

UNLAWFUL INTERNET GAMBLING FUNDING PROHIBITION
ACT

JUNE 2, 2003.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. OXLEY, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 2143]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2143) to prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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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 “Unlawful Internet Gambling Funding Prohibition Act”.

SEC. 2. FINDINGS.

The Congress finds as follows:

- (1) Internet gambling is primarily funded through personal use of bank instruments, including credit cards and wire transfers.
- (2) The National Gambling Impact Study Commission in 1999 recommended the passage of legislation to prohibit wire transfers to Internet gambling sites or the banks which represent them.
- (3) Internet gambling is a major cause of debt collection problems for insured depository institutions and the consumer credit industry.
- (4) Internet gambling conducted through offshore jurisdictions has been identified by United States law enforcement officials as a significant money laundering vulnerability.

SEC. 3. POLICIES AND PROCEDURES REQUIRED TO PREVENT PAYMENTS FOR UNLAWFUL INTERNET GAMBLING.

(a) **REGULATIONS.**—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Federal functional regulators shall prescribe regulations requiring any designated payment system to establish policies and procedures reasonably designed to identify and prevent restricted transactions in any of the following ways:

- (1) The establishment of policies and procedures that—
 - (A) allow the payment system and any person involved in the payment system to identify restricted transactions by means of codes in authorization messages or by other means; and
 - (B) block restricted transactions identified as a result of the policies and procedures developed pursuant to subparagraph (A).
- (2) The establishment of policies and procedures that prevent the acceptance of the products or services of the payment system in connection with a restricted transaction.

(b) **REQUIREMENTS FOR POLICIES AND PROCEDURES.**—In prescribing regulations pursuant to subsection (a), the Federal functional regulators shall—

- (1) identify types of policies and procedures, including nonexclusive examples, which would be deemed to be “reasonably designed to identify” and “reasonably designed to block” or to “prevent the acceptance of the products or services” with respect to each type of transaction, such as, should credit card transactions be so designated, identifying transactions by a code or codes in the authorization message and denying authorization of a credit card transaction in response to an authorization message;
- (2) to the extent practical, permit any participant in a payment system to choose among alternative means of identifying and blocking, or otherwise preventing the acceptance of the products or services of the payment system or participant in connection with, restricted transactions; and
- (3) consider exempting restricted transactions from any requirement under subsection (a) if the Federal functional regulators find that it is not reasonably practical to identify and block, or otherwise prevent, such transactions.

(c) **COMPLIANCE WITH PAYMENT SYSTEM POLICIES AND PROCEDURES.**—A creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, or money transmitting service, or a participant in such network, meets the requirement of subsection (a) if—

- (1) such person relies on and complies with the policies and procedures of a designated payment system of which it is a member or participant to—
 - (A) identify and block restricted transactions; or
 - (B) otherwise prevent the acceptance of the products or services of the payment system, member, or participant in connection with restricted transactions; and
- (2) such policies and procedures of the designated payment system comply with the requirements of regulations prescribed under subsection (a).

(d) **ENFORCEMENT.**—

(1) **IN GENERAL.**—This section shall be enforced by the Federal functional regulators and the Federal Trade Commission under applicable law in the manner provided in section 505(a) of the Gramm-Leach-Bliley Act.

(2) **FACTORS TO BE CONSIDERED.**—In considering any enforcement action under this subsection against any payment system, or any participant in a payment system that is a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, or money transmit-

ting service, or a participant in such network, the Federal functional regulators and the Federal Trade Commission shall consider the following factors:

- (A) The extent to which such person is extending credit or transmitting funds knowing the transaction is in connection with unlawful Internet gambling.
- (B) The history of such person in extending credit or transmitting funds knowing the transaction is in connection with unlawful Internet gambling.
- (C) The extent to which such person has established and is maintaining policies and procedures in compliance with regulations prescribed under this subsection.
- (D) The feasibility that any specific remedy prescribed can be implemented by such person without substantial deviation from normal business practice.
- (E) The costs and burdens the specific remedy will have on such person.

SEC. 4. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) **RESTRICTED TRANSACTION.**—The term “restricted transaction” means any transaction or transmittal to any person engaged in the business of betting or wagering, in connection with the participation of another person in unlawful Internet gambling, of—

- (A) credit, or the proceeds of credit, extended to or on behalf of such other person (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 at or through any financial institution; or
- (D) the proceeds of any other form of financial transaction as the Federal functional regulators 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.

