THE EXPANSION OF LEGALIZED GAMBLING: SHOULD STATE AND LOCAL GOVERNMENTS TAKE THE CHANCE?

A Thesis
submitted to the Faculty of
The School of Continuing Studies
and of
The Graduate School of Arts and Sciences
in partial fulfillment of the requirements for the degree of
Master of Arts in Liberal Studies

By

William McMurtrie, J.D.

Georgetown University
Washington, D.C.
April 11, 2011
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William McMurtrie, J.D.

Terrence Reynolds, Ph.D.

ABSTRACT

The economic crisis of the last three years has forced state and local governments to find new and appropriate ways to generate tax revenue and create new jobs. The legalization and expansion of gambling has been considered as a means to bridge budget deficits. But is it worth the risk?

The purpose of this thesis is to determine whether or not the expansion of gambling legalization is an appropriate means of generating tax revenue. After all, what is the proper role of government?

Those in favor of gambling legalization argue that it is a matter of personal choice. The fact that governments can benefit from this voluntary tax is merely an ancillary benefit of a harmless form of entertainment. Governments point to the staggering revenues generated from the industry in other states and wants the same for themselves.

Opponents point to the increase in criminal elements surrounding the gambling industry and the social costs of pathological gambling. Is this the sort of business the government should be involved in?
The study will include a close look at both the costs and benefits of state lotteries, casino gaming, sports wagering and the racetracks. It will examine the impulse control disorder known as pathological gambling and weigh its effects on individuals and their families while considering the argument for personal responsibility.

In conclusion, it is my opinion that the widespread expansion of gambling creates too many risks and social costs that should preclude state and local governments from considering it as an appropriate form of tax revenue creation.
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CHAPTER 1

INTRODUCTION

Thomas Jefferson recommended state-sponsored gambling as a tax assessed “only to the willing.” Jefferson saw gambling and the revenue it produced, as a legitimate activity that created funds which governments might not be able to acquire through direct taxes. According to Jefferson, the purchase of a lottery ticket didn’t produce any “sensible injury.”\(^1\) Jefferson wasn’t thrilled, however, about the interest his new nation was taking in many other forms of gambling. Those who have supported the legalization of gambling have based their argument on the notion that it remains a fairly painless way for government to generate revenue. Modern day proponents of legal gambling argue “...money that governments can get from gambling is more desirable than money from (direct) taxes because the former is voluntarily given, while the latter is usually coercively extracted.”\(^2\)

Americans legally wager over $300 billion annually.\(^3\) The debate on its legalization is between those individuals who see gambling as harmless recreation and those who see gambling as a socially destructive temptation that should


\(^3\) Ibid., 2.
neither be indulged in nor sponsored, especially by government. James Glassman, in a 1998 article for the Washington Post, argued that while he had no moral objections to gambling, he felt that the state should no more be running lotteries, than it should be sponsoring and promoting liquor stores or cigarette machines.⁴

First, there are very few businesses that are appropriate for government, period – missile defense, yes; railroads, no. Gambling should not be on the list. Second, it is especially pernicious for states to be involved in lotteries with the clear knowledge that they are enticing thousands of citizens to blow money they can’t afford to lose. When governments have a big stake in an activity that can harm people, they are apt to use their considerable power to encourage it.⁵

While many consider pathological gambling a disease, others find it a matter of personal responsibility. In fact, the overwhelming majority of people who gamble are responsible citizens. Furthermore, supporters of all forms of gambling contend that it is a socially acceptable leisure activity and those who participate typically budget for it prudently. It seems that both sides of the argument agree on one point. Lower-income households spend more, proportionally, than any other demographic on the lottery or other forms of gambling.

In 1987, the United States Supreme Court upheld the rights of Indian tribes to sponsor and operate gambling enterprises that were unregulated by the federal


⁵ Ibid.
government, so long as those enterprises did not violate any state criminal policy.\(^6\)

In 1988, Congress passed the Indian Gaming Regulatory Act in response to the 1987 federal case of *California v Cabazon*.\(^7\) The decision was based on the argument of legitimate Indian sovereignty, but state governments argued that the law gave participating tribes an unconstitutional commercial advantage to revenues other private citizens couldn’t pursue. The issue of Indian tribes operating casinos without the interference of government has always been at the heart of the gambling legalization debate. Why is it that governments can sponsor and promote one form of gambling, like the lottery, but deny that opportunity to private citizens? What are the legitimate roles of government? Aren’t there areas of a person’s conduct and choices made that should be none of the government’s business? Furthermore, is the “...conception of pathological gambling incompatible with a fundamental belief in personal responsibility?”\(^8\)

Of the $300 billion legally wagered each year in the United States, gamblers lose approximately $30 billion annually. However, the revenue that states generated from legal forms of gambling was greater than those generated by


\(^8\) Evans and Hance, *Legalized Gambling*, 3.
death taxes, severance taxes, property taxes, and taxes from both alcohol and tobacco.\textsuperscript{9}

Nobel prize winning Economist, Gary S. Becker supports a trend toward “legalized gambling as respecting the freedom and choices of large members of usually responsible citizens.”\textsuperscript{10} Becker claims that a freer market in gambling that is friendlier to the private sector is more favorable because it supports consumers. Consumers, according to Becker, receive 95\% of the revenues in privately run casinos. The lottery, on the other hand, returns only 50\% of its revenue to its consumers.\textsuperscript{11}

To be clear, Becker does not believe that the legalization of gambling will solve the budget deficits governments are currently experiencing. According to Becker, gambling opponents have been influenced by overblown fears, and the reaction to those fears are interfering with “…people’s fairly harmless desires while strengthening the influence of organized crime and abridging the freedom of usually responsible citizens.”\textsuperscript{12} Although Becker writes as an economist, his reasons for the legalization of gambling have little to do with tax revenue and more to do with personal choices to participate in a relatively harmless activity. He

\textsuperscript{9} Ibid., 7.


\textsuperscript{11} Ibid.

\textsuperscript{12} Ibid.
States and local government need to realize that legal gambling will only generate modest amounts of tax revenue. It will, however, allow individuals who wish to place a bet for their personal enjoyment, to do so without “patronizing illegal establishments and facilities controlled by criminals.”\textsuperscript{13}

The argument that gambling should be illegal because it is immoral or sinful seems to fall short. If smoking and alcohol damage health and cause life endangering traffic accidents, how can gambling be more sinful? Does it really matter if the revenue generated for a state from gambling is used for a good cause? Again, Jefferson asserted, “…the morality of a thing cannot depend on our knowledge or ignorance of its cause.” He argued that if we consider “…games of chance immoral, then every pursuit of human industry is immoral.”\textsuperscript{14} He believed that every enterprise consists of some element of risk for gain or loss. In his essay, “Thoughts on Lotteries”, Jefferson gives the example of the farmer whom he claims takes the greatest of all gambles by the seeds he places in the ground, the land he rents and the labor he puts in to it.\textsuperscript{15} All of his efforts depend on the weather. Certainly, the farmer isn’t doing anything immoral.

Ye, so far from being immoral they are indispensable to the existence of man, and everyone has a natural right to choose for his pursuit such one of them as he thinks most likely to furnish him subsistence.\textsuperscript{16}

\textsuperscript{13} Ibid., 30.

\textsuperscript{14} Jefferson, “Thoughts on Lotteries,” 500-511.

\textsuperscript{15} Ibid.

\textsuperscript{16} Ibid.
However, Jefferson made a distinction between lotteries and other games of chance. Games that “...produce nothing, and endanger the well-being of the individuals engaged in them, or of others depending on them.”\(^{17}\) Such are endeavors like card games, dice, or billiards. In these cases, although individuals may have a natural right to pursue them, the government should step in to protect the family; the same way the government should protect its citizens from any other “...insanity, infancy, imbecility,...”\(^{18}\)

David Ramsey Steele in his 1997 article, “Yes, Gambling is Productive and Rational,” claims that gambling is “neither intrinsically wasteful nor necessarily irrational.”\(^{19}\) Economists have often referred to industries “cannibalizing” other enterprises or activities. That is, they consume revenue that would have certainly been spent on other activities. Gambling is the most often criticized industry of “cannibalism.” Steele argues that gambling is no more at fault than any other commercial endeavor that is competing for the money of consumers, disposable income or not. Gambling, because it was once prohibited, would naturally take dollars away from existing businesses if legalized. As would any prohibited industry once it was made legal. This argument relies on the notion that since if

\(^{17}\) Ibid.

\(^{18}\) Ibid.

\(^{19}\) David Ramsay Steele, “Yes, Gambling is Productive and Rational,” in Legalized Gambling: For and Against, ed. Rod Evans and Mark Hance (Chicago and La Salle: Open Court, 1998), 225.
something is prohibited, it should continue to be so, otherwise other business would be forced to compete for the dollars that individuals now are spending gambling.

Furthermore, according to Steele, gambling is productive insofar as it provides some utility to those who want to gamble. By meeting this ineradicable need, gambling serves to gratify its customers. Steele claims that there are really only two types of gambling, recreational gambling and lottery playing. Recreational gambling involves both chance and some skill. Steele likens recreational gambling to other forms of amusement like listening or playing music, playing chess, participating in sports, or the theater.\(^{20}\) "The possibility of monetary gain or loss adds spice to the game, but is usually not the main goal of the players."\(^{21}\) The lottery is different. People who chose to play the lottery do so with one thing in mind. They all hope and even dream of winning the jackpot, one big prize. No skill goes into playing the lottery; no handicapping like the track, no strategy like cards. Steele reaffirms Becker’s argument that people’s fears are overblown and there is “…no evidence that typical lottery players overestimate their chances or are in any way victims of a delusion or miscalculation.”\(^{22}\) The lottery is certainly an unfair bet when you consider both the odds of winning and

\(^{20}\) Ibid.


\(^{22}\) Ibid.
the payout rate compared to other forms of gambling, but that doesn’t make it a mistake to take an unlikely chance at becoming rich for a very small sum of money.

Finally, it is Steele’s opinion that the prohibition of gambling won’t stop gambling, but will force it to be done illicitly. Cannibalization of other industries, as Robert Goodman fears, is less likely than the cannibalization of illegal gambling operations. Goodman is a Professor of Environmental Design at Hampshire College and a staunch gambling prohibitionist.

Legalized gambling is a highly controlled monopolistic business that preys on the most vulnerable people in our society. There is hardly much free choice when jobs are scarce or don’t pay well, and when government and private casino companies spread hundreds of millions of dollars on behavior modification studies and advertising to tell people they can change their lives through gambling.

Faced with budgetary shortfalls, due in large part to our recent economic crisis, more and more states are looking to forms of alternative taxation as a means to address their deficit. States are also considering legalizing forms of gambling. But what sort of ethical issues and values concerns that are involved in a state’s decision to profit from an activity that was previously prohibited as dangerous and even immoral? Has gambling in America graduated in perception from a vice to a socially acceptable leisure activity? Has our economic situation caused our moral

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24 Ibid.
compass to shift? Has the government finally thrown up its hands and given in to the age-old argument that people are going to gamble anyway, so why shouldn’t we tax it?

Opponents of widespread legalized gambling feel that government sponsored lotteries and forms of gaming take advantage of American’s compulsion to gamble, should the government profit from an addictive activity? The values question raised is simple. What is the proper role of government? Should they be sponsoring and promoting a vice? In particular, should government endorse and promote gambling as a source of revenue generation?

