'.[47] Furthermore, it was reported that industry 'documents clearly show the industry inventing and orchestrating controversies by buying up scientists and creating influential outlets for tainted science'.[48] One organization formed in 1953 and later known as the Council for Tobacco Research arguably had the purpose of 'sponsor[ing] a public relations campaign which [was] ... entirely 'pro-cigarettes'.[49] The National Center for Responsible Gaming (NCRG), which was formed and financed primarily by gambling interests as a non-profit organization, has been similarly criticized by the national media.[50]

It was also revealed that the tobacco industry apparently 'paid people to write articles favorable toward cigarettes and unfavorable toward public health research, and paid them even more when national magazines published their articles'.[51] Academia complained that this type of behavior was all too common among corporations involved in the production of a product that is harmful to society.[52] The web of 'secrecy, deception, and propaganda' was supposedly woven for the mere sake of profits.[53] The US national press has revealed similar tactics by the gambling industry.[54]

CLARIFICATION OF GOALS

The overall goal of all government authorities is well-recognized in common law and customary international law as the maintenance of a favorable legal order. Regarding public issue areas, government officials are charged with promoting the 'public health, safety, and welfare'. In the context of a product or mechanism that is potentially harmful to the public, government entities are ethically charged with at least determining the cost/benefits to society. As indicated during Congressional hearings in 1994 before the US House

of Representatives Committee on Small Business, this government shibboleth can be simply illustrated.[55]

> The essence of the gambling debate from an economic perspective can be understood by asking the question: Does America need another form of entertainment so badly that it is willing to add another social problem to the list that it already deals with such as crime, alcoholism, teen pregnancy, illegal drug use and so on?[56]

Purely from a cost/benefit perspective, the issue of legalizing gambling activities should be easy for government authorities to visualize.

> From the Federal Government's perspective, a good analogy might be the following. Imagine if a pharmaceutical company invents a new pharmaceutical. There are already other drugs available for the same purpose. The product works extremely well for 98.5% of the people who use it. However, for 1.5% of the people who use it, the drug completely ruins their life. Would the FDA license this drug?[57]

In this context, it was unfortunate that state governments across the US did not do their homework before legalizing various form of gambling during the 1980s and 1990s. In spasms of neglect, no comprehensive reports were commissioned or conducted by the various states—with the notable exception of Florida during 1994.[58] Interestingly, Florida government officials and the public rejected legalized casino gambling in 1994 after Florida did its reports.

Another primary goal of the states and the US government should be to educate the public with regard to the negative consequences which can occur from legalized gambling activities; specifically, (1) new addicted gamblers, (2) new bankruptcies in the 35-mile feeder markets around concentrated gambling activities, such as casinos, and (3) new crime and corruption, particularly in the 35-mile feeder markets.

Governmental entities should also cease from deceiving the public with regard to educational funding tied to legalize gambling activities. As any grade school library can attest by a quick reference to the 1994 *World Book Encyclopedia Update*,[59] state funding to education has not benefited from the revenues generated by legalized gambling activities.[60] In fact, the definitive study conducted by *Money Magazine*[61] in 1996 proved that in those states with legalized gambling activities, educational funding in real dollars was

substantially less than in those states which were either without legalized gambling activities or which had not tied education funding to legalized gambling revenues.[62]

HISTORICAL BACKGROUND

An Overview of US Legalized Gambling

Legalized gambling began to gain public acceptability particularly after World War II when Nevada became the first state to authorize large-scale legalized casino gambling.[63] By 1999, legalized gambling in various forms was permitted in 47 states and the District of Columbia,[64] approaching $55 billion in gross revenues. As a percentage of personal income, gambling wagers more than doubled between 1974 and 1997.[65] In 1976, US citizens legally wagered $17.3 billion, but by 1997, the amount wagered was $639 billion.[66] By the 1990s, the US legalized gambling industry netted more profit than the combined totals of all US theme parks, cruise lines, the video game industry, the music industry, the movie industry, and professional and amateur sports.[67] In fact, the $600 billion that Americans legally wagered each year was, according to National Commissioner James Dobson of the National Gambling Impact Study Commission, more than the $450 billion Americans spent each year on groceries.[68] It was no surprise to the experts that the number of Gamblers Anonymous (GA) chapters doubled between 1990 and 1999.[69] Furthermore, a Harvard study underwritten by the gambling industry itself revealed that between 1994 and 1997 the increase in the number of US pathological gamblers was between 1.5 million and 2.2 million,[70] which paralleled the spread of US legalized gambling—particularly, casino gambling.

'Opportunity theory proposes that, if opportunities are offered, people take advantage of them'.[71] In the area of gambling, this principle is termed the accessibility principle; that is, as gambling opportunities are made more accessible to people, more people will gamble. Whether gambling per se constitutes an 'opportunity' in an economic sense is irrelevant; what is relevant is the ease of the public's accessibility to the gambling venue.

In any event, the 1990s recognized legalized gambling as one of the fastest growing pastimes in the US.[72] Between 1982 and 1990, for example,

what Americans spent on legal gambling activities 'grew at almost twice the rate of income'.[73] During the same time frame, the gambling industry experienced growth rates approximately 2.5 times that of the manufacturing industries.[74] The expansion of the US gambling industry occurred primarily during the 1980s and early 1990s.[75] 'The legalization of slot machines in remote Montana locations (1985), passage of federal legislation for tribal-run gambling (1988), the legalization of Iowa casino riverboats (1991), and the introduction of electronic keno gambling in Oregon (1991) all encouraged the gambling industry in its expansion efforts'.[76] By 1999, there were 37 states (plus Washington, DC) with lotteries, and 28 states with casinos.[77]

The growth of legalized gambling followed predictable sales pitches.[78] To gain entry into new jurisdictions, the gambling industry alleged that: (1) casinos and casino riverboats would appeal to tourists and provide 'family entertainment', (2) gambling would create new jobs, (3) gambling would generate a positive multiplier effect within the local economy,[79] and (4) gambling revenues could be earmarked to support one of the 'Big Es'—education, the environment, the elderly, new employment and/or economic development.[80]

However, the rapid expansion of legalized gambling did not occur without substantial socioeconomic costs.[81] The 'accessibility' of gambling can result in a portion of the public becoming new addicted gamblers with resultant social disorders, medical costs/conditions, and substantial private and public costs.[82] 'Pathological gamblers tend to engage in forgery, theft, embezzlement, drug dealing, and property crimes to pay off gambling debts'.[83] In the study conducted by the University of Chicago's National Opinion Research Center (NORC), a 'low-ball number' of each pathological gambler's costs to society totaled approximately $12000 in lost benefits and the costs of policing during their lifetime.[84] With respect to gambling, Professor David Lester demonstrated that those states permitting 'gambling at casinos, sports betting, jai alai, and teletheaters had a greater per capita number of GA chapters'.[85] GA is an international organization which treats pathological (addicted) gamblers via a 12-step program similar to that used by Alcoholics Anonymous.[86]

Owing to the financial, marital, occupational, and legal problems endemic to pathological

gamblers and their families, pathological gamblers experience the following disorders at levels above the general population: depression, insomnia, migraines, intestinal disorders, anxiety attacks, high blood pressure, cardiac problems, and other stress-related medical conditions.[87] In addition to various medical conditions, pathological gamblers evidence social disorders such as anti-social personality disorder and narcissistic personality disorders.[88] Without attempting to quantify the unique value of every human life, it should be noted that between 12 and 18% of those in GA have attempted suicide, 45–49% have planned to commit suicide, 48–70% have contemplated suicide; and 80% have evidenced a death wish and stated that they 'wanted to die'.[89] Similar to drug addiction, many pathological gamblers who have attempted to quit gambling have been largely unsuccessful.[90] 'In a study of 232 attendees of GA meetings, Stewart and Brown (1988) found that total abstinence from gambling was maintained by only 8 percent one year after their first attendance, and by 7 percent at two years'.[91]

Productive vis-à-vis Unproductive Avenues of Liability: The Strategic Historical Overview

An analysis of case law can differentiate between what have been unproductive vis-à-vis productive avenues for bringing causes of action against the tobacco industry,[92] and then lead to parallels between causes of action involving the tobacco industry and the gambling industry. In this context, causes of action brought by governments to recover the Medicaid and Medicare types of costs[93] associated with tobacco-related illnesses appeared to be the most successful. Second, causes of action brought on the basis of the Racketeer Influenced and Corrupt Organization Act (RICO)[94] appeared to be headed for successful results in the 21st century. By modeling causes of action against the gambling industry on cases involving the tobacco industry, governments and private litigants had the potential to bring multi-billion-dollar cases against various segments of the gambling industry.

Only limited historical references will be mentioned herein involving some of the classic tobacco cases involving the traditional causes of action against the tobacco industry. This approach was utilized, because the classic cases since the 1950s were largely unsuccessful owing to the theories under which they were brought. These cases tended to become mired in issues involving negligence and product liability as they interfaced with the defenses of contributory negligence, assumption of the risk, and/or a lack of 'cause-in-fact'.

This analysis does not consider in-depth the parallel cases in issue areas other than gambling, such as cases involving gun manufacturers,[95] because these issue areas are beyond the scope of this analysis. It should be noted, however, that from a government-policy perspective the mere threat of tobacco types of cases against industries, such as the firearms industry,[96] have resulted in major policy changes within the industry itself.[97]

The Legal History of the Tobacco Cases

The first two waves of tobacco litigation occurred during the 1950s and the 1980s, respectively, but these litigations were unsuccessful because they were predicated in tort law[98] primarily under theories of negligence, deceit, and breach of express and implied warranties. The second wave also added the litigation theories of strict liability (e.g., product liability) and failure to warn. Success for plaintiffs, however, was found in the 1990s in initiatives that centered on a public health approach.[99]

One of the first significant cases which involved trying to hold tobacco companies liable for the injuries caused by smoking was Green v American Tobacco Co.[100] decided during the late 1960s. The Green case capped a trend of over 100 unsuccessful cases initiated during the 1950s against tobacco companies.[101] The Green case initially held that smokers were entitled to rely on the company's implied assurances that cigarettes were fit for the manufacturer's intended purpose of being smoked by consumers.[102] Furthermore, a consumer's death from smoking cigarettes rendered the tobacco company 'absolutely liable'.[103] However, in 1969 the US Fifth Circuit Court of Appeals overruled en banc its own earlier decision, and held that cigarettes were not 'defective' per se.[104]

The next classic case was Cipollone v Liggett Group, Inc.,[105] which was filed in 1983 on behalf of Rose Cipollone against three large cigarette manufacturers. The convoluted Cipollone case was twice[106] before the US Supreme Court, and the Court basically held that causes of action against

cigarette companies, which were based on a failure to warn consumers of the dangers of cigarette smoking, were preempted by the federal laws regulating warnings by tobacco product manufacturers.[107] However, the net impact of the US Supreme Court's second decision resulted in an apparent victory for the Cipollones,[108] because the Court ruled that the federal acts did not preempt numerous potential causes of action.[109] Even so, the Cipollones' attorneys voluntarily dismissed the case.[110]

Apparently exhausting the Cipollones' attorneys with $5–6 million in legal costs,[111] the tobacco companies 'had adopted the theory of General Patton that rather than spending their own assets, they would force the plaintiffs to spend all of their assets'.[112] By comparison, the Liggett Group reportedly spent more than $75 million.[113] By the mid-1990s, the Cipollone family had dropped all of their legal efforts.[114]

After the Cipollone cases, the next significant case was a 1994 Louisiana class action suit, *Castano v American Tobacco Co.*[115] The 'rifle shot' pleading in *Castano* was a fraud claim against the tobacco companies which alleged that, while knowing the dangers of tobacco use by consumers, the cigarette/tobacco manufacturers had failed to warn consumers that tobacco use was addictive and that tobacco smoke was injurious to smokers (and other people as well).[116] The 'shotgun' claims against the tobacco companies included not only 'fraud and deceit', but also 'negligent misrepresentation, intentional infliction of emotional distress, violation of consumer protection statutes, breach of express warranty, breach of implied warranty, negligence, strict liability, redhibition [avoidance of purchase due to defective product], and equitable relief'.[117] The court highlighted the deceit-addiction *nexus* by stating that the claims of the plaintiffs were predicated 'on their contention that [the] defendants intentionally failed to disclose, and in fact concealed, knowledge that nicotine is addictive and that [the] defendants manipulate nicotine levels in their cigarettes for the purpose of addicting consumers to their products and sustaining that addiction'.[118]

Thus, this third wave of tobacco litigation was predicated largely upon claims that the tobacco industry 'knew, but long hid, their knowledge that nicotine is pharmacologically active and highly addictive; and . . . manipulated nicotine levels in

their products to hook unsuspecting smokers'.[119] There are obvious parallels between these deceit-addiction arguments involving the tobacco industry and similar arguments against the gambling industry involving the addictive nature of VGMs which constitute 70–80% of casino revenues.

The Fifth Circuit Court of Appeals ultimately decided that the *Castano* class action complaint should be dismissed.[120] The demise of the 'federal' class-action theory in this tobacco case opened the door for 'statewide' class-action suits in the individual states, and beginning in 1996, many such lawsuits were filed.[121]

The most notable of these class-action cases was a Florida class-action case *R.J. Reynolds Tobacco Co. et al. v Engle.*[122] On 14 July 2000, the jury found for the plaintiff smokers and ordered America's five largest tobacco companies to pay $145 billion in punitive damages.[123] The plaintiffs had asked jurors for an award of $196.8 billion, alleging that this amount was necessary to recompense for 50 years of misconduct and injuries by the tobacco companies to 700000 Florida smokers.[124] The verdict assessed penalties of $145 billion, including $73.96 billion to Phillip Morris, $36.28 billion to R.J. Reynolds, $17.59 billion to Brown & Williamson, $16.25 million to Lorillard, and $790 million to Vector Group (the owners of Liggett).[125] This verdict was by far the largest damage award ever in US history, and dwarfed the former record punitive damages award of $5 billion against Exxon in the *Exxon Valdez* oil-spill.[126] If the penalty ever actually has to be paid, it would bankrupt the industry.[127] The tobacco industry condemned the *Engle* decision and vowed to use every means at its disposal to undo the award.[128] *Pro forma*, the tobacco companies claimed the judgment should be overturned or mitigated because legal errors were made during the trial.[129] The tobacco industry also filed a notice of removal of the case, which would actually transfer the entire case to federal court.[130]

There are obvious parallels between statewide class-action cases against tobacco and potential cases against the gambling industry. For example, in December 1997, the *New York Times* summarized '[c]asino industry executives, who have proven ingenious at marketing their products as harmless adult entertainment, *until recently* had been loath to concede that some gamblers became addicted'.[131] While apologists for the gambling industry,[132] such as William Eadington,[133] have

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Table 1. Percentage of Expenditures by Problem Gamblers for Selected Forms of Gambling by State/Provinces

	Alberta	British Columbia	Nova Scotia	Washington	Louisiana	Iowa	New York	Average
Bingo (%)	43.6	37.3	N/A	44.6	N/A	N/A	39.5	39
Lotto (%)	11.3 lotto; 19.3 instant	11.9 lotto; 14.3 scratch	6.2 lotto; 22.7 scratch	24.2 daily game	17.6 all lotto games	24.4 instant	21.9 lotto; 36 quick draw	14 lotto; 20.6 instant-scratch
Casino (%)	37.2 local; 34.4 card/dice	26.7 resort; 33.1 table	48.7	55.0 card/dice	N/A	38.4 table	41.4	41.8 table games
Slots (%)	19.0	N/A	8.9	N/A	N/A	16.1	N/A	14.7
Video machine (%)	46.9	N/A	50.8	23.9	37.8	N/A	74.6	46.8
All games (%)	32.3	22.6	26.4	24.7	41.2	26.8	39.1	30.4
Horses (%)	54.2 on and off track	29.5 on-track	N/A	25.9	52.7 on-track; 84.9 off-track	48.4	50.0	
Sports (%)	19.0 friends/ co-workers	21.7 sports; 19.7 friends; 15.2 pools	N/A	18.9 pools; 82.7 bookies	62.6	43.9	50.0	
Pull tabs (%)	45.1	20.9	N/A	35.2	N/A	N/A	N/A	
Raffles (%)	10.5	11.1	N/A	N/A	N/A	N/A	N/A	
All (%)	32.3	22.6	26.4	24.7	41.2	26.8	39.1	

Sources: Lesieur (1998, table); 'Measuring the Costs of Pathological Gambling,' Address by Prof Henry R. Lesieur, Illinois State University, at the National Conference on Gambling Behavior, National Council on Problem Gambling, Chicago, Illinois, 3–5 September 1996 (table).
N/A, not applicable.
Added notes of Professor Lesieur:
    Pathological gamblers spend an inordinate amount of money on gambling compared to others who gamble (Lesieur, 1998). For example, problem video lottery players in Nova Scotia account for 4% of those who play, yet contribute 53% of net revenue for video lottery playing (Focal Research, 1998). The Australian Productivity Commission (1999) estimated that problem gamblers account for 5.7% of money spent on lottery play, 10.7% of casino table game play, 19% of scratch ticket sales, 33% of wagering on horses and dogs, and 42% of money spent on gaming machine play. Overall, problem gamblers expend 33% of all money spent on gambling in Australia.
    Focal Research (1998). *1997/1998 Nova Scotia lottery players' survey.* Prepared for Problem Gambling Services, Nova Scotia Department of Health. Halifax, Nova Scotia: Author.

consistently refused to acknowledge or calculate any costs for pathological gamblers and problem gamblers,[134] the National Gambling Impact Study Commission[135] and other sources have begun the calculations.[136] In 1994, Resolution 430 of the American Medical Association's House of Delegates calculated the US socio-medical costs of pathological and problem gamblers at $40 billion and increasing.[137]

Significantly, as he was about to retire as editor of the *Journal of Gambling Studies* and a leader of the National Council on Problem Gambling (both allegedly heavily-influenced by the financial aura of the gambling industry),[138] Professor Henry Lesieur pointedly calculated the portion of gambling revenues generated by pathological and problem gamblers by the type of gambling.[139] For example, 26.7–55% of casino gambling revenues were calculated as coming from pathological and problem gamblers (Table 1).[140]

The low-profile maintained by the gambling industry from the 1960s through the early 1990s allowed the industry to expand rapidly. However, the high-profile lobbying undertaken by the industry during the mid-1990s probably promoted the establishment of industry anathemas such as the 1999 National Gambling Impact Study Commission and concomitant studies unflattering to the image projection desired by the gambling industry.

The US Theory Which Held the Tobacco Companies Liable: The Applicability to the Gambling Industry

The second theory which eventually cornered the tobacco industry was predicated upon the principle that as the states were incurring significant socio-medical costs to pay for the injuries caused by consumers utilizing tobacco products, the states should be able to sue the tobacco companies directly for those costs without being subrogated to the individual claims of persons injured by tobacco products.[141] States could bring suits against the tobacco companies on their own behalf without being subjected to classic defenses, such as contributory negligence, assumption of the risk, and lack of cause-in-fact.[142] Calculating that the State of Mississippi had spent approximately $1 million in health care costs for the treating and caring for his secretary's cancer, attorney Michael Lewis consulted with Mississippi Attorney General Michael Moore and initiated the first state-sponsored lawsuit[143] against the tobacco companies.[144]

Mississippi's suit was quickly followed by lawsuits filed first by the attorney general of Florida and then by 40 other states.[145] The states' claims were enhanced because the tobacco companies were vulnerable to the classic claim that they were not 'internalizing the externalities' and that, therefore, the tobacco companies were being 'unjustly enriched' at the expense of the taxpayers.[146] In fact, the ideal plaintiff was predicated to be a 'public hospital', because such an institution would have to pay (i.e., 'internalize') all of the costs of treating the diseases and illnesses caused by tobacco products (as well as alcohol products)[147] without receiving any economic benefit whatsoever.[148] As medical centers initiate and/or develop their existing treatment centers for pathological and problem gambling, they should track these specific costs for future reimbursement.

