

11-1993

Informational hearing on: Part II - Review of the Attorney General's Proposal to Create a State Gaming Commission

Senate Committee on Governmental Organization

Assembly Committee on Governmental Organization

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CALIFORNIA LEGISLATURE

JOINT HEARING

SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

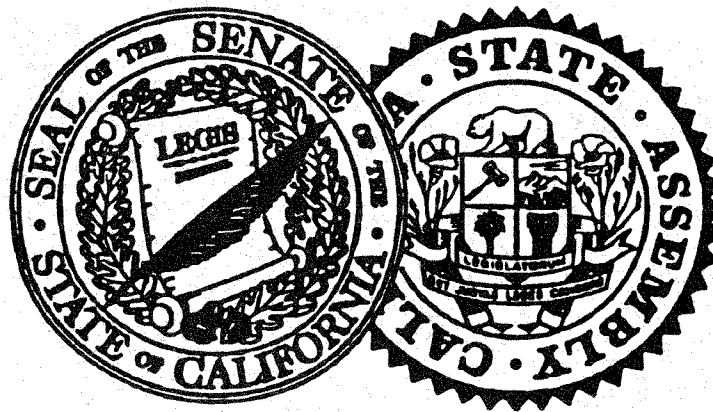
AND

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

INFORMATIONAL HEARING ON

PART I – INDIAN GAMING IN CALIFORNIA

**PART II – REVIEW OF THE ATTORNEY GENERAL'S
PROPOSAL TO CREATE A STATE GAMING COMMISSION**



NOVEMBER 29 AND 30, 1993
STATE CAPITOL, ROOM 4202
SACRAMENTO, CALIFORNIA

SENATE MEMBERS PRESENT

Ralph C. Dills, Chairman
Robert G. Beverly
Leroy Greene
Teresa Hughes
Ken Maddy
Art Torres

ASSEMBLY MEMBERS PRESENT

Curtis Tucker, Chairman
Joe Baca
Tom Connolly
Bill Hoge
Paul Horcher
Pat Nolan
Bernie Richter

SENATE STAFF

Stephen M. Hardy
CONSULTANT

ASSEMBLY STAFF

Jerry McFetridge
CONSULTANT
Brenda Heiser
COMMITTEE SECRETARY

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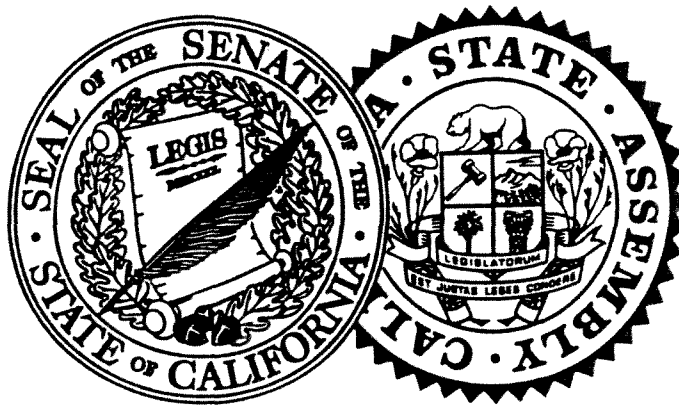
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JOINT HEARING

SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION
AND
ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

INFORMATIONAL HEARING ON

PART II - REVIEW OF THE ATTORNEY GENERAL'S PROPOSAL
TO CREATE A STATE GAMING COMMISSION



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NOVEMBER 30, 1993
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SACRAMENTO, CALIFORNIA

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COMMITTEE SECRETARY

APPEARANCESMEMBERS PRESENT

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3 SENATOR RALPH DILLS, Chair
4 Senate Committee on Governmental Organization

5 ASSEMBLYMAN CURTIS TUCKER, Chair
6 Assembly Committee on Governmental Organization

7 SENATOR ROBERT BEVERLY

8 SENATOR LEROY GREENE

9 SENATOR TERESA HUGHES

10 SENATOR KEN MADDY

11 SENATOR ART TORRES

12 ASSEMBLYMAN JOE BACA

13 ASSEMBLYMAN BILL HOGE

14 ASSEMBLYMAN PAUL HORCHER

15 ASSEMBLYWOMAN GRACE NAPOLITANO

16 ASSEMBLYMAN PAT NOLAN

ALSO PRESENT

17 DANIEL LUNGREN, Attorney General
18 State of California

19 TOM GEDE, Special Assistant
20 Attorney General

21 MANUEL MEDEIROS, Deputy Attorney General
22 Attorney General's Office

23 CATHY CHRISTIAN, Deputy Attorney General
24 Attorney General's Office

25 LOU SHEPARD, City Administrator
26 City of Commerce

27 HOWARD L. DICKSTEIN, Attorney
28 Dickstein & Merin

MARSHALL MCKAY, Chairman
California-Nevada Indian Gaming Association

APPEARANCES (Continued)

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GEORGE HARDIE, Managing Partner and General Manager
Bicycle Club

RODNEY BLONIEN
Commerce Club

LYNN MILLER, President
California Card Club Association

NORM TOWNE, Executive Director
Federation of California Racing Associations

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Appendixes

PART II
Informational Hearing on Attorney General's Proposal
To Create a State Gaming Commission
November 30, 1993

- Appendix A - Current Gaming Registration Statutes Section 19800 et sec. Business and Professions Code.
- Appendix B - Attorney General's current Administrative Regulations for Gaming Registration.
- Appendix C - Draft of proposed Gaming Control Act. (11/18/93)
- Appendix D - Attorney General's proposed organizational Chart with total costs.
- Appendix E - Document titled Gaming Nevada Style.
- Appendix F - Nevada Gaming Control Board Audit Information Sheet.
- Appendix G - Nevada Gaming Control Board Corporate Securities Division.
- Appendix H - Organizational Chart of Nevada Gaming Control Board.
- Appendix I - Nevada Gaming Control Board Budget, FY 1993.
- Appendix J - Testimony submitted by Gene Livingston, Law Firm of Livingston and Mattesich.
- Appendix K - Letter submitted by Hotel Employees & Restaurant Employees International Union.

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P-R-O-C-E-E-D-I-N-G-S

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3 CHAIRMAN TUCKER: Good afternoon. Thank you for
4 attending today's hearing. We will discuss a review of the
5 Attorney General's proposal to create a State Gaming Commission.
6 This is a joint hearing of the Assembly and Senate, and I'm glad
7 to see that our schedules were able to work out so that the
8 Attorney General could be here with us today.

9 Before we get started today, I feel compelled to
10 publicly address a letter that was sent out by one of your staff
11 people, Mr. Lungren. And there's a statement that was made that
12 I feel needs to be called to question.

13 On September 17th, your Chief Deputy sent a letter to
14 me regarding a bill in which he stated, and I quote:

15 "The only legislation which seems to
16 pass out of both the Senate and Assembly
17 Governmental Organization Committees is
18 that which the card rooms dictate line by
19 line and page by page, intended solely for
20 the economic benefit of the card room
21 industry."

22 And I bring that up only to say that not only has my integrity
23 been brought into question, but that of the entire committee.

24 Let the record show that no legislation came before
25 the Assembly Governmental Organization last year dealing with
26 any form of gaming regulatory intent language. The air was
27 thick with politics, and I understand that. And I understand
28 that you did not sign the letter, Mr. Attorney General, so my

1 beef is not with you.

2 But I would caution everyone involved in the process
3 that rhetoric gets us nowhere. Misinformation and allegations
4 get us nowhere. And while we try to be bipartisan, we're trying
5 to deal with a very tough issue here in a professional manner.
6 I think public policy of California is far more important than
7 the personal feelings of one person or another.

8 And as I said before, I don't think you had anything
9 to do with that, because you did not sign the letter. But I
10 would just urge you to see if you can't tighten the leash on
11 your assistant a little stronger; otherwise, next year will be a
12 far more difficult year than it needs to be.

13 With that, I will turn it over to Senator Dills to
14 see if he has any opening statements.

15 CHAIRMAN DILLS: Thank you, Chairman Tucker.

16 I am Ralph Dills, the Chair of the Senate
17 Governmental Organization Committee. On behalf of the
18 committee, I'd like to welcome you, all of you, today to the
19 hearing on the Attorney General's proposal to create a State
20 Gaming Commission.

21 During the recently concluded legislative session,
22 there was an extensive effort to rewrite the Gaming Registration
23 Act which would have included among its provisions a State
24 Gaming Commission modeled after the Nevada State Gaming
25 Commission.

26 The purpose of today's hearing is to thoroughly
27 examine this proposal and ramifications proposed legislation
28 would have on all concerned parties. In advance of the

1 testimony, on behalf of both committees, I'd like to thank the
2 witnesses for their participation, and also indicate that a
3 formal transcript of the hearing will be made available in the
4 near future.

5 Mr. Chairman, I welcome the hearing and proceed,
6 please.

7 CHAIRMAN TUCKER: Thank you very much.

8 Our first witness is the Attorney General, State of
9 California, Mr. Daniel Lungren. We will take the lion's share
10 of today's hearing to go through your proposal -- the cost, the
11 need, why you view it, what you feel is needed -- and hopefully,
12 at the end of today's hearing, we can have an understanding as
13 to your vision for a Gaming Commission, especially in light of
14 yesterday's hearing which dealt with the entire changing of the
15 whole gaming process in California. This can be an educational
16 process for both you and I and the rest of the committee.

17 So, if you're comfortable doing it seated, or
18 standing, or however you would like, sir.

19 ATTORNEY GENERAL LUNGREN: I can't see some of the
20 members if I sit over here.

21 CHAIRMAN TUCKER: And that may be a better place for
22 you.

23 ATTORNEY GENERAL LUNGREN: We'll see. I'll take that
24 position if it's necessary a little bit later.

25 Thank you, Mr. Chairman. Chairman Tucker, Chairman
26 Dills, Members of the Assembly and Senate Governmental
27 Organization Committees, it's a pleasure to appear today before
28 the two committees in the joint hearing on the subject of the

1 pressing need for a gaming control in California.

2 At the outset, I should mention that when I thought
3 about running for Attorney General, frankly, the idea of gaming
4 really didn't enter my mind. While I was running, and later
5 when I was first getting into the office, I did not spend a
6 great deal of time thinking about this issue.

7 While I knew that our office had the responsibility,
8 for instance, to negotiate on behalf of the State of California
9 with respect to any relationships of the state with the various
10 Indian nations, I frankly didn't know that I would end up having
11 three of my Deputy Attorney Generals spending probably 60 or 65
12 percent of their time on Indian issues; and of that time,
13 probably somewhere from 70-90 percent of that time on Indian
14 gaming issues, and from that, gaming issues itself.

15 So, it was not something that I came to with any
16 particular agenda or any particular position that I was to
17 espouse. Rather, it was after I got in the office and we
18 started to see the impact of IGRA, the Indian Gaming Regulatory
19 Act, which passed the Congress my last year in the Congress, and
20 the requirement that we negotiate in good faith with
21 representatives of the Indians on the question of gaming, and I
22 became aware of the fact, really for the first time, that the
23 Attorney General's Office is the office which does the initial
24 background checks on those who wish to hold licenses for card
25 rooms in those communities where they have exercised their local
26 option for card rooms, that I began to see the impact of this
27 issue, irrespective of whether we were going to talk about new
28 forms of gaming voted on by the people of the State of

1 California.

2 . And so, three years ago, if you'd asked me would I
3 have a proposal for a Gaming Commission, I would have said no.
4 Perhaps even two years ago if you'd asked me that.

5 As a matter of fact, when the idea was first raised
6 from some in law enforcement, I had a negative response to the
7 issue because I thought it would be an admission on the part of
8 the state that necessarily we had to have a tremendous expansion
9 of gaming, and that that's why we need to have a commission
10 solely, and it would be sort of a step in the direction of
11 accelerating gaming in the State of California, which I do not
12 support, but in my office, I have not taken a strong position
13 with respect to that. Rather, it was to be able to enforce the
14 law as it would exist.

15 So, just to give you a background of where I started
16 on this.

17 I'd also like to take the opportunity to explain, as
18 I talked with you on the phone last week, that we were prepared
19 to bring several witnesses here, both today and yesterday, to
20 deal with the question of the need for gaming control in
21 California. In fact, we had taken some steps to invite them.
22 After our conversation, those witnesses were not here.

23 However, we would be able to present witnesses to
24 talk in some detail as to some of the statements I make of a
25 conclusionary nature. So, I hope that the committee understands
26 that.

27 Yesterday's hearing, I understand, was very
28 interesting. I'm not sure it gave a whole picture, because I'm

1 not sure we were able to present with just one witness the
2 reasons why we have some concerns about the whole issue of
3 gaming in California, and particularly relating our particular
4 position and continuing relationship on the issue of Indian
5 gaming.

6 CHAIRMAN TUCKER: Without cutting you off, I think we
7 all agree that Mr. Gede did a magnificent job --

8 ATTORNEY GENERAL LUNGREN: He's already told me that.

9 [Laughter.]

10 ATTORNEY GENERAL LUNGREN: No, no, I know he did.

11 CHAIRMAN TUCKER: Without lunch and very little
12 breaks, I think he did a fantastic job.

13 ATTORNEY GENERAL LUNGREN: He's one of those
14 workaholics who complains if you don't give him work. And then
15 when he has the work, he complains that he has it. So, he's
16 indispensable in that sense.

17 My purpose today is clear. I believe we cannot
18 permit any expansion or growth in gambling in the State of
19 California without a civil regulatory scheme for gaming control
20 designed to fully regulate gambling activities and to enforce
21 compliance with necessary controls.

22 I also believe, as the point I will make later on,
23 that we have inadequate mechanism today for dealing with the
24 amount of gaming that we have in the state.

25 At the outset, we must remember that gambling
26 ventures are not merely forms of neutral entertainment, nor are
27 they considered among the ordinary trades and common occupations
28 which carry with them certain inherent rights.

1 Instead, gaming is a privileged business. Trades
2 which are potentially, quote, "harmful or dangerous to society
3 or the public welfare," end quote, do not confer the same
4 property interests held by other businesses, and states may
5 impose license requirements or prohibit them altogether. That's
6 a fairly simple and, I think, succinct statement of why gaming
7 is different than other businesses and has been recognized so by
8 the courts and by the legislatures of the states and the United
9 States over the years.

10 To minimize the risk to public safety, morals, and
11 welfare, gaming must be free from criminal and corruptive
12 elements. In fact, that is why we place our gaming prohibitions
13 in California in the Penal Code as opposed to what usually --
14 the place you usually have for laws that deal with businesses or
15 professions in the State of California. California law,
16 therefore, recognizes that gaming is, in a sense, in a legal
17 sense, a disfavored business, and in the case of card rooms,
18 absolutely prohibits them without local approval. There is a
19 presumption that they are not allowed, for whatever reason you
20 want to say, in local communities unless the local community
21 overcomes that presumption by a vote, and therefore indicates
22 its approval.

23 Control of gaming is a public safety question due to
24 the very nature of the business. Gambling ventures deal in a
25 single commodity: cash. That's probably the most important
26 thing to be thought of here. Perhaps more than any other legal
27 business enterprise or activity, gambling holds more potential
28 for criminal activity, corruption and misconduct.

1 I want to make clear when I say that, I am not
2 casting aspersions on people who are operating legal gambling
3 operations in this state or elsewhere. What I'm suggesting is
4 that historical record bears out that statement. This is
5 especially true when the gambling activity is not subject to
6 sufficient oversight, regulation and control. Indeed, gambling
7 enterprises serve as financial institutions, facilitating the
8 transfer of large amounts of money from one person or entity to
9 another.

10 Now, we both on the state level and the federal level
11 regulate banks and savings and loans institutions on behalf of
12 the public welfare precisely because they're involved in large
13 amounts of money. And the question, I think, to be raised is:
14 why do we not similarly regulate casinos?

15 Let me also preface my remarks by saying that I'm not
16 here to testify for the purpose of supporting or opposing
17 gambling or an expansion of gambling. I don't believe that is,
18 in fact, the issue before this body. That's for the public and
19 the Legislature to decide. In other words, whether or not they
20 wish to expand gaming, to retract gaming, or change it in terms
21 of its nature in California.

22 My concerns here go solely to the civil and criminal
23 control of gambling.

24 Over the last two years, we've reviewed our program
25 under the Gaming Registration Act, along with numerous criminal
26 intelligence reports. Based on that review, and my independent
27 evaluation of how Nevada controls its gaming industry because it
28 has had more experience than any other state in the nation, I'm

1 convinced that our Gaming Registration Act presently is woefully
2 inadequate to prevent and control the potential of crime and
3 corruption in California's card rooms.

4 California needs tough front-end licensing to control
5 its gaming ventures. In addition, we need regular and routine
6 monitoring of the cash flow in card rooms and casinos.

7 And finally, I believe that a special compliance and
8 enforcement arm of the government must reside in a state-level
9 law enforcement agency with police powers and full authority to
10 investigate the personal and financial backgrounds of all casino
11 owners, operators, and key employees to conduct inspections and
12 to review financial records and cash transaction reporting.

13 Consequently, on November 23rd of this year, as you
14 know, I proposed a comprehensive Gaming Control Act which would
15 establish a Gaming Control Commission to license all gambling
16 operators and operations permitted by the state, except those
17 constitutionally under the California Horse Racing Board and the
18 State Lottery Commission. The Commission would have the
19 absolute power to license, renew, and revoke the privilege of
20 operating gaming enterprises. The Commission could adopt
21 uniform regulations to standardize our approach to gaming
22 throughout the state.

23 Additionally, this Gaming Control Act would establish
24 a State Gaming Control Division in the Department of Justice
25 that would have all the investigatory and enforcement powers
26 necessary to ensure compliance with the Act, backed up with
27 severe civil and criminal penalties under the Control Act.

28 First let me explain why I think the regulation is

1 necessary. The first key to this issue is to understand that
2 the only commodity of gambling is cash: cash wagered, cash won,
3 cash placed on the gaming table or traded in for chips, cash
4 paid back for chips, cash wrapped and bound and sent to the
5 bank, cash stuffed into pockets and wallets and sent out the
6 door. More discomfoting to imagine is the cash loan on
7 extensions of credit or cash never seen but only promised. In
8 the worlds of loans and credits, the dangers of fraud and
9 manipulation increase. Where huge amounts of cash are
10 transacted, handled, exchanged and deposited, the potential for
11 criminal activity and criminal involvement magnifies beyond your
12 wildest imaginations.

13 My department must be prepared to investigate the
14 possibility of illegal skimming, money laundering of drug
15 proceeds, embezzlement and bookmaking, cheating, loan sharking,
16 private banking, and tax fraud. And as with other regulated
17 financial institutions, gambling ventures necessarily implicate
18 public safety, welfare and morals and thus, we must find a means
19 to ensure it's free of crime and corruption.

20 Today, I'm releasing to the joint committee and to
21 the public a report entitled, "Gaming in California." It's been
22 prepared by my Bureau of Investigation at the Division of Law
23 Enforcement. This report chronicles past criminal infiltration
24 and involvement in California's card room and Indian casinos,
25 and it discusses the potential for further and future criminal
26 activity.

27 Most recently, it details how an individual sought to
28 bribe a member of our department, a Department of Justice agent,

1 with \$30,000 in order to obtain a favorable registration of a
2 potential owner of a well-known, large, Northern California card
3 room. The wife of the individual pled guilty to bribery, and
4 the individual fled to Hong Kong where he remains a fugitive.

5 The Bureau of Investigation report outlines how
6 under-regulated card rooms have the potential to permit, and in
7 the past some have permitted, money laundering, loan sharking,
8 illegal credit and banking services, skimming, bookmaking,
9 fraud, and other financial crimes, with examples and reports of
10 actual Asian and organized crime family involvement. We're not
11 making this up. This is not something we have to fear as
12 something that could happen; in fact, there is evidence that it
13 has happened in the past in this state and other places.

14 It also chronicles other past crimes, such as where
15 casino owners provided illegal laundered contributions to local
16 elected officials, a violation of the Penal Code and the
17 Political Reform Act.

18 The past crimes reported in this paper and our
19 investigations into potential organized criminal activity have
20 also convinced me of the importance of our cooperation with
21 various federal Justice and Treasury Departments. And I'm
22 confident our cooperation will have positive and dynamic
23 results.

24 I'm especially concerned about the opportunity in
25 California for casinos to launder or to be used to launder the
26 proceeds of illegal drug deals. Turning dirty money into clean
27 money is easy in a setting where, for example, a runner can
28 trade in thousands of dollars of drug money for chips, gamble a

1 few dollars, and then redeem the chips for cash, get a receipt,
2 and claim his proceeds are the winnings of gambling. The drug
3 dealer can pay taxes on it and claim it as a legitimate profit.
4 This doesn't have to be involved with the illegal activity of
5 the casino, the card room, at all, but rather provides an
6 opportunity for it to be misused in this way. The dealer can
7 runs tens or hundreds of cash deals in and out of casinos this
8 way and evade our law enforcement arm.

9 The State of Nevada has learned through the course of
10 60 sometimes bloody years of gaming that the state must have
11 certain powers to regulate and control gaming. That's why we
12 have spent a good deal of time with people in my department
13 talking with the Gaming Control Commission in Nevada and the
14 Attorney General's Office in Nevada, to see what they've learned
15 so we don't have to re-learn those same lessons of history.

16 After much resistance from the gaming industry,
17 Nevada finally passed laws to require recordation and reporting
18 of cash transactions: dual ledger accounting of cash receipts
19 and cash debits from money paid in, for money used to purchase
20 chips, tokens or credits, or money placed in players' accounts,
21 to money paid out or redeemed from chips, tokens, checks, or
22 other instruments. All cash, including tips that are given to
23 dealers, is accounted for: from the table and the machine to
24 the pit, and from the pit to the cashier, and from the counting
25 room to the bank. In other words, they track it absolutely.
26 And the reason they track it absolutely is, they've found this
27 is the best way to prevent criminal activity, and when criminal
28 activity occurs, to be able to detect it and to prosecute it.

1 Customer identification is required for those engaged
2 in certain levels of cash transactions, precisely so that the
3 system cannot be abused by those who would come from outside to
4 use the system to their own benefit, particularly those
5 prospective runners for the drug trade.

6 All records are subject to audit and surprise
7 inspection by internal control or State Gaming Control
8 personnel. This is the only way, they tell us, and I believe
9 it's true, to ensure that skimming, theft, and money laundering
10 is not taking place. California's Gaming Registration Act does
11 not contain any requirements in this regard. Only with a
12 state-level Gaming Control Act with tough regulations and a
13 civil and criminal enforcement authority can we have compliance
14 ensured.

15 I believe that California needs the same sort of
16 strong cash transaction regulations contemplated by the U.S.
17 Department of Treasury for all casinos under the federal Bank
18 Secrecy Act. This is something they are coming to. This is
19 something the feds have believed that they need to get ahold of,
20 and they are there dealing with legal operations that are under
21 the most stringent regulations of any state in the Union, yet
22 they believe this is necessary.

23 These new regulations will require cash transaction
24 recording and reporting that are not currently in practice.
25 Under these regs, amounts of \$3,000 or more transacted by a
26 single individual must be reported, and casino personnel will be
27 deemed to know if a single individual is aggregating cash
28 transactions to reportable levels. Severe civil and criminal

1 penalties will attach for failure to comply. Customer
2 identification will include known aliases, aliases, permanent
3 addresses, and Social Security numbers.

4 We will work with the Department of Treasury to
5 ensure that a cooperative federal-state effort will be in place
6 to enforce such regulations.

7 Now, Nevada also learned that it made more sense,
8 made much more sense, to provide a tough civil regulatory
9 licensing scheme at the front end to keep out the unscrupulous
10 actors in the first place than it was to chase the mobsters and
11 crooks after crimes were committed. Nevada premises its scheme
12 on a single, simple proposition. That is, gaming is a
13 privilege, not a right.

14 As I mentioned, gaming is not an ordinary business.
15 Like banking, and the business of other financial institutions,
16 it demands a regulatory scheme authorized under the police
17 powers of the state. By full and complete disclosure of the
18 personal and financial background of every owner, director,
19 officer, and key employee of a gaming establishment, Nevada
20 ensures that only scrupulous individuals are granted licenses to
21 operate gaming in the first instant.

22 No more intense level of scrutiny can be imagined --
23 I can tell you this -- none can be imagined more than the Nevada
24 Gaming Control Board as it reviews every financial asset and
25 liability of each individual involved in a gambling enterprise.
26 Licenses in Nevada can be reviewed at any time and must be
27 renewed. Changes in ownership or significant changes in an
28 owner's circumstances may warrant review.

1 It is by this means that Nevada works to control the
2 influence of the criminal element at the front end, by tough,
3 preliminary regulatory work. And I believe it's precisely what
4 we need here in California.

5 Unfortunately, I'm also convinced that local
6 governments do not have the resources to adequately monitor and
7 control the financial activities and high paced gambling
8 activities in a card room casino. California is, after we have
9 reviewed the other states, the only state in the Union that we
10 could find which allows local control of commercial card rooms.
11 The only state.

