107TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPT. 107–591
Part 1

COMBATTING ILLEGAL GAMBLING REFORM AND MODERNIZATION ACT

JULY 18, 2002.—Ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3215]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3215) to amend title 18, United States Code, to expand and modernize the prohibition against interstate gambling, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

99–006

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Combatting Illegal Gambling Reform and Modernization Act".

SEC. 2. DEFINITIONS.

Section 1081 of title 18, United States Code, is amended—

(1) by designating the five undesignated paragraphs that begin with "The term" as paragraphs (1) through (5), respectively;

(2) in paragraph (5), as so designated—

(A) by striking "wire communication" and inserting "communication";

(B) by inserting "satellite, microwave," after "cable,"; and

(C) by inserting "(whether fixed or mobile)" after "connection"; and

(3) by adding at the end the following:

"(6) The term 'bets or wagers'—

"(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game predominantly subject to chance, not skill, upon an agreement or understanding that the person or another person will receive something of greater value than the amount staked or risked in the event of a certain outcome;

"(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance); and

"(C) does not include—

"(i) a bona fide business transaction governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))) for the purchase or sale at a future date of securities (as that term is defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)));

"(ii) a transaction on or subject to the rules of a contract market designated pursuant to section 5 of the Commodity Exchange Act (7 U.S.C. 7) or to any transaction subject to an exemption pursuant to section 4(c) of such Act;

"(iii) any over-the-counter derivative instrument;

"(iv) a contract of indemnity or guarantee;

"(v) a contract for life, health, or accident insurance;

"(vi) participation in any game or contest in which participants do not stake or risk anything of value other than—

"(I) personal efforts of the participants in playing the game or contest or obtaining access to the Internet; or

"(II) point or credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor; or

"(vii) participation in any simulation sports game or educational game or contest in which (if the game or contest involves a team or teams) all teams are fictional and no team is a member of an amateur or professional sports organization (as those terms are defined in section 3701 of title 28) and that meets the following conditions:

"(I) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants.

"(II) All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals (athletes in the case of sports events) in multiple real-world sporting or other events.

"(III) No winning outcome is based—

"(aa) on the score, point-spread or any performance or performances of any single real-world team or any combination of such teams; or

"(bb) solely on any single performance of an individual athlete in any single real-world sporting or other event.

"(7) The term 'gambling business' means a business of betting or wagering;

"(8) The term 'information assisting in the placing of bets or wagers' means information knowingly transmitted by an individual in a gambling business for use in placing, receiving, making, or otherwise enabling or facilitating a bet or wager and does not include—

"(A) any posting or reporting of any educational information on how to make a legal bet or wager or the nature of betting or wagering, as long as such posting or reporting does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal; or

"(B) advertising relating to betting or wagering in a jurisdiction where such betting or wagering is legal, as long as such advertising does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal; or

"(C) information that is exchanged between or among 1 or more parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and any support services, wherever located, if the information exchanged is used exclusively for the pooling or processing of bets or wagers made by or with the facility or facilities under each State's applicable law.

"(9) The term 'person' includes a government (including any governmental entity (as defined in section 3701(2) of title 28)).

"(10) The term 'State' means a State of the United States, the District of Columbia, or a commonwealth, territory, or possession of the United States.

"(11) The terms 'credit', 'creditor', and 'credit card' have the meanings given such terms in section 103 of the Truth in Lending Act.

"(12) The term 'electronic fund transfer'—

"(A) has the meaning given such term in section 903 of the Electronic Fund Transfer Act; or

"(B) any fund transfer covered by Article 4A of the Uniform Commercial Code, as in effect in any State.

"(13) The term 'financial institution' has the meaning given such term in section 903 of the Electronic Fund Transfer Act.

"(14) The terms 'money transmitting business' and 'money transmitting service' have the meanings given such terms in section 5330(d) of title 31, United States Code.

"(15) The term 'Tribe' or 'tribal' means an Indian tribe, as defined under section 4(5) of the Indian Gaming Regulatory Act of 1988).".

SEC. 3. MODIFICATION OF EXISTING PROHIBITION.

(a) IN GENERAL.—Section 1084 of title 18, United States Code, is amended to read as follows:

"§ 1084. Use of a communication facility to transmit bets or wagers; Penalties

"(a) Except as otherwise provided in this section, whoever, being engaged in a gambling business, knowingly uses a communication facility—

"(1) for the transmission in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States, of bets or wagers, or information assisting in the placing of bets or wagers; or

"(2) for the transmission of a communication in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States, which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers;

shall be fined under this title or imprisoned not more than five years, or both.

"(b)(1) Except as provided in paragraph (2), whoever, being engaged in a gambling business, knowingly accepts, in connection with the transmission of a communication in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States of bets or wagers or information assisting in the placing of bets or wagers—

"(A) credit, or the proceeds of credit, extended to or on behalf of another (including credit extended through the use of a credit card);

"(B) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of the other person;

"(C) any check, draft, or similar instrument which is drawn by or on behalf of the other person and is drawn on or payable through any financial institution; or

"(D) the proceeds of any other form of financial transaction as the Secretary of the Treasury may prescribe by regulation which involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the other person,

shall be fined under this title or imprisoned not more than five years, or both.

"(2) Paragraph (b)(1) does not apply if the use of a communication facility for the transmission of bets or wagers or information assisting in the placing of bets or wagers is permitted under subsections (c) or (d).

"(c) Nothing in this section prohibits—

"(1) the transmission of information assisting in the placing of bets or wagers for use in news reporting if such transmission does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal;

"(2) the transmission of information assisting in the placing of bets or wagers from a State or foreign country where such betting or wagering is permitted under Federal, State, tribal, or local law into a State or foreign country in which such betting on the same event is permitted under Federal, State, tribal, or local law; or

"(3) the interstate transmission of information relating to a State-specific lottery between a State or foreign country where such betting or wagering is permitted under Federal, State, tribal, or local law and an out-of-State data center for the purposes of assisting in the operation of such State-specific lottery.

"(d) Nothing in subsection (c) or (d) shall allow the use of a communication facility for the transmission of bets or wagers involving the purchase of a chance or opportunity to win a lottery, or the use of a communication facility for the transmission of information assisting in the placing of bets or wagers involving the purchase of a chance or opportunity to win a lottery, except that communication facilities may be used for the transmission of such bets or wagers and the transmission of information assisting such bets or wagers as long as such bets or wagers are placed on the premises of a retail outlet that is open to the public and licensed by the State in which it is located to sell chances or opportunities to win a lottery.

"(e) Nothing in this section prohibits the use of a communication facility for the transmission of bets or wagers or information assisting in the placing of bets or wagers, if—

"(1) at the time the transmission occurs, the individual or entity placing the bets or wagers or information assisting in the placing of bets or wagers, the gambling business, and any facility or support service processing those bets or wagers are physically located in the same State, and the State has a secure and effective customer verification and age verification system to assure compliance with age and residence requirements, and for class II or class III gaming under the Indian Gaming Regulatory Act, are physically located on Indian lands within that State;

"(2) the State or Tribe has explicitly authorized such bets and wagers;

"(3) the State has explicitly authorized and licensed the operation of the gambling business, any facility processing the bets and wagers, and the support service within its borders or the Tribe has explicitly authorized and licensed the operation of such gambling business, any facility processing the bets and wagers, and the support service on Indian lands within its jurisdiction;

"(4) with respect to class II or class III gaming, the game is permitted under and conducted in accordance with the Indian Gaming Regulatory Act;

"(5) with respect to class III gaming under the Indian Gaming Regulatory Act, the game is authorized under, and is conducted in accordance with, the respective Tribal-State compact of the Tribe having jurisdiction over the Indian lands where the individual or entity placing the bets or wagers or information assisting in the placing of bets or wagers, the gambling business, and any facility or support service processing those bets or wagers are physically located; and

"(6) with respect to class III gaming under the Indian Gaming Regulatory Act, each such Tribal-State compact expressly provides that the game may be conducted using a communication facility to transmit bets or wagers or information assisting in the placing of bets or wagers.

"(f) Nothing in this section creates immunity from criminal prosecution under any laws of any State or Tribe.

"(g) Nothing in this section authorizes activity that is prohibited under chapter 178 of title 28, United States Code.

"(h) When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, tribal or local law enforcement agency, acting within its jurisdiction, that any communication facility furnished by it is being used or will be used by its subscriber for the purpose of transmitting or receiving gambling information, in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States in violation of Federal, State, tribal or local law, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State, tribal, or local tribunal or agency, that such facility should not be discontinued or removed, or should be restored.

"(i)(1) A Federal, State, tribal, or local law enforcement agency, acting within its jurisdiction may, in a civil action, obtain injunctive or declaratory relief to restrain or prevent any person from paying or assisting in the payment of bets or wagers, or communicating information assisting in the placing of bets or wagers, in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States in violation of Federal, State, tribal, or local law.

"(2) No damages, penalty, or forfeiture, civil or criminal, shall be found against any person or entity for any act done in compliance with any notice received from a law enforcement agency.

"(3) Relief granted under paragraph (1) against an interactive computer service (as defined in section 230(f) of the Communications Act of 1934) shall—

"(A) be limited to the removal of, or disabling of access to, an online site violating this section, or a hypertext link to an online site violating this section, that resides on a computer server that such service controls or operates; except this limitation shall not apply if the service is violating this section or is in active concert with a person who is violating this section and receives actual notice of the relief;

"(B) be available only after notice to the interactive computer service and an opportunity for the service to appear are provided;

"(C) not impose any obligation on an interactive computer service to monitor its service or to affirmatively seek facts indicating activity violating this section;

"(D) specify the interactive computer service to which it applies; and

"(E) specifically identify the location of the online site or hypertext link to be removed or access to which is to be disabled.

"(j) Nothing in this section allows the use of a communication facility for the purpose of placing a bet or wager or the use of a communication facility for the purpose of transmitting information assisting in the placement of bets or wagers that was illegal as of June 6, 2002.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 50 of such title is amended so that the item relating to section 1084 reads as follows:

"1084. Use of a communication facility to transmit bets or wagers; penalties.".

PURPOSE AND SUMMARY

Under current Federal law, it is unclear that using the Internet to operate a gambling business is illegal. The statute that most directly restricts the use of the Internet for placing bets is the "Wire Act", 18 U.S.C. § 1084. However, this statute was written before the age of the Internet and the use of wireless communication so there is uncertainty as to what type of betting is or is not covered. H.R. 3215, the "Combatting Illegal Gambling Reform and Modernization Act," will modernize the "Wire Act" to make it clear that its prohibitions include Internet gambling and brings the current prohibition against wireline interstate gambling up to speed with the development of new technology. The bill also prohibits a gambling business from accepting certain forms of non-cash payment, including credit cards and electronic transfers, for the transmission

of bets and wagers. The bill further provides an additional tool to fight illegal gambling by allowing Federal, State, local and tribal law enforcement officials to seek injunctions against any party to prevent and restrain violations of the act.

BACKGROUND AND NEED FOR THE LEGISLATION

Over the last few years, gambling websites have proliferated on the Internet. What was once a cottage industry has become an extremely lucrative and large business. The Internet gambling industry's revenues grew from $445 million in 1997 to an estimated $1.6 billion in 2001. Industry analysts estimate that it could soon easily become a $10 billion a year industry.

On-line casino operators envision the day when the Internet will provide access to a "virtual-strip"—where gamblers who are tired of one casino can simply "walk" down the virtual boardwalk to a different casino. There are currently over 1,400 gambling sites on the Internet, offering everything from sports betting to blackjack. Most of these virtual casinos are organized and operated from tropical off-shore locations, where the operators feel free from both State and Federal interference. Among the most popular locales are Antigua, St. Martin and Costa Rica.

This legislation brings the current law up to date with Internet technology by clarifying Federal law so that there is no question that operating an Internet gambling business is illegal. It does not, however, supersede the traditional leadership roles of States in enforcing gambling laws within their borders. It addresses a growing problem that no single State, or collection of States, can adequately address. Because of the uniquely interstate and international nature of the Internet, H.R. 3215 is necessary. At the same time H.R. 3215 provides the States and Federal Government with the needed tools to limit and regulate Internet gambling.

Since the founding of our country, the Federal Government has left gambling regulation to the States. In 1996 Congress created the National Gambling Impact Study Commission (NGISC) to examine the issue of gambling in America. The NGISC concluded that States are best equipped to regulate gambling within their own borders, and recommended that Congress continue to defer to the States in this respect.[1] The Federal Government has largely deferred to the authority of States to determine the type and amount of gambling permitted. For over 100 years, Congress has acted to assist States in enforcing their respective policies on gambling when development in technology, such as the Internet, have compromised the effectiveness of State gambling laws.

State attorneys general have been frustrated in their attempts to prevent Internet gambling from permeating their borders. Some have attempted to charge Internet gambling providers with violations of State consumer fraud laws, but jurisdictional issues and other problems have thwarted these efforts. Attorneys general report that citizens often are unaware that gambling on the Internet is illegal, even if those same persons are aware that their home State does not allow gaming.

In addition, the FBI and the Department of Justice recently testified that Internet gambling serves as a vehicle for money laun-

[1] The National Gambling Impact Study Commission, Final Report, 3–1, (1999).

dering activities and can be exploited by terrorists to launder money. The FBI currently has at least two pending cases involving Internet gambling as a conduit for money laundering, as well as a number of pending cases linking Internet gambling to organized crime.

HEARINGS

The Committee's Subcommittee on Crime held a legislative hearing on H.R. 3215 on November 29, 2001. The Subcommittee on Crime also heard testimony on a related bill, H.R. 556, at those hearings. Testimony was received from four witnesses. The witnesses were: Rep. Bob Goodlatte; Rep. James A. Leach; Timothy A. Kelly, Ph.D., Executive Director, National Gambling Impact Study Commission; and Frank Catania representing the Interactive Gaming Council (IGC). The U.S. Department of Justice submitted testimony for the record supporting H.R. 3215.

COMMITTEE CONSIDERATION

On March 12, 2002, the Subcommittee on Crime met in open session and ordered favorably reported the bill H.R. 3215 with amendment, by a voice vote, a quorum being present. On June 18, 2002, the Committee met in open session and ordered favorably reported the bill H.R. 3215 with amendments by a recorded vote of 18 to 12, a quorum being present.

VOTE OF THE COMMITTEE

1. An amendment to the amendment in the nature of a substitute was offered by Mr. Wexler to insert language that provides an exemption to the provisions of the bill for transmitting or placing bets or wagers on parimutuel animal racing or jai-alai games. The amendment was defeated by a rollcall vote of 15 to 15.

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Hyde	X		
Mr. Gekas		X	
Mr. Coble	X		
Mr. Smith (Texas)			
Mr. Gallegly		X	
Mr. Goodlatte		X	
Mr. Chabot		X	
Mr. Barr		X	
Mr. Jenkins		X	
Mr. Cannon		X	
Mr. Graham		X	
Mr. Bachus		X	
Mr. Hostettler		X	
Mr. Green		X	
Mr. Keller		X	
Mr. Issa		X	
Ms. Hart		X	
Mr. Flake		X	
Mr. Pence			
Mr. Forbes			
Mr. Conyers	X		
Mr. Frank	X		
Mr. Berman	X		
Mr. Boucher			

ROLLCALL NO. 1—Continued

	Ayes	Nays	Present
Mr. Nadler	X		
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters	X		
Mr. Meehan			
Mr. Delahunt			
Mr. Wexler	X		
Ms. Baldwin	X		
Mr. Weiner	X		
Mr. Schiff			pass
Mr. Sensenbrenner, Chairman	X		
Total	15	15	

2. An amendment to the amendment in the nature of a substitute was offered by Mr. Scott to extend the criminal liability provisions of the bill to individuals. The amendment was defeated by a rollcall vote of 12 to 13.

ROLLCALL NO. 2

	Ayes	Nays	Present
Mr. Hyde			
Mr. Gekas		X	
Mr. Coble		X	
Mr. Smith (Texas)			
Mr. Gallegly			
Mr. Goodlatte		X	
Mr. Chabot		X	
Mr. Barr		X	
Mr. Jenkins			
Mr. Cannon	X		
Mr. Graham			
Mr. Bachus			
Mr. Hostettler		X	
Mr. Green	X		
Mr. Keller		X	
Mr. Issa		X	
Ms. Hart		X	
Mr. Flake	X		
Mr. Pence			
Mr. Forbes		X	
Mr. Conyers			
Mr. Frank	X		
Mr. Berman			
Mr. Boucher			
Mr. Nadler		X	
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee		X	
Ms. Waters	X		
Mr. Meehan	X		
Mr. Delahunt			
Mr. Wexler	X		
Ms. Baldwin	X		
Mr. Weiner			
Mr. Schiff	X		
Mr. Sensenbrenner, Chairman		X	
Total	12	13	

3. An amendment to the amendment in the nature of a substitute was offered by Mr. Cannon to remove provisions of the bill relating to exemptions for the transmission of betting information between States and between Indian lands where such transmission is otherwise lawful and has been authorized by such States or Indian Tribes. The amendment would also add language to the bill that would allow for the transmission of bets or wagers related to State lotteries if the bet or wager is placed on the premises of a retail outlet that is open to the public and licensed by the State. The amendment was agreed to by a rollcall vote of 18 to 9.

ROLLCALL NO. 3

	Ayes	Nays	Present
Mr. Hyde		X	
Mr. Gekas		X	
Mr. Coble		X	
Mr. Smith (Texas)			
Mr. Gallegly	X		
Mr. Goodlatte		X	
Mr. Chabot		X	
Mr. Barr	X		
Mr. Jenkins			
Mr. Cannon	X		
Mr. Graham	X		
Mr. Bachus			
Mr. Hostettler		X	
Mr. Green	X		
Mr. Keller	X		
Mr. Issa	X		
Ms. Hart	X		
Mr. Flake	X		
Mr. Pence	X		
Mr. Forbes	X		
Mr. Conyers			
Mr. Frank	X		
Mr. Berman			
Mr. Boucher			
Mr. Nadler			
Mr. Scott		X	
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee		X	
Ms. Waters	X		
Mr. Meehan			
Mr. Delahunt			
Mr. Wexler	X		
Ms. Baldwin	X		
Mr. Weiner		X	
Mr. Schiff			pass
Mr. Sensenbrenner, Chairman	X		
Total	18	9	

4. An amendment to the amendment in the nature of a substitute was offered by Mr. Cannon to remove language which stated that nothing in the bill shall be construed to prohibit an activity already allowed under the Interstate Horse Racing Act (Pub. L. No. 95–515, 15 U.S.C. § 3001 et seq.). The amendment was agreed to by a rollcall vote of 15 to 11.

ROLLCALL NO. 4

	Ayes	Nays	Present
Mr. Hyde		X	
Mr. Gekas		X	
Mr. Coble		X	
Mr. Smith (Texas)			
Mr. Gallegly	X		
Mr. Goodlatte		X	
Mr. Chabot		X	
Mr. Barr	X		
Mr. Jenkins			
Mr. Cannon	X		
Mr. Graham	X		
Mr. Bachus			
Mr. Hostettler		X	
Mr. Green	X		
Mr. Keller	X		
Mr. Issa	X		
Ms. Hart	X		
Mr. Flake	X		
Mr. Pence	X		
Mr. Forbes		X	
Mr. Conyers			
Mr. Frank			X
Mr. Berman			
Mr. Boucher			
Mr. Nadler			
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee		X	
Ms. Waters	X		
Mr. Meehan			
Mr. Delahunt			
Mr. Wexler		X	
Ms. Baldwin		X	
Mr. Weiner	X		
Mr. Schiff			pass
Mr. Sensenbrenner, Chairman		X	
Total	15	11	

5. Final Passage. The motion to report favorably the bill, H.R. 3215, as amended by the amendment in the nature of a substitute was agreed to by a rollcall vote of 18 to 12.

ROLLCALL NO. 5

	Ayes	Nays	Present
Mr. Hyde	X		
Mr. Gekas	X		
Mr. Coble	X		
Mr. Smith (Texas)	X		
Mr. Gallegly	X		
Mr. Goodlatte	X		
Mr. Chabot	X		
Mr. Barr	X		
Mr. Jenkins			
Mr. Cannon	X		
Mr. Graham	X		
Mr. Bachus			
Mr. Hostettler	X		
Mr. Green	X		
Mr. Keller	X		
Mr. Issa		X	

ROLLCALL NO. 5—Continued

	Ayes	Nays	Present
Ms. Hart	X		
Mr. Flake		X	
Mr. Pence	X		
Mr. Forbes	X		
Mr. Conyers			
Mr. Frank		X	
Mr. Berman		X	
Mr. Boucher			
Mr. Nadler			
Mr. Scott		X	
Mr. Watt		X	
Ms. Lofgren		X	
Ms. Jackson Lee	X		
Ms. Waters		X	
Mr. Meehan			
Mr. Delahunt			
Mr. Wexler		X	
Ms. Baldwin		X	
Mr. Weiner		X	
Mr. Schiff		X	
Mr. Sensenbrenner, Chairman	X		
Total	18	12	

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

H.R. 3215 does not authorize funding. Therefore, clause 3(c) of rule XIII of the Rules of the House of Representatives is inapplicable.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 3215, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 12, 2002.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3215, the Combatting Illegal Gambling Reform and Modernization Act, and a separate statement on intergovernmental and private-sector mandates.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226–2860.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 3215—Combatting Illegal Gambling Reform and Modernization Act.

CBO estimates that implementing H.R. 3215 would not result in any significant cost to the Federal Government. Enacting H.R. 3215 could affect direct spending and receipts; therefore, pay-as-you-go procedures would apply to the bill, but CBO estimates that any such effects would not be significant. H.R. 3215 would impose both intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act. CBO's analysis of those mandates is contained in a separate statement on mandates.

H.R. 3215 would further restrict gambling businesses involving interstate or foreign commerce by prohibiting, with certain exceptions, the use of communications facilities to transmit bets or wagers or information assisting in the placing of bets or wagers. The bill would thus enable the Federal Government to pursue cases that it otherwise would not be able to prosecute. However, CBO expects that any increase in costs for law enforcement, court proceedings, or prison operations would not be significant because of the small number of additional cases likely to be affected. Any such costs would be subject to the availability of appropriated funds.

Because those prosecuted and convicted under H.R. 3215 could be subject to criminal fines, the Federal Government might collect additional fines if the bill is enacted. Collections of such fines are recorded in the budget as governmental receipts (revenues), which are deposited in the Crime Victims Fund and later spent. CBO expects that any additional receipts and direct spending would be negligible because of the small number of cases involved.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226–2860. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Short Title

The short title of the bill is the "Combatting Illegal Gambling Reform and Modernization Act."

Section 2. Definitions

This section amends 18 U.S.C. § 1081 with respect to gambling definitions. The term "wire communication facility" under the current law would now read "communication facility" and includes transmissions by satellite and microwave as covered means of communication. The Committee intends that this definition will cover all present and future forms of communication.

The term "bets or wagers" is defined as the staking or risking by any person of something of value upon the outcome of either: (1) a contest of others; (2) a sporting event; or (3) a game predominantly subject to chance, not skill, upon an agreement or understanding that such person or another person will receive something of value based on that outcome. The term includes the purchase of a chance or opportunity to win a lottery or other prize (if the opportunity is predominantly subject to chance). The term "bets or wagers" does not include bona fide business transactions governed by Federal securities law; certain specified transactions governed by Federal commodities law; contracts of indemnity or guarantee; contracts for life, health, or accident insurance.

It is the view of the Committee that the term "bets or wagers" does not include participation in a simulation sports game or educational game or contest that: (1) is not dependent solely on the outcome of any single sporting event or nonparticipant's singular individual performance in any single sporting event; (2) has an outcome that reflects the knowledge and skill of the participants, with an outcome determined predominantly by accumulated statistical results of sporting events; and, (3) offers a prize or award established in advance of the game and not determined by the number of participants. This exclusion is intended to cover "fantasy sports league games" which are simulation sports games in which the outcome is determined using the results of actual sporting events, and the outcome reflects the relative knowledge and skill of the participants in determining those results. It is the view of the Committee that fantasy sport leagues operated in this manner are not gambling. It is important to note, however, that this exclusion from the definition of a bet or wager for the purposes of 18 U.S.C. § 1084 is not intended to change the legality of fantasy sports league games or contests under the laws of any State, or under any other applicable Federal law.

It is the view of the Committee that not all games offered on the Internet are "games of chance" for purposes of this definition. The Committee recognizes that many computer and video games played on the Internet are based predominantly on skill, and are not intended to be included within the definition of "bets or wagers."

Also, such computer and video games do not involve the staking or risking by any person of something of value. The Committee intends that the courts will continue to perform their traditional functions in determining whether games are "games of chance."

The term "gambling business" is defined as a business of betting or wagering. However, the definition of "gambling business" is not intended to include credit card companies, or their cardholders, based only on the use of such credit cards for prohibited Internet gambling activities.

The term "information assisting in the placing of bets or wagers" is defined as information knowingly transmitted by an individual in a gambling business for use in placing, receiving, making, or otherwise enabling or facilitating a bet or wager. It is the view of the Committee that the definition does not include: (1) information concerning parimutuel pools exchanged exclusively between or among parimutuel wagering facilities, if the information is used only to conduct common pool parimutuel pooling; (2) information exchanged exclusively between or among parimutuel wagering facilities and a support service, if the information is used only for processing bets or wagers; (3) information exchanged exclusively between or among wagering facilities in the same State and a support service, if the information is used only for the pooling or processing of bets or wagers made by or with the facility or facilities; (4) information exchanged via private network if the information is used only to monitor gaming device play, display prize amounts, provide security information, and provide other accounting information; (5) news reporting or analysis of wagering activity; and (6) posting or reporting of educational information on how to make a bet or wager or the nature of betting or wagering. Furthermore, it is the view of the Committee that information exchanged via a linked progressive game accounting system that does not accept bets or wagers and that does not affect game outcome is not included in the definition of the term "information assisting in the placing of bets or wagers."

The term "person" includes a government, including a governmental entity as defined in 28 U.S.C. § 3701(2). The term "State" means a State of the United States, the District of Columbia, or a commonwealth, territory, or possession of the United States.

The terms "credit," "creditor," "credit card," "electronic fund transfer," "financial institution," "money transmitting business," "Tribe," and "tribal" have the meanings given to such terms in the sections of the acts and codes referenced in the bill.

Section 3. Modification of Existing Prohibition

This section amends 18 U.S.C. § 1084, the "Wire Act," to update the prohibitions on using communication facilities for transmitting bets or wagers. This new section 1084 would prohibit anyone engaged in a gambling business to knowingly use a communication facility: (1) for the transmission of bets or wagers, or information assisting in the placing of bets or wagers; or (2) for the transmission of a communication which entitles the recipient to receive money or credit as a result of bets or wagers. Gambling businesses would also be prohibited from knowingly accepting in connection with the transmission of a communication of a bet or wager any bank instruments such as credit cards, electronic fund transfers,

checks, drafts, or any other form of financial transaction the Secretary of the Treasury may prescribe by regulation. Any person who violates these provisions shall be subject to a fine, imprisonment of not more than 5 years, or both.

