

111TH CONGRESS  
1ST SESSION

# S. 1597

To amend title 31, United States Code, to provide for the licensing by the Secretary of the Treasury of Internet poker and other games that are predominantly of skill, to provide for consumer protections on the Internet, to enforce the tax code, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2009

Mr. MENENDEZ introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title 31, United States Code, to provide for the licensing by the Secretary of the Treasury of Internet poker and other games that are predominantly of skill, to provide for consumer protections on the Internet, to enforce the tax code, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Internet Poker and Game of Skill Regulation, Consumer  
6 Protection, and Enforcement Act of 2009”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REGULATION OF INTERNET GAMES OF SKILL  
 FACILITIES

Sec. 101. Findings.

Sec. 102. Federal licensing requirement for operation of Internet games of skill facilities.

Sec. 103. List of unlawful Internet gambling enterprises.

Sec. 104. Regulations.

Sec. 105. Annual report.

Sec. 106. Conforming amendments.

Sec. 107. Effective date.

Sec. 108. Applicability.

TITLE II—INTERNET GAMES OF SKILL TAX PROVISIONS

Sec. 201. Amendment of 1986 code.

Sec. 202. Tax on Internet games of skill; licensee information reporting.

Sec. 203. Withholding for pari-mutuel pool winnings.

Sec. 204. Withholding from certain gaming winnings.

Sec. 205. Withholding of tax on nonresident aliens.

Sec. 206. Information at source; pari-mutuel wagers.

Sec. 207. Exemption from State and Indian tribal government taxation.

Sec. 208. Territorial extent of wagering tax.

TITLE III—STUDY AND PREVENTION OF PROBLEM AND  
 PATHOLOGICAL GAMBLING

Sec. 301. Authorization of programs for identification, prevention, and treatment of problem and pathological gambling.

Sec. 302. Public awareness, research, and treatment.

3 **TITLE I—REGULATION OF**  
 4 **INTERNET GAMES OF SKILL**  
 5 **FACILITIES**

6 **SEC. 101. FINDINGS.**

7 Congress makes the following findings:

8 (1) In the United States, gambling and gaming  
 9 activities, equipment, and operations have tradition-  
 10 ally been subject to various forms of Federal and  
 11 State control, regulation, and enforcement, with

1 some form of gambling being permitted in nearly  
2 every State and by many Indian tribes.

3 (2) The demarcation between games of chance  
4 and games of skill is not always clearly drawn, and  
5 the treatment and definition of “games of skill” has  
6 varied from jurisdiction to jurisdiction.

7 (3) Millions of people in the United States  
8 enjoy competing with other players in poker, chess,  
9 bridge, mah-jong, backgammon, and similar games  
10 where the outcome turns predominantly on the skill  
11 of the participants. While each of these games con-  
12 tains an element of chance, over any substantial in-  
13 terval, a player’s ultimate success is determined by  
14 that player’s relative level of skill.

15 (4) Poker, in particular, enjoys a long tradition  
16 in the United States. Poker is part of the cultural  
17 and recreational fabric of the United States and has  
18 been since the founding days of the United States.  
19 United States poker aficionados have included presi-  
20 dents, judges, and statesmen throughout the history  
21 of the United States.

22 (5) Since the development of the Internet, on-  
23 line sites offering Internet gambling and similar  
24 games have raised numerous policy, consumer pro-  
25 tection, and enforcement concerns for the Federal

1 and State governments as millions of United States  
2 persons have chosen to play online on sites offered  
3 by operators located in many different countries  
4 under a variety of licensing and regulatory regimes.

5 (6) Bets and wagers made with respect to  
6 games in which success is predominantly determined  
7 by the skill of the players and in which the bets and  
8 wagers are between the participants can and should  
9 be treated as distinct from other bets and wagers  
10 made with respect to games in which success is not  
11 predominantly determined by the skill of the players  
12 or in which the wagers are not between the partici-  
13 pants such as Internet wagering with off-shore sites  
14 on games of chance and betting on sporting events,  
15 all of which (with the exception of certain betting on  
16 horse racing) are barred by the laws of the United  
17 States.

18 (7) The hosting by Internet operators of games  
19 predominantly determined by the skill of players and  
20 in which wagers can be made between the partici-  
21 pants should be controlled by a strict Federal licens-  
22 ing and regulatory framework—

23 (A) to prevent underage wagering and oth-  
24 erwise to protect vulnerable individuals;

25 (B) to ensure the games are fair;

1 (C) to address the concerns of law enforce-  
2 ment; and

3 (D) to enforce limitations on the activity  
4 established by the States and Indian tribes.

5 (8) An effective Federal licensing system would  
6 ensure that licenses are issued only to Internet oper-  
7 ators who—

8 (A) meet strict criteria to protect con-  
9 sumers;

10 (B) are in good financial and legal stand-  
11 ing;

12 (C) are of good character, honesty, and in-  
13 tegrity;

14 (D) utilize appropriate technology to pre-  
15 vent those of insufficient age from partici-  
16 pating;

17 (E) adopt and implement systems to pro-  
18 tect compulsive players;

19 (F) have in place risk-based methods—

20 (i) to identify and combat money  
21 laundering and fraud; and

22 (ii) to protect the privacy and security  
23 of users;

24 (G) adopt strict internal controls which are  
25 subject to audit; and

1           (H) adopt and implement systems to col-  
2           lect and remit taxes due.

3           (9) Effective regulation requires application of  
4           the regulatory provisions prescribed under sub-  
5           chapter V of chapter 53 of title 31, United States  
6           Code, as added by section 102, to all persons seek-  
7           ing a license to operate an Internet game-of-skill fa-  
8           cility (as such term is defined in section 5381 of  
9           such subchapter), with each State and Indian tribe  
10          having the ability to prohibit operators of Internet  
11          game-of-skill facilities from accepting bets or wagers  
12          from persons located within the territory of the  
13          State or Indian tribe by opting out under section  
14          5385(a) of such subchapter, as so added.

15          (10) Maintenance of a list of unlawful Internet  
16          gambling enterprises and the owners and operators  
17          of such enterprises will aid law enforcement efforts  
18          to prevent unlawful Internet gambling.

19          (11) Longstanding Federal policy against gam-  
20          bling on professional, scholastic, or amateur sporting  
21          events, and all criminal laws prohibiting such gam-  
22          bling, should remain in full force and effect.

23          (12) Licensing and regulating Internet game-of-  
24          skill facilities (as such term is defined in section  
25          5381 of title 31, United States Code) in the United

1 States would provide additional tax revenues for the  
 2 United States and would reduce tax avoidance.

3 **SEC. 102. FEDERAL LICENSING REQUIREMENT FOR OPER-**  
 4 **ATION OF INTERNET GAME-OF-SKILL FACILI-**  
 5 **TIES.**

6 (a) IN GENERAL.—Chapter 53 of title 31, United  
 7 States Code, is amended by adding at the end the fol-  
 8 lowing new subchapter:

9 “SUBCHAPTER V—REGULATION OF INTERNET  
 10 GAME-OF-SKILL FACILITIES

11 “§ 5381. Definitions

12 “In this subchapter:

13 “(1) APPLICANT.—The term ‘applicant’ means  
 14 any person who has applied for a license pursuant  
 15 to this subchapter.

16 “(2) BET OR WAGER.—The term ‘bet or wager’  
 17 has the meaning given the term in section 5362.

18 “(3) INDIAN LANDS AND INDIAN TRIBE.—The  
 19 terms ‘Indian lands’ and ‘Indian tribe’ have the  
 20 meaning given such terms in section 4 of the Indian  
 21 Gaming Regulatory Act (25 U.S.C. 2703).

22 “(4) INTERNET.—The term ‘Internet’ has the  
 23 same meaning given the term in section 5362.

24 “(5) INTERNET GAME OF SKILL.—The term  
 25 ‘Internet game of skill’ means an Internet-based

1 game in which success is predominantly determined  
2 by the skill of the players, including poker, chess,  
3 bridge, mah-jong, and backgammon.

4 “(6) INTERNET GAME-OF-SKILL FACILITY.—  
5 The term ‘Internet game-of-skill facility’ means an  
6 Internet site through which a bet or wager is initi-  
7 ated, received, or otherwise made with respect to an  
8 Internet game of skill, whether transmitted by tele-  
9 phone, Internet, satellite, or other wire or wireless  
10 communication medium.

11 “(7) LICENSEE.—The term ‘licensee’ means a  
12 person who operates an Internet game-of-skill facil-  
13 ity under a license issued by the Secretary under  
14 this subchapter.

15 “(8) OPERATE AN INTERNET GAME-OF-SKILL  
16 FACILITY.—The term ‘operate an Internet game-of-  
17 skill facility’ means to direct, manage, supervise, or  
18 control an Internet game-of-skill facility.

19 “(9) POKER.—The term ‘poker’ means any of  
20 several card games—

21 “(A) that are commonly referred to as  
22 ‘poker’;

23 “(B) that are played by 2 or more people  
24 who bet or wager on cards dealt to them;

1           “(C) in which players compete against  
2 each other and not against the person operating  
3 the game; and

4           “(D) in which the person operating the  
5 game may assess a commission fee or any other  
6 type of fee.

7           “(10) SECRETARY.—The term ‘Secretary’  
8 means the Secretary of the Treasury.

9           “(11) SPORTING EVENT.—The term ‘sporting  
10 event’ means any athletic competition, whether pro-  
11 fessional, scholastic, or amateur, except that such  
12 term does not include any activity described in sec-  
13 tion 3704(a)(4) of title 28.

14           “(12) STATE.—The term ‘State’ means any  
15 State of the United States, the District of Columbia,  
16 or any commonwealth, territory, or other possession  
17 of the United States.

18 **“§ 5382. Establishment and administration of licens-**  
19 **ing program**

20           “(a) TREASURY RESPONSIBILITIES.—The Secretary  
21 shall have responsibility for the following activities:

22           “(1) Exercising full regulatory jurisdiction  
23 over—

24           “(A) the operation of Internet game-of-  
25 skill facilities by licensees; and

1           “(B) the licensure of all applicants.

2           “(2) Prescribing such regulations as may be  
3 necessary to administer and enforce the require-  
4 ments of this subchapter.

5           “(3) Employing enforcement agents with suffi-  
6 cient training and experience to administer the re-  
7 quirements of this subchapter and the regulations  
8 prescribed under this subchapter.

9           “(b) INTERNET GAME-OF-SKILL FACILITY LICENS-  
10 ING PROGRAM.—

11           “(1) LICENSE REQUIRED.—It shall be unlawful  
12 for a person to operate an Internet game-of-skill fa-  
13 cility in interstate or foreign commerce, in which  
14 bets or wagers are knowingly initiated, received, or  
15 otherwise made by individuals located in the United  
16 States, without a license issued to such person by  
17 the Secretary under this subchapter.

18           “(2) AUTHORITY UNDER VALID LICENSE.—Not-  
19 withstanding any other provision of law and subject  
20 to the provisions of this subchapter, a licensee may  
21 accept a bet or wager with respect to an Internet  
22 game of skill from an individual located in the  
23 United States and offer related services.

24           “(3) INTERSTATE OFF-TRACK WAGERS.—Not-  
25 withstanding anything in this subchapter to the con-

1 trary, a person may accept interstate off-track wa-  
2 gers (as defined by section 3 of the Interstate  
3 Horseracing Act of 1978 (15 U.S.C. 3002)), wheth-  
4 er by telephone, Internet, satellite, or other wire or  
5 wireless communication without need for a license  
6 issued pursuant to this subchapter.

7 “(c) APPLICATION FOR LICENSE.—

8 “(1) APPLICATION.—A person seeking a license  
9 to operate an Internet game-of-skill facility in inter-  
10 state or foreign commerce shall submit to the Sec-  
11 retary an application therefor in such form and in  
12 such manner as the Secretary considers appropriate.

13 “(2) ELEMENTS.—Each application submitted  
14 under paragraph (1) shall include such information  
15 as the Secretary considers appropriate, including the  
16 following:

17 “(A) Complete financial information about  
18 the applicant.

19 “(B) Documentation showing the corporate  
20 structure of the applicant and all related busi-  
21 nesses and affiliates.

22 “(C) The criminal and credit history of—

23 “(i) the applicant;

24 “(ii) each of the senior executives and  
25 directors of the applicant; and

1                   “(iii) any other person who is in con-  
2                   trol of the applicant.

3                   “(D) A detailed description of the appli-  
4                   cant’s plan for complying with all applicable  
5                   regulations prescribed under this subchapter,  
6                   with particular emphasis on the applicant’s  
7                   ability—

8                   “(i) to prevent underage play;

9                   “(ii) to protect compulsive players;

10                  “(iii) to ensure the Internet games of  
11                  skill are being operated fairly; and

12                  “(iv) to comply with and address any  
13                  additional concerns identified by the Sec-  
14                  retary.

15                  “(E) A certification by the applicant that  
16                  the applicant agrees to be subject to United  
17                  States jurisdiction and all applicable United  
18                  States laws relating to the operation of an  
19                  Internet game-of-skill facility and associated ac-  
20                  tivities.

