

Prof. John Warren Kindt
University of Illinois

Prepared Statement

Before the Subcommittee on Crime, Terrorism, Homeland Security, and Investigations

U.S. House of Representatives Committee on the Judiciary

Legislative Hearing on H.R. 707: The “Restoration of America’s Wire Act”

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PREPARED STATEMENT OF PROF. JOHN WARREN KINDT¹

Mr. Chairman, Members of the Committee, participants and guests from the U.S. House of Representatives and the U.S. Senate, thank you for your kind invitation to testify before the Committee.

As a University of Illinois professor since 1978, I believe that a large majority of not only Illinois academic experts, but also other U.S. academics, would and should urge President Barack Obama and Obama Administration colleagues to support H.R. 707, the “Restoration of America’s Wire Act.”

Internet gambling is an issue of strategic financial stability and Wall Street regulation. It is not an issue of electronic poker, daily fantasy sports gambling, and other gambling methodologies—which are actually proposals to leverage gateways for legalizing various gambling activities throughout international cyberspace.

Alarmed by the spread of U.S. gambling in the early 1990s, U.S. Senator Paul M. Simon (D-IL) and House Judiciary Chair Henry J. Hyde (R-IL) sponsored the U.S. National Gambling Impact Study Commission (U.S. 1999 Gambling Commission), which passed the House with an overwhelming bipartisan vote. National Gambling Impact Study Commission, Pub. L. No. 104-169, 110 Stat. 1482 (signed into law Aug. 3, 1996).

Reporting to Congress, the U.S. 1999 Gambling Commission concluded and strongly recommended that the Wire Act restrictions on Internet gambling should be strengthened and expanded. NAT’L GAMBLING IMPACT STUDY COMMISSION, FINAL REPORT, chap. 5 & recs. 5-1 to 5-4 (June 1999) [hereinafter NGISC FINAL REPORT], at <http://govinfo.library.unt.edu/ngisc>; see also, Wire Act, 18 U.S.C. § 1084 (sponsored by U.S. Att’y Gen. Robert F. Kennedy, 1961).

Upon the strong urging of 49 State Attorneys General (see Attached Nat’l Ass’n Att’y’s Gen., Letter to Congress, Mar. 21, 2006), the Unlawful Internet Gambling Enforcement Act (UIGEA) was signed into law after passing the House with an over 80 percent bipartisan vote. UIGEA strengthened the Wire Act’s goals. Unlawful Internet Gambling Enforcement Act, 31

¹ Professor Em., Univ. Ill. at Urbana-Champaign. B.A. 1972, William & Mary; J.D. 1976, MBA 1977, U.Ga.; LL.M. 1978, SJD 1981, U.Va.; former Associate, Program in Arms Control, Disarmament, and International Security, University of Illinois; former Sr. Fellow, London School of Economics.

Professor Kindt has taught at the University of Illinois from 1978-2014, and he has published over 80 academic articles in law reviews, public policy journals, and economics journals. Over 20 of these articles have dealt with gambling issues, and many of these articles are available in PDF format at the online archives of the University of Illinois Library at www.ideals.illinois.edu. The Committee has permission to reprint and distribute any and all Kindt publications relating to gambling. In this Congressional statement, citations to publications of Professor Kindt serve only as introductions to the hundreds of source materials cited in the footnotes. Professor Kindt is research active, and he is still teaching and publishing.

To avoid conflicts of interest, Professor Kindt and several academic colleagues do not accept consultant fees or honoraria for work in gambling research areas. This statement should be interpreted as representing only the individual views of the author. For historical continuity, portions of this statement mirror *Internet Gambling Prohibition Act of 2006: Hearing Before the Subcomm. on Crime, Terrorism, and Homeland Security of the House Comm. on the Judiciary*, 109th Cong., 2d Sess. 20-27 (2006) (prepared statement of Prof. John W. Kindt, Univ. Ill.). Beth Kindt, James Kindt and John Kindt Jr. provided editorial assistance.

U.S.C. §§ 5301, 5361 *et seq.* (2006). At the time, there was concern about a UIGEA fantasy sports loophole which has since been dangerously exploited by disreputable organizations and should be closed.

