



Testimony of Les Bernal, National Director, Stop Predatory Gambling
**Before the House Judiciary Subcommittee on Crime, Terrorism and
Homeland Security**

March 25, 2015

Thank you Mr. Chairman and members of the Subcommittee on Crime, Terrorism and Homeland Security for the invitation to testify about H.R. 707 which would ban the recent practice by some state governments of sponsoring internet gambling.

My name is Les Bernal and I am the National Director of Stop Predatory Gambling. Stop Predatory Gambling (SPG) is a movement more than an organization. We have dedicated ourselves to a major national reform: ending government-sponsored gambling because it is dishonest, financially damaging to citizens and contributes to the rising unfairness and inequality in our country.

A 501c3 non-profit based in Washington, DC, we are a transpartisan, government reform network of individuals, family members and organizations who hail from diverse backgrounds, political convictions and religious faiths.

We, the Losers

I stopped looking away at the issue of government-sponsored gambling about ten years ago. I had been to casinos, I had bought lottery tickets, and I had played and coached sports my whole life, where sometimes gambling was part of the culture. Maybe like many of you, I had never really considered the issue. Government-sponsored gambling was like the paint on the wall- it was just there, and I never questioned it.

At the time, I was serving as a Chief of Staff in the Massachusetts Senate. I read a cover story about the design of slot machines in *The Sunday New York Times Magazine* and the reporter described his tour of the headquarters of International Gaming Technology (I.G.T.), America's biggest maker of electronic slot machines. As he walked through the building, the *Times* reporter asked the employees if they ever used the machines they built. He wrote: "Most of the people I met inside I.G.T. told me they never played slot machines on their own time. When I asked one

I.G.T. artist if he ever plays, he acted as if I had insulted him. "Slots are for losers," he spat, and then, coming to his senses, begged me to consider that an off-the-record comment."¹

"Slots are for losers." The key issue here is this is something *sponsored by state governments*. States sometimes conduct casino border wars, positioning new facilities to poach revenue from their neighbors. This has little to do with limited government or free markets This is *a government program*.

Then as I started digging deeper into this public policy, I realized that slot maker's harsh but revealing candor about the "losers" could easily be said about most other forms of government-sponsored gambling like lottery scratch tickets and now, internet gambling, a practice that H.R. 707 would help to stop.

Who are these "losers?" They are *your* constituents.

What This Issue Is *Not*

Before talking about how this bill helps the "losers" in your district, I want to discuss what the issue of government-sponsored internet gambling is *not* about.

The national discussion should be fueled by facts about this public policy, as opposed to the tired stereotypes sold by those groups with their own financial self-interest. I will briefly focus on two of the stereotypes pushed by those who lobby for America's casino and lottery operators. The first is the notion that the practice of government-sponsored internet gambling is a "states rights" issue. The second is the manufactured line that "prohibition never works," an attempt to cast the ban on internet gambling in the shadow of the Prohibition era when people could not drink alcohol legally.

"States Rights:" State governments should be allowed to force casino gambling and lottery games into every bedroom, dorm room and smart phone in their communities, with the sole purpose of extracting more money, *even though a strong majority of individuals in states don't want it.*

One can only crack a smile at the recent approach of America's gambling interests who are now claiming internet gambling is "a states rights" issue. For most of the last decade, many of these same gambling interests have been lobbying to get the federal government *to sponsor and promote* internet gambling.²

One important job of the federal government is to ensure that every state gives every citizen equal protections under the law. Yet at this moment in history, state governments across the United States are blatantly cheating and exploiting their own citizens, infringing on the rights of millions of Americans through the extreme forms of gambling they sponsor and market.

Many of these state-sponsored gambling games, especially electronic gambling machines, are designed mathematically so users are certain to lose their money the longer they play.³ At the same time, these games are literally designed so citizens cannot stop using them, exploiting aspects of human psychology and inducing irrational and irresponsible behavior.⁴

Citizens are not demanding these extreme forms of gambling. States, in partnership with commercial gambling operators, are forcing these gambling games onto the public. The most recent statewide survey of New Jersey registered voters from Fairleigh Dickinson University's PublicMind found that 57 percent opposed legalized online gambling, and only 32 percent approved. (New Jersey state government began sponsoring online gambling in 2013.) According to the summary of the survey:

The university's research group has asked this question repeatedly over the years, and the current findings represent a decline in favor from those in March 2013. At that time, 41 percent favored online gambling and 46 percent said they were opposed.