(2) **BETS OR WAGERS.**—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 subject to chance, 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);
- (C) includes any scheme of a type described in section 3702 of title 28, United States Code;
- (D) includes any instructions or information pertaining to the establishment or movement of funds in an account by the bettor or customer with the business of betting or wagering; and
- (E) does not include—

- (i) any activity governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) for the purchase or sale of securities (as that term is defined in section 3(a)(10) of such Act);

- (ii) any transaction conducted on or subject to the rules of a registered entity or exempt board of trade pursuant to the Commodity Exchange Act;

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

- (iv) any other transaction that—

- (I) is excluded or exempt from regulation under the Commodity Exchange Act; or

- (II) is exempt from State gaming or bucket shop laws under section 12(e) of the Commodity Exchange Act or section 28(a) of the Securities Exchange Act of 1934;

- (v) any contract of indemnity or guarantee;

- (vi) any contract for insurance;

- (vii) any deposit or other transaction with a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act);

- (viii) any participation in a simulation sports game or an educational game or contest that—

(I) is not dependent solely on the outcome of any single sporting event or nonparticipant's singular individual performance in any single sporting event;

(II) has an outcome that reflects the relative knowledge and skill of the participants with such outcome determined predominantly by accumulated statistical results of sporting events; and

(III) offers a prize or award to a participant that is established in advance of the game or contest and is not determined by the number of participants or the amount of any fees paid by those participants; and

(ix) any lawful transaction with a business licensed or authorized by a State.

(3) DESIGNATED PAYMENT SYSTEM DEFINED.—The term “designated payment system” means any system utilized by any creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, or money transmitting service, or any participant in such network, that the Federal functional regulators determine, by regulation or order, could be utilized in connection with, or to facilitate, any restricted transaction.

(4) FEDERAL FUNCTIONAL REGULATOR.—The term “Federal functional regulator” has the same meaning as in section 509(2) of the Gramm-Leach-Bliley Act.

(5) INTERNET.—The term “Internet” means the international computer network of interoperable packet switched data networks.

(6) UNLAWFUL INTERNET GAMBLING.—The term “unlawful Internet gambling” means to place, receive, or otherwise transmit a bet or wager by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable Federal or State law in the State in which the bet or wager is initiated, received, or otherwise made.

(7) OTHER TERMS.—

(A) CREDIT; CREDITOR; AND CREDIT CARD.—The terms “credit”, “creditor”, and “credit card” have the meanings given such terms in section 103 of the Truth in Lending Act.

(B) ELECTRONIC FUND TRANSFER.—The term “electronic fund transfer”—

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

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

(C) FINANCIAL INSTITUTION.—The term “financial institution”—

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

(ii) includes any financial institution, as defined in section 509(3) of the Gramm-Leach-Bliley Act.

(D) MONEY TRANSMITTING BUSINESS AND MONEY TRANSMITTING SERVICE.—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.

PURPOSE AND SUMMARY

H.R. 2143, the Unlawful Internet Gambling Funding Prohibition Act, directs the Federal functional regulators to prescribe regulations limiting the acceptance of any bank instrument for unlawful Internet gambling. It defines certain terms for purposes of the Act and establishes regulatory enforcement authorities. Its primary purpose is to give the Federal functional regulators a new, more effective tool for combating offshore Internet gambling sites that illegally extend their services to U.S. residents via the Internet.

BACKGROUND AND NEED FOR LEGISLATION

The Committee has established a comprehensive hearing and markup record on Internet gambling, most particularly in the 107th Congress. In addition to the extensive debate at the Committee's October 11, 2001 markup of H.R. 3004, the Financial Anti-

Terrorism Act of 2001, Internet gambling was addressed at the Committee's October 3, 2001 hearing on terrorism and money laundering. At that hearing, the Federal Bureau of Investigation (FBI), the Department of Justice, and a money laundering expert testified that Internet gambling serves as a vehicle for money laundering and can be exploited by terrorists for that purpose. The FBI also testified about pending litigation linking organized crime to money laundering and Internet gambling.

At two hearings held in July 2001 by the Subcommittee on Oversight and Investigations and the Subcommittee on Financial Institutions and Consumer Credit, witnesses discussed the legal status of Internet gambling, the social and financial challenges it poses, and legislative options for addressing those challenges.

