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Dear Ms. Church,

I enjoyed meeting you and Mr. Parmiter in person.
Your many courtesies were appreciated.

If it is appropriate, please add a copy of the enclosed
law review article on Internet gambling, as well as
a copy of my Roll Call op-ed to the 3-25-15
hearing record as attachments.

These publications add authority and timely weight
to my prepared statement.

Thanks again for all of your good work.

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ROLL CALL



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Kindt: Internet Gambling Will Cripple World's Economic, Financial Systems

By John Warren Kindt
Jan. 7, 2013, 6 a.m.

Internet gambling is an issue of strategic financial stability and Wall Street regulation. It is not just an issue of silly games and electronic poker as argued by supporters of the proposed Reid-Kyl bill to legalize gateway gambling in cyberspace (See "Lipparelli: Congress Should Use This Brief Window to Legislate Internet Gaming.")

In 1995, congressional hearings led to enactment of the U.S. National Gambling Impact Study Commission, which concluded in 1999 that maintaining a total ban on Internet gambling was a U.S. imperative.

Currently this ban is supported by almost all members of the National Association of Attorneys General. Congress even strengthened the ban by enacting the Unlawful Internet Gambling Enforcement Act of 2006, which passed in the House with an overwhelmingly favorable bipartisan vote. Immediately the Internet gambling stocks on the London Stock Exchange lost billions of dollars as speculators finally recognized that these stocks were predicated on illusory gambling activities. Fortunately for Wall Street, the U.S. ban meant that such vacuous gambling stocks were already prohibited on U.S. stock exchanges.

Around the same time, Russian President Vladimir Putin sanguinely noted the economic and crime costs of state-sanctioned gambling and recriminalized 2,230 casinos — virtually wiping the economy clean. Associated leaders such as Chechen President Ramzan Kadyrov confirmed that "the gambling business is ... [a threat to] national security." What do the Russian economists know that is still eluding Washington politicians?

Led primarily by the U.S. ban on Internet gambling, by 2009 about 30 other countries had also banned online gambling.

Recent academic volumes of the multi-volume United States International Gambling Report even have titles reflecting the international economic realities. Specifically, the 2010 volume is alarmingly titled "The Gambling Threat to Economic and Financial Systems: Internet Gambling." The title of the 2012 volume is even more alarming: "The Gambling Threat to National and Homeland Security: Internet Gambling."

In its news video "The Bet That Blew-Up Wall Street," the website for 60 Minutes reports on gambling's interface with the current crisis in credit default swaps. Cogently, Warren Buffett named the story "Financial WMDs," while U.S. Senate hearings blasted this Wall Street gambling debacle as "casino capitalism."

At least the subprime crisis had some real property as collateral. However, with Internet gambling there's nothing of real value — just people dumping money into gambling accounts which can evaporate more easily than the Bernie Madoff monies.

U.S. gambling is an economic cancer ready to metastasize into Internet gambling. For example, the Congressional Gaming Caucus used the 9/11 tragedy to cripple the 2002 Economic Stimulus Bill with \$40 billion in tax write-offs for slot machines and associated electronics (and the caucus had asked for \$133 billion in tax write-offs). These recurring write-offs for slots are still draining the U.S. Treasury and could easily be transposed into more write-offs for Internet gambling technologies.

Gambling lobbyists also dominate the economic policies of 28 states, draining state treasuries — as exemplified by Illinois, with the nation's worst state budget crisis. With a total fair market value of \$5 billion (\$9.5 billion in 2012 dollars), the original 10 Illinois casino licenses, for example, were granted to political insiders for \$25,000 each — including one political insider recently convicted in the scandals surrounding former Gov. Rod Blagojevich.

Within this gambling aura, experts commonly refer to Internet gambling as "crack cocaine" for addicting new gamblers. Internet gambling would place the worst type of computer gambling at every school desk, at every work desk, in every living room and on every cell phone.

In an instant, a person could "click the mouse and lose the house." Again, 60 Minutes highlights these problems in its video "Slot Machines: The Big Gamble."

With justification, gambling lobbyists brag that Internet gambling is the "killer application" — killing both individual and institutional finances.

Countries cannot gamble their way to prosperity. Internet gambling shrinks the consumer economy and destroys consumer confidence by promoting a ubiquitous gambling philosophy.

Legalizing U.S. online gambling would allow dubious parties to tout the U.S. imprimatur — empowering them to create a queue of speculative bubbles that could collapse already fragile financial systems and destabilize essential international economic security.

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LAW REVIEW



Internet Gambling and the Destabilization of
National and International Economies:
Time for a Comprehensive Ban on Gambling
Over the World Wide Web

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INTERNET GAMBLING AND THE DESTABILIZATION OF NATIONAL AND INTERNATIONAL ECONOMIES: TIME FOR A COMPREHENSIVE BAN ON GAMBLING OVER THE WORLD WIDE WEB

JOHN WARREN KINDT[†] & STEPHEN W. JOY^{††}

INTRODUCTION

As the Internet rapidly gained popularity in the late 1990s, gambling Web sites began to take root, causing numerous social, financial, and political costs. These costs—including the creation of new gambling addicts, bankruptcies, and crime—directly resulted from the widespread proliferation and accessibility of gambling sites on the Internet. Policy-makers worldwide generally failed to identify the large socio-economic costs associated with Internet gambling, as well as the ability of Internet gambling and other forms of cyberspace gambling to destabilize local, national, and even international economies by disrupting financial institutions.

At the turn of the 21st century, Internet gambling exemplified gambling in all cyberspace venues. At that time, Internet gambling promoters claimed that the federal “Wire Act,”¹ which prohibits gambling by wire, did not apply to cyberspace gambling.² Simultaneously, Internet gambling operators argued that, as a practical matter, cyberspace gambling could not be “banned.”³ Taken together, these arguments implied that cyberspace gambling could not be practically or functionally regulated.

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^{††} Dobbins, Fraker, Tennant, Joy, and Perlstein. John K. Palchak, Aron Carnahan, and John D. Bucciarelli provided valuable assistance in editing and cite-checking this analysis. Due to the rapidly developing issues, current periodicals were necessarily utilized. The authors attempted to delete the publications which were too influenced by the gambling industry.

1. 18 U.S.C. § 1084 (2000). This federal statute prohibits one “engaged in the business of betting or wagering [from] knowingly us[ing] a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the plac[ement] of bets or wagers on any sporting event or contest.” *Id.* § 1084(a).

2. See generally NAT'L GAMBLING IMPACT STUDY COMM'N, FINAL REPORT 5-6 to -10 (June 1999), available at <http://govinfo.library.unt.edu/ngisc/reports/fullrpt.html> [hereinafter NGISC FINAL REPORT].

3. *Id.*

In addition, some promoters of Internet gambling began to try to skirt federal laws by establishing online casinos in remote offshore locations, primarily in the Caribbean.¹⁰ By 2000, at least twenty-five foreign jurisdictions had granted Internet gambling licenses.¹¹ A Canadian man best exemplified this type of Internet gambling promoter when he promised in 1995 to build a "virtual strip" of casinos, available to Internet users merely at the touch of a button.¹² If left unregulated, analysts expected these casinos—the future "Virtual Vegas"—to rapidly develop into a \$10 billion per year industry.¹³

During the late 1990s, experts, as well as sectors of the general public, became concerned with the possible social, economic, and political ramifications that could result from these technological developments, including the marked potential for an increase in the number of pathological (addicted) gamblers.¹⁴ In addition to socio-economic ramifications, Internet gambling raised legal and regulatory issues that interfaced with the notions of freedom of speech, freedom of the Internet, and an individual's freedom of choice. Practical issues of taxation, regulation, and competitive fairness further complicated these issues.

