4-1-1994

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ARTICLES

THE NEGATIVE IMPACTS OF LEGALIZED GAMBLING ON BUSINESSES

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I. THE IMPACT OF LEGALIZED GAMBLING ON THE BUSINESS/ECONOMIC EVIRONMENT

Under good economic conditions, but particularly during recessionary periods, there is usually intense competition between states to attract new businesses. New businesses improve local and state economies by providing an influx of investment dollars, jobs, and new tax revenues. As states and municipalities attempted to boost economic growth during the recessionary U.S. economy of 1991-1992, the legalized gambling organizations in Nevada and in Atlantic City, New Jersey, saw the perfect opportunity to expand their organizations into previously unexploited regions.[1]

Notwithstanding contrary positions argued by legalized gambling interests in their efforts to gain and exploit new population bases,[2] and with rare exceptions, legalized gambling activities do not generate long-term or even mid-term strategic economic development or tax revenues.[3] Any profit generated by legalized gambling almost invariably comes from some consumer's pre-existing funds, and the resources devoted to gambling are taken from other activities.[4] In fact, legalized gambling interests have both promoted and discouraged legalized gambling when necessary to further their objectives. In one instance, major legalized gambling organizations

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1 *See* BETTER GOVERNMENT ASSOCIATION, STAFF WHITE PAPER: CASINO GAMBLING IN CHICAGO, apps. P, Q, & R (1992) [hereinafter BETTER GOV'T ASS'N REPORT]. Of course, the present analysis deals exclusively with "legalized" or "legal" gambling activities and concomitant propositions, and all references to "gambling" should be interpreted as discussing legal gambling and not illegal gambling activities.

2 *Id.*

3 *See generally* ROBERT GOODMAN, LEGALIZED GAMBLING AS A STRATEGY FOR ECONOMIC DEVELOPMENT 16-19, 51-56 (Ctr. for Economic Development, U. Mass.-Amherst 1994) [hereinafter GOODMAN].

4 *Id.* at 51-56.

conducted public relations campaigns arguing that their casinos would create economic development, jobs, and tax revenues in Illinois.[5] However, in order to undercut their competition in California and preserve their own gambling operations in Nevada, some of these same organizations simultaneously conducted public relations campaigns in California arguing just the opposite.[6]

Throughout the 1980s the legalized gambling organizations in Atlantic City and Nevada, in particular, felt competitive pressure from the nationwide proliferation of state lotteries.[7] For example, in 1986 the legalized gambling interests in Nevada, and even Nevada state officials, opposed the initiation of a state lottery in California.[8] If the Nevada legalized gambling interests were concerned with the proximate competition of a California state lottery, they were more concerned with the potential "devastating impact" of a 1992 proposal for a moderately-sized casino operation in Adelanto, San Bernardino County, California.[9] Not only would the Adelanto casino "initiative" further saturate the legalized gambling market, but more importantly, it would also intercept the local population traveling from Southern California to Las Vegas[10] and open the door to more direct competition from casinos on Indian reservations throughout California.

The legalized gambling interests in Nevada were also concerned in general with future market saturation within the state. From years of marketing experience, the legalized gambling organizations were well aware that legalized gambling draws dollars from nearby local and state economies.[11] Therefore, the legalized gambling interests needed to expand their marketing bases to continue to attract consumer dollars. If the expansion process was forestalled for very long, the guaranteed population of legal-

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5 BETTER GOV'T ASS'N REPORT, *supra* note 1, at apps. P & Q.

6 *Id.* at app. R.

7 *See generally* CHARLES T. CLOTFELTER AND PHILIP J. COOK, SELLING HOPE 41-48 (1989) [hereinafter CLOTFELTER].

8 *Id.* at 130.

9 BETTER GOV'T ASS'N REPORT, *supra* note 1, at app. R.

10 *See id.*

11 *See, e.g.*, CALIFORNIA GOVERNOR'S OFFICE OF PLANNING AND RESEARCH, CALIFORNIA AND NEVADA: SUBSIDY, MONOPOLY, AND COMPETITIVE EFFECTS OF LEGALIZED GAMBLING ES-1 (December 1992) ("Gambling by Californians pumps nearly $3.8 billion per year into Nevada, and probably adds about $8.8 billion — and 196,000 jobs — to the Nevada economy, counting the secondary employment it generates . . . . This is a direct transfer of income and wealth from California to Nevada each year.") [hereinafter SUBSIDY].

ized gambling "consumers" (10 percent "problem economic gamblers,"[12] which included 1.5 to 5 percent "compulsive gamblers"[13]) would be exhausted[14] and profits from those economies in which the legalized gambling organizations were located would diminish or evaporate.[15]

While the proliferation of state lotteries during the 1980s[16] jeopardized the regular tourist base attracted by legalized gambling, the major threat to the legalized gambling organizations was the long-term saturation of the market itself. Yet even while the expansion of state lotteries threatened the Nevada and Atlantic City legalized gambling interests, it also unexpectedly provided those interests with their strategic solution. The public's acceptance of state lotteries[17] had softened the image of legalized gambling and was laying the groundwork for the national acceptance of the "harder" forms of legalized gambling — that is, those forms with more of a "thrill factor."[18] This trend was further intensified by millions of dollars in advertising by state lotteries[19] aimed at softening concerns

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[12] *See* CLOTFELTER, *supra* note 7, at 92-94 (approximately ten percent of the public gambles sixty-five percent or more of the gambling dollar). From a business-economic perspective, "problem economic gamblers" consist of gamblers who are in the process of becoming problem or probable compulsive gamblers, or who are already compulsive gamblers.

[13] *Id.* at 124-25. *See also* VALERIE C. LORENZ, AN OVERVIEW OF PATHOLOGICAL GAMBLING 2-4 (booklet of the National Center for Pathological Gambling) (1990).

Sociologists, psychologists, and psychiatrists generally delimit "compulsive" or "pathological gamblers" pursuant to the South Oaks Gambling Screen. *See* Henry R. Lesieur and Sheila B. Blume, *The South Oaks Gambling Screen: A New Instrument For The Identification Of Pathological Gamblers*, 144 AM. J. PSYCHIATRY 1184 (1987). From a business-economic perspective, "compulsive economic gamblers" are synonymous with the sociological definition of compulsive or pathological gamblers.

[14] *See generally* MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE, ALCOHOL AND DRUG ABUSE ADMINISTRATION, TASK FORCE ON GAMBLING ADDICTION IN MARYLAND (Valerie C. Lorenz and Robert M. Politzer, co-chairs, 1990) [hereinafter MARYLAND REPORT].

[15] Indeed, Nevada and Atlantic City thrived thanks to the massive numbers of tourists attracted to these gambling meccas which exercised a practical monopoly on the more thrilling, or "harder," forms of legalized gambling in the United States.

[16] *See* CLOTFELTER, *supra* note 7, at 144-51.

[17] *See, e.g.*, *id.* at 151-58. Of course, the lottery issue was often the subject of rigorous public debate in many states. *Id.*

[18] For a discussion of this "thrill factor" or "sensation seeking in gamblers" and a review of the relevant literature, see Kenny Coventry and R. Iain Brown, *Sensation Seeking In Gamblers And Non-Gamblers And Its Relation To Preference For Gambling Activities, Chasing Arousal And Loss Of Control In Regular Gamblers*, in GAMBLING BEHAVIOR AND PROBLEM GAMBLING 25 (1993).

[19] Approximately 3.2 to 3.6 cents of each dollar spent on state lotteries is utilized for prizes, advertising and promotional activities. CLOTFELTER, *supra* note 7, at 26-27, 199-202. More advertising expenses are spent in the lottery industry (2 to 2.2 percent) than in any other industry except amusement and recreation (3 percent). *Id.* at 200. Lottery states spend approximately $300 million per year

about legalized gambling activities and promulgating the widespread acceptance of games of chance.

Illinois serves as an example of an early state to develop legalized gambling activities. In Illinois, the state lottery was initiated in 1974;[20] a variety of lottery "games" proliferated throughout the 1980s;[21] major expansions in the numbers of off-track betting parlors occurred in 1990 and 1991;[22] riverboat gambling was legalized in 1990 and initiated in 1991;[23] video-machine gambling was also proposed in 1991-1992;[24] and Chicago Mayor Richard Daley proposed a $2 billion land-based casino complex in 1992.[25] Furthermore, by 1992 over 50 bills regarding legalized gambling activities were pending in the Illinois state legislature.[26]

South Dakota serves as an example of an even more rapidly-developing gambling state. Until the initiation of its state lottery in 1987, there was no legalized gambling *per se* in South Dakota.[27] However, beginning November 1, 1989, the city of Deadwood, South Dakota, initiated land-based casino gambling after a state-wide plebiscite; casino gambling on the Indian reservations was in full operation by 1990; and by 1991, video-machine gambling was available throughout the state.[28]

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on advertising. GOODMAN, *supra* note 3, at 14.

20 CLOTFELTER, *supra* note 7, at 5.

21 *Id.* at 6.

22 *See* ILLINOIS ECONOMIC AND FISCAL COMMISSION, WAGERING IN ILLINOIS 26-28 (1992).

23 *Id.* at 51-53 (Act approved February 7, 1990; operations began September 8, 1991, in Alton, Ill.).

24 Illinois State Representative E. J. Giorgi repeatedly supported video-slots/video-machine gambling during 1991-1992. *See, e.g.*, Chuck Sweeny, *Giorgi, Bishop Clash Over Gambling*, REGISTER STAR (Rockford, Ill.), December 12, 1991, at 1.