By comparison, a Florida suit filed on 21 February 1995 against the tobacco industry[149] utilized, in part, a 1994 state statute drafted and enacted expressly to eliminate the primary defenses historically utilized by the tobacco industry, such as the smoker's contributory negligence or assumption of the risk. Interestingly, the Florida statute would also apply to other industries such as the gambling industry. Serving as a model statute for other states the Florida statute, the Medicaid Third-Party Liability Act[150] provided that:

> Principles of common law and equity as to assignment, lien, subrogation, *comparative negligence, assumption of risk, and all other affirmative defenses normally available to a liable third party*, are to be abrogated to the extent necessary to ensure full recovery by Medicaid from third-party resources ...[151]

By 1999, this highlighted language was deleted with the net effect of restoring the traditional defenses to the tobacco industry, but the pre-existing case remained valid and Florida's eventual settlement totalled $11.3 billion to be received over a 25-year period.[152]

TRENDS AND CONDITIONING FACTORS

Gambling Addiction *vis-à-vis* Tobacco Addiction?

Sociologists generally refer to video-gambling machines as the crack-cocaine of creating new

addicted gamblers.[153] 'Pathological gambling' is referenced and specifically delineated in the *Diagnostic and Statistical Manual of Mental Disorders*[154] of the American Psychiatric Association. Technically, pathological gambling is listed as an 'impulse control disorder', but for years, the academic literature was well-trended toward recognizing pathological gambling as an official addiction—until the gambling industry started financing contrary research.[155] Although in 1980, pathological gambling was delimited in the *Diagnostic and Statistical Manual of Mental Disorders*, an 'MGM Mirage spokesman ... said pathological gambling was largely ignored until 1980'.[156] Perhaps before 1980, the industry could argue ignorance of the problems, but the industry as a whole did not establish or really acknowledge any problem gambling until 1995 or 1996, and even then many gambling companies did not post warnings, take any remedial actions, or fund research.

In 1995, Associate Professor Howard J. Shaffer of the Harvard Division on Additions reported:

> Gambling is an addictive behavior, make no mistake about it ... Gambling has all the properties of a psychoactive substance, and again, the reason is that it changes the neurochemistry of the brain.[157]

Furthermore, during a 1995 conference, 'Shaffer described gambling as an addiction no less potent than drugs or alcohol'.[158]

However, it was not until 21 February 1996 with establishment of the NCRG[159] with nearly $2 million provided mainly by Boyd Gaming Corporation and other gambling interests that there was a general public acknowledgement by the gambling industry that '[t]his is an industry that recognizes that it has a problem and is willing to deal with it in constructive and positive ways'.[160] The lobbying group for the gambling industry, the AGA, headed by Frank Fahrenkopf, announced that part of the AGA's responsibility was '*to develop a clearinghouse* for addressing industry issues, including problem gambling'.[161] In this 'clearinghouse' context concerns were raised about potential conflicts of interest.

> For years, [Howard] Shaffer had voiced some of the harshest warnings in academia against the collateral damage of gambling's growth. No longer, not since he accepted nearly $600000 in grants from the industry in little more than a year.

Through Fahrenkopf's *intervention*, Shaffer was awarded the first grant by the industry-backed research center [NCRG]—$139000 ... [162]

The content of this first study by Shaffer was criticized,[163] and it also did not report the most important baseline numbers for the 120–152 studies analyzed,[164] which made it impossible for other academics to check and verify.[165] Despite requests dating to 1998,[166] and despite promising to provide these numbers during a 4 May 2000 conference sponsored by the NCRG at the University of Illinois at Chicago Medical Center,[167] by the end of 2000, Associate Professor Shaffer had apparently not provided the requested baseline numbers—a fairly simple procedure.[168]

As summarized by the *Los Angeles Times* in December 1998, 'Shaffer is now working on a new project for the industry's research arm [the NCRG]—of which *he is a board member*—for $465000, more than triple the amount of the first award'.[169] Supposedly concerned with some research issues at the NCRG during this time frame,[170] Professor Henry Lesieur and Dr. Richard Rosenthal terminated their relationship with the NCRG research board.

With regard to the NCRG's research, one criticism is that it is pre-directed:

> 'They have an agenda', says Valerie Lorenz, executive director of the Compulsive Gambling Center Inc. in Baltimore. If the industry can say something is neurologically wrong with a problem gambler, 'then it's not the casinos' responsibility', she says.[171]

In 1998, however, Shaffer did acknowledge the 'increasing trend'[172] of more problem gamblers which among other reasons he attributed[173] to 'easy access to casinos, lotteries and credit'.[174] Interestingly, the NCRG, which had been centered at the University of Missouri at Kansas City (UMKC) since its 1996 inception, announced in 2000 that it was moving to the Harvard Division on Addictions proximate to Shaffer. These types of associations raise questions of conflicts of interest and do not particularly benefit the research, the academics involved, or even the industry's goals.

Regardless of these debates, the individualized problems of gambling addiction are exemplified by one 1998 Chicago, Illinois case where a mother addicted to gambling allegedly killed one and perhaps two of her children in separate instances

to collect $200000 of insurance money so she could continue to gamble.[175] This scenario resulted in a conviction and the subsequent imprisonment of the mother.

State-sponsored gambling as government policy was further criticized in 1997 when it became public that the Colorado lottery was utilizing a 'Mindsort' model which allegedly was designed to appeal to pathological and problem gamblers, and which indicated that consistent gamblers were 'Lower on trial, but *once hooked, hooked*'.[176] A 1997 in-depth survey by the *Chicago Sun-Times* reported that poor people were viewing the 'instant games' of the lottery as 'a source of income',[177] and in a parallel survey it was reported that 51% of the people gambling were trying 'to win money,' instead of gambling for entertainment (34%).[178]

Recognizing that research has reported that 27–55% of casino revenues are coming from pathological gamblers and problem gamblers,[179] concerns have also been raised about appeals to this market segment.

> By purchasing lists from credit-card companies, the casinos know what you buy, and then they can track census data to approximate your home value and income. Then there are the direct-mail lists. One such list from the early 1990s was baldly called the '*Compulsive Gamblers Special*' and promised to deliver *200000 names* of people with 'unquenchable appetites for all forms of gambling'. Another list features 'some *250000 hard-core gamblers*'. Yet another purveys the names of 80000 people who responded to a vacation-sweepstakes-telemarketing pitch.[180]

In addition to this criticism, there exists the allegation that gambling companies are profiling their customers' financial/gambling tendencies via the computerized cards customers are often required to carry in order to gamble.

> Christopher W. Anderson of Chicago, who supervises gambling counselors in St. Louis, has seen such customer profiles because they were subpoenaed in criminal cases. In one, the customer had been arrested at the casino for writing bad checks.
>
> The patron's profile 'shows that casinos know certain individuals have gambling problems but do absolutely nothing to intervene, . . . '.[181]

Apparently, gambling companies have sophisticated marketing knowledge of their customers which can be potentially misused to benefit the companies.[182]

By comparison, in the 1970s it was supposedly, popularly recognized that 'cigarette smokers behave remarkably like heroin addicts . . . [and] that cigarette smoking . . . [constitutes] an addiction'.[183] However, the juries in the tobacco cases generally did not accept the argument that smoking was as addictive as heroin.[184] Given this trend in the tobacco cases, similar 'addiction' arguments in pathological gambling cases (if argued before juries instead of judges) would probably fail until popular sentiment changed—despite the weight of authority which indicated a trend toward recognizing pathological gambling as an addiction.[185]

The Trend Toward Obfuscating the Issues

Juries apparently adopted a libertarian philosophy in the tobacco cases and often accepted the legal defense of assumption of the risk; that is, the plaintiff consumers knew or should have known the risk of smoking, voluntarily began to smoke, and intentionally continued to use tobacco.[186] Such a libertarian philosophy apparently also infected the US public's imagination when dealing with the negative socio-economic consequences of gambling addiction. In other words, the public perception was that if people gambled too much it was their own responsibility.

For decades, the Nevada gambling establishment, in particular, ignored[187] or even denied[188] that there existed such a disorder as 'pathological gambling' or the associated 'problem gambling'. According to one expert '[i]n 1980 they weren't interested in dealing with compulsive (i.e., pathological) gambling and were afraid to deal with it'.[189] Howard Shaffer further confused the issues when he proposed a new nomenclature in 1997 of 'levels' of 'disordered gambling'[190] instead of the generally accepted terms of 'pathological gambling' and 'problem gambling'.

In 1987, however, Harrah's casino company 'began examining the issue'.[191] Critics claimed that the program initiated by Harrah's was largely 'window-dressing' for public relations purposes,[192] but it still constituted the first accepted effort by a casino company to recognize problems involving those who gambled too much, and by 1996 the AGA's Frank Fahrenkopf purported that 'the attitude of the industry has changed'.[193] By comparison, other gambling companies continued to deny that there was much of a problem, if any

problem, until at least the mid-1990s, when a series of articles put the gambling industry on the defensive and highlighted the problems of pathological and problem gamblers.[194]

Trying not to repeat the mistakes of the tobacco industry in denying for decades the problems associated with their product, the lobbying group representing the gambling industry, the AGA, mobilized the gambling industry in the mid-1990s to admit finally some problems, including the problem that a certain percentage of gamblers would develop gambling problems and fall into the categories of 'pathological gamblers' and 'problem gamblers'.[195]

As the US Congress embarrassed the gambling industry with the enactment of the 1996 National Gambling Impact Study Commission Act, the AGA scrambled to document the gambling industry's pre-existing concern for pathological gamblers and problem gamblers. However, the AGA could only produce scant industry examples basically from four US gambling companies and had to resort for examples to four Canadian/government-sponsored examples plus the Washington State Council of the State of Washington.[196] These examples were originally collated in an AGA 1996 loose-leaf binder entitled the 'Responsible Gaming Resource Guide',[197] which instead of emphasizing gambling problems among the adult clientele tended to emphasize casino-employee problems and the prohibitions against underage gambling.[198]

By comparison, one of the favorite defenses of the tobacco industry in a similar context was to deny any cause-in-fact (i.e., 'connection' or *nexus*) between the use of the product and the resultant claimed injury. Attorneys representing the tobacco industry would often flood juries with so many other potential causes for the plaintiffs' injuries that individual juries could not find a preponderance of the evidence indicating that the tobacco product had caused the injury.[199]

Similarly, during the 1990s, the gambling industry began to position itself with alternate theories which obfuscated the classic symptoms associated with pathological gambling, as well as with problem gambling. The gambling industry also allegedly became involved in efforts to change the definitions, and even the terminology involved in delimiting what constituted a 'pathological gambler' and a 'problem gambler'.[200] Another factor which would assist the gambling industry in con-

fusing juries with other cause-in-fact issues involves the comorbidity of pathological gambling with the excessive use of alcohol and tobacco products. In other words, there appears to be some connection between the excessive use of alcohol and/or tobacco and pathological gambling, but the research efforts on these comorbidity issues are still in their infancy.

Despite these considerations, attorneys pursuing the gambling industry under theories involving pathological gambling issues and cause-in-fact will probably not be successful until there is a significant change in public perceptions.

POLICY ALTERNATIVES AND RECOMMENDATIONS
General Policy Alternatives for the US

One generally recognized recommendation involves educating the public with the potential hazards of becoming addicted to various forms of gambling—both legal and illegal. While at first, it would appear that such a goal would be relatively easy to implement, the gambling industry has an obvious self-interest in downplaying any negative consequences associated with gambling activities, and the industry has the financial reserves to promulgate an extensive 'win–win' public relations campaign throughout the public domain.

One of the policies which the states could adopt would involve taking no action with regard to the socio-economic costs and medical costs caused by the gambling industry. This scenario seems unlikely since the success which the states have had in pursuing mega-lawsuits against the tobacco industry have encouraged them to file similar lawsuits against other industries, such as gun manufacturers. The gambling industry will be an obvious target on the list for states to file mega-lawsuits.

At the other end of the spectrum, the states could immediately initiate mega-lawsuits against the gambling industry which were similar to the mega-lawsuits against the tobacco and firearms industries[201] during the 1990s. The gambling industry, however, could argue as a policy defense that the states did not have 'clean hands' because the states legalized gambling, particularly casino-style gambling, during the 1980s and 1990s and should not thereafter be allowed to benefit financially via mega-lawsuits against an industry which the states have promoted.

The states could counter this argument by claiming that they were deceived by the gambling industry with regard to the cost/benefits of introducing gambling into state economies and with regard to the socio-economic negatives accompanying gambling activities, particularly the costs associated with pathological and problem gamblers. Still, the definitive analysis of the various 'studies' utilized to convince legislators of the benefits associated with legalizing various types of gambling, *Legalized Gambling as a Strategy for Economic Development*,[202] was a 1994 report prepared by the Center for Economic Development at the University of Massachusetts. This report revealed that the studies produced and/or financed by the gambling industry were largely 'unbalanced'. In other words, state governments were misled, if not deceived, by the gambling industry. This report's conclusions regarding the obfuscation of the cost/benefit impacts of introducing legalized gambling activities into state economies reflected poorly upon the gambling industry, and these conclusions were also largely confirmed by the *NGISC Final Report*[203] produced by the 1999 National Gambling Impact Study Commission.

Another alternative would be for the states to proceed slowly with their projected mega-lawsuits, while collecting additional data. In this scenario, the states should finance studies analyzing the socio-economic negatives associated with legalized gambling activities; specifically, addicted (pathological) gamblers, bankruptcies, and crime and corruption.

One strategic policy concern for government decisionmakers involves whether the goal is to reduce the public's utilization of the alleged potentially-hazardous product[204] or whether the goal is simply to have the *de facto* imposition of increased costs on the industry—which are then just passed along to consumers in the form of increased prices.[205] Perhaps the fundamental issue is whether governments should be promoting something which is not conducive to the public's health, safety, and welfare. In this context, there is a salient difference between the tobacco industry and the gambling industry—specifically, the tobacco industry has saturated the US public market for centuries, whereas legalized gambling during the 20th century never approached market saturation[206] and constituted a relatively new phenomenon for the beginning of the 21st century.

This latter scenario involving gambling means that governments may still maintain gambling's various forms as criminalized—with minimal social consequences or public backlash. By comparison, recriminalizing tobacco would involve a public response reflective of centuries of market saturation (with no history of ever been criminalized in the US).

Mega-lawsuits by the state attorney generals combined with private lawsuits involving class actions might easily prod state legislators into simply increasing taxes on the various forms of legalized gambling. For example, in Canada, all of the casino profits go to the government, and the government merely pays a management fee to the casino companies for managing the casino properties. The result is that all of the profits go to the government. By contrast, the tax rate for casinos in the US fluctuates at approximately 15% of casino revenues to the host state and another 5% to the local municipalities with all of the profits going to the casino companies. Furthermore, Native American casinos theoretically must pay nothing in taxes to their host states (although 'gaming compacts' with the individual states are supposedly negotiated to provide the states with some revenues).

With regard to both Native American casinos and regular non-Indian casinos, the states have been embarrassingly out-negotiated. The net result is that US casinos create minuscule tax revenues for the states compared to the socio-economic costs created by the new pathological gamblers and problem gamblers who are created by the legalization of gambling activities. Even with the Canadian model of all profits going to the government, the socio-economic costs of legalizing gambling activities overwhelm the benefits (i.e., new tax revenues).[207] Furthermore, the Canadian government must necessarily be amused with the ridiculously low tax rates which the US casinos enjoy—particularly since such low tax rates raise a 'red flag' signaling the appearance of corrupt decision-making.

Economic Conflicts of Interest for the States? Not a Bar to Mega-Lawsuits

In the precedent of the tobacco mega-lawsuits, several tobacco-producing states also filed suit against the tobacco companies, and were eventually part of the overall settlement agreements.

This situation demonstrated that the states could have it both ways, and they could encourage tobacco production while filing lawsuits for the Medicaid/Medicare types of costs for tobacco-related illnesses.

There are obvious parallels with those states which have legalized gambling activities. Theoretically, those states which have legalized different gambling activities can also initiate lawsuits for the costs associated with pathological gambling and problem gambling, but they need to be prepared to document treatment costs and associated state costs. The gambling industry appears to be quite vulnerable, and as a potential response has begun to finance 'studies' which somehow seem to report the socio-economic costs of gambling to be at the lower end of the spectrum, while non-industry studies tend to report higher costs.[208]

The fact that the tobacco-producing states had no qualms about suing the tobacco industry 'should not be a surprise considering that the injury and damage caused by cigarettes far exceed[ed] the value of the jobs and income that cigarettes ... [brought] to the state[s]'.[209] With regard to the gambling industry, throughout the 1990s, there was growing evidence substantiating that the socio-economic costs of legalized gambling activities by creating new addicted gamblers, new bankruptcies, and new crime and corruption outweighed the value of the jobs and income to the residents of the states in which the legalized gambling activities were located.

The Gravamen of the Potential Mega-Lawsuits against the Gambling Industry

One of the main issues will be the costs associated with 'pathological gambling' and 'problem gambling'. The tobacco industry has argued that the costs of tobacco-related illnesses are ill-defined and difficult to calculate, but this consideration did not prevent the states from negotiating multi-billion dollar settlements with the tobacco industry. Even more ill-defined and speculative are the costs associated with handguns,[210] but again this appears not to be a bar to several states, cities, and counties filing lawsuits against handgun manufacturers. By comparison, the costs incurred by states in addressing the medical, social and crime costs associated with pathological gamblers and problem gamblers have been calculated in several studies but this area of academic investigation still needs more state-sponsored research.

Prior to the mid-1990s, the medical and social costs associated with treating and remedying the negatives committed by the individual pathological gambler ranged between $13 200 and $52 000 (unadjusted to present value).[211] The higher numbers were published and/or verified in a reviewed article published in the *Journal of Gambling Studies*.[212] The higher end of the spectrum was given the actual or implied imprimatur of the *Journal*—even though the *Journal* was influenced, to a greater or lesser degree, by the interests of the gambling industry. In particular, William Eadington, a well-known apologist for the gambling industry, became one of the two main editors of the *Journal* when its predecessor, the *Journal of Gambling Behavior*, ran into financial difficulty and needed the support of the gambling industry.