"The public's attitude was, for several years, warming up to online gambling," said Krista Jenkins, director of PublicMind and professor of political science. "But there has been a clear change in direction, now that the practice has actually been legalized. Part of the public has always shown deep reluctance to make gambling so accessible in their own homes. Now that it is in fact legal, they may be more concerned than ever."⁵

If not the federal government, who will step in to protect the rights of individuals against these practices by an active, predatory state?

"No taxation without representation" was one of America's founding principles. After 40 years of state governments using lotteries and casinos to prey on their own citizens to extract as much money as possible, the time has come to add the principle of "No taxation by exploitation" beneath it.

“Prohibition doesn’t work”....except when it does

With the zeal of a teetotaler, there is one memorable and telling trait that those gambling operators who employ the “Prohibition doesn’t work” message have in common: they don’t gamble. Despite reaping billions of dollars from the have-nots in America, nearly every major casino operator, including Steve Wynn⁶, Jim Murren⁷, CEO of MGM, Sheldon Adelson of Las Vegas Sands,⁸ and Gary Loveman⁹ of Caesars, *hardly ever gamble themselves*.¹⁰

Why have for-profit gambling operations traditionally been illegal in states? They were illegal because states had strict laws and often constitutional prohibitions against the cheating and exploitation of their own citizens. For-profit gambling, *doing it as a business*, fits this category because the games are controlled by a self-interested party whose only incentives are to entice players to bet and to cause them to lose.

“The issue is *partiality*,” the public intellectual David Blankenhorn succinctly described it. “The house is not impartial in the matter of whether or how I gamble. Quite the contrary. Because its goal is profit, not disinterested sponsorship of recreation, the house’s only interest in the matter is causing me, in whatever ways it can, to place as many bets as possible and to lose as much money as possible. And because that’s exactly and solely what the house wants, that’s typically what the house gets.”¹¹

The serious problem here is “the house” *is state government*. In their desire to extract more and more money, the evidence is colossal and undeniable that state governments are willfully injuring their own people, infringing on the individual rights of citizens.

The criminalization of for-profit lotteries and casino-style gambling was successfully practiced for a large portion of American history. This does not mean illegal gambling was absent from society, but public institutions did their best *to contain it*. Gambling was mostly private and local. Gambling operators were not continually advertising on all the major forms of media of the day. No one was sending “\$50 of free slot machine play” coupons to the homes of citizens. Tens of millions of low income Americans were not deceived into believing the best way to accumulate wealth was to spend their money on rigged lottery games, like they do today, thanks to government-sponsored gambling.¹²

Is it the government's job to prohibit whether people want to gamble?

People are, and should remain, free to wager money and to play games of chance for money. While citizens have every right to engage in a financially damaging activity, the government has no business encouraging them. Government, in this case, is not merely permitting private, consensual behavior. It is granting monopolies and awarding regulatory advantages to favored firms.

The willfully misleading cry for “regulation” by those who would gain the privilege of such a monopoly begs this question: if the illegal online gambling operators supposedly cannot be controlled, how can you control and regulate the ones you license? If you can't shut out the illegal operators, how would you possibly shut down licensed operators who don't follow the rules?

That is why for anyone thinking that illegal internet gambling will be reduced if states sponsor it, think again. Whether it is lotteries, casinos or internet gambling, *there is no evidence from any jurisdiction* that illegal gambling has gone down after states began sponsoring gambling.

How H.R. 707 Helps the “Losers” in Your District

Banning the practice of government-sponsored internet gambling helps your constituents in at least three important ways. It:

- 1) Reduces unfairness and inequality in the communities you represent
- 2) Helps the youth in your district
- 3) Improves your state's financial condition, reducing pressure to raise taxes

1) Stopping states from sponsoring internet gambling reduces unfairness and inequality in the communities you represent

Any serious effort to improve fairness and equality for every American must include addressing the policies and practices that cripple such efforts. Government-sponsorship of casinos and lotteries is one of these policies. A mounting pile of independent evidence confirms that it is harming health, draining wealth from people in the lower ranks of the income distribution, and contributing to economic inequality.¹³ The policy exists only because policy makers want it to exist.