Experts refer to the strategic problems associated with gambling activities, particularly government-sanctioned gambling activities, as the ABCs of gambling, specifically:

- (1) New pathological (Addicted) gamblers,
- (2) New Bankruptcies, and
- (3) New Crime and Corruption.¹⁵

By 2001, the potential existed for these costs of Internet gambling ultimately to compound each other, leading to devastating results.

10. *Id.*

11. NGISC FINAL REPORT, *supra* note 2, at 5-1, -3. These jurisdictions included: "five territories within Australia, Antigua and Barbuda, Austria, Belgium, Cook Islands, Costa Rica, Curacao, Dominica, Dominican Republic, Finland, Germany, Grand Turk, Grenada, Honduras, the territory of Kalmykia in Russia, Liechtenstein, Mauritius, St. Kitts and Nevis, St. Vincent, South Africa, Trinidad, Turks and Caicos Islands, four territories in the United Kingdom, Vanatu, and Venezuela." *Id.*

12. See Joshua Quittner, *Betting on Virtual Vegas: To Get Around U.S. Gambling Laws, the First Online Casinos are Setting Up Their Card Tables Offshore*, TIME, June 12, 1995, at 64, available at 1995 WL 9021026.

13. *Id.*

14. NGISC FINAL REPORT, *supra* note 2, at 5-4, -5.

15. See John Warren Kindt, U.S. and International Concerns over the Socio-Economic Costs of Legalized Gambling: Greater than the Illegal Drug Problem?, Statement to the National Gambling Impact Study Commission 2 (May 21, 1998), available at http://www.library.ucla.edu/libraries/mgi/campaign/1998gen/props/prop5/website-no2/statements/john_kindt_1998_may_21.html [hereinafter U.S. and International Costs].

To further compound the problems associated with widespread gambling on the Internet, experts discovered that the dangers of electronic gambling far exceed those of traditional "real-world" forms of wagering for the 1% to 3% of the public most vulnerable to gambling addictions.²⁵ Howard Shaffer, Director of Harvard Medical School's Division on Addictions, determined that the use of "[e]lectronics as a vehicle of administration for gambling activities changes the experience to make it more dependence producing."²⁶ Shaffer noted: "As smoking crack cocaine changed the cocaine experience, I think electronics is going to change the way gambling is experienced."²⁷ For students and the digital generation in particular, this incarnation of gambling has "all the makings of a disaster," as summarized by one Gamblers Anonymous ("GA") member.²⁸ GA members warned that "Internet gambling [wa]s a solitary addiction," noting that "[e]ven in action-filled casinos, [addicted/pathological] gamblers [tended to] isolate themselves from their surroundings."²⁹ "Online gambling [wa]s a further extension of this [isolation]. . . . It [constituted] a way not to have to deal with any people, and it could be very secretive."³⁰

(1) [I]s preoccupied with gambling (e.g., preoccupied with reliving past gambling experiences, handicapping or planning the next venture, or thinking of ways to get money with which to gamble)

(2) [N]eeds to gamble with increasing amounts of money in order to achieve the desired excitement

(3) [H]as repeated unsuccessful efforts to control, cut back, or stop gambling

(4) [I]s restless or irritable when attempting to cut down or stop gambling

(5) [G]ambles as a way of escaping from problems or of relieving a dysphoric mood (e.g., feelings of helplessness, guilt, anxiety, depression)

(6) [A]fter losing money gambling, often returns another day to get even ("chasing" one's losses).

(7) [L]ies to family members, therapist, or others to conceal the extent of involvement with gambling

(8) [H]as committed illegal acts such as forgery, fraud, theft, or embezzlement to finance gambling

(9) [H]as jeopardized or lost a significant relationship, job, or educational or career opportunity because of gambling

(10) [R]elies on others to provide money to relieve a desperate financial situation caused by gambling

B. The gambling behavior is not better accounted for by a Manic Episode.

Id. at 618.

25. William H. Bulkeley, *Feeling Lucky? Electronics is Bringing Gambling into Homes, Restaurants and Planes*, WALL ST. J., Aug. 16, 1995, at A1, available at 1995 WL-WSJ 9896153.

26. *Id.*

27. *Id.*

28. Gabriella Spinnato, *Online Gambling: Legal, Enticing to College Students*, DAILY FREE PRESS (Boston), Nov. 6, 2000, available at www.dailyfreepress.com/main.cfm?include=detail&storyid=8076. Gamblers Anonymous programs parallel Alcoholics Anonymous programs and utilize a similar 12-step procedure. See Henry R. Lesieur, *Socioeconomic Impacts and Public Policy: Costs and Treatment of Pathological Gambling*, 556 ANNALS AM. ACAD. POL. & SOC. SCI. 153, 158 (1998).

29. Spinnato, *supra* note 28.

30. *Id.* (quoting a GA member) (alteration in original).

their employees lost productive job time while "surfing the Net."³⁸ As workers began to engage in Internet gambling activities, the businesses lost not only productive labor time, but also company assets, as employees became hooked and started to steal from their employers to fund their addictions.³⁹

Sociologists almost uniformly reported that legalizing more forms of gambling (known as the "acceptability factor") and making more forms of gambling available (known as the "accessibility factor") lead to the creation of new pathological gamblers in the workforce, who engaged in "addictive behavior" pursuant to the DSM-IV.⁴⁰ In one 1987 survey, even before widespread Internet use, pathological gamblers in Gamblers Anonymous were already reporting that 44% had stolen from their employers to gamble, 34% had been fired from work or had quit, 21% had filed for bankruptcy, and 18% had gambling-related arrests.⁴¹

Legalized gambling activities on the Internet would maximize both the acceptability factor and the accessibility factor, creating new pathological gamblers by placing gambling activities in every household, proximate to children in schools, and at every employee's work station—theoretically.⁴² This would create major numbers of new pathological

38. See, e.g., Lisa Guernsey, *The Web: New Ticket to a Pink Slip*, N.Y. TIMES, Dec. 16, 1999, at G1 (stating that dozens of employees are fired for surfing pornography and gambling sites); see Henry R. Lesieur, *Experience of Employee Assistance Programs with Pathological Gamblers*, 19 J. DRUG ISSUES 425, 427 (1989).

39. For two examples of how employee theft resulted in significant losses in the financial industry see Laura Proctor, *The Barings Collapse: A Regulatory Failure or a Failure of Supervision?*, 22 BROOK. J. INT'L L. 735, 741 (1997), examining the 1995 collapse of Barings Bank following a \$1 billion loss from an employee's unauthorized use of company funds, and Andrew Pollack, *U.S. Holds Trader in Bank's Big Loss*, N.Y. TIMES, Sept. 27, 1995, at A1, discussing Daiwa Bank's \$1.1 billion loss from an employee's unauthorized trading.

40. See *supra* note 24 and accompanying text; see also Brett Pulley, *Compulsive Gambling Spreads, Largely Due to Legality*, N.Y. TIMES, Dec. 7, 1997, at A1; see generally Howard J. Shaffer et al., *Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-analysis*, Harvard Medical School, Div. on Addictions, Dec. 15, 1997, at 107, app. 2; Press Release, Harvard Medical School, *Harvard Medical School Researchers Map Prevalence of Gambling Disorders in North America: Research Shows that Gambling Disorders Affect a Growing Number of Adults* (Dec. 4, 1997), at <http://www.hms.harvard.edu/news/releases/-1297gambling.html> (Based on studies conducted between 1977 and 1993, 0.84 percent of adults were affected by a gambling disorder. But "the prevalence rate from 1994-1997 grew to 1.29 percent of the adult population."). For a summary of the acceptability factor and the accessibility factor, see John W. Kindt, *U.S. National Security and the Strategic Economic Base: The Business/Economic Impacts of the Legalization of Gambling Activities*, 39 ST. LOUIS U.L.J. 567, 581 (1995).