Specifically, the 1989 *Journal of Gambling Behavior* was sponsored by the National Council on Compulsive Gambling, but in Spring 1990:

1. the Journal's name had changed to the *Journal of Gambling Studies*;
2. the name of the National Council on Compulsive Gambling had changed to the National Council on 'Problem' Gambling (a terminology more acceptable to gambling interests);
3. the sponsorship of the *Journal* had changed to include the newly-named National Council on Problem Gambling plus the Institute for the Study of Gambling and Commercial Gaming under the directorship of William Eadington of the University of Nevada at Reno; and
4. William Eadington had joined the initial editor, Professor Henry Lesieur, as co-editor of the newly-named *Journal*.[213]

After 1996, Professor Henry Lesieur retired as editor of the *Journal* and was replaced by Associate Professor Howard Shaffer of Harvard's Division on Addictions.[214]

Since the early 1980s, one of the pre-eminent researchers in the field of pathological gambling has been Valerie Lorenz, PhD, the Executive Director of the Compulsive Gambling Center in Baltimore (formerly the 'National' Compulsive Gambling Center) and a 15-year member of the *Journal's* editorial board. Before the Illinois Gaming Board in May 2000, and in other venues, Dr Lorenz criticized the credibility of studies financed by the gambling industry,[215] including Howard Shaffer's 1997 Harvard Addictions Meta-analysis[216] which obfuscated the issues with the new

proposed terminology of 'disordered gambling'.[217] Perhaps coincidentally, Dr Lorenz was thereafter advised by the *Journal of Gambling Studies'* managing editor Howard Shaffer that her services on the editorial board would no longer be required[218]—although Dr Lorenz had served on the editorial board since the *Journal's* inception 15 years earlier.

Such examples fuel the argument that since the departure of Professor Henry Lesieur as the *Journal's* co-editor after the 1996 issues of the *Journal*, it has become inordinately influenced by gambling interests. This inordinate influence argument is also supported by the fact that primary administrative communication for the *Journal* appears to be between (1) editor Howard Shaffer, (2) the publisher, (3) editor William Eadington (at the University of Nevada at Reno and the Institute for the Study of Gambling and Commercial Gaming), and (4) Keith Whyte a former employee of the AGA and in 2000 the director of the *Journal's* co-sponsor, the National Council on Problem Gambling[219] (which is largely financed by gambling interests).[220]

Another similar venue, which publishes many pro-industry articles, is the self-styled *Gaming Law Review*—which is misleading since it has no university sponsor. Founded in 1997, the *Gaming Review* is vulnerable to being labeled as primarily a gambling industry publication. With a few exceptions, the editorial board for the *Gaming Review* consists of gambling industry consultants, columnists for industry magazines, and lobbyists (such as lobbyist Frank Fahrenkopf, Chief Executive Officer (CEO) of the AGA). Notably, when the *Gaming Review* was first established in spring 1997, a public relations lobbyist for the AGA (Keith S. Whyte) was listed as an editor.

Since the cost estimates ranging up to $52000 per pathological gambler were published and the methodology of determining them verified by the *Journal*, the gambling industry has been trying to lower these cost estimates via promoting new studies.[221] Critics of the gambling industry found it ironic that apologists for the gambling industry had not questioned any of these higher cost estimates throughout the 1980s and early 1990s—although they claimed years of experience in analyzing these issues.[222] Since the mid-1990s, the gambling industry has scrambled to promulgate new cost estimates—which as might be expected, have been lower than the earlier estimates.

One interesting scenario involves the NORC, which performed the cost estimates for the National Gambling Impact Study Commission.[223] The NORC estimated very few of the types of applicable costs and entirely omitted some types of costs. Consequently, these estimates were notoriously low and, therefore, lacked credibility.[224] The methodology utilized by NORC in calculating these estimates has been criticized as being flawed and incomplete—particularly regarding methodology.[225] Other estimates which are at the lower end of the spectrum have been performed by reputable groups, such as the $10000 figure reported by the Wisconsin Policy Research Institute,[226] but it is important to note that these are only *partial* listings of the total costs.[227] Public relations experts for the gambling industry tend to seize on these lower estimates without revealing to the public that they constitute only partial costs.

The spectre of intimidated academics has also been raised as in the case of the NORC estimates. When the academics from NORC were giving their preliminary report to the National Gambling Impact Study Commission, they were severely criticized by the gambling industry representatives sitting on the Commission. One commissioner representing the gambling industry even threatened the academics with legal action, claiming that their methodology and data collection methods were flawed.[228] Skeptics noted that the NORC final report thereafter reported very conservative estimates involving both the costs of pathological gamblers and the prevalence of pathological gamblers in the general population. The NORC also changed the definitional approach to calculating the prevalence of pathological gamblers but significantly, these changes were never incorporated into the academic literature by the general academic community. It is common practice when introducing new measures or statistics to calculate the old as well as the proposed new ones on the same data to provide a comparison or benchmark. NORC provided no such comparison/benchmark.

Strategic Concerns Involving Mega-Lawsuits

Some legal theorists have opined that governments have brought their actions against the tobacco and firearms industries without the bona fide intent of ever taking those cases to their ultimate conclusions in full-fledged trials. In other

words, instead of the tobacco industry utilizing its General Patton strategy of wearing down the opposition of individual plaintiffs,[229] the states were paradoxically wearing down the tobacco industry by coordinating the actions of state attorney generals with a strategy which increased dramatically the downside risks of any litigation which went to its ultimate conclusion. However, given the history of the tobacco litigation throughout previous decades, it appeared unlikely that the tobacco industry would be impressed with this type of legal strategy if the industry did not indeed believe that the state attorney generals would take their causes of action to their ultimate conclusions in the court system.

By comparison, questions arise as to what should be the ultimate goals of the states in bringing mega-lawsuits against the gambling industry. One question involves whether it is necessary for the states to theorize the substantive content of any potential settlement with the gambling industry. This question would also involve whether or not settlements would need to be negotiated with the various market segments of the gambling industry such as lottery suppliers, off-track betting parlors, casinos, providers of electronic gambling devices, and other various groups. However, the payment of damages for government expenses occasioned by gambling addiction, including personal financial hardship, and parallel socio-economic costs do not necessarily have to have a close *nexus* to the relief requested by the states in their underlying complaints against the industry. Furthermore, it should be noted that actions based on the RICO statutes can ask for treble damages.[230]

As judicial approval of settlements is required in government cases involving federal class-action suits,[231] government attorneys may wish to note that these lawsuits do not need to be brought as class actions per se. However, the net effect of these types of lawsuits often resembles class-action cases, particularly since large elements of the public are represented by the attorneys seeking the redress. By comparison, RICO actions brought as civil suits[232] against the industry can be brought by private attorneys (who can receive reasonable attorneys' fees), but the subject class of plaintiffs must be approved by judicial decision-making.

Another issue involves the potential settlement monies. In any potential settlement involving the

gambling industry, a fundamental concern for those states recovering damages would be how those damages should be utilized. By comparison, there was substantial criticism of the ways in which settlement monies from the tobacco industry were utilized by the various states.[233] In Illinois, for example, most of the settlement monies ($350 million) that were initiated from the tobacco industry were given as property tax rebates to the Illinois taxpayers.[234] While this scenario may have ingratiated those officials then in office to the electorate, particularly since the property tax rebates were received by the electorate approximately 30 days before the election on 7 November 2000, strategic policymakers, including Illinois Attorney General James Ryan, voiced concerns about the long-term impacts of these types of policies.[235] The net effect appeared to be a 'backdoor' tax hike on the tobacco companies with the costs passed along to smokers and without any significant government commitment to reduce smoking.[236]

A familiar criticism of the tobacco settlement is that as it was structured it would not make any substantive changes in the regulation of the tobacco industry.[237] The settlement employed control and performance-based regulations which would impose specific requirements on tobacco companies and tell those companies what must be accomplished, but leave them to decide the mechanisms.[238] Alternatively, suggestions for incentive-based regulation would be arguably more effective and force the firms to internalize the total costs of their activities.[239] Perhaps this latter policy approach should also be utilized regarding the gambling industry and any potential settlement.

The Pitfalls of Delayed State Action: Test Cases by Gambling Interests to Promote and Protect the Gambling Industry

During an October 2000 conference, three potential causes of action rendering the gambling industry vulnerable during the 21st century were addressed and highlighted by Tim Kelly, the former Executive Director of the National Gambling Impact Study Commission. These causes of action included: (1) lawsuits based on the active or passive misrepresentation of the gambling industry directed at vulnerable audiences, (2) public nuisance actions against governmental entities for creating harm to the public, and (3) *qui tam*

actions, in which a private citizen could sue as a private attorney general via an action which the state did not bring, but should have.[240]

However, regardless of any potentially-productive legal theories which would support state mega-lawsuits against the gambling industry, the attorney generals of the various states needed to become more educated on the issues and informed of the trends. In addition to the gambling industry's trend toward financially dominating the direction of the research, the legal landscape was also being challenged via test cases favored by gambling interests.

One example consists of the former restrictions on the US advertising of gambling activities, and the gambling industry's reversal of those restrictions via a test case. This issue area was exemplified by regulations in Puerto Rico, restricting the advertising of gambling activities. Under Puerto Rico's Games of Chance Act of 1948,[241] certain forms of gambling were allowed but the legislation provided that 'no gambling room shall be permitted to advertise or otherwise offer their facilities to the public of Puerto Rico'.[242] In the US Supreme Court case Posadas de Puerto Rico Assoc. v. Tourism Co. Puerto Rico,[243] the constitutionality of that statute was held valid.[244] The net effect of Posadas was to restrict or prohibit the advertising of actual gambling activities in the US. However, Posadas was limited by Greater New Orleans Broadcasting Assoc. Inc. v. US[245] and challenged by a parallel Nevada test case[246] supported by gambling industry lobbyists to allow for nationwide advertising of gambling activities—just the effective opposite of the ban on the television advertising of tobacco products.

The Interface of Gambling-Financed Research and the US Supreme Court: Brief Amicus Curiae for the AGA in Support of Petitioners, Greater New Orleans Broadcasting Association, Inc. v. US (US Supreme Court, October Term 1998, No. 98-387)

The cases involving the advertising of gambling also highlight other issues. For example, is it misleading to the US Supreme Court for an amicus brief to substantiate most of its arguments by referencing studies which were paid for by the lobbyists filing the brief—without specifically highlighting to the US Supreme Court that those studies were financed by the lobbyists?

In its amicus brief for the Greater New Orleans case, the AGA stated specifically 'The AGA therefore offers this Court an overview of the more current and reliable studies of the social and economic impacts of the commercial casino industry'.[247] Furthermore, the AGA's amicus brief claimed 'the conclusion reached in Posadas will not shield §1304 from constitutional attack unless the government can satisfy its burden to present credible evidence of the deleterious effects of casino gaming'.[248] To support its argument, the AGA cited as its primary exhibit (designated as 'AGA1 1')[249] Casinos and Crime: An Analysis of the Evidence (December 1997) by Jeremy Margolis.[250] This exhibit, for example, was the most frequently cited so-called 'authority'.[251] However, it was financed by the AGA[252] and during 1997, Jeremy Margolis was registered on the Illinois 1997 Lobbyist List[253] as representing casinos, which was his situation throughout most of the 1990s.[254] Throughout the 1990s, Margolis was a registered Illinois lobbyist for several gambling interests such as Harrah's; Hilton; Caesar's World; Circus, Circus; and the Jo Daviess Riverboat Corporation.[255]

Regardless of these issues, the Greater New Orleans case was decided in favor of the gambling interests' practical concerns to eliminate restrictions on the advertising of gambling, and nebulous gambling-financed research was being utilized to substantiate industry claims.

In summary, it was apparent to the Los Angeles Times, that 'the industry ... [was] waging a multi-million dollar campaign to discredit critics and blunt the work of ... [the] national commission exploring the human cost of legalized wagering'.[256] Apparently, this was a 'carefully crafted effort—backed by the ... casinos and other powerful Las Vegas interests ...'.[257]

CONCLUSION

According to Tom Grey, the Executive Director of the NCALG (1999),

The NGISC report will act like the Surgeon General's 1964 report on smoking and health—a wake-up call for America on the dangers of gambling. This report makes it very clear that gambling is not just another form of recreation—it is a very addictive and destructive activity. In fact, the hazards of gambling are so severe that the

commission called on schools from elementary levels through college to wake-up and warn students 'of the dangers of gambling'. In short, gambling is the next tobacco.[258]

Owing to costs created by new addicted gamblers, bankruptcies, and crime once gambling is legalized, some have argued that gambling establishments should be held liable for the costs they place on society.[259] Legal experts have suggested that there might be a lot of money made by suing the entities that get people addicted to gambling.[260] This trend is evidenced by the tobacco mega-lawsuits that have reached into the billions of dollars.[261] Upon close inspection, there are many parallels in the behavior of the tobacco industry *vis-à-vis* the gambling industry. These similarities are evidenced in similar tactics involving political contributions and lobbying efforts, as well as industry-sponsored studies attempting to obfuscate, or even negate, legitimate research. Furthermore, the marketing techniques of the gambling industry largely parallel those of the tobacco industry—which can be visualized when the Joe Camel of the 1990s becomes the Joe Casino of the 21st century.[262] As one commentator rhetorically quizzed the public: 'If you thought Joe Camel was bad, what would you think about an industry that entices kids to play slot machines?'.[263]

Considering that teenagers during the 1990s were already evidencing double the pathological and problem gambling rate of the adult population, the problem of addicted gamblers and the associated cost factors are projected to continue to increase in the future as more legalized gambling activities spread to new jurisdictions. Accordingly, the states would be well advised to calculate their socio-economic costs involving gambling using calculation methods comparable to the costs involving tobacco. According to the NGISC *Executive Summary*, 'it is conceivable that someday gambling enterprises may be franchised and, at least in parts of the country, become as common as fast food outlets are today'.[264] Therefore, with market saturation via legalized gambling a definite possibility whereby portions of the country could parallel the saturated effects of a market such as the Mississippi Gulf Coast, Nevada, or Atlantic City, states will need to project their costs into the future—which means billions of dollars paralleling the tobacco settlements.

NOTES

1. Gambling on the future. *The Economist*, 26 June 1999, pp. 27, 28 (hereinafter Future, *Economist*).
2. Associated Press (1997, p. M9) (hereinafter *New vice*). For the official designation of 'pathological gambling' see American Psychiatric Association (1994) ('pathological gambling').
3. Berns (1996).
4. *Ibid*.
5. *New vice*, supra note 2, p. M9.
6. *Ibid*. Some editions of this Associated Press report stated that the profit margin for the gambling industry was '$500-billion-a-year', but this was an obvious typographical error, because the 'gross revenues' in 1997 were approximately $50 billion.
7. See, e.g., Novak (1998, p. 58) (hereinafter Novak).
8. Address by Tom Grey, Executive Director, NCALG (1999) (hereinafter Tom Grey Speech).
9. National Gambling Impact Study Commission, Executive Summary 30, rec. 3–6 (June 1999) (NGISC, 1999a; hereinafter NGISC Exec. Summary).
10. Tom Grey Speech, supra note 8.
11. See Padgett (1999) (hereinafter Padgett) and Dagan and White (2000) (hereinafter Dagan and White).
12. See Dagan and White, supra note 11, p. 354 and Motley and Kearse (1999), p. 46 (hereinafter *Secrets*).
13. Gross (1998, pp. 203, 205) (hereinafter Gross).
14. Public Law No. 104-169, 104th Congress, 1st Session (signed into law 3 August 1996).
15. *Ibid*. §§ 3(a)-(b)(1), 4(b).
16. Berns (1996, p. D2). See generally, Regulation of Tobacco Products: Hearings before the Subcommittee on Health and the Environment of the House Committee on Energy and Commerce, 103rd Congress, 2nd Session (1994).
17. Hamilton and Springen (1998, p. 12).
18. *Ibid*.
19. *Ibid*.
20. After tobacco, what's next? Perhaps your vice will be targeted. *Las Vegas Review Journal*, 25 May 1998 (www.lvrj.com/lvrjhome/1998/May-25-1998).
21. For an introduction to these issues, see Kindt (1995c), reprinted in *National Gambling Impact and Policy Commission Act: Hearing on H.R. 497 before the House Committee on the Judiciary*, 104th Congress, 1st Session 528 (29 September

1995); Program in Arms Control, Disarmament, and International Security, University of Illinois (1996).

22. Paul Samuelson won the Nobel Prize in Economics in 1970.

23. Samuelson (1976). Significantly, by the mid-1990s, apparently more than half of gamblers (51%) were gambling for money, while only 34% (according to one survey) were gambling for entertainment. Thus, Samuelson's observation would apply to much of gambling, but not all of it. See footnote 178, *infra* and accompanying text.

24. Van Der Slik (1990, p. 30). This particular article was printed in a publication directed toward employees of the state of Illinois. Illinois is a leading state developing different legalized gambling venues.

25. See, e.g., Statement of Professor John Warren Kindt (1998) (hereinafter US and International Costs).

26. *Ibid.*

27. *Ibid.*

28. *Ibid.*

29. *Ibid.*

30. Gambling: socio-economic impacts and public policy. *The Wilson Quarterly*, Autumn 1998, p. 141.

31. When the wheels won't stop. *The Economist*, December 1997, p. 22 (hereinafter Stop, *Economist*). For the specific analysis financed by the gambling industry, see Division on Addictions, Harvard Medical School, *Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-Analysis* (Shaffer *et al.*, 1997) (hereinafter Harvard Addictions Meta-analysis); Press Release of Harvard Division on Addictions (1997) (From 0.84% in 1993 'the prevalence rate for 1994–1997 grew to 1.29% of the adult population') (hereinafter Harvard Division on Addictions Press Release).

32. Stop, *Economist*, supra note 31, p. 22.

33. Drinan (1999, p. 17) (hereinafter Drinan).

34. Gambling with gaming. *First Things: Journal of Religion and Public Life*, August 1999, p. 87.

35. Gross, supra note 13, p. 204.

36. *Ibid.*

37. Ferrell and Gold (1998, pp. A1, A24) (hereinafter *Casino Industry Fights*).

38. Gross, supra note 13, p. 206.

39. NGISC Exec. Summary, supra note 9, p. 32, recommendation 3-17. For a classic article on the revolving door from gambling regulator to gambling industry employee, see Pulley (1998, p. A1).

40. *Casino Industry Fights*, supra note 37, pp. A1, A24.

41. Future, *Economist*, supra note 1, p. 28.

42. *Ibid.*

43. *Casino Industry Fights*, supra note 37, pp. A1, A24.

44. Dyer (1998, p. 1555) (hereinafter Dyer).

45. Cohen (1996, p. 488).

46. Dyer, supra note 44, p. 1555.

47. *Ibid.*

48. *Ibid.*

49. *Secrets*, supra note 12, p. 46. The Council for Tobacco Research was the focus of a federal investigation which gained new impetus in 1997. Kelder and Daynard (1997, pp. 63, 82) (hereinafter Kelder and Daynard).

50. *Casino Industry Fights*, supra note 37, pp. A1, A24.

51. Hanson and Kysar (1999, pp. 1422, 1491) (hereinafter *Behavioralism*). For an analysis of comparable gambling industry tactics, see Wheeler (1999, pp. A17–A18) (hereinafter *Research Financed by Industry*).

52. *Secrets*, supra note 12, p. 46.

53. *Ibid.*

54. For a classic article, see *Casino Industry Fights*, supra note 37, pp. A1, A24.

55. The National Impact of Casino Gambling Proliferation: Hearing before the House Committee on Small Business, 103rd Congress, 2nd Session 8 (1994) (testimony of Economics Professor Earl Grinols, University of Illinois) (hereinafter *Congressional Gambling Hearing 1994*).

56. *Ibid.*

57. *Ibid.*

58. Florida Office of the Governor (1994). See also Florida Department of Law Enforcement (1994) and Florida Department of Commerce (1994).

59. *World Book Encyclopedia* (1994, pp. 391, 398–400).