21                  “(d) STANDARDS FOR LICENSE ISSUANCE; SUI-  
22                  ABILITY QUALIFICATIONS AND DISQUALIFICATION  
23                  STANDARDS.—

24                  “(1) SUITABILITY FOR LICENSING STAND-  
25                  ARDS.—

1           “(A) IN GENERAL.—No person shall be eli-  
2           gible to obtain a license unless the Secretary  
3           has determined, upon completion of a back-  
4           ground check and investigation, that the appli-  
5           cant, and any person deemed to be in control  
6           of the applicant, is suitable for licensing.

7           “(B) ASSOCIATES OF APPLICANTS.—

8           “(i) IN GENERAL.—If an applicant is  
9           a corporation, partnership, or other busi-  
10          ness entity, a background check and inves-  
11          tigation shall occur with respect to the  
12          president or other chief executive of the  
13          corporation, partnership, or other business  
14          entity and other partners or senior execu-  
15          tives and directors of the corporation, part-  
16          nership, or entity, as determined appro-  
17          priate by the Secretary, in the Secretary’s  
18          sole discretion.

19          “(ii) MINIMUM DETERMINATION.—In  
20          carrying out clause (i), the Secretary shall,  
21          as a minimum, carry out a background  
22          check and investigation of the 5 individuals  
23          receiving the most compensation from the  
24          applicant.

1           “(2) SUITABILITY FOR LICENSING STAND-  
2 ARDS.—For purposes of this subchapter, an appli-  
3 cant and any other person associated with the appli-  
4 cant, as applicable, is suitable for licensing if the ap-  
5 plicant demonstrates to the Secretary by clear and  
6 convincing evidence that the applicant (or individual  
7 associated with the applicant, as applicable)—

8           “(A) is a person of good character, hon-  
9 esty, and integrity;

10           “(B) is a person whose prior activities,  
11 reputation, habits, and associations do not—

12           “(i) pose a threat to the public inter-  
13 est or to the effective regulation and con-  
14 trol of Internet game-of-skill facilities; or

15           “(ii) create or enhance the dangers of  
16 unsuitable, unfair, or illegal practices,  
17 methods, and activities in the conduct of  
18 Internet game-of-skill facilities or the car-  
19 rying on of the business and financial ar-  
20 rangements incidental there to such facili-  
21 ties;

22           “(C) is capable of and likely to conduct the  
23 activities for which the applicant is licensed in  
24 accordance with the provisions of this sub-

1 chapter and any regulations prescribed under  
2 this subchapter;

3 “(D) has or guarantees acquisition of ade-  
4 quate business competence and experience in  
5 the operation of Internet game-of-skill facilities;  
6 and

7 “(E) has or will obtain sufficient financing  
8 for the nature of the proposed operation and  
9 from a suitable source.

10 “(3) UNSUITABLE FOR LICENSING.—An appli-  
11 cant or any other person may not be determined to  
12 be suitable for licensing within the meaning of this  
13 subchapter if the applicant or such person—

14 “(A) has failed to provide information and  
15 documentation material to a determination of  
16 suitability for licensing under paragraph (1);

17 “(B) has supplied information which is un-  
18 true or misleading as to a material fact per-  
19 taining to any such determination;

20 “(C) has been convicted of an offense pun-  
21 ishable by imprisonment of more than 1 year;

22 “(D) is delinquent in filing any applicable  
23 Federal or State tax return or in the payment  
24 of any applicable tax, penalty, addition to tax,  
25 or interest owed to a jurisdiction in which the

1 applicant or other person operates or does busi-  
2 ness;

3 “(E) knowingly accepts or knowingly has  
4 accepted bets or wagers on sporting events from  
5 persons located in the United States in violation  
6 of applicable Federal or State law; or

7 “(F) has not agreed in writing to submit  
8 to personal jurisdiction in the United States for  
9 purposes of any matter arising from the oper-  
10 ation of an Internet game-of-skill facility or as-  
11 sociated activities.

12 “(4) ONGOING REQUIREMENT.—A licensee (and  
13 any other person who is required to be determined  
14 to be suitable for licensing in connection with such  
15 licensee) shall meet the standards necessary to be  
16 suitable for licensing throughout the term of the li-  
17 cense.

18 “(5) BACKGROUND CHECK AND INVESTIGA-  
19 TION.—The Secretary shall establish standards and  
20 procedures for conducting background checks and  
21 investigations for purposes of this subsection.

22 “(6) PROTECTION OF THE PUBLIC TRUST.—  
23 The Secretary may take such action as is necessary  
24 to protect the public trust, including the implemen-  
25 tation of such safeguards as may be necessary to en-

1 sure that the operation of an Internet game-of-skill  
2 facility licensed under this subchapter is controlled  
3 only by persons who are suitable for licensing.

4 “(7) ENFORCEMENT ACTIONS.—

5 “(A) DETERMINATION OF UNSUITABILITY  
6 FOR CONTINUED LICENSURE.—If the Secretary  
7 finds that an individual owner or holder of a  
8 controlling or substantial interest in a licensee,  
9 or of a holding, parent, or intermediary com-  
10 pany of a licensee, or a director, partner, or of-  
11 ficer of a licensee is not suitable for licensing,  
12 the Secretary may determine that the licensee is  
13 not qualified to continue as a licensee.

14 “(B) ACTION TO PROTECT THE PUBLIC IN-  
15 TEREST, INCLUDING SUSPENSION.—If the Sec-  
16 retary determines that a licensee is not quali-  
17 fied to continue as a licensee, the Secretary  
18 shall propose action the Secretary considers  
19 necessary to protect the public interest, includ-  
20 ing, if the Secretary considers necessary, the  
21 suspension of the licensee.

22 “(C) IMPOSITION OF CONDITIONS INCLUD-  
23 ING REMOVAL OF PARTIES.—Notwithstanding a  
24 determination under subparagraph (A), the  
25 Secretary may allow a licensee to continue en-

1 gaging in licensed activities by imposing condi-  
2 tions on the licensee under penalty of revocation  
3 or suspension of a license, including—

4 “(i) the identification of any person  
5 determined to be unsuitable for licensing;  
6 and

7 “(ii) the establishment of appropriate  
8 safeguards to ensure such person is ex-  
9 cluded from any management or involve-  
10 ment in operation of the licensed activities.

11 “(e) ASSESSMENTS FOR ADMINISTRATIVE EX-  
12 PENSES.—

13 “(1) USER FEES.—

14 “(A) IN GENERAL.—The cost of admin-  
15 istering this subchapter with respect to each li-  
16 censee, including the cost of any review or ex-  
17 amination of a licensee to ensure compliance  
18 with the terms of the license and this sub-  
19 chapter, shall be assessed by the Secretary  
20 against the licensee institution by written notice  
21 in an amount limited to that necessary to meet  
22 the Secretary’s expenses in carrying out such  
23 administration, review, or examination to the  
24 exclusion of general overhead and other admin-

1            administrative expenses that are not directly attrib-  
2            utable to that licensee.

3            “(B) DISPOSITION.—Amounts assessed by  
4            the Secretary as user fees under subparagraph  
5            (A) shall—

6                    “(i) be maintained by the Secretary  
7                    solely for use in accordance with clause  
8                    (ii);

9                    “(ii) be available to the Secretary to  
10                   cover expenses incurred by the Secretary in  
11                   carrying out this subchapter; and

12                   “(iii) not be construed to be Govern-  
13                   ment funds or appropriated monies, or  
14                   subject to apportionment for the purposes  
15                   of chapter 15 or any other authority.

16            “(C) HEARING.—Any licensee against  
17            whom an assessment is assessed under this  
18            paragraph shall be afforded an agency hearing  
19            if such person submits a request for such hear-  
20            ing within 20 days after the issuance of the no-  
21            tice of assessment.

22            “(D) COLLECTION.—

23                    “(i) REFERRAL.—If any licensee fails  
24                    to pay an assessment under this paragraph  
25                    after the assessment has become final, the

1 Secretary may recover the amount assessed  
2 by action in the appropriate United States  
3 district court, along with any costs of col-  
4 lection and attorney fees.

5 “(ii) ASSESSMENT REVIEWABLE.—In  
6 any civil action under clause (i), a court  
7 may review the validity and adjust the  
8 amount of the assessment.

9 “(2) DIRECT AND EXCLUSIVE OBLIGATION OF  
10 LICENSEE.—The user fee shall be the direct and ex-  
11 clusive obligation of the licensee and may not be de-  
12 ducted from amounts available as deposits to any  
13 person placing a bet.

14 “(f) APPROVAL OF LICENSE.—The Secretary shall  
15 grant licenses under this subchapter if the applicant meets  
16 the criteria established by the Secretary under this sub-  
17 chapter.

18 “(g) SAFEGUARDS REQUIRED OF LICENSEE.—No  
19 person shall receive or retain a license under this section  
20 unless the person maintains or requires mechanisms so  
21 that the following requirements, and the standards estab-  
22 lished under section 5383, are met with respect to any  
23 Internet bet or wager:

1           “(1) AGE.—Appropriate safeguards reasonably  
2           calculated to ensure that the individual placing a bet  
3           or wager is not less than 21 years of age.

4           “(2) LOCATION.—Appropriate safeguards rea-  
5           sonably calculated to ensure that the individual plac-  
6           ing a bet or wager is physically located in a jurisdic-  
7           tion that has not prohibited such bets or wagers  
8           pursuant to section 5385 at the time the bet or  
9           wager is placed.

10          “(3) COLLECTION OR REPORTING OF CUS-  
11          TOMER TAXES.—Appropriate mechanisms reasonably  
12          calculated to ensure that all taxes relating to Inter-  
13          net games of skill from persons engaged in bets or  
14          wagers relating to such games are collected or re-  
15          ported, as required by law, at the time of any pay-  
16          ment of proceeds of such bets or wagers.

17          “(4) COLLECTION OR REPORTING OF TAXES OF  
18          LICENSEE.—Appropriate mechanisms reasonably  
19          calculated to ensure that all taxes relating to the op-  
20          eration of an Internet game-of-skill facility from any  
21          licensee are collected and disbursed as required by  
22          law and that adequate records to enable later audit  
23          or verification are maintained.

24          “(5) SAFEGUARDS AGAINST FINANCIAL  
25          CRIME.—Appropriate safeguards reasonably cal-

1       culated to prevent fraud, money laundering, and ter-  
2       rorist finance.

3               “(6) SAFEGUARDS AGAINST COMPULSIVE  
4       PLAY.—Appropriate safeguards reasonably cal-  
5       culated to prevent compulsive betting or wagering.

6               “(7) PRIVACY SAFEGUARDS.—Appropriate safe-  
7       guards reasonably calculated to protect the privacy  
8       and security of any person engaged in bets or wa-  
9       gers relating to Internet games of skill, including  
10       customers of the licensee.

11              “(8) PAYMENT OF ASSESSMENTS.—Appropriate  
12       mechanisms reasonably calculated to ensure that any  
13       assessment under subsection (e) is paid to the Sec-  
14       retary.

15              “(9) OTHER REQUIREMENTS.—Such other re-  
16       quirements as the Secretary may establish by regula-  
17       tion or order for purposes of this subchapter.

18              “(h) TERM AND RENEWAL OF LICENSE.—

19                   “(1) TERM.—Any license issued under this sec-  
20       tion shall be issued for a 5-year term beginning on  
21       the date of issuance.

22                   “(2) RENEWAL.—Licenses may be renewed in  
23       accordance with requirements prescribed by the Sec-  
24       retary under this subchapter.

25              “(i) REVOCATION OR DENIAL OF LICENSE.—

1           “(1) IN GENERAL.—Any license granted under  
2 this subchapter may be revoked by the Secretary  
3 if—

4           “(A) the licensee fails to comply with any  
5 provision of this subchapter; or

6           “(B) the licensee is determined to be un-  
7 suitable within the meaning of this subchapter.

8           “(2) FINAL ACTION.—Any revocation or denial  
9 of a license under paragraph (1) shall be treated as  
10 a final action by the Secretary.

11          “(j) ADMINISTRATIVE PROVISIONS.—

12           “(1) GENERAL POWERS OF SECRETARY.—The  
13 Secretary shall have the authority to engage in the  
14 following:

15           “(A) Investigate the suitability of each ap-  
16 plicant to ensure compliance with this sub-  
17 chapter and regulations prescribed under this  
18 subchapter.

19           “(B) Require licensees to maintain appro-  
20 priate procedures to ensure compliance with  
21 this subchapter and regulations prescribed  
22 under this subchapter.

23           “(C) Examine any licensee and any books,  
24 papers, records, or other data of licensees rel-  
25 evant to any recordkeeping or reporting require-

1           ments imposed by the Secretary under this sub-  
2           chapter.

3           “(D) When determined by the Secretary to  
4           be necessary, summon a licensee or an appli-  
5           cant for a license, an officer or employee of a  
6           licensee or any such applicant (including a  
7           former officer or employee), or any person hav-  
8           ing possession, custody, or care of the reports  
9           and records required by the Secretary under  
10          this subchapter, to appear before the Secretary  
11          at a time and place named in the summons and  
12          to produce such books, papers, records, or other  
13          data, and to give testimony, under oath, as may  
14          be relevant or material to any investigation in  
15          connection with the enforcement of this sub-  
16          chapter or any application for a license under  
17          this subchapter.

