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A WINNER FOR THE WINDY CITY: A COMMENT IN SUPPORT OF ESTABLISHING A LAND-BASED CASINO IN THE CITY OF CHICAGO

RONALD NERODA*

By reducing gambling to a collection of psychiatric symptoms or a sign of political corruption, its critics have overlooked its wider web of connections to ancient, multifaceted rituals that have addressed profound human needs and purposes.

Debate about gambling is never just about gambling: it is about different ways of being in the world.¹

I. INTRODUCTION

The State of Illinois is in the middle of a severe budget² crisis.³ President Bush's plans for Medicaid are estimated to

* J.D. Candidate, May 2008, The John Marshall Law School. I would like to thank my parents and entire family for their constant support and encouragement. I would also like to thank my friends and classmates at John Marshall for making the last three years such a memorable and rewarding experience. Finally, thank you to Leonard Hudson and all of the editors and staff of The John Marshall Law Review, who helped make this comment a work I am very proud to have published.

1. JACKSON LEARS, *SOMETHING FOR NOTHING: LUCK IN AMERICA* (Viking Penguin 2003), reprinted in *GAMBLING EXAMINING POP CULTURE* 24 (James Haley ed., Greenhaven Press 2004). In his essay, *Luck v. the Protestant Work Ethic*, Jackson Lears addresses the arguments against gambling which center prominently around the ideal of the Protestant work ethic. *Id.*

2. *\$56 Billion State Budget Gets Governor's Final OK*, CHI. TRIB., May 23, 2006, Metro, at 3. The 2006 Illinois fiscal year began on July 1st with a \$56 billion budget, which will increase education funding for schools and health care services for children and veterans and allocate money for additional Illinois prison guards. *Id.*

3. Press Release, Illinois Government News Network, Governor Appoints Budget Director to Lead Push for Sensible Spending, Reforms (Jan. 16, 2003) (on file with author), <http://www.illinois.gov/PressReleases/PressReleasesListShow.cfm?RecNum=2012>. The Illinois Governor's Office released a statement to the press in which Governor Rod Blagojevich referred to the "worst budget crisis the state has ever known." *Id.*; see also Greg Hinz, *Taxpayers Haven't Focused on It Yet, but Retirement Plan Mess is about to Explode*, CRAIN'S CHI. BUS., Apr. 3, 2006, at 2 (discussing agreement among gubernatorial candidates that Illinois employee pension plans are under-funded and the

impact Illinois schools to the tune of \$130 million in lost funding.⁴ Indeed, it is not just Illinois, but the entire country, that is currently attempting to find its way in a new global economy where production continues to move overseas and America becomes increasingly service-based.⁵ Illinois Governor Rod Blagojevich has proposed radical suggestions to increase revenue. However, few solutions have taken any serious hold among state decision-makers and voters.⁶ Still, the budget crisis continues to impact residents in the Land of Lincoln,⁷ often forcing parents to vote for tax increases to prevent their children's schools from cutting extracurricular activities.⁸

While there are no simple solutions to the complexities facing any state budget, the State of Illinois is fortunate to have an untapped resource that can help heal current financial woes, while, at the same time, can establish a base for consistent annual revenue. For over a decade, the possibility of placing a land-based casino in Chicago has been contemplated by both the gaming industry and Illinois legislature.⁹ Strong opposition from the

state's commitment to its workers will leave little money for schools, health care, and other budget concerns).

4. See Press Release, Chicago Public Schools, Sen. Durbin Joins School Superintendents to Protest Medicaid Cuts (Aug. 28, 2006) (on file with Chicago Public Schools), available at http://www.cps.k12.il.us/aboutcps/press_releases/August_2006/medicaid.htm (quoting Illinois Senator Dick Durbin's concern for the impact of President Bush's Medicaid plan on already strapped Illinois school budgets).

5. See Pamela M. Prah, *States Turn to Gambling to Fix Budget Woes* (May 18, 2004), <http://www.gambling-law-us.com/Articles-Notes/2004-Legislation.htm> (discussing the many states turning to gambling to help aid failing budgets and explaining the need for new revenue streams in the current U.S. economy); see also GEORGE STERNLIEB & JAMES W. HUGHES, *THE ATLANTIC CITY GAMBLE 3* (Harvard Univ. Press 1983) (introducing the United States' economic insecurity from competition with other countries and the fight for the creation of new jobs in the states).

6. Andy Shaw, *Governor Proposes Leasing Illinois Lottery to Fund Education Plan* (May 23, 2006), <http://abclocal.go.com/wls/story?section=local&id=4197498>. Illinois Governor Rod Blagojevich proposed that Illinois should become the first state to sell its lottery to private investors. *Id.* Former Governor Jim Edgar berated the plan, stating, "[The plan] doesn't make sense. Who's going to buy it?" *Id.*; see also Rick Pearson, *Governor's Lead Solid, But Voters Seem Wary*, CHI. TRIB., Sept. 12, 2006, Zone C, at 1 (explaining that sixty-two percent of likely voters surveyed disapproved of the Governor's plan to sell or lease the state lottery to private investors).

7. Illinois Travel Guide 2007, http://www.enjoyillinois.com/brochures/IL_TravelGuide.pdf (last visited Nov. 12, 2007).

8. See Sarah Schulte, *Suburban District Forced to Cut After School Activities* (Jan. 23, 2006), <http://abclocal.go.com/wls/story?section=local&id=3846565> (illustrating the impact of the budget crisis on Illinois schools with an example of an Illinois high school forced to cut programs unless parents in the district agree to higher taxes).

9. See Carol McHugh Sanders, *Odds in Lawyers' Favor in Gaming Industry*, CHI. LAW., Feb. 1996 (noting legislative proposals calling for new

Illinois Governor's Office, however, and hostility from anti-gambling groups quelled any significant advances toward this lucrative venture.¹⁰

This Comment will support the passage of two bills introduced before the 94th Illinois General Assembly, which will encourage the establishment of a land-based casino in Chicago.¹¹ The argument will discuss the greater societal¹² costs and benefits of gambling only to the extent that such costs play a role in this narrow gambling policy issue. This Comment is not meant as a sweeping declaration in favor of all gaming, but rather a conditioned endorsement of bringing a land-based casino to Chicago. Additionally, this Comment will address the most prominent arguments in opposition to a Chicago casino and, finally, will provide recommendations for the regulation of a Chicago casino and the means of distributing casino revenue.

II. BACKGROUND

A. Gambling in the United States

In 1960, the Rat Pack¹³ brought Las Vegas to the big screen in the original *Ocean's Eleven*.¹⁴ Although the film may not be remembered as an example of brilliant cinematic vision,¹⁵ it

casino licenses in Illinois with provisos for gaming facilities in Chicago); *accord Illinois Politicians Wrestle Over Gaming Growth; IL Rep. Louis Lang is Drafting a Bill to Attract Casinos in the State*, INT'L GAMING & WAGERING BUS., Mar. 1997, at 20 [hereinafter *Illinois Politicians*] (detailing Representative Louis Lang's proposal to draw more casinos to Illinois, provisions for land-based facilities and targeting Chicago as a possible site); *see also* Lori Chapman, Comment, *Riverboat Gambling in the Great Lakes Region: A Pot of Gold at the End of the Rainbow or Merely "Fool's Gold?"* 26 U. TOL. L. REV. 387, 393 (1995) (referring to gambling as a "hotly debated issue on the political agendas of several states and cities, including the Great Lakes cities of Chicago").

10. *Illinois Politicians*, *supra* note 9, at 20. Former Illinois Governor Jim Edgar "steadfastly opposed" expansion of gaming in Illinois and made clear his intent to veto any legislation therefor. *Id.*; *Guv Says No to Chicago Casino*, CRAIN'S CHI. BUS., May 11, 2004, available at <http://chicagobusiness.com/cgi-bin/news.pl?id=12461>. Governor Blagojevich opposes Chicago Mayor Richard Daley's plan to build a land-based casino near Chicago and vowed to veto any such legislation. *Id.*

11. H.B. 4939, 94th Gen. Assemb., Reg. Sess. (Ill. 2006); S.B. 0019, 94th Gen. Assemb., Reg. Sess. (Ill. 2005).

12. Paul D. Delva, Comment, *The Promises and Perils of Legalized Gambling for Local Governments: Who Decides How to Stack the Deck?*, 68 TEMP. L. REV. 847, 848 (1995).

13. Dean Martin Fan Center, <http://www.deanmartinfancenter.com> (follow "Rat Pack" link in left column) (last visited Aug. 7, 2007).