Internet gambling's destabilization of Wall Street and international financial systems becomes apparent in the investigative news video, "The Bet That Blew Up Wall Street," which Warren Buffett titled "Financial WMDs" and which is still available at the *60 Minutes* website.

Killing personal, business, and institutional finances, Internet gambling is widely known as the "killer application" (a.k.a. "killer app") of the Internet. *See, e.g.,* William H. Bulkeley, *Feeling Lucky? Electronics is Bringing Gambling into Homes, Restaurants and Planes*, WALL ST. J., Aug. 16, 1995, at A1.

Internet gambling places real-time gambling on every cell phone, at every school desk, at every work desk, and in every living room. With ease people can "click your phone, lose your home" or "click your mouse, lose your house."

A. *Internet Gambling Destabilizes U.S. National Security and the Strategic Economic Base*

During the 1990s, the international financial and economic threats posed to the United States by the spread of U.S. gambling were outlined in a law journal article written at the suggestion and under the auspices of former Secretary of State Dean Rusk. The article was: John W. Kindt, *U.S. National Security and the Strategic Economic Base: The Business/Economic Impacts of the Legalization of Gambling Activities*, 33 ST. LOUIS U.L.J. 567-584 (1995), *reprinted in National Gambling Impact and Policy Comm'n Act: Hearing on H.R. 497 before the House Comm. on the Judiciary*, 104th Cong., 1st Sess. 519-27, 528-45 (1995).

Containing numerous reprints of original academic studies and Congressional documents and including acknowledgments to legal and entrepreneurial icons such as U.S. Attorney General Robert F. Kennedy, U.S. Senator Richard Lugar, Howard Buffett, Warren Buffett, and Dr. John M. Templeton, Jr., the titles of some of the **United States International Gambling® Report** series (produced at the University of Illinois) speak directly to the dangers of Internet gambling.

1. **The Gambling Threat to Economies and Financial Systems: Internet Gambling** (Wm. S. Hein Pub. 2010).
2. **The Gambling Threat to National and Homeland Security: Internet Gambling** (Wm. S. Hein Pub. 2012).
3. **The Gambling Threat to World Public Order and Stability: Internet Gambling** (Wm. S. Hein Pub. 2013).

The over 3,700 pages in these three volumes include reprints of 97 original Congressional documents detailing the dangers of Internet gambling via a decade of Congressional hearings (*see, e.g.,* Attachments to Prof. Kindt Statement).

The titles of other volumes of the **United States International Gambling® Report** are self-explanatory.

1. **Gambling with National Security, Terrorism, and Military Readiness** (Wm. S. Hein Pub. 2009).
2. **Gambling with Crime, Destabilized Economies, and Financial Systems** (Wm. S. Hein Pub. 2009).

As highlighted by *60 Minutes*, the 2007-2008 Wall Street gambling debacle utilizing “credit default swaps” (a.k.a. “financial side bets”) as unregulated financials has not been adequately addressed by new regulations. U.S. banks and Wall Street again have ballooned to a crisis point via U.S.-linked unregulated derivatives gambling on market trends and increasing from \$12.4 trillion in 1994 to \$50 trillion after the 2008 Great Recession to over \$700 trillion in unregulated derivatives today. U.S. Office of the Comptroller of the Currency, *as reported in, Gambling on the Future*, PERSPECTIVES, Spring 2014 (Bus. College, Univ. Ill.).

In this context, the DOJ’s 2011 interpretation of the Wire Act will now allow the creation of vacuum gambling stocks. In 2006 the London Stock Exchange lost billions of dollars in a crash of Internet gambling stocks as investors recognized these stocks were predicated on illusory gambling activities. Fortunately for Wall Street, the U.S. ban on Internet gambling in place in 2006 meant that similar gambling stocks were prohibited—saving U.S. investors. The DOJ’s 2011 interpretation is now allowing a speculative bubble of gambling-based financial instruments which will emulate the Great Recession and will catalyze another destabilization of U.S. and international stock exchanges. *See, e.g., John W. Kindt, Internet Gambling Will Cripple World’s Economic and Financial Systems*, ROLL CALL, Jan. 7, 2013.