Las Vegas, Nevada is the undisputed gambling capital of America. Vegas has known the secret for years. Although they have marketed the town as a family destination, boasted about the heart stopping shows, endless buffets and oceanic swimming pools, they understand that the real reason people come back time and time again is because Americans simply love to gamble. The rush of the tumbling dice and the sound of the slots momentarily take them away from your reality and offer them hope of a quick fortune. Huge halls with few windows and oxygen filled casino floors keep players at the tables until sometimes, all is lost. Hollywood is replete with movies about both the glamour and the criminal elements surrounding casino gaming, sports wagering, loan sharks, and Mafia involvement. It is part of our culture. The numbers are staggering. The focus of this thesis will be on the factors that enter in to any state’s ultimate decision to both sponsor and promote activities once widely considered problematic. I will
look at the effect state sponsored lotteries have on the poor and uneducated. I will evaluate the social costs and benefits the opening of a casino has on the community. I will examine recent decisions like those made by Governor Jack Markell of Delaware to expand the legalization of gambling in his state to include sports wagering, even though every major professional sports association and the N.C.A.A. filed amicus briefs in opposition to his legislative pleas. I will study the effects compulsive or pathological gambling has on the American family and the social costs it places on society as a whole. This thesis will include an examination of the relationships between government sponsored gambling activities and education. Does the end result of contributions to unquestionably good causes like public schools justify the means of this alternative form of taxation?

Today, forty-eight states and the District of Columbia, permit some form of legal gambling. Fantasy sports leagues and office pools on March Madness and the NFL are commonplace. Has our opinion of gambling shifted in the recent times so much that we cannot imagine living in a society without it? Furthermore, is the growth of such twelve step programs such as Gamblers Anonymous cause for alarm? Or is compulsive gambling overstated and an excuse for a lack of personal responsibility?

In order to address these questions, the thesis will examine the history of gambling in America and assess the arguments made by groups on both sides of the issue regarding its expansion and legalization. Essentially, is a government’s decision to legalize and/or promote gambling worth the risk of its social costs? Is
the legalization of gambling with the hopes on benefiting from increased tax revenue an appropriate role of government? Should government profit from vices? What are the social costs borne by our communities that have adopted legal forms of gambling?
CHAPTER 2

WHAT EXACTLY IS COMPULSIVE OR PATHOLOGICAL GAMBLING?

When considering the ethical issues involved in a state’s decision to legalize gambling, at the forefront remains the issue of pathological gambling. So what is pathological or compulsive gambling? Is it a real disease? If so, is it treatable? And at what expense? Finally, is compulsive gambling an impulse control problem or does it present more like an addiction? In this section, we will take a look at some of the signs of problem gambling, those most at risk, what the risk factors are, and the societal costs associated with problem gambling.

Presently, two million Americans suffer from gambling addiction. That’s nearly 4% of the U.S. population.\(^1\) According to Simmons, the addiction usually begins in adolescence but if gambling takes on a more serious role in an adult’s life, the progression to pathological behavior can occur much faster, that is, from entertainment to addiction. At the highest risk are adolescent males with a relative with a gambling problem.\(^2\) Furthermore, teens are three times more likely to become addicted than adults who begin gambling as a leisure activity. This represents and interesting parallel and similarity to other forms of addiction, namely substance abuse. As with substance abuse, there is a need for early intervention, claims Simmons. Biologically, there exists some evidence that is equally troubling. Norepinephrine is released during moments of either stress or

arousal. Much like Serotonin is known can offset moods and behavior, norepinephrine production actually affects the way we feel. Essentially, the highs and lows experienced during the excitable moments of gambling can be traced back to the production of certain chemicals within the body. In fact, evidence suggests that dopamine affects the same part of the brain that dangerous amphetamines, such as cocaine, do. The human brain receives biological reinforcement through those dopamine pleasure pathways of compulsive gamblers.\(^2\) It is possible that the euphoric feelings produced when these pathways are stimulated lead to addiction itself. It should also be noted that pathological gamblers have lower levels of norepinephrine, which can have adverse affects on long-term memory.\(^3\) In a study of norepinephrine levels and the effect of those levels at the National Institute of Health, it was determined that pathological gamblers presented with higher elimination of norepinephrine.

In fact, the Mayo Clinic, after studying the psychopathology of compulsive or pathological gamblers, reports “…compulsive gamblers may have a deficiency of the brain chemical serotonin that keeps extreme behavior and moods in check.”\(^4\)

When serotonin is lacking, norepinephrine and dopamine can “…take control and

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\(^2\) Ibid., 137.

\(^3\) Ibid.

cause gamblers to feel pleasure and stress relief while gambling.”\textsuperscript{5} Left unchecked by serotonin, the two chemicals can lead to a greater risk for compulsive gambling.\textsuperscript{6}

Depression has long been associated with problem gambling. There exist, however, a variety of other abnormalities that have been revealed in the brain of the pathological gambler. Those include the impairment of the prefrontal cortex, responsible for, among other things, perception and behavioral reactions.\textsuperscript{7} Not surprising, pathological or compulsive gamblers typically exhibit considerable difficulty in their ability to make sound decisions, to focus, and in their ability to control their impulses.\textsuperscript{8}

There has been considerable debate and studies to determine whether or not pathological gambling is more akin to an impulse control disorder or an addiction (like that of a substance abuse). The DSM-IV, otherwise known as the Diagnostic and Statistical Manual of Mental Disorder, is a medical reference manual that compiles various diagnostic criteria produced by the American Psychiatric Association. The DSM-IV defines “pathological gambling” as an “impulse control disorder although the risk factors and familiar patterns suggest a close similarity to

\textsuperscript{5} Ibid.

\textsuperscript{6} Ibid.

\textsuperscript{7} Simmons, \textit{Everything Guide to Addiction}, 138.

\textsuperscript{8} Ibid.
alcohol dependence." In its description of the disorder, the DSM-IV claims the essential feature of pathological gambling is “persistence gambling that disrupts personal, family or vocational pursuits.”

According to the DSM-IV, the diagnostic criteria for pathological gambling can be indicated by five (or more) of the following symptoms:

If an individual

1) is 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) needs to gamble with increasing amounts of money in order to achieve the desired excitement,

3) has repeated unsuccessful efforts to control, cut back, or stop gambling,

4) is restless or irritable when attempting to cut down or stop gambling,

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

6) after losing money gambling, often returns another day to get even (“chasing” one’s losses),

7) lies to family members, therapist, or others to conceal the extent of involvement with gambling,

8) has committed illegal acts such as forgery, fraud, theft, or embezzlement to finance gambling, or

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10 Ibid., 673.
9) has jeopardized or lost a significant relationship, job, or educational or career opportunity because of gambling.\textsuperscript{11}

The problem can certainly exist long before these symptoms manifest. Some of the diagnostic features listed in the DSM-IV include reliving past gambling adventures, planning the next gambling getaway, increasing the amounts of “bets” in an effort to achieve the desired euphoric state or arousal, or simply continuing to gamble despite repeated efforts to control, cut back or stop the behavior.

The manual includes distinctions between different types of gambling. The three discussed are social gambling, professional gambling, and pathological gambling. “Social gambling” is described as that sort of gambling that “typically occurs with friends or colleagues and lasts for a limited period of time” while professional gambling is the type of gambling where “…risks are limited and discipline is central.”\textsuperscript{12} Interestingly, the descriptions of these forms of non-problem gambling include mention of “discipline.” It seems clear that this absence of discipline or control is at the heart of the compulsive gambler’s situation. While professional or social gamblers may also experience problems often associated with problem gambling such as short-term chasing or temporary loss of control, it does not necessarily meet the criteria for pathological gambling. “Chasing” refers

\textsuperscript{11} Ibid., 674.

\textsuperscript{12} Ibid.
to the practice of increasing bet size or simply continuing to bet not for entertainment, but as a means of chasing down previous losses.\textsuperscript{13}

Robert Perkinson of the Keystone Treatment Center treats 200 patients a year for compulsive gambling. According to Perkinson, compulsive gamblers complain of being in somewhat of a “…psychoactive low, an irritable depression, they cannot tolerate…”\textsuperscript{14}

Alcohol presents a compound problem when it comes to compulsive gambling. Simmons notes that alcohol consumption can obviously lead to disinhibited behavior and poor decision-making.\textsuperscript{15} It is any wonder why free alcoholic drinks are offered to gamblers while at the table? Problem gambling is a progressive disorder. That is, it presents it a number of different phases. Each phase is more troubling then the last. It is the perfect example of the downward spiral.

The first phase is the winning phase. Most problem gamblers start off with a positive experience. Although little money is wagered, gamblers experience the thrill of victory. Correspondingly, the dopamine pleasure pathways are activated.\textsuperscript{16}

\begin{itemize}
  \item \textsuperscript{13} Ibid.
  \item \textsuperscript{15} Simmons, \textit{Everything Guide to Addiction}, 138.
  \item \textsuperscript{16} Ibid.
\end{itemize}
The real problem at this stage is the onset of the unreasonable belief that winning will continue and surely be more frequent than losses. With a problem or pathological gambler excitement increases with the size of the bets during the winning phase.\textsuperscript{17} This temporary phase of winning is followed by the losing phase. This phase is statistically inevitable and characterized by experiences like gambling alone, hiding losses from family and friends, going into debt, borrowing money from family and friends, and lying about gambling and depression.\textsuperscript{18}

The types of gambling that lead most quickly to gambling addiction are those that are fast-paced and immediately reinforcing. Video Poker and slot machines are two examples of gambling that can progress to the desperation phase of gambling addiction within a relatively brief period of time.\textsuperscript{19}

The next phase of this progressive disorder is known as the desperation phase. This phase of pathological gambling is typically the beginning of a very dangerous series of events. During the desperation phase, a gambler may devote not only more time to gambling but also finance losses with illegal activity. During this stage, pathological gamblers experience arrests, divorce, bankruptcy, and other life changing disappointments. Many gambling addicts turn to crime to get out from under gambling debts.

\textsuperscript{17} Ibid., 139.

\textsuperscript{18} Ibid.

\textsuperscript{19} Ibid.
When we consider all of the costs associated with legalized gambling and the effect pathological gambling has on society, we need to consider the burden it will inevitably have on our criminal justice system.

Desperation motivates many gambling addicts to commit illegal acts to fund their gambling behavior. One study found that two out of three gambling addicts turned to crime to pay gambling related debts. Not only does this lead to painful consequences for the gambling addict and his or her family it puts an additional burden on our country’s legal system.\textsuperscript{20}

If we expect that two out of three pathological gamblers will resort to criminal activity, we have to consider the costs associated with restitution for the crimes committed, apprehension of the criminals, time spent adjudicating their cases, staffing personnel to supervise individuals on probation or the sot to warehouse possible violent offenders.

The final phase of a progressive disorder like compulsive gambling is the hopelessness phase. During this phase, individuals typically see no way out of the hole they have put themselves in. Thoughts of suicide can be quite common during this phase and an alarming number of pathological gamblers actually commit suicide. Simmons claims 20\% of pathological gamblers who have reached this stage of hopelessness kill themselves.\textsuperscript{21} How do we quantify the emotional loss to the families of these individuals?

\textsuperscript{20} Ibid.