18          “(E) Investigate any violation of this sub-  
19          chapter, any regulation under this subchapter,  
20          and any other violation of law relating to the  
21          operation of an Internet game-of-skill facility.

22          “(F) Conduct continuing reviews of appli-  
23          cants and licensees and the operation of Inter-  
24          net game-of-skill facilities by use of techno-  
25          logical means, on-site observation of facilities,

1 including servers, or other reasonable means to  
2 assure compliance with this subchapter and any  
3 regulations under this subchapter.

4 “(2) ADMINISTRATIVE ASPECTS OF SUM-  
5 MONS.—

6 “(A) PRODUCTION AT DESIGNATED  
7 SITE.—A summons issued pursuant to this sub-  
8 section may require that books, papers, records,  
9 or other data stored or maintained at any place  
10 be produced—

11 “(i) at any business location of a li-  
12 censee or applicant for a license;

13 “(ii) if the licensee or applicant has  
14 been deemed suitable by or is seeking a de-  
15 termination of suitability from a State or  
16 tribal regulatory authority, at any des-  
17 ignated location in that State or tribal  
18 land; or

19 “(iii) if the licensee or applicant has  
20 been deemed suitable or is seeking a deter-  
21 mination of suitability from the Secretary,  
22 at any designated location in the District  
23 of Columbia.

24 “(B) NO LIABILITY FOR EXPENSES.—The  
25 United States shall not be liable for any ex-

1           pense incurred in connection with the produc-  
2           tion of books, papers, records, or other data  
3           under this subsection.

4           “(C) SERVICE OF SUMMONS.—Service of a  
5           summons issued under this subsection may be  
6           by registered mail or in such other manner cal-  
7           culated to give actual notice as the Secretary  
8           may prescribe by regulation.

9           “(3) CONTUMACY OR REFUSAL.—

10           “(A) REFERRAL TO ATTORNEY GEN-  
11           ERAL.—In case of contumacy by a person  
12           issued a summons under this subsection or a  
13           refusal by such person to obey such summons  
14           or to allow the Secretary to conduct an exam-  
15           ination, the Secretary shall refer the matter to  
16           the Attorney General.

17           “(B) JURISDICTION OF COURT.—The At-  
18           torney General may invoke the aid of any court  
19           of the United States to compel compliance with  
20           the summons within the jurisdiction of which—

21                   “(i) the investigation which gave rise  
22                   to the summons or the examination is  
23                   being or has been carried on;

24                   “(ii) the person summoned is an in-  
25                   habitant; or

1                   “(iii) the person summoned carries on  
2                   business or may be found.

3                   “(C) COURT ORDER.—The court may issue  
4                   an order requiring the person summoned to ap-  
5                   pear before the Secretary or a delegate of the  
6                   Secretary—

7                   “(i) to produce books, papers, records,  
8                   and other data;

9                   “(ii) to give testimony as may be nec-  
10                  essary to explain how such material was  
11                  compiled and maintained;

12                  “(iii) to allow the Secretary to exam-  
13                  ine the business of a licensee; and

14                  “(iv) to pay the costs of the pro-  
15                  ceeding.

16                  “(D) FAILURE TO COMPLY WITH ORDER.—  
17                  Any failure to obey the order of the court may  
18                  be punished by the court as a contempt thereof.

19                  “(E) SERVICE OF PROCESS.—All process  
20                  in any case under this subsection may be served  
21                  in any judicial district in which such person  
22                  may be found.

23                  “(k) CIVIL MONEY PENALTIES.—

24                  “(1) IN GENERAL.—The Secretary may assess  
25                  upon any licensee or other person subject to the re-

1 requirements of this subchapter for any willful viola-  
2 tion of this subchapter or any regulation prescribed  
3 or order issued under this subchapter a civil penalty  
4 of not more than the greater of—

5 “(A) the amount (not to exceed \$100,000)  
6 involved in the violation, if any; or

7 “(B) \$25,000.

8 “(2) ASSESSMENT.—

9 “(A) WRITTEN NOTICE.—Any penalty im-  
10 posed under paragraph (1) may be assessed and  
11 collected by the Secretary by written notice.

12 “(B) FINALITY OF ASSESSMENT.—If, with  
13 respect to any assessment under paragraph (1),  
14 a hearing is not requested pursuant to subpara-  
15 graph (E) within the period of time allowed  
16 under such subparagraph, the assessment shall  
17 constitute a final agency order.

18 “(C) AUTHORITY TO MODIFY OR REMIT  
19 PENALTY.—The Secretary may compromise,  
20 modify, or remit any penalty which the Sec-  
21 retary may assess or has already assessed  
22 under paragraph (1).

23 “(D) MITIGATING FACTORS.—In deter-  
24 mining the amount of any penalty imposed  
25 under paragraph (1), the Secretary shall take

1 into account the appropriateness of the penalty  
2 with respect to—

3 “(i) the size of the financial resources  
4 and the good faith of the person against  
5 whom the penalty is assessed;

6 “(ii) the gravity of the violation;

7 “(iii) the history of previous viola-  
8 tions; and

9 “(iv) such other matters as justice  
10 may require.

11 “(E) HEARING.—The person against  
12 whom any penalty is assessed under paragraph  
13 (1) shall be afforded an agency hearing if such  
14 person submits a request for such hearing not  
15 later than 20 days after the issuance of the no-  
16 tice of assessment.

17 “(F) COLLECTION.—

18 “(i) REFERRAL.—If any person fails  
19 to pay an assessment after any penalty as-  
20 sessed under this paragraph has become  
21 final, the Secretary shall recover the  
22 amount assessed by action in the appro-  
23 priate United States district court.

24 “(ii) SCOPE OF REVIEW.—In any civil  
25 action under clause (i), the validity and ap-

1           appropriateness of the penalty shall be sub-  
2           ject to review for abuse of agency discre-  
3           tion.

4           “(G) DISBURSEMENT.—All penalties col-  
5           lected under authority of this subsection shall  
6           be deposited into the Treasury.

7           “(3) CONDITION FOR LICENSURE.—Payment by  
8           a licensee of any civil penalty assessed under this  
9           subsection that has become final shall be a require-  
10          ment for the retention of its license.

11          “(l) TREATMENT OF RECORDS.—In light of business  
12          competition, confidentiality and privacy concerns, the Sec-  
13          retary shall protect from disclosure information submitted  
14          in support of a license application under this subchapter  
15          and information collected in the course of regulating li-  
16          censees to the full extent permitted by sections 552 and  
17          552a of title 5.

18          “(m) SUITABILITY REQUIRED FOR CERTAIN SERV-  
19          ICE PROVIDERS.—Any person that knowingly manages,  
20          administers, or controls bets or wagers that are initiated,  
21          received, or otherwise made within the United States or  
22          that manages, administers, or controls the games with  
23          which such bets or wagers are associated shall meet all  
24          of the suitability for licensing criteria established under  
25          this section in the same manner and to the same extent

1 as if that person itself were a licensee. Any failure on the  
2 part of such person to remain suitable for licensing may  
3 be grounds for revocation of the license of the licensee for  
4 whom such service is provided, in the same manner and  
5 in accordance with subsection (i).

6 “(n) RELIANCE ON STATE AND TRIBAL REGU-  
7 LATORY BODY CERTIFICATIONS OF SUITABILITY FOR AP-  
8 PPLICANTS.—

9 “(1) QUALIFICATION OF STATE AND TRIBAL  
10 REGULATORY BODIES.—

11 “(A) APPLICATION FOR DETERMINA-  
12 TION.—Any State agency that regulates gam-  
13 bling that would be classified as class III gam-  
14 ing under section 4 of the Indian Gaming Reg-  
15 ulatory Act (25 U.S.C. 2703), or a tribal regu-  
16 latory body that regulates class III gaming,  
17 may—

18 “(i) notify the Secretary of its willing-  
19 ness to review prospective applicants to  
20 certify whether any such applicant meets  
21 the qualifications set forth by this sub-  
22 chapter; and

23 “(ii) provide the Secretary with such  
24 documentation as the Secretary determines  
25 necessary for the Secretary to determine

1           whether such State or tribal regulatory  
2           body—

3                   “(I) is qualified to conduct such  
4                   review; and

5                   “(II) may be relied upon by the  
6                   Secretary to make any such certifi-  
7                   cation.

8                   “(B) DETERMINATION AND NOTICE.—Not  
9           later than 60 days after receiving a notice by  
10          a State agency or a tribal regulatory body  
11          under subparagraph (A)(i), the Secretary  
12          shall—

13                   “(i) make a determination as to  
14                   whether such State or tribal regulatory  
15                   body—

16                   “(I) is qualified to conduct a re-  
17                   view of prospective applicants; and

18                   “(II) may be relied upon to cer-  
19                   tify whether any such applicant meets  
20                   the qualifications established under  
21                   this subchapter; and

22                   “(ii) notify such State or tribal regu-  
23                   latory body of such determination.

24                   “(2) ACTIONS BY QUALIFIED AUTHORITIES.—  
25          During the period that any determination of quali-

1        fication under paragraph (1)(B) is in effect with re-  
2        spect to any such State or tribal regulatory body,  
3        the State or tribal regulatory body—

4                “(A) may undertake reviews of any appli-  
5                cant to determine whether it meets the criteria  
6                for suitability for licensing established under  
7                this subchapter;

8                “(B) may impose on each such applicant  
9                an administrative fee or assessment for con-  
10              ducting such review in an amount the regu-  
11              latory body determines to be necessary to meet  
12              its expenses in the conduct of such review; and

13              “(C) shall process and assess each appli-  
14              cant fairly and equally based on objective cri-  
15              teria, regardless of any prior licensing of an ap-  
16              plicant by the State or tribal regulatory body.

17              “(3) RELIANCE ON STATE OR TRIBAL CERTIFI-  
18              CATION.—An applicant may provide a certification  
19              of suitability made by a State or tribal regulatory  
20              body under paragraph (2), together with all docu-  
21              mentation the applicant has submitted to such State  
22              or tribal regulatory body, to the Secretary, and such  
23              certification and documentation shall be relied on by  
24              the Secretary as evidence that the applicant has met  
25              the suitability requirements under this section.

1           “(4) AUTHORITY OF SECRETARY TO REVIEW.—  
2           Notwithstanding any certification of suitability made  
3           by a State or tribal regulatory body, the Secretary  
4           retains the authority to review, withhold, or revoke  
5           a license if the Secretary has reason to believe that  
6           an applicant or licensee does not meet the suitability  
7           requirements established under this section or any  
8           other requirement of a licensee.

9           “(5) RELIANCE ON QUALIFIED REGULATORY  
10          BODY FOR OTHER PURPOSES.—At the discretion of  
11          the Secretary, the Secretary may rely on a State and  
12          tribal regulatory body found qualified under this  
13          subsection for such other regulatory and enforce-  
14          ment activities as the Secretary finds to be useful  
15          and appropriate to carry out the purposes of this  
16          subchapter.

17          “(6) REVOCATION OF QUALIFICATION.—The  
18          Secretary may revoke, at any time and for any rea-  
19          son, the qualification of a State or tribal regulatory  
20          body to certify or to conduct any other regulatory or  
21          enforcement activity to carry out the purposes of  
22          this subchapter.

23          “(7) LIMITATION.—The Secretary may not rely  
24          upon a State or tribal regulatory body for purposes  
25          of this subchapter unless the Secretary determines

1 that the regulations and procedures of such State or  
2 tribal regulatory body for the review of an appli-  
3 cant’s suitability for a license under this subchapter  
4 are no less stringent than the regulations and proce-  
5 dures established by the Secretary for such purpose.

6 **“§ 5383. Compulsive Gaming, Responsible Gaming,**  
7 **and Self-Exclusion Program**

8 “(a) REGULATIONS REQUIRED.—The Secretary and  
9 any State or tribal regulatory body that has been qualified  
10 under section 5382(n) shall prescribe regulations for the  
11 development of a Compulsive Gaming, Responsible Gam-  
12 ing, and Self-Exclusion Program on the basis of standards  
13 that each licensee shall implement as a condition of licen-  
14 sure.

15 “(b) MINIMUM REQUIREMENTS.—An application for  
16 a license shall include a submission to the Secretary, quali-  
17 fied State, or tribal regulatory body setting forth a com-  
18 prehensive program that is reasonably calculated—

19 “(1) to verify the identity and age of each cus-  
20 tomer;

21 “(2) to ensure that no customers under the age  
22 of 21 may initiate or otherwise make any bets or wa-  
23 gers;

1           “(3) to verify the State or tribal land in which  
2           the customer is located at the time the customer at-  
3           tempts to initiate a bet or wager;

4           “(4) to ensure that no customer who is located  
5           in a State or tribal land that opts out pursuant to  
6           section 5385 can initiate or otherwise make a bet or  
7           wager prohibited by such opt-out;

8           “(5) to ensure that responsible gaming mate-  
9           rials are made available to customers upon request;

10          “(6) to make available individualized respon-  
11          sible gaming options that any customer may choose,  
12          including stake limit, loss limit, deposit limit, and  
13          session time limit option, and other similar options  
14          that the Secretary or qualified State or tribal regu-  
15          latory body may deem appropriate and require to be  
16          made available;

17          “(7) to prevent persons on the list of self-ex-  
18          cluded persons established pursuant to subsection  
19          (c) from initiating any bets or wagers;

20          “(8) to protect the privacy and security of any  
21          customer in connection with any lawful activity re-  
22          lating to the operation of an Internet game-of-skill  
23          facility; and

1           “(9) to protect against fraud and money laun-  
2           dering relating to the operation of an Internet game-  
3           of-skill facility.