Conventional forms of gambling activities, such as casino wagering, State lotteries, slot machines and horseracing, legal in many jurisdictions, are regulated by the individual States. However, these activities are subject to intense scrutiny and a myriad of licensing and other operational requirements. Virtually all States prohibit the operation of gambling businesses not expressly permitted by their respective constitutions or special legislation. Internet gambling currently constitutes illegal gambling activity in all 50 States. Although in June of 2001 the Nevada legislature authorized the Nevada Gaming Commission to legalize on-line, Internet gambling operations if and when such operations can be conducted in compliance with Federal law, the Gaming Commission believes that such compliance cannot be ensured at present.

Because Internet gambling is generally held to be illegal under Federal and State law, most of the estimated 2,000 Internet gambling sites today operate from offshore locations in the Caribbean and elsewhere. As such, they operate effectively beyond the reach of U.S. regulators and law enforcement, as well as the statutory anti-money laundering regimes that apply to U.S.-based casinos. These "virtual casinos" advertise the ease of opening betting accounts mainly through the use of credit cards and alternative payment systems. Internet gambling sites are not only vulnerable to criminal exploitation by money launderers; they also can easily abuse a customer's credit card information or manipulate the odds of a particular wager to the casino's advantage.

At the Oversight Subcommittee's hearing on July 12, 2001, the American Gaming Association—representing commercial casinos and their supporters in the United States—addressed some of the practical problems associated with Internet gambling, including the difficulty of subjecting Internet operations to the kinds of regulation currently applied to U.S.-based casinos. According to the AGA, its major concern is that offshore Internet gambling sites "frustrate important State policies, including restrictions on the availability of gaming within each State." The AGA went on to say: "* * * unregulated Internet gambling that exists today allows an unlicensed, untaxed, unsupervised operator to engage in wagering that is otherwise subject to stringent Federal and State regulatory controls. These controls are vital to preserving the honesty, integrity and fairness that those in the gaming industry today have worked so hard for so long to bring about." The AGA further reported that it does not believe the technology for exercising such controls with respect to Internet gambling is yet available.

Testifying from a State perspective, the New Jersey Director of Gaming Enforcement also noted that offshore Internet gambling operations provide no tax revenue or jobs to States, unlike State-regulated casinos.

In addition to the legal and economic challenges cited above, problem gambling—including problem Internet gambling—can lead to personal and family hardships, such as lost savings, excessive debt, bankruptcy, foreclosed mortgages, and divorce. In particular, Internet gambling is proving to be a serious problem for many college students. At the July, 2001 hearings, the National Collegiate Athletic Association (NCAA) underscored the vulnerability of young people to losing large sums through Internet gambling. According to a Nellie Mae survey cited by the NCAA, 78 percent of college students have credit cards, nearly a third have four or more credit cards, and one in ten will graduate with balances over \$7,000. One student reportedly lost \$10,000 on Internet sports gambling over a three-month period. And, in another case, a student reportedly lost \$5,000 on a single Internet wager on the Super Bowl and was forced to drop out of school. Further, recent events show that professional athletes are not immune to the lure of Internet gambling, as the sports pages have detailed the roughly \$500,000 owed by Washington Capitals hockey star Jaromir Jagr to a Caribbean Internet betting site. The New Jersey Director of Gaming Enforcement testified that the State of New Jersey had filed a suit against certain offshore casinos found to be taking online bets from minors in that State. Witnesses from the National Council on Problem Gambling and the Compulsive Gambling Center testified about the problems associated with compulsive or pathological gambling, and the Christian Coalition, in a letter to a Member of the Committee, echoed concerns about the impact of gambling on families and society and, in particular, the impact of Internet gambling on the poor, youth, and those who are already compulsive gamblers.

Because of the pervasive legal, economic and social challenges posed by the rapid growth of Internet gambling, the National Gambling Impact Study Commission unanimously recommended in its 1999 final report that the Federal government prohibit, with no new exemptions, all Internet gambling not already authorized by law. The Commission also recommended that legislation be adopted to prohibit wire transfers to Internet gambling sites or to the banks which represent them, and called on the government to develop enforcement strategies that include credit card providers and money transfer agencies that facilitate Internet gambling.

H.R. 2143, the Unlawful Internet Gambling Funding Prohibition Act, builds on the recommendations of the National Gambling Impact Study Commission by directing the Federal functional regulators to prescribe regulations reasonably designed to identify and prevent unlawful Internet gambling transactions, and provides that an entity covered by the Act is in compliance with the Act's requirements if it relies on procedures established by a payment system pursuant to such regulations, and such procedures comply with the regulations. H.R. 2143 is intended to provide regulatory flexibility so that compliance may be achieved through coding of transactions or—for those financial instruments for which coding is not viable—through alternative methods consistent with the bill's goals. The bill contains the regulatory enforcement provisions of

H.R. 556, which passed the House of Representatives by voice vote in the 107th Congress, and H.R. 21, reported favorably by the Financial Services Committee on March 13, 2003 (H. Rept. 108–51, Part 1). Its provisions are similar to those incorporated in the 107th Congress in the Committee-reported version of H.R. 3004, the Financial Anti-Terrorism Act of 2001, as well as to legislation adopted by the House Banking Committee in the 106th Congress (H.R. 4419).