In 2006-2007, Russian President Vladimir Putin sanguinely noted the economic and crime costs of government-sanctioned gambling and he recriminalized 2,230 electronic gambling 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.” Itar-Tass, Moscow, *Another 315 gambling places to continue to be closed in Moscow*, Oct. 9, 2006, at <http://www.itar-tass.com/eng/level2.html?NewsID=10869516&PageNum=0>. What do the Russian economists know that is still eluding Washington politicians?

See, John W. Kindt, “Gambling with Terrorism: Gambling’s Strategic Socio-Economic Threat to National Security,” Address at Harvard Univ., Int’l Bus. Conf., Feb. 10-11, 2007 (sponsored by Harvard Bus. School, Harvard Law School & Kennedy School of Gov’t).

B. Internet Gambling is Big Government Interstate Gambling Promoted and Abused by Big Government

1. Internet gambling destabilizes U.S. and international economies.

John W. Kindt & Stephen W. Joy, *Internet Gambling and the Destabilization of National and International Economies: Time for a Comprehensive Ban on Gambling Over the World Wide Web*, 80 DENV. U.L. REV. 111-153 (2002).

2. Internet gambling destabilizes and threatens the financial systems of the United States and the International Economic System.

See, e.g., John W. Kindt & John K. Palchak, *Legalized Gambling's Destabilization of U.S. Financial Institutions and the Banking Industry: Issues in Bankruptcy, Credit, and Social Norm Production*, 9 EMORY U. BANKRUPTCY DEV. J. 21-69 (2002) (lead article). *See also*, John W. Kindt, *The Business-Economic Impacts of Licensed Casino Gambling in West Virginia*, 13 W. VA. U. INST. PUB. AFF. 22-26 (1996) (invited article), updated and reprinted from, *The National Impact of Casino Gambling Proliferation: Hearing Before the House Comm. on Small Business*, 103d Cong., 2d Sess. 77-81 (1994) (statement of Prof. John W. Kindt).

3. Internet gambling destabilizes U.S. national security in the fight against terrorism.

John W. Kindt & Anne E.C. Brynn, *Destructive Economic Policies in the Age of Terrorism: Government-Sanctioned Gambling as Encouraging Transboundary Economic Raiding and Destabilizing National and International Economies*, 16 TEMPLE INT'L & COMP. L.J. 243-277 (2002- 03) (lead article).

4. Internet gambling destabilizes military readiness.

See, e.g., John W. Kindt, *Gambling with Terrorism and U.S. Military Readiness: Time to Ban Video Gambling Devices on U.S. Military Bases and Facilities?*, 24 N. ILL. L. REV. 1-39 (2003) (lead article).

5. Internet gambling creates and facilitates new criminal activity.

See generally, John W. Kindt, *Increased Crime and Legalizing Gambling Operations: The Impacts on the Socio-Economics of Business and Government*, 30 CRIM. L. BULL. 538-555 (1994); John W. Kindt, *The Failure to Regulate the Gambling Industry Effectively: Incentives for Perpetual Non-Compliance*, 27 S. ILL. U.L.J. 221-262 (2002) (lead article) [hereinafter *The Failure to Regulate Gambling*].

6. Internet gambling fuels the fastest growing addiction among young people – gambling addiction.

See John W. Kindt & Thomas Asmar, *College and Amateur Sports Gambling: Gambling Away Our Youth?*, 8 VILLANOVA SPORTS & ENTERTAINMENT L.J. 221-252 (2002) (lead article).

7. Internet gambling creates enormous socio-economic costs of \$3 for every \$1 in benefits.

John W. Kindt, *The Costs of Addicted Gamblers: Should the States Initiate Mega-Lawsuits Similar to the Tobacco Cases?*, 22 *MANAGERIAL & DECISION ECON.* 17-63 (invited article).

