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OP ED: LAS VEGAS NIGHTS
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Repealing our Las Vegas Nights law is an act of sovereign states' rights -- Connecticut's right to protect its citizens from the unintended harmful consequences of an earlier legislature's actions. The prospect of additional casinos is no longer a distant threat. At least nine groups are at various stages -- three most advanced -- of applying for federal recognition before the Bureau of Indian Affairs (BIA).

Connecticut's Las Vegas Nights statute is the legal bridge that enables tribal groups to cross from federal recognition to casino development. Repeal removes the bridge.

The Las Vegas Nights statute was enacted in 1972 as a very limited measure to benefit churches and non-profits. Our General Assembly could not have known or contemplated that sixteen years later the U.S. Congress would adopt the Indian Gaming Regulatory Act. This 1988 federal law made Las Vegas Nights the legal linchpin -- an automatic ticket -- for federally recognized tribes in Connecticut to operate billion-dollar casinos. Now, our legislature has an opportunity -- which it should seize -- to regain control over its citizens' economic destiny and quality of life.

Repeal would support recent legislative restriction on new forms of gaming but would still allow charitable organizations to conduct bingo and raffles as fundraisers. Indeed, Las Vegas Nights constitutes less than one percent -- a mere \$200,000 out of \$17 million in 2002-- of the funds raised through charitable gaming.

It would have no effect whatsoever on the existing casinos, Foxwoods and Mohegan Sun. Repeal is not retroactive, it only applies to future casinos.

The recognition system is broken, and needs to be fixed -- fundamentally reformed as soon as possible to insulate such decisions from the pervasive influences of money and politics, and to assure that the BIA follows the law.

Whether Congress will act to reform the system remains to be seen, but in the meantime our own state legislature can and should act to protect the public interest.

No doubt, repealing Las Vegas Nights will be challenged by petitioning tribal groups, whose financial backers have invested so heavily already and regard the stakes as so high.

One of their claims will be that these petitioning groups already have a right to a casino under federal law, which cannot be abridged by a change in state law.

This argument is flawed. No federal law creates a legal right for a federally recognized tribe to conduct casino gambling. Rather, the federal Indian Gaming Regulation Act relies first and foremost on state law regarding the specific gaming that each state “permits” and mandates only that tribes be permitted the same type of gaming that any other person or entity is allowed to conduct.

Federal law does not prohibit -- indeed it respects -- a state decision to change its policy and law concerning gambling. In fact, the courts upheld the State of Idaho in similarly banning Las Vegas Night-type charitable casino gambling to prevent casino-type gaming on Indian tribal land.

The second potential objection against the repeal -- really a claim that equal protection of the laws has been denied -- is that two federally recognized tribes already have such casinos, and a third should be accorded equal rights.

But the courts have never established a constitutional equal protection right to operate gambling facilities. Gambling is not a right, let alone a fundamental tenet of our state or federal constitutions. Nor does repeal involve discrimination based on some suspect classification.

The test is whether the state has a legitimate purpose and public interest served by the change in statute -- a rational basis to say that two casinos are enough, and more would be harmful. Repealing Las Vegas Nights clearly passes this test.

Nor can the State of Connecticut be deemed to permit gambling simply because the two tribally owned and operated casinos already exist. The casinos are here without our permission. They were imposed on Connecticut, over the state’s strenuous objection, by the federal courts.

Indeed, the state denied and fought the Mashantucket Pequot Tribe’s claim in the late 1980s, until the federal Second Circuit Court of Appeals ordered Connecticut to negotiate a compact.

Nor does the state’s agreement with the Mashantucket Pequot and Mohegan Tribes to conduct slot machine gaming provide a legal basis for tribal casinos or other slot machines. Under Connecticut law, slot machines are expressly prohibited.

Time is not on our side. Administrative review of one of the tribal recognition decisions may soon be concluded. Federal recognition is not final until the appeals process, initiated by the Attorney General, is completed.

But the State of Connecticut should act now in special session -- the sooner the better to strengthen our position in court -- in protecting the public interest and our citizens from the unintended consequences of Las Vegas Nights and the unlimited proliferation of gambling casinos. To delay is simply to gamble with Connecticut's future.

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