In most of your congressional districts, about 35,000 of your constituents- 5% of your district – have been turned upside down by gambling, *most of which was sponsored by state government*.¹⁴ This figure does not account for the reality that each gambling addict has at least 1-2 people close to them whose lives are also upended because of this policy.

Millions of men and women and their families have sacrificed and hurt so much to provide needed revenues to American government, but no one has ever thanked them for their “service.” There are no parades with fluttering American flags in the breeze. No yellow ribbons. Our country simply renders them failures. Or in the words of the IGT employee, “the losers.”

The majority of the revenue stream for state-sponsored casinos and lotteries hinges on the financial losses from the individuals being harmed by this policy

Over the last decade *there are 11 different independent studies* that show 40%-60% of electronic gambling machine profits come from citizens who have become addicted to using the machines.¹⁵ Despite all the public relations by gambling interests to the contrary, the percentage of gambling revenue that comes from people who follow “responsible gambling codes of conduct” – people who can be described as casual gamblers - is *virtually irrelevant to their profits*. A Canadian study, reported in MIT Professor Natasha Schull’s book *Addiction By Design*, found that people who follow responsible gambling guidelines made up 75% of the players but contribute a mere 4% of gambling profits.¹⁶ “They only bring in 4% of our revenues, the responsible gamblers,” said Tracy Schrans, an author of that Canadian study, in a 2006 radio interview. “If responsible gambling were successful then the industry would probably shut down for lack of income.”¹⁷

The same predatory business model is true for state lotteries. According to *The New York Times*, 10 percent to 15 percent of all players account for up to 80 percent of sales.¹⁸ Allowing state governments to continue this blatant exploitation by allowing them to sponsor internet gambling into people’s homes and smart phones dramatically intensifies the financial damage they are inflicting on citizens.

“But aren’t we at least helping Native Americans?”

Tribal casinos have contributed to the rising unfairness and inequality in our country. For more than 25 years, the casino lobby has told the American people that casinos are the engine to help Native American tribes prosper. It was an act of Congress, the Indian Gaming Regulatory Act passed in 1988, that kicked the practice of predatory gambling into high gear across the country. Yet recently *The Economist*, the world’s leading international magazine, spotlighted the latest evidence how casinos have been a failed experiment. Casinos have actually made tribal members poorer, according to a new study in the *American Indian Law Journal* showing that growing tribal gambling revenues can make poverty worse.¹⁹ The study looked at two dozen tribes in the Pacific Northwest between 2000 and 2010. During that time, casinos owned by those tribes doubled their total annual take in real terms, to \$2.7 billion. Yet the tribes’ poverty rate rose from 25% to 29%.²⁰ Some tribes did worse: among the Siletz poverty jumped from 21% to 37%.

2) Stopping states from sponsoring internet gambling helps the youth in your district

The future of lotteries and casinos sponsored by state governments hinges on luring kids to develop a gambling habit. No demographic is a bigger target for the gambling operators lobbying for internet gambling than America’s youth. It’s well-established that the younger children start gambling, the more likely it is they will become habitual gamblers and also problem gamblers.²¹ Internet gambling is especially addictive for youth who have grown up playing video games, spending hours on their devices. By government sponsoring online gambling, it sets up an entire generation of young people to become problem gamblers by making it omnipresent in everyday life, *even in their own homes*.

Equally disturbing, there have been hundreds of reports in recent years of children who have been abandoned while their parents gamble inside regional casinos. *The Chicago Sun-Times* reported that within a two-year period in Illinois alone, 85 kids were left neglected in casino parking lots.²² They are not simply the victims of “bad parents.” Often, these parents have had no prior issues with state child protection service programs. The lure of the extreme forms of gambling promoted by state government is so powerful that it leads many parents and other guardians of children to act so irrationally that they leave their kids behind, alone, for hours in casino parking lots, hotel rooms and homes. How often does a local movie cinema in your district have incidences of children being left behind in the cinema parking lot while the mother or father is inside the theater watching a movie? Very rarely, if ever. If this is commonly happening with brick-and-mortar casinos, what happens to all these kids, and thousands more like them, if we allow state government to run casinos on the internet inside people’s homes, 24 hours a day?