12 Local control under our Gaming Registration Act has
13 resulted in a lack of uniformity in dealing with the expansion
14 of gaming. Individual county attorneys and city counsel have
15 provided conflicting opinions on what is or what is not
16 permitted in a card room casino. They're now faced with jackpot
17 poker, and high stakes Asian games with new and subtle
18 variations, none of which was envisioned when the Registration
19 Act was passed. Local options simply cannot provide consistent
20 and uniform applications of our state laws.

21 I might just say parenthetically, that when we were
22 on the verge of closing down a particular card room in
23 California not too long ago because of a failure of the
24 individual with the license to give us adequate information
25 about his background and the source of his funds -- which we
26 never got, I think, after two years, and the person has fled the
27 territory, if I'm not mistaken -- we actually got contacted by
28 some representatives of the community in which the card room was

1 involved to suggest to us not to close them down because of what
2 it meant to the city, and the large percentage of the budget of
3 the city that they received from the operation of card rooms.

4 Now, is that a difficult influence, or a difficult
5 conflict of interest? I'd suggest yes. And I'm not suggesting
6 there's anything evil or venal or inadequate about the people at
7 the local level. I'm just telling you about a fact of life, and
8 telling you about conversations that we had.

9 It puts tremendous pressure on the local government
10 to be able to deal strongly when, perhaps, the largest employer,
11 or the one that brings most money into that community, is the
12 one that they should be reviewing under those circumstances.

13 Therefore, my proposed Gaming Control Act would do a
14 number of things.

15 First, establish a single California Gaming Control
16 Commission, a five-member board, appointed by the Governor,
17 which would grant, deny, or revoke state licenses to conduct
18 gaming activities. They'd be independent of my office; they'd
19 be independent of other operations of government. They'd be
20 able to make that decision as they see fit.

21 One of the reasons we decided to do this was the
22 experience they had in Nevada. That appeared to be the best way
23 to establish an independent operation from that standpoint to
24 make those final decisions to which someone can appeal a lower
25 bureaucratic judgment, if you will, and to make the public
26 policy judgments there.

27 Second --

28 CHAIRMAN DILLS: If I may, sort of like the Lottery

1 Commission in California?

2 ATTORNEY GENERAL LUNGREN: I would say we did not
3 pattern it after the Lottery Commission in California. We
4 attempted to pattern it after the Nevada experience, not because
5 we were looking at some deficiencies in the Lottery Commission,
6 but rather, we were looking at the Nevada experience as the best
7 example we had for how this might work.

8 Secondly, establish under the Attorney General a
9 Division of Gaming Control which will have full investigatory
10 and enforcement powers.

11 Third, require the thorough investigation of all
12 owners, directors, principals, and key employees of any gaming
13 enterprise.

14 Fourth, allow regulations for thorough cash
15 transaction accounting and reporting procedures at any place of
16 gaming matching the proposed federal regs for casinos under the
17 Bank Secrecy Act.

18 Fifth, establish a system of licensing for all gaming
19 operations at the state level, with local government having the
20 option to require local licensing as well. If they wish to have
21 local licensing requirements as well, fine. We would establish
22 the minimum standards for the state, and they would be across
23 the board the same.

24 And sixth, permit the Legislature to assess licensing
25 fees for the privilege of conducting gaming. Allowing the
26 Legislature to determine what those licensing fees should be, to
27 make those appropriate to the work to be done to do the
28 background, the follow-up investigations, any ongoing

1 investigations.

2 As Attorney General, I would continue to have
3 criminal law enforcement responsibilities, along with the
4 district attorneys. The district attorneys would still have the
5 right, the obligation under the Constitution and statute, to
6 pursue criminal activities, but it's my hope that these
7 regulatory steps would give us the opportunity to say that
8 gaming will not be conducted in California unless it's properly
9 regulated and controlled.

10 Additionally, a Gaming Control Act will also assist
11 us in developing cooperative gaming control mechanisms for our
12 compacts with California Indian tribes. And as you know from
13 yesterday and from many months of long discussion, the federal
14 law gives the Indian tribes the right to negotiate for tribal-
15 state compacts to conduct the same gaming permitted by the
16 state. And California has, in fact, negotiated with the tribes
17 for parimutuel wagering on horseracing. We've completed four
18 such compacts -- five such compacts in the State of California,
19 and we are negotiating in good faith for lottery-type games.

20 In my judgment, if we can clear up the question of
21 the scope of gaming, 95 percent of what separates us could be
22 taken care of. But I'm not sure we can take care of that here
23 in the state if the feds don't grab that issue as their issue
24 and make a decision one way or the other as to what the answer
25 would be.

26 However, California has no adequate regulatory body
27 available to conduct the detailed, comprehensive and difficult
28 work of jointly regulating along with the tribal governments

1 under a tribal-state compact the day-to-day operation of Indian
2 casinos.

3 Obviously, I don't speak for the representatives of
4 the Indian interests. I would say this, we have found them
5 forthcoming on the question of regulation. We have not found
6 them saying, "Look, we want to invite fly-by-night operators in
7 here," or, "We're interested in having the dregs of society come
8 in," or, "We're interested in having crime come in." Quite to
9 the contrary, I think they've indicated to us that they
10 understand the need to make sure that that does not occur, and I
11 do not think we would have any difficulty in completing that
12 part of tribal-state compact in terms of reasonable regulation
13 of the operations if they were to take place on the Indian
14 reservations or properties.

15 Only a comprehensive Gaming Control Act can provide
16 California with the insurance that sophisticated criminal
17 activity will not victimize our gaming public, society at large,
18 and the California Indian tribes. We simply cannot let the
19 gaming industry tell us not to worry, or there's no need to
20 regulate the business further. I don't think that really stands
21 up to close scrutiny.

22 I fear that the reports of past criminal activity set
23 forth in the Bureau of Investigation paper demonstrate future
24 criminal activity could occur. If California doesn't adopt
25 measures to control potential criminal activity, only the
26 federal government can move to adequately investigate and
27 prosecute. California ought to be able to provide a
28 comprehensive means to control gambling now.

1 If you'll look at the report, you'll see we give a
2 rather quick history, but a history nonetheless, of gambling in
3 California. And you will see that earlier in this century, we
4 had a real problem with gaming getting out of control, and that
5 a statewide commission to review this whole matter was
6 established by then-Governor Earl Warren. They spent, I think,
7 in excess of three years, or close to three years, investigating
8 the issue and came up with some very strong recommendations.

9 Some people, some Members of the Legislature, in
10 fact, are surprised when I tell them that the Penal Code is very
11 explicit with the condemnation of certain types of games here,
12 particularly slot machines. And that didn't happen by accident.
13 It happened as a result of a history in California, a statewide
14 commission established by the Governor, and the Legislature
15 following on those recommendations, to make it very, very clear
16 that slot machines are disapproved in the State of California.

17 And yet, I've had people call me up and say, "As
18 Attorney General, will you waive that prohibition against slot
19 machines so we can have a convention in one of the cities in
20 California?" And I was even threatened with someone going
21 public and having a press conference to say that I had denied a
22 convention in California.

23 My response was, "What law do you want me to waive
24 next week?" Maybe prostitution for 36 days, as long as they
25 make sure it'll only take place at the convention.

26 I mean, I don't have that right to do that, and I
27 don't think you would want to grant me that right to waive
28 whatever criminal law I want for whatever purpose.

1 And the other thing is, gambling is, as I review the
2 Penal Code, the only specific subject matter that, if I fail to
3 enforce the gambling laws, or if a D.A. fails to enforce the
4 gambling laws, or a sheriff refuses or fails to enforce the
5 gambling laws, we can be prosecuted criminally. There's no
6 other place. I mean, you can vote me out of office, you can do
7 a whole lot of things, but you can't prosecute me for failing to
8 prosecute a particular case. In the area of gambling, that
9 happens to be the case.

10 So, if you look at California, it has taken a very
11 strong position with respect to the Penal Code on the question
12 of gambling. And I don't think it was something the Legislature
13 just manufactured out of thin air. It obviously was based on
14 the experience in California and elsewhere.

15 So, I'm not here today really to kind of nit-pick or
16 negotiate parts of your proposal, and do this, that and the
17 other. I'm here to explain our proposal. I'm here to suggest
18 that we think that it is cohesive and complete, and that if you
19 attempt to break it apart piece by piece, that it sort of falls
20 because, I think, we need to have a Gaming Control Act with
21 necessary broad powers to control gaming.

22 I would urge you to consider it as a whole. I look
23 forward to working with the committee to move the proposal
24 through the legislative process.

25 And with respect to any comments that the Chairman
26 has made, or anybody else has made, I don't view this as a
27 partisan issue. I mean, I never have viewed this as a partisan
28 issue. If you can tell me where you get partisan brownie points

1 on this issue, please tell me, because I can't find it.

2 It's like when I was in the Congress dealing with
3 immigration. You never made anybody happy. I don't want to get
4 into that one here. I'm just saying, politically, in the past,
5 if you try and take an objective stance on it, you get hit from
6 all sides.

7 I think the same thing happens in the area of gaming.
8 I'm not sure why you want to be Chairmen and deal with this
9 issue, or someone else would want to be chairman to deal with
10 this issue, because you're going to get hit no matter what you
11 do. But the point is, we need to look at this issue fairly and
12 squarely, and deal with it as serious as it is.

13 My comments that I make today are very different than
14 I would have made three years ago, because I had not the
15 understanding that I have today. In any event, it's an
16 important issue to discuss.

17 Even though I have said I wish California would be
18 known more for the quality of its computer chips than its
19 gambling chips, I do recognize that we have a certain level of
20 gambling in this state that goes to the billions of dollars. We
21 need to have some authority to deal with it effectively, and I
22 hope that we can work with both of your committees to achieve
23 that end.

24 Thank you, Mr. Chairman.

25 CHAIRMAN TUCKER: Thank you very much, Mr. Attorney
26 General.

27 Senator Torres.

28 SENATOR TORRES: Welcome to the committee, Mr.

1 General.

2 The proposal that you have before us calls for a
3 Gaming Control Commission, and the estimated start-up cost is
4 about 6 million; correct?

5 ATTORNEY GENERAL LUNGREN: Yes, I think that's our
6 revised estimate, yes.

7 SENATOR TORRES: Where would this money come from?
8 From assessments on operations in California, or from the
9 General Fund?

10 ATTORNEY GENERAL LUNGREN: Obviously, that's
11 something the Legislature would have to deal with. We would
12 propose that the industry pay for the regulation that is
13 necessitated by the existence of the industry.

14 I happen to think that makes good sense. And in
15 whatever fashion that the Legislature would come to that, it
16 seems to me, is really not my concern.

17 My concern is making sure we have an adequately
18 funded Commission and regulatory arm to do the job.

19 SENATOR TORRES: So you don't have a preference as to
20 coming out of the General Fund or coming out of assessments on
21 casino owners or card club owners at this point?

22 ATTORNEY GENERAL LUNGREN: My gut feeling is that if
23 it's necessary for regulating the industry, and it's
24 specifically created for that purpose, that it ought to be
25 funded from that enterprise.

26 SENATOR TORRES: Senator Maddy and I have worked
27 together a number of times to try and cut the cost of
28 government. One amendment that I was supportive of, for the

1 most part, would have reduced the state's budget by over \$220
2 million by removing unnecessary commissions. Senator Presley
3 and I worked on legislation I know you're familiar with as well.

4 When you talk about a commission or board, does that
5 imply that we will do away with the Horseracing Board and the
6 Lottery Commission, since horseracing is gambling?

7 ATTORNEY GENERAL LUNGREN: If you look at it, the
8 details of it suggest that those two areas would be independent.
9 But in our initial proposal, we had the ability of the
10 Legislature to put horseracing and the Lottery under the overall
11 Gaming Commission if they made that decision in the future.

12 SENATOR TORRES: So, you would not be opposed to
13 consolidating the Commission into one specific regulatory arm of
14 lottery, horses and card clubs or casinos?

15 ATTORNEY GENERAL LUNGREN: I have no philosophical
16 objection to it. I also understand that in order to get the
17 proposal through any legislative body, you have to count votes.

18 SENATOR TORRES: I'm counting pennies now. I want to
19 save costs here.

20 ATTORNEY GENERAL LUNGREN: Oh, I don't have any -- if
21 that's what you're asking --

22 SENATOR TORRES: Yes.

23 ATTORNEY GENERAL LUNGREN: -- would I like to see at
24 some point in time, or would it be possible to have that, I have
25 no objection to that.

26 But I also understand the political realities of this
27 institution, and sometimes it's tougher to come in and do that
28 than it is to prove the worth of a Gaming Commission at first,

1 and then have a judgment that the others should come under it.

2 SENATOR TORRES: I've had that problem with the
3 Little Hoover Commission and the Energy Commission in many
4 debates on what to do with it or not.

5 The next question, in talking about the political
6 realities, there are so many rumors around the state today that
7 indicate that there are forces afoot to qualify an initiative
8 for the November, '94 ballot to legalize casino-type gambling in
9 California.

10 Are you aware of those, or is your investigatory arm
11 aware of those efforts?

12 ATTORNEY GENERAL LUNGREN: I don't think we're
13 officially aware of anything like that. I mean, I hear rumors
14 like you do, but have we found anything, or can I show you who's
15 behind it or what they're doing, no. Nothing's been filed with
16 our office.

17 SENATOR TORRES: I was wondering if you were being
18 preventive, and therefore looking ahead, that if this initiative
19 did qualify and pass, we'd be ready with some kind of Gaming
20 Control Commission?

21 ATTORNEY GENERAL LUNGREN: We have said in the past
22 that this issue, and I will continue to say it, this issue, I
23 think, is going to be re-visited by the people of California in
24 various different ways. It would be better for us to be
25 prepared for that eventuality.

26 I have tried to distance myself from that because, as
27 I say, some people have the same reaction I first did to the
28 suggestion of a Gaming Commission, which is, if you put it into

1 place, it is the first step towards the expansion of gaming.

2 I don't view it as a cause and effect. I don't view
3 it as a necessary corollary, and so I haven't said we need to
4 have the Gaming Commission because people are going to come down
5 the line, we're going to have full-scale casino gaming in the
6 State of California.

7 It is true, however, that whatever the state of
8 gaming in California five, ten, fifteen years hence, it would be
9 better for us to have a Gaming Commission so that it could
10 operate under that umbrella.

11 SENATOR TORRES: Well, this report makes a very
12 strong case for your argument.

13 It also makes a strong case in respect to much of the
14 work has already been done by your department and previous
15 Departments of Justice under previous Attorneys General in
16 respect to enforcement of the criminal law in relationship to
17 gambling. And as a result, I'm concerned about the need for
18 more burro-crats and deputy AGs, and trying to resolve a budget
19 crisis as well, and if in fact all this work was done by current
20 staff in the AG, how much more would we have to add toward a
21 special Gaming Control Division within the Department of
22 Justice?

23 ATTORNEY GENERAL LUNGREN: My representative from the
24 Division of Law Enforcement is not here. I can get that
25 information for the record for you.

26 We tried to skim it down to what they thought would
27 be adequate to do the job, but at the same time, not short it,
28 so that we'd be presenting to you a half-baked proposal that

1 frankly couldn't do the job.

2 But as I say, I envision it being paid totally from
3 the industry that's being regulated.

4 SENATOR TORRES: That was your original intent, then;
5 the funding would come from assessments of the industry?

6 ATTORNEY GENERAL LUNGREN: As I indicated before,
7 that's my preference, although I know the Legislature's the one
8 that's going to make the determination.

9 SENATOR TORRES: Right.

10 One final question. If in fact the Indian tribes are
11 ready to support this proposal for regulation of gaming in
12 California, and if in fact there is -- is that correct or not,
13 from your perspective?

14 ATTORNEY GENERAL LUNGREN: Again, I said, I do not
15 speak for them, but I sense that --

16 SENATOR TORRES: In your testimony, you indicated to
17 me that your sense was that they --

18 ATTORNEY GENERAL LUNGREN: That's right, that's my
19 sense. But again, I want to make it very clear, I'm not going
20 to speak for them. They do a very good job of speaking for
21 themselves.

22 SENATOR TORRES: I think we've all learned that in
23 the past.

24 What I'm concerned about, however, is if in fact the
25 Indian tribes under your impression, and that seems to be my
26 impression, would not be opposed to being regulated by a Gaming
27 Commission, which would imply and resolve many of the issues
28 that are raised, in reading through this document, about many of

1 the problems that have occurred in the past --

2 ATTORNEY GENERAL LUNGREN: Correct.

3 SENATOR TORRES: -- on Indian reservations, then why
4 are we proceeding to expend state dollars to fight the Indians
5 in court when a compact could be achieved within legitimate
6 parameters and get to the business of creating revenue and
7 moving towards support of this type of regulatory scheme, so
8 that there would be no questions as to the legitimacy of the
9 people operating these Indian reservation facilities, and the
10 people working, if they're willing to subject themselves to
11 background checks, and making sure that you're comfortable and
12 certainly I'm comfortable as to who's working, and to eliminate
13 many of the issues raised in this report?

14 ATTORNEY GENERAL LUNGREN: If I can just focus on two
15 of your words, legitimate parameters, that's our area of
16 disagreement, the scope of gaming. Exactly which games are
17 allowed under the law and which are not.

18 We agree in part with some of the findings of Judge
19 Burrell; we disagree in part. That's where we have the problem.

20 SENATOR TORRES: That was the strategy that we were
21 talking about yesterday, and that is, given current federal case
22 decisions, and given other decisions across the state, it
23 doesn't appear like a practical course to pursue if in fact
24 you're going to propose and support a gaming regulating
25 commission.

26 ATTORNEY GENERAL LUNGREN: Well, the problem is,
27 we've had in federal court a mixed bag in terms of decisions.
28 It is not all one way. There is one that has come to

1 conclusion; one circuit has ruled on this, which basically would
2 follow the argument that we have presented. And if the Ninth
3 Circuit were to follow that, or to rule similarly, we in fact
4 would succeed.

5 There are about four or five others in which the
6 circuits have determined this with different decisions.

7 And that's why we've asked the Congress to resolve
8 this. If the Congress could resolve it, and the scope of gaming
9 question were answered, as I say, I think 95 percent of what has
10 us apart from successful completion of negotiations would be
11 gone.

12 SENATOR TORRES: Thank you, Mr. Chairman.

13 CHAIRMAN TUCKER: Thank you.

14 Mr. Baca.

15 ASSEMBLYMAN BACA: Thank you, Mr. Chair.

16 Some of the questions I was going to ask are the same
17 questions as Senator Art Torres, that I was very much concerned
18 with creating another commission that we have right now, when in
19 fact we have three. And he asked what are the possibilities of
20 consolidating.

21 I think we have a responsibility to the taxpayers.
22 The taxpayers are tired of seeing the additional commissions.
23 We're asking them to do a lot less.

24 I'd like to see the possibility of a proposal coming
25 with the consolidation of all three of them into one unit,
26 because we're very much concerned where the dollars are going to
27 be coming from. I'd like to see your office research that.

28 Then the other question is, what jurisdiction would

1 your office have in the Indian gaming if, in fact, we propose
2 forming under the Commission?

3 ATTORNEY GENERAL LUNGREN: What regulatory authority
4 we would have with respect to gaming on Indian lands would be
5 subject to the compact that we would arrive at with the Indians.

6 The point I was trying to make clear was that I
7 think, based on the long-term negotiations we've had with
8 various representatives of the Indian interest, that they would
9 agree to that kind of a regulatory scheme.

10 If we did not have a compact, and if the federal
11 government changed the law to say, "Hey, states, you're out of
12 it; we're just going to make this determination. You're going
13 to sit on the sidelines," we would have no control whatsoever.

14 It's not something that we can unilaterally impose.
15 It would be something that would have to be subject to the terms
16 of the compact itself.

17 But as I said, it's my sense that because of their
18 concern about having an honest game, and their concern about not
19 being used for skimming or money laundering, and their concern
20 about not having the entry of criminal activity that they would
21 agree. I might even say readily, but I don't want to use that
22 word. They would agree to have the regulations apply to the
23 games that are played on their grounds. And that would entail,
24 of course, the background checks, and the approval, and so
25 forth, of the people who would operate these.

26 ASSEMBLYMAN BACA: If in fact they decided not to
27 have the compact agreement, and we set up the Commission, then
28 are we in one sense saying that there's a probability that now

1 we're talking about expanding gaming to other entities within
2 the State of California, or looking at considering? Is that the
3 message that we would be putting out?

4 ATTORNEY GENERAL LUNGREN: Well, I think whether or
5 not the Indians had any gaming, and I suspect they will have
6 gaming and continue to have gaming, and in one sense or another,
7 they will have more gaming than they have presently. I think
8 the law is clear on that. That's why we're negotiating in good
9 faith with them.

10 If you just set that aside, I think you can make a
11 very strong case for the necessity of a Gaming Commission with
12 the regulatory schematic that we have set up, or something
13 similar to that, for the existence of card room gaming in the
14 State of California right now. I think precisely because local
15 entities are incapable of doing that. And again, I don't say it
16 as a criticism of their honesty, or their integrity, or anything
17 like that. I'm just saying it as an actual fact, both
18 historically, and if you just analyze it as a proposition.

19 CHAIRMAN TUCKER: Senator Maddy.

20 SENATOR MADDY: Thank you, Mr. Chairman.

21 Just to give a couple preliminary remarks, because
22 Senator Torres mentioned our efforts to try to reduce government
23 in California, I had the privilege of carrying the Attorney
24 General's measure in the Senate G.O. Committee last year, which
25 incidentally, caused me to suffer the worst loss I've ever
26 suffered in that committee. I was the sole vote for it.

27 So, I understand the politics of it, and I don't want
28 to attribute to where that loss -- why it came about, but I

1 think we should get to that issue relatively soon.

2 To give you some background -- it could have been the
3 author; could have been the author. But as I say, that was my
4 worst loss. That was my worst loss. I almost didn't vote for
5 it myself when the tide began to turn on me.

6 [Laughter.]

7 SENATOR MADDY: Senator Beverly, my closest friend --
8 not withstanding that everybody is my friend on the committee --

9 [Laughter.]

10 SENATOR MADDY: -- abstained. That was the best I
11 got.

12 In any event, to give you some background, the
13 Sheriff of Los Angeles and other law enforcement agencies
14 submitted to me sometime before legislative session began last
15 year a proposal for a Gaming Commission in the state.
16 Coincidental with that, I was working on a proposal myself,
17 because I felt strongly that because of certain actions of the
18 Lottery Commission that I felt ran counter to the California
19 Horseracing Board's activities, that we should merge those two.
20 It seemed strange to me that we would have a state-operated
21 monopoly in the Lottery making decisions that were running
22 counter to a major industry in this state, which was the
23 horseracing industry. And some of the decisions they were
24 making were counterproductive and were hurting the horseracing
25 industry, and I don't think they were considered.

26 So, my thought was to merge those two.

27 CHAIRMAN DILLS: And also a Lottery Commission making
28 decisions contrary to the law that was passed with reference --

1 I was the author of it -- with reference to competitive bidding.

2 SENATOR MADDY: Well, I don't want to get into that,
3 Senator Dills, but I knew that if I merged the Lottery
4 Commission with the Horseracing Board, I might have your vote.

5 CHAIRMAN DILLS: You might.

6 SENATOR MADDY: In any event, discussions were
7 undertaken with the Attorney General's Office, who, coincidental
8 with all of our actions, had a team over in the State of Nevada,
9 reviewing what Nevada was doing.

10 The end result was SCA 29, which put together the
11 State Gaming Commission. A decision was made along the way that
12 because the Horseracing Board was operating well, and had been
13 for 50 years in the State of California, regulating the
14 horseracing industry, and because the Lottery Commission was a
15 vote of the people, and that we would, perhaps, have to go back
16 to the people to make a modification, that the idea was
17 formulated to take the State Gaming Commission, under SCA 29,
18 and have it regulate, if you will, any expansion of gambling.
19 There were provisos in that Constitutional Amendment that did
20 speak to the issue of horseracing and lottery, if necessary.

21 The other thing that the SCA 29 tried to accomplish,
22 but I think was what killed the bill, was that it was very clear
23 in that effort that we were trying to limit the expansion of
24 gambling in California, to the point of what it was at right
25 now.

26 Now, I'm not sure the committee was voting against
27 that, because it also would have limited the expansion of the
28 gambling on the Indian reservations. I think that had a major

1 factor. I think, certainly, part of it was the corresponding
2 legislation that Mr. Tucker was carrying that actually financed
3 this whole concept that's under discussion today. And the
4 Attorney General's proposal, in terms of how he was going to
5 finance the regulatory process, particularly for the card clubs,
6 placed a tremendous financial burden on the existing card clubs,
7 and potentially would expand into a financial burden on the
8 Indian reservations who would be regulated.