14. Internet Movie Database, <http://imdb.com/title/tt0054135/> (last visited Aug. 7, 2007).

15. BBC Films Reviews, *Ocean's Eleven*, <http://www.bbc.co.uk/films/2001/>

certainly may be held as a harbinger of the allure of casino gambling in the eyes of Americans.¹⁶ The following analysis will focus on concerns and benefits associated with the specific issue of placing a land-based casino in the City of Chicago. Such analysis requires an understanding of the history of gambling in the United States¹⁷ and the diverse approaches taken by the states and the country as a whole to legalized gaming.¹⁸ Widespread legalized casino operations are a relatively new creation in the United States.¹⁹ Considering the current prevalence of gaming in this country, it is still impressive and intriguing that the industry has grown to five hundred casinos in twenty-six states in less than thirty years.²⁰

1. Nevada

In 1931, while The Great Depression²¹ was devastating America, the State of Nevada became the first state in the country to legalize commercial casinos.²² Facing a downturn in state revenues during The Depression, Nevada legalized casino gambling as a strategy to raise money for the State.²³

06/06/oceans_eleven_1960_review.shtml (last visited Aug. 7, 2007) (reviewing the 1960 heist film set in Las Vegas and starring Frank Sinatra, Dean Martin, and Sammy Davis, Jr.)

16. AMERICAN GAMING ASSOCIATION, STATE OF THE STATES: THE AGA SURVEY OF CASINO ENTERTAINMENT 28 (2006), available at http://www.americangaming.org/assets/files/2006_survey_for_Web.pdf [hereinafter AGA SURVEY]. The 2006 survey presented and compiled by the American Gaming Association with research and survey assistance from Peter D. Hart Research Associates, Inc., Luntz Maslansky Strategic Research, Harrah's Entertainment/TNS, and Christiansen Capital Advisors. *Id.* The survey includes a comprehensive look at American casino operations, with state-by-state statistical breakdowns and presentation of economic statistics related to casino operations on America. *Id.*

17. See Christine Hurt, *Regulating Public Morals and Private Markets: Online Securities Trading, Internet Gambling, and the Speculation Paradox*, 86 B.U. L. REV. 371, 394-96 (2006) (summarizing the history of gambling in the United States prior to 1931 and noting the impact moral reformists had on the gambling debate during the nineteenth century).

18. See JOHN LYMAN MASON & MICHAEL NELSON, GOVERNING GAMBLING 1 (Century Found. Press 2001) (referring to the span of distinctive approaches the fifty states have taken to gambling, with policies ranging from complete bans to embracing gaming and relying on gaming revenues as a major source of revenue).

19. See Erika Gosker, Note, *The Marketing of Gambling to the Elderly*, 7 ELDER L.J. 185, 187 (1999) (delineating the progression of casino operations in the United States).

20. *Id.* at 187.

21. The History of Money: The Great Depression, http://www.history.com/minisite.do?content_type=Minisite_Generic&content_type_id=52500&display_order=2&sub_display_order=7&mini_id=52493 (last visited Aug. 7, 2007).

22. MASON & NELSON, *supra* note 18.

23. *Id.*

Following a period where Nevada's casino industry was permeated with associations to organized crime, in 1966, the State passed legislation that permitted public companies to own and operate casinos.²⁴ Perhaps the most pronounced turning point in the history of modern American gaming, this legislation extended the reach of the casino industry from a lone desert city to investors and tourists across the nation.²⁵ The result is the Las Vegas as we recognize it today: a city with two hundred and sixty-eight casinos, each with yearly revenue exceeding one million dollars.²⁶

In many ways, Las Vegas has become a world-class city²⁷ because of its casino operations. In the last forty years, Las Vegas has taken casino gambling out of the shadows of organized crime²⁸ and into the worldwide center of a billion-dollar industry.

2. *New Jersey*

Atlantic City, New Jersey faced many of the obstacles common to Chicago's pursuit of land-based casino gaming when building its casino operations during the late 1970s and 1980s.²⁹

24. *Id.* In 1966, after the SEC sought to prevent investor Howard Hughes from investing in Nevada casino operations, the state's legislature passed the Corporate Gaming Act. *Id.* The act permitted public companies to own and operate casinos in Nevada and caused an explosion of investment, which resulted in the transformation of Las Vegas from a gambling town to a "nucleus of resort complexes." *Id.*

25. See JOHN DOMBRINK & WILLIAM N. THOMPSON, *THE LAST RESORT: SUCCESS AND FAILURE IN CAMPAIGNS FOR CASINOS* 4 (Univ. of Nev. Press) (1990) (discussing the stability that leisure corporations such as Hyatt and Ramada brought to Las Vegas and the success of casinos based on their ability to appeal to a wide market of customers).

26. AGA SURVEY, *supra* note 16, at 15. In 2005, Las Vegas casinos brought in over \$11.5 billion in yearly casino gaming revenue, of which over \$950 million went to tax revenues to be used for education, local government, and the general state tax fund. *Id.*

27. Ryan Slattery, *Las Vegas is For Lovers: From Spa Treatments to Dinner and a Show; Resorts Offer Romance*, TRAVEL AGE WEST, June 12, 2006, at 56. Las Vegas has dining, entertainment, and nightlife, which rival any city in the world. *Id.*; see also DOMBRINK & THOMPSON, *supra* note 25, at 5 (listing non-gambling activities in Las Vegas including all-night bars, discos, athletics, and shopping).

28. See *id.* at 23 (stating that the reputation of Las Vegas improved when major financial institutions became comfortable investing in the city).

29. MASON & NELSON, *supra* note 18, at 33-34. In contrasting the "New Jersey model" with the "Las Vegas model," Mason & Nelson observed the "pattern of casino politics" which grew out of New Jersey's legalization of gambling. Unlike Nevada, New Jersey casinos would be restricted to certain areas and would inevitably involve private ownership and state regulation. There were numerous debates over gaming in New Jersey in which proponents and opposition argued regarding the impact casinos would have on jobs, tourism, investment, and crime. Finally, the governor and other political and business leaders would have an important role in casino legislation and regulation. *Id.*

In 1976, voters supported a referendum on New Jersey ballots to allow casino gaming in Atlantic City.³⁰ Shortly thereafter, New Jersey passed the Casino Control Act³¹ and, in 1978, the first Atlantic City casino was opened.³² Unlike Nevada, which experienced a rash of growing pains before legitimizing its casino industry,³³ Atlantic City at once imposed restrictions on casino ownership.³⁴ Today, Atlantic City is home to twelve land-based casinos³⁵ that in 2005 contributed more than \$490 million toward senior citizen, disabled, and economic revitalization programs.³⁶

The history of Atlantic City serves as a basis of comparison and guidance.³⁷ The first and perhaps most important effect of "The Atlantic City Gamble,"³⁸ however, is that it acted as a catalyst for states (and territories³⁹) across the country to pursue commercial casino ventures.⁴⁰

30. *Id.* at 29. Interestingly, two years earlier, voters rejected a referendum to bring gambling to New Jersey. *Id.* The 1976 vote was approved, however, by better informed voters as the casino supporters made clear that the casino would be privately owned in Atlantic City and that taxes garnered from gaming operations would be allocated for elderly and disabled relief programs. *Id.*

31. Casino Control Act, N.J. STAT. ANN. § 5:12-1 (West 2002).

32. STERNLIEB & HUGHES, *supra* note 5, at 76 tbl.3.

33. MASON & NELSON, *supra* note 18.

34. Haley, *supra* note 1, at 20; Cory Aronovitz, *Gaming Law Symposium: The Regulation of Commercial Gaming*, 5 CHAP. L. REV. 181, 190-91 (2002).

35. AGA SURVEY, *supra* note 16.

36. *Id.*

37. *See id.* at 172 (concluding with the hope that while the costs of the casino gambling in New Jersey may not inhibit other states from pursuing gaming, "the New Jersey experience will serve to guide [other states]").

38. STERNLIEB & HUGHES, *supra* note 5. While some politicians fret over the fiscal and social costs of legalized casino gambling, others embrace what *Business Week* called America's "newest growth industry." *Id.*

39. Haley, *supra* note 1, at 122. In 1988, the Indian Gaming Regulatory Act permitted Indian tribes to operate casinos on their reservations. *Id.* The establishment of Indian casinos became a significant part of gaming growth in the 1990s. *Id.*

40. *See* MASON & NELSON, *supra* note 18, at 34 (discussing the upsurge of other states considering gambling legalization after New Jersey's groundbreaking experience).

B. A "Phantom Voyage"⁴¹: The History of
Casino Gaming in Illinois

1. The Riverboat Gambling Act

The casino gaming industry in Illinois operates under the rules of the Riverboat Gambling Act.⁴² The Act implements a system of monitoring and controlling gambling which utilizes a "hybrid model" of casino regulation.⁴³ The model derives its name from its place in the middle ground between the two poles of casino regulation, the "Nevada model" and the "New Jersey model."⁴⁴ The hybrid nature of the model vests all regulatory functions pertaining to the gaming operations in one agency (the Illinois Gaming Board)⁴⁵ and imposes a limit on the number of casino licenses which may be issued.⁴⁶

Governor Jim Thompson signed the Act into law in February 1990 as a means for the State to increase revenues and build tourism.⁴⁷ In this regard, the intent⁴⁸ of the initial Illinois gambling legislation resembled the general goals of all states that

41. See I. Nelson Rose, Center for Gaming Research, *Gambling and the Law: Status of Gaming Enabling Laws* (Sept. 26, 2001), <http://gaming.unlv.edu/reading/status.html> (last visited Nov. 12, 2007) (summarizing Illinois gaming law circa 2001 and using "phantom voyage" in reference to the requirement that Illinois riverboats close their doors for "voyages" but not requiring riverboats to actually leave the dock).