3) Stopping states from sponsoring internet gambling improves your state's financial condition, reducing pressure to raise taxes

State sponsored gambling is the symbol of anti-reform politicians across the United States. Instead of providing solutions to their state's problems, these politicians passed the buck on difficult fiscal choices by promoting the biggest budget gimmick there is: government-sponsored gambling.

Casinos and lotteries have proven to be a failed source of government revenue and have not delivered on their promises to fund education, lower taxes, or pay for needed public services. States generally expand gambling operations when tax revenues are depressed by a weak economy, or to pay for new spending programs. Yet income from casinos and lotteries does not tend to grow over time as rapidly as general tax revenue. Expenditures on education and other programs will generally grow more rapidly than gambling revenue over time. Thus, new gambling operations that are intended to pay for normal increases in general state spending add to, rather than ease, long-term budget imbalances.²³

More troubling for taxpayers, gambling operators are not allowed to fail by the state. For example, when casinos come up short, states usually provide new infusions of money, reduced taxes, reduced funding for gambling addiction measures, or other concessions such as lifting smoking bans and loss limits, in order to sustain revenues and profitability.²⁴ Rhode Island, Delaware, and New Jersey, to just name a few, have all recently taken special steps to help casinos that might otherwise fail. Public tax dollars too often prop up gambling operators.

The push for more subsidies from taxpayers is going to intensify moving forward: of the 47 states with gambling revenue, 27 states reported declines over fiscal 2014 with nine states reporting declines of more than 5 percent.²⁵ Allowing states to sponsor internet gambling will only deepen this irreversible downward spiral.

Conclusion

No strong nation has ever built prosperity on the foundations of personal debt, addiction, and the steady expansion of "businesses" that produce no new wealth.

State governments have transformed gambling from a private and local activity into the public voice of American government, such that ever-increasing appeals to gamble, and ever-expanding opportunities to gamble, now constitute the main ways that our government communicates with us on a daily basis.

The evidence is undeniable that this public policy is contributing to the rising unfairness and inequality in our country, which has been cast as one of the defining issues of our times by leaders from across the political spectrum. Banning the practice of states sponsoring internet gambling is an integral step toward reversing this trend.

No citizen of America should be rendered a "loser" by his or her own government.

ENDNOTES

- ¹ Gary Rivlin, *The Tug of the Newfangled Slot Machines*, N.Y. TIMES MAGAZINE, May 9, 2004, <http://www.nytimes.com/2004/05/09/magazine/09SLOTS.html>
- ² Nicholas Kusnetz, *Casinos and offshore companies battle for billions in online gambling push*, CENTER FOR PUBLIC INTEGRITY, April 14, 2014, <http://www.publicintegrity.org/2014/04/14/14561/casinos-and-offshore-companies-battle-billions-online-gambling-push>
- ³ Natasha Dow Schull, PhD, *ADDICTION BY DESIGN, MACHINE GAMBLING IN LAS VEGAS*, (2012), available at <http://press.princeton.edu/titles/9156.html>
- ⁴ Natasha Dow Schull, PhD, *Beware: Machine Zone Ahead*, WASHINGTON POST, July 6, 2008, <http://www.washingtonpost.com/wp-dyn/content/article/2008/07/04/AR2008070402134.html>
- ⁵ Fairleigh Dickinson University's PublicMind (NJ) Interest in online gambling is blunted while support for marijuana lights up, February 3, 2014 <http://publicmind.fdu.edu/2014/vice/>
- ⁶ "Casino Mogul Steve Wynn's Midas Touch," *60 Minutes*, April 12, 2009, <http://www.cbsnews.com/news/casino-mogul-steve-wynns-midas-touch/>
- ⁷ Andrew Ross Sorkin, *Is There Life After Blackjack? Ask MGM*, N.Y. Times, December 26, 2004, <http://www.nytimes.com/2004/12/26/business/26vegas.html?r=0>
- ⁸ Mary Lynn Palenik, "Gaming Legend Profile: Sheldon Adelson," *Casino Enterprise Management*, June 2011 <http://www.casinoenterprisemanagement.com/articles/june-2011/gaming-legend-profile-sheldon-adelson>
- ⁹ CHRISTINA BINKLEY, *WINNER TAKES ALL*, Pg. 177 (2008).
- ¹⁰ Stop Predatory Gambling Foundation, *The Smartest Guys NOT in the Room*, <http://stoppredatorygambling.org/blog/category/research-center/the-smartest-guys-not-in-the-room/>
- ¹¹ DAVID BLANKENHORN, *NEW YORK'S PROMISE: WHY SPONSORING CASINOS IS A REGRESSIVE POLICY OF A GREAT STATE*, at 51-52 (2013), available at <http://www.americanvalues.org/search/item.php?id=1980>
- ¹² Alicia Hansen and Gerald Prante, "Lottery Taxes Divert Income from Retirement Savings" The Tax Foundation, January 19, 2006