9 I think, I believe strongly, that we must go towards
10 a Gaming Commission. I think that we are going to see an
11 expansion of gambling. It was almost admitted by everybody
12 yesterday in our discussions about what the Indian tribes would
13 be doing. I think it's a strong possibility that the rumors
14 that Senator Torres spoke about, that if we're going to have
15 expanded gambling, to casino-type gambling on Indian
16 reservations, that there'll be people in this state who will say
17 there is absolutely no reason that we shouldn't have that
18 available to others who are involved now in gambling, whether it
19 be the race tracks and/or the card clubs, and that we should
20 move towards a regulatory scheme where we have state taxes being
21 generated from the industry to pay for regulatory and -- a
22 licensing and a regulatory scheme controlled by a Gaming
23 Commission and Attorney General.

24 I don't think there's any magic, because I once
25 endorsed the idea, of having a Gaming Commission that regulates
26 all forms of gambling, be it horseracing, the Lottery, and card
27 clubs, as well as to the extent that it would be negotiated
28 under the compacts, the licensing and the regulatory process on

1 Indian reservations.

2 I think where the Attorney General has to come to
3 grips, and where I think he failed and his office failed last
4 year, is the extent of regulation. How many people do you need?
5 How much does the licensing cost? Are we talking about round
6 the clock, three or four Attorney Generals in every card club in
7 California? The \$6-8 million number was, even for your
8 strongest and only supporter -- to the Attorney General, the
9 only supporter, it was a huge number. I mean, very candidly,
10 that number killed the bill, if I even had a chance for a vote
11 or two.

12 I think that we have to come to grips as to what is
13 necessary. And I'm not sure we, as this committee, sitting and
14 listening to testimony, can come to grips with that as well as,
15 perhaps, the Attorney General's Office did in trying to evaluate
16 Nevada, but we have to come to grips with how much of a
17 regulatory and licensing scheme, and how much is that going to
18 cost if we move in that direction. And I say, I think that
19 takes a great deal of detail.

20 I was, frankly, disappointed in the reaction of the
21 Attorney General's Office last year in discussing this issue,
22 because I think they held too tight to a sum of money that was
23 way beyond the capability of politically possible. I mean, you
24 can't hit one card club for a couple million dollars and not
25 have every city government, and every representative within
26 those cities, because this is, in fact, a tax that's going to be
27 added on to the city taxes. What is Bell Gardens?

28 I think, Senator Dills, you're more familiar with

1 this than I am, but one of the clubs pays \$13 million to a city
2 government. Well, if you add additional tax on that --

3 CHAIRMAN DILLS: It wasn't Gardena.

4 SENATOR MADDY: It wasn't Gardena; well, wherever it
5 was.

6 Maybe my number's wrong, but there's a considerable
7 amount of money that's generated at the local level to pay for
8 local law enforcement, and we are adding on to that, because I
9 think it's ridiculous to talk about a General Fund expenditure.
10 We're talking about a tax that's going to be added on to
11 gambling interests in California to pay for this regulatory and
12 licensing scheme, and we ought to get right down to it, not
13 debate the idea whether it's going to be possible or not, or
14 whether it's a General Fund issue or not. We all know it's not
15 going to be a General Fund issue. We're going to be \$5 billion
16 in debt again this next year, and we sure as the devil are not
17 going to be adding some other gratuitous kind of payments to
18 regulate gambling.

19 And I would also differ with those Members of the
20 committee who might think the public is more concerned about
21 adding a commission. This kind of commission is not going to be
22 one that the public's going to be remiss in adding to our
23 numbers. They are far more concerned today about criminal
24 elements coming into California, the crime that's going on in
25 this state, than to take the chance that we would have an
26 unregulated gaming industry in this state, greatly growing, and
27 growing exponentially around the nation, and certainly in
28 California. They're not going to be remiss in saying we should

1 have a Gaming Commission that ensures, to the extent possible,
2 and it's not a panacea, because notwithstanding the Attorney
3 General's comments about how ideal Nevada is, I don't think
4 Nevada has, notwithstanding their Commission and their
5 activities, has been crime-free. I mean, certainly, there's
6 nothing you read that indicates that any part of America is
7 crime-free when it comes to the gambling interests around the
8 country.

9 So, I think we ought to get down to it and try to
10 determine the logic and the rationale behind what the Attorney
11 General believes is a proper licensing function; how much that
12 costs; how many people it takes; and what kind of regulatory
13 process and system that they would like to have in California as
14 it relates to existing card clubs, other forms of gambling, and
15 so on.

16 ATTORNEY GENERAL LUNGREN: Mr. Chairman, if I might
17 respond?

18 CHAIRMAN TUCKER: Yes.

19 ATTORNEY GENERAL LUNGREN: The figures we came to are
20 the figures that we came to based on what we thought was
21 necessary to do the job.

22 It is the best information that we have that
23 somewhere between \$7-8 billion are wagered in card rooms per
24 year in California. The best figure we have is that, for
25 instance, the Bicycle Club had reported gross revenues of \$84
26 million in '90; 82 million in '91; 85.9 million in '92.
27 Commerce Club had \$77 million in gross revenues in '91. The
28 Garden City Card Club had \$20 million in 1991.

1 I believe, and I'll check this, but I believe what
2 we're talking about is something in the neighborhood of less
3 than one percent --

4 SENATOR MADDY: If I could interrupt --

5 ATTORNEY GENERAL LUNGREN: -- less than one percent
6 of the earnings of the card clubs.

7 SENATOR MADDY: In fact what you're saying, though --
8 I'll raise a simple issue. If the Bicycle Club and the Commerce
9 Club are the two largest, and there's, what, 236 or 300-and some
10 card clubs, if in fact they're doing 80 percent of the business,
11 it's a lot different than if all of the business was spread out
12 over 230 different locations. If you've got two locations that
13 do 80 percent of the business, you sure as the devil don't need
14 as many people to monitor the activities of the two places as
15 you do if you had 230 places equally doing business.

16 I mean, there's a great number of factors. I think
17 that we get caught up in the conversation about how much is bet
18 and how much is spent. We don't analyze from a realistic point
19 of view what's actually being done.

20 There's a lot of money wagered on horseracing, and we
21 have had a very able enforcement process in terms of licensing.
22 It's not been perfect in terms of monitoring how money is bet
23 and where it goes, and where it ends up. The point is that I
24 think we're concerned, and I think the Committee was
25 legitimately concerned, about just how much is this going to
26 cost, and to a lesser extent, just how big of a governmental
27 entity do we need to monitor it?

28 At some point in time, it may be too much and it's

1 not worth it, for the entrepreneurs also. I mean, the worst
2 thing that could happen to you and to me, I think, is to have
3 gaming come in full scale and not have the operation, not have a
4 Commission, not have a regulatory and licensing process.
5 Because, my understanding is, certainly the Indians don't need
6 it.

7 ATTORNEY GENERAL LUNGREN: I remember watching Monday
8 Night Football one time, and Don Meredith said, "If ifs ands and
9 buts were candy and nuts, every day would be Christmas."

10 SENATOR MADDY: You're right, and I'm down to the
11 nuts and bolts.

12 ATTORNEY GENERAL LUNGREN: But I can't -- frankly,
13 all I want is whatever's necessary to do the job.

14 I would point out, this is not -- again, I would
15 point out, this is not a regular type of business enterprise.
16 Gambling is different. Gambling has always been viewed as
17 different. It affects the public morals; it affects health and
18 safety, and it affects the potential of and the existence of
19 crime. I mean, that's been the history in California; it's the
20 history of the country.

21 So, to suggest that one percent, an equivalent tax of
22 one percent to police the industry is something far out of
23 range, that doesn't strike me as being far, or maybe it is. But
24 when you talk about the peculiarity of the industry itself, and
25 the necessity of attempting to try and regulate it in a way that
26 staves off the problem, I've got an obligation to come forward
27 with you and give you the best judgment we have.

28 Now, maybe you can scratch it better than that, and

1 obviously, we'll live with whatever we get. I just want to make
2 sure that we don't come in here and low-ball you, and tell you
3 we can do this for this, and then come back a year later and
4 say, "Hey, you know what I told you? We need twice as much as
5 what I told you."

6 You know, I hold no grief for Nevada. I just know
7 Nevada's done a pretty doggone good job of dealing with this
8 kind of cash wagering at many different locations. No, they're
9 not pure. I mean, that's why they continue to have this
10 tremendous regulatory scheme.

11 So, I have no problem with whatever number comes out,
12 as long as it's a realistic number.

13 You know, if I could do it for 20 employees as
14 opposed to 80 employees, that's fine. I don't worry about doing
15 empire building.

16 I'll just tell you this. These folks would probably
17 rather be doing something else than spending most of their time
18 on gambling. I think most of them don't gamble, or didn't use
19 to.

20 We had to educate ourselves on what gambling was all
21 about. I mean, it's kind of interesting, trying to figure out
22 what the game is, and then what the legal definition is, and
23 what law enforcement can or cannot do.

24 So, I'll be happy to work with committees on what the
25 real numbers are, but I can't fool you. I can't come in and
26 say, yeah, we can do it for 20 people, if it's going to take 40;
27 or this will finance that if it just can't.

28 We'll listen to everybody; we'll listen to anybody.

1 We'll work with you.

2 CHAIRMAN TUCKER: Mr. Lungren, if they drove the
3 freeways here, I'd venture that they gamble.

4 Senator Greene.

5 SENATOR GREENE: Thank you, Mr. Chairman.

6 I gamble everyday when I try to get to the office.

7 I was looking at this, the 46-page document, General,
8 that is yours. And it seemed to me that with the exception of
9 where you had to change the reference to the State of California
10 under different sections, that this is virtually identical to
11 the Nevada?

12 ATTORNEY GENERAL LUNGREN: No, we used that as a
13 guide, but --

14 SENATOR GREENE: There are differences?

15 ATTORNEY GENERAL LUNGREN: -- we spent --

16 SENATOR GREENE: I was just looking at the --

17 ATTORNEY GENERAL LUNGREN: -- probably hundreds of
18 hours --

19 SENATOR GREENE: I was just looking at the first
20 couple of pages of it, and found a number of things that I
21 questioned in just the first couple of pages.

22 I wondered if, when you went to the Nevada scheme of
23 things, how much evolution there had been in Nevada's scheme of
24 things over the years, because in more recent times, there has
25 been this great expansion of what's happened on the Indian
26 reservations. You know, 15 years ago, there wasn't so much
27 going on, or 10 years ago, and so on. But in the last 5 years,
28 since we legalized bingo in this state, thereafter, certain

1 things began to slowly happen, you know, and pick up speed on
2 the Indian reservations.

3 ATTORNEY GENERAL LUNGREN: Some not so slowly.

4 SENATOR GREENE: And some not so slowly, correct.

5 But as I look at this document, and just looking at
6 the first page of your document itself, "CHAPTER 5. THE GAMING
7 CONTROL ACT", so you can follow me there. You indicate on Line
8 16 there that:

9 "The long-standing public policy of
10 this state disfavors commercially operated
11 lotteries, banked or percentage games
12"

13 Isn't parimutuel betting, in a sense, isn't that a percentage
14 game? Aren't all the payouts built on a percentage of wagers?

15 ATTORNEY GENERAL LUNGREN: If you wouldn't mind, I'd
16 like Manny Medeiros, one of my Deputy Attorney Generals who
17 understands the full legal ramifications of this, to address it.

18 SENATOR GREENE: Okay.

19 ATTORNEY GENERAL LUNGREN: My short answer to you
20 would be it's a hybrid, but let Manny explain.

21 SENATOR GREENE: High bread, low bread, so long as
22 it's bread. Now let's butter it.

23 MR. MEDEIROS: Traditionally, Senator, banking and
24 percentage games --

25 CHAIRMAN TUCKER: Could you state your name for the
26 record.

27 MR. MEDEIROS: I'm sorry, sir.

28 Manuel Medeiros, Deputy Attorney General.

1 Senator Greene, traditionally, gambling activities
2 have been divided into three general areas: lotteries, gaming,
3 and parimutuel wagering. And gaming -- these are sort of legal
4 distinctions that are drawn by --

5 SENATOR GREENE: So when you say parimutuel gaming,
6 it's exclusive of lottery and it's exclusive of parimutuel
7 betting.

8 MR. MEDEIROS: It's exclusive of banking and
9 percentage games. Parimutuel wagering is always treated
10 distinctively.

11 SENATOR GREENE: Let me ask you this. On the very
12 next section, which is (b), it says:

13 "Public trust that recreational
14 gambling will not endanger ..."
15 and so on.

16 What other kind of gambling is there, other than
17 recreational?

18 MR. MEDEIROS: Well, in California at this point,
19 that appears to be generally the situation in terms of --

20 SENATOR GREENE: Does this word have any meaning in
21 this context?

22 MR. MEDEIROS: Well, I think it does from the
23 customer's standpoint.

24 SENATOR GREENE: From the customer's standpoint, if
25 the word "recreational" was not there, what would be the
26 difference if you left in or took out that word? What does it
27 mean?

28 MR. MEDEIROS: One might use "entrepreneurial

1 gambling", for example.

2 SENATOR GREENE: Why? Why not just gambling? Why
3 entrepreneurial, why recreational, why anything?

4 I'm just trying to find out if the word has some
5 significant meaning that's escaping me?

6 MR. MEDEIROS: Well, I think the point that's sought
7 to be addressed in that subsection --

8 SENATOR GREENE: I'll satisfy myself. I don't think
9 it has a damn bit of meaning; okay?

10 MR. MEDEIROS: All right, thank you, Senator.

11 SENATOR GREENE: Now, going down that page, on Lines
12 34 and 36, (d), it says:

13 "Gambling on Indian lands in
14 California is an activity which is
15 increasing in scope by virtue of the
16 federal Indian Gaming Regulatory Act,"
17 et cetera.

18 But all this seems to include the Indian gambling.
19 You're saying, for example, if you turn to the next page, it
20 says on the top of the next page, Section 19802, Line 6:

21 "It is the intent of the
22 Legislature, in enacting this chapter, to
23 occupy the field of regulation of gaming
24 activities and gaming establishments
25 within the State of California and to
26 provide uniform, minimum standards ..."
27 et cetera, et cetera.

28 It makes no reference to any kind of dissimilar

1 situation as it applies to Indian lands.

2 MR. MEDEIROS: Senator, I believe elsewhere --

3 SENATOR GREENE: Is that all inclusive, or is it not
4 all inclusive?

5 MR. MEDEIROS: That section relates to the question
6 of the relationship between the state and local governments,
7 sir. There is another provision in the statute that deals --
8 that addresses the question of the application of this law on
9 Indian lands --

10 SENATOR GREENE: That may very well be, but all I can
11 do is read what's there, and there's nothing in which I read
12 which said it related to state and local government.

13 Where do you get that conclusion from having read
14 that?

15 MR. MEDEIROS: The question, sir --

16 SENATOR GREENE: It says nothing in this, on (b),
17 okay? It says:

18 "Nothing in this chapter shall be
19 construed to preclude any city, county,
20 or city and county from prohibiting ..."
21 et cetera, et cetera.

22 What about Indian lands? Why are they not included?

23 MR. MEDEIROS: Well, sir, that's a question of
24 federal law, and we can't enforce our regulatory laws on Indian
25 lands as a matter of federal law.

26 SENATOR GREENE: Which is not stated anywhere in here
27 except to say that the state is taking over the field. I just
28 read you that earlier.

1 ATTORNEY GENERAL LUNGREN: Senator, if I might
2 respond to that.

3 SENATOR GREENE: Yes.

4 ATTORNEY GENERAL LUNGREN: The way IGRA works is, it
5 is reflective of what a state's policy is. And so, we are
6 stating here what the policy of the State of California is.
7 That will have an indirect impact on what gambling may or may
8 not be allowed for the Indians because it's derivative of what
9 is allowed in California.

10 For us to write a statute that attempted to try and
11 circumscribe the activities of Indian lands directly would,
12 frankly, not make sense, because that is within the range of the
13 federal government.

14 SENATOR GREENE: Yes, but on the contrary, General
15 Lungren, not that the Indians need me to defend them, but I was
16 really going after, I really wanted to know why you didn't
17 indicate that they were an exemption from these requirements,
18 because you go on to say here that, on Line 30, the Commission
19 shall grant exemption if you're subject to regulation by a city
20 or county, and so on and so forth. Which is not true, because
21 you've got the federal government in there that have the control
22 point that you make no reference to, on Line 30, Section 19803:

23 "No applicant for a license,
24 registration, or other affirmative
25 commission approval has any right to a
26 license or the granting of the approval
27 sought."

28 And it goes on to say that it's a revocable privilege, and no

1 holder acquires any vested right:

2 "In the event of any conflict
3 between provisions of this chapter and any
4 other provision of law, the provisions of
5 this chapter shall prevail."

6 And it should indicate there's an exception to this,
7 and it relates to the Indians exception under the federal
8 government.

9 MR. MEDEIROS: Senator, if I may --

10 SENATOR GREENE: That's not too bad for somebody's
11 who's an engineer rather than a lawyer, huh?

12 [Laughter.]

13 MR. MEDEIROS: On Page 7 of the draft, Senator,
14 beginning on Line 28.

15 SENATOR GREENE: Right.

16 MR. MEDEIROS: It states:

17 "It is the intent of the Legislature
18 that this chapter apply to Class III
19 gaming operations conducted on Indian
20 lands located in this state only through
21 the tribal-state compacting process as
22 provided by the Indian Gaming Regulatory
23 Act. Nothing herein shall preclude the
24 negotiation of terms and conditions in a
25 tribal-state compact which depart from the
26 provisions of this chapter."

27 So, there is an expressed exemption.

28 SENATOR GREENE: Again, I'm not an expert in this

1 field, but I would be more comfortable, frankly, if I were one
2 of the Indian tribes to find the exemptions, or to find that
3 there were exclusions that would be listed in there in the
4 sections that I had already mentioned.

5 Thank you, Mr. Chairman.

6 CHAIRMAN TUCKER: Thank you, Senator.

7 Assemblywoman Napolitano for a question.

8 ASSEMBLYWOMAN NAPOLITANO: Thank you, Mr. Chairman.

9 In following up with Senator Maddy's statement, on
10 Page 35 of your "Gaming in California" report, it states that:

11 "... Indian casinos are not subject to the
12 Bank Secrecy Act, and thus, do not report
13 cash transactions to FinCEN or to the
14 state."

15 Page 35, first paragraph, bottom of the paragraph.

16 ATTORNEY GENERAL LUNGREN: Right.

17 ASSEMBLYWOMAN NAPOLITANO: Now, is this negotiable?
18 Is this something that can be negotiated with the tribes to be
19 able to have some control of some of the transactions?

20 ATTORNEY GENERAL LUNGREN: For the Bank Secrecy Act
21 on the federal level to apply to the Indians, even if they
22 wished it to, there would have to be an amendment to IGRA, the
23 Indian Gaming Regulatory Act.

24 ASSEMBLYWOMAN NAPOLITANO: It couldn't be on a
25 voluntary basis?

26 ATTORNEY GENERAL LUNGREN: Not under the federal
27 scheme. If we were to establish a mechanism for similar type
28 review, or something in that same area, and they agreed to that

1 under the compact, we could do it. But not in terms of the
2 federal Bank Secrecy Act at present, unless IGRA was itself
3 amended.

4 ASSEMBLYWOMAN NAPOLITANO: I see.

5 I had a couple of other questions that have to do,
6 because there's been some statements in regard to the one
7 percent that this 6 million is going to cost, or at least
8 reference that the amount that's set out this committee would
9 cost, 6 million, whatever.

10 What percentage of the horseracing funds go to the
11 state coffers?

12 ATTORNEY GENERAL LUNGREN: What percentage?

13 SENATOR MADDY: We collect about \$132 million a year
14 from horseracing revenues. In terms -- it's roughly 5 percent
15 of the amount wagered.

16 Now, the Horseracing Board operates with a budget of
17 about 3 million -- \$7 million for licensing and enforcement.

18 ASSEMBLYWOMAN NAPOLITANO: So, I guess what my point
19 is whether or not it's commensurate with the amount of revenue,
20 Senator, that could be generated from the clubs themselves, the
21 gaming clubs, versus the horseracing industry. Is one percent
22 deemed enough to be able to do the job properly? How much do we
23 right now -- does our state coffer get from the revenue of any
24 of those, quote, "sin" activities?

25 SENATOR MADDY: If you're asking me, right now, the
26 card clubs, other than what taxes they pay through individual
27 income taxes, do not have a specific gambling license fee for
28 the State of California. They pay their fees and their licenses

1 directly to local government, which is one of the reasons that
2 we have some opposition to any kind of formation of a statewide
3 operation, because local government sees that as a potential
4 threat to their revenue.

5 ASSEMBLYWOMAN NAPOLITANO: Correct me if I'm wrong,
6 but do they pay a \$500 fee for being licensed in the State of
7 California? A thousand?

8 SENATOR MADDY: Maybe registration. Registration
9 fee.

10 ASSEMBLYWOMAN NAPOLITANO: But there is no amount
11 that they're taxed at the state level. Only that portion that
12 the cities negotiate with each individual club?

13 SENATOR MADDY: And if a shareholder of the club
14 makes a profit, which I think most of them do --

15 ASSEMBLYWOMAN NAPOLITANO: If they don't live in
16 California, the profit is not --

17 SENATOR MADDY: Right.

18 ASSEMBLYWOMAN NAPOLITANO: -- reportable in
19 California.

20 That's one of the things that came up when I was
21 researching on a bill that I have as a two-year bill. And I'm
22 very concerned that, even with Lotto, how much of that money
23 comes into the state coffers versus the revenue that they
24 generate?

25 So that, if we are going to take a good look at
26 putting all three into one, I think all three of them are going
27 to have to fall fairly much in the same category, or in the same
28 taxing scheme, if you will.

1 CHAIRMAN TUCKER: Well, Ms. Napolitano, in response
2 to that, the first thing that pops into my head is
3 constitutionally, how can you tax an entity that is not legal in
4 all jurisdictions of the state? You can't operate a card room
5 in certain locales, and therefore, I would argue that you would
6 not be able to take their revenue and use it in that area.

7 I'm not an attorney, and I make no apology for that,
8 but I would suspect that if card rooms were legalized everywhere
9 in the State of California, you would have an argument as to
10 taxation of card rooms and the revenue flowing to the General
11 Fund. But since they're not, since it's locale by locale, I
12 would venture to say you'd have a pretty tough time making that
13 argument.

14 ASSEMBLYWOMAN NAPOLITANO: We tax businesses. We ask
15 them to get a license.

16 CHAIRMAN TUCKER: Sure, but businesses don't have to
17 have a referendum by the people of a city in order to be able to
18 operate.

19 ASSEMBLYWOMAN NAPOLITANO: But a business does not
20 impact law enforcement, judicial, or the prison system, not to
21 the extent any of the sins do.

22 Am I correct, sir, Mr. Lungren?

23 ATTORNEY GENERAL LUNGREN: The only thing I'd say is,
24 it's been recognized through the history of this state and other
25 states that there's something essentially different about
26 gaming. Not only because it affects questions of public morals
27 and health and safety, but in terms of the opportunity for
28 criminals to take advantage of enterprises which essentially

1 deal in cash in this way.

2 It's very different than virtually anything else, and
3 if you talk to most law enforcement, they would say they would
4 probably have to spend more to deal with problems incidental to
5 gaming than they would for most other industries. That's just a
6 fact of life. It's not casting aspersions on the people who
7 operate it. All you're talking about is making sure you can pay
8 for it.

9 ASSEMBLYWOMAN NAPOLITANO: And that wasn't meant as
10 casting aspersions, but it's meant to point out that it does
11 create additional services, the need for additional services.
12 So consequently, when you're looking at the cost, did you factor
13 in those 6 million any additional costs for all those three
14 areas?

15 ATTORNEY GENERAL LUNGREN: What we attempted to do
16 was to work backwards in a sense, to see what we thought we
17 needed to have an adequate regulatory scheme, and then work
18 backwards to see what that would need, what we would need, to
19 have for personnel, and then what the costs would be involved.

20 ASSEMBLYWOMAN NAPOLITANO: But that's just at the
21 agency level.

22 ATTORNEY GENERAL LUNGREN: That's basically right.

23 ASSEMBLYWOMAN NAPOLITANO: If the city that has the
24 good fortune, or however you want to put it, to have a gaming
25 club, or a casino, and they need additional law enforcement,
26 then that falls upon the purview of the city coffers to provide
27 that normally.

28 ATTORNEY GENERAL LUNGREN: And in card rooms, they do

1 receive a direct benefit as a result of that.

2 ASSEMBLYWOMAN NAPOLITANO: What are we thinking about
3 in terms of being able to assist that community to deal with
4 that? Because if you don't, then that facility may eventually
5 lead to further problems, attract more undesirable people that
6 would take advantage of the fact that they did not have enough
7 law enforcement.