H.R. 2143 is not intended to spell out which activities are legal and which are illegal with regard to Internet gambling; rather, it relies on the substantive laws in effect at the time a case is brought under the legislation, and law enforcement's interpretation of the underlying law. It would not alter, supersede or otherwise affect the application of the Indian Gaming Regulatory Act, nor would it permit a State that prohibits gambling to allow an out-of-State lottery to operate in that State. H.R. 2143 would not in general apply to a computer or video game that does not involve the staking or risking of something of value, nor to a game of skill played, created or distributed over the Internet. In short, any activity which is illegal on the day before the enactment of this legislation will still be illegal on the day after enactment.

H.R. 2143 is not intended to impose new burdens on financial institutions to identify which offshore gambling sites may be engaged in unlawful activities. Rather, the legislation contemplates a mechanism whereby banks and other financial service providers can identify, block or prevent payment to unlawful Internet gambling sites. The bill recognizes that many credit card companies and credit card banks are taking steps to identify, block or prevent Internet gambling transactions, and provides for enforcement of this bill by the Federal functional regulators and the Federal Trade Commission under applicable law in the manner provided in section 505(a) of the Gramm-Leach-Bliley Act.

HEARINGS

No hearings were held on this legislation in the 108th Congress.

COMMITTEE CONSIDERATION

The Committee met in open session on May 21, 2003 and ordered H.R. 2143, the Unlawful Internet Gambling Funding and Prohibition Act, reported to the House with a favorable recommendation by a voice vote, without amendment.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken in conjunction with the consideration of this legislation. A motion by Mr. Oxley to report the bill to the House with a favorable recommendation was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

Using authority granted by this legislation, the Federal functional regulators and the Federal Trade Commission under applicable law (section 505(a) of the Gramm-Leach-Bliley Act), will reduce the availability of illegal offshore Internet gambling in the United States.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 22, 2003.

Hon. MICHAEL G. OXLEY,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2143, the Unlawful Internet Gambling Funding Prohibition Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Hadley (for federal costs) and Cecil McPherson (for the impact on the private sector).

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 2143—Unlawful Internet Gambling Funding Prohibition Act

Summary: H.R. 2143 would require financial institutions to take steps to identify and block gambling-related transactions that are transmitted through their payment systems. The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA) would enforce the provisions of H.R. 2143 as they apply to financial institutions.

CBO estimates that implementing this legislation would result in no significant cost to the federal government. By increasing the costs of the FDIC and the Federal Reserve, the bill could affect direct spending and revenues, but CBO estimates that any such impacts would not be significant.

H.R. 2143 would create no new intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

The bill would impose a private-sector mandate, but CBO estimates that the direct costs of the mandate would fall well below the annual threshold established in UMRA (\$117 million in 2003, adjusted annually for inflation) in any of the next five years.

Estimated cost to the Federal Government: Based on information from the affected agencies, CBO estimates that the cost of implementing H.R. 2143 would be small, and thus, that the bill would have no significant net effect on the federal budget. The NCUA, the OTS, and the OCC charge fees to cover all their administrative costs; therefore, any additional spending by those agencies to implement the bill would have no net budgetary effect. The FDIC uses deposit insurance premiums paid by banks to cover the expenses it incurs to supervise state-chartered institutions. Under current law, CBO estimates that the vast majority of thrift institutions insured by the FDIC would not pay any premiums for most of the 2004–2013 period, and we expect that a small increase in FDIC spending would not trigger a significant change in its premium income over this period. In total, CBO estimates that H.R. 2143 would increase direct spending and offsetting receipts of the NCUA, OTS, OCC, and FDIC by less than \$500,000 a year over the 2004–2013 period.

The bill also would affect spending by the Federal Reserve. Budgetary effects on the Federal Reserve are recorded as changes in revenues (governmental receipts). Based on information from the Federal Reserve, CBO estimates that enacting H.R. 2143 would reduce such revenues by less than \$500,000 a year.