25 Edward Walsh, *Chicago May Gamble On Casino Proposal*, WASH. POST, May 24, 1992, § A, at 3 [hereinafter Walsh].

26 For an example of how the process of legalizing gambling gains a momentum of its own, see Jack R. Van Der Slik, *Legalized Gambling: Predatory Policy*, ILL. ISSUES, March 1990, at 30.

27 CLOTFELTER, *supra* note 7, at 146. The state lottery was approved in 1986 and began operating in 1987.

28 Legalized video-machine gambling had begun on October 1, 1989. A vote to repeal the video-machine gambling was defeated by 62.8 percent to 37.2 percent on November 3, 1992. I. Nelson Rose, Gambling And The Law: 1992 Elections, Endless Field Of Dreams 1 (1992) (unpublished article, on file with author).

A massive public relations campaign by the legalized gambling interests misdirected the voters into believing that repealing video-machine gambling would reduce the number of tax dollars going to education. For examples of how the public has been misled by arguments that legalized gambling will assist education, see BETTER GOV'T ASS'N REPORT, *supra* note 1, at app. Q; CLOTFELTER, *supra* note 7, at 151-53. *See also Daley Seeks Teachers' Support For Casino*, NEWS-GAZETTE (Champaign, Ill.), March 29, 1992, § B, at 8 (Mayor Daley of Chicago seeking the support of the Illinois Federation

Within two years of initiating these casinos and state-wide video lottery terminals (VLTs), an interesting business phenomenon was observed in South Dakota: a number of personal and business bankruptcies were being caused by gambling debts.[29]

> "There'd be significantly fewer bankruptcies without the gambling aspects," said Peder Ecker, a federal bankruptcy judge in Sioux Falls. "There's definitely a pattern of increasing bankruptcy filings because of the gambling."
>
> . . . .
>
> Ecker said he attributed most of the bankruptcies related to gambling to the state's video lottery, saying he saw *no cases that involved gambling debts before the game started in October 1989.* Gambling has grown to rival uninsured medical costs as *a leading cause of bankruptcies*, he said.[30]

These bankruptcies and the concomitant losses in jobs were a direct result of legalized gambling, and would not have occurred had VLT gambling, casino gambling, and even the "softer" gambling of the state lottery *not* been legalized.[31]

Clinical observations appear to confirm this phenomenon. The law firm handling most of the bankruptcy cases in South Dakota confirmed that while the overall number of filings were down, gambling was an increasing cause of bankruptcies in South Dakota.[32] Similarly, a 1992 Min-

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of Teachers for a casino complex in Chicago).

29 *See, e.g.*, Todd Nelson, *S.D. Bankruptcies Down 5 Percent, Judge: Gambling Caused Most Cases*, ARGUS LEADER (Sioux Falls, S.D.), January 15, 1993, at 1 [hereinafter *S.D. Bankruptcies*]. Not surprisingly, this phenomenon had been predicted. *See, e.g.*, JoDean Joy, Address before the South Dakota Citizens Forum on Video-Lottery Terminals, Sioux Falls, S.D. (October 18, 1992) (a nationally-recognized critic of legalized gambling activities).

30 *S.D. Bankruptcies*, *supra* note 29, at 1 (emphasis added).

31 It should be noted that the legalization of gambling activities increases the number of compulsive gamblers from .77 percent of the population to 1.5 to 5 percent. *See* notes 12-14, *supra*, and accompanying text.

32 *S.D. Bankruptcies*, *supra* note 29, at 1. According to one bankruptcy attorney, this phenomenon was puzzling:

> "I can't put my finger on why there were fewer filings," Blake said.
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> "I consulted with a lot of people about bankruptcy that apparently didn't follow through . . . . It always mystified me when somebody comes in with $40,000 of debt and you don't see them again."
>
> Blake agreed that gambling is an increasing cause of bankruptcy.

nesota report also raised the proposition that increased legalized gambling activities in the state might be linked to the increase in bankruptcies.[33]

In any event, South Dakota and Illinois illustrate that with enough public relations dollars promoting legalized gambling activities,[34] both public officials and voters could be directed toward accepting the arguments that legalized gambling activities are traditional "businesses,"[35] and would provide net jobs and positive tax revenues on a statewide basis.[36] If these arguments were palatable to the U.S. public during a healthy economic climate, then these arguments would be even more acceptable and gain impetus during recessionary times.[37] That 1992 in particular was a time to capitalize on the economic fears of the public was reinforced by Bill Clinton's victory over President George Bush — when mounting concern over the U.S. economy was identified as the primary voter issue.[38] The window of opportunity had opened for the legalized gambling organi-

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> "I see people every month who tell me that it was because of video lottery," he said. "I see cases where people essentially gamble away $40,000 or $50,000 over a couple of years. Sometimes it's $5,000 to $10,000."

Id.

It has been estimated that most compulsive gamblers tend to admit only approximately one-third of their actual debt due to gambling. Letter from Ms. Elizabeth George, Executive Director, Minnesota Council on Compulsive Gambling (December 21, 1992) (on file with author). In addition, the national statistics indicate the average debt of the "bottomed-out" compulsive gambler is conservatively estimated between $75,000 and $80,000. MARYLAND REPORT, *supra* note 14, at 60-61.

33 MINNESOTA PLANNING OFFICE, HIGH STAKES: GAMBLING IN MINNESOTA 29 (1992).

34 Sponsors spent $5 million to promote a $2 billion proposal for a casino complex in Chicago. Patrick T. Reardon and Rick Pearson, *Casino Firms Say Patience Tapped Out*, CHI. TRIB., December 4, 1992, § 2, at 1, 7.

35 *See, e.g.*, ILLINOIS GAMING BOARD, ANNUAL REPORT AND WAGERING STUDY 1991 10-11 (1992). This governmental study basically accepts *in toto* the arguments of the riverboat interests and ignores the overall welfare of the Illinois public. *Id.* at 9-11. *See* BETTER GOV'T ASS'N REPORT, *supra* note 1, app. Q, at 23-25 (internal public relations report "leaked" to the public, delimiting "'The Mob' As Businessmen").

36 *See generally*, BETTER GOV'T ASS'N REPORT, *supra* note 1, app. Q; GOODMAN, *supra* note 3.

37 Experts say the current recession causes people to gamble more, not less. As the economy sours, studies show, people look for quick solutions to their woes — especially the poor, who are hardest hit in bad times.

> "When economic times turn down, there will always be a segment of society that tends to try to hit a big score because the legitimate means for upward mobility have been reduced," says H. Roy Kaplan, sociologist and author of the 1978 book "Lottery Winners."

Susan M. Barbieri, *'The Addiction Of The '90s': Compulsive Gambling Comes Into Its Own In Recessionary Times*, WASH. POST, November 30, 1992, § D, at 5.

38 *See, e.g.*, Howard Fineman, *The Torch Passes*, NEWSWEEK, November/ December 1992, at 4, 6.

zations, and the time had come for them to initiate a strategy of *carpe diem* and expand beyond Nevada and Atlantic City.[39] However, even a New Jersey Commission generally favorable to legalized gambling activities cautioned that "New Jersey should never risk weakening its regulatory systems to enhance the State's fiscal condition or offset possible *economic consequences occasioned by downturns* . . . ."[40] Furthermore, the Commission noted it was "clear that retail business and retail employment in Atlantic City have continued to decline despite the presence of gambling . . . ."[41] The economic caveat is that state governments should not be prodded by perceived economic vulnerability into hasty and risky developmental policies — such as legalized gambling — which might eventually intensify business-economic problems.[42]

Notwithstanding the generally poor economic conditions of 1991-1992, the timing for the legalized gambling organizations was propitious, and their strategy was simple: instead of waiting for tourists to come to them, the organizations would go to the tourists by locating in as many dense population centers as possible.[43] Those establishments successfully implementing this strategy would not have to worry about profitability for years since the legalized gambling activities would naturally take a major portion of the sixty-five percent "market cream" of the local population's gambling dollars.[44] This phenomenon means that there is a premium for being the first, most aggressive, or "most thrilling" form of legalized gambling established in a population center. Hence, it was not surprising that there were proposals during 1992 for major land-based casinos in Chicago and New Orleans[45] — both prime population centers.

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[39] For specialized discussions of the evolution of legalized gambling activities in Atlantic City, New Jersey, see GEORGE STERNLIEB AND JAMES W. HUGHES, THE ATLANTIC CITY GAMBLE (1983); Hawkins, *The Atlantic City Experience: Casino Gambling As An Economic Recovery Program*, 6 SETON HALL LEGIS. J. 85 (1982); KIMBERLY J. WARKER, CASINO GAMBLING AS URBAN REDEVELOPMENT: A CASE STUDY OF THE POLITICAL ECONOMY OF ATLANTIC CITY, NEW JERSEY (1988).

[40] NEW JERSEY GOVERNOR'S ADVISORY COMMISSION ON GAMBLING, REPORT AND RECOMMENDATIONS 5 (1988) (emphasis added).

[41] *Id.* at 16.

[42] GOODMAN, *supra* note 3, at 16.

[43] *See, e.g.*, BETTER GOV'T ASS'N REPORT, *supra* note 1, apps. P, Q, & R (internal "leaked" planning documents of the legalized gambling industry).

[44] *See* notes 12-14, *supra*, and accompanying text. As one business source reported:

> "It will be impossible not to make a lot of money," one executive in New Orleans bragged before his casino had even opened. "It's like spitting and missing the floor."

James Popkin and Katia Hetter, *America's Gambling Craze*, U.S. NEWS & WORLD REP., March 14, 1994, at 42, 43.