42. 230 ILL. COMP. STAT. ANN. 10/1 (West 2002); Illinois Gaming Board, <http://www.igb.state.il.us/> (last visited Aug. 7, 2007). In February 1990, Illinois enacted the Riverboat Gambling Act and become the second state in the country to legalize riverboat gambling. *Id.* The Act created the Illinois Gaming Board, which has near plenary control in the oversight of gambling operations in Illinois. *Id.*

43. Aronovitz, *supra* note 34, at 190-91.

44. *Id.* The Nevada and New Jersey models are not only physically located at opposite ends of the nation, they differ significantly in the approach they take toward gaming. *Id.* In the "Nevada model," the focus rests on the money taken in through gaming and the subsequent economic benefits derived therefrom. *Id.* Conversely, New Jersey developed their system with an emphasis on limiting the negative costs of legalized gaming. *Id.*

45. See Illinois Gaming Board, <http://www.igb.il.us> (last visited Aug. 7, 2007) for additional information on the duties and members of the Illinois Gaming Board.

46. *Id.*

47. S.B. 0572, 86th Gen. Assemb., Reg. Sess. (Ill. 1989); see also Daniel Egler, *Gambling Law Gets Thompson OK*, CHI. TRIB., Feb. 8, 1990, at 1 (stating that upon signing the gambling bill into law, Governor Thompson boasted that tourism will become the state's number one industry).

48. Compare S.B. 0572 (stating original legislative intent of the Riverboat Gambling Act, as signed into law, was to "benefit the people of the State of Illinois by assisting economic development and promoting Illinois tourism"), with S.B. 1607, 93rd Gen. Assemb., Reg. Sess. (Ill. 2003) (adding the clause "and by increasing the amount of revenues available to the State to assist and support education" to the legislative intent of the act).

legalize gaming.⁴⁹ Just as luck can quickly change at a craps table,⁵⁰ casino gambling in Illinois has undergone a host of transformations and adoptions since its inception less than twenty years ago.⁵¹

The evolution of gambling in Illinois can be observed from the study of hard numbers,⁵² legislative amendments,⁵³ and an observation of public perception and political rhetoric.⁵⁴ Indeed, just as other states have been battlegrounds for political quarrels both before and after the passage of gaming laws,⁵⁵ so too have the people of Illinois witnessed enduring wrangling over the status of casino gambling in the State.⁵⁶

2. Mayor Daley's Fight for Gaming

The call for casino gambling in Chicago saw its beginnings in conditions which have long caused Chicagoans many headaches: snowstorms.⁵⁷ Faced with a budget problem resulting from excessive snow removal needs, former Chicago Mayor Jane Byrne⁵⁸

49. See Aronovitz, *supra* note 34, at 182 (stating that economic benefits from the industry and reaction to market competition are the two principle reasons lawmakers authorize gaming).

50. Vegas.com, How to Gamble: Craps, http://vegas.com/gaming/gaming_tips/craps.html (last visited Sept. 8, 2007). Craps is a casino table game in which players bet with varying odds and the outcome of the game is determined by the number rolled by the "shooter" of the dice. *Id.*

51. See generally John Warren Kindt, *Legalized Gambling Activities as Subsidized by Taxpayers*, 48 ARK. L. REV. 889 (1995) (outlining the history of gaming in Illinois).

52. AGA SURVEY, *supra* note 16.

53. S.B. 1017, 91st Gen. Assemb., Reg. Sess. (Ill. 2000). See also Dave McKinney, *Ryan OKs Gaming Bill; Move to Open County May Face Challenge*, CHI. SUN-TIMES, June 26, 1999, at 1 (discussing Governor Ryan's apparent flip-flop from campaign promise against gambling expansion to approving legislation opening Cook County to casino gambling).

54. See S.B. 1607, 93rd Gen. Assemb., Reg. Sess. (Ill. 2003) (showing deletions and additions to the Riverboat Gambling Act). See, e.g., Crystal Yednak & Rick Pearson, *Governor: Topinka's Casino Plan a 'Gimmick'*, CHI. TRIB., Aug. 25, 2006, Metro, at 4 (stating Governor's Blagojevich's contention that his challenger's casino-based plan would push the state into a deficit).

55. DOMBRINK & THOMPSON, *supra* note 25.

56. See R. Bruce Dold & John Camper, *Edgar, Hartigan Say No to More Gambling*, CHI. TRIB., Jan. 19, 1990, at 2 (discussing the opposition and dismay of former Secretary of State Jim Edgar and former Attorney General Neil Hartigan to Illinois riverboat gambling in the weeks leading up to the legalization of such gaming).

57. DOMBRINK & THOMPSON, *supra* note 25, at 129-30.

58. Ironically, while Mayor Daley and Mayor Byrne seemed to have shared a common view toward casino gambling in Chicago, they did not get along and their dislike for each other is well known. See Carol Marin, *What Jane Byrne Learned That Richard Daley Hasn't*, CHI. TRIB., Jun. 16, 2004, at 29 (stating that the relationship between Byrne and Daley has "hardly been on friendly footing").

began her term⁵⁹ in office stating, “[i]f it’s done right, done properly and certain strict enforcement policies are put through, I would like to see a gambling casino.”⁶⁰ Sadly, Byrne’s budgetary epiphany was short-lived and her idea of a “Monte Carlo type casino” never took flight.⁶¹

Still, in the last decade, the City of Chicago has seemed to be a likely location for the next Illinois casino.⁶² Since the early 1990s,⁶³ Chicago Mayor Richard Daley has sought licensing for casino gambling in the city.⁶⁴ Nevertheless, just as the years (and elections)⁶⁵ have passed, so too have the plans and proposals for gaming in Chicago.⁶⁶ Since the legalization of riverboat gambling in the early nineties, the most influential opposition to Chicago casinos has come from the governor’s office in Springfield.⁶⁷ In fact, the only governor to take any action aligned with extending gambling to Chicago⁶⁸ no longer exerts any political influence.⁶⁹

59. Jane Margaret Byrne was elected April 3, 1979 and served as mayor from 1979-1983. Chicago Public Library, Jane Margaret Byrne, <http://www.chipublic.org/004chicago/mayors/byrne.html> (last visited Sept. 9, 2007).

60. DOMBRINK & THOMPSON, *supra* note 25, at 129.

61. *See id.* at 130 (explaining the state attorney general’s fear that a casino would increase Chicago’s already disproportionate share of organized crime and his immediate opposition to any Chicago casino).

62. *See* Chris Scott, *No Dice on Chicago Casino – This Year*, CRAIN’S CHI. BUS., Dec. 7, 1992, at 7 (discussing the Illinois General Assembly special session dedicated to a proposed casino and entertainment complex in downtown Chicago).

63. *See supra* note 48 and accompanying text regarding the shift in gaming law.

64. *Id.*

65. *See* Steven R. Strahler & Paul Merrion, *Daley Faces Revolutions in Two Political Capitals Conservative Democrat Must Find His Niche*, CRAIN’S CHI. BUS., Nov. 14, 1994, at 4 (showing the impact of poor democratic performance in November elections and the effect it will have on Mayor Daley’s battle to bring casino gambling to Chicago).

66. *See* Mark Hornung, *Casino Bill Ready to Roll; Oversight Issue Looms; Madigan on Board*, CRAIN’S CHI. BUS., Nov. 12, 1992, at 1 (laying out terms and issues surrounding legislation for a two billion dollar casino entertainment complex in the City of Chicago).

67. *Guv Says No to Chicago Casino*, *supra* note 10.

68. *See supra* note 54 and accompanying text.

69. Matt O’Connor & Rudolph Bush, *Ryan Convicted in Corruption Trial*, CHI. TRIB., Apr. 17, 2006, available at <http://www.chicagotribune.com/news/custom/newsroom/chi-060417ryantrial,0,4525779.story?coll=chihomepagepromo440-fea>. Former Illinois Governor George Ryan was convicted of federal corruption charges. *Id.* Ryan’s most hailed accomplishment while in office was commuting the sentences of Illinois inmates on death row. He was plagued, however, with accusations of wrongdoing, which culminated in his conviction on eighteen corruption charges. *Id.*; *see also* Fran Spielman, *Ryan Denies Stacking Board for Rosemont*, CHI. SUN-TIMES, Sept. 10, 2002, at 22 (describing Governor Ryan’s denial of accusations that he replaced the Chairman of the Illinois Gaming Board to facilitate issuance of a gaming license to Rosemont, Illinois).