60. *Ibid.*

61. Keating (1996, p. 142).

62. *Ibid*, pp. 142–149.

63. Miller and Schwartz (1999, pp. 124, 125)

64. Future, *Economist*, supra note 1, p. 27.

65. *Ibid.*

66. Drinan, supra note 33, p. 17.

67. Future, *Economist*, *supra* note 1, p. 27.

68. Rolling the dice. *American Enterprise*, July 1999, p. 17.

69. Drinan, supra note 33, p. 17.

70. Harvard Addictions Meta-analysis, supra note 31; Harvard Division on Addictions Press Release, supra note 31.

71. Campbell and Lester (1999, p. 126) (hereinafter Campbell and Lester).

72. Gross, supra note 13, p. 203. For an analysis of the extremely sophisticated tracking of frequent gamblers, see Binkley (2000, p. A1) (hereinafter Binkley).

73. Gross, supra note 13, p. 203.

74. *Ibid.*

75. *Ibid.*

76. *Ibid.*

77. NGISC Exec. Summary, supra note 9, pp. 4–5.

78. Gross, supra note 13, p. 205.

79. *Ibid.*

80. See, *ibid.*, pp. 205–206.

81. *See* Lesieur (1998, pp. 153, 154) (hereinafter *Costs and Treatment*).

82. *Ibid.* The 'studies show that the prevalence of problem and pathological gambling has increased

in states where the *availability* of gambling has increased as well'. *Ibid.* (emphasis added). For a comparison with Australia, a country with the most gambling venues and concomitant extensive socio-economic costs, see Australian Productivity Commission (1999).

83. Gross, supra note 13, p. 210.
84. Future, *Economist*, supra note 1, p. 27.
85. See Campbell and Lester, supra note 71, p. 126.
86. *Costs and treatment*, supra note 81, p. 158.
87. *Ibid.*, p. 156.
88. *Ibid.*, p. 158.
89. *Ibid.*
90. *Ibid.*, pp. 160–162.
91. *Ibid.*, p. 159; Stewart and Brown (1988, p. 284).
92. See generally, Rabin and Sugarman (1993) (hereinafter Rabin and Sugarman).
93. Medical Care Recovery Act, 42 USC § 2651 *et seq.*; Medicare Secondary Payment Provisions of the Social Security Act, 42 USC § 1395y.
94. 18 USC § 1961 *et seq.* For the classic federal RICO case, see US v. Philip Morris Inc., 2000 US Dist. LEXIS 14211; 2000 Daily Journal DAR 10757 (Civil Action No. 99-2496 (GK)) (D.C. Cir. 28 September 2000).
95. For some in-depth discussions of the legal theories supporting states' lawsuits against the firearms industry, see Kopel (2000, p. 1213) (hereinafter Kopel); Vernick and Teret (2000, p. 1193).
96. For a discussion of the theory of liability based on nuisance in tort law, see Note (2000, p. 1521) (hereinafter *Nuisance Abatement*). For tables comparing the comparative dangers of guns and cars, see Kopel, supra note 95, pp. 1220–1221.
97. For an example of the conflict between the US Government and firearms manufacturers, see Butterfield and Lacey (2000, p. A1). See also *Nuisance Abatement*, supra note 96, p. 1521. For a copy of one firearms/government agreement, see www.smith-wesson.com/misc/agreement.html.
98. Rabin and Sugarman, *supra* note 92, p. 110.
99. *Ibid.*, p. 111.
100. 391 F.2d 97 (5th Cir. 1968), rev'd, 409 F.2d 1166 (5th Cir. 1969). For an overview of the interface between culture and the government/public policies involving the tobacco industry, see Rabin and Sugarman, supra note 92. See generally Kluger (1996) (hereinafter Kluger).
101. For a historical discussion of these cases, see Schemmel (1994, p. 657, 665–666). See also Symposium (1999, p. 693) (hereinafter *Torts and Tobacco*). For an interesting discussion suggesting that moral condemnation should occur via democratic deliberation in the political process instead of via tort litigation, see Nagareda (1998, p. 1121).
102. 391 F.2d 99, 100–101. For marketing of gambling opportunities, see Binkley, supra note 72, p. A1.
103. 391 F.2d 99, 100–101.
104. Green v. American Tobacco Co., 409 F.2d 1166 (5th Cir. 1969) rev'g 391 F.2d 97 (5th Cir. 1968). Since this case, the alleged/proven health hazards associated with tobacco usage have been docu-

mented in such tomes as *Ashes To Ashes*. This book gives a detailed account of the tobacco industry and the effects of smoking. Nearly a quarter of all Americans over 18 are smokers (*i.e.*, 50 million people). Kluger, supra note 100, at xii. In Asia, Africa and Eastern Europe, the tobacco industry was growing during the 1990s owing to advertisements portraying smokers as wealthy and sophisticated. *Ibid.* The tobacco industry was portrayed as reassuring its customers, disarming its enemies, befriending decision-makers, and minimizing government regulation in its business. *Ibid.*, p. xvii. Of all smokers, 90% apparently started before the age of 20. *Ibid*, p. xviii. Cigarette smoke was cited as causing 'deeply conditioned behavior and a corrosive effect on human tissue'. *Ibid.*

105. See Cipollone v. Liggett Group, Inc., 593 F.Supp. 1146 (D.N.J. 1984), *modified* 789 F.2d 181 (3d Cir. 1986). For historical/societal context, see generally Dagan and White supra note 11; Vandall (1991, p. 405) (hereinafter *Costs of Smoking*).
106. 499 US 935 (1991), *aff'd in part, rev'd in part*, 505 US 504 (1992).
107. 505 US 504, 524.
108. *Ibid.* p. 504.
109. For more analysis, see Gangarosa *et al.* (1994, pp. 81, 130).
110. *Ibid.* For background context, see *Smith v. R.J. Reynolds*, 9.4 Tobacco Prods. Litigation Rep., 2.105–2.106 (N.J. Superior Ct. App. Div. 1993) (hereinafter Litigation Rep.).
111. See Vandall (1998, pp. 473, 475) (hereinafter Vandall); Litigation Rep., supra note 110, 2.106 ($3–4 million in costs).
112. Vandall, supra note 111, p. 475 n.14. See generally, Townsley and Hanks (1988, p. 275) (one lawyer for the tobacco industry puffing that instead of making the tobacco companies spend all their money they would make 'that other son-of-bitch spend all of his').
113. Vandall, supra note 111, p. 475 n.15.
114. Litigation Rep., supra note 110, 2.105.
115. 870 F.Supp. 1425 (E.D. La. 1994); *rev'd and remanded* 84 F.3d 734 (5th Cir. 1996). An interesting parallel case was *Broin v. Philip Morris*, 641 So.2d 888 (Fla. 1994) (class action by nonsmoking flight attendants).
116. 870 F.Supp. 1425, *et seq.* (E.D. La. 1994).
117. *Ibid.*, p. 1430. See Vandall, supra note 111, p. 475 n.19. In 2000, Dr. Scott Tomar at the Center for Disease Control and Prevention reported a new study linking half of the nationwide cases of severe gum disease to cigarette smoking. Associated Press (2000b, p. A3).
118. 870 F.Supp., pp. 1425, 1430; see Vandall, supra note 111, p. 475 n.19.
119. Kelder and Daynard, supra note 49, p. 72.
120. Castano v. American Tobacco Co., 160 F.R.D. 544 (E.D. La. 1995), *rev'd*, 84 F.3d 734, 751–752 (5th Cir. 1996).

121. For an excellent summary of these cases, see Kelder and Daynard, supra note 49, p. 73.
122. 750 So.2d 781, 2000 Fla. App. LEXIS 1716, 25 Fla L. Weekly D 477 (Fla. Dist. Ct. App. 3d Dist. 2000); see Engle v. R.J. Reynolds, 11.1 Tobacco Prods. Litigation Rep. 3.1 (1996).
123. Connor (2000).
124. Ibid. See also Geyelin and Fairclough (2000, p. A1); Lavelle and Cannon (2000, p. 26).
125. Cohen (2000a, p. 44).
126. Ibid.
127. Fairclough and Geyelin (2000, p. A3).
128. Ibid.
129. Loney (2000).
130. Ibid.
131. Pulley (1997, p. A1).
132. See, e.g., Simurda (1994, pp. 36, 38) ('Eadington, by the way, makes money off the industry running training sessions for casino managers and sponsoring an international gambling conference that draws from industry and academia'.)
133. S. 704—The Gambling Impact Study Commission, Hearing before the Senate Comm. on Governmental Affairs, 104th Cong., 1st Sess., 156-61 (testimony and prepared statement of William Eadington, arguing against the establishment of the Nat'l Gambling Impact Study Comm'n) [hereinafter Hearing before Governmental Affairs 1995]. Even so, the National Gambling Impact Study Commission was signed into law 3 August 1996. Public Law No. 104-169, 104th Congress, 1st Session (signed into law 3 August 1996).
134. During at least one conference's panel discussion, William Eadington of the University of Nevada at Reno declined to estimate the socio-economic costs associated with pathological gamblers. When challenged by Tom Grey, the Executive Director of the NCALG, William Eadington refused to give any estimates or numbers. Panel of the 'Impact of Legalized Gambling on Historic Communities', 50th National Preservation Conference, National Trust for Historic Preservation, Chicago, IL, 18 October 1996 (hereinafter 50th Conf.). Tom Grey was incredulous that William Eadington and the University of Nevada had been studying gambling over 20 years and yet Eadington 'could not even estimate the cost of a pathological gambler'. Ibid. (exchange between William Eadington, Dir., Inst. For the Study of Gambling and Commercial Gaming, Univ. Nev.-Reno, and Tom Grey, Exec. Dir., Natl. Coalition Against Legalized Gambling).
   In another example, when William Eadington was questioned during a panel discussion at a 1999 conference, he again declined to admit that there were any direct or indirect costs caused by pathological and problem gamblers. Panel Discussion, Conf. on 'Betting on the Future: Taking Gaming and the Law into the 21st Century', Benjamin N. Cardozo School of Law, 15-16 November 1999.
135. NGISC (1999b, chapter 7) (hereinafter NGISC Final Report).

136. Some of the first cost 'summaries' with citations may be found at Congressional Gambling Hearing 1994, supra note 55, at 77, et seq. (statement of Prof. John W. Kindt) (summarizing studies between $13000 and $52000 per pathological gambler in 1994). With regard to 1.5 million new pathological gamblers between 1994-1997, the costs would be from $19.5 billion to $78 billion before adjusting to current dollars. Public Memorandum, 'Harvard Study', Prof. William Thompson, UNLV, Dec. 6, 1997. Using an estimated population base of 200 million in 1997, Prof. Thompson calculated 2.6 million total pathological gamblers at a 'low' cost of $9400 per year equals $24 billion per year. Adjusted for a population rate of the U.S. Bureau of the Census at 268 million, the numbers are 3.5 million total pathological gamblers at $9400 per year equals $33 billion per year. 'Now actually the $9400 figure is a low one; I have not seen a lower one', according to Professor Thompson. Ibid. '[A]pply Thompson's ... numbers to the Harvard University estimate of the entire number of ... [pathological] gamblers in the United States, that's a $40 billion price tag, more than double the $16.8 billion in taxes ... from legalized gambling'. Nesbitt (1998, pp. A1, A4). By comparison, Harvard Division on Addictions reports 4.4 million total pathological gamblers and at Thompson's figure of $9400 per year, this equals $41 billion. Harvard Addictions Meta-Analysis, supra note 31, at 51, Table 16. Alcohol and Drug Abuse Administration, Maryland Department of Health and Mental Hygiene, Task Force on Gambling Addiction in Maryland pp. 59-61 (Valerie C. Lorenz & Robert M. Politzer, Co-chairs, 1990). '[A]t an average cost of $30000, pathological gambling cost society about $80 billion in 1998'. Ibid. at 59. In 2000 dollars, the average cost would be approximately $40000 with total U.S. socio-economic costs of $107 billion. Bur. Labor Statistics, U.S. Dept. Labor 2000.
137. American Medical Association (1994).
138. See, e.g., Gold (1998, p. A1) (hereinafter Gold); Casino Industry Fights, supra note 37, p. A1.
139. 'Measuring the Costs of Pathological Gambling', Address by Prof. Henry R. Lesieur, Illinois State University, at the Nationall Conference on Gambling Behavior, National Council on Problem Gambling, Chicago, IL, 3-5 September 1996 (hereinafter 'Measuring the Costs').
140. Ibid.
141. Vandall, supra note 111, p. 478. See generally Torts and Tobacco, supra note 101.
142. Vandall, supra note 111, p. 479.
143. Moore v. American Tobacco, 9.2 Tobacco Prods. Litigation Rep. 3.45-3.46 (Miss Chan. Ct. 1994) (suit in equity before a judge without a jury, claiming restitution for unjust enrichment). See generally, Torts and Tobacco, supra note 101; Vandall, supra note 111, p. 478. Mississippi's complaint in the case was drafted by a law firm

specializing in asbestos litigation: Ness, Motley, Loadholt, Richardson & Poole of Charleston, South Carolina.

144. Apparently bowing to the political clout of the tobacco companies, Governor Kirk Fordice of Mississippi brought a separate lawsuit to negate Attorney General Moore's suit by claiming that Moore needed gubernatorial permission before filing his case, but Moore persisted and eventually settled Mississippi's claims for $3.2 billion. See Holland (1997, p. A2). For this historical discussion, see Vandall, supra note 111, p. 480.

145. For an excellent summary of cases, see Kelder and Daynard, supra note 49, pp. 73–75.

146. This theory of litigation was refined by several attorneys: Susan Nial of Barnwell, South Carolina, as well as Richard Scruggs and Steve Bozeman of Pascogoula, Mississippi. Other significant contributors were Dr Ray Gangarosa and Northeastern University Law Professor Richard Daynard.

147. Gangarosa et al., supra note 109, p. 85 n.19.

148. See ibid. p. 85.

149. Florida v. American Tobacco, 10.1 Tobacco Prods. Litigation Rep. 3.1–3.5 (Florida Circuit Court, 1995).

150. Florida State Ann. §409.910(1).

151. Ibid. (emphasis added).

152. Ibid. (as amended 1998 Florida Laws c. 98–411, §3); Rhee (1997, p. A1). See also Vandall, supra note 111, pp. 480–481.

153. See, e.g., Novak, supra note 7, p. 58.

154. American Psychiatric Association (1994) ('pathological gambling').

155. See endnotes 51–54, 103–140 infra and accompanying text.

156. Hodge (2000) (hereinafter Hodge). The first significant article on pathological gambling and problem gambling to be printed in the gambling industry's trade magazine, International Gaming and Wagering Business was not published until 1996. Buntain (1996, p. 1) (focusing on pathological gambling as it affected casino employees) (hereinafter Problem).

157. Turner (1995, p. 1) (citing article in the Union-News (Springfield, Massachussets), 10 May 1995) (emphasis added) (hereinafter Turner).

158. Tofani (1998, p. A1) (hereinafter Companies bet).

159. The NCRG's parent group is the Gaming Entertainment Research and Education Foundation. See, e.g., Hodge, supra note 156.

160. Alm (1996).

161. Gaming Association acts as clearinghouse, Reno Gazette-Journal (Reno, Nevada), 27 October 1996, p. B5 (emphasis added). The NCRG 'is the first national organization to serve as a clearinghouse for information concerning problem and underage gambling'. Ruud (1996, p. 3) (apparently from a press release of the National Center for Responsible Gaming) (hereinafter Ruud). It was reported that the NCRG's Advisory Board 'will have control over the research agenda and findings'. Ruud, infra, p. 3 (emphasis added).

162. Casino Industry Fights, supra note 37, p. A1 (emphasis added).

163. Ibid.; see Companies bet, supra note 158.

164. Harvard Addictions Meta-analysis, supra note 31, Appendix 2.

165. For criticisms of Howard Shaffer's association with the gambling industry, see, e.g., Casino Industry Fights, supra note 37, p. A1 (a classic series in the Los Angeles Times); Companies bet, supra note 158; Research Financed by Industry, supra note 51, p. A17. Young (2000) (hereinafter Young).

166. See, e.g., US and International Costs, supra note 25.

167. Speaker's Question and Answer Session with Assoc. Professor Howard Shaffer, 'Understanding Gambling and Its Potential Health Consequences', Medical Center, University of Illinois, Chicago, 4 May 2000 (registration through the National Center for Responsible Gaming).

168. See, e.g., Letter from University of Illinois Research Associate, to Associate Professor Howard Shaffer, 10 May 2000 (requesting baseline numbers); Letter from Associate Professor Howard Shaffer to University of Illinois Research Associate, 31 May 2000 (stating uncertainty and declining to provide the numbers).

169. Casino Industry Fights, supra note 37, p. A1 (emphasis added).

170. See generally, ibid.

171. Young, supra note 165.

172. Associated Press (1998, p. 16).

173. Ibid.

174. Hodge, supra note 156.

175. Simpson (1998, pp. 1–2).

176. Mindsort (1996, p. 15) (emphasis added). See Conte (1998) (discussing the Colorado lottery's Mindsort marketing and other advertising concerns involving gambling).

177. Novak and Schmid (1997, pp. 1, 24–25).

178. See Mississippi State University (1995) Gambling Group, Social Science Research Center, National Gambling Survey, summarized in Division on Addictions, Harvard Medical School, The Wager, 17 March 1998.