[45] *See id.* The efforts in New Orleans were substantially successful. In the form of a "compro-

Once proposed gambling activities become legalized, the legalized gambling interests are concerned primarily with the quickest and most effective way to tap the local economy.[46] The fastest drain seems to be approximately three to five years before the 1.5 to 5 percent of local compulsive gamblers will "bottom-out," spending and losing their total asset/credit base. Therefore, while tourist campaigns and advertisements may be undertaken, legalized gambling organizations would almost invariably profit even if they did not attract a single tourist for approximately five years.[47]

Given the inherent nature of the legalized gambling markets, the first five years of business generally constitute the major revenue years for most legalized gambling organizations — after which they must find new markets and/or new marketing gimmicks to attract gamblers.[48] During the first five years, the profit margins can be surprisingly large. For example, in 1990 the *Excalibur* in Las Vegas opened as the largest hotel in the United States and then stunned the business world by paying its entire mortgage out of "operating revenues" in less than 2 years — while the rest of the country was in a recession.[49] In another scenario, the gambling riverboat in Alton, Illinois, sold more than $100 million in stock during its first day of trading.[50]

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mise," Louisiana Governor Edwin Edwards signed a bill on June 18, 1992, authorizing but a single casino, although the legislation left open the possibility of future additional casinos. Rita Koselka, *Fantasyland*, FORBES, March 1, 1993, at 62 [hereinafter Koselka].

The estimated increased costs of this casino to the New Orleans criminal justice system were estimated at $10.4 million per year for police and corrections costs, $2.3 million per year for attorney's fees, and $1.5 million for court costs. ILLINOIS STATE POLICE, DIVISION OF CRIMINAL INVESTIGATION, INTELLIGENCE BUREAU, HOW CASINO GAMBLING AFFECTS LAW ENFORCEMENT 9 (April 16, 1992) [hereinafter ILL. STATE POLICE]; Terrance W. Gainor, Director of the Illinois State Police, Address before Annual IAODAPCA Luncheon, May 8, 1992, at 9-10 (transcript on file with author).

[46] In Louisiana's case, this concern may have been reflected in the initial approval of but a single casino for New Orleans, because the population base could have sustained more than one.

[47] The pre-existing consumer base provides substantial dollars to legalized gambling activities upon their initiation — regardless of any inputs by tourists. *See, e.g.*, GOODMAN, *supra* note 3, at 51-56.

[48] This factor also explains why gambling organizations are adamant about seeking and getting five-year tax waivers for the first five years of operation. *See, e.g.*, Melissa Merlie, *Betting Parlor Operator Ties Danville Location To Tax Rebate*, NEWS-GAZETTE (Champaign, Ill.), August 2, 1990, § A, at 1, 10.

[49] James Coates, *Vegas' Tip To Chicago: Casino Is Family Fun*, CHI. TRIB., April 10, 1992, at 1, 10.

[50] Ray Long, *$100 Million In Riverboat Stock Sold*, CHI. SUN-TIMES, February 19, 1993, at 13. Critics wondered about megaprofits for investors, considering that much of the riverboat stock

In any event, legalized gambling organizations cannot be characterized as conventional businesses and do not conduct traditional business activities despite efforts to market themselves as such.[51] Unless massive numbers of *new tourists* are attracted by the advent of legalized gambling activities, the pre-existing economy and tourist trade are eventually depleted, and consequently the legalized gambling will not provide state-wide economic growth, jobs, or tax revenues.[52] Legalized gambling interests instead provide only the illusion of relative economic development, for where one locale might gain, others surely lose.[53] Across the region as a whole, there is no gain, but there can be large losses when the increased regulatory costs, crime costs, and social-welfare costs are factored into the analysis.[54] Economically speaking, legalized gambling is a sucker bet. Like the fairy-tale, the economic Emperor of legalized gambling is wearing no clothes. It is a sad reflection upon society, and particularly legislative officials, that so many have ignored the business-economic negatives for so long.

II. LEGALIZED GAMBLING AND THE SHORT-TERM ILLUSION OF ECONOMIC GROWTH

Any large infusion of money into a local economy can initially stimulate short-term economic development, new jobs, and tax revenues. However, short-term progress does not always indicate long-term growth. For this reason it is essential to analyze legalized gambling and its projected economic impact for the intermediate-term and long-term. Only then can the actual economic effects of legalized gambling be adequately evaluated.

The legalized gambling interests, however, often focus public attention on possible short-term economic benefits as a technique to misdirect the

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was allegedly purchased for approximately one cent per share by the initial investors and that within two years the stock was being sold at between $19.25 and $21.50 per share. No illegality, however, was alleged. Floyd Norris, *Insiders' Didn't Take Much Of A Gamble With Argosy Gaming*, N.Y. TIMES, February 25, 1993, § D, at 10.

[51] Alf Siewers, *2 Reports Reveal Casino Strategy*, CHI. SUN-TIMES, August 7, 1992, at 14. *See also* BETTER GOV'T ASS'N REPORT, *supra* note 1, apps. P, Q, & R (internal public relations documents "leaked" from the offices of legalized gambling interests).

[52] For a specific example of the importance of the tourist factor, see BETTER GOV'T ASS'N REPORT, *supra* note 1, at 46-48.

[53] *See* GOODMAN, *supra* note 3, at 51-56.

[54] *See* ILL. STATE POLICE, *supra* note 45, at 9.

economic debate.[55] What they conveniently omit is that the eventual results of legalized gambling are seriously debilitating. According to the authoritative nationwide statistics,[56] legalized gambling activities eventually effectuate:

1. economic dysfunction,[57]
2. the exploitation of minorities[58] and low-income groups,[59]
3. social dysfunction,[60] and
4. an eventual increase in taxes to address new social problems necessarily generated by legalized gambling.[61]

All forms of legalized gambling have a disproportionate impact on Hispanics[62] and Afro-Americans,[63] as well as on low-income groups,[64] who spend an average of 2.2 percent of their weekly income on legalized gambling.[65] These trends result in dramatic increased costs to social programs, increased unemployment for minorities, and more proportional unemployment for minorities than for whites.[66]

Since legalized gambling leaves the local community and state with increased social-welfare costs, inordinate pressures are placed on government officials to raise real estate taxes, state income taxes, and business

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55 For a review of fourteen studies analyzing the costs and benefits of various legalized gambling proposals, see GOODMAN, *supra* note 3. Only one of these studies was considered "balanced," and most were criticized for "hiding the costs." *Id.* at 16.

56 *See* CLOTFELTER, *supra* note 7, at 96-104.

57 *Id.* at 99.

58 *Id.* at 96, 98-100.

59 *Id.* at 96-98. *See also* 138 CONG. REC. S187 (daily ed. January 22, 1992) (statement of Sen. Simon) ("If you go into the *poorest section* of Chicago or East St. Louis, you will see people lined up to buy lottery tickets . . . . [W]e have to find way[s] of raising revenue that do not impose on the weakest and poorest in our society." (emphasis added)).

60 *See* CLOTFELTER, *supra* note 7, at 104-06.

61 *Id.* at 99, 132-35.

62 *Id.* at 96.

63 *Id.* at 98.

64 *Id.* at 98-100. "[T]he prospect of households earning less than $10,000 per year averaging $550 per year on gambling, for example, as studies have shown for lotteries, is sickening to contemplate." Earl L. Grinols, Analysis Of The Major Impacts Of Off-Track Gambling In Champaign, Illinois (September 23, 1991) (unpublished report, on file with author), *citing* CLOTFELTER, *supra* note 7, at 99.

65 *See* CLOTFELTER, *supra* note 7, at 99-100.

66 *See, e.g.*, BETTER GOV'T ASS'N REPORT, *supra* note 1, at 64-68. *See also id.* at 56-69, app. M.

taxes.[67] The promises of sustained economic growth promulgated by the legalized gambling organizations constitute, at best, illusory promises. As a result, the public contract between the legalized gambling organizations and the state to assist the economy constitutes a *nudum pactum*, or void agreement.

III. THE EFFORTS OF COMMUNITIES TO ATTRACT NEW BUSINESSES

Businesses seek to locate in those local and state economies which have or can provide a stimulating business/economic environment.[68] Economically depressed areas often look beyond traditional manufacturing jobs to bolster their economies, and legalized gambling activities may be considered.[69] However, an actual accounting of the societal cost-benefit analysis is necessary to determine whether the activity, such as legalized gambling, would produce the desired economic growth and should therefore be introduced into the region.[70] The results of some economic studies[71] should "give pause to policymakers who are considering the use of casinos as a machine for growth in depressed regions."[72]

"Stability of expectations"[73] is an essential ingredient of an attractive business environment. Businesses need to know that if they perform in a certain manner, they can minimize risk and maximize their expectations. While risk is always a factor in a changing business environment, the inability to calculate that risk is almost more destabilizing than the magnitude of any calculated risk.

One basic example of stability of expectations involves what is termed "the maintenance of a favorable legal order." On a national level, busi-

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67 *See generally* Andrew J. Buck et al., *Casinos, Crime, And Real Estate Values: Do They Relate?*, 28 J. OF RESEARCH IN CRIME & DELINQUENCY 288, 301-02 (1991) [hereinafter Buck et al.]; Simon Hakim and Andrew J. Buck, *Do Casinos Enhance Crime?*, 17 J. CRIM. JUSTICE 409, 414-15 (1989) [hereinafter Hakim].

68 *See* Buck et al., *supra* note 67, at 301-02; Hakim, *supra* note 67, at 414-15.

69 Buck et al., *supra* note 67, at 289.

70 *Id.*

71 *See, e.g., GOODMAN, supra* note 3, and *infra*.

