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H.R. 556—THE UNLAWFUL INTERNET GAMBLING FUNDING PROHIBITION ACT AND OTHER INTERNET GAMBLING PROPOSALS

HEARING

BEFORE THE

SUBCOMMITTEE ON
FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

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CONTENTS

	Page
Hearing held on:	
July 24, 2001	1
Appendix:	
July 24, 2001	39

WITNESSES

TUESDAY, JULY 24, 2001

Goodlatte, Hon. Bob, a Member of Congress from the State of Virginia	7
Kyl, Hon. Jon, a U.S. Senator from the State of Arizona	3
Leach, Hon. James A., a Member of Congress from the State of Iowa	5
Farmer, Michael L., Senior Vice President, Risk Management Operations, Wachovia Bank Card Services	25
Frederick, Dr. Bob, Chair, NCAA Committee on Sportsmanship and Ethical Conduct	26
Kelly, Timothy A., Ph.D., Executive Director, National Gambling Impact Study Commission	32
McGuinn, Edwin J., CEO, eLOT, Inc., Norwalk, CT	30
VanNorman, Mark, Executive Director, National Indian Gaming Association	28

APPENDIX

Prepared statements:	
Bachus, Hon. Spencer	40
Oxley, Hon. Michael G.	46
Carson, Hon. Julia	49
Goodlatte, Hon. Bob	51
Leach, Hon. James A.	53
Farmer, Michael L.	57
Frederick, Dr. Bob	59
Kelly, Timothy A.	78
McGuinn, Edwin J.	69
Stevens, Ernest Jr.	62

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Bachus, Hon. Spencer:	
2000 Nellie Mae Credit Card Study	42
Kelly, Timothy A.:	
"Gambling Backlash: Time for a Moratorium on Casino and Lottery Expansion"	86
Written response to a question from Hon. Julia Carson	85
Department of Justice, prepared statement	96
Department of the Treasury, prepared statement	101

H.R. 556—THE UNLAWFUL INTERNET GAMBLING FUNDING PROHIBITION ACT AND OTHER INTERNET GAMBLING PROPOSALS

TUESDAY, JULY 24, 2001

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC.

The subcommittee met, pursuant to call, at 10:05 a.m., in room 2128, Rayburn House Office Building, Hon. Spencer Bachus, [chairman of the subcommittee], presiding.

Present: Chairman Bachus; Representatives Kelly, Ryun, Manzullo, Biggert, Grucci, Capito, Rogers, Tiberi, Waters, C. Maloney of New York, Sherman, Moore, Hooley, Hinojosa, Ken Lucas, Shows, Oxley, LaFalce and Goodlatte.

Chairman BACHUS. The Subcommittee on Financial Institutions and Consumer Credit will come to order. Without objection, all Members' opening statements will be made a part of the record. In order to permit us to hear from our witnesses and engage in a meaningful question-and-answer session, I'm encouraging all Members to submit their statements for the record. And in that regard, since we have three Members of Congress, I'm going to submit my statement for the record, which will save additional time.

I think it is our custom to allow Members of the Senate to go first. Senator Kyl was a distinguished Member of this body. I'll recognize Mr. LaFalce for an opening statement. I'm sorry. Mr. LaFalce, why don't you go ahead?

Mr. LAFALCE. Thank you very much, Mr. Chairman. I've been interested in this issue for a long time. As some of you might recall when I was Chairman of the Small Business Committee, I conducted a number of hearings on the impact of gambling on the small business communities, and I introduced the first bill in 1994 to create a national commission to study the impact of gambling. My chief co-sponsor was Congressman Frank Wolf.

In the next Congress, when the Republicans took a Majority in 1995, Congressman Wolf took that bill and introduced it and I was the chief co-sponsor. And with the help of a good many groups such as the Christian Coalition, we got that enacted into law.

They rendered a report in 1999. That report called for a number of things. I have introduced two bills dealing with two of the recommendations of that commission report, both of which have exclusive jurisdiction within our Financial Services Committee, Mr.

Chairman. One deals with the issue of credit cards, ATMs, debit cards, and the proximity of those machines to the gambling table itself. The commission says there should be a separation to mitigate the problems of compulsive gambling with the location of those electronic funds transfer machines from the gambling tables themselves. That's not to say they couldn't be other places within the casino, but not at the tables themselves.

The second issue deals with internet gambling. I am not aware of any study which shows any socially redeeming value to internet gambling. You can argue there's some value to casino gambling. It's tough to say that there is much value other than to the person who is making the money off of internet gambling.

And there's been an explosion of internet gambling sites in recent years. This has made opportunities for high-stakes betting more widely available than ever before. As a result, more people are falling into serious debt because of gambling, and larger numbers of people facing the risk of gambling addiction. And young people are particularly vulnerable to its pitfalls. Because young people are experienced with—they're comfortable with the internet. And young people today have a plethora of credit cards: their own, their parents, and so forth. And they are increasingly lured to internet gambling. And they do this wherever they are. They do it in their dormitory room. And so the dormitory room becomes a virtual casino.

But they also have Palm Pilots. They have wireless internets. And so they don't have to be wired now. They can go virtually anyplace in the world, on a beach, and that becomes a virtual casino.

It is a huge problem, and Congress must address both those issues, not just the internet gambling, but the use of electronic funds transfer machines at the tables themselves. How do we deal with it? To me, and I think to a number of others, the answer is relatively simple: We cut off internet gambling at its source by prohibiting the primary payment vehicles that make online betting possible.

Now Mr. Leach and I introduced a bill last year. Mr. Goodlatte introduced a bill. There was an amendment during a markup that was accepted when I was not present, when I was on the floor voting, and then the bill was reported out. As the amendment passed and the bill was reported out before I got back from the vote, that, in my opinion, may well have undercut and reversed the effect of the bill.

And so we have to be very careful of the law of unintended consequences here. We ought not to pass a bill that proposes to prohibit payments only to unlawful internet gambling operations, because I'm very fearful that if one State makes it lawful, or one foreign jurisdiction makes it lawful, then you could have internet gambling worldwide on the basis of that site, and this proposed legislation would have virtually no effect. It would have the opposite effect. It would legally sanction it.

And so I think we need legislation dealing with this issue as the commission recommended, but I think it's legislation that we have to draft rather than the proponents of internet gambling. I thank the Chair.

Chairman BACHUS. I thank Mr. LaFalce. What we're attempting to do is go ahead and let the three Members here give their testimony.

Mr. SHERMAN. If I could just have 20 seconds, Mr. Chairman, I would just say——

Chairman BACHUS. Let me go ahead and make a brief opening statement, then I'll yield to him, and then, I want to commend Mr. LaFalce. I also want to commend Senator Kyl, who introduced a bill that passed unanimously in the Senate. I guess that was last year, is that right? Mr. Leach and Mr. Goodlatte. They've all worked to tackle a very complex problem. And hopefully we can build some consensus working with the Judiciary Committee on how to address the situation.

I'll yield to the gentleman.

[The prepared statement of Hon. Spencer Bachus can be found on page 40 in the appendix.]

Mr. SHERMAN. Mr. Chairman, I commend you for holding these hearings. I commend the panelists for being before us. I associate myself with the Ranking Member's statements and simply say that we've had a tradition in this country that if you want to lose your house, you at least have to leave your house. And we ought to continue that tradition by making it impossible to gamble from your living room with the same ease that you turn on your television. Thank you.

Chairman BACHUS. Thank you.

At this time we're going to hear from our first panel. We have a panel of private experts who will be on our second panel. At this time we will start with Senator Kyl, and then if it's all right, we'll go to Mr. Leach and Mr. Goodlatte.

STATEMENT OF HON. JON KYL, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator KYL. Thank you. Mr. Chairman, thank you very much, and thanks to Chairman Oxley. I commend my colleagues, Representative Leach and Goodlatte, for their efforts in this matter as well. I feel like just saying amen to what's been said already, because the two critical points have been made.

There is a huge need here that is growing in proportion every year. And second, because of the amount of money involved, all of the various gambling interests—and I have a rather broad blanket to describe those interests—are very clever about the way that they can insert in the language of the bill little exceptions or definitions that have the effect of precluding what we're trying to do here, and that's what we need to be careful of.

Just a little bit of flesh on the bones here. The growth in the number of sites. In December 1995 when I first introduced the bill to ban internet gambling, we had a problem, because there were about two dozen internet gambling websites already operating. Now there are more than 1,200 such sites according to Bear Stearns. The cost of wagering has increased significantly. It is estimated to total $1.5 billion last year and to go to a total of about $5 billion in just a couple of years, again according to Bear Stearns.

With regard to the addiction problem that was mentioned by Representative LaFalce, Dr. Howard Schaffer of the Harvard Med-

ical School's Division of Addictive Studies likened the internet to, and I'm quoting here: "new delivery forms for addictive narcotics." He said: "As smoking crack cocaine changed the cocaine experience, I think electronics is going to change the way gambling is experienced." And that is especially true, Mr. Chairman, Members of the subcommittee, with regard to youth, who are particularly at risk.

We have quite a bit of testimony and evidence to that effect, especially college students, who have literally lost thousands of dollars gambling on the internet. The payouts are significantly unfair. We know that this kind of activity leads to further crime. In fact, up to 90 percent of pathological gamblers commit crimes to pay off their wagering debts according to testimony that we had before my subcommittee. And the FBI has noted that organized crime groups are heavily involved in internet gambling.

Let me repeat that: Organized crime groups are heavily involved in internet gambling according to the Racketeering Records Analysis Unit of the FBI.

Moreover, internet gambling is used to facilitate money laundering. Again, testimony that we have received. These are some of the reasons why the National Gambling Impact Commission recommended that we enact legislation to prohibit internet gambling. It's both a national and a Federal problem. Not all national problems are Federal. But in this case, the attorneys general national organization, State attorneys general, came to our subcommittee in the Senate and said we cannot protect our citizens from internet gambling notwithstanding the fact that we have State laws to do it.

And therefore, the entire organization headed by Jim Doyle, the Democratic attorney general from Wisconsin, who has testified before our subcommittee at least twice I know, testified that the National Association of Attorneys General, he says, "took a step many of us never imagined." I'm quoting him now: "The organization recommended an expansion of the Federal Government's traditional law enforcement role. Specifically, we urged the Federal Government to enact legislation to prohibit gambling on the internet." End of quotation.

Now, for the State attorneys general to come to Washington to say we need your help, because the internet knows no State boundaries—it can go anywhere—I think is a huge step and should tell us what we need to do to help our States out.

I am very supportive of the efforts of both Representative Leach and Goodlatte. They come at the problem in two somewhat different ways. But I think that by the end of the effort, we're going to find out which one of the enforcement mechanisms is going to work the best or perhaps whether they can even be combined in some way to ensure that there is an ability to enforce the prohibition against internet gambling.

In conclusion, I would urge those who think that they are going to be able to get away with internet gambling because the legislation was defeated last year to be very careful in their thinking here. And I hope we drive down the value of the stocks that support this kind of activity with what I'm going to say here.

First of all, remember, the Federal Wire Act remains in force. It is still illegal to engage in sports gambling by telephone or wire, and that's going to catch a very broad group of activity.

Second, the State laws still remain in force even though they are difficult to enforce.

And third, we're going to pass legislation in this Congress that's going to broaden the blanket of coverage here and make internet gambling illegal. I am convinced of that. Our bill passed, Mr. Chairman, unanimously, right at the end of 1999. It was in the last session of the Congress. And I think we can do it again in the Senate, but I think it's a good idea to have our House colleagues go first to see what will work here in the House of Representatives so that we can then take it over to the Senate. That's kind of the strategy that I am pursuing with my colleagues here. And with your support, I think we can accomplish that goal.

I thank you very much for holding this hearing. I hope that this will help to generate the momentum for legislation to be adopted this year.

Chairman BACHUS. I appreciate that.

Mr. Leach, who was formerly Chairman of the full Banking Committee, we welcome you back and look forward to hearing your testimony.

STATEMENT OF HON. JAMES A. LEACH, A MEMBER OF CONGRESS FROM THE STATE OF IOWA

Mr. LEACH. Thank you, Mr. Chairman. Your holding of this hearing is very appreciated, and your leadership on all issues is much in my admiration.

I'm pleased to join you and Representative LaFalce, and obviously Bob Goodlatte and Senator Kyl, who have led these efforts in the House and the Senate.

Mr. LAFALCE. Jim, I'm having a lot of difficulty hearing you. Could you please speak up a bit more?

Mr. LEACH. It's my mother's fault, John.

[Laughter.]

Mr. LEACH. In any regard, there are a number of approaches to this issue, and one that John LaFalce and I worked on last year relates to an enforcement mechanism. Senator Kyl and Congressman Goodlatte have more comprehensive bills in general, and I am supportive of them, although I haven't seen Bob's bill this session. But I'm confident it will be a first class effort.

The approach that comes before the Banking Committee, however, relates to a technique of enforcement which is a preclusion of the use of bank instruments for settling debts that relate to internet gambling. In my view, it is the most effective enforcement mechanism that we can consider as an approach and is a very critical one. It becomes a better and stronger approach if combined with more comprehensive preclusions as are envisioned by Congressman Goodlatte and Senator Kyl. But as a stand-alone approach, it is also helpful, in fact, quite positive. And so the approach that Jon and I have crafted, to a similar, although slightly more comprehensive extent, that comes before the jurisdiction of this subcommittee, can work alone, and it would provide a new tool for law enforcement based on current law. It becomes even better

if it's tied to an approach of Mr. Goodlatte or Senator Kyl that becomes even more preclusive.

But I would simply stress that the enforcement mechanism approach that is under the jurisdiction of this subcommittee is, I think, the best approach at this time. I have frankly been a little disconcerted that there's been some indifference to date, and in fact, anxiety, within the financial industry and the credit card provider industry, about approaches of this nature, and surprising indifference among regulators to date.

But I believe the internet gambling problem is one of those mushrooming kinds of social and economic phenomenons that people avoid at real risk to the economy and at real risk to aspects of the financial community.

And so let me just conclude by saying that everyone has the statistics in mind of what's happening in growth. And, for example, it looks like over the next 3 years, internet gambling is likely to increase at least threefold, and some predictions are now more than that. It looks as if the social effects are rather astonishing that relate not only to bankruptcy—for example, a quarter of the people in my State of Iowa that are in gambling assistance programs have declared bankruptcy, where the effects on the family and the community are very large—and the social effects for those that don't participate can be very large as well, in terms of higher interest rates and defaults.

It isn't simply a gambler's concern, it's also a non-gambler's concern as well. And I would only conclude then by noting that there are many approaches to this issue. But enforcement is the key one. One can come up with all sorts of concerns about what is happening, but unless there is an enforcement mechanism, we cannot get at the issue. And it ends up that the financial community has the only enforcement tool I know of that's credible. It does involve a new burden on the industry, although I think it's a very slight burden relative to the protections that would be created in terms of protections against losses that would otherwise exist.

And so I would hope this would be one of these issues that the American public can come together on, and which the financial community can come to embrace, and which regulators can come to endorse. And if we don't move in the very near future, the handwringing and social cost in subsequent Congresses will be just sensational.

So this is the time to act, and I'm hopeful we will. We've passed this particular approach that applies to the Banking Committee in the last Congress. Unfortunately, it wasn't allowed to be voted on in the House floor. I would be hopeful it would be in this Congress. I thank you very much, sir.

[The prepared statement of Hon. James A. Leach can be found on page 53 in the appendix.]

Chairman BACHUS. Thank you.

Representative Goodlatte from Virginia. And we commend you on your work on this and many other issues.

STATEMENT OF HON. BOB GOODLATTE, A MEMBER OF CONGRESS FROM THE STATE OF VIRGINIA

Mr. GOODLATTE. Thank you, Mr. Chairman, and I very much appreciate the opportunity to testify today and thank you for your leadership on this issue and your subcommittee. I also want to thank Congresswoman Kelly for the excellent hearing that was held in her subcommittee just a couple of weeks ago, and Congressman LaFalce who has been a leader on this issue for some time.

It's my pleasure to be here today with Senator Kyl and Congressman Leach, both of whom have shown some tremendous initiative on this issue. Senator Kyl has passed this bill through the Senate unanimously twice in two Congresses. We've come close in the House. In the last Congress we got 61 percent under suspension of the rules, so I am confident that we will have the opportunity to bring up this legislation again this year and that we will pass it.

This year it's my hope that it will include the efforts of Congressman Leach, who I think has, along with Congressman LaFalce, come up with one of the most effective methods of enforcement.

I have a written statement for the record, but what I'd like to do is point out the nature of this problem. The Wire Act, which is our principal Federal law in this area, was written in 1961. Obviously, not in contemplation of a whole host of different telecommunications measures, but certainly not the internet. It was designed to address the problem of people placing bets, primarily sports bets, by telephone across State lines and has been an effective tool in enforcing the law in that area. But the Wire Act is out of date with the advent of the internet.

For one thing, there is a question about the application of that law to internet gambling. Does that law cover this form of technology? Does that law cover other forms of gambling that are not contemplated by it? For example, casino gambling. You couldn't effectively have casino gambling over the telephone in 1961, but you can very effectively have it today.

The law has worked in many jurisdictions. That's why the overwhelming majority of these sites are offshore in the Caribbean islands and in other parts of the world, and that's why we need to update the law to address it. That's why Congressman Leach's solution of imposing a ban on the use of various financial instruments in order to engage in illegal gambling is so vitally important to the solution to this problem. That, coupled with an updating of the law to make sure that modern forms of communications are covered, is the key to this.

Internet gambling is something that is sucking billions of dollars out of the country. It's unregulated, untaxed, illegal and offshore, and we need legislation to address that. The problem has been pretty effectively dealt with in this country, but we need to find ways to give law enforcement the tools to combat these offshore folks, and that's what the legislation that I will introduce shortly will address.

Internet gambling is a concern to everybody. I am strongly anti-gambling. I would ban forms of gambling that are legal in my State of Virginia, such as the State lottery. However, there are regulated by the States many forms of legal gambling in the United States, and virtually every one of those industries is also being affected by

this illegal, offshore, unregulated effort to promote gambling outside of the jurisdiction of American laws, so that the State lotteries are suffering a loss of revenue. Casinos in Atlantic City and Las Vegas and other communities around the country—they're also facing an untaxed, unregulated form of competition.

So if we focus our efforts here, I would love to focus them on addressing all forms of gambling. But if we focus our efforts on giving the States and the Federal Government the authority to challenge these illegal, untaxed, unregulated gambling sites, I think we have the prospect of having the kind of support in the House that we had in the Senate.

I note that obviously, the two Senators from Nevada were supportive of Senator Kyl's efforts. Again, I have concerns about gambling, but I think we need to focus on the immediate threat, which is this unbelievable growth in gambling on the internet and give law enforcement the tools that they need to combat that. We've been working with the Justice Department and with other law enforcement entities, the National Association of Attorneys General, to formulate this legislation, and I look forward to moving it with the help of this subcommittee.

[The prepared statement of Hon. Bob Goodlatte can be found on page 51 in the appendix.]

Chairman BACHUS. Thank you.

I appreciate your testimony. Mr. Goodlatte mentioned, and I think others have mentioned, that Mrs. Kelly held some extensive hearings on this earlier this month. If you read that testimony, I think, if for no other reason, you see the social and the financial hazards that young people have when they are exposed to internet gambling. They are computer-sophisticated. They normally have access to a credit card. They become addicted at a young age to this form of gambling. And if for no other reason, I think we need to address it. And it is a tremendously growing problem with our young people who become addicted to gambling at such an early age.

So I for one have no equivocation about whether we should pass legislation.

Mr. LEACH. Mr. Chairman, might I make just one final comment based upon what Representative Goodlatte said and what you just noted? It's hard for a child to become addicted to gambling at the horse tracks or at the casino. But as you point out, it's very easy, and as the experts say, it's easy to click the mouse and bet the house at home.

And that's one of the reasons why we distinguish between this form of gambling and those regulated types of gambling. I agree with Representative Goodlatte. If I could, I'd do away with all gambling. But that is not our effort here. And to clear up a misunderstanding, we were actually accused of trying to protect other forms of gambling because we drew the line at legal, regulated gambling and said we're not going to do anything about that. But this far, and no further. That was our bill. It didn't protect anybody. It didn't advance the interests of State lotteries or horse racing or anything else. But it was misrepresented as having done that.

So to be crystal clear, I think all of us here and many others have said we're not going to do anything about the existing gam-

bling. We're not going to cut it back. We're not going to allow it—at least we're not going to do anything to cause it to increase. But we're just going to draw a line and say with respect to internet gambling, it isn't going to be legal here in the United States of America.

So I hope that that's clear to everybody. Our bill doesn't have anything to do with any other form of gambling. And to the extent that there are definitions in the law that relate to them, it is simply to be clear that our bill isn't intending to either advance or subtract from what they already do. Thank you.

Chairman BACHUS. I appreciate that. The other thing which I think was hit on is that our teenagers love sports. They follow sports intently. They have a computer sophistication. And when they're offered the opportunity to bet on their favorite sport online, they're doing it in increasing numbers and at an increasingly early age. And it is a tremendous problem that faces this country.

I do want to ask one question. The Federal Wire Act, Mr. Goodlatte, you mentioned when it was passed, obviously it couldn't have anticipated the internet. There has been a decision down in Louisiana now that it may not apply to internet gambling. Does it apply? Should we also, as part of our efforts, should we amend the Federal Wire Act? Do you believe the current law prohibits internet gambling already?

Mr. GOODLATTE. I don't believe I would reach the same conclusion that the trial court judge did in Louisiana. I believe that the Wire Act can be read to cover more types of activity and can be read to cover internet-type activity.

However, because of that kind of uncertainty and because the Wire Act clearly did not contemplate changes in technology and any ambiguities need to be addressed, we need to have a new law that effectively updates and modernizes the Wire Act.

The problem from my perspective is that you can't have the incentive for law enforcement to take an aggressive stance about this if they don't know when they go into court whether the court is going to respond favorably or whether what they're trying to do is even covered by the law that they're operating under. So we definitely need a modern law that addresses changes in technology.

Chairman BACHUS. Yes. I think that Louisiana decision, we certainly hope it's not a precursor to some other decisions. And it ought to give us some more incentive to address this issue. I'm going to yield to Mr. LaFalce for questions and then to the Chairman of the full Committee, Mr. Oxley.

Mr. LAFALCE. Thank you very much, Mr. Chairman. And Mr. Chairman, let me tell you how pleased I am at the statements that you have made, because I know we have a similar heart and similar mind on this issue, and I know with your outstanding legal expertise, we will make sure that what we intend is what's enacted into law, not what others might intend.

Let me distinguish a number of things now. This is very important. There's Leach I. That was the bill that I co-sponsored in the last Congress. There is now Leach II and my bill. And Leach II basically is the product that was reported out of last year's House Banking Committee as amended by Congressman John Sweeney. We had a few things intervening between then and now, too. We

had the Louisiana decision interpreting the Wire Act. And U.S. District Judge Stanwood R. Duval, Jr. dismissed the lawsuit in March of 2001 saying that the pending legislation on internet gambling—that's our legislation—quote: "Reinforces the Court's determination that internet gambling on a game of chance is not prohibited conduct," under the Wire Act.

We also have another phenomenon that's happened, too. There has been a change within the thinking of the Nevada gambling establishment. About half of them are now becoming sponsors themselves of internet gambling. And that changes the political dynamic, and we ought to be aware of that as we proceed.

The difficulty I have, if you take the bill that Leach, LaFalce and I this Congress, it is entitled "Internet Gambling Payments Prohibition Act." Same title as last year. If you take the title of this year's bill, it's the "Unlawful Internet Gambling Funding Prohibition Act." So the question is, what's unlawful? And there you run into a real dilemma. If something is not unlawful under the Wire Act, or if it's lawful in just one jurisdiction, you run the risk—or if there's just a void. If the law doesn't address the issue, it can't be deemed to be unlawful. You would have to have a specific prohibition.

Now, I know there is language saying whether it initiates or where it's received, and so forth. But, if I'm a credit card company, how am I going to know what the law is in every single jurisdiction along the way? And it seems to me that we've created an enforcement impossibility, and we've created an opportunity to just drive trucks through such a law.

It's unnecessary, I believe. Now I know that the intent was to accommodate some existing interests such as horse wagering, and so forth. And therefore, the total prohibition was thought to be perhaps too draconian. Maybe so. And maybe we can tailor it. But if I had to choose between being too draconian and too loose, that's an easy one for me. At least let's start off as too draconian. And that's very important, Mr. Chairman, where you start off.

If you start off with a prohibition, that's one thing. If you start out with something that says it's got to be unlawful, then you're making your lot in life an awful lot more difficult. I hope you'll start off basically where we started off in committee in the last Congress.

Any comments, anybody?

Mr. LEACH. Let me respond briefly, John. I was here for the debate and voted against the amendment that weakened the bill, but it was the will of the committee to move in a fractionally looser direction, partly because of the horse racing phenomenon. I would prefer the stronger prohibition. And if we can get consensus to that degree, that's my strong preference.

Mr. LAFALCE. I think that was a voice vote, Jim.

Mr. LEACH. No, no, sir.