New section 1084(c)(1) states that the provisions of this section do not prohibit the transmission of information assisting in the placing of bets or wagers for use in news reporting as long as such transmission does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal.

New section 1084(c)(2) provides that nothing in this section prohibits the transmission of information assisting in the placing of bets or wagers from a State or foreign country where such betting or wagering is permitted under Federal, State, tribal, or local law into another State or foreign country in which such betting on the same event is permitted under Federal, State, tribal, or local law. The Committee intends this exception to cover multi-State lotteries such as "Powerball," "Mega Millions" and other legal and authorized multi-jurisdictional lotteries.

New section 1084(c)(3) allows for the interstate transmission of information relating to a State-specific lottery between a State or foreign country where such betting or wagering is permitted under Federal, State, tribal, or local law and an out-of-State data center for the purposes of assisting in the operation of such State-specific lottery. The Committee intends that this exception cover the situation where a State lottery transmits data from their State to a computer located in another State or foreign country for the purpose of processing the data. The Committee recognizes that some States have an outside vendor that runs and manages the data related to their lottery. These vendors are often located in a State other than the State in which the lottery is taking place. The Committee does not intend to prohibit the transmission of data in these situations.

Section 1084(d) prohibits the use of a communication facility for the transmission of bets or wagers involving lotteries except when the bets or wagers are placed on the premises of a retail outlet that is open to the public and licensed by the State in which it is located to sell chances or opportunities to win a lottery. The Committee intends that this section will prohibit States from selling lottery tickets online in a person's home. States will still be able to use communication facilities for the transmission of bets or wagers involving lotteries as long as the individual purchasing those lottery tickets is required to physically enter a licensed retail outlet to make such purchase.

New section 1084(e) sets forth conditions that States and tribes must satisfy if they decide to allow gambling on the Internet wholly within the borders of their State or Indian lands. Nothing in this section prohibits the use of a communication facility for the transmission of bets or wagers or information assisting in the placing of bets or wagers, if: (1) the individual placing the bets and the gambling business are physically located in the same State or Indian lands; (2) the State has a secure and effective customer verification and age verification system to assure compliance with age and residence requirements; (3) the State or Tribe has explicitly authorized such bets or wagers and has explicitly authorized and licensed the operation of the gambling business; and (4) with respect to gam-

bling on Indian lands, such use is in accordance with the Indian Gaming Regulatory Act (Pub. L. No. 100–497, 25 U.S.C. § 2701 et seq.), the respective Tribal-State compact, and expressly provided for in such Tribal-State compact.

Section 1084(g) provides that nothing in this section authorizes activity that is prohibited under the Professional and Amateur Sports Protection Act (Pub. L. No. 102–559, 28 U.S.C. § 3701 et seq.).

Under new section 1084(h), when any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, tribal or local law enforcement agency, acting within its jurisdiction, that any communication facility furnished by it is being used by its subscriber for the purpose of transmitting or receiving gambling information, the common carrier shall discontinue or refuse the leasing, furnishing, or maintaining of such facility after reasonable notice to the subscriber. No damages, penalty or forfeiture, civil or criminal shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency.

Section 1084(i) provides Federal, State, tribal, and local law enforcement agencies acting within their jurisdiction, in a civil action, the right to obtain injunctive or declaratory relief to restrain or prevent any person from paying or assisting in the payment of bets or wagers in violation of Federal, State, tribal, or local law. No damages, penalty or forfeiture, civil or criminal shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency.

If the injunctive or declaratory relief is obtained against an interactive computer service, then the relief shall be limited to the removal of, or disabling of access to, an online site violating the provisions of section 1084, or a hypertext link to such site, that resides on a computer server controlled by such interactive computer service. No order issued under this subsection shall impose any obligation on an interactive computer service to remove or disable access to an online site that resides on a system or network controlled or operated by or for the interactive computer service by reason of the intermediate, and transient or temporary, storage of the online site in the course of transmission or system caching. It is the view of the Committee that interactive computer services may comply with a court order to remove a hyperlink, at their discretion, either by removing the hyperlink or by removing the entire web page, and the Committee intends that they be protected from liability if they take either step to comply with the court's order.

This limitation will not apply if it is shown that the interactive computer service is either violating this section on its own or acting in concert with a person who is violating this section. Furthermore, the injunctive or declaratory relief will only be available after notice to the interactive computer service and an opportunity for the service to appear are provided. Such relief must specify the interactive computer service and specifically identify the location of the on-line site or hypertext link which is to be removed or disabled. This section does not impose any obligation on an interactive computer service to monitor its service or affirmatively seek facts indicating unlawful activity.

New section 1084(j) states that nothing in this section allows the use of a communication facility for the purpose of placing a bet or wager or the use of a communication facility for the purpose of transmitting information assisting in the placement of bets or wagers that was illegal as of June 6, 2002. The purpose of this section is to convey the intent of the Committee that the legislation shall not be interpreted as legalizing any further gambling activity using communications facilities which were not legal before the bill's passage by the Committee. The Committee, in no way, intends to expand legal forms of Internet gambling.

The Committee does not intend the reach of this legislation to extend to United States entities which may hold an equity stake in, or manage, a communication facility which creates or transmits information assisting in the placing of bets or wagers, which processes bets or wagers, or which transmits communications entitling a recipient to receive money as a result of bets or wagers, as long as at the time the transmission occurs, the individual or entity placing the bets or wagers is physically located in a foreign jurisdiction where such betting or wagering is permitted under local law, the facility processing those bets or wagers is physically located in a foreign jurisdiction where such activity is permitted under local law, and the United States entity is in compliance with the laws of the State in which it is located.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

* * * * * * *

PART I—CRIMES

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CHAPTER 50—GAMBLING

Sec.
1081. Definitions.

* * * * * * *

[1084. Transmission of wagering information; penalties.]
1084. Use of a communication facility to transmit bets or wagers; penalties.

§ 1081. Definitions

As used in this chapter:

(1) The term "gambling ship" means a vessel used principally for the operation of one or more gambling establishments. Such term does not include a vessel with respect to gambling aboard such vessel beyond the territorial waters of the United States during a covered voyage (as defined in sec-

tion 4472 of the Internal Revenue Code of 1986 as in effect on January 1, 1994).

(2) The term "gambling establishment" means any common gaming or gambling establishment operated for the purpose of gaming or gambling, including accepting, recording, or registering bets, or carrying on a policy game or any other lottery, or playing any game of chance, for money or other thing of value.

(3) The term "vessel" includes every kind of water and air craft or other contrivance used or capable of being used as a means of transportation on water, or on water and in the air, as well as any ship, boat, barge, or other water craft or any structure capable of floating on the water.

(4) The term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if such vessel is owned by, chartered to, or otherwise controlled by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

(5) The term "[wire] communication facility" means any and all instrumentalities, personnel, and services (among other things, the receipt, forwarding, or delivery of communications) used or useful in the transmission of writings, signs, pictures, and sounds of all kinds by aid of wire, cable, *satellite, microwave,* or other like connection *(whether fixed or mobile)* between the points of origin and reception of such transmission.

(6) The term "bets or wagers"—

(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game predominantly subject to chance, not skill, upon an agreement or understanding that the person or another person will receive something of greater value than the amount staked or risked in the event of a certain outcome;

(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance); and

(C) does not include—

(i) a bona fide business transaction governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))) for the purchase or sale at a future date of securities (as that term is defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)));

(ii) a transaction on or subject to the rules of a contract market designated pursuant to section 5 of the Commodity Exchange Act (7 U.S.C. 7) or to any transaction subject to an exemption pursuant to section 4(c) of such Act;

(iii) any over-the-counter derivative instrument;

(iv) a contract of indemnity or guarantee;

(v) a contract for life, health, or accident insurance;

(vi) participation in any game or contest in which participants do not stake or risk anything of value other than—

(I) personal efforts of the participants in playing the game or contest or obtaining access to the Internet; or

(II) point or credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor; or

(vii) participation in any simulation sports game or educational game or contest in which (if the game or contest involves a team or teams) all teams are fictional and no team is a member of an amateur or professional sports organization (as those terms are defined in section 3701 of title 28) and that meets the following conditions:

(I) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants.

(II) All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals (athletes in the case of sports events) in multiple real-world sporting or other events.

(III) No winning outcome is based—

(aa) on the score, point-spread or any performance or performances of any single real-world team or any combination of such teams; or

(bb) solely on any single performance of an individual athlete in any single real-world sporting or other event.

(7) The term "gambling business" means a business of betting or wagering;

(8) The term "information assisting in the placing of bets or wagers" means information knowingly transmitted by an individual in a gambling business for use in placing, receiving, making, or otherwise enabling or facilitating a bet or wager and does not include—

(A) any posting or reporting of any educational information on how to make a legal bet or wager or the nature of betting or wagering, as long as such posting or reporting does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal; or

(B) advertising relating to betting or wagering in a jurisdiction where such betting or wagering is legal, as long

as such advertising does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal; or

(C) information that is exchanged between or among 1 or more pari-mutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and any support services, wherever located, if the information exchanged is used exclusively for the pooling or processing of bets or wagers made by or with the facility or facilities under each State's applicable law.

(9) The term "person" includes a government (including any governmental entity (as defined in section 3701(2) of title 28)).

(10) The term "State" means a State of the United States, the District of Columbia, or a commonwealth, territory, or possession of the United States.

(11) The terms "credit", "creditor", and "credit card" have the meanings given such terms in section 103 of the Truth in Lending Act.

(12) The term "electronic fund transfer"—

(A) has the meaning given such term in section 903 of the Electronic Fund Transfer Act; or

(B) any fund transfer covered by Article 4A of the Uniform Commercial Code, as in effect in any State.

(13) The term "financial institution" has the meaning given such term in section 903 of the Electronic Fund Transfer Act.

(14) The terms "money transmitting business" and "money transmitting service" have the meanings given such terms in section 5330(d) of title 31, United States Code.

(15) The term "Tribe" or "tribal" means an Indian tribe, as defined under section 4(5) of the Indian Gaming Regulatory Act of 1988).

* * * * * * *

[§ 1084. Transmission of wagering information; penalties

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

[(b) Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information for use in news reporting of sporting events or contests, or for the transmission of information assisting in the placing of bets or wagers on a sporting event or contest from a State or foreign country where betting on that sporting event or contest is legal into a State or foreign country in which such betting is legal.

[(c) Nothing contained in this section shall create immunity from criminal prosecution under any laws of any State.

[(d) When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by

a Federal, State, or local law enforcement agency, acting within its jurisdiction, that any facility furnished by it is being used or will be used for the purpose of transmitting or receiving gambling information in interstate or foreign commerce in violation of Federal, State or local law, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State or local tribunal or agency, that such facility should not be discontinued or removed, or should be restored.

[(e) As used in this section, the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a commonwealth, territory or possession of the United States.]

§ 1084. Use of a communication facility to transmit bets or wagers; Penalties

(a) Except as otherwise provided in this section, whoever, being engaged in a gambling business, knowingly uses a communication facility—

(1) for the transmission in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States, of bets or wagers, or information assisting in the placing of bets or wagers; or

(2) for the transmission of a communication in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States, which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers;

shall be fined under this title or imprisoned not more than five years, or both.

(b)(1) Except as provided in paragraph (2), whoever, being engaged in a gambling business, knowingly accepts, in connection with the transmission of a communication in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States of bets or wagers or information assisting in the placing of bets or wagers—

(A) credit, or the proceeds of credit, extended to or on behalf of another (including credit extended through the use of a credit card);

(B) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of the other person;

(C) any check, draft, or similar instrument which is drawn by or on behalf of the other person and is drawn on or payable through any financial institution; or

(D) the proceeds of any other form of financial transaction as the Secretary of the Treasury may prescribe by regulation which involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the other person, shall be fined under this title or imprisoned not more than five years, or both.

(2) Paragraph (b)(1) does not apply if the use of a communication facility for the transmission of bets or wagers or information assisting in the placing of bets or wagers is permitted under subsections (c) or (d).

(c) Nothing in this section prohibits—

(1) the transmission of information assisting in the placing of bets or wagers for use in news reporting if such transmission does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal;

(2) the transmission of information assisting in the placing of bets or wagers from a State or foreign country where such betting or wagering is permitted under Federal, State, tribal, or local law into a State or foreign country in which such betting on the same event is permitted under Federal, State, tribal, or local law; or

(3) the interstate transmission of information relating to a State-specific lottery between a State or foreign country where such betting or wagering is permitted under Federal, State, tribal, or local law and an out-of-State data center for the purposes of assisting in the operation of such State-specific lottery.

(d) Nothing in subsection (c) or (d) shall allow the use of a communication facility for the transmission of bets or wagers involving the purchase of a chance or opportunity to win a lottery, or the use of a communication facility for the transmission of information assisting in the placing of bets or wagers involving the purchase of a chance or opportunity to win a lottery, except that communication facilities may be used for the transmission of such bets or wagers and the transmission of information assisting such bets or wagers as long as such bets or wagers are placed on the premises of a retail outlet that is open to the public and licensed by the State in which it is located to sell chances or opportunities to win a lottery.

(e) Nothing in this section prohibits the use of a communication facility for the transmission of bets or wagers or information assisting in the placing of bets or wagers, if—

(1) at the time the transmission occurs, the individual or entity placing the bets or wagers or information assisting in the placing of bets or wagers, the gambling business, and any facility or support service processing those bets or wagers are physically located in the same State, and the State has a secure and effective customer verification and age verification system to assure compliance with age and residence requirements, and for class II or class III gaming under the Indian Gaming Regulatory Act, are physically located on Indian lands within that State;

(2) the State or Tribe has explicitly authorized such bets and wagers;

(3) the State has explicitly authorized and licensed the operation of the gambling business, any facility processing the bets and wagers, and the support service within its borders or the Tribe has explicitly authorized and licensed the operation of such gambling business, any facility processing the bets and wagers, and the support service on Indian lands within its jurisdiction;

(4) with respect to class II or class III gaming, the game is permitted under and conducted in accordance with the Indian Gaming Regulatory Act;

(5) with respect to class III gaming under the Indian Gaming Regulatory Act, the game is authorized under, and is conducted in accordance with, the respective Tribal-State compact of the Tribe having jurisdiction over the Indian lands where the individual or entity placing the bets or wagers or information assisting in the placing of bets or wagers, the gambling business, and any facility or support service processing those bets or wagers are physically located; and

(6) with respect to class III gaming under the Indian Gaming Regulatory Act, each such Tribal-State compact expressly provides that the game may be conducted using a communication facility to transmit bets or wagers or information assisting in the placing of bets or wagers.

(f) Nothing in this section creates immunity from criminal prosecution under any laws of any State or Tribe.

(g) Nothing in this section authorizes activity that is prohibited under chapter 178 of title 28, United States Code.

(h) When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, tribal or local law enforcement agency, acting within its jurisdiction, that any communication facility furnished by it is being used or will be used by its subscriber for the purpose of transmitting or receiving gambling information, in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States in violation of Federal, State, tribal or local law, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State, tribal, or local tribunal or agency, that such facility should not be discontinued or removed, or should be restored.

(i)(1) A Federal, State, tribal, or local law enforcement agency, acting within its jurisdiction may, in a civil action, obtain injunctive or declaratory relief to restrain or prevent any person from paying or assisting in the payment of bets or wagers, or communicating information assisting in the placing of bets or wagers, in interstate or foreign commerce, within the special maritime and territorial ju-

risdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States in violation of Federal, State, tribal, or local law.

(2) No damages, penalty, or forfeiture, civil or criminal, shall be found against any person or entity for any act done in compliance with any notice received from a law enforcement agency.

(3) Relief granted under paragraph (1) against an interactive computer service (as defined in section 230(f) of the Communications Act of 1934) shall—

(A) be limited to the removal of, or disabling of access to, an online site violating this section, or a hypertext link to an online site violating this section, that resides on a computer server that such service controls or operates; except this limitation shall not apply if the service is violating this section or is in active concert with a person who is violating this section and receives actual notice of the relief;

(B) be available only after notice to the interactive computer service and an opportunity for the service to appear are provided;

(C) not impose any obligation on an interactive computer service to monitor its service or to affirmatively seek facts indicating activity violating this section;

(D) specify the interactive computer service to which it applies; and

(E) specifically identify the location of the online site or hypertext link to be removed or access to which is to be disabled.

(j) Nothing in this section allows the use of a communication facility for the purpose of placing a bet or wager or the use of a communication facility for the purpose of transmitting information assisting in the placement of bets or wagers that was illegal as of June 6, 2002.

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MARKUP TRANSCRIPT

BUSINESS MEETING

WEDNESDAY, MAY 8, 2002

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:03 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

Chairman SENSENBRENNER. [Presiding.] The Committee will be in order.

[Intervening business.]

The next item on the agenda is H.R. 3215, the "Combatting Illegal Gambling Reform and Modernization Act."

The Chair recognizes the gentleman from Texas, Mr. Smith, Chairman of the Subcommittee on Crime, Terrorism, and Homeland Security, for a motion.

Mr. CONYERS. May I be excused, Mr. Chairman? [Laughter.]

Chairman SENSENBRENNER. With pleasure. [Laughter.]

Mr. SMITH. Mr. Chairman, the Subcommittee on Crime, Terrorism, and Homeland Security reports favorably the bill H.R. 3215 with a single amendment in the nature of a substitute and moves its favorable recommendation to the full House.

Chairman SENSENBRENNER. Without objection, the bill will be considered as read and open for amendment at any point. And the Subcommittee amendment in the nature of a substitute, which the Members have before them, will be considered as read and open for amendment at any point and be considered as the original text for purposes of amendment.

[The amendment follows:]

SUBCOMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3215

[ADOPTED MARCH 13, 2002]

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Combatting Illegal Gambling Reform and Modernization Act''.

SEC. 2. DEFINITIONS.

Section 1081 of title 18, United States Code, is amended—

(1) by designating the five undesignated paragraphs that begin with ''The term'' as paragraphs (1) through (5), respectively;

(2) in paragraph (5), as so designated—

(A) by striking ''wire communication'' and inserting ''communication'';

(B) by inserting ''satellite, microwave,'' after ''cable,''; and

(C) by inserting ''(whether fixed or mobile)'' after ''connection''; and

(3) by adding at the end the following:

''(6) The term 'bets or wagers'—

''(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game predominantly subject to chance, not skill, upon an agreement or understanding that the person or another person will receive something of greater value than the amount staked or risked in the event of a certain outcome;

''(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance); and

''(C) does not include—

''(i) a bona fide business transaction governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))) for the purchase or sale at a future date of securities (as that term is defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)));

''(ii) a transaction on or subject to the rules of a contract market designated pursuant to section 5 of the Commodity Ex-

change Act (7 U.S.C. 7) or to any transaction subject to an exemption pursuant to section 4(c) of such Act;

''(iii) any over-the-counter derivative instrument;

''(iv) a contract of indemnity or guarantee;

''(v) a contract for life, health, or accident insurance;

''(vi) participation in any game or contest in which participants do not stake or risk anything of value other than—

''(I) personal efforts of the participants in playing the game or contest or obtaining access to the Internet; or

''(II) point or credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor; or

''(vii) participation in any simulation sports game or educational game or contest in which (if the game or contest in-

volves a team or teams) all teams are fictional and no team is a member of an amateur or professional sports organization (as those terms are defined in section 3701 of title 28) and that meets the following conditions:

''(I) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants.

''(II) All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals (athletes in the case of sports events) in multiple real-world sporting or other events.

''(III) No winning outcome is based—

"(aa) on the score, point-spread or any performance or performances of any single real-world team or any combination of such teams; or

"(bb) solely on any single performance of an individual athlete in any single real-world sporting or other event.

"(7) The term 'foreign jurisdiction' means a jurisdiction of a foreign country or political subdivision thereof.

"(8) The term 'gambling business' means a business of betting or wagering;

"(9) The term 'information assisting in the placing of bets or wagers' means information knowingly transmitted by an individual in a gambling business for use in placing, receiving, making, or otherwise enabling or facilitating a bet or wager and does not include—

"(A) any posting or reporting of any educational information on how to make a legal bet or wager or the nature of betting or wagering, as long as such posting or reporting does not solicit or provide information for the purpose of

facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal; or

''(B) advertising relating to betting or wagering in a jurisdiction where such betting or wagering is legal, as long as such advertising does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal.

''(10) The term 'person' includes a government (including any governmental entity (as defined in section 3701(2) of title 28)).

''(11) The term 'State' means a State of the United States, the District of Columbia, or a commonwealth, territory, or possession of the United States.

''(12) The terms 'credit', 'creditor', and 'credit card' have the meanings given such terms in section 103 of the Truth in Lending Act.

''(13) The term 'electronic fund transfer'—

''(A) has the meaning given such term in section 903 of the Electronic Fund Transfer Act; or

''(B) any fund transfer covered by Article 4A of the Uniform Commercial Code, as in effect in any State.

''(14) The term 'financial institution' has the meaning given such term in section 903 of the Electronic Fund Transfer Act.

''(15) The term 'insured depository institution'—

''(A) has the same meaning as in section 3(c) of the Federal Deposit Insurance Act; and

''(B) includes any insured credit union (as defined in section 101 of the Federal Credit Union Act).

''(16) The terms 'money transmitting business' and 'money transmitting service' have the meanings given such terms in section 5330(d) of title 31, United States Code.

''(17) The terms 'own or control' and to be 'owned or controlled' have the same meanings as in section 2(a)(2) of the Bank Holding Company Act of 1956.

''(18) The term 'Secretary' means the Secretary of the Treasury.

''(19) The term 'Tribe' or 'tribal' means an Indian tribe, as defined under section 4(5) of the Indian Gaming Regulatory Act of 1988).''.

SEC. 3. MODIFICATION OF EXISTING PROHIBITION.

Section 1084 of title 18, United States Code, is amended to read as follows:

''§ 1084. Use of a communication facility to transmit bets or wagers; Penalties

''(a) Except as otherwise provided in this section, whoever, being engaged in a gambling business, knowingly uses a communication facility—

''(1) for the transmission in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States, of bets or wagers, or information assisting in the placing of bets or wagers; or

''(2) for the transmission of a communication in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States, which entitles the recipient to receive money or credit as a result of bets

or wagers, or for information assisting in the placing of bets or wagers;

shall be fined under this title or imprisoned not more than five years, or both.

''(b)(1) Except as provided in paragraph (2), whoever, being engaged in a gambling business, knowingly accepts, in connection with the transmission of a communication in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States of bets or wagers or information assisting in the placing of bets or wagers—

''(A) credit, or the proceeds of credit, extended to or on behalf of another (including credit extended through the use of a credit card);

''(B) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of the other person;

''(C) any check, draft, or similar instrument which is drawn by or on behalf of the other person and is drawn on or payable through any financial institution; or

''(D) the proceeds of any other form of financial transaction as the Secretary of the Treasury may prescribe by regulation which involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the other person, shall be fined under this title or imprisoned not more than five years, or both.

''(2) Paragraph (b)(1) does not apply if the use of a communication facility for the transmission of bets or wagers or information assisting in the placing of bets or wagers is permitted under subsections (c) or (d).

''(c) Nothing in this section prohibits—

''(1) the transmission of information assisting in the placing of bets or wagers for use in news reporting if such transmission does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal;

''(2) the transmission of information assisting in the placing of bets or wagers from a State or foreign country where such betting or wagering is permitted under Federal, State, tribal, or local law into a State or foreign country in which such betting on the same event is permitted under Federal, State, tribal, or local law; or

''(3) the interstate transmission of information relating to a State-specific lottery between a State or foreign country where such betting or wagering is permitted under Federal, State, tribal, or local law and an out-of-State data center for the purposes of assisting in the operation of such State-specific lottery.

''(d) Nothing in this section prohibits the use of a communication facility for the transmission of bets or wagers or information assisting in the placing of bets or wagers, if—

''(1) at the time the transmission occurs, the individual or entity placing the bets or wagers or information assisting in the placing of bets or wagers, the gambling business, and any facility or support service processing those bets or wagers is physically located in the same State, and the State has a secure and effective customer verification and age verification system to assure compliance with age and residence requirements, and for class II or class III gaming under the Indian Gaming Regulatory Act, are physically located on Indian lands within that State;

''(2) the State or Tribe has explicitly authorized such bets and wagers;

"(3) the State has explicitly authorized and licensed the operation of the gambling business, any facility processing the bets and wagers, and the support service within its borders or the Tribe has explicitly authorized and licensed the operation of such gambling business, any facility processing the bets and wagers, and the support service on Indian lands within its jurisdiction;

"(4) with respect to class II or class III gaming, the game is permitted under and conducted in accordance with the Indian Gaming Regulatory Act;

"(5) with respect to class III gaming under the Indian Gaming Regulatory Act, the game is authorized under, and is conducted in accordance with, the respective Tribal-State compact of the Tribe having jurisdiction over the Indian lands where the individual or entity placing the bets or wagers or information assisting in the placing of bets or wagers, the gambling business, and any facility or support service processing those bets or wagers are physically located; and

"(6) with respect to class III gaming under the Indian Gaming Regulatory Act, each such Tribal-State compact expressly provides that the game may be conducted using a communication facility to

transmit bets or wagers or information assisting in the placing of bets or wagers.

''(e) Nothing in this section creates immunity from criminal prosecution under any laws of any State or Tribe.

''(f) Nothing in this section shall be construed to prohibit an activity allowed under Public Law 95–515 (15 U.S.C. 3001 et seq.).

''(g) Nothing in this section authorizes activity that is prohibited under chapter 178 of title 28, United States Code.

''(h) When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, tribal or local law enforcement agency, acting within its jurisdiction, that any communication facility furnished by it is being used or will be used by its subscriber for the purpose of transmitting or receiving gambling information, in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States in violation of Federal, State, tribal or local law, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal,

shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State, tribal, or local tribunal or agency, that such facility should not be discontinued or removed, or should be restored.

''(i)(1) A Federal, State, tribal, or local law enforcement agency, acting within its jurisdiction may, in a civil action, obtain injunctive or declaratory relief to restrain or prevent any person from paying or assisting in the payment of bets or wagers, or communicating information assisting in the placing of bets or wagers, in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States in violation of Federal, State, tribal, or local law.

''(2) No damages, penalty, or forfeiture, civil or criminal, shall be found against any person or entity for any act done in compliance with any notice received from a law enforcement agency.