While the governor's office has taken many stances on the issue of gambling in Illinois, one stance which the office has not taken is that of proponent for casino gaming in Chicago.⁷⁰

3. *Current State of Affairs for a Chicago Casino*

Recently, the prospect of a land-based casino has again come into the political spotlight.⁷¹ In fact, the issue of casino gambling was a central theme of the 2006 Illinois gubernatorial election.⁷²

On January 26, 2005, Senator James F. Clayborn, Jr. filed Senate Bill 0019 with the Illinois Senate.⁷³ The Bill creates the Chicago Casino Development Authority Act.⁷⁴ In close resemblance to the Senate Bill, on January 19, 2006, House Bill 4939 was read before the Illinois House of Representatives.⁷⁵ As introduced, the House Bill's clear purpose is to provide legal backing for placement of a land-based casino in Chicago.⁷⁶ Together these bills represent the latest legislative effort to bring casino gambling to Chicago. If either of these measures is approved, they will eliminate the legislative restraints which have prevented Chicago from housing a land-based casino. Thus, these bills are the focus of an effort that will bring the people of both the City and the State one step closer to reaping the benefits of casino gaming in the City of Chicago.

III. ANALYSIS

Those who oppose efforts to bring casino gambling to Chicago uniformly rely on one multifaceted argument to counter proponents in both the legislature and the private sector.⁷⁷ The

70. See Yednak & Pearson, *supra* note 54 (describing Governor Blagojevich's past efforts to increase gambling positions at casinos and legalize keno wagering at restaurants and bars, while opposing casino gambling in Chicago); see also McKinney, *supra* note 53 (describing Governor Ryan's changing views on gambling).

71. See Rick Pearson, *Topinka Gambling on Casino; Candidate Pins Hopes for Schools, Tax Relief on Gaming in Chicago*, CHI. TRIB., Aug. 24, 2006, at 1 (describing gubernatorial candidate Judy Baar Topinka's revenue plan centered around a land-based Chicago casino).

72. *Id.*; see also Illinois State Board of Elections, <http://www.elections.il.gov/ElectionInformation/welcome.aspx> (last visited Aug. 7, 2007) (providing Illinois election information).

73. S.B. 0019, 94th Gen. Assemb., Reg. Sess. (Ill. 2005).

74. *Id.*

75. H.B. 4939, 94th Gen. Assemb., Reg. Sess. (Ill. 2006).

76. *Id.* The House Bill provides that a casino license can be granted to a municipality with a population exceeding 500,000. *Id.* It also provides that such casinos will be limited to 4,000 gaming positions, a change from the current 1,200 limit in place. *Id.*

77. See Hurt, *supra* note 17, at 381 (stating the proposition by gambling opponents that the increased social costs of gaming, such as crime, bankruptcies, and addiction, outweigh the benefits garnered by increased

general proposition that the increased social costs of gaming outweigh the benefits from increased revenue is well recognized.⁷⁸ Nevertheless, any endeavor endorsing or opposing a change in a state's legalized gaming landscape must journey through an ongoing debate that intertwines empirical evidence and historical influences.⁷⁹ To be sure, casino gambling is not appropriate for every city, and grievous outcomes result where casinos are misplaced and implementation is poorly planned.⁸⁰ Still, when the legislation to bring a land-based casino to Chicago is raised, the contentions against doing so are ill-conceived and the benefits underestimated. In fact, the advantages to having a land-based casino in Chicago are monumental and Chicago could derive benefits from casino gambling above and beyond those of nearly all cities that currently have or are considering land-based casinos.⁸¹

A. *Rebutting Arguments Against a Land-based Casino in Chicago*

1. *Economic Fallacies*

The debate on both sides of any gambling discussion boils down to money. The economics and movement of the dollar in exchange for the gaming chip are the most cited justifications both for⁸² and against legalized gaming.⁸³

For those who resist gambling, the archetypal economic argument goes like this: Gambling is a form of economic cannibalism⁸⁴ which does not create new wealth, goods, or services, but rather erodes society's assets and resources by selling hope instead of actual commodities.⁸⁵ The reasoning suggests that this

revenue).

78. *Id.*

79. See Ronald J. Rychlak, *The Introduction of Casino Gambling: Public Policy and the Law*, 64 MISS. L.J. 291, 293 (1995) (noting the many variables in need of examination when evaluating the public policy and ramifications of legalized gambling).

80. See Kindt, *supra* note 51, at 893 (naming Bettendorf and Fort Madison, Iowa, as two cities, which in the race to implement casino gaming operations lost \$661,000 in tax subsidies (\$28 per citizen) and assumed a fifteen-year \$2.2 million debt respectively, for their casino operations).

81. See AGA SURVEY, *supra* note 16, at 11-16, for an accounting of U.S. cities with currently operational commercial casinos.

82. See generally Aronovitz, *supra* note 34, at 182-87 (naming increased jobs and community spending as supporting factors central to those seeking to legalize gambling).

83. See John Warren Kindt, *Internationally, the 21st Century is No Time for the United States to be Gambling With the Economy: Taxpayers Subsidizing the Gambling Industry and the De Facto Elimination of All Casino Tax Revenues via the 2002 Economic Stimulus Act*, 29 OHIO N.U. L. REV 363, 373-78 (2003) (delineating the author's perceived problems with gambling).

84. *Id.* at 372.

85. *Id.* at 374.

“black hole”⁸⁶ arises because local gamblers making trips to the casino are curtailing their expenditure of “entertainment” or “recreation” dollars by dispensing of their funds through “gambling” dollars.⁸⁷ Gambling opponents differentiate between gambling and entertainment dollars on two main points. First, a dollar spent on some form of entertainment such as a movie⁸⁸ (modestly) or a speedboat⁸⁹ (somewhat more extravagantly) has a different impact on the economy than a dollar spent at a casino.⁹⁰ Second, the economic benefits purported by gambling interests are dissolved by the increased social costs that accompany gambling.⁹¹

In reality, any attempt to differentiate gambling as anything other than a successful⁹² industry providing a product or service to meet a consistent demand, is to judge gambling’s economic contributions through a tainted lens.⁹³ To crack this lens is to look at gambling with a clearer and more accurate perspective. Indeed, when the analysis of gambling’s economic impact is seen through an objective analysis based on available statistics,⁹⁴ it is hard to

86. John Warren Kindt, *Legalized Gambling Activities: The Issues Involving Market Saturation*, 15 N. ILL. U. L. REV. 271, 274 (1995).

87. See Kindt, *supra* note 51, at 899 (discussing the distinction opponents of legalized gambling make between “entertainment” or “recreational dollars” and gambling dollars). Opponents of gambling suggest a fundamental difference, contending that while spending dollars on traditional forms of entertainment creates a positive economic multiplier in the resulting increased production of goods, to spend a dollar on gambling creates a negative economic multiplier. *Id.*

88. *Id.*

89. *Id.*

90. *Id.*

91. See *id.* at 894 (contending that the long-term costs are so significant that they cannot be reconciled with an overall socioeconomic improvement).

92. See ILLINOIS GAMING BD., 2005 ILLINOIS GAMING BOARD ANNUAL REPORT (2005), available at <http://www.igb.state.il.us/annualreport/2005igb.pdf> (stating the four percent increase in gambling taxes collected by local governing bodies and listing accomplishments of the Illinois Gaming Board in 2005).

93. Compare Chapman, *supra* note 9, at 388 (referring to gambling as a socially discouraged form of entertainment) and Anita R. Bedell, *Don’t Bet on Gambling to Save Schools*, CHI. TRIB., Oct. 6, 2006, Editorials/Letters, at 6 (writing on behalf of the Illinois Church Action on Alcohol and Addiction Problems referring to gambling as “an unstable source of revenue”), with Eugene M. Christiansen, *The Gaming Industry: Current, Legal, Regulatory, and Social Issues*, 1998 ALI-ABA COURSE STUDY MATERIALS (explaining that gambling, under economic analysis, is mistakenly viewed as different when in fact it can be evaluated under the same economic principles of supply and demand as the production of any tangible good).

94. See, e.g., AGA SURVEY, *supra* note 16, at 11-16 (providing extensive statistics about the financial impact of gambling in each U.S. state with a commercial casino).

see how a significant segment of academia does not appreciate the positive overall economic result from gambling.⁹⁵

Concededly, in a few cities, such economic success cannot be achieved and casino gaming is simply not a good fit.⁹⁶ This is not true for the Windy City. Frequently, the first economic concern related to casino gambling is the negative impact on residents and businesses in close proximity to a casino.⁹⁷ Objective analysis rebuts the concern that when a casino goes up, the profits and financial stability of neighboring businesses decrease. First, the general opposition argument, crying displacement of dollars and subsequent negative economic multiplier of gambling, is inaccurate.⁹⁸ Casinos do not exist in a different world or even a different economy as most opponents would like to believe.⁹⁹ Gambling in America, and indeed around the world, is expanding at a vociferous pace and is showing no signs of slowing down.¹⁰⁰

95. See, e.g., Kindt, *supra* note 86, at 276-77 (stating the view of Professor Jack Van Der Slik that gambling makes no genuine contribution to economic development).