Mr. LAFALCE. On the amendment and on the final passage.

Mr. LEACH. Well, I don't know the final passage, but we had a strong vote, and it was an unhappy vote from my perspective. But I am simply laying it as a marker where the committee was last year.

Now having said that, there are reasons to go in that direction, there are reasons against it. I would prefer the stronger preclusions. Mr. Goodlatte, I know, has a possibly different perspective.

Mr. GOODLATTE. Well, the only thing I would add is that I think this points up the importance of these two efforts moving in tandem. I don't know what the will of the Financial Services Committee will be on this question. I favor greater restrictions on the use of financial instruments in gambling.

However, it is clear that the gentleman from New York raises a very valid point. And that is that if it's not clear what is legal and what is illegal, then we certainly must define what is illegal. That is the jurisdiction of the Judiciary Committee, and so that's why we have to have these bills or one bill working in tandem and a great deal of cooperation between these two committees as we move forward so that we are very clear about what we are attempting to accomplish and the means by which we get there, which is to make it clear that gambling on the internet is illegal, so that no matter how you resolve that issue this time, whatever you do accomplish does have meaning.

Mr. LAFALCE. That would mean we'd have to preempt a State law like Nevada, which is specifically making it legal, as I understand. I'm not sure of the status of that. Does anybody know the exact status of that? Does my counsel know?

I guess it gives the State gambling commission—I'd like to introduce legislation that wherever the word "gaming" exists, change it to "gambling," you know, to authorize internet gambling.

Chairman BACHUS. All right. I think the time has expired.

Senator KYL. Mr. Chairman, I was just going to say that Representative LaFalce is correct about the status of the Nevada law as I understand it. And this illustrates a problem. If we, those of us who agree that we should ban internet gambling, can simply agree on the basic premise, which is we're going to leave these other existing legal forms of gambling alone, but not permit them to move into internet gambling, which they're not doing now, to basically codify the status quo, but not permit it to go any further, then we all agree on the goal.

The problem is that these various interests have very clever lawyers and lobbyists, and they're skilled at playing us off against one another and of creating definitions which advantage their particular group, whether it's the lottery or the horse racing or whatever. I have supported each of the drafting definitions which make it clear that the status quo is protected, but that they can't get into internet gambling.

Now if we could just all commit to do exactly that, then they're protected. They continue to get to do exactly what they're doing, but they don't get to move into internet gambling, which would be prohibited. The Nevada experience illustrates the fact that we've got to move quickly. Because here you have a State that has now moved into legal State internet gambling of a sort. It's supposed to be highly regulated. But there's a real question about whether they can create the technology which will permit them to enforce this in a way that doesn't permit the kinds of abuses that we're all con-

cerned about. And that really speaks to the need to act on this and to act on it quickly.

Chairman BACHUS. Thank you.

Next I'm going to recognize the Chairman of the full Committee for not only a statement, but also for questions. And we went over, Mr. LaFalce went over, so I would allow you to do the same. I would like to say just one thing.

The hearing that Chairwoman Kelly held pretty much calls into question whether we even can regulate; whether regulating internet gambling is a viable alternative. I'm not sure, and I'm beginning to believe that we either ban it or do nothing at all. Because I'm not sure the technology allows us to regulate it. And certainly the financial institutions we have heard from said that was problematic. So a much plainer solution would be a ban.

Chairman Oxley.

Mr. OXLEY. Thank you, Mr. Chairman, and thank you for recognizing me. And I would make my opening statement a part of the record and spare everyone a lengthy opening statement and welcome our distinguished panel, our old friend and former colleague, Senator Kyl, Bob Goodlatte, who has done yeoman work in this area for a number of years, and our colleague on the subcommittee, former Chairman Jim Leach, for all of the good work that you have done.

The discussion that you had just prior to my questions, brought up an issue not only that deals with legal gambling now that takes place in Nevada—which we all agree is the case—I'm wondering about the proliferation of gambling with Indian casinos, riverboat gambling that takes place in States like Iowa and Ohio, and some of those other rather conservative bastions of areas that normally aren't considered to be dens of gambling.

And so it appears to me, and I would like to hear from the panel, as to whether we are just dealing with the Nevada situation or the potential for many other casinos that exist throughout the country. Let me just begin with Senator Kyl.

Senator KYL. Thank you, Chairman Oxley. Our effort is not to deal with existing casinos, riverboat, Indian gambling or any of these things in any way. In other words, what's legal today would continue to be legal, but they can't get into internet gambling. That's all. We just draw the line for them just the same as everybody else. Everybody would be treated the same.

Mr. OXLEY. Do you agree with that, Mr. Goodlatte?

Mr. GOODLATTE. I do, Mr. Chairman. My sentiment would be to try to address that concern, but I don't know that we would have the kind of legislative success we need if we took on the entire problem of gambling in one fell swoop. Gembling has traditionally been illegal unless regulated by the States. And to confront those State decisions to allow it in the myriad forms that you described, I think is perhaps a challenge beyond the scope of this bill.

We are trying to stop gambling from expanding on the internet. Those same entities could not only offer what they're doing on the riverboat, but have a computer on the riverboat that offers it across the country, and we want to stop that.

Mr. OXLEY. And let me ask you, have you introduced your bill yet?

Mr. GOODLATTE. I have not introduced it yet, Mr. Chairman. We've been working with a number of groups—and most especially the Justice Department—to come up with legislation that we think we can move forward with.

Mr. OXLEY. But the concept you talked about, and that is recognizing the legality of the current gambling situation, only saying that they can't get into internet gambling, would be inherent in your bill?

Mr. GOODLATTE. Yes. We don't recognize them. We simply say that we are not attempting to roll back existing legal forms of gambling regulated by the States.

Mr. OXLEY. Thank you.

Mr. Leach.

Mr. LEACH. Well, I'm doubtful of all forms of gambling. In fact, if I had my druthers, I'd abolish State lotteries. But I don't. This is a very narrowly crafted approach that only gets to internet gambling and then recognizes that whatever one's personal views are, there are forms of gambling that are legal in States, whether they be horse racing or casinos. And this does not basically challenge that legality. It only goes to the internet.

Mr. OXLEY. I had read somewhere where the gambling casinos in Vegas had—and maybe you've addressed this before I came in—that there was some indication that they were considering moving into internet gambling. Senator, do you have any evidence that is the case?

Senator KYL. Mr. Chairman, Chairman Oxley, there were news accounts that suggested the problem was more pervasive than I think it is. According to my colleague, John Ensign, who of course recently served in this body, he has done a sort of informal survey of the situation, and it is his view that there is mainly one casino that has decided to try to get into internet gambling. He's not currently aware of any others. But he shares my view that we had better get at this pretty quickly or more of them could decide to get into it.

Mr. OXLEY. That was, in other words, kind of a race to the bottom, at least if you look at it that way. And clearly, when those trends start to develop, particularly if they're reasonably successful, you would expect that others in the industry would follow suit. And I guess that really is the issue. Whether, if we don't do anything legislatively, that indeed, you could see a huge proliferation of domestic-based internet gambling.

Senator KYL. Mr. Chairman and Chairman Oxley, it offers us a point to make another point. These casinos in Las Vegas spend billions of dollars to create wonderful palaces that attract people to come stay with them and gamble. That costs a lot of money, just like horse racing costs a lot of money. You know, horses eat a lot of hay. The thing about internet gambling is, it's really cheap to do. With just a few hundred dollars and a smart programmer, you can set up an internet site. And that's the competitive aspect that all of these other legal forms of gambling are afraid of.

But what at least one casino in Las Vegas has concluded is, "Look, we have a lot of money, we have a lot of technology available to us, and we have a site that attracts people anyway. So if this is not going to be made illegal, let's get in the action. And with

our brand name, we can probably compete pretty well with all of those independent operators that have started up on the internet." So that's the reason why we've got to get at this and get at it now while those people are generally still supportive of banning this activity, before they decide that they want to get in on it too.

Mr. OXLEY. Thank you. Mr. Chairman, thank you for your patience on this issue. And I want to again congratulate you and Mrs. Kelly for the hearings on this very important issue. And I think you can tell from the size of the group here and the attention it has received in the media, this is a very important issue that we're going to have to chew on. And again, we appreciate the leadership of the three gentlemen at the witness table, and I yield back.

Chairman BACHUS. Ms. Hooley.

Ms. HOOLEY. Thank you, Mr. Chairman, for holding these hearings and for the panelists. I really appreciate you being here. I have a couple of questions just to clarify some things. Maybe some of you know that New Jersey is also looking at regulating internet gambling. Have you heard about that?

[No response.]

Ms. HOOLEY. OK. Well, whether it is or isn't, the question is, as you look at prohibiting internet gambling—and I agree it should be—what do you do with, if you say, OK, we're going to stop at this point unless it's regulated, unless the State allows it, or what's already there is fine, and then we're going to prohibit internet gambling from here on out. What would that do to Nevada? Are you talking about if there's a casino there already online and it is regulated by the State, is that going to be OK?

Mr. GOODLATTE. Congresswoman Hooley, with regard to your first question, I think there has been discussion in the State of New Jersey about legalized internet gambling, but my understanding is that there has not been sufficient support in the legislature. That may be, in part, due to the fact that in New Jersey, Atlantic City is where they have sort of quarantined legal gambling. And so legislators from the rest of the State are concerned about the fact that if you allow it online, even if it's restricted to within the State of New Jersey, you're going to essentially spread that to everyone's living room across the entire State. So I don't expect to see the same movement there that occurred in Nevada.

However, the issue is will legislation contain a provision that says the State can regulate within its boundaries? I don't believe the technology exists for them to do that, but that is certainly something we are struggling to address in our legislation. If we allow the States to regulate it, including internet gambling within the State, we have to be absolutely assured that it's not going to go beyond the boundaries of the State. The internet is international in nature. That's what the nature of this very problem is and why we have these hundreds of offshore sites that we're struggling to deal with, because they're all in people's living rooms right now.

How do you regulate it so that it is only within the State? We may leave that up to the States to figure out, with strict prohibitions on going beyond the boundaries, or we may attempt to have an across-the-board ban. But that is a very good question, and I think technology is going to provide the answer to it.

Ms. HOOLEY. OK. Another question that maybe any one of you can answer, and that is, what's the rise in addiction? What's that been in the last couple of years? And can you relate that at all to the forms of gambling where people can do it very much in private, whether that's going to a tavern or a bar or a restaurant where they can go to a machine and no one sees them gamble versus what happens in a casino? Do we have any information about that?

Mr. LEACH. Well, we have some statistics. A million people gamble on the internet daily, and what's impressive about that is that it isn't of a population of say almost 300 million, one person once a day, it's likely a lot of repeat people. And those people are defined as compulsive or addicted gamblers.

And it's one of the misleading aspects of gambling. All of us, from one time or another, gamble. Let's say you sit down and play bridge for a tenth of a cent or whatever. It's a zero-sum game within that table. But with gambling on the internet, the odds are always stacked against you, whereas if you're in a zero-sum situation with friends or whatever, someone is going to win and someone is going to lose. But when you enter these games of chance in this particular way that we're talking about, the more you gamble, the more you are certain to lose.

And so, it's a real problem. If you've got a million a day, and the projections are it will triple in 3 years, that's three million a day. And I think you can triple that again quite rapidly. And so this is going to be a very major social phenomenon if the Congress does not act very rapidly. And I would only stress, too, that we're seeing in State after State not only bankruptcies rise, but it's a family issue in terms of what it does to the family. And frankly, it's a harm issue because of the instance of people that, a: abuse their kids; and b: abuse themselves based upon getting in huge gambling loss situations, is very high.

Ms. HOOLEY. And how do we address the offshore gambling?

Mr. LEACH. Well, it ends up that the only effective mechanism in dealing with the offshore, because these, by definition, are legal jurisdictions that we cannot put American law to change, except that if you preclude the payment mechanism. That is the one truly effective, or at least largely effective, tool to deal with offshore. Because the offshore gambling can continue to be legal. But on the internet, if you cannot pay, that will damage the offshore gambling very largely. And so it is the one thing that has a really serious impact on offshore gambling.

Ms. HOOLEY. Thank you.

Mr. GOODLATTE. I agree with Congressman Leach. I would add that we also need to beef up our laws so that when individuals offshore come into the United States, as has happened, we can effectively prosecute them. And in addition, there is the issue, the controversial issue, of blocking; whether we should require internet service providers to attempt to block these offshore sites from coming into the United States, a technologically difficult thing to do, but nonetheless, something we've also looked at.

Getting back to your first question, however, you may be familiar with a recent study of Oregon residents. This study showed—and we'll make this available to you—out of a total of 14 different types of gambling activities, internet gambling was the only one that saw

an increase in participation among Oregon residents between 1997 and the year 2000. Internet gambling has increased from 1/10 of a percent in 1997 to 7/10 of a percent in 2000. And while internet gambling participation rates are still low, the 260 percent increase in lifetime internet gambling participation in Oregon corresponds to an estimated annual growth rate of approximately 54 percent. A sixfold increase, 600 percent in past year internet gambling participation in Oregon, corresponds to an estimated annual growth rate of more than 91 percent.

So other forms of gambling are there. They're a problem. The same types of problems with crime and bankruptcy and addiction exist there, but they aren't growing out of control like internet gambling is.

Ms. HOOLEY. Thanks to all three of the panelists for your commitment to this issue. I appreciate it.

Thank you, Madam Chairwoman.

Mrs. KELLY. [Presiding] Thank you, Ms. Hooley.

It apparently is my turn next. I'm going to say a couple of things. I, too, Senator Kyl, have spoken with John Ensign. He agrees with the need for speed. In my hearing it came out that there were a number of people that felt the same way. Gambling is a social problem.

Currently in New York State, the New York State Lottery states your possibility of winning is 1-in-18,946,000, right now. Now you probably have a better chance of being hit by lightning than winning the lottery. It's intermittent reinforcement. And that, psychologists tell us, is the strongest reinforcement in the world. That's why people become addicted to gambling.

I lost a very good friend through gambling. Believe it or not, he started on the stock market and began playing penny ante bridge on the trains commuting. The next thing, he got deeper and deeper and deeper until he lost his wife and both of his children and he himself wound up on the streets.

I think it's very important that we address the social concerns with regard to gambling. Senator Kyl, you said organized crime groups are heavily involved in internet gambling right now. My concern is, how do we enact some kind of legislation so that we don't drive internet gambling underground, and make it possible for an amplification, turn it into an underground business that's controlled by organized crime? Right now, sports are bet to the extent that the sport becomes secondary and the point spread is the most important thing.

Do either of you have anything in your bills that addresses that problem? I'm talking about any of the three of you if you could answer.

Senator KYL. Madam Chairwoman, the subcommittee I chair of the Judiciary Committee in the Senate has had numerous hearings on this. We've taken quite a bit of testimony, and it's ranged all the way from a former gambling commissioner in New Jersey, for example, who says this is the kind of thing that you just cannot regulate. It's very, very difficult to regulate. You've either got to ban it and then enforce that or let it go. And that's the conclusion I think several people have reached here.

The way that you do it is either through the blocking—and the technology does exist, but obviously the internet service providers don't want to do that if they don't have to—and the credit card and banking enforcement that Representative Leach has come up with here.

If you say that it's illegal in the United States to engage in this conduct, and we have an aggressive enforcement mechanism through both the FBI and the banking regulators, then while organized crime may attempt to get into it, and they may control it offshore, we could make it very difficult for them to engage in the activity here in the United States. And remember, once we get personal jurisdiction over somebody here, we can put him in jail. We're not trying to do that with these offshore sites. They can do all they want to offshore. It's when they come into the United States with the activity that we can take action against them.

So this is really an effort to begin to enforce something that is beginning to get out of hand and that law enforcement right now is not doing much about, because they don't know what to do about it. And the what to do about it is what we hope to supply with this legislation.

Mrs. KELLY. Thank you very much. In the United States, regulation guarantees payment. That's another thing, a positive thing that regulation actually does.

I'm wondering, I read Mr. McGuinn's testimony, and I think he proves in his testimony when he says Virginia has the highest per capita sale of tickets in the Hampton Roads area, but the lowest percentage of tickets in Fairfax County, I think he proves very well that gambling often hits the poorest people in the United States rather than those people who have a little extra money and want to respond by gambling.

Congressman Leach, there's one question I'd like to ask you. Some people have raised some concerns about your legislation saying that it would hurt privacy by forcing credit card companies to develop a system of locating where a customer is when they make a transaction. Would you be willing to respond to that, please?

Mr. LEACH. Well, I don't know precisely what you mean. I don't know that criticism. I don't know the notion of knowing where the customer is. But certainly there is an implication that people should be very concerned on who the company that places someone in debt is. We're very careful that the credit card company only has to be knowing accountable. Because obviously, some things will develop and there will be an unknowing relationship.

But, I think it's impressive that some banks now are starting to move on their own in this direction, and we're going to hear later today from Wachovia, a very principled American bank that is making some rules in its regard, presumably in its own self-interest, that seem to be common sense.

And so this is something that all forms of information do involve privacy umbrages. We all understand that. And the question is, is there a reason for that from the credit card company's point of view or the bank's point of view, and obviously it isn't shared publicly, and so there isn't a public disclosure. But there might be a trivial privacy umbrage, but I can't visualize it being very significant.

Mrs. KELLY. The concern, obviously, of even people like Wachovia is that there can be a subversion of whether or not this credit card is being used in a gambling institution or, if I understand it correctly, that number comes through as a merchant's number, and it looks as though it's a sale, not a gambling debt. And I think that's the question that goes to the question of privacy. But thank you very much.

Next we have Mr. Hinojosa.

Mr. HINOJOSA. Thank you, Madam Chairwoman. This has been a very interesting discussion, and I would like to ask one question.

What do you think should be the financial penalties and maximum prison sentences to those involved in this discussion that we're having? And I'm talking about the gambler, the credit card companies, including the banks, gambling institutions, underground participants, and finally, offshore entities? Bob, would you like to answer that?

Mr. GOODLATTE. Mr. Hinojosa, with regard to the gamblers, we leave that to State law. In other words, the consumer that engages in this activity, we don't attempt to impose criminal fines or penalties on them because those engaging in it are located in a particular State. The State has jurisdiction over them. They can impose those.

However, for those engaged in offering these illegal gambling services, the legislation that I introduced in the last Congress had 4 years. I believe it was the same with Senator Kyl, a maximum 4 years imprisonment. The Justice Department has been recommending 5 years. So we are again in discussion with them about whether it would be 4 years or 5 years, but something in that range is what we contemplate.

Mr. HINOJOSA. Would you combine sentence and financial penalties?

Mr. GOODLATTE. Yes. There are also financial penalties involved.

Mr. HINOJOSA. And what would they be?

Mr. GOODLATTE. A person engaged in a gambling business who violates this section shall be fined an amount equal to or not more than the greater of the total amount that such person bet or wagered or placed, received or accepted in bets or wagers as a result of engaging in that business in violation of this section, or $20,000. Imprisonment not more than 4 years or both.

Mr. HINOJOSA. How did you come up with $20,000?

Mr. GOODLATTE. Twenty thousand dollars is basically a minimum amount here.

Mr. HINOJOSA. Well, the minimum is $20,000, but it could be higher?

Mr. GOODLATTE. Right. The greater of that or the calculation that is in the formula. In other words, we wanted something that was a threshold amount that would be a disincentive for somebody to engage in this activity, but it could be far greater than that, depending upon the magnitude of their offense.

Mr. HINOJOSA. Fine. I understand. Now if he used the credit card and spent $100,000, then it could be as high as $100,000, but not less than $20,000. Is that what I heard you say?

Mr. GOODLATTE. It could be $100,000 or higher, depending upon the nature of their activity. Twenty thousand is a minimum.

Mr. HINOJOSA. I think you've answered my question.

Thank you, Madam Chairwoman.

Mrs. KELLY. Thank you very much.

Next we go to Mrs. Biggert.

Mrs. BIGGERT. Thank you, Madam Chairwoman. We seem to be talking about college students using credit cards to gamble from their college dorm or from the house. But it seems to me that most college students have a pretty low limit on their credit cards. Is there another way that they can do this? If they're using their parents' card, it might be illegal. But how do they get so involved in this with the limits on credit cards?

Senator KYL. Madam Chairwoman, we've had quite a bit of anecdotal testimony about college students. There doesn't seem to be a study that I'm aware of anyway. But in testimony by William Saum before this subcommittee on July 12th, I'll just quote one sentence. He talks about some of the specific cases he's aware of. He says: "I've spoken with students who have lost thousands of dollars gambling on the internet. In fact, last year at a Congressional hearing, we played a videotape account of a college student who in just 3 months lost $10,000 gambling on sports over the internet." And he noted that prior to placing his first bet online, the student never wagered on any sporting event. And he goes on to say: "Please be assured that this student's experience is not unique."

Now I can't answer the question about how specifically they are able to get that much value on a credit card, or whether it's a combination of cards or they're using mom and dad's card, or what. I'm sure that all of those things are possible. But I will tell you that probably the biggest proponents of this legislation are the professional sports organizations like the NFL and the NBA and Major League baseball, as well as the NCAA, the amateur athletic association. And I have heard a lot of anecdotal evidence from both the professional and the amateur sports side of their fears, their great fear.

There is a lot of money involved in professional sports, and they can't afford to have these sports adulterated by the possibility that the event is being fixed. And they're just scared to death that because of the rise of gambling on sports activities over the internet this is going to happen. So these professional sports organizations, in particular, have spent a lot of money trying to get this legislation through. I think that shows you the degree of concern that they have about it.

Mr. LEACH. If I could add to that, Mrs. Biggert, college kids are the computer-literate generation. They're also intensely loyal to their new institutions. And it's becoming kind of the thing to do to bet for your school. And to simply add on to what John Kyl has just said, all of a sudden——

Mrs. BIGGERT. Could you talk a little bit louder, please?

Mr. LEACH. All of a sudden, all of the major college football and basketball coaches in America have become exceptionally alarmed on this issue, and I think for very good reason. This thing is exploding on college campuses.

There aren't good studies. There is a *Los Angeles Times* article that is really rather profound indicating a lot of anecdotal kinds of circumstances. But at this time, this is a subject that is so fast-

changing that everything is anecdotes rather than deep study, and a study that was done 6 months ago is out of date. And that is the dilemma.

Mrs. BIGGERT. Well, if things change so much with the credit cards, or whatever means that would be used to pay for these, won't someone come up with some way then to get around using a credit card, or the way that they electronically transfer money to pay for this to these offshore companies?

Mr. LEACH. That's always possible, and that's why we're trying to write law as broadly as possible, giving lots of discretion to regulators on bank financial types of instruments with the idea those may develop in the future as well. And so we're trying to write legislation that is very expansive in terms of definitional approaches. And partly because of the problems that we've seen with the Wire Act definition, to make it clear that there are ways you can change definitions over time.

Mrs. BIGGERT. And the credit card companies, if they make a mistake, they are liable under your bill?

Mr. LEACH. They are not liable under the bill unless they knowingly do things or participate themselves. There is a great recognition that there will be a realm of the unknown.

Mrs. BIGGERT. Is that a due diligence standard?

Mr. LEACH. I can't tell you that. I don't know.

Mrs. BIGGERT. Thank you.

Thank you, Mr. Chairman.

Chairman BACHUS. Thank you. Mr. Leach, I understand you have an amendment on the floor?

Mr. LEACH. Yes, sir.

Mrs. BIGGERT. So Mr. Ryun has a question.

Mr. RYUN. I would actually like to yield my time to Mrs. Kelly.

Chairman BACHUS. Mr. Leach, if you need to be excused, we can understand that.

Mr. LEACH. Thank you.

Mrs. KELLY. Mr. Leach, there's one more question I wanted to ask you, and that is about what in your bill would prevent someone from going into a place like Western Union, plunking down a lot of cash, and wiring it offshore in terms of betting? And the reason I'm asking this is you know as well as I do, that some of the internet gambling sites are being used for money laundering. This would be a neat way to money launder.

Mr. LEACH. Actually, there are many aspects of the internet gambling issue. Money laundering is one. Organized crime, as has been indicated, is another, not just the traditional Mafia. We have a Russian Mafia that's operating offshore that is of real alarm to law enforcement. But clearly, there are many ways you can settle transactions, but this would be intended to apply to a Western Union-type setting.

Mrs. KELLY. The language in your bill would be intended to apply to that? Is that what you're saying?

Mr. LEACH. Yes, ma'am.

Mrs. KELLY. Thank you very much for clarifying that.

Senator KYL. Mrs. Kelly, if I could add to that. I think it's going to be an ongoing challenge. Obviously, those engaged in criminal activities who want to launder money, or even a determined gam-

bler, may well find ways to get around our efforts. However, what we're intending to do is to cover all forms of financial transactions, and we want to make it as inconvenient as possible, because we think that 95 to 99 percent of the people who find the convenience of sitting down at home at their computer and are able to punch their credit card number in are not going to go to that additional step of going to the Western Union station with cash.

However, if a law enforcement entity knows that an entity offshore is engaged in accepting bets from the United States in violation of the law, they could then have the mechanism under Congressman Leach's bill, and under the legislation that we're drafting, to notify them that they are aware that this entity where the money is being wired to is engaged in illegal activity, and they would then be on a list that Western Union would have, or that a credit card company would have, or a bank would have, that said "do not wire funds to this entity, because they're engaged in criminal activity in violation of the laws of the United States."