72 Buck et al., *supra* note 67, at 302.

73 For explanations of this concept in the context of the McDougal/Lasswell decision-making model as applied to corporate development of national and international resources, see JOHN W. KINDT, 1 MARINE POLLUTION AND THE LAW OF THE SEA 11-17 (1992); John W. Kindt, *Prolegomenon To Marine Pollution And The Law Of The Sea*, 11 ENVTL. L. 67, 70-72 (1980).

nesses want to know the "rules" under which they must operate. Commercial entities understandably become concerned in a society or country where, for example, the tax code is constantly changing, is not inherently "uniform," and/or is not being uniformly applied (or is even manipulated by the government).[74] Further, and as an extreme example, companies generally refuse to locate in countries undergoing revolution, or even threatened revolution. Regardless of any overwhelmingly positive concessions a pre-existing government may make, without stability of expectations businesses fear that those concessions will never be realized. Accordingly, a lack of stability of expectations can hamper or destroy any given business/economic environment by making calculation of risk difficult or impossible.

Throughout the twentieth century, and particularly since World War II, the maintenance of a favorable legal order and inherent stability have been two major strengths of the United States which have induced foreign investment within the U.S. economy. Presumably, the United States enjoys a higher stability of expectations than any other country, and this stability is crucial to maintain this pillar of the U.S. business/economic environment. One of the unfortunate results of the U.S. savings-and-loan debacle of the 1980s was to chip this economic pillar, particularly in the minds of many U.S. citizens.[75]

Nationwide, the individual states have obviously benefited from these overall U.S. economic strengths and have successfully solicited foreign and domestic businesses to locate within their borders. Some states, however, have hurt their initially competitive positions for attracting new businesses by creating certain unstable business/economic factors. During 1991, for example, the states of California[76] and Illinois[77] were unable to pay their state obligations (such as wages to state employees in Illinois) and engaged in delays and sleight-of-hand to pay their bills. In so doing, these state governments effectively undermined the stability of expectations in their states,[78] decreasing the likelihood that businesses would

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[74] *See, e.g.*, John W. Kindt, *The New Assault On Freedom Of Thought: Section 263A Of The Internal Revenue Code*, 33 ST. LOUIS U. L.J. 137 (1988).

[75] *See, e.g.*, Tom Schlesinger, *A Taxpayers' Program For Cleaning Up The S&L Mess*, USA TODAY, September 1991, at 22.

[76] Steven V. Roberts et al., *California Crumbling*, U.S. NEWS & WORLD REP., September 14, 1992, at 69. *See also* Michael Meyer, *In A State Of Collapse*, NEWSWEEK, August 17, 1992, at 37.

[77] *See* Mary A. Laschober, *The Link Between Current Tax Receipts And The Illinois Budget Crisis*, ILL. BUS. REV., Fall 1991, at 8, 9.

[78] *See, e.g.*, H. Campbell Stuckeman, *Community Evaluation In Site Selection*, in INDUSTRIAL

choose them as locations for new subsidiaries.[79] Conversely, the bulk of states which did not have to delay payments enjoyed a relative advantage for attracting new businesses.[80] However, any concessions, such as tax concessions, offered by California or Illinois could more than offset the problem of "instability" of payments and thereby attract new businesses. Yet despite the potential concessions California and Illinois may make to new industries, they still suffer a competitive disadvantage due the incidence of past instability. In essence, California and Illinois must now "pay" for the previous unstable business/economic conditions caused by their legislative budgeting anomalies.

IV. BUSINESS LOCATION MODELS

In determining where to invest their dollars by building new plants or establishing new subsidiaries, corporations with large asset bases generally turn to "business location models."[81] Even small companies can utilize the less complex models,[82] but the models utilized by the larger companies,[83] such as the Fortune 500,[84] tend to be quite sophisticated.[85] Obviously, the major businesses like to keep these models confidential,[86] be-

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FACILITIES PLANNING 97, 99 (H. M. Conway and Linda L. Liston eds., 1976) [hereinafter Stuckeman].

[79] *See* notes 100-105, *infra*, and accompanying text.

[80] Stuckeman, *supra* note 78, at 99 (the "state business climate"). "Are the state legislative, executive and judiciary branches performing as well as other state governments?" *Id.* This category constitutes one of the criteria in the site selection process for businesses.

[81] For historical background and an introduction to business-related decision-making in general, see FRIEDRICH ROSENKRANZ, AN INTRODUCTION TO CORPORATE MODELING (1979) [hereinafter ROSENKRANZ]. *See generally*, JON E. BROWNING, HOW TO SELECT A BUSINESS SITE (1980) [hereinafter BROWNING]; INDUSTRIAL FACILITIES PLANNING (H. M. Conway and Linda L. Liston eds., 1976) [hereinafter PLANNING]; WILLIAM N. KINNARD AND STEPHEN D. MESSNER, EFFECTIVE BUSINESS RELOCATION (1970) [hereinafter KINNARD]; ROGER W. SCHMENNER, MAKING BUSINESS LOCATION DECISIONS (1982) [hereinafter SCHMENNER]; DAVID M. SMITH, INDUSTRIAL LOCATION (2d ed. 1981) [hereinafter SMITH]; JOHN S. THOMPSON, SITE SELECTION (1982) [hereinafter THOMPSON]; ALFRED WEBER, THEORY OF THE LOCATION OF INDUSTRIES (Carl J. Friedrich trans., 1937) [hereinafter WEBER].

[82] *See, e.g.*, THOMPSON, *supra* note 81, at 167 (store location research for single stores); *id.* at 197 (simplified guide to store location research).

[83] For examples of the starting points for the business location models including the variable-cost model and operational models, see generally SMITH, *supra* note 81, at 149-313.

[84] For general examples of business location analyses involving the Fortune 500, see SCHMENNER, *supra* note 81, at 60 *et seq.*

[85] For a summary of various theories of business location within the framework of spatial economic analysis, see SMITH, *supra* note 81, at 68-107. *See also* WEBER, *supra* note 81.

[86] Businesses express a need for confidentiality in various aspects of the decision-making pro-

cause the models can be the subject of large investments of time and money, and because competitors would gain some economic advantage from them. A classic example of a company utilizing sophisticated business location models involves a major fast food chain, which is the leader in its area. Its competitors would obviously be quite interested in being able to predict ahead of time where and when that chain was going to establish new outlets and potentially locate there first.

One nuance strategy for the smaller competitors in such a market situation is simply to let the industry leader claim the primary location sites and then to follow the leader to those sites when they become public. This location strategy bypasses many of the expenses in utilizing business location models, but the escalating real estate costs which must be internalized by being the second, third, or fourth competitor into a prime market area may often be greater than the costs of utilizing the business location models. However, from an individual state's perspective, familiarity with business location models will likely expand that state's opportunity for attracting new businesses and even for retaining established businesses.[87]

When faced with the decision-making process of where to locate initially or where to expand its presence, a company should examine the traditional business location models.[88] Some business models are used more than others, but many of the factors utilized therein are quite consistent with the economic variations that depend on the nature of the business.[89] Over time, the models often become quite sophisticated[90] as they adapt to the specialized needs of the company which makes use of them. It should also be noted that given their complexities, these models can easily take on "minds of their own" and the number of variables these models address can yield unexpected conclusions.[91]

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cess involving businesses location issues. For example, a company may "send several teams at different times to anonymously inspect each community." Stuckeman, *supra* note 79, at 97.

[87] For examples of business location information of interest to state policymakers, see KINNARD, *supra* note 81, at 32-34 (public awareness and involvement); SMITH, *supra* note 81, at 63 (public policy, planning, and the state) and 359-92 (industrial location, development planning, and social well-being). *See generally* BROWNING, *supra* note 81, at 31-48.

[88] For examples of starting points for formulating business location models, see note 81, *supra*, and accompanying text.

[89] *See generally id.*

[90] *See, e.g.*, SMITH, *supra* note 81, at 149 *et seq.*

[91] For an introduction to the historical business decision-making models in general and their complexities, see ROSENKRANZ, *supra* note 81. For a historical perspective on planning systems in the context of business decision-making, see JAMES B. BOULDEN, COMPUTER-ASSISTED PLANNING SYS-

Most of the traditional business location models include a category which is generically termed the "business environment."[92] A classic "red-flag" component of this category is "high-crime rate."[93] For example, a business location computer model would, by definition, identify a generic type of red-flag to alert a company which was considering locating in a particular county if that county had the highest violent crime rate or the highest illegal drug use in the state.[94] Similarly, "legalized gambling activities" become an important factor in a company's decision whether to locate in certain communities.[95] While the advantages of locating in a given area might still overwhelm the notable disadvantages associated with its red-flag drawbacks,[96] that decision would have to be made as a type of managerial override of the red-flag alerts.[97] The point is that counties

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TEMS (1975).

[92] Perhaps "the most important qualification of all" is "community attitude" as part of the business environment. Stuckeman, *supra* note 78, at 99. "Community" and "Government Aspects" constitute "Major Factors That Shape Plant Location Searches." SCHMENNER, *supra* note 81, at 33. For examples of checklists involving the community business climate, see BROWNING, *supra* note 81, at 108-11, 125-28. The origins of this consideration are apparently found in "social and cultural" location dynamics. *See, e.g.*, WEBER, *supra* note 81, at 21-22. In current analyses, businesses are often encouraged to "hand-pick" their business community environments. *See, e.g.*, BROWNING, *supra* note 81, at 87-114. In a juxtaposition of issues in this area, some traditional business ventures, such as retail liquor stores, carry the image of imposing various sorts of "negative environmental impacts" on the community and these businesses must accommodate community concerns before entering a chosen community. *See, e.g.*, KINNARD, *supra* note 81, at 60-62.