8 ATTORNEY GENERAL LUNGREN: Well, I'd say two things.
9 One, we would hope by having an adequate regulatory scheme, we
10 would forestall certain problems that otherwise would visit a
11 local community. If in fact the model of Nevada is capable of
12 replication, it would suggest that, to the extent you are able
13 to keep the bad apples out at the front end, you don't have to
14 deal with them once -- once they've already gotten in there, and
15 that would then apply to the impact on local law enforcement.

16 Secondly, under our suggestion on Page 2, 19802(b),
17 we allow the local jurisdiction -- that is:

18 "Nothing in this chapter shall be
19 construed to preclude any city, county,
20 and city ..."

21 blah, blah, blah:

22 "from imposing any local tax or license
23 fee, providing the prohibition, control,
24 condition, inspection, tax, or fee is not
25 inconsistent with this chapter."

26 So, they'd be free to do what they are free to do
27 now. That is, to establish what levels of taxation, licensing
28 fees, and so forth, would be appropriate for the operation of

1 that gambling enterprise within their jurisdiction.

2 ASSEMBLYWOMAN NAPOLITANO: Thank you.

3 CHAIRMAN TUCKER: Senator Maddy.

4 SENATOR MADDY: To try to get down, General, to some
5 of the specifics, your proposal here, the licensing the
6 regulatory process that you envision, is to be paid for by fees
7 and/or taxes upon the gambling establishments.

8 You're talking about paying for the costs of doing
9 this job; right?

10 ATTORNEY GENERAL LUNGREN: Right.

11 SENATOR MADDY: It's not a General Fund additional
12 expense. You're talking about --

13 ATTORNEY GENERAL LUNGREN: It's all we ever thought
14 of.

15 SENATOR MADDY: Like a state licensing board of any
16 other kind, that you would have certain specific tasks that
17 would be paid for by the fees?

18 ATTORNEY GENERAL LUNGREN: Absolutely.

19 SENATOR MADDY: If you do licensing, you're talking
20 about background checks on individuals who may be operators
21 and/or owners of card clubs, gambling establishments, et cetera,
22 and/or the shareholders or corporate owners of card clubs, if we
23 go that far.

24 ATTORNEY GENERAL LUNGREN: Correct.

25 SENATOR MADDY: I know that you had some problem with
26 Mr. Tucker's bill on that, which I also supported, but you're
27 talking about background checks.

28 Are you speaking about something that is

1 substantially more in depth than what is now being processed,
2 for instance, if you own a race horse, and you have to be
3 licensed in the State of California and/or you work on race
4 tracks?

5 ATTORNEY GENERAL LUNGREN: Yes. If we were going to
6 go to the question of corporate ownership with --

7 SENATOR MADDY: Let's take individual ownerships,
8 then. Right now, you do some backgrounds, don't you, and you do
9 something in terms of licensing of card club operators?

10 ATTORNEY GENERAL LUNGREN: That's what we do. We do
11 initial background checks. That's for the registration.

12 SENATOR MADDY: So, in terms of that aspect of
13 gambling and gaming in California, you would not be intensifying
14 or expanding your present operations; is that right?

15 ATTORNEY GENERAL LUNGREN: I understand what you're
16 saying, and I'm trying to think whether it would really be
17 essentially different.

18 It would certainly be at least as comprehensive as we
19 have now. Whether it would be more comprehensive -- I'll get
20 back to you with a very specific answer to that.

21 SENATOR MADDY: Okay.

22 What I'm getting at is, I think we can be more
23 specific. We can anticipate the number of people that you will
24 have to run background checks on. If you go into corporate
25 shareholders, there's also -- I guess that would be a greatly
26 expanded number of people that may own shares, but if you own a
27 one percent interest in a card club, you may, I guess, stumble
28 across somebody who has an unsavory background, but by and

1 large, I fail to see how that impacts much of the operation of a
2 gaming establishment.

3 But what I'm getting at is that we should have some
4 specifics as to what's anticipated and the number of people you
5 have to license, and how far you have to go in depth in terms of
6 your background investigation.

7 And then, I think, for the understanding of the
8 Members of the committee, by compact, the Indian tribes could
9 agree to similar licensing and similar background checks --

10 ATTORNEY GENERAL LUNGREN: Correct.

11 SENATOR MADDY: -- by compact. They could agree to
12 that.

13 ATTORNEY GENERAL LUNGREN: We could not call it a
14 tax, but --

15 SENATOR MADDY: No, I'm talking about, they could pay
16 the costs of those background checks, which was the same thing
17 you're talking about for operators of card clubs; is that fair
18 enough?

19 ATTORNEY GENERAL LUNGREN: Yes, and the reason I'd be
20 very careful about saying it would not be a tax is, if it's
21 called a tax or viewed as a tax, the federal government would
22 not allow us to do it.

23 SENATOR MADDY: I tried not to use the word tax
24 either, but they could certainly pay for the processing fee --

25 ATTORNEY GENERAL LUNGREN: Oh, yes, sure.

26 SENATOR MADDY: -- for the background investigations,
27 and we could have -- and they could agree by compact to
28 essentially the same kinds of regulations that would cover the

1 type of people who would be operating those --

2 ATTORNEY GENERAL LUNGREN: Absolutely.

3 SENATOR MADDY: -- gaming establishments.

4 And by compact, they could agree to pay that fee, or
5 that processing applications, whatever it is; is that correct?

6 ATTORNEY GENERAL LUNGREN: That is allowed under the
7 law, sure.

8 SENATOR MADDY: And what I don't think I understand
9 or others understand, once you get by the licensing, I think we
10 could put some actual dollar amount on who we anticipate will be
11 involved in gaming in California.

12 If we have an expanded card club operation, or we go
13 into expanded gaming with Indian tribes and/or others, what is
14 the regulation activity, the regulatory activities that you
15 would anticipate you'd have to monitor, over and above what's
16 now being done locally in the card clubs?

17 And let's take, if you want to throw racing in or the
18 Lottery in, there is an enforcement and a regulatory process for
19 Lottery, and there's also an enforcement and a regulatory
20 process for horseracing. We have the individuals who watch out
21 for things at the race track, for people racing under fictitious
22 names, and all those kind of things, and so on.

23 ATTORNEY GENERAL LUNGREN: Well, if I could give you
24 one area where there'd be a difference.

25 Right now, we don't have as high a level as would be
26 suggested here in the proposed statute of continued oversight of
27 their operations in terms of changed circumstances. Right now,
28 basically we review it at the time they get their license, and

1 we review it at the time they come up for a renewal. We really
2 don't have the capacity nor the requirement on their part to
3 give us information in the interim that would lead to changed
4 circumstances.

5 Secondly, we're talking about a scheme to be able to
6 follow the money, which we can't follow today. That is, audit
7 trails, and that sort of thing. The only way you can police
8 that adequately is to be able to do that on a continual or a
9 random basis. We don't have the people to do that. That would
10 be additional personnel, additional ongoing costs that we don't
11 currently have.

12 SENATOR MADDY: This scheme that you have outlined
13 would anticipate that once those regulatory activities are
14 defined, then that cost of monitoring those activities within
15 gaming would be financed by fees to the various gaming
16 activities in the state; right?

17 ATTORNEY GENERAL LUNGREN: Correct. I mean, call it
18 a user fee, if you wish. That's not my idea to use this as a
19 cash cow for the state government.

20 It was our idea only to allow this to fund those
21 resources necessary to have an adequate jog --

22 SENATOR MADDY: I would gather that the gaming
23 industry in California probably has far less to worry about from
24 your office trying to make it a cash cow than from the 120
25 Legislators here in the State Capitol trying to make it a cash
26 cow.

27 That's only an observation.

28 ATTORNEY GENERAL LUNGREN: I think that's a

1 rhetorical question.

2 CHAIRMAN TUCKER: On that note, we're going to take a
3 ten-minute break so the stenographer can get the feeling back in
4 her fingers.

5 [Thereupon a brief recess was taken.]

6 CHAIRMAN TUCKER: All right, let's reconvene the
7 hearing.

8 Does anyone else have any further questions on the
9 first topic on today's calendar?

10 Do you have any closing statements you'd like to make
11 as it relates to what we discussed?

12 ATTORNEY GENERAL LUNGREN: The only thing I'd just
13 say, in terms of the costs and how we came up with that, I
14 believe we made available to the committee when Senator Maddy's
15 bill was being considered our numbers, the working documents, et
16 cetera. We're not trying to hide anything. We'd be happy to
17 give them to this committee again and go over anything that
18 we've got.

19 I would like to see us get it down to as responsible
20 and small amount as possible as long as it allows us to
21 adequately to what needs to be done.

22 One of the other things I would mention in terms of
23 cost, the auditing would be one of the additional costs that we
24 do not have right now. We don't have the capacity to do that.

25 And secondly, while there is a -- there's supposed to
26 be a requirement that we get information from card rooms about
27 changed circumstances in between receiving a license and renewal
28 time, there's no compliance mechanism. I mean, I've got three

1 people that are responsible for this whole thing. If someone
2 doesn't turn it in, frankly, we wait until we have the renewal
3 period and go back and look at it then, because we're strapped
4 for that sort of thing.

5 So, there would be an increased activity in that
6 regard, and there would be a mandatory requirement that they
7 give us that information. There'd be an ongoing responsibility
8 to do that. That would differ from what we have at present.

9 SENATOR MADDY: Question, Mr. Chairman.

10 CHAIRMAN TUCKER: Yes, Senator Maddy.

11 SENATOR MADDY: General, SCA 29 that we introduced
12 attempted to limit the scope of gaming in California with very
13 -- in a very definitive way. I think, frankly, that's what
14 killed the bill more than the costs, although the cost issue was
15 a great straw man for at least the card clubs to come in on to
16 help also kill the bill.

17 The scope of gaming issue was basically an Indian
18 issue. And as we go into this new year, we come forth with
19 another Gaming Commission bill, without -- I know how you feel
20 about it, because you've already said that you would like to see
21 no expansion of gambling in California, and you have concerns
22 about the expansion of gambling -- but in terms of achieving the
23 goal of a Gaming Commission, do you believe it can be done
24 without attempting to change or define the scope of gambling in
25 California?

26 Can't we establish a Commission, and set up a
27 regulatory and licensing process, without defining the scope of
28 gambling?

1 ATTORNEY GENERAL LUNGREN: Well, in your original
2 proposal, SCA 29 --

3 SENATOR MADDY: I like to call it your proposal.

4 ATTORNEY GENERAL LUNGREN: Our proposal.

5 SENATOR MADDY: Our proposal.

6 ATTORNEY GENERAL LUNGREN: I'm perfectly happy to say
7 that it was our proposal for a very specific reason --

8 SENATOR MADDY: I endorsed it.

9 ATTORNEY GENERAL LUNGREN: -- and that is, down the
10 line in terms of legal challenges, it is far better to have a
11 very specific statement in the Constitution, or in statute, that
12 there is a general prohibition against gambling except for those
13 games that are specifically allowed, because that clears up in
14 many ways the scope of gaming. It doesn't get you into these
15 areas.

16 I was completely unaware of this when I got in,
17 because frankly, I don't play that many card games. And you
18 start trying to find out what the legal definition is, and you
19 find that things that you and I would assume in normal
20 conversation are allowed or disallowed, are not, and the
21 difference between games that we grew up playing or watching
22 other people play, you assume there's an essential difference.
23 You find that legally, because of the elements of the game
24 itself, they are, under the eyes of the law, the same.

25 So, the best way to clarify that is to say there's a
26 general prohibition against it, unless it's specifically
27 allowed, and then the Legislature can allow it in the future as
28 they pass it.

1 In terms of the proposal that we had last year, the
2 statutory proposal, we don't have that same sort of absolute
3 prohibition against other gambling.

4 SENATOR MADDY: No, I tried to differentiate between
5 SCA 29 and Mr. Tucker's 1758, and 1758 was the regulatory and
6 licensing chapter only, and that's what we're discussing today.

7 CHAIRMAN TUCKER: And that wasn't mine.

8 SENATOR MADDY: Excuse me, I thought it was yours.

9 CHAIRMAN TUCKER: No.

10 ATTORNEY GENERAL LUNGREN: And what it says
11 specifically is that current games must be licensed, so we deal
12 with them that way.

13 Those afraid that somehow it drives a wedge and stops
14 gaming that otherwise would be allowed, I don't think, should
15 worry about that.

16 The fact of the matter is, it would be cleaner
17 legislation, it would be better public policy, I think, if we
18 did have a general prohibition, because everybody would know
19 what the rules are. You can go, and you look at the statute
20 books, you can see which games are allowed, and there's no
21 question.

22 One of the things that we ran into in Judge Burrell's
23 courtroom, for instance, was what is a lottery, and what games
24 are allowed to be played under the lottery? And if you use --

25 SENATOR MADDY: It was clear that he didn't know. It
26 was clear the judge didn't know.

27 ATTORNEY GENERAL LUNGREN: I'm required to go back
28 into those courts in the future --

1 SENATOR MADDY: Excuse me.

2 ATTORNEY GENERAL LUNGREN: -- so I have great respect
3 for the federal judiciary.

4 But the point is, as you start looking at the games
5 themselves, and the way they're played, and the use of machines,
6 all of a sudden you're up against: what is the definition of a
7 lottery? And if you use this kind of machine, does it change it
8 in some essential form or fashion?

9 We have to defend that, and we think we have done a
10 good job of defending it. The judge, I think, rejected some
11 notions that would have such a general application that, you
12 know, as soon as the Lottery starts playing any games with
13 machines, it allows all casino gaming. But we would differ with
14 the judge on his definitional distinctions that he made.

15 And those kinds of things, frankly, are obviated if
16 you have a general prohibition.

17 I'll just tell you this. The Lottery -- the law that
18 established the Lottery, and the existence of the Lottery,
19 causes us all sorts of trouble from a legal standpoint. I'm not
20 sure people realize what they bought into when they voted for
21 the Lottery.

22 SENATOR MADDY: One additional point, General.

23 I think that you would be better served, and your
24 staff would, if we could -- and I'm not speaking for the rest of
25 the committee but for myself -- rather than to try to attempt to
26 ascertain an amount of money that's necessary based on gross
27 handle, or the turn, and so on, it would be to define who you're
28 going to regulate, how many of those -- you know, what number's

1 out there -- how much it costs to do that in terms of licensing
2 and regulatory and regulation rather than try to deal with a
3 percentage of handle. Because a percentage of handle does not
4 answer all the other questions I attempted to raise, which was:
5 how many people are involved; how many locations; and what
6 manpower you'll actually need to do the job. And that's not
7 based on handle. Doesn't have anything to do with handle.

8 ATTORNEY GENERAL LUNGREN: I think I know what you're
9 talking about by handle and turn.

10 SENATOR MADDY: Handle is how much is bet, how much
11 is wagered.

12 ATTORNEY GENERAL LUNGREN: I understand.

13 SENATOR MADDY: Yes, how much is bet and how much is
14 wagered has absolutely nothing to do with how many people are
15 involved, or how many locations are involved, or what you have
16 to do to control --

17 ATTORNEY GENERAL LUNGREN: Right. I think there
18 might be a misimpression that we started on that, started from
19 that side of the equation. We really didn't. We tried to
20 figure out what we would need, and then tried to figure out what
21 that would mean on the other side of the equation for achieving
22 that amount.

23 SENATOR MADDY: Okay.

24 ATTORNEY GENERAL LUNGREN: Obviously, I would love to
25 work with Members of the committee, with my staff, on going
26 through these numbers and scrubbing them as hard as we can to
27 see what exactly is necessary.

28 It's just this. I have an experience in my office

1 right now in which I am required by law to enforce the 15-day
2 waiting period. Everybody assumes that the information we have
3 is totally adequate. When I go back and do a check on 15-day
4 waiting period for someone who wishes to purchase a weapon, the
5 background check is only as good as the information we have in
6 our criminal history files.

7 We're behind in our criminal history files,
8 specifically because we haven't gotten adequate funding and
9 personnel to handle that.

10 I don't want to fall into that situation here. I
11 don't want to create a paper tiger.

12 So, we'll go back and we'll scrub the figures, but I
13 don't want to come before you and say we can do something for a
14 certain amount when we can't, and give you the belief that
15 you've done a good job of passing a law that I can enforce, and
16 then have me come back two years later and say, "Hey, folks, we
17 can't do this." That's all.

18 I'll be happy to work with you on those numbers. I
19 don't want -- I believe in entrepreneurs. And if a card room is
20 legal, I want to have good entrepreneurs, and I want them to
21 make a buck, and I want them to operate fairly, and I want
22 government to take advantage of that. But I want government to
23 be able to have the resources necessary to properly regulate and
24 police the environment.

25 CHAIRMAN DILLS: On that point, may I ask, if you
26 start from the statement that you made earlier, that local
27 government is incapable of regulating and handling gambling.

28 ATTORNEY GENERAL LUNGREN: Right.

1 CHAIRMAN DILLS: That was a statement that you did
2 make. Now, if you start from that, then obviously you're going
3 to come in with that opinion. And therefore, you're going to
4 persuade the Legislature that you have to have it. You have to
5 have a lot of money, because you have already concluded that
6 they are incapable of handling it, although they have been
7 handling it for some years, perhaps not in the fashion or manner
8 that an overall Gaming Commission might entertain it, but we're
9 talking about the bucks necessary for your department to do and
10 handle the regulations and so on.

11 So, I just wondered if that is truly your opinion,
12 that local government is incapable of handling it?

13 ATTORNEY GENERAL LUNGREN: I think as we've gone to a
14 more sophisticated card room industry, with expansion of card
15 rooms so that you're really not, in many cases, talking about ma
16 and pa shops, yes. To recite an example --

17 CHAIRMAN DILLS: Did you say "if"? "If we have
18 gone"?

19 ATTORNEY GENERAL LUNGREN: If we have gone to that
20 sophistication, and I believe we have --

21 CHAIRMAN DILLS: We have already?

22 ATTORNEY GENERAL LUNGREN: Oh, yes. And then, the
23 expansion of the types of games, the fast paced nature of the
24 games, the difference in the games today as opposed to what they
25 were 20 or 30 years ago, the amounts of money being wagered, I
26 think all of those things have an impact on the necessary police
27 and regulatory schematic that local jurisdictions have not been
28 able to keep up with.

1 Second --

2 CHAIRMAN DILLS: Have you had complaints from
3 citizens in communities --

4 ATTORNEY GENERAL LUNGREN: Yes, I have.

5 CHAIRMAN DILLS: -- that that's the case?

6 ATTORNEY GENERAL LUNGREN: Yes, I have, particularly
7 from some members of some of the Asian communities, yes.

8 CHAIRMAN DILLS: Specifically.

9 ATTORNEY GENERAL LUNGREN: Specifically, yes.

10 CHAIRMAN DILLS: What agencies? What agencies have
11 made --

12 ATTORNEY GENERAL LUNGREN: No, no, you said
13 individuals. Yes, we have had from individuals.

14 Secondly, I would just say, the example we had of
15 when we had to close down a card room in a particular community
16 based on the fact that we could never get the information that
17 is required by law, and based on the fact that the money seemed
18 to be coming, or there was good reason to believe that the money
19 may be coming from out of the country, and that there may be
20 unlawful connection to it.

21 When we were to act to do that, the response we got
22 from the local community was: do you have to shut it down? Can
23 you not shut it down? It means -- I think the figure was 12
24 percent of our budget. I'm not sure what the percentage of the
25 budget was, but it was a large chunk of the budget to the
26 community, or so it was presented to me.

27 And all I'm saying is, I don't question the veracity,
28 or the honesty, or the integrity of local jurisdictions. I'm

1 just saying, that's a pretty heavy thing to require them to do,
2 to try and police and regulate an operation that may be, by some
3 rights, the life blood of their community.

4 And I just think it's -- we're the only state that
5 does it this way. Every other state that has card rooms that we
6 can find doesn't do it this way.

7 I don't believe that just because others do it, we
8 have to do it, but I think that might be instructional or
9 instructive on it.

10 CHAIRMAN DILLS: Is your statement of the situation
11 that exists now a result of the Asian community activities in
12 gambling?

13 ATTORNEY GENERAL LUNGREN: No, no. You just asked me
14 whether we'd had any complaints by some folks, and I said some
15 members of the Asian -- certain Asian communities in Southern
16 California had complained to our office about the operations in
17 their communities and what they thought the destructive impact
18 of the expansion of gambling, particularly in amounts of money
19 that they thought were destructive to family members. And
20 that's a fact.

21 CHAIRMAN TUCKER: I think this is the appropriate
22 time to move on to our section, Section B. We'll ask Mr. Lou
23 Shepard to come forward. He's the City Manager of the City of
24 Commerce, which, it's my understanding, operates the largest
25 card club in California. So, we can get a little dialogue going
26 as to whether or not the City of Commerce feels they're able to
27 regulate the card club in their city as it relates to your
28 comments.

1 ATTORNEY GENERAL LUNGREN: Am I excused?

2 CHAIRMAN TUCKER: No. You make yourself comfortable.

3 ATTORNEY GENERAL LUNGREN: I wish this were a hearing
4 on water. There might be some around.

5 CHAIRMAN TUCKER: We can get you some water.
6 Sergeant.

7 MR. SHEPARD: Thank you, Mr. Chairman Tucker,
8 Chairman Dills, Members of both of the committees.

9 It's a privilege for me to be here today and a
10 pleasure for me to be able to talk to you about what's going on
11 in Commerce with our card club.

12 My name is Lou Shepard, S-h-e-p-a-r-d, and I'm the
13 City Administrator of the City of Commerce.

14 I'll give you a little background about the city
15 itself. We're located at the crossroads of the Santa Ana
16 Freeway and the Long Beach Freeway, approximately 6 miles east
17 of downtown Los Angeles. The city has a population of about
18 12,500, predominantly lower income; about -- above 90 percent
19 Hispanic population. About 75 percent of the community
20 residents are homeowners who've lived there for many, many
21 years.

22 We have a high rate of unemployment, and large
23 segments of the population dependent upon public social
24 services.

25 I can describe the city's organization just a bit, to
26 put this into perspective. The city has received for the past
27 12 years the award from the National Association of Finance
28 Officers for meeting the national standards with respect to the

1 city's accounting.

2 We spend more than \$4 million annually for parks,
3 recreation, social services, libraries, to serve our residential
4 community. We're immediately adjacent to East Los Angeles,
5 where there is a very serious and ongoing gang problem and high
6 rate of crime.

7 But in Commerce, we have not only a low crime rate,
8 but a declining crime rate, and youth in the community are not
9 influenced by the gangs because they're too busy with school and
10 with the programs that the city is able to provide, largely
11 because of revenue from the card club.

12 We have a \$29 million city budget, with about \$11
13 million coming from the card club. I believe at the moment,
14 Commerce has the largest card club in the State of California
15 from our 13.2 percent tax on the gross revenue of the club.

16 Talk a bit about the casino itself, it's called the
17 Casino California Card Club. Opened in 1983 with more than 100
18 tables, and because of an expansion in 1990, there's capacity
19 for more than 250 tables. The club employs approximately 2,000
20 individuals. It has approximately 3,000 parking spaces, and
21 they accommodate on a daily basis as many as 25,000 cars a day.
22 It is by any measurement a huge operation.

23 We have a security force of approximately a hundred,
24 and the club has a very strong incentive to create and establish
25 a Disneyland level of customer comfort and security to encourage
26 regular patronage. People who go to the card club are, for the
27 most part, very much like the people that go to Las Vegas, and
28 Reno, and Lake Tahoe, except that they go to the Commerce Casino

1 exclusively to play cards.

2 I'd like to mention, and I have just one copy that
3 I'd be glad to leave with the committee, we have Los Angeles
4 County Sheriff's Department, and annually, they do a comparison
5 of Part I crimes throughout the community. And we asked them to
6 break out two specific uses. One is the card club, and the
7 other is the 48-acre Commerce Shopping Center. And on average
8 for the last 5 years, there's somewhere between 50-60 incidents
9 a year at the Card Club, and between 320 and 450 incidents at
10 the Shopping Center.

11 Now, more than half of all the police incidents that
12 occur are related to cars, either stolen cars or break-ins of
13 cars. So, as a law enforcement problem, it is not a serious
14 problem.

15 CHAIRMAN TUCKER: Mr. Shepard, how do you respond to
16 the Attorney General's assertion that cities are no longer able
17 to regulate gambling and the mega clubs such as the Commerce
18 Club?

19 MR. SHEPARD: Yes, as I get into this a little more,
20 I'm going to detail our regulatory scheme. And I have copies of
21 some parts of it that I can leave with the committee also.

22 SENATOR HUGHES: Mr. Chairman.

23 CHAIRMAN TUCKER: Senator Hughes.

24 SENATOR HUGHES: Just a point of information.

25 How many people do you employ at your card club?

26 Where do most of your people live who are employed in your card
27 club?

28 MR. SHEPARD: There are approximately 2,000 employees

1 of the card club, and the vast majority live within easy
2 commutina distance of the club. Quite a few live in the City of
3 Commerce

4 SENATOR HUGHES: You made a comment in reference to
5 some sort of Disneyland comfort. Would you explain that remark,
6 please?