I think that is probably the most effective way to deal with that particular type of transaction. I don't know if the gentleman from Iowa agrees.

Mrs. KELLY. And your legislation would include the little money, check-cashing entities that will also wire money rather than just the big places like Western Union? In other words, you will cover everything?

Senator KYL. Everyone will be covered. It will be up to law enforcement to take the necessary steps under the legislation and under the law after it's passed to be able to notify that entity that they cannot transfer money to the offshore entity that has been identified through a legal proceeding as engaged in activities in violation of the law in the United States.

Mrs. KELLY. Thank you.

Mr. GOODLATTE. Excuse me. I have a vote, I believe.

Chairman BACHUS. I yield at this time to Mr. Grucci. I understand, Mr. Goodlatte, you have a vote. You may need to be dismissed. Mr. Leach has a bill on the floor, so he's been dismissed. Mr. Grucci, Senator Kyl is certainly anxious to answer your questions.

[Laughter.]

Mr. GRUCCI. Senator, I appreciate you sticking around. Just a quick question. We have the sites on the internet that are offshore where we probably don't have jurisdiction under the laws of the United States to enforce those laws there.

You have situations where you can get the internet service into your home. You're suggesting a ban on internet gambling or regulations on internet gambling? And if I can, I'd like to follow up on that.

Senator KYL. Mr. Grucci, this is a ban. It is not to regulate, but to prohibit internet gambling within the United States. This is what the State attorneys general asked us to provide, Federal enforcement of the policies that the States have right now.

And you're correct, we couldn't exercise jurisdiction abroad over somebody setting up one of these sites. But, there are two ways to stop them from engaging in their illegal activity in the United States. One is to require the internet service providers to block the

access from those sites at the point that they enter the United States. That's what the Senate bill did. And the other, which is being proposed by Representative Leach, is to enforce it by preventing the monetary transaction from ever being settled so that the payment would never be made to the gambling entity enforced through the banking regulators.

Both of those enforcement mechanisms have promise, and what both the House and Senate decide to do at the end of the day with respect to having one or the other, or both, we'll have to decide upon. But primarily, we've been focused this morning on Representative Leach's idea of enforcing it through the banking regulators and the financial services entities.

Mr. GRUCCI. With gambling being such an old vice and embedded into society as deeply as it has been, do you think that banning it is the effective way to control it? When you look at the banning of alcohol during the 1920s, it certainly didn't accomplish the goal. Do you see that being akin to trying to ban the internet gambling? And if so, is there another vehicle that we could use to accomplish the same goal?

Senator KYL. Mr. Grucci, of course all of the existing gambling that is legal in the States would continue to exist. So there are still plenty of gambling outlets for people. What we're saying is, though, the 1961 Wire Act, which prohibited the making of a sports bet by telephone or wire, would, in effect, be updated to say that if it's done by fiber-optic cable or microwave satellite transmission—it doesn't matter how it's actually transmitted—that it would be illegal.

And in addition to that, these virtual casinos would be illegal as well. So it only covers that aspect of betting. But it would ban all forms of internet gambling. And we believe that through the enforcement mechanisms that have been suggested here that there is an adequate opportunity to enforce it. We also have testimony from people, over on the Senate side at least, that say that this is a particularly difficult kind of gambling to regulate. You can regulate a casino. You can regulate the horse track. It is very difficult to regulate internet gambling. And that's why the conclusion is both because it is pernicious, because it's a worse form of gambling than the others, and because it's more difficult to regulate, that the idea is to ban this particular kind of activity and then enforce that ban.

Mr. GRUCCI. Thank you, sir. I yield back my time.

Mrs. KELLY. Thank you, Mr. Grucci.

Mr. Manzullo, do I understand you would like to be recognized at this time?

Mr. MANZULLO. Yes. Thank you very much. I appreciate your coming here. I agree with everything you're saying. The question is the constitutionality and the mechanisms of blocking an internet site. I think it is France that is presently blocking some internet sites? And I don't know if an issue went to the World Trade Organization on that. Mr. Goodlatte, do you have the information on that?

Mr. GOODLATTE. Yes. It is a very controversial issue, and I very much understand the concerns of the internet service providers, because they are engaged in dealing with a whole host of different countries that want them to block different types of sites, including

sites that here in the United States we would regard as a violation of our First Amendment free speech rights.

That is not the case with regard to illegal gambling, because that has never been recognized as protected speech under the First Amendment. However, because we are in essentially an international marketplace, we have to be sensitive to the concerns that they have. While the French may say, well, that has no effect in our country; we don't recognize such a right. We want you to ban sites talking about hate speech or Nazi memorabilia and some of the different types of things that they have attempted to ban there.

So we are looking at that and share the concern they have, but it does not have a constitutional implication whether or not we were to require blocking of gambling sites.

Mr. MANZULLO. Do you know the status of that action in France? Is it in courts, or what form?

Mr. GOODLATTE. I don't know the exact details of it at this point in time. I think it is still an ongoing controversy in France.

Mr. MANZULLO. Is it difficult for an internet service provider to try to block those sites?

Mr. GOODLATTE. It has difficulties because the illegal gambling site you are attempting to block could change its information and switch off and take a new identity and avoid you that way. That's not a perfect solution for the illegal gambling entity, because they want to use their known e-mail address, their own website address as a means of communication. They would have to constantly change that. Blocking is not a perfectly effective tool. It is, however, done by the ISPs for their own purposes today if they are aware that somebody is engaged in activities that they do not approve of, or that are in violation of child pornography laws, and so, right now, they do presently block sites.

Mr. MANZULLO. ISPs do block the websites that deal with child pornography?

Mr. GOODLATTE. They do, yes.

Mr. MANZULLO. Is that difficult for them to do that?

Mr. GOODLATTE. I don't think it's an easy proposition. And again, people are constantly finding ways to get around it, and that's why we don't think it is at all the perfect tool for combatting this, but it is one that we certainly have to weigh in the balance.

Mr. MANZULLO. Senator Kyl, your bill places the burden upon the ISPs to block. Is that correct?

Senator KYL. Congressman Manzullo, not exactly. The law enforcement entity, let's say, for example, the U.S. Attorney for the State of Arizona, would go to court and prove to the judge that there is an illegal site operating offshore and that the service provider for that site is XYZ service provider. The service provider could then be ordered by the court to come in and basically answer the following questions: Are you the one providing the service? Yes. Is it too expensive or too difficult for you to block the site? If they say yes and can demonstrate that, then they don't have to block the site. But if it is not too expensive or too difficult for them to do it, then the court could order them to block the site.

So they have no monitoring burden. They're passive. They don't do anything until some law enforcement entity taps them on the

shoulder and says "You guys are carrying an illegal site here, and if you can do something about it, you should."

Mr. MANZULLO. Where does the ISP industry stand on your bill?

Senator KYL. We worked out an accommodation with the industry in the Senate, or we wouldn't have gotten the bill through the Senate. But some of the sites that we dealt with, or some of the ISPs that we dealt with, said however, this is without prejudice to dealing with the House in a different way should we decide to do that. And at that point, I'll hand it off to Representative Goodlatte, because they had a little more aggressive stance here in the House. And in the end, they were one of the reasons why the bill didn't get through the House.

Mr. GOODLATTE. The fact of the matter is that we have worked with them and we did modify the language before it went to the floor, but the Senator is correct. They did have a very different approach dealing with us in the House than they did in the Senate, and we are continuing to work with them to try to address their concerns while still giving law enforcement effective tools to deal with the problem.

Mr. MANZULLO. Thank you.

Chairman BACHUS. This concludes the first panel. Let me say this. Our counsel, Tom Montgomery, noted a few minutes ago that both you gentlemen were really committed, as well as Mr. Leach, to the time you spent here this morning. You are not just interested in the issue or involved in the issue, but obviously willing to devote your time with other issues going on. And Senator Kyl, for you to come over from the Senate and devote this much time, not just sit in, you know, a cameo appearance, let me tell you, I think everyone in the audience, those of us who have been around the process, I think everyone has taken notice of that, and it speaks very clearly as to the level of your commitment and dedication to this.

Senator KYL. Thank you, Mr. Chairman. You're correct that our degree of commitment is very, very intense. By the way, I don't ever mind coming back to the old House of Representatives here. I really enjoy it. I get a chance to visit old colleagues. Thank you.

Chairman BACHUS. Mr. Leach actually, after his own amendment hit the floor of the House of Representatives, he continued to stay here and answer questions until he was actually asked for the third time to go to the floor.

Mr. GOODLATTE. I just want to thank you, Mr. Chairman, for allowing me to testify and for shining a spotlight on this very serious problem that we intend to address.

Chairman BACHUS. Well, your testimony here today has energized this body. Thank you very much.

At this time we will recognize the second panel. I'm going to introduce the first panelist, and then I'm going to defer to Mr. Ryun from Kansas to introduce the second panelist. There are six panelists.

Mr. Michael L. Farmer, Senior Vice President of Wachovia Bank Card Services, I want to particularly—and I think Mrs. Kelly mentioned this—commend Wachovia for deciding that their credit cards would not be used for internet gambling purposes. And I think this is an occasion where a corporation stepped up to bat and did what

was right. And I just wish that others had followed your lead. But I salute you and what Wachovia has done.

Mr. FARMER. Thank you.

Chairman BACHUS. Let me go to Mr. Ryun to introduce our second panelist.

Mr. RYUN. Thank you, Mr. Chairman.

It's my privilege to introduce a friend of mine from the University of Kansas, which happens to be my alma mater, Bob Frederick, who just recently retired as the athletic director. He was there for 14 years. He has a long-time interest in college athletics. He has worked very hard with the National Collegiate Athletic Association on sports gambling. He began as a basketball student-athlete at the University of Kansas, and during his time there as athletic director did a wonderful job. I know one of his concerns has been watching a lot of what's happened with student-athletes going to prison as a result of their participation in illegal schemes, and we look forward to his testimony today. Thank you very much for coming. Thank you, Mr. Chairman.

Chairman BACHUS. Thank you. Our third panelist is Mr. Mark VanNorman, who is the Executive Director of the National Indian Gaming Association. We welcome you, Mr. VanNorman.

Mr. Edwin J. McGuinn, CEO of eLottery, we appreciate your testimony here. And Dr. Timothy A. Kelly, Former Executive Director of the National Gambling Impact Study Commission. I'm familiar with your work, Dr. Kelly, and commend you for your testimony.

At this time we will start to my left with Mr. Mike Farmer, and we'll proceed down the row. Mr. Farmer.

STATEMENT OF MICHAEL L. FARMER, SENIOR VICE PRESIDENT, RISK MANAGEMENT OPERATIONS, WACHOVIA BANK CARD SERVICES

Mr. FARMER. Chairman Bachus and Members of the subcommittee, good morning, if it's still morning. As introduced, my name is Mike Farmer, and I am Senior Vice President of Risk Management Operations for Wachovia Bank Card Services. Thanks for your invitation to participate in this hearing, as this is a very important issue.

I have worked in the credit card and debit card industry for 14 years in various roles, but most intently focusing on risk management. In my current position, I have responsibility for fraud and credit losses and authorization system performance.

It was late in 1999 that Wachovia was issued several summonses on lawsuits involving internet gambling. Our cardholders that incurred internet gambling debts and losses on their credit cards were calling upon the law to protect them from repayment of their debts. They cited that the transactions were illegal. At the time, in the absence of any immediate decision on lawsuits, Wachovia developed a policy to decline internet gambling charges in order to mitigate our losses.

This policy was executed by systematically using the payment systems' merchant category codes and electronic commerce indicators to identify and decline the internet transactions. In order to communicate this policy to our customers, we issued a statement message which read:

"Please note: Due to various State legal restrictions governing gaming activities, Wachovia will no longer authorize internet gambling transactions made with your Wachovia credit card."

Now it is understood that while this policy is being executed, its effectiveness is based entirely on the integrity of the data passing through the authorization system. As Wachovia and other credit card issuers deny authorization for internet gambling transactions, there are considerable incentives for merchants to circumvent this policy. For example, internet casinos may seek to conceal the true nature of their transactions by altering the data message to make themselves appear to be merchant types other than gambling institutions. In cases such as this, internet gambling charges may be unknowingly approved.

In addition, alternate payment types can be used to complete internet gambling transactions. For example, a gambler may use a payment card or a checking account or other source of funds to establish an electronic cash account with a third party, which could then be used for internet gambling. Wachovia's systems would not capture these transactions as internet gambling.

Now there are a number of other reasons why using financial institutions to control internet gambling would be of limited effect. In particular, it is important to recognize that alternative payment types such as automated clearing house payments and checks are not designed to allow for monitoring of payees.

But once again, Wachovia appreciates the opportunity to participate in this hearing. We look forward to working with the subcommittee on this important issue.

[The prepared statement of Michael L. Farmer can be found on page 57 in the appendix.]

Chairman BACHUS. Thank you.

Dr. Frederick.

STATEMENT OF DR. BOB FREDERICK, CHAIRMAN, NATIONAL COLLEGIATE ATHLETIC ASSOCIATION COMMITTEE ON SPORTSMANSHIP AND ETHICAL CONDUCT

Dr. FREDERICK. Mr. Chairman and Members of the subcommittee, I appreciate the opportunity to testify on behalf of the intercollegiate athletics community and to share with you our concerns about the rapid growth of sports gambling on the internet and the need for effective legislation.

I currently serve as Chair of the NCAA Committee on Sportsmanship and Ethical Conduct. Sports gambling issues fall under our committee's purview. In addition, I recently concluded a 14-year tenure as Athletics Director at the University of Kansas. As a long-time college athletics administrator and coach, I am very much aware of the dangers that sports gambling presents. I have witnessed the struggles of my colleagues in the aftermath of point-shaving scandals on their campuses, and I have sadly watched young student-athletes go to prison as a result of their participation in these illegal schemes.

Sports gambling has been a threat to the integrity of our collegiate contests. However, the most significant change since I was a basketball student-athlete at the University of Kansas, is the rise of the internet and its ability to make sports gambling accessible

from almost anywhere. In just 5 years, internet gambling has grown from a dozen, to according to our sources, 1,400 unique gambling websites.

Despite Federal and State laws prohibiting sports gambling over the internet, offshore operators continue to market aggressively their products in the United States. Advertisements in in-flight magazines, on sports talk shows, in newspapers, in billboards, all tout the excitement and the ease of placing sports bets over the internet. Visit any college campus and I assure you you will hear about the number of unsolicited e-mail ads received by students from sports gambling sites.

Unfortunately, almost all of this illegal activity continues to thrive virtually unchecked in the United States. Its impact is already being felt in the intercollegiate athletics community. NCAA staff members have begun processing rules, violation cases involving internet sports gambling. It's clear that internet sports gambling is flourishing in the U.S.

As a father of four sons, three of whom are currently either in college or coaching on a college campus, I am concerned that the growth of internet gambling could be fueled by college students. Today's college students undoubtedly are the most wired group in the United States. They can surf the web in their school library, in the computer lab, or the privacy of their campus housing. The emergence of internet gambling now enables students to wager behind closed doors anonymously and with a guarantee of absolute privacy.

How do students have the means to place bets online? Credit cards. According to a 2000 survey by Nellie Mae, 78 percent of college students have credit cards and 32 percent have four or more cards. The average credit card balance for undergraduates has risen nearly 50 percent since 1998. One-in-10 students will graduate with balances exceeding $7,000.

Unfortunately for some, internet gambling may stand in the way of obtaining their college degree. Last year at a House Congressional hearing, a NCAA witness played a videotape account of a college student who, in just 3 months, lost $10,000 gambling on sports over the internet. He reported that a friend at another institution lost $5,000 on a single internet wager on the Super Bowl and was forced to drop out of school.

Unfortunately, these stories are not unique. The NCAA has heard similar accounts, and the news media has been widely reporting on this rapidly growing problem among young people. Clearly, there is a need to address this issue.

For the past 4 years, the NCAA has worked closely with the House and Senate sponsors of internet gambling prohibition legislation. Of course, we are concerned that despite the 1961 Wire Act, internet sports gambling continues to prosper in the United States. Clearly, as the internet goes wireless, there is need to update current statutes related to sports gambling so that the laws keep pace with technology.

In addition, any proposed legislation must provide an effective enforcement mechanism that will impact an industry that is located outside the United States. This is critical, and the success of

any legislative effort will be dependent on ensuring that law enforcement agencies have the priority to crack down on violators.

The NCAA is pleased that this subcommittee is examining ways to address internet gambling. It is our hope that with the passage of Federal legislation, any further growth related to sports gambling on the internet will be achieved largely without United States participation. Thank you.

[The prepared statement of Dr. Bob Frederick can be found on page 59 in the appendix.]

Chairman BACHUS. Thank you, Dr. Frederick.

Mr. VanNorman.

STATEMENT OF MARK VanNORMAN, EXECUTIVE DIRECTOR, NATIONAL INDIAN GAMING ASSOCIATION

Mr. VANNORMAN. Thank you, Mr. Chairman, Members of the subcommittee. My name is Mark VanNorman. I'm the Executive Director of the National Indian Gaming Association (NIGA), and our Chairman, Ernie Stevens, sends his regrets that he is unable to be here today, but he had a death in his family.

NIGA is an association of 168 tribes engaged in governmental gaming to fund governmental programs and community infrastructure.

Chairman BACHUS. Mr. VanNorman, would you pull that mike a little closer? And I know that it does appear that when you pull it close, it appears it's echoing, but it is better.

Mr. VANNORMAN. Certainly. About 196 of the 561 tribes in the United States engage in gaming. That's about 40 percent. By comparison, 37 of the 50 States operate State lotteries, just over 70 percent.

I'll just touch on three points: The Indian Gaming Regulatory Act; the strength of tribal regulatory systems; and our position on internet gaming.

To begin with, I should make very clear that we are not seeking to move the overall internet gaming debate. We are not generally in favor of legislation, nor do we generally oppose internet legislation. Our position is that if internet gaming is permitted in the United States, then Indian tribes should have a fair and equitable opportunity to use the modern technology of the internet.

The United States in its Constitution, treaties and laws has consistently recognized that Indian tribes are sovereigns that possess governmental authority over their members and territory. Through the Indian Gaming Regulatory Act, Congress acknowledged the sovereign status of tribes and sought to protect Indian gaming as a means to generate tribal economic development and tribal government revenue. And the Act works. Indian gaming provides 250,000 jobs nationwide. Indian tribes use their governmental revenue to build schools, hospitals, water systems, roads, and to fund education, health care, day-care, after-school programs, elderly nutrition, and police and fire protection.

Indian gaming also helps tribes overcome the barriers to economic development in Indian country: The lack of infrastructure and the lack of investment. Tribes are using Indian gaming revenue to diversify their economies. And Indian gaming benefits neighboring communities. For example, after an Air Force base

closed in central New York with the loss of 2,000 jobs, the Oneida Nation opened its gaming facility, hotel, restaurant, golf course and events center in central New York and employs 3,000 people.

Of course, Indian gaming doesn't cure all our problems. Most tribes are still struggling with poverty because our remote lands are not accessible to people. To give you an understanding of the situation, the Federal Communications Commission reported in 1999 that only 49 percent of Indian reservation households have telephones. The Indian Health Service reports that 43 percent of Indian children under the age of 5 live in poverty. In Indian country, we still have a long way to go to catch up with the rest of America.

Internet gaming is an expanding industry generating substantial revenue. Nevada and the Virgin Islands are now working to establish legal regimes to regulate internet gaming. Industry and computer experts are now working to overcome problems of internet gaming such as remote identification systems to verify that all bettors are adults. And many believe that these issues will be resolved soon.

In our view, if internet gaming is to be permitted in the United States, Indian tribes should have a fair and equitable opportunity to participate in that gaming. When Congress enacted the Indian Gaming Regulatory Act in 1988, Congress was aware that Indian tribes were remote and isolated, and Congress authorized the use of the wires and also made clear that Indian tribes should have access to modern technology. Of course, that was prior to the rise of the internet, but we believe tribes should have access to this technology as well as others.

Internet gaming would permit players to access remote Indian lands and provide economic opportunity for the tribes that are otherwise too remote for gaming. In our view, it makes sense for tribes to have access to internet technology, because we already have strong regulatory systems in place. Tribes dedicate substantial resources and personnel to regulate gaming comparable to the resources that Nevada, New Jersey and other State gaming regulatory systems employ.

Tribes have highly qualified, experienced, and effective regulators. In addition, our system is backed up by the National Indian Gaming Commission, which reviews licenses, audits, management contracts and tribal ordinance.

The U.S. Department of the Treasury's Financial Crimes Enforcement Network also works with tribes to safeguard our gaming facilities from Bank Secrecy Act violations, and the Justice Department has authority to prosecute anyone, employee or customer, who might steal from an Indian gaming facility. In our view, tribes are well situated to conduct internet gaming, and any internet gaming legislation should treat tribes fairly.

If the legislation takes the form of a Federal prohibition with exceptions for State lotteries, horse and dog tracks, jai-alai and fantasy sports betting, the Indian tribes should be able to engage in internet gaming in a similar manner. If the legislation takes the form of State option legislation, then the Indian tribes should have the option to engage in internet gaming where such gaming is per-

mitted. Of course, any legislation should contain a savings clause to ensure that it does not impact existing Indian gaming.

The fundamental concept of the Indian Gaming Regulatory Act is that tribes have an inherent right to engage in economic activities to generate tribal governmental revenue and build livable tribal economies. If internet gaming is to be a permitted activity in the United States, tribes should have a fair and equitable access to internet gaming.

That concludes my remarks. Thank you.

[The prepared statement of Ernest Stevens, Jr. can be found on page 62 in the appendix.]

Chairman BACHUS. I appreciate that.

Mr. McGuinn.

Mr. MCGUINN. Thank you, Mr. Chairman.

Chairman BACHUS. It is Mr. McGuinn?

Mr. MCGUINN. It's McGuinn.

Chairman BACHUS. McGuinn.

Mr. MCGUINN. Close enough. There are many variations.

Chairman BACHUS. I've missed it three times. Thank you.

STATEMENT OF EDWIN J. McGUINN, CEO, eLOT, INC.

Mr. MCGUINN. My name is Ed McGuinn, and I'm the CEO of eLOT, Inc. We do business under the name of eLottery. We are a Connecticut- and New York-based company. We are the leading provider of web-based retailing and internet marketing services exclusively for governmental without being governmental lotteries.

A brief review of our core competencies. We've conducted millions of e-commerce lottery transactions using a full line of internet and telephone-based applications.

We've developed and field-tested technology that assures necessary security, age and border controls required to process a lottery transaction.

We presently provide sophisticated internet-based marketing services for the Idaho Lottery, Indiana's Hoosier Lottery, the New Jersey Lottery, the Jamaica Lottery, and the Maryland Lottery.

I appreciate the opportunity provided to me by the subcommittee and I hope that I will be able to shed some light on how our company, and others like us, can provide service to State and governmental lotteries. I would also like to buttress the testimony given to this subcommittee by Ms. Penelope Kyle, the Director of the Virginia Lottery and the current President of the National Association of State and Provincial Lotteries, also known as NASPL. At that time, Ms. Kyle said that NASPL could not support any legislation that would remove the authority of the governors and State legislatures in regulating the sale of their lottery tickets. This has been a right that has been traditionally reserved to the States, and they have experienced no major problems to this date in implementing a regulatory process and enforcing those regulations.

The issue that I am discussing here today is focused solely on the purchase of authorized State lottery tickets over the internet. The issue of State lotteries has been long-since resolved in the United States. Today there are 38 State lotteries and the District of Columbia, and just this year the legislature of Nevada authorized the creation of a lottery in Nevada.

The funds from these lotteries have gone to a wide variety of public causes, most notably education. Using the latest numbers available, we find that Ohio has provided over $700 million for education; in New York, approximately $1.4 billion was sent to education; and in Massachusetts, approximately $800 million was provided to local towns and cities. The list goes on. But clearly, lotteries are being very responsible with their funding.

E-commerce—in my opinion, and I would like to think also yours—is here. We see it in every facet of life. We are told that we will shop on the internet for all things in the future, and in many cases, the future is now.

Now I would like to address some arguments that have been put forward in the past in opposition to lottery tickets being sold on the internet. As Ms. Kyle stated previously, this is moving into the area of restricting the rights of governors and legislatures to control their own lotteries. NASPL objects to this, and we agree with them on this key point. We find it incomprehensible that Congress would allow wagers on horse racing and other parimutuel events, but restrict the activities of an authorized State lottery, especially when approximately 30 percent of the gross proceeds are targeted to good causes like education.

Another point deals with some of the red herring arguments that have surfaced by those that would ban the sale of lottery tickets over the internet. The first argument against the sale of lottery tickets has been that people will be able to buy lottery tickets around the Nation, and this is utterly false. States now prohibit the sale of lottery tickets across State lines, and if you are resident of the State of Ohio and the Ohio Lottery decides to authorize the sale of tickets over the internet, then only Ohio residents can buy them. Again, the registration process will detect anyone that is not an Ohio resident. But let us assume that someone finds a way around the system. They purchase a winning ticket in the Ohio Lottery, and they are not a resident of Ohio. The lottery knows the ticket was purchased over the internet, just as they know which store sold a ticket, and they will deny payment of any prize.