\textsuperscript{21} Ibid.
What are some of the risk factors? Studies suggest that mere proximity to gambling venues greatly increases the chance of addiction. Having friends and family members who routinely gamble is another obvious risk factor. But what are the signs? When is it clear that the progression to pathological gambling is well underway? Simmons describes many of the most common red flags including guilt after or during gambling, using paychecks to first pay off gambling debts before bills like mortgages or rent, sleeplessness, gambling beyond set limits, legal action or the onset of other addictions like drugs or alcohol. One would imagine that any one of these signs or a combination would naturally affect healthy relationships with family and friends. Furthermore, school and work would likely suffer not just from the time dedicated to actual gambling but the amount of time spent stressing about losses and debts incurred. Simmons argues that the social costs can be either overt or hidden. She lists the nine examples costs that have been commonly identified. They include costs that burden society at large, such as crime and adjudication, lost employment and productivity, legal aspects associated with bankruptcy and debt collection, suicide, possible health care costs that come from stress related illness due to problem gambling, mental health and depression. Other social costs that have to be considered are the costs of treatment, welfare, unemployment, and possibly divorce.\(^{22}\)

I have spoken about the financial burden associated with gambling losses, but does the amount won or lost really matter when it comes to compulsion? The simple answer is no. The progression becomes problematic as soon as an individual has lost control of his or her behavior and experiences tolerance or withdrawal symptoms when trying to stop. This loss of control can happen even if an individual experiences some success while gambling. Losses aren’t a prerequisite to compulsive behavior. In fact, all of the evidence suggests that gambling becomes a problem when an addictive personality is placed in an environment that offers an opportunity to gamble and a latent propensity becomes an overt problem. Gamblers Anonymous reports that 57% of those in treatment have financed their addiction by illegal acts, usually theft, fraud or embezzlement. On average, a pathological gambler who has resorted to criminal activity to finance his gambling problem has either stolen or embezzled an average of $135,000 during the course of their lives according to Henry Lesieur, from the Institute of Problem Gambling, who presented his research to the National Gambling Impact Study Commission in Atlantic City, New Jersey in 1998.\(^{23}\) Lesieur claims that pathological gamblers are incarcerated at a rate three times the national average of non-gamblers.

Gamblers can also steal in alternative or secondary ways. The player who gambles away household dollars or money set aside for other things, actually robs his or her family of its money.
CHAPTER 3

LOTTERIES AND THE POOR: SHOULD STATES SPONSOR AND PROMOTE GAMBLING?

The relationship between public education and state sponsored lotteries is ironic. As I explore this issue, it becomes evident that there exists an interesting dynamic regarding the money raised for education by lotteries and the education levels of those individuals who play.

Proponents of state sponsored gambling have always argued that the money raised is earmarked for unquestionably good causes. Currently, that “good cause” is public education. Historically, however, state lotteries and the revenue they have provided have been used to finance such public works as bridges, wharfs, churches and the Continental Army of the colonial period.\(^1\) American lotteries date back to the arrival of European settlers and were supported by such prominent historical figures as Benjamin Franklin, George Washington, and Thomas Jefferson.\(^2\) In fact, it was commonplace for legislatures in this country’s early years to authorize and sponsor state lotteries to refinance the building and repairing of churches or even buildings at Harvard, Yale, and Columbia.\(^3\) Eventually lotteries were used


\(^2\) Ibid.

\(^3\) Ibid.
privately as a means to raise capital for commercial endeavors. The Louisiana lottery was one such activity but because of “questionable commercial practices and rampant political corruption” it led to the end of state run lotteries altogether by 1894 and explicit prohibitions by legislatures against them. By 1895, Congress banned all interstate lottery commerce. Common to both the lotteries then and the lottery now is the widespread participation of the citizenry and a moral opposition to it. Furthermore, lotteries have always seemed to be acceptable only if the revenue they produce goes toward morally acceptable endeavors. The following table lists the current state lotteries, their adoption dates and designation of their funds:

Table 1. State Lotteries: Adoption Dates and Designation of Funds

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<tr>
<th>State</th>
<th>Adoption year</th>
<th>Adoption method</th>
<th>Designated use of Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>NH</td>
<td>1964</td>
<td>L</td>
<td>Education</td>
</tr>
<tr>
<td>NY</td>
<td>1967</td>
<td>R</td>
<td>K-12 education</td>
</tr>
<tr>
<td>NJ</td>
<td>1970</td>
<td>R</td>
<td>Public education (K-12), community colleges, state homes for disabled veterans</td>
</tr>
<tr>
<td>CT</td>
<td>1972</td>
<td>L</td>
<td>General fund</td>
</tr>
<tr>
<td>MA</td>
<td>1972</td>
<td>L</td>
<td>Cities and Town</td>
</tr>
<tr>
<td>MI</td>
<td>1972</td>
<td>R</td>
<td>Michigan School Aid Fund (K-12 public schools)</td>
</tr>
<tr>
<td>PA</td>
<td>1972</td>
<td>L</td>
<td>Senior citizens’ programs</td>
</tr>
<tr>
<td>MD</td>
<td>1973</td>
<td>R</td>
<td>General fund</td>
</tr>
</tbody>
</table>

4 Ibid.

5 Ibid.
<table>
<thead>
<tr>
<th>State</th>
<th>Adoption year</th>
<th>Adoption method</th>
<th>Designated use of Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>IL</td>
<td>1974</td>
<td>L</td>
<td>Common School Fund (K-12 Public schools)</td>
</tr>
<tr>
<td>ME</td>
<td>1974</td>
<td>R</td>
<td>General fund</td>
</tr>
<tr>
<td>OH</td>
<td>1974</td>
<td>L</td>
<td>Education</td>
</tr>
<tr>
<td>RI</td>
<td>1974</td>
<td>R</td>
<td>Distressed cities and towns, General Fund</td>
</tr>
<tr>
<td>DE</td>
<td>1975</td>
<td>L</td>
<td>General Fund</td>
</tr>
<tr>
<td>VT</td>
<td>1978</td>
<td>R</td>
<td>Education</td>
</tr>
<tr>
<td>AZ</td>
<td>1981</td>
<td>I</td>
<td>Mass transit, General fund, county assistance, economic development, Heritage Fund, Local Transportation Assistance Fund</td>
</tr>
<tr>
<td>DC</td>
<td>1982</td>
<td>I</td>
<td>General fund</td>
</tr>
<tr>
<td>WA</td>
<td>1982</td>
<td>L</td>
<td>Education construction, Stadium debt reduction, economic development, General fund</td>
</tr>
<tr>
<td>CO</td>
<td>1983</td>
<td>I</td>
<td>Parks and recreation</td>
</tr>
<tr>
<td>CA</td>
<td>1985</td>
<td>I</td>
<td>K-12 education</td>
</tr>
<tr>
<td>IA</td>
<td>1985</td>
<td>L</td>
<td>General fund</td>
</tr>
<tr>
<td>OR</td>
<td>1985</td>
<td>I</td>
<td>Economic development, job creation, education (K-12 public schools)</td>
</tr>
<tr>
<td>MO</td>
<td>1986</td>
<td>R</td>
<td>Education</td>
</tr>
<tr>
<td>WV</td>
<td>1986</td>
<td>R</td>
<td>Education, senior citizens, tourism</td>
</tr>
<tr>
<td>KS</td>
<td>1987</td>
<td>R</td>
<td>Economic development (85%), prisons (15%)</td>
</tr>
<tr>
<td>MT</td>
<td>1987</td>
<td>R</td>
<td>General fund</td>
</tr>
<tr>
<td>SD</td>
<td>1987</td>
<td>R</td>
<td>General fund, Capital Construction Fund, Property Tax Reduction Fund</td>
</tr>
<tr>
<td>FL</td>
<td>1988</td>
<td>R</td>
<td>Educational Enhancement Trust Fund</td>
</tr>
<tr>
<td>WI</td>
<td>1988</td>
<td>R</td>
<td>Property tax relief</td>
</tr>
<tr>
<td>State</td>
<td>Adoption year</td>
<td>Adoption method</td>
<td>Designated use of Funds</td>
</tr>
<tr>
<td>-------</td>
<td>---------------</td>
<td>-----------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>ID</td>
<td>1989</td>
<td>R</td>
<td>Public schools, State Permanent Building Fund</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Replacement of motor vehicle tax revenue, capital projects</td>
</tr>
<tr>
<td>IN</td>
<td>1989</td>
<td>R</td>
<td>General fund</td>
</tr>
<tr>
<td>KY</td>
<td>1989</td>
<td>R</td>
<td>General fund, Environmental Trust Fund</td>
</tr>
<tr>
<td>MN</td>
<td>1989</td>
<td>R</td>
<td>State’s Lottery Proceeds Fund (appropriated by legislature annually)</td>
</tr>
<tr>
<td>LA</td>
<td>1991</td>
<td>R</td>
<td>Foundation School Fund</td>
</tr>
<tr>
<td>TX</td>
<td>1992</td>
<td>R</td>
<td>Education (HOPE Scholarship program, voluntary prekindergarten Trust funds for education, the environment, compulsive gamblers’ assistance)</td>
</tr>
<tr>
<td>NE</td>
<td>1993</td>
<td>R</td>
<td>Education (60% capital improvements, 40% scholarship program)</td>
</tr>
<tr>
<td>NM</td>
<td>1996</td>
<td>L</td>
<td>Education</td>
</tr>
<tr>
<td>VA</td>
<td>1998</td>
<td>R</td>
<td>Education (K-12 and college scholarships)</td>
</tr>
<tr>
<td>SC</td>
<td>2002</td>
<td>R</td>
<td>General fund</td>
</tr>
<tr>
<td>ND</td>
<td>2004</td>
<td>R</td>
<td>Education (HOPE Scholarship program)</td>
</tr>
<tr>
<td>TN</td>
<td>2004</td>
<td>R</td>
<td>Education</td>
</tr>
<tr>
<td>OK</td>
<td>2005</td>
<td>R</td>
<td>Education</td>
</tr>
<tr>
<td>NC</td>
<td>2006</td>
<td>L</td>
<td>Education</td>
</tr>
</tbody>
</table>


Note: R=Referendum; L=Legislation; I=Initiative. Original lottery legislation designated revenues for state’s general fund.
Many Americans are under the assumption that the lottery will lessen the need for involuntary forms of taxation. In 1960, when a lottery scheme was introduced by New York Governor Nelson Rockefeller, residents believed the new revenues might actually reduce taxes. Yet the taxes and state debt of New York have sky rocketed and in 1997 state lawmakers were asking for a two billion dollar bond issue to fix the states crumbling public schools.\(^6\)

While there certainly appears to be a connection between the good causes lotteries support and their adoption as a legal gaming activity, does the fact that they support good causes like public schools induce more people to play? The single answer is no. People play the lottery not out of charitable concerns but solely for the payout. The bigger the payout, the more tickets are sold. Even individuals who never play the lottery consider doing so when the payout for Powerball reaches $100 million or $200 million dollars. Although ads for lotteries in Virginia, Massachusetts, Michigan and Texas boast about achievements like $700 million to schools last year and paying the salaries of 11,000 teachers, few would argue that people play solely to give to public education.\(^7\) While this form of marketing certainly encourages people to play, its lasting effect is to bolster public and political opinions toward this form of state sponsored gambling. Once the lottery is in place, ads that focus on the benefits to education are clearly armed

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\(^7\) Clotfelter and Cook, *The Importance of a Good Cause*, 35.
at the upkeep of public perception while billboards displaying the ever-increasing payout are aimed at the growing public participation in the game itself.

It is only when we look inside the numbers of the people who play regularly that we discover a problematic reality. The more education an individual has, the less likely he or she is to participate in the lottery or gambling at all for that matter.

While states such as Colorado, Minnesota, and Maine earmark either all or part of their lottery proceeds to the conservation of natural resources, by far the most popular recipient for lottery revenues is public education.\(^8\) Whether or not the money states receive from their lotteries goes to teacher’s salaries, bricks and mortar for schools or financial aid for college scholarships, the fact that lotteries are marketed as money makers for education has left many states to refer to their games as “education lotteries”.\(^9\) Because of this common marketing strategy among many states in America, people have a false perception of just how much the lottery assists education. In reality, their perception is grossly inflated regarding the amount of money schools can count on when making budgetary decisions.

