

2008

Testimony Before the Subcommittee on Crime, Terrorism, and Homeland Security, United States House of Representatives, Legislative Hearing on H.R. 4777: The “Internet Gambling Prohibition Act,” April 5, 2006

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Recommended Citation

John W. Kindt, *Testimony Before the Subcommittee on Crime, Terrorism, and Homeland Security, United States House of Representatives, Legislative Hearing on H.R. 4777: The “Internet Gambling Prohibition Act,” April 5, 2006*, 8 Rich. J. Global L. & Bus. 19 (2008).
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CONGRESSIONAL TESTIMONY OF JOHN WARREN KINDT

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Testimony Before the Subcommittee on Crime, Terrorism, and Homeland Security United States House of Representatives Legislative Hearing on H.R. 4777: The “Internet Gambling Prohibition Act” April 5, 2006

TESTIMONY OF JOHN WARREN KINDT¹

Mr. Chairman, Members of the Committee, participants and guests from the U.S. House of Representatives and the U.S. Senate, thank you for your kind invitation to testify before the Committee.

This Statement will address the following issue areas, as requested by the Committee.

- A. Internet Gambling Destabilizes U.S. National Security and the Strategic Economic Base;
- B. A Summary List of Problems with Internet Gambling;
- C. The Socio-Economic Impacts of Gambling Activities via the Internet, Cell Phones, and Cyberspace: Immediate and Irreparable Harm;
- D. Are Electronic Gambling Games and Slots “Fair” to Patrons?; and
- E. Strategic Solution to Eliminate Internet Gambling Problems and Other Gambling Problems: Ban Internet Gambling and Trans-

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To avoid conflicts of interest, Professor Kindt and several academic colleagues do not accept consultant fees or honoraria for work in gambling research areas. This Statement should be interpreted as representing only the individual views of the author. Richard D. Barritt and Tai G. Schuler provided valuable editorial assistance in preparing this Statement.

form Gambling [sic] Facilities into Educational and Practical Technology Facilities: Stabilizing International Financial Institutions.

In this testimony I have cited to my own work only as introductions to the hundreds of source materials cited in the footnotes. These sources can be referenced by researchers. This Committee has my permission (and the permissions which I have already received from the publishers of my articles and the attachments herein) to reprint and distribute any or all of the articles authored by myself on gambling issues. In PDF format, these articles are available at www.family.org/gamblingresearch.

A. *Internet Gambling Destabilizes U.S. National Security and the Strategic Economic Base*

During the 1990s, the international economic and diplomatic ramifications of the spread of U.S. gambling technologies throughout the United States and the world were outlined in an article written at the suggestion and under the auspices of former Secretary of State Dean Rusk. The article was: John W. Kindt, *U.S. Security and the Strategic Economic Base: The Business/Economic Impacts of Legalized Gambling Activities*, 33 St. Louis U.L.J. 567-584 (1995), reprinted in *National Gambling Impact and Policy Comm'n Act: Hearing on H.R. 497 before the House Comm[un] on the Judiciary*, 104th Cong., 1st Sess. 519-27, 528-45 (1995).

As commonly utilized by U.S. State Department analysts, the McDougal/Lasswell methodology for policy-oriented decision-making highlights these strategic problems with the spread of U.S. gambling technologies.

Monetary interests promoting Internet gambling have long referred to Internet gambling as the "killer application" of the Internet, the world wide web, and cyberspace, including cell phones (hereinafter referenced collectively as "Internet gambling"). See, *Homes, Restaurants and Planes*, WALL ST. J., Aug. 16, 1995, at A1.

Internet gambling places electronic gambling at every work station, at every school desk, and in every living room. The phrase "click your mouse, lose your house" is a common phrase at academic conferences and state legislative hearings analyzing Internet gambling.

B. *Summary List of Problems with Internet Gambling*

1. Internet gambling destabilizes U.S. and international economies. John W. Kindt & Stephen W. Joy, *Internet Gambling and the Destabilization of National and International Economies: Time for a Comprehensive Ban on Gambling Over the World Wide Web*, 80 DENV. U.L. REV. 111-153 (2002).