The State lottery industry has already adopted and has been conducting sales of lottery tickets using the U.S. Postal Service. Applications are received by mail containing their name and address. Only in-State applications are processed; out-of-State applications are rejected. Instead of using the U.S. Postal Service to deliver the application, we would deliver the application by e-mail. Same rules. Same controls, both as far as border and age control. Simply a more efficient delivery mechanism.

Another argument against the sale of lottery tickets over the internet is this would allow minors to purchase lottery tickets. Notwithstanding Senator Kyl's comments, this argument does not have a factual base to support its claim. There are no studies available to suggest that minors are interested in playing the lottery. Every study shows that base players for State lotteries are middle- and older-aged Americans. Further, internet sales would use the same process already adopted by the States in their subscription sales. Instead of the application being delivered by the U.S. Postal Service, the application would delivered by e-mail.

In closing, what I would like to do is take the subcommittee through a process whereby a player would be able to purchase a ticket over the internet. If a State authorized eLOT, or any other vendor in the field, to become a vendor for their lottery tickets, the player would go to our website, or the State's very own website, and register to play. They would be required to submit their name, address and age. Right now, eLottery is using Equifax, a very significant and large data information provider, along with Department of Motor Vehicle and voter registration records, regarding this important and necessary control. This information would be checked against comprehensive data sources for correctness.

Once it had been determined that the player was, in fact, a resident of the State in question and over the legal age, the player would be issued a PIN number and a password to access the site where the purchase could be made. I should point out that eLottery does not purchase the ticket for the player. We only facilitate the purchase through the normal electronic channels that the players currently buy valid tickets.

In summary, we strongly support the concept of States regulating their own State lotteries. Some States have already decided not to offer lottery tickets over the internet while others have received authorization from the State legislature to do so.

I have no comment on regulation of other forms of gaming, but I urge the Members of the subcommittee to consider the slippery slope they enter upon as they begin to further erode the rights of States to regulate commerce within the States borders.

I thank you all for your time and will respectfully respond to any questions that the Members may have.

[The prepared statement of Edwin J. McGuinn can be found on page 69 in the appendix.]

Chairman BACHUS. I thank you.

Dr. Kelly.

STATEMENT OF TIMOTHY A. KELLY, Ph.D., EXECUTIVE DIRECTOR, NATIONAL GAMBLING IMPACT STUDY COMMISSION

Dr. KELLY. Good morning, Mr. Chairman, Members of the subcommittee. I am Dr. Tim Kelly, former Executive Director of the National Gambling Impact Study Commission. I do appreciate this opportunity to give testimony on internet gambling, especially as it relates to H.R. 556 and other internet gambling legislative proposals.

As you know, in 1996, Congress created the National Gambling Impact Study Commission and charged us with studying the economic and social effects of legalized gambling in America. The report has 77 far-reaching recommendations, but most importantly for this subcommittee, the report calls for prohibition of internet gambling not already authorized. This is especially noteworthy in light of the fact that four of the nine commissioners represented or endorsed the gambling industry.

The Commission came about as a result of the expansion of gambling in America over the last 20 years or so, from an industry that took in about $1 billion profit to over $50 billion last time we counted. Gambling expansion, however, has come with a high social cost, and we mustn't lose sight of that. 15.4 million Americans

today at least are already suffering from problem and pathological gambling, also called gambling addiction, which is devastating to both the individual and the family. We hired the National Academies of Science to do a study on this topic. They stated—and they are not known for overstatement—quote: "Pathological gamblers engage in destructive behaviors. They commit crimes. They run up large debts. They damage relationships with family and friends, and they kill themselves." End quote.

In fact, it's not unusual for a gambling addict to end up in bankruptcy with a broken family, facing a criminal charge from his or her employer. These matters are relevant to internet gambling.

What I would like to do—in fact, my submitted testimony is largely out of the chapter on internet gambling that's in our final report—I'll just walk you very quickly through some of the most salient points there.

The first chapter is entitled "Candidates for Prohibition." There are three reasons why prohibition should be considered for internet gambling. The first has to do with youth gambling. Because the internet can be used anonymously, the danger exists that internet gambling can be abused by underage gamblers. In most instances, a would-be gambler merely has to fill out a registration form in order to play. Most sites rely on the registrant to disclose his or her correct age and make little or no attempt to verify the accuracy of the information. Underage gamblers can use their parents' credit cards, or even their own credit cards, and set up accounts. Given their knowledge of computers and familiarity with the web, young people may find gambling on the internet hard to refuse. In fact, I think it was that concept that most drove the commissioners to consider prohibition. The idea that this form of gambling would be beamed into the homes, the dens, the bedrooms, the dorms, across America. That was the first candidate for prohibition.

The second reason for considering prohibition is the issue of pathological gambling, or gambling addiction. Pathological gamblers are quite susceptible to internet gambling. Because internet gambling comes with a high level of privacy, it exacerbates the problem of pathological gambling. Pathological gamblers can traverse dozens of websites and gamble 24 hours a day, so experts in the field of pathological gambling have expressed concern over the potential abuse of this technology. The director of Harvard Medical School's Division on Addiction Studies stated that: "As smoking crack cocaine changed the cocaine experience, I think electronics is going to change the way gambling is experienced."

Third was criminal activity. I think that's been covered by the others. Money laundering and fraud were mentioned in our report. I will skip over that since my time is running kind of short here.

The fourth section dealt with the fact that the Wire Act of 1961 is indeed ambiguous, and it leaves a lot of questions unanswered. Does it or does it not apply to the internet? That's not clear. Where are bets and wagers actually taking place when one places a bet on the internet? Are they taking place on the site where the person downloads a web page? Is it at the site of the bank account or the credit card companies? These questions would need to be addressed if ever legal action is going to be taken.

We noted, too, as has been noted here, that the National Association of Attorneys General unusually asked for help here. Usually they take a position against Federal intrusion. However, they did send us a statement, which I believe Senator Kyl referred to, that they have taken the unusual position that this activity must be prohibited by Federal law and that State regulation would, in fact, be ineffective.

As a result of these things, the Commission came up with four recommendations. The first was to prohibit internet gambling not already authorized. The second was to prohibit wire transfers and credit card debts related to those wire transfers. The third recommendation was to not permit the expansion of any form of gambling into America's homes. And the fourth was to encourage, or enable, foreign governments to work against these very things as well.

In conclusion, the Commission found that internet gambling poses a potential threat to the Nation. It puts our youth at risk, exacerbates pathological gambling and opens the door for fraud and money laundering.

H.R. 556 prohibits financial transfers and calls for working with other nations, and it would help limit in-home gambling. But all of this would apply to, quote: "unlawful internet gambling." This implies, of course, that there are lawful forms of internet gambling as well, and opens the door to endless debate as to whether or not a given internet gambling site is legal. In so doing, H.R. 556 skips over the primary Commission recommendation on internet gambling prohibition, even though it addresses the other recommendations well.

The subcommittee now has before it an alternative bill for consideration, H.R. 2579, that removes the word "unlawful" from that text. This would prohibit internet gambling per se, and in my opinion, more closely accomplish the full recommendations of the National Gambling Impact Study Commission on this critical matter. So although H.R. 556 is a good bill worth supporting, the alternative is, in my opinion, even better.

Thank you, Mr. Chairman, for this opportunity to speak with you today, and I will be glad to answer questions.

[The prepared statement of Dr. Timothy A. Kelly can be found on page 78 in the appendix.]

Chairman BACHUS. I appreciate that, Dr. Kelly.

I'm just going to make two comments. One is, having read Dr. Kelly's testimony last night, it is astounding how in the last 30 years we've moved from where we heard of people going to Nevada to gamble, or where they went down to the dog track, to today when it's in the home. It's a profound change in our society, and I think it has implications for all of us.

The other thing I'd say, I have five children. Thankfully, three of them are out of school. One of them is a senior. Having read Dr. Frederick—I do have a 16-year-old, and having read your remark that a number of unsolicited e-mails are now coming over the internet promoting sports gambling, I'm happy that four of them are almost out of school. But you've given me another reason to worry about that 16-year-old who is an avid sports fan. So that's one more thing to worry about.

I would ask unanimous consent that my 5 minutes be yielded to the gentleman from Vermont—I mean from Virginia. You look so much like Bernie Sanders.

[Laughter.]

Mr. Goodlatte.

Mr. GOODLATTE. That's scary, Mr. Chairman. I do appreciate your generosity in allowing me to ask questions.

Mr. Farmer, I've read your testimony and I'm encouraged that Wachovia has taken the initiative to attempt to screen out these transactions by customers with illegal gaming entities, or gaming entities that are engaged in activities that may be illegal in the United States. And I understand you've experienced some difficulties with people changing the codes with regard to the nature of the transaction and so on.

How would you react to a different approach, which would be to have a law which says that under circumstances where law enforcement presents evidence to a court that a gambling merchant, if you will, is engaged in illegal activities by offering these services in the United States—in other words, they're set up, say, on the island of Antigua. Maybe a perfectly legal activity there and in other countries, but when they offer those services to U.S. citizens, they're engaging in illegal activity.

Law enforcement could present evidence that they are doing just that, get an order, and the court order would then allow them to notify various financial institutions that this activity is taking place, and those institutions would cut off services. For example, if you're administering a Visa card or a MasterCard, you'd cut off that institution from being able to engage in any credit transactions because of their illegal activities in violation of the law here. That, to me, seems to be a more effective way to get the message to them that they can't violate U.S. laws.

Mr. FARMER. It's an interesting idea, and I think it definitely has some merit. The problem would be in execution in this case, because even if we were to know the name of the institution, it doesn't mean that that name is going to be reflected when they authorize or settle a transaction. And therefore, we may unknowingly participate in payment of that debt.

Mr. GOODLATTE. We would have to give you immunity from any liability for doing that where they attempted to disguise exactly who they are. But that would be the approach that I would recommend to the subcommittee.

Mr. McGuinn, I'm interested in your comments regarding the ability to keep this from crossing State lines. When somebody in Virginia goes into Maryland, buys a lottery ticket and they win, the State of Maryland doesn't say, "Well, you're a Virginia resident, you can't recover your winnings." Would you propose to have a different treatment of the consuming bettors if they buy the ticket online, as opposed to if they buy it in a convenience store?

Mr. MCGUINN. Well, I think it really depends on each State's interpretation. And at the end of the day, it's not eLottery that's going to mandate what's appropriate from security, age, or border control standards that could be used on a State-by-State basis.

Mr. GOODLATTE. But, if we were to buy your argument that we should let the State do what it wants to within its borders, we

would have to be absolutely assured that this is not going to bleed over into other States and that it become an interstate lottery system by people simply doing what Mr. Farmer says the folks can do with regard to credit card transactions—conceal who they are or where they are. They could say, "Well, I live in Virginia, but I was in Maryland at my relative's or on a convenience store's internet device when I purchased this ticket over the internet." We've got to have a way to screen out that type of activity if we're going to follow the proposal that you recommend.

Mr. MCGUINN. I appreciate that. And at the end of the day, I think there are acceptable border-control internet provider filtering capabilities and age control databases that are available that can give the individual States and their representative executive directors of that authorized lottery the power to put that into process.

Mr. GOODLATTE. If somebody's 15-year-old son says that they are their father instead of the 15-year-old son, how do you know that that's the case when they're doing this online?

Mr. MCGUINN. Well, depending upon the sophistication that may be warranted by each individual State, at the highest end of the level is biometrics, which could be something very expensive as retinal scanning, which would certainly not be a good application this early in the technology curve. But look at some of the processes that Equifax uses for example. They ask very significant financial or information questions, which I don't expect my 14-year-old daughter, or 18-year-old daughter, or 21-year-old daughter to know. Where is your mortgage? What do you think the balance is? Tell me what credit cards you have. Some information that would not be readily applicable or available to a child.

And as I said, you can create as deep a filter as would be of some value. I might add, the same questions are not being asked of kids in my neighborhood that are buying alcohol or buying cigarettes who are under age at the convenience store level. So in one instance, you're really holding the internet to a much higher standard. The good news is, the internet is not anonymous. I would probably beg to differ with Dr. Kelly's comments from that standpoint. There is sufficient information that can be drawn out within a dialogue between this particular sale, if you like, using the databases that are available to satisfy, I think, every Member of this subcommittee and certainly the requisite State lottery directors.

Mr. GOODLATTE. Thank you. Mr. Chairman, I appreciate your forbearance.

Chairman BACHUS. Thank you.

Mr. McGuinn, I was legal counsel for the Alabama Beverage Control Board for some period of time. If my teenager goes down to the local convenience store, 16 years old, he would have to show a valid driver's license before he could buy liquor. He would also, even if he showed an illegal credit card, be responsible if they sell him liquor, because they're supposed to actually check that. That would be quite different from him getting on the internet and gambling, wouldn't it? There's certainly a gatekeeper at the convenience store. I guess I don't see the analogy.

Mr. MCGUINN. Well, qualitatively, the gatekeeper has some wide variances. And in some cases, the ulterior motive is to grow sales and it's a high-margin sale. So I appreciate the fact that there is

a physical I.D. of a process more often than not. But the problems break down with the quality of the staff, and I would probably also ultimately argue with the fact that the identification—it's not too hard to get fake proof, unfortunately, and I can speak about that. I have kids about the same age as yours, and a couple of more in college. So it's a distressing issue to me as a parent.

I take a lot more comfort from the fact that for using database services like Aristotle, Equifax and the like that they can ask some very, very significant questions which I would have some pretty strong comfort that my 21- or 18-year-old are not going to know. And I think that creates a gatekeeper. Granted, a cyber gatekeeper. But at the end of the day, questions which I think are very important. The fact that I can tie into, in many States, both Department of Motor Vehicle and also voter registration databases can be used as a supplementary value.

So I think there's some pretty good capabilities out there, and we're not even talking about biometrics, which again I think is a couple of years down the line, but ultimately represent opportunities to be using fingerprints and other types of scanning capabilities. There are also, I might add, some "net nanny" products that are out there, where you can use a mouse to simulate your signature, which ultimately has some broad value. And as I said, I think you'd be pleasantly surprised with some of the emerging trends right now relative to security on the internet, both as far as age, border control, and ultimately the IP considerations as to where and what venue a particular person logs on.

Chairman BACHUS. And the way to get around the liquor thing is someone else goes in and buys it. But then if an underage youth drinks, he can be arrested. There's a law against that that's easy to enforce, at least. But, you know, right now the law on internet gambling isn't in force.

Mr. MCGUINN. Well, let's differentiate, Mr. Chairman, between the purchase of lottery tickets from playing offshore. The important thing is, you can't cash the ticket. If an underage youth goes in and tries to cash the ticket, they're not going to get it.

Chairman BACHUS. You're not talking about sports gambling? You're simply talking about the lottery, and your testimony is totally restricted to that.

Mr. MCGUINN. We are a service that works with authorized State lotteries supporting intrastate sales. So from that standpoint, I'm very deeply in agreement with Dr. Frederick's comments regarding sports betting. I appreciate Dr. Kelly's comments. Again, I take comfort from the fact that there are major studies out there where youths—and I'll define that as 16 to even 25 if we want to broaden the range—are not interested in lottery tickets. They do like the experience of going into an offshore gaming site where it's exciting. You can bet $50 and win $50. It's a little bit different.

Chairman BACHUS. So your testimony is that the States ought to have the right to sell lottery tickets over the internet?

Mr. MCGUINN. Exactly right.

Chairman BACHUS. OK. That concludes our hearing. I appreciate you gentlemen being here today. I would say this. I would like the subcommittee, without objection, to also include in the record the Nellie Mae Government survey of credit card use by collegiate stu-

dents. We've heard some of those same statistics in our bankruptcy hearings and in our credit card hearings. But I think that would be very enlightening for the subcommittee to have.

[The information referred to can be found on page 42 in the appendix.]

Also, without objection, the record for this hearing will remain open for 45 days to allow the Department of the Treasury and the Department of Justice to submit written statements and to permit Members to submit questions in writing to the witnesses and have their responses placed in the record.

With that, I appreciate this panel, appreciate their testimony, their attendance here today. And I now adjourn this hearing. Thank you.

[Whereupon, at 12:15 p.m., the hearing was adjourned.]

A P P E N D I X

July 24, 2001

OPENING STATEMENT OF CHAIRMAN SPENCER BACHUS
JULY 24, 2001 INTERNET GAMBLING HEARING

The Subcommittee meets today to review various legislative proposals for combating gambling over the Internet, including legislation introduced by the distinguished former Chairman of the Banking Committee, Mr. Leach, and a bill being developed by our equally distinguished colleague from Virginia, Mr. Goodlatte. We are also honored to have with us today Senator Jon Kyl of Arizona, who is one of the Senate's leading experts on criminal justice issues, and was the author of Internet gambling legislation that passed the Senate unanimously last Congress.

Earlier this month, the Oversight and Investigations Subcommittee, under Mrs. Kelly's leadership, held a broad oversight hearing to assess developments in Internet gambling since Congress last examined the issue in the 106th Congress. That hearing laid the foundation for today's examination of legislative solutions to the problems presented by Internet gambling. Among the key findings of the Oversight Subcommittee's hearing on this subject were the following:

First, although most experts agree that the federal Wire Act generally bans Internet gambling in the United States, Federal law is tough to enforce since Americans are using their computers to place bets at virtual casinos located offshore – beyond the reach of U.S. law.

Second, while most States do not currently allow Internet gambling, the National Governors Association has taken the position that the Federal government should not interfere with States' authority to regulate any future online gambling within their own borders.

Third, although some experts advocate "regulating" rather than "banning" Internet gambling, brick-and-mortar casinos in the United States – whose operations are subject to strict State laws – don't believe the technology is yet available to implement strict regulation of a legal on-line gambling industry. Thus, for all practical purposes, the option of "regulating" as opposed to "banning" Internet gambling may not be a viable one at this time.

Fourth, the social and financial hazards associated with Internet gambling are particularly pronounced when it comes to our young people. Several witnesses talked about the special risks posed by the computer sophistication of today's teenagers and college kids, their easy access to credit cards, the potential for campus sports betting, and the enormous gambling debts some have racked up.

The legislative approaches the Subcommittee will review today seek to combat Internet gambling through the payment system, by making it unlawful to accept bank instruments, including credit cards, electronic fund transfers, and checks, in connection with bets placed on-line. Some in the financial services industry have expressed concerns in the past about enforcement schemes that require them to police Internet gambling, and make transaction-by-transaction determinations as to whether a particular use of their products or services runs afoul of legal prohibitions.

The proper mechanism for enforcing a ban on Internet gambling is just one of several challenges Congress faces in trying to legislate in this area. Another is the dizzying pace of technological change in the new economy, which threatens to render legislative solutions that make sense today obsolete or ineffective tomorrow. We must also be careful not to cast too broad a net, by deputizing financial institutions to conduct overly intrusive inquiries into the activities of their customers. As the controversy over the "Know Your Customer" proposal of a few years ago powerfully demonstrates, Americans' confidence in their financial institutions can be badly undermined if they come to believe that their routine transactions are being monitored and reported to the Federal government.

Our colleagues who are here to testify this morning should be commended for tackling the complex public policy issues that surround Internet gambling head-on. I look forward to hearing from them, as well as from our second panel of private sector witnesses, who will assist us in understanding both the benefits and potential implications of legislation to ban or limit Internet gambling.

I now recognize the Ranking Member, Ms. Waters, for any statement she would like to make.

Credit Card Usage Continues among College Students

The prevalent use of credit cards by a growing number of college students has generated concern about the impact of easy credit card availability and subsequent indebtedness accumulated by students. Those who are directly responsible for managing student loan default prevention among that very population are particularly concerned; after all, students who owe substantial amounts of money on credit cards and education loans may not have the wherewithal to make payments on both after graduation.

Less stringent underwriting criteria at major credit card companies, coupled with the direct push to students on many campuses to apply for credit cards, has led to easier access to credit cards for students who may have arrived on campus with no credit history. A recent analysis of credit card debt from students who applied for credit-based loans with Nellie Mae in calendar year 2000 showed that 78% of undergraduate students (aged 18-25) have at least one credit card. This is up from the 67% of undergraduates included in a similar study by Nellie Mae in 1998. In years past, these same students would not have been given credit cards, certainly not without a co-signer.

Using small increments of available credit responsibly is a great way to learn about the pros and cons associated with borrowing, and to establish a positive credit history. Unfortunately, without being educated on the possible pitfalls associated with amassing too much debt, some of those students may be learning lessons the hard way. The undergraduates in the 2000 Nellie Mae analysis carried an average credit card balance of $2,748, up from an average of $1,879 in the 1998 study. A student using a card with an 18% APR and who makes only a minimum monthly payment of between 2 and 3% of the balance (the average minimum payment required on most credit cards), will be paying off that credit card balance of $2,748 over 15 years, paying as much interest on the loan

as he originally borrowed. And that assumes the student doesn't make additional charges. Some students unwittingly accumulate credit card debt, not consciously planning ahead whether they can afford to borrow that sum, and not aware of the actual finance charges they will pay over time. Graduate students have even higher debt levels than undergraduates, though graduate student credit card debt and usage levels remain similar to 1998 levels. In both studies, 95% of Nellie Mae graduate student loan applicants had at least one credit card. The average credit card balance was $4,776 in 2000, down slightly from $4,925 in 1998.

The above statistics indicate a growing comfort level with credit card borrowing. Being comfortable, however, doesn't necessarily indicate knowledge about the ramifications of borrowing in general; nor does it show that the student has evaluated the benefits and costs of borrowing with a credit card vs. other types of financing. For example, it may be easier for a student to use a credit card to pay for some expenses associated with a college education, such as books and transportation – even tuition in some cases – but a federally guaranteed student loan is a much more cost-effective choice. However, it takes planning to obtain a student loan; the student must file the appropriate forms and work through the financial aid and bursar's offices, as well as work with the lender, to process the loan. Although school offices and loan processes are becoming more streamlined, a credit card is simply more convenient. Students may base their borrowing choice on that rationale, rather than long-term cost.

Although many students do their homework -- they understand and manage the responsibilities of borrowing, they don't borrow more than they need, and they borrow as cost-effectively as possible -- there is some apprehension that a certain percentage of the credit card-using student population is setting itself up for financial failure even before graduation. Without assistance, these

students may not have the know-how to borrow wisely on the front end and they won't have the income to honor their credit obligations after they've borrowed.

It would be ideal if credit card companies agreed to take a more conservative lending approach to students to prevent them from getting too deeply into credit card debt while in school. They could put low borrowing caps on accounts when students are enrolled; they could institute stricter re-issue rules; they could agree to put a cap on the number of cards that can be issued to students. But, more practically, students need to learn how to manage financially. Credit cards and other borrowing options will continue to be available to them while they are in school, and after they graduate. Colleges and lenders work together today to provide student debt counseling at the beginning and end of the enrollment/borrowing cycle. One solution might be to have colleges and lenders work together to provide financial management education throughout the student's college career. A curriculum could be developed that teaches several aspects of sound fiscal management, and where lessons are reiterated at key points during the total enrollment period. Of course, teaching by example is always effective; therefore planners should strive to keep costs minimal for implementing such a program. Interactive tools are already available on a number of finance-related web sites today, and e-mail allows for efficient, cost-effective communication between schools and students.

Credit card use and borrowing money have become common practices in American society and aren't going to cease. To prevent debt levels from becoming burdensome for students, which could result in student loan defaults as well as general poor financial health for a segment of the population, it behooves colleges and lenders, as well as credit card issuers, to teach students to limit credit card usage and to borrow wisely.

Credit Card Usage Analysis
Nellie Mae
Summary Statistics
Credit Card Usage Analysis
December 2000

Undergraduate Student Credit Card Debt

- Students with no Credit History 12%
- Students with a Credit History having no Credit Cards 10%
- Student with a Credit History and had Credit Cards 78%

Of the 78% who have credit cards:

- 32% have four or more cards
- Average number of credit cards = 3
- Average credit card debt = $2,748 (median=$1,236)
- 13% have credit card debt between $3,000 - $7,000
- 9% have credit card debt greater than $7,000

Factors	1998	2000
Percentage who have credit cards	67%	78%
Average number of credit cards	3.5	3
Percentage who have 4 or more cards	27%	32%
Average credit card debt	$1,879	$2,748
Median credit card debt	$1,222	$1,236
Percentage with balances between $3,000 and $7,000	14%	13%
Percentage with balances exceeding $7,000	10%	9%

Graduate Student Credit Card Debt

- Students with no Credit History 1%
- Students with a Credit History having no Credit Cards 4%
- Student with a Credit History and had Credit Cards 95%

Of the 95% who have credit cards:

- Average number of credit cards = 4
- Average credit card debt = $4,776 (median=$3,068)
- 20% have credit card debt between $6,000 - $15,000
- 6% have credit card debt greater than $15,000

Factors	1998	2000
Percentage who have credit cards	95%	95%
Average number of credit cards	6	4
Average credit card debt	$4,925	$4,776
Median credit card debt	$2,834	$3,068
Percentage with balances between $6,000 and $15,000	22%	20%
Percentage with balances exceeding $15,000	6%	6%

prepared, not delivered, submitted for the record

Statement

Chairman Michael G. Oxley

Committee on Financial Services

Subcommittee on Financial Institutions and Consumer Credit
July 24, 2001

H.R. 556, The Unlawful Internet Gambling Funding Prohibition Act and Other Internet Gambling Proposals

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Thank you, Mr. Chairman. I commend you for calling today's hearing to consider legislative proposals to ban or limit Internet gambling. As Oversight and Investigations Subcommittee Chairwoman Kelly revealed at a July 12 hearing on this issue, the problems posed by Internet gambling in the current legal and regulatory arena are many. Attempting to address them legislatively goes way beyond what some have called "legislating personal responsibility" or, more directly, "protecting against one's own stupidity."