7 MR. SHEPARD: Yes.

8 Disney has been very careful to create a high level
9 sense of security among people who go to any Disney outlet. And
10 they want people to feel secure, to feel comfortable, to feel
11 happy. And that's the same kind of feeling that the card clubs
12 try to create for their patrons so that they will continue to
13 come back.

14 SENATOR HUGHES: Have you had any incidences of
15 robberies, or interruptions of any of your games recently?
16 There were a couple of bingo parlors in Los Angles that had some
17 intrusion. Did you have any threats like that? Is your
18 security force adequate to provide for the number of clientele
19 that you service?

20 MR. SHEPARD: Well, remember, I don't speak for the
21 card club. I speak for the city, and I think you'd have to talk
22 to the card club.

23 SENATOR HUGHES: As a city, you would know --

24 MR. SHEPARD: Yes.

25 SENATOR HUGHES: -- whether it was secure.

26 MR. SHEPARD: There has been one armed robbery inside
27 the club in its ten-year history.

28 SENATOR HUGHES: And that was not recently?

1 MR. SHEPARD: That was within the last six months, I
2 believe, Senator.

3 SENATOR HUGHES: Oh, it was.

4 MR. SHEPARD: Yes.

5 SENATOR HUGHES: Is the city taking any extra
6 precautions? Because it bothers me that a lot of senior
7 citizens find this convenient entertainment, and they are really
8 victimized in a situation like that.

9 What is the city doing, or are they attempting to do
10 anything to protect the seniors so they feel a little more
11 comfortable there?

12 I'm delighted that you provide for so many jobs. I'm
13 also delighted that you provide for entertainment, but I am also
14 concerned about seniors who might frequent these places. Could
15 you reply to that?

16 MR. SHEPARD: I'll try.

17 In 1992, we had 55 Part I crimes. Grand theft auto
18 accounted for 28 of those incidents. And so, roughly 27 were
19 other than grand theft auto.

20 And we don't have statistics that break out seniors
21 versus other elements of the population, so I can't answer that
22 any further. Generally speaking, I think the seniors play the
23 small games, the one and two dollar games, and therefore avoid
24 some of the problems that would occur from the larger stake
25 games.

26 SENATOR HUGHES: Thank you.

27 CHAIRMAN DILLS: You may proceed.

28 MR. SHEPARD: Thank you.

1 I want to talk about current regulations which really
2 gets into answering Mr. Tucker's question.

3 We have a detailed ordinance regulating the operation
4 of the club, and we've worked out a regulatory scheme over the
5 years which is both comprehensive and sophisticated. First, we
6 require that the club have a professional accounting firm do a
7 complete audit each year. The club has Coopers Librand, which
8 is one of the nationally recognized firms.

9 Secondly, the City's Auditor is Pete Marwick, and as
10 a matter of course, we have brought in the Las Vegas office from
11 -- for Pete Marwick to do a periodic review of accounting and
12 cash handling processes and procedures on a periodic basis to
13 approve our regulatory and oversight reviews of the club's
14 operation. And as Mr. Lungren has indicated, they follow the
15 money.

16 As a further step in our regulatory process, this
17 July we entered into a further layer of review of the club's
18 operation, wherein Pete Marwick comes in a minimum of four times
19 a year and performs a regulatory audit of some detail, and it
20 deals directly with cash handling procedures, cash accounting
21 procedures, the cash from the box into the counting room, while
22 the cash is in the counting room, what happens to the cash after
23 it leaves the counting room, and how it gets to the bank. So,
24 it is a comprehensive process. These audits are unannounced.

25 In addition to that, the finance director is a
26 regular attendee at the counting cage and reviews the
27 performance which must take place in accordance with very strict
28 procedures that were laid out early in the club's history.

1 I'd like to mention a few of the law enforcement
2 agencies that cover the card club, and I would say without
3 question it's the most intensively scrutinized business in
4 Commerce, if not in Los Angeles County. There are in addition
5 to club security, the Sheriff's general patrol, the Sheriff's
6 Vice Bureau which goes in there regularly, the Organized Crime
7 Unit, the Sheriff's Narcotics Bureau, the Internal Revenue
8 Service which reviews for money laundering: the tip pool,
9 taxation of winnings, and the whole kit and caboodle there.

10 And while we're on the subject of money laundering, I
11 don't have the detail, but the club does have procedures in
12 place that deal with this issue and begin at the \$2,000 level.
13 And as I understand it, the test ordinarily begins at the \$3,000
14 level, but they do accumulate and aggregate and track the use of
15 cash in the club.

16 The FBI is in there with their Organized Crime Unit
17 on a regular basis. The State Department of Justice deals with
18 the issues of the Gaming Regulation Act. The U.S. Secret
19 Service is in the club dealing with issues of counterfeiting and
20 reviewing the cash. U.S. Alcohol, Tobacco and Firearms Service
21 is in the club, and the Customs Service is there regularly to
22 deal with issues of drug trafficking and so forth.

23 In addition to all of that, the City Council has a
24 Citizens Committee made up both of residents and industrial
25 representatives to review the entire operation of the club.

26 In terms of future regulations, the city definitely
27 supports all current regulations and would support whatever is
28 needed to safeguard the public interest in the ownership and

1 management of the club. We believe that the club should pay the
2 fees for the actual cost of regulation.

3 And we would, if there is to be a bill introduced,
4 like to talk with the Attorney General's Office about some of
5 the details of the bill in order to share our ten years of
6 regulatory experience with the Attorney General's Office.

7 In conclusion, I'd like to say that the City of
8 Commerce has a comprehensive system of regulation and
9 enforcement in place, and we have an absolute clean bill of
10 health from all law enforcement and regulatory agencies,
11 including those with the county, the state, and the federal
12 government.

13 One thing that we'd like to express our distress
14 about would be anything that would get into the level of
15 competing with the city's revenue source in this regard. And we
16 believe that the city has done a good job in regulating the
17 activities of the Commerce Casino and in the security of the
18 people that use the club.

19 CHAIRMAN DILLS: I take it, then, that you do not
20 feel that another layer of government that has been criticized
21 soundly from time to time is necessary. Let local people handle
22 local problems?

23 You may not need people way up there in Sacramento
24 or, for that matter, Washington, to come down here and tell us
25 how to run our business? Is that a logical conclusion from your
26 remarks?

27 MR. SHEPARD: That's accurate, Senator Dills.

28 We think that in Commerce, we've done a pretty

1 darned good job.

2 CHAIRMAN DILLS: Any questions of the Manager?

3 Thank you very much for your participation.

4 MR. SHEPARD: Thank you, Mr. Chairman.

5 CHAIRMAN DILLS: Keeping, then, on the schedule, the
6 agenda, the Commission's role in regulating Indian gaming,
7 Howard Dickstein of Dickstein and Merin.

8 ATTORNEY GENERAL LUNGREN: Mr. Chairman, I was told I
9 was supposed to stay for that last panel to respond. Am I
10 supposed to leave now?

11 CHAIRMAN DILLS: No, would you care to respond at
12 this time?

13 ATTORNEY GENERAL LUNGREN: No, the only thing I'd
14 like to say in response to the last presentation was that the
15 initial idea for a State Gaming Commission didn't come from my
16 office. It came from the office of the Sheriff of Los Angeles
17 County, which Mr. Shepard just indicated was the first layer of
18 policing that they have for the card clubs. It's been the
19 experience of the Sheriff of Los Angeles that additional law
20 enforcement was necessary.

21 So, we didn't come up with this idea to try and
22 intercede into local jurisdictions.

23 Also, we were prepared, until two days ago, or until
24 whenever I got the phone call not to bring witnesses, to bring a
25 federal witness here who is a convicted federal felon to testify
26 as to some criminal activity on and about card rooms in Southern
27 California. We were told not to bring any witnesses, and later
28 in fact, permission to bring him from Florida was, evidently,

1 denied at the highest levels of the Justice Department in
2 Washington, D.C., for reasons I'm not sure of at this point.

3 But the fact of the matter is, as we had in our
4 report, the Assistant Director of the U.S. Treasurer's
5 Department's Fin Center testified in December of 1992, before a
6 U.S. Senate Subcommittee on Permanent Investigations, that the
7 card clubs, referring specifically to card clubs in California,
8 offer opportunities for extortion, money laundering, and tax
9 evasion. Law enforcement services believe an extensive amount
10 of money laundering and profit skimming takes place in card
11 clubs. That is the view from the federal level.

12 For me to be able to respond to that, I'd have to say
13 we don't have the information to be able to respond to that,
14 because we don't have the audit trails available to us.

15 But also in the report, you will notice that the L.A.
16 Sheriff's Department specifically referred to, I believe, 26
17 home invasion robberies that took place in their jurisdiction as
18 a result of people who were followed from the card rooms to
19 their homes; people that identified as having winnings.

20 So, I'm not trying to paint the card rooms as the bad
21 actors in this. What I'm trying to suggest is that you have
22 potentials for illegal conduct; illegal conduct which has
23 occurred. And that law enforcement, having looked at it, has
24 come to the conclusion that we need to have more tools. That's
25 all we're asking for.

26 CHAIRMAN DILLS: Would not the same situation prevail
27 with reference to banks? People go to banks because there's
28 some money around there. And also, the question of money

1 laundering takes place in banks, too.

2 ATTORNEY GENERAL LUNGREN: We have a federal --

3 CHAIRMAN DILLS: Are you trying to condemn the --

4 ATTORNEY GENERAL LUNGREN: No, I'm not condemning
5 them.

6 What I'm saying is, if you look at banks and savings
7 and loans, they have certain reporting requirements now to state
8 and federal authorities with respect to the exchange of money:
9 where it goes, how it's accounted for in every respect.

10 We don't have that same authority with respect to
11 card rooms. And if you view it just from that standpoint --

12 CHAIRMAN DILLS: The federal government, according to
13 the statement of the City Manager, they're there. The FBI is
14 there, and the Internal Revenue is there. So, you may not have
15 it, but it's there.

16 ATTORNEY GENERAL LUNGREN: Well, we got the federal
17 government here, and the FBI and the Internal Revenue Service in
18 a lot of things, but that's not an argument for us
19 disestablishing local law enforcement or state. We have
20 separate functions. We're spread rather thin. That's all.

21 If I had known, again, that we were going to have
22 this debate scenario, perhaps I would have insisted on our
23 witnesses being here, because we had plenty of witnesses
24 prepared to be able to testify. So, I hope that the interim
25 hearing is not going to be an incomplete hearing in that certain
26 things are entered in the record without an ability for us to
27 respond when we had actually made arrangements to bring
28 witnesses here.

1 CHAIRMAN DILLS: I have no previous knowledge of that
2 myself, but I have to accept your word for it.

3 ATTORNEY GENERAL LUNGREN: Thank you.

4 SENATOR HUGHES: Mr. Chairman, is Mr. Lungren
5 leaving?

6 I just wanted to ask you one question, Mr. Lungren.
7 You're our chief law enforcement person here in our state. What
8 are the three largest crimes that you have to deal with in the
9 state? I think people think they know, but surely you would
10 know best. What are the three -- the largest crimes, the
11 second, and the third?

12 CHAIRMAN DILLS: I guess you mean largest in
13 incidence?

14 SENATOR HUGHES: Yes.

15 ATTORNEY GENERAL LUNGREN: Are talking about what my
16 office has to deal with, or --

17 SENATOR HUGHES:

18 ATTORNEY GENERAL LUNGREN: -- are you talking about
19 what affects the State of California?

20 SENATOR HUGHES: Well, what affects the State of
21 California, and then what your office has to deal with, because
22 I heard you say --

23 ATTORNEY GENERAL LUNGREN: We have --

24 SENATOR HUGHES: -- something like 60 percent of your
25 time is spent on the gaming --

26 ATTORNEY GENERAL LUNGREN: No, no, no, no, no.

27 What I said was, I had three Deputy Attorney Generals
28 here.

1 SENATOR HUGHES: Yes.

2 ATTORNEY GENERAL LUNGREN: And that they spend 60
3 percent of their time on Indian issues. And of that, they spend
4 between 60 and 90 percent of that time on nothing but Indian
5 gaming.

6 SENATOR HUGHES: All right.

7 Now, what are the crime incidences that you have to
8 deal with in the state, the largest?

9 ATTORNEY GENERAL LUNGREN: The largest number of
10 crimes committed in the state are property crimes -- second
11 largest -- of various types. The second category is what we
12 call violent crimes.

13 The ones that we deal with basically are on the
14 appellate level. The largest portion of the time of my people
15 would be spent on defending convictions on appeal in the
16 criminal justice system. So, that's crimes of all types. When
17 the D.A.'s finished with the cases, we take over.

18 In terms of our Division of Law Enforcement, which is
19 my cop shop, so to speak, the largest percentage of our time
20 would probably be taken up with things that are not as
21 politically sexy as some might think: record keeping; being
22 able to respond on an instant's notice for an application by
23 local law enforcement on information about background of
24 somebody. Those sorts of record checks.

25 In terms of what our cops actually do, one side of my
26 shop does Bureau of Narcotics Enforcement drug cases. The other
27 side does Bureau of Investigation, and there, they are spread
28 thin in many different ways. We do some criminal -- I mean,

1 some civil background checks, but we do everything that may come
2 our way.

3 But we back up local law enforcement. Local law
4 enforcement carries the brunt of much of that.

5 We have a very small operation -- three people --
6 that does our work on the background checks, the licensing, of
7 card clubs. We used to only have 1½ positions for it; we've
8 expanded all the way to 3, and that has to do with 300 card
9 clubs in the State of California.

10 SENATOR HUGHES: You know, when I go home, and I tell
11 my constituents that I sat through these hours of testimony on
12 card clubs, they'll tell me that card clubs are not their
13 problem. That we talked about gambling, and they'll say
14 gambling is not their problem.

15 Safety in their homes, safety in the streets, is what
16 people are concerned about. Drive-by shootings are what people
17 are concerned about.

18 So, how do I really convince them that we at a state
19 level are taking care of their safety, when you're looking into
20 background checks of people who provide some sort of
21 entertainment for a frustrated population?

22 ATTORNEY GENERAL LUNGREN: Well --

23 SENATOR HUGHES: Just, you know, answer that for me
24 so I'll know what to tell the people when I go home.

25 ATTORNEY GENERAL LUNGREN: I would say to them the
26 greatest entry into a community of organized crime is either
27 through the illegal activity of gambling -- illegal activity of
28 drug running or prostitution, or through unregulated

1 opportunities provided by unregulated gambling. Not because the
2 people who gamble are venal, but because of the commodity you're
3 dealing in: money. And organized crime, rather than abhorring
4 a vacuum, actually very much is drawn to a vacuum in terms of
5 law enforcement or in terms of regulation.

6 And so, people ought to be concerned, because the
7 history of this state is, when we were lax in terms of
8 enforcement of gambling, we had organized crime. Earl Warren
9 didn't become Governor of the State of California based on his
10 nice arguments on certain things. He happened to find that
11 there was a terrible gambling problem in the State of California
12 and was the one who responded to that.

13 That created a feeling in California that we were not
14 going to allow organized crime to take over certain cities,
15 certain communities, to control them, which basically they did.
16 And so, we had very stringent laws against it.

17 My problem here, and I think most people would
18 recognize it, is, we've allowed gambling to get ahead of the
19 statutory structure we had to be able to enforce laws and
20 regulations over it.

21 It's closing your eyes to history to suggest that we
22 ought not to be concerned about the impact of unregulated
23 gambling and what that visits on a community. That's all.

24 We certainly don't spend the greatest deal of our
25 time dealing with this in my office, if that's the suggestion.
26 I'll guarantee you that.

27 SENATOR HUGHES: All right, I didn't --

28 CHAIRMAN DILLS: I was fortunate enough to have been

1 in the Assembly when Earl Warren was running for Governor as an
2 Attorney General, and so I remember that, too. It was a
3 political year, too.

4 I wonder if the Sheriff of Los Angeles County might
5 be happier now that all of us together have been able to get
6 them a little more money so that they can hire more deputies as
7 a result of the passage of the continuation of the half-cent
8 sales tax, and he would not have to use so many deputies for
9 these things that are not as critical as the ones that Senator
10 Hughes has made mention of. Perhaps it's a question of money,
11 isn't it, whether or not they're available.

12 CHAIRMAN TUCKER: Excuse me, Mr. Attorney General,
13 before you leave, there was a question asked by the committee, a
14 couple Members of the committee yesterday, and you weren't here.
15 I know you don't have the information off the top of your head,
16 but could you get it back to the committee at your convenience?

17 The question was: how much money has been spent by
18 the state in terms of the legal process we're engaged with
19 vis-a-vis the Indian gaming, and what the perspective appeal is
20 going to cost the state? That question was asked twice
21 yesterday.

22 Like I said, I know you don't have it off the top of
23 your head, but could you have someone in your office get that
24 information back to us?

25 ATTORNEY GENERAL LUNGREN: I'd be happy to get that
26 information back to you, but I hope the suggestion is not that
27 I'm supposed to decide whether or not we should appeal a
28 question based on whether or not it's going to cost us money.

1 CHAIRMAN TUCKER: That was not my suggestion, no.
2 I'm just responding to questions raised by two of the Members of
3 the committee yesterday.

4 ATTORNEY GENERAL LUNGREN: Fine.

5 CHAIRMAN TUCKER: Thank you very much for your
6 testimony.

7 Let's move on to C, Mr. Dickstein and Honorable
8 Marshall McKay. This is the Commission's role in regulating
9 Indian gaming.

10 MR. DICKSTEIN: Chairman Dills and Chairman Tucker,
11 Members of the committees, I was here yesterday, as you may
12 recall. My name is Howard Dickstein. I'm an attorney; I
13 represent several of the tribes that are involved in the compact
14 negotiations with the State of California. I'm the coordinating
15 attorney for those joint negotiations, and also the lead counsel
16 in Rumsey versus Wilson and the related litigation that spun off
17 of that case.

18 Whereas yesterday we spoke about our disagreements
19 with the State of California over scope of gaming issues, I can
20 say that in large part, we agree with the sentiment expressed
21 today about the need for regulation. The tribes have made it
22 clear that they support regulation.

23 The exact shape of the regulation, whether it's this
24 type of commission precisely, or a division of Indian gaming, or
25 another mechanism, is something that the tribes don't, at this
26 point, have a firm position on.

27 But we recognize that the state and the tribes have a
28 common interest in this area, and that is the integrity of the

1 gaming. Tribes, both for their reputation and the long-term
2 success of the tribal enterprises, recognize that something of
3 this kind should and must come about so that the state is in a
4 position to implement its regulatory obligations under the
5 compacts.

6 In fact, there was talk about the Nevada model being
7 used for much of this bill, but much of it looks familiar to me,
8 because it comes right out of our compact negotiations. We have
9 begun to work out a scheme that is not completely dissimilar.
10 The only thing that's been missing is an entity to actually
11 carry out the state's obligations.

12 Initially, the state thought that perhaps the State
13 Lottery, with its expertise, would be that body, but on further
14 reflection, I think the parties recognized that the Lottery, for
15 a number of reasons, may not be the proper body to look after
16 the integrity of other people's gaming enterprises. And in
17 fact, in addition, is somewhat of a competitor.

18 SENATOR MADDY: Cheap shots about the Lottery
19 Commission today, I might say. What goes around comes around,
20 boys.

21 MR. DICKSTEIN: It wasn't the tribes who suggested
22 that.

23 SENATOR MADDY: No, I know. You're perpetuating it.

24 MR. DICKSTEIN: It was something that, I think, that
25 the main focus -- and this was something that was decided almost
26 a year ago, because these negotiations have been going on for
27 many years now -- it was to have to be regulated by a competitor
28 somehow would be a conflict of interest for the regulator to sit

1 in both roles.

2 As far as there was much discussion in the prior --
3 in the first panel about the cost of regulation, the tribes have
4 made it clear that the taxpayers would pay nothing for the
5 regulation of Indian gaming, not a penny. The tribes have, from
6 day one, offered to reimburse the state for the actual costs of
7 regulation, all the costs, whatever they happen to be. I mean,
8 we're going to want them to be reasonable, obviously. We're
9 going to want them to reflect what the needs of the -- the real
10 needs of regulation. But there is a clear understanding that
11 this would be more or less in the nature of a user fee.

12 And as we shared with you yesterday, the tribes have
13 gone further than that and indicated that they would be
14 prepared, if we can arrive at a suitable scope of gaming
15 limitation, and that limitation is expressed very clearly in
16 Rumsey vs. Wilson, if we could arrive at that, then in lieu of
17 actual costs, the tribes would be prepared to discuss some form
18 of revenue sharing, of funding statewide Indian programs, of
19 doing things that will spread the benefits of Indian gaming
20 across the state.

21 But we're not at that stage, because we can't even
22 decide yet what kinds of games are going to be regulated. As we
23 told you yesterday, the tribes didn't ask for the universe. We
24 carefully tailored the proposals in the litigation to be
25 consistent with California public policy. That's why we didn't
26 ask for casino-style table games. That's why we didn't ask for
27 so-called one-armed bandits.

28 We asked for video lottery-style terminals; terminals

1 that, through computer technology, do the same thing that the
2 State Lottery is doing. They may be in one piece and in one
3 cabinet, but what the judge found in Rumsey vs. Wilson is that
4 the State Lottery devices are essentially slot machines in two
5 pieces. People use a device when they pick numbers, or have a
6 machine pick the number for them, and then there's another
7 device in Sacramento where the winners are picked. But the
8 components are the same. They're only physically separated.
9 And that's why the court said that these types of devices are
10 essentially the same, substantially similar, no different from a
11 regulatory point of view, no more dangerous.

12 In any case, I'm not going to take up a lot of time,
13 because we talked about this yesterday in some detail. But let
14 me say specifically with regard to this bill, which we had
15 opportunity quickly to review, and it is not dissimilar from the
16 legislation that was introduced last year. It's meant to cover
17 Class III Indian gaming and not Class II.

18 Class II gaming is covered -- regulated by the tribes
19 and the Indian Gaming Commission. And you should know that the
20 tribes now pay to the federal government, the Department of
21 Interior, Indian Gaming Commission, some small percentage of the
22 net revenue generated by the tribal enterprises for that
23 regulation. I don't have an exact figure, but I know that it's
24 in the several millions of dollars that go from California
25 tribes right now to regulate Class II gaming and cover the costs
26 of the Commission.

27 SENATOR MADDY: Mr. Chairman, could I ask a question?

28 It's the tribes' position that the Class II gaming is

1 exclusively falls within the federal regulation and the tribes;
2 right?

3 MR. DICKSTEIN: That's correct.

4 SENATOR MADDY: So that this proposal that is before
5 you only deals with Class III, and that's the position you
6 believe is the only position the state can take?

7 MR. DICKSTEIN: That's correct.

8 This bill in its present form, this proposal at this
9 point --

10 SENATOR MADDY: If not connected with SCA 29 would
11 not be objectionable to you?

12 MR. DICKSTEIN: That's -- I'm not speaking to every
13 detail of it --

14 SENATOR MADDY: I understand.

15 MR. DICKSTEIN: -- but in concept, no. And in fact,
16 this bill has had input from the tribal attorneys and the
17 tribes, and it reflects -- this is not the first attempt to
18 include Indian concerns. So, it does eliminate Class II. It's
19 clear on that.

20 It also, and I think this is significant, while it's
21 not explicit on this point, there's one section, 19807(a) on
22 Page 7, that indicates that gaming that is authorize by federal
23 law, that's therefore compactable and put into a compact, is
24 lawful in California. It's not prohibited by California. That
25 that section, and I think this is an area that we would like to
26 see more explicit in this or other legislation, that insofar as
27 any gaming on Indian lands is put into a compact, as a matter of
28 state law it does not violate Section 330 et. seq. of the Penal

1 Code. That really resolves the problem that we have, language
2 to that effect.

3 And we have something very close to it now, but that
4 resolves the problem of whether tribal gaming violates state
5 law. And we could put right in there and resolve a lot of
6 problems and a lot of litigation and a lot of further expenses
7 that that scope of gaming is the scope of gaming that the
8 federal district court for the Eastern District Court, Eastern
9 District of California, found to be compactable in Rumsey vs.
10 Wilson.

11 SENATOR MADDY: May I ask another question, Mr.
12 Chairman, while we're on this point.

13 Yesterday, I think there was some confusion because I
14 don't think I was present when you spoke to the issue, but there
15 is no disagreement that both the tribal attorneys and the
16 Attorney General's Office submitted these questions to the
17 federal courts.

18 MR. DICKSTEIN: No, it was done by written agreement
19 to seek guidance.

20 SENATOR MADDY: Correct.

21 And in respect to the so-called costs of litigation,
22 you may have and others may have wanted, and I may have wanted,
23 a more swift resolution -- in other words, to have the Attorney
24 General's Office agree with your position -- but there is no
25 doubt that this -- you're following right now negotiations and
26 proceeding through the court process, and the Attorney General
27 feels they lost the Rumsey case and are appealing it now.