179. See, e.g., 'Measuring the Costs', supra note 139, Table. See generally, Gosker (1999, p. 185).

180. Gwynne (1997, pp. 68, 69) (emphasis added).

181. Young, supra note 165.

182. Ibid.

183. Brecher (1972, pp. 226–227).

184. Vandall, supra note 111, pp. 473, 477. See generally, Kluger, supra note 100.

185. For a discussion of the societal impacts of these types of cases, see Cohen (2000a, p. 22).

186. See, e.g., Levin (1987, pp. 195, 222–223).

187. See Problem, supra note 156, p. 40.

188. Ibid., p. 41; see Sion (1996, p. A1). See also endnotes 131–137 supra and accompanying text.

189. Problem, supra note 156, p. 41.

190. See generally, Harvard Addictions Meta-analysis, supra note 31.

191. *Problem*, supra note 156, p. 40.
192. See, e.g., Gold (1998, p. A1).
193. *Problem*, supra note 156, p. 42.
194. See, e.g., note 58 supra and accompanying text (3 classic Florida Government reports). See also Kindt (1994a) (hereinafter *Economic Impacts*); Kindt (1994b), Kindt (1995a) (hereinafter *Gambling Subsidized*).
195. *Casino Industry Fights*, supra note 37, p. A1.
196. American Gaming Association (1996) (hereinafter 'AGA Guide'). Underage gambling regulations for Atlantic City provided for some more examples.
197. *Ibid.*
198. See, e.g., *ibid.* Appendices V, VII, VIII and IX.
199. *Costs of Smoking*, supra note 105, pp. 428–429. See also, Vandall, supra note 111, p. 477.
200. For a discussion of the differing methodologies, see NORC (1999, pp. 13–21). This NORC Report touted 'The eclipse of the South Oaks Gambling Screen' (SOGs) which was the majority standard utilized by practically all of the 152 previous studies, and the NORC proposed its own new standard based on the *Diagnostic and Statistical Manual of Mental Disorders* (4th edn. 1994) (i.e., DSM-IV). As of 2000, however, the NORC's proposed new standard was not being utilized in any other significant studies and the SOGs, as modified, was still retained and adhered to by the majority of academicians.
201. See, e.g., Siebel (1999).
202. Goodman (1994).
203. See generally, NGISC Final Report, supra note 135.
204. If curtailing tobacco usage is the government goal, some evidence suggests that increases in tobacco prices reduces underage consumers. See Chaloupka and Grossman (1996). As legalized gambling involves 'money as the product', it would be complex to draw parallel conclusions to Chaloupka and Grossman. The co-mingling of money as money raises interesting questions regarding traditional issues of 'price sensitivity'— although the 'administrative costs' and the 'consequential costs of illegal play' could be increased.
205. For an analysis of the interface between government policies which ignore consumer concerns and punish smokers, see O'Brien and Levy (2000, p. A35).
206. See generally, Kindt (1995b).
207. For detailed discussions of tax issues, see *Gambling Subsidized*, supra note 194.
208. See, e.g., *Casino Industry Fights*, supra note 37, pp. A1, A24; *Research Financed by Industry*, supra note 51, pp. A17–A18.
209. Vandall, supra note 111, p. 481.
210. It should be noted that although they are sometimes ill-defined, the large socio-economic costs associated with injuries resulting from firearms have prompted government entities, in particular, to initiate lawsuits against the firearms industry. See Kopel (2000); Vernick and Teret (2000). Ver-

nick and Teret utilize the annual editions of *The World Almanac* to provide current statistics. By comparison, the literature establishing the socio-economic costs of legalized gambling activities has developed more baselines for cost estimates. See, e.g. *Economic Impacts*, supra note 194, Tables 1–3; U.S. and International Costs, supra note 25, Tables 1–14.
211. For a summary of the socio-economic costs as of 1994, see *Congressional Gambling Hearing 1994*, supra note 55, pp. 77, 79–80 and nn.9–12.
212. See, e.g., Politzer *et al.* (1985). The *Journal of Gambling Behavior* changed its name to the *Journal of Gambling Studies* beginning with the Spring 1990 issue.
213. Compare Editorial Page, *Journal of Gambling Behavior* (Winter 1989), with Editorial Page, *Journal of Gambling Studies* (Spring 1990).
214. Compare *Journal of Gambling Studies* (1996), with *ibid.* (1997).
215. Compare Statement of Valerie Lorenz, PhD, Executive Director, Compulsive Gambling Center, Baltimore, Maryland, to the Illinois Gaming Board, Chicago, Illinois, 3 May 2000, with Statement of Frank Fahrenkopf, AGA, to the Illinois Gaming Board, Chicago, Illinois, 3 May 2000.
216. Harvard Addictions Meta-analysis, supra note 31.
217. See generally, *ibid.*
218. Letter from Howard Shaffer, editor, *Journal of Gambling Studies* to Valerie Lorenz, PhD, Executive Director, Compulsive Gambling Center, Baltimore, Maryland, 14 August 2000 (a 'public' letter).
219. *Ibid.*
220. *Casino Industry Fights*, supra note 37, p. A1; Gold, supra note 138, p. A1.
221. See generally *Research Financed by Industry*, supra note 51, p. A17. See also, *Casino Industry Fights*, supra note 37, p. A1.
222. See, e.g., *Hearing before Governmental Affairs 1995*, supra note 133, pp. 156–157 (2 November 1995) (testimony of William Eadington). 'I have been involved in gambling-related research for the past 25 years'. *Ibid.* 'I have written over 50 scholarly studies, edited a number of books and scholarly journals on gambling ...'. *Ibid.*
223. NORC (1999) (sections on costs of gambling, which have sparse footnotes/references). Based on the NORC Report, the NGISC Final Report devotes only two pages to the socio-economic costs associated with adult pathological and problem gambling. NGISC Final Report, supra note 135, pp. 4–13, 4–14.
224. *Ibid.*
225. *Ibid.*
226. Thompson *et al.* (1995, pp. 41–42).
227. See, e.g., *ibid.*
228. Berns (1998, p. D1).
229. See Vandall, supra note 111, p. 475, n. 14.
230. Racketeer Influenced and Corrupt Organizations Act, 18 USC § 1964(c).

231. Fed. R. Civ. P. 23(e). See generally, Fed. R. Civ. P. 23(a)–(f).
232. See Racketeer Influenced and Corrupt Organizations Act, 18 USC § 1964(c).
233. Stout (1999, p. A12) (hereinafter Stout). Of 46 states participating in the $206 billion tobacco settlement, only six were committed to reducing the public's use of tobacco. *Ibid.*
234. Associated Press (2000a, p. A8).
235. *Ibid.*
236. Compare *ibid.* with Stout, supra note 233, p. A12.
237. Hanson and Logue (1998, p. 1173).
238. *Ibid.*, p. 1174.
239. *Ibid.*
240. Address by Kelly (2000).
241. Games of Chance Act of 1948, Act No. 221 of 15 May 1948, § 1 *as amended* Puerto Rico Laws Ann., Title 15, § 77 (1972).
242. *Ibid.* § 8.
243. 478 US 328 (1986).
244. *Ibid.*, p. 330.
245. 527 US 173, 119 S.Ct. 1923 (1999).
246. Valley Broadcasting Co. v. US, 107 F.3d 1328 (D.C. Nev. 1997).
247. Brief *Amicus Curiae* for the American Gaming Association in Support of Petitioners, *Greater New Orleans Broadcasting Association, Inc. v. US,* US Supreme Court, October Term 1998, No. 98–387, p. 2.
248. *Ibid.*, p. 7.
249. See, e.g., *ibid.*, p. 8, n. 3, and 9.
250. *Ibid.*, p. 9.
251. *Ibid.*, p. v.
252. See, e.g., Palermo (1997) ('study by former Illinois State Police director Jeremy Margolis, paid for by the American Gaming Association').
253. Office of the Illinois Secretary of State (1997, pp. 5, 35) (e.g., Harrah's).
254. See, e.g., Office of the Illinois Secretary of State (1992, p. 44), (1994, p. 7), (1995, p. 8), and (1996, pp. 6, 38).
255. *Ibid.*
256. *Los Angeles Times* (special), as reprinted in, Casinos wage war on critics of gaming, *The Honolulu Advertiser,* 7 January 1999, p. A1; *Casino Industry Fights,* supra note 37, p. A1.
257. *Ibid.*
258. Press release of the NCALG (1999).
259. Future, *Economist,* supra note 1, p. 28.
260. *Ibid.*
261. Padgett, supra note 11, p. 34.
262. Edwards (2000).
263. *Ibid.* See also, *New vice,* supra note 2, p. M9.
264. NGISC Exec. Summary, supra note 9, p. 2.

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APPENDIX A

Table A1*. 1.5 Million People or 0.5% of U.S. Population Became *New Pathological* Gamblers in 3 Years from 1994–1997 (Division on Addictions, Harvard Medical School)

U.S. population (1994→1997)[1]	Increase in addicted gamblers[2] 0.84% (1994)→1.29% (1997)	New addicted gamblers (1994→1997)	New costs to U.S. taxpayers per year** (1998)
262 million→268 million	2.2 million[3]→4.4 million[4] (Harvard Addictions)	1.5 million[5]	$22.5 billion per year[6] Comparison: U.S. drug abuse costs = $70 billion per year[7]

* Footnotes at end of this article.
** Numbers may easily be adjusted to current dollars by visiting the 'Consumer Price Index (All Urban Consumers)' of the U.S. Bureau of Labor Statistics at http://stats.bls.gov/ and utilizing the following formula example:

$$\text{\$ Former Year} \times \frac{\text{CPI Current Year}}{\text{CPI Former Year}} = \text{\$ Current Year}$$

Example:
$$\$4\,000\,000\ (1983) \times \frac{166.6\ (1999)}{99.6\ (1983)} = \$6\,690\,763\ (1999)$$

Table A2*. 3.5 Million People or 2% of U.S. Population Became *New Problem* Gamblers in 3 Years from 1994–1997 (Division on Addictions, Harvard Medical School)

U.S. population (1994→1997)[1]	Increase in problem gamblers[2] 2.93% (1994)→4.88% (1997)	New problem gamblers (1994→1997)	New costs to U.S. taxpayers per year** (1998)
262 million→268 million	7.6 million[3]→11 million[4] (Harvard Addictions)	3.5 million[5]	$17.5 billion per year[6] Comparison: U.S. drug abuse costs = $70 billion per year[7]

* Footnotes at end of this article.
** Numbers may easily be adjusted to current dollars by visiting the 'Consumer Price Index (All Urban Consumers)' of the U.S. Bureau of Labor Statistics at http://stats.bls.gov/ and utilizing the following formula example:

$$\text{\$ Former Year} \times \frac{\text{CPI Current Year}}{\text{CPI Former Year}} = \text{\$ Current Year}$$

Example:
$$\$4\,000\,000\ (1983) \times \frac{166.6\ (1999)}{99.6\ (1983)} = \$6\,690\,763\ (1999)$$

Table A3*. 1.5 Million People or 0.5% of U.S. Population Became *New Pathological* Gamblers in 3 Years from 1994–1997 (Division on Addictions, Harvard Medical School)

U.S. population (1994–1997)[1]	Increase in pathological gamblers[2] (1994–1997) 0.84%→1.29%	New pathological gamblers (Est.) (1994–1997)	Total new costs (Est.)** (1994–1997)
262 million→268 million	2.2 million→4.4 million	1.3 million→2.2 million (Shaffer)[3]	Would not estimate?
		1.5 million (Kindt)[4]	$22.5 billion
		2.6 million→3.5 million (Thompson)[5] (total path. & prob. ?)	$24 billion→$41 billion
		American Medical Association[6] (total 1994 adjusted to 1997 $) (socio-medical costs)	$40 billion→$61 billion
		Goodman 1998[7] (Total path. & prob. ?)	$40 billion→$50 billion
		Eadington 1996→1999[8]	Would not estimate?
		Lorenz[9] (1988 adjusted to 1997 $)	$40 billion→$88 billion
		Range of new socio-economic costs:	$24 billion→$88 billion
		Probable range (partial costs):	$40 billion→$50 billion

←* AMA

* Footnotes at end of this article.
** Numbers may easily be adjusted to current dollars by visiting the 'Consumer Price Index (All Urban Consumers)' of the U.S. Bureau of Labor Statistics at http://stats.bls.gov/ and utilizing the following formula example:

$$\text{\$ Former Year} \times \frac{\text{CPI Current Year}}{\text{CPI Former Year}} = \text{\$ Current Year}$$

Example:
$$\$4\,000\,000\ (1983) \times \frac{166.6\ (1999)}{99.6\ (1983)} = \$6\,690\,763\ (1999)$$

Table A4*. Bankruptcy Costs**—Costs of 1.5 Million *New Pathological* Gamblers[1] 1994–1997

Socio-economic costs category	Average cost	Average cost (adjusted[2] to current $)**	Population creating new problem	Total new costs** (1998)
21% filed bankruptcies[3] > 20% (SMR research)[4] 23% (Wis., Thompson)[6] 28% (Quebec)[6]	$113 640[5] (1995)			
Costs per bankruptcy[7] (SMR) (WEFA: $33 308)[8]	$29 650 (1997)	$29 650		
Legal costs[8]	$505 → $1000 (1997)	$505 → $1000		
Court costs[8]	$418 → $837 (1997)	$418 → $837		
Admin. costs[9] (Thompson: 'too low')	$100 ? (1995)			
> 10% (projected to 15%) of total bankruptcy costs[10] of $40 billion per year[11] and 1.35 million filings[11] per year				

Pathological gamblers = 75% of total gambling/bankruptcy problem[12]
Problem gamblers = 25% of total gambling/bankruptcy problem[12]

Annual Range: ?
Total new bankruptcy costs due to pathological gamblers, 1994–1997: ?

Note: Usually ignored by bankruptcy attorneys, it was historically required that anyone filing for bankruptcy indicate money and assets lost because of gambling during the year, including 'dates, names, and places, and the amounts of money ... lost'. 11 U.S.C. Appendix, Bankruptcy Rules, Form 7, in I. Nelson Rose, Gambling and the Law 46 (1986).
* Footnotes at end of this article.
** Numbers may easily be adjusted to current dollars by visiting the 'Consumer Price Index (All Urban Consumers)' of the U.S. Bureau of Labor Statistics at http://stats.bls.gov/ and utilizing the following formula example:

$$\$ \text{ Former Year} \times \frac{\text{CPI Current Year}}{\text{CPI Former Year}} = \$ \text{ Current Year}$$

Example:
$$\$4\,000\,000 \ (1983) \times \frac{166.6 \ (1999)}{99.6 \ (1983)} = \$6\,690\,763 \ (1999)$$

Table A5*. Bankruptcy Costs**—Costs of 3.5 Million *New Problem* Gamblers[1] 1994–1997

Socio-economic costs category	Average cost	Average cost (adjusted[2] to current $)**	Population creating new problem	Total new costs** (1998)
31% filed bankruptcies[3] (10% Kindt Conservative No.)[4]	$40 066 (1995)			
Costs per bankruptcy[5] (SMR) (WEFA: $33 308)[6]	$29 650 (1997)	$29 650		
Legal costs[6]	$505 → $1000 (1997)	$505 → $1000		
Court costs[7]	$418 → $837 (1997)	$418 → $837		
Admin. costs[7] (Thompson: 'too low')	$100 ? (1995)			
> 10% (projected to 15%) of total bankruptcy costs[9] of $40 billion per year[9] and 1.35 million filings[9] per year				

Pathological gamblers = 75% of total gambling/bankruptcy problem[10]
Problem gamblers = 25% of total gambling/bankruptcy problem[10]

Annual Range: ?
Total new bankruptcy costs due to pathological gamblers, 1994–1997: ?

Note: Usually ignored by bankruptcy attorneys, it was historically required that anyone filing for bankruptcy indicate money and assets lost because of gambling during the year, including 'dates, names, and places, and the amounts of money ... lost'. 11 U.S.C. Appendix, Bankruptcy Rules, Form 7, in I. Nelson Rose, Gambling and the Law 46 (1986).
* Footnotes at end of this Article.
** Numbers may easily be adjusted to current dollars by visiting the "Consumer Price Index (All Urban Consumers)" of the U.S. Bureau of Labor Statistics at http://stats.bls.gov/ and utilizing the following formula example:

$$\$ \text{ Former Year} \times \frac{\text{CPI Current Year}}{\text{CPI Former Year}} = \$ \text{ Current Year}$$

Example:
$$\$4\,000\,000 \ (1983) \times \frac{166.6 \ (1999)}{99.6 \ (1983)} = \$6\,690\,763 \ (1999)$$

Table A6*. Crime Costs**—Costs of 1.5 Million *New* Pathological Gamblers,[1] 1994–1997 (Fla. Gov's Off. Rep't & Division on Addictions, Harvard Medical School)

Socio-economic costs category	Average cost (reported)	Average cost (adjusted[2] to current $)**	Population creating new problem	Total new costs**
Probation[3]	$1624			
Community control[3]	$858			
Incarceration[3] (75% Average)	$19 987			
Postsecondary release supervision[3]	$363			
Total	$22 832		1.5 million	$34.2 billion (1998)

* Footnotes at end of this article.

** Numbers may easily be adjusted to current dollars by visiting the 'Consumer Price Index (All Urban Consumers)' of the U.S. Bureau of Labor Statistics at http://stats.bls.gov/ and utilizing the following formula example:

$$\$ \text{ Former Year} \times \frac{\text{CPI Current Year}}{\text{CPI Former Year}} = \$ \text{ Current Year}$$

Example:

$$\$4\,000\,000 \ (1983) \times \frac{166.6 \ (1999)}{99.6 \ (1983)} = \$6\,690\,763 \ (1999)$$

Table A7*. Crime Costs**—Directly Because of Legalized Gambling, 1.5 Million People or 0.5% of U.S. Population Became *New Criminals* in 3 Years from 1994–1997 (Division on Addictions, Harvard Medical School)[1]

Socio-economic costs category	Average cost (reported)	Average cost (adjusted[2] to current $)**	Cumulative new costs to U.S. taxpayers per year** (1998)
Crime[3] & regulatory costs[4] (adjusted to entire population of pathological gamblers per year)[5]	$8,000 → $10 000		$12 billion → $15 billion
Average amounts stolen are not included, since economics argue these amounts are mere transfers of wealth (but these amounts are still transfers from the business community to the criminal community)			$4 billion per year → $5 billion per year
			Comparison: total U.S. tax revenues from gambling = $17.1 billion[6]

* Footnotes at end of this article.

** Numbers may easily be adjusted to current dollars by visiting the 'Consumer Price Index (All Urban Consumers)' of the U.S. Bureau of Labor Statistics at http://stats.bls.gov/ and utilizing the following formula example:

$$\$ \text{ Former Year} \times \frac{\text{CPI Current Year}}{\text{CPI Former Year}} = \$ \text{ Current Year}$$

Example:

$$\$4\,000\,000 \ (1983) \times \frac{166.6 \ (1999)}{99.6 \ (1983)} = \$6\,690\,763 \ (1999)$$

Table A8*. Crime Costs**—Partial (Incarceration) Costs of 1.5 Million *New* Pathological Gamblers,[1] 1994–1997

Socio-economic costs category		Average cost (reported)	Average cost (adjusted[2] to current $)**	Population creating new problem[10]	Total new costs**
80%	Admit committing civil offenses[3]				
70%	Steal for money[4]				
	100% (Lorenz, 1992)[5]				
	61.5% admit illegal acts[3]				
	44% stole from employer[6]				
	37% stole money[3]				
33%	Wrote bad checks[3]				
28%	Delinquent in taxes[3]				
25%	Involved in auto accidents[3]				
	47.3% admit speeding to gamble[3]				
25%	Indicted[4]				
	25% (Lorenz, 1992)[5]				
	18% gambling related arrests[6]				
20%	Admit forgery[3]				
12.5%	Serve time[4]				
	13% → 15% (Lorenz)[8]				
	20–30% pre-existing prisoners =	$20 225[7]			
	pathological gamblers[9] (Looney, 1998)				

* Footnotes at end of this article.
** Numbers may easily be adjusted to current dollars by visiting the 'Consumer Price Index (All Urban Consumers)' of the U.S. Bureau of Labor Statistics at http://stats.bls.gov/ and utilizing the following formula example:

$$\$ \text{ Former Year} \times \frac{\text{CPI Current Year}}{\text{CPI Former Year}} = \$ \text{ Current Year}$$

Example:
$$\$4\,000\,000 \ (1983) \times \frac{166.6 \ (1999)}{99.6 \ (1983)} = \$6\,690\,763 \ (1999)$$

Table A9*. Average Regulatory and Corrections Costs per Year Calculated as a Function of the Total Number of Pathological Gamblers**

Recurring costs per year	Average cost (reported)	Average cost (adjusted[1] to current $)**
Police/regulatory oversight costs		
State police[2]	$763 → $1801	
Local police/fire[3]	$207	
Regulatory[4]	$1018 → $1545	
Prosecutorial/incarceration costs		
District attorney[5]	$291 → $418	
Costs to courts[6]	$191 → $272	
White collar crime costs[7]	$4123 per year	
One-year fixed costs		
Intermediate incarceration[8]	$2100 per year	
	+$1092	
New prisons (fixed cost)[9]	—————————	
	$3192/Path. Gamb.	
Long-term incarceration costs		
$18 000 → $25 000 (Looney, 1997)[10]	$2225 per year	
$25 000 (Lorenz, 1992)[11]		
$20 224.65 (Corrections Yearbook)[12]	—————————	———————
	$8818 → $10 591	

* Footnotes at end of this article.
** Numbers may easily be adjusted to current dollars by visiting the 'Consumer Price Index (All Urban Consumers)' of the U.S. Bureau of Labor Statistics at http://stats.bls.gov/ and utilizing the following formula example:

$$\$ \text{ Former Year} \times \frac{\text{CPI Current Year}}{\text{CPI Former Year}} = \$ \text{ Current Year}$$

Example:
$$\$4\,000\,000 \ (1983) \times \frac{166.6 \ (1999)}{99.6 \ (1983)} = \$6\,690\,763 \ (1999)$$

Table A10*.   Number of U.S. Pathological Gamblers and Problem Gamblers (Division on Addictions, Harvard Medical School)[1]

Population base			1997 U.S. totals
U.S. 1997 268 million	1997 Pathological gamblers $\dfrac{\text{Adults} (> 20 \text{ years})}{2.2 \text{ million}}$ 1997 Problem gamblers	$\dfrac{\text{Adolescents} (10\text{-}19 \text{ years})}{2.2 \text{ million}}$	4.4 million
	$\dfrac{\text{Adults} (> 20 \text{ years})}{5.3 \text{ million}}$ 1997 Combined P&P	$\dfrac{\text{Adolescents} (10\text{-}19 \text{ years})}{5.7 \text{ million}}$	11 million
	$\dfrac{\text{Adults} (> 20 \text{ years})}{7.5 \text{ million}}$	$\dfrac{\text{Adolescents} (10\text{-}19 \text{ years})}{7.9 \text{ million}}$	15.4 million
	Total:	Range of estimates: Central estimate:	11.2 → 23 million 17.1 million

* Footnotes at end of this article.