While it is true that people gamble by choice, the forums by which they may do so have—up until recent years—been strictly controlled, mostly by State law. If you wanted to invest your life savings in a game of Blackjack, or to try to leverage an inheritance from Grandma into a multi-million dollar windfall, you went to Las Vegas. Or, more recently, Atlantic City. Or, even more recently, to any of the several Indian tribal lands that have gotten into the gambling game. You bought a lottery ticket. You went to the racetrack. Each of those forums was—and still is—subject to government regulation.

Now, the landscape has changed. One need go no further than the family computer. Pour a shot of Jack Daniel's, log on, tune in and zone out—to paraphrase '60s drug guru Timothy Leary. Bingo! The whole world of online gambling is at your fingertips. No need to place a bet with the slick blackjack dealer you never really trusted anyway. Just enter your credit card number—and special 4-digit code—and maybe your social security number and mother's maiden name, and you're off into the wild, wonderful world of Internet gambling.

So, why should we care? Gambling's legal, right? Well—yes—but under limited and specific circumstances. As we learned at Mrs. Kelly's hearing earlier this month, *Internet* gambling—at least in its current state—*isn't* legal under a number of federal and state laws, although the precise legal status is murky. Hence, our hearings on the issue.

I am pleased to see the distinguished panel of members of both the House and Senate that we have before us today. I want to welcome my Committee colleague and former Chairman of the Banking and Financial Services Committee, Mr. Leach, who has had a long-standing interest in this issue, particularly with regard to the use of financial instruments in Internet gambling, and I look forward to his

comments on that particular issue. I also want to welcome the gentleman from Virginia, Mr. Goodlatte, and the Senator from Arizona, Senator Kyl, both of whose efforts to protect our nation's most vulnerable citizens from the unscrupulous

activities of the offshore casino industry have been tireless—although those engaged in the online gambling business might say tire*some*.

As I alluded to at Chairwoman Kelly's hearing, the Internet to many conjures up images of the Wild West—the frontier; new, unconquered horizons; seemingly unlimited potential. All well and good—to a point. But even the Wild West had a Marshall Dillon to keep order if things got out of hand. In the wild world of Internet gambling, there *is* no sheriff. As Mr. Suarez from the New Jersey Gaming Division told us all too clearly, the States are left to their own limited resources to stop abusive Internet gambling transactions where they can. Their ability to do so is further hampered by the international nature of the online gambling business.

As the testimony at our Oversight hearing brought out, the vast majority—indeed virtually *all*—of Internet gambling at present is conducted by so-called "virtual casinos" located offshore. While such sites may take offense at being labeled "unregulated' or "under-regulated," the fact remains that even the best regulated foreign jurisdictions serve to protect the citizens of that country, *not* the citizen of the U.S. placing the bet. Who's to say what that casino in the Caymans is going to do with your credit card number? Who's to stop the odds on the Super Bowl from mysteriously shifting against you after you've placed your bet, or even after the game's been played?

Legislating against stupidity? Maybe. But those who make that argument often draw a parallel to the U.S. stock markets, where investors are free to lose large sums of money, if not the entire family fortune. The difference is that the stock market is *regulated*. Everyone plays by the same rules. With Internet gambling, there is no such assurance. The offshore site taking the bet is the one who truly *rules*.

I read recently where even the Walt Disney Company has launched a pay-to-play Internet site called *Skillgames*, offering prizes up to one million dollars—which the company adamantly claims does *not* constitute gambling since it involves games of skill. I'm sure that Joe Six-pack, with his twice-a-year trips to Vegas, might argue that his handsome blackjack winnings are due *solely* to skill—but this just serves to highlight the slippery slope we're on in this whole area. It's those types of *Mickey Mouse* distinctions that have led to the *Goofy* situation we now face in this area. We've gone from *Dodge City* to *Disneyland*, with a long layover in the Caribbean. Maybe *Pluto's* next.

Saturday's Washington Post had a story about an obsolete aircraft carrier going around in circles in the Black Sea. It had been destined to become a "floating casino" in Macau, but has been prohibited by Turkish officials from going through the Bosporous Strait because, "it is too big and too dangerous...." Some have offered a very similar excuse to urge Congress to keep its hands off Internet gambling. They hope to see us continue to go around in circles while the problem grows even bigger and even more dangerous—to our children, to our families and to problem gamblers.

Mr. Chairman, again I commend you for holding this hearing, and I look forward to the testimony as this Committee continues its trek to capture the *Pirates of the Caribbean* and establish some legitimate ground rules in the area of Internet gambling.

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10th District, Indiana

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BANKING AND FINANCIAL
SERVICES
Subcommittee on Housing and
Community Opportunity

COMMITTEE ON
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Subcommittee on Health

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Congresswoman Julia Carson
Opening Statement
Subcommittee on Financial Institutions and Consumer Credit
Hearing on Internet Gambling
Tuesday, July 24, 2001

JULIA CARSON

Mr. Chairman, I would like to thank you for convening this hearing, and I thank the witnesses for their attendance. I look forward to your testimonies.

The Internet is the fastest growing telecommunications medium in history. Since its inception, it only took 5 years for the Internet to garner 50 million users.

This compares to 38 years for radio, 13 years for television, and ten years for cable. However, this impressive growth has created unique problems which have presented lawmakers at all levels with difficulties.

Cyberspace has blurred the lines that are traditionally used to define what is legal and illegal. For example, someone from Utah - a state that has no legalized gambling - can travel to Nevada and place a bet without fear of punishment. These lines on a map which for so long have determined what and where something is legal, have become obscured by the digital age.

As Sebastian Sinclair, Vice President of Christiansen Capital Advisers, testified before the Subcommittee on Oversight and Investigations; "Cyberspace is dangerously neutral; it has no predisposition towards what may be right, or wrong."

However, despite the legal complexities of the Internet, and in particular, virtual casinos, we all agree that lives can and are wrecked by this often predatory business. Americans who struggle with gambling addictions, are able to feed this dependence with the click of a computer mouse and a credit card, and all in the privacy of their own home.

Internet gambling also poses serious problems to America's youth. Students on college campuses - with nearly unchecked access to credit cards issued by zealous credit card companies - have already been shown to accumulate massive debts through online gambling.

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Despite these problems associated with gambling, we are presented with an undeniable fact - gambling has become a prevalent part of the U.S. economy. Fifteen years ago, families choosing a vacation destination made Orlando the automatic choice; in 2001, Las Vegas is now a viable option.

Similarly, ten years ago, only a handful of computer users knew of the Internet, and none of them gambled on it. Today, over 1,400 different websites offer commercial gambling activities. Consumers spent $61.4 billion on legal gambling in the U.S. in 2000. That is more than they spent on movies tickets, recorded music, theme parks, spectator sports, and video games combined.

Therefore, formulating a policy to combat this enigma is going to be particularly difficult.

While gambling in all forms can cause immense suffering for some, just as alcohol abuse can, I feel we must be careful in how we approach this issue. Whether gambling is right or wrong, moral or immoral is certainly debatable.

However, the question of whether gambling is pervasive, is not, and I hope that this hearing provides us with an opportunity to discuss all the options open to us so that we can approach the issue with care.

STATEMENT OF REPRESENTATIVE BOB GOODLATTE
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
LEGISLATIVE HEARING ON INTERNET GAMBLING PROPOSALS
JULY 24, 2001

Thank you, Mr. Chairman, for allowing me to testify at this very important hearing. I appreciate the opportunity to discuss the need for federal legislation in the area of Internet gambling and to discuss my current legislative efforts to enact such legislation. It is obvious from the overwhelming interest in this legislation that the issue we discuss today is of profound importance to the American people and to American ideals: the growing need for legislation to address the problem of illegal Internet gambling.

One of the main reasons that the Internet has not reached its true potential as a medium for commerce and communication is that many view it as a wild frontier, with no safeguards to protect children and very few legal protections to prevent online criminal activity. The ability of the World Wide Web to penetrate every home and community across the globe has both positive and negative implications--while it can be an invaluable source of information and means of communication, it can also override community values and standards, subjecting them to whatever may or may not be found online. In short, the Internet is a challenge to the sovereignty of civilized communities, States, and nations to decide what is appropriate and decent behavior.

Gambling is an excellent example of this situation. It is currently illegal in the United States unless regulated by the States. As such, every state has gambling statutes to determine the type and amount of legal gambling permitted. With the development of the Internet, however, prohibitions and regulations governing gambling have been turned on their head. No longer do people have to leave the comfort of their homes and make the affirmative decision to travel to a casino--they can access the casino from their living rooms.

The negative consequences of online gambling can be as detrimental to the families and communities of addictive gamblers as if a bricks and mortar casino was built right next door. Online gambling can result in addiction, bankruptcy, divorce, crime, and moral decline just as with traditional forms of gambling, the costs of which must ultimately be borne by society.

Since 1868, the federal government has enacted federal gambling statutes when a particular type of gambling activity has escaped the ability of states to regulate it. For over one hundred years, Congress has acted to assist states in enforcing their respective policies on gambling when developments in technology of an interstate nature, such as the Internet, have compromised the effectiveness of state gambling laws.

The hundreds of offshore gambling websites from the Caribbean and elsewhere are unlicensed, untaxed, and unregulated by any state, and thus violate all 50 state laws in which they are available. That is why state attorneys general, pro-family/anti-gambling groups, professional and amateur sports leagues, and the Department of Justice all agree that some federal legislation is needed to clarify federal law that Internet gambling businesses are illegal.

Under current federal law, it is unclear that using the Internet to operate a gambling business is illegal. The closest useful statute is the Wire Act which prohibits gambling over telephone wires. However, because the Internet does not always travel over telephone wires, the Wire Act, which was written well before the invention of the World Wide Web, has become outdated -- it is not clear that it applies to the Internet at all. Furthermore, even if it does, it only applies to sports betting and not virtual casino games like blackjack and roulette.

The legislation I introduced in the last Congress with my good friend, Senator Jon Kyl, would have clarified the state of the law by bringing the current prohibition against wireline interstate gambling up to speed with the development of new technology. This legislation passed the United States Senate and received a majority vote on the floor of the House last year, but unfortunately fell victim to an aggressive lobbying campaign mounted by pro-gambling interests in an effort to defeat the bill.

I believe very strongly in the ability of each state to determine the extent to which gambling will be permissible within its own borders and to have the tools to enforce those laws in the borderless world of the Internet. That is why I plan to introduce new comprehensive Internet gambling legislation in the very near future. The legislation that I plan to introduce reflects careful and thorough consideration of the views of every affected interest. The result is a strong bill that will curb Internet gambling, grant no advantages and respect state rights.

Mr. Chairman, as the National Gambling Impact Study Commission has documented, and Senate and House hearings have confirmed, Internet gambling is growing at an explosive rate. It evades existing anti-gambling laws, endangers children in the home, promotes compulsive gambling among adults, preys on the poor, and facilitates fraud. It is time to shine a bright light on Internet gambling in this country, and to put a stop to this situation before it gets any worse. The legislation that I plan to introduce will do just that. I want to again thank you for holding this important hearing and for allowing me to testify before the Subcommittee.

Representative James A. Leach

before the Financial Services Committee, Subcommittee on Financial Institutions, hearing on H.R. 556 and other Internet Gambling Legislation

July 24, 2001

Mr. Chairman, thank you for holding this hearing. Your leadership on this issue is deeply appreciated. The growing problem posed by Internet gambling is one we ignore at our peril.

While it is unlikely that Internet gambling can be done away with entirely, it seems that only action taken at the federal level will be able to curb its enormous growth. Gambling on the Internet is fast becoming one of the most critical issues confronting thousands of American families. Even though Internet gambling is a relatively new industry, it is growing at an exponential rate. Gambling on the Internet generated $1.6 billion in revenue worldwide in 2000 and is projected to grow to $5 billion by 2003. Around 4.5 million Americans have gambled online and over a million gamble daily.

The Unlawful Internet Gambling Prohibition Act, H.R. 556, represents the most sensible approach to enforcement in this area. Tracking the settlement mechanism of financial instruments, like credit cards, is the only realistic approach that had been offered for quashing illegal Internet gambling.

Internet gambling, like other technology-related industries, has created a unique situation for law enforcement, financial institutions, and families. The simplicity and anonymity of the Internet has made populations that do not typically gamble vulnerable not only to one-time financial misjudgement but, in all too many cases, to addictive repeat betting where the odds are always in someone else's favor. In addition, the potential for criminal abuse by hackers, foreign money launderers and other gambling operators is far larger on the Internet than in licenced casino settings. Problem gambling made easy through the Internet can lead to serious psychological and physical as well as financial harms.

The 1999 National Gambling Impact Study Commission warned among other things, against the following: the potential for abuse by gambling operators who can alter, move or remove sites within minutes; the ability of hackers or operators to tamper with gambling software; and, a sense of anonymity which enhances the ease of money laundering. These threats are exacerbated by the fact that a substantial number of Internet gambling sites are located in unregulated offshore jurisdictions.

We tend to think of problem gamblers as individuals, rather than as members of families and communities--families and communities that are also affected by gambling and gambling-related problems. But problem gamblers do not exist in a vacuum. They not only precipitate problems for themselves and their immediate families, but problems for society: the wasting of potential investment and savings capital; bankruptcies that push interest rates and bank and credit card fees up; and increases in social services costs. It is a myth to think that gambling only effects gamblers. Gambling losses and the resulting debt spill over to the financial and social services system and to those who may never engage in gambling.

On an individual level, problem gambling can lead to a large set of impacts, including physical stress reactions, like hypertension and heart disease, or severe psychiatric disorders. When someone's losses accumulate, family structures break down and the incidence of divorce and, even more tragically, suicide increase.

Gambling problems ripple down to all aspects of a gamblers life, including children and spouses. Family members of gamblers have a much higher occurrence rate of drug and alcohol abuse, stress reactions, and psychiatric disorders. Physical and verbal abuse is found more often in problem gambling families and the children of problem gamblers are more likely to gamble themselves.

There is a significant overlap between problem and pathological gambling and addictive disorders of various kinds. Large numbers of individuals who enter treatment for gambling programs report episodes of alcohol and drug abuse or dependance.

Debt is the most obvious side effect of gambling. The average debt for pathological gamblers in the 1980s ranged widely from $53,000 in New Jersey to $92,000 in Maryland. The tendency to accumulate tremendous debt is only aided by the ease at which people can gamble online. Wagering is becoming increasingly simple, as players enter in credit card numbers that enable cash to be deducted directly from credit or bank accounts with a few clicks of a mouse. While in most instances, non-Internet gambling requires a person to take some sort of action before placing a bet, such as traveling to a casino, and losses are readily seen through a diminishing stack of chips, Internet gambling can be entered into easily and losses can quickly become manifestly larger than a wagerer or his family may have in mind as risk acceptable before sitting down at a keyboard.

Particularly vulnerable are young people, who are members of the most computer literate generation. While casinos have age limits for admission, there is no effective way to check the age of those betting over the Internet. This is an uniquely large problem on college campuses where students with a higher comfort level for computer technology can easily obtain credit cards through the mail or in student unions.

The seriousness of this situation on college campuses has manifested itself in a growing problem with betting on results and spreads in intercollegiate sporting events. Students may find their

loan obligations related to tuition and books exacerbated by debts caused by gambling.

I am pleased to see the first financial industry representative here with us today. I have been astonished at the indifference and even anxiety to date of the credit card and financial intermediary community. Though it is clear that independent financial institutions will not be able to stop illegal Internet gambling alone, they have a profound interest in recognizing the magnitude of the problem and its effects on the industry and the economy as a whole.

There correlation between gambling and bankruptcy is potentially troubling. A problem gambler is almost twice as likely to file for bankruptcy than a non-gambler. For instance, in Iowa, 25 percent of people in gambling assistance programs have filed for bankruptcy, creating a ripple effect on non-gambling consumers. As bankruptcy rates, driven by consumer debt, increase in the United States, the implications for commercial businesses and intermediary financial institutions become more pressing. Similar to credit cards, bank loans fees and interest rates will increase in order to compensate for the added risk.

Indeed, prudent banks such as Wachovia, who we will hear from later, have begun to take it upon themselves to stop processing Internet gambling transactions because of the inherent risk of default, bankruptcy and fraud.

The significance of this private sector development must not be underestimated. Though there are costs associated with taking action to stop illegal Internet gambling, those costs are likely be less than the losses faced by the financial services industry due to gambling-related bankruptcies and defaults.

Financial intermediaries are in a unique position to extinguish the ripple being created by Internet gambling before the problem becomes endemic.

Accordingly, in this social context and because of practical implementation concerns, I have introduced the Unlawful Internet Gambling Funding Prohibition Act, H.R. 556, which is intended to begin addressing this phenomenon. A similar bill was reported out of this Committee last Congress, but unfortunately was not considered on the House floor.

The measure prohibits gambling businesses from accepting bettors' credit cards, electronic fund transfers, or checks, in connection with illegal Internet gambling. Gambling institutions found in violation of the Act are subject to criminal and civil penalties. By attacking the settlement mechanism, the Act addresses serious issues confronting the general public, as well as the financial services community, as a result of the rapid worldwide growth of unregulated gambling over the Internet.

The bulk of Internet gambling sites are located offshore creating a unique enforcement situation. The Act does not unrealistically extend U.S. legal jurisdiction over other countries to specifically outlaw Internet gambling in those countries, but it prohibits settling bets through traditional

credit card and bank instruments, thus restricting the ability of foreign gambling enterprises to operate in the United States.

Currently, under the Wire Act the U.S. Department of Justice may prosecute gambling operators who accept bets from U.S. residents via interstate telephone wires. Use of bank instruments by such gambling operators would be illegal under H.R. 556, subjecting these operators to criminal and civil penalties. The bill also empowers the federal banking agencies to issue orders prohibiting financial institutions from extending credit or facilitating an electronic payment to overseas individuals who are in violation of the Act.

H.R. 556 also calls on U.S. international negotiators to seek the cooperation of foreign governments in the enforcement of the Act and in determining the effects of Internet gambling on money laundering, corruption, and other international financial crimes. Because of the straight forward preclusion of use of standard aspects of the settlement mechanism, the approach contained in H.R. 556 would be an easily replicable model for other countries. A U.S. precedent would have the likely effect of setting an example for other countries to act in similar rather than discordant ways.

Several controversies have arisen around legislation addressing Internet gambling. Comprehensive gambling approaches -- as contrasted with payment process restrictions as embodied in H.R. 556 -- are susceptible to becoming bogged down with definitional and scope problems which make them vulnerable to being opened up to amendments which may authorize new types of gambling that are currently illegal. H.R. 556 can be considered as a stand-alone approach or in conjunction with other broader anti-Internet gambling initiatives if consensus in Congress can be achieved to go forward with broader new restrictions.

Greater legal restrictions on Internet gambling are in order and I support the efforts of Representatives Goodlatte and LaFalce and Senator Kyl to tighten the law in this area, but whether such efforts reach fruition, H.R. 556 is intended to be workable enforcement mechanism under current law or future law to give Federal and State authorities the tools they need to combat the social, economic and criminal implications of illegal Internet gambling.

Again, Mr. Chairman, let me stress how appreciative I am for your leadership on this issue and for calling this timely hearing.

WRITTEN STATEMENT

OF

MICHAEL L. FARMER

SENIOR VICE PRESIDENT

RISK MANAGEMENT OPERATIONS

WACHOVIA BANK CARD SERVICES

Before the

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

of the

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

July 24, 2001

Chairman Bachus, and members of the Subcommittee, good morning. My name is Mike Farmer, and I am Senior Vice President of Risk Management Operations for Wachovia Bank Card Services. Thank you for the invitation to participate in this hearing on Internet gambling.

I have worked in the credit and debit card industry for fourteen years in various roles, but most intently focusing on risk management. In my current position, I have responsibility for fraud and credit losses, and authorization system performance.

Late in 1999, Wachovia was issued several summonses on lawsuits involving Internet gambling. Our cardholders that incurred Internet gambling losses on their credit cards were calling upon the law to protect them from debt repayment citing the transactions as illegal. In the absence of an immediate decision on the lawsuits, Wachovia developed a policy to decline Internet gambling charges to mitigate our risk of loss.

This policy was executed by systemically using the payment systems' merchant category code and electronic commerce indicators to identify and decline Internet gambling transactions. In order to communicate this policy, the following message has been periodically communicated to our customers on their billing statements:

> Please note: due to various state legal restrictions governing gaming activities, Wachovia will no longer authorize Internet gambling transactions made with your Wachovia credit card.

It is understood that while the policy is being executed, its effectiveness is based entirely on the integrity of the data passing through the system. As Wachovia and other issuers deny authorization for Internet gambling transactions, there are considerable incentives for merchants to circumvent this policy. For example, Internet casinos may seek to conceal the true nature of their transactions by altering the data message to make themselves appear to be a merchant type other than gambling. In cases such as this, Internet gambling charges may be unknowingly approved in the authorization system. In addition, alternate payment types can be used to complete Internet gambling transactions. For example, a gambler may use a payment card or checking account or other source of funds to establish an electronic cash account with a third party, which then could be used for Internet gambling. Wachovia's systems would not capture these transactions as Internet gambling transactions.

There are a number of other reasons why using financial institutions to control Internet gambling would be of limited effect. In particular, it is important to recognize that alternative payment types, such as ACH payments and checks, are not designed to allow for monitoring of Payees.

Once again, Wachovia appreciates the opportunity to participate at the hearing. We look forward to working with the Subcommittee on this important issue.

TESTIMONY OF DR. BOB FREDERICK
CHAIR OF THE
NCAA COMMITTEE ON SPORTSMANSHIP AND ETHICAL CONDUCT
before the
HOUSE FINANCIAL SERVICES SUBCOMMITTEE ON
FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

July 24, 2001

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to testify on behalf of the intercollegiate athletics community and to share with you our concerns related to the rapid growth of sports gambling on the Internet and the need for effective legislation. I currently serve as the chair of the NCAA Committee on Sportsmanship and Ethical Conduct. Sports gambling issues fall under this committee's purview. In addition, I recently concluded a 14-year tenure as athletics director at the University of Kansas. As a long-time college athletics administrator, I am very much aware of the dangers that sports gambling presents. I have witnessed the struggles of my colleagues in the aftermath of point-shaving scandals on their campuses and I have sadly watched young student-athletes go to prison as a result of their participation in these illegal schemes. Sports gambling has always been a threat to the college game, however, clearly the most significant change since I was a basketball student-athlete at the University of Kansas, is the rise of the Internet and its ability to make sports gambling accessible from almost anywhere.

In just five short years, Internet gambling has grown from a dozen to 1,400 unique gambling Web sites. Despite federal and state laws prohibiting sports gambling over the Internet, offshore operators continue to market aggressively their products in the United States. Open an in-flight magazine or your favorite sports publication and frequently you will see ads touting the excitement and ease of placing sports bets over the Internet. Listen to your favorite

sports talk show and it is likely you will hear ads for Internet sports gambling sites. Drive in your car and you may see billboards promoting "just how easy it is" to gamble online on your favorite games. Visit a college campus and I assure you will hear about the number of unsolicited e-mail ads received by students from sports gambling sites. Unfortunately, almost all of this activity— this illegal activity—continues to thrive, virtually unchecked here in the United States. Its impact is already being felt in the intercollegiate athletics community. NCAA staff members have begun processing NCAA rules violation cases involving Internet sports gambling. It is clear that Internet sports gambling is flourishing here in the United States.

However, as a father of four sons; three of whom are either in college or coaching on a college campus, I am concerned that the growth of Internet gambling could be fueled by college students. Today, college students are perhaps the most wired group in the United States. They can surf the Web in their school library, in a computer lab or in the privacy of their dorm room. The emergence of Internet gambling now enables students to wager behind closed doors, anonymously, and with the guarantee of absolute privacy.

How do students have the means to place bets online? I am sure it is not news to this Subcommittee that students have their own credit cards. According to a 2000 survey by Nellie Mae, 78 percent of college students have credit cards and nearly one in three have four or more cards. The average credit card balance for undergraduates has risen nearly 50 percent since 1998. One in 10 students will graduate with balances exceeding $7,000. Unfortunately, for some, Internet gambling may stand in the way of obtaining their college degree.