<http://stoppredatorygambling.org/wp-content/uploads/2012/12/Survey-21-percent-say-lottery-is-most-practical-path-to-wealth.pdf> "According to the survey of 1,000 Americans by Opinion Research Corporation for the Consumer Federation of America and the Financial Planning Association, 38% of Americans who earn less than \$25,000 believed that the lottery would be their most effective and practical strategy for accumulating several hundred thousand dollars."

¹³ Institute for American Values, *Why Casinos Matter*, 2013
<http://americanvalues.org/catalog/pdfs/why-casinos-matter.pdf>

¹⁴ National Institute for Health, May 2011
<http://newsinhealth.nih.gov/issue/May2011/Feature1>

¹⁵ Institute for American Values, *Why Casinos Matter* Institute for American Values, Council on Casinos, *Why Casinos Matter, Thirty-One Evidence-Based Propositions from the Health and Social Sciences*, September 2013, Pg. 18, <http://americanvalues.org/catalog/pdfs/why-casinos-matter.pdf>

¹⁶ Focal Research Consultants, *The 1997/98 Nova Scotia Regular VL Players Study Highlight Report*, at 11, available at <http://stoppredatorygambling.org/wp-content/uploads/2012/12/Novia-Scotia-Problem-Gambling-Study.pdf>

¹⁷ NATASHA DOW SCHULL, PHD, *ADDICTION BY DESIGN, MACHINE GAMBLING IN LAS VEGAS*, Pg. 267 (2012), available at <http://press.princeton.edu/titles/9156.html>

¹⁸ "For Schools, Lottery Payoffs Fall Short of Promises," *The New York Times*, October 7, 2007
http://www.nytimes.com/2007/10/07/business/07lotto.html?sq=lottery%20payoffs%20fall%20short%20of%20promises&st=cse&scp=1&pagewanted=all&r=0#&wtoid=grow11_r1_v4

¹⁹ "How cash from casinos makes Native Americans poorer," *The Economist*, January 17, 2015 <http://www.economist.com/news/united-states/21639547-how-cash-casinos-makes-native-americans-poorer-slots-and-sloth>

²⁰ "Sovereignty, Economic Development, and Human Security in Native American Nations," *The American Indian Law Journal*, Fall 2014
<http://stoppredatorygambling.org/wp-content/uploads/2015/01/2015-Gregory-Guedel-report.pdf>

²¹ "The Dangers of Youth Gambling Addiction," New York Council on Problem Gambling, Know the Odds http://knowtheodds.org/wp-content/uploads/2013/05/NYCPG_ebook_YouthGambling_052114.pdf

²² "Another Casino Concern: Children Left Alone," *Chicago Sun Times*, Jan, 14, 2013 <http://stoppredatorygambling.org/wp-content/uploads/2015/02/2013-Chicago-Sun-Times-Children-left-in-Cars.pdf>

²³ Lucy Dadayan at el, *For the First Time, A Smaller Jackpot*, Nelson A. Rockefeller Institute of Government, September 21, 2009, at 19-20, http://www.rockinst.org/pdf/government_finance/2009-09-21-No_More_Jackpot.pdf

²⁴ Institute for American Values, *Why Casinos Matter* Institute for American Values, Council on Casinos, *Why Casinos Matter, Thirty-One Evidence-Based Propositions from the Health and Social Sciences*, September 2013, at 29, <http://americanvalues.org/catalog/pdfs/why-casinos-matter.pdf>

²⁵ State Revenues from Gambling Show Weakness Despite Gambling Expansion," Rockefeller Institute, State University of New York, March 23, 2015 http://www.rockinst.org/pdf/government_finance/state_revenue_report/2015-03-23_Data_Alert.pdf