

# The Big Federal Gamble

*Congress looks at bills on online poker and off-reservation casinos.*

By Andrew Ramonas

*The National Law Journal*

September 09, 2011

During the past three decades, legalized gambling revenues in America have exploded. Commercial and Indian casinos and state lotteries now collectively rake in about \$100 billion in profits annually.

In its upcoming term, Congress will be weighing a variety of gambling-related measures, including some that would spur that growth and others that might slow it down. And lawmakers also may be getting closer to passing a measure that for the first time would give a federal agency the authority to begin studying the "harmful consequences" of gambling addiction.

Members of Congress already this year have introduced at least seven bills that specifically address gambling matters. Most of the measures concern Internet gambling or American Indian gambling facilities located outside of a tribe's reservation.

At least two dozen law firms representing American Indian communities, casinos and other players in the gambling industry lobbied federal officials on issues related to American Indian and online gambling during the first half of 2011.

The gambling bill that has garnered the most attention is a measure that would regulate Internet poker. Currently, online poker players in the United States can play for money, but can't legally collect their earnings. In April, the U.S. Department of Justice indicted 11 people linked to online gambling operations and moved to shut down three of the top Web sites.

Some jurisdictions, including the District of Columbia, are taking steps toward regulating online gambling, and Congress is looking to do the same.

The Internet Gambling Prohibition, Poker Consumer Protection, and Strengthening UIGEA Act introduced by Rep. Joe Barton (R-Texas) in June would require a company to obtain a state- or tribe-issued operation license if it wishes to accept online poker bets from individuals in the United States. (UIGEA refers to the Unlawful Internet Gambling Enforcement Act of 2006.) The act would create an office in the U.S. Commerce Department that would oversee state and tribal licensing.

"We want to have an iron-clad system to make sure that those who play for money are playing in an honest, fair system where they can reap the benefits of their winnings," Barton said in a

statement. "To put it simply, this bill is about having the personal freedom to play a skill-based game you enjoy without fear of breaking the law."

The bill is similar to legislation previously introduced by Rep. Barney Frank (D-Mass.). Frank is one of the measure's 19 Democratic and six GOP co-sponsors.

The American Gaming Association (AGA), the trade group for the commercial casino industry, has not taken a position on the bill. But the organization supports regulated Internet poker.

"[W]e are pleased that Rep. Barton wants to protect American consumers and understands the need for regulating online poker in our country," the AGA said in a statement. "The millions of Americans who are playing poker online deserve to know they are playing safely with law-abiding operators, but strong enforcement of illegal operators and unambiguous U.S. laws governing online gambling are equally vital."

The group spent \$1.2 million during the first half of 2011 lobbying Congress on Internet gambling regulation and other gambling issues, according to congressional records. Three AGA officials and lobbyists from seven firms — including Brownstein Hyatt Farber Schreck, Holland & Hart and Ropes & Gray — advocated for the organization during that period.

William Moschella, a Brownstein partner lobbying for the AGA, referred inquiries to the group. Officials at the AGA could not be reached.

The Poker Players Alliance, which says it represents more than 1 million players, is lobbying the 12 members of the congressional "super committee" to incorporate the legislation into its deficit-reduction plan. The committee is tasked with making a recommendation before Thanksgiving on how to cut the deficit by at least \$1.2 trillion during the next 10 years.

John Pappas, executive director of the Alliance, said regulated online poker has "a lot of economic benefit." Specifically, he said his group believes online poker could raise between \$10 billion and \$40 billion in tax revenue during the next decade.

The Alliance spent \$810,000 during the first half of 2011 lobbying Congress on Internet gambling regulation, according to congressional records. Pappas and lobbyists from nine firms — including Barnes & Thornburg and Ryan MacKinnon Vasapoli and Berzok — advocated for the organization during that period.

Not everyone is behind the online gambling push. "We think government needs to get out of the predatory gambling business because the evidence is overwhelming that it is a failed public policy," said Les Bernal, executive director of Stop Predatory Gambling, a nonprofit raising awareness about what it calls the failed government policy of profiting from casinos and state lotteries.

## **TRIBAL DISAGREEMENTS**

Barnes & Thornburg also advocates for the Mississippi Band of Choctaw Indians, which had a plan for an off-reservation casino rejected by the U.S. Department of the Interior in 2008. According to the department, only five tribes have received authorization for off-reservation gambling since the 1988 enactment of the Indian Gaming Regulatory Act, which established federal regulations for tribal gambling operations.

Currently, tribes wishing to open a gambling facility in off-reservation lands obtained in trust after 1988 must secure support from Interior, and the governor of the state where the facility would be located. But bills offered this year by sens. Dianne Feinstein (D-Calif.) and John McCain (R-Ariz.) would place more restrictions on off-reservation gambling.

The Off-Reservation Land Acquisition Guidance Act, which McCain introduced in July, would codify off-reservation language in a George W. Bush-era memorandum rescinded by the Obama administration. The 2008 directive required American Indian communities to place any off-reservation gambling facility in a location that was within a "commutable distance from the reservation."

In July, McCain praised the jobs that have resulted from Indian casinos. "However, the process of taking land into trust, if left unchecked, can easily be exploited by non-native casino developers," he said.

When gambling is legalized in a jurisdiction, addiction rates rise, studies have shown. This spurs higher social costs, from bankruptcies to gambling-related crimes to suicides. States that legalized gambling often set aside money for gambling addiction prevention and treatment. But although the federal government earns \$6 billion annually through taxes on gamblers' winnings, according to the National Council on Problem Gambling, the feds have never committed themselves to such programs. The Comprehensive Problem Gambling Act would change that.

The bill, introduced by Rep. James Moran (D-Va.) in June, would formalize the authority of the Substance Abuse and Mental Health Services Administration to address gambling addiction. Previous versions of the bill were different in one big respect. They also included about \$70 million over five years in new appropriations for programs and studies. The current bill does not.

Keith Whyte, executive director of the national council, said the bill has bipartisan support and that he's hopeful that Congress will pass it this year.

"We believe it is good politics, good policy," Whyte said.

*This article originally appeared on [The National Law Journal's site](#).*