Last year, at a House congressional hearing, a NCAA witness played a video tape account of a college student who, in just three months, lost $10,000 gambling on sports over the Internet. He reported that a friend at another institution lost $5,000 on a single Internet wager on the Super Bowl and was forced to drop out of school. Unfortunately, these stories are not unique. The NCAA has heard similar accounts and the news media has been widely reporting on this rapidly growing problem among young people. Clearly, there is a need to address this issue.

For the past four years, the NCAA has worked closely with House and Senate sponsors of Internet gambling prohibition legislation. Of course, we are concerned that despite the 1961 Wire Act that prohibits interstate sports wagers over wire communication facilities, Internet sports gambling continues to prosper in the United States. Clearly, as the Internet goes wireless there is a need to update current statutes related to sports gambling so that the law keeps pace with technology. In addition, any proposed legislation must provide an effective enforcement mechanism that will impact an industry that is located outside the United States. This is critical and the success of any legislative effort will be dependent on crafting the right approach and ensuring that law enforcement and the appropriate federal agencies make it a priority to crack down on violators. The NCAA is pleased that this Subcommittee is examining ways to address Internet gambling. We firmly believe that as the industry begins to consolidate and large, multi-national companies assume a leadership position that new legislation can have an impact and act as a significant deterrent. It is our hope that with the passage of federal legislation any further growth related to sports gambling on the Internet will be achieved largely without United States participation.

Thank you.

Testimony of Ernest Stevens, Jr., Chairman, National Indian Gaming Association
Legislative Hearing on Internet Gaming Proposals
Before the Subcommittee on Financial Institutions and Consumer Credit of the House Committee on Financial Services Committee, July 24, 2001

Good Morning, Mr. Chairman and Members of the Committee. My name is Ernie Stevens, Jr., and I am the Chairman of the National Indian Gaming Association (NIGA). I am also a member of the Oneida Tribe of Wisconsin. NIGA is a non-profit association of 168 Indian Tribes dedicated to preserving tribal sovereignty and the inherent right of tribal governments to operate gaming enterprises to raise governmental revenue.[1]

Let me begin by thanking the Subcommittee for inviting me to testify this morning. Today, I will make four points. First, I will explain the Indian Gaming Regulatory Act (IGRA) and its purposes, and current tribal rights under the Act. Second, I will expand on the discussion of IGRA, explaining that Congress did not seek to limit tribal gaming to technology available in 1988, and discuss the current uses of technology by tribal governments. Third, I will then discuss the strength of tribal gaming regulatory systems, explaining that current federal oversight of Indian gaming makes Indian Internet gaming a workable industry. I will conclude by sharing our concerns with the various proposals to regulate and prohibit Internet gaming before this Committee.

At the outset, I would like to state that NIGA is not seeking legislation that would expand, promote, or prohibit Internet gaming. However, we do ask that any legislation that goes forward, preserves the rights of Tribal governments under existing law, and offers them the same opportunity to participate in Internet gaming as any other entity.

BACKGROUND: THE INDIAN GAMING REGULATORY ACT

The United States has recognized through the U.S. Constitution, Supreme Court cases, numerous Acts of Congress, and Presidential statements and executive orders, that Indian Tribes are sovereigns that possess governmental authority over their members and their territory. As governments, Indian Tribes strive to promote sound tribal economies, so that Indian lands may serve as permanent, livable homes for their residents (as the United States pledged in Treaties and Agreements with Indian Tribes).

With enactment of IGRA, Congress sought to promote tribal economic development, and recognized that Indian Tribes have the inherent authority to engage in gaming for governmental purposes. Congress also addressed concerns for state public

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[1] 196 of the 561 Indian Tribes in the United States engage in Indian gaming to fund governmental services and promote economic development. In other words, somewhat less than 40% of Indian Tribes engage in gaming. By comparison, 37 of the 50 States employ gaming to fund governmental services and promote economic development. In other words, over 70% of the States engage in gaming.

policy through the Tribal-State Compact process. Accordingly, the Act intends that Indian Tribes may operate gaming that is permitted in a state "for any purpose by any person." 25 U.S.C. § 2710(d)(1).[2]

Indian gaming has been an important source of employment and economic development for Indian Tribes, generating 250,000 jobs nationwide, and has proven to be an excellent welfare-to-work program. In Wisconsin, state records acknowledge that welfare payments have dropped sharply in counties that have Indian gaming facilities. Indian Tribes use gaming revenue to build basic governmental infrastructure including schools, hospitals, community centers, water and sewer systems, and roads. Tribes also use gaming revenues to fund education, health care, child care, elderly nutrition, police and fire protection, and other basis government programs.

In addition, tribal gaming has provided Tribes with capital necessary to diversify their economies and develop new enterprises. The Cabazon Band of Mission Indians, for example, has established a tire recycling facility that recycles 2 million tires annually.

Indian gaming also benefits neighboring communities. For example, the central New York region lost over 2,000 jobs with the closure of an air force base in the early 1990s. Shortly thereafter, the Oneida Nation opened its gaming facility and destination resort, creating over 3,000 jobs. In addition, tribal gaming generates substantial Federal, State, and local tax revenue through Indian gaming. A 1999 industry study by the Evans Group reports that:

> Federal tax receipts, based on the rise in receipts from social insurance taxes, personal income taxes, and corporate income taxes, plus the decline in unemployment benefits, rose by over $3.6 billion in 1998 because of Indian gaming.
>
> Indian gaming casinos generated more than an additional $1.0 billion in fees and related revenue sharing payments to state governments in 1998.

Evans Group, The Economic Impact of Indian Casino Gaming, (1999).

Of course, Indian gaming is not a panacea. Indian country is still struggling to develop viable economies. In 1999, for example, the FCC reported that only 49% of our Indian reservation households have telephone service. The Indian Health Service reports

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[2] As the Justice Department noted in its testimony on Internet and Indian gaming before the Senate Committee on Indian Affairs, "The Constitution vests the United States with authority over relations with Indian tribes. Absent a delegation of authority to the states, federal law governs Indian commerce. IGRA 'extends to the states a power withheld from the states by the Constitution,'" that is an opportunity to work with Indian Tribes in developing Tribal-State compacts for Class III gaming.

that 43% of Indian children under the age of 5 live in poverty. Indian gaming has been one of the very few bright spots in Indian economies. The National Gambling Impact Study Commission found after two years of studying gambling in general, Indian gaming is the only generally effective Indian economic development activity. Naturally, Indian Tribes work very hard to protect Indian gaming.

TRIBAL INTERNET GAMING

Internet gaming is an expanding industry. In its 1999 Final Report, the National Gambling Impact Study Commission (NGISC) estimated that Internet gaming would generate between $2.3 billion and $10 billion annually by 2001. Foreign nations, such as the United Kingdom, are beginning to create legal regimes that recognize and regulate Internet gaming. Recently, the State of Nevada developed a state law system for licensing and regulating Internet gaming, and New Jersey is in the process of considering similar licensing legislation. Just yesterday, new reports indicated that the Virgin Islands approved legislation to legalize Internet gambling. If this industry is permitted in the United States, Tribal governments must be given an equal chance to participate.

In addition, to promoting Indian gaming as a means of generating tribal government revenue, the Indian Gaming Regulatory Act intended that Indian Tribes should have access to modern technology to facilitate the operation of games. When Congress enacted the IGRA in 1988, it was aware that the remote locations of many Tribes would make it difficult to operate successful gaming enterprises. Thus, IGRA permits Tribes to join forces to more effectively compete with other forms of gaming. As the legislative history accompanying IGRA explains:

> [T]he Committee intends ... that tribes have maximum flexibility to utilize games such as bingo and lotto for tribal economic development. The Committee specifically rejects any inference that tribes should restrict class II games to existing games, sizes, levels of participation, or current technology The Committee intends that tribes be given every opportunity to take advantage of modem methods of conducting class II games and the language regarding technology is designed to provide maximum flexibility. In this regard, the Committee recognizes that tribes may wish to join other tribes to coordinate their class II operations and thereby enhance the potential of increasing revenues. For example, linking participant players at various reservations in the same or different states, by means of telephone, cable, television, or satellite may be a reasonable approach for tribes to take.

S. Rep. No. 100-446 on S. 555, the Indian Gaming Regulatory Act, 100th Cong., 2nd Session (1988).

Accordingly, IGRA authorized Tribal gaming operations to use telecommunications and other technology to provide class II gaming products to a

broader audience. As a result, the use of technology such as computers, satellites and telephone lines to offer games such as bingo and progressive slot machines is not uncommon in Indian Country.

IGRA was enacted before the Internet was a significant factor in our daily lives. The Internet provides access to information and markets never thought of in 1988. It would thus be improper to interpret IGRA as placing physical limitations on Tribal governments, if Congress recognizes Internet gaming in this country.

THE NETWORK OF TRIBAL GAMING REGULATORY SYSTEMS

Indian gaming is the most highly regulated form of gaming in the Nation. Tribal gaming is subject to regulation from three jurisdictions: Tribal, State, and Federal. Tribes regulate their own gaming operations through Tribal gaming commissions, Compliance officers, Tribal law enforcement officers, and Tribal courts. States regulate Tribal gaming at a level negotiated through tribal/state compacts. And the Federal Government regulates Tribal gaming on several levels. The National Indian Gaming Commission is the primary regulator, providing a background level of oversight, reviewing the licensing of gaming management and key employees, management contracts, and tribal gaming ordinances. In addition, the Secretary of the Interior oversees the Tribal-State compact process, reviews and approves compacts provided that they are consistent with the Act and the Federal trust responsibility.

The Departments of Treasury and Justice also play a role in regulating Indian gaming. In 1994, Congress acted to protect Indian gaming through the Money Laundering Suppression Act, which applies the Bank Secrecy Act's protective provisions to Indian gaming operations. Under the Act, tribal operations report currency transactions in excess of $10,000 to the Department of Treasury's Financial Crimes Enforcement Network (FinCEN). FinCEN is the Federal Agency charged with preventing money laundering. NIGA has worked actively with FinCEN to ensure that Indian Tribes have the most up-to-date information on how to prevent money laundering. FinCEN representatives met with NIGA's Member Tribes at our April 2001 Trade Show. The FBI and the Justice Department also have responsibility for protecting Indian gaming. Under the United States Criminal Code, 18 U.S.C. § 1163, anyone who embezzles or steals money or property from an Indian gaming facility or any other Indian establishment is guilty of a federal felony, punishable by up to 5 years in prison.

Under IGRA, Tribes serve as the daily on-the-spot regulators of Indian gaming. Over the past decade, Tribes have developed world-class regulatory systems. In 1998, a NIGA survey indicated that 147 Tribes engaged in gaming spent over $120 million on gaming regulation. NIGA is in the process of conducting a survey of current tribal government regulation of Indian gaming, which we hope to complete by September. We will provide the Committee our survey results at that time. However, data available today shows that Tribal gaming regulation is on par with or exceeds the resources spent on gaming regulation in New Jersey and Nevada.

According to a 1998 GAO Report, Nevada employed about 400 regulatory personnel with a budget of $22 million to regulate 2,425 gaming locations (80% with less than 15 machines). New Jersey spent about $54 million to employ 700 regulatory employees to cover 12 major casinos, with over 35,000 machines and 1,400 table games. U.S. GAO Report, Casino Gaming Regulation: The Roles of 5 States and the National Indian Gaming Commission, (May 1998).

By way of comparison, 15 Arizona Indian Tribes operate medium-sized facilities, with between 400 to 1,500 machines. These Tribes invest $21 million annually to employ over 200 tribal regulatory employees, and pay an additional $5 million for state regulation to the Arizona Department of Gaming, which employs 60 state regulatory staff. Report of the Udall Center for Public Policy (2001). The Oneida Nation of New York spends approximately $9 million on regulation, of which $3.3 million goes to the State of New York as part of their regulatory presence. The Nation employs over 200 personnel to regulate their gaming operation, and has a three-member gaming commission.

Against this background of strong Tribal, State, and Federal regulation, the FBI and the Justice Department have repeatedly reported that there has be no substantial organized crime infiltration of Indian gaming. After a two years of public hearings held throughout the Nation, the National Gambling Impact Study Commission confirmed this finding.

RECENT INTERNET GAMING PROPOSALS

H.R. 556, the Unlawful Internet Gambling Funding Prohibition Act
H.R. 3125, the Internet Gambling Prohibition Act of 2000

In our view, any Internet gambling legislation must treat Indian Tribes fairly and equitably. Accordingly, as a first step, we ask that any legislation addressing Internet gaming include a savings clause to ensure that it does not disturb existing rights of Indian Tribes under the IGRA. The Senate recently took this first step when it briefly considered Internet legislation.

On May 2, 2001, the Senate Commerce Committee marked up Senator McCain's NCAA sports betting bill, S.718. During markup, Senator Breaux introduced an amendment that was essentially the same as Representative Leach's H.R. 556. Like H.R. 556, the Breaux amendment defines unlawful Internet gambling as placing, receiving, or otherwise making a bet over the Internet where such bet is unlawful under Federal or State law in the State which the bet or wager is initiated, received, or otherwise made. Also like H.R. 556, the amendment contains a civil enforcement provision with a subsection on Indian lands that authorizes the United States to enforce against violations alleged to have occurred on Indian lands. This provision also acknowledges enforcement authorities specified in tribal-state compacts. Recognizing that this amendment did not

acknowledge Tribal governmental rights under IGRA, Senator Inouye introduced a second-degree amendment that preserves Tribal rights under IGRA (a savings clause). The Senate Commerce Committee adopted the Breaux amendment and the Inouye second-degree amendment by voice vote without opposition. Inclusion of similar language in any of the bills before this Committee would be a positive first step in addressing the most basic concerns of our Member Tribes.

In the last Congress, proposals, such as Representative Goodlatte's H.R. 3125 and Senator Kyl's S. 692, sought a general Federal prohibition on Internet gaming coupled with a number of exceptions for state lotteries, horse and dog racing, jai alai, and fantasy sports betting. If Internet gambling legislation takes this form in the 107th Congress, we Indian Tribes should be acknowledged to have the right to make similar use of the Internet.

This year Internet proposals such as Representative Leach's H.R. 556, permits States to determine whether to authorize Internet gaming in their jurisdictions, but does not close the door to federal regulation or prohibition. We ask that Indian Tribes be afforded the option to determine whether to permit Internet gaming in tribal jurisdictions, and to access markets where Internet gaming is permitted by state law.

TRIBAL ACCESS TO FOREIGN MARKETS

Finally, in our view, Internet gambling legislation should also acknowledge the authority of Indian Tribes to offer Internet gaming where such gaming is lawful in foreign markets. Internet gaming can be a great boon to rural Indian Nations and Tribes that have not yet been able to utilize IGRA to generate tribal government revenue because of their isolate circumstances, by enabling these Tribes to reach a global market. Gaming is lawful in many foreign jurisdictions, and some foreign nations are positioning themselves to offer Internet gaming internationally. Indian Tribes should not be denied this opportunity. Everything Native American is in great demand in Europe and Asia. For example, the Yakima Nation exports much of its world famous apples harvest overseas. Native artisans from the southwest cannot make enough rugs and pottery to satisfy the demand overseas. We believe that a Tribal Internet site that combined governmental gaming with tribal commodities would be met with great demand.

Tribal government access of foreign markets does not raise the concerns that some may have with Tribal gaming domestically. A Tribal government engaged in Internet gaming with foreign participants would not affect state public policy concerns. And finally, as stated above, Tribal gaming regulators already work with the Department of Treasury's Fin-CEN to prevent money laundering, and also work with the NIGC, the FBI, and the IRS, and the Interior Department at the Federal level.

CONCLUSION

In sum, we ask that any Internet gambling legislation that moves through this chamber treat Indian Tribes fairly and equitably. Any Internet gambling legislation should include a savings clause to ensure that the new law does not disturb existing tribal rights under IGRA to use modern technology and wire communications.

If the Internet gambling legislation takes the form of state option legislation, then Indian Tribes should be afforded their own option to participate in Internet gaming with customers in jurisdictions that also permit Internet gaming. On the other hand, if internet gambling legislation takes the form of a general federal prohibition with exceptions, such as state lotteries, horse racing and dog racing, jai alai, or fantasy sports betting, Indian Tribes should be afforded a fair and equitable treatment by being included in such exceptions.

TESTIMONY
OF
EDWIN J. McGUINN
HOUSE FINANCIAL SERVICES COMMITTEE
HEARING ON INTERNET GAMBLING
JULY 24, 2001

Mr. Chairman, my name is Edwin J. McGuinn and I am the CEO of eLOT, Inc. We are a Norwalk, CT based company that specializes in providing services to state and government lotteries. eLOT, Inc. and its subsidiary, eLottery, Inc., are leading providers of web-based retailing and Internet marketing services to governmental lotteries. eLottery has positioned itself as the proven Internet partner to lead the governmental lottery industry into the e-commerce market.

- Conducted millions of e-commerce lottery transactions using a full line of Internet, Intranet, telephone, accounting, banking and database applications and services.

- Developed and field tested technology that assures necessary security, age and border controls required to process a lottery transaction.

- Invested over $30 million in the design, development and operation of Internet based lottery systems.

- Exclusive web based retailer of lottery tickets for the Jamaica Lottery, a member in good standing of National Association of State and Provincial Lotteries otherwise know as NASPL.

- Selected by the Maryland Lottery to provide the nation's first Internet interface to a lottery's subscription system.

- Provides sophisticated Internet based marketing services for the Idaho Lottery, Indiana's Hoosier Lottery, the New Jersey Lottery, the Jamaica Lottery, and the Maryland Lottery.

I appreciate the opportunity provided to me by the Committee and I hope that I will be

able to shed some light on how our company, and others like it, service state and government lotteries. I would also like to buttress the testimony given to this Committee by Ms. Penelope Kyle, the Director of the Virginia Lottery and the current President of the National Association of State and Provincial Lotteries (NASPL). At that time Ms. Kyle said that NASPL could not support any legislation that would remove the authority of the governors and state legislators in regulating the sale of their lottery tickets. This has been a right that has been traditionally reserved to the states and they have experienced no major problems to this date in implementing a regulatory process and enforcing those regulations.

The issue that I am discussing here today is focused solely on the purchase of lottery tickets over the Internet. The issue of state lotteries has long since been resolved in the United States. Today there are 38 state lotteries and just this year the legislature of Nevada authorized the creation of a lottery in Nevada. The funds from these lotteries have gone to a wide variety of pubic causes, most notably education. Using the latest numbers available (FY1999) we find that in Ohio $696 million was provided for education, in New York $1.413 billion was sent to education, in Massachusetts $809 million was provided to local towns and cities, in Kentucky $161 million in lottery proceeds were used for education, road repairs, building and veteran programs, in Florida $802 million went to education and scholarships and in Georgia $646 million went exclusively to scholarships to deserving students that otherwise might not have gone to college. Clearly lotteries are being responsible with their funding. I have attached at the end of my testimony a more exhaustive list of the use of lottery funds in this country.

E-commerce is here. . We see it in every facet of life. We are told that we will shop on the Internet for all things in the future. In many cases the future is now. More and more people now purchase airline tickets on line, books and music are purchased on line, electronics and computers are purchased on line, and it is only logical that state lotteries

would wish to take advantage of e-commerce to expand their pool of customers, as well as to make it more convenient. No matter how attractive the economics, it is important to know that no state lottery will move its products onto the Internet without first having stringent age, border and problem gaming controls in place.

The state of Virginia is a classic example of what lotteries see in on-line sales. The Hampton roads area of Virginia has the highest per-capita sale of tickets in the state and is the lowest per-capita wired area. On the other end of the spectrum is Fairfax County. It has the highest wired percentage in the state and the lowest per-capita sales of lottery tickets. It is also the highest income area of the state. This is the demographic that lotteries would like to increase sales. The average wired household has an income in excess of $50,000. These people do not habitually stop at convenience stores and therefore do not purchase a high level of lottery tickets. They are on line in the evenings and would purchase tickets if they could do so from the convenience of their home. Lotteries are often accused of being a regressive tax. Selling lottery tickets on line would appeal to a higher income demographic and help alleviate the regressive nature of lottery sales.

I would like to address some of the arguments that have been put forward in the past in opposition to lottery tickets being offered on line as well as the inequity of the treatment of state run lotteries vis-à-vis other forms of gaming.

First, the different versions of bills prohibiting Internet gambling have treated state lotteries differently. In the early versions, they were not addressed and the issue was left to the states. I notice that both the Leach bill and the LaFalce bill that are before this Committee do not specifically address state lotteries, but I have to assume that they would be caught up in the general prohibition. In the 106th Congress the Leach bill was amended by this Committee's predecessor, the Banking Committee, to permit the use of credit cards on any wager placed on the Internet that was considered to be legal. This was done to accommodate the exceptions in the Goodlatte bill that were granted for pari-mutuel wagering. The bill introduced in the Senate by Senator Kyl did not address

lotteries in its first version, but later included language that would allow lotteries to offer tickets over the Internet but only in a place open to the general public.

As Ms. Kyle stated previously, this is moving into the area of restricting the rights of the governors and the legislatures to control their own lotteries. NASPL objects to this and we agree with them on this key point. We find it incomprehensible that Congress would allow wagers on horse racing and other pari-mutuel events, but restrict the lottery run by the state government.

My second point deals with some of the red herring arguments that have surfaced by those that would ban the sale of lottery tickets over the Internet. The first argument against the sale of lottery tickets has been that people will be able to buy lottery tickets around the nation. This is utterly false. States now prohibit the sale of lottery tickets across state lines. If you are a resident of Ohio, and the Ohio lottery decides to authorize the sale of tickets over the Internet, then only Ohio residents can buy them. Again, the registration process will detect anyone that is not an Ohio resident. But let us assume that someone finds a way around the system. They purchase a winning ticket in the Ohio Lottery and they are not a resident of Ohio. The Lottery knows the ticket was purchased over the Internet, just as they know which store sold a ticket, and they will deny payment of any prize.

The State lottery industry has already adopted and has been conducting sales of lottery tickets using the U.S. postal service. Applications are received by mail containing their name and address. Only in-state applications are processed; out of state applications are rejected. This practice has been working fine for over 20 years. Internet sales would use this same process. Instead of using the U.S. postal service to deliver the application – it would deliver the application by email. Same rules, same controls – simply a more efficient delivery mechanism

Another argument against the sale of lottery tickets over the Internet is that this would allow minors to purchase lottery tickets. This argument does not have a factual base to support its claim. There is no study available that suggests that minors are interested in playing the lottery. Every study shows that the base players for state lotteries are older Americans. Further, Internet sales would use the same process already adopted by the states in their subscription sales. Instead of the application being delivered by the U.S. Postal service the application would be delivered by email.

What I would like to do is take the Committee through the process a player would have to go to purchase a ticket over the Internet. If a state authorized e-Lottery to become a vendor for their lottery tickets the player would go to our web site, or possible the state's very own web site that eLottery would "Internet ticket enable," and register to play. They would be required to submit their name, address and age (right now eLottery is working Equifax, a data information leader, regarding these important and necessary controls). This information would be checked against comprehensive data sources for correctness. Once it had been determined that the player was in fact a resident of the state in question and over the legal age, that player would be issued a pin number and a password to access the site where the purchase could be made. I should point out that e-Lottery does not purchase the ticket for the player; we only facilitate the purchase through the normal electronic channels that players currently buy valid tickets. If a minor somehow got his parents pin number and password, and purchased a lottery ticket, the minor would be unable to cash a winning ticket. It has been suggested that the parent would probably cash the ticket. That is a parental issue and I suggest that if a minor purchased a winning ticket at a convenience store the parent may well cash that one as well.

In both cases the fact that the purchaser of the ticket must present it to the state lottery commission to redeem the prize acts as a strong deterrent to anyone trying to circumvent the law.

As a company we work very closely with the customer, the state lottery. If the state lottery wishes to implement any restrictions on the sale of lottery tickets over the Internet, it is easily accomplished. For example, the player could be restricted to purchasing only a certain number of tickets within any timeframe, be it hourly or monthly. There are many other technological restrictions that can be set up. Recently the Nevada casino industry demonstrated some of these restrictions in showing the legislature that they could control out of state play for Internet gambling.

In summary, we strongly support the concept of states regulating their own state lotteries. Some states have already decided not to offer lottery tickets over the Internet, while others have received authorization from the state legislature to do so. I have no comment on regulation of other forms of gaming, but I urge the members of the Committee to consider the slippery slope they enter upon as they begin to further erode the rights of states to regulate commerce within a state's borders.

I thank you for your time and will respectfully respond to any questions the members of the Committee may have.