4           “(c) LIST OF PERSONS SELF-EXCLUDED FROM GAM-  
5           ING ACTIVITIES.—

6           “(1) ESTABLISHMENT.—

7           “(A) IN GENERAL.—The Secretary shall  
8           provide by regulation for the establishment of a  
9           list of persons self-excluded from gaming activi-  
10          ties at all licensee sites.

11          “(B) PLACEMENT REQUEST.—Any person  
12          may request placement on the list of self-ex-  
13          cluded persons by—

14                 “(i) acknowledging in a manner to be  
15                 established by the Secretary that the per-  
16                 son wishes to be denied gaming privileges;  
17                 and

18                 “(ii) agreeing that, during any period  
19                 of voluntary exclusion, the person may not  
20                 collect any winnings or recover any losses  
21                 resulting from any gaming activity at any  
22                 licensee sites.

23          “(2) PLACEMENT AND REMOVAL PROCE-  
24          DURES.—The regulations of the Secretary under  
25          paragraph (1)(A) shall establish procedures for

1 placements on, and removals from, the list of self-  
2 excluded persons.

3 “(3) LIMITATION ON LIABILITY.—

4 “(A) IN GENERAL.—The United States,  
5 the Secretary, an enforcement agent, and a li-  
6 censee, and any employee or agent thereof, shall  
7 not be liable to any self-excluded person or to  
8 any other party in any judicial or administra-  
9 tive proceeding for any harm, monetary or oth-  
10 erwise, which may arise as a result of—

11 “(i) any failure to withhold gaming  
12 privileges from, or to restore gaming privi-  
13 leges to, a self-excluded person; or

14 “(ii) otherwise permitting a self-ex-  
15 cluded person to engage in gaming activity  
16 while on the list of self-excluded persons.

17 “(B) RULE OF CONSTRUCTION.—No provi-  
18 sion of subparagraph (A) shall be construed as  
19 preventing the Secretary from assessing any  
20 regulatory sanction against a licensee for failing  
21 to comply with the minimum standards pre-  
22 scribed pursuant to this subsection.

23 “(4) DISCLOSURE PROVISIONS.—

24 “(A) IN GENERAL.—Notwithstanding any  
25 other provision of Federal or State law, the list

1 of self-excluded persons shall not be open to  
2 public inspection.

3 “(B) AFFILIATE DISCLOSURE.—Any li-  
4 censees may disclose the identities of persons on  
5 the self excluded list to any affiliated company  
6 or, where required to comply with this sub-  
7 section, service provider, to the extent that the  
8 affiliated company or service provider maintains  
9 such information under confidentiality provi-  
10 sions comparable to those in this subsection.

11 “(5) LIMITATION ON LIABILITY FOR DISCLO-  
12 SURE.—A licensee and an employee, agent, or affil-  
13 iate of a licensee shall not be liable to any self-ex-  
14 cluded person or to any other party in any judicial  
15 proceeding for any harm, monetary or otherwise,  
16 which may arise as a result of disclosure or publica-  
17 tion in any manner.

18 “(d) GAMING BY PROHIBITED PERSONS.—

19 “(1) PROHIBITION BENEFITTING FROM PRO-  
20 HIBITED GAMING ACTIVITY.—A person who is pro-  
21 hibited from gaming with a licensee by law, or by  
22 order of the Secretary or any court of competent ju-  
23 risdiction, including any person on the self-exclusion  
24 list in accordance with subsection (c), shall not col-  
25 lect, in any manner or proceeding, any winnings or

1 recover any losses arising as a result of any prohib-  
2 ited gaming activity.

3 “(2) FORFEITURE.—In addition to any other  
4 penalty provided by law, any money or thing of value  
5 that has been obtained by, or is owed to, any prohib-  
6 ited person by a licensee as a result of bets or wa-  
7 gers made by a prohibited person shall be subject to  
8 forfeiture by order of the Secretary, following notice  
9 to the prohibited person and opportunity to be  
10 heard.

11 “(3) DEPOSIT OF FORFEITED FUNDS.—Any  
12 funds forfeited pursuant to this subsection shall be  
13 deposited into the Treasury.

14 “(e) COMPULSIVE PLAYERS NOT ON THE LIST OF  
15 SELF-EXCLUDED PERSONS.—

16 “(1) PUBLIC AWARENESS PROGRAM.—

17 “(A) IN GENERAL.—The Secretary and  
18 any State or tribal regulatory body that has  
19 been qualified under section 5382(n) shall pro-  
20 vide by regulation for the establishment of a  
21 program to alert the public to the existence,  
22 consequences, and availability of the self-exclu-  
23 sion list, and shall prepare and promulgate  
24 written materials to be used in such a program.

1           “(B) LICENSEE-PROVIDED PUBLICITY.—  
2           Regulations prescribed under subparagraph (A)  
3           may require a licensee to make available lit-  
4           erature or screen displays relating to the exist-  
5           ence of the program.

6           “(2) RULE OF CONSTRUCTION.—No provision  
7           of this subsection shall be construed as creating a  
8           legal duty in the Secretary, a qualified State or trib-  
9           al regulatory body, a licensee, or any representative  
10          of a licensee to identify or to exclude compulsive  
11          players not on the list of self-excluded persons.

12          “(3) IMMUNITY.—The United States, the Sec-  
13          retary, a qualified State or tribal regulatory body, a  
14          licensee, and any employee or agent thereof, shall  
15          not be liable to any person in any proceeding for  
16          losses or other damages of any kind arising out of  
17          that person’s gaming activities based on a claim that  
18          the person was a compulsive, problem, or patholog-  
19          ical player.

20       **“§ 5384. Financial transaction providers**

21          “(a) IN GENERAL.—No financial transaction pro-  
22          vider shall be held liable for engaging in financial activities  
23          or transactions, including payments processing activities,  
24          in connection with any bets or wagers permitted by this  
25          subchapter or the Interstate Horseracing Act of 1978 (15

1 U.S.C. 3001 et seq.) unless such financial transaction pro-  
2 vider has knowledge or reason to know that the specific  
3 financial activities or transactions are conducted in viola-  
4 tion of this subchapter, the Interstate Horseracing Act,  
5 or other applicable provision of Federal or State law.

6 “(b) DEFINITIONS.—In this section:

7 “(1) FINANCIAL TRANSACTION PROVIDER.—

8 The term ‘financial transaction provider’ means a  
9 creditor, credit card issuer, financial institution, op-  
10 erator of a terminal at which an electronic fund  
11 transfer may be initiated, money transmitting busi-  
12 ness, or international, national, regional, or local  
13 payment network utilized to effect a credit trans-  
14 action, electronic fund transfer, stored value product  
15 transaction, or money transmitting service, or a par-  
16 ticipant in such network, or other participant in a  
17 payment system.

18 “(2) OTHER TERMS.—

19 “(A) CREDIT, CREDITOR, CREDIT CARD,  
20 AND CARD ISSUER.—The terms ‘credit’, ‘cred-  
21 itor’, ‘credit card’, and ‘card issuer’ have the  
22 meanings given the terms in section 103 of the  
23 Truth in Lending Act (15 U.S.C. 1602).

24 “(B) ELECTRONIC FUND TRANSFER.—The  
25 term ‘electronic fund transfer’—

1           “(i) has the meaning given the term  
2           in section 903 of the Electronic Fund  
3           Transfer Act (15 U.S.C. 1693a), except  
4           that the term includes transfers that would  
5           otherwise be excluded under section  
6           903(6)(E) of such Act; and

7           “(ii) includes any fund transfer cov-  
8           ered by Article 4A of the Uniform Com-  
9           mercial Code, as in effect in any State.

10          “(C) FINANCIAL INSTITUTION.—The term  
11          ‘financial institution’ has the meaning given the  
12          term in section 903 of the Electronic Fund  
13          Transfer Act (15 U.S.C. 1963a), except that  
14          such term does not include a casino, sports  
15          book, or other business at or through which  
16          bets or wagers may be placed or received.

17          “(D) INSURED DEPOSITORY INSTITU-  
18          TION.—The term ‘insured depository institu-  
19          tion’—

20                 “(i) has the meaning given the term  
21                 in section 3(c) of the Federal Deposit In-  
22                 surance Act (12 U.S.C. 1813(c)); and

23                 “(ii) includes an insured credit union  
24                 (as defined in section 101 of the Federal  
25                 Credit Union Act (12 U.S.C. 1752)).

1           “(E) MONEY TRANSMITTING BUSINESS  
 2           AND MONEY TRANSMITTING SERVICE.—The  
 3           terms ‘money transmitting business’ and  
 4           ‘money transmitting service’ have the meanings  
 5           given the terms in section 5330(d) (determined  
 6           without regard to any regulations prescribed by  
 7           the Secretary under such section).

8   **“§ 5385. Limitation on licenses in States and Indian**  
 9           **lands**

10           “(a) STATE OPT-OUT EXERCISE.—

11                   “(1) LIMITATIONS IMPOSED BY STATES.—

12                           “(A) IN GENERAL.—No licensee may  
 13                           knowingly accept a bet or wager, under a li-  
 14                           cense issued pursuant to this subchapter, initi-  
 15                           ated by a person who is located in any State  
 16                           which provides notice that it will limit such bets  
 17                           or wagers, if the Governor or other chief execu-  
 18                           tive officer of such State informs the Secretary  
 19                           of such limitation before the end of the 90-day  
 20                           period beginning on the date of the enactment  
 21                           of the Internet Poker and Game of Skill Regu-  
 22                           lation, Consumer Protection, and Enforcement  
 23                           Act of 2009, or in accordance with paragraph  
 24                           (2), until such time as notice of any repeal of

1 such limitation becomes effective under para-  
2 graph (2).

3 “(B) COORDINATION BETWEEN STATE AND  
4 TRIBAL OPT-OUT EXERCISES.—Any State limi-  
5 tation under Subparagraph (A) shall not apply  
6 to the acceptance by a licensee of bets or wa-  
7 gers from persons located within the tribal  
8 lands of an Indian tribe that—

9 “(i) has itself not chosen to opt out  
10 pursuant to subsection (b); or

11 “(ii) would be entitled pursuant to  
12 other applicable law to permit such bets or  
13 wagers to be initiated and received within  
14 its territory without use of the Internet.

15 “(2) CHANGES TO STATE LIMITATIONS.—The  
16 establishment or repeal by any State of any limita-  
17 tion referred to in paragraph (1) after the end of the  
18 90-day period beginning on the date of the enact-  
19 ment of this subchapter shall apply, for purposes of  
20 this subchapter, beginning on the first January 1  
21 that occurs after the end of the 60-day period begin-  
22 ning on the later of—

23 “(A) the date a notice of such establish-  
24 ment or repeal is provided by the Governor or

1 other chief executive officer of such State in  
2 writing to the Secretary; or

3 “(B) the effective date of such establish-  
4 ment or repeal.

5 “(3) EXISTING STATE LAW.—No provision of  
6 State law enacted prior to the Internet Poker and  
7 Game of Skill Regulation, Consumer Protection, and  
8 Enforcement Act of 2009 shall be construed to re-  
9 quire a State to provide notice pursuant to this sub-  
10 section.

11 “(b) INDIAN TRIBE OPT-OUT EXERCISE.—

12 “(1) LIMITATIONS IMPOSED BY INDIAN  
13 TRIBES.—No licensee may knowingly accept a bet or  
14 wager, under a license issued pursuant to this sub-  
15 chapter, that is initiated by a person who is located  
16 in the tribal lands of any Indian tribe which limits  
17 such bets or wagers if the principal chief or other  
18 chief executive officer of such Indian tribe informs  
19 the Secretary of such limitation before the end of  
20 the 90-day period beginning on the date of the en-  
21 actment of the Internet Poker and Game of Skill  
22 Regulation, Consumer Protection, and Enforcement  
23 Act of 2009, or in accordance with paragraph (2),  
24 until such time as notice of any repeal of such limi-  
25 tation becomes effective under paragraph (2).

1           “(2) CHANGES TO INDIAN TRIBE LIMITA-  
2           TIONS.—The establishment or repeal by any Indian  
3           tribal government of the limitation referred to in  
4           paragraph (1) after the end of the 90-day period be-  
5           ginning on the date of the enactment of this sub-  
6           chapter shall apply, for purposes of this subchapter,  
7           beginning on the first January 1 that occurs after  
8           the end of the 60-day period beginning on the later  
9           of—

10                   “(A) the date a notice of such establish-  
11                   ment or repeal is provided by the principal chief  
12                   or other chief executive officer of such Indian  
13                   tribal government in writing to the Secretary;  
14                   or

15                   “(B) the effective date of such establish-  
16                   ment or repeal.

17           “(3) EXISTING TRIBAL LAW.—No provision of  
18           tribal law enacted prior to the Internet Poker and  
19           Game of Skill Regulation, Consumer Protection, and  
20           Enforcement Act of 2009 shall be construed to re-  
21           quire an Indian tribal government to provide notice  
22           pursuant to this subsection.