''(3) Relief granted under paragraph (1) against an interactive computer service (as defined in section 230(f)

of the Communications Act of 1934) shall be limited to the removal of, or disabling of access to, an online site violating this section, or a hypertext link to an online site violating this section, that resides on a computer server that such service controls or operates; except this limitation shall not apply if the service is violating this section or is in active concert with a person who is violating this section and receives actual notice of the relief.''.

Chairman SENSENBRENNER. The Chair recognizes the gentleman from Texas to strike the last word.

Mr. SMITH. Thank you, Mr. Chairman.

Mr. Chairman, H.R. 3215, the "Combatting Illegal Gambling Reform and Modernization Act," introduced by Congressman Bob Goodlatte of Virginia, addresses a serious concern of many Americans, the problem of Internet gambling. The National Gambling Impact Study Commission has estimated that at least $1.6 billion was bet over the Internet last year. That is almost a fourfold increase in 4 years.

One troubling aspect of Internet gambling is the relative ease of accessibility for our Nation's children. The anonymous nature of the Internet makes it almost impossible to prevent underage gamblers from using their parent's credit cards, or even their own, to log on to a gambling Web site.

Many Internet sites require nothing more than a name, address, and a credit card number. Those sites that do require a person to disclose his or her age and make little or no effort to verify this information.

Another group of people particularly susceptible to Internet gambling is the 11 million addicted gamblers in America. High rates of financial debt, unemployment, bankruptcy, divorce, homelessness, and suicide are all associated with gambling addiction.

Internet gambling facilities are open 24 hours a day, 7 days a week, all within a person's own home. By making gambling more convenient, it can do nothing but make the problem worse.

Federal law is unclear as to whether or not all types of Internet gambling are illegal. The statute that most directly restricts the use of the Internet for placing bets is the Wire Act under section 1084 of Title 18 of the U.S.C. However, this statute was written before the age of the Internet and the use of wireless communication, so there is uncertainty as to what type of betting is or is not covered.

This legislation modernizes the Wire Act to make it clear that the prohibitions include Internet gambling and brings the current prohibition against wireline interstate gambling in line with the development of new technology. And this legislation expands the existing prohibition to include all bets or wagers, not merely bets or wagers on sporting events or contests.

Again, I thank the gentleman from Virginia, Mr. Goodlatte, for introducing this legislation. And I urge my colleagues to support it.

Mr. Chairman, I'll yield back the balance of my time.

Chairman SENSENBRENNER. The gentleman from Virginia, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman. I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. SCOTT. Mr. Chairman, thank you for the opportunity to make a statement about H.R. 3215, the "Combatting Illegal Gambling Reform and Modernization Act." This bill will expand the Wire Communications Act of 1961 to cover electronic and other communications modes, as well as wire communications, and then prohibit the use of these modes to place or facilitate the placement of a bet or wager over the Internet.

I believe that gambling should be tightly regulated. It has traditionally been a State regulatory responsibility, primarily, and it should continue to be so. The Department of Justice was given a role in prosecuting illegal gambling pursuant to the 1961 Wire Communications Act as a way to assist Federal and State authorities in fighting gambling by organized crime syndicates. That was certainly a proper role for the Federal Government in getting at interstate features of illegal gambling by organized crime, such as conducting wagers and other aspects of business over the telephone and telegraph.

Although the department did successfully prosecute an offshore gambling entity recently under the Wire Communications Act, clearly the act was not designed with prosecuting gambling over the Internet in mind. What is clear is that trying to regulate gambling businesses or anything else over the Internet is a daunting task. Most law enforcement is jurisdiction or situs dependent. The Internet has no technical jurisdiction. And as a result, I suspect that even if we're successful in closing down business sites in countries we can get to cooperate, because of the nature of the Internet, this approach will ultimately be ineffective. We would simply be increasing the profit opportunities for uncooperative countries, especially those the United States considers rogue countries.

And even among our friends, even if they allow Internet gambling, they would have to wonder why we would push Internet freedom for most legal activities and restrict it on all of their Internet gaming while allowing some of our gaming. That is, the bill provides an exemption for our horse racing but prohibits everybody else's gambling altogether.

Aside from these practical issues, there appear to be many policy issues in the bill before us. We continue to hear from lobbyists that many groups still have concerns with the bill, including casinos, charitable gaming, offshore gaming, tribal gaming, credit card companies, Internet service providers, and so forth.

The offshore operations seem to be one of the prime targets of the legislation. Ironically, these operations are not only seeking but begging to be regulated, even with the knowledge that they probably be taxed. This approach recognizes the power of Government to license offshore gambling businesses, requiring them to meet all fiscal, management, and bonding requirements.

The rationale is fairly simple. If the gaming public is given a choice between a Government-licensed provider with bonding, liability, accessibility, and other indicia of responsible operation, as opposed to an unregulated foreign gambling operation with no such protections, most of us know which one the gamblers will pick. So the regulatory approach may well be our best approach, and we should leave it to the States to do that regulation with a very minimal Federal role.

To the extent that there is a Federal role, it should be effective. The most effective way in prosecuting gambling over the Internet by individuals in the United States is to prosecute them for gambling over the Internet. The bill does not make it illegal to gamble over the Internet, just run the gambling operation. Prosecuting only the business in an illegal gambling operation would be like prosecuting only the seller in a drug sale but not the buyer. Accordingly, I'll offer an amendment to make it a crime for individuals

to gamble under the—illegally under the bill. That will, frankly, let us know whether we're serious or not about the legislation.

So, Mr. Chairman, I'm not sure what the point of the bill—I'm not sure what the point is of the bill that prohibits some forms of gambling over the Internet, leaves other gambling alone. But if we are going to pass it, we should make it effective to accomplish the goals that we seek.

Thank you, Mr. Chairman. I yield back the balance of my time.

Chairman SENSENBRENNER. Does the gentleman from Virginia, the author of this bill, wish to add to the discussion?

Mr. GOODLATTE. I do. Thank you, Mr. Chairman.

Chairman SENSENBRENNER. You have 5 minutes to do so.

Mr. GOODLATTE. I thank you for bringing this legislation forward, and I want to commend it to my colleagues. I have worked with virtually everybody on this Committee on concerns that they have. We've addressed many concerns. We have not addressed all concerns, and I'd like to explain the nature of this bill at this time and address some of the concerns raised by the gentleman from Virginia, Mr. Scott, because they are concerns that do need to be addressed.

First of all, this bill is different than the legislation that passed the Committee in the last Congress. The reason is that after it passed the Committee and was brought to the floor, where it received a substantial vote, it nonetheless was attacked on several grounds.

First of all, it was attacked on the ground that it violated the rights of the States to regulate gambling. And gambling in this country has, not without exception, but has historically generally been illegal unless regulated by the States. The Wire Act is the principle law that implements that. It was written in 1961, and as the gentleman from Texas has indicated, and the gentleman from Virginia, it is clearly out of date in terms of dealing with modern challenges that the States face with gambling activities that take place within their jurisdiction.

Secondly, the last bill was attacked for not being neutral amongst various gambling entities, and we have attempted to correct that in this legislation as well. That's not to say that all gambling entities are treated the same, because they're not treated the same now under existing State laws and other Federal laws not affected by this legislation.

Finally, the bill was attacked because it was not technology-neutral. It created a new section of the Wire Act, which I recall the gentleman from Virginia, Mr. Scott, and others raising concerns about. In recognition of that, we have simply amended the current section 1084 of the Wire Act to address that problem.

What this bill is primarily directed at are the 1,400 offshore sites that are illegal, unregulated, untaxed, and sucking over $2 billion a year out of the country. We need to amend the Wire Act to address that problem.

Now, in doing that, what we have done is to create a situation where there are lots of legal gaming enterprises in the United States. You've got horse racing, dog racing, jai alai, casino gambling, lotteries, Indian gaming, and probably several others that I haven't thought of to mention.

In recognizing the right of the States to continue to regulate gambling of any form, they need to have a strengthened Wire Act. This was the original request that we received from the States' attorneys general, to address this concern. This was the concern that the Justice Department, both the Clinton Justice Department and now the Bush Justice Department, have.

In doing that, we have to be careful that we fashion legislation that can finish the entire process and recognize these principles that we've annunciated.

So a number of amendments will be offered, and we'll carefully consider each one, and work with the Members as they work through the problems they have with the bill. But if they attack one of those three principles, then it's going to have a fundamental change in how gambling is dealt with in the United States.

Now, to address the concern raised by the gentleman from Virginia regarding individual bettors and the fact that the bill does not impose new penalties on individuals engaged in betting, there are two reasons for that.

First of all, as I said, we're not creating a new section for the Wire Act. We're simply modernizing and updating the current law, which in its original form did not have such penalties on those individuals.

And secondly, and even more importantly, the individual bettor is already within the jurisdiction of one of the 50 States and, therefore, has the opportunity to be prosecuted by those States, if they choose to do so. What we have a problem with are these offshore sites that are beyond the reach of law enforcement. And because of the injunctive relief that is provided for in this bill, it will give law enforcement new tools to cut off their access to bettors in the United States. We don't attempt to shut down these businesses. Many of them operate today attempting not to do business in the United States, because they know their business is not welcome in many of the States of this country. Others do, however. The majority of them do. And we are simply tying to give law enforcement new tools to make it clear that any form of gambling that they're operating under that is illegal in the State that they are prosecuting them in, can be prosecuted. And the Wire Act, written primarily to deal with sports betting in the early 1960's, is not clear as to its application for other types of betting like casino gaming and needs to be updated, and secondly, to give law enforcement these new tools.

My time has expired, but I would urge my colleagues to look at this very carefully from the three principles of States' rights; being neutral with regard to the current state of affairs that the States have placed various gambling enterprises in; and attempting as best we can, even though this is a new technology, to be technology-neutral, to amend the current Wire Act rather than create a whole new section dealing with the Internet as a separate form of gambling.

Mr. SMITH. [Presiding.] Thank you, Mr. Goodlatte.

Are there other Members who wish——

Mr. GOODLATTE. Mr. Chairman, I do have a written statement I'd ask to be put in the record. For those who didn't get enough, I have a written statement I'd ask be made a part of the record.

Mr. SMITH. I think, without objection, we are already making those a part of the record.

[The prepared statement of Mr. Goodlatte follows:]

PREPARED STATEMENT OF THE HONORABLE BOB GOODLATTE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Thank you Mr. Chairman for holding today's markup on legislation that I have introduced that represents a bipartisan effort to address the ever increasing problem of illegal Internet gambling in our Nation—H.R. 3215, the "Combatting Illegal Gambling Reform and Modernization Act."

The Internet is a revolutionary tool that dramatically affects the way we communicate, conduct business, and access information. As it knows no boundaries, the Internet is accessed by folks in rural and urban areas alike, in large countries as well as small. The Internet is currently expanding by leaps and bounds; however, it has not yet come close to reaching its true potential as a medium for commerce and communication.

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

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

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

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

Gambling on the Internet is especially enticing to youth, pathological gamblers, and criminals. There are currently no mechanisms in place to prevent youths—who make up the largest percentage of Internet users—from using their parents' credit card numbers to register and set up accounts for use at Internet gambling sites. In addition, pathological gamblers may become easily addicted to online gambling because of the Internet's easy access, anonymity and instant results. Dr. Howard J. Shaffer, director of addiction studies at Harvard, likens the Internet to new delivery forms of addictive drugs: "As smoking crack cocaine changed the cocaine experience, I think electronics is going to change the way gambling is experienced." Finally, Internet gambling can provide a nearly undetectable harbor for criminal enterprises. The anonymity associated with the Internet makes online gambling more susceptible to crime.

I have long been a champion of the Internet and an advocate of limited government regulation of this new medium. However, that does not mean that the Internet should be a regulatory free zone or that our existing laws should not apply to the Internet. I think we can all agree that it would be very bad public policy to allow offline activity deemed criminal by states to be freely committed online and to go unpunished simply because we are reluctant to apply our laws to the Internet.

Gambling on the Internet has become an extremely lucrative business. Numerous studies have charted the explosive growth of this industry, both by the increases in gambling websites available, and via industry revenues. The Internet gambling industry's revenues grew from $300 million in 1997 to an estimated $1.6 billion in 2001. It has been reported that there are currently more than 1,400 gambling sites, up from 700 just a year earlier. Other estimates indicate that Internet gambling could soon easily become a $10 billion a year industry.

Most of the more than 1,400 Internet gambling sites are offshore. Virtual betting parlors accepting bets from individuals in the United States have attempted to avoid the application of United States law by locating themselves offshore and out of our jurisdictional reach. These offshore, fly-by-night Internet gambling operators are unlicensed, untaxed and unregulated and are sucking billions of dollars out of the United States.

In addition, the FBI and the Department of Justice recently testified that Internet gambling serves as a vehicle for money laundering activities and can be exploited by terrorists to launder money. The FBI currently has at least two pending cases involving Internet gambling as a conduit for money laundering, as well as a number of pending cases linking Internet gambling to organized crime.

The "Combatting Illegal Gambling Reform and Modernization Act" will add a new provision to the law that would prohibit a gambling business from accepting certain forms of non-cash payment, including credit cards and electronic transfers, for the transmission of illegal bets and wagers. This provision provides an enforcement mechanism to address the situation where the gambling business is located offshore but the gambling business used bank accounts in the United States. The bill also provides an additional tool to fight illegal gambling by giving Federal, State, local and tribal law enforcement new injunctive authority to prevent and restrain violations of the law.

The "Combatting Illegal Gambling Reform and Modernization Act" will return control to the states by protecting the right of citizens in each State to decide through their State legislatures if they want to allow gambling within their borders and not have that right taken away by offshore, fly-by-night operators.

The 104th Congress created the National Gambling Impact Study Commission and charged it with conducting a comprehensive legal and factual study of gambling, including an assessment of the effects of gambling by electronic means, including the use of interactive technologies and the Internet. The Commission recommended to Congress that federal legislation is needed to halt the expansion of Internet gambling and to prohibit wire transfers to known Internet gambling sites, or the banks who represent them.

As the National Gambling Impact Study Commission has documented, and Senate and House hearings have confirmed, Internet gambling is growing at an explosive rate. It evades existing anti-gambling laws, promotes compulsive gambling among adults, preys on the poor, and facilitates fraud. The "Combatting Illegal Gambling Reform and Modernization Act" will put a stop to this harmful activity before it spreads further. I urge my colleagues to support this very important legislation.

Mr. SMITH. Let me yield, in order of seniority, to the gentlewoman from Texas, Ms. Jackson Lee, for her opening statement on this bill.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. And let me thank Mr. Goodlatte for laying out some of the difficult, if you will, obstacles that we must weave our way through in trying to make a very constructive legislative initiative dealing with, I think, a key ailment, and that is the proliferation of gambling and the negative impact it has on individuals who are weakened, if you will, by the luring of gambling activities.

We do realize that it represents the basis of a very strong economy in many areas. We realize that many of our Native American communities are involved, as well as our local communities are involved in gambling through lotteries and horse racing and dog racing. And these are very lucrative sources of income for these local communities.

I think that is an important point. But as we look to this whole question of dealing with new technology, I think it's important that we try to find the correct balance between Federal regulation, Mr. Chairman, and, as well, State regulation.

I have an issue that, Mr. Goodlatte, I hope that we will be able to work on, and that is, of course, dealing with what I believe may be the unintended consequence of this legislation. As you know, I've offered my support for it, dealing with charitable utilization of the Internet for fund-raising efforts. And I am looking forward to

us working together to work through the amendment that I intend to offer and work through it to secure bipartisan support that deals with not barring charitable organizations from their activities for charitable activities. It is a simple amendment, as you well know. Charities have used lotteries and raffles and other games of chance to raise funds for their charitable purposes for over 300 years in the United States and the colonies. It goes back that far. We also know that people who have an illness about gambling, if that is one of my concerns, and others, that no matter what agency is doing it, it still may be detrimental.

But I do believe that we must find a way to ensure that our charities are not disadvantaged by the legislation that we may pass. Charitable organizations are presently permitted under Federal law and the law in 46 States to conduct bingo, lottery, similar games of chance, provided that the proceeds are dedicated to a charitable purpose.

And so I would like to have us work through this process and work through this amendment in order to ensure that what we do from Washington does not negatively intrude into the local system and thereby inhibit forward thinking or those who have an institutional history of raising monies this way for good causes. And certainly, we would hope that those causes are good. And we don't want to eliminate the Rotary Club in Naperville or Houston, Texas, from doing their constructive works, nor do we want the local parish, churches or synagogues, mosques, and others, who raise monies for the community, to be eliminated through this legislation.

Mr. Chairman, I would like to offer my full statement into the record and ask unanimous consent for such. But I'd like to raise that issue, and also bring to the attention of my colleagues that, in dealing with this new technology, I'm glad that we're going to make more time on marking up this bill. Let us be sure that we have legislation that has been sufficiently vetted. It has passed in the last Congress. I realize that. I think it's a good bill. But our particular attention to it, as it makes its way through this Committee, will be very helpful to gaining the support of our colleagues on the floor of the House.

With that, I yield back the balance of my time.

Mr. SMITH. Thank you, Ms. Jackson Lee. And without objection, all opening statements will be made a part of the record.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

I have several concerns with the bill before us today. Paramount of concern to me is that the bill establishes an impracticable enforcement scheme. Given the fact the bill does not make it illegal for individuals to gamble, and the ability of Internet providers to close down a website and open another with the same customers or contacts, shutting down illegal operations would be to little avail. This is particularly the case if they are rogue operations or are run by operatives of a rogue organization, including some countries. The bill's prohibitions are still applicable only to gambling businesses, not individuals.

My amendment is quite simple. It would extend current federal law regarding charitable gambling to the Internet. The amendment would allow charitable organizations to do on the Internet exactly what they can currently do off the Internet—raise funds for their charitable activities.

Charitable organizations are presently permitted under federal law and the law in 46 states to conduct bingo, lotteries and similar games of chance provided that the proceeds are dedicated to a charitable purpose. In 2000, non-profit charitable

organizations raised almost $770 million for their charitable activities through gambling, including bingo, lotteries, pull-tabs, and raffles. This represents only about 4% of all legal gambling in the United States, but is hugely important to charities.

Charities are treated differently in several sections of federal law because they are different. Bona fide charities that register with the Internal Revenue Service are given tax-exempt status. The charitable distinction has already been recognized by Congress in 18 U.S.C. Section 1955, which explicitly exempts from federal prohibition and penalties against illegal gambling business any bingo game, lottery or similar game of chance conducted by a charity. Extending the charities privileges in current law to the Internet is not an academic point. It is critically important to charities in congressional districts around the country. The Rotary Club in Naperville, Illinois, in Speaker Hastert's District, operates a raffle on the Internet. Ticket cost $100 and the top prize is a new house with a value of $175,000. The raffle nets the Rotary Club of Naperville as much as $750,000 annually for its charitable purposes. The raffle solicits participants from a national and international audience who use credit cards to play. Under this bill, the Rotary Club in Naperville would have to stop its successful fundraising effort. Realistically, there is no other means of fundraising that can result in such a large amount of money raise for charities at such a low cost. This money could probably not be replaced.

Many charities are seeking new ways to expand their fundraising activities to maintain their charitable activities. Internet charitable lotteries represent a low-cost way for charities to raise necessary funds in the face of competition from for profit gaming operators.

It is essential for charities in the United States that an amendment like the one I am proposing be included in this bill. It is not enough to allow local charities to raise money intrastate on-line via lotteries and raffles. That solution ignores the way that the Internet actually works. Any charity that seeks to raise money via games on-line will be accessed by people from all over the country and the world. That is a fact of life, whether it's the local firehouse, the local Rotary Club, or The Humane Society. His bill will make it impossible for them to fundraise via games online.

I urge my colleagues to support the amendment.

Mr. SMITH. The gentleman from North Carolina, Mr. Coble, the Chairman of the Court Subcommittee, is recognized for his opening statement.

Mr. COBLE. I thank the Chairman, and I will not consume my 5 minutes, Mr. Chairman.

I have never thoroughly embraced this bill, but I'm getting closer to it. I've had problems with it. I've had questions about it. I have worked with the gentleman from valley, from the Virginia valley, consistently since last year, and I believe he is prepared to respond to the problems that I had. And I probably will ultimately embrace the bill, for what that's worth.

And I yield back my time.

Mr. SMITH. Thank you, Mr. Coble.

The gentleman from Florida, Mr. Wexler, is recognized for an opening statement.

Mr. WEXLER. Thank you, Mr. Chairman.

I first want to just compliment the gentleman from Virginia for his continuing willingness to work with those of us who have concerns on the bill. I very much appreciate it. And I support wholeheartedly the intent of the bill, which is to, as he described, better regulate and prohibit where permissible the efforts of the 1,400-some-odd operations relative to offshore gambling sites.

However, with all due respect to the gentleman from Virginia and the effort, the basic core principle of the bill as he annunciated it, neutrality, is not a part of this bill. And no one with a straight face can say that if this bill were adopted as it is now written, that there would be a neutral impact.

The bottom line, and I'll stop with this, is if this bill is passed, at the end of the day, there will be one industry in the parimutuel

industry where Americans will be able to bet on the Internet, and that's horse racing. Dog racing is out of luck. Jai alai is out of luck. And I cannot imagine, in any level of credibility or in good conscience, why the United States Congress would in effect legislate so that horse track betting can occur and they can profit, but dog track betting can't occur on the Internet, and they ultimately go out of business, and jai alai goes out of business.

I cannot remember a time when this United States Congress has literally chosen between two or three entirely legitimate, lawful enterprises, where thousands of Americans are employed, and we say: Go ahead one industry. You have at it. You make all the money in the world. And you two other industries, the dog tracks and the jai alais, you're out of luck. We're, in effect, by legislation putting you out of business.

So I support the general effort. I applaud the gentleman from Virginia for his ongoing willingness to consider the objections. But as it is written now, nobody can be fooled: This is horse track betting Internet bill; dog track, jai alai, you're out of luck. We, the Congress of the United States, all of a sudden, we're making business decisions. We're putting people in and other out.

Mr. SMITH. Thank you, Mr. Wexler.

The gentleman from Wisconsin, Mr. Green, is recognized for a brief opening statement.

Mr. GREEN. Thank you, Mr. Chairman. I will be brief.

I supported this legislation last session. I originally put my name on as a co-author. As I've identified, though, with the main sponsor of this legislation, I do have grave concerns, which unfortunately are getting greater not less as we move along.

I recognize the enormity of the task the gentleman has in taking on this effort. And he has had to make some changes and some compromises in order to pick up votes. In my view though, with some of those changes and compromises, we no longer have a ban on Internet gambling.

There is uncertainty, and there is a lack of clarity in the current law. My fear is that this bill, where it resolves that uncertainty, resolves it in favor of greater gambling.

And while the gentleman says that this doesn't change current law, perhaps we should change current law in some places.

I'll continue to work with the gentleman. But as he knows, I support the intent. I support, like everyone here, going after offshore gambling, enthusiastically support it. But I am concerned with some of the changes, that they will have a harmful effect.

And I yield back my time.

Mr. SMITH. Thank you, Mr. Green. Are there other Members who wish to make a brief opening statement?

If not, the Committee will stand in recess subject to the call of the Chair.

[Whereupon, at 11:19 a.m., the Committee was adjourned.]

* * * * *

The Committee met, pursuant to notice, at 10:00 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

Chairman SENSENBRENNER. The Committee notes the presence of a working quorum.

[Intervening business.]

The next item on the agenda which has been pending since the last markup is H.R. 3215, the "Combatting Illegal Gambling Reform and Modernization Act."

When the Committee recessed, Chairman Smith, on behalf of the Subcommittee on Crime, Terrorism, and Homeland Security, made a motion to report favorably the bill H.R. 3215 with the single amendment in the nature of a substitute and moved its favorable recommendation to the full House. By order of the Committee, the Subcommittee amendment was considered as read and open for amendment at any point. Are there further amendments?

The gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. Mr. Chairman, I have an amendment in the nature of a substitute.

Chairman SENSENBRENNER. The clerk will report the amendment in the nature of a substitute.

The CLERK. Amendment in the nature of a substitute to H.R. 3215 offered by Mr. Goodlatte.

Strike all after the enacting clause and insert the following——

Chairman SENSENBRENNER. Without objection, Mr. Goodlatte's amendment in the nature of a substitute is considered as read and open for amendment at any point.

[The amendment follows:]

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3215 OFFERED BY MR. GOODLATTE

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Combating Illegal Gambling Reform and Modernization Act''.

SEC. 2. DEFINITIONS.

Section 1081 of title 18, United States Code, is amended—

(1) by designating the five undesignated paragraphs that begin with ''The term'' as paragraphs (1) through (5), respectively;

(2) in paragraph (5), as so designated—

(A) by striking ''wire communication'' and inserting ''communication'';

(B) by inserting ''satellite, microwave,'' after ''cable,''; and

(C) by inserting ''(whether fixed or mobile)'' after ''connection''; and

(3) by adding at the end the following:

''(6) The term 'bets or wagers'—

''(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game predominantly subject to chance, not skill, upon an agreement or understanding that the person or another person will receive something of greater value than the amount staked or risked in the event of a certain outcome;

''(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance); and

''(C) does not include—

''(i) a bona fide business transaction governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))) for the purchase or sale at a future date of securities (as that term is defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)));

''(ii) a transaction on or subject to the rules of a contract market designated pur-

suant to section 5 of the Commodity Exchange Act (7 U.S.C. 7) or to any transaction subject to an exemption pursuant to section 4(c) of such Act;

''(iii) any over-the-counter derivative instrument;

''(iv) a contract of indemnity or guarantee;

''(v) a contract for life, health, or accident insurance;

''(vi) participation in any game or contest in which participants do not stake or risk anything of value other than—

''(I) personal efforts of the participants in playing the game or contest or obtaining access to the Internet; or

''(II) point or credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor; or

''(vii) participation in any simulation sports game or educational game or con-

test in which (if the game or contest involves a team or teams) all teams are fictional and no team is a member of an amateur or professional sports organization (as those terms are defined in section 3701 of title 28) and that meets the following conditions:

''(I) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants.

''(II) All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals (athletes in the case of sports events) in multiple real-world sporting or other events.

''(III) No winning outcome is based—

"(aa) on the score, point-spread or any performance or performances of any single real-world team or any combination of such teams; or

"(bb) solely on any single performance of an individual athlete in any single real-world sporting or other event.

"(7) The term 'gambling business' means a business of betting or wagering;

"(8) The term 'information assisting in the placing of bets or wagers' means information knowingly transmitted by an individual in a gambling business for use in placing, receiving, making, or otherwise enabling or facilitating a bet or wager and does not include—

"(A) any posting or reporting of any educational information on how to make a legal bet or wager or the nature of betting or wagering, as long as such posting or reporting does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal; or

''(B) advertising relating to betting or wagering in a jurisdiction where such betting or wagering is legal, as long as such advertising does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal; or

''(C) information that is exchanged between or among 1 or more pari-mutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and any support services, wherever located, if the information exchanged is used exclusively for the pooling or processing of bets or wagers made by or with the facility or facilities under each State's applicable law.