96. See Nicholas S. Goldin, Note, *Casting a New Light on Tribal Casino Gaming: Why Congress Should Curtail the Scope of High Stakes Indian Gaming*, 84 CORNELL L. REV. 798, 833 (1999) (admitting that "not every town can become the next Las Vegas" and citing Jefferson City as one place where residents would not advise other jurisdictions to legalize gambling).

97. See Kindt, *supra* note 51, at 891 (stating that "only if new tax revenues can outpace the costs attributed to the new legalized gambling activities will initiating legalized gambling activities benefit the taxpayer base"); see also Kindt, *supra* note 86, at 290-91 (announcing the "50-percent rule" that for a local economy to break even from gambling, fifty percent of gamblers cannot be from the local economy or pre-existing tourists). States considering legalized gambling must consider the source of the funds created by commercial gaming operations and the subsequent impact that legalized gaming will have on residents. Rychlak, *supra* note 79, at 328-29.

98. The argument that the associated costs of gambling outpace the benefits derived therefrom is "moral animadversion, not economics." Christiansen, *supra* note 93. Indeed, a clear economic view of gaming reveals that demand for clothes, cars, or gaming, calls for supply and the argument that "gambling is merely a sterile transfer of money that produces no wealth" is a contention with its foundation in moral perception and not economic ones. *Id.*

99. See *id.* (positing that a study of consumer spending, including percentages of personal income, job creation, and privilege tax receipts shows that gambling industries do not function autonomously from the big picture of the American economy).

100. See Paul Sandells, *Gambling Industry Looks Towards Europe for Future Growth*, POKER NEWS, Sept. 8, 2006, available at <http://uk.pokernews.com/news/2006/9/bullet-business-europe-london.htm> (discussing the gambling industry looking beyond America and to Europe for future growth); see also William Spain, *Gambling Industry Celebrates Hot Streak*, MARKETWATCH, Nov. 13, 2006, News & Commentary (stating that with few exceptions, third-quarter numbers by public casino operators exceeded Wall Street predictions). As part of the current success casino operations are enjoying, revenue shares from nongambling sales, such as food, beverage, and entertainment continue

Moreover, this prosperous industry has ties to the American economy¹⁰¹ in all of the same ways as other industries that opponents frequently cite as victims of spending on gaming.¹⁰² To wit, gambling is vying for a position atop the list of America's most profitable industries.¹⁰³ Gambling is not just a growing industry, however, gambling is industrious. The gaming sector of America's economy provides jobs, employee benefits, and much needed financial support for cities and states that are home to casinos. This is an especially important point, since there are certainly industries in America that provide a good or service in exchange for billions of dollars each year. But, these other industries do not offer such positive benefits to citizens¹⁰⁴ as those that result, for example, from taxes on casino operations.¹⁰⁵

The arguments dislodging the possible economic benefits of casino gambling in general grow even more tenuous when juxtaposed with the focus of this article: placing a land-based casino in the City of Chicago. Chicago is a tourism leader in the United States.¹⁰⁶ Chicago as a home to a land-based casino is different economically from most examples cited by gaming opponents.¹⁰⁷ Certainly, Chicago will reap the usual benefits¹⁰⁸ that

to increase. *Id.* Stating that the casino industry generally is not hurt by concerns about consumer spending, market analyst Matthew Jacob said, "[t]he viewpoint has been that the casino sector is very resilient or even immune from consumer slowdowns." *Id.*

101. See Christiansen, *supra* note 93 (listing the various industries and aspects of the economy, which have strong interests in commercial gaming).

102. Gambling is not a zero-sum game with negative economic implications, as suggested by opponents. *Id.* When gambling dollars cycle through a casino, they are in a sense exchanged between players, however, from that exchange between gaming participants, a percentage of the amount exchanged is retained by the casino. *Id.* This significant economic function pays the salaries of hundreds of thousands of casino employees, provides returns on equity components of investments in casino groups, services the debt component on such investments, sustains the stock prices of companies with gambling interests and "[is] the motivating force of an economic engine that drives an annually growing portion of the American leisure economy." *Id.*

103. See *Top Industries of 2006*, FORTUNE 500 (providing a listing of America's top performing industries), available at http://money.cnn.com/magazines/fortune/fortune500/performers/industries/return_on_revenues/index.html.

104. See *Drug Trafficking in the United States*, http://www.dea.gov/pubs/state_factsheets.html (last visited Aug. 7, 2007) (stating that the drug trade in the United States is one of the most profitable in the world and offering factsheets for state-by-state drug statistics).

105. See *supra* note 102 and accompanying text.

106. See Chicago Office of Tourism, 2004 Statistical Information (2004), http://egov.cityofchicago.org/webportal/COCWebPortal/COC_EDITORIAL/Statistics2004FINALapril06.pdf (reporting Chicago tourism statistics). Chicago is the ninth most popular city for overseas visitors. *Id.* Travel expenditures of U.S. and international visitors registered \$9.3 billion in 2004. *Id.*

107. Kindt, *supra* note 51.

any successful industry brings to a city when it establishes a base there. But, what sets Chicago apart from the standard criticisms¹⁰⁹ against the gainful economic advantages of legalized gaming is the significant commerce already generated from tourism in Chicago.¹¹⁰ Chicago's established tourism base will result in synergistic and long-term growth and expansion with a land-based casino in Chicago.

Las Vegas is the prime example of a city that understands to reap the full potential from gambling, a city must offer more than gaming tables.¹¹¹ Similarly, Chicago can reap that full potential. Chicago is home to world class restaurants,¹¹² high-end retail shops¹¹³ and accommodations,¹¹⁴ Broadway shows,¹¹⁵ and one of the largest convention centers in the country.¹¹⁶ Just as Las Vegas

108. See Aronovitz, *supra* note 34, at 182-90 (discussing the reasons for authorizing gaming, including municipal infrastructure improvements, small business opportunities, and employment opportunities).

109. Hurt, *supra* note 17, at 381.

110. See Chicago Office of Tourism, <http://egov.cityofchicago.org/city/webportal/portalEntityHomeAction.do?entityName=Tourism&entityNameEnumValue=41> (last visited Aug. 7, 2007) (providing general information on attractions and accommodations in Chicago).

111. See William A. Thompson & Christopher Stream, *Casino Taxation and Revenue Sharing: A Budget Game, or a Game for Economic Development?*, 22 T.M. COOLEY L. REV. 515, 545-46 (2005) (stating that state policy makers should emulate Las Vegas whenever possible). In the fiscal year 2003-2004, only 50.5% of Las Vegas revenues were from gambling, a decline of 2.5% from 2000. *Id.* at 545. The average visitor to Las Vegas stays an average of four nights and spends nearly the same amount of money on non-gambling activities as on gambling. *Id.* at 546. Las Vegas has truly grown off of gambling and now has more attendees at shows per night than Los Angeles, New York, and London combined. *Id.*

112. See Alan Richman, *2nd City No More*, GQ, June 2006, available at http://men.style.com/gq/features/landing?id=content_4414 (discussing Chicago's transformation into the nation's newest top dining city).

113. See Chicago Convention and Tourism Bureau, Chicago Shopping, <http://www.choosechicago.com/shopping.html> (last visited Sept. 9, 2007) (proclaiming Chicago as one of the world's shopping meccas).

114. See Chicago Convention and Tourism Bureau, <http://www.choosechicago.com/accommodations.html> (last visited Sept. 9, 2007) (listing Chicago's world-class hotel accommodations).

115. See Chicago Convention and Tourism Bureau, Performing Arts, http://www.choosechicago.com/performing_arts.html (last visited Sept. 9, 2007) (listing Chicago's dance, theater and music options).