[93] *See, e.g.*, BROWNING, *supra* note 81, at 164 (checklist of "Police Aspects"); PLANNING, *supra* note 81, at 303-04 (civil disorders), 308 (crime); Stuckeman, *supra* note 78, at 99. For examples of analyses demonstrating the interface between crime and some business-economic issues in the area of legalized gambling, see Buck et al., *supra* note 67, at 288; Hakim, *supra* note 67, at 409. Various impacts are incorporated under the general rubric of "crime."

[94] For an example of a practical application of crime (specifically, robbery) as factored into "quality of life" considerations in business location decisions, see John M. Griffin and Norbert Dee, *Measuring The Intangible: How To Quantify Quality Of Life*, in PLANNING, *supra* note 81, at 219, 220-21.

[95] For examples of various "pitfalls" to be considered in business location models, see BROWNING, *supra* note 81, at 205-211.

[96] *Id.* Historical trends provide support for these propositions.

> During the first six years of the 1970s, seventy-three (almost 15 percent) of the Fortune-500 companies moved their headquarters. The most frequent reason stated was the decline of the cities. High crime rates, dirty streets, and the fact that increasing numbers of young executives offered a job at headquarters refused it have also contributed.

Id. at 10. Business location models delimit a "*[p]rimary concern for the quality of life in an area.*" SCHMENNER, *supra* note 81, at 38 (emphasis in original).

[97] The final question for the business location decision maker is often: "If the company transferred me to this location, would I want to move my family here?" BROWNING, *supra* note 81, at 210.

and states with these red-flag components are at a definite competitive disadvantage for attracting new businesses to their economies.

The question of whether high crime rates *per se* are associated with legalized gambling activities is beyond the scope of this discussion.[98] In addition, any specific red-flag areas are or should be separate components in business location models. Even so, pre-existing legalized gambling activities in any county or state constitute a definite negative in efforts to attract new businesses (and in keeping pre-existing businesses).[99] It is largely irrelevant whether the gambling activity has been legalized or not. The basic negative socio-economic impacts of an activity do not change just because an activity has been "legalized" — although the parameters of the negatives may be regulated or monitored more closely.

In the public domain, the best analysis interfacing a community environment with readily accessible legalized gambling activities is contained in *The Impact of Casino Gambling In New Orleans*[100] by the Division of Business and Economic Research at the University of New Orleans. This report referenced a 1989 survey[101] in which business leaders were asked what factors were "absolutely essential" in locating their businesses:[102]

> With respect to office locations, the business leaders listed eight factors that were important. Of these eight, two were related to the business climate: 1) the climate created by state and local government for business, which was ranked fourth with 29 percent of the respondents saying it was essential and 2) the ability to attract executives and professional[s] from outside the area, which was

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98 *See, e.g.*, Buck et al., *supra* note 67, at 288; Hakim, *supra* note 67, at 409.

For a summary of the socio-economic concerns associated with legalized gambling activities as they interface with the criminal justice system, see Frank Kelley, Michigan Attorney General, Address before the International Conference on Gambling, Nashville, Tenn. (February 11, 1994) ("I have been Michigan's Attorney General for more than thirty years, and there has never been an issue that has disturbed me any more than the proliferation of gambling in our state.") [hereinafter Mich. Att'y Gen.].

99 As a general observation in a related issue area involving business location decisions, "[m]any business activities are regarded as 'unsuitable neighbors' both for residences and for other types of more 'desirable' business activity." KINNARD, *supra* note 81, at 61.

100 TIMOTHY P. RYAN, ET AL., THE IMPACT OF CASINO GAMBLING IN NEW ORLEANS (Division of Business and Economic Research, University of New Orleans 1990) [hereinafter RYAN].

101 This survey was undertaken by the economic development firm of Cushman and Wakefield, utilizing the polling firm of Louis Harris and Associates, Inc.

102 RYAN, *supra* note 100, at 30.

ranked seventh with 22 percent of the respondents saying it was essential. This is consistent with other surveys that have been done.[103]

It should also be noted that when these business leaders were polled about "other" cities, "[o]nly three percent felt that Las Vegas was an attractive place to locate a business today [1989]"[104] and "only 2 percent responded that they felt Las Vegas would be attractive in the next five years."[105]

An actual case example demonstrated several of these points when in March of 1992, Mayor Richard Daley announced and gave his support to a proposed $2-billion casino complex for Chicago.[106] Mayor Daley's plan was criticized as "increasing crime and other social problems and discouraging other businesses from locating [in Chicago]."[107] In this context, Mayor Daley claimed that he had first tried to attract another Walt Disney World to the Chicago area,[108] but failing in that attempt he was hoping to establish a $2-billion casino complex. Despite the many variables associated with such decisions, the speed with which the Mayor appeared to dismiss the Disney-type possibility hurt the Mayor's credibility. It seemed unreasonable that an attractive offer could not have been negotiated to attract the Walt Disney Company or a similar company — given the resources of the City of Chicago and the Governor of Illinois (whom Mayor Richard Daley did not consult prior to announcing the Chicago casino complex).[109]

Even so, it seemed illogical that a theme park the size of Walt Disney World would ever locate in the Chicago area once a $2-billion casino complex was approved. In other words, in business as in politics, the rule is that business persons should "never say never." However, in this hypo-

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103 *Id.* at 30-31.

104 *Id.* at 32.

105 *Id.*

106 Walsh, *supra* note 25, at 3.

107 *Id.*

108 *See generally*, Chris Reidy, *Gambling Has Become The Nice Vice*, BOSTON GLOBE, January 17, 1993, at 69, 71 ("The word gambling makes . . . [employees of legalized gambling organizations] uncomfortable . . . . In an era when casinos are designed with water slides and Disney-style theme parks, . . . [they prefer] such terms as 'gaming' and 'family entertainment'.").

109 John Kass and Rick Pearson, *Daley Folds Casino Hand*, CHI. TRIB., January 8, 1993, § 1, at 1, 18. "[Mayor] Daley had sought the legislature's approval of the casino project last year without first discussing the idea with [Governor] Edgar, who is opposed to casino gambling in the city." *Id.* at 1.

thetical instance, the business location models and/or decision-making process for a Disney-size theme park would probably have "red-flags" all over the "business environment" category, as well as many other categories. Of course this discussion is limited to only the impacts of legalized gambling activities, while many other factors in the business location models (such as the climate in Chicago) could have been of crucial importance.

In other hypothetical discussions, a related, interesting scenario could also occur. After the Walt Disney Company publicly announced plans in 1993 to establish a theme park in the area of Manassas, Virginia, a proposal for a legalized gambling riverboat complex was aggressively promoted for Richmond, Virginia — only ninety-four miles away.[110] Since tourism is the second leading industry in Virginia, it is interesting to consider whether a "pre-existing" legalized gambling complex in Richmond or in Washington, D.C. (only thirty-seven miles distant from Manassas) would have negated the decision of the Walt Disney Company. Perhaps the projected drawdown on the visitors to the Disney theme park would have been minimal given the distances involved. Perhaps other considerations of locale would have been more important to Disney than the socioeconomic negatives associated with concentrated legalized gambling activities. Perhaps pre-existing legalized gambling complexes in Virginia would have caused Disney to reconsider Chicago. Regardless of these considerations and many other variables which may have been vital, the fact remains that Disney chose to locate first in a state with little or no legalized gambling activities.[111]

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[110] For an outline of the proposal to bring legalized riverboat gambling to Virginia, see Robert W. Cook, *Economic And Fiscal Impact Of Riverboat Gaming In Virginia* (November 1993) (prepared for the Virginia Riverboat Council, calculating that seven riverboats would create $123 million in tax revenues, 7,000 direct jobs, and 17,000 indirect jobs). For a critique of this report, see Wayne K. Talley, *An Analysis Of Economic And Fiscal Impact Of Riverboat Gaming In Virginia* (February 1994) (prepared for the Assembly Group, concluding that seven riverboats would create only $10 million in tax revenues and 2,766 net jobs) (available from Prof. Wayne K. Talley, Old Dominion University, Norfolk, Va.). The large differences in these numbers indicate the typical parameters of the economic debate. Professor Talley's analysis was significantly more realistic and highlighted the problem of double counting which apparently occurred in the earlier analysis.

[111] In any event, Virginia had considerably less legalized gambling activities than Illinois, which already had nine or ten riverboats, as well as off-track betting parlors in 1993. Virginia did, however, have the lottery, which was initiated in 1988. CLOTFELTER, *supra* note 7, at 156-58 (referendum passed November 4, 1987). Presumably, the initial business location investigation would have begun years before Disney's public announcement in 1993.

In this context, it is interesting to note that the 85-member Greater Washington (D.C.) Board of Trade quickly and unanimously rejected a 1993 proposal to bring casino gambling to the area.[112] There was apparently very little debate among businesses and the tourist trade in Washington, D.C. — compared with the debate in Chicago which began in 1992 and continued into 1994. The press report on the decision of the business leaders in the Washington, D.C. area was revealing.

> The Washington area's most influential business group . . . denounced Mayor Sharon Pratt Kelly's efforts to bring casino gambling to the District, attacking the idea as a poor use of city resources.
>
> In a rare public stand on a controversial political issue, the Greater Washington Board of Trade's *85-member board voted unanimously against the initiative.*
>
> The group, which includes many of the Washington area's most powerful business leaders, could have provided strong backing for Kelly's plans to use gambling to spur economic development. The mayor has courted the group on various financial issues.
>
> "The addition of casino gambling would not enhance the city's image," the Board of Trade said in a statement . . . . "Directors believe that the city should concentrate on key economic development initiatives such as the convention center redevelopment, neighborhood revitalization and an aggressive business retention program," adding that gaming is "diverting the Kelly administration's attention away from well-outlined priorities."[113]

This decision by the Board of Trade was a significant reflection of business acumen and it unanimously rejected the standard claims of economic development promulgated by the legalized gambling interests.[114]

In any event, it should be emphasized that there are also fundamental differences in substantial portions of the tourist and nontourist clienteles attracted by complexes dedicated to gambling, as distinguished from other

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112 Liz Spayd and Yolanda Woodlee, *Trade Board Rejects D.C. Casino Plan*, WASH. POST, September 25, 1993, § A, at 1 [hereinafter Spayd].