''(9) The term 'person' includes a government (including any governmental entity (as defined in section 3701(2) of title 28)).

''(10) The term 'State' means a State of the United States, the District of Columbia, or a commonwealth, territory, or possession of the United States.

''(11) The terms 'credit', 'creditor', and 'credit card' have the meanings given such terms in section 103 of the Truth in Lending Act.

''(12) The term 'electronic fund transfer'—

''(A) has the meaning given such term in section 903 of the Electronic Fund Transfer Act; or

''(B) any fund transfer covered by Article 4A of the Uniform Commercial Code, as in effect in any State.

''(13) The term 'financial institution' has the meaning given such term in section 903 of the Electronic Fund Transfer Act.

''(14) The terms 'money transmitting business' and 'money transmitting service' have the meanings given such terms in section 5330(d) of title 31, United States Code.

''(15) The term 'Tribe' or 'tribal' means an Indian tribe, as defined under section 4(5) of the Indian Gaming Regulatory Act of 1988).''.

SEC. 3. MODIFICATION OF EXISTING PROHIBITION.

Section 1084 of title 18, United States Code, is amended to read as follows:

"§ 1084. Use of a communication facility to transmit bets or wagers; Penalties

"(a) Except as otherwise provided in this section, whoever, being engaged in a gambling business, knowingly uses a communication facility—

"(1) for the transmission in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States, of bets or wagers, or information assisting in the placing of bets or wagers; or

"(2) for the transmission of a communication in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States, which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers;

shall be fined under this title or imprisoned not more than five years, or both.

"(b)(1) Except as provided in paragraph (2), whoever, being engaged in a gambling business, knowingly accepts, in connection with the transmission of a commu-

nication in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States of bets or wagers or information assisting in the placing of bets or wagers—

"(A) credit, or the proceeds of credit, extended to or on behalf of another (including credit extended through the use of a credit card);

"(B) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of the other person;

"(C) any check, draft, or similar instrument which is drawn by or on behalf of the other person and is drawn on or payable through any financial institution; or

"(D) the proceeds of any other form of financial transaction as the Secretary of the Treasury may prescribe by regulation which involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the other person,

shall be fined under this title or imprisoned not more than five years, or both.

''(2) Paragraph (b)(1) does not apply if the use of a communication facility for the transmission of bets or wagers or information assisting in the placing of bets or wagers is permitted under subsections (c) or (d).

''(c) Nothing in this section prohibits—

''(1) the transmission of information assisting in the placing of bets or wagers for use in news reporting if such transmission does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal;

''(2) the transmission of information assisting in the placing of bets or wagers from a State or foreign country where such betting or wagering is permitted under Federal, State, tribal, or local law into a State or foreign country in which such betting on the same event is permitted under Federal, State, tribal, or local law; or

''(3) the interstate transmission of information relating to a State-specific lottery between a State or foreign country where such betting or wagering is permitted under Federal, State, tribal, or local law and an out-of-State data center for the purposes of assisting in the operation of such State-specific lottery.

''(d) Notwithstanding subsections (a) and (b), this section shall not prohibit the use of a communication facility for the transmission of bets or wagers, regardless of the routing of the transmission, as long as—

''(1) at the time the transmission occurs, the individual or entity placing the bets or wagers or information assisting in the placing of bets or wagers, the gambling business, and any facility or support service processing those bets or wagers are physically located either in a State that has explicitly authorized such bets or wagers within its borders or on Indian lands (as that term is defined in section 4 of the Indian Gaming Regulatory Act) under the jurisdiction of a tribe that has explicitly authorized such bets or wagers;

''(2) such gambling business and any facility processing the bets and wagers or support service are authorized and licensed to operate either by the State in which they are physically located or by the tribe that has jurisdiction over the Indian lands where they are physically located, and the gambling business and any facility processing the bets or wagers or support service comply with all other applicable laws;

''(3) such gambling business is otherwise in compliance with Federal law relating to gambling;

''(4) such State in which such bet or wager is received has a secure and effective customer verification and age verification system to assure compliance with age and residence requirements;

''(5) with respect to class II or class III gaming pursuant to the Indian Gaming Regulatory Act, at the time of the transmission, the gambling business, the individual or entity originating the transmission or placing the bets or wagers, and any facility processing the bets or wagers or support service must all be physically located on Indian lands;

''(6) with respect to class II or class III gaming pursuant to the Indian Gaming Regulatory Act, at the time of the transmission, the class II or class III game is permitted under and conducted in accordance with the Indian Gaming Regulatory Act; and

''(7) with respect to class III gaming pursuant to the Indian Gaming Regulatory Act, the game is authorized under, and is conducted in accordance with , the respective Tribal-State compacts (entered into and approved pursuant to section 11(d) of the Indian Gaming Regulatory Act) in each respective State and each such Tribal-State compact expressly

provides that the game may be conducted using a communication facility to transmit bets or wagers or information assisting in the placing of bets or wagers.

''(e) Nothing in this section prohibits the use of a communication facility for the transmission of bets or wagers or information assisting in the placing of bets or wagers, if—

''(1) at the time the transmission occurs, the individual or entity placing the bets or wagers or information assisting in the placing of bets or wagers, the gambling business, and any facility or support service processing those bets or wagers are physically located in the same State, and the State has a secure and effective customer verification and age verification system to assure compliance with age and residence requirements, and for class II or class III gaming under the Indian Gaming Regulatory Act, are physically located on Indian lands within that State;

''(2) the State or Tribe has explicitly authorized such bets and wagers;

''(3) the State has explicitly authorized and licensed the operation of the gambling business, any facility processing the bets and wagers, and the sup-

port service within its borders or the Tribe has explicitly authorized and licensed the operation of such gambling business, any facility processing the bets and wagers, and the support service on Indian lands within its jurisdiction;

''(4) with respect to class II or class III gaming, the game is permitted under and conducted in accordance with the Indian Gaming Regulatory Act;

''(5) with respect to class III gaming under the Indian Gaming Regulatory Act, the game is authorized under, and is conducted in accordance with, the respective Tribal-State compact of the Tribe having jurisdiction over the Indian lands where the individual or entity placing the bets or wagers or information assisting in the placing of bets or wagers, the gambling business, and any facility or support service processing those bets or wagers are physically located; and

''(6) with respect to class III gaming under the Indian Gaming Regulatory Act, each such Tribal-State compact expressly provides that the game may be conducted using a communication facility to transmit bets or wagers or information assisting in the placing of bets or wagers.

''(f) Nothing in this section creates immunity from criminal prosecution under any laws of any State or Tribe.

''(g) Nothing in this section shall be construed to prohibit an activity allowed under Public Law 95–515 (15 U.S.C. 3001 et seq.).

''(h) Nothing in this section authorizes activity that is prohibited under chapter 178 of title 28, United States Code.

''(i) When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, tribal or local law enforcement agency, acting within its jurisdiction, that any communication facility furnished by it is being used or will be used by its subscriber for the purpose of transmitting or receiving gambling information, in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States in violation of Federal, State, tribal or local law, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any common carrier for any act done in compliance with any notice received from a law

enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State, tribal, or local tribunal or agency, that such facility should not be discontinued or removed, or should be restored.

''(j)(1) A Federal, State, tribal, or local law enforcement agency, acting within its jurisdiction may, in a civil action, obtain injunctive or declaratory relief to restrain or prevent any person from paying or assisting in the payment of bets or wagers, or communicating information assisting in the placing of bets or wagers, in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States in violation of Federal, State, tribal, or local law.

''(2) No damages, penalty, or forfeiture, civil or criminal, shall be found against any person or entity for any act done in compliance with any notice received from a law enforcement agency.

''(3) Relief granted under paragraph (1) against an interactive computer service (as defined in section 230(f) of the Communications Act of 1934) shall—

''(A) be limited to the removal of, or disabling of access to, an online site violating this section, or a hypertext link to an online site violating this section, that resides on a computer server that such service controls or operates; except this limitation shall not apply if the service is violating this section or is in active concert with a person who is violating this section and receives actual notice of the relief;

''(B) be available only after notice to the interactive computer service and an opportunity for the service to appear are provided;

''(C) not impose any obligation on an interactive computer service to monitor its service or to affirmatively seek facts indicating activity violating this section;

''(D) specify the interactive computer service to which it applies; and

''(E) specifically identify the location of the online site or hypertext link to be removed or access to which is to be disabled.''.

Chairman SENSENBRENNER. Also without objection, this amendment in the nature of a substitute will be considered as an original bill for purposes of markup. That way we can have an additional degree of amendments as we are marking this up.

The gentleman from Virginia is recognized for 5 minutes.

Mr. WATT. Mr. Chairman, apparently, they didn't have enough copies. I would like to have a copy of it before we proceed.

Chairman SENSENBRENNER. The gentleman from Virginia will speak slowly for the next 5 minutes.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Mr. Chairman, as Members will recall, we had opening statements on this legislation last time. I will not go over all of the details of the bill except to say that it is needed to update a 1961 law that is badly out of date and to give law enforcement new tools to combat the 2000 offshore sites that are in everybody's living room and den and are available for a multitude of different types of gambling.

This amendment in the nature of a substitute contains three changes. First, the provision relating to injunctive relief with Internet service providers. This change makes clear that injunctions issued against interactive computer services to take down illegal gambling websites or websites containing hypertext links hosted by the ISP would issue only after notice, and a hearing would specify the service to which the order applies and provide enough information that the information—that the computer service could locate the site or hypertext link. These are the banner ads that you see all over the computer when you go online linking you to these offshore sites.

Law enforcement, upon notice and due process, would under this language be able to, upon an order of the court, require that these links be broken.

Secondly, it has a provision that was in the last bill that was omitted from this bill dealing with a term called "common pool wagering." it is a common practice as a bookkeeping matter when taking wagers on a pari-mutuel contest to include those wagers in a wagering pool established specifically for that contest and pay any winning wagers out of the same pool.

The transmission of information regarding the common pools is a purely technical activity. The current Wire Act permits the transmission of information assisting in the placing of bets or wagers on a sporting event or contest from a State where it is legal into a State where it is also legal. Language pertaining to common pool wagering was included in the previous version of this legislation which was overwhelmingly voted out of the Judiciary Committee and received a majority vote on the House floor but by oversight was left out of this bill. In the interest of not criminalizing activities that are legal under current law that language has been restored to the bill.

To address the concern that authority be restored to the States to control their own borders with regard to the enforcement of their gambling status, a new paragraph D was added to the bill which provides that the interstate transmission of wagers is permitted under certain enumerated provisions. This provision, however, does not authorize the transmission of bets or wagers between a State

and a foreign country, regardless of the legality of such bet or wagering in the foreign country.

Further, this provision recognizes that while some States may wish to permit wagering with other States, other States will prohibit such activity. Thus, this provision requires that, at the time of the transmission, such betting or wagering must either be, one, legal in the State where the gambling business is physically located, the State where the bettor is physically located, and the State where any facility processing of bets is physically located; or, two, legal on Indian lands in the State where the gambling business is physically located, on the Indian lands in the States where the bettor is physically located and on Indian lands in the State where any facility processing the bets is physically located.

Further, with respect to tribal gaming, such gaming must be authorized and conducted in accordance with the Indian Gaming Regulatory Act. This bill does not amend that act.

In the case of class 3 gaming, the respective tribal State compacts must expressly authorize that such gaming may be conducted using a communication facility. In addition, such gaming must be expressly authorized by the State and ensure that minors do not have access and that residency requirements are met. This provision does not repeal the prohibitions contained in the Professional and Amateur Sport Protection Act, PASPA, so it does not authorize the interstate transmission of bets or wagers on supporting events to or from a State where such wagering is currently not permissible in 49 States.

Mr. Chairman, this amendment is important. It maintains the focus of this legislation, which is to maintain the rights of the States, which historically have regulated gambling in this country, and it does so in such a way that it does not intrude upon or repeal rights that the States have bestowed to current, lawfully authorized gaming entities regulated by those States; and I urge my colleagues to adopt the amendment.

Chairman SENSENBRENNER. Are there amendments? Are there amendments?

The gentleman from Florida, Mr. Wexler.

Mr. WEXLER. Speaking on Mr. Goodlatte's amendment or our own amendments?

Chairman SENSENBRENNER. The order would be that amendments to the amendment in the nature of a substitute would be in order at this time.

Mr. WEXLER. I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to the amendment in the nature of a substitute to H.R. 3215 offered by Mr. Wexler.

Page 15, after line 19, insert the following:

(h) Nothing in this section prohibits the use of a communication facility for the transmission of bets or wagers or information——

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The amendment follows:]

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3215 OFFERED BY MR. WEXLER

Page 15, after line 19, insert the following:

"(h) Nothing in this section prohibits the use of a communication facility for the transmission of bets or wagers or information assisting in the placing of bets or wagers, if such bets or wagers—

"(1) are made in relation to an event described in section 3704(a)(4) of title 28; and

"(2) are expressly authorized, and licensed or regulated by the State in which such bet or wager is received.

Redesignate succeeding subsections and all cross references accordingly.

Chairman SENSENBRENNER. The gentleman from Florida is recognized for 5 minutes.

Mr. WEXLER. Thank you, Mr. Chairman.

As Mr. Goodlatte said, we had our opening statements some time ago; and I don't want to repeat in great detail what was said except to say this. This is an appeal to this Committee for fairness and equity. This is not a partisan issue. This is not an ideological issue. If you are against this bill because you don't want to extend opportunities for gambling, that is your business.

But what this bill does, despite Mr. Goodlatte's best intentions and despite the fact that Mr. Goodlatte has been courteous in hearing the objections of those who are concerned about lawful American businesses who are getting the shaft, the bottom line on this bill is, if we pass this bill, at the end of the game what is the effect is that horse track betting will be able to occur on the Internet, but

you won't be able to do dog track betting on the Internet, you won't be able to do Jai Alai fronton betting on the Internet.

And although Mr. Goodlatte says his bill and the substitute are neutral, that respectfully I don't believe is the case. Because there is now an exemption for casinos, which I support. That is fine. There is an exemption for lotteries. That is fine. But there is no—my view, but there is no explainable reason why we would say horse track betting is okay on the Internet—we, the Congress of the United States—but dog track and Jai Alai are out.

Now this is—we need to understand that the pari-mutuels, it is a competitive industry. That is the way it ought to be, good old-fashioned American capitalism. But what we are doing today would be no different than us saying to cellular phone companies, one company, you can use the newest, best technology but another company you are out of luck. We, the Congress of the United States, we are picking that company. And it would be no different from us telling Universal, you could have the fastest roller coaster in the world; but, Disney, I don't know, you are just not on our good side. You don't get it.

Well, what we have got here, a lawful American business, is dog tracks; Jai Alai, I have got them all in my area; horses, all of them. I want them all to succeed. But for the Congress of the United States to play Big Brother, turn capitalism up side down and say this lawful American enterprise, you are not going to be able to do Internet business on the Internet, but you, you other competitors, you will be able to do it, there is no explainable reason.

If this bill was simply a bill to regulate, prohibit, relieve the adverse consequences of offshore gambling, I would be totally for it. There would be no controversy. This thing would have passed months ago. But that is not what this bill is, with all due respect to the sponsor. This bill has become that plus a tremendous boondoggle for certain industries or portions of industries that have the favor of certain Members of Congress. With all due respect, I realize that dog tracks and Jai Alai frontons don't have the cachet of the horses, but the bottom line is they are a lawful American business. Thousands of Americans go to them.

This isn't Democrat or Republican. I believe Mr. Bilirakis has contacted Members of the Committee. There is an institution in Mr. Bilirakis' and Mr. Young's area that has been there for decades, and we effectively will put them out of business. Did they do anything wrong? No. Did they violate any State or Federal laws? To my knowledge, no. We just decided today what we might decide that if Mr. Goodlatte, with all due respect, has his way, sorry, dog tracks, you have been here for a long time, but we are not going to have you any more. Jai Alai, sorry you are out.

So I plead with this Committee, please, in fairness, either do one of two things: Either say no exemption, nobody gets them and nobody can do Internet gambling. But if you are going to let Internet gambling in one deal, then let them all do it. One or another, but don't pick and choose. This amendment would allow the dogs and Jai Alais, and I plead with you to be fair and even the score.

Thank you, Mr. Chairman.

Chairman SENSENBRENNER. Without objection, the page and line numbers are modified to read page 17, line 20, which is where this amendment fits in.

The gentleman from Virginia has something to say and is recognized for 5 minutes.

Mr. GOODLATTE. Indeed I do, and I appreciate the gentleman from Florida's kind words about our efforts to work with him, but he has completely mischaracterized the application of this bill to dog racing and Jai Alai. Because they are treated exactly the same way in this bill as every other form of legal gaming in this country.

What the gentleman is explaining about and what those supporters of dog racing and Jai Alai are trying to do is to use this bill to leverage the same status, not of casinos, not of lotteries, not of any of the other gambling entities but of the horse racing industry. Because horse racing has over the years passed several other free-standing bills in the Congress—the Thoroughbred Act, the Simulcast Act, a provision that was put in an appropriations bill in the last Congress, and this bill treats the dog racing and Jai Alai industry exactly the same as every other entity.

If a State wishes to allow a dog racing or Jai Alai entity to go online and they comply with the provisions of this bill that minors are not allowed to place bets, that they do not go across the borders of the State or any other State with which they have a cooperative agreement or they have explicit approval of their State legislature, they can do that. But that is the same thing that applies to every other legal gaming entity in the country.

This bill is designed to go after the 2,000 offshore sites. It gives law enforcement new tools to deal with them, and in the process it also modernizes the Wire Act. The Wire Act was written in 1961 to cover types of bets that were placed back then. Technology has changed. Types of betting has changed, and the Wire Act needs to be modernized. As you do that, you have to, of necessity, deal with every legal gaming entity to make sure that rights are not impacted.

The rights of dog tracks and Jai Alais are not in any way impacted by this bill. The gentleman wants them to be ahead of casinos and lotteries because, if his amendment were passed, he would be—he should seek separate legislation to do that. The Congress should not get involved in doing this. The fact that they have done it in past pieces of legislation should not cause this Committee to do that now, because it will open us open to other forms of gambling coming in and saying we want the same thing that the dogs and the Jai Alai have.

I urge my colleagues to oppose the amendment.

Mr. WEXLER. Would the gentleman yield?

Thank you, Mr. Goodlatte.

I only want each element of gambling to be treated exactly the same, nobody have any benefit from this Congress. It is true that in your description, however, of the modernization of the Wire Act that there is an exemption, and the exemption is for the horse industry.

Mr. GOODLATTE. Reclaiming my time, that is not correct. The bill does not attempt to repeal any previously existing State or Federal laws related to anything that any particular legal entity may have. That is why this bill is neutral.

Now the important point I think to make here is that you would be opening this up to further expansion, and that I think is the critical difference between your——

Mr. WEXLER. Will the gentleman yield?

With all due respect, I admit, Mr. Goodlatte, I would open up the bill to more gambling on the Internet. But, with all due respect, I wasn't the first person to open it up. The bill opens it up.

Mr. GOODLATTE. That is not correct. The fact of the matter is that, right now, under current law, these entities can and some do go online and take bets, including the dog racing industry, including the horse racing industry. And the fact of the matter is that that legislation deals with the issue in a fair and impartial manner.

Because everything that applies to horse racing in this legislation also applies to dog racing. But the fact that there are other State or Federal laws should not compel this Committee to get into the business of deciding what areas we should go into and what areas we should expand. The fact of the matter is that every State has different laws related to gambling. Forty-seven States have horse racing; 15 States have dog racing; vast majority of the States have lotteries; a few States have casino gambling; many States have Indian gaming. We have left it to the States to decide what they are going to allow.

That is what this bill does, and that is why I would hope that my colleagues would defeat this amendment.

Chairman SENSENBRENNER. The gentleman's time has expired.

So that Members can make their plans, there will be votes a little bit before 1:00 if things are running on schedule across the street. It is the Chair's intention to recess the Committee somewhere between 12:15 and 12:30 so that Members can grab some lunch and arrange their affairs before leaving town.

For what purpose does the gentleman from Massachusetts seek recognition?

Mr. FRANK. Strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. FRANK. In this case I wish that was literally the case. I wish what I was saying would be the last word on this bill.

I know people worked hard on it, but as I listen to the debate I have a great deal of admiration for the hard work and thoughtfulness of both of my colleagues, but I miss antiterrorism when we are talking about this. I must tell you that I think the amendment and the debate—there is a good reason why it shouldn't be in the bill. What are we going to decide? Whether dog racing is more like horse racing or blackjack and Jai Alai is more like harness racing or slot machines? It is none of our business.

I think there is a very simple principle we ought to follow here. If American citizens or legal resident aliens want to gamble, let them. What do you care? Why is it our business?

We have all these principles of libertarianism, of letting people make up their own minds and letting them make their own choices. Then we have this notion of let's not regulate the Internet, and all of a sudden it is gambling and those go out the window?

I have to say, on the ideological side, the conservatives don't like gambling, and religious people don't think it is a good idea. Some of my liberal friends, when I listen to them, it sounds like the conservatives talking about sex-oriented literature. They don't like anyone else to do it.

If you don't like it, don't do it. But don't change the laws and complicate the laws, and horse racing is in, and Jai Alai is out, and blackjack is off and gin rummy is I don't know where.

I am going to vote for the amendment because I will vote for any amendment that lets more people gamble than not, no matter what the Government tells them to do; and then I am going to vote against the whole bill.

I yield back the balance of my time.

Chairman SENSENBRENNER. The question is on the amendment offered by the gentleman from Florida, Mr. Wexler. Those in favor will say aye.

The gentleman from Utah, Mr. Cannon.

Mr. CANNON. Where are we? Are we voting right now or discussing——

Chairman SENSENBRENNER. The Chair tried putting the question on the Wexler amendment, but I guess you want to say something.

Mr. CANNON. I would like to say something.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. CANNON. Thank you, Mr. Chairman.

Let me first start by saying that we worked closely for some time now with the sponsor of this amendment and appreciate the open and can-do way we have spoken. We disagreed pretty much entirely, but while I was reading the substitute bill that we are about to vote on today I felt like I was listening to an alcoholic who was renouncing bourbon, Scotch and red wine but embracing vodka, white wine and beer.

I will get back to that in a moment, but the issue before this Committee—we have to deal with two things I don't particularly like, gambling and Internet regulation. As you know, I come from one of the three States where all gambling is illegal. Utah, along with Tennessee and Hawaii, does not pick and choose when it comes to gambling. We simply prohibit it.

Historically, most U.S. Gambling policy has focused on the rights of States to control the acceptance of wagers within their borders. If my constituents want to go to Nevada and gamble, that is up to them. But there are no legal gambling businesses in Utah. My constituents are not prohibited from gambling, but no one is allowed to accept bets in Utah.

A large part of the rationale is that the community wants to protect itself from things that often accompany gambling establishments—prostitution, organized crime and drugs. The Internet generally is about making geographic distance irrelevant. If someone in my district wants to do research at Georgetown University and then go shopping at L.L. Bean in Maine and video conference with a client in Tokyo, she can do all that from her desk in Provo. The Internet lets people do that, effectively closing the distance between those places.

The question before us is, what happens in a situation where we decide that we like those distances? Because, let's face it, the Internet can also take my constituents to a casino in Antigua just as easily as any of the places I mentioned before. So what do we do if the people of Provo, Utah, are visiting casinos in Antigua casinos via the Internet?

I find this myself disturbing because there are sound arguments to be made that communities need to be protected not only from gambling establishments but from gamblers themselves. We have to consider the possibility that if the Internet makes gambling easier then maybe the Internet needs to be regulated, as distasteful as I find that idea. The problem has been how to come up with a cure that isn't worse than the sickness.

This previous version of this bill in the last Congress proposed a particularly troubling solution, sought to effectively deputize ISPs and make them ensure that their customers couldn't access blacklisted sites. I am pleased to see those sponsors set aside that approach. Instead, the bill before you now provides a nonspecific injunctive authority to law enforcement along with a hold harmless provision for ISPs.

As a practical matter, there are two regulatory choke points for e-commerce: information and settlement. Since the IP provisions essentially rule out information to the choke point, that pretty much leaves settlement. And my understanding is that the financial institutions are going to have to watch certain transactions to effectuate the purposes of this bill.

My first reaction was one of concern with respect to this approach. I thought, if the U.S. proceeds to set the precedent for deputizing financial institutions in e-commerce regulations, then it is not hard to see how the EU will handle a Yahoo case or what Islamic countries will do if Amazon.com wants to advertize Salman Rushdie books. They will simply lean on credit card companies to work their will.

But equally troubling to me is this: Under the bill before us we are not banning Internet gambling. In fact, with the addition of the sponsor's amendment, we would legalize certain wagers that are illegal today. With the Goodlatte amendment, the bill would have carve-outs for interstate horse wagering and perhaps dog wagering, according to what the gentleman just said, interstate wagers on Jai Alai and lotteries and a brand new exemption for casino-style gambling. More States choose to authorize that. Hence my earlier reference to the selected alcoholic swearing off certain liquors but not others. Just as booze is booze, gambling is gambling.

Am I willing to step out on a slippery slope of Internet regulation to get rid of gambling on the Internet? I suppose the answer is a reluctant, yes, with some misgivings. But what I am not willing to do is go out on that same slippery slope and say that the people can bet via the Internet on some things but not on others.

This bill breaks with one of my core principles in that it renders illegal in cyberspace that which is legal in the brick and mortar world, and that precedent really bothers me. If you are going to get a little bit pregnant on this issue, I don't want to get into the business of deciding how people gamble online. If we are going down this path, I urge my colleagues to make sure we do so to prohibit all gambling online. It seems we must decide which is the lesser evil between Internet gambling and Internet regulation. Yet if we pass the bill before us now the simple answer is we will have both Internet regulation and Internet gambling.

I intend to offer an amendment which I confess is completely devoid of nuance. It is insensitive to the subtle differences among pari-mutuel gambling, Indian gambling, casino style and sports

book. Let's us decide simply and without obfuscation whether people should be allowed——

Chairman SENSENBRENNER. The time of the gentleman has expired.

Mr. CANNON. If I could ask for 20 more seconds.

Chairman SENSENBRENNER. Without objection.

Mr. CANNON. It would transform this bill from a mishmash of "maybe" to a simple "yes" or "no."

I urge my colleagues to support my amendment, oppose the underlying Goodlatte substitute; and I urge support of the people to thoughtfully proceed with this bill.

Chairman SENSENBRENNER. The question is on the Wexler amendment. No other amendments?