28 But at this point in time, there are negotiations

1 ongoing, and all this is, in essence, part of the negotiating
2 process; right? Putting aside the fact they didn't settle it
3 yet, but you don't disagree with the fact they have the right to
4 continue to do this?

5 MR. DICKSTEIN: As we talked about yesterday, the
6 agreement expressly provided for the right of the parties to
7 appeal. It doesn't obligate the parties to appeal.

8 SENATOR MADDY: Didn't obligate it, obviously, no.

9 MR. DICKSTEIN: And there's much -- a lot of water
10 under the bridge in the last couple of years, and it just seems
11 at this point that the parties are much closer than they were at
12 that time.

13 SENATOR MADDY: You had almost concessionary speeches
14 today.

15 Let me ask you a question. In terms of my posing the
16 question to the Attorney General about it is possible through
17 compact to agree to -- for the tribes to agree at least with
18 respect to Class III gaming a licensing process.

19 MR. DICKSTEIN: I think that you said that, and
20 that's a good point.

21 We don't really need this statute. We don't need a
22 statute.

23 SENATOR MADDY: No, as far as the Indians are
24 concerned --

25 MR. DICKSTEIN: We can take most of what's in this
26 bill, put it into a compact with or without a Gaming Commission.
27 We can, and finance it.

28 You see, in some ways this could be a pilot project

1 for regulation of gaming in other areas.

2 SENATOR MADDY: I think, Mr. Dickstein, the point
3 that was made by the Attorney General is that he feels that for
4 a regulatory and licensing process, it has to go beyond the
5 Indian tribes, because there are other forms of gaming in
6 California, and he wants to have something that deals with those
7 other issues: expansion of card clubs, other things that may
8 come into California.

9 MR. DICKSTEIN: That is correct.

10 We don't have opposition to it. I'm just indicating
11 that it's not really necessary for the Indian part of this
12 puzzle.

13 CHAIRMAN TUCKER: We have another question by Senator
14 Torres.

15 SENATOR TORRES: I want to make it very clear that I
16 will stand with any conservative Republican on my voting record
17 on law and order issues, so I'm not for crime, and I don't think
18 anyone is for crime.

19 But I want to make sure that the Indian
20 representatives rebut adequately what is attempting to occur
21 here, because by this document which the Attorney General has
22 passed out, it leads a press person or a media person, or those
23 outside of the media, to engineer a spin that organized crime
24 exists on all the reservations, and that organized crime and
25 Indian leaders are working hand in hand to commit illegal
26 activities.

27 The six examples that are utilized in this report on
28 Pages 11 through 14 are preceded by a whole litany of the number

1 of gaming institutions that are taking place, the extent of what
2 certain Indian tribes have been negotiating and paying for. In
3 other words, showing or trying to show that there is a serious
4 problem out there.

5 There is a serious problem as it relates to the six
6 incidents that are reflected in this report, but there is a
7 serious -- there was an increase in the availability of gaming.
8 But I want to make sure that the Indian representatives respond
9 in kind to this report, because what may emerge from this
10 hearing today is nothing that we've discussed, but the story may
11 very well be: organized crime is alive and well in the
12 reservations of California.

13 And that is not, I do not think, the truth. It may
14 be that in some instances where people have been prosecuted, and
15 they should be to the full extent of the law, but I want to make
16 sure that we give a balanced picture here to this report, which
17 obviously is a very strong argument for this Gaming Control
18 Commission. But I want to make sure that the Indian tribes are
19 aware of what impression, in my opinion, this may do in painting
20 a very broad brush over all Indians living in California. And
21 the headlines may read tomorrow, or the stories may show today,
22 that organized crime and Indian leaders are working hand in hand
23 to create gaming and gaming institutions in the State of
24 California.

25 I think we ought to be very careful when these kinds
26 of reports are issued to provide a balanced picture.

27 MR. DICKSTEIN: Well, first, we provided the Members
28 of the committee yesterday with materials, a Department of

1 Justice study that was recently completed, which concluded,
2 after an exhaustive on-site analysis nationwide, that there was
3 no evidence of organized crime infiltration in Indian gaming.
4 That was provided to a Congressional committee that was doing
5 oversight on Indian gaming. It was presented at a hearing
6 before that committee. I think that that speaks for itself.

7 With regard to the incidents described, I did have a
8 quick look at them before standing up, and I can't say as I've
9 had a long time. They're all very old. We've heard them again
10 and again. There're six incidents described over the last 14
11 years. Three of the incidents, if you read the text of the
12 allegations, are just that. They led nowhere. No one was
13 convicted of anything; nothing was ever proven. People said
14 things.

15 Of the other three where the facts are established,
16 if you read about the incidents closely, it's clear that it was
17 the tribes that discovered and threw out people who were
18 engaging in criminal activity.

19 There's no way that any entity or business can simply
20 eliminate crime totally. But it's the tribes that discovered
21 basically property crimes, theft, and terminated the individuals
22 who were responsible through investigations.

23 So, I think that, first, the allegations about
24 organized crime have been thrown around. They're scurrilous;
25 they're unproven, and in fact, every study of the issue has come
26 to the opposite result, irrespective of these examples, which
27 even on their face don't say that anything was ever proven.

28 Second, all this report can come up with in 14 years

1 of gaming on Indian reservations across the state is six
2 examples. Three of them have some factual basis, and all three
3 of those, it was the tribe that found out that they employed
4 people who were cheating the tribe, and they terminated them
5 immediately.

6 I don't think that that's a record that any industry
7 should be ashamed of. And in fact, the tribes have been proud
8 of it.

9 I think that there was an article in the New York
10 Times recently about Indian gaming in Connecticut that made a
11 good point and one that struck me, because I've been involved
12 with Indian tribes for 20 years now, and that's this: tribalism
13 itself is a protection against infiltration. The Indian people
14 themselves look upon outsiders with suspicion.

15 It's not coincidental, for example, that even the
16 attorneys who spoke to you yesterday are all attorneys who have
17 been representing Indian tribes for many years, long before
18 gaming came in. You didn't see gambling attorneys coming in
19 here representing the tribes; you saw Indian attorneys. People
20 who have been representing Indians and are experts in federal
21 Indian law.

22 The tribes know, the tribes have judgment. It's not
23 coincidental that the people you saw here survived the holocaust
24 that took place in California in the last century. It's because
25 these people, their ancestors and their families are good
26 readers of character. And that's why these Indian gaming
27 establishments have been so clean.

28 And that's why the tribes are not afraid of any

1 regulation, welcome regulation.

2 I think with respect to the bill again --

3 CHAIRMAN TUCKER: One more question by Mr. Hoge.

4 ASSEMBLYMAN HOGE: Mr. Dickstein, I have researched
5 the Nevada Gaming Control Board's process of investigations, and
6 I just wonder, on the Indian gaming casinos, what now in your
7 background checks have you discovered as far as any Indian
8 members that have had a significant criminal record; i.e., are
9 there Indians involved that have felonies in their background
10 involved in a significant manner in Indian gaming in California?

11 MR. DICKSTEIN: No, because they couldn't get a
12 license.

13 The way Class II gaming works right now, there are
14 licenses that are issued. Licenses are issued pursuant to
15 federal statute and regulation by the tribes themselves. The
16 standards for issuance of the licenses are described in
17 ordinances. Those ordinances -- all of the standards in the
18 ordinance are prescribed in the law. The ordinances involve
19 background checks by local law enforcement, fingerprints, going
20 to the FBI, the criminal history checks coming back to the
21 tribes. They must be evaluated by the tribe's general counsel,
22 by the governing body of the gaming operation, forwarded to the
23 National Indian Gaming Commission for their review and approval
24 in Washington, and then coming back to the tribe for the final
25 issuance of a license.

26 So, the standards and the procedures wouldn't permit
27 such a person to work at an Indian gaming enterprise.

28 I'm not here to say that it's never happened, that no

1 ordinance has never been violated, that no criminal has ever
2 been hired. But the protections are in place, and the
3 disincentives are there.

4 We're happy to have those same and even more
5 stringent standards applicable to Class III gaming, and to
6 involve the state concurrently with the tribe in that regulation
7 as the statute intended.

8 ASSEMBLYMAN HOGE: Another question I had regarding
9 current games that are played on the reservations in the
10 casinos.

11 Who regulates currently the payoffs? In other words,
12 if I went to play at Cache Creek, how could I find out what
13 percentage payoff I might have an opportunity of winning?

14 MR. DICKSTEIN: Well, if you're talking about bingo,
15 I would --

16 ASSEMBLYMAN HOGE: I was thinking more of -- I guess
17 they're not slots, but pull tabs.

18 MR. DICKSTEIN: The pull tab devices, as I indicated,
19 have a predetermined number of winners in the chip. So, if
20 there's 2600 cards, electronic cards, there's going to be a
21 certain number of winners, 150 or 200.

22 You don't have any more idea of whether you've picked
23 a winning chip than you have if you buy a Scratcher from the
24 State Lottery.

25 They're not -- the tribes are not running banked
26 games where there's -- or games in which the player plays
27 directly against a machine.

28 In Nevada, and what the tribes would be prepared to

1 have in California with regard to that kind of gaming, is some
2 statutory or regulatory range of payback

3 ASSEMBLYMAN HOGE: I believe in Nevada, and for all
4 intents and purposes, people think they're playing a slot
5 machine, but payoff there is like 80 percent on a lousy machine,
6 running all the way to 98½ percent.

7 What do the current games on the reservations pay,
8 approximately?

9 MR. DICKSTEIN: As I've indicated, we don't have
10 those kind of slot machines.

11 I think with regard to scratchers and pull tabs, the
12 payoff is in the 70 percent range.

13 ASSEMBLYMAN HOGE: Thank you.

14 CHAIRMAN TUCKER: Chairman Dills has a question or
15 statement.

16 CHAIRMAN DILLS: Following through on the matter
17 brought up by Senator Torres and others here, in view of the
18 fact that it's possible that most of the Members, persons in the
19 audience here, and those who might be reading a transcript of
20 this, would not be aware of the lead-in presented by the
21 document presented to us, "Gaming in California", California
22 Department of Justice, Bureau of Investigation, November 1993,
23 that they may not have a copy of this to find out what as the
24 lead-in paragraph or so that led to the examples of organized
25 crime.

26 Let me read. This is a direct quote:

27 "Law enforcement authorities are
28 concerned about the growing problem of

1 gaming in Indian reservations. Until
2 recently, there was no on-site inspection
3 of Indian gaming facilities in California
4 by federal authorities. The National
5 Indian Gaming Commission assigned one
6 field representative to monitor Indian
7 gaming in California and part of Arizona.
8 Local and state agencies are unable to
9 enforce California gambling statues on
10 these reservations, thus making them
11 tempting targets for organized crime and
12 unscrupulous operators victimizing the
13 tribes and casino patrons. This increases
14 the likelihood for skimming, rigged games,
15 and money laundering."

16 End of quote.

17 It sounds like a good argument, also, to extend the
18 enforcement authorities concerned into the Indian reservation
19 area, also into local government where they say they are unable.
20 They assert that the local government is unable to take care of
21 this situation.

22 So, they may not be looking for something more to do,
23 and more people, and more money but I don't know what this means
24 if that isn't what they're providing for.

25 I thought that ought to be into the record so that
26 you could see the lead-in to all of these allegations of
27 criminal activity that occurred here and there.

28 Thank you.

1 CHAIRMAN TUCKER: Thank you, Senator.

2 MR. DICKSTEIN: As we indicated yesterday, this bill
3 does provide the Legislature with role in reviewing the
4 compacts. We think that is important. We think the Legislature
5 should play some role.

6 It's an expression -- it gives the people of the
7 state some input into the process. I think the role described
8 in the statute is an appropriate one.

9 There's review by a joint standing committee. I
10 think consideration certainly should be given to making that
11 joint standing committee a subcommittee of these two G.O.
12 committees, or certainly its composition composed of members of
13 these committees who have some history and expertise in this
14 area.

15 The tribes are excluded, it appears, from the compact
16 Class I license provisions, which again is necessary because
17 tribes have a right under federal law to conduct gaming. And
18 the bill authorizes reimbursement for the costs of the
19 Commission and the Division of Gaming to the Department of
20 Justice for the costs they actually incur. And again, to the
21 extent that's necessary, the tribes have no objection to such a
22 provision.

23 There are a couple of concerns that may stem from a
24 lack of clarity in the bill. One of them is limitations on the
25 role of publicly traded companies that are incorporated in other
26 states.

27 As you heard again yesterday from the representative
28 from -- the tribal chairperson, actually, of Palm Springs, that

1 just concluded a contract with Caesar's World to operate a
2 casino for them, the tribes are dealing with publicly traded
3 corporations in other states. And it's unclear to me from the
4 first reading of this bill whether it's meant to exclude the
5 tribes from doing that.

6 I don't think so, because it appears on its face that
7 it only applies to -- the prohibition is only against Class I
8 licenses, and Class I licenses is defined in this bill, at
9 least, only go to owners of gaming enterprises and not others.

10 And as a matter of federal law, only tribes can own
11 the enterprise. They can hire people, and they can enter into
12 management contracts or consultant contracts, but no one can own
13 the enterprise or have any ownership interest.

14 So, it may be that that's not a current problem, but
15 it's something that I think would need to be clarified.

16 Finally, I think with regard to the Attorney
17 General's statement that there are court cases going both ways,
18 I hope that the discussion was lucid enough yesterday to help
19 you understand that this is not a matter of simply federal law
20 applying in a state, or state law applying without federal law.
21 It's some combination. The federal law is informed by state law
22 and state public policy.

23 So, it's impossible to take a case from another state
24 that has different laws about bingo, different laws about
25 lottery, different laws about the use of computer devices, or
26 horseracing, or dog racing, or whatever, and take that case and
27 apply it in California.

28 The judgment in Rumsey vs. Wilson is there; it speaks

1 for itself. The games are extremely well defined and limited,
2 and I just don't think that we're going to go anywhere through
3 further litigation to refine the federal law and state law in
4 those areas. If there was any ambiguity, the court certainly
5 cleared it up.

6 CHAIRMAN TUCKER: Thank you very much.

7 Mr. McKay, good to see you again today.

8 MR. MCKAY: Thank you, Chairman Tucker, Chairman
9 Dills, and Members of the committee. It's a pleasure to be
10 back.

11 My name is Marshall McKay. I'm a member and an
12 elected official at Rumsey Indian Rancheria in Yolo County,
13 which is about 45 minutes northwest of here, also home of Cache
14 Creek Indian Bingo and Casino.

15 It's my pleasure to be back here today. We, too, are
16 not for crime, and we are trying to take responsibility of our
17 operations to prevent all intervention of crime and associates
18 that are unscrupulous. This is our desire as well as anybody's.

19 And we do support a Commission, and I also speak for
20 an association of gaming tribes in the state, the
21 California-Nevada Indian Gaming Association. And it's our --
22 the Association's idea also to support a Commission of
23 regulations over Indian gaming, because it only -- like Howard
24 said, it only increases our integrity. It increases the public
25 safety. It increases all -- I think all of the concerns that
26 have been addressed today.

27 And some of those concerns, certainly, from my
28 standpoint is not an over burdened commission that's going to

1 sap money and energy from the State of California, and can make
2 problems, but a streamlined commission that we can perhaps sit
3 down and talk about, and conceive, so there is an idea of
4 integrity but not a drawing out of California funds.

5 The other thing I would like to stress is, the tribes
6 want the decisions, or the mandates, or the conclusions that
7 came from Rumsey vs. Wilson to be upheld. And I think those can
8 be incorporated together.

9 Another paramount concern of the tribes that I'm
10 associated with and my own is to restrict the overlap of state
11 jurisdiction on tribal lands in areas that are sensitive to
12 Indian people, and there's a fear. If we give a little, the
13 state will take a lot. So, we have to go in from a tribal
14 aspect of being very cautious and wanting to set up something
15 that's streamlined and not complicated. It's easy to
16 understand, and it's easy to function in.

17 I think those are the concerns that we are having
18 right now. I'd like to conclude with, I'm very appreciative of
19 this opportunity to be able to come here and voice some concerns
20 of Native American people and gaming tribe to the commission and
21 to the Chairmen and to the public, because it is very important
22 to get the myths and misconceptions away from Indian gaming,
23 because those are the damaging factors that we have to always
24 deal with.

25 And I commend you, Senator Torres, bringing these
26 things out, and asking these kinds of questions so we can put
27 forward the truth as we know it and as we see it.

28 So with that, I would also like to invite all of the

1 commissioners -- committee Members, I mean, and Chairmen, to
2 Cache Creek Indian Bingo and Casino to experience for themselves
3 a first-hand look at what is going on there so you can make
4 determinations for yourselves of the integrity, and the
5 strength, and the strive of the tribe to keep things going on an
6 even keel. And anybody else that has Indian bingos and casinos
7 in your districts, I encourage you to go there and look, because
8 you'll see a similar line across the state: all the casinos,
9 they all have people, security forces, the buildings are safe,
10 they're in good locations. I really encourage that, because
11 sometimes that may change what is written about Indian gaming in
12 general. I really think you have to see that for yourself,
13 really, to appreciate how safe our industry is at this point.

14 With that, I would like to conclude.

15 CHAIRMAN TUCKER: Thank you very much for your
16 testimony.

17 I'd just like to say, I've already visited Cache
18 Creek and had a wonderful time. I told my wife that I had a
19 hole in my pocket and dropped the money, so hopefully, she
20 doesn't see this and realize that --

21 SENATOR MADDY: That's what that 70 percent payout
22 is.

23 CHAIRMAN TUCKER: -- actually I did go to your
24 casino, but I thank you for the invitation.

25 One of our committee Members was just asking me, when
26 are we going to organize a road trip?

27 MR. MCKAY: Just let me know.

28 CHAIRMAN TUCKER: My thanks, my undying thanks, will

1 go to Mr. Gene Livingston, who is next on the list, but was kind
2 enough to agree to submit his remarks in writing for the record.

3 So we can move on now to Section E, perspectives from
4 the segments of the gaming industry. I'd like to call forward
5 Mr. George Hardie from the Bicycle Club; Mr. Rodney Blonien from
6 the Commerce Club; Mr. Norm Towne from the Federation of
7 California Racing Associations.

8 MR. HARDIE: Thank you, Chairman Tucker, Chairman
9 Dills, and Members of the joint committee. My name is George G.
10 Hardie. I'm the managing partner and the General Manager of the
11 Bell Gardens Bicycle Club, which is one of the largest and most
12 prominent card clubs in the world.

13 We currently employ, as does our neighbor, Commerce
14 Casino, 2,000 individuals, and we directly provide our city with
15 over 55 percent of its general fund revenues.

16 Additionally, I'm also a past president of the
17 California Card Club Owners Association.

18 Over the past several days, you've heard a great deal
19 of testimony regarding the future of the gaming industry not
20 only in California, but across the country. As local
21 jurisdictions throughout America desperately reach out for
22 additional sources of revenue to enable them to continue to
23 provide current levels of municipal services, there's been a
24 significant increase and interest in the gaming industry and the
25 revenue it generates. Over the last few years, we've found that
26 California jurisdictions are also looking to chase this
27 new-found revenue source.

28 During the last years, I have had the opportunity to

1 discuss this gaming issue with many of you, and my position has
2 been and continues to be that a reasonable, well thought out
3 Gaming Commission may be beneficial to all of us. And the
4 emphasis here is on "reasonable" and "well thought out".

5 I am critically concerned, both personally and on
6 behalf of the industry, that the Legislature has the potential
7 of rushing into a regulatory commission which will be terribly
8 detrimental for both the industry as well as the local
9 jurisdictions which currently depend upon the gaming revenue.
10 While it sounds very good what you heard today, details are a
11 different story.

12 Last year, there was a major push to establish a
13 commission, and with the companion legislation, I believe, it
14 would have opened the flood gates for expanded gaming in the
15 state. Public companies, including the Nevada mega casinos,
16 which raise instant money with stock issues, would have been
17 able to either buy or build new major casinos throughout the
18 State of California.

19 If we're going to have big-time gaming in California,
20 let's not do it through the back door. Simply put, it was clear
21 to insiders who had been watching this process for the last 18
22 months that one of the major reasons that the Gaming Commission
23 was proposed was to enable the operators of race tracks to get
24 into the card club business without any thought or concerns for
25 existing clubs.

26 It is certainly no secret that historically there has
27 been a cloud of suspicion which has hung over anyone in the
28 gaming industry, whether the industry be race tracks, card

1 rooms, or Las Vegas casinos. Frankly, some of the suspicions
2 and concerns have been warranted.

3 But I must tell you, based upon my own 10-year
4 personal experience in the California card room industry, that
5 there are a lot of very reputable, decent people who make their
6 living working in the gaming industry. Over the last 10 years
7 alone, we have made revolutionary strides in the oversight
8 procedures that have been discussed today within the major
9 California card rooms.

10 Despite these advancements, I think it's interesting
11 to note that the proposal, in checking the backgrounds of
12 California individuals, would be a background check that goes
13 back to their birth, and every aspect of their entire life would
14 be paraded through law enforcement agencies and through a public
15 Commission hearing, unlike any other business.

16 We've often wondered why checks are not required for
17 the S & L and banking industry, or insurance, or real estate, or
18 stock brokerage, or even the horseracing industry. We heard
19 today from the Attorney General how he regulates the banking
20 industry, but he does not do background checks on the
21 individuals. He has a different set of standards for the gaming
22 industry, and we don't understand why the card club industry has
23 been singled out. We believe it's because historically,
24 gambling has always been the whipping boy of some politicians,
25 and certainly the press, and an easy target.

26 I have a concern about these regulatory authorities
27 and their "zeal", quote, to protect the public morals, and that
28 they don't eliminate the 15,000 jobs that we have here in

1 California, and millions of dollars in capital expenditures.

2 A comparison of California gaming to that of Nevada
3 and Atlantic City is like apples to oranges. We don't play
4 against the customer. In Nevada and Atlantic City, the primary
5 responsibility of the Control Board is to protect customers from
6 unsavory gaming practices. In California, players play among
7 themselves.

8 I'd also like to comment on the Attorney General's
9 comment about laundering money in a club, where a player comes,
10 or somebody comes in with cash. They buy chips; they go get
11 some more cash, and get a receipt. I have never heard of that
12 in my life. When somebody cashes in chips, wherever it is, you
13 don't get a receipt. For what? So, somebody comes in with cash
14 and leaves with cash, what has been laundered? What's been
15 gained? I mean, if somebody -- we have federal requirements on
16 cash recording, 8300s, that we have to track very diligently.
17 Somebody could go to the race track and say they won a lot of
18 money; they go to Nevada casinos. So, I really don't see what's
19 being served by that illustration.

20 In California, I believe the two major concerns
21 regarding card clubs appear to be: where the money comes from
22 to build the clubs, and the institution of proper auditing
23 procedures to prevent against skimming. In this regard, the
24 larger clubs in California are under extremely strict city
25 guidelines, ordinances, and audit procedures. Our host cities
26 require strict oversight because they are the recipients,
27 obviously, of a percentage of the revenues that each club
28 generates.

1 At the Bicycle Club, our procedure is that all locked
2 boxes containing chips from our tables are brought specifically
3 to a count room in locked conveyers. The boxes are then opened
4 under surveillance and supervision, in front of large glass
5 windows, and under t.v. cameras. Additionally, counting room
6 employees are even required to wear smocks with no pockets.

7 To my knowledge, there has never been a hint that any
8 city in California has been short-changed on the count, cities
9 that have the authority to require every kind of protection in
10 the auditing procedure. And if I were a city, I would be
11 concerned about the possibility of loss of revenue because the
12 state now wants to get involved and will require procedures that
13 may or may not protect the city's interests; may over-regulate
14 the clubs, similar to what's going on at Atlantic City, and
15 consequently cause half of the clubs in Atlantic City to lose
16 money; and finally, eventually take away, obviously, city tax
17 revenue.

18 Ms. Napolitano made a comment earlier about do the
19 clubs pay a revenue to the state. She made some comment, I
20 wasn't quite sure, about the shareholders, if they lived out of
21 state they didn't pay California tax? Did I understand that
22 correctly?

23 ASSEMBLYWOMAN NAPOLITANO: I did.

24 MR. HARDIE: Anyone who earns money in California
25 pays taxes, California state taxes, regardless of where they
26 live.

27 ASSEMBLYWOMAN NAPOLITANO: Not all the time.

28 MR. HARDIE: Well, they're supposed to. I mean,

1 maybe they don't, but I mean, certainly all our shareholders
2 that live out of state do, and I believe anybody who earns money
3 here must do that.

4 I think there are a number of problems with this
5 legislation that need to be thought out in detail. I think we
6 rushed to this judgment for some real but mostly imagined
7 problems could be devastating to the card club industry. I
8 don't understand the urgency of doing this now. How many clubs
9 have been built in the past eight years that have necessitated
10 this crisis point? With the exception of Bay 101, which has not
11 yet opened, I don't think there've been any.