113 *Id.* at 1 (emphasis added).

114 *Id.* at 1, 8.

types of tourist attractions. These differences are important, despite the efforts of many legalized gambling facilities to disguise themselves as "family entertainment centers." "But a casino is *not* an adult Disneyland,"[115] according to law professor I. Nelson Rose, who summarized some of the issues differentiating a casino from a *bona fide* family entertainment center.

> Disneyland would not exploit minors, or drunks, or compulsives [*i.e.*, compulsive gamblers], even if it could get away with it. But some casinos do it every day and then lie about it, even to themselves.[116]

Considerable weight should be given to the argument that in many respects a Disney-style theme park and a legalized gambling complex are not just different, but fundamentally incompatible. These problems lead to the proposition that each state, particularly tourist-oriented states, must decide on their "tourist environment" as well as their statewide "business and community environments." Given some of Euro Disney's marketing problems during the early 1990s,[117] it would be difficult to believe that a Manassas theme park would not have some serious concerns about proximate legalized gambling facilities —particularly riverboats and casinos.

The main point is that counties, cities, and states must choose their respective business environments. Chicago needs to determine whether it wants to be known as "the City that Works" or "the City that Gambles."[118] Likewise, Illinois needs to determine if it wants to be known as "the State that Works" or "the State that Gambles." Virginia, Florida, and other tourist-oriented states will also need to decide on their "tourist environment."[119] As the Greater Washington Board of Trade emphasized, "[t]he addition of casino gambling would not enhance the city's im-

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[115] I. Nelson Rose, *The Rise And Fall Of The Third Wave: Gambling Will Be Outlawed In Forty Years*, at 65, 72, in GAMBLING AND PUBLIC POLICY: INTERNATIONAL PERSPECTIVES (William R. Eadington and Judy A. Cornelius eds. 1991) (emphasis in original).

[116] *Id.* at 72.

[117] *See, e.g., Euro Disney's Wish Comes True*, THE ECONOMIST, March 19, 1994, at 83; *Meltdown At The Cultural Chernobyl*, THE ECONOMIST, February 5, 1994, at 65.

[118] Walsh, *supra* note 25, at 3 ("The dispute also has an emotional edge dealing with self-image . . . . 'If we become the gambling center of the Midwest,' [Chicago Alderman Lawrence] Bloom said, 'that's what we're going to be known as, and that's not what Chicago is.'").

[119] *See* Spayd, *supra* note 112, at 1.

age,"[120] or as Michigan Attorney General Frank Kelley concluded "[c]ities trying to create a better image should stay away from gambling."[121] Before the twenty-first century, all U.S. counties, cities, and states will be faced with similar issues involving their community and business environments.

V. WHY BUSINESSES SHOULD NOT LOCATE IN LEGALIZED GAMBLING STATES AND WHY THEY SHOULD CONSIDER RELOCATING IF THEY CAN

A. *The Business Environment in Gambling States as Inherently Destructive*

Sound economic reasons dictate that businesses should avoid locating in counties and states with legalized gambling activities if they can locate elsewhere.[122] Obviously, if the same degrees of legalized gambling preexist in all potential locations, the gambling activities component and related considerations may be largely irrelevant. However, those areas without legalized gambling activities have a competitive business-economic advantage over those states which have legalized gambling.

The best policy for most states is to establish themselves as "gambling-free" states. Gambling-free states escape the vast majority of socioeconomic problems which encumber the local economies and governments of states with legalized gambling. States recently succumbing to pressures to enact state lotteries (such as Georgia in November of 1992) would be well-advised to disassociate their economies from legalized gambling activities and return to their previous status as gambling-free states. The longer the legalized gambling philosophy is allowed to influence an economy, the harder it becomes to revert to a gambling-free economy. However, economic history also demonstrates that gambling activities are generally recriminalized after an eventual erosion, and implosion, of the economy originally embracing them.[123]

A major reason that businesses do not want to be located in gambling states is because legalized gambling elevates social-welfare pressures on

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120 *Id.*

121 Mich. Att'y Gen., *supra* note 98, at 4.

122 *See, e.g.*, Buck et al., *supra* note 67, at 301-02; Hakim, *supra* note 67, at 414-15.

123 *See* Rose, *supra* note 115, at 74.

local and state governments to raise corporate, personal, and real estate taxes. Companies are naturally averse to paying higher corporate and real estate taxes to address these increasing problems. Business employees dislike higher personal and real estate taxes for the same reasons. Nor do businesses want to tack a salary bonus on their employees' paychecks to cover the increased taxes concomitant to living in a "high-tax state." The term "high-tax state" is a term which in the future will become more synonymous with "gambling state."[124] For example, in 1992 *Money* magazine found Sioux Falls, South Dakota a prime community in which to live.[125] Interestingly, there were no personal income taxes in South Dakota. Naturally, potential employees want to live and work in such environments. Since 1988, however, with the initiation and subsequent rapid proliferation of legalized gambling activities in South Dakota, an eventual state income tax is likely, and such activities may cause Sioux Falls to lose its favorable community business environment.[126] By comparison, in 1988 *Money* magazine designated Atlantic City, New Jersey as the least livable U.S. community.[127]

Of course, it is possible for a smaller gambling economy to live parasitically off of a larger non-gambling economy — Nevada and California, respectively — so long as the non-gambling economy cooperates.[128] It is well-documented that there is "a direct transfer of income and wealth from California to Nevada every year."[129] Gambling by Californians pumps nearly $3.8 billion per year into Nevada,[130] which translates into over one percent of California's Gross State Product.[131] In such an instance, it is therefore possible for a gambling state, such as Nevada, to be a low-tax

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[124] An exception, however, is a small state, such as Nevada, living parasitically off of a larger state, such as California. SUBSIDY, *supra* note 11, at ES-1; CALIFORNIA GOVERNOR'S OFFICE OF PLANNING AND RESEARCH, *Office Of Planning And Research Releases Study Of The Economic Relationship Between California And Nevada As It Relates To Legalized Gambling*, December 17, 1992, at 1-2 [hereinafter *Cal. Research*].

[125] Marguerite T. Smith and Debra Wishik Englander, *The Best Places To Live In America*, MONEY, September 1992, at 110.

[126] *See also* John W. Kindt, Address before the South Dakota Citizens Forum on Video-Lottery Terminals, Sioux Falls, S.D. (October 18, 1992).

[127] Richard Eisenberg and Debra Wishik Englander, *The Best Places To Live In America*, MONEY, August 1988, at 83.

[128] SUBSIDY, *supra* note 11, at ES-1, ES-4.

[129] *Id.* at ES-1; *Cal. Research*, *supra* note 124, at 1.

[130] SUBSIDY, *supra* note 11, at ES-1; *Cal. Research*, *supra* note 124, at 1.

[131] SUBSIDY, *supra* note 11, at ES-1.

state with no business or personal income tax.[132] Yet the previous points involving the economic advantages inherent in non-gambling states retain their validity, because until recently, the Nevada/California scenario was generally an exception. Furthermore, these principles can obviously be reflected across state lines in a more regional phenomenon; that is, companies will be less likely to locate in general "regions" of the country where the harder forms of gambling are legalized.

The business environment is poor for business operations in gambling areas — except for legalized gambling organizations and their cluster services. For years, Nevada has had several communities with sufficient infrastructure to support numerous light industries, and yet those industries have chosen to locate elsewhere. There is no Silicon Valley or its equivalent in Nevada, and one major reason is that a substantial majority of preexisting and potential employees do not want to work or raise families in a Nevada-like gambling environment.

Although the major Nevada communities competed vigorously throughout the 1980s to attract new businesses unrelated to legalized gambling and its cluster services, these negative factors have created an image which is not conducive to attracting new industries. Despite low taxes and a cheap pool of labor, most major companies have decided against locating in Nevada. One major company which was persuaded to locate in the Las Vegas area even changed its mailing address away from Las Vegas, allegedly to protect its company's image.

In any event, the "community environment" and its concomitant "business environment" appear to be the most important considerations reviewed by the Fortune 500 companies and other large businesses when considering where to locate. As Nevada illustrates, these considerations also appear to outweigh significantly the considerations pertaining to the availability of infrastructure, the demographics of the labor pool, and even tax rates.

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[132] *Id.*; *Cal. Research*, *supra* note 124, at 1.

B. Increased Personnel Costs for Businesses Located in Gambling States

Businesses can also expect major personnel problems if they choose to locate in a state with legalized gambling. Similarly, businesses will experience a premium in personnel costs if they allow the state in which they are presently located to legalize gambling. In this context, it is helpful to delineate strategic socio-economic factors which contribute to these increased personnel costs for businesses.