41. John W. Kindt, *The Costs of Addicted Gamblers: Should the States Initiate Mega-Lawsuits Similar to the Tobacco Cases?*, 22 MANAGERIAL & DECISION ECON. 17, tbls.A4, A8 & accompanying footnotes [hereinafter *Mega-Lawsuits*]; see also Henry R. Lesieur, *Compulsive Gambling*, SOCIETY, May-June 1992, at 43; Henry R. Lesieur, *Pathological Gambling, Work, and Employee Assistance*, 1 J. EMPLOYEE ASSISTANCE RES. 32, 32, 42-45 (1992); Henry R. Lesieur, *Measuring the Costs of Pathological Gambling: Saying Too Much With Too Little*, Address at the Nat'l Conf. on Gambling Behavior of the Nat'l Council on Problem Gambling (Sept. 1996).

42. U.S. and International Costs, *supra* note 15, at 3, 18-19.

[T]he state attorney's office in Deadwood, South Dakota indicated that within two years after legalizing casino gambling, child abuse cases increased approximately 42%, domestic violence increased 80%, and burglaries and the writing of bad checks increased; overall, the town experienced a 50% increase in felonies and an 80-100% increase in law enforcement and police costs.⁵⁰

In addition to increases in specific categories of crime, an increased risk of white-collar crime also existed, predicated upon the ease with which gambling facilities laundered money.⁵¹ This factor, coupled with the anonymity of the Internet and lax supervision by government officials in certain countries hosting online casinos, resulted in a strong likelihood of criminal behavior eventually occurring.⁵²

As the explosion in the number of Internet casinos developed, U.S. law enforcement agencies, as well as the U.S. State Department, concluded that countries combining lax Internet casino regulations with substantial privacy laws created a recipe for disaster.⁵³ These factors theoretically allowed organized crime rings and drug cartels a safe haven to launder billions of dollars in illegal profits through the Antiguan offshore gambling establishments.⁵⁴ "Antigua's offshore banking [business] -- established in the mid-1980s with only limited regulation -- expanded rapidly in recent years Unfortunately, inadequate regulation and vetting led to a surge in questionable banking operations -- a number with alleged links to Russian criminal elements,"⁵⁵ declared a 1997 U.S. State Department report on international money-laundering and narcotics organizations. "The growing potential for money laundering has been an increasing concern of both the U.S. and Antiguan governments,"⁵⁶ the report concluded.

Evidence of the direct relationship between gambling and crime also appeared in the United States. For instance, "[t]he former manager of [Virginia]'s third-largest charitable gambling [organization] pleaded

Legal Gambling is a Costly Game, CHRISTIAN SCI. MONITOR, May 23, 1994, available at 1994 WL 8794061).

50. *Id.*

51. See *Internet Casinos Find a Haven in the Caribbean Islands*, LAS VEGAS REV-J., Nov. 10, 1997, available at 1997 WL 4557597 [hereinafter *Casinos Find a Haven*].

52. See *id.* (discussing Internet casinos based in Antigua and Barbuda).

53. See *id.*

54. *Id.*

55. *Id.* (omission in original).

56. *Id.* For a report by the U.S. General Accounting Office on the problems of gambling and money laundering (requested by U.S. Senator Sam Nunn), see U.S. GENERAL ACCOUNTING OFFICE, MONEY LAUNDERING—RAPID GROWTH OF CASINOS MAKES THEM VULNERABLE, REP. NO. GAO/GGD-96-28 (1996).

gambler affected at least seven, and up to seventeen, other people.⁶³ The direct link between pathological gambling and the lives of other people may result in tragedy, such as in the case of the Michigan man who returned from Las Vegas “distraught over gambling debts” and killed his pregnant wife, his three children, and then himself.⁶⁴

Pathological gamblers burdened society in a variety of respects. A compulsive gambler’s mean gambling debt can range anywhere from \$52,000 to \$92,000.⁶⁵ Some economists argued that these “sterile transfers of money” simply resulted in expenditures elsewhere in the economy and did not constitute losses to the overall economy.⁶⁶ Other economists, however, categorized these gambling debts as losses to the “productive” and high-multiplier-effect economy, as they involve transfers into the non-productive or less productive “gambling economy” with its concomitant social costs.⁶⁷ A survey of Gambler’s Anonymous members revealed that approximately 47% had committed insurance-related fraud or thefts in which insurance companies were obligated to pay the victims.⁶⁸

4. Additional Social Costs

Areas debating whether to legalize gambling should consider what these statistics suggest for the future.⁶⁹ Robert Goodman wrote in his book, *The Luck Business*, that gambling’s total social cost, calculated by combining the values of bankruptcies, crime, broken families, and treatment, totaled approximately \$29 billion annually.⁷⁰ By his accounting, these costs totaled twice the amount of the tax revenues generated annu-

63. Janower, *supra* note 49 (citing John W. Kindt, *The Economic Impacts of Legalized Gambling Activities*, 43 *DRAKE L. REV.* 51, 61 (1994) [hereinafter *Economic Impacts*]).

64. Jim Suhr, *Farmington Hills Man Kills Family, Himself Over Gambling Debt*, *DETROIT NEWS*, Nov. 21, 2000, available at <http://detnews.com/2000/metro/0011/21-151774.htm>; see also Sandra Blakeslee, *Suicide Rate Is Higher In 3 Gambling Cities*, *N.Y. TIMES*, Dec. 16, 1997, at A10 (comparing suicide rates in Atlantic City, Las Vegas, and Reno to other cities where gambling is illegal); Larry Fruhling, *Addiction Leads to Tragic End*, *DES MOINES REG.*, Mar. 25, 1997, at M1, M2 (reporting that a college student killed himself over gambling debts; two and a half years later his stepfather killed himself out of grief); Cam Simpson, *Baby Death Plot Told: Suburb Mom Indicted in Insurance Scheme*, *CHI. SUN-TIMES*, Mar. 7, 1998, at 1 (reporting that a mother addicted to gambling allegedly killed one and perhaps two of her children in separate instances to collect insurance money in order to continue to gamble).

65. Janower, *supra* note 49 (citing Widgery, *supra* note 49).

66. PAUL A. SAMUELSON, *ECONOMICS* 425 (J.S. Dietrich et al. eds., 10th ed. 1976). Paul Samuelson won the Nobel Prize in Economic Science in 1970.

67. For a summary, see John W. Kindt, *The Business-Economic Impacts of Licensed Casino Gambling in West Virginia: Short-Term Gain but Long-Term Pain*, 13 *W. VA. PUB. AFF. REP.* 22, 24-25 (1996) [hereinafter *Business-Economic Impacts of Gambling*].

68. Lesieur & Puig, *supra* note 45, at 123.

69. *Tomorrow Never Dies; Future Costs of Gambling Outweigh Revenue Gains*, *PHILA. ONLINE*, Jan. 28, 1998, at A14 [hereinafter *Tomorrow Never Dies*].