U.S. State Lottery Profits Transferred to Beneficiaries

(U.S. dollar amounts in millions)

	Proceeds FY 99 Amount Transferred	Proceeds FY 99 As % of Sales	Proceeds FY 98 Amount Transferred	Proceeds FY 98 As % of Sales	Current Beneficiaries
Arizona	80.5	30	76.1	30.4	General Fund for transportation, wildlife and parks, recreation, economic development, education
California	900.8	36	790	34.4	Public education
Colorado	98.7	27.6	97.7	26.1	State parks, outdoor recreation, conservation trust fund
Connecticut	271.3	31.2	264.6	32.9	General Fund
Delaware	166.9	31.7	125.4	28	General Fund
D.C.	67.5	32.3	80	35.2	General Fund for city operations
Florida	802.8	36.8	800.7	37.6	Public education: pre-kindergarten, K-12, community college, state university scholarships
Georgia	646.7	31.8	555	n/a	HOPE Scholarship program, pre-kindergarten, capital outlay for education
Idaho	20.6	22.8	20.5	23	Public schools and buildings
Illinois	540	35.4	560	35.5	Common School fund (K-12)
Indiana	204.8	30.1	190.6	29.4	Lowers license plate tax; Fund for capital projects; School & Library Technology Fund; Pensions for teachers, police, firefighters
Iowa	45.8	24.9	43	25	General Fund
Kansas	61	30.5	60.3	31.2	Economic development initiatives, correctional institutions building fund, juvenile detention facilities
Kentucky	161.8	27.7	156.7	26.8	General Fund for education, police, capital building projects, road repairs, Vietnam vets education program
Louisiana	106.9	37	108	36.5	General Fund appropriated by Legislature; $150,000 to gambling hotline
Maine	41.3	28.6	41.8	28.1	General Fund for 275 programs
Maryland	400	36.8	400.1	37.4	General Fund for education, health, social welfare, correctional services, public safety
Massachusetts	809.1	24	790	24.5	Local aid to cities and towns
Michigan	622.3	35.2	640	39.1	Sate School Aid Fund to support K-12 public education programs
Minnesota	85.7	22	87.3	23.5	General Fund, Environmental and Natural Resources Trust Fund
Missouri	154.8	30.2	150.7	30.5	Departments of elementary, secondary and higher education
Montana	6.8	22.7	6.6	22.2	General Fund
Nebraska	18.3	25.3	19.8	25	Education Innovation Fund, Nebraska Environmental Trust Fund
New Hampshire	64	32.1	55	30	Education
New Jersey	652	39.3	646.7	40	Education and institutions
New Mexico	19.7	22.1	19.3	22.7	Education, public school capital outlay, college scholarships
New York	1,413.30	38.2	1,529	38.8	Education

Ohio	696.2	32.5	723.9	32.9	Lottery Profits Education Fund for primary, secondary, special and vocational education
Oregon	310.5	42.6	297.8	41.3	Public education, economic development, job creation
Pennsylvania	668.2	40	712.2	42.7	Programs for older residents: property tax and rent rebates, cost reduction on prescriptions, transportation, aging related services
Puerto Rico	87.8	34.2	83.1	32.4	General fund, rent subsidies for seniors, local government
Rhode Island	133.4	18	115	18.2	General Fund For education, subsidies for the poor, roadwork
South Dakota	97	17.7	97.2	17.5	General Fund for health, social services, education: Property Tax Reduction Fund; Capital Construction Fund for water development projects, production incentives, public and special transportation
Texas	875	34	1,065.60	34.4	Foundation School Fund for elementary and secondary education
Vermont	19.1	27.1	22.2	29.9	General Fund for education, transportation, social services, buildings, historic preservation , roads, bridges
Virginia	321.4	34.4	318	34.8	General Fund for education, health and human services, natural resources, transportation, government and economic development
Washington	112.9	23.9	115.1	25.3	General Fund for education, human services, natural resources
West Virginia	119.3	30.4	91.2	29.9	Education, tourism, senior citizen programs, school construction, bonds, capital project bonds, education, arts and sciences, parks
Wisconsin	134.9	31.5	121.6	29.1	Property tax relief
TOTAL or Average	12,039.10	30.48%	12,077.80	30.58%	

Source: North American Association of State and Provincial Lotteries

Edwin J. McGuinn, Jr.
President and CEO
eLottery, Inc.
www.eLottery.com

eLottery maintains the first consumer web site established to promote individual state and governmental lotteries. The primary corporate focus is to develop consumer marketing products and integrated network management systems for the sale of lottery tickets on the Internet. The Company initiated an Internet based lottery systems this past September in Jamaica on behalf of the Jamaica Lottery Commission. The Company presently manages the Internet marketing programs for the several State and Governmental Lotteries. In addition the first Internet based subscription of Lotto and Big Game Lotto tickets will be rolled out for the Maryland Lottery.

Prior to joining eLottery, Mr. Mc Guinn was President and CEO of Limitrader.com the first E*Investment Bank for new issue and secondary trading of corporate bonds. This Company has several prominent Wall Street firms as primary investors along with SOFTBANK one of the pre-eminent venture capital firms in both the financial services and consumer product arena. From 1992 to 1997, Mr. McGuinn was head of the equity capital markets for two investment banking boutiques. He was a Senior Managing Director of Rodman and Renshaw in charge of equity research, sales and trading. Rodman and Renshaw purchased the institutional equity and corporate finance business of Mabon Securities in 1995. Prior to this merger, he was Managing Director and Head of Equities and Equity Related Products (which included Convertible and High Yield Bonds) for Mabon. From 1981 to 1992 Mr. McGuinn was a Managing Director and member of Lehman Brothers Fixed Income Operating Committee. While at Lehman Brothers, Mr. McGuinn was responsible for international fixed income trading, sales and research in New York, London and Tokyo and was a Senior Trading Manager of that firm's U.S. Treasury and Arbitrage Desks. Mr. McGuinn was also a Senior Manager with what is now Ernst & Young in the audit and management consulting divisions from 1973 to 1981.

Mr. McGuinn sits on the advisory boards of a venture capital company and several development stage companies specializing in 'B2B' practices. He has also lectured extensively on the topics of electronic trading and best business practices for the financial services industry.

Mr. McGuinn received a Bachelor of Arts in Mathematics and Economics from Colgate University and a Master of Science from New York University. He holds NASD Series 7, 8, and 24 licenses along with a CPA license from the State of New York.

Testimony of Timothy A. Kelly, Ph.D.
Executive Director
National Gambling Impact Study Commission

July 24, 2001

House Subcommittee on Financial Institutions and Consumer Credit
United States House of Representatives
Washington, D.C.

Good morning Mr. Chairman and Members of the Committee. I am Tim Kelly, Executive Director of the National Gambling Impact Study Commission. I appreciate this opportunity to give testimony on Internet gambling and its effects as it relates to H.R.556 and other Internet gambling legislative proposals.

Only thirty years ago, gambling was illegal in most states and was generally considered to be a vice contrary to the American work ethic. Serious gamblers had to travel to Nevada for casino play, and the states had not yet plunged into lottery mania.

Today, however, there are over 800 casinos operating in 28 states, the lottery is played in 37 states plus the District of Columbia, and all but three states have legalized some form of gambling. Gambling expansion has swept the nation, with revenues jumping from about $1 billion in 1980 to well over $50 billion today. That means Americans lose on average over $137 million dollars every day of the year from gambling.

Gambling expansion has come with a high social cost. 15.4 Million Americans already are suffering from problem and pathological gambling – also called gambling addiction, which is often devastating to the individual and their family. The National Academies of Science found that "pathological gamblers engage in destructive behaviors: they commit crimes, they run up large debts, they damage relationships with family and friends, and they kill themselves." It is not unusual for a gambling addict to end up in bankruptcy, with a broken family, facing a criminal charge from his or her employer.

Concerns about gambling's rapid rise nationally through the '80s and early '90s and it's impact on individuals and communities drew Congressional attention. In 1996 Congress created the National Gambling Impact Study Commission, charged with studying the economic and social effects of legalized gambling in America. In 1999 the Commission completed its unanimously-adopted final report, which can be found on the web at www.ngisc.gov. The report contains 77 far-reaching recommendations for state and federal legislators, and perhaps most importantly for this Subcommittee, calls for prohibition of Internet gambling not already authorized. This is especially noteworthy in light of the fact that four of the nine commissioners represented or endorsed the gambling industry.

The Commission's report devoted an entire chapter to Internet gambling because, if unchecked, this may well become the most common form of gambling for Americans and their families in the years to come. At the click of a mouse, virtual casinos and lotteries

appear on computer screens in dorms and homes across America. All that is required to play is a credit card number, and time and money to burn.

I would like to walk you through four key sections of the report's chapter on Internet gambling that highlight concerns raised by this form of gambling. I will then conclude by discussing the Commission's recommendations as they apply to legislation under consideration by this Subcommittee.

Four Key Sections from the National Gambling Impact Study Commission's Chapter on Internet Gambling

A key mandate of the National Gambling Impact Study Commission was to assess the impact of technology on gambling in the United States. Technology in this area is evolving at a rapid rate, and its potential is only beginning to be glimpsed. This is especially true regarding Internet gambling. On-line wagering promises to revolutionize the way Americans gamble because it opens up the possibility of immediate, individual, 24-hour access to the full range of gambling in every home.

To better understand the impact of Internet gambling, the Commission and its Subcommittee on Regulation, Enforcement, and the Internet received testimony from technology experts, the interactive gambling community, and public officials and reviewed the growing research on Internet use and the efforts of regulators to match the unprecedented pace of change. This chapter presents a summary of those findings and recommendations for meeting the challenge posed by this technology.

I. Candidates for Prohibition

Youth Gambling

Because the Internet can be used anonymously, the danger exists that access to Internet gambling will be abused by underage gamblers. In most instances, a would-be gambler merely has to fill out a registration form in order to play. Most sites rely on the registrant to disclose his or her correct age and make little or no attempt to verify the accuracy of the information. Underage gamblers can use their parents' credit cards or even their own credit and debit cards to register and set up accounts for use at Internet gambling sites.

Concerns regarding underage gambling derive in part from this age group's familiarity with and frequent use of the Internet. *American Demographics* reports that 69 percent of 18- to 24-year-olds use computers for hobbies and entertainment, compared with 10 percent of people ages 65 and older. A 1997 study by the Survey of Public Participation in the Arts (SPPA) showed that 72 percent of people ages 18 to 24 use computers, averaging four hours of use daily. According to the American Internet User Survey, younger users communicate more often on-line and browse more Web sites than older Internet users do. Moreover, younger Internet users are most likely to download video clips and to access bank account information. Given their knowledge of computers and familiarity with the Web, young people may find gambling on the Internet particularly appealing.

Of particular concern is the special attraction of youth to on-line sports wagering, tournaments, and sweepstakes. The National Collegiate Athletic Association has voiced its concern over the problem of Internet sports gambling among college students. In testimony before the Senate Judiciary Committee's Subcommittee on Technology, Terrorism and Government Information, Director of Agent and Gambling Activities Bill Saum stated that sports gambling "remains a growing problem on college campuses.... If left unchecked, the growth of Internet gambling may be fueled by college students. After all, who else has greater access to the Internet?"

Pathological Gamblers

Pathological gamblers are another group susceptible to problems with Internet gambling. In addition to their accessibility, the high-speed instant gratification of Internet games and the high level of privacy they offer may exacerbate problem and pathological gambling. Access to the Internet is easy and inexpensive and can be conducted in the privacy of one's own home. Shielded from public scrutiny, pathological gamblers can traverse dozens of Web sites and gamble 24 hours a day. Experts in the field of pathological gambling have expressed concern over the potential abuse of this technology by problem and pathological gamblers. The director of the Harvard Medical School's Division on Addiction Studies, Dr. Howard J. Shaffer, likened the Internet to new delivery forms for addictive narcotics. He stated, "As smoking crack cocaine changed the cocaine experience, I think electronics is going to change the way gambling is experienced." Bernie Horn, the executive director of the National Coalition Against Legalized Gaming, testified before Congress that Internet gambling "magnifies the potential destructiveness of the addiction."

Criminal Use

The problems associated with anonymity extend beyond youth and pathological gambling. Lack of accountability also raises the potential for criminal activities, which can occur in several ways. First, there is the possibility of abuse by gambling operators. Most Internet service providers (ISPs) hosting Internet gambling operations are physically located offshore; as a result, operators can alter, move, or entirely remove sites within minutes. This mobility makes it possible for dishonest operators to take credit card numbers and money from deposited accounts and close down. Stories of unpaid gambling winnings often surface in news reports and among industry insiders. In fact, several Web sites now exist that provide analysis of the payout activity for Internet gambling operations.

Second, computer hackers or gambling operators may tamper with gambling software to manipulate games to their benefit. Unlike the physical world of highly regulated resort-destination casinos, assessing the integrity of Internet operators is quite difficult. Background checks for licensing in foreign jurisdictions are seldom as thorough as they are in the United States. Furthermore, the global dispersion of Internet gambling operations makes the vigilant regulation of the algorithms of Internet games nearly impossible.

Third, gambling on the Internet may provide an easy means for money laundering. Internet gambling provides anonymity, remote access, and encrypted data. To launder

money, a person need only deposit money into an offshore account, use those funds to gamble, lose a small percent of the original funds, then cash out the remaining funds. Through the dual protection of encryption and anonymity, much of this activity can take place undetected. In a study prepared for the Office of Science and Technology Policy and the Financial Crimes Enforcement Network of the Critical Technologies Institute, David A. Mussington and colleagues examined the potential for money laundering on the Internet. The study raises several essential concerns regarding the use of the Internet for money-laundering activities, including the lack of uniform international law and oversight or regulatory regime, the fluidity of funds crossing international borders, and the high degree of anonymity.

II. State of the Law: The Applicability of 18 U.S.C. § 1084

Presently, the most widely applied federal statute addressing gambling on the Internet is 18 U.S.C. § 1084. According to this statute,

> Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined under this title or imprisoned not more than two years, or both.

This section makes illegal the use of wire communications to place or assist with placing bets or wagers. However, ambiguity does make its appearance. The section of the statute immediately following the quoted passage exempts the use of a wire communication facility to report on, provide information for, or assist with the placing of bets or wagers "from a State or foreign country where betting on that sporting event or contest is legal into a State or foreign country which such betting is legal." The statute also outlines the obligation of communications carriers to discontinue providing services once notified of the illegal activity.

The applicability of 18 U.S.C. § 1084 to Internet gambling has given rise to a number of disputes over the past few years. For example, does the phrase "wire communications" include the Internet? Does the specific mention of "sports wagering" and "contests" include all types of gambling on the Internet? When placing a bet on the Internet, where does jurisdictional authority reside?

The debate over the applicability of the phrase "wire communications" to the Internet involves both the original intent of the law as well as the future of the technology. Some argue that because there was no technology known as the Internet at the time of the statute's formulation, the intent of the law applies only to telephone communications. However, because Congress did not write the statute as "telephone communications," it is argued that its intent was to include any and all wire communication devices. This debate, however, may be moot: Future technological advances may make it possible for individuals to bypass cables and telephone wires when establishing connections to the Internet. For example, cellular access to the Internet is presently available, and several companies are developing hand-held Internet devices that access satellite technology.

Perhaps through existing cellular technology and direct satellite feeds, information on the Internet will pass through most computers without any hard wire connection at all to communication devices.

A second point of contention arises over the forms of gambling to which 18 U.S.C. § 1084 applies. It is clear through the specification of "sporting event" that the statute applies to sports wagering. Because it lacks a clear definition of "contest," however, the statute's applicability to other forms of gambling is vague. Do contests include bingo, lotteries, or casino-style games?

Definitions are further clouded regarding the unique jurisdictional concerns of the Internet. The mention of "transmission" of bets or wagers or "information assisting in the placing of bets or wagers," raises concerns over the definition of those words when applied to the Internet. Is posting a Web site that provides citizens an opportunity to engage in Internet gambling a "transmission" of illegal services and information? The question of who is facilitating the transmission of bets or wagers raises concerns. Where are bets and wagers taking place on the Internet? Are they taking place at the site where the person downloads a Web page onto a personal computer? Is the bet taking place at the point of financial transactions—that is, where the bank account, credit card, or smart card companies are located? Or is the bet or wager occurring at the ISP that hosts the Internet gambling site?

III. An Enhanced Federal Role at State Request

Given this and other experiences, several states have concluded that only the federal government has the potential to regulate or prohibit Internet gambling. In the words of Florida Attorney General Butterworth:

> State law prohibits an individual in Florida from placing a bet or wager by wire communication or by use of the Internet. However... the burgeoning growth of the Internet and the difficulty in adopting and implementing durable and effective enforcement mechanisms, makes any effort to regulate the Internet's use better suited to federal legislation, rather than a patchwork attempt by individual states.

To this end, the National Association of Attorneys General (NAAG) has called for an expansion in the language of the federal antiwagering statute to prohibit Internet gambling and for federal-state cooperation on this issue. In the view of the state attorneys general, existing federal legislation and regulation falls short in several major areas, including the definition of what constitutes gambling, the need for the law to specifically cover more types of communications devices, and the ambiguity regarding the legality of receiving information on bets or wagers.

NAAG's position on Internet gambling is a rare stance by the association in support of increased federal law enforcement and regulation and is a clear indication of the regulatory difficulties posed by Internet gambling. NAAG usually argues against federal intrusion into areas of traditional state responsibility, such as gambling. However, in a letter to William A. Bible, a member of this Commission and Chairman of the Subcommittee on Regulation, Enforcement and the Internet, James E. Doyle, the attorney general of Wisconsin, wrote that "NAAG has taken the unusual position that this activity

must be prohibited by federal law, and that State regulation would be ineffective." In addressing the issue of enforceability of the federal prohibition, Doyle emphasized that "simply because an activity is difficult to control does not mean law enforcement should be forced to stick its head into the sand and act as though the issue does not exist."

Federal Efforts

The federal government has been active in the area of Internet gambling. Thus far, DOJ has investigated and brought charges against 22 Internet gambling operators on charges of violating the Wire Communications Act. All the defendants operated their businesses offshore and maintained that they were licensed by foreign governments. However, the defendants are U.S. citizens, some of whom were living in the United States at the time of their arrests. In a public statement following the charges, Attorney General Janet Reno announced, "The Internet is not an electronic sanctuary for illegal betting. To Internet betting operators everywhere, we have a simple message: 'You can't hide online and you can't hide offshore."

Ongoing efforts aim to strengthen Federal regulation and prohibition of Internet gambling. Members in both chambers of Congress have introduced legislation to address Internet gambling. The Internet Gambling Prohibition Act, first introduced by Senator Kyl during the 105th Congress, provides for the prohibition of Internet gambling through amending the Wire Communications Act. As reintroduced during the 106th Congress, the bill would expand and/or clarify definitions within the statute to include the technology of the Internet and all forms of gambling. The enforcement mechanisms in the legislation include fines and/or imprisonment for people conducting business or participating in illegal gambling as well as measures against ISPs that provide communications service to Internet gambling Web sites.

IV. Recommendations

5.1 The Commission recommends to the President, Congress, and the Department of Justice (DOJ) that the federal government should prohibit, without allowing new exemptions or the expansion of existing federal exemptions to other jurisdictions, Internet gambling not already authorized within the United States or among parties in the United States and any foreign jurisdiction. Further, the Commission recommends that the President and Congress direct DOJ to develop enforcement strategies that include, but are not limited to, Internet service providers, credit card providers, money transfer agencies, makers of wireless communications systems, and others who intentionally or unintentionally facilitate Internet gambling transactions. Because it crosses state lines, it is difficult for states to adequately monitor and regulate such gambling.

5.2 The Commission recommends to the President, Congress, and state governments the passage of legislation prohibiting wire transfers to known Internet gambling sites, or the banks who represent them. Furthermore, the Commission recommends the passage of legislation stating that any credit card debts incurred while gambling on the Internet are unrecoverable.

5.3 The Commission recognizes that current technology is available that makes it possible for gambling to take place in the home or the office, without the participant

physically going to a place to gamble. Because of the lack of sound research on the effects of these forms of gambling on the population and the difficulty of policing and regulating to prevent such things as participation by minors, the commission recommends that states not permit the expansion of gambling into homes through technology and the expansion of account wagering.

5.4 The Commission recommends to the President and Congress that because Internet gambling is expanding most rapidly through offshore operators, the federal government should take steps to encourage or enable foreign governments not to harbor Internet gambling organizations that prey on U.S. citizens.

Conclusion: Current Legislative Proposals

In conclusion, the Commission found that Internet gambling poses a potential threat to the nation. It puts our youth at risk, exacerbates pathological gambling, and opens the door for fraud and money laundering. For these reasons, the Commission recommended: 1) prohibiting Internet gambling not already authorized; 2) prohibiting financial transfers to Internet gambling sites; 3) limiting in-home gambling technologies; and 4) encouraging other nations to eradicate Internet gambling operations that prey on the U.S.

H.R.566 prohibits financial transfers and calls for working with other nations, and it would help limit in-home gambling. But all of this would apply only to "unlawful" Internet gambling. This implies of course that there are "lawful" forms of internet gambling as well, and opens the door to endless debate as to whether or not a given Internet gambling site is legal. In so doing, H.R.566 skips over the primary Commission recommendation on Internet gambling – prohibition – even though it addresses the other recommendations well.

The Subcommittee now has before it an alternative bill for consideration, H.R.2579, that removes the word "unlawful" from the text. This would prohibit Internet gambling per se and, in my opinion, more closely accomplish the full recommendations of the National Gambling Impact Study Commission on this critical matter. (Note that the Commission recommendation calls for prohibition, but allows for Internet gambling specifically and explicitly authorized as of the report's release – if any – to continue without expansion.) So although H.R.566 is a good bill worth supporting, the alternative is, in my opinion, better.

Thank you Mr. Chairman for this opportunity to speak with you today. I ask that the attached article on gambling policy be entered into the record, and I would be glad to answer questions.

Attachment: Gambling Backlash: Time for a Moratorium on Casino and Lottery Expansion, Timothy A. Kelly, Ph.D., March 17, 2000.

August 11, 2001

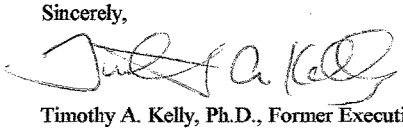
Congresswoman Julia Carson
Subcommittee on Financial Institutions & Consumer Credit
House of Representatives
Washington, D.C. 20515-1410

Congresswoman Carson:

I am writing in response to your question concerning the likelihood of Russia wanting to cooperate in the fight against money laundering via offshore Internet gambling sites. I agree with you that to the extent that any government hosting Internet gambling sites may be corrupt, it is unlikely they will want to cooperate with efforts to fight money laundering. The same applies to the likelihood of their cooperation with efforts to protect U.S. citizens from offshore Internet gambling per se. I believe that there was discussion among the NGISC Commissioners as to the likely need to find points of leverage for such governments – such as holding back economic benefits until compliance is assured. This would be one way that the federal government could follow the Commission's recommendation, which was to "take steps to encourage or enable foreign governments not to harbor gambling organizations that prey on U.S. citizens." (Recommendation 5-4)

Please let me know if you have any further questions.

Sincerely,



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GAMBLING BACKLASH: TIME FOR A MORATORIUM ON CASINO AND LOTTERY EXPANSION

by
Timothy A. Kelly, Ph.D.

Thirty years ago, gambling was illegal in most states and was generally considered to be a vice contrary to the American work ethic. Serious gamblers had to travel to Nevada for casino play; states had not yet plunged into lottery mania. Today, however, 29 casinos operate in Mississippi, 14 in New Jersey, and 429 in Nevada; another 260 casinos operate on Indian reservations; and nearly 100 riverboat casinos are chartered in six states.[1] All but three states have legalized some form of gambling. Pari-mutuel gambling, primarily horseracing, is legal in 42 states;[2] casinos are licensed in 28 states;[3] and the lottery is played in 37 states plus the District of Columbia.[4]

Far from discouraging citizens from risking their hard-earned money on gambling, states spend more than $400 million annually promoting their lotteries with often misleading and deceptive advertising.[5] In fact, more dollars are spent encouraging citizens to gamble than are spent for any other single state message.

Gambling expansion has swept the nation, with 68 percent of the population reporting they have gambled in the past year. They lost an astonishing $50 billion in 1998, and there is "no end in sight: every prediction that the gambling market was becoming saturated has proven to be premature."[6] This explosion of gambling has produced enticing benefits for some. A new casino brings new jobs and can be very profitable, and most forms of gambling add significant revenue to the public treasury. The revenue can be used to meet community needs such as education or infrastructure development.

But the expansion of gambling carries a high cost. Today, an estimated 15.4 million Americans suffer from problem or pathological gambling, often referred to as gambling addiction.[7] Gambling addiction can be particularly devastating to the individual, his family, and his employer. The National Academies of Science found that "pathological gamblers engage in destructive behaviors: they commit crimes, they run up large debts, they damage relationships with family and friends, and they kill themselves."[8]

Furthermore, the National Gambling Impact Study Commission found that state lotteries function as a regressive tax that preys on the poor. Those who can afford it least tend to play the most, while benefits go to those who are better off.[9] Gambling is capable of addicting and impoverishing those who play.