2. Internet gambling destabilizes and threatens the financial systems of the United States and the International Economic System. *See, e.g.*, John W. Kindt & John K. Palchak, *Legalized Gambling's Destabilization of U.S. Financial Institutions and the Banking Industry: Issues in Bankruptcy, Credit, and Social Norm Production*, 9 EMORY U. BANKRUPTCY DEV. J. 21-69 (2002) (lead article). *See also*, John W. Kindt, *The Business-Economic Impacts of Licensed Casino Gambling in West Virginia*, 13 W. Va. U. Inst. Pub. Aff. 22-26 (1996) (invited article), *updated and reprinted from*, *The National Impact of Casino Gambling Proliferation: Hearing Before the House Comm. on Small Business*, 103d Cong., 2d Sess. 77-81 (1994) (statement of Prof. John W. Kindt).
3. Internet gambling destabilizes U.S. national security in the fight against terrorism. John W. Kindt & Anne E.C. Brynn, *Destructive Economic Policies in the Age of Terrorism: Government-Sanctioned Gambling as Encouraging Transboundary Economic Raiding and Destabilizing National and International Economies*, 16 TEMPLE INT'L & COMP. L.J. 243 (2002-03) (lead article).
4. Internet gambling destabilizes military readiness. *See, e.g.*, John W. Kindt, *Gambling with Terrorism and U.S. Military Readiness: Time to Ban Video Gambling Devices on U.S. Military Bases and Facilities?*, 24 N. ILL. L. REV. 1-39 (2003) (lead article).
5. Internet gambling creates and facilitates new criminal activity. *See generally*, John W. Kindt, *Increased Crime and Legalizing Gambling Operations: The Impacts on the Socio-Economics of Business and Government*, 30 CRIM. L. BULL. 538-555 (1994); John W. Kindt, *The Failure to Regulate the Gambling Industry Effectively: Incentives for Perpetual Non-Compliance*, 27 S. ILL. U.L.J. 221-262 (2002) (lead article) [hereinafter *The Failure to Regulate Gambling*].
6. Internet gambling fuels the fasts growing addiction among young people—gambling addiction. *See* John W. Kindt & Thomas Asmar, *College and Amateur Sports Gambling: Gambling Away Our Youth?*, 8 VILLANOVA SPORTS & ENTERTAINMENT L.J. 221-252 (2002) (lead article).
7. Internet gambling creates enormous socio-economic costs of \$3 for every \$1 in benefits. John W. Kindt, *The Costs of Addicted Gamblers: Should the States Initiate Mega-Lawsuits Similar to the Tobacco Cases?*, 22 MANAGERIAL & DECISION ECON. 17-63 (invited article).

8. Internet gambling creates and facilitates government corruption in the United States and throughout the world. See generally, John W. Kindt, *Follow the Money: Gambling, Ethics, and Subpoenas*, 556 ANNALS OF THE AM. ACADEMY OF POLITICAL & SOC. SCI., 85-97 (1998) (invited article) [hereinafter *Follow the Money*].

Callously capitalizing on the 9-11 tragedy, U.S. gambling lobbyists slipped into the 2002 Economic Stimulus Act what the Nevada press termed a \$40 billion federal tax break for slot machines and other electronic gambling devices. Tony Batt, *Tax Break for Slots OK'd*, LAS VEGAS REV. J., Oct. 16, 2001, at 1. As of last fall, those tax write-offs were still in force and gambling interests were lobbying for extensions and increases. John W. Kindt, *Internationally, the 21st Century Is No Time for the United States to Be Gambling Industry and the DeFacto Elimination of All Casino Tax Revenues via the 2002 Economic Stimulus Act*, 29 OHIO N. UNIV. L. REV. 33-394 (2003) (lead article).

C. The Socio-Economic Impacts of Gambling Activities via the Internet, Cell Phones, and Cyberspace: Immediate and Irreparable Harm.

Internet gambling causes “immediate harm” and “irreparable harm” to the entire U.S. public. For examples of sworn testimony by professors/academics documenting the “immediate and irreparable harm” caused by Internet gambling and the advertising of such activities, see Expert Opinions of Earl Grinols, John Warren Kindt, and Nancy Petry *Cisneros v. Yahoo* (Case No. 04433518, Calif. Superior Ct. San Fran., filed Aug. 3, 2004) [hereinafter *Cisneros*].