8. Internet gambling creates and facilitates government corruption in the United States and throughout the world.

See generally, John W. Kindt, *Follow the Money: Gambling, Ethics, and Subpoenas*, 556 *ANNALS OF THE AM. ACADEMY OF POLITICAL & SOC. SCI.*, 85-97 (1998) (invited article) [hereinafter *Follow the Money*].

Callously capitalizing on the 9-11 tragedy, U.S. gambling lobbyists slipped into the 2002 Economic Stimulus Act what the Nevada press termed a \$40-billion federal tax break (reduced from the initial \$133-billion solicited) for slot machines and other electronic gambling devices. Tony Batt, *Tax Break for Slots OK'd*, *LAS VEGAS REV. J.*, Oct. 16, 2001, at 1.

These types of tax write-offs should be eliminated. John W. Kindt, *Internationally, the 21st Century Is No Time for the United States to Be Gambling With the Economy: Taxpayers Subsidizing the Gambling Industry and the De Facto Elimination of All Casino Tax Revenues via the 2002 Economic Stimulus Act*, 29 *OHIO N. UNIV. L. REV.* 363-394 (2003) (lead article).

C. The Perceived UIGEA Loophole in 31 U.S.C. § 5362 for Daily Fantasy Sports Needs to be Closed

Daily sports gamblers exploiting the arguable UIGEA loophole may have totaled 30-100 million gamblers in 2014 according to sportscaster Bryant Gumbel, who queries whether these gamblers are “doing the same thing as a day trader, but in a different kind of stock market.” *Real Sports with Bryant Gumbel*, Home Box Office Network, Sept. 24, 2014 (original airdate). HBO investigative news commentator Carl Quintanilla concluded fantasy sports is a stock market. According to Carl Quintanilla, fantasy sports gamblers

talk about athletes like commodities. They’re able to track past performance, see how ... [the athletes] operate or perform in various patterns, and ... [the sports gamblers] know if I want to sell ... or buy That’s how you trade a stock. *Id.*

The trend is to “[i]nvest in a sort of hedge fund that trades fantasy sports.” *Id.*

Ignoring long-term profitability, as well as the long-term essential need to protect the integrity of sports and future generations, some professional sports teams are beginning to leverage themselves into daily fantasy sports. The perceived UIGEA loophole needs to be quickly closed.

D. Like Illinois, the U.S. Needs the “New Untouchables”

One of the first states to embrace the lottery, riverboat casinos, and neighborhood electronic gambling, Illinois has given away at least \$35-\$100 billion to gambling’s insiders since 1990. For example, the first 10 casino licenses worth a fair market value of at least \$500 million each were granted to political insiders for \$25,000 per license—including one insider convicted in the Governor Rod Blagojevich scandals. In 2015 dollars, these gambling licenses would be worth over \$10 billion.

In this giveaway context, the 2015 Illinois budget had over \$110 billion in unfunded liabilities, and the state was over 6 months behind in paying many of its bills.

In 2013, the U.S. Securities and Exchange Commission (SEC) branded Illinois with pension and securities fraud. *U.S. Securities & Exchange Comm’n v. State of Illinois, Order Instituting Cease-and-Desist*, Admin. Proc. File No. 3-15237 (Mar. 11, 2013). According to a March 13, 2013 editorial in the *Wall Street Journal*, “it’s now official: The Land of Lincoln has the nation’s most reckless and dishonest state government when it comes to pension liabilities”; the state’s “accounting practices would get private market participants thrown in jail.” Editorial, *SEC v. Illinois*, WALL ST. J., Mar. 13, 2013, at A14.

Critics can argue that Illinois is the most philosophically and fiscally bankrupt state in the United States. Four of the last seven Illinois governors have gone to prison.

The national media have raised serious questions regarding the Illinois interface and the rationales involving the challenges to and the reinterpretation of the Wire Act. Illinois officials initiated the DOJ’s reconsideration of the Wire Act’s interpretation. *See, e.g.*, Editorial Board, *Obama’s New Tax on the Poor: Internet Gambling by States*, CHRISTIAN SCI. MONITOR, Dec. 27, 2011; Dave Bohon, *Obama DOJ Helping to Facilitate Expansion of Online Gambling*, NEW AMERICAN, Jan. 3, 2012. In 2014, Judicial Watch filed a Freedom of Information (FOI) request with the DOJ for all records relating to the new interpretation. *JW Probes How DOJ Quietly Reversed Online Gambling Law*, JUDICIAL WATCH, Nov. 11, 2014, at www.judicialwatch.org.