Estimated impact of state and local governments: H.R. 2143 would prohibit gambling businesses from accepting credit card payments and other bank instruments from gamblers who bet illegally over the Internet, the bill would not create a new intergovernmental mandate as defined in UMRA. Under current federal and state law, gambling businesses are generally prohibited from accepting bets or wagers over the Internet. Thus, H.R. 2143 does not contain a new mandate relative to current law and would impose no costs on state, local, or tribal governments.

Estimated impact on the private sector: H.R. 2143 would impose a new federal mandate on the private sector. The bill would require designated payment systems to establish policies and procedures

designed to identify and prevent transactions in connection with unlawful Internet gambling. Designated payment systems are defined in the bill to include any system utilized by businesses such as creditor, credit card issuers, or financial institutions to effect a credit transaction, an electronic fund transfer, or other transfer of funds. Information provided by representatives of the financial services industry indicates that such transactions can currently be identified through the use of codes. Most financial institutions are currently able to identify and block restricted transactions by using the coding system. Thus, CBO estimates that the private sector's cost to comply with the mandate would be small. CBO estimates that the total direct costs for the private-sector mandate in this bill would fall well below the annual threshold established in UMRA (\$117 million in 2003, adjusted annually for inflation).

Previous CBO estimates: On May 15, 2003, CBO transmitted a cost estimate for H.R. 21, the Unlawful Internet Gambling Funding Prohibition Act, as ordered reported by the House Committee on Financial Services on March 27, 2003. On May 16, 2003, CBO transmitted a cost estimate for H.R. 21 as ordered reported by the House Committee on the Judiciary on May 14, 2003. The two versions of H.R. 21 are similar to H.R. 2143, and the cost estimates of those provisions that affect the FDIC and the Federal Board are identical.

The private-sector mandate in H.R. 2143 is also continued in both versions of H.R. 21. Our estimate that the total direct costs of this mandate would fall well below the annual threshold for private-sector mandates established in UMRA is unchanged.

Estimate prepared by: Federal spending: Mark Hadley; federal revenues: Mark Booth; impact on state, local, and tribal governments: Victoria Heid Hall; impact on the private sector: Cecil McPherson.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the defense and general welfare of the United States), and clause 3 (relating to the power to regulate foreign and interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides the short title of the bill, the “Unlawful Internet Gambling Funding Prohibition Act.”

Section 2. Findings

This section provides certain Congressional findings. In particular, Congress finds that: (1) Internet gambling is primarily funded through the use of personal banking instruments and plays a large role in the creation of ultimately uncollectible personal debt; and (2) Internet gambling is susceptible to abuse by money launderers.

Section 3. Policies and procedures required to prevent payments for unlawful Internet gambling

Subsection (a) requires the Federal functional regulators to prescribe regulations within six months requiring any designated payment system to establish policies and procedures reasonably designed to identify and prevent restricted transactions.

Subsection (b) requires the Federal functional regulators, in prescribing regulations, to identify types of policies and procedures which would be reasonably designed to identify, block or prevent a restricted transaction; to the extent practical permit any participant in a payment system to choose among alternative means of compliance; and consider exempting restricted transactions where it is not reasonably practical to identify and block, or otherwise prevent, such transactions.

Subsection (c) provides that a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, or money transmitting service, or a participant in such network, is in compliance with subsection (a) if such person operates in reliance on procedures established by the payment system pursuant to subsection (a).

Subsection (d) requires that this section be enforced by the Federal functional regulators and the Federal Trade Commission, and sets out factors to be considered in any enforcement action against any payment system, or any participant in a payment system that is a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, or money transmitting service, or a participant in such network.

Section 4. Definitions

Section 4 defines the terms “restricted transaction”, “designated payment system”, “Federal functional regulator”, “Internet”, “unlawful Internet gambling”, “credit”, “creditor” and “credit card”, “electronic fund transfer”, “financial institution”, and “money transmitting business” and “money transmitting service.” Paragraph (2) defines the term “bets or wagers” as 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 subject to chance with the agreement that the winner will receive something of greater value than the amount staked or risked. This subsection clarifies that “bets or wagers” does not include a bona fide business transaction governed by the securities laws; a transaction subject to the Commodity Exchange Act; an over-the-counter derivative instrument and any other transaction exempt from State gaming or bucket shop laws pursuant to the Commodity Exchange Act or Securities Exchange Act; a contract of indemnity or guarantee; a contract for life, health, or accident insurance; a deposit with a depository institution; certain participation in a simulation sports game or education game; or a lawful transaction with a business licensed or authorized by a State.

CHANGES TO EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend existing law.