70. *Id.*; see ROBERT GOODMAN, *THE LUCK BUSINESS* ch. 3 (1995). For a table of costs, see *Mega-Lawsuits*, *supra* note 41, at tbl.A3 and accompanying footnotes.

cluding compulsive [pathological] gambling problems and financial losses."⁷⁶

An increase in gambling addictions could also impact health care costs, since pathological gamblers are more likely to have problems with alcohol⁷⁷ and also evidence a suicide rate that is five to ten times higher than that of the national average.⁷⁸ If society decided to rehabilitate gambling addicts, the total cost would range between \$17,000 and \$42,000 per person (in 1993 dollars).⁷⁹ The national cost of pathological gambling in 1996 was therefore estimated to be \$56 billion per year.⁸⁰

B. The Proliferation of the Internet and Online Gambling

In 1999, the United Nations Development Programme's ("UNDP") *Human Development Report* catalogued the rapid spread of Internet usage, establishing the United States as the leading country with 88.9 Internet hosts per 1000 people according to 1998 data.⁸¹ Other leading countries included: Norway, 71.8; Australia, 42.7; Switzerland, 27.9; and the United Kingdom 23.3 (1995 U.K. data).⁸²

Between August 1995 and April 1999, Internet usage in North America grew from 18 million to 92 million users.⁸³ In 1994, an amazing 30% of U.S. public elementary schools and 49% of secondary schools already had access to the Internet.⁸⁴ Only 5 years later in 1999, the total rose to 95% overall, with 94% of elementary schools and 98% of secondary schools having Internet access.⁸⁵

Financial experts estimated that electronic technology would lead to increases in overall gambling revenues, which had already increased significantly from the 1980s to the 1990s. By 1995, "John Malone, president of cable-television [company] Tele-Communications, Inc. . . . called gambling one of the 'killer applications' for interactive networks,"⁸⁶ and he implied that gambling partially justified the cost of developing the

76. *Id.*

77. Janower, *supra* note 49 (citing *Economic Impacts*, *supra* note 63, at 63).

78. *Id.* (citing Widgery, *supra* note 49).

79. See, e.g., VALERIE C. LORENZ, ET AL., FINAL REPORT OF THE TASK FORCE ON GAMBLING ADDICTION IN MARYLAND (1990), available at http://www.nyu.edu/its/socsci/Docs/task_force_4.html; see also *Economic Impacts*, *supra* note 63, at 65; *Mega-Lawsuits*, *supra* note 41, at 44 tbl.A3.

80. Janower, *supra* note 49 (citing Widgery, *supra* note 49).

81. U.N. DEVELOPMENT PROGRAMME, HUMAN DEVELOPMENT REPORT 53 tbl.A1.3 (1999), available at <http://hdr.undp.org/reports/global/1999/en/>.

82. *Id.*

83. See http://www.nua.ie/surveys/how_many_online/n_america.html (last visited Sept. 21, 2002) (listing data from Commerce Net/Nielsen Media Research).

84. ANNE CATTAGNI & ELIZABETH FARRIS, NATIONAL CENTER FOR EDUCATION STATISTICS, INTERNET ACCESS IN U.S. PUBLIC SCHOOLS AND CLASSROOMS: 1994-2000 2 tbl.1 (May 9, 2001), available at <http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2001071>.

85. *Id.*

86. Bulkeley, *supra* note 25.

nois students at the Sixth Annual Student Computing Conference. "What's the Internet going to look like in 10 years? I guarantee it won't look like it does today," Fiddler told the audience.⁹⁸ He predicted that by 2010, one trillion devices would be connected to the Internet.⁹⁹

Gambling used to involve secretive dealings with unscrupulous bookmakers, or concerted trips to the dog or horse track, or to Atlantic City or Las Vegas.¹⁰⁰ By 1995, however, the Internet broadened access to gambling, making it almost ubiquitous. Speculators used modern computers to extend the reach of gambling—often frustrating regulators.¹⁰¹ Technology's biggest impact on the gambling industry could be inviting gambling into the home—which *International Gaming and Wagering Business*, a gambling industry trade publication, referred to as "gaming's new frontier."¹⁰² Libertarians sometimes argued that if Internet users chose to risk their money on unregulated Internet gambling with strangers in a foreign land, they got what they deserved when cheated.¹⁰³ Internet gambling, however, had another insidious aspect. "Unchecked, it ha[d] the [very real] potential to turn every family room[, office, and school] in America with a . . . computer into an unregulated casino,"¹⁰⁴ according to former Minnesota Attorney General Hubert H. Humphrey, III. Thereby, Internet gambling could send billions of U.S. dollars to dubious foreign jurisdictions (including terrorist organizations), potentially making Internet gambling a national security issue.

II. CLARIFICATION OF GOALS

A. Overall Goals in Legalized Gambling Issues

In gambling issues, the overall strategic goals for government should be to conform to the common-law principle of maximizing the public health, safety, and welfare. In this context, the major goals for governmental authorities and decision-makers should be as follows:

- (1) minimize the social impacts of pathological (addicted) gamblers;

98. Sarah Schlitz, *Conference Focuses on Computer Security: Speaker Comes to Town with News of Hackers, New Technology, Dangers*, DAILY ILLINI (Champaign, Ill.), Oct. 9, 2000, available at <http://www.dailyillini.com/oct00/oct09/news/news07.shtml>.

99. *Id.*

100. Bulkeley, *supra* note 25, at A1.

101. *Id.*

102. *Id.*

103. *See id.*

104. Hubert H. Humphrey III, Editorial, *Internet as a Gambling Casino*, ST. LOUIS POST-DISPATCH, Nov. 25, 1996, available at 1996 WL 2805789.

Some experts also argued that the Internet was incompatible with censorship and could not be regulated.¹¹¹ They noted that its users “fiercely protect[ed] their freedom and [would] sabotage any efforts at censorship.”¹¹² The Internet, however, like any other highway, needed limits. Since the system failed to discipline itself, it appeared destined for government regulation or prohibition.

B. Secondary Goals in Legalized Gambling Issues

The secondary goals involved in legalized gambling issues and of importance to governmental authorities could be categorized as follows:

- (1) taxes—minimize the taxes necessary to achieve societal-governmental goals;
- (2) jobs—create new jobs and economic wealth throughout the economy; and
- (3) economic development—foster net new regional and/or strategic economic activity and not just a “sterile transfer of money.”¹¹³

Internet gambling challenged the promotion of these goals by allowing the potentially rapid transfer of wealth from pre-existing productive economies with high-multiplier effects into non-productive or less-productive gambling venues. Additional challenges resulted from the ability of Internet gambling activities to transfer billions of dollars to overseas jurisdictions—including illegal international organizations.

C. Regulation of Internet Gambling

“The Internet has taken the gambling world by storm,” testified Wisconsin Assistant Attorney General Alan Kesner, before the National Gambling Impact Study Commission (“1999 Gambling Commission”).¹¹⁴ “One of the most heavily regulated industries in the world has crashed with full force into one of the most unregulated, and inherently unregulatable, phenomenon of modern times,” concluded Kesner.¹¹⁵ Montana Attorney General Joe Mazurek further noted that “[w]e have been cautious in our approach to gambling, but [Internet gambling] turns it all upside down Our policy concern is that we lose control. We

111. See Arun Mehta, *Radio Free Usenet. Avoid High Costs and Thwart Censorship: Post it on the Airways*, BYTE MAG., July 1, 1995, available at 1995 WL 7911050.

112. *Id.*

113. SAMUELSON, *supra* note 66, at 425.

114. Jeff German, *Fed Panel Focuses on Internet*, LAS VEGAS SUN, May 22, 1998, available at <http://www.lasvegassun.com/sunbin/stories/text/1998/may/22/507247523.html>.

115. *Id.*

D. The Promised Economic "Benefits" of Typical Gambling Establishments and Their Absence from Internet Gambling Operations

"Too often, public officials view gambling as a quick and easy way to raise revenues, without focusing on gambling's hidden social, economic, and political costs,"¹²³ President Clinton wrote to U.S. Senator Paul Simon in a 1995 letter endorsing his legislation to establish the National Gambling Impact Study Commission to study the various impacts of widespread legalized gambling. However, the claimed "new revenues" from gambling operations did not materialize when the operation involved Internet gambling.¹²⁴ Online casinos cost almost nothing to build or maintain when compared to their brick-and-mortar counterparts. In addition, Internet gambling operations neither employed the numbers of people employed by conventional casinos, nor paid regular taxes.