E. The Socio-Economic Impacts of Gambling Activities via the Internet, Cell Phones, Social Media, and Cyberspace Constitute “Immediate and Irreparable Harm”

Internet gambling causes “immediate harm” and “irreparable harm” to the entire U.S. public. For examples of sworn testimony by professors/academics documenting the “immediate and irreparable harm” caused by Internet gambling and the advertising of such activities, see Expert Opinions of Earl Grinols, John Warren Kindt, and Nancy Petry *Cisneros v. Yahoo* (Case No. 04433518, Calif. Superior Ct. San Fran., filed Aug. 3, 2004) [hereinafter *Cisneros*].

However, U.S. businesses continued to provide venues for advertising illegal internet gambling in the United States. *See* 18 U.S.C. § 1084 (the “Wire Act”); Matt Richtel, *Wall St. Bets On Gambling On the Web*, N.Y. TIMES, Dec. 25, 2005, at A1 (The U.S. Justice Department reaffirmed that “online gambling [is] illegal.”).

In one California example, a private attorney general action on behalf of the public was brought as a class action “against the major Internet search engine websites which advertise

illegal Internet gambling in California.” *Cisneros, infra*, Complaint, at 1. (The *Cisneros* case was settled 2006-07.)

The primary irreparable harm resulting from advertising gambling activities and the resulting gambling consists of pathological gambling, which is comparable to drug addiction. Pathological gambling is recognized as an addictive behavior, specifically an “impulse control disorder.” AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, § 312.21, at 615-18 (4th ed. 1994) [hereinafter DSM IV]; *see also*, AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (2013) [hereinafter DSM V]. Highlighting the academic debate with pro-gambling lobbyists during the 1990s, the American Psychiatric Association (APA) listed 10 diagnostic criteria for pathological gambling. By definition, a “pathological gambler” evidenced “[p]ersistent and recurrent maladaptive gambling behavior as indicated by five (or more)” of the 10 criteria. DSM IV, *infra*, at 618. By definition, a “problem gambler” evidenced up to four of the criteria.

During the 1995-1999 tenure of the U.S. National Gambling Impact Study Commission, pro-gambling lobbyists tried to manipulate the APA definitions and criteria for a “pathological (addicted) gambler” and for a “problem gambler.” If even partially successful, the definitional confusion surrounding extant and even definitive studies would be jeopardized by the lack of an “apples to apples” comparison. *See, e.g.*, John W. Kindt, *The Gambling Industry vs. Academic Research: Have Gambling Monies Tainted the Research Environment?*, 13 UNIV. S. CALIF. INTERDISCIPLINARY L.J. 1-47 (2003) (lead article) (documenting threats against researchers).

Like drug addiction, the harms to the public (commonly referred to as “the ABCs” of legalized gambling’s socio-economic impacts) caused by gambling activities via cyberspace and particularly via the Internet include:

- (a) new addicted gamblers,
- (b) new bankruptcies, and
- (c) new crime

For the most authoritative analysis of new crime costs (averaging 9 percent increases each year) linked to the accessibility and acceptability of gambling, *see* Earl L. Grinols & David Mustard, *The Curious Case of Casinos and Crime*, 88 REV. ECON. & STAT. 28-45 (2006). A table of the authoritative academic studies highlights that the socio-economic public costs of legalized gambling activities are at least \$3 for every \$1 in benefits. Earl L. Grinols & David B. Mustard, *Business Profitability versus Social Profitability: Evaluating Industries with Externalities, The Case of Casinos*, 22 MANAGERIAL & DEC. ECON. 143, 153 (2001) [hereinafter *The Case of Casinos*]. This 3:1 ratio has been the ratio for many years. *See, e.g.*, *The National Impact of Casino Gambling Proliferation: Hearing before the House Comm. on Small Business*, 103d Cong., 2d Sess. 77-81 & nn. 9, 12 (1994).