12 The California card club industry has not been
13 consulted or worked on with any of these regulations by the
14 Attorney General. For fair-thinking people, I think it's a
15 shock that an industry of our size would not be consulted on how
16 we plan to be regulated, and ask for our advice and input. The
17 AG has opposed the games we currently play, in spite of the
18 court saying they were okay. He's currently -- we won a court
19 case on playing jackpots, which have been done for ten years.
20 The Attorney General's opposed that in the appellate court.

21 Some of the things that I think have to be discussed
22 in this legislation are the registration of all shareholders if
23 there are public companies involved. I know last year, in
24 Senator Maddy's bill, he had a 5 percent threshold. What
25 happens to people who own 4.9 percent; are they checked? Are
26 the family members involved? Is there some provision to prevent
27 that? What about the grandfathering in of current licensees?
28 There are literally hundreds of licensees. If the AG proposes

1 to do Nevada-style background checks, it would take him -- he'll
2 need a thousand people, and I don't know that it's fair to do
3 that.

4 SENATOR MADDY: May I ask a question, Mr. Chairman,
5 just quickly.

6 Mr. Hardie, how many licensees are there now in card
7 clubs in California? Do you know offhand?

8 MR. HARDIE: How many clubs there are?

9 SENATOR MADDY: How many licensees in terms of
10 individuals?

11 MR. HARDIE: It would only be a guess. We believe
12 there's about 288 clubs, somewhere in the 280s. How many
13 licensees there are in each club, probably well over a thousand.

14 SENATOR MADDY: Can corporations now be licensed?

15 MR. HARDIE: I believe the law says anyone who has a
16 financial interest, direct or indirect, must be registered. So,
17 if there is a corporation, usually if there are corporations,
18 they're small sub S corporations.

19 SENATOR MADDY: They would have to be licensed also?

20 MR. HARDIE: Yes, that's correct.

21 SENATOR MADDY: Is there a provision in this bill --
22 and perhaps, having looked at it, I might say parenthetically, I
23 think one of the reasons the committee is having these hearings
24 is so that everybody can have an input. Traditionally, we don't
25 all sit down, as they're doing back in Washington, all sit down
26 and negotiate out a deal before the Legislature has a bill
27 introduced. So, this is part of the process.

28 I think that we're interested in each one of these

1 provisions of the bill and what your feeling is about them, but
2 is there something in here that indicates that licensees from
3 outside the State of California cannot --

4 MR. HARDIE: It depends which version of the bill.
5 There were a number of them last year, as you know, that were
6 re-done, so I don't know which version we're discussing.

7 SENATOR MADDY: Is there some provision in this bill
8 that says something to the effect that licensees of gambling
9 establishments outside the State of California cannot be
10 licensed in this state?

11 MR. HARDIE: I haven't read this version in its
12 entirety.

13 SENATOR MADDY: If and when you do --

14 MR. HARDIE: I will if --

15 MR. BLONIEN: It's existing law.

16 MR. HARDIE: That's in the B&P Code.

17 SENATOR MADDY: What he's referring to now, correct.

18 MR. HARDIE: Anyway, I think a question of whether
19 the grandfathering, I think there have to be specific mandates
20 for the Attorney General.

21 Several years ago, when I was President of the
22 California Card Club Owners Association, I got a call from a
23 lady who was trying to get a license in Ridgecrest for three
24 tables. It took her over a year to get that license from the
25 Attorney General.

26 I think there have to be specific grounds for
27 suspension of licenses. I think you have to establish standards
28 of suitability.

1 We've heard talk that there may be -- it may make
2 sense to blend with the California Horseracing Commission. I
3 don't see a major problem with that, as long as we have an
4 objective commission and politics doesn't rear its ugly head in
5 it.

6 I'm always concerned with due process. Nevada,
7 having a privilege license, arbitrarily you can have a license
8 taken away. I think in one of the versions of the bill that I
9 read last year, that if the Attorney General recommends for
10 whatever reason that you shouldn't be licensed, you would need
11 all five members of the Commission to overturn that. That
12 doesn't seem quite fair to me.

13 I think there has to be a cap on the cost of
14 investigations. Nevada investigations start at about 30,000 if
15 you've had a very simple life. They can go up to several
16 hundred thousand dollars. Some of the people at only small card
17 rooms don't earn anywhere near that in the course of a year.

18 I'm concerned, naturally, like everyone else, we pay
19 our city 13.2 percent of our gross revenue. I'm concerned if we
20 add more layers on that, we'll finally get to a point where we
21 can't stay in business.

22 I think the responsibilities of the Commission need
23 to be spelled out. Hopefully, it would still require a vote in
24 the cities that propose to do new clubs. There are concerns,
25 obviously, on local options. If one city doesn't want the Asian
26 games played, does the state have the right to say, "No, you're
27 going to play them anyway," because that person has political
28 clout with the Commission?

1 I think we need to spell out a lot of these things
2 that haven't been done yet.

3 We've heard a lot about Indian gaming. I can just
4 give you one illustration of my experience with the Indians in
5 Cathedral City, which is next to Palm Springs. When I was the
6 Mayor there, we had an agreement with the Calientes that they
7 would follow all the city ordinances and the decisions of the
8 city fathers. A billboard company came in and wanted to put two
9 huge billboards up on some Indian property that was an extremely
10 unsightly area. We said no, but there was Indian revenue to be
11 gained, and I can tell you the outcome of that is, there are two
12 huge billboards now in Cathedral City.

13 I think as far as the Indians are concerned, they
14 would like the background checks. I believe that. But when we
15 get to a point where there's an economic hardship for the
16 Indians, they may say, "Well, just stay out of this."

17 I don't think that Attorney General's going to go in
18 and arrest the tribal chief for some gaming violation on Indian
19 land. I just don't think that's going to happen. I don't think
20 you can enforce it or bind it.

21 So, in essence, I guess what I'm saying is that I
22 would like to see some sort of special group, a task force, put
23 together that would involve the industry at this time, with law
24 enforcement, city officials that would be affected, and
25 Legislators, to try to work out anything that can be done so we
26 can resolve some of these issues and the details that haven't
27 been really thought out well.

28 I'd be happy to answer any questions.

1 CHAIRMAN TUCKER: Thank you very much.

2 MR. HARDIE: I would like to make one comment.

3 I just got ahold of this "Gaming in California"
4 report by the Attorney General. Naturally, I skimmed through it
5 to see where I was mentioned and came upon Page 25, at the
6 bottom it says:

7 "Frank Cheung, an alleged member of
8 the Wah Ching ... pled guilty to extortion
9"

10 in 1989. In 1986, I called the L.A. Sheriff's Intelligence
11 Unit, Barbara Von Borstal, and told her we had someone in the
12 club that I thought was loan sharking; I'd like them to come
13 down and try to set them up and arrest them, which they did.
14 So, I think this is a little distorted. This is sort of the
15 thanks we get for trying to be good citizens.

16 Thank you.

17 CHAIRMAN TUCKER: All right, thank you.

18 Mr. Blonien.

19 MR. BLONIEN: Thank you, Mr. Chairman and Members.
20 Rod Blonien representing the Commerce Club.

21 First of all, I'd like to extend an invitation to
22 everyone to come visit the Commerce Club.

23 Secondly, the Attorney General spent a lot of time
24 talking about money laundering and continuing to stress the
25 importance of being able to track money.

26 I have handed out to each of you a copy of the
27 procedure that we -- which we have at the Commerce Club for
28 tracking money. The Attorney General said that he thought

1 incremental amounts of \$3,000 or more should be tracked and
2 should be reported. We report \$2500 or more, so we are
3 reporting more than the Attorney General wants to report, would
4 require us to report.

5 I submit, we don't need to have an \$8 million
6 bureaucracy to track cash transactions. We are in compliance
7 with the federal law. The law that we have -- process that we
8 are following give the ability of the runner, who might be
9 bringing chips to customers, to indicate a description of that
10 customer, the name of the customer, so if the customer goes to
11 another table, goes to another cashier cage, we can track that
12 individual and find out and determine what quantity of money
13 that person is trying to change from cash to chips, and then
14 later from chips back to cash. If the individual exceeds the
15 \$10,000 limit, we require them to produce necessary identifying
16 information and fill out the forms that are required by the IRS.

17 We're already doing more than the Attorney General
18 would ask us to do. We're doing this because we're concerned
19 about allegations that have been made about money laundering and
20 things of this nature.

21 We frankly believe that it's much easier to launder
22 money by going to multiple savings and loans, with \$3,000,
23 \$4,000, \$5,000 in cash, changing them into money orders, and
24 then depositing the money orders, rather than go to a casino and
25 stand in the casino and go through the rigmarole of trying to
26 take \$3,000, change them into chips, aggregate the chips, and
27 then try to get some other money and leave the casino.

28 There were some concerns expressed earlier by the

1 Attorney General that people come into casinos with cash,
2 convert the cash to chips, and then ask for a check and walk out
3 the door. We checked with our accounting department and found
4 that in the last two years, we've only written five checks in
5 excess of \$5,000 for people who have come in, won something,
6 changed the chips to cash, and then wanted a check. It really
7 isn't a problem.

8 Do we support a commission? Yes, we support a
9 commission. We would favor a commission that would be an
10 independent commission, as the Attorney General mentioned. But
11 the commission that the Attorney General has proposed in this
12 legislation is not an independent commission. The staff for the
13 commission come from the Attorney General's Office

14 There's a provision in here that says that if the
15 Attorney General's staff makes a recommendation that a license
16 be denied, the Commission cannot overrule the Attorney General's
17 staff unless there's a unanimous vote. So, if four out of five
18 people say, "We think this individual should get a license,"
19 they could not get a license. I submit that that is not an
20 independent commission. That is the Attorney General and the
21 Attorney General's staff having more authority, almost, than the
22 Commission.

23 Another provision in the legislation would have the
24 Attorney General's staff promulgate regulations that would be
25 emergency regulations. There would be no hearing. There would
26 be no notice; there would be no opportunity for the industry to
27 respond. And then, those emergency regulations could become
28 permanent regulations, so we would never have an opportunity to

1 present evidence, to testify, to tell them why it's going to
2 have detrimental impact upon our industry.

3 We are willing to work with the Attorney General. We
4 welcome the opportunity to work with local law enforcement, but
5 it really has to be a situation where there is a level playing
6 field, where we have an opportunity to preserve the business
7 that we have now.

8 An earlier draft of this legislation would have given
9 the Commission the ability to take away some of the games that
10 we are playing now and some of the games we've been playing for
11 five, six, and ten years. If the Commission decided, for
12 example, that we shouldn't be playing stud horse poker, despite
13 the change in the law through the Legislature, despite fighting
14 in the court to get that game, the Commission could take it
15 away.

16 We are not about to put ourselves in the position of
17 having a commission that is dictated to by the Attorney General
18 come in and take away games and cut back business that we
19 currently have.

20 We welcome the ability to have continued presence by
21 law enforcement in the casinos. The exhibit here indicates that
22 something like 90 percent of the casinos in the state have ten
23 tables or less. We think it, frankly, makes more sense for
24 local government to be policing those facilities than somebody
25 from the Attorney General's Office in Sacramento.

26 If you have a casino in Siskiyou County, are we going
27 to send a DOJ investigator from Sacramento to Siskiyou County to
28 walk through the casino and make certain things are being

1 played according to the rules and regulations promulgated by the
2 Attorney General? It would be much more efficient to have a
3 member of the Siskiyou County Sheriff's Department go in and
4 look and determine if, in fact, the regulations are being
5 following.

6 We believe that we are an important industry in the
7 State of California. The Attorney General indicated that we are
8 sort of a disfavored business. And I think that is a little sad
9 to hear, that the person that is in charge of regulating
10 business looks upon it as a disfavored business. What if the
11 Real Estate Commissioner were to look -- would tell the realtors
12 that they're involved in a disfavored business?

13 We think that we're as legitimate as any other
14 industry in the State of California. We should be looked upon
15 with fair eyes. We should be given an opportunity to have fair
16 regulation, and we really hope to be able to sit down and put
17 that together and work with the AG's Office and staff in that
18 regard.

19 Thank you.

20 CHAIRMAN TUCKER: Thank you very much.

21 We'll now go out of order and we will hear from Mr.
22 Lynn Miller, the President of the California Card Club
23 Association.

24 MR. MILLER: Thank you, Mr. Chairman. My name's Lynn
25 Miller. I'm the President-elect of the California Card Club
26 Association and the owner of the Oceanside Card Casino in
27 Oceanside, California, about 42 miles north of San Diego.

28 I want to thank you people for giving me an

1 opportunity to express my feelings, which I do believe reflect
2 the feelings of many of the card room owners in the state. I'd
3 like to give you a little background on myself first, because
4 there is an impression oftentimes of the kind of people that own
5 card rooms.

6 I was born and raised in Los Angeles. Graduated from
7 University High School and UCLA. I got a Bachelor's Degree and
8 Master's Degree from UCLA. I've got a lifetime teaching
9 credential in the State of California. I taught biology and
10 physical education on the high school level for 14 years, and
11 was a track and field and cross-country coach, and head coach at
12 the University of California at Irvine and Arizona State
13 University.

14 I retired, and I was a recreational poker player
15 since the early 1960s, and I got into the card room business by
16 accident when I attempted to start a second career and two
17 placement agencies told me I wasn't qualified to be anything
18 other than what I had been. So, that's how I got into the
19 business.

20 When I got into the business, my wife had some of the
21 same concerns that are stereotypes of many people who are
22 unfamiliar with a card room, and she asked me why I was throwing
23 my education away, and what happened to wanting to help people,
24 and so forth. And I explained to her I had merely changed the
25 medium, because I care very much about people, and I believe
26 that we do provide a valuable recreational as well as counseling
27 service for our clientele.

28 I'm asking you -- I'm up here because my deep fear is

1 that you don't legislate me out of business. I'm 100 percent in
2 agreement with the AG's objectives for compliance and a clean
3 industry. But I'm concerned about the cost of a commission and
4 the proper functioning of that commission.

5 Incidentally, I started with two employees 7½ years
6 ago, and I have approximately 110 employees today.

7 I'm asking that you look upon my business as a
8 legitimate business. I already subscribe to greater regulatory
9 control than just about any other business in the state.

10 I also wanted to make the observation that 80 percent
11 of the revenue produced by card rooms in the State of California
12 is produced primarily by 8 clubs, and I don't believe a large
13 staff would be necessary to properly monitor those 8 clubs. I
14 think if you had 2 investigators in the south and 2 in the
15 north, that possibly would take care of business, because I also
16 believe the local law enforcement agencies already have human
17 resources in place and are very capable of overseeing and
18 regulating clubs in their municipality.

19 I had lunch with my Mayor, Richard Lyons, last week
20 and told him I was going to be coming up here. And he asked me
21 to pass this on to you, that he felt very strongly that our
22 Police Chief, Bruce Dunn, was very capable of regulating the
23 clubs in our city.

24 And lastly, I was sitting back in the audience about
25 15 minutes ago, and Howard Dickstein stated that the tribal
26 attorneys have an opportunity to give input to the Attorney
27 General in formulating this proposal.

28 What I'm asking is that our organization be given an

1 opportunity to bring accurate and current information to your
2 committee so that you can recommend legislation that will
3 strengthen both the law enforcement and the industry. And to
4 that end, I'm asking for a period of 90 days, during which we
5 can form a task force and submit information to you for that
6 purpose.

7 Thank you very much.

8 CHAIRMAN TUCKER: Thank you very much.

9 Nothing will be done in terms of legislation until
10 the first of the year anyway, so we can spend the rest of
11 December and the first part of next year going over this entire
12 process.

13 MR. MILLER: Thank you, Mr. Tucker.

14 CHAIRMAN TUCKER: Thank you.

15 Mr. Norm Towne, thank you very much for your
16 patience. It is better to be last than left off.

17 MR. TOWNE: I'm always happy to indulge the Chairman
18 of this committee.

19 Chairman Dills, Chairman Tucker, Members of the
20 committee, my name is Norm Towne, speaking on behalf of the
21 Federation of California Racing Associations.

22 First of all, horseracing has no problem whatsoever
23 with state regulation. As all of you know, we are currently and
24 have been since our inception highly regulated under the
25 auspices of the California Horseracing Board.

26 We've heard the Attorney General's proposal today,
27 and we are not opposed to some kind of a consolidation of the
28 functions currently performed by the California Horseracing

1 Board and the Attorney General's Office, with the caveat that
2 these -- any proposal should go a long way toward eliminating a
3 duplication of effort.

4 It doesn't make any sense in any business to
5 duplicate things, and we have heard from Mr. Torres, Senator
6 Torres, today and Senator Maddy with concerns about budget and
7 so on and so forth. And we would echo those concerns, and if
8 money is going to be spent, it should be spent well.

9 One of our race tracks has a dual interest here, in
10 that they, Hollywood Park, who has given me authority to speak
11 on their behalf also, in that they not only conduct parimutuel
12 horseracing, but they also recently were successful in getting
13 an initiative passed in Inglewood to allow them to open a card
14 room. They are in that process now. They have indicated they
15 also have no problem with some regulation of card rooms, as long
16 as that regulation is consistent with the kind of regulation
17 that the California Horseracing Board has imposed upon the
18 horseracing industry in the past.

19 And finally, I'd just like to echo the testimony that
20 I gave here yesterday, in that we share some of the concerns
21 that Attorney General Lungren had in the beginning of this
22 process, in that if you -- he was initially opposed to the
23 Gaming Commission concept because it could be -- lead people to
24 believe that the State of California is interested in expanding
25 gambling.

26 And therefore, if this proposal for a Gaming
27 Commission leads to a significant expansion of gambling, then we
28 are very concerned, again, because of the potential devastating

1 impacts that it could have upon our business.

2 We want to preserve the 30,000-plus jobs that this
3 industry supports, and we want to ensure that California
4 horseracing maintains its prominent position, both nationally
5 and internationally.

6 Thank you.

7 CHAIRMAN TUCKER: Thank you very much.

8 Do you have any closing statements, Senator Dills?

9 CHAIRMAN DILLS: No, thank you, nothing at this time
10 except to again compliment the Chair of the committee in the
11 Assembly and the staff thereof and our own staff members for
12 the fine work that they've done. It was a very informative and,
13 I think, an excellent hearing.

14 CHAIRMAN TUCKER: I want to thank everyone for
15 participating in these hearings over the last two days. I know
16 it hasn't been easy, but it's been well worth it, in my opinion.

17 It's a very touchy subject, very hot issue, and one
18 that the committee will have to grapple with next year.

19 I hope everyone views these as educationally based
20 committees so that we're not slanted one way or the other, but
21 just that the Membership gets a firm understanding as to what
22 the issue is before we go into next year, because when the
23 lobbying starts for or against a particular subject, policy
24 tends to get faded and one's points oftentimes are hard to make.

25 I thank everyone for coming. I thank everyone for
26 staying.

27 This hearing is adjourned.

28 [Thereupon this joint hearing

1 of the Senate and Assembly
2 Committees on Governmental
3 Organization was adjourned at
4 approximately 4:55 P.M.]

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APPENDIX A



Fines for Violations of Regulations Under this Chapter.

§ 19812

Hearings and Judicial Review. § 19813

Attorney General's Jurisdiction Retained Pending

Investigation or Disciplinary Action. § 19814

Use of Restraining Order by Attorney General. § 19815

Failure to Comply with Subpoena—Misdemeanor.

§ 19816

Penalties for Unauthorized Operation. § 19817

Disposition of Fees, Revenues and Penalties into General

Fund. § 19818

Citizen Vote Approval Required for Location Within

Specified Territorial Areas. § 19819

Authorized Exclusion of Specified Individuals. § 19820

Required Hearing Upon Request of Persons Excluded or

Ejected from Club—Judicial Review. § 19821

Immunity from Civil Liability by Excluders or Ejectors—

Conditions. § 19822

Employee Licensing by Local Authorities—Scope of

Inquiry. § 19823

Construction of Chapter in Relation to Local Ordinances.

§ 19824

Chapter Inapplicability to Bingo Games. § 19825

Effective Date of Chapter. § 19826

§ 19800. Citation of Chapter

This chapter may be cited as "The Gaming Registration Act."

(1983 ch. 721 oper. July 1, 1984)

§ 19801. Legislative Intent—No Preemption of Local Authority to Prohibit or Regulate

It is the intent of the Legislature, in enacting this chapter, to have concurrent jurisdiction with local governments over gaming establishments within the State of California and to provide uniform, minimum regulation of the operation of those establishments through registration by the Attorney General of those who own or manage gaming clubs.

Nothing in this chapter shall be construed to preempt the authority of any city, county, and city and county from prohibiting gaming, from imposing any valid local controls or conditions upon gaming, from inspecting gaming premises to enforce applicable state and local laws, or from imposing any local tax or license fee.

(1983 ch. 721 oper. July 1, 1984)

§ 19802. Terms Defined

As used in this chapter:

(a) "Legal gambling or gaming" means any card game played for currency, check, credit or any other thing of value which is not prohibited and made unlawful by Chapter 9 (commencing with Section 319) or Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code or by local ordinance.

(b) "Gaming club" means any establishment where legal gambling as defined in subdivision (a) is conducted.

(c) "Person" means any member, stockholder, officer, director, partner, principal, associate, individual or combination thereof holding any direct or indirect financial interest in a gaming club, or who has the power to exercise influence over the operation of the club.

(d) "Conviction" means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the Attorney General takes following a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code. The record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the Attorney General may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the registrant in question.

(1983 ch. 721 oper. July 1, 1984, 1986 ch. 440)

§ 19803. Adoption and Enforcement of Rules and Regulations

The Attorney General shall adopt rules and regulations for the administration and enforcement of the provisions of this chapter.

(1983 ch. 721 oper. July 1, 1984)

§ 19804. Attorney General's Investigation of Violations of Chapter

The Attorney General shall, either on his or her initiative or in response to a complaint, investigate and gather evidence of violations of this chapter, or violations of any rule or regulation promulgated thereunder, and may initiate proceedings to deny, suspend, or revoke a registration. The Attorney General may issue subpoenas for the appearance of witnesses and the production of documents and other evidence.

(1983 ch. 721 oper. July 1, 1984)

§ 19805. Registration of Gaming Club with Attorney General

(a) No persons shall own or operate a gaming club without first obtaining a valid registration from the Attorney General.

(b) No city, county, or city and county which permits gaming may authorize any person to own or operate a gaming club unless that person possesses a valid registration pursuant to subdivision (a).

(1983 ch. 721 oper. July 1, 1984)

§ 19806. Attorney General Authorized to Visit and Inspect Premises

Applicants and registrants shall authorize the Attorney General, or his or her representative, as a condition of registration, to do any of the following:

(a) Make any examination of the books and records of any registrant or other person and visit and inspect the premises of any registrant during normal business hours as deemed necessary by the Attorney General to enforce this chapter.

(b) Seize and remove from such premises and impound any illegal equipment or supplies.

(1983 ch. 721 oper. July 1, 1984)

§ 19807. Information Required for Registration

(a) The Attorney General shall provide forms, which are to be completed under penalty of perjury, to obtain information to identify the persons applying for registration including, but not limited to, the individual's name, address, identification numbers and other data prescribed by the Attorney General, and the specific gaming club or clubs involved and any relevant information pertaining to other persons as defined in subdivision (c) of Section 19802 affiliated with the gaming club or clubs. Applicants for registration who have or will have an ownership or management interest in any gaming club shall submit full financial statements, as prescribed by rule and regulation, and which shall include a statement of any interest in any other business. The applicant shall submit a statement under penalty of perjury that no person, other than those disclosed in the application, shall have any ownership control or other financial interest in the gaming club. If the applicant transfers any ownership interest in the club, the transfer shall be reported to the Attorney General within 10 days.

(b) If any of the information submitted by an applicant or registrant changes, the applicant or registrant shall promptly notify the Attorney General. Financial transactions relating to the sale and purchase of real estate, stocks, or bonds do not need to be reported, provided that the applicant owns less than a one-fourth interest in the gaming club, and the gaming club is a corporation or partnership authorized to do business in California; however, the applicant shall submit an annual financial statement. The Attorney General may deny a change in ownership for any of the reasons set forth in Section 19809.

(c) Applications for registration by individuals who owned, operated, or had financial interest in gaming clubs on or before January 1, 1983, and all applications to renew registrations granted pursuant to this chapter, shall be acted upon within 60 days after the applicant submits a completed application form. All other applications shall be completed within 180 days of submission of a com-

pleted application form. The Attorney General may issue a conditional registration in order to allow sufficient time to complete background investigations without causing undue hardships to applicants involved in the gaming industry. If no action is taken within the time allowed, the application shall be deemed granted.

(d) A gaming club may authorize the release of information held by the Attorney General regarding that gaming club and all persons associated with that club.

(1983 ch. 721 oper. July 1, 1984, 1986 ch. 440, 1992 ch. 994)

§ 19808. Amount of Registration Application Fee—Renewal Fee

(a) The fee for applications for registration by individuals who owned, operated, or had a financial interest in gaming clubs on or before January 1, 1983, or for applications to renew registrations granted pursuant to this chapter, shall not exceed five hundred dollars (\$500). All other applicants shall be charged an amount not to exceed the actual, reasonable cost incurred in processing, investigating, and approving or denying the application.