23           “(c) NOTIFICATION AND ENFORCEMENT OF STATE  
24           AND INDIAN TRIBE LIMITATIONS.—

1           “(1) IN GENERAL.—The Secretary shall notify  
2 all licensees and applicants of all States and Indian  
3 tribes that have provided notice pursuant to para-  
4 graph (1) or (2) of subsection (a) or (b), as the case  
5 may be, promptly upon receipt of such notice and in  
6 no event later than 30 days before the effective date  
7 of such notice.

8           “(2) COMPLIANCE.—The Secretary shall take  
9 effective measures to ensure that any licensee under  
10 this subchapter, as a condition of the license, com-  
11 plies with any limitation imposed by any State or In-  
12 dian tribe to which the licensee is subject under sub-  
13 section (a) or (b), as the case may be.

14           “(3) VIOLATIONS.—It shall be a violation of  
15 this subchapter for any licensee knowingly to accept  
16 a bet or wager initiated or otherwise made by a per-  
17 son located at the time of such bet or wager within  
18 any State or in the tribal lands of any Indian tribe  
19 for which a notice is in effect under subsection (a)  
20 or (b), as the case may be.

21           “(4) STATE ATTORNEY GENERAL ENFORCE-  
22 MENT.—In any case in which the attorney general or  
23 other chief law enforcement officer of a State or any  
24 State or local law enforcement agency, authorized by  
25 the attorney general or other chief law enforcement

1 officer of the State or by State statute to prosecute  
 2 violations of consumer protection law, has reason to  
 3 believe that an interest of the residents of that State  
 4 has been or is threatened or adversely affected by a  
 5 violation by a licensee pursuant to paragraph (2),  
 6 the State, or the State or local law enforcement  
 7 agency, on behalf of the residents of the agency’s ju-  
 8 risdiction, may bring a civil action on behalf of the  
 9 residents of that State or jurisdiction in a district  
 10 court of the United States located therein—

11 “(A) to enjoin that practice; or

12 “(B) to enforce compliance with this sub-  
 13 chapter.

14 “(d) NO IMPACT ON INDIAN GAMING REGULATORY  
 15 ACT.—No decision by a State pursuant to this section  
 16 shall be considered in determining the ability of an Indian  
 17 tribe to offer any class of gambling activity pursuant to  
 18 section 11 of the Indian Gaming Regulatory Act (25  
 19 U.S.C. 2710) or any successor provisions.

20 **“§ 5386. Prohibition on bets or wagers on games of**  
 21 **chance and sporting events**

22 “(a) IN GENERAL.—No provision of this subchapter  
 23 shall be construed to authorize any licensee to accept a  
 24 bet or wager knowingly from a person located in the  
 25 United States on—

1           “(1) any game that is not an Internet game of  
2 skill; or

3           “(2) any sporting event in violation of section  
4 3702 of title 28 or of any other applicable provision  
5 of State or Federal law.

6           “(b) CONSTRUCTION.—Nothing in this subchapter  
7 shall be construed to repeal or to amend any provision of  
8 State or Federal law prohibiting, restricting, or otherwise  
9 addressing bets or wagers on sporting events.

10 **“§ 5387. Safe harbor**

11           “‘It shall be an affirmative defense to any prosecution  
12 or enforcement action under any provision of Federal or  
13 State law that the activity forming the basis of such pros-  
14 ecution or enforcement action is authorized under and has  
15 been carried out lawfully in accordance with and under  
16 the terms of—

17           “(1) this subchapter; or

18           “(2) the Interstate Horseracing Act of 1978  
19 (15 U.S.C. 3001 et seq.).

20 **“§ 5388. Relation to section 1084 of title 18 and sub-**  
21 **chapter IV of this title**

22           “Section 1084 of title 18 and subchapter IV of this  
23 chapter shall not apply to any bet or wager—

1           “(1) occurring pursuant to a license issued by  
2           the Secretary under this subchapter, subject to sec-  
3           tion 5386; or

4           “(2) that is permissible under the Interstate  
5           Horseracing Act of 1978 (15 U.S.C. 3001 et seq.).

6   **“§ 5389. Cheating and other fraud**

7           “(a) ELECTRONIC CHEATING DEVICES PROHIB-  
8           ITED.—No person initiating, receiving, or otherwise mak-  
9           ing a bet or wager with a licensee, or sending, receiving,  
10          or inviting information assisting with a bet or wager with  
11          a licensee shall knowingly use, or assist another in the use  
12          of, an electronic, electrical, or mechanical device which is  
13          designed, constructed, or programmed specifically for use  
14          in obtaining an advantage in any game authorized under  
15          this subchapter, where such advantage is prohibited or  
16          otherwise violates the rules of play established by the li-  
17          censee.

18          “(b) ADDITIONAL OFFENSE.—No person initiating,  
19          receiving, or otherwise making a bet or wager with a li-  
20          censee, or sending, receiving, or inviting information as-  
21          sisting with a bet or wager with a licensee, shall knowingly  
22          use or possess any cheating device with intent to cheat  
23          or defraud any licensee or other persons placing bets or  
24          wagers with such licensee.

1       “(c) PERMANENT INJUNCTION.—Upon conviction of  
 2 a person for violation of this section, the court may enter  
 3 a permanent injunction enjoining such person from initi-  
 4 ating, receiving, or otherwise making bets or wagers or  
 5 sending, receiving, or inviting information assisting in the  
 6 placing of bets or wagers.

7       “(d) CRIMINAL PENALTY.—Whoever violates sub-  
 8 section (a) or (b) shall be fined under title 18 or impris-  
 9 oned for not more than 5 years, or both.

10 **“§ 5390. Construction and relation to State law**

11       “(a) NO IMPACT ON EXISTING LAWFUL GAMES.—

12               “(1) IN GENERAL.—If certain games of skill  
 13 are not regarded as gambling under an applicable  
 14 provision of State or Federal law in effect as of the  
 15 effective date of the enactment of the Internet Poker  
 16 and Game of Skill Regulation, Consumer Protection,  
 17 and Enforcement Act of 2009—

18                       “(A) nothing in this subchapter shall be  
 19 construed to require licensing under this sub-  
 20 chapter with respect to such games; and

21                       “(B) fees paid to participate in such games  
 22 shall not be regarded as bets or wagers for pur-  
 23 poses of this subchapter.

24               “(2) RELIANCE.—Nothing in this subchapter  
 25 may be relied on as support for the legality or per-

1       missibility of games described in paragraph (1) with-  
2       out compliance with the licensing and other require-  
3       ments of this subchapter.

4       “(b) PUBLIC GAMING FACILITIES NOT AUTHOR-  
5       IZED.—

6               “(1) IN GENERAL.—Nothing in this subchapter  
7       shall be construed to authorize or otherwise to per-  
8       mit the operation of places of public accommodation,  
9       clubs (including clubs or associations limited to  
10      dues-paying members or similar restricted groups),  
11      and similar establishments for the primary purpose  
12      of allowing the public or members access to Internet  
13      bets or wagers.

14              “(2) ASSUMED PUBLIC GAMING FACILITIES.—  
15      Any place of public accommodation, club, or similar  
16      establishment in which large numbers of computer  
17      terminals or similar access devices are made avail-  
18      able that are used principally for the purpose of  
19      Internet bets or wagers shall be considered a place  
20      of public accommodation, club, or similar establish-  
21      ment operated for the primary purpose of allowing  
22      the public or members access to Internet bets or wa-  
23      gers under subparagraph (A).

24              “(3) RELATION TO STATE LAW.—Places of pub-  
25      lic accommodation, clubs, or similar establishments

1 described in this subsection shall be subject to all  
 2 otherwise applicable State, tribal, and local police  
 3 zoning and other regulatory powers, which are not  
 4 intended to be limited in any way by this sub-  
 5 chapter.

6 “(c) INTERSTATE OFF-TRACK WAGERS.—The provi-  
 7 sions of this subchapter restricting acceptance of bets or  
 8 wagers made by individuals located in the United States  
 9 or requiring the blocking or other prevention of restricted  
 10 transactions shall not apply with respect to the acceptance  
 11 of interstate off-track wagers (as such term is defined by  
 12 section 3 of the Interstate Horseracing Act of 1978, as  
 13 amended (15 U.S.C. 3002)), whether such off-track wager  
 14 is made by telephone, Internet, satellite, or other wire or  
 15 wireless communication.”.

16 (b) CLERICAL AMENDMENT.—The table of sections  
 17 for chapter 53 of title 31, United States Code, is amended  
 18 by adding at the end the following:

“SUBCHAPTER V—REGULATION OF INTERNET GAME-OF-SKILL FACILITIES

“Sec.

“5381. Definitions.

“5382. Establishment and administration of licensing program.

“5383. Compulsive Gaming, Responsible Gaming, and Self-Exclusion Program.

“5384. Financial transaction providers.

“5385. Limitation on licenses in States and Indian lands.

“5386. Prohibition on bets or wagers on games of chance and sporting events.

“5387. Safe harbor.

“5388. Relation to section 1084 of title 18 and subchapter IV of this title.

“5389. Cheating and other fraud.

“5390. Construction and relation to State law.”.

1 **SEC. 103. LIST OF UNLAWFUL INTERNET GAMBLING ENTER-**  
 2 **PRISES.**

3 (a) IN GENERAL.—Subchapter IV of chapter 53 of  
 4 title 31, United States Code, is amended by adding at the  
 5 end the following:

6 **“§ 5368. List of unlawful Internet gambling enter-**  
 7 **prises**

8 “(a) DEFINITIONS.—In this section:

9 “(1) UNLAWFUL INTERNET GAMBLING ENTER-  
 10 PRISE.—The term ‘unlawful Internet gambling en-  
 11 terprise’ means any person who, more than 10 days  
 12 after the date of the enactment of this section—

13 “(A) violates a provision of section 5363;

14 “(B) knowingly receives or transmits funds  
 15 intended primarily for a person described in  
 16 subparagraph (A); or

17 “(C) knowingly assists in the conduct of a  
 18 person described in subparagraph (A) or (B).

19 “(2) DIRECTOR.—The term ‘Director’ means  
 20 the Director of the Financial Crimes Enforcement  
 21 Network appointed under section 310(b).

22 “(b) LIST OF UNLAWFUL INTERNET GAMBLING EN-  
 23 TERPRISES.—

24 “(1) IN GENERAL.—Not later than 120 days  
 25 after the date of the enactment of this section, the  
 26 Director shall submit to the Secretary a list of un-

1 lawful Internet gambling enterprises and shall regu-  
2 larly update such list in accordance with the proce-  
3 dures described in paragraph (3). Such list shall in-  
4 clude the following information for each such unlaw-  
5 ful Internet gambling enterprise:

6 “(A) All known Internet website addresses  
7 of the enterprise.

8 “(B) The names of all known owners and  
9 operators of the enterprise.

10 “(C) To the extent known, information  
11 identifying the financial agents and account  
12 numbers of the enterprise and the persons list-  
13 ed under subparagraph (B).

14 “(2) DISTRIBUTION OF LIST BY SECRETARY.—

15 The Secretary shall make available—

16 “(A) a copy of the information provided  
17 under subparagraphs (A) and (B) of paragraph  
18 (1) on the Internet website of the Department  
19 of the Treasury;

20 “(B) to all persons who are required to  
21 comply with the regulations prescribed under  
22 the authority provided in section 5364 a copy of  
23 all the information provided under paragraph  
24 (1) in an electronic format compatible with the

1 Specially Designated Nationals list maintained  
2 by the Office of Foreign Assets Control; and

3 “(C) any information required under this  
4 paragraph not later than 10 days after receiv-  
5 ing any new or updated list from the Director.

6 “(3) PROCEDURES.—The procedures described  
7 in this paragraph are the following:

8 “(A) INVESTIGATION.—The Director shall  
9 investigate entities that appear to be unlawful  
10 Internet gambling enterprises. An initial inves-  
11 tigation shall be completed before the end of the  
12 60-day period beginning on the date of enact-  
13 ment of this section. After the initial investiga-  
14 tion, the Director shall regularly investigate en-  
15 tities that appear to be unlawful Internet gam-  
16 bling enterprises. If the Director discovers evi-  
17 dence sufficient to prove a prima facie case that  
18 any person is an unlawful Internet gambling  
19 enterprise, the Director shall provide the notice  
20 required under subparagraph (C).

21 “(B) REQUESTS.—Any Federal, State,  
22 tribal, or local law enforcement official, any af-  
23 fected sports organization, any person directly  
24 harmed by unlawful Internet gambling, any fi-  
25 nancial transaction provider, and any inter-

1 active computer service (as such terms are de-  
2 fined in section 5362) shall have the right, but  
3 not the obligation, to make a written request to  
4 the Director for the addition of any person to  
5 the list of unlawful Internet gambling enter-  
6 prises. If the Director determines that the evi-  
7 dence submitted is sufficient to prove a prima  
8 facie case that such person is an unlawful  
9 Internet gambling enterprise, the Director shall  
10 provide the notice required under subparagraph  
11 (C) to each person identified as an alleged un-  
12 lawful Internet gambling enterprise. The Direc-  
13 tor also shall provide written notice of its deci-  
14 sion under this subparagraph, including a deci-  
15 sion not to add a person to the list required  
16 under paragraph (1), to the requesting party no  
17 later than 30 days after the request is received.  
18 The Director shall not include on the list any  
19 person operating an Internet game-of-skill facil-  
20 ity who falls within the scope of section 108(a)  
21 of the Internet Poker and Game of Skill Regu-  
22 lation, Consumer Protection, and Enforcement  
23 Act of 2009.