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\(^9\) Ibid., 324.
The single greatest irony, however, involved with education and the lottery is the following: the amount someone spends on lottery tickets is inversely proportional to the level of education they have received during their lifetime. ¹⁰ All evidence suggests that if you have benefited from more education, the amount you spend on such high risk endeavors like the lottery is decreased. “High school dropouts who play the lottery spend nearly 400% more on lottery tickets each year than college graduates who play the lottery.” ¹¹ Many states use their income stream generated from the lottery to provide merit-based scholarships to high school students for college. Typically, the scholarships are awarded to middle class and upper class families.¹² Essentially, it’s a redistribution of wealth from the poor to the wealthy.

Furthermore, there seems to be a misunderstanding with regards to just how much money the lottery raises for public education. In fact many people believe that the lottery does so much for education and the financial needs of public schools, that it has become difficult for many states to gain support for fund

¹⁰ Ibid., 324-325.


raising for education. Typically, lottery proceeds account for only 2% of a state’s total budget, and it is not uncommon for states to re-appropriate lottery revenues when facing budget shortfalls or emergency situations.

There exists an inverse relationship to the amount of education someone has and the amount of money someone spends on the lottery. Is there any truth to the notion that lotteries actually target the poor or uneducated? It is safe to say that a lottery does best for the state when more people play? If a state government knows who plays the most, and has to limit its expenditures on marketing the lottery, where are they going to target potential players?

In Illinois, the low-income neighborhoods on the south side of Chicago play for more than their wealthier neighborhoods. In the 60619 zip code, the poorest section of the state, lotto players spent more than twenty three million dollars on the tickets during 2002, dwarfing any other zip code in state. This form of repressive taxation distributed large sums that year from those who could least afford to play.

Social scientific studies conclusively demonstrate that lotteries depend upon the poorest and least educated segments of the population to flourish. Simply put, the more education one has received, the less one is

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13 Owens, Civic Values, 339

14 Ibid., 330.

likely to spend on lottery tickets, if one plays at all. This inverse correlation is dramatic.\textsuperscript{16}

I have commented at length on the regressive nature of tax revenue drawn from state lotteries. The state that sponsors a gambling venture that is marketed in a way that detaches ordinary citizens from reality is doing those citizens a grave disservice. Furthermore, the argument may be made that it has a corrosive effect on some of the moral characteristics we should be articulating, like the importance of a solid work ethic, the necessity to live within our means, and the accumulation of wealth by merit, rather than chance.

The reliance of state governments on their lotteries is simply a means of passing the buck. Rather than introduce tough and unpopular tax increases across the board, politicians have chosen to hide behind the revenue streams lotteries will always provide. Certainly those who support the lottery will point to the common good cause; public education. Supporters will clamor that, in fact, the lottery sends a clear message regarding the importance of education the state. However, evidence suggests that the money actually brought in by the lottery covers only a small percentage of the expenses of running public schools. "Several studies have found that lotteries tend to provide added per capita revenue to education for two to five years, after which the increase usually vanishes."\textsuperscript{17}


\textsuperscript{17} Miller and Pierce, Lotteries for Education, 34-42.
The only true way to address the regressive nature of this tax on the poor is to increase the payout rate. By increasing the payout rate, more would be returned to the lower income players of the lottery that by far make up the majority of its players. To take it a step further, the proceeds from any lottery would arguably be better spent on programs for the poor or economic development in poverty stricken portions of the state.

Arguments can be made that educational reform is, essentially, a program for the less fortunate, yet Georgia uses their lottery revenues to finance merit based scholarships that almost exclusively end up in the hands of middle and upper class students.

Elizabeth Winslow McAuliffe has made the case that lotteries are triply regressive because buying a ticket not only cost a low-income player a greater percentage of their income but they statistically buy more tickets. Combine that notion with the fact that those who play the most rarely see the benefits from the state sponsored merit based scholarships and the set back is now three fold.

In order for the lottery to have a more immediate impact on low-income families, proceeds should be spent on immediate needs. For example programs for the homeless, hungry, and unemployed.

In 2002, Michael Heberling, President of the Baker College Center for Graduate Studies in Flint Michigan wrote a compelling essay on state lotteries and

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18 Owens, *Civic Values*, 325.
the balance between a social ill and a social good. In his essay he commented on the desperate impact these state sanctioned lotteries had on the poor and the aggressive nature in which lower income players were marketed to. His arguments parallel those made by Charles Clotfelter. Heberling notes the interesting shift in public policy from the days when government acted as protector from the evils of illegal numbers game to 1998 when nearly $36 Billion a year was wagered legally in state lotteries, essentially the same game.\textsuperscript{19} They are now run and promoted by the government. This makes for an interesting conflict of interest in their regulation. The important distinction is that the way lotteries are marketed and promoted are not subject to the Federal Trade Commissions truth-in-advertising standards. “Although the FTC requires Publishers Clearing House and McDonalds to provide the odds of winning their sweepstakes, it does not require the same above board standards for state lotteries.”\textsuperscript{20} Furthermore, the very fact that states are able to act as both promoter and regulator allows for misleading advertisements.

Heberling claims that the puritanical objections to raising public revenue through gambling have been overcome with three simple arguments. They are the


following: 1) Because people will gamble anyway, it is better to offer it in a regulated format, within the protection of the law rather than leaving it in the hands of criminal elements, 2) The lottery is not “real gambling” and 3) It’s for a good cause.^{21} States that have allowed lotteries see it as a voluntary tax that has allowed legislators to free their general funds for other programs of their choosing. And in the initial years of a lottery’s existence, it did not disappoint. The money rolled in and tax dollars were put to other good causes. Heberling refers to this as a legislative bait-and-switch funding game.^{22} Financial difficulty for state’s budgets appear years later, after the novelty of the lottery has worn off. Eventually, the lottery becomes unable to cover the costs of education or senior citizens programs and government must act as promoter. Usually three steps are taken. The first is that governments will raise taxes eventually. The second is that the government will begin a more aggressive marketing strategy and increase their ad campaign. The third step, which is often the most sinister, is that the state, as promoter of the lottery, will come up with the new and more addictive types of scratch off games.^{23} As we have noted, the instant gratification of these games, much like slots, makes them the most addictive and therefore, dangerous.

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^{21} Heberling, *State Lotteries*, 597.

^{22} Ibid., 598.

^{23} Ibid.
A common problem among states that have recently introduced the lottery is that the windfall of dollars that the lottery initially provides can encourage an increase in government spending. When legislators look at all the money coming in, they think that the time has arrived for many of their good causes that have so long been overlooked to finally gain the financial support they have so long been denied. Ultimately, revenues from state lotteries come back to earth and a budget shortfall becomes apparent. At this point, the unpopular suggestion of a tax hike in order to keep some of these novel good causes afloat becomes necessary. It’s either that, or cut the program, which may have been so successful that its elimination could be unpopular as well. Heberling notes that this is the precarious situation legislators put themselves in and keep their fingers crossed and hope that nobody remembers that the lottery was supposed to have made additional taxes unnecessary.\textsuperscript{24} A study in Money magazine found that from 1990 to 1995 taxes grew three times faster in lottery states than in states without lotteries.\textsuperscript{25} The real question is whether or not a state that has instituted the lottery can ever give it up.

Gov. Thomas Meskill convinced the people of Connecticut to sponsor a lottery in 1971 by claiming that a voluntary tax through the lottery would eliminate the need to raise taxes across the board. Yet in 1991, the legislators of

\textsuperscript{24} Ibid.

his state imposed the state’s first income tax. The previous year, his state reported lottery revenue of $671 million in sales.\textsuperscript{26}

Promoters of the lottery might augment their ad campaign and market the lottery more aggressively. This is done in an attempt to recharge interest in the lottery. Any marketer will tell you that in order to market something successfully the promoter must first identify their “…core customers and how much they spend.”\textsuperscript{27}

Heberling’s research revealed the following statistical evidence:

- The average players spend $313 a year.
- Those with incomes of less than $10,000 spend on average $597 (the most of any income group).
- Blacks spend $998 on average, whereas whites spend $210.
- Those older than 65 spend $467 on average, whereas those between eighteen and twenty-nine spend $152.
- Men spend $368 on average, women $254.
- High school dropouts spend twice as much as college graduates.
- The top 5\% of the players account for more than half of the sales. They spend $3,800 on average.
- Our national capital is also our lottery capital. The average D.C. household spends $1,000.\textsuperscript{28}

\textsuperscript{26} Ibid.

\textsuperscript{27} Heberling, State Lotteries, 598.

\textsuperscript{28} Ibid., 558-599.
Based on his collection of the aforementioned data, Heberling charges that the lottery actually has identified and aggressively marketed to the poor as their chief clientele. In fact, he goes a step further stating that state lottery commissions actually subscribe to a strategy in that regard. That strategy being to place more advertisements in lower income neighborhoods than in areas occupied by the middle and upper class. The following are slogans from different state sponsored lotteries:

- “All you need is a dollar and a dream” (New York)
- “Don’t forget to play every day” (Pennsylvania)
- “Work is nothing but heart-attack-inducing-drudgery” (Massachusetts)
- “Martin Luther King’s vision lives on...honor the dream” (DC Lottery)
- “This could be your ticket out” (Illinois)

Timothy Kelly wrote in his 2000 article “A Booming $800 Billion Dollar Industry” that state lotteries spend, on average, $400 million per year marketing their game of chance to a target audience.\(^{29}\)

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\(^{29}\) Ibid., 599.
Table 2. Advertising Themes Identified in Marketing Plans of Lottery Agencies, 1998.

<table>
<thead>
<tr>
<th>Theme</th>
<th>Percent of plans using theme</th>
</tr>
</thead>
<tbody>
<tr>
<td>Size of the prize or the jackpot</td>
<td>56 %</td>
</tr>
<tr>
<td>Fun and excitement of playing the lottery</td>
<td>56 %</td>
</tr>
<tr>
<td>Winner Awareness</td>
<td>46 %</td>
</tr>
<tr>
<td>Benefits to state of lottery dollars</td>
<td>28 %</td>
</tr>
<tr>
<td>Sports themes</td>
<td>28 %</td>
</tr>
<tr>
<td>Product Awareness</td>
<td>24 %</td>
</tr>
<tr>
<td>How to Play</td>
<td>20 %</td>
</tr>
<tr>
<td>Playing responsibly</td>
<td>16 %</td>
</tr>
<tr>
<td>Odds of winning</td>
<td>16 %</td>
</tr>
<tr>
<td>Tie-in with fairs and festivals</td>
<td>12 %</td>
</tr>
<tr>
<td>Play more often</td>
<td>12 %</td>
</tr>
<tr>
<td>Emotions of Winning</td>
<td>12 %</td>
</tr>
<tr>
<td>Answer to your Dream</td>
<td>12 %</td>
</tr>
<tr>
<td>Benefits of Winning</td>
<td>8 %</td>
</tr>
<tr>
<td>Instant gratification</td>
<td>8 %</td>
</tr>
<tr>
<td>Social interaction of playing</td>
<td>4 %</td>
</tr>
<tr>
<td>Low Price</td>
<td>4 %</td>
</tr>
</tbody>
</table>

Through strategic marketing, states attempt to address the hopes, dreams, and anxieties of prospective gamblers. Lottery promoters overemphasize the chance of winning, they minimize regret, and either intentionally omit the actual odds or misrepresent the chance of winning. Lotteries are not subject to the same practices regarding advertising as other privately held sweepstakes. In fact, the Missouri lottery originally included a disclaimer with its advertising that ads were not meant to "...induce any person to participate in the lottery or purchase a lottery ticket."30 This practice was abandoned when it was determined that the disclaimer was negatively affecting sales.