One Web site that featured a NCAA tournament betting pool cost only \$225,000 to create and earned its money through advertising.¹²⁵ The Internet's first virtual casino, Internet Casinos, Inc. ("ICI"), reportedly opened for business on August 18, 1995, and offered 18 different casino games, plus online participation in the National Indian Lottery, as well as the planned development of an Internet sports book.¹²⁶ While it generally might cost \$300 million or more to build a totally new resort-style casino employing thousands, ICI developed its online casino for only \$1.5 million and created only 17 new jobs.¹²⁷ ICI's founder, Warren B. Eugene, stated that his "house" cut usually averaged around 24%, compared to "the typical U.S. casino house take," which fluctuated between 8% and 16% of every dollar wagered.¹²⁸ National Coalition Against Legalized Gambling ("NCALG") political director Bernie Horn summarized, "There are virtually no jobs created and there's no tax revenue derived."¹²⁹ He added that cyberspace gambling, exemplified by Internet gambling, "creates kind of a black hole for people's money."¹³⁰

Under legislation passed in 1997, Antigua and Barbuda began charging just \$100,000 a year for an Internet casino license, or \$75,000 for telephone gambling operations.¹³¹ Antigua and Barbuda thereby

123. Letter from President William J. Clinton to Senator Paul Simon (Oct. 31, 1995) (on file with author).

124. See generally NGISC FINAL REPORT, *supra* note 2, at 5-7 to -10, -12.

125. See Michael E. Ruane, *Enjoying a Touch of Madness; NCAA Pools Make Splash on the Web*, WASH. POST, Mar. 13, 1999, at B1, available at 1999 WL 2204949.

126. Janower, *supra* note 49.

127. *Id.*

128. *Id.*

129. Mary Ann Akers, *Bill Would Make Gambling on Internet a Federal Crime*, WASH. TIMES (D.C.), Jan. 27, 1998, at A8, available at 1998 WL 3438467.

130. *Id.*

131. Brett Pulley, *With Technology, Island Bookies Skirt U.S. Law*, N.Y. TIMES, Jan. 31, 1998, at A1, available at LEXIS, News Library, News Group File.

Third, the 1999 Gambling Commission highlighted that the Internet's ubiquitous nature and widespread accessibility from schools, homes, and offices allowed gambling without requiring the participant's physical presence in a casino.¹⁴¹ Acknowledging a shortage of conclusive evidence proving the social costs of this new form of gambling, the Commission recommended that the states not allow the expansion of gambling into schools, offices, and homes through the use of newly developed technology and the practice of account wagering.¹⁴²

Finally, the 1999 Gambling Commission concluded that since the majority of Internet gambling proliferated most rapidly in and from foreign "host" countries, the federal government should begin encouraging or enabling those offshore governments not to promote or harbor Internet gambling operations that made their services available to U.S. citizens.¹⁴³

III. HISTORICAL BACKGROUND

A. *The Strategic Historical Implications of Legalized Gambling Activities*

While individualized gambling activities existed throughout the history of mankind, government-sanctioned gambling activities historically resulted in negative socio-economic conditions, far outweighed by any positive results.¹⁴⁴ Furthermore, gambling activities essentially constituted a "sterile transfer of wealth," which not only replaced, but actually hindered, genuine economic growth.¹⁴⁵ The opportunity cost to those governments that legalized gambling activities consisted, in part, of lost "consumer dollars."¹⁴⁶ While the introduction of gambling-oriented dollars into a local economy arguably had a multiplier effect, by the 1990s a growing body of evidence existed showing that in most economic scenarios the multiplier associated with consumer dollars lost by redirection to gambling activities exceeded the gambling multiplier.¹⁴⁷

Accordingly, governments experimented with legalized gambling activities throughout history, sometimes referred to as "waves" of gambling, but as the public became re-educated to the socio-economic nega-

141. *See id.*

142. *Id.*

143. *Id.*

144. For a summary of these issues, see John W. Kindt, *Follow the Money: Gambling, Ethics, and Subpoenas*, 556 ANNALS AM. ACADEMY POL. & SOC. SCI. 85, 91-92 (1998) [hereinafter *Follow the Money*]. *See also Mega-Lawsuits*, *supra* note 41, at 38 n.136.

145. *See, e.g.,* SAMUELSON, *supra* note 66, at 425.

146. For a summary of these issues, see John W. Kindt, *Legalized Gambling Activities: The Issues Involving Market Saturation*, 15 N. ILL. U.L. REV. 271, 273 (1995). *See also* John W. Kindt, *Legalized Gambling Activities As Subsidized By Taxpayers*, 48 ARK. L. REV. 889, 899 (1995) [hereinafter *Gambling Subsidized*].

147. *See Business-Economic Impacts of Gambling*, *supra* note 67, at 24-25 and accompanying footnotes.

1990s, most Internet gambling sites had a minimum transaction amount ranging anywhere between \$20 and \$500.¹⁵⁹

While casino-style gambling initially favored a medium like the Internet, in 2000, the horse racing industry prepared to test market a means of gambling that merged "television, telephones and the Internet."¹⁶⁰ Executives in the horse racing industry argued that merging these technologies would cultivate "a new generation of fans," watching races from their living rooms on their television sets while using the Internet to gather information on horses and to place their bets.¹⁶¹

With developing Internet technology spreading across the globe, the gravitation of Internet gambling Web sites to the Caribbean and Central American countries resulted in part from (1) the relatively minimal fees that those countries charged to establish such operations; (2) the fact that those countries legalized Internet gambling; and (3) the largely unregulated atmosphere perpetuated by those governments.¹⁶² "Everyone says it's a banana republic over there, and no one will regulate,"¹⁶³ summarized Kerry Rogers, who ran an offshore operation known as WagerNet. Another Internet gambling site operator, Bob Ermian, who reportedly worked as a Boston bookie for 11 years prior to moving to the West Indies, explained, "The reason I'm here in this country is because I can't do what I want to do in the U.S. . . . It feels great. I don't have to worry about the police coming and breaking the door down."¹⁶⁴

Warren Eugene, a citizen of Canada who operated an Internet gambling site out of the Caribbean, claimed that he felt secure from prosecution by any U.S. agencies.¹⁶⁵ However, his Web site, ICI, warned Americans:

At this time you may not be legally able to gamble at this casino site. Call your local authorities and check to see if you can enjoy our casino. If not, call and complain to your senators, congressmen, and attorney generals! Democracy does exist in America. Do not let your first amendmant [sic] and constitutional rights be taken away from you! Act Now!¹⁶⁶

Images representing American democratic ideals followed this disclaimer, as did additional pleadings to help change U.S. law.¹⁶⁷ This site

159. *Id.*

160. See Thomas E. Weber, *Click, Place or Show: Playing the Ponies in Your Jockey Shorts*, WALL ST. J., May 1, 2000, at B1.

161. *Id.*

162. See Quitner, *supra* note 12.

163. *Id.* (referring to Belize).