In a state with no legalized gambling, the population will contain approximately .77 percent compulsive gamblers and 2.33 percent "potential" compulsive gamblers.[133] The associated socio-economic costs are usually not readily apparent because they have already been subsumed into the pre-existing economy measured over decades. Once gambling activities are legalized and become socially "acceptable," however, the number of compulsive gamblers quickly increases to between 1.5 to 5 percent of the workforce.[134] To illustrate this point, if a business has 1,000 employees, the number of compulsive gamblers would increase from approximately eight to between fifteen and fifty employees. Furthermore, the "problem" economic gamblers (which includes the compulsive gamblers above) would total ten percent of the workforce, or 100 employees.[135] It is interesting to note that this ten percent parallels, and indeed corroborates, the reported clinical case load of problem gamblers in South Dakota, a state which only recently introduced casino gambling and VLTs at the end of 1989.[136]

As a direct result, then, businesses can anticipate increases of 100 to

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[133] *See generally* U.S. COMMISSION ON THE REVIEW OF THE NATIONAL POLICY TOWARD GAMBLING, GAMBLING IN AMERICA 73 (1976) [hereinafter U.S. COMMISSION ON GAMBLING].

[134] *See* Rachel A. Volberg, *Estimating The Prevalence Of Pathological Gambling In The United States*, in GAMBLING BEHAVIOR AND PROBLEM GAMBLING (W. R. Eadington ed. 1992); Rachel A. Volberg And Henry J. Steadman, *Prevalence Estimates Of Pathological Gambling In New Jersey And Maryland*, 146 AM. J. PSYCHIATRY 1618 (1989); Rachel A. Volberg And Henry J. Steadman, *Refining Prevalence Estimates Of Pathological Gambling*, 145 AM. J. PSYCHIATRY 502 (1988); ALBERTA LOTTERIES AND GAMING, GAMBLING AND PROBLEM GAMBLING IN ALBERTA 18 (January 1994) (summarizing twenty studies showing prevalence rates of problem and pathological gambling among the adult population of several states).

[135] *See* CLOTFELTER, *supra* note 7, at 92-94.

[136] *S.D. Bankruptcies*, *supra* note 29, at 1 ("Ten percent of the clients who . . . went to the Consumer Credit Counseling Services of Lutheran Social Services of Sioux Falls openly admit[ted] that gambling underlies their financial problems . . . .").

550 percent in problems resulting from compulsive gamblers. Nationwide, an entirely new addicted workforce is being created as a result of legalizing gambling. In addition to the family and financial problems associated with compulsive gamblers which drain the resources of the local community, the state, and society at large, problems also directly and indirectly manifest themselves in the workforce. The internal problems which businesses can anticipate include increasing absenteeism and declining productivity. The average lost productivity for each compulsive gambler (at 1.5 to 5 percent of the workforce) has been calculated to be at least $15,000 per year,[137] but may be as high as $23,000 to $27,000.[138] To this total should be added the lost productivity of problem economic gamblers which, although not yet calculated within a range of specific dollar amounts, involves an added 5 to 8.5 percent of the workforce. Furthermore, the vast majority of those identified as compulsive gamblers often resort to theft from the workplace to finance their gambling.[139] Given this information, one observer has commented that "from a purely financial point of view, compulsive gambling is potentially worse [for an employer] than alcoholism and drug abuse combined."[140] In sum, personnel problems involving the dismissal of employees will presumably increase, and new legal grounds for dismissal may complicate the existing laws involving management-personnel relations.[141]

Furthermore, businesses are already facing increasing personnel problems, specifically rehabilitation costs, from employees engaging in illegal drug use and alcohol abuse, both "addictions" according to the American Psychiatric Association (APA). Several major companies have internalized the costs of treating their addicted employees for substance abuse, specifically alcohol and drugs. Added to these costs will be the costs of treating another APA-recognized addiction, gambling addiction.[142] Sociologists

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[137] MARYLAND REPORT, *supra* note 14, at 59; *see id.* at 59-61.

[138] ROBERT M. POLITZER ET AL., REPORT ON THE SOCIETAL COST OF PATHOLOGICAL GAMBLING AND THE COST-BENEFIT EFFECTIVENESS OF TREATMENT 9 (1981) [hereinafter POLITZER ET AL.]; BETTER GOV'T ASS'N REPORT, *supra* note 1, at 14.

[139] Gerry T. Fulcher, *The Dark Side Of A Trip To The Track*, INDUS. WK., August 5, 1991, at 13 ("85% of the thousands of identified compulsive gamblers admit to stealing from their employers, given the opportunity").

[140] *Id.*

[141] Perhaps the most interesting connection is that Type-A personalities — the very best blue-collar workers, the most productive white-collar workers, and the aggressive entrepreneurial managers — all fall within psychological profiles most susceptible to becoming problem gamblers. *See* MARYLAND REPORT, *supra* note 14, at 20-34.

[142] AMERICAN PSYCHIATRIC ASSOCIATION, DIAGNOSTIC AND STATISTICAL MANUAL OF MEN-

readily recognize the parallels between these three addictions. If conservative estimates of treating each gambling addict are utilized and absorbed by companies, the rehabilitative costs per employee can easily range from $15,000[143] to $42,000.[144]

Therefore, in a hypothetical company with 1,000 employees, the number of gambling addicts will be .77 percent, or seven to eight employees, *before* gambling is legalized.[145] This nominal sum often goes unnoticed and/or unaddressed by employers. Once gambling becomes legalized, however, a new addicted population will rise to include 1.5 to 5 percent of the workforce, and fifteen to fifty addicted employees can be anticipated. This 100 to 550 percent increase will transform a largely hidden problem into a significant and costly personnel quandary. Responsible firms that provide addiction treatment will face a conservative rehabilitative cost of $20,000 per gambling-addicted employee.[146] Increased personnel costs to a company with 1,000 employees would then amount to between $140,000 and $840,000. Add to this a lost productivity cost of $15,000 to $27,000 per employee,[147] and business could incur $35,000 in costs per gambling employee, for a total cost of $245,000 to $1.5 million.

It is unrealistic to think that state governments will directly shoulder these costs. State governments, traditionally pressured by taxpayers, place at least part of these rehabilitative and quality-of-life costs onto the businesses themselves. Businesses, then, will bear a substantial internal cost burden generated by the problems associated with compulsive gambling. Furthermore, a definite ten percent of our hypothetical workforce of 1,000 employees, or 100 people, will become problem economic gamblers, i.e., employees who are on their way to becoming compulsive gamblers, as well as those *already* compulsive gamblers.

Counties, cities, and states with legalized gambling activities are and will continue to become more competitively disadvantaged when trying to

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TAL DISORDERS § 312.31 (rev. 3d ed. 1987).

143 Some estimates are as low as $5,000 to $10,000 for out-patients, but $20,000 is a more reasonable number. BETTER GOV'T ASS'N REPORT, *supra* note 1, at 12.

144 In-patient care for compulsive gamblers ranges from $17,000 to $20,000 per month at the Compulsive Gambling Center, Inc., in Baltimore, Maryland, to between $15,000 and $42,000 per month at other facilities, such as the Philadelphia Psychiatric Hospital. Interview with Dr. Valerie C. Lorenz, Executive Director, Compulsive Gambling Center, Inc., Baltimore, Md. (November 10, 1992).

145 U.S. COMMISSION ON GAMBLING, *supra* note 133, at 73.

146 *See* notes 143 and 144, *supra*, and accompanying text.

147 *See* POLITZER ET AL., *supra* note 138, at 9.

attract new businesses. In 1990, for example, Champaign County, Illinois, tried and failed to attract a $1-billion United Airlines facility. In 1992, the same county tried to attract a Spiegel distribution center promising 2,000 jobs, but failed. Interestingly, Champaign City was in the midst of a well-publicized legalized gambling controversy over off-track betting during this time. Both companies ultimately located in states with much less legalized gambling.[148]

These companies were probably utilizing business location models. Given the inherent nature of such models, the Champaign community, by embracing the gambling philosophy, was at a competitive disadvantage to non-gambling communities. Throughout 1990-1991, there were well over 150 media reports on the gambling controversy in the newspapers, radio reports, and television reports.[149] It would be difficult to suggest that this

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[148] United Airlines settled in Indiana, and Spiegel located in Ohio. These companies undoubtedly utilized many factors in determining where to locate, and the Champaign gambling controversies may have been minor. For public relations reasons, however, no company would give precise reasons for choosing one community over another, and upper management might not have even realized the full extent of the direct and indirect gambling "red-flags" which are inherent in most business location models and which may have been reflected in their specialized models. Concessions promised by the other sites might also have been the determining factors.

[149] Public concerns involving alleged misinformation by the legalized gambling interests, as sometimes abetted by the media, was exemplified by the following letter, which is reprinted *in toto*:

> To the editor:
>
> On June 30, [1990] the Ministers Alliance, representing eight black congregations, came out against off-track betting facilities [OTBs] in the Champaign area.
>
> The people of Champaign should ask themselves why most of the news organizations chose not to report or to downplay this obviously newsworthy story.
>
> While WICD television reported this event on June 30 (and while WCIA did not), The News-Gazette has never mentioned this fact although The News-Gazette published stories on off-track betting on July 2, 4, 5, 6 (two articles) and July 7 (an article plus the "Week in Quotes").
>
> Obviously, several opportunities to report or mention this development in the black community were ignored. Perhaps this should not be a surprise, since The News-Gazette's lack of objectivity and blatant favoritism encouraging a betting parlor for Champaign was apparent in most of these articles — but particularly in a full front-page article, with a color photograph, in the June 24 edition of the paper.
>
> The public would prefer objective news, instead of editorial opinion and Mayor Dannel McCollum's propaganda disguised as news.

Letter to the Editor from Diane E. Pierce, NEWS-GAZETTE (Champaign, Ill.), July 27, 1990, § A, at 4.