For the definitive book in these issue areas, *see* EARL L. GRINOLS, *GAMBLING IN AMERICA: COSTS AND BENEFITS* (Cambridge Univ. Press 2004). For summaries and tables of the major studies of the socio-economic harms, *see* John W. Kindt, *The Costs of Addicted Gamblers: Should the States Initiate Mega-Lawsuits Similar to the Tobacco Cases?*, 22 MANAGERIAL & DEC. ECON. 17, 44-63, App. Tables A1-A14 (2001) [hereinafter *Mega-Lawsuits*]. *See also*, NGISC FINAL REPORT, *infra*, chap. 4. For a summary of the socio-economic costs of gambling activities as presented to Congress, *see* Testimony and Prepared Statement of Professor John

Warren Kindt, *Before the U.S. House of Representatives Comm. on Resources*, 109th Cong., 1st Sess., Apr. 27, 2005 (App. Tables).

In the case of concentrated and multiple electronic gambling devices (EGDs), such as in casinos and racinos (*i.e.*, EGDs at racetracks), the “accessibility” and new “acceptability” (*i.e.*, legalization) to the public dictates that the new pathological (*i.e.*, addicted) gamblers will double from approximately 1.0 percent of the public, increasing to 2 percent. Similarly, the new problem gamblers will double from approximately 2 percent of the public, increasing to 4 percent. When the category is specifically focused on teens and young adults, these rates are virtually doubled again to between 4 percent to 8 percent combined pathological and problem gamblers. *See e.g.*, Durand F. Jacobs, *Illegal and Undocumented: A Review of Teenage Gambling and the Plight of Children of Problem Gamblers in America*, in *COMPULSIVE GAMBLING: THEORY, RESEARCH, AND PRACTICE* 249 (1989).

These “doubling increases” have reportedly occurred within the gambling facilities’ “feeder markets.” NGISC FINAL REPORT, *infra*, at 4-4 (50-mile feeder markets); John W. Kindt, *Diminishing or Negating the Multiplier Effect: The Transfer of Consumer Dollars to Legalized Gambling: Should a Negative Socio-Economic “Crime Multiplier” be Included in Gambling Cost/Benefit Analyses?*, 2003 MICH. STATE DCL L. REV. 281, 312-13 App. (2003) (35-mile feeder markets) [hereinafter *Crime Multiplier*]; John Welte, St. Univ. N.Y. at Buffalo, 2004 Study (10-mile feeder markets).

Gambling activities via cyberspace and particularly via the Internet eliminate the radial feeder markets around the casino EGDs and maximize the accessibility and acceptability factors for gambling (and concomitant social negatives) by placing EGDs on every cell phone, at every social media site, and at every school desk. Children, teens, and young adults conditioned by the Nintendo phenomenon are already demonstrating double the pathological and problem gambling rates of the older adult populations who matured without video games and without the accessible legalized gambling venues. Jacobs, *infra*.

Accordingly, the 1999 U.S. National Gambling Impact Study Commission recommended that there be no legalization of Internet gambling and that the U.S. laws criminalizing gambling over the wires be strengthened (*see* 18 U.S.C. § 1084, the “Wire Act”). The Commission also de facto recommended that the laws criminalizing Internet gambling be redrafted to eliminate any ambiguities and to establish a virtual ban on gambling in cyberspace. NGISC FINAL REPORT, *infra*, recs. 5.1-5.4. The U.S. 1999 Gambling Commission also highlighted that EGDs were commonly referenced by the psychological community as the crack cocaine of creating new addicted gamblers. *See, e.g.*, NGISC FINAL REPORT, *infra*, at 5-5; V. Novak, *They Call it Video Crack*, TIME, June 1, 1998, at 58. The Commission reported testimony that Internet gambling magnifies gambling addiction.