Table A11.   Since 1991 Legalized Gambling has Destabilized the 'Readiness' of U.S. Military Personnel by a 66% Increase in Pathological Gambling[1]

Number of U.S military personnel[2]	0.5 → 1.35% increase in pathological gamblers 1994–1997				2 → 5.6% increase in problem gamblers			
	2% (1991)[1]	Straight 0.5% increase[3] 1994–1997	Proportional increase[4] 1994–1997	Total**	5.1% (1991)[1]	Straight 2% increase[6] 1994–1997	Proportional increase[7] 1994–1997	Total**
1.5 million	30 000	7500	20 250		78 000[5]	30 000	84 000	

All pathological and problem gamblers destabilize military 'readiness'.

Nota Bene: Since 1991, these problems have doubled.

** Numbers may easily be adjusted to current dollars by visiting the 'Consumer Price Index (All Urban Consumers)' of the U.S. Bureau of Labor Statistics at http://stats.bls.gov/ and utilizing the following formula example:

$$\$\text{ Former Year} \times \frac{\text{CPI Current Year}}{\text{CPI Former Year}} = \$\text{ Current Year}$$

Example:
$$\$4\,000\,000 \ (1983) \times \frac{166.6 \ (1999)}{99.6 \ (1983)} = \$6\,690\,763 \ (1999)$$

Table A12*.   Addictions Costs**—Costs of 1.5 Million New Pathological Gamblers[1] 1994–1997 Insurance Industry

Socio-economic costs category	Average cost (reported)	Average cost (adjusted[2] to current $)**	Population creating new problem	Total new costs**

47% Insurance fraud (33% of total ins. fraud)[3]
    47% of male pathological gamblers
      32% false claim/auto accident
      21% stole/ins. co. paid
      16% false claim (not fire/theft)
      15% faked burglary/property theft
      15% staged claim (not fire/theft)
      11% engaged in/profited from arson
      8% caused loss to insurance co.
      8% created/staged accident
	$65 468 (1987)			$6.6 billion[3,4] (Est. 1997)

52% Surrendered policies[3]
    Health Costs
    Costs of Suicides
	$13 200 (1987)			$13.2 billion[3] (Est. 1997)

* Footnotes at end of this article.

** Numbers may easily be adjusted to current dollars by visiting the 'Consumer Price Index (All Urban Consumers)' of the U.S. Bureau of Labor Statistics at http://stats.bls.gov/ and utilizing the following formula example:

$$\$\text{ Former Year} \times \frac{\text{CPI Current Year}}{\text{CPI Former Year}} = \$\text{ Current Year}$$

Example:
$$\$4\,000\,000 \ (1983) \times \frac{166.6 \ (1999)}{99.6 \ (1983)} = \$6\,690\,763 \ (1999)$$

Table A13*.   Addictions Costs**—Costs of 1.5 Million New Pathological Gamblers[1] 1994–1997

Socio-economic costs category	Average cost	Average cost (adjusted[2] to current $)**	Population creating new problem	Total new costs**
44% Steal from employer[3]				
34% Fired from or quit work[3] 　　　Ave. wage $33 410 (Looney)[4] 　　　Ave. wage $35 000 (Minn. Rpt.)[5]				
26% Divorced or separated[3] 　　　59% considered separating[6] 　　　26% Divorced or Separated[6] 　　　17% Divorced[7] 　　　10% Separated[7]				

* Footnotes at end of this article.
** Numbers may easily be adjusted to current dollars by visiting the 'Consumer Price Index (All Urban Consumers)' of the U.S. Bureau of Labor Statistics at http://stats.bls.gov/ and utilizing the following formula example:

$$\$ \text{ Former Year} \times \frac{\text{CPI Current Year}}{\text{CPI Former Year}} = \$ \text{ Current Year}$$

Example:
$$\$4\,000\,000 \ (1983) \times \frac{166.6 \ (1999)}{99.6 \ (1983)} = \$6\,690\,763 \ (1999)$$

Table A14*.   Addictions Costs**—Costs of 1.5 Million New Pathological Gamblers,[1] 1994–1997

Suicides

Socio-economic cost category	Average cost (reported)	Average cost (adjusted to current \$)[2]**	Population creating new problem	Total new costs**
79% Wanted to die[3]				
66% Contemplated suicide[4]				
67% (Looney)[3]				
47.5% (Frank)[5]				
49% Had definite plan to kill themselves[4]				
16% Had attempted suicide[4]				
25% (Thompson)				
18% (Looney)[3]				
13% (Frank, Lester, & Wexler)[5]				
1.1% in general population[5]				
0.1% Completed suicides				
In debt to business	\$75 262[10]			
	\$29 000[9]			
	\$28 315[4]			
	\$27 850[6]			
Ave. wage: lost productivity	\$23 000[9]			
	\$30 000[7]			
	\$33 410[4]			
	\$35 000[8]			

'Increase in legalized gambling ... may be leading to a significant increase in suicide rates among both residents of and visitors to communities where casinos are thriving....' Study links suicide increase to gambling, N.Y. Times, Dec. 16, 1997.[11]
http://webserv1.startribune.com/cgi-bin/StOnLine/article?thisSlug = suic16 >

Of all deaths[11]				
Suicides by out-of-state visitors				
Nongambling community		Gambling communities		
0.97%		4.28% (Las Vegas)		
		2.31% (Reno)		
		1.87% (Atlantic City)		

* Footnotes at end of this article.

** Numbers may easily be adjusted to current dollars by visiting the 'Consumer Price Index (All Urban Consumers)' of the U.S. Bureau of Labor Statistics at http://stats.bls.gov/ and utilizing the following formula example:

$$\text{\$ Former Year} \times \frac{\text{CPI Current Year}}{\text{CPI Former Year}} = \text{\$ Current Year}$$

Example:

$$\$4\,000\,000 \ (1983) \times \frac{166.6 \ (1999)}{99.6 \ (1983)} = \$6\,690\,763 \ (1999)$$

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Consumer Price Index—All Urban Customers*

U.S. Bureau of Labor Statistics (http://stats.bls.gov/)

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Annual
1971	39.8	39.9	40.0	40.1	40.3	40.6	40.7	40.8	40.8	40.9	40.9	41.1	40.5
1972	41.1	41.3	41.4	41.5	41.6	41.7	41.9	42.0	42.1	42.3	42.4	42.5	41.8
1973	42.6	42.9	43.3	43.6	43.9	44.2	44.3	45.1	45.2	45.6	45.9	46.2	44.4
1974	46.6	47.2	47.8	48.0	48.6	49.0	49.4	50.0	40.6	51.1	51.5	51.9	49.3
1975	52.1	52.5	52.7	52.9	53.2	53.6	54.2	54.3	54.6	54.9	55.3	55.5	53.8
1976	55.6	55.8	55.9	56.1	56.5	56.8	57.1	57.4	57.6	57.9	58.0	58.2	56.9
1977	58.5	59.1	59.5	60.0	60.3	60.7	61.0	61.2	61.4	61.6	61.9	62.1	60.6
1978	62.5	62.9	63.4	63.9	64.5	65.2	65.7	66.0	66.5	67.1	67.4	67.7	65.2
1979	68.3	69.1	69.8	70.6	71.5	72.3	73.1	73.8	74.6	75.2	75.9	76.7	72.6
1980	77.8	78.9	80.1	81.0	81.8	82.7	82.7	83.3	84.0	84.8	85.5	86.3	82.4
1981	87.0	87.9	88.5	89.1	89.8	90.6	91.6	92.3	93.2	93.4	93.7	94.0	90.0
1982	94.3	94.6	94.5	94.9	95.8	97.0	97.5	97.7	97.9	98.2	98.0	97.6	96.5
1983	97.8	97.9	97.9	98.6	99.2	99.5	99.9	100.2	100.7	101.0	101.2	101.3	99.6
1984	101.9	102.4	102.6	103.1	103.4	103.7	104.1	104.5	105.0	105.3	105.3	105.3	103.9
1985	105.5	106.0	106.4	106.9	107.3	107.6	107.8	108.0	108.3	108.7	109.0	109.3	107.6
1986	109.6	109.3	108.8	108.6	108.9	109.5	109.5	109.7	110.2	110.3	110.4	110.5	109.6
1987	111.2	111.6	112.1	112.7	113.1	113.5	113.8	114.4	115.0	115.3	115.4	115.4	113.6
1988	115.7	116.0	116.5	117.1	117.5	118.0	118.5	119.0	119.8	120.2	120.3	120.5	118.3
1989	121.1	121.6	122.3	123.1	123.8	124.1	124.4	124.6	125.0	125.6	125.9	126.1	124.0
1990	127.4	128.0	128.7	128.9	129.2	129.9	130.4	131.6	132.7	133.5	133.8	133.8	130.7
1991	134.6	134.8	135.0	135.2	135.6	136.0	136.2	136.6	137.2	137.4	137.8	137.9	136.2
1992	138.1	138.6	139.3	139.5	139.7	140.2	140.5	140.9	141.3	141.8	142.0	141.9	140.3
1993	142.6	143.1	143.6	144.0	144.2	144.4	144.4	144.8	145.1	145.7	145.8	145.8	144.5
1994	146.2	146.7	147.2	147.4	147.5	148.0	148.4	149.0	149.4	149.5	149.7	149.7	148.2
1995	150.3	150.9	151.4	151.9	152.2	152.5	152.5	152.9	153.2	153.7	153.6	153.5	152.4
1996	154.4	154.9	155.7	156.3	156.6	156.7	157.0	157.3	157.8	158.3	158.6	158.6	156.9
1997	159.1	159.6	160.0	160.2	160.1	160.3	160.5	160.8	161.2	161.6	161.5	161.3	160.5
1998	161.6	161.9	162.2	162.5	162.8	163.0	163.2	163.4	163.6	164.0	164.0	163.9	163.0
1999	164.3	164.5	165.0	166.2	166.2	166.2	166.7	167.1	167.9	168.2	168.3	168.3	166.6
2000	168.7	169.7	171.1	171.2	171.3	172.3	172.6	172.7					

* To update to current dollars the following formula example should be utilized:

$$\$ \text{ Former Year} \times \frac{\text{CPI Current Year}}{\text{CPI Former Year}} = \$ \text{ Current Year}$$

Example:

$$\$4000000 \ (1983) \times \frac{166.6 \ (1999)}{99.6 \ (1983)} = \$6690763 \ (1999)$$

Visit http://stats.bls.gov/ to update this table.

Footnotes for Table A1

1. U.S. Bur. Census, U.S. Dep't Com. (1997).
2. Div. on Addictions, Harvard Medical Sch., Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-analysis, at 43, Table 13 (Howard J. Shaffer, Matthew N. Hall, & Joni Vander Bilt, Dec. 15, 1997) [hereinafter Harvard Addictions Meta-analysis]; see Press Release of Harvard Medical Sch., 'Harvard Medical School Researchers Map Prevalence of Gambling Disorders in North America', Dec. 4, 1997 (From 0.84%, 'the prevalence rate [for pathological gamblers] for 1994–1997 grew to 1.29 percent of the adult population'.). Since the Harvard Addictions Meta-analysis did not include the calculations for essential elements, some reasonable estimates and conclusions consistent with the data need to be drawn.
3. Multiplying the prevalence percentage of 0.84% for 1994 with the yearly population number from the U.S. Bureau of the Census yields this baseline number of 'pathological gamblers' for 1994. Using the classic standard baseline of 0.77% established by the 1976 U.S. Commission on Gambling (which resulted in an estimated 1.1 million pathological gamblers in 1976), there would be a 0.52% increase in pathological gamblers from 1994 to 1997. U.S. Comm'n on the Rev. of a Nat'l Pol'y Toward Gambling, Gambling in America 73 (U.S. Gov't Printing Off. 1976) [hereinafter U.S. Comm'n on Gambling].
4. Without showing calculations, Table 16 of the Harvard Addictions Meta-analysis gives 4.4 million pathological gamblers in 1997, with a range between 2.9 and 5.8 million. Harvard Addictions Meta-analysis, supra note 2, at 51, Table 16.
5. Multiplying the prevalence percentage for 1997 with the yearly population number from the U.S. Bureau of the Census yields 3.5 million for an increase of 1.3 million new pathological gamblers. However, the Harvard Addictions Meta-analysis concludes that there were 4.4 million pathological gamblers in 1997, which would yield 1.3–2.2 million new pathological gamblers. Since the Harvard Addictions Meta-analysis did not include its calculations, 1.5 million new pathological

gamblers is conservative. Harvard Addictions Meta-analysis, supra note 2, at 43, Table 13 & 51, Table 16.
6. Experts estimating just the 'partial' costs per year of a pathological gambler range from $10000 (Thompson, 1997) to over $60000 (Politzer, Better Gov't Assoc. Chi.; adjusted for inflation). A fairly conservative $15000 per year is utilized at this juncture. Since in 1998 the average salary was approximately $30000 per year and since by definition pathological gamblers lose their productivity, the cost of $15000 per year is quite reasonable. U.S. Bur. Labor Statistics, U.S. Dep't Labor (1997).
7. *Medical Marijuana Referenda in America: Hearing before the Subcomm. on Crime of the House Comm. on the Judiciary*, 105th Cong., 1st Sess. (Oct. 1, 1997) (Statement of General Barry R. McCaffrey, Dir., U.S. Off. of Nat'l Drug Control Policy).

Footnotes for Table A2

1. U.S. Bur. Census, U.S. Dep't Com. (1997).
2. Div. on Addictions, Harvard Medical Sch., Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-analysis, at 43, Table 13 (Howard J. Shaffer, Matthew N. Hall, & Joni Vander Bilt, Dec. 15, 1997) [hereinafter Harvard Addictions Meta-analysis]; see Press Release of Harvard Medical Sch., 'Harvard Medical School Researchers Map Prevalence of Gambling Disorders in North America', Dec. 4, 1997 (From 0.84%, 'the prevalence rate [for pathological gamblers] for 1994–1997 grew to 1.29 percent of the adult population'.). Since the Harvard Addictions Meta-analysis did not include the calculations for essential elements, some reasonable estimates and conclusions consistent with the data need to be drawn.
3. Multiplying the prevalence percentage of 2.93% for 1994 with the yearly population number from the U.S. Bureau of the Census yields this baseline number of 'problem gamblers' for 1994. Using the classic standard baseline of 2.33% established by the 1976 U.S. Commission on Gambling would yield a 2.55% increase in problem gamblers from 1994 to 1997. U.S. Comm'n on the Rev. of a Nat'l Pol'y Toward Gambling, Gambling in

America 73 (U.S. Gov't Printing Off. 1976) [hereinafter U.S. Comm'n on Gambling].

4. Without showing calculations, Table 16 of the Harvard Addictions Meta-analysis gives 11 million problem gamblers in 1997, with a range between 7.1 and 14.9 million. Harvard Addictions Meta-analysis, supra note 2, at 51, Table 16.

5. Multiplying the prevalence percentage for 1997 with the yearly population number from the U.S. Bureau of the Census yields 13 million for an increase of 5.4 million new problem gamblers. However, the Harvard Addictions Meta-analysis concludes that there were 11 million problem gamblers in 1997, which would yield 3.4–5.4 million new problem gamblers. Since the Harvard Addictions Meta-analysis did not include its calculations, 3.5 million new problem gamblers is conservative. Harvard Addictions Meta-analysis, supra note 2, at Tables 13, 16.

6. A socio-economic cost figure of $5000 per problem gambler per year is probably too conservative considering that the average problem gambler is earning well over the average 1997 annual salary of approximately $30000 per year which is further increased since most problem gamblers are super-achievers, Type-A personalities. For a costs table see, John W. Kindt, *The Economic Impacts of Legalized Gambling Activities*, 43 Drake L. Rev. 51, 90–91, Table 3 (1994).

7. *Medical Marijuana Referenda in America: Hearing before the Subcomm. on Crime of the House Comm. on the Judiciary*, 105th Cong., 1st Sess. (Oct. 1, 1997) (Statement of General Barry R. McCaffrey, Dir., U.S. Off. of Nat'l Drug Control Policy).

Footnotes for Table A3

1. U.S. Bur. Census, U.S. Dep't Com. (1997).
2. Div. Addictions, Harvard Medical School, Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-analysis, at 43, Table 13 & 51, Table 16 (Howard J. Shaffer, Matthew N. Hall, & Joni Vander Bilt, Dec. 15, 1997) [hereinafter Harvard Addictions Meta-analysis]; Press Release of Harvard Medical School, 'Harvard Medical School Researchers Map Prevalence of Gambling Disorders in North

America', Dec. 4, 1997 (From 0.84% in 1993 'the prevalence rate for 1994–1997 grew to 1.29 percent of the adult population'.) [hereinafter Harvard Division on Addictions Press Release].