Lottery promoters attempt to encourage greater participation by introducing new types of lottery games. This practice usually has the greatest impact on the lottery's base of hard-core, high volume players. Typically, as was the case in the Georgia lottery, new games were introduced that promised bigger payouts. When this resulted in too small of a takeout for the state, payouts were decreased and players were actually driven away. An example of the ever-decreasing interest in the lottery was evident in the state of Michigan. Sales dropped from $529.7

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million in 1988 to $161.4 million in 1999 and still further to $102.6 million in 2000.\textsuperscript{31}

Every major study has proven that state lotteries have a disproportionate impact on the poor.\textsuperscript{32} The mere fact that lotto play is voluntary does not excuse the fact that the proceeds typically benefit wealthier households than the average player.

In Georgia, Lottery revenues are used to fund HOPE scholarships. Like every other state in the U.S., the largest percentage of players come from the poorest areas of Georgia. Ironically, if a student qualifies financially for a $3,300 Pell Grant he or she is ineligible for a HOPE scholarship.\textsuperscript{33} Instead, these scholarships went to families with an average household income of $45,000, $13,000 more than the average Georgia household. To put it plainly, primarily the poor play the Georgia lottery and the education goes to middle and upper income households.

Gambling is, according to Linda Simmons, best described as a grey market.\textsuperscript{34} The government serves as protector when it comes to sports wagering and internet gambling, yet it both sponsors and promotes gambling on the lottery.

\textsuperscript{31} Heberling, \textit{State Lotteries}, 601.

\textsuperscript{32} Heberling, \textit{State Lotteries}, 601.

\textsuperscript{33} Ibid.

\textsuperscript{34} Simmons, \textit{Everything Guide to Addiction}, 139.
What is the distinction? Are they still promoting vice? John Stuart Mill, the author of “On Liberty” supported the notion that each individual has the right to act as he wants so long as these actions do not harm others. This principle has become the foundation of the libertarian vision and philosophy. So the question is, do we all have the right to play if we want or are states sponsoring a business that does harm to others? It seems that the social costs of the lottery are often borne by those individuals who neither play nor enjoy its social benefits.

Charles T. Clotfelter and his colleague Philip Cook have done extensive research in this area and won’t go quite as far as Heberling. In 2000 Clotfelter summarized his commentary given to the House Select Committee on state lotteries and tried to clear up some misunderstandings. In his summation, he listed the facts that he discovered regarding patterns in lottery spending. Based on surveys completed in 1999 for the National Gambling Impact Study Commission, he noted that about 60% of adults in lottery states play the lottery at least once a year. Generally, men bet more than women and those who are middle age play more than those who are younger or older adults. Clotfelter contends that if you take the average of all adults, both players and non-players, those in lower income brackets spend about the same amount of money as those in middle and upper

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income brackets. One fact remains constant. That is, that lower income families spend a greater percentage of their income on the lottery than families in other brackets. The argument that seems to be the subject of the greatest debate is whether or not the lottery “targets” poor people. Included in his research was a study conducted by the Virginia Lottery that detailed what income brackets spent the greatest percentage of their income on the lottery. They all made it clear that percentage of income spent on the lottery goes down significantly in higher income households.

Clotfelter takes a more measured approach than Heberling when asked if lotteries “prey” upon the poor. Clotfelter makes the distinction between “target marketing” and simply “making profit from the victim” as the word prey connotes. He does make the claim that states get their message out, in force, to the most likely players. He qualifies this by claiming that it would be bad business and irrational to target the poor exclusively. The goal of any marketing department is to maximize the amount of people to play. That is, state lotteries want to maximize net revenues. To that end, they will market the lottery in a manner that might be different than the way you would market something to middle and upper income

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36 Ibid., 3.
37 Ibid.
38 Ibid.
brackets. In Clotfelter's commentary regarding his testimony given to the House Select Committee, he lists the following six propositions about a state lottery: 39

1. Although some people will suffer, most of those who play the lottery will be better off through legalization. Although most players don't win, this does not automatically make playing the lottery a waste of time. This is a different point of view than that expressed by Dr. Earl Grinols in his book "Gambling in America." In his book, he claims that gambling qualifies as "D.U.P.." That is, "direct unproductive profit seeking." 40 I will discuss more on that later, but Clotfelter posits that just because a player doesn't win makes it less productive than, say, going to a hockey game or playing a video game. 41

2. Those who will be worse off because of a state lottery are problem gamblers and those individuals who find gambling offensive. The reason for this is that the social costs of a state lottery are inevitable, if hard to quantify. In fact many of the states that sponsor lotteries earmark a portion of the net revenues for programs to help gambling addiction. Still others place limits on the amount and type of advertising.

3. On average, states place a very high "implicit tax" on money spent on the lottery. The average state lottery pays out fifty-five cents on the dollar and it costs twelve cents of each dollar to run the lottery. Therefore, the state takes about thirty-three cents of every dollar played on the lottery. If their costs are sixty-seven cents and they keep thirty-three cents, that amounts to a 50% "excise tax." That rate is much higher than the taxes states collect on the sale of alcohol and tobacco.

4. If you consider who gets the most enjoyment out of it, you must admit it is those who play the most. Players who become addicted are not included. I take exception to Clotfelter's argument here. It could be argued that playing the lottery is a source of stress and anxiety, especially those who consider it a wealth building strategy.

39 Ibid, 3-4.

40 Earl Grinols, Gambling in America, 136.

41 Clotfelter, "Do Lotteries Hurt the Poor? Well, Yes and No." 4.
Simply because they play, does not mean they enjoy it. Surely the amount of enjoyment depends on the person’s ability to comprehend the odds of winning and likelihood of success.

5. The implicit tax that Clotfelter speaks of is, in fact, regressive. Furthermore, it is nowhere near other tax rates, like alcohol and tobacco, as mentioned earlier.

6. Due to the “target marketing” of state lotteries, the burden is placed most heavily on problem gamblers, lower income households, and those individuals who absorb new social costs from an activity they want nothing to do with.\(^{42}\)

Without a high implicit tax and aggressive marketing, they simply would not generate revenues to justify them in the first place.\(^{43}\) Let’s look at who plays the lottery in greater detail.

<table>
<thead>
<tr>
<th>Game</th>
<th>FY98 Sales $billion</th>
<th>Survey Sales $billion</th>
<th>Adjustment Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multi-State/</td>
<td>9.82</td>
<td>10.04</td>
<td>0.98</td>
</tr>
<tr>
<td>Lotto</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Numbers</td>
<td>7.87</td>
<td>10.15</td>
<td>0.78</td>
</tr>
<tr>
<td>Instant</td>
<td>14.21</td>
<td>7.26</td>
<td>1.96</td>
</tr>
<tr>
<td>TOTAL</td>
<td>31.89</td>
<td>27.45</td>
<td>1.16</td>
</tr>
</tbody>
</table>


\(^{42}\) Ibid.

\(^{43}\) Ibid., 5.
Table 4. Total Play in Lottery vs Non-lottery States.

<table>
<thead>
<tr>
<th>Game</th>
<th>Sales</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multi-state/Lotto</td>
<td>8.88</td>
<td>90.4</td>
</tr>
<tr>
<td>Numbers</td>
<td>7.61</td>
<td>96.7</td>
</tr>
<tr>
<td>Instant</td>
<td>13.66</td>
<td>96.1</td>
</tr>
<tr>
<td>TOTAL</td>
<td>30.15</td>
<td>94.5</td>
</tr>
</tbody>
</table>

Spending by Non-Lottery State Residents $billion (Adjusted)

<table>
<thead>
<tr>
<th>Game</th>
<th>Sales</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multi-state/Lotto</td>
<td>0.83</td>
<td>8.5</td>
</tr>
<tr>
<td>Numbers</td>
<td>0.08</td>
<td>1.0</td>
</tr>
<tr>
<td>Instant</td>
<td>0.52</td>
<td>3.7</td>
</tr>
<tr>
<td>TOTAL</td>
<td>1.43</td>
<td>4.5</td>
</tr>
</tbody>
</table>


Note: Sales figures are adjusted for under-reporting using ratios in Table 3. Total spending is less than total sales because for a few survey respondents the state of residence is missing.
Table 5. Average Play and Participation Rates in Lottery and Non-Lottery States.

<table>
<thead>
<tr>
<th>Game</th>
<th>Lottery States</th>
<th>Non-Lottery States</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Per-Capita Play (Adjusted)</td>
<td>Per-Capita Play (Adjusted)</td>
</tr>
<tr>
<td>Multi-state/Lotto</td>
<td>$51</td>
<td>$33</td>
</tr>
<tr>
<td>Numbers</td>
<td>$44</td>
<td>$3</td>
</tr>
<tr>
<td>Instant</td>
<td>$78</td>
<td>$21</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$173</td>
<td>$57</td>
</tr>
<tr>
<td>Participation Rate</td>
<td>55.1%</td>
<td>27.9%</td>
</tr>
</tbody>
</table>


*Note: Sales figures are adjusted for under-reporting using ratios in Table 3. Participation rate determined by dividing sum of survey weights for respective categories by sum of weights for entire survey.*
Table 6. Demographic Patterns in Participation and Per Capita Play.

<table>
<thead>
<tr>
<th>Demographic Characteristic</th>
<th>Participation Rate</th>
<th>Annual Per Capita Play-Lottery Players (Adjusted)</th>
<th>Annual Per Capita Play-Overall (Adjusted)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall</td>
<td>51.5%</td>
<td>$313</td>
<td>$162</td>
</tr>
<tr>
<td>Male</td>
<td>55.3%</td>
<td>$368</td>
<td>$204</td>
</tr>
<tr>
<td>Female</td>
<td>47.9%</td>
<td>$254</td>
<td>$122</td>
</tr>
<tr>
<td>White</td>
<td>52.0%</td>
<td>$210</td>
<td>$109</td>
</tr>
<tr>
<td>Black</td>
<td>48.2%</td>
<td>$998</td>
<td>$481</td>
</tr>
<tr>
<td>Hispanic</td>
<td>53.6%</td>
<td>$289</td>
<td>$155</td>
</tr>
<tr>
<td>Other</td>
<td>49.8%</td>
<td>$295</td>
<td>$147</td>
</tr>
<tr>
<td>Single</td>
<td>52.8%</td>
<td>$281</td>
<td>$149</td>
</tr>
<tr>
<td>Married</td>
<td>49.7%</td>
<td>$304</td>
<td>$151</td>
</tr>
<tr>
<td>Divorced/Widowed</td>
<td>56.7%</td>
<td>$387</td>
<td>$220</td>
</tr>
<tr>
<td>Age 18-29</td>
<td>49.2%</td>
<td>$152</td>
<td>$75</td>
</tr>
<tr>
<td>Age 30-44</td>
<td>55.8%</td>
<td>$280</td>
<td>$156</td>
</tr>
<tr>
<td>Age 45-64</td>
<td>56.0%</td>
<td>$413</td>
<td>$231</td>
</tr>
<tr>
<td>Age 65+</td>
<td>38.6%</td>
<td>$475</td>
<td>$183</td>
</tr>
</tbody>
</table>


Note: Sales figures are adjusted for under-reporting using ratios in Table 3.
Table 7. Socioeconomic Patterns in Participation and Per Capita Play.