Irreparable harm as a result of advertising Internet gambling devolves from the phenomenon that there are large increases in the numbers of pathological and problem gamblers once EGD gambling becomes accessible and acceptable. The legalization of new gambling venues since 1990 and the addictive nature of gambling have led to substantial increases in the numbers of Gamblers Anonymous groups, which are modeled after Alcoholics Anonymous groups.

Gambling industry spokespersons have frequently referred to Internet gambling as the “killer application” (a.k.a. “killer app”) of Internet technology because Internet gambling is crack

cocaine to addicting new gamblers and because the feeder market is every living room, work station, and school desk. For a summary table showing the various studies reporting the disproportionate revenues which various types of legalized gambling take from pathological and problem gamblers, see *Mega-Lawsuits, infra*, at 25, Table 1 (compiled by Professor Henry Lesieur).

Increasing numbers of experts and clinicians studying pathological gambling have reported that when a new person is “once hooked” they are “hooked for life.” See, e.g., *Mindsort, Colorado Lottery 1996*. The salient points are that: (1) these are new pathological gamblers, and (2) these gamblers may be addicted for life (although in remission in many cases). A fortiori, gambling via cyberspace and particularly via the Internet intensifies these problems—a substantial number of which will be irreparable, especially when interfaced with children, teens, and young adults. See, e.g., David P. Phillips, *et al.*, *Elevated Suicide Levels Associated with Legalized Gambling*, 27 *SUICIDE & LIFE-THREATENING BEHAV.* 373, 376-77, & Table 3 (1997).

F. Big Government Gambling Cheats Consumers: Are Electronic Games and Slots “Fair”?

1. Issues have arisen involving how “electronic gambling machines” (e.g., electronic slots) are programmed and whether the astronomical odds are “fair” to patrons.

John W. Kindt, “*The Insiders*” for Gambling Lawsuits: *Are the Games “Fair” and Will Casinos and Gambling Facilities be Easy Targets for Blueprints for RICO and Other Causes of Action?*, 55 *MERCER L. REV.* 529-593 (2004) (lead article). See also, John W. Kindt, *Subpoenaing Information from the Gambling Industry: Will the Discovery Process in Civil Lawsuits Reveal Hidden Violations Including the Racketeer Influenced and Corrupt Organizations Act?*, 82 *OREGON L. REV.* 221-294 (2003) (lead article).

2. Coupled with pandemic regulatory failures, these issues of “fairness” are increasingly problematic for the public’s perceptions of gambling.

See, e.g., *The Failure to Regulate Gambling, infra*; *Follow the Money, infra*.

G. The Feeder Market Impacts of Internet Gambling Are Substantial

The FINAL REPORT of the Congressional 1999 National Gambling Impact Study Commission called for a moratorium on the expansion of any type of gambling anywhere in the United States. Although tactfully worded, the National Gambling Commission also called for the continued prohibition of Internet gambling and the re-criminalization of various types of gambling, particularly slot machines convenient to the public.

Some of the negative impacts of casinos, electronic slot machines, and Internet gambling are detailed in the appendix to the article, *Diminishing Or Negating The Multiplier Effect: The*

Transfer of Consumer Dollars to Legalized Gambling: Should a Negative Socio-Economic “Crime Multiplier” be Included in Gambling Cost/Benefit Analyses?, 2003 MICH ST. DCL L. REV. 281-313 (lead article).

In his classic book entitled *ECONOMICS*, Nobel-Prize laureate Paul Samuelson summarized the economics involved in gambling activities as follows:

There is ... a substantial economic case to be made against gambling. First, it involves simply *sterile transfers of money or goods* between individuals, creating no new money or goods. Although it creates no output, gambling does nevertheless absorb time and resources. When pursued beyond the limits of recreation, where the main purpose is after all to “kill” time, gambling subtracts from the national income. PAUL SAMUELSON, *ECONOMICS* 425 (10th ed. 1976) (emphasis original). *See also, id.*, subsequent editions, *et seq.*

The second economic disadvantage of gambling is the fact that it tends to promote *inequality and instability of incomes.*” *Id.* at 425 (emphasis original). Furthermore, Professor Samuelson observed that “[j]ust as Malthus saw the law of diminishing returns as underlying his theory of population, so is the ‘law of diminishing marginal utility’ used by many economists to condemn professional gambling.” *Id.* at 425.