3. *Id.*
4. *The National Impact Of Casino Gambling Proliferation: Hearing before the House Comm. on Small Business*, 103d Cong., 2d Sess. (1994) (statement of Prof. John W. Kindt) ($13000–52000 per pathological gambler in 1994) [hereinafter *Congressional Gambling Hearing 1994*]. With regard to 1.5 million new pathological gamblers the costs would be $19.5–78 billion before adjusting to 1997 dollars.
5. Public Memorandum, 'Harvard Study', Prof. William Thompson, UNLV, Dec. 6, 1997. Using an estimated population base of 200 million, Prof. Thompson calculates 2.6 million total pathological gamblers at a 'low' cost of $9400 per year equals $24 billion per year. Adjusted for a population rate of the U.S. Bureau of the Census at 268 million, the numbers are 3.5 million total pathological gamblers at $9400 per year equals $33 billion per year. 'Now actually the $9400 figure is a low one; I have not seen a lower one', according to Professor Thompson. *Id.* '[A]pply Thompson's ... numbers to the Harvard University estimate of the entire number of ... [pathological] gamblers in the United States, that's a $40 billion price tag, more than double the $16.8 billion in taxes ... from legalized gambling'. Jim Nesbitt, *Costs of gambling might be economic as well as social*, Detroit Free Press, Apr. 5, 1998, at A1, A4 [hereinafter *Costs of gambling*]. By comparison, Harvard Division on Addictions reports 4.4 million total pathological gamblers and at Thompson's figure of $9400 per year, this equals $41 billion. Harvard Addictions Meta-analysis, supra note 2, at 51, Table 16.
6. Am. Medical Assoc., House of Delegates Resolution 430 (A-94) (1994).
7. *Costs of gambling*, supra note 5, at A4.
8. During at least one conference's panel discussion, William Eadington of the University of Nevada at Reno declined to estimate the socio-economic costs associated with pathological gamblers. When challenged by Tom Grey, the Executive Director of the National Coalition Against Legalized Gambling, Eadington refused to give any estimates or numbers.

Panel of the 'Impact of Legalized Gambling on Historic Communities', 50th Nat'l Preservation Conf., Nat'l Trust for Historic Preservation, Chicago, Ill., Oct. 18, 1996.

Tom Grey was incredulous that Eadington and the University of Nevada had been studying gambling over 20 years and yet Eadington 'could not even estimate the cost of a pathological gambler'. *Id.* (exchange between William Eadington, Dir., Inst. for the Study of Gambling and Commercial Gaming, Univ. Nev.-Reno, and Tom Grey, Exec. Dir., Nat'l Coalition Against Legalized Gambling).

In 1999 even after the conclusion of the 1999 National Gambling Impact Study Commission, Eadington was still declining to report any numbers involving social costs or to give any estimates. Question and Answer Panel Discussion with William Eadington, Conf. on 'Betting on the Future: Taking Gaming and the Law into the 21st Century', Benjamin N. Cardozo School of Law, Nov. 15-16, 1999 [hereinafter Cardozo Law School Conf., Panel Discussion].

9. Alcohol & Drug Abuse Admin., Md. Dep't Health & Mental Hygiene, Task Force on Gambling Addiction in Maryland 59-61 (Valerie C. Lorenz & Robert M. Politzer, Co-chairs 1990). '[A]t an average cost of $30000, pathological gambling cost society about $80 billion in 1988'. *Id.* at 59. In 1997 dollars, the average cost would be approximately $40000 with total U.S. socio-economic costs of $107 billion. Bur. Labor Statistics, U.S. Dep't Labor 1997 (for 1997 dollar estimates).

Footnotes for Table A4

1. The calculation of 0.5% of the U.S. population or 1.5 million new pathological (addicted) gamblers created by legalized gambling between 1994 and 1997 comes from: Div. on Addictions, Harvard Medical School, Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-analysis, at 43, Table 13 & 51, Table 16 (Howard J. Shaffer, Matthew N. Hall, & Joni Vander Bilt, Dec. 15, 1997) [hereinafter Harvard Addictions Meta-analysis]; see Press Release of Harvard Medical Sch., 'Harvard Medical School Researchers Map Prevalence of Gambling Disorders in North America', Dec. 4, 1997

(From 0.84%, 'the prevalence rate [for pathological gambling] for 1994-1997 grew to 1.29 percent of the adult population'.).

2. Bur. Labor Statistics, U.S. Dep't Labor (1997).

3. 'Measuring the Costs of Pathological Gambling', Address by Prof. Henry Lesieur, Ill. St. U., at the Nat'l Conf. on Gambling Behav., Nat'l Coun. on Problem Gambling, Chi., Ill., Sept. 3-5, 1996. The sample group consists of pathological gamblers.

4. SMR Research Corp., The Personal Bankruptcy Crisis, 1997, 118 (1997) (commissioned by the banking/credit community, Am. Bankers Assoc.) [hereinafter Bankruptcy Crisis]; Business Wire, *New national study shows correlation between gambling growth and the significant rise in personal bankruptcies*, Business Wire Features, June 27, 1997 [hereinafter *Correlation between gambling growth and bankruptcies*]. The sample group consists of pathological gamblers.

5. These costs are passed along to consumers. Bankruptcy Crisis, supra note 4, at 118. The Gamblers Anonymous (G.A.) mean average lifetime debt was $215406 but since current activity is more relevant to the present analysis the G.A. mean average current debt of $113640 is utilized. See, *id.* The amounts given for 'problem gamblers' in the report (on page 119) should not be confused with the amounts for G.A. members which equate to *pathological gamblers. Id.* at 118-119.

6. *Id.* at 124.

7. These costs are passed along to consumers. See generally, *id.* at 116-130. See also *Correlation between gambling growth and bankruptcies*, supra note 4.

8. WEFA Group, The Financial Costs of Personal Bankruptcy, at 1, 15, 19 (Feb. 1998) [hereinafter Costs of Bankruptcy].

9. See Ricardo Gazel, Dan Rickman, & William N. Thompson, 'Casino Gambling As An Economic Development Tool: Export Activity-Import Substitution Or Business Cannibalization And Perverse Income Redistribution? the Evidence From Wisconsin', paper presented to the W. Regional Sci. Assoc., 35th Ann. Mt'g, Napa, Ca., Feb. 28, 1996 (background research raised the administrative cost issue of bankruptcies).

10. Bankruptcy Crisis, supra note 4, at 123-124.

11. *Correlation between gambling growth and bankruptcies*, supra note 4. Costs of Bankruptcy, supra note 8, at 19 (total costs $44.3 billion and 1.33 million total filings).

12. See Bankruptcy Crisis, supra note 4, at 123–124.

Footnotes for Table A5

1. The calculation of 2% of the U.S. population or 3.5 million new problem gamblers created by legalized gambling between 1994 and 1997 comes from: Div. on Addictions, Harvard Medical School, Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-analysis, at 43, Table 13 & 51, Table 16 (Howard J. Shaffer, Matthew N. Hall, & Joni Vander Bilt, Dec. 15, 1997) [hereinafter Harvard Addictions Meta-analysis]; see Press Release of Harvard Medical Sch., 'Harvard Medical School Researchers Map Prevalence of Gambling Disorders in North America', Dec. 4, 1997 (From 0.84%, 'the prevalence rate [for pathological gambling] for 1994–1997 grew to 1.29 percent of the adult population'.).

2. Bur. Labor Statistics, U.S. Dep't Labor (1997).

3. To be extremely conservative, 10% is used instead of 31%.

4. SMR Research Corp., The Personal Bankruptcy Crisis, 1997, 119 (1997) (commissioned by the banking/credit community, Am. Bankers Assoc.) [hereinafter Bankruptcy Crisis]. Federal regulations require that bankruptcy cases must report the impact of gambling losses on the bankruptcy filing, but this requirement is often forgotten. However, SMR Research confirms a 1995 Minnesota study where 52% of bankruptcy filers claimed gambling losses, and the average total debt was $40066 which surpassed their average annual income of $35244 (but perhaps not all of this debt should be attributed to gambling). Professor Lesieur reported that at least 21% of pathological gamblers file for bankruptcy. This conclusion would be a reasonable conjecture when credit card debt (the second leading cause of bankruptcies) is factored into the analysis. This is also consistent with the casinos' reporting that 40–60% of the money wagered is not carried onto the

premises and suggesting that ATMs and credit be readily supplied to players; for example, including credit card machines directly at the card tables as approved by New Jersey regulators in September of 1996. *Id.* at 127; Robyn Taylor Farets, *Cash advances*, Int'l Gaming & Wagering Bus., Sept. 1996, at S8 ('In fact, about 40% to 60% of the cash now wagered in a casino is not carried onto the property in customer wallets....'). SMR Research concluded in 1997 that legalized gambling: (1) was the fourth leading cause of bankruptcies, (2) was the fastest growing cause, (3) carried a 'hidden cost' per household of $408, and (4) carried a U.S. total cost of $40 billion per year. See generally, Bankruptcy Crisis, infra, at 116–130; Business Wire, *New national study shows correlation between gambling growth and the significant rise in personal bankruptcies*, Business Wire Features, June 26, 1997 [hereinafter *Correlation between gambling growth and bankruptcies*]. Another survey by the University of Minnesota Medical School in April 1996 found results which roughly paralleled the 1995 Minnesota study, but the 1996 survey does not appear to distinguish as specifically the results in categories differentiating between pathological and problem gamblers. *Id.* at 119.

5. See generally, Bankruptcy Crisis, supra note 4, at 116–130. See also *Correlation between gambling growth and bankruptcies*, supra note 4.

6. WEFA Group, The Financial Costs of Personal Bankruptcies, at 1, 15, 19 (Feb. 1998) [hereinafter Costs of Bankruptcy].

7. See Ricardo Gazel, Dan Rickman, & William N. Thompson, 'Casino Gambling As An Economic Development Tool: Export Activity-Import Substitution Or Business Cannibalization And Perverse Income Redistribution? the Evidence From Wisconsin', paper presented to the W. Regional Sci. Assoc., 35th Ann. Mt'g, Napa, Ca., Feb. 28, 1996 (background research raised the administrative cost issue of bankruptcies).

8. Bankruptcy Crisis, supra note 4, at 123–124.

9. *Correlation between gambling growth and bankruptcies*, supra note 4.

10. See Bankruptcy Crisis, supra note 4, at 123–124.

Footnotes for Table A6

1. The calculation of 0.5% of the U.S. population or 1.5 million new pathological (addicted) gamblers created by legalized gambling between 1994 and 1997 comes from: Div. on Addictions, Harvard Medical School, Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-analysis, at 43, Table 13 & 51, Table 16 (Howard J. Shaffer, Matthew N. Hall, & Joni Vander Bilt, Dec. 15, 1997) [hereinafter Harvard Addictions Meta-analysis]; see Press Release of Harvard Medical Sch., 'Harvard Medical School Researchers Map Prevalence of Gambling Disorders in North America', Dec. 4, 1997 (From 0.84%, 'the prevalence rate [for pathological gambling] for 1994–1997 grew to 1.29 percent of the adult population'.).

2. Bur. Labor Statistics, U.S. Dep't Labor (1997).

3. Fla. Gov. Off., Casinos in Florida: An Analysis of the Economic and Social Impacts 72 (1994).

Footnotes for Table A7

1. The calculation of 0.5% of the U.S. population or 1.5 million new pathological (addicted) gamblers created by legalized gambling between 1994 and 1997 comes from: Div. on Addictions, Harvard Medical School, Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-analysis, at 43, Table 13 & 51, Table 16 (Howard J. Shaffer, Matthew N. Hall, & Joni Vander Bilt, Dec. 15, 1997) [hereinafter Harvard Addictions Meta-analysis]; see Press Release of Harvard Medical Sch., 'Harvard Medical School Researchers Map Prevalence of Gambling Disorders in North America', Dec. 4, 1997 (From 0.84%, 'the prevalence rate [for pathological gambling] for 1994–1997 grew to 1.29 percent of the adult population'.).

2. Bur. Labor Statistics, U.S. Dep't Labor (1997).

3. According to the authoritative Compulsive Gambling Center in Baltimore, Maryland, virtually all pathological gamblers commit crimes (one Australian study concludes 70%), but only 12.5–15% are incarcerated. Most pathological gamblers commit *multiple* property-acquisition crimes. Therefore, *over* 1.5 million

new crimes were committed from 1994 to 1997.

4. See detailed chart on 'Average Regulatory and Corrections Costs', infra. For the most authoritative report in this issue area, see Fla. Off. Gov., Casinos in Florida: An Analysis of the Economic and Social Impacts 67–76 (1994).

5. Obviously, every pathological gambler does not initially commit a property-acquisition crime in every year, but by definition, pathological gamblers will eventually engage in such crimes, although these crimes are often overlooked by family members and close associates. See, e.g., the citations in John W. Kindt, *Increased Crime and Legalizing Gambling Activities: The Impacts on the Socio-Economics of Business and Government*, 30 Crim. L. Bull. 538, 550–552 (1994).

6. Int'l Gaming & Wagering Bus. (Survey 1997).

Footnotes for Table A8

1. The calculation of 0.5% of the U.S. population or 1.5 million new pathological (addicted) gamblers created by legalized gambling between 1994 and 1997 comes from: Div. on Addictions, Harvard Medical School, Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-analysis, at 43, Table 13 & 51, Table 16 (Howard J. Shaffer, Matthew N. Hall, & Joni Vander Bilt, Dec. 15, 1997) [hereinafter Harvard Addictions Meta-analysis]; see Press Release of Harvard Medical Sch., 'Harvard Medical School Researchers Map Prevalence of Gambling Disorders in North America', Dec. 4, 1997 (From 0.84%, 'the prevalence rate [for pathological gambling] for 1994–1997 grew to 1.29 percent of the adult population'.).

2. U.S. Bur. Labor Statistics, U.S. Dep't Labor (1997).

3. Alcohol & Drug Abuse Admin., Md. Dep't Health & Mental Hygiene, Task Force on Gambling Addiction in Maryland 61 (Valerie C. Lorenz & Robert M. Politzer, Co-chairs 1990) [hereinafter Maryland Report].

4. Australian Study reported at 10th Int'l Conf. on Gambling & Risk Taking, Montreal, Canada, May 31–June 4, 1997. For more detailed analyses, see, e.g., Henry Lesieur,

Compulsive Gambling: Documenting the Social and Economics Costs, Table 2, at 21 (1991), published in part as Henry Lesieur, *Compulsive Gambling*, Society, May–June 1992, at 42. See also Henry Lesieur & Kenneth Puig, *Insurance Problems and Pathological Gambling*, 3 J. Gambling Behav. 123 (1987).

5. According to the Compulsive Gambling Center, virtually all pathological gamblers commit crimes, but generally, 75% of pathological gamblers are not caught or the criminal charges are dropped. This latter situation is usually because pathological gamblers initially commit their crimes against family members or close associates. Interview with Dr. Valerie Lorenz, Exec. Dir., Compulsive Gambling Ctr., Inc., Baltimore, Md., Dec. 10, 1992 [hereinafter cited as Lorenz Interview]; Maryland Report, supra note 3, at 28. For general discussions of the interface between compulsive gambling and resultant criminal behavior, see Brown, *Pathological Gambling and Associated Patterns of Crime: Comparisons With Alcohol and Other Drug Addictions*, 3 J. Gambling Behav. 98 (1987); Henry R. Lesieur, *Gambling, Pathological Gambling, and Crime*, in The Handbook of Pathological Gambling (T. Galski ed. 1987). See generally J. Livingston, Compulsive Gamblers: Observations on Action and Abstinence (1974); Henry R. Lesieur, *Female Pathological Gamblers and Crime*, in Gambling Behavior and Problem Gambling 495 (1993) [hereinafter *Gamblers and Crime*]. See generally, John W. Kindt, *Increased Crime and Legalizing Gambling Operations: The Impact on the Socio-Economics of Business and Government*, 30 Crim. L. Bull. 538, 550–552 nn.61–69 (1994).

6. 'Measuring the Costs of Pathological Gambling', Address by Prof. Henry Lesieur, Ill. St. U., at the Nat'l Conf. on Gambling Behavior, Nat'l Coun. on Problem Gambling, Chicago, Ill., Sept. 3–5, 1996 [hereinafter cited as 'Measuring the Costs'].

7. Crim. Justice Inst., The Corrections Yearbook 1997, 223 (eds. Camile Graham Camp & George M. Camp 1997).

8. Lorenz Interview, supra note 5; John W. Kindt, *The Economic Impacts of Legalized Gambling Activities*, 43 Drake L. Rev. 51, 94

n.285 (1994) (referencing Dr. Valerie Lorenz, Compulsive Gambling Ctr.); see Maryland Report, supra note 3, at 28. 'Research on the connection between pathological gambling and crime is still in its infancy'. *Gamblers and Crime*, supra note 5, at 495.

9. N.J. Coun. on Compulsive Gambling, Legislative Guide For Responsible Gaming In Your State 2 (Jan. 25, 1997).

10. Of 1.5 million new pathological gamblers, this analysis reduces to 6.25% the lowest expert rate of those gamblers who serve time which is 12.5%. This extremely conservative estimate would indicate that 93 750 new pathological gamblers served time between 1994 and 1997 (or an additional 31 250 prisoners per year).

Footnotes for Table A9

1. Bur. Labor Statistics, U.S. Dep't Labor (1997).

2. To provide 'before' and 'after' estimates of the impact of pervasive legalized gambling activities, this range of costs was extrapolated from Illinois analyses which were subjected to in-depth academic and public scrutiny. See, e.g., Speech by Terrance W. Gainor, Dir. Ill. St. Police, at the Ann. IAODAPCA Luncheon, May 8, 1992, at 10 (for 'police services alone') [hereinafter cited as Dir. Ill. St. Police]; Chicago Crime Comm'n, *Analysis of Key Issues Involved in the Proposed Chicago Casino Gambling Project* 21 (1992). The range of projected increases to the budget of the Illinois state police was between $42 and 100 million, but since the Director frequently utilized the more cautious estimate of $100 million, this is the estimate utilized. Although delimited in budgetary terms, these estimates apparently parallel the $41–100 million increased costs calculated by interfacing 'the incidence of index crime and the subsequent cost to the criminal system to handle those crimes'. Ill. Crim. Just. Info. Authority, Casino Gambling and Crime in Chicago 46 (1992) [hereinafter cited as Crim. Just. Info.]. These cost estimates did not include increased costs for (1) regulation; (2) victimization impact; (3) prosecution of organized crime; (4) additional facilities for system workload; or (5) 'response to non-index crimes, such as DUI, fraud, extortion,

embezzlement, prostitution, and drug of-
fenses'. Crim. Just. Info., infra, at 46 & 47.
See also Ill. Crim. Just. Info. Authority, Riv-
erboat Gambling and Crime in Illinois 2, 3
(1994) (referencing the $41–100 million in
costs as specifically related to 'Chicago'). The
lack of uniform categories of costs in many
reports makes comparisons difficult.

Government policymakers frequently argue
that the burden of proof should be on the
legalized gambling interests to refute any
cautious projections by state agencies – par-
ticularly law enforcement agencies. On the
other hand, proponents of increased legalized
gambling activities often argue that law en-
forcement bureaucracies tend to inflate the
costs to the criminal justice system to in-
crease their budgets. See generally, John W.
Kindt, *Increased Crime and Legalizing Gam-
bling Operations: The Impact on the Socio-
Economics of Business and Government*, 30
Crim. L. Bull. 538, 539, nn.2–3, 546 n.42
(1994) [hereinafter *Increased Crime and Le-
galizing Gambling*]. See generally Ill. St. Po-
lice, Div. Crim. Investigation, Intelligence
Bur., *How Casino Gambling Affects Law En-
forcement* (Apr. 16, 1992) [hereinafter cited as
Ill. St. Police Report]. The laundering of
money by legalized gambling operations ap-
pears to be a common problem. During 1992,
for example, 'Atlantic City's casinos ...
[were] under investigation for laundering
drug money'. Roeser, *Chicago Casino Plan
Gambles City Future*, Wall St. J., Aug. 12,
1992, at A10 [hereinafter cited as Roeser].
Less than two years after being initiated, the
Illinois State Police Director, Terrance
Gainor, reported that investigations were 'be-
ing conducted into suspected laundering of
illegal drug profits through the riverboats' in
Illinois. Urbanek, *Probe Creating Fears for
Riverboats' Image*, Daily Herald (Arlington
Heights, Ill.), Nov. 21, 1992, § 1, at 4; *Laun-
dering on Riverboats*, News-Sun (Waukegan,
Ill.), Nov. 20, 1992, at 1.