164. Pulley, *supra* note 131.

165. See Janower, *supra* note 49.

166. *Id.*

167. *Id.*

urity of the games.”¹⁷⁷ Even so, when U.S. states initially sanctioned gambling activities, they attempted to provide some regular standards—although those standards generally deteriorated over time.¹⁷⁸ Nevada, for example, implemented a certification requirement for all video gambling machine service personnel, which included a background check.¹⁷⁹ Montana used security seals on the logic boards of all machines to prevent and detect tampering.¹⁸⁰ Offshore Internet gambling operations, however, did not employ these types of protections. “All of these [Internet gambling] sites say they offer honest games, but in reality you’ll never know if that’s true,”¹⁸¹ concluded Steve Bourie. Some sites tried self-regulation to assuage public fear, using accounting firms to monitor their activities.¹⁸² Although good for public relations, this type of voluntary self-regulation lacked the quasi-security of government regulation.¹⁸³

The honesty of the Web site operators themselves did not solely determine the honesty of Internet gambling. Computer hackers could infiltrate the systems and change the algorithm to boost payouts or even steal the credit card numbers from other users’ accounts.¹⁸⁴ Aware of this security problem, Web site administrators admonished users to guard their passwords.¹⁸⁵ In the eventuality that a hacker illegally obtained another person’s credit card information, of course, the offshore sites claimed that they could not be held responsible.¹⁸⁶

The potential for fraud and other crimes latent in Internet gambling operations may have seemed minimal upon initial consideration, but closer examination revealed the vulnerability of the whole system.¹⁸⁷ In 1996, Minnesota Attorney General Hubert H. Humphrey III summarized these problems:

Same scams, different medium. That’s what I thought as I perused the Internet on my home computer one sleepless night . . . and found the same kind of phony cancer cures and get-rich-quick schemes I have prosecuted for years under state consumer fraud laws.

177. See, e.g., *id.* at 3-7.

178. *Id.* at 3-1 to -2, 3-17 to -19.

179. Janower, *supra* note 49.

180. See *id.*

181. *Internet Casinos Honest?*, *supra* note 173.

182. See Janower, *supra* note 49.

183. See *id.*

184. *Id.*

185. See *id.*

186. *Id.*

187. See Humphrey, *supra* note 104.

wouldn't pay off on a \$25,000 roulette win because they said there was a 'glitch' in the software."¹⁹⁵

Other concerns revolve around privacy issues and invasive "cookies." Cookies are the equivalent of ID cards used by Web sites to identify users and gather information about them such as their Web browsing habits.¹⁹⁶ These cookie systems can store vast amounts of information on a user's computer and also distribute the information to others without the user's knowledge or consent.¹⁹⁷ Cookies can also learn the passwords and credit card numbers of unsuspecting Internet users.¹⁹⁸ This can create a particular hazard when dealing with offshore Web sites such as gambling sites, where both passwords and credit card numbers are used.

The first and most highly publicized U.S. prosecution of an Internet gambling site was that of World Sports Exchange.¹⁹⁹ Jay Cohen, co-owner of the company, was once a self-appointed spokesperson for the industry, eager to discuss his offshore gambling enterprise based in Antigua.²⁰⁰ He gave many interviews, submitted testimony to the U.S. Senate Judiciary Committee on possible methods to regulate online casinos, and even publicly debated the attorney general of Wisconsin on CNBC.²⁰¹ In 1998, the U.S. indicted Cohen and 21 co-defendants on charges alleging their involvement in illegal offshore betting operations.²⁰² By August 2000, ten defendants pled guilty to conspiring to break wagering laws, three defendants pled guilty to relating misdemeanors, and seven of those indicted, including World Sports Exchange director of wagering and vice president Steve Schillinger, remained fugitives from the law.²⁰³ All of the defendants were charged with violating the Federal Wire Act of 1961,²⁰⁴ which made using telephone lines for wagering purposes illegal.²⁰⁵

The defense planned to portray "Cohen and Schillinger as young entrepreneurs" who got their start working as traders on the Pacific Stock Exchange when they first envisioned running an Internet gambling site.²⁰⁶ They realized the potential for a lucrative Internet gambling ser-

195. *Id.*

196. See Richard P. Klau, *Is a Cookie a Treat or a Threat? Is a Code Chip a Friend or a Foe? Internet Privacy Issues are Complex*, STUDENT LAW., May 1999, at 13.

197. *Id.* at 13-14.

198. See *id.* at 13.

199. Benjamin Weiser, *Bookmaker Loses Federal Appeal in Internet Sports Betting Case*, N.Y. TIMES, Aug. 1, 2001, at B5, available at www.osga.com/Cohen.htm.

200. Elliott Almond, *Borderless Betting*, SEATTLE TIMES, Jan. 24, 1999, at D1, available at 1999 WL 6253025.

201. *Id.*

202. Gail Appleton, *Man Jailed in 1st U.S. Online Gambling Conviction* (Aug. 11, 2000), at <http://www.gamblingmagazine.com/articles/37/37-117.htm>.

203. *Id.*

204. See 18 U.S.C. § 1084 (2000).

205. *Id.* § 1084(a).

206. See Almond, *supra* note 200.

of online gambling.²¹⁷ He stated that “[o]ur board unanimously adopted a resolution opposing the expansion of gaming on the Internet because they don’t feel it is appropriately regulated at this time.”²¹⁸ Harrah’s president, Hector Mon, expressed similar sentiments when addressing the issue of Internet gambling.²¹⁹ He conveyed his uncertainty and reluctance as a function of the lack of regulations employed to monitor Internet gambling.²²⁰ “[T]here are so many issues related to the fact this industry is unregulated, uncontrolled and illegal based on the regulatory framework within which we are controlled,” he said.²²¹ Also in 1998, Frank Fahrenkopf, the AGA’s main lobbyist, testified before a U.S. Congressional hearing and indicated that the gambling industry opposed the expansion of Internet gambling.²²² He expressed concern that gambling-oriented Web sites could easily get around federal and state laws that constrain conventional gambling operations in the United States.²²³

In 2000, U.S. Representative James A. Gibbons (R-Nev.) argued to Congress that: “In states like Nevada, the gaming industry is well regulated, and its activities are tightly monitored. However, allowing gambling to be allowed on the Internet would open the floodgates for corruption, abuse and fraud.”²²⁴ Arguing on behalf of Nevada interests and the AGA, Representative Gibbons pushed for a practical ban on Internet gambling during the floor debate in the U.S. House of Representatives.²²⁵

Internet gambling presented a difficult dilemma for U.S. casino operators.²²⁶ They viewed the enormous profit potential of Internet gambling, but worried that Internet gambling would cannibalize their pre-existing multi-million-dollar gambling operations.²²⁷ During the late 1990s, U.S. casino operators almost uniformly favored banning Internet gambling; however, by 2000, they became more divided between banning Internet gambling and rushing into their own Internet gambling operations, with many gambling interests unsure of which approach to take.²²⁸ U.S. casino operators wanted to prevent new Internet competitors

217. *Id.*

218. *Id.*

219. *See id.*

220. *Id.*

221. *Id.*

222. *Id.*

223. *Id.*

224. *House Fails to Pass Internet Gambling Ban, New Vote Expected* (July 17, 2000), at <http://www.cnn.com/2000/ALLPOLITICS/stories/07/17/internet.gambling/index.html> [hereinafter *House Fails*].

225. *See id.*

226. *See, e.g.,* Matt Richtel, *Companies in U.S. Profiting From Surge in Internet Gambling*, N.Y. TIMES, July 6, 2001, at A1.

227. *Id.*

228. *See* Edward C. Baig et al., *Outlaw Online Betting? Don’t Bet On It*, BUS. WK., Dec. 15, 1997, at 44.