116. McCormick Place Chicago, About Us, http://www.mccormickplace.com/about_us/about_us_01.html (last visited Sept. 9, 2007). McCormick Place is Chicago's premiere convention center. *Id.* Located on Lake Michigan, the complex is made up of 2.2 million square feet of exhibit halls, draws nearly 3 million visitors annually and is referred to as the "economic engine that powers the entire convention and tradeshow industry." *Id.* In 2003, McCormick Place received the Excellence in Convention Facilities Award from *Meeting News Magazine*. McCormick Place Chicago, Industry Awards, http://www.mccormickplace.com/about_us/Ind_Awards.html (last visited Sept. 9, 2007). The Center will be opening its newest building, boasting a 100,000

resorts aim to be “destination properties”¹¹⁷ with a high quality casino, Chicago can become a “destination city.” By becoming a destination city, Chicago would overcome many of the usual economic-based propositions against gambling. In addition to the entry of gambling-related revenues, the city would also see a significant spike in all other tourism services and would be in a position to challenge Las Vegas as America’s number one convention stop.¹¹⁸ To be clear, this Comment does not suggest that Chicago should attempt to emulate all of the panache that is Las Vegas. Certainly, economic spoils may be earned in many circumstances when traditional values are abandoned. The point is quite to the contrary: Chicago’s inimitable offerings make it especially suited to be a very unique gambling destination, without having to rely on becoming another “Sin City.” Thus, Chicago’s unique status as a highly-developed, largely-populated city—compared to most other U.S. cities with casinos—will not only overcome the economic hurdles that must be conquered for gaming success, but the combination of this status with a land-based casino will result in an extraordinary economic boost to both the City of Chicago and the State of Illinois.¹¹⁹

2. “Fear and Loathing”¹²⁰: Concerns of Decrease in Quality of Life

The standardized pattern of a gambling opponent’s position is familiar and invariably includes some semblance of a fear that, with casino gambling, comes crime and a host of other societal

square foot ballroom, in summer of 2007. McCormick Place Chicago, About Us, http://www.mccormickplace.com/about_us/about_us_01.html (last visited Sept. 9, 2007).

117. See Aronovitz, *supra* note, note 34 (defining “destination property” as a property, which provides extensive entertainment options, such as restaurants, shows, spas, night clubs, unique visual attractions such as fountains, shopping, and pools, beaches, and marinas, so that the guest has no reason to leave the property).

118. ECONOMIC RESEARCH ASSOCIATES, ECONOMIC BENEFITS OF GAMING SITES IN CHICAGO 4-5 (1993) [hereinafter ERA REPORT].

119. The 1992 report by Economic Research Associates evaluating proposed two cites for a riverboat and entertainment complex in Chicago revealed the following relevant effects of the complex: the complex would generate at minimum a demand for six hundred and twenty-five hotel rooms per one million visitors; for every one million visitors, between eighty-three and one hundred and three million dollars in gaming revenues would be earned; the complex would bring in between forty-two and fifty-two million dollars in tax revenues. *Id.* The report also showed that a location in the heart of downtown Chicago would garner significantly higher revenues than one located along the south branch of the Chicago River. *Id.*

120. FEAR AND LOATHING IN LAS VEGAS (Universal Pictures 1998). See International Movie Database, Fear and Loathing in Las Vegas, <http://imdb.com/title/tt0120669/> (last visited Sept. 9, 2007) for more information about the movie.

ills.¹²¹ While the economic oppositions to casino gaming inevitably rely on such social concerns, the proposition that gambling in Chicago will bring a host of new crimes and a decomposition of the city will be addressed here and rebutted separately from the discussion of economics. These purported societal problems may have had a suitable place in a time when organized crime had an overwhelming presence in Chicago.¹²² In recent years, however, the State and City have shown intolerance for the crime and corruption that at one time permeated Illinois and Chicago.¹²³ The thriving modern metropolis that is present-day Chicago will see only a negligible impact on crime and police enforcement.

To rely on a presumption that placing a commercial gaming operation in a city will assuredly increase the crime rate of that city is inaccurate.¹²⁴ To begin, there is no evidence that simply placing a casino in a community results in a rash of violence and unbecoming activity.¹²⁵ Gambling opponents point to crime as a direct result of gambling addiction.¹²⁶ Thus, they view addiction as a reason to resist regulated gaming operations.¹²⁷

Though it seems incongruent at first glance, casinos as businesses do not consider addictive gamblers good customers.¹²⁸ For example, consider another alleged “sin industry”: tobacco. A

121. *Id.*

122. See John J. Binder, *The Chicago Outfit* (2001), <http://www.americanmafia.com/Cities/Chicago.html> (discussing the history of organized crime in Chicago).

123. See O'Connor & Bush, *supra* note 69; see also Greg Hinz, *Legal War Over Emerald Casino Needlessly Costing Taxpayers Millions*, *CRAIN'S CHI. BUS.*, Nov. 28, 2005, at 2 (discussing Illinois Attorney General Lisa Madigan's objection to a Rosemont casino plan, which was tainted with questions of mob influence).

124. See Hurt, *supra* note 17, at 426 (conceding that studies have failed to show an exact causal link between problem gambling and crimes in counties where casinos are established).

125. See ILL. CRIMINAL JUSTICE INFO. AUTH., *RIVERBOAT GAMBLING AND CRIME IN ILLINOIS PRELIMINARY REPORT ON RIVERBOAT GAMBLING IN JOLIET: IMPACT ON CRIMINAL ACTIVITY AND LAW ENFORCEMENT WORKLOADS* (1994) (finding that a preliminary study of two riverboat casinos in Joliet, Illinois showed that the boats had little or no negative impact on crime and police workloads and revealing that law enforcement officials viewed the riverboats as a positive aspect of the city).

126. *Id.*

127. See Casino Watch, *Gambling Addition Crime Against Business*, http://www.casinowatch.org/loss_limit/crime_business.html (last visited Sept. 9, 2007) (listing cases of crimes committed by pathological gamblers).

128. See Aronovitz, *supra* note 34, at 200 (stating that casinos prefer repeat customers with discretionary income for entertainment expenditures, over compulsive gamblers); see also AGA SURVEY, *supra* note 16, at 33 (answering the question “Casino Customers, Who are They?” and showing that U.S. casino players earn approximately sixteen percent more than the average American and that the typical casino customer is more likely to have attended college than the average American).

distinction can be drawn when comparing the tobacco industry to the gaming industry. Certainly opponents of both gaming and tobacco often base their attacks on the threat of addiction surrounding these two enterprises. Indeed, the tobacco industry continues to face troubles from federal courtrooms to neighborhood taverns.¹²⁹ The tobacco industry is facing the dilemma that Americans now seem to comprehend the dangers of smoking. Compare, however, the current state of affairs for casino operators. Not only do Americans continue to flock to gaming destinations, but casino operators have hedged their bets against those who oppose gaming by providing an abundance of entertainment options for those who do not wish to risk their dollar on a literal roll of the dice.¹³⁰

Moreover, one gets the impression that gambling opponents choose to ignore the existing legislation and rules aimed at reducing gambling addiction and limiting the negative externalities of gaming.¹³¹ In Illinois, the Alcoholism and Other Drug Abuse and Dependency Act provides public education and awareness of compulsive gambling problems as well as the continuation of a state-funded program to help those who abuse gambling.¹³²

3. *Moral and Religious Opposition: The Demon Rum*¹³³

There remains one oft-cited argument against bringing a casino to Chicago. This argument, while less concrete than a study of financial figures and research reports, plays an underlying role in all arguments against authorized gaming. Those opposed to gambling argue simply that gambling is wrong.

The forces against legalization and expansion of gambling have their underpinnings in moral arguments of nineteenth century reformers. The predominate position of such reformers is advocacy of the Puritan work ethic.¹³⁴ Complementing the Puritan

129. See *Judge Allows U.S. to Seek \$280 Billion in Tobacco Suit*, CHI. TRIB., May 25, 2004, Business, at 1 (discussing the monumental suit facing tobacco companies alleging their deception of the public about the dangers and addictive threat of nicotine); see also Steve Patterson, *Cook County Bans Smoking, Starting Next Year: Few Vocal Critics of Measure that Takes Effect Next March*, CHI. SUN-TIMES, Mar. 16, 2006, at 8 (explaining the smoking ban going to effect in Cook County, Illinois, in March 2007).

130. See Spain, *supra* note 100.

131. See Aronovitz, *supra* note 34, at 200 (citing the Illinois Riverboat Gambling Act as an effort to curtail gambling addiction).

132. Alcoholism and Other Drug Abuse and Dependency Act, 20 ILL. COMP. STAT. ANN. 301/5-20 (West 2002).

133. See Christiansen, *supra* note 93 (discussing the temperance reform views on gambling as an evil corrupting American society).

134. Reformers considered gambling an immoral activity, which was an attempt to get something for nothing, flying in the face of the Puritan work ethic. Hurt, *supra* note 17, at 396. The Puritan work ethic has been described

views against gambling as a form of leisure and entertainment, are religious groups who vehemently oppose legalized gaming.¹³⁵

Las Vegas' nickname of "Sin-City"¹³⁶ may be viewed as more than an affectionate moniker, and in the eyes of the religious groups who oppose legalized gaming, is certainly not a misnomer. When gaming is at issue in individual states, there is no shortage of opposition from religious groups in our nation's capital.¹³⁷

With all due deference to the ideals of hard work and the value of religious guidance, today's American society generally has simply not taken issue with legalized gambling on moral and religious grounds.¹³⁸ While gambling opponents from America's religious groups certainly do not hesitate to raise their voices in the face of any expansive casino legislation, a closer look reveals a

as a view against spending money on leisure activities. Christiansen, *supra* note 93. Under this view, money and wealth should be obtained through work, not through games of chance, and once achieved through work, should not be played with. *Id.*; see also Yoav Hammer, *Expressions Which Preclude Rational Processing: The Case for Regulating Non-Informational Advertising*, 27 WHITTIER L. REV. 435 438-39 (noting that Puritan needs are minimal and are generally limited to food, sex, and the psychological need for company).