<table>
<thead>
<tr>
<th>Socioeconomic Characteristics</th>
<th>Participation Rate</th>
<th>Annual Per Capita Play-Lottery Players (Adjusted)</th>
<th>Annual Per Capita Play-Overall (Adjusted)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dropout High school graduate</td>
<td>47.7%</td>
<td>$700</td>
<td>$334</td>
</tr>
<tr>
<td>Some college</td>
<td>55.6%</td>
<td>$210</td>
<td>$117</td>
</tr>
<tr>
<td>College graduate</td>
<td>52%</td>
<td>$409</td>
<td>$214</td>
</tr>
<tr>
<td>HH Income</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>&lt;$10,000</td>
<td>48.5%</td>
<td>$597</td>
<td>$289</td>
</tr>
<tr>
<td>$10,000-24,999</td>
<td>46.7%</td>
<td>$569</td>
<td>$266</td>
</tr>
<tr>
<td>$25,000-49,999</td>
<td>57.9%</td>
<td>$382</td>
<td>$221</td>
</tr>
<tr>
<td>$50,000-99,999</td>
<td>61.2%</td>
<td>$225</td>
<td>$137</td>
</tr>
<tr>
<td>Over $100,000</td>
<td>51.0%</td>
<td>$289</td>
<td>$147</td>
</tr>
<tr>
<td>Don’t know/ Refused</td>
<td>43.0%</td>
<td>$196</td>
<td>$84</td>
</tr>
</tbody>
</table>


Note: Sales figures are adjusted for under-reporting using ratios in Table 3.
Table 8. Household Income and Per-Household Lottery Expenditures.

<table>
<thead>
<tr>
<th>Household Income</th>
<th>Number of Adults Per Household</th>
<th>Annual Per Household Play-Overall (Adjusted)</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;$10,000</td>
<td>1.8</td>
<td>$520</td>
</tr>
<tr>
<td>$10,000-24,999</td>
<td>1.9</td>
<td>$505</td>
</tr>
<tr>
<td>$25,000-49,999</td>
<td>2.1</td>
<td>$464</td>
</tr>
<tr>
<td>$50,000-99,999</td>
<td>2.2</td>
<td>$301</td>
</tr>
<tr>
<td>Over $100,000</td>
<td>2.3</td>
<td>$338</td>
</tr>
</tbody>
</table>


Note: Sales figures are adjusted for under-reporting using ratios in Table 3.

Table 9. Characteristics of Heaviest Lottery Players.

<table>
<thead>
<tr>
<th>Demographic Group</th>
<th>Percentage of Heaviest Players</th>
<th>Percentage of US Adults</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>61.4%</td>
<td>48.5%</td>
</tr>
<tr>
<td>Black</td>
<td>25.4%</td>
<td>12.2%</td>
</tr>
<tr>
<td>HS Dropout</td>
<td>20.3%</td>
<td>12.3%</td>
</tr>
<tr>
<td>HH Income Under $10,000</td>
<td>9.7%</td>
<td>5.0%</td>
</tr>
<tr>
<td>Median Age</td>
<td>47.5</td>
<td>43</td>
</tr>
</tbody>
</table>


Note: Heaviest lottery players defined as those in the top 20% of lottery purchasers.
Table 10. Advertising Themes Identified in Marketing Plans of Lottery Agencies, 1998

<table>
<thead>
<tr>
<th>Theme</th>
<th>Percent of plans using theme</th>
</tr>
</thead>
<tbody>
<tr>
<td>Size of the prize or jackpot</td>
<td>56</td>
</tr>
<tr>
<td>Fun and excitement of playing the lottery</td>
<td>56</td>
</tr>
<tr>
<td>Winner Awareness</td>
<td>46</td>
</tr>
<tr>
<td>Benefits to state of lottery dollars</td>
<td>28</td>
</tr>
<tr>
<td>Sports themes</td>
<td>28</td>
</tr>
<tr>
<td>Product Awareness</td>
<td>24</td>
</tr>
<tr>
<td>How to Play</td>
<td>20</td>
</tr>
<tr>
<td>Playing responsibly</td>
<td>16</td>
</tr>
<tr>
<td>Odds of winning</td>
<td>16</td>
</tr>
<tr>
<td>Tie-in with fairs and festivals</td>
<td>12</td>
</tr>
<tr>
<td>Play more often</td>
<td>12</td>
</tr>
<tr>
<td>Emotions of Winning</td>
<td>12</td>
</tr>
<tr>
<td>Answer to your Dream</td>
<td>12</td>
</tr>
<tr>
<td>Benefits of Winning</td>
<td>8</td>
</tr>
<tr>
<td>Instant gratification</td>
<td>8</td>
</tr>
<tr>
<td>Social interaction of playing</td>
<td>4</td>
</tr>
<tr>
<td>Low Price</td>
<td>4</td>
</tr>
</tbody>
</table>

CHAPTER 4

CASINO GAMING: SOCIAL COSTS AND BENEFITS

In 2008, the American Gaming Association conducted its own survey known as the “State of the States: The A.G.A. Survey of Casino Entertainment.” The purpose of the survey was to provide a “…comprehensive look at the U.S. commercial casino industry.” The strategic research was conducted by Luntz, Maslansky Strategic Research and Peter D. Hart Research Associates, Inc.. They interviewed 800 individuals during February and March of 2008. 384 Americans living in commercial gaming states were interviewed and 416 living in non-commercial gaming states were interviewed. Both were selected randomly. The purpose of the survey was to highlight gaming contributions to state and local communities where casinos operate and the impact casino gaming has on the national economy and employment. Commercial casinos, for purposes of the survey, included “private sector, land based, riverboat and dockside casinos as well as racetrack casinos.” The Survey results were very favorable in terms of contributions from casinos to their host communities. The growth the industry has


2 Ibid., 44.

3 Ibid.

4 Ibid., 42.
enjoyed is due in large part to the expansion of commercial gaming into new states such as Pennsylvania and new properties in current jurisdictions.

The American Gaming Association was proud to announce that when the individuals who were surveyed were asked about their personal views of casino gambling, “84 percent of survey respondents indicated that it (gambling) is acceptable for themselves and for others.”\(^5\) Furthermore, most Americans “view casinos as engines of economic development and continue to see casino gambling as a matter of personal choice.”\(^6\)

In 2007, U.S. commercial casinos employed 360,818 people, paid wages of $13.8 billion, contributed $5.79 billion in direct gaming taxes, and earned $34.13 billion in gross gaming revenue.\(^7\)

Proponents of gambling legalization argue that the revenue stream generated has been a tremendous asset to both state and local governments. In fact, the A.G.A. argues that the revenue has allowed jurisdictions “…to pursue projects that otherwise would not be possible.”\(^8\) In 1998, the national commercial casino tax revenue was $2.5 billion. In 2007, the tax revenue generated more than doubled to $5.79 billion.\(^9\) More and more people are gambling each year and consumer spending on commercial casinos has increased steadily from 1999 to

\(^5\) Ibid., 3.

\(^6\) Ibid.

\(^7\) Ibid.

\(^8\) Ibid., 5.

\(^9\) Ibid.
2007.\textsuperscript{10} As in years past, the widespread expansion of racetrack casinos continued
to be the primary mode of expansion in the commercial casino industry.\textsuperscript{11} The
expansion of this particular sector seems to be largely generated by the attitude
that consumers are gambling there anyway, so why not increase the attraction?
Racetrack casinos showed a 54.6 percent increase in tax contributions to state and
local government from 2006 to 2007.\textsuperscript{12}

When you consider the staggering numbers and steady increases in tax
revenue to those jurisdictions that allow for commercial casino gaming, it is easy
to understand why the push for its expansion is so seductive given the economic
situation many states have experienced from 2008 to the present.

Dr. Earl L. Grinols has completed the most comprehensive cost-benefit
analysis of the issues surrounding the legalization of casino gambling, although he
admits bluntly that much of the literature about the costs and benefits of gambling,
specifically casino gambling is "...fraught with inadequacy and confusion."\textsuperscript{13} The
purpose of the book is for social evaluation its application to the casino industry.
After much discussion and thorough mathematical analysis, Grinols concludes, in
\textit{Gambling in America}, that the costs simply outweigh the benefits.

\textsuperscript{10} Ibid.

\textsuperscript{11} Ibid.

\textsuperscript{12} Ibid.

\textsuperscript{13} Earl L. Grinols, \textit{Gambling in America}, 96.
Lorne Tepperman examines six social costs that are difficult to quantify. They are the following: a preoccupation with winning, a heavy investment of time and money in gambling, emotional and behavioral changes when gambling, financial difficulties due to gambling, anxiety and loss of emotional self-control, and personal health defects.\textsuperscript{14}

Grinols offers a direct approach and gathers statistical evidence of those activities that have social costs in the form of what he refers to as externalities.\textsuperscript{15} These might be in the form of crime, suicide or bankruptcy. In his book, Grinols explains that the "...social costs of casinos are the real resources used to deal with their negative externalities."\textsuperscript{16} Externalities, he explains, are those harmful consequences that negatively affect those who gamble and those who do not.

If the presence of casinos creates conditions that lead to increase in crime that must be dealt with through money provided by public taxes, that is an 'externality'. Casinos get the profits; society gets negative externalities.\textsuperscript{17}

While thorough, Grinols' method also has its flaws. He reflects on the "Iron Law of Economics" which states that "...estimated coefficients tend to be too low

\textsuperscript{14} Lorne Tepperman, \textit{Betting Their Lives: The Close Relation of Problem Gamblers} (Ontario: Oxford University Press, 2009), 119-120.

\textsuperscript{15} Ibid., 131.

\textsuperscript{16} Ibid.

\textsuperscript{17} Ibid., 25.
when the underlying data is measured imperfectly."¹⁸ In suicide cases, for example, the cause of the suicide of often either totally unknown, difficult to establish or a combination of factors. Furthermore, when collecting this sort of data, even if the cause of suicide is known, it is not usually recorded. Criminal activity, on the other hand, offers more accurate data. This is because offenders usually offer a reason for their behavior as mitigation during adjudication. The same presumably holds true for bankruptcy filing. Just as I have noted that the social stigma of declaring bankruptcy has lessened, so too has the social stigma of gambling. In fact, one might argue that there exists no stigma when it comes to gambling in America. Rarely has this point been made so evident as when William Bennett, author of The Book of Virtues, admitted his own propensity to gamble and qualified it merely as a form of entertainment that was socially acceptable, not a vice.

It is of the utmost importance, however, that studies and research in social science can rarely achieve the accuracy of hard science. The reason for this is simple. Hard science is often studied in cases where variables can be controlled. Social sciences don’t often enjoy controlled situations and therefore are vulnerable to the inaccuracies of more than one cause and simple error. Grinols equates this to the medical situation known as “co-morbidity.” That is, a patient who suffers

¹⁸ Ibid., 169.
from a certain disease may also suffer from another and it becomes impossible, at death, to determine what eventually killed them.  

The problem of sample error refers to the collection of information from problem and pathological gambler who seek treatment. The sample doesn’t usually include problem or pathological gamblers who do not seek treatment or respond to surveys. Therefore, the social costs of problem or pathological gambling are often understated. It seems reasonable that there exist many pathological gamblers who have resorted to crime to finance their gambling debts who aren’t apprehended or who don’t admit to crimes of a serious nature.