"I can do a whole lot of damage on my bank account, and nobody would be the wiser."²³⁹ However, she justified, "[w]ith the Internet, [the flow of money is] all traceable."²⁴⁰ While this argument was an interesting exercise in public relations, monies gambled on the Internet were obviously less "traceable" than monies from U.S. bank accounts, which were subject to U.S. legal discovery procedures in the event of litigation.²⁴¹ These types of arguments and efforts to build consumer support for Internet gambling operations led to questions involving what interests were financing the start-up costs for *Rolling Good Times Online* and the IGC.²⁴²

E. The Interests of Opponents to Internet Gambling

There were as many different sorts of people interested in preventing the spread of Internet gambling, as there were reasons to do so. Religious organizations opposed gambling on social and moral grounds; casino, hotel, and restaurant owners, as well as others in the hospitality industry, all worried about losing visitors to their establishments; convenience stores and gas stations feared that their lottery ticket customers would begin purchasing their tickets from home; and athletic organizations, both professional and collegiate, opposed all betting in general because of the potentially disastrous effects that it would have on the integrity of sports.²⁴³

Anti-gambling groups and individuals worried that legitimate and legal Internet gambling would allow addicted gamblers and children using their parents' credit cards to bankrupt themselves and their families via home computers.²⁴⁴ One authority on problem and pathological gambling suggested that the "young, affluent males," who already composed much of the Internet's population, comprised the demographic that "we know from research are probably most likely to develop difficulties related to gambling."²⁴⁵

The gambling industry sometimes tried to draw parallels to developed countries such as Australia, England, Germany, New Zealand, and South Africa, which, as of 2000, had either sanctioned Internet gambling or were contemplating doing so.²⁴⁶ Opponents countered that those countries were misled by industry public relations efforts and that invalid

239. *Id.*

240. *Id.*

241. *See, e.g.,* NGISC FINAL REPORT, *supra* note 2, at 5-5 to -6, 5-12.

242. *See generally id.* at 5-3, 5-12.

243. *See House Fails, supra* note 224; *see generally* John W. Kindt & Thomas Asmar, *College Amateur Sports Gambling: Gambling Away Our Youth?*, 8 VILL. SPORTS & ENT. L.J. 221 (2002) (analyzing the legality of gambling on college and amateur sporting events) [hereinafter *Sports Gambling*].

244. *See* Bulkeley, *supra* note 9.

245. *Id.*

246. *See* Almond, *supra* note 200.

the Internet.²⁵⁷ "It all feels just like a video game," she complained, adding that this marketing made it easy for the player to ignore the fact that real money was at stake.²⁵⁸

In a related scenario, the president of dot com Entertainment Group, Inc. optimistically hoped for a Web site that would allow players in North America to play a bingo game online called CyberBingo (in English, French, or Spanish) linked with players from Germany, Japan, and other countries around the world.²⁵⁹ He hoped to replicate the amicable atmosphere of bingo halls by allowing players to play and talk to one another simultaneously in a chat room.²⁶⁰

Although casino gambling was still illegal in Israel in 1999, another company looking to profit from the international appeal of offshore Internet gambling was Israel's PrincessNET Technologies and Software Ltd., which its founders claimed was being heavily marketed toward those Internet users fond of games, not big spenders.²⁶¹ PrincessNET's online gambling site was called Bet&Chat, in the hope that the option of chatting with other players while gambling would attract customers.²⁶² Players were even offered the ability to register according to their nationalities in order to "sit" together with other players at "tables" and chat while gambling.²⁶³

Another marketing strategy that Internet gambling sites hoped to employ successfully involved creating partnerships with prominent non-gambling Internet-related companies.²⁶⁴ Kerry Packer, Australia's wealthiest man, envisioned one such attempt in 1999.²⁶⁵ He owned a controlling share in Publishing & Broadcasting Ltd. ("PBL"), which operated numerous Australian communications media outlets, including television stations, broadcasting companies, newspapers, and magazines, as well as the Australian Internet portal Web site, NineMSN ("ninemsn.com2"), in an equal partnership with U.S. based Microsoft.²⁶⁶ PBL also announced that it was going to acquire Crown Ltd., the parent company of Melbourne's sole licensed casino.²⁶⁷ This acquisition was

257. See *Modified Net-Gambling*, *supra* note 117.

258. *Id.*

259. See dot com Entm't Group, *Bingo: The World's Most Popular Gambling Game Storms the Internet* (Apr. 5, 1999), at http://www.DCEG.com/info_media.asp.

260. *Id.*

261. See Michele Gershberg, *Gambling Firms Say They Target Web-Game Players, Not Gamblers*, WALL ST. J. INTERACTIVE EDITION (Feb. 19, 1999), at <http://interactive.wsj.com/archive/retrieve.cgi?id+SB919364735677915500.djm>.

262. *Id.*

263. *Id.*

264. See Barton Crockett, *U.S. Companies Eye Web Casinos in Australia* (Feb. 10, 1999) (on file with author).

265. *Id.*

266. *Id.*

267. *Id.*

ment "already fond of video games as well as being especially prone to becoming addicted."²⁷⁷ These factors were of particular concern given the results of a study by Dr. Howard Shaffer of Harvard Medical School.²⁷⁸ One of his studies found a quickly increasing incidence of problem gambling in adolescent populations,²⁷⁹ and he concluded that during the 1990s gambling addiction was the "fastest growing" teenage addiction—surpassing drug addiction.²⁸⁰

In addition, growing beyond adolescence was not a panacea for avoiding gambling addictions. U.S. Census Statistics reported that people between the ages of 18 and 24 also exhibited the most threatening form of gambling disorders (i.e., pathological/addicted gambling) at a level between two and three times greater than that of the remaining adult population.²⁸¹ Census Bureau statistics also revealed that between 8% and 20% of all college students surveyed had previously dealt with a gambling problem.²⁸²

When evaluating Internet gambling as it interfaces with these sobering statistics of gambling problems among college students, the deleterious effects become even more obvious. By 1999, research indicated that a majority of college students had ready access to computers and the Internet and also owned credit cards.²⁸³ These components synergized to provide all of the elements necessary for students to gamble on the Internet via offshore casinos. Officials became concerned that the Internet was cultivating deleterious gambling habits and problems in the secrecy of dormitory rooms, where problems could develop rapidly without anyone else knowing about them until it was too late.²⁸⁴ For example, 19-year-old Jason Berg became addicted to regular casino-style gambling, including electronic gambling devices, lost his tuition and savings money, and committed suicide.²⁸⁵ Despondent over Jason's suicide, his stepfather committed suicide two and a-half years later.²⁸⁶ Experts extrapolated that if regular casino-style gambling was addictive to students,

277. LaTessa, *supra* note 89.

278. See *Tomorrow Never Dies*, *supra* note 69.

279. *Id.*

280. See Nat'l Coalition Against Legalized Gambling, *The Case Against Legalized Gambling* (Sept. 10, 2002), at <http://www.ncalg.org/case.htm>.

281. Spinnato, *supra* note 28.

282. *Id.*

283. See Elliott Almond, *Online Betting Hitting College Campuses*, SEATTLE TIMES, Jan. 24, 1999, at D7, available at 1999 WL 6253227 [hereinafter *Hitting Campuses*].

284. *Id.*

285. See Larry Fruhling, *Addiction Leads To Tragic End*, DES MOINES REG., Mar. 25, 1997, at M1 (Jason Berg, \$6,000 in debt, pawned almost everything he owned, while trying to keep secret the fact that he was a compulsive gambler.).

286. *Id.*

officials were increasingly concerned that gambling interests were threatening sporting events.²⁹⁶

Another threat involved the confusion among adolescents fueled by the widespread but disingenuous gambling advertisements by state governments.²⁹⁷ Most state governments utilize taxpayer dollars to market various gambling activities as not just "acceptable," but "smart" and even "patriotic."²⁹⁸

Every time Bill Saum, the director of agents and gambling for the NCAA, testified under oath during the 1990s, he referred to a study of 684 men's football and basketball players in Division I competition conducted by the University of Cincinnati.²⁹⁹ The results of this study showed that 25% of the athletes had wagered money on games other than their own, 3.7% had admitted to placing bets on their own games, and 0.4% of those surveyed—three athletes—had admitted that they had previously received money from a gambler in return for not playing well.³⁰⁰

Alan Kesner, the Assistant Attorney General of Wisconsin and the chairman of the committee on Internet gambling for the National Association of Attorneys General ("NAAG"), expressed the concern of the U.S. Attorney Generals with the development of Internet gambling, pointing out that "[y]ou can keep the bookies out of the locker room, but not off of e-mail."³⁰¹

Dean Smith, the winningest coach in the history of college basketball, who retired after 879 victories over thirty six seasons as the coach of the University of North Carolina Tarheels, testified before Congress in an attempt to outlaw any form of gambling on college sports.³⁰² He was joined by Tubby Smith, the University of Kentucky men's basketball coach as well as Lou Holtz, the football coach for the University of South Carolina, who all contended that their players were under a lot of pressure to throw games or to shave points.³⁰³

296. *Id.*

297. *See generally* NGISC FINAL REPORT, *supra* note 2, at 2-14 to -15, 3-8 to -11.