135. See Press Release, Congressman Frank R. Wolf, Effort to Stop Spread of Gambling Unites Religious Leaders (May 14, 2002) (on file with author), <http://www.wolf.house.gov> (follow "Additional Press Releases" hyperlink; then search by year and month) (describing the religious community's opposition to and view of gambling as a "a moral and cultural cancer").

136. See Benjamin Spillman, *Google, Las Vegas Top Brands in '06 and '07, Survey Finds*, LAS VEGAS REVIEW-JOURNAL, Jan. 11, 2007, at 1A (discussing the marketing success of Las Vegas, known as "Sin City").

137. See Jeff Mapes, *Pollser Says Portland Casino Plan Looks Like a Long Shot*, OREGONIAN, Jan. 18, 2005, Local Stories, at A1 (quoting the head of the National Coalition Against Legalized Gambling referring to the significant religious opposition in Washington, D.C. to the proposed gambling changes in Portland, Oregon).

138. See AGA SURVEY, *supra* note 16, at 34 (finding that eighty-three percent of those questioned in a Luntz, Maslansky Strategic Research survey agreed with the statement, "[g]ambling is a question of personal choice. The government should not be telling American adults what they should or should not be doing with their own time and money"). The same survey also revealed that from 2001 to 2006, at least half of those surveyed each year believed that gambling was acceptable for anyone and at least twenty-seven percent believed that gambling was acceptable for others but not themselves. *Id.* Compare Hurt, *supra* note 17, at 396 (stating the Puritan objections to gambling), with Christiansen, *supra* note 93 (explaining that consumers want to have fun and view entertainment as a new entitlement and showing that one out of every ten consumer dollars spent on leisure is spent on commercial gambling). Prior to the recent Illinois elections, half of voters said they would support challenger Judy Baar Topinka's plan to fund education via a land-based casino in Chicago, while only one-third said they would not. Scott Fornek, *Poll: Gov Poised for Easy Victory*, CHI. SUN-TIMES, Sept. 18, 2006, at 20.

“gray area”¹³⁹ surrounding the views of religion on gambling in America.

Examining this gray area shows that just as American culture has become more accepting of legalized gambling, so too have religious groups slowly receded from a position of full-fledged opposition to gaming.¹⁴⁰ Still, when they do speak up, religious groups have a pretty well-defined argument against gaming: “Gambling is a menace to society and contrary to good government and good economics. It preys upon the nation’s poorest, turns people out onto the streets and rips families apart.”¹⁴¹ Religious opposition certainly has a tendency to pull at one’s heart strings, but it seems that it does not have such an impact on the rational minds of most American citizens.¹⁴²

Religious hostility to gambling overlooks the numerous benefits from gambling taxes, which result in many positive effects for the very families and children that these groups seek to protect by opposing gambling. In Chicago, where the classic economic arguments against casino gaming are forcefully rebutted, any group opposing a casino in the city will have the unattainable task of proving that the costs of the casino will outweigh the benefits.

IV. PROPOSAL

Sociologist James Frey stated, “Risk is a very significant part of our lives People don’t want to admit it, but a great part of gambling is consistent with the American way.”¹⁴³ The above analysis focused primarily on the fiscal and societal impact of commercial gaming through the application of economic principles and the observance of studies and statistics.¹⁴⁴ The analysis showed that gambling legislation, like any other proposed state action, does come with some inherent drawbacks. It also revealed, however, that as a home for a land-based casino, Chicago is a distinctive city that will stand to reap the many benefits of casino gaming with a nominal impact from some of the usually cited shortcomings of the gaming industry.

139. Emily Dagostino, *Religious Opposition to Gambling is Waning*, MEDILL NEWS SERVICE, http://www.medillnewsdc.com/gambling/gambling_religion.shtml (last visited Sept. 9, 2007).

140. See *id.* (stating that Islam is the only American religion which prohibits gambling outright and referring to the differing treatment gambling seems to receive based on the amount spent and the kind of gaming in which one engages).

141. *Id.*

142. *Id.*

143. RICHARD O. DAVIES & RICHARD G. ABRAM, *BETTING THE LINE*, 146 (2001), cited to by Hurt, *supra* note 17, at 372, in support of the proposition that “Risk-taking is a distinctively American value.”

144. AGA SURVEY, *supra* note 16; MASON & NELSON, *supra* note 18; Aronovitz, *supra* note 34, at 182; ERA REPORT, *supra* note 118.

There is a significant peculiarity surrounding efforts to implement casino gambling. It may take only one negative issue promulgated by the media or gambling opponents to destroy a campaign for the legalization of casino operations that is otherwise supported by substantial evidence in favor of implementation.¹⁴⁵ Chicago's long-term viability as a potential home for a casino overcomes arguments in opposition thereof. However, in order to prevail, the City and the State must face head-on certain critical aspects of this enterprise.

A. Chicago Casino Legislation

To bring a land-based casino to Chicago, the Illinois Senate and House of Representatives must pass the proposed legislation supporting this venture.¹⁴⁶ While convincing a cash-strapped legislature¹⁴⁷ to endorse this plan is possible and even likely, recently-reelected¹⁴⁸ Governor Rod Blagojevich's opposition to casino gaming in Chicago is well-known.¹⁴⁹ Governor Blagojevich should recant his position of opposition and instead authorize this legislation to help students, parents, and hard-working Illinois citizens.

The two bills in the House and Senate represent a comprehensive effort to provide the citizens of Illinois with gaming law that will meet the necessary criteria for authoritative gambling regulation.¹⁵⁰ Passing Senate Bill 0019¹⁵¹ creates the

145. See Stephanie Martz, Note, *Legalized Gambling and Public Corruption: Removing the Incentive to Act Corruptly, or, Teaching and Old Dog New Tricks*, 13 J.L. & POL. 453, 461 (1997) (discussing the "veto model" of politics surrounding casino gambling and perceived corruption).

146. H.B. 4939, 94th Gen. Assemb., Reg. Sess. (Ill. 2006); S.B. 0019, 94th Gen. Assemb., Reg. Sess. (Ill. 2005). Senate Bill 0019 creates the Chicago Casino Development Authority whose duties, generally, are to ensure the development and operation of a high quality casino in the City of Chicago. S.B. 0019.

147. See Illinois State Senate Republicans, Record Spending, Record Debt Characterizes Budget, http://www.senategop.state.il.us/index.php?option=com_content&task=view&id=170&Itemid=122 (last visited Sept. 9, 2007) (discussing the unfettered state spending without compensatory revenue sources and comparing the debt resulting thereby to a state government MasterCard).

148. Sun-Times News Group Election Results 2006, http://www.suntimes.com/election_results/ (last visited July 18, 2007). Incumbent candidate Governor Rod Blagojevich defeated challenger Judy Baar Topinka by winning 49.9% of the vote compared to Topinka's 39.7%. *Id.* Independent candidate Rich Whitney received 10.4% of the votes. *Id.* Whitney opposed building a casino in Chicago. *Rich Whitney's Health Care Questionnaire*, CHI. TRIB., Oct. 2, 2006, available at <http://www.chicagotribune.com/news/politics/chi-061002whitney-healthcare-story,1,7770451.story?coll=chi-politics-utilto>.

149. *Guv Says No to Casino*, *supra* note 10.

150. See Aronovitz, *supra* note 34, at 189 (laying out the three-step process for creating gaming law: (1) determining public policy; (2) defining goals; and

Chicago Casino Development Authority.¹⁵² This legislation meets the standards for successful gaming law by providing for the organization and general powers of the Authority, the bidding process for Chicago casino contracts, as well as budgeting and reporting requirements for casino regulation and operation.¹⁵³ Further, Senate Bill 0019¹⁵⁴ augments the currently in-place Illinois Riverboat Gambling Act. Illinois should continue to utilize the Illinois Riverboat Gambling Act with the changes found in the Senate Bill.

B. Distribution of Funds

The “quintessential purpose”¹⁵⁵ of bringing a casino to Chicago is the unprecedented revenue stream¹⁵⁶ that will flow into the City, surrounding municipalities, counties, and the State. This revenue will be substantial and reliable.¹⁵⁷ Thus, it is absolutely imperative that there are policies in place for distribution of this new-found public wealth. While the increase in tourism dollars and cash flow to non-gaming sectors of the Chicago economy promise to be enormous, the distribution arrangement of dollars gained directly from gambling taxes, fees, and licensing must be efficient and in the best long-term interests of the State. State policymakers should legislate for specific appropriation of gambling revenues and limit the pouring of such revenues into the General Revenue Fund so that citizens can see the immediate benefit from casino dollars.