Perhaps most alarmingly, research shows that increasing numbers of children and adolescents are gambling; they are more likely than adults to become problem or pathological gamblers. For instance, a Louisiana survey of 12,000 adolescents found that 10 percent had bet on horseracing, 17 percent had gambled on slot machines, and 25 percent had played video poker.[10] The Gambling Commission found that adolescent gambling is "associated with alcohol and drug use, truancy, low grades, problematic gambling in parents, and illegal activities to finance gambling."[11]

That gambling expansion has exposed children and adolescents to many forms of gambling is particularly disturbing in light of a recent Harvard study that found that "compared to adults, youth have had more exposure to gambling during an age when vulnerability is high and risk-taking behavior is a norm; consequently, these young people have higher rates of disordered gambling than their more mature and less vulnerable counterparts."[12] The Gambling Commission learned that such vulnerability could lead to tragic outcomes; one 16-year-old boy attempted suicide after losing $6,000 on lottery tickets.[13]

How did America become so addicted to gambling? Several factors are clear. First, the lottery states have given a powerfully motivating message to their citizens by declaring that gambling is not only acceptable, but actually the right thing to do because it increases state revenue for good causes. Second, the Indian Gaming Regulatory Act of 1988 opened the floodgate for Native American casinos, which are expanding more rapidly now than any other form of gambling. Third, legislators at the state and federal levels have acted without the benefit of objective information on the full costs and benefits of gambling operations, since nearly all of the previous impact studies have been sponsored by the gambling industry. The Gambling Commission report provides the most comprehensive and objective evaluation of gambling impacts to date. But more research is needed if policymakers are to understand fully the likely consequences *before* moving ahead with gambling expansion initiatives.

The Gambling Commission report, which was unanimously adopted, calls for a moratorium on gambling expansion.[14] This is especially noteworthy because four of the nine commissioners represented or endorsed gambling industry interests. The purpose of the moratorium: to allow policymakers to review what has already been approved and to demand better cost/benefit analyses before moving ahead with any new initiatives.

More than a moratorium, however, will be needed if America is going to manage gambling for the public good as opposed to the public treasury. The Gambling Commission report included 77 far-reaching recommendations, all of which are worthy of consideration. Eight policy recommendations, based upon but not identical to the

Commission's recommendations, should constitute a priority for federal and state/tribal legislators. Legislative action based on these recommendations would jump-start America's recovery from its addiction to gambling. Before discussing these recommendations in detail, however, a review of the seven major types of legalized gambling reveals the gravity of the current problem.

LEGALIZED GAMBLING IN AMERICA[15]

Seven major forms of gambling are legal in America today, each presenting a different array of costs and benefits, and each raising a unique set of issues that must be addressed by policymakers.

COMMERCIAL CASINOS. Commercial casinos (land casinos not owned by Native Americans)—with their table games and slot machines—symbolize the gambling industry for most Americans. Until this decade, casinos were legal only in Nevada and Atlantic City, but during the past 10 years they have expanded into 28 states. In 1997, commercial casinos took in $26.3 billion in revenue. Destination casinos (those with large hotels) provide an important source of jobs, tax revenue, and entertainment for their localities. Many customers enjoy the associated food, entertainment, and conference facilities.

At the same time, there are costs associated with commercial casinos. The 15.4 million pathological and problem gamblers account for a significant portion of gambling revenues. They often end up hurting not only themselves but also family, friends, and business partners. Direct costs from their bankruptcies, arrests, imprisonments, legal fees for divorce, and so on come to more than $5 billion each year. Who should be responsible for these costs and liabilities?

A less visible but perhaps more insidious cost involves the political clout that commercial casino interests inevitably develop. Given the vast revenue generated by successful casinos, it becomes increasingly difficult for other voices to be heard in the political process. For instance, non-gambling retailers and restaurant owners may find that their customer base dwindles after the introduction of casinos and that local government turns a deaf ear to their complaints. In fact, once gambling enters a community, local government tends to become "a dependent partner in the business of gambling."[16]

Native American Casinos. Large-scale Indian casino gambling began in the late 1980s. In 1988, Congress passed the Indian Gaming Regulatory Act (IGRA), which set the stage for a rapid expansion of Native American casinos—now numbering about 260. IGRA called for the states and tribes to enter into compacts allowing casinos on Indian reservations to offer whatever form of gambling is legal in the state. It also called for gambling revenue to be used to promote the economic development and welfare of the tribe. Thus, revenues are not subject to state or federal taxation, but are to be used as an economic engine to address tribal needs. In 1997, Indian casinos generated $6.7 billion in revenue from gambling, much of which went to improve the health, education, and welfare of the casino tribes.

Problem and pathological gambling among tribal members and their customers is, of course, as much a concern here as it is for non-tribal casinos. Concerns also have been raised about the adequacy of Indian casino regulations and the distribution of funds among the tribes that own casinos versus the majority that do not. Furthermore, some states and tribes have not been able to agree on compacts that suit both sides. All of these issues need to be resolved, perhaps within the context of IGRA revisions and amendments.

Riverboat Casinos. Riverboat casinos are a new phenomenon, having begun in Iowa in 1991 as a means for tourism and economic development. Most of these casinos do not actually sail out on the rivers, but are simply built over water as part of zoning requirements. In 1997, riverboat casinos brought in $6.1 billion in revenue from gambling.

Often built deliberately on the borders shared with other states, these casinos initially brought significant additional tax revenues from the citizens of neighboring states. Eventually, however, the adjoining states ended up building their own casinos to recapture the lost revenue. Once the saturation point has been reached by neighboring states, whether the economic benefits outweigh the social costs is not clear. However, for this reason Iowa recently legislated a five-year moratorium on casino expansion in order to better assess the full impacts of gambling. Such a moratorium is precisely what the Gambling Commission recommended for all gambling states.

State Lotteries. Colonial America used lotteries to help fund public works such as paving streets; since that time, there has been a cyclical aspect to their usage. In the 1870s, gambling scandals involving the bribery of state and federal officials led to lotteries being outlawed altogether, along with most forms of gambling. The current lottery revival began in 1964 with the New Hampshire lottery; today, 37 states and the District of Columbia have lotteries.

Modern lotteries offer an array of products, including instant scratch-off tickets, daily numbers drawings, weekly Lotto and Powerball drawings, and video keno, which involves multiple drawings per hour. In 1997, U.S. lotteries produced $16.5 billion in revenue from tickets and other sales. This revenue is used to add to the public treasury to address education and/or other needs.

The Gambling Commission contracted with national lottery experts, Drs. Cook and Clotfelter from Duke University, to research the impacts of state-sponsored lottery gambling. They documented conclusively that lotteries function as a regressive tax, taking from the poor and giving to those better off. As Cook stated, "It's astonishingly regressive. The tax that is built into the lottery is the most regressive tax we know."[17] Those making less than $10,000 per year spend more than any other income group, averaging $597 per year. Furthermore, the top 5 percent of lottery players account for over 50 percent of lottery sales, spending on average $3,870 per year.

A review of marketing strategies revealed that states advertise in low-income neighborhoods, which tend to be saturated with lottery outlets. They use ads that are "misleading, even deceptive."[18] Such ads are exempt from the Federal Trade Commission's truth-in-advertising standards since they come from state governments.

Another concern is the ease with which minors can participate in lottery gambling, despite legal restrictions. For instance, a Massachusetts survey found that minors as young as nine years of age were able to purchase lottery tickets on 80 percent of their attempts, and that 75 percent of the high school seniors reported playing the lottery.[19] Such experiences can function as a gateway to more intensive gambling and to pathological gambling.

All of this raises the fundamental question of whether states should even be in the lottery business in the first place, spending hundreds of millions of dollars each year encouraging citizens—including those who can least afford it—to gamble their money away in order to feed the state treasury. A growing number of people, such as those citizens who recently rejected a lottery referendum in Alabama, answer "no." The role of the state is to provide for the public good, not to feed the public treasury at any cost.

Pari-Mutuel Wagering. Pari-mutuel gambling consists primarily of horseracing, but includes greyhound racing and jai alai. The term *pari-mutuel* connotes the fact that wagers are put into a common pool, with the odds dependent on the total amount bet on any given horse. Legal in 43 states, several of the major racetracks have been in operation since the 1800s. Total revenue in 1997 amounted to $3.25 billion. Unique to this form of gambling, the horseracing industry supports a thriving agro-industrial economic sector of trainers, owners, breeders, and stable owners. Although more than 150 racetracks are licensed, most betting takes place through off-track sites or, more recently, through cable and Internet broadcasts directly into the home.

A major policy issue has been raised by those tracks that have attempted to add casino-like gambling devices such as slot machines to their facilities in order to increase revenue. This, in effect, creates a "mini-casino" in an area that was not necessarily zoned for casinos. Additionally, concerns have been raised about the advisability of beaming pari-mutuel gambling into homes via cable and Internet, where children may participate.

SPORTS WAGERING. Sports wagering is illegal in all but two states, Nevada and Oregon, but is nonetheless popular in homes and offices. Oregon only allows lottery players to include a wager on pro football games. Nevada, on the other hand, has 142 legal sports books for wagering on just about any prediction for professional or amateur sports events. These books took in $77.4 million in 1997. However, Americans wager an estimated $80 billion each year on illegal sports betting, usually without realizing its illegality.

One reason that sports wagering is so widespread is the easy availability of the Las Vegas "line," or point spread, published in newspapers across the country. Although some claim that the line increases sports interest, it more likely simply increases sports wagering.

Perhaps the worst effect of sports wagering is its impact on youth and college students. The National College Athletics Association points out that sports wagering seriously threatens the integrity of college sports and puts student-athletes at considerable risk. There are student bookies on most campuses, organized crime is often involved, and consequences can be tragic—including suicide over an unpaid gambling debt. A recent study found that more than 5 percent of male student-athletes had provided inside information for gambling purposes, bet on a game in which they participated, or accepted money for performing poorly in a game.[20] Furthermore, sports wagering can function as a gateway to other forms of gambling and to pathological gambling.

INTERNET GAMBLING. First appearing in 1995, Internet gambling is the newest form of gambling. Today hundreds of on-line casinos, lotteries, and sports books advertised on mainline Web sites. With a credit card number, customers can play a video version of blackjack, slot machines, poker, roulette, or other games. One study showed that Internet gambling revenues doubled in only one year, from $445.4 million in 1997 to $919.1 million in 1998.[21] Some countries, such as Australia and Antigua, have licensed Internet gambling operators within their borders. Their products are, of course, accessible by anyone, anytime, anywhere, via the Internet.

Internet gambling, like Internet pornography, has been perceived as a threat to children and adolescents precisely because it is so easily available in the home and in college dorms. No one uses the Internet more than America's youth, and no one is more vulnerable to its temptations. Now, every parent has to reckon with the fact that commercial gambling is available in the dens and bedrooms of their homes via the Internet.

Internet gambling can be especially destructive for those who are vulnerable to addictions, since it provides high-speed instant gratification together with the anonymity of the home setting. A Harvard researcher stated, "As smoking crack cocaine changed the cocaine experience, I think electronics is going to change the way gambling is experienced."[22] In other words, electronic gambling is all the more destructive and addictive.

For these and other reasons, including crime and fraud potential, many policymakers are calling for the outright prohibition of Internet gambling. Several states have passed legislation to that effect, and Congress is considering a bill, introduced by Sen. Jon Kyl (R-Ariz.), titled "The Internet Gambling Prohibition Act." Furthermore, the National Association of Attorneys General has called for the federal government to prohibit Internet gambling, recognizing that the issue cannot be resolved on the state level. The Gambling Commission, as well, recommended prohibiting Internet gambling outright. However, given the difficulty inherent in restricting commerce of any kind, whether Internet gambling will be stopped is not clear.

Convenience Gambling. Convenience gambling refers to gambling machines that have proliferated in communities and neighborhood areas such as convenience stores, truck stops, and bars. These stand-alone machines, which include video poker, video keno, and slot machines, are known as Electronic Gambling Devices, or EGDs. Some states, such as South Carolina, allow EGDs to operate just about anywhere on a 24-hour basis. In other states, EGDs are run by the state lottery. In Nevada, EGDs can be found in the airport, in supermarkets, in sandwich shops, and elsewhere. Many states also have quasi-legal EGDs known as "gray machines" that are not licensed to pay out winnings and are, supposedly, for amusement only. In reality, winnings are often paid out surreptitiously.

Convenience gambling in some ways represents gambling at its worst. Since EGDs can be almost anywhere, avoiding them is difficult. In some Las Vegas neighborhoods, for instance, a resident cannot even buy a gallon of milk without walking past rows of gambling machines. This makes it much more difficult for those who are vulnerable to addictions to avoid playing and significantly increases the incidence of problem and pathological gambling. For instance, South Carolina, with over 34,000 EGDs, is experiencing a surge of problem and pathological gambling.

Furthermore, this is one more form of gambling that is particularly detrimental to children and adolescents, as it presents them with numerous opportunities to become introduced to gambling experiences at an early age. Many of them will develop into problem and pathological gamblers, having been put at risk for the sake of America's appetite for gambling.

At the same time, economic benefits to the public treasury are minimized since it is usually the local owner—not the state—collects the lion's share of profits. For these reasons, the Gambling Commission recommended not only that states no longer approve convenience gambling, but also that they roll back existing operations. This is precisely what happened in South Carolina, where a recent court decision will likely lead to the removal of that state's 34,000 EGDs.

Federal Policy Recommendations

Since most gambling laws and regulations are established at the state or tribal level, it is primarily up to policymakers at these levels to take the lead in responding to the tough

issues raised by gambling expansion. However, a few areas require federal action. Policy recommendations for the 106th Congress that, if enacted, would greatly support state and tribal efforts to control gambling expansion, include the following:

1. **Ban betting on collegiate and amateur athletic events altogether, and prohibit media from advertising the line on those events.** Sports wagering, especially on collegiate and other amateur events, undermines the integrity of sports and puts students and athletes at risk. It should be prohibited where currently legal; where illegal, regulations should be more rigorously enforced. Newspapers should be prohibited from printing point spreads for athletic contests in areas where sports wagering is illegal.

2. **Amend truth-in-advertising laws to apply to Native American and state lottery gambling ads.** Many lottery ads have been found to be misleading or deceptive; truth-in-advertising laws currently do not apply to states or tribal entities.

3. **Prohibit Internet gambling not already authorized and develop enforcement strategies. Help foreign governments to prohibit Internet gambling that preys on U.S. citizens.** Because of the dangers posed by Internet gambling—especially to America's families and their children and adolescents who are put at risk—Internet gambling sites should be prohibited.

STATE/TRIBAL POLICY RECOMMENDATIONS

Because state and tribal policymakers set most of the nation's gambling laws and regulations, they carry the heaviest burden for assuring that those laws are crafted in the interest of the public good. Following are policy recommendations for state and tribal leaders that would not only go a long way towards reigning in uncontrolled gambling expansion, but also would begin to address costs associated with it:

1. **Restrict contributions to state and local campaigns from corporate, private, or tribal entities operating gambling facilities in that state.** Because campaign contributions by gambling interests may unduly influence the political process and because local government tends to become a dependent partner in the business of gambling, states should adopt tight restrictions on contributions to state and local campaigns by entities—corporate, private, or tribal—that have applied for, or have been granted, the privilege of operating gambling facilities.

2. **Prohibit convenience gambling (casino-like machines and games) in neighborhoods, pari-mutuel facilities, and lottery terminals.** Convenience gambling, such as EGDs in neighborhood outlets, has been shown to provide little to no social or economic benefit, and to contribute to significant negative costs.

3. **Detach state government from the operation and promotion of lotteries.** Lottery states cannot avoid a conflict of interest between the public good and the

public treasury. They are actively promoting an addictive product that functions like a regressive tax and that is essentially contrary to the work ethic on which viable democracy is based.

4. **Enact and enforce harsh penalties for any gambling outlet that allows underage gambling.** America's growing addiction to gambling puts children and adolescents at considerable risk for gambling addiction through early and repeated exposure. State and tribal leaders should enact and enforce harsh penalties for any abuses regarding allowing or encouraging underage gambling. Penalties and enforcement efforts should be greatly increased.

5. **Establish a 1 percent gambling addiction tax on all gambling operations dedicated to providing research, prevention, education, and treatment for problem and pathological gamblers.** The social costs inherent in legalized gambling, including problem and pathological gambling and its consequences, have not been adequately addressed.

CONCLUSION

The Gambling Commission report stated:

> Gambling, like any other viable business, creates both profits and jobs. But the real question – the reason gambling is in need of substantially more study—is not simply how many people work in the industry, nor how much they earn, nor even what tax revenues flow from gambling. The central issue is whether the net increases in income and well-being are worth the acknowledged social costs of gambling.[23]

Because the costs are high, especially for America's youth, a moratorium on gambling expansion is needed now.

Some might argue that trying to stop gambling expansion is like trying to stop a train barreling down the tracks—an exercise in futility. The recent defeat of anti-gambling governors by pro-gambling gubernatorial challengers in South Carolina and Alabama has often been cited as a case in point. Indeed it is, but not in the way expected. Consider the surprising outcome in those two states:

- In South Carolina, where 34,000 video poker machines have sprung up in convenience stores since they were surreptitiously legalized in 1991, Governor Hodges was elected promising to hold a statewide referendum to make video poker regulated, taxed, and permanent. Common wisdom expected Hodges's referendum to pass easily. Instead, concern over the soaring cases of gambling addiction and minimal economic benefits from convenience gambling carried the day. Even as Hodges's referendum was unexpectedly heading for defeat, the

South Carolina Supreme Court invalidated the referendum as unconstitutional. This will likely lead to the abolishment of video poker throughout the state.

- In Alabama, where Governor Siegelman was elected promising a new state "education lottery," the governor spent a great deal of time and money promoting the lottery referendum to ensure overwhelming approval. Instead, citizen concerns over the regressive taxation inherent in the lottery, as well as over having the government promote get-rich-quick schemes, turned the debate around. The referendum was unexpectedly but soundly defeated.

As the *Weekly Standard* stated in an article about these surprising outcomes, "It turns out voters needn't share the 'private moral views' of a religious conservative before they will reject the public morality of state-sanctioned gambling. It turns out they need only be asked to think about and directly act on the matter."[24] The gambling tide may be turning, simply by involving the voters in informed public deliberation—the core of the democratic process.

It is time for policymakers to recognize that the rapid expansion of gambling is putting children and adolescents increasingly at risk and has led to a host of other negative social consequences that have yet to be adequately addressed. Legislators should declare a moratorium on gambling expansion and enact policies to break America's growing addiction to gambling. They must reach out to the many broken lives that have resulted from gambling addiction on a personal level and take action to prevent America's youth from falling prey to gambling's destructive potential. The above policy recommendations will jump-start that process, but the Gambling Commission's Final Report should also be consulted for additional resource data and information.

The question is not so much what can be done—there are many ways to begin, as these recommendations illustrate. The real question is: Do policymakers have the courage to act on behalf of the public good, as opposed to the public treasury?

***

Dr. Kelly, a visiting research fellow at the George Mason Institute for Public Policy, served as executive director of the congressionally appointed National Gambling Impact Study Commission, which completed its full report in June 1999 (see www.ngisc.gov*). A clinical psychologist by training, he formerly served as the commissioner for the Virginia Department of Mental Health.*

ENDNOTES

[1] Final Report, National Gambling Impact Study Commission, 1999, p. 2-6.

[2] *Ibid.*, p. 2-11.

[3] *Ibid.*, p. 2-6.

[4] *Ibid.*, p. 2-1.

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

December 11, 2001

The Honorable Spencer Bachus
Chairman, Subcommittee on Financial
Institutions and Consumer Credit
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This letter responds to your request that the Department provide written testimony on H.R. 556, the Unlawful Internet Gambling Funding Prohibition Act, as well as other Internet gambling proposals, to the Committee by September 5, 2001. We hope that the enclosed written testimony, that was ultimately provided to the House Judiciary Subcommittee on Crime on Thursday, November 29, is useful to the Committee and will satisfy your original written request.

We greatly appreciate the courtesy extended to us on this issue during this difficult time for our country, and look forward to continuing to work with you on this and other important initiatives. Please do not hesitate to contact us if we may be of additional assistance.

Sincerely,

Daniel J. Bryant
Assistant Attorney General

Department of Justice

STATEMENT

OF

MICHAEL CHERTOFF
ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION

BEFORE THE

SUBCOMMITTEE ON CRIME
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES

CONCERNING

GAMBLING ON THE INTERNET

PRESENTED ON

NOVEMBER 29, 2001

STATEMENT OF
MICHAEL CHERTOFF

ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION
UNITED STATES DEPARTMENT OF JUSTICE

BEFORE THE SUBCOMMITTEE ON CRIME
COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

November 29, 2001

Mr. Chairman and Members of the Subcommittee, thank you for this opportunity to provide a statement Internet Gambling. The issue before this Subcommittee is one of singular importance, and I commend the Subcommittee for holding a hearing on this issue. I would also like to commend Congressman Goodlatte for his efforts to provide law enforcement with the additional statutory tools it needs to address Internet gambling. His hard work is apparent in the thorough approach he has taken in crafting the bill he has introduced, H.R. 3215.

Over the past few years, the number of Internet gambling sites has grown dramatically. At the July 24, 2001, hearing before the Subcommittee on Financial Institutions and Credit of the Committee on Financial Services, Representative Kelly stated that Bear Stearns recently estimated the number of Internet gambling websites at 1,200 to 1,400. The types of gambling offered by these websites include sports betting, lotteries, casino style games, and person-to-person betting.

The Internet and other emerging technologies have made possible types of gambling that were not feasible a few years ago. For example, a United States citizen can now from his or her home participate in an interactive Internet poker game

operated by a computer located in Antigua or some other country. Not only have the Internet and other emerging technologies permitted gambling in the home, they have made it anonymous and readily available.

The growth of Internet gambling can lead to adverse effects, such as fraud or gambling by minors. Additionally, Internet gambling businesses provide potential vehicles for money laundering. Because the Internet allows instantaneous and anonymous communications that are difficult to trace to a particular individual or organization, the medium is attractive to criminals. Individuals wanting to launder illegally-received gains can do so through the operation of or interaction with Internet gambling businesses, which offer their clients virtual anonymity, often exercise little control over money movement through their facilities, and make it difficult to determine which jurisdiction has authority over their activities.

Most of these gambling businesses are operating offshore in foreign jurisdictions. If these businesses are accepting bets or wagers from customers located in the United States, then these businesses are violating federal law. While the United States can bring indictments against these companies or the individuals operating these companies, the federal government may not be able to bring such individuals or companies to trial in the United States for a variety of reasons.

The Justice Department believes that it is important to update existing federal law to cover gambling over emerging technologies, such as the Internet and wireless communication media. Given the extent to which the Internet gambling industry has flourished, it is clear that technology has far outpaced current law. In that regard, the Department strongly believes that federal law should be technology-neutral.

Congressman Goodlatte's bill, H.R. 3215, would update current law in a technology-neutral manner. We support that approach.

In conclusion, unlawful Internet gambling continues to be a serious problem. Both Congressman Goodlatte's bill and H.R. 556 offer useful approaches to combating this problem. While we have some technical and other concerns about both of these bills – which we intend to communicate to you in the near future, following additional interagency consultations – we support their sponsors' efforts to address gambling on the Internet.

Statement of Sheila C. Bair
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U.S. Department of the Treasury
for the Record of the
Subcommittee on Financial Institutions and Consumer Credit
of the
House Committee on Financial Services

Internet Gambling

Introduction

You have asked for the Treasury Department's views on illegal Internet gambling. The Financial Services Committee, and Congressman Leach in particular, have devoted a great deal of thought and effort to developing an approach to thwarting illegal gambling activities on the Internet and we commend those efforts. We also support enhanced federal efforts to combat unlawful Internet gambling.

Public Policy Challenges

We have seen over the past decade that the Internet spurs economic growth through open access to information, brings efficient exchanges of goods and services in both the public and private sectors, and results in real improvements in productivity. A borderless market in its infancy, the Internet also presents critical challenges to policymakers. Internet gambling exemplifies such challenges.

Internet gambling is one of the many online enterprises that has relied on the personal credit card. The credit card is the payment instrument of choice for U.S. residents who place wagers with offshore gambling operators because it is ubiquitous, efficient, and reliable. For those same reasons, it is the payment instrument of choice for millions of other Internet and non-Internet transactions.

Enforcement Options

We have several observations about how enforcement provisions could affect the financial services industry. For example, enforcement provisions could empower law enforcement to seek a court injunction to prevent or restrain a violation of the law. Under this approach, law enforcement agencies, not financial institutions, would bear responsibility for identifying the customer who may be using a financial service provider for illegal Internet gambling activity.

To the extent, however, that pending proposals anticipate an additional role for financial institutions and bank agencies, we need to ensure that any new laws do not lead to unnecessary confusion, limit what is now viewed as broad authority for bank agencies, or require regulations that impose unanticipated costs related to the

potential benefits. For example, Federal banking agencies have broad authority to prohibit the institutions they regulate from engaging in or supporting unlawful activities. It would be redundant, and potentially limiting, to restate this authority in a bill addressing specific illegal activity using a particular technology. In that regard, we believe that any approach to Internet gambling and other criminal activities on-line should be technology-neutral.

Conclusion

In conclusion, I reiterate that the Treasury Department supports enhanced efforts to combat unlawful Internet gambling and we would be happy to work with you toward that end. While we may have technical and other concerns about different proposals to address illegal Internet gambling – which we intend to communicate to you in the near future, following additional interagency consultations – we appreciate the thought and effort you have given to developing an approach to thwarting illegal gambling activities on the Internet and we commend those efforts. We stand ready to work with the Committee and other interested parties to fashion legislation that would achieve the desired policy objectives in an effective and efficient manner.