Mr. Barr.

Mr. BARR. Strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. BARR. I would like to yield to the gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. I will be brief. I want to respond to the gentleman from Utah.

The way this bill is crafted, the gentleman's concerns about the fact that Utah does not allow any form of gambling will continue to be there. There will be no opportunity under this bill for any legal gaming to take place in Utah. However, right now, there are 2,000 gambling sites available in Utah in everybody's living room from offshore sites that are unregulated, untaxed and illegal.

I say to the gentleman from Massachusetts, I appreciate his candor, which apparently is exactly the opposite from the gentleman from Utah, but the fact of the matter is that the entire history of our country we have allowed our States to regulate their gambling and they all have different approaches.

What this bill does is give those States the right to continue to do it. They have complained to us that the Wire Act is out of date. With these 2,000 offshore sites they cannot reach them with the current tools that are available to them. They are suffering loss of revenues with their lotteries. The States that do not have lotteries want to be able to get at the sites that are offering lotteries.

Each State needs to be able to decide for itself what it wants to allow and to enforce those laws that they have that prohibit certain types of gambling. That is what this bill does. It is not designed to pick winners and losers, and it does not pick winners and losers.

I would be happy to yield to the gentleman from New York.

Mr. BARR. Reclaiming my time. I yield back.

Chairman SENSENBRENNER. For what purpose does the gentleman from North Carolina, Mr. Watt, seek recognition?

Mr. WATT. Move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. WATT. Thank you, Mr. Chairman.

I want to rise in support of Mr. Wexler's amendment pretty much on the same theory that was advanced by Mr. Frank. Also want to associate myself with the comments of Mr. Cannon. They don't believe in gambling in Utah, so anytime anybody wants to

gamble they transfer a portion of the State into Nevada, which we just got through doing a bill on the floor.

Mr. CANNON. We appreciate the condescension of this Committee.

Chairman SENSENBRENNER. Would the gentleman yield?

Mr. WATT. I am happy to yield.

Chairman SENSENBRENNER. We can go all further and put all of Tooele County in Nevada, and that puts the State line 20 miles from Salt Lake.

Mr. CANNON. That is a pretty good idea, but I don't think this Committee has jurisdiction to take that big a step.

Chairman SENSENBRENNER. We can do anything we want as long as there are 218 votes over there.

Mr. FRANK. I want to respond to my friend from Virginia.

I am not persuaded about States interests here, but I am encouraged by his recognition that the States may need protection from the Internet. I just wish you would extend it to their ability to collect sales taxes. And maybe I will have to reconsider the notion. That we can now regulate the Internet in a very stringent way to protect States' rights would, of course, be an argument in favor of dealing with the sales tax issue. So I will have to reconsider, and maybe the precedential value of this is an argument for interfering with people's rights over the Internet to do whatever they want so we can enhance State power may give us a little leverage to get some sales tax collections.

Mr. WATT. Anyone else want me to yield to them?

I just want to make note of the irony of the bill we recently moved on suspension on the floor which transfers part of Utah into the State of Nevada for the purpose of giving the people in that part of the State the right to gamble and to have casinos. There is some irony about this, and I think it points up even more the kind of inconsistency that exists in this area.

I mean, we don't want to regulate the Internet for any purpose except when we start regulating the Internet for purposes that we don't like; and there is something wrong with that picture, I think. We don't want to take away the rights of individual citizens to do things that the Government doesn't have any overwhelming interest in taking away from them. Yet we are willing to if we don't like what citizens are doing in this particular area. Even though they might not be hurting anybody, we are going to get into that.

There is something very inconsistent with the arguments that get made when we start talking about gambling, and I just—I think we are on a slope that we can't define the parameters of. There is more than a slippery slope, and I just think we are making a mistake.

I am going to support Mr. Wexler's amendment, and I am going to vote against the bill for whatever purposes.

Ms. JACKSON LEE. Would the gentleman yield?

Mr. CANNON. Would the would the gentleman yield, since I don't have time any longer?

Mr. WATT. I would yield to Mr. Cannon, but Ms. Jackson Lee asked me to yield to her first.

Mr. CANNON. I think she can obtain her own time.

Ms. JACKSON LEE. I will be kind.

Mr. CANNON. Thank you for your kind words earlier. Let me associate myself with your words.

I have a problem in my State that hates pornography as well as gambling, but I don't think we ought to be regulating the Internet in that area. I want to associate myself with your comments about what we should and should not be regulating on the Internet. Thank you.

Mr. WATT. Yield back.

Chairman SENSENBRENNER. The time of the gentleman has expired.

For what purpose does is the gentleman from New York, Mr. Nadler, want to be recognized?

Mr. NADLER. Move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. NADLER. Let me just say if this bill passes I look forward with anticipation to the debate on the Committee with the next bill which I would assume we will see making it a crime to transport someone across State lines to gamble in a State where it is legal from a State where it is illegal. I think that is——

Is Mr. Goodlatte still here? I would ask the gentleman to yield for a question—or rather I will ask you a question. I suppose I will yield the time. I was listening to your last comment that, when you picked offshore gambling sites, it suddenly struck me how would this bill be enforced against offshore gambling businesses? In other words, we are not making it illegal. We are not going to send the police into somebody's home—aha, he is gambling on his computer. But if he is gambling we are going to shut down the businesses in the United States that are gambling through the Internet.

Mr. GOODLATTE. They are already shut down.

Mr. NADLER. How do we enforce this bill at all?

Mr. GOODLATTE. The purpose of this bill is to address those offshore sites by giving law enforcement new tools to deal with them. If they establish proof that an offshore site is illegally taking bets from U.S. citizens, they will have the ability to get an order requiring any hyperlinks for advertising to be broken on the Internet requiring that any entity facilitating the transfer of funds to the sites and also increases the penalties.

There has been one prosecution for sports betting of an offshore site where an individual entered the country and was arrested.

Mr. NADLER. So what the bill would do is to take away sort of collateral aids like the ability to collect money and so forth someone would just send in as gambling debts. This would stop you, the offshore gambling site, from being able to collect gambling losses from somebody.

Mr. GOODLATTE. It wouldn't entirely. Because somebody could be determined to send money by a circuitous route.

Mr. NADLER. If I am gambling on the Internet and I lost the bet and the it now says send $2,000 and send it through the mail, what with this bill do?

Mr. GOODLATTE. It would prohibit the bank from processing checks.

Mr. NADLER. So I write a check to offshore gambling or Offshore Enterprises, Inc., and my bank is supposed to know that there is something wrong with that check?

Mr. GOODLATTE. They wouldn't know that. What they would have is they would have an order from a court saying do not accept any financial transactions from this entity that is engaged in——

Mr. NADLER. Who would get that order?

Mr. GOODLATTE. That order would be served upon banks and credit card companies and——

Mr. NADLER. The district attorney would go into court and ask for such an order against Offshore Enterprises, Inc. based on what evidence?

Mr. GOODLATTE. Based upon the evidence that they had sat down at a computer and placed a bet from their location in their State in violation of this law and that State's law.

Mr. FRANK. On the other hand, from the consumer standpoint, it would appear to make the debt uncollectible.

Mr. NADLER. The consumer——

Mr. FRANK. A consumer who lost—you could bet and lose and kiss them off in cyberspace.

Mr. NADLER. But that would argue that offshore company might start finding it unprofitable to do business with bettors in the United States because they couldn't collect the bet, assuming, of course, that our district attorneys found that they had a lot of time to seek these orders and they weren't busy with terrorism and a lot of other things.

Mr. GOODLATTE. If the gentleman would yield.

The National Association of Attorney Generals was the first organization that came to us about this legislation because of the fact that, while they had historically been able to regulate gambling and enforce gambling laws within their States, when the site for it goes offshore they weren't able to do so and needed some new tools to do with that. They needed the law clarified.

Mr. NADLER. Reclaiming my time, I have one further question. The State has a lot of interest, obviously, in a normal gambling situation. Do you want to have casinos—do you want to have all the problems that go along with casinos and so forth—what is the State's interest in deciding whether someone sitting at a computer terminal can gamble offshore?

Chairman SENSENBRENNER. The gentleman's time has expired. Let me observe that this meeting has gone way away from the Wexler amendment.

Mr. NADLER. Could I ask for 30 seconds so he can answer?

Chairman SENSENBRENNER. Without objection.

Mr. GOODLATTE. The interest of the State is the traditional interest of the State in deciding whether they want gambling in their State or not. Those of us who are opposed to the gambling recognize the family problems, the organized crime, the problem with gambling addiction, bankruptcy and the whole host of things that come with gambling existing in your community whether it is because there is a casino in the community or whether it is because people are going online and engaging in the activity. So they have a historic interest in attempting to deal with this problem. We are simply giving them a tool to allow them to do that and modernizing the current law to make it clear that the——

Chairman SENSENBRENNER. The gentleman's time has expired.

For what purpose does the gentlewoman from Texas seek recognition?

Ms. JACKSON LEE. Recognizing the time, however, I move to strike the last word.

Let me say to the gentleman from Virginia that he knows I am impressed with his work, and I believe that any efforts to cease the person from drinking has some merit and maybe leave some of the others on the table, but I would hope that he could be a little bit more open-minded on this. He knows my concern about charitable entities who are attempting to raise money.

But I speak to Mr. Wexler's amendment in the context as well whether any of us want to take a bet on how old Jerry Nadler is today because this is his birthday. But, in any event, we wish him happy birthday.

But while Mr. Wexler's amendment—I hope that my colleague from Virginia could be a bit more open-minded because, as Mr. Wexler seems to say, this is an existing activity in his State. Am I hearing that correctly, Mr. Wexler?

Mr. WEXLER. Yes. Are you talking about dog track and Jai Alai? Yes.

Ms. JACKSON LEE. So what I am suggesting to the gentleman from Virginia is I am not sure where your motion—your substitute amendment is against what Mr. Wexler is saying. That you are talking about it can be a waiver, if I understand correctly. In any event, this is an existing activity in the State. So I would suggest to the gentleman, although I am impressed with your work, as you well know, and believe that the legislation has merit, I think that we are doing a disservice to the wholistic approach to the legislation by narrowing activity that already exists in States.

So I do support Mr. Wexler's amendment, and I am going to also ask the gentleman from Virginia to be more open-minded on a refined language that I am going to be offering. I have looked at your amendment language on allowing charities to be exempt at the end.

Mr. CONYERS. I want to announce I am going to call the previous question as soon as you finish.

Ms. JACKSON LEE. I am going to conclude Mr. Conyers, but I am interested in making this legislation go where we are trying to go, which is to save people's lives and assets and families and to bring some restraint to this process so that our children are not impacted negatively. But I think we do a disservice to the underlying mission of this legislation where we cut off a State's economic opportunity that is already existing and particularly when we cut off charities that have the ability, need the ability to raise money, particularly in these trying times.

With that, I yield back my time.

Chairman SENSENBRENNER. The question is on the amendment offered by the gentleman from Florida, Mr. Wexler. Those in favor will say aye. Opposed, no.

The ayes appear to have it.

Mr. GOODLATTE. I request for a recorded vote.

Chairman SENSENBRENNER. rollcall is requested. The question is on agreeing to the Wexler amendment. Those in favor will signify by saying aye; opposed, no.

The CLERK. Mr. Hyde.

Mr. HYDE. Aye.

The CLERK. Mr. Hyde aye.

Mr. Gekas.
Mr. GEKAS. No.
The CLERK. Mr. Gekas no.
Mr. Coble.
Mr. COBLE. Aye.
The CLERK. Mr. Coble aye.
Mr. Smith.
[No response.]
The CLERK. Mr. Gallegly.
Mr. GALLEGLY. No.
The CLERK. Mr. Gallegly no.
Mr. Goodlatte.
Mr. GOODLATTE. No.
The CLERK. Mr. Goodlatte no.
Mr. Chabot.
Mr. CHABOT. No.
The CLERK. Mr. Chabot no.
Mr. Barr.
Mr. BARR. No.
The CLERK. Mr. Barr no.
Mr. Jenkins.
Mr. JENKINS. No.
The CLERK. Mr. Jenkins no.
Mr. Cannon.
Mr. CANNON. No.
The CLERK. Mr. Cannon no.
Mr. Graham.
[No response.]
The CLERK. Mr. Bachus.
[No response.]
The CLERK. Mr. Hostettler.
Mr. HOSTETTLER. No.
The CLERK. Mr. Hostettler no.
Mr. Green.
Mr. GREEN. No.
The CLERK. Mr. Green no.
Mr. Keller.
Mr. KELLER. No.
The CLERK. Mr. Keller no.
Mr. Issa.
Mr. ISSA. No.
The CLERK. Mr. Issa no.
Ms. Hart.
[No response.]
The CLERK. Mr. Flake.
Mr. FLAKE. No.
The CLERK. Mr. Flake no.
Mr. Pence.
[No response.]
The CLERK. Mr. Forbes.
[No response.]
The CLERK. Mr. Conyers.
Mr. CONYERS. Aye.
The CLERK. Mr. Conyers aye.
Mr. Frank.

Mr. FRANK. Aye.
The CLERK. Mr. Frank aye.
Mr. Berman.
Mr. BERMAN. Aye.
The CLERK. Mr. Berman aye.
Mr. Boucher.
[No response.]
The CLERK. Mr. Nadler.
Mr. NADLER. Aye.
The CLERK. Mr. Nadler aye.
Mr. Scott.
Mr. SCOTT. Aye.
The CLERK. Mr. Scott aye.
Mr. Watt.
Mr. WATT. Aye.
The CLERK. Mr. Watt aye.
Ms. Lofgren.
Ms. LOFGREN. Pass.
The CLERK. Ms. Lofgren pass.
Ms. Jackson Lee.
Ms. JACKSON LEE. Aye.
The CLERK. Ms. Jackson Lee aye.
Ms. Waters.
Ms. WATERS. Aye.
The CLERK. Ms. Waters aye.
Mr. Meehan.
[No response.]
The CLERK. Mr. Delahunt.
[No response.]
The CLERK. Mr. Wexler.
Mr. WEXLER. Aye.
The CLERK. Mr. Wexler aye.
Ms. Baldwin.
Ms. BALDWIN. Aye.
The CLERK. Ms. Baldwin aye.
Mr. Weiner.
Mr. WEINER. Aye.
The CLERK. Mr. Weiner aye.
Mr. Schiff.
Mr. SCHIFF. Pass.
The CLERK. Mr. Schiff pass.
Mr. Chairman.
Chairman SENSENBRENNER. Aye.
The CLERK. Mr. Chairman aye.
Chairman SENSENBRENNER. Are there additional Members in the chamber who wish to cast or change their vote?
The gentleman from South Carolina.
Mr. GRAHAM. No.
The CLERK. Mr. Graham no.
Chairman SENSENBRENNER. The gentlelady from Pennsylvania.
Ms. HART. No.
The CLERK. Ms. Hart no.
Chairman SENSENBRENNER. The gentleman from Alabama.
Mr. BACHUS. No.
The CLERK. Mr. Bachus no.

Chairman SENSENBRENNER. The gentlewoman from California.

Ms. LOFGREN. Aye.

The CLERK. Ms. Lofgren aye.

Chairman SENSENBRENNER. Any additional Member who wishes to cast or change their votes?

If not, the clerk will report.

The CLERK. Mr. Chairman, there are 15 ayes and 15 nays.

Chairman SENSENBRENNER. The amendment is not agreed to, and the Committee will be recessed subject to the call of the Chair.

[Whereupon, at 12:20 p.m., the Committee was adjourned, subject to the call of the Chair.]

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The Committee met, pursuant to notice, at 10:06 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

Chairman SENSENBRENNER. The Committee will be in order.

The first item on the agenda, which is pending since the last markup, is H.R. 3215, the "Combatting Illegal Gambling Reform and Modernization Act."

Chairman SENSENBRENNER. At a previous meeting, the gentleman from Texas, Mr. Smith, on behalf of the Subcommittee on Crime, Terrorism, and Homeland Security, reported favorably on the bill H.R. 2315 with a single amendment in the nature of a substitute and moved its favorable recommendation to the full House. By order of the Committee, the Subcommittee amendment was considered as read and open for amendment at any point.

Also by order of the Committee, the amendment in the nature of a substitute offered by Mr. Goodlatte had been considered as read and open for amendment at any point and considered the original text for purposes of an amendment. At the last meeting, an amendment which was offered to the substitute failed on a tie vote. So pending at this time is the Goodlatte amendment in the nature of a substitute which is amendable.

Are there amendments to the Goodlatte amendment? The gentleman from Virginia, Mr. Scott?

Mr. SCOTT. I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 3215, offered by Mr. Scott, page 8, line 10, strike ",being engaged in a gambling business,"——

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The amendment follows:]

AMENDMENT TO H.R. 3215

OFFERED BY MR. SCOTT

Page 8, line 10, strike ",being engaged in a gambling business,".

Page 9, line 3, after "shall" insert ", if the person using the communication facility is engaged in a gambling business,".

Page 9, line 4, strike the period and insert ", or, in any other case, be fined under this title or imprisoned not more than one year, or both.".

Chairman SENSENBRENNER. The gentleman from Virginia is recognized for 5 minutes.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Chairman, this is a truth-in-legislating amendment. If we're going to combat illegal gambling on the Internet, this is the most effective way of doing it.

What this does is make it illegal to gamble on the Internet. The bill makes it illegal to run a gambling operation on the Internet. So essentially, if the bill passes, it's okay to gamble on the Internet as long as you can find a website.

Now, the way the Internet works, the website can be—the server can be located anywhere. It can be located in the continental United States. It can be in a friendly country. It can be in a rogue country, one we don't have diplomatic relations with. And if one—if this bill passes, what we've essentially done is to give a monopoly to websites in rogue nations.

This amendment really joins the issue are we going to prohibit gambling on the Internet or not. I would urge my colleagues to vote on the amendment.

Mr. GOODLATTE. Mr. Chairman?

Chairman SENSENBRENNER. The gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. Move to strike the last word.

Chairman SENSENBRENNER. The gentleman's recognized for 5 minutes.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Mr. Chairman, I must oppose this amendment. The intentions of the gentleman from Virginia may be good, although he seemed to express some other less opposing—made some other less opposing amendments—statements regarding offshore sites, but now he offers an amendment that would crack down on U.S. citizens who may participate.

The reason I oppose the amendment is that it's simply not necessary in Federal legislation. It has not been put into Federal law in the past. The current Wire Act doesn't contain such a thing, and there's a good reason for that. Virtually every State in the country has laws dealing with gambling within the borders of those States. The people participating on the Internet are individuals within the jurisdiction of the States. They have laws. They can enforce those laws and do enforce those laws and can enforce those laws on the Internet if they choose to do so.

So the gentleman's amendment is simply not necessary in terms of giving the States more power to crack down on gambling on the Internet, and that is the purpose of this legislation. They can pass or enhance or enforce the laws that already exist within each State.

Virtually all of the sites that we're attempting to deal with are offshore, and so the purpose of the legislation is to give more tools to law enforcement and to make the current Federal law clear that it applies to all the different types of gambling, including casino gambling, which the current Wire Act is not clear on, that these offshore sites may engage in.

So I would urge my colleagues to vote against this unnecessary amendment.

Ms. LOFGREN. Mr. Chairman?

Chairman SENSENBRENNER. For what purpose does the gentlewoman from California seek recognition?

Ms. LOFGREN. To strike the last word.

Chairman SENSENBRENNER. The gentlewoman's recognized for 5 minutes.

Ms. LOFGREN. It seems to me that the argument made by our colleague, Mr. Goodlatte, is defective because the whole thrust of this bill is to insert the Federal Government into regulation of gambling. As someone who is not a fan of gambling, in fact, the few times that gambling interests have inadvertently sent me campaign contributions, I send them back. I mean, I'm not believing that gambling is a good thing for individuals or communities.

And so I really think that the amendment offered by Mr. Scott is in keeping with the bill and would yield further to Mr. Scott.

Mr. SCOTT. Thank you. I appreciate the lady yielding.

The way the bill is operated, if the bill were to pass and a State were to make gambling on the Internet legal, the people in the State wouldn't have any websites to gamble on. They'd have to gamble on sites run by rogue nations. There'd be no ability to control the gambling, to regulate the gambling, as it is in every State now, or even to tax the gambling, because all of the sites by virtue of this bill have been given—the rogue States have been given a monopoly. And that's why if we're going to do anything, if we're going to make gambling on the Internet illegal, let's do it. If we're not going to make gambling on the Internet illegal, let's not pass the bill.

Mr. GOODLATTE. Would the gentlewoman yield?

Ms. LOFGREN. I would yield.

Mr. GOODLATTE. The gentleman states the current condition, not what would happen under this law. The current condition is that virtually all of these sites are offshore. Any State that chooses to regulate Internet gambling and can meet the criteria of the bill, which are no minors allowed to engage in it, no participation—no allowing that participation to go beyond the boundaries of the State, and having explicit authorization from the State legislation, can do that, and the fact of the matter is that that's what a State can choose to do. But they certainly do not have the ability now to reach these offshore sites, and that's what this legislation is designed to do.

The gentleman's amendment is not needed because they can reach those individuals within their States that might participate in illegal betting because they're all within the jurisdiction of the State and the State has complete control over the laws it passes and enforces to do so.

I yield back to the gentlewoman.

Ms. LOFGREN. I would yield further to Mr. Scott.

Mr. SCOTT. I would just say further that someone who suggests you are going to make intrastate website, my view is that's technologically impossible, and I would hope that we would pass the amendment or defeat the bill.

I yield back.

Ms. LOFGREN. And I would yield back. Thank you, Mr. Chairman.

Mr. CANNON. Mr. Chairman?

Chairman SENSENBRENNER. The gentleman from Utah?

Mr. CANNON. Thank you, Mr. Chairman.

I was wondering if the gentleman from Virginia would explain his enforcement mechanism a bit more. I think we were in the middle of that discussion in our last markup.

You've indicated that there are two enforcement methods in the bill. Would you mind explaining those, especially the hyperlinking, the injunction against the ISP or the website that would affect the hyperlinking?

Mr. GOODLATTE. Yes. I'm not sure it's pertinent to the gentleman from Virginia's amendment, but I'd be happy to explain that.

The process is one in which law enforcement upon notice and due process would, through a court proceeding, obtain an order requiring any entity that is aiding and abetting an offshore site from engaging in illegal activity in the United States, which would be clearly illegal under this bill, to prohibit them from engaging in activity. With regard to Internet service providers, that is specifically spelled out in the bill as a—essentially a notice and takedown provision where the entity that is allowing this offshore site to hyperlink on their server; in other words, if you go on to a particular page on their site and it has a big banner ad for gambling.com in Antigua and you click there and suddenly you're able to engage in gambling with them, upon notice and due process and a court order, that Internet service provider would be required to break that hyperlink.

Mr. CANNON. So——

Mr. GOODLATTE. Take down that banner ad.

Mr. CANNON.—would that not be a relatively significant burden on smaller ISPs and, therefore, competitive advantage to larger ISPs?

Mr. GOODLATTE. I don't believe it would because it would affect all of them in the same way and would be a requirement that——

Mr. CANNON. Well, reclaiming my time, the question is: Small ISPs don't have the resources, but a State Attorney General or any other law enforcement agency acting under this bill could easily just add even a very small ISP to the list of people who were given notice. A small ISP is going to have a hard time attending a hearing, having counsel there, and then it will have a relatively significant cost in complying, would it not?

Mr. GOODLATTE. I don't believe so because all of the burden of proof in that regard is on the law enforcement entity.

Mr. CANNON. Except my point is not as to burden of proof. My point is to the burden—the economic burden that we would be placing on small ISPs who would have to hire someone essentially, if this is an effective law enforcement tool, to work to sever hyperlinks through their server.

Mr. GOODLATTE. I think they would—since they—since they had the—they created the link on their server in the first place, they can easily take down the link.

Mr. CANNON. But the link is done automatically. It's done without any human intervention. The severing of the link would require human intervention, would it not?

Mr. GOODLATTE. It would, but it certainly wouldn't involve a great deal of time or effort, about the same amount of time and effort it took to put up the link in the first place.

Mr. CANNON. No, no. The link goes up automatically the way our system currently works on the Internet. But to hire a person, especially for a small ISP, to hire a person to implement court orders in this regard seems to me to be—that's not going to cause AOL any kind of problem, but AOL will get a huge advantage if small ISPs can't—can't comply and they're, therefore, under legal burden, in other words, some kind of problem if an ISP didn't——

Mr. GOODLATTE. If the gentleman would yield further, I think the gentleman misunderstands the procedure. If it gets on to their server because somebody who is doing business with them connected with AOL, it is not that small Internet service provider's responsibility. It is only the host of the——

Mr. CANNON. No——

Mr. GOODLATTE.—site that is the problem.

Mr. CANNON. Let me clarify because it's really—I'm sorry. Are you saying it is only the host that has the—so what if somebody hosts their own site and they're in Antigua and there's no——

Mr. GOODLATTE. But they're in—if they're doing business in the United States, they're subject to the court order of the United States. If they're—if they're outside of this country, then that particular provision will not help law enforcement.

Mr. CANNON. So does this—does your provision affect ISPs? I think you explained just a moment ago that it did.

Mr. GOODLATTE. Yes.

Mr. CANNON. So an ISP would have to sever its hyperlink to a server in Antigua, which means that a small ISP has the burden, would incur a fairly significant burden, a burden we probably can't

even imagine at this point in time, to keep up with—with whoever tries to stop gambling from happening on the Internet. Is that—isn't that the case?

Mr. GOODLATTE. I do not believe it is burdensome at all, and I will tell you that there are two trade associations that represent Internet service providers, and both of them support this bill.

Mr. CANNON. Sure, and those—but may I suggest, reclaiming my time, that those service—united service provider organizations are dominated by large Internet service providers, like AOL.

On the other hand, if you've got a hyperlink, you're not going to stop anybody from gambling who wants to, because if you get a pop-up ad and you click on the ad and it doesn't take you to the site, it clearly is the kind of thing you can type the address in from the ad.

Chairman SENSENBRENNER. The time——

Mr. CANNON. Thank you. I yield back my time.

Chairman SENSENBRENNER.—of the gentleman has expired.

The question is on the——

Mr. WATT. Mr. Chairman?

Chairman SENSENBRENNER. The gentleman from North Carolina?

Mr. WATT. Move to strike the last word.

Chairman SENSENBRENNER. The gentleman's recognize for 5 minutes.

Mr. WATT. Mr. Chairman, I think I'm going to reluctantly rise in support of Mr. Scott's amendment, not because I believe we should make gambling illegal, but because I think it's really the only way to force a confrontation with the real issue that this bill presents to us.