However, U.S. businesses continue to provide venues for advertising illegal internet gambling in the United States. See 18 U.S.C. § 1084 (the “Wire Act”); Matt Richtel, *Wall St. Bets On Gambling On the Web*, N.Y. TIMES, Dec. 25, 2005, at A1 (The U.S. Justice Department reaffirmed that “online gambling [is] illegal.”).

In one California example, a private attorney general action on behalf of the public has been brought as a class action “against the major Internet search engine websites which advertise illegal Internet gambling in California.” *Cisneros, infra*, Complaint, at 1.

The primary irreparable harm resulting from advertising gambling activities and the resulting gambling consists of pathological gambling, which is comparable to drug addiction. Pathological gambling is recognized as an addictive behavior, specifically an “impulse control disorder.” AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, sec. 312.21, at 615-18 (4th ed. 1994) [hereinafter DSM IV]. The American Psychiatric Association (APA) lists 10 diagnostic criteria for pathological gambling. By defini-

tion, a “pathological gambler” evidences “[p]ersistent and recurrent maladaptive gambling behavior as indicated by five (or more)” of the 10 criteria. DSM IV, *infra*, at 618. By definition, a “problem gambler” evidences up to four of the criteria.

Like drug addiction, the harms to the public (commonly referred to as “the ABCs” of legalized gambling’s socio-economic impacts) caused by gambling activities via cyberspace and particularly via the Internet include:

- (a) new addicted gamblers,
- (b) new bankruptcies, and
- (c) new crime

For the most authoritative analysis of new crime costs linked to the accessibility and acceptability of gambling, see Earl L. Grinols, *et. al.*, *Casinos and Crime* (1999, as updated 2005), forthcoming academic publication as Earl L. Grinols & David Mustard, *The Curious Case of Casinos and Crime*, 88 REV. ECON. & STAT. 28-45 (2006). A table of the authoritative academic studies highlights that the socio-economic public costs of legalized gambling activities are at least \$3 for every \$1 in benefits. Earl L. Grinols & David B. Mustard, *Business Profitability versus Social Profitability: Evaluating Industries with Externalities, The Case of Casinos*, 22 MANAGERIAL & DEC. ECON. 143, 153 (2001) [hereinafter *The Case of Casinos*]. This 3:1 ratio has been the ratio for many years. See, *eg.*, *The National Impact of Casino Gambling Proliferation: Hearing before the House Comm. on Small Business*, 103d Cong. 77-81 & nn. 9, 12 (1994).

For the definitive book in these issue areas, see EARL L. GRINOLS, *GAMBLING IN AMERICA: COSTS AND BENEFITS* (Cambridge Univ. Press 2004). For summaries and tables of the major studies of the socio-economic harms, see John W. Kindt, *The Costs of Addicted Gamblers: Should the States Initiate Mega-Lawsuits Similar to the Tobacco Cases?*, 22 MANAGERIAL & DEC. ECON. 17, 44-63, App. Tables A1-A14 (2001) [hereinafter *Mega-Lawsuits*]. See also, NAT’L GAMBLING IMPACT STUDY COMMISSION FINAL REPORT chap. 4 (June 1999) [hereinafter *NGISC FINAL REPORT*]. For a summary of the socio-economic costs of gambling activities as presented to Congress, see Testimony and Prepared Statement of Professor John Warren Kindt, *Before the U.S. House of Representatives Comm. on Resources*, 109th Cong., 1st Sess., Apr. 27, 1005 (App. Tables).

In the case of concentrated and multiple electronic gambling devices (EGDs), such as in casinos and racinos (*i.e.*, EGDs at race-tracks), the “accessibility” and new “acceptability” (*i.e.*, legalization) to the public dictates that the new pathological (*i.e.*, addicted) gamblers will double from approximately 1.0 percent of the public, increasing to 2 percent. Similarly, the new problem gamblers will double from approximately 2 percent of the public, increasing to 4 percent. When the

category is specifically focused on teens and young adults, these rates are virtually doubled again to between 4 percent to 8 percent combined pathological and problem gamblers. *See e.g.*, Durand F. Jacobs, *Illegal and Undocumented: A Review of Teenage Gambling and the Plight of Children of Problem Gamblers in America*, in COMPULSIVE GAMBLING: THEORY, RESEARCH, AND PRACTICE 249 (1989).