H. Strategic Solution to Eliminate Internet Gambling Problems and Other Gambling Problems: Transform Gambling Facilities into Educational and Practical Technology Facilities: Stabilizing International Financial Institutions

Instead of legalizing a casino/slot machine establishment at a failing racetrack in 1997, the Nebraska legislature bulldozed the racetrack and made it into an extension of the University of Nebraska at Omaha (UNO) and a high-tech office park. Ironically, the proposed casino site is now the home of the new UNO College of Business and has attracted close to \$.5 billion in commercial developments. *See, e.g.,* John W. Kindt, *Would Re-Criminalizing U.S. Gambling Pump-Prime the Economy and Could U.S. Gambling Facilities Be Transformed into Educational and High-Tech Facilities? Will the Legal Discovery of Gambling Companies’ Secrets Confirm Research Issues?* 8 STANFORD J.L., BUS. & FIN. 169-212 (2003) (lead article).

As pro-gambling interests have courted Nebraska they have been repeatedly rebuffed by the academic community, which was exemplified in one instance by 40 economists publicly rejecting new gambling proposals that would “cannibalize” the consumer economy. Robert Dorr, *40 Economists Side Against More Gambling, Signers: Costs Likely Higher than Benefits*, OMAHA WORLD-HERALD, Sept. 22, 1996, at B1.

In 2000-2001 the efforts of S.C. Governor David Beasley resulted in the de facto re-criminalization of electronic slot machines throughout South Carolina. This re-criminalization produced a noticeable decrease in crime and social problems—as well as an upswing in the consumer economy and the economic multiplier effect.

On October 27, 2005, the Illinois House of Representatives voted 67 to 42 (with 7 voting “present”) for the Senator Paul Simon memorial bill (as it is popularly referenced) to re-criminalize the Illinois casinos via H.B. 1920, sponsored by Representative John Bradley.

However, the companion Senate bill was procedurally killed by Governor Rod Blagojevich (who is currently in prison for corruption).

Similarly, suggestions have been made to re-criminalize gambling facilities in other states and transform the gambling facilities into educational and high-tech assets—instead of giving the gambling owners tax breaks. On December 6, 2005, Pennsylvania Representative Paul Clymer (with 32 cosponsors) introduced H.B. 2298 to re-criminalize the Pennsylvania casinos.

In another example during February 2015, the Idaho Senate voted to recriminalize instant electronic racing machines.

Casinos and gambling parlors would generally be compatible with transformations into educational and high-tech resources. For example, the hotels and dining facilities could be natural dormitory facilities. Historically, facilities built for short-term events, such as various World's Fair Expositions, the 1996 Olympic Village (converted to facilities for the Georgia University system), and other public events have been transformed into educational and research facilities.

Socio-economic history demonstrates that the eventual strategic solution to U.S. and international gambling problems is to re-criminalize gambling for economic security and to transform gambling facilities into educational and practical technology facilities.

I. Conclusion: The U.S. Should Reinstate the Ban on Internet Gambling and Encourage Other Countries to Emulate the U.S. Ban

The immediate strategic solution to eliminate or curtail many of the problems caused by gambling activities is a total U.S. ban on Internet gambling activities.

Internet gambling shrinks the consumer economy and destroys consumer confidence by promoting a ubiquitous gambling philosophy.

If the U.S. permits Internet gambling to expand, dubious parties will tout the U.S. imprimatur—empowering those parties to create a queue of speculative bubbles that could collapse already fragile financial systems and destabilize essential international economic security.

Governments cannot gamble their way to prosperity. However, via financial instruments predicated on vacuous gambling activities, governments can destabilize and depress their economies and budgets.

Prof. John Warren Kindt
University of Illinois

Attachments

Before the Subcommittee on Crime, Terrorism, Homeland Security, and Investigations
U.S. House of Representatives, Committee on the Judiciary
Legislative Hearing on H.R. 707: The “Restoration of America’s Wire Act”
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