24 “(C) NOTICE.—Not fewer than 30 days  
25 before adding an unlawful Internet gambling

1 enterprise, or an owner or operator thereof, to  
2 the list required under paragraph (1), the Di-  
3 rector shall provide written notice to such en-  
4 terprise, owner, or operator. Any enterprise,  
5 owner, or operator receiving such notice may  
6 contest the Director's determination by written  
7 appeal to the Director not more than 30 days  
8 after receiving notice.

9 “(D) OPPORTUNITY FOR HEARING.—If a  
10 person properly submits a written appeal under  
11 subparagraph (C), the Director shall not in-  
12 clude such person in the list required under  
13 paragraph (1) unless and until the Director  
14 provides such person with an opportunity for a  
15 hearing not more than 30 days after receiving  
16 written notice of appeal. Not more than 10 days  
17 after an opportunity for hearing is afforded,  
18 whether or not the person requesting the hear-  
19 ing appears at such hearing, the Director shall  
20 proceed to add such person to the list of unlaw-  
21 ful Internet gambling enterprises unless the Di-  
22 rector determines, based on a preponderance of  
23 the evidence, that such person is not an unlaw-  
24 ful Internet gambling enterprise.

1           “(E) INJUNCTIVE RELIEF.—Any person  
2           that the Director determines shall be included  
3           in the list required under paragraph (1) after  
4           such person appears at a hearing described in  
5           subparagraph (D) and any person included in  
6           such list who did not receive the notice required  
7           under subparagraph (C), may petition for in-  
8           junctive relief in the United States District  
9           Court for the District of Columbia, which shall  
10          have exclusive jurisdiction to hear challenges  
11          pursuant to this section. The petitioner shall  
12          have the burden of establishing by a preponder-  
13          ance of the evidence that such person is not an  
14          unlawful Internet gambling enterprise. Only  
15          persons designated by the Director for inclusion  
16          on the list of unlawful Internet gambling enter-  
17          prises, and other owners or operators of an en-  
18          terprise to be so listed, shall have standing to  
19          contest the Director’s determination. The court  
20          may enjoin the Director and the Secretary not  
21          to add or remove the petitioner from the list of  
22          unlawful Internet gambling enterprises, and no  
23          other judicial recourse shall be permitted.

24          “(c) EFFECT OF LIST.—A financial transaction pro-  
25          vider shall be deemed to have actual knowledge that a per-

1 son is an unlawful Internet gambling enterprise to the ex-  
2 tent that such person is identified on the list available to  
3 the public, or on a non-public list made available to such  
4 financial transaction provider, by the Secretary as de-  
5 scribed in subsection (b)(2), provided that the list shall  
6 not be deemed to be the sole source of actual knowledge.”.

7 (b) CLERICAL AMENDMENT.—The table of sections  
8 at the beginning of such chapter 53 is amended by insert-  
9 ing after the item relating to section 5367 the following:

“5368. List of unlawful Internet gambling enterprises.”.

10 **SEC. 104. REGULATIONS.**

11 (a) LICENSING OF INTERNET GAME-OF-SKILL FA-  
12 CILITIES.—Not later than 180 days after the date of the  
13 enactment of this Act, the Secretary shall—

14 (1) prescribe regulations to carry out sub-  
15 chapter V of chapter 53 of title 31, United States  
16 Code, as added by section 102(a); and

17 (2) publish such regulations in final form in the  
18 Federal Register.

19 (b) EXCLUSION OF BOARD OF GOVERNORS OF THE  
20 FEDERAL RESERVE SYSTEM FROM REQUIREMENT TO  
21 PRESCRIBE REGULATIONS CONCERNING PREVENTION OF  
22 RESTRICTED TRANSACTIONS.—Subsection (a) of section  
23 5364 of such title is amended by striking “Before the end  
24 of the 270-day period beginning on the date of the enact-  
25 ment of this subchapter, the Secretary and the Board of

1 Governors of the Federal Reserve System, in consultation  
2 with the Attorney General, shall prescribe regulations  
3 (which the Secretary and the Board jointly determine to  
4 be appropriate)” and inserting “The Secretary shall pre-  
5 scribe regulations”.

6 (c) MODIFICATION OF REQUIREMENTS FOR POLICIES  
7 AND PROCEDURES.—Subsection (b) of such section is  
8 amended to read as follows:

9 “(b) REQUIREMENTS FOR POLICIES AND PROCE-  
10 DURES.—In prescribing regulations under subsection (a),  
11 the Secretary shall—

12 “(1) identify types of policies and procedures,  
13 including nonexclusive examples, which would be  
14 deemed, as applicable, to be reasonably designed to  
15 identify and block or otherwise prevent or prohibit  
16 the acceptance of the products or services of the  
17 payment system or participant with respect to each  
18 type of restricted transaction;

19 “(2) permit any participant in a payment sys-  
20 tem to rely on the policies and procedures of such  
21 payment system if such policies and procedures are  
22 reasonably designed to identify and block or other-  
23 wise prevent or prohibit a transaction in which any  
24 participant in that payment system in such trans-

1 action has actual knowledge that the intended recipi-  
2 ent is an unlawful Internet gambling enterprise;

3 “(3) exempt certain participants from any re-  
4 quirement imposed under such regulations if the  
5 Secretary finds that—

6 “(A) such requirement is not reasonably  
7 practical for such participants; and

8 “(B) such regulations are reasonably cal-  
9 culated to require at least 1 participant under  
10 the jurisdiction of the United States in each  
11 designated payment system to identify and  
12 block or otherwise prevent or prohibit the ac-  
13 ceptance of the products or services of the pay-  
14 ment system with respect to each type of re-  
15 stricted transaction; and

16 “(4) ensure that transactions in connection with  
17 any activity excluded from the definition of unlawful  
18 Internet gambling in subparagraphs (B), (C), (D)(i),  
19 or (E) of section 5362(10) or that are lawfully con-  
20 ducted pursuant to section 5382 are not blocked or  
21 otherwise prevented or prohibited by the prescribed  
22 regulations.”.

23 (d) TEMPORARY SUSPENSION OF CERTAIN REGULA-  
24 TIONS.—

1           (1) IN GENERAL.—Subject to paragraph (2),  
2           during the period beginning on the date of the en-  
3           actment of this Act and ending on June 1, 2010,  
4           part 233 of title 12, Code of Federal Regulations,  
5           and part 132 of title 31, Code of Federal Regula-  
6           tions, shall have no force or effect.

7           (2) PREVIOUS VIOLATION.—Paragraph (1) shall  
8           not apply with respect to any violation of a regula-  
9           tion described in such paragraph that occurred be-  
10          fore the date of the enactment of this Act.

11          (e) REVISION OF REGULATIONS.—The Secretary of  
12          the Treasury shall, in consultation with the Attorney Gen-  
13          eral, revise the regulations described in subsection (d)(1)  
14          in accordance with the amendments made to subchapter  
15          IV of chapter 53 of title 31, United States Code, by this  
16          Act.

17          **SEC. 105. ANNUAL REPORT.**

18          (a) IN GENERAL.—Not later than 1 year after the  
19          date on which the Secretary of the Treasury prescribes  
20          regulations under section 104(a) and annually thereafter,  
21          the Secretary shall submit to Congress a report on the  
22          licensing and regulation of Internet game-of-skill facilities  
23          (as such term is defined in section 5382 of title 31, United  
24          States Code, as added by section 102(a)).

1 (b) ELEMENTS.—Each report submitted under sub-  
2 section (a) shall include the following:

3 (1) A description of all notices received by the  
4 Secretary of the Treasury under subsections (a) and  
5 (b) of section 5385 of title 31, United States Code,  
6 as added by section 102(a).

7 (2) The amount of user fees received under sec-  
8 tion 5382(e) of such title (as added by section  
9 102(a)), the amount of Federal, State, and tribal li-  
10 censing fees collected, and an estimate of the  
11 amount of income tax revenue that is attributable to  
12 the operation of Internet game-of-skill facilities (as  
13 such term is defined in section 5381 of such title,  
14 as so added) during the period covered by the re-  
15 port.

16 (3) A list of the State and tribal regulatory  
17 bodies that the Secretary has made an affirmative  
18 determination under section 5382(n)(1)(B) of such  
19 title, as so added, the number of licensees reviewed  
20 by such regulatory bodies, and the outcomes of such  
21 reviews.

22 (4) A description of the efforts the Secretary  
23 has undertaken to ensure that licensees qualified by  
24 State and tribal regulatory bodies meet the require-

1       ments of subchapter V of chapter 53 of such title,  
2       as so added.

3           (5) Information on regulatory and enforcement  
4       actions undertaken during the period for which the  
5       report is submitted with respect to the provisions of  
6       such subchapter.

7           (6) Data regarding the list required by  
8       5368(b)(1) of such title, as added by section 103(a),  
9       including its size, the number of persons and  
10      websites added and removed, number and descrip-  
11      tion of challenges to inclusion on the list, and resolu-  
12      tion of those challenges.

13          (7) Any other information the Secretary deter-  
14      mines may be useful to Congress in evaluating the  
15      effectiveness of subchapter V of chapter 53 of such  
16      title, as added by section 102(a), in meeting its pur-  
17      pose, including the provision of protections against  
18      underage gambling, compulsive gambling, money  
19      laundering and fraud, and in combating tax avoid-  
20      ance relating to Internet gambling.

21 **SEC. 106. CONFORMING AMENDMENTS.**

22          (a) DUTIES AND POWERS OF THE DIRECTOR OF THE  
23      FINANCIAL CRIMES ENFORCEMENT NETWORK.—Section  
24      310(b)(2) of title 31, United States Code, is amended—

1           (1) by redesignating subparagraphs (I) and (J)  
2 as subparagraphs (J) and (K), respectively; and

3           (2) by inserting after subparagraph (H) the fol-  
4 lowing:

5                           “(i) Administer the requirements of  
6                           subchapter V of chapter 53.”.

7           (b) EXCLUSION OF LICENSED INTERNET GAME-OF-  
8 SKILL FACILITY OPERATIONS FROM DEFINITION OF UN-  
9 LAWFUL INTERNET GAMBLING.—Section 5362(10) of  
10 such title is amended—

11           (1) in subparagraph (D), by striking clause  
12 (iii);

13           (2) by redesignating subparagraph (E) as sub-  
14 paragraph (F); and

15           (3) by inserting after subparagraph (D) the fol-  
16 lowing:

17                           “(E) LICENSED INTERNET GAME-OF-SKILL  
18 FACILITIES.—The term ‘unlawful Internet gam-  
19 bling’ shall not include an activity carried out  
20 by an Internet game-of-skill facility (as such  
21 term is defined in section 5382) operated by a  
22 person under a license provided under sub-  
23 chapter V in accordance with the provisions of  
24 such subchapter.”.

1 **SEC. 107. EFFECTIVE DATE.**

2 Subchapter V of chapter 53 of title 31, United States  
3 Code, and the regulations prescribed under section 104(a)  
4 shall take effect on the date that is 90 days after the date  
5 on which the Secretary of the Treasury publishes regula-  
6 tions under paragraph (2) of such section.

7 **SEC. 108. APPLICABILITY.**

8 (a) IN GENERAL.—Subsection (b)(1) of 5382 of title  
9 31, United States Code, as added by section 102(a), shall  
10 not apply to a person who, not later than 90 days after  
11 enactment of this Act, notifies in writing the Secretary  
12 of the Treasury of their intent to seek a license under sub-  
13 chapter V of such chapter, as so added, and who not later  
14 than 90 days after the date on which the Secretary of the  
15 Treasury begins accepting applications for licenses under  
16 subchapter V of such chapter, as so added, submits to the  
17 Secretary of the Treasury an application for a license  
18 under such subchapter may operate an Internet game-of-  
19 skill facility in interstate or foreign commerce, in which  
20 bets or wagers are knowingly initiated, received, or other-  
21 wise made by individuals located in the United States,  
22 without a license issued to such person by the Secretary  
23 under such subchapter during the period beginning on the  
24 date of such submittal and ending on the earlier of—

25 (1) the date the Secretary grants such license;

1           (2) the date that is 2 years after the date of  
2           such submittal; or

3           (3) the date on which the Secretary denies such  
4           application.

5           (b) CONSTRUCTION.—Subsection (a) shall not be con-  
6           strued to modify, amend, or affect in any way any other  
7           provision of law with respect to unlawful Internet gam-  
8           bling (as such term is defined in section 5361 of such  
9           title).

10          (c) PREVIOUS OPERATION.—The Secretary of the  
11          Treasury may not deny an application for a license under  
12          subchapter V of such title, as so added, that is submitted  
13          by an applicant during the 90-day period beginning on the  
14          date that the Secretary begins accepting applications  
15          under such subchapter because the applicant operated an  
16          Internet game-of-skill facility, in interstate or foreign com-  
17          merce, in which bets or wagers were knowingly initiated,  
18          received, or otherwise made by individuals located in the  
19          United States, without a license issued to such person by  
20          the Secretary under such subchapter.