I was trying to think of an appropriate analogy. I suppose this bill would be like making it illegal to distribute drugs in our country, yet not making it illegal to use drugs in our country. That's about the closest analogy I think I can get to this. And maybe that would have some rationality, but it just seems to me to be kind of double-faced to not go at this in a more direct fashion. And if we are going to say that gambling is somehow bad, then it seems to me that we have the capacity, a much, much easier capacity, I might add, to get to people who are—identify and get to people who are gambling on the Internet than we will ever have to get to people who are using drugs.

Maybe we don't think that the offenses are comparable to each other, but if we don't, then I don't know why we are going out of our way to do this bill and make the provision of the process itself somehow illegal to people. If what we're trying to get at is—is people gambling, then I think there is a much, much more direct way to go at that than the bill would undertake.

I yield to Mr. Scott. I think he wants me to yield to him. He'll either help me or hurt me.

Mr. SCOTT. Thank you, and I thank the gentleman for yielding.

In response to the gentleman from Utah and the problem of tracking down this problem through the hyperlinks and all that, the easiest way to do it is to prohibit gambling. That way people who gamble on the Internet know they might get busted, and, therefore, they would not gamble. And they could get busted because if the Federal Government ever gets hold of one of these

sites, the site in plea bargaining can turn over its list. And so everybody that's gambled on that site would be exposed to prosecution and, in fact, you'd never know when you're dealing on the Internet with a foreign site or a domestic site or on an FBI site or an entrapment site. You don't know. So that would do something about gambling on the Internet, and those people that wanted to gamble can get caught.

The present situation, with all the back and forth and the hyperlinks and the small ISPs and the big ISPs, that is not an efficient way of dealing with the problem of gambling on the Internet, and I thank the gentleman——

Mr. FRANK. Would the gentleman from North Carolina yield?

Mr. WATT. I yield to the gentleman from Massachusetts.

Mr. FRANK. I just would summarize what my friend from Virginia said, which would be under these circumstances, if you decided to gamble, you'd be taking a chance. [Laughter.]

Mr. WATT. A rather profound statement. And I think what this amendment would do is up that chance a little bit.

Let me be clear. If this amendment passes, I'm going to vote against the bill. If the amendment fails, I'm going to vote against the bill. [Laughter.]

Mr. WATT. So I at least want to make honest and full disclosure about my intentions here. I just think this amendment makes us face the real underlying issue, and it—there's something about honesty in this process. I mean, we really need to be honest about what we're trying to do, face up to—to it, and if we're not going to do it, don't do it; if we are going to do it, let's do it the most effective way. And this seems the most effective way.

Chairman SENSENBRENNER. The gentleman's time has expired.

For what purpose does the gentleman from Wisconsin, Mr. Green, seek recognition?

Mr. GREEN. Move to strike the last word.

Chairman SENSENBRENNER. The gentleman's recognized for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman.

I agree with my colleague, Mr. Watt, about the importance of this amendment as a way of fleshing out some of the enforcement issues that are, I think, important to this bill.

What I'd like to do with the rest of my time is to yield to Mr. Cannon. I know he has some questions that he would like to pose?

Mr. CANNON. Thank you, Mr. Green. And let me also say that I agree with Mr. Watt. I am going to vote the same way he does on everything on this bill, it looks like. And I'm going to support the current amendment.

The current amendment is dealing with the lack of enforcement or the lack of clarity in enforcement, and, therefore, I think the questions of how we enforce are critical. I can't imagine anybody on this Committee voting in favor of this bill without understanding the enforcement mechanisms, and I think in our last colloquy here, we did not come to some clarity either as to how we do the hyperlinking—and we haven't even begun to talk about the financial instruments. So if I could ask the gentleman from Virginia to just walk me through who gets an injunction and who has the burden of responding to an injunction and what the effect of an injunction is on somebody who wants to gamble. If you could do

that in a minute or so, I'd appreciate it because I have other questions about the financial instruments.

Mr. GOODLATTE. Sure. Well, first, let me say to all of you concerned about these laws for the States, every State that I'm aware of, including the State of Utah and the State of Wisconsin, already have laws prohibiting individuals from engaging in gambling in those States.

But with regard to your question about the enforcement mechanism, a law enforcement officer, a local prosecutor, a State Attorney General, or a Federal prosecutor, would upon notice in a court of appropriate jurisdiction bring forth evidence that an entity in the United States is engaged in facilitating, enabling one of these offshore sites from participating in gambling, and upon proof of that, a court would order them to discontinue engaging in that activity of facilitating the offshore site's being able to do business with U.S. customers.

Mr. CANNON. Just as a sidebar, about less than—fewer than half the States have laws that prohibit the accepting of wagers, as I understand it. So if I wanted to gamble and I was sitting at my computer and a pop-up window came up saying gamble at this site, would the ISP that serves me have to sever the link on that pop-up window?

Mr. GOODLATTE. That's correct, if they have a court order requiring that to be done.

Mr. CANNON. And so if the pop-up window says you may not be able to click on this link and get to the site because of a Federal law, but there's nothing wrong—nothing illegal about doing it if you type in the address, www.youcanbet.com, seven or eight letters, not a hard thing to do——

Mr. GOODLATTE. That's correct.

Mr. CANNON.—is this going to stop much gambling?

Mr. GOODLATTE. Yes, it will, because it is the advertising that obviously attracts folks to those major U.S. sites upon which they can find a lot of customers.

Mr. CANNON. Except that—reclaiming my time, in this case you've got only four or five or six or seven letters you'd have to type in to get to the site. And if you had that site already bookmarked in your favor, you could click that site and it would not stop the connection to the Internet gambling site; is that——

Mr. GOODLATTE. That's absolutely correct.

Mr. CANNON. Having established—in other words, this seems to me to be highly ineffective for doing what we need to do. And Mr. Scott's amendment at least is direct about doing that. Let me——

Mr. GOODLATTE. But Mr.——

Mr. CANNON. But that's not the only enforcement mechanism. We're also dealing with financial services, and, of course, I expressed myself last year on this issue and will again say that I'm deeply reluctant to be—to be involved in ways that—that make our—that burden the system of commerce that we have.

How would—how does your—your system work in regard to the financial instruments?

Mr. GOODLATTE. It is similar to the measure that has already passed out of the Financial Services Committee by an overwhelming vote, but it is different in that it is more generic in its nature. That was more specifically tailored to financial entities like

credit card companies, PayPal, Western Union, so on. But this would apply to anybody who was legally—I'm sorry, illegally betting on an offshore site.

Mr. CANNON. Reclaiming my time, if I get online and decide to place a bet and I decide to do that with a checking account or check drawn on my bank, Wells Fargo Bank, how—how does that—how does the law enforcement mechanism stop that transaction from being completed?

Mr. GOODLATTE. It may or may not stop that transaction from being completed. It is more likely to be successful with credit cards because the credit card company will be notified that this particular offshore site is engaged in illegal activity in the United States, and they will discontinue.

You may have noted——

Chairman SENSENBRENNER. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from Virginia, Mr. Scott. Those in favor will say aye? Opposed, no?

The ayes appear to have it.

Mr. GOODLATTE. Mr. Chairman, I ask for a recorded vote.

Chairman SENSENBRENNER. A recorded vote is asked for. The question is on agreeing to the amendment offered by the gentleman from Virginia, Mr. Scott. Those in favor will as your names are called answer aye, those opposed no, and the clerk will call the roll.

The CLERK. Mr. Hyde?

[No response.]

The CLERK. Mr. Gekas?

Mr. GEKAS. No.

The CLERK. Mr. Gekas, no. Mr. Coble?

Mr. COBLE. No.

The CLERK. Mr. Coble, no. Mr. Smith?

[No response.]

The CLERK. Mr. Gallegly?

[No response.]

The CLERK. Mr. Goodlatte?

Mr. GOODLATTE. No.

The CLERK. Mr. Goodlatte, no. Mr. Chabot?

Mr. CHABOT. No.

The CLERK. Mr. Chabot, no. Mr. Barr?

Mr. BARR. No.

The CLERK. Mr. Barr, no. Mr. Jenkins?

[No response.]

The CLERK. Mr. Cannon?

Mr. CANNON. Aye.

The CLERK. Mr. Cannon, aye. Mr. Graham?

[No response.]

The CLERK. Mr. Bachus?

[No response.]

The CLERK. Mr. Hostettler?

Mr. HOSTETTLER. No.

The CLERK. Mr. Hostettler, no. Mr. Green?

Mr. GREEN. Aye.

The CLERK. Mr. Green, aye. Mr. Keller?

Mr. KELLER. No.

The CLERK. Mr. Keller, no. Mr. Issa?

Mr. ISSA. No.
The CLERK. Mr. Issa, no. Ms. Hart?
Ms. HART. No.
The CLERK. Ms. Hart, no. Mr. Flake?
Mr. FLAKE. Aye.
The CLERK. Mr. Flake, aye. Mr. Pence?
[No response.]
The CLERK. Mr. Forbes?
Mr. FORBES. No.
The CLERK. Mr. Forbes, no. Mr. Conyers?
[No response.]
The CLERK. Mr. Frank?
Mr. FRANK. Aye.
The CLERK. Mr. Frank, aye. Mr. Berman?
[No response.]
The CLERK. Mr. Boucher?
[No response.]
The CLERK. Mr. Nadler?
Mr. NADLER. No.
The CLERK. Mr. Nadler, no. Mr. Scott?
Mr. SCOTT. Aye.
The CLERK. Mr. Scott, aye. Mr. Watt?
Mr. WATT. Aye.
The CLERK. Mr. Watt, aye. Ms. Lofgren?
[No response.]
The CLERK. Ms. Jackson Lee?
Ms. JACKSON LEE. No.
The CLERK. Ms. Jackson Lee, no. Ms. Waters?
Ms. WATERS. Aye.
The CLERK. Ms. Waters, aye. Mr. Meehan?
Mr. MEEHAN. Aye.
The CLERK. Mr. Meehan, aye. Mr. Delahunt?
[No response.]
The CLERK. Mr. Wexler?
Mr. WEXLER. Aye.
The CLERK. Mr. Wexler, aye. Ms. Baldwin?
Ms. BALDWIN. Aye.
The CLERK. Ms. Baldwin, aye. Mr. Weiner?
[No response.]
The CLERK. Mr. Schiff?
Mr. SCHIFF. Aye.
The CLERK. Mr. Schiff, aye. Mr. Chairman?
Chairman SENSENBRENNER. No.
The CLERK. Mr. Chairman, no.
Chairman SENSENBRENNER. Are there additional Members who wish to cast or change their votes? The gentlewoman from California?
Ms. LOFGREN. Aye.
The CLERK. Ms. Lofgren, aye.
Chairman SENSENBRENNER. Additional Members who wish to cast or change their votes? If not, the clerk will report.
The CLERK. Mr. Chairman, there are 12 ayes and 13 nays.
Chairman SENSENBRENNER. And the amendment is not agreed to.
Are there further amendments?

Ms. JACKSON LEE. Mr. Chairman, I have an amendment at the desk.

Chairman SENSENBRENNER. The gentlewoman from Texas. The clerk will report the amendment.

The CLERK. Amendment to the amendment in the nature of a substitute to H.R. 3215, offered by Ms. Jackson Lee. On page 5, line 10——

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The amendment follows:]

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3215
OFFERED BY MS. JACKSON-LEE

On page 5, line 10, insert:

"(viii) any bet or wager made on any bingo game. lottery, or similar game of chance conducted by or on behalf of an organization exempt from tax under paragraph (3) of subsection (c) of section 501 of the Internal Revenue Code of 1986, as amended.

Chairman SENSENBRENNER. The gentlewoman from Texas is recognized for 5 minutes.

Ms. JACKSON LEE. I thank the Chairman very much.

The intent of the revised H.R. 3215 that was revised from H.R. 3125 I believe is to provide restraint. One of the reasons that I have not disagreed necessarily with my good friend from Virginia, Mr. Scott, was because the amendment that I now offer is an offer—is an amendment of restraint. And I'd ask Mr. Goodlatte to seriously consider this language in this amendment dealing with charities—charities that have existed for years and years and years, such as the bingo game, the lottery, or other games of chance.

It is well known that 3215 does not make it illegal that individuals—for individuals to gamble. And the ability of the Internet providers to close down a website and open another with the same customers or contacts, shutting down illegal operations, would seemingly be to no avail.

So we're going to have to work, as this bill moves to the floor, on the enforcement aspect of this legislation. This is particularly the case if there are rogue organizations, operations that are run by operatives of a rogue organization, including some countries. The bill's prohibitions are still applicable only to gambling and not to individuals.

It seems quite obvious that lotteries and other entities that have brought about charitable contributions to communities should be allowed in this particular legislation. And so my amendment is quite simple. It would extend current Federal law regarding charitable gambling to the Internet. The amendment would allow charitable organizations to do on the Internet exactly what they can currently do off the Internet: raise funds for their charitable activities. Charitable organizations are presently permitted under Federal law and the law in 46 States to conduct bingo, lotteries, and similar games of chance, provided that the proceeds are dedicated to a charitable purpose.

In 2000, nonprofit charitable organizations raised almost $770 million for their charitable activities through gambling, including bingo, lotteries, pull tabs, and raffles. This represents only about 4 percent of all legal gambling in the United States, but it's hugely important to charities. Charities are treated differently in several sections of Federal law because they are different. Bona fide charities that register with the Internal Revenue Service are given tax-exempt status. The charitable distinction has already been recognized by Congress in 18 U.S.C. Section 1955, which explicitly exempts from Federal prohibition and penalties against illegal gambling business any bingo game, lottery, or similar game of chance conducted by a charity.

Extending the charities' privileges in current law to the Internet is not an academic point. It is critically important to charities in congressional districts around the country. The Rotary Club in Naperville, Illinois, in Speaker Hastert's district, operates a raffle on the Internet. Tickets cost $100, and the top prize is a new house with a value of $175,000. The raffle nets the Rotary Club of Naperville as much as $750,000 annually for its charitable purposes. The raffle solicits participants from a national and international audience who use credit cards to play.

Under this bill, the Rotary Club of Naperville would have to stop its successful fundraising effort. Realistically, there is no other means of fundraising that can result in such a large amount of money to raise for charities at such a low cost. The money could probably not be replaced.

Many charities are seeking new ways to expand their fundraising activities to maintain their charitable activities. Internet charitable lotteries represent a low-cost way for charities to raise necessary funds in the face of competition for profit gambling operators.

It is essential for charities in the United States that an amendment like the one I'm proposing be included in this bill. It is not enough to allow local charities to raise money interstate online via lotteries and raffles. That solution ignores the way that the Internet actually works. Any charity that seeks to raise money via games online will be accessed by people from all over the country and the world.

Let me just say also to the response or the issue raised by Mr. Goodlatte that we would open this up to any kind of bootleg charity. I would offer to amend this amendment and say quite the contrary. I think, first of all, most people would see through that, but, in fact, I'd offer to amend this particular amendment to indicate that the charity had to be in existence for 10 years. And I would ask unanimous consent to do so.

But I would ask my colleagues to consider——

Chairman SENSENBRENNER. The time of the gentlewoman has expired.

Ms. JACKSON LEE. I'd ask my colleagues to consider the amendment that I have just offered.

Chairman SENSENBRENNER. For what purpose does the gentleman from Virginia seek recognition?

Mr. GOODLATTE. Move to strike the last word.

Chairman SENSENBRENNER. The gentleman's recognized for 5 minutes.

Mr. GOODLATTE. Thank you, Mr. Chairman.

First, I thank the gentlewoman for the seriousness with which she has approached this legislation and her attempt to address this issue with regard to charitable gaming. We have looked at it very carefully as well, but we have some additional concerns beyond the one that the gentlewoman just mentioned.

The first one is that because of the nature of the amendment, it would allow a charitable organization to take bets from anywhere in the country, whether or not the State in which the bettor was placing the bet authorized or recognized that particular charity or not, so that virtually every State in the country, whether it be Utah or any other State that has severe restrictions on participation in various types of gaming.

The second problem that we have with it is that it would remove from the purview of the States the ability to determine what types of charitable gaming they would allow within their particular State and make that essentially a Federal question defined by the Internal Revenue Code, and for those reasons I have to oppose the amendment. But I certainly would offer to work with the gentlewoman to attempt to find a way to make sure that within the confines of States that authorize it and recognize it, charitable gaming is—is able to participate on an equal footing with other types of gaming. That is the intention of the current law—that is the intention of the bill as it's drafted, that the same provisions that would pertain to any other form of legal gaming would also pertain to charitable gaming.

This amendment, however, would expand that and allow them into States that do not want that particular type of gaming to take place and for organizations that a particular State may not recognize.

Ms. JACKSON LEE. Would the gentleman yield?

Mr. GOODLATTE. I would be happy to yield.

Ms. JACKSON LEE. I appreciate the gentleman's analysis of the amendment, but what I would offer to the gentleman, that these are charities that come under Federal law of the tax-exempt status, which is 501(c)(3). So, therefore, the idea of States not wanting particular charities to be within, they have already—these particular charities already have a Federal exemption; therefore, they have been approved at a higher level than the State. And these are charities. I cannot imagine that the States would be rejecting charitable efforts to raise moneys that had a legitimate 501(c)(3) tax-exempt status. And, therefore, we would—I beg to differ that that would create a major problem.

If such did occur, I believe that we could readily remedy that by going back and amending the legislation. But what you're doing now is you're giving an unequal status to existing charities that have done good. And I appreciate the gentleman's offer to look at this matter, but I think you have a whole constituency of individuals—what we're trying to do is restrain and restrict. You're not eliminating. And I think you should give strong consideration to what we might be doing to a very good body of work that we have all benefited from, and that is the charities that are in our respective communities that have helped those who are in need.

Mr. ISSA. Would the gentleman yield?

Ms. JACKSON LEE. I have the time——

Mr. GOODLATTE. I would yield to the gentleman.

Mr. ISSA. Very quickly——

Ms. JACKSON LEE. I yield back.

Mr. ISSA. The gentlelady's comments are well thought out and I'm sure well intentioned. But I would remind the gentlelady that the Holy Land Foundation, which funded terrorist activities in the Middle East, was a 501(c)(3). I don't believe that the standard for the Federal Government to give a 501(c)(3) is much more—I know that it is not much more than filing a piece of paperwork and waiting for a return saying you're approved, and that it is not a standard of charity but, rather, a tax request.

I'd yield back.

Mr. GOODLATTE. Reclaiming my time, very briefly, the gentleman makes a very valid point. We do not have a Federal gaming commission that would oversee what charities might be legitimately engaged in this and what might not. States do have the opportunity to review that, and I believe it would be best to leave it at the State level. But I am willing to continue to work with the gentlewoman regardless of the outcome of this.

Mr. FRANK. Mr. Chairman?

Chairman SENSENBRENNER. For what purpose does the gentleman from Massachusetts seek recognition?

Mr. FRANK. Mr. Chairman, I just have to note what this amendment and the debate about it reveals, which is, it seems to me, kind of a flawed premise at the heart of this bill. What we have been motivated by is the notion that gambling is a bad thing, and we have heard about the harm that results from gambling and why people shouldn't gamble. But now we're told—and I'm not sure I'm even going to vote on the amendment—it's okay if someone is doing a bad thing for a good purpose. I mean, there's just this fundamental contradiction. If gambling has all these evils, why is it then okay if it's being done for a good purpose? I can't think of anything else, any other activity that I think ought to be banned that I would make an exception if it was being done by a charity. I mean, there's just this fundamental problem I have here. Do people really thing gambling is bad?

And then the question is, well, then there's also this real breach in what I would have hoped would have been the general principle that said American citizens can do what they want as long as they're not doing some harm to somebody else.

If it's okay to gamble on behalf of a charity, why is it not okay to gamble in general? Are we then, as the Congress, telling American citizens, look, here's this thing we don't like you to do, but we'll make an exception if you do it for a good cause? Well, why is it our business to tell people they can do this if it's for a good cause but they can't do it if it's for making money? Which I thought many of the Members of this Committee thought was also a good cause.

I think charities have a very important purpose, but I think this just shows the fundamental lack of a coherent rationale for this whole approach. Again, if it's a bad thing, why is it okay if it's done for a good cause? And if it's not a bad thing, why are we telling people they can't do it? And why are we conditioning this right of Americans—and I know people say, well, we're just trying to enforce State laws. But, you know, we've had this before. There are other arguments that State laws can be more easily evaded be-

cause of the Internet. We've had this debate about the sale of wine. We've had it about sales tax enforcement. We haven't had a consistent position on making sure that the Internet is restricted if it offers some way to evade State law.

Obviously, an anti-gambling motive is a large part of this bill. Many of the advocates, much of the rhetoric has to do with people not liking gambling. And given that, well, I want to help charities, I literally do not understand what the logic is of saying that here is this terrible activity that's really so destructive that people shouldn't engage in it and it's illegal, unless they're doing it for a good cause and then it's okay. And I think that, as I said, this amendment and the kind words being said about on all sides really go to a fundamental flaw in the rationale for the bill.

I yield back.

Mr. GEKAS. Mr. Chairman?

Chairman SENSENBRENNER. For what purpose does the gentleman from Pennsylvania seek recognition?

Mr. GEKAS. Move to strike the last word.

Chairman SENSENBRENNER. The gentleman's recognized for 5 minutes.

Mr. GEKAS. I fear that this amendment is pandering to Pandora by wandering into several different avenues born out of the subject matter, namely, gambling. And because I have always believed from the start that the Goodlatte bill, the basic structure is tight enough and narrow enough and lean enough to accommodate the attempt to correct a serious problem, I will defend that bill against all the amendments that I believe will open end it to its own destruction.

I yield back the balance of my time.

Chairman SENSENBRENNER. The question is on the amendment. All——

Mr. WATT. Mr. Chairman?

Chairman SENSENBRENNER. The gentleman from North Carolina?

Mr. WATT. I move to strike the last word.

Chairman SENSENBRENNER. The gentleman's recognized for 5 minutes.

Mr. WATT. I want to join with Mr. Frank's comments, but I would also add to his comments that there are a couple of other areas where this whole approach seems to me to be entirely inconsistent with what—with the positions that people have taken on various things in the past.

One is this—the whole bill sets a Federal standard and basically federalizes this issue. It strikes me as somewhat strange, then, to hear Mr. Goodlatte say that we don't want to use the Federal tax-exemption standard, we want the States to be able to set that standard.

Second, it seems to me that the very people who are supporters of this bill have been the strongest advocates of non-involvement and non-interference with the Internet and the whole e-commerce area.

So in addition to the inconsistency that Mr. Frank pointed up, there are at least two other major inconsistencies that I would point out. And with that, I think Ms. Jackson Lee wanted me to yield to her, so I will yield to Ms. Jackson Lee.

Ms. JACKSON LEE. I thank the distinguished gentleman, and obviously there are very, I think, potent comments being made. I've already made the point, Mr. Goodlatte, that we are trying to restrain, we're not eliminating. And I would just make a point to my good friend Mr. Issa that ill-conceived charities have been readily found out.

Inasmuch as we have exempted horse racing, for example, this is why—and we didn't respond to my good friend from Florida's concern. I think in order to strengthen this legislation with the intent of the author—and I hope that as this bill makes its way to the floor we can take into consideration the comments of my good friends who have been very reasonable about how we're approaching this.

This idea of eliminating charities smacks in the face of reality. They exist. They've existed for years. I believe we do ourselves a disservice going—taking this bill forward without trying to respond to this question.

I would in this instance ask my friends to—and colleagues to vote for this amendment because we are able to weed out the, "bad guys." We all know the charities. They're in our community. They're conspicuous, they're obvious, we see them all the time. Our friends are accessing it, and our community, our constituents are accessing it, and they want to utilize it. Let's not shut the door on the local Boy Scout troop, the local Girl Scout troop and many other charities that have the opportunity to raise funds for people who are in need.

I think getting a house in Speaker Hastert's district is a darn good utilization of the Internet for charity, and I would hope that we would support this particular amendment.

I might just say, and as I said, I'd like to work with my colleague on this, we allow horse racing, State lotteries, Nevada casinos, and fantasy sports, we disallowed dog racing, tribal gaming and charitable gaming. So I would just like to say that the charities should rise to a level of consideration of my colleagues, and I think that we would be able to work this legislation, due to the intent of the underlying legislation, which is to restrain and to prohibit the abuse of gambling, and I don't think charitable gambling represents abuse, it represents help.

With that, may I just, as well, ask unanimous consent to amend this amendment to indicate that the charities will be in existence for 10 years?

Chairman SENSENBRENNER. Without objection, the modification is agreed to, and the question is——

Mr. CANNON. Mr. Chairman, may I amend the last word?

Chairman SENSENBRENNER. Well, the gentleman from North Carolina still has 23 seconds left.

Mr. WATT. I will yield to the gentleman or I will yield back, and he can get his own time, whichever he prefers.

Mr. CANNON. Thank you. My own time.

Mr. WATT. I yield back.

Chairman SENSENBRENNER. For what purpose does the gentleman from Utah seek recognition?

Mr. CANNON. To strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. CANNON. Thank you, Mr. Chairman.

In response to the inconsistencies pointed out by the gentleman from Massachusetts, back in law school I recall that the professors made a big thing about finding a golden thread that would tie seemingly irreconcilable cases together, and I think there is, in fact, a golden thread that ties these things together, the inconsistencies before us today. That, in fact, is a golden thread of money.

And I, unfortunately, I feel like I need to oppose the gentlewoman's amendment because I oppose gambling, generally, and so I'll try to be consistent there, but I think it's important to recognize that the Goodlatte bill is part of an ongoing effort to shape the landscape of gambling, and this began with its predecessor from the last Congress. That was H.R. 3125.

Mr. Goodlatte, you claim, and I think correctly, that your bill does not itself legalize horse wagers, that it's another—that is done by another provision of law, and what is that provision?

Mr. GOODLATTE. I think there are several, if the gentleman will yield. One is the Horse Racing Act. I believe there's also a Thoroughbred Act, a Simulcast Act, and I think there is even a provision that was put in the appropriations bill in the last Congress.

Mr. CANNON. I think that appropriations bill was pretty much the same language as was in your bill last year, was it not?

Mr. GOODLATTE. No, that's not correct.

Mr. CANNON. How is it different? Because I think it's pretty similar language.

Mr. GOODLATTE. No. No, it is not. There was no language in my bill, other than to recognize the existence of existing laws. It did not add any new laws to the horse-racing provisions.

Mr. CANNON. In testimony before this Committee last year, Kevin DiGregory, the Deputy Attorney General for the Criminal Division——

Mr. GOODLATTE. If the gentleman would yield, the language in the bill said, "otherwise lawful," meaning, referring to other already lawfully allowed.

Mr. CANNON. The way Kevin DiGregory characterized that is, "Related to this," he spoke last year about your bill, "Related to this point, is our second concern that the passing of H.R. 3125 will allow gambling on-line that currently is not allowed in the physical world. For example, people cannot currently legally call gambling businesses in other States from their homes and place bets on horse races, and H.R. 3125 would allow them to place the same such bets over the Internet."