298. *Id.*

299. *Hitting Campuses*, *supra* note 283, at D7.

300. *Id.*

301. *Id.*

302. *See* Associated Press, *Smith Endorses Gambling Ban*, DAILY ILLINI (Champaign, Ill.), Sept. 13, 2000, at 30.

303. *Id.*

In addition, in December 1997, Florida Attorney General Robert Butterworth pressured Western Union into refusing to service many off-shore Internet gambling companies.³¹⁴ This development could have seriously affected many of these gambling businesses because of their reliance on Western Union as a conduit for many of their financial transactions.³¹⁵ When questioned about the effectiveness of the move, Internet gambling Web site operators claimed that the ban constituted only an inconvenience and that they would simply rely more heavily upon overnight mail, cashier's checks, and bank wires.³¹⁶ However, after only a week of the ban, Western Union re-established its business with the Internet gambling Web sites, reportedly because they were so lucrative.³¹⁷

V. POLICY ALTERNATIVES AND RECOMMENDATIONS

A. Policy Arguments

In 1996, Minnesota Attorney General Hubert H. Humphrey III concluded that government officials needed to demystify and debunk the widely popularized notion of the Internet as the Wild West, where there was no form of law enforcement.³¹⁸ He noted that just as the Wild West ultimately required the rule of law to advance and prosper, the international territory of the Internet needed the same type of regulation in order to inspire total confidence from its users to reach its fullest social and business potential.³¹⁹

Opponents of regulating Internet gambling argued that as a practical matter, a handful of government bureaucrats would not succeed in regulating the Internet, which was designed to allow the computers of the world to maintain communication with one another in the event of a world-wide catastrophe such as nuclear war.³²⁰ However, Wisconsin Assistant Attorney General Alan Kesner concluded that just because the task of Internet regulation was inherently difficult, did not automatically mean that adopting a policy banning gambling from the Internet was inappropriate.³²¹ He emphasized that it was not a reasonable approach for the government to allow activity on the Internet that it did not permit in the real world.³²² Jeremiah "Jay" Nixon, the Missouri Attorney General,

314. See Heather Pauly, *Online Gambling Draws Lawmakers' Attention*, CHI. SUN-TIMES, Jan. 5, 1998, at 4.

315. *Id.*

316. See Pulley, *supra* note 131.

317. See Pauly, *supra* note 314.

318. Humphrey, *supra* note 104.

319. *Id.*

320. See German, *supra* note 114.

321. *Id.*

322. *Id.*

B. Legislative and Regulatory Efforts

The efforts of lawmakers during the late 1990s to enact legislation rendering Internet gambling illegal met with much resistance. A House bill sponsored by U.S. Representative Robert Goodlatte (R-Va.), which would have banned many forms of gambling from the Internet, won a majority of the House vote in 2000, but failed to attain the required procedural two-thirds vote necessary for passage.³³⁰ Representative Goodlatte urged its passage by likening Internet gambling to child pornography: "Just like child pornography has to be dealt with on the Internet, so does unregulated, out-of-control, illegal gambling."³³¹ The Senate voted in favor of similar legislation in 1999 with a bill sponsored by U.S. Senator Jon Kyl (R-Ariz.).³³² The bill sought to modernize the 1961 Wire Communication Act to apply to the Internet; however, it lapsed because similar legislation failed in the House.³³³

Subsequent legislation in the 107th Congress included H.R. 3215, the Combating Illegal Gambling Reform and Modernization Act, sponsored by U.S. Representative Bob Goodlatte (R-Va.).³³⁴ Even provisions of H.R. 3004, the Financial Anti-Terrorism Act of 2001, sponsored by U.S. Representative Michael Oxley (R-Ohio),³³⁵ were subsequently incorporated as Title III in H.R. 3162, the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001 (contained in the USA PATRIOT Act),³³⁶ in an effort to prevent Internet gambling from being used as a device to launder money to terrorist organizations.³³⁷ Congress enacted the USA PATRIOT Act immediately in response to the events of September 11, 2001.³³⁸

330. See *House Fails*, *supra* note 224.

331. *House Nixes Ban*, *supra* note 92.

332. See The Internet Gambling Prohibition Act of 1999, S. Res. 692, 106th Cong. (1999).

333. See *House Nixes Ban*, *supra* note 92.

334. See Combating Illegal Gambling Reform and Modernization Act, H.R. 3215, 107th Cong. (2001) (expanding and modernizing the prohibition against interstate gambling). Similar and complementary legislation included H.R. 556, the Unlawful Internet Gambling Funding Prohibition Act, introduced by U.S. Representative James Leach (R-Iowa), and H.R. 2579, the Internet Gambling Payments Prohibition Act, introduced by U.S. Representative John LaFalce (D-N.Y.). Both bills aimed to prevent the use of various bank instruments for unlawful Internet gambling.

335. See Financial Anti-Terrorism Act of 2001, H.R. 3004, 107th Cong. (2001) (criminalizing the smuggling of bulk cash while prescribing guidelines for determining the amount of property subject to such forfeiture).

336. See International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, H.R. 3162, 107th Cong. (2001) (increasing the strength of the United States in preventing, detecting, and prosecuting international money laundering and the financing of terrorism).

337. See Denise Couture, *Muted Response to U.S. Law*, INT'L HERALD TRIB., Oct. 31, 2001, at 21.

338. See *U.S. Treasury's First Patriot Act Regulatory Salvo Covers Entire World*, MONEY LAUNDERING ALERT, Jan. 2002, at 4.

Ironically, one final method to prevent the proliferation of Internet gambling would have been to leave it completely unregulated.³⁴⁷ According to a consultant for Christiansen Cummings Associates, Inc., a New York consulting firm for the gambling industry, "With on-line casino games, you're never really sure if the game is rigged or not."³⁴⁸ Therefore, if Internet gambling Web sites developed a bad reputation for cheating their customers or renege on their promised winnings, theoretically, online gamblers would eventually realize that gambling on the Internet was a losing proposition.³⁴⁹ However, such a libertarian self-learning experience should be avoided in the nuclear interdependent world, because these interests would be outweighed by the extent of the socio-economic trauma, which could and probably would occur to financial systems and concomitant governmental national security interests.

CONCLUSION

Utilizing the basic McDougal/Lasswell methodology of policy-oriented jurisprudence and applying these methods to the issues involving Internet gambling revealed that only a policy of "totally banning" Internet gambling was practically feasible. Exceptions eventually led to wide-open Internet gambling and an overwhelming litany of economic ills and social consequences—increased addicted gamblers, bankruptcies, and crime and corruption.

Accordingly, all cyberspace and Internet gambling needs to be banned domestically in the United States and prohibited internationally by a United Nations multinational treaty. Implementing this policy is essential because of Internet gambling's very real potential to destabilize regional, national, and even global financial systems and economies.

347. See Peter H. Lewis, *Lawmakers Gear Up to Try to Control the Surging On-line Gambling Industry*, N.Y. TIMES, Sept. 22, 1997, at D4.

348. *Id.*

349. See *id.*