The variety of social costs are grouped, by Grinols, into classes, as are social benefits and then both are compared in an attempt to answer the following question: “What are the benefits and costs of moving from a policy of no casino gaming, on the one hand, to the alternative policy of force-entry laissez faire regarding casinos on the other?” To answer this question, specific examples are given linking casinos to social cost of such externalities. Grinols includes the story of a Minnesota woman who stole more than $400 thousand dollars from her employer to support a gambling addiction. Unfortunately, this is an all too common scenario. Consider that over 1000 man-hours were logged by the FBI during her investigation, additional local police efforts, the time of the victims

19 Ibid.

20 Ibid., 131.
accountants, the U.S. Attorney and judicial costs associated with judges, juries and other court staff the total approached over $100 thousand in costs.\textsuperscript{21} Essentially, the community, even though they received no benefit from the casino, paid around 25 cents to recover each dollar.\textsuperscript{22} This is one example of how the social costs of gambling often fall hard on taxpayers who may not gamble at all. Consider the crime that surrounds the casinos of Atlantic City and Las Vegas. The costs to apprehend, adjudicate and even warehouse defendants fall directly on the taxpayers of those communities, not the casinos. These externalities, or costs that are not borne by the agents who create them, are referenced often by Grinols. They include crime, business and employment costs, bankruptcy, family costs and very often suicide. These losses or costs can further be characterized as “deadweight losses” because they might be paid for with taxes that could have been used for projects more productive for the community at large.\textsuperscript{23}

Dr. Richard C. McCorkle, a professor at the University of Nevada, Las Vegas, submitted a report to the National Institute of Justice in which he explored the link between gambling and arrestees.\textsuperscript{24} In his report he tried to answer two

\textsuperscript{21} Ibid., 132.

\textsuperscript{22} Ibid.

\textsuperscript{23} Ibid., 132-133.

questions. Is there a connection between problem gambling and crime? Do compulsive or pathological gamblers resort to criminal activity to pay their debts and finance their bets? Surveying arrestees in both Las Vegas and Des Moines, Iowa, the study revealed a significant level of criminal behavior among pathological gamblers. Among people that had been arrested the percentage of individuals who admitted to pathological gambling was as much as five times higher than ordinary population.\(^{25}\) In fact, nearly one-third of all people arrested who were surveyed and admitted to being pathological gamblers also admitted to committing a robbery within the last year, and about thirteen percent of the pathological gamblers had assaulted someone for money.\(^{26}\) It should be noted that the cities were chosen because Las Vegas has the highest concentration of resident gamblers and De Moines represented a midsize U.S. city. The study completed by McCorkle was especially relevant to policy makers who have grown increasingly concerned with the social costs of gambling and its legalization can have on a community. Specifically, problem gamblers often resort to violent and non-violent crime as a result of their addictions and in an attempt to finance debt. It is an important distinction to make that any study should qualify the differences between a problem gambler and a pathological gambler. Pathological gamblers are a subpopulation of problem gamblers that suffer from a mental dependence on

\(^{25}\) Ibid., ii

\(^{26}\) Ibid.
gambling despite losses. Therefore, not all problem gamblers are pathological
gamblers even though much literature uses the terms interchangeably. That being
said, prohibitionists maintain that casinos prey on problem gamblers and report
that nearly thirty percent of a casinos income comes from habitual gamblers.

In order to more clearly explain the social costs of gambling, Grinols
breaks them up into nine categories. They are the following: crime, business and
employment costs, bankruptcy, suicide, illness, social service costs, direct
regulatory costs, family costs, and abused dollars. Under crime, links have been
made between both violent and nonviolent crime. In order for the crime associated
with gambling to be considered a social cost we must think about policing,
apprehension, adjudication, probation or incarceration and treatment or
rehabilitation. Very often, gamblers need treatment for their gambling addiction as
well as other addictions that often accompany gambling addiction, like alcoholism,
drug dependency or depression. This argument is also made by Linda Simmons in
her book on addiction. Often the social costs of crime are hard to quantify, like the
emotional distress the victim of a robbery might experience long after the crime
was adjudicated. Examples of business and employment costs that are typically
assumed by the employers, employee and society might be a noticeable decrease

2006), 59-60.

\[28\] Ibid., 61.

\[29\] Grinols, *Gambling in America*, 131-145.
in job productivity based solely on lesser performance and lost time and unemployment that includes any time away from work spent gambling. The latter might also include termination of employment due to theft from work or simply too many absences. Employers at firms that rely on highly specialized or trained professionals often bear the brunt of higher social costs from an unreliable employee who gambles and the cost associated with training any replacement due to the firing of problem gambler.\textsuperscript{30}

Yet another form of business or employment cost is a term known as D.U.P. or "directly unproductive profit seeking."\textsuperscript{31} This refers to any form of profit earning that does not produce either goods or services that offer some sort of utility or useful function. A professional gambler who gives up work to gamble for his living reduces the national income by the amount of his lost input and is therefore engaged in D.U.P. according to Grinols.\textsuperscript{32} This theory goes back to the Idleness Statute of 1633 in Massachusetts that outlawed the possession of gambling devices because time spent gambling was time wasted as unproductive. There is, however, a substantial case to be made against gambling. 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

\textsuperscript{30} Ibid., 136.

\textsuperscript{31} Ibid., 135.

\textsuperscript{32} Ibid.
time and resources. According to Nobel Prize-winning economist Paul Samuelson, “when pursued beyond the limits of recreation, where the main purpose after all is to kill time, gambling subtracts from the national income.”

Bankruptcy is yet another way that social costs are imposed because money is used for bill collection, lawsuits and settlements. Bankruptcy cases have become increasingly common for numerous reasons. They include an increase in available credit without great regard to credit worthiness, the diminished social stigma of declaring bankruptcy and the proliferation of casinos throughout the United States. In fact a bankruptcy researcher discovered that many people decided to declare bankruptcy because they had seen advertisements for lawyers willing to represent them going forward.

While casino operators challenge that casino gambling was only a contributing factor to bankruptcy claims, evidence is piling up that in states like Louisiana, Missouri, and Wisconsin have seen as high as a doubling of bankruptcy cases in the years immediately following the opening of casinos in those regions. Most of the research conducted was done with the cooperation of bankruptcy

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35 Grinols, *Gambling in America*, 140.
lawyers who reported not only that their caseload had increased at double the rate once a casino had been open, but that 52% of their clients had gambling losses. A 1995 study in Minnesota revealed the average gambling losses in 105 bankruptcy cases was $22,000.\textsuperscript{36}

In fact, every major study conducted (other than studies conducted by the gaming industry itself) showed not just an increase in bankruptcy cases in countries that have opened casinos, but living closer to a casino increases the likelihood a person will develop a compulsion for gambling.\textsuperscript{37} Once a pathological gambler has entered into the desperation phase of his or her addiction, criminal activity and suicidal ideations become increasingly involved. Reports from Gamblers Anonymous show that attempted suicide is five to ten times the average for the general population.\textsuperscript{38} When conducting studies regarding the link between compulsive gambling and suicide, however, certain difficulties present themselves. For example, we have noted the link between gambling and other addictions like drugs or alcoholism, so it becomes important to research those cases involving individuals who had no known addictions before gambling.

\textsuperscript{36} Ibid.

\textsuperscript{37} Simmons, \textit{Everything Guide to Addiction}, 139.

All too often, suicide may have been the result of a combination of destructive addictions. Many studies have been taken that focus on suicide attempts on casino property. “In August 1999, a Florida Gambler who had lost $87,000 jumped to his death off a ten-story casino parking garage Wednesday in the third such suicide in Atlantic City in eight days.” 39

Obviously less severe and harder to account for are the social costs of illness connected with compulsive gambling. Most often associated are stress-induced cardiovascular complications, depression and anxiety. Without more evidence, the only real social costs such illnesses impose are in the form of treatment; usually treatment for the gambling addiction itself or other associated addictions.

Very often pathological or compulsive gambling leads to unemployment. When this happens, social services costs are imposed on taxpayers in the form of welfare, government assistance, or other programs for the unemployed gambler.

The regulatory costs of casino operation are raised directly from the taxpayers. Because casino gambling has been associated with certain criminal elements it has always required scrupulous regulation. In Louisiana, regulation

costs that were passed on to taxpayers reached more than $50 million per year, according to the analysis done by Grinols.\textsuperscript{40}

Family costs involve divorce, spousal abuse and child neglect. The National Gambling Impact Study Commission reported a divorce rate nearly three times higher among pathological gamblers compared to non-gamblers.\textsuperscript{41}

Grinols includes in his nine social costs the phenomenon he refers to as “abused dollars.” “Abused dollars” are monies that might be stolen from an employer, relative, or friend and are never reported stolen out of concern for the thief. This would also include money that is loaned and never repaid by the relative or friend who has gambled it away.

It seems when all nine different social costs are considered, the most obvious and easiest to quantify are those costs resulting from crime. The following are a few examples Grinols compiled from newspapers across the country between the years 1998 and 2000:

A woman who lost more than $30,000 at Joliet, Illinois casinos was sentenced to 21 years in prison Wednesday after a judge determined she suffocated her seven-week-old child to collect insurance money to continue her gambling habit.

A Hancock County [Mississippi] woman says she killed her mother and husband last year as part of a suicide pact made in despair over large gambling debts the two had run up at Gulf Coast casinos. Julie Winborn pleaded guilty in the death of her husband, Grady Winborn, 57, and her mother, Ines Borris, 66. She was sentenced Thursday to two life sentences. She had testified that the three lost

\textsuperscript{40} Grinols, \textit{Gambling in America}, 144.

\textsuperscript{41} Ibid., 145.
$50,000 at casinos and decided to end their lives because they could not repay bank and credit union loans.

Prison sentences have been ordered for two men, including a former loan officer who admitted having a gambling addiction, for defrauding a Morgan City [Louisiana] bank of $250,000 through false loans.\textsuperscript{42}

\footnotesize{\textsuperscript{42} Ibid., 148-150.}
CHAPTER 5

IS SPORTS WAGERING AN APPROPRIATE BUSINESS FOR GOVERNMENTS?: SPORTS BOOKS AND THE PROFESSIONAL AND AMATEUR SPORTS PROTECTION ACT

Although it has been met with fairly widespread opposition nationally, state and local governments have considered tapping into the huge market of sports wagering as a means of generating tax revenue. More than any other form of gambling, sports wagering has been associated with criminal elements, corruption of athletes, and threatening to the integrity of athletic competition. Given its sordid history, is gambling on games and the expansion of legal sports books a business the government should be involved in? Proponents argue that it will take business away from criminal elements and offer a more regulated form of an age-old pastime. Each year nearly $100 million is wagered in Las Vegas sports books on Associations, $92.06 million was wagered on the 2008 Super Bowl between the Giants and the Patriots.¹ However, the amount taken in by Las Vegas casinos was a mere fraction of the tremendous amount that was bet illegally on the Super Bowl. That amount was more than $8 million.² State legislatures around the country have run the numbers as see gambling legalization as a huge opportunity to address budgetary shortfalls. But the question remains, with lotteries in nearly


² Ibid., 34.
every state and casino gaming spreading quickly, why doesn’t every casino have a sports book, or a place to wager on professional and amateur games? The *Professional and Amateur Sports Protection Act* of 1992 (28 U.S.C. §3702) prohibited states that hadn’t operated a sports book in their recent history from making sports wagering legal.

Currently, only Nevada operates in a commercial casino jurisdiction in which sports books are legal, regulated, policed and taxed. In other states, like Delaware for example, legal forms of sports wagering exist, but it is offered as part of the lottery.

According to the AGA’s State of States report, $2.596 billion was wagered on sports events in Nevada casinos in 2007, with football wagering accounting for $1.176 billion or 45%.

While football is clearly the sport gambled on most frequently by the betting public, basketball comes in second with $687.19 million wagered that year accounting for 26%.