Now that was the Justice Department opining about the effect of the appropriations language and your—talking about your bill—but saying that your bill, in effect, did the same thing that the appropriations language did; isn't that the case?

Mr. GOODLATTE. No, that is not the case. The language in the last bill was "otherwise lawful," but we're debating a new bill this year.

Mr. CANNON. That's true, and we've all—but we've changed the landscape substantially based upon the last bill. It would seem to me that all we're doing here is creating the context here for more gambling, whether in this bill or in the series of things that is happening before Congress. What is motivating that is money, we're

talking about big money, and I would urge my colleagues to vote against this amendment and against the bill.

Thank you, and I yield back, Mr. Chairman.

Chairman SENSENBRENNER. The question is on the amendment by the gentlewoman from Texas, as modified, Ms. Jackson Lee.

Those in favor, will say aye.

Opposed, no.

The noes appear to have it, the noes have it, and the amendment is not agreed to.

Are there further amendments?

Mr. CANNON. Mr. Chairman?

Chairman SENSENBRENNER. The gentleman from Utah, Mr. Cannon?

Mr. CANNON. I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to the amendment in the nature of a substitute to H.R. 3215, offered by Mr. Cannon. Page 11, strike line 1 and all that follows through line 4 on Page 13.

Chairman SENSENBRENNER. Without objection, the amendment is considered as read, and the gentleman from Utah is recognized for 5 minutes.

[Mr. Cannon's amendment follows:]

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3215 OFFERED BY MR. CANNON

Page 11, strike line 17 and all that follows though line 20 on page 13.

Page 13, after line 20, insert the following:

"(e) Nothing in subsection (c) or (d) shall allow the use of a communication facility for the transmission of bets or wagers involving the purchase of a chance or opportunity to win a lottery, or the use of a communication facility for the transmission of information assisting in the placing of bets or wagers involving the purchase of a chance or opportunity to win a lottery, except that communication facilities may be used for the transmission of such bets or wagers and the transmission of information assisting such bets or wagers as long as such bets or wagers are placed on the premises of a retail outlet that is open to the public and licensed by the State in which it is located to sell chances or opportunities to win a lottery.

Redesignate succeeding subsections accordingly.

Page 15, strike lines 22 through 24 and redesignate succeeding subsections accordingly.

Add at the end of the bill the following:

"( ) Nothing in this section allows the use of a communication facility for the purpose of placing a bet or wager or the use of a communication facility for the purpose of transmitting information assisting in the placement of bets or wagers that was illegal as of June 6, 2002.".

Mr. CANNON. Thank you, Mr. Chairman.

The goal of my amendment is simple. It seeks to return to the stated goal of the legislation, which is to avoid a situation where people can place bets from their living room, using communication facilities that are interstate in nature. "Click the mouse and lose your house" is the maxim that may have put forward in support of this bill. But in the bill, as drafted, it doesn't really address the question of whether you can lose your house, it only answers to whom your house might be lost.

Under the substitute amendment, if you blow the family savings on the Internet by picking the wrong horse to run around the track, that's perfectly okay. If you blow the kids' college fund on an Internet roulette wheel, that's wrong if the roulette wheel is operated by a Caribbean website, but fine if it's operated by a Las Vegas casino website.

It would be illegal to lose the grocery money to an Indian tribe's on-line bingo game, but if you blow it on State lottery tickets, well, that's your bad luck.

If this sounds ridiculous, that's because it is, and it begs the question of whether a bill that allows this is better than the status quo, and I think the answer to that is no, unless we get rid of the carve-outs.

Let me say this as clearly as possible. I am generally against regulating the Internet. Unless we're talking about something universally abhorred like child pornography or sharing obscenity with minors, my opinion is that people are going to do what they're going to do on the Internet and, generally speaking, anything the Government does to try and change that is going to cause more problems than it solves, but in this case, I'm willing to make an exception if it really will keep people from betting from their homes.

That's why my amendment to the substitute is necessary, and it is necessary to bring this bill back to its intended purpose. The original bill to prohibit gambling on-line, at least as I understand it, was introduced by Senator John Cobb back in 1997, and that bill

did not have any carve-outs. It just said, if you want to bet, go ahead, but don't use your computer. It didn't deputize the private-sector entities either.

Since then, this bill and its predecessors have been through a variety of permutations. Sometimes it gave carve-outs to lotteries and sometimes it didn't. Sometimes it gave carve-outs to dog tracks and sometimes it didn't. Sometimes it took care of the tribal gaming and sometimes it didn't. Sometimes Internet service providers were the enforcement agents and other times it was credit card companies.

The horse-racing industry has been a lobbyist inspiration on this. In every version of every Internet gambling bill, except the very first one, they have been taken care of. They pushed very hard for the Goodlatte bill in the last Congress because it would have allowed them to take bets that DOJ considered illegal at the time, but then when that bill didn't become law in 2000, at the end of the session, a provision was magically slipped into the omnibus appropriations bill, which gave them the authority to take interstate Internet wagers. I guess you could say that the horse industry hedges their bets.

In any case, thanks to the magic of conference report add-ons, the horse industry only needs a savings clause in this bill to preserve that victory. I suppose that there is a fight among the various industries and such who will ultimately control Internet gambling.

To borrow a joke from a staffer of this Committee, "I don't have a dog in that fight or a horse for that matter." I support Internet regulation to keep gambling out of people's living rooms or to keep them from losing their houses or to keep gambling off the Internet, generally, but I won't do it to decide which industry segment ends up controlling Internet gambling.

My amendment is supported by the Judicial Values Coalition, the Free Congress Foundation, the American Taxpayers Association, the National Indian Gaming Association, and the National Association of Convenience Stores, among others, mostly supported by the original intent of this bill, which was to keep people from clicking their mouse and losing their house. That goal might be worth getting involved in Internet regulation, but just deciding who they may lose their house to, that's not worth it at all.

I urge my colleagues to support this amendment and eliminate the carve-outs in the manager's substitute.

Thank you, Mr. Chairman. I yield back.

Chairman SENSENBRENNER. The gentleman from Virginia, Mr. Goodlatte?

Mr. GOODLATTE. Mr. Chairman, I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Mr. Chairman, I strongly oppose this amendment, and the gentleman has mischaracterized what his amendment does. In fact, if his amendment were adopted, it would replace and reconstitute the advantage that he decries with the horse-racing industry because the last provision of his amendment says, "Nothing in this section allows the use of a communication facility for the purpose of placing a bet or wager or the use of a communication facility for the

purpose of transmitting information assisting in the placement of bets or wagers that was illegal as of June 6, 2002."

We just went through all of the bills, all of the Federal laws that were passed over a period of 20 or more years that benefitted that industry. He would constitute all of those as continuing to be legal, and he would strip the States of their ability to regulate gambling.

And the fact of the matter is that the provisions in this bill allow the States to do that. This amendment takes away the ability of the States to make decisions for themselves about what they are going to allow, and what they are not going to allow, with three conditions attached: The first being that they not allow bets to be taken by minors; the second that they not go beyond the boundaries of their State or other States in which they have a cooperative arrangement; or that they have the explicit authorization of the State legislature.

It is, in my opinion, a very, very serious mistake to attempt to take away the rights of the States to make these decisions with the provisions that the gentleman has offered in his amendment.

Given the Federal Government's history of respecting State's rights to regulate gambling matters, this bill is careful to avoid unintentionally impacting otherwise lawful gaming activities. It is important to remember that the existence of any legal gaming conducted over the Internet will be completely subject to State regulatory authority. Contrary to any misunderstanding of this provision that it will expand gambling, this means that States, through their legislatures, and ultimately their voters, will be the final authority on whether these activities are available over the Internet.

I would urge my colleagues to oppose this amendment.

Chairman SENSENBRENNER. Because there are two separate propositions, the chair will order a division of the question, and the amendment will be decided, first, the matter that appears on Page 1 of the amendment through line 13, and, second, the second question will be the remainder of the amendment that begins, "Redesignate the succeeding—" or, excuse me, Page 15, strike lines 3 through 5.

Is there further debate on the amendment?

Mr. WEXLER. Mr. Chairman?

Chairman SENSENBRENNER. The gentleman from Florida, Mr. Wexler.

Mr. WEXLER. Thank you, Mr. Chairman. I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. WEXLER. I want to speak in favor of Mr. Cannon's amendment for exactly opposite reasons of Mr. Cannon, but the truth is the gentleman from Utah, his description of the basis of this bill and the logic behind it is exactly correct.

Now Mr. Cannon believes, and I respect that, that we need neutrality and that there ought to be no exemptions whatsoever. I would respectfully disagree. I believe everybody ought to be treated just like the horse industry is treated in the Goodlatte bill, but so far we've been unable to accomplish that. But the whole design of the bill, if it's going to be fair, is to be neutral, and so this amendment would, if it were adopted, present a neutral situation, so I'm going to vote for it.

With all due respect to the sponsor of the bill, on one hand, the sponsor explains that the Federal Government, that Congress should not be in the business of regulating or effectuating change in an industry, the parimutuel industry, which is basically regulated by the States, but, in fact, his bill changes, a Federal bill, changes the playing field for the parimutuel industry in an extraordinary way.

And then he says one of the problems or one of the arguments against Mr. Cannon's amendment is that all of a sudden we're going to allow the States not the opportunity to regulate an industry that they have already regulated. Well, this bill, the underlying bill, regulates, in a very significant way, parimutuels. It changes the economy of the industry in a very significant way.

So I would, respectfully, suggest to the Committee you can't have it both ways. You either, in fairness, have to adopt Mr. Cannon's amendment, and then there will be no exemptions, or adopt amendments to come, which would provide the same exemption for the horse industry to the entire parimutuel industry, and that's why I'm going the support Mr. Cannon's——

Mr. FRANK. Would the gentleman yield?

Mr. WEXLER. Of course, yes.

Mr. FRANK. I just want to question because I haven't studied all of the details of the bill, but I guess the question is this, based on what the gentleman from Virginia had said. In a State in which both horse racing and dog racing is legal, would this bill create a differential legal impact with regard to Internet gambling?

Mr. WEXLER. My understanding is the case being the State of Florida, where there's not only horses, and dogs and jai-alai, the way it's drafted now you could bet on the Internet for horse tracks, you could not for dogs, you could not for jai-alai. There are questions as to when things are simulcast, which I know they are, like if you go to a dog track, apparently, you can watch on the screen the horse racing, and you can bet on the horse race, I guess, at the dog track.

Now, whether you'll be able to work on your Internet, if you're sitting in the dog track to bet on the horse races, I don't think is clear.

Mr. FRANK. But even without the complication, if the gentleman would yield further, I guess I would ask the gentleman from Virginia to address that because I understand the rationale that says, well, we're simply respecting State decisions, but the assertion is that, absent the Cannon amendment, we would be respecting State decisions regarding horse racing more than we would or differently than we would be respecting State decisions regarding dog racing, and that seems to me a degree of differentiation probably beyond the expertise of most of the Members, but certainly beyond what ought to be our authority.

Mr. GOODLATTE. Would the gentleman from Florida yield?

Mr. WEXLER. Of course.

Mr. GOODLATTE. I thank the gentleman for yielding.

The gentleman from Massachusetts is quite right. That would be the effect of passing the Cannon amendment. The effect would be that the longstanding Federal laws that recognize horse racing would have a superior position.

Mr. FRANK. Would the gentleman from Florida yield?

My question—my diction may have interfered with my question—my question is whether the bill, without the Canon amendment, would then treat differently a State's legal decision to allow dog racing and a State's legal decision—or would the law do it? The gentleman is saying it wouldn't be the effect of the bill, but would the effect be that the law would then differentiate between State decisions to make horse racing legal and State decisions to make dog racing legal, in terms of their access to the Internet?

Mr. GOODLATTE. I thank the gentleman for clarifying.

The gentleman might want to seek additional—his own time, since we're running short on time, and this may take a minute to clarify.

Mr. FRANK. I would just ask the gentleman for an additional minute.

Chairman SENSENBRENNER. Without objection, the gentleman from Florida will be given an additional minute.

Mr. GOODLATTE. I thank the Chairman.

The answer to the gentleman's question is, without the Cannon amendment, the States would have the full authority to recognize—and the characterization that dog racing would not be able to be on the Internet is absolutely not correct. They would be able to be on the Internet, as would horse racing. In fact, they would be able to do it between States, if the two States agree to it.

Mr. FRANK. Would the gentleman from Florida yield?

Would that agreement between States be required for horse racing, as well as for dog racing, or only for dog racing?

Mr. GOODLATTE. Yes, it must be legal in both States. That is the difference, by the way with the—the amendment that the gentleman from Florida offered last week because that would not require it to be legal in both States.

Mr. WEXLER. If I could reclaim my time, I don't believe that that's a sufficient answer.

I believe, under Mr. Goodlatte's bill, in order for dog racing to be allowed on the Internet, you would need a special State act by a legislature, which is what he says, and that's correct. The horse tracks would not need a special State act.

And let's be honest about this, we're talking about grandfathering statutes that existed before the Internet existed. So, when these horse-racing statutes were initially created, there was no idea that there'd be horse-racing betting on the Internet. The Internet didn't exist. But we're going through the back door to grandfather that kind of gaming.

Chairman SENSENBRENNER. The time of the gentleman from Florida has, once again, expired.

The gentleman from Wisconsin, Mr. Green?

Mr. GREEN. Thank you, Mr. Chairman.

In light of the chair's decision to split the questions up, I'd like to address the first question of the Committee, which is about the prohibition of Internet lottery ticket sales. This legislation, the underlying bill, would allow for the Internet sale of lottery tickets. That is a very bad thing for three reasons:

First, this bill, unless this amendment is adopted, would make it easier for kids to gamble. The age verification and security provisions in this bill are insufficient. The enforcement mechanisms, as we've heard discussed previously, just are not going to work. It is

very hard to verify the age of gamblers with Internet lottery ticket sales. We know, studies have shown, that the number one way that kids gamble, lottery ticket sales. So this bill can only be characterized as something that is going to increase underage gambling.

Secondly, this bill strikes at many of the State lotteries in existence now and their original goals. In many States, like my State, the State lottery was authorized for a very specific person. In my State, the money goes towards property tax relief. In other States, it's an education fund. In other States, it's being used to build sports complexes.

However, if you authorize, as this bill would, the Internet sale of lottery tickets, you're going to have lottery ticket purchases, gamblers, flocking to the most popular lotteries, the lotteries that have the largest payouts.

States like mine, Wisconsin, which authorized lottery ticket sales for a very specific purpose, are going to lose out. You're going to see all of the money go for the major, nationally advertised lotteries, and the States like many of the States that are represented here, which my guess have used lottery ticket sales for very specific civic purposes, are going to lose out. They're going to see a dramatic reduction in activity. In my State, it means less property tax relief, in your State it may mean less money available for education. I think that is a very dangerous thing.

And, third, many States, like my own State of Wisconsin, conduct a lottery ticket—a lottery sale that is essentially a bargain between several parties: the taxpayers, the State itself that does the regulation, and the small businesses which get a modest benefit by being, essentially, the ticket sales outlet.

If you have Internet sales of lottery tickets, you're going to break that bargain. You're going to see a number of small businesses, convenience stores, restaurants, in my State a lot of small taverns in the North and rural areas sell lottery tickets, they're going to suffer badly. This part of the bargain will be broken and, in my view, that's a very, very dangerous thing.

I supported this legislation, originally. I was originally a co-author of this legislation, but in my view, especially with respect to the Internet sales of lottery tickets, I think this legislation is going to expand gambling, and I don't think that was the original purpose. It certainly wasn't the purpose that originally attracted me to this legislation, and I think that because of the way that lottery ticket transactions are portrayed, advertised and conducted now, I think we'll lose badly.

A final point, I mentioned the convenience stores and retail outlets that often market and sell lottery tickets currently, it's not just the bargain that they get of the small percentage that they get, but also they have the charge of verifying age. So, when someone goes to a gas station convenience store to buy a lottery ticket, they have to show that they are of age. All of that goes away if you open this up to Internet sales.

I think that that would be a terrible development. This legislation, instead of restricting Internet gambling, is going to dramatically expand it, and it's going to expand it, quite frankly, to those that are least capable of making mature decisions about gambling. I think that's a terrible thing.

So I certainly would hope that the Committee would vote for the first question on this. I think we need to ban Internet lottery ticket sales.

I yield back my time.

Mr. FLAKE. Mr. Chairman?

Chairman SENSENBRENNER. For what purpose does the gentleman from Arizona, Mr. Flake, seek recognition?

Mr. FLAKE. I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. FLAKE. I would yield some time to the gentleman from Utah.

Mr. CANNON. Thank you.

I just wanted to clarify a couple of things and perhaps ask Mr. Green a question. At some point, Mr. Green, if you could distinguish between your language and the language of the question as it is—I think we have the first paragraph is slightly different, but if you could take a look at that, so we could be clear about that.

I just wanted to reiterate that, for the Members of this Committee, if you oppose gambling, if you oppose the carve-outs, you will want to vote aye for both pieces of this amendment, as it has now been split by the Chairman. So I would advocate or hope that you would do that.

By the way, Mr. Green, would you like to speak as to the difference between your amendment that you would offer and what this amendment is, now that the question has been divided by the Chairman, for which purpose I yield to you.

Mr. GREEN. Thank you for yielding.

My staff is right now looking. We believe that they are substantively the same. The first question from your amendment, we believe, is the same as the amendment that I was going to offer on banning Internet lottery ticket sales.

I have not sought time on the second question. I would like to do that separately. I support the second question, too. I support your entire amendment. Obviously, the focus, by virtue of the amendment that I was going to offer, is as to the first question.

I agree with the larger issue that you're raising. This legislation, in my view, started off as a decent idea, but now contains so many exemptions and loopholes, in my view, it's become unenforceable, and I believe it will expand gambling.

Mr. CANNON. Thank you.

It is also my view that this bill will expand gambling, and it will actually expand illegally gambling. So, if I might, Mr. Chairman, today, if Virginia and Nevada wanted to enter into a compact to allow players to place bets in either of the States, they can do that. That would clearly be illegal without the current bill that we have before us today, and so I think everyone should vote on this bill, understanding that it does create a new context for gambling.

But going back to what Mr. Wexler was saying earlier, if I might, the requirement for dog racing to achieve parity with horse racing is that two States have to compact or 50 States have to compact together under this bill. That means, to get back to what Mr. Frank was saying earlier, we are treating, we are continuing to treat, through this Committee and through this bill process, if we pass it, different segments of the gambling industry in a different fashion.

And we perpetuate that and exaggerate the differences to the benefit of one segment of the industry, horse racing, and to the detriment of other segments, jai-alai and dog racing, and also to the benefit of one geographic segment of casino-style gambling, as opposed to the rest of the world.

Finally, if I might just remind the Members of the Committee that the enforcement mechanisms that these—that this bill or the substitute amendment would put in place are exceedingly crude and harsh. They are injunctions. They would distort the marketplace among ISPs, and they are financial devices or processes which we haven't even had a chance to debate here.

We just didn't get to the point of discovering what the differences between the bill that was passed and referred to as having been passed by the Financial Services Committee and what's before us right now.

I would suggest to the Members of this Committee that it is exceedingly course and exceedingly dangerous to start using financial instruments as the means of trying to attempt to stop gambling. From my own perspective, I can't imagine my bank, and I think this is what the bill does, although we haven't had a chance to really explore this, I can't imagine my bank getting an injunction, enjoining them, stopping them from covering my check or my neighbor's check that was made out to an institution that had been found to be improperly allowing gambling on the Internet.

That is just such an incredible burden and distortion of our system that I think we ought to be very, very careful, as we approach the final vote on this amendment, which amendment or the now divided question on this amendment would be the, I think the end of the special interests that are pushing this bill, and therefore probably the end of this bill.

With that, Mr. Chairman, I request my colleagues to consider and vote in favor of both issues under the divided question and yield back my time.

Mr. FRANK. Mr. Chairman?

Chairman SENSENBRENNER. For what purpose does the gentleman from Massachusetts seek recognition?

Mr. FRANK. To strike the last word, Mr. Chairman.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. FRANK. Having raised the question, I think I now have my answer, and I just want to state my understanding of the answer, and people can refute it, if they wish, but I think it's fair to say that there is, absent this bill, a distinction in Federal law between horse racing and other forms of gambling. As the gentleman from Virginia has pointed out, that previous to this bill, those were created.

On the other hand, I think it is also fair to say that this bill, by stepping up enforcement in various ways, exacerbates the impact of those differences. It does not create the differences. They are in existent Federal law, but this bill, by ramping up enforcement, gives more effect to those differences, and therefore that does seem to me to argue that if you're going to pass this bill, you ought to pass it in a way that equalizes this. In other words, the preexisting difference that the gentleman from Virginia didn't create, but

which is there, is now given much more impact, and I think that's as I now understand it, and I would yield back.

Mr. CANNON. Mr. Chairman, may I ask unanimous consent to have admitted to the record a letter from the Traditional Values Coalition in support of my amendment?

Mr. FRANK. I'm glad the gentleman didn't ask me to yield for that purpose. [Laughter.]

Chairman SENSENBRENNER. Without objection, paternity is denied by the gentleman from Massachusetts of the letter——

Mr. FRANK. That's for sure. [Laughter.]

Chairman SENSENBRENNER. The letter is admitted to the record.

[The Traditional Values Coalition letter follows:]

CHAIRMAN
Rev. Louis P. Sheldon

May 2, 2002

The Honorable Chris Cannon
House Committee on the Judiciary
118 Cannon House Office Building
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Cannon:

It has come to my attention that your committee may soon be considering H.R. 3215, Rep. Goodlatte's Combating Illegal Gambling Reform and Modernization Act. On behalf of the Traditional Values Coalition, our 43,000 member churches, and millions of Americans who fear the spread of gambling, I am writing to voice concerns about this bill.

I should begin by saying that my feelings toward this bill are substantially colored by the memory of its predecessor, H.R. 3125 from the 106th Congress. As you may recall, that bill, which also purported to ban Internet gambling, attracted a variety of gambling interests to seek carve-outs. These carve-outs preserved, or in some cases even expanded, the legality of certain kinds of in-home wagers. While that bill was defeated, one of its principal provisions, which legalized inter-state Internet gambling on horse races, was appended to an omnibus appropriations bill at the end of the 106th Congress. This rider was added "in the dark of night" to the a conference report, despite the fact that it was not present in either the House or Senate version of any bill subject to the conference.

I feel that an appropriate "Combating Illegal Gambling Reform and Modernization Act" would rectify this abuse of both congressional procedure and common sense. However, H.R. 3215 specifically avoids closing the loophole for horse racing, as if horse racing were somehow immune from the social pathologies that attend other forms of gaming. Admittedly, the shortcoming in H.R. 3215 is only that it fails to correct the horse racing loophole in current law; however, it is not the only flaw in the bill.

As reported by the subcommittee, H.R. 3215 would also legalize in-home lottery ticket sales. While the proceeds of lottery tickets may go to more worthy causes than the proceeds of their commercial counterparts, lotteries are troubling for other reasons. Lotteries tend to target the poor and least educated in society, who often fail to understand the long odds of winning the big prizes. I urge your committee to ensure that this predatory taxation of ignorance does not find its way onto the Internet.

100 S. Anaheim Blvd., Suite 350, Anaheim, CA 92805 (714) 520-0300
139 "C" Street S. E., Washington D.C. 20003 (202) 547-8570

Most disturbing of all, however, are recent reports that the committee has reached an agreement with Las Vegas and Atlantic City gaming interests to allow them to take their casino games on-line. As we understand it, individual states would have to agree to let them do it; however, the bill would remove the federal impediment to interstate on-line casino gambling. If a federal Combating Illegal Gambling Reform and Modernization Act does not prohibit interstate on-line casino gambling – indeed legalizes it where it had been illegal before – it might be better named the Promoting Internet Gambling Reform and Modernization.

Banning Internet gambling is a worthy goal, but it seems that once again this goal has been hijacked by various gambling interests, and turned into a sort of Internet gambling industrial policy proposal – one that hampers certain forms of Internet gambling while actually promoting others. Given a choice between the current Wire Act, which is flawed but is at least intellectually honest, and a bill which establishes a de facto Internet gambling industrial policy, I believe TVC and its member churches would prefer the former.

In closing, I would suggest one worthy step that would improve this bill immensely. We are all aware of the problems presented by betting on high school and college sporting events. Rep. Lindsey Graham introduced H.R. 1110, the Student-Athlete Protection Act, which would prohibit betting on many amateur sports. Opponents of this bill argue that, if adopted, it would mainly drive such bets to offshore Internet sports books. Inasmuch as H.R. 3215 purports to prevent such offshore wagers, I would submit that it might be appropriate to attach some or all of H.R. 1110.

Thank you for your consideration, and for your strong support of Christian and pro-family causes.

Sincerely,

Rev. Lou Sheldon

Rev. Louis P. Sheldon
Chairman, Traditional Values Coalition

Mr. HOSTETTLER. Mr. Chairman?

Chairman SENSENBRENNER. For what purpose does the gentleman from Indiana seek recognition?

Mr. HOSTETTLER. Mr. Chairman, I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. HOSTETTLER. And I yield to my colleague from Wisconsin, Mr. Green.

Mr. GREEN. I thank the gentleman for yielding.

I just wanted a few minutes to talk about the larger issues raised by both parts of Mr. Cannon's amendment together and reiterate that I supported the original concept of this legislation. I was a co-author. The problem is that by the time we got to the point where we are today, this has become a moving target. The legislation has changed repeatedly.

I would warn some of my colleagues that you may have received representations that various groups have endorsed this legislation. The question that you need to go back to them with is which version, because this legislation has changed many times. In my view, it is now so full of exemptions and loopholes, I'm not sure that anybody out there really knows what's in here.

I guess the question that we have to ask ourselves, when we look at this, is whether or not this legislation is better than the status

quo. With the original version of this bill, I believe it was. If we do want to limit Internet gambling, I thought the base bill, without all of these loopholes and exemptions, I thought it was a step in the right direction. I am convinced, though, however, now that we have gotten to this point, we have seen the substitute, we are no longer in that position.

I don't believe this is better than the status quo. In my own view, this makes it worse than status quo. We will see gambling expand. Ask yourself why it is that the American Gaming Association has endorsed this legislation. If this were restricting Internet gambling, I don't think they would be on board. That is a question that I think we need to ask ourselves.

This is a moving target. I don't think this is good legislation, so, again, I would urge Members to vote for both parts of the Cannon question, and I yield back my time to Mr. Hostettler.

Mr. HOSTETTLER. I yield back the balance of my time, Mr. Chairman.