The public opposition to the OTBs was apparently extensive and vigorous. *See, e.g.*, Letter to the Editor from J. E. Miller, NEWS-GAZETTE (Champaign, Ill.), July 13, 1990, § A, at 4 (indicating opposition to the OTBs from "at least 15 organizations"); Letter to the Editor from Connie Morenz, NEWS-GAZETTE (Champaign, Ill.), July 23, 1990, § A, at 4 (indicating opposition to the OTBs "from over two dozen civic and religious organizations" plus "eight ministers in the Ministers Alliance, representmajor community issue was not factored into the decision-making process by both companies as they investigated the Champaign County region.

Regardless of these determinations, legalized gambling communities and gambling states are in the process of developing poor community and business environments. The extent of negative consequences these communities face, however, is not always apparent, since companies rarely report their choices for location in a particular community based on its current or predicted deteriorating community environment. This is necessarily problematic for legalized gambling states which generate such deteriorating community environments. The economic trend is obvious; legalized gambling states will continue to hurt their economies as they embrace the gambling interests and the gambling philosophy. Savvy businesses should not, and probably will not, locate in legalized gambling states. Moreover, businesses should not expand their employee base in a gambling state, but should attempt to relocate as many jobs as possible to non-gambling

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ing the black community"); Letter to the Editor from Rev. Don Ehlers, NEWS-GAZETTE (Champaign, Ill.), July 24, 1990, § A, at 4 (indicating "[a] sizeable number of individuals from the community, especially from west Champaign, did oppose the location of an OTB in the city").

The OTB company's application first received general press exposure on May 30, 1990, but the application to the Illinois Racing Board was scheduled for action on June 12, 1990. Potential opponents had only eight working days to voice their opposition and had to travel over 130 miles to the hearing. *See* J. Philip Bloomer, *Nursery School Location Could Keep Betting Parlor Out*, NEWS-GAZETTE (Champaign, Ill.), June 9, 1990, § A, at 1, 12 [hereinafter *School Location*]; Letter to the Editor from Philip Miller, NEWS-GAZETTE (Champaign, Ill.), June 16, 1990, § A, at 4 (complaining about the "fast-track" procedures). Under the Illinois Open Meetings Act, all meetings of public bodies are required to "be held at specific times and places which are convenient to the public." ILL. REV. STAT. ch. 102, ¶ 42.01. As per this statute, or perhaps because of the public outcry, the Board's meeting was postponed. *See School Location*, *supra*, at 1. *See generally* Kathleen Cardella, *Paperwork, Short Notice Help Stifle OTB Opposition*, NEWS-GAZETTE (Champaign, Ill.), October 10, 1991, § B, at 3 [hereinafter Cardella]. These "political actions have stifled public access to pertinent information regarding the license application decisions that the public is entitled to know." Cardella, *supra*, at 3.

> Along with these alarming changes, the Champaign and Danville off-track betting scenarios have highlighted the swift speed with which the Illinois Racing Board can approve an off-track betting license application. It requires no action on the part of local government and possibly can be approved without public support.
>
> ....
>
> Both the Champaign and Danville application processes underscore the short time frame that the public has to learn about this complex political issue and voice its concerns. It also demonstrates that public input is not always considered when approving off-track betting parlors.
>
> Unless there are changes in state law, other communities will be forced to act quickly to prevent the establishment of off-track betting parlors in their community.

Cardella, *supra*, at 3.

states.

VI. THE ADVANTAGES OF THE GAMBLING-FREE STATE FOR RETAINING PRE-EXISTING BUSINESSES AND ATTRACTING NEW BUSINESSES

Those states which do not have any form of legalized gambling, including a state lottery, should not legalize gambling activities for purely fiscal reasons alone. From a business/economic perspective, the best strategy for a state is to declare itself a "gambling-free state" and then widely advertise itself as such. States which have already legalized gambling should re-criminalize gambling activities to boost their local economies. One major reason is that since most states are becoming infatuated with the gambling philosophy, those states without legalized gambling or with minimal legalized gambling will have several relative socio-economic advantages contributing to a positive business/economic environment. Even minimal legalized gambling in a state should be eliminated: once the Pandora's box of legalized gambling is opened, the socio-economic problems rapidly become ingrained in the economic fabric of the state.

Within the near future, businesses will start looking for gambling-free states or economies to which they can escape. Sooner or later, businesses will become disenchanted with the socio-economic problems and relatively high taxes of gambling states. Gambling-free states or states with less gambling will have advantages in attracting new businesses and in retaining pre-existing businesses. Strategically speaking, non-gambling states (or minimal-gambling states) will have more vibrant local economies, proportionately more consumer dollars, better sociological environments, more productive jobs, and lower taxes. As of 1992, Utah and Hawaii were the only remaining states without any legalized gambling activities whatsoever — although many states still had very limited legalized gambling activities. Given Hawaii's reliance on a tourist economy, the citizenry of Hawaii probably realized that any legalized gambling activities would severely injure the pre-existing tourist economy. Furthermore, Utah was recognizing and promoting its gambling-free status as an economic plus, and Utah Governor Mike Leavitt emphasized this advantage:

> We're the number one job creation state in the country. We're number two in personal income growth . . . . And there are a lot of people, frankly, that would like to move to a state where there

is no gaming, where in fact you can have a safe place, a clean place to live . . . .[150]

As other states expand legalized gambling activities, the gambling-free states and those states which minimize gambling activities will increase their competitive advantage in attracting and retaining nongambling-related businesses.

Similarly, many businesspersons instinctively recognize many of these economic principles. When a land-based casino was projected in New Orleans, local entrepreneurs, including the New Orleans Business Council, actively opposed the casino and the guaranteed effect of legalized gambling facilities on pre-existing consumer dollars and tourist dollars. They feared that a casino would take customers from the native merchants and restauranteurs. Moreover, they failed to see how the Crescent City could benefit by dividing the substantial, existing tourist trade amongst itself. Not surprisingly, many New Orleanians were outraged that a proposed referendum on the casino issue was disallowed.[151]

In future years, businesses will invariably be attracted to non-gambling states, or to those states with less gambling, and their healthier economies with more consumer dollars, better business environments, and lower socio-economic problems. On a relative basis, the consumer dollars in non-gambling states will be less likely to be syphoned into the legalized gambling organizations, which are highly competitive in capturing local "consumer dollars" and transforming them into "gambling dollars."[152] Excepting the instances where a small gambling state lives parasitically off of the economy of a non-gambling state,[153] the corporate, personal, and real estate taxes should be proportionately lower for gambling-free states and states with minimal gambling. In sum, the less there is of legalized gambling, the more vibrant the economy will be.

In the long-term, gambling-free states will also have proportionately more economic strength than gambling states. For example, Georgia should immediately revoke its state lottery, because as one of the last non-

[150] *This Week with David Brinkley*, (ABC television broadcast, March 20, 1994) (statement of Utah Governor Mike Leavitt).

[151] Koselka, *supra* note 45, at 63.

[152] *See generally* GOODMAN, *supra* note 3. *See also* William R. Eadington, *Economic Perceptions Of Gambling Behavior*, 3 J. GAMBLING BEHAV. 264 (1987).

[153] *See* notes 128-132, *supra*, and accompanying text.

gambling states, its economy would prosper in comparison with its sister states. The local economies of gambling-free states will always have advantages in warding off recessionary economic trends. By comparison, these economic advantages will be unavailable to the gambling states, and since gambling economies have inherent recessionary trends, future recessions could be proportionately more severe in gambling states.

The legalized gambling interests frequently urge states to enact state lotteries or other forms of legalized gambling, claiming that gambling dollars are being lost to other states or communities. However, this argument that "everybody is doing it" is patently deceptive and inherently invalid as an argument for *anything*. Similarly invalid is the argument by legalized gambling proponents that gambling should be legalized because "it's fun."[154] An associated argument of legalized gambling proponents is that while there may be some more crime and some socio-economic negatives, gambling is going to be legalized so people simply ought to accept it and enjoy it. In other words, the state is going to get assaulted economically, so the state might as well accept it. Obviously, there are regional draws that cross state lines, but what the legalized gambling proponents ultimately fail to mention is that while gambling dollars may be "lost" to other states, so are many of the socio-economic negatives.[155]

When policymakers can avoid myopic fixation on the initial economic flash which the influx of dollars would create in any localized scenario, it readily becomes apparent that legalized gambling activities almost invariably raise taxes, cost jobs, and create large socio-economic problems. Across the spectrum of pre-existing nongambling businesses, there must necessarily be a growing awareness of the difficulties of competing for those consumer dollars being transformed into gambling dollars[156] when legalized gambling activities enter a state and its communities. In the

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154 *See, e.g.*, *Illinois Journal* (WCIA-Channel 3 [Champaign-Springfield, Ill.] television broadcast, June 6 and 7, 1992) (interview with John Giovenco, President of the Gaming Division for Hilton Hotels Corp.). This argument is seductive because it suggests that public opinion is on the side of legalized gambling, when in fact it is rarely so when valid economic arguments are presented in a timely manner.

155 The rare exception to this scenario is exemplified by Las Vegas whose large tourist base means that the socio-economic problems associated with compulsive gambling are largely "exported" when the tourists return to their home states. The general rule is that states which legalize gambling and make it convenient to gamble are creating and retaining socio-economic negatives. These factors are widely recognized as the "acceptability factor" and the "accessibility factor."

156 *See* note 152, *supra*, and accompanying text.

long-term, gambling-free states should experience proportionately less personal and business bankruptcies, stronger financial institutions, more vibrant business economies, and better tourist, business, and community environments. All of these fundamentals translate into solid advantages for gambling-free states to attract and retain businesses unassociated with legalized gambling activities. In all, one thing remains certain: before the end of this century, all states and many countries will be faced with establishing and maintaining the parameters of their strategic business and economic environments.