21          (d) DEFINITIONS.—The terms “bet or wager” and  
22          “operate an Internet game-of-skill facility” have the mean-  
23          ing given such terms in section 5381 of such title, as  
24          added by section 102(a).

1    **TITLE II—INTERNET GAMES OF**  
2            **SKILL TAX PROVISIONS**

3    **SEC. 201. AMENDMENT OF 1986 CODE.**

4            (a) AMENDMENT OF 1986 CODE.—Except as other-  
5 wise expressly provided, whenever in this title an amend-  
6 ment or repeal is expressed in terms of an amendment  
7 to, or repeal of, a section or other provision, the reference  
8 shall be considered to be made to a section or other provi-  
9 sion of the Internal Revenue Code of 1986.

10   **SEC. 202. TAX ON INTERNET GAMES OF SKILL; LICENSEE**  
11                    **INFORMATION REPORTING.**

12            (a) IN GENERAL.—Chapter 36 is amended by adding  
13 at the end the following new subchapter:

14            **“Subchapter E—Internet Gambling and**  
15                    **Games of Skill**

16   **“SEC. 4491. IMPOSITION OF INTERNET GAMING LICENSE**  
17                    **FEE.**

18            “(a) IMPOSITION OF FEE.—Each person who is a li-  
19 censee shall be required to pay not later than 15 days after  
20 the end of each calendar month a fee equal to the sum  
21 of—

22                    “(1) the Federal Internet gaming license fee;  
23            and

24                    “(2) the State or Indian tribal government  
25            gaming license fee.

1       “(b) AMOUNT OF FEES.—For purposes of this sec-  
2 tion—

3               “(1) FEDERAL INTERNET GAMING LICENSE  
4 FEE.—The Federal Internet gaming license fee is a  
5 fee equal to 5 percent of a licensee’s Internet gam-  
6 ing deposited funds for a calendar month.

7               “(2) STATE OR INDIAN TRIBAL GOVERNMENT  
8 GAMING LICENSE FEE.—The State or Indian tribal  
9 government gaming license fee is a fee equal to 5  
10 percent of a licensee’s Internet gaming deposited  
11 funds for a calendar month.

12               “(3) INTERNET GAMING DEPOSITED FUNDS.—  
13 The term ‘Internet gaming deposited funds’ means  
14 all funds deposited by persons located within the  
15 United States into any account maintained by the li-  
16 censee or any agent of the licensee into which funds  
17 are deposited for the purpose of being used to place  
18 a bet or wager with respect to an Internet game of  
19 skill. Funds received from a customer by an operator  
20 of an Internet game-of-skill facility and made avail-  
21 able in any form to a customer for the purpose of  
22 placing a bet or wager, and funds paid to reimburse  
23 an operator of an Internet game-of-skill facility for  
24 value previously advanced to the customer for such  
25 purpose, shall be regarded as Internet gaming de-

1       posited funds unless the funds received or paid were  
2       already considered Internet gaming deposited funds  
3       prior to their transmittal to the operator of the  
4       Internet game-of-skill facility.

5           “(4) LIMITATION TO IMPOSITION OF ONE  
6       STATE OR INDIAN TRIBAL GAMING LICENSE FEE FOR  
7       ANY TRANSACTION.—In the case of a customer lo-  
8       cated within the jurisdiction of an Indian tribe at  
9       the time of a transaction, only one fee described in  
10      paragraph (2) shall be imposed on a licensee’s Inter-  
11      net gaming deposited funds in connection with that  
12      transaction, and no additional fee shall be collected  
13      on behalf of the State in which the customer is lo-  
14      cated. All of the fee described in paragraph (2) in  
15      such case shall be allocated to the Indian tribe in  
16      which the customer is located at the time of the  
17      transaction, and no portion of the fee shall be allo-  
18      cated to the State.

19      “(c) UNAUTHORIZED GAMING.—

20           “(1) PENALTY.—Each person who is not a li-  
21      censee and who operates an Internet game-of-skill  
22      facility for which a license is required under section  
23      5390(a)(1) of title 31, United States Code, except as  
24      provided in section 108(a) shall be required to pay  
25      not later than the end of each calendar month a fee

1 equal to the amount of the Federal Internet gaming  
2 license fee that would be applicable to such person  
3 for such month if such person were a licensee, deter-  
4 mined by substituting ‘50 percent’ for ‘5 percent’ in  
5 subsection (b)(1).

6 “(2) EXCEPTION.—Paragraph (1) shall not  
7 apply to a game described in paragraph (3) of sec-  
8 tion 5382(b) of title 31, United States Code.

9 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
10 poses of this subchapter—

11 “(1) IN GENERAL.—The terms ‘licensee’, ‘bet  
12 or wager’, ‘Internet game of skill’, and ‘Internet  
13 game-of-skill facility’ have the meaning given such  
14 terms by section 5381 of title 31, United States  
15 Code.

16 “(2) DEPOSITS.—Deposits made by or on be-  
17 half of a licensee of Internet gaming winnings, and  
18 returns of funds by or on behalf of a licensee to the  
19 account of a customer, shall not be treated as a de-  
20 posit.

21 “(e) PERSONS LIABLE.—

22 “(1) IN GENERAL.—Each licensee or other per-  
23 son who operates an Internet game-of-skill facility  
24 for which a license is required under section  
25 5382(b)(1) of title 31, United States Code, shall be

1       liable for and shall pay the applicable fees under this  
2       section with respect to all Internet gaming deposited  
3       funds.

4               “(2) JOINT AND SEVERAL LIABILITY FOR UN-  
5       AUTHORIZED GAMBLING.—In the case of any deposit  
6       with respect to which a fee is imposed under sub-  
7       section (c), the person described in paragraph (1) of  
8       such subsection and the person making such deposit  
9       for the purposes of placing a bet or wager shall be  
10       jointly and severally liable for the fee under such  
11       subsection with respect to such deposit.

12              “(f) ADMINISTRATIVE PROVISIONS.—Except to the  
13       extent the Secretary shall by regulations prescribe, the ad-  
14       ministrative provisions of this title applicable to the excise  
15       taxes imposed by chapter 35 shall apply to the fees im-  
16       posed by this section.

17       **“SEC. 4492. RECORD KEEPING REQUIREMENTS.**

18              “(a) IN GENERAL.—Each licensee who is liable for  
19       the fees imposed by this subchapter shall keep a daily  
20       record showing all deposits to which this subchapter ap-  
21       plies, in addition to all other records required pursuant  
22       to section 6001(a).

23              “(b) RECORDS WITH RESPECT TO STATE OR INDIAN  
24       TRIBAL GOVERNMENT GAMING LICENSE FEE.—Each li-  
25       censee to which subsection (a) applies shall keep a record,

1 using methods determined to be satisfactory by the Sec-  
2 retary or, in the case of a licensee who is certified by a  
3 State or tribal regulatory body under section 5382(o) of  
4 title 31, United States Code, by such State or tribal regu-  
5 latory body, of the location of each person making a de-  
6 posit to which this subchapter applies, for purposes of de-  
7 termining the State or Indian tribal government gaming  
8 license fee applicable to such deposit for purposes of sec-  
9 tion 9511.”.

10 (b) INFORMATION RETURNS.—Subpart B of part III  
11 of subchapter A of chapter 61 is amended by adding at  
12 the end the following new section:

13 **“SEC. 6050X. RETURNS RELATING TO INTERNET GAMBLING**  
14 **AND GAMES OF SKILL.**

15 “(a) REQUIREMENT.—Every person described in sec-  
16 tion 4491(e)(1) with respect to any month during a tax-  
17 able year shall furnish, at such time and in such manner  
18 as the Secretary shall by regulations prescribe, the infor-  
19 mation described in subsection (b), and such person shall  
20 maintain (in the location and manner and to the extent  
21 prescribed in such regulations) such records as may be ap-  
22 propriate with respect to such information.

23 “(b) REQUIRED INFORMATION.—For purposes of  
24 subsection (a), the information described in this sub-  
25 section is—

1           “(1) the name, address, and TIN of the person  
2 described in subsection (a);

3           “(2) the name, address, and TIN of each per-  
4 son placing a bet or wager (within the meaning of  
5 section 4491) with the person described in sub-  
6 section (a) during the calendar year;

7           “(3) the gross winnings, gross wagers, and  
8 gross losses for the calendar year of each person  
9 placing a bet or wager as described in paragraph  
10 (2);

11           “(4) the net Internet gaming winnings for each  
12 such person for the calendar year;

13           “(5) the amount of tax withheld, if any, with  
14 respect to each such person by the person described  
15 in subsection (a) for the calendar year;

16           “(6) the balance of any account maintained for  
17 each person placing a bet or wager as described in  
18 paragraph (2) by the person described in subsection  
19 (a), at the beginning and the end of the calendar  
20 year; and

21           “(7) the amounts of all deposits and with-  
22 drawals from each such account during such cal-  
23 endar year.

24           “(c) STATEMENT TO BE FURNISHED TO PERSONS  
25 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—

1 Every person required to make a return under subsection  
2 (a) shall furnish to each person whose name is required  
3 to be set forth in such return a written statement show-  
4 ing—

5           “(1) the name, address, and phone number of  
6           the information contact of the person required to  
7           make such return; and

8           “(2) the information required to be shown on  
9           such return with respect to each person whose name  
10          is required to be set forth in such return.

11 The written statement required under the preceding sen-  
12 tence shall be furnished to the person on or before Janu-  
13 ary 31 of the year following the calendar year for which  
14 the return under subsection (a) was required to be made.

15          “(d) NET INTERNET GAMING WINNINGS.—The term  
16 ‘net Internet gaming winnings’ means gross winnings  
17 from bets or wagers with an Internet game-of-skill facility  
18 (within the meaning of section 4491) for which a license  
19 is required under section 5382(b)(1) of title 31, United  
20 States Code, reduced (but not below zero) by the amounts  
21 bet or wagered.”.

22          (c) STATE AND INDIAN TRIBAL GOVERNMENT GAM-  
23 ING LICENSE FEE TRUST FUND.—Subchapter A of chap-  
24 ter 98 is amended by adding at the end the following new  
25 section:

1 **“SEC. 9511. STATE AND INDIAN TRIBAL GOVERNMENT GAM-**  
2 **ING LICENSE FEE TRUST FUND.**

3 “(a) CREATION OF TRUST FUND.—There is estab-  
4 lished in the Treasury of the United States a trust fund  
5 to be known as the ‘State and Indian Tribal Government  
6 Gaming License Fee Trust Fund’ (hereafter in this sec-  
7 tion referred to as the ‘Trust Fund’), consisting of such  
8 amounts as may be appropriated or credited to such Trust  
9 Fund as provided in this section and section 9602(b).

10 “(b) TRANSFERS TO FUND.—There are hereby ap-  
11 propriated to the Trust Fund amounts equivalent to the  
12 fees received in the Treasury with respect to each calendar  
13 month under section 4491 by reason of subsection (a)(2)  
14 thereof.

15 “(c) EXPENDITURES FROM FUND.—

16 “(1) IN GENERAL.—The Secretary shall pay to  
17 each qualified State and each qualified Indian tribal  
18 government, out of the amounts in the Trust Fund,  
19 an amount equal to the monthly pro rata gaming li-  
20 cense fee amount.

21 “(2) MONTHLY PRO RATA GAMING LICENSE  
22 FEE AMOUNT.—For purposes of this section, with  
23 respect to a qualified State and a qualified Indian  
24 tribal government for any calendar month, the  
25 monthly pro rata gaming license fee amount is the  
26 amount of the fees described in subsection (b) re-

1       ceived with respect to such calendar month that are  
2       attributable to deposits made by persons located  
3       within the jurisdiction of such State or tribal govern-  
4       ment (determined by the Secretary on the basis of  
5       records kept under section 4492(b)).

6               “(3) QUALIFIED STATE; QUALIFIED INDIAN  
7       TRIBAL GOVERNMENT.—

8               “(A) IN GENERAL.—For purposes of this  
9       section, the terms ‘qualified State’ and ‘quali-  
10      fied Indian tribal government’ mean a State or  
11      an Indian tribal government, respectively, that  
12      has not elected (by notice provided by the Gov-  
13      ernor, principal chief, or other chief executive  
14      officer and in such form and manner as the  
15      Secretary may prescribe) to be excluded from  
16      the receipt of funds under this section.

17              “(B) STATE ELECTION NOT TO AFFECT  
18      TRIBAL ELECTION.—An election by a State  
19      under subparagraph (A) to be excluded from  
20      the receipt of funds under this section shall not  
21      constitute an election to be so excluded on be-  
22      half of any Indian tribe located within or par-  
23      tially within the geographic boundaries of such  
24      State.

1           “(C) APPLICABILITY OF ELECTION.—An  
2 election made under subparagraph (A) shall be  
3 effective—

4           “(i) upon receipt by the Secretary, if  
5 such election is received within 90 days of  
6 the date of the enactment of the Internet  
7 Poker and Game of Skill Regulation, Con-  
8 sumer Protection, and Enforcement Act of  
9 2009; and

10          “(ii) in any other case, on the first  
11 January 1 that occurs at least 60 days  
12 after the later of—

13           “(I) the receipt of such election  
14 by the Secretary; or

15           “(II) the effective date specified  
16 in such election.