Mr. GALLEGLY. Mr. Chairman?

Chairman SENSENBRENNER. For what purpose does the gentleman from California, Mr. Gallegly, seek recognition?

Mr. GALLEGLY. Strike the last word, Mr. Chairman.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. GALLEGLY. I'd yield to the gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. Thank you. I thank the gentleman for yielding.

I want to address both halves of the amendment, and I want to make it clear to everybody exactly what is included in each half. The first half includes a provision that deals with the ability of States to work in a cooperative fashion. For example, Power Ball, if you vote for the provision that includes Mr. Green's provision, Power Ball or any other form of cooperative effort between States would not be allowed.

Now, with regard to the other provision in that amendment, is the provision that is I guess identical, am I not correct, Mr. Green, to your provision; is that correct?

Mr. GREEN. If the gentleman will yield, I understand there are some technical differences.

Mr. GOODLATTE. Okay.

Mr. GREEN. The other—I believe the first question also contains a casino provision that is not in our amendment. So our amendment is slightly different.

Mr. GOODLATTE. Well, I don't believe—I think I just described the interstate provision. It's not a casino provision, it is a provision that applies to all forms of gambling regulated by the States on an interstate basis.

But then the second part relates to your amendment. Now your amendment is one that was included in the last legislation. That was a different bill, and the amendment, either your language or Mr. Cannon's language, is somewhat different than that language, which I supported at the time, but because of the nature of the bill becoming a State's rights bill, where the States will have the authority to make these decisions, I can't support that amendment at this point in time.

The gentleman noted correctly that lotteries are the number one form of gambling on the part of children. Well, there are only two ways they can buy lottery tickets now. One is at the convenience stores the gentleman described and the other is from the literally hundreds of off-shore lotteries that they have access to on the Internet today. So this bill goes after those off-shore lotteries.

The gentleman from Utah doesn't like the way we go after them, but, nonetheless, the fact of the matter is that we give law enforcement some new tools to deal with that problem.

Now the problem I have with the gentleman's provision is that if the provision that he suggests were to pass and the overall bill, as a result of Mr. Cannon's efforts, were to fail, we would be left with current law. Current law is much worse than either of the gentleman's amendment or what is provided in this bill, but the bill passing is vitally important because it has two provisions that the gentleman cannot address with current law.

There is nothing to stop a State, under current law, from going on-line and selling lottery tickets. That's simply a fact. But this bill adds two provisions to that that I think will make sure that they don't go on-line for a long time. The gentleman doesn't like the provision that says that you can't sell tickets to minors, but it's easily enforceable. A law enforcement office goes on-line with a minor, places a bet, shows the evidence to the Court that that violation took place, and the State is in violation of the law. Right now that is not the case, and it will not be the case unless this bill passes.

Secondly, the bill requires explicit authorization of the State in order to be able to sell lottery tickets on-line, and that simply does not exist under current law. Maryland and Idaho are known to be getting ready to go on-line and sell lottery tickets, and this is a safeguard, not an expansion.

But I would say to the gentleman that we should not discriminate against forms of technology, and we should not get in and try to micro-manage how the States make these decisions. That's exactly what we're doing here. We're telling the States that they cannot make the decision for themselves whether or not they want to sell lottery tickets on-line. So I would oppose the first amendment on that basis.

The second amendment, I've already explained my opposition to that. It is simply going to place one industry head above heels over all others if that second amendment passes, and I think that's simply a mistake. We should trust the States to do the right things, with the basic guidelines of no sales to minors, no sales beyond State boundaries, and explicit authorization of the State, not allow a lottery commissioner or a gaming commissioner to say, well, the State allows this particular activity, we can go on-line with the activity. No, you've got to have explicit authorization from the State legislature.

I yield back.

Chairman SENSENBRENNER. The gentleman's time has expired.

The question is on Part 1 of the amendment to the amendment in the nature of a substitute offered by the gentleman from Utah, Mr. Cannon. Part 1 consists of that text of the Cannon amendment which begins at the beginning, "Page 11, strike line 1" through that part that says "Redesignate succeeding subsections accordingly."

Those in favor, will say aye.

Opposed, no.
The ayes appear to have it.
Mr. GOODLATTE. Mr. Chairman, I ask for a recorded vote.
Chairman SENSENBRENNER. A recorded vote is requested. The question is on agreeing to Part 1 of the Cannon amendment. Those in favor will, as your names are called, answer aye; those opposed, no, and the clerk will call the roll.
The CLERK. Mr. Hyde?
Mr. HYDE. No.
The CLERK. Mr. Hyde, no. Mr. Gekas?
Mr. GEKAS. No.
The CLERK. Mr. Gekas, no. Mr. Coble?
Mr. COBLE. No.
The CLERK. Mr. Coble, no. Mr. Smith?
[No response.]
The CLERK. Mr. Gallegly?
Mr. GALLEGLY. Aye.
The CLERK. Mr. Gallegly, aye. Mr. Goodlatte?
Mr. GOODLATTE. No.
The CLERK. Mr. Goodlatte, no. Mr. Chabot?
Mr. CHABOT. No.
The CLERK. Mr. Chabot, no. Mr. Barr?
Mr. BARR. Aye.
The CLERK. Mr. Barr, aye. Mr. Jenkins?
[No response.]
The CLERK. Mr. Cannon?
Mr. CANNON. Aye.
The CLERK. Mr. Cannon, aye. Mr. Graham?
[No response.]
The CLERK. Mr. Bachus?
[No response.]
The CLERK. Mr. Hostettler?
Mr. HOSTETTLER. No.
The CLERK. Mr. Hostettler, no. Mr. Green?
Mr. GREEN. Aye.
The CLERK. Mr. Green, aye. Mr. Keller?
Mr. KELLER. Aye.
The CLERK. Mr. Keller, aye. Mr. Issa?
Mr. ISSA. Aye.
The CLERK. Mr. Issa, aye. Ms. Hart?
Ms. HART. Aye.
The CLERK. Ms. Hart, aye. Mr. Flake?
Mr. FLAKE. Aye.
The CLERK. Mr. Flake, aye. Mr. Pence?
Mr. PENCE. Aye.
The CLERK. Mr. Pence, aye. Mr. Forbes?
Mr. FORBES. Aye.
The CLERK. Mr. Forbes, aye. Mr. Conyers?
[No response.]
The CLERK. Mr. Frank?
Mr. FRANK. Pass.
The CLERK. Mr. Frank, pass. Mr. Berman?
[No response.]
The CLERK. Mr. Boucher?
[No response.]

The CLERK. Mr. Nadler?
[No response.]
The CLERK. Mr. Scott?
Mr. SCOTT. Pass.
The CLERK. Mr. Scott, pass. Mr. Watt?
Mr. WATT. Aye.
The CLERK. Mr. Watt, aye. Ms. Lofgren?
Ms. LOFGREN. Aye.
The CLERK. Ms. Lofgren, aye. Ms. Jackson Lee?
Ms. JACKSON LEE. No.
The CLERK. Ms. Jackson Lee, no. Ms. Waters?
Ms. WATERS. Aye.
The CLERK. Ms. Waters, aye. Mr. Meehan?
[No response.]
The CLERK. Mr. Delahunt?
[No response.]
The CLERK. Mr. Wexler?
Mr. WEXLER. Aye.
The CLERK. Mr. Wexler, aye. Ms. Baldwin?
Ms. BALDWIN. Aye.
The CLERK. Ms. Baldwin, aye. Mr. Weiner?
Mr. WEINER. Pass.
The CLERK. Mr. Weiner, pass. Mr. Schiff?
Mr. SCHIFF. Pass.
The CLERK. Mr. Schiff, pass. Mr. Chairman?
Chairman SENSENBRENNER. Aye.
The CLERK. Mr. Chairman, aye.
Chairman SENSENBRENNER. Are there additional Members who wish to cast or change their vote?
The gentleman from California?
Mr. ISSA. Aye.
The CLERK. Mr. Issa, aye.
Chairman SENSENBRENNER. The gentlewoman from Pennsylvania?
Ms. HART. Aye.
The CLERK. Ms. Hart changes to aye.
Chairman SENSENBRENNER. Additional Members?
The gentleman from Virginia, Mr. Scott?
Mr. SCOTT. No.
Chairman SENSENBRENNER. Mr. Scott is a no.
The CLERK. Mr. Scott, no.
Mr. FRANK. Mr. Chairman?
Chairman SENSENBRENNER. The gentleman from Massachusetts, Mr. Frank?
Mr. FRANK. Aye.
The CLERK. Mr. Frank, aye.
Chairman SENSENBRENNER. Additional Members who——
The gentleman from New York, Mr. Weiner?
Mr. WEINER. Can I inquire about the count?
Chairman SENSENBRENNER. No. [Laughter.]
Chairman SENSENBRENNER. You've got to keep your own on that. [Laughter.]
Mr. WEINER. What's the over/under? [Laughter.]
Chairman SENSENBRENNER. The gentleman from South Carolina, Mr. Graham?

Mr. GRAHAM. Aye.
The CLERK. Mr. Graham, aye.
Chairman SENSENBRENNER. The gentleman from New York, Mr. Weiner?
Mr. WEINER. No.
The CLERK. Mr. Weiner, no.
Chairman SENSENBRENNER. Further Members who wish to cast or change their votes?
If not, the clerk will report.
The CLERK. Mr. Chairman, there are 18 ayes and 9 noes.
Chairman SENSENBRENNER. And Part 1 of the amendment is agreed to.
The question is now on Part 2, which is the remainder of the Cannon amendment that begins "Page 15, strike lines 3 through 5," and ends at the end of the amendment on the second page.
Those in favor of Part 2 of the Cannon amendment to the amendment in the nature of a substitute will say aye.
Opposed, no.
The ayes appear to have it.
Mr. GOODLATTE. Mr. Chairman, I request a recorded vote.
Chairman SENSENBRENNER. The recorded vote is requested. Those in favor of Part 2 of the Cannon amendment to the amendment in the nature of a substitute will, as your names are called, answer aye; those opposed, no, and the clerk will call the roll.
The CLERK. Mr. Hyde?
Mr. HYDE. No.
The CLERK. Mr. Hyde, no. Mr. Gekas?
Mr. GEKAS. No.
The CLERK. Mr. Gekas, no. Mr. Coble?
Mr. COBLE. No.
The CLERK. Mr. Coble, no. Mr. Smith?
[No response.]
The CLERK. Mr. Gallegly?
Mr. GALLEGLY. Aye.
The CLERK. Mr. Gallegly, aye. Mr. Goodlatte?
Mr. GOODLATTE. No.
The CLERK. Mr. Goodlatte, no. Mr. Chabot?
Mr. CHABOT. No.
The CLERK. Mr. Chabot, no. Mr. Barr?
Mr. BARR. Aye.
The CLERK. Mr. Barr, aye. Mr. Jenkins?
[No response.]
The CLERK. Mr. Cannon?
Mr. CANNON. Aye.
The CLERK. Mr. Cannon, aye. Mr. Graham?
[No response.]
The CLERK. Mr. Bachus?
[No response.]
The CLERK. Mr. Hostettler?
Mr. HOSTETTLER. No.
The CLERK. Mr. Hostettler, no. Mr. Green?
Mr. GREEN. Aye.
The CLERK. Mr. Green, aye. Mr. Keller?
Mr. KELLER. Aye.
The CLERK. Mr. Keller, aye. Mr. Issa?

[No response.]
The CLERK. Ms. Hart?
Ms. HART. No.
The CLERK. Ms. Hart, no. Mr. Flake?
Mr. FLAKE. Aye.
The CLERK. Mr. Flake, aye. Mr. Pence?
Mr. PENCE. Aye.
The CLERK. Mr. Pence aye. Mr. Forbes?
Mr. FORBES. No.
The CLERK. Mr. Forbes, no. Mr. Conyers?
[No response.]
The CLERK. Mr. Frank?
Mr. FRANK. Pass.
The CLERK. Mr. Frank, pass. Mr. Berman?
[No response.]
The CLERK. Mr. Boucher?
[No response.]
The CLERK. Mr. Nadler?
[No response.]
The CLERK. Mr. Scott?
Mr. SCOTT. Aye.
The CLERK. Mr. Scott, aye. Mr. Watt?
Mr. WATT. Aye.
The CLERK. Mr. Watt, aye. Ms. Lofgren?
Ms. LOFGREN. Aye.
The CLERK. Ms. Lofgren, aye. Ms. Jackson Lee?
Ms. JACKSON LEE. No.
The CLERK. Ms. Jackson Lee, no. Ms. Waters?
Ms. WATERS. Aye.
The CLERK. Ms. Waters, aye. Mr. Meehan?
[No response.]
The CLERK. Mr. Delahunt?
[No response.]
The CLERK. Mr. Wexler?
Mr. WEXLER. Pass.
The CLERK. Mr. Wexler, pass. Ms. Baldwin?
Ms. BALDWIN. No.
The CLERK. Ms. Baldwin, no. Mr. Weiner?
Mr. WEINER. Pass.
The CLERK. Mr. Weiner, pass. Mr. Schiff?
Mr. SCHIFF. Pass.
The CLERK. Mr. Schiff, pass. Mr. Chairman?
Chairman SENSENBRENNER. No.
The CLERK. Mr. Chairman, no.
Chairman SENSENBRENNER. Do additional Members wish to cast or change their vote. Gentleman from Massachusetts, Mr. Frank?
Mr. FRANK. Present.
The CLERK. Mr. Frank, present.
Chairman SENSENBRENNER. Gentleman from Florida, Mr. Wexler?
Mr. WEXLER. No.
The CLERK. Mr. Wexler, no.
Chairman SENSENBRENNER. Gentleman from New York, Mr. Weiner.
Mr. WEINER. Yes.

The CLERK. Mr. Weiner, aye.
Chairman SENSENBRENNER. Gentleman from South Carolina, Mr. Graham?
Mr. GRAHAM. Aye.
The CLERK. Mr. Graham, aye.
Chairman SENSENBRENNER. Further Members who wish to cast or change their vote? If not, the clerk will report.
The CLERK. Mr. Chairman, there are 15 ayes, 11 nays and 1 voting present.
Chairman SENSENBRENNER. And Part 2 of the amendment to the amendment in the nature of a substitute is agreed to.
Are there further amendments to the amendment in the nature of a substitute?
[No response.]
Chairman SENSENBRENNER. If not, the question is on the amendment in the nature of a substitute as amended. Those in favor will say aye.
Opposed, no.
The ayes appear to have it. The ayes have it, and the amendment in the nature of the substitute is agreed to.
A reporting quorum is present. The question now occurs on reporting the bill favorably as amended by the amendment in the nature of a substitute as amended. Those in favor will say aye.
Opposed, no.
The ayes appear to have—a rollcall is demanded. The question is on reporting the bill favorably. Those in favor will, as your names are called, answer aye, those opposed no, and the clerk will call the roll.
The CLERK. Mr. Hyde?
Mr. HYDE. Aye.
The CLERK. Mr. Hyde, aye. Mr. Gekas?
Mr. GEKAS. Aye.
The CLERK. Mr. Gekas, aye. Mr. Coble?
[No response.]
The CLERK. Mr. Smith?
[No response.]
The CLERK. Mr. Gallegly?
Mr. GALLEGLY. Aye.
The CLERK. Mr. Gallegly, aye. Mr. Goodlatte?
Mr. GOODLATTE. Aye.
The CLERK. Mr. Goodlatte, aye. Mr. Chabot?
Mr. CHABOT. Aye.
The CLERK. Mr. Chabot, aye. Mr. Barr?
Mr. BARR. Aye.
The CLERK. Mr. Barr, aye. Mr. Jenkins?
[No response.]
The CLERK. Mr. Cannon?
Mr. CANNON. Aye.
The CLERK. Mr. Cannon, aye. Mr. Graham?
[No response.]
The CLERK. Mr. Bachus?
[No response.]
The CLERK. Mr. Hostettler?
Mr. HOSTETTLER. Aye.
The CLERK. Mr. Hostettler, aye. Mr. Green?

Mr. GREEN. Aye.
The CLERK. Mr. Green, aye. Mr. Keller?
Mr. KELLER. Aye.
The CLERK. Mr. Keller, aye. Mr. Issa?
Mr. ISSA. No.
The CLERK. Mr. Issa, no. Ms. Hart?
Ms. HART. Aye.
The CLERK. Ms. Hart, aye. Mr. Flake?
Mr. FLAKE. No.
The CLERK. Mr. Flake, no. Mr. Pence?
Mr. PENCE. Aye.
The CLERK. Mr. Pence, aye. Mr. Forbes.
Mr. FORBES. Aye.
The CLERK. Mr. Forbes, aye. Mr. Conyers?
[No response.]
The CLERK. Mr. Frank?
Mr. FRANK. No.
The CLERK. Mr. Frank, no. Mr. Berman?
[No response.]
The CLERK. Mr. Boucher?
[No response.]
The CLERK. Mr. Nadler?
[No response.]
The CLERK. Mr. Scott?
Mr. SCOTT. No.
The CLERK. Mr. Scott, no. Mr. Watt?
Mr. WATT. No.
The CLERK. Mr. Watt, no. Ms. Lofgren?
Ms. LOFGREN. Pass.
The CLERK. Ms. Lofgren, pass. Ms. Jackson Lee?
Ms. JACKSON LEE. Aye.
The CLERK. Ms. Jackson Lee, aye. Ms. Waters?
Ms. WATERS. No.
The CLERK. Ms. Waters, no. Mr. Meehan?
[No response.]
The CLERK. Mr. Delahunt?
[No response.]
The CLERK. Mr. Wexler?
Mr. WEXLER. No.
The CLERK. Mr. Wexler, no. Ms. Baldwin?
Ms. BALDWIN. No.
The CLERK. Ms. Baldwin, no. Mr. Weiner?
Mr. WEINER. No.
The CLERK. Mr. Weiner, no. Mr. Schiff?
Mr. SCHIFF. No.
The CLERK. Mr. Schiff, no. Mr. Chairman?
Chairman SENSENBRENNER. Aye.
The CLERK. Mr. Chairman, aye.

Chairman SENSENBRENNER. Are there additional Members who wish to cast or change their vote? Gentleman from Texas, Mr. Smith.

Mr. SMITH. Mr. Chairman, I vote aye.
The CLERK. Mr. Smith, aye.

Chairman SENSENBRENNER. Gentleman from North Carolina, Mr. Coble.

Mr. COBLE. Aye.

The CLERK. Mr. Coble, aye.

Chairman SENSENBRENNER. Gentleman from South Carolina, Mr. Graham?

Mr. GRAHAM. Aye.

The CLERK. Mr. Graham, aye.

Chairman SENSENBRENNER. The gentlewoman from California, Ms. Lofgren.

Ms. LOFGREN. No.

The CLERK. Ms. Lofgren, no.

Chairman SENSENBRENNER. Other Members who wish to cast or change their vote? Gentleman from California, Mr. Berman.

Mr. BERMAN. No.

The CLERK. Mr. Berman, no.

Chairman SENSENBRENNER. Anybody else who wishes to cast or change their vote?

[No response.]

Chairman SENSENBRENNER. If not, the clerk will report.

The CLERK. Mr. Chairman, there are 18 ayes and 12 nays.

Chairman SENSENBRENNER. And the ayes have it. The motion to report favorably is agreed to. Without objection——

Ms. JACKSON LEE. Mr. Chairman, Mr. Chairman?

Chairman SENSENBRENNER. Without objection, the bill will be reported favorably to the House in the form of a single amendment in the nature of a substitute, incorporating the amendments that have been adopted.

Without objection, the Chairman is authorized to move to go to conference pursuant to House rules.

Without objection, the staff is directed to make any technical and conforming changes, and all Members will be given 2 days as provided by the rules in which to submit additional dissenting supplemental or minority views.

Ms. JACKSON LEE. Mr. Chairman?

Chairman SENSENBRENNER. For what does the gentlewoman from Texas, Ms. Jackson Lee, seek recognition?

Ms. JACKSON LEE. To strike the last word.

Chairman SENSENBRENNER. Well, we don't have anything—you wish to speak out of order?

Ms. JACKSON LEE. I'd like to speak out of order, Mr. Chairman.

Chairman SENSENBRENNER. The gentlewoman is recognized to speak out of order for a limited period of time.

Ms. JACKSON LEE. Thank you, Mr. Chairman.

Mr. Goodlatte—I'd like to yield to Mr. Goodlatte. Is he present? As you well know, I have a great interest in this as it relates to children and the restriction of children. I also have a great interest in the question of charitable gambling, and as I recall your remarks during the debate of my amendment, I'd like to yield to you because I'd like to make sure that we'll have the opportunity to work on the charitable organizations questions and concerns that I have before this bill moves to—moves to the floor. I yield to the gentleman.

Mr. GOODLATTE. I thank the gentlewoman for yielding, and we certainly will continue the work with you on that, but you will note that the Committee passed a very tough anti-gambling bill, and so the mood, particularly on your side of the aisle, to work out and

fashion a compromise was difficult, and therefore, I don't know. But we will definitely—I am interested in trying to work with you.

Chairman SENSENBRENNER. It is time to move on. The next item——

Ms. JACKSON LEE. It is time to move on. I thank the gentleman for his somewhat weak response and I will act accordingly as we move to the floor. Thank you, gentleman.

Chairman SENSENBRENNER. The regular order has been called for.

DISSENTING VIEWS

Although we are opposed to illegal gambling, whether done over the Internet or otherwise, we cannot support the legislation reported by the Judiciary Committee because the enforcement mechanisms will likely be ineffective. We question the wisdom of spending valuable prosecutorial resources on attempting to shut down Internet gambling sites—an endeavor which ultimately is likely to be futile.

H.R. 3215 would make it unlawful for a person engaged in a gambling business knowingly to use a communication facility [1] to transmit a bet, wager, or information assisting in the placing of bets or wagers.[2] The bill also makes it unlawful for a person engaged in a gambling business knowingly to accept, with respect to the transmission of bets or wagers, credit, electronic fund transfers, checks and other similar financial instruments.[3] By prohibiting the payment of credit, electronic funds, checks and other similar instruments to Internet gambling businesses, H.R. 3215 deputizes the financial services industry to be the primary enforcers of the law.

In order to ensure compliance, the bill authorizes law enforcement to obtain injunctive or declaratory relief to restrain or prevent any person from paying or assisting in the payment of bets or wagers in interstate commerce.[4] Such relief, when granted against an interactive computer service, is limited to the removal of, or disabling of access to, an online site violating the law or a hypertext link to an online site violating the law, that resides on a computer server that such service controls or operates.[5]

The version of H.R. 3215 that the Committee initially considered would have created an unfair situation in which Internet betting was legal for certain types of gambling (horse racing, fantasy sports, state lotteries, and casino gambling [6]), but illegal for other types of Internet gambling (dog racing, jai alai, charitable gaming, and Tribal gambling [7]). At markup, however, the Committee adopted an amendment offered by Rep. Cannon that outlawed *all* inter-

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[1] The term "communication facility" means any and all instrumentalities, personnel, and services (among other things, the receipt, forwarding, or delivery of communications) used or useful in the transmission of writings, signs, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission. 18 U.S.C. § 1081.

[2] H.R. 3215, subsection (a).

[3] H.R. 3215, subsection (b).

[4] H.R. 3215, subsection (i)(1).

[5] H.R. 3215, subsection (i)(3)(A).

[6] Such wagering was legal if both the bettor and the gambling business were located in a State that had explicitly authorized such bets or wagers.

[7] The bill's requirement that the player physically be present on Indian lands had the practical effect of prohibiting Tribal gaming because no potential customer would travel to an Indian reservation in order to access the Internet to make a transaction on a Tribal Internet gaming site.

state Internet gambling, thereby eliminating the bill's preferences for certain types of gambling interests.[8]

Credit card companies such as Visa and Master Card have raised concerns with the bill because it could subject them to injunctions in numerous jurisdictions that require different—or even conflicting—remedies to prevent the payment of Internet bets or wagers. The result will be a hodge-podge of inconsistent court orders, rather than a cohesive enforcement scheme.

In addition, relying on financial institutions to enforce the law will likely be ineffective. Credit card companies have a limited ability to block financial transactions to illegal Internet gambling businesses. The companies rely on a merchant coding system to ascertain the nature of particular transactions, but this system has limitations. First, it depends on the merchant to accurately code a transaction. There are obvious incentives for many Internet gambling merchants to falsify their merchant identification.[9]

More significantly, the coding system applies only when an online gambler uses a credit card to transact business directly with an online gambling merchant. Often times, an Internet gambler will use electronic cash and account funding systems to create a pool of electronically available funds. Thus, a cardholder could use his or her credit card to purchase "e-cash" on a web site that does not, itself, offer gambling, but allows that e-cash to be used on another web site that does offer gambling. The credit card coding system would not capture these transactions as Internet gambling.[10] And if the e-cash website is offshore, it could be beyond the reach of U.S. law enforcement.

Additionally, the bill does not make it illegal for an individual to place an Internet bet. Rather, the bill only criminalizes an Internet gambling business which accepts bets or wagers or accepts credit or other types of financial instruments. As such, the bill leaves out the most effective enforcement mechanism—targeting individual bettors. This legislation, therefore, has little or no deterrent value. Offshore gambling sites will evade any restrictions easily, and individual bettors will continue to seek out these sites and gamble free from any fear of any legal consequences.

CONCLUSION

Although the intent of this legislation is laudable, we believe conscripting credit card companies to enforce our criminal laws is ineffective and will set a bad precedent regarding the Internet. In addition, criminalizing only the Internet gambling business without placing any penalty on the individual bettor further weakens the

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[8] The Committee adopted the Cannon Amendment after Rep. Wexler failed to prevail on an amendment that would have permitted Internet gambling on dog racing and jai alai.

Although the bill treats all *interstate* Internet gambling equally, we are nevertheless concerned with the bill's overly restrictive treatment of Indian tribal governments with respect to *intrastate* Internet gambling. Except for prohibiting state lotteries, the bill does not address the ability of states to authorize Internet gambling on an *intrastate* basis. Thus, states are still empowered to license Internet gaming sites that could offer wagering opportunities to anyone within that state who is legally eligible to place a wager. However, the bill limits the ability of tribes to take wagers by requiring that the individuals physically be located on reservation lands. Congress should not be in the practice of picking winners and losers when establishing public policy.

[9] Testimony of Mark MacCarthy, Senior Vice President of Public Policy, Visa U.S.A., Inc., before the Subcommittee on Oversight and Investigations of the Committee on Financial Services, 107th Congress, 2nd Sess. (July 12, 2001).

[10] *Id.*

enforcement scheme of the bill. In the end, it is unlikely that this legislation will successfully halt Internet gambling.

JOHN CONYERS, JR.
ROBERT C. SCOTT.
MELVIN L. WATT.
MAXINE WATERS.

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