For analyses by the Chicago Crime Commis-
sion opposing the introduction of land-based
casino gambling to Chicago, see *Report of the
Chicago Crime Commission on Organized
Crime in Chicago* (J. Conlon, Pres. 1990). For
analyses by the N.Y. Attorney General's of-
fice opposing the introduction of land-based

casino gambling to New York State, see R.
Abrams, *Report of Attorney General Robert
Abrams in Opposition to Legalized Casino
Gambling in New York State* (May 1981). For
analyses of the impacts of land-based casino
gambling on Atlantic City, New Jersey, see
O'Brien & Flaherty, *Regulation of the At-
lantic City Casino Industry and Attempts to
Controls Its Infiltration by Organized Crime*,
16 Rutgers L.J. 721 (1985).

For examples of the parallel costs of patho-
logical gambling activities and other medical
treatment costs (such as for alcoholics), see
Politzer, Morrow, & Leavey, *Report on the
Societal Cost of Pathological Gambling and
the Cost-Benefit/Effectiveness of Treatment*
(5th Nat'l Conf. on Gambling and Risk Tak-
ing 1981) [hereinafter cited as Politzer, Mor-
row, & Leavey]. 'Studies demonstrate that
there is a high degree of overlap among
pathological gambling, alcoholism and drug
addiction'. Lesieur, *Female Pathological
Gamblers and Crime*, in Gambling Behavior
and Problem Gambling 495, 497 (1993)
[hereinafter cited as Gamblers and Crime].

3. To provide a 'before' and 'after' estimate,
these local police and fire costs were extrapo-
lated from the conservative estimates pre-
pared by proponents themselves of a
$2-billion casino complex for Chicago.
See Chicago Gaming Commission, *Economic
and Other Impacts of a Proposed Gaming,
Entertainment and Hotel Facility* 236–241
(May 19, 1992) (report prepared by Deloitte
& Touche, Chicago, Ill.) [hereinafter cited as
Proposed Gaming Facility Report]. Editorial,
Economically, casinos are a good bet, Chicago
Tribune, May 24, 1992, § 4, at 2 [hereinafter
cited as *Economically*]. 'Deloitte & Touche
also projects the loss of 2300 jobs and $126
million in sales downstate, $65 million in
casino regulatory costs and $11.4 million in
annual costs for police and fire protection'.
Id. at 2. For the actual estimates, see *Pro-
posed Gaming Facility Report*, infra, at 234–
245. For a comparison of the administrative
costs of state lotteries, see DeBoer, *The Ad-
ministrative Costs of State Lotteries*, 38 Nat'l
Tax J. 479 (1985).

4. The low-range regulatory costs were aver-
aged and extrapolated from the costs per
year for New Jersey casino regulator efforts.
The high-range estimate was a 1989 estimate

by Professor William Thompson given in the context of regulating future casinos. For a continuum of New Jersey regulatory costs, see seriatim editions of St. N.J., Comprehensive Annual Financial Report. Compare, *id.* with the 1992 estimates of *Increased Crime and Legalizing Gambling*, supra note 2, at 545–546. See, e.g., St. N.J., Comprehensive Annual Financial Report 238 (1992) ($56–57 million for casino regulatory costs); N.J. Casino Control Comm'n, 1992 Annual Report 23 (1992) ($57 million for casino regulatory costs in 1992, $62 million in 1991). Slight decreases in regulatory costs may occur over time. See, e.g., N.J. Governor's Adv. Comm'n on Gambling, Report and Recommendations 65 (1988) ($66.4 million regulatory costs and 1,362 regulatory employees in 1986 for 'all' gambling activities, and $76.6 million regulatory costs in 1987); see N.J. St. Budget, FY 1986–1987; N.J. St. Budget, FY 1991–1992. See also, Roeser, note 2 supra, at 10 ($59 million for casino regulatory costs in 1992). In 1989, the regulatory costs for Atlantic City were also estimated at $85 million per year. Statement of William Thompson, Prof. Mg't & Pub. Admin., UNLV, before the Ill. Sen. Comm. regarding S.B. 572 on Riverboat Gambling, Sept. 27, 1989. See generally Lee & Chelius, *Government Regulation of Labor-Management Corruption: The Casino Industry Experience in New Jersey*, 42 Indus. & Lab. Rel. Rev. 436 (1989); Ill. St. Police Report, note 2 supra.

5. Timothy P. Ryan, Patricia Connor, & Janet F. Speyrer, *The Impact of Casino Gambling in New Orleans* 46–47 (1990) [hereinafter *Gambling Impact in New Orleans*]. These calculations were apparently analyzed and considered to be 'balanced' and valid. Robert Goodman, *Legalized Gambling As A Strategy For Economic Development* 85–87 (Ctr. for Econ. Dev., U. Mass.-Amherst 1994); Ill. St. Police Report, note 2 supra, at 9; Dir. Ill. St. Police, note 2 supra, at 9–10. These costs do not include many 'indirect costs' to the criminal justice system. For analyses of other 'criminal law' issues, see generally Gaines, *Criminal Law: Florida's Legal Lotteries*, 9 U. Fla. L. Rev. 93 (1956).

6. Gambling Impact on New Orleans, supra note 5, at 46–47. For a parallel analysis of these costs, see *Increased Crime and Legalizing Gambling*, supra note 2, at 547–548.

7. Politzer, Morrow, & Leavey, supra note 2, at 18–20. For parallel analyses of these costs, see John W. Kindt, *The Economic Impacts of Legalized Gambling Activities*, 43 Drake L. Rev. 51, 89–93 at Table 3, n.282 (1994) [hereinafter *Economic Impacts*]; *Increased Crime and Legalizing Gambling*, supra note 2, at 550.

8. Politzer, Morrow, & Leavey, supra note 2, at 9, 18–20. For parallel analyses of these costs, see *Economic Impacts*, supra note 7, at 89–93 at Table 3, n.283; *Increased Crime and Legalizing Gambling*, supra note 2, at 550. For uniformity, the number of $21000 per year is reduced to $2100 per pathological gambler to reflect a 10% incarceration rate.

9. To provide 'before' and 'after' estimates of the impact of pervasive legalized gambling activities, this cost was extrapolated from Illinois analyses which were subjected to in-depth academic and public scrutiny. See, e.g., Interview with Ill. Gov. James Edgar, on *Crossfire*, Cable News Network, Jan. 6, 1993. For a parallel analysis of this cost, see *Increased Crime and Legalizing Gambling*, supra note 2, at 546–547.

10. N.J. Comm. on Compulsive Gambling, Legislative Guide For Responsible Gaming In Your State, at 2 (Jan. 25, 1997).

11. *Economic Impacts*, supra note 7, at 94 n.285 (referencing Dr. Valerie Lorenz' 1992 estimates of $25000 per year for young prisoners and $50000 per year for older prisoners with medical costs). Crim. Justice Inst., The Corrections Yearbook, 1997 75 (eds. Camille Graham Camp & George M. Camp) (365 days multiplied by the healthcare 'average daily cost per confined inmate in 1996' of $54.25 equals $19801) [hereinafter Corrections Yearbook, 1997].

12. Corrections Yearbook, 1997, supra note 11, at 223 (365 days multiplied by the 'overall average cost per prisoner per day' of $55.41 equals $20224).

Footnotes for Table A10

1. It is significant that for the first time in decades the 1997 study by Professor Howard Shaffer attempted to redefine the American

Psychiatric Association's term 'pathological gambling' (or addicted gambling) as 'level 3 gambling' and 'problem gambling' as 'level 2 gambling'. Critics of the Shaffer meta-analysis noted that the analysis was entirely funded by a $140 000 grant from the gambling industry to reanalyze the 120–152 existing studies documenting the prevalence of pathological gamblers and problem gamblers. The 'meta-analysis' resulted in: (1) new PR-conscious terms such as 'level 3 rates of gambling', (2) an attempt to redefine the 0.77% baseline for pathological gambling established by the 1976 National Commission on Gambling in America at 0.84% (which critics opined could operate to the PR benefit of the gambling industry), and (3) omission of the *most important numbers* of the 120–152 existing prevalence studies – specifically the rates of pathological gamblers and problem gamblers. See, e.g., Div. on Addictions, Harvard Medical School, Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-analysis, at 51 (Table 16) and 107 (App. 2) (Howard J. Shaffer, Matthew N. Hall, & Joni Vander Bilt, Dec. 15, 1997) [hereinafter Harvard Addictions Meta-analysis]; see Press Release of Harvard Medical Sch., 'Harvard Medical School Researchers Map Prevalence of Gambling Disorders in North America', Dec. 4, 1997 (From 0.84%, 'the prevalence rate [for pathological gambling] for 1994–1997 grew to 1.29 percent of the adult population'.). Compare U.S. Comm'n on the Rev. of a Nat'l Pol'y Toward Gambling, Gambling in America 73 (U.S. Gov't Printing Off. 1976), with Harvard Addictions Meta-analysis, infra at 43, Table 13.

Footnotes for Table A11

1. Nat'l Tech. Information Serv., U.S. Dep't Com., 1992 Worldwide Survey Of Substance Abuse And Health Behaviors Among Military Personnel 12–14 to 12–30 [hereinafter Military Personnel].
2. U.S. Dep't Defense (1997). In 1991, U.S. military personnel totaled 2 million but this force strength was subject to drawdown. See, e.g., Military Personnel, supra note 1, at 12–14 to

12–20. By 1996–1997, U.S. military personnel numbered 1.5 million. U.S. Dep't Defense (1997). To simplify comparisons between years, a 1991 base population of 1.5 million is utilized.

3. Div. on Addictions, Harvard Medical Sch., Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-analysis, at 43, Table 13 (Howard J. Shaffer, Matthew N. Hall, & Joni Vander Bilt, Dec. 15, 1997) [hereinafter Harvard Addictions Meta-analysis]; see Press Release of Harvard Medical Sch., 'Harvard Medical School Researchers Map Prevalence of Gambling Disorders in North America', Dec. 4, 1997 (From 0.84%, 'the prevalence rate [for pathological gamblers] for 1994–1997 grew to 1.29 percent of the adult population'.). Since the Harvard Addictions Meta-analysis did not include the calculations for essential elements, some reasonable estimates and conclusions consistent with the data need to be drawn.

4. A proportional increase is calculated as 2% military personnel 1991/0.77% general public 1991 equals 3.35% military personnel 1997/ 1.29% general public 1997 – for an increase of 1.35% from 1991 to 1997. See, id.

5. The 78 000 military personnel are not precisely 5.1% since the 78 000 was the calculation in the report. Military Personnel, supra note 1, at 12–14 to 12–20.

6. Using the classic standard baseline of 2.33% established by the 1976 U.S. Commission on Gambling would yield a 2.55% increase in problem gamblers from 1994 to 1997. U.S. Comm'n on the Rev. of a Nat'l Pol'y Toward Gambling, Gambling in America 73 (U.S. Gov't Printing Off. 1976) [hereinafter U.S. Comm'n on Gambling].

7. A proportional increase is calculated as: 5.1% military personnel 1991/2.33% general public 1991 equals 10.68% military personnel 1997/ 4.88% general public 1997 – for an increase of 5.6% from 1991 to 1997. See, note 3, supra.

8. In 1997, the socio-economic costs of a civilian pathological gambler ranged between a partial estimate of $10 000 and an in-depth estimate of $60 000 per year. This analysis should incorporate a cost per year to reflect the life/death responsibilities inherent in military service.

One accident can and has caused the loss of multi-million dollar equipment and lives.

9. A socio-economic cost figure of $5000 per problem gambler per year which is utilized in this context is probably too conservative considering that the average civilian problem gambler is earning well over the average 1997 annual salary of approximately $30000 per year which is further increased since most problem gamblers are super-achievers, Type-A personalities. For a costs table see, John W. Kindt, *The Economic Impacts of Legalized Gambling Activities*, 43 Drake L. Rev. 51, 90–91, Table 3 (1994).

Footnotes for Table A12

1. The calculation of 0.5% of the U.S. population or 1.5 million new pathological (addicted) gamblers created by legalized gambling between 1994 and 1997 comes from: Div. on Addictions, Harvard Medical School, Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-analysis, at 43, Table 13 & 51, Table 16 (Howard J. Shaffer, Matthew N. Hall, & Joni Vander Bilt, Dec. 15, 1997) [hereinafter Harvard Addictions Meta-analysis]; see Press Release of Harvard Medical Sch., 'Harvard Medical School Researchers Map Prevalence of Gambling Disorders in North America', Dec. 4, 1997 (From 0.84%, 'the prevalence rate [for pathological gambling] for 1994–1997 grew to 1.29 percent of the adult population'.).

2. Bur. Labor Statistics, U.S. Dep't Labor (1997).

3. Henry R. Lesieur & Kenneth Puig, *Insurance problems and pathological gambling*, 3 J. Gambling Behavior 123, 125–127 (1987) [hereinafter *Insurance and gambling*].

4. The National Insurance Crime Bureau estimates that annually the total U.S. cost of 'property/casualty-based insurance fraud' is $20 billion. Nat'l Insurance Crime Bur., 'Insurance Fraud: The $20 Billion Disaster', Chi., Ill. (1996) [hereinafter Insurance Fraud $20 Billion]. Adjusting Professor Lesieur's most conservative 1987 numbers of $3.3 billion in fraud and $6.6 billion in surrendered policies to 1997 dollars equals approximately $6.6 billion in fraud and $13.2 billion in surrendered

policies (without adjusting for population increases). *Insurance and gambling*, supra note 3, at 133–134. Interestingly, these numbers conform to current numbers that place total insurance fraud at $20 billion when in 1987 Professor Lesieur indicated that 33% of insurance fraud is committed by pathological gamblers which equals $6.6 billion (the same as the adjusted 1987 estimate). Compare *id.* at 134 ('[P]athological gamblers could account for almost a third of the industry loss' from fraud.), with Insurance Fraud $20 Billion, infra, at 1.

Footnotes for Table A13

1. The calculation of 0.5% of the U.S. population or 1.5 million new pathological (addicted) gamblers created by legalized gambling between 1994 and 1997 comes from: Div. on Addictions, Harvard Medical School, Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-analysis, at 43, Table 13 & 51, Table 16 (Howard J. Shaffer, Matthew N. Hall, & Joni Vander Bilt, Dec. 15, 1997) [hereinafter Harvard Addictions Meta-analysis]; see Press Release of Harvard Medical Sch., 'Harvard Medical School Researchers Map Prevalence of Gambling Disorders in North America', Dec. 4, 1997 (From 0.84%, 'the prevalence rate [for pathological gambling] for 1994–1997 grew to 1.29 percent of the adult population'.).

2. Bur. Labor Statistics, U.S. Dep't Labor (1997).

3. Lesieur citing G.A. It only takes one employee to destroy an entire company. In 1995, Barings Bank lost $1 billion and went bankrupt because of the unauthorized use of funds by just one employee – the very type of employee (Type-A personality) most likely to become a pathological gambler. In a similar situation one employee's unauthorized use of funds cost Daiwa Bank of Japan $1.1 billion. Laura Proctor, *The Barings Collapse: A Regulatory Failure Or A Failure Of Supervision?*, 22 Brook. J. Int'l L. 735, 735, 738 (1997); see also *id.* at 752 n.155. In another example in Iowa one pathological gambler embezzled $4.5 million. Debra Illingsworth Greene, *Gambling: Wins & Losses*, The Lutheran, Dec. 1997, at

46, 47 ($4.5 million embezzled). In Illinois one employee embezzled $580000 – more than was ever spent on all treatment of pathological gamblers in Illinois. Speech of Henry R. Lesieur, Dir., Inst. for Problem Gambling, 10th Int'l Conf. on Gambling and Risk Taking, Montreal, Canada, July 1997.

4. N.J. Coun. on Compulsive Gambling, Legislative Guide For Responsible Gaming In Your State (Jan. 25, 1997) (appended news release of Mar. 20, 1996).

5. See SMR Research Corp., The Personal Bankruptcy Crisis, 1997 119 (1997) (confirming a 1995 Minnesota Study).

6. Alcohol & Drug Abuse Admin., Md. Dep't Health & Mental Hygiene, Task Force on Gambling Addiction in Maryland 61 (Valerie C. Lorenz & Robert M. Politzer, Co-chairs 1990).

7. 'Measuring the Costs of Pathological Gambling', Address by Prof. Henry R. Lesieur, Ill. St. U., at the Nat'l Conf. on Gambling Behav., Nat'l Coun. on Problem Gambling, Chicago, Ill., Sept. 3–5, 1996 [hereinafter cited as 'Measuring the Costs'].

Footnotes for Table A14

1. The calculation of 0.5% of the U.S. population or 1.5 million new pathological (addicted) gamblers created by legalized gambling between 1994 and 1997 comes from: Div. on Addictions, Harvard Medical School, Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-analysis, at 43, Table 13 & 51, Table 16 (Howard J. Shaffer, Matthew N. Hall, & Joni Vander Bilt, Dec. 15, 1997) [hereinafter Harvard Addictions Meta-analysis]; see Press Release of Harvard Medical Sch., 'Harvard Medical School Researchers Map Prevalence of Gambling Disorders in North America', Dec. 4, 1997 (From 0.84%, 'the prevalence rate [for pathological gambling] for 1994–1997 grew to 1.29 percent of the adult population'.).

2. U.S. Bur. Labor Statistics, U.S. Dep't Labor (1997).

3. N.J. Coun. on Compulsive Gambling, Legislative Guide For Responsible Gaming In Your State (Jan. 25, 1997).

4. Measuring the Costs of Pathological Gambling', Address by Prof. Henry R. Lesieur, Ill. St. U., at the Nat'l Conf. on Gambling Behav., Nat'l Coun. on Problem Gambling, Chicago, Ill., Sept. 3–5, 1996 [hereinafter cited as Measuring the Costs].

5. M.L. Frank, D. Lester, & Arne Wexler, Suicidal behavior among members of Gamblers Anonymous, 7 J. Gambling Studies 249 (1991).

6. Henry R. Lesieur & Kenneth Puig, Insurance problems and pathological gambling, 3 J. Gambling Behavior 123 (1987).

7. U.S. Bur. Labor Statistics, U.S. Dep't Labor (1997).

8. SMR Research Corp., The Personal Bankruptcy Crisis, 1997 123–124 (1997) (commissioned by the banking community, Am. Bankers Assoc.) (reporting a 1995 Minnesota study).

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J., Dec. 17, 1997. See generally, Sandra Blakeslee, *Suicide Rate Is Higher In 3 Gambling Cities: Study Shows Risks as Betting Rises in U.S.*, N.Y. Times, Dec. 16, 1997, at A10. See also Stephen Braun, *Lives Lost in a River of Debt*, L.A. Times, June 22, 1997, at A1, A14–A15. This extensive article reports how coroner's subpoenas had to be issued to Illinois casinos to discover the $100000s of dollars lost gambling by several suicides, and these problems were not reported as such in the local news until after this *L.A. Times* article was printed on page one. See Braun, infra. See generally, Art Nadler, *Nevada suicide rate No. 1 in U.S.*, Las Vegas Sun, Aug. 29, 1997.