These “doubling increases” have reportedly occurred within the gambling facilities’ “feeder markets.” NGISC FINAL REPORT, *infra*, at 4-4 (50-mile feeder markets); John W. Kindt, *Diminishing or Negating the Multiplier Effect: The Transfer of Consumer Dollars to Legalized Gambling: Should a Negative Socio-Economic “Crime Multiplier” be Included in Gambling Cost/Benefit Analyses?*, 2003 MICH. STATE DCL L. REV. 281, 312-13 App. (2003) (35-mile feeder markets) [hereinafter *Crime Multiplier*]; John Welte, St. Univ. N.Y. at Buffalo, 2004 Study (10-mile feeder markets).

Gambling activities via cyberspace and particularly via the Internet eliminate the radial feeder markets around the casino EGDs and maximize the accessibility and acceptability factors for gambling (and concomitant social negatives) by placing EGDs in every living room, at every work station, and at every school desk. Children, teens, and young adults conditioned by the Nintendo phenomenon are already demonstrating double the pathological and problem gambling rates of the older adult populations who matured without video games and without the accessible legalized gambling venues. Jacobs, *infra*.

Accordingly, the 1999 U.S. National Gambling Impact Study Commission recommended that there be no legalization of Internet gambling and that the U.S. laws criminalizing gambling over the wires be strengthened (*see* 18 U.S.C. § 1084, the “Wire Act”). The Commission also de facto recommended that the laws criminalizing Internet gambling be redrafted to eliminate any ambiguities and to establish a virtual ban on gambling in cyberspace. NGISC FINAL REPORT, *infra*, recs. 5.1-5.4. The U.S. Gambling Commission also highlighted that EGDs were commonly referenced by the psychological community as the crack cocaine of creating new addicted gamblers. *See, e.g.*, NDISC FINAL REPORT, *infra*, at 5-5; V. Novak, *They call it Video Crack*, TIME, June 1, 1998, at 58. The Commission reported testimony that Internet gambling magnifies gambling addiction.

Irreparable harm as a result of advertising Internet gambling devolves from the phenomenon that there are large increases in the numbers of pathological and problem gamblers once EGD gambling becomes accessible and acceptable. The legalization of new gambling venues since 1990 and the addictive nature of gambling have led to substantial increases in the numbers of Gamblers Anonymous groups, which are modeled after Alcoholics Anonymous groups.

Gambling industry spokespersons have frequently referred to Internet gambling as the “killer application” (a.k.a. “killer app”) of Internet technology because Internet gambling is crack cocaine to addicting new gamblers and because the feeder market is every living room, work station, and school desk. For a summary table showing the various studies reporting the disproportionate revenues which various types of legalized gambling take from pathological and problem gamblers, see *Mega-Lawsuits, infra*, at 25, Table 1 (compiled by Professor Henry Lesieur).

Increasing numbers of experts and clinicians studying pathological gambling have reported that when a new person is “once hooked” they are “hooked for life.” See, e.g., *Mindsort, Colorado Lottery 1996*. The salient points are that: (1) these are new pathological gamblers, and (2) these gamblers may be addicted for life (although in remission in many cases). A fortiori, gambling via cyberspace and particularly via the Internet intensifies these problems – a substantial number of which will be irreparable, especially when interfaced with children, teens, and young adults. See, e.g., 27 SUICIDE & LIFE-THREATENING BEHAV. 373, 376-77, & Table 3 (1997).

D. Are Electronic Games and Slots “Fair” to Patrons?

Issues have arisen involving how “slot machines” are programmed and whether the astronomical odds are “fair” to patrons. “*The Insiders*” for *Gambling Lawsuits: Are the Games “Fair” and Will Casinos and Gambling Facilities be Easy Targets for Blueprints for RICO and Other Causes of Action?*, 55 MERCER L. REV. 529-593 (2004) (lead article). See also, *Subpoenaing Information from the Gambling Industry: Will the Discovery Process in Civil Lawsuits Reveal Hidden Violations Including the Racketeer Influenced and Corrupt Organizations Act?*, 82 OREGON L. REV. 221-294 (2003) (lead article). Coupled with pandemic regulatory failures, these issues of “fairness” have been exacerbated. See *The Failure to Regulate Gambling, infra*; *Follow the Money, infra*.