Maintaining a quality education system is one of the most basic necessities of an advanced and innovative society.¹⁵⁸ While Illinois is home to the nation’s third largest city,¹⁵⁹ its education system has drifted into a budgetary abyss.¹⁶⁰ Rising costs¹⁶¹

(3) implementing legislation). Moreover, key provisions in gaming law include: licensing; operational controls; enforcement; tax; and accounting and audit. *Id.*

151. S.B. 0019, *supra* note 11.

152. *Id.*

153. *Id.*

154. Aronovitz, *supra* note 34.

155. See Thompson & Stream, *supra* note 111 (referring to revenue production as the “quintessential purpose” of casino taxation).

156. ERA REPORT, *supra* note 118.

157. *Id.*

158. See United Nations Educational, Scientific and Cultural Organization, Why is Education Important?, http://portal.unesco.org/education/en/ev.php-URL_ID=28703&URL_DO=DO_TOPIC&URL_SECTION=201.html (last visited Sept. 9, 2007) (discussing the extensive economic, political and quality of life benefits created and enhanced by education).

159. Infoplease, Top 50 Cities in the U.S. by Population and Rank, <http://www.infoplease.com/ipa/A0763098.html> (last visited Sept. 9, 2007).

160. See Diane Rado & Lisa Black, *For Many Districts, It's a Sad Night*, CHI. TRIB., Nov. 8, 2006, Metro, at 1 (discussing school districts seeking district tax

coupled with the realistic necessity for higher education have left Illinois scholars strapped for cash.¹⁶²

As part of the legislation to bring a casino to Chicago, the Illinois Riverboat Gambling Act should be amended to provide additional funds for Chicago Public Schools as well as schools in Illinois' most impoverished communities. In addition to the education allotment currently in place in the Act, the proposed legislation should not only increase the allocation of funds to education, but specifically delineate for what academic purposes such funds should be directed.

While the Illinois Riverboat Gambling Act does have an indirect provision for direction of funds to higher education, there is no specific order targeting funds toward reducing tuitions and providing financial aid.¹⁶³ Although the amendments to the Illinois gaming law under House Bill 4939 specifically call for distribution of funds to the Higher Education Teachers Retirement Fund as well as pension funds for state employees,¹⁶⁴ the students incurring thousands of dollars of debt each year¹⁶⁵ are left to the uncertainty

increases and finding that some districts have made significant staff cuts and that most districts in Illinois are operating at a deficit). School districts facing increasing enrollment and rising costs are in a tough position as voters traditionally cast their ballots against tax increases. *Id.*

161. See William Trombley, *The Rising Price of Higher Education*, NAT'L CENTER FOR PUB. POL'Y & HIGHER EDUC., 2003, available at http://www.highereducation.org/reports/affordability_supplement/affordability_1.shtml (stating the problematic trend of increasing intuition for America's higher education institutions and the overall drop in state spending). Illinois' public four-year colleges increased tuition and fees six to ten percent from the 2001-2002 to the 2002-2003 school years. *Id.*

162. See Press Release, Illinois Government News Network, Lt. Gov. Quinn Unveils His "College Textbook Initiative 2005" (Aug. 24, 2005) (on file with author), <http://www.illinois.gov/PressReleases/ShowPressRelease.cfm?SubjectID=25&RecNum=4226> (introducing an initiative to reduce the "sticker shock" students feel when they see textbook price tags); see also Ron Neroda, *Students Struggle to Avoid Debt*, IND. DAILY STUDENT, Jan. 21, 2005, <http://www.idsnews.com/news/story.aspx?id=27184> (discussing the hefty cost of college and the danger students face in piling up large amounts of debt).

163. See Illinois Riverboat Gambling Act, 230 ILL. COMP. STAT. ANN. 10/13(c-10)(c-20)(d) (West 2002) (providing the distribution of funds from gambling operations to the Illinois Education Assistance Fund); Illinois State Comptroller's Office, Revenue Sources Dedicated for Education, <http://www.ioc.state.il.us/FiscalFocus/article.cfm?ID=201> (last visited Sept. 9, 2007) (explaining that the Education Assistance Fund supports higher education).

164. See H.B. 4939, 94th Gen. Assemb., Reg. Sess. (Ill. 2006) (adding section 230 ILCS 10/13.2 Distribution of proceeds from Chicago casino, to the Illinois Riverboat Gambling Act).

165. See United States Senator Dick Durbin, Durbin Says Congress Must "Ease the College Debt Squeeze," June 28, 2006, <http://durbin.senate.gov/record.cfm?id=257960> (last visited Nov. 12, 2007) (calling on Congress to ease the strain millions of students feel from mounting debt from college tuition payments).

Republicans cut \$12 billion from student aid – the largest single cut in

of legislative appropriation. In order to attract the brightest young minds to the State and encourage capable students to pursue higher education, Illinois legislators must declare money derived from gambling revenues for the benefit of Illinois colleges, law schools, graduate programs, and other in-state schools of higher education. Contrary to opposing viewpoints, a Chicago casino will create predominately positive results, not the least important of which is a better-educated citizenry.

C. Maintain Firm Regulation

Any comprehensive legislative effort and planning for a Chicago casino is done in vain if state and city regulators allow for a dilution of the necessarily strict regulation of gaming in Chicago. This Comment endorses expansion of Illinois gaming to the extent resulting from placement of a land-based casino in Chicago. Again, such endorsement is qualified, based on certain conditions. Namely, it is necessary that the policies recommended by this Comment and found in the proposed legislation stay intact once signed into law and remain strictly enforced. Chicago should reap the benefits of the growing popularity of gambling in America, but its citizens should not suffer the consequences of allowing such popularity to lead to a situation of diluted gaming law.¹⁶⁶

D. No Corruption

Should a land-based casino come to Chicago, there are two reasons for supporting a system of disclosure and fair dealing. First, gambling at times carries the taint of being, if not criminal, an enterprise with criminal-ties. Second, the functioning of any good government depends on voter faith in their system of government. The State and City should be sure to avoid any trickle-down effect on public perceptions that could occur if signs of corruption surrounding a Chicago casino abound. If the public believes Chicago casino operations are shrouded in secrecy, it will taint the overall perception of casino gambling and may very well

financial aid programs in history to pay for tax cuts for the wealthiest Americans. The leadership cannot continue to place the burden of paying for tax cuts for the richest Americans on the backs of students from middle class families. Higher interest rates shortchange our children's future and threaten our country's ability to remain competitive in the global marketplace.

Id.

166. See Christopher T. O'Connor, Comment, *A Return to the Wild West: The Rapid Deregulation of the Riverboat Casino Gambling Industry in Missouri*, 19 ST. LOUIS U. PUB. L. REV. 155, 157 (2006) (discussing the alarming rate at which gambling's popularity has resulted in the successful lobbying efforts of casino businesses to remove many of the state regulations, which Missouri had in place when it legalized gambling in 1992).

arouse unwarranted concern for putative “costs” of bringing a casino to Chicago.¹⁶⁷

Those involved with gambling, or in any industry for that matter, will conceivably engage in questionable practices “unless the probability and consequences of sanctions are high enough to deter them.”¹⁶⁸ Although Chicagoans may have reason to believe that even harsh consequences will not quell corruption, the State and City must take preventative measures to avoid any wrongdoing related to the placement of a Chicago casino. Illinois, especially, must face the threat of corruption prophylactically. It would be bad policy for the State to preach eliminating corruption¹⁶⁹ while at the same time expanding an industry where such misconduct is often considered a very real threat.

V. CONCLUSION

This Comment aims to show the complexities facing a state when attempting to legislate something under the deceptively simple title of “entertainment.” The debate over bringing a land-based casino to Chicago has busied the city and state governments for nearly two decades. In this time of deficient state revenue and rising costs of education and other state obligations, the debate should come to a close. It is in the best short and long-term interests of Mayor Daley’s City and Governor Blagojevich’s State to bring a land-based casino to Chicago.

167. See Hinz, *supra* note 123 (stating Illinois Attorney General Lisa Madigan’s position that, “gambling will fail in Illinois unless the public has absolute confidence that those involved are being held to the highest ethical standards.”).

168. Martz, *supra* note 145, at 466.

169. See Rick Pearson, *You Ain’t Seen Nothin Yet*, CHI. TRIB., Nov. 7, 2006, available at <http://www.chicagotribune.com/news/politics/chi-061107gov,1,7238746.story?page=2&coll=chi-news-hed> (reciting Governor Rod Blagojevich’s plan to eliminate corruption during his first run for governor in 2002).