A study conducted by the National Gambling Impact Study Commission found that between $80 billion and $380 billion is wagered illegally each year on

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3 Ibid.

4 Ibid.

5 Ibid.
sports. The Professional and Amateur Sports Protection Act, (28 U.S.C. §3702) was enacted by Congress in October of 1992 and laid out the law prohibiting sports wagering in the United States. The Act includes the following language:

It shall be unlawful for a government entity to sponsor, operate, advertise, or promote a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly, on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.

It should be noted that the term “government entity” included tribal territory upon which Native American casinos were run under the authority of Indian Gaming Regulatory Act (25 U.S.C. §2703(5)). Under PASPA, four states were grandfathered in, or allowed to sponsor sports wagering within their state, because they had allowed some form of legal sports gambling in the past. Those four states were Nevada, Delaware, Oregon, and Montana. The exceptions were clearly set out in an effort to maintain the economies of those states, like Nevada, that had come to rely heavily on the revenues not just from casino gambling but sports wagering as well. In fact, a Senate report explains its position stating that

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Congress had no desire to threaten the economy of Nevada, which over many decades has come to depend on legalized private gambling, including sports gambling, as an essential industry, or to prohibit lawful sports gambling schemes in other states that were in operation when the legislation was introduced.\textsuperscript{10} Thus \textit{PASPA} did not intend to criminalize sports wagering, it merely served as a stopgap measure to keep it from expanding to those states that were prohibited under state law. Furthermore, §3704 of the Act created a one-year window of opportunity for states, like New Jersey, who had operated casinos for at least 10 years to pass a law allowing sports wagering in their states.\textsuperscript{11} This exception was aimed directly at Atlantic City, where casino gaming all but controls the economy. Oddly, the one-year window came and went and New Jersey chose not to take advantage of the opportunity to expand and include sports wagering in their casinos.\textsuperscript{12} The opportunity for that expansion ended January 1, 1994.

Of the multiple exceptions carved out of the \textit{PASPA}, the clearest cut and obvious is the one for Nevada.\textsuperscript{13} That exception allows for sports books to be operated as long as they fall under the oversight and regulation of the Nevada

\begin{itemize}
\item \textsuperscript{10} Ibid.
\item \textsuperscript{11} Ibid.
\item \textsuperscript{12} Ibid.
\item \textsuperscript{13} Ibid.
\end{itemize}
Gaming Commission.\textsuperscript{14} Since 1949 sports wagering has been a legal activity in Nevada and \textit{PASPA} had no intention of changing the status quo for them.

Other states have conducted lottery style sports wagering schemes. Oregon, Delaware, and Montana each has offered state sponsored sports wagering and therefore were eligible to continue to do so under an exemption of \textit{PASPA}.

Oregon's "Sports Action" lottery of 1989 was a game that involved contestants betting against the spread of professional football games. They also ran a lottery called "Monday Night Scorecard", but in 2007 the Oregon state legislature pursuant to House Bill 3466 repealed ORS §461.213, the state law that allowed such sports wagering.\textsuperscript{15} No longer is sports gambling allowed in Oregon. The basis for the decision to repeal the law allowing sports wagering was the fact that the N.C.A.A., an association that has been forever opposed to gambling on its games and amateur athletes, would not hold or sponsor a basketball tournament game in any state that allowed gambling.\textsuperscript{16} As soon as the law was repealed, the N.C.A.A. made an announcement that first and second round games of the March Men's basketball tournament would be played in Oregon in 2009.\textsuperscript{17}

\textsuperscript{14} Ibid.

\textsuperscript{15} Ibid.

\textsuperscript{16} Ibid., 36.

\textsuperscript{17} Ibid.
Montana only allows fantasy sports style gambling and “Calcutta pools” but they are regulated by the Montana Department of Justice, Gambling Control Division. 18

Delaware is one of the four states that received the grandfather exception to the Professional and Amateur Sports Protection Act because it operated a state sponsored football lottery known as the “Scorecard” in 1976. 19 “Scorecard” was a lottery game where players picked select winners of NFL games against an established point spread. It was introduced in September of 1976 and the NFL immediately sued the state lottery in U.S. District Court and filed suit against the states governor arguing that “…the NFL’s forced association with gambling constituted an unlawful interference with the NFL’s property right”. 20 The Court would eventually rule that the Delaware sports lottery was legal as long as they made it clear that it was not the property of the NFL and is no way affiliated or approved by the NFL. However, after only one year, the Delaware sports lottery was discontinued. 21 But it would gain support years later.

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18 Ibid.
19 Ibid.
20 Ibid.
21 Ibid.
In May of 2008, the House of Representatives for the state of Delaware passed House Bill 190, which would again permit sports wagering in the state in the form of a sports lottery. 22 A synopsis of the bill read as follows:

This bill is designed to take advantage of an exemption granted to the state of Delaware under federal law, namely the Professional and Amateur Sports Protection Act, which allows the state of Delaware, Nevada, Oregon and Montana to engage in sports betting. The bill expands the offerings of the Delaware Lottery and is intended to provide a significant additional source of revenue for the state. 23

The primary sponsor of the bill was Senator Lofink. In the bill, its sponsors mention that it is meant to protect the Delaware Lottery from the increased gaming competition from our neighboring states. 24 It offers as support of the bill not just “...substantial economic contributions to the State...,” but also job creation. 25 In conclusion, the bill claims to “enhance the Delaware lottery, protect Delaware employment, help Delaware and its lottery meet new competition, and provide additional revenue to the state.” 26

The ability to wager bets of any sort from the comfort of your home presents a unique set of concerns. By far the most popular game online is poker. It

22 Ibid.
24 Ibid.
25 Ibid.
26 Ibid.
is also the most dangerous.\textsuperscript{27} In 2005, 8 million Americans gambled online for a total of $12 billion.\textsuperscript{28} Each of these bets was placed while the gambler enjoyed total anonymity. In 2006 however, President Bush signed the \textit{Unlawful Internet Gambling Enforcement Act}. This legislation did not make Internet gambling illegal but did make the wages more difficult to place. The Gambling Enforcement Act prohibited the use of electronic fund transfers, credit cards, and checks to place bets with foreign companies.\textsuperscript{29} The caveat that needs mentioning is that it is banks and credit card companies that are responsible for enforcing the law. Essentially, the Act restricts certain financial transactions, which certainly makes placing the wages more difficult but it does not criminalize gambling on the web.\textsuperscript{30}

If proximity to a gambling facility can be listed as a risk factor, it seems clear that the convenience of gambling on the web is exactly what makes it dangerous.

In 2006 laws were passed that outlawed the use of credit cards, bank transfers or checks as a way to pay for online gambling. Today, Barney Frank, the Democratic House Representative for Massachusetts is promoting legislation to legalize and tax gambling on the Internet. Frank and others have been working feverishly to uncover new revenue sources for their state and anything that promises revenue and new jobs is being seriously considered. Spencer Bacchus

\textsuperscript{27} Simmons, \textit{Everything Guide to Addiction}, 141.

\textsuperscript{28} Ibid.

\textsuperscript{29} Ibid.

\textsuperscript{30} Ibid.
from Alabama has made his conservative position clear. The federal government has never in its history sanctioned gambling of any kind and it is quite simply not worth the risks or social costs. Proponents of the Unlawful Internet Gambling Enforcement Act in 2006 argue that it has cut down on gambling, making it nearly impossible to legitimately settle an online wager, but anyone who has tried to place bets online knows differently. In fact, it couldn’t be further from the truth.
CHAPTER 6

CONCLUSION

What is the proper role of government? Is gambling, in any form, something the government should sponsor, promote, or profit from? It seems that state governments are addicted to gambling. Without the lottery, many states would struggle, without considerable tax hikes, to fund their own school systems. But is it appropriate? Should the state profit from vice?

Lotteries are owned, operated, sponsored, and promoted by state and local governments. In fact, lottery games like “Powerball” and “Mega Millions” involve a cooperative effort of multiple states. The evidence is overwhelming that the typical lottery player is from a low-income household with little education. Ironically, revenues generated by most lotteries fund public education. Somehow, this cause makes a regressive form of taxation palatable. The truth is, that in many cases, the revenue is used to fund merit-based scholarships that rarely benefit the households that make up the lottery’s core group of players. The revenue generated by a typical lottery covers only a small percentage of the operating budget of a public school system. In many cases, the lottery has even had the adverse effect of apathy when it comes to raising money for public schools.

Furthermore, state sponsored lotteries do not hold themselves accountable to the same truth in advertising standards as other industries, highlighting the conflict of interests states face when they choose to operate these games. Their ads are purposely misleading and target individuals who see the lottery as the only

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way out or as a legitimate wealth building strategy. Rather than promote hard work and saving, states advertise their lotteries as a way to avoid work for a chance at something better, a ticket out. Although state and local governments and many individual politicians publicly criticize other forms of gambling, they praise the lottery and the good that comes from it.

Reasonable minds may disagree over the severity of pathological gambling in America. For many Americans, however, gambling has caused considerable personal and financial difficulty. Even if you consider the decision to gamble a matter of personal responsibility, is it a business or activity governments should be promoting? I don’t think so. Should state and local governments continue to rely on low-income households to fund public education through the lottery? After all, the more education a person receives, the less likely she or he is to play. Lottery promoters are aware that a large percentage of the population spends more than they can afford on the lottery and yet they continue to market the lottery to those very same people. Isn’t one of the most important roles of government to protect its citizens from activities that might exploit them?

With other forms of gambling, the question regarding the appropriate role of government becomes more complex. Casinos exist in nearly every state in America. Communities like Las Vegas, Nevada were built on legal gambling and couldn’t possibly exist without it. Indian gaming has expanded steadily across the U.S. While this commercial gaming industry has indeed generated huge sums of tax revenue for the jurisdictions in which they operate, the social costs are hard to
ignore. Suicide rates are higher in jurisdictions that allow casinos as are divorce rates. Crime rates increase in the years that follow the opening of new casinos. Pathological gambling has been proven to affect not just the families of the gambler, but also the costs of criminal justice and healthcare in those states with casinos. Whether or not you believe someone can be “addicted” to gambling or if it comes down to personal responsibility, the fact remains that for a certain group of individuals, gambling is not a harmless recreational activity. The studies presented in this report indicate an increased likelihood that people with gambling problems often resort to crime to finance their debts or suicide to escape them.

Sports wagering has long threatened the integrity of both professional and amateur sports contests. Each professional sports association and the N.C.A.A. have tried to prevent the expansion of the legalization of sports wagering any time a state has made an argument for its adoption. Delaware is the latest jurisdiction to blur the line between appropriate government programs and gambling. The Delaware Sports Lottery was adopted because the state was facing what many states also face. Delaware is running a budget deficit and this new form of voluntary taxation has apparently become acceptable given the times. Can the proper role of government include sponsoring and promoting a form of gambling that has been vehemently opposed by the leagues and associations that host the games?

Proponents of gambling legalization argue that the majority of Americans think gambling is an acceptable leisure activity. They argue that most people who
make the personal choice to gamble do so responsibly and budget for it prudently. But many do not. State and local governments know this. Although the percentages of gamblers who have a problem might represent a small fraction of our community, the social costs are immeasurable and often life endangering.

Even if gambling is an ineradicable part of our culture, state and local governments should resist its expansion. Furthermore, governments should neither promote nor sponsor gambling of any kind. Many might find this view paternalistic, but the most appropriate role of government is that of protector. Although states’ budgets face economic uncertainty and deficits that need to be addressed, some industries, like gambling, aren’t appropriate revenue streams on which governments should rely.
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