17          “(D) STATE.—The term ‘State’ means any  
18 State of the United States, the District of Co-  
19 lumbia, or any commonwealth, territory or  
20 other possession of the United States.

21          “(E) INDIAN TRIBAL GOVERNMENT.—The  
22 term ‘Indian tribal government’ means the gov-  
23 ernment of an Indian tribe (within the meaning  
24 of section 4 of the Indian Gaming Regulatory  
25 Act).

1           “(4) TIME OF PAYMENTS.—The payment made  
2           under this subsection with respect to any calendar  
3           month shall be made not later than the 11th day of  
4           the succeeding calendar month.”.

5           (d) CLERICAL AMENDMENTS.—

6           (1) The table of subchapters for chapter 36 is  
7           amended by adding at the end the following item:

          “SUBCHAPTER E. INTERNET GAMBLING AND GAMES OF SKILL.”.

8           (2) The table of sections for subpart B of part  
9           III of subchapter A of chapter 61 is amended by in-  
10          serting after the item relating to section 6050W the  
11          following new item:

          “Sec. 6050X. Returns relating to Internet gambling and games of skill.”.

12          (3) The table of sections for subchapter A of  
13          chapter 98 of such Code is amended by adding at  
14          the end the following new item:

          “Sec. 9511. State and Indian Tribal Government Gaming License Fee Trust  
          Fund.”.

15          (e) EFFECTIVE DATE.—The amendments made by  
16          this section shall apply to deposits made after the date  
17          of the enactment of this Act.

18   **SEC. 203. WITHHOLDING FOR PARIMUTUEL POOL**  
19                                   **WINNINGS.**

20          (a) WINNINGS SUBJECT TO WITHHOLDING.—Sub-  
21          paragraph (C) of section 3402(q)(3) is amended to read  
22          as follows:

1           “(C) SWEEPSTAKES, WAGERING POOLS,  
2           AND LOTTERIES.—Proceeds of more than  
3           \$5,000 from a wager placed in a sweepstakes,  
4           wagering pool, or lottery.”.

5           (b) EXCEPTION FOR PARIMUTUEL POOLS.—Para-  
6 graph (5) of section 3402(q) is amended—

7           (1) by striking “shall not apply to” and all that  
8           follows, and inserting “shall not apply—

9           “(A) to winnings from a slot machine,  
10           keno, or bingo; and

11           “(B) to proceeds from a wagering trans-  
12           action in a parimutuel pool with respect to  
13           horse races, dog races, or jai alai.”; and

14           (2) by inserting “AND CERTAIN PARIMUTUEL  
15           POOLS” after “SLOT MACHINES” in the heading.

16           (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to payments made after the date  
18 of the enactment of this Act.

19 **SEC. 204. WITHHOLDING FROM CERTAIN GAMING**  
20 **WINNINGS.**

21           (a) NET INTERNET GAMING WINNINGS.—Paragraph  
22 (3) of section 3406(b) is amended—

23           (1) by striking “or” at the end of subparagraph  
24           (E);

1           (2) by striking the period at the end of sub-  
2 paragraph (F) and inserting “, or”; and

3           (3) by adding at the end the following new sub-  
4 paragraph:

5                   “(G) section 6050X(b)(4) (relating to net  
6 internet gaming winnings).”.

7       (b) **EFFECTIVE DATE.**—The amendments made by  
8 this section shall apply to amounts paid after the date of  
9 the enactment of this Act.

10 **SEC. 205. WITHHOLDING OF TAX ON NONRESIDENT ALIENS.**

11       (a) **TAX ON NONRESIDENT ALIEN INDIVIDUALS.**—  
12 Paragraph (1) of section 871(a) is amended—

13           (1) by striking “and” at the end of subpara-  
14 graph (C);

15           (2) by inserting “and” at the end of subpara-  
16 graph (D); and

17           (3) by inserting after subparagraph (D) the fol-  
18 lowing new subparagraph—

19                   “(E) the net Internet gaming winnings (as  
20 defined in section 6050X(d)),”.

21       (b) **EXEMPTION FOR CERTAIN GAMING WINNINGS.**—  
22 The first sentence of section 871(j) is amended by insert-  
23 ing “, or to net Internet gaming winnings (as defined in  
24 section 6050X(d))” before the period.

1           (c) WITHHOLDING OF TAX ON NONRESIDENT ALIEN  
2 INDIVIDUALS.—The first sentence of subsection (b) of sec-  
3 tion 1441 is amended by inserting “amounts described in  
4 section 871(a)(1)(E),” after “gains subject to tax under  
5 section 871(a)(1)(D),”.

6           (d) FOREIGN OFF-TRACK WAGERS.—Subsection  
7 (b)(5) of section 872 is amended by inserting “, including  
8 a legal wagering transaction placed over the Internet or  
9 other remote means from outside the United States. Any  
10 payment to any person with respect to income derived  
11 from a legal wagering transaction excluded by this sub-  
12 section shall not be subject to any obligation under section  
13 1441, 1442, 3402(q), or 6041” before the period.

14           (e) SOURCE OF INTERNET GAMBLING WINNINGS.—  
15 Subsection (a) of section 861 is amending by adding at  
16 the end the following new paragraph:

17                   “(9) INTERNET GAMING WINNINGS.—Net Inter-  
18 net gaming winnings (as defined in section  
19 6050X(d)).”.

20           (f) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to payments made after the date  
22 of the enactment of this Act.

1 **SEC. 206. INFORMATION AT SOURCE; PARIMUTUEL WA-**  
 2 **GERS.**

3 (a) **IN GENERAL.**—Section 6041 is amended by add-  
 4 ing at the end the following new subsection:

5 “(h) **CERTAIN GAMBLING WINNINGS.**—Subsection  
 6 (a) shall apply to payments made as proceeds of a pari-  
 7 mutuel wager only if the amount paid with respect to such  
 8 wager is at least \$1,200, and if the amount of the proceeds  
 9 of such wager is at least 300 times of the amount wa-  
 10 gered.”.

11 (b) **EFFECTIVE DATE.**—The amendment made by  
 12 this section shall apply to payments made after the date  
 13 of the enactment of this Act.

14 **SEC. 207. EXEMPTION FROM STATE AND INDIAN TRIBAL**  
 15 **GOVERNMENT TAXATION.**

16 (a) **EXEMPTION FROM TAX ON INTERNET GAMES OF**  
 17 **SKILL.**—A State or political subdivision thereof, and an  
 18 Indian tribe or political subdivision thereof, shall impose  
 19 no tax on—

20 (1) deposits or bets or wagers placed with a li-  
 21 censee that is subject to the fees under section 4491  
 22 of the Internal Revenue Code of 1986; or

23 (2) income of a licensee relating to such depos-  
 24 its or bets or wagers, unless such licensee maintains  
 25 a permanent physical presence in such State or with-  
 26 in the area of the jurisdiction of such Indian tribe.

1 (b) EXEMPTION NOT TO APPLY TO STATES AND IN-  
2 DIAN TRIBES NOT RECEIVING TRUST FUND APPROPRIA-  
3 TIONS.—

4 (1) IN GENERAL.—Subsection(a) shall not  
5 apply to any State or Indian tribal government with  
6 respect to which an election is in effect under section  
7 9511(e)(3) of the Internal Revenue Code of 1986 for  
8 such State or Indian tribal government to be ex-  
9 cluded from the receipt of funds from the State and  
10 Indian Tribal Government Gaming License Fee  
11 Trust Fund.

12 (2) ACTIVITY NOT EXEMPT FROM TAXATION.—  
13 A State or Indian tribal government described in  
14 paragraph (1) may impose a tax on deposits or bets  
15 or wagers only if initiated or otherwise made by a  
16 person located within the jurisdiction of that State  
17 or Indian tribe at the time of the deposit, bet, or  
18 wager and placed with a licensee that is subject to  
19 the fees under section 4491 of the Internal Revenue  
20 Code of 1986, and on a licensee with respect to in-  
21 come relating to such deposits or bets or wagers in  
22 each case (with respect to taxes on deposits, bets, or  
23 wagers and income) only if such licensee maintains  
24 a permanent physical presence in such State or with-  
25 in the area of the jurisdiction of such Indian tribe.

1 (c) DEFINITIONS.—For purposes of this section—

2 (1) IN GENERAL.—The terms “deposit”, “bet  
3 or wager”, and “licensee” have the same meaning as  
4 when used in section 4491 of the Internal Revenue  
5 Code of 1986. The terms “State” and “Indian tribal  
6 government” have the same meaning as when used  
7 in section 9511 of such Code. The term “State and  
8 Indian Tribal Government Gaming License Fee  
9 Trust Fund” means the Trust Fund established by  
10 section 9511(a) of such Code.

11 (2) TAX.—The term “tax” includes any tax,  
12 charge, or fee levied by a taxing jurisdiction, wheth-  
13 er such tax, charge, or fee is imposed on a licensee  
14 or on a customer of a licensee, and without regard  
15 to the terminology used to describe such tax, charge,  
16 or fee.

17 (3) PERMANENT PHYSICAL PRESENCE.—

18 (A) IN GENERAL.—The term “permanent  
19 physical presence” means a substantial and  
20 continuous physical presence for the majority of  
21 the applicable taxable year. Such determination  
22 shall be made solely by reference to the assets  
23 of a licensee and the activities conducted by its  
24 employees or agents.

1                   (B) PRESENCE IN INDIAN TRIBE NOT TO  
2                   AFFECT STATE PRESENCE.—If a licensee has  
3                   permanent physical presence within the area of  
4                   jurisdiction of an Indian tribal government for  
5                   purposes of this section, such presence shall not  
6                   be deemed to constitute permanent physical  
7                   presence in any State in which such area of ju-  
8                   risdiction is located or partially located.

9                   (d) EFFECTIVE DATE.—This section shall apply to  
10                  taxes on deposits and bets or wagers after the date of the  
11                  enactment of this Act.

12                  **SEC. 208. TERRITORIAL EXTENT OF WAGERING TAX.**

13                  (a) IN GENERAL.—Paragraph (2) of section 4404 is  
14                  amended—

15                         (1) by striking “or” at the end of subparagraph

16                         (A);

17                         (2) by striking the period at the end of sub-  
18                         paragraph (B) and inserting “, or”; and

19                         (3) by adding at the end the following new sub-  
20                         paragraph:

21                                 “(C) with a person who is required to be  
22                                 licensed (whether or not such person is so li-  
23                                 censed) under section 5382(b)(1) of title 31,  
24                                 United States Code, with respect to such wa-  
25                                 gagers.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to wagers made after the date of  
3 the enactment of this Act.

4 **TITLE III—STUDY AND PREVEN-**  
5 **TION OF PROBLEM AND**  
6 **PATHOLOGICAL GAMBLING**

7 **SEC. 301. AUTHORIZATION OF PROGRAMS FOR IDENTIFICA-**  
8 **TION, PREVENTION, AND TREATMENT OF**  
9 **PROBLEM AND PATHOLOGICAL GAMBLING.**

10 Section 501(d) of the Public Health Service Act (42  
11 U.S.C. 290aa(d)) is amended—

12 (1) in paragraph (17), by striking “and” at the  
13 end;

14 (2) in paragraph (18), by striking the period at  
15 the end and inserting “; and”; and

16 (3) by adding at the end the following:

17 “(19) establish and implement programs for the  
18 identification, prevention, and treatment of problem  
19 and pathological gambling.”.

20 **SEC. 302. PUBLIC AWARENESS, RESEARCH, AND TREAT-**  
21 **MENT.**

22 Section 501 of the Public Health Service Act (42  
23 U.S.C. 290aa) is amended by adding at the end the fol-  
24 lowing:

25 “(p) PUBLIC AWARENESS.—

1           “(1) IN GENERAL.—The Secretary shall carry  
2 out a national campaign to increase knowledge and  
3 improve awareness with respect to problem gambling  
4 within the general public, including supporting and  
5 augmenting existing national campaigns.

6           “(2) AUTHORIZATION OF APPROPRIATIONS.—  
7 For the purpose of carrying out this subsection,  
8 there is authorized to be appropriated \$200,000 for  
9 each of fiscal years 2010 through 2014.

10          “(q) RESEARCH.—

11           “(1) IN GENERAL.—The President shall estab-  
12 lish and implement a national program of research  
13 on problem and pathological gambling.

14           “(2) AUTHORIZATION OF APPROPRIATIONS.—  
15 For the purpose of carrying out this subsection,  
16 there is authorized to be appropriated \$4,000,000  
17 for each of fiscal years 2010 through 2014.

18          “(r) TREATMENT.—

19           “(1) GRANTS.—The Secretary may make  
20 grants to States, local governments, and nonprofit  
21 agencies to provide comprehensive education, preven-  
22 tion, and treatment services with respect to problem  
23 and pathological gambling.

24           “(2) AUTHORIZATION OF APPROPRIATIONS.—  
25 For the purpose of carrying out this subsection,

1       there is authorized to be appropriated \$10,000,000  
2       for each of fiscal years 2010 through 2014.”.

○