E. The Feeder Market Impacts of Internet Gambling

The FINAL REPORT of the Congressional 1999 National Gambling Impact Study Commission called for a moratorium on the expansion of any type of gambling anywhere in the United States. Although tactfully worded, the National Gambling Commission also called for the continued prohibition of Internet gambling and the re-criminalization of various types of gambling, particularly slot machines convenient to the public.

Some of the negative impacts of casinos, electronic slot machines, and Internet gambling are detailed in the appendix to the article, *Diminishing Or Negative The Multiplier Effect: The Transfer of*

Consumer Dollars to Legalized Gambling: Should a Negative Socio-Economic "Crime Multiplier" be Included in Gambling Cost/Benefit Analyses?, 2003 MICH. ST. DCL L. REV. 281-313 (lead article). The circle "feeder market" chart and sources documentation follow this written testimony.

In his classic book entitled *ECONOMICS*, Nobel-Prize laureate Paul Samuelson summarized the economics involved in gambling activities as follows: "There is . . . a substantial economic case to be made against gambling. First, it involves simply *sterile transfers of money or goods* between individuals, creating no new money or good. Although it creates no output, gambling does nevertheless absorb time and resources. When pursued beyond the limits of recreation, where the main purpose is after all to "kill" time, gambling subtracts from the national income. The second economic disadvantage of gambling is the fact that it tends to promote *inequality and instability of incomes*." PAUL SAMUELSON, *ECONOMICS* 245 (10th ed.). Furthermore, Professor Samuelson observed that "[j]ust as Malthus saw the law of diminishing returns as underlying his theory of population, so is the 'law of diminishing marginal utility' used by many economists to condemn professional gambling." *Id.* at 425.

F. Strategic Solution to Eliminate Internet Gambling Problems and Other Gambling Problems: Transform Gambling Facilities into Educational and Practical Technology Facilities: Stabilizing International Financial Institutions

Instead of legalizing a casino/slot machine establishment at a failing racetrack in 1997, the Nebraska legislature bulldozed the racetrack and made it into an extension of the University of Nebraska and a high-tech office park. John W. Kindt, *Would Re-Criminalizing U.S. Gambling Pump-Prime the Economy and Could U.S. Gambling Facilities Be Transformed into Educational and High-Tech Facilities? Will the Legal Discovery of Gambling Companies' Secrets Confirm Research Issues?* 8 STANFORD J.L., BUS. & FIN. 169-212 (2003) (lead article).

Thereafter, as pro-gambling interest returned to Nebraska they were repeatedly rebuffed by the academic community, which was exemplified in one instance by 40 economists publicly rejecting new gambling proposals that would "cannibalize" the consumer economy. Robert Dorr, *40 Economists Side Against More Gambling, Singers: Costs Likely Higher than Benefits*, OMAHA WORLD-HERALD, Sept. 22, 1996, at B1.

On October 27, 2005, the Illinois House of Representatives voted 67 to 42 (with 7 voting "present") for the Senator Paul Simon memorial bill (as it is popularly referenced) to re-criminalize the Illinois casinos via H.B. 1920, sponsored by Representative John Bradley.

The companion Senate bill is currently awaiting action in the Illinois Senate Rules Committee.

Similarly, suggestions have been made to recriminalize gambling facilities in other states and transform gambling facilities into educational and high-tech assets – instead of the gambling industry tax breaks. On December 6, 2005, Pennsylvania Representative Paul Clymer (with 32 cosponsors) introduced H.B. 2298 to re-criminalize the Pennsylvania casinos.

Casinos and gambling parlors would generally be compatible with transformations into educational and high-tech resources. For example, the hotels and dining facilities could be natural dormitory facilities. Historically, facilities built for short-term events, such as various World Fair Expositions, the 1996 Olympic Village (converted to facilities for the Georgia University system), and other public events have been transformed into educational and research facilities.

The immediate strategic solution to eliminate or curtail many of the problems caused by gambling activities is a total ban on Internet gambling activities. Socio-economic history demonstrates that the eventual strategic solution to U.S. and international gambling problems is to re-criminalize gambling and transform gambling facilities into educational and practical technology facilities.