(b) An annual renewal fee shall be assessed which shall not exceed the actual, reasonable cost incurred in processing, investigating, and approving or denying the renewal application.

(1983 ch. 721 oper. July 1, 1984)

§ 19809. Grounds for Denial of Application

(a) An application for registration may be denied if the person:

(1) Is under the age of 18 years.

(2) Makes a false statement required to be revealed in an application for registration issued pursuant to this chapter or any application made for permission to conduct a gaming club to a local authority.

(3) Has been convicted of a crime punishable as a felony.

(4) Has engaged in an act involving dishonesty charged or chargeable as a criminal offense relating to the acquisition of ownership or the operation of a gaming club, or has been convicted of an offense involving dishonesty.

(5) Has engaged in bookmaking or other illegal gambling activities or has been convicted of an offense involving such activities.

(6) Has any financial or other interest in any business or organization outside the State of California which is engaged in any form of gambling or gaming not authorized by the laws of this state, unless he or she has been registered in this state pursuant to this chapter for a period of not less than five consecutive years before obtaining his or her interest in the out-of-state business or organization.

(7) Has been issued a conditional registration and commits any act which would be grounds for suspension or revocation under Section 19810.

(b) The Attorney General may impose any condition upon registration reasonably necessary for implementation of this chapter.

(c) Denial of an application for any of the reasons specified in subdivision (a) shall not preclude the Attorney General or local enforcement agencies from filing criminal charges for any act done in making the application or for any act which is a ground for denial of a registration, which act might otherwise constitute a public offense.

(1983 ch. 721 oper. July 1, 1984, 1986 ch. 440, 1991 ch. 147)

§ 19809.1. Required Disclosure by Applicant

Notwithstanding any other provision of law, the Attorney General, or his or her representative, may require an applicant for registration to reveal the facts and circumstances of any arrest for illegal gambling activities, or any act of dishonesty, regardless of whether or not the arrest resulted in a conviction.

(1986 ch. 440)

§ 19809.2. Criminal History Information Included

Notwithstanding any other provision of law, an investigation of an applicant's qualifications for registration may include review of his or her criminal history information pursuant to Sections 11105 and 13300 of the Penal Code, including records of arrests which did not result in conviction.

(1986 ch. 440)

§ 19810. Disqualification and Grounds for Denial of Registration

(a) Registration may be suspended or revoked, in whole or in part, if the registrant has done any of the following:

(1) Committed any act which would constitute grounds for denial of registration as set forth in Section 19809.

(2) Violated any federal, state or local statute, rule or ordinance regulating gambling.

(3) Engaged in false or misleading advertising in connection with gambling.

(4) Failed to take reasonable steps to prevent any dishonest acts or illegal activities occurring on the gaming premises committed by any patron or other individual or employee licensed pursuant to Section 19823.

(5) Failed to pay any monetary penalty levied pursuant to Section 19812.

(6) Had his or her authorization to operate a gaming club suspended or revoked or otherwise restricted by any local authority.

(7) Denied the Attorney General access to any place within a gaming club establishment or failed to promptly produce for inspection or audit any book, record, or document requested by the Attorney General.

(8) Failed to comply with any condition of registration.

(9) Obtained a registration by fraud, misrepresentation, concealment, or through inadvertence or mistake.

(10) Made a misrepresentation, or failed to disclose, a material fact to the Attorney General.

(b) Suspension or revocation of a registration for any of the reasons specified in subdivision (a) shall not preclude the Attorney General or local enforcement agencies from filing criminal charges for any act done which is grounds for suspension or revocation, which act might otherwise constitute a public offense.

(1983 ch. 721 oper. July 1, 1984)

§ 19811. Owner or Operator Liable for Violations Committed by Unlicensed Employee

Any act of an employee not licensed pursuant to Section 19823 which constitutes a violation of this chapter shall also constitute a violation of this chapter by the owner or operator of the gaming club whether or not the owner or operator had knowledge of the act of the employee or participated in the act.

(1983 ch. 721 oper. July 1, 1984)

§ 19812. Fines for Violations of Regulations Under this Chapter

In addition to the penalty specified in Section 19810, the Attorney General may levy a fine not to exceed ten thousand dollars (\$10,000) for each violation of any rule or regulation promulgated under this chapter. Nothing in this section shall preclude the Attorney General or local enforcement agencies from filing criminal charges for any act done which constitutes a violation of a rule or regulation promulgated under this chapter, which act might otherwise constitute a public offense.

(1983 ch. 721 oper. July 1, 1984)

§ 19813. Hearings and Judicial Review

All hearings relating to the denial, suspension, or violation of a registration shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. These proceedings shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

(1983 ch. 721 oper. July 1, 1984)

§ 19814. Attorney General's Jurisdiction Retained Pending Investigation or Disciplinary Action

The Attorney General shall retain jurisdiction of a revoked, suspended, or denied registration in order to proceed with any investigation or disciplinary action relating to a registrant.

(1983 ch. 721 oper. July 1, 1984)

§ 19815. Use of Restraining Order by Attorney General

When the Attorney General determines it necessary to protect the public interest, he or she may bring an action against a registrant pursuant to Section 125.8. In addition to the remedy prescribed in those sections, the Attorney General may recover investigative costs and attorney fees.

(1983 ch. 721 oper. July 1, 1984)

§ 19816. Failure to Comply with Subpoena—Misdemeanor

Any person subpoenaed by the Attorney General pursuant to Section 19804 who fails to appear at the time and place specified to answer the subpoena, or who upon such appearance refuses to testify or produce such records or things, is guilty of a misdemeanor.

(1983 ch. 721 oper. July 1, 1984)

§ 19817. Penalties for Unauthorized Operation

Any person or entity owning, managing, or otherwise operating a gaming club without a valid registration from the Attorney General as provided by this chapter is subject to imprisonment in state prison, or by imprisonment in the county jail for not more than one year.

(1983 ch. 721 oper. July 1, 1984)

§ 19818. Disposition of Fees, Revenues and Penalties into General Fund

All fees, revenues, and penalties collected pursuant to this chapter shall be deposited in a special account in the General Fund to be available for expenditure by the Department of Justice to offset costs incurred pursuant to this chapter when appropriated by the Legislature therefor.

(1983 ch. 721 oper. July 1, 1984)

§ 19819. Citizen Vote Approval Required for Location Within Specified Territorial Areas

No gaming club shall be located within the territorial limits of any county, city, or city and county which had not permitted gaming clubs prior to January 1, 1984, unless a majority of electors voting thereon affirmatively approve a measure permitting legal gambling within that city, county, or city and county. The question shall appear on the ballot in substantially the following form:

"Shall card clubs in which any games permitted by law, such as draw poker, low-ball poker and panguingue (pan) are played be allowed in _____?"

Yes ___ No ___

(1983 ch. 721 oper. July 1, 1984)

§ 19820. Authorized Exclusion of Specified Individuals

Any city, county, or city and county permitting gaming may, by ordinance, provide for the exclusion or ejection from any gaming club of any individual who has engaged in or been convicted of bookmaking, sale of controlled substances or illegal gambling activities, or whose presence in or about gaming clubs would be inimical to the interests of legitimate gaming. No such ordinance shall provide for the exclusion or ejection of any person on the grounds of race, color, creed or sex.

(1983 ch. 721 oper. July 1, 1984)

§ 19821. Required Hearing Upon Request of Persons Excluded or Ejected from Club—Judicial Review

(a) Any person who, pursuant to local ordinance, is excluded or ejected from any gaming club may apply to the city, county, or city and county licensing authority for a hearing on the question of whether the ordinance is applicable. The hearing shall be held within 30 days after receipt of the application or at such other time as the applicant and licensing authority may agree.

(b) If, upon the hearing, the licensing authority determines that the rule does not or should not apply to the applicant, it shall notify all gaming clubs licensed by the city, county, or city and county of such determination. If the licensing authority determines that the exclusion or ejection was proper, it shall make an order to that effect. Such order shall be subject to review by any court of competent jurisdiction in accordance with law.

(1983 ch. 721 oper. July 1, 1984)

§ 19822. Immunity from Civil Liability by Excluders or Ejectors—Conditions

Notwithstanding any other provision of law, no gaming club which ejects or excludes any individual based upon an ordinance adopted pursuant to Section 19820 shall be subject to civil liability if such ejection or exclusion was based upon a reasonable and good faith belief that the ordinance applied to the individual in question.

(1983 ch. 721 oper. July 1, 1984)

§ 19823. Employee Licensing by Local Authorities—Scope of Inquiry

Any city, county, or city and county permitting gaming may, by ordinance, require licensure or work permits for any or all employees of gaming clubs within its juris-

diction. Licensure may include a review of the applicant's criminal history information with the Department of Justice pursuant to Penal Code Section 11105.

(1983 ch. 721 oper. July 1, 1984)

§ 19824. Construction of Chapter in Relation to Local Ordinances

This chapter shall not prohibit the enactment, amendment, or enforcement of any ordinance by any county, city, or city and county relating to gaming clubs which is not inconsistent with this chapter.

(1983 ch. 721 oper. July 1, 1984, 1984 ch. 144)

§ 19825. Chapter Inapplicability to Bingo Games

This chapter shall not be applicable to any bingo game which is conducted in a city, county, or city and county pursuant to Section 326.5 of the Penal Code.

(1983 ch. 721 oper. July 1, 1984, 1984 ch. 144)

§ 19826. Effective Date of Chapter

This chapter applies to all gaming clubs in existence on or after July 1, 1984.

(1983 ch. 721 oper. July 1, 1984, 1984 ch. 144)

CHAPTER 5.5 FRANCHISE RELATIONS

Art. 1.	Definitions.	§§ 20000-20010.
Art. 2.	Jurisdiction.	§ 20015.
Art. 3.	Termination.	§§ 20020-20021.
Art. 4.	Nonrenewal.	§§ 20025-20026.
Art. 4.4.	Transfers.	§ 20027.
Art. 5.	Notices.	§ 20030.
Art. 6.	Offers to Repurchase Inventory.	§§ 20035-20037.
Art. 7.	Arbitration.	§§ 20040-20043.

ARTICLE 1 Definitions

Citation of Chapter.	§ 20000
Franchise Defined.	§ 20001
Franchisee Defined.	§ 20002
Franchisor Defined.	§ 20003
Area Franchise Defined.	§ 20004
Subfranchisor Defined.	§ 20005
Franchise—Inclusion of Area.	§ 20006
Franchise Fee Defined.	§ 20007
Person Defined.	§ 20008
Prima Facie Evidence of Franchise Existence—Burden of Proving Exemption or Exception.	§ 20009
Waiver.	§ 20010

§ 20000. Citation of Chapter

This chapter shall be known and may be referred to as the California Franchise Relations Act.

(1980 ch. 1355 urgency eff. Oct. 1, 1980)

§ 20001. Franchise Defined

As used in this chapter, "franchise" means a contract or agreement, either expressed or implied, whether oral or written, between two or more persons by which:

(a) A franchisee is granted the right to engage in the business of offering, selling or distributing goods or services under a marketing plan or system prescribed in substantial part by a franchisor; and

(b) The operation of the franchisee's business pursuant to that plan or system is substantially associated with the franchisor's trademark, service mark, tradename, logotype, advertising or other commercial symbol designating the franchisor or its affiliate; and

(c) The franchisee is required to pay, directly or indirectly, a franchise fee.

(d) "Franchise" does not include any of the following:

(1) Any franchise governed by the Petroleum Marketing Practices Act (P.L. 95-297).

(2) Lease departments, licenses, or concessions at or with a general merchandise retail establishment where the lease department, licensee, or concessionaire is incidental and ancillary to the general commercial operation of the retail establishment. Sales of a leased department, license, or concessionaire are incidental and ancillary to the general commercial operation of the retail establishment if they amount to less than 10 percent of the establishment's sales.

(3) A nonprofit organization operated on a cooperative basis by and for independent retailers which wholesales goods and services primarily to its member retailers and in which all of the following is applicable:

(A) Control and ownership of each member is substantially equal.

(B) Membership is limited to those who will use the services furnished by the organization.

(C) Transfer of ownership is prohibited or limited.

(D) Capital investment receives no return.

(E) Substantially equal benefits pass to the members on the basis of patronage of the organization.

(F) Members are not personally liable for obligations of the organization in the absence of a direct undertaking or authorization by them.

(G) Services of the organization are furnished primarily for the use of the members.

(H) Each member and prospective member is provided with an offering circular which complies with the specifications of Section 31111 of the Corporations Code.

(I) No part of the receipts, income, or profit of the organization are paid to any profitmaking entity, except for arms-length payments for necessary goods and services and members are not required to purchase goods or services from any designated profitmaking entity.

APPENDIX B

"regulated by," "supervised by," "audited by," "examined by," "registered with," "subject to regulation by," or words or phrases of similar import which state or imply that the health plan has received the approval of, is supervised by, or is subject to supervision by the federal government, a state government or of any agency of either.

§ 586. Particular Words and Phrases.

Words and phrases such as:

(a) "All," "complete," "comprehensive," "100% coverage," "unlimited," or words or phrases of similar import may be used only to describe benefits which have such coverage;

(b) "This contract pays \$1,000 for hospital room and board expenses," "100% coverage for hospital room and board expenses," or words or phrases of similar import shall not be used if the benefits referred to are limited to a maximum daily benefit, by a maximum time limit or are otherwise limited;

(c) "Best," "finest," "most comprehensive," or any other superlative or word or phrase of similar import shall not be used.

§ 587. Comparative Advertising.

No health plan may represent directly or indirectly that its facilities or services are equal or superior to facilities or services of another health plan unless the health plan possesses empirical evidence to substantiate the representation and submits such evidence to the Attorney General not less than 30 days prior to the intended date of dissemination.

§ 588. Special Enrollment Period.

No advertising or solicitation shall state or imply that a particular program of benefits is an introductory, initial, limited or special offer, or that enrollment in the health plan is limited to a specific period unless such is the case and the period of time referred to is disclosed.

§ 589. Commencement of Benefits.

Where all the benefits under a membership contract are not available to a member at the same time, due to factors such as "waiting periods" or "preexisting condition," no advertising or solicitation shall state or imply that all benefits are immediately available.

§ 590. Multiple Contract Benefits.

Any advertising or solicitation which refers to benefits which cannot be obtained in a single contract shall disclose the number of contracts that must be subscribed to or purchased to obtain the benefits represented.

§ 591. Limitations, Exclusions, Exceptions and Reductions.

Any advertising or solicitation which describes specific benefits available under the membership contract shall also describe with the same prominence the limitations, exclusions, exceptions and reductions applicable to said benefits.

§ 592. Preexisting Conditions.

If benefits for a preexisting condition are different from those which would be received if the condition were not preexisting, all advertising and solicitations shall clearly and conspicuously state such fact and disclose the nature and extent of such limitations.

§ 593. Testimonials.

Testimonials used in advertising or solicitations must be genuine, true and not misleading, represent the current opinion of the author, be applicable to the contract advertised, and be accurately reproduced. A health plan using a testimonial makes as its own all the statements contained therein and the advertising or solicitations including such statements are subject to all the provisions of these regulations. No testimonial may be used unless the health plan is able to identify the person giving the testimonial, the date of such testimonial, and the membership contract pertaining thereto. No testimonial shall be made or used if the maker thereof receives, directly or indirectly, any remuneration therefor or has any interest in the health plan other than as a member.

Chapter 6. Gaming Registration

Article 1. Gaming Registration

§ 600. Definitions.

(a) "Dishonesty" means:

(1) a disposition to deceive, cheat, steal or defraud;

(2) an absence of integrity;

(3) a lack of honesty; or

(4) a crime resting on dishonest conduct.

(b) "Direct Financial Interest" means a monetary investment in a gaming club.

(c) "Indirect Financial Interest" means owning 1% or more of any business or corporation that in turn owns all or any part of a gaming club and other business.

(d) "Manager" means anyone who represents the interest of the owner in the operation of a gaming establishment, whose duties include but may not be limited to:

(1) the making or changing of policy;

(2) approving credit;

(3) hiring or firing of employees; or

(4) generally exercising independent judgment in the operation of the business. Such person need not have a financial interest in the business.

NOTE: Authority cited: Section 19803, Business and Professions Code. Reference: Sections 19801, 19802, 19807(a) and 19809(a), Business and Professions Code.

HISTORY

1. New Subchapter 6 (Sections 600-604) filed 6-25-84; designated effective 7-1-84 pursuant to Government Code Section 11346.2(d) (Register 84, No. 25). For history of former Subchapter 6, see Registers 82, No. 4; 74, No. 16 and 74, No. 3.

§ 601. Registration; Application.

(a) An application form shall be submitted by all individuals who have or who intend to have a financial or management interest in any gaming establishment.

(b) Part I, General Application Information, shall include substantially the following: name of applicant; type of affiliation with club; club affiliated with, if any; address of club; amount of interest in club; names and addresses of other owners/investors if applicant is not sole owner of the establishment.

(c) Part II, Personal History, shall include substantially the following: personal identifiers; marital information; family information; education; military information; prior criminal activity; residence; employment; and character references.

(d) Part III, Financial History, shall include substantially the following: complete financial history of the applicant, including a statement of assets and liabilities; amount invested or to be invested in the gaming club and source of funds; whether the applicant has ever filed bankruptcy.

(e) Applications shall be submitted on forms supplied by the Department of Justice. The completed initial or first-time registration application shall be accompanied by two completed ten-print applicant fingerprint cards obtained from a law enforcement agency and the specified non-refundable application fee. The Department recognizes that local agencies may charge a fee sufficient to recover costs incurred therein. Applications to renew registration need not be accompanied by fingerprint cards.

NOTE: Authority cited: Section 19803, Business and Professions Code. Reference: Sections 19807(a) and 19809(b), Business and Professions Code.

§ 602. Annual Renewal of Registration.

Registration shall be renewed on an annual basis following instructions that shall be provided when the initial certificate of registration is issued to the applicant.

NOTE: Authority cited: Section 19803, Business and Professions Code. Reference: Section 19808(a), Business and Professions Code.

§ 603. Furnishing of Additional Information.

The Attorney General may require an applicant for registration or a registrant to supply additional information beyond what is routinely required to be included in the application form in order to carry out the requirements of the Gaming Registration Act.

NOTE: Authority cited: Section 19803, Business and Professions Code. Reference: Section 19809(b), Business and Professions Code.

§ 604. Registration; Proof Thereof.

Individuals who are required to register shall be provided with an application form and instructions. Two forms of documentation may constitute proof of compliance with the Act and regulations: 1) possession of a valid "conditional registration" which will allow the applicant to operate pending the outcome of the Department of Justice background investigation conducted pursuant to the submission of an application for registration; or 2) possession of a valid annual registration certificate issued when the background investigation has been completed and the applicant has successfully met the requirements of the Act.

NOTE: Authority cited: Section 19803, Business and Professions Code. Reference: Sections 19805 and 19808(b), Business and Professions Code.

Chapter 6.5 Records and Reports of Monetary Instrument Transaction

Article 1. Reporting Requirements

§ 650. Compliance with Penal Code Sections 14126(a) and (b).

(a) Penal Code section 14162(a), effective January 1, 1987, requires certain financial institutions to make and keep a record of each monetary transaction in excess of \$10,000; additionally, the financial institution shall file a report of a monetary transaction with the Department of Justice in a form and at the time as set forth by the Department.

(b) Penal Code section 14162(b), effective January 1, 1987, requires financial institutions other than those covered in Penal Code section 14162(a) to file duplicate copies of the reports required by sections 5313 and 5314 of Title 31 of the United States Code and regulations adopted pursuant to those sections.

(c) No filing of any such report shall be required by the Department until such time as subsequent regulations, specifying the filing time and form for such reports, are adopted.

(d) Nothing stated in this section is intended to, not shall it be deemed to, prevent the investigation or prosecution of any criminal offense set forth in Penal Code Section 186.2, 186.10 and 14166. Nothing stated in this section is intended to, not shall it be deemed to, prevent the imposition of any term of incarceration or monetary penalty set forth in Penal Code sections 186.2, 186.10 and 14166.

(e) Nothing in this section shall be deemed to prevent any law enforcement or prosecuting agency from obtaining reports currently being compiled pursuant to federal reporting requirements by any other lawful means available.

(f) Nothing in this section shall be deemed to suspend the requirement that a financial institution make and keep record of each transaction in excess of \$10,000.

NOTE: Authority cited: Section 14160(b), Penal Code. Reference: Section 14162(a) and (b), Penal Code. (New Subchapter 6.5, Section 650, filed 1-21-87, operative 1-22-87; Register 87, No. 5. The "subsequent regulations" referred to in subsection (c) will be found in reserved Section 651, when adopted.

§ 651. Filing Requirements. (Reserved)

Chapter 7. Criminal Offender Record Information Security

Article 1. Mandatory Securing of Criminal Offender Record Information

§ 700. Scope.

NOTE: Authority cited: Section 11077, Penal Code. Reference: Sections 11075-11081, Penal Code.

HISTORY

1. New Subchapter 7 (Article 1, Sections 700-710) filed 6-6-75; effective thirtieth day thereafter (Register 75, No. 23).
2. Order of Repeal filed 6-3-85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).

§ 701. Definitions.

For the purposes of this article, the following definitions shall apply whenever the terms are used.

(a) "Criminal Justice Agency" means a public agency or component thereof which performs a criminal justice activity as its principal function.

(b) "Authorized Person or Agency" means any person or agency authorized by court order, statute, or decisional law to receive criminal offender record information.

(c) (Reserved)

(d) (Reserved)

(e) (Reserved)

(f) "Record Check" means obtaining the most recent rap sheet from the California Department of Justice.

HISTORY

1. Order of Repeal of subsections (c)-(e) filed 6-3-85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).

§ 702. Compliance with State Regulations.

(a) (Reserved)

(b) (Reserved)

(c) The California Department of Justice shall conduct audits of authorized persons or agencies using criminal offender record information to insure compliance with the State regulations.

(d) (Reserved)

(e) Authorized persons or agencies violating these regulations may lose direct access to criminal offender record information maintained by the California Department of Justice.

HISTORY

1. Order of Repeal of subsections (a), (b) and (d) filed 6-3-85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).

§ 703. Release of Criminal Offender Record Information.

(a) (Reserved)

(b) Criminal offender record information may be released, on a need-to-know basis, only to persons or agencies authorized by court order, statute, or decisional law to receive criminal offender record information.

(c) (Reserved)

(d) Record checks shall be conducted on all personnel hired after July 1, 1975, who have access to criminal offender record information.

HISTORY

1. Order of Repeal of subsections (a) and (c) filed 6-3-85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).

APPENDIX C

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1 SECTION 1. Chapter 5 (commencing with Section 19800)
2 of Division 8 of the Business and Professions Code is repealed.

3 SEC. 2. Chapter 5 (commencing with Section 19800) of
4 Division 8 is added to the Business and Professions Code, to
5 read:

6
7 CHAPTER 5. THE GAMING CONTROL ACT

8
9 Article 1. General Provisions

10
11 19800. This Chapter may be cited as the Gaming Control
12 Act.

13 19801. The Legislature hereby finds, and declares to
14 be the public policy of this state, as follows:

15 (a) The long-standing public policy of this state
16 disfavors commercially operated lotteries, banked or percentage
17 games, and gaming machines, and nothing herein is to be construed
18 to in any manner reflect a legislative intent to relax that
19 policy.

20 (b) Public trust that recreational gambling will not
21 endanger public health, safety, or welfare requires that
22 comprehensive measures be enacted to ensure that gambling is free
23 from criminal and corruptive elements, gambling is conducted
24 honestly and competitively, and the rights of the creditors of
25 licensees are protected. This act is an exercise of the police
26 power of the State for the protection of the health, safety, and
27 welfare of the people of the State of California, and shall be
28 liberally construed to effectuate those purposes.

29 (c) Public trust and confidence can only be maintained
30 by strict regulation of all persons, locations, practices,
31 associations, and activities related to the operation of
32 commercial gambling establishments and the manufacture or
33 distribution of gambling devices and equipment.

34 (d) Gambling on Indian lands in California is an
35 activity which is increasing in scope by virtue of the federal
36 Indian Gaming Regulatory Act (25 U.S.C. Sec. 2701 et seq.).

37 (e) Therefore, all establishments where gambling is
38 conducted and where gambling devices are operated, and
39 manufacturers, sellers, and distributors of certain gambling
40 equipment must be licensed and regulated to protect the public
41 health, safety, morals, good order, and general welfare of the
42 residents of this state.

43 (f) To ensure that gambling is conducted honestly,
44 competitively, and free of criminal and corruptive elements, all
45 gambling establishments in this state must remain open to the
46 general public and the access of the general public to controlled
47 gambling activities must not be restricted in any manner, except
48 as provided by the Legislature.

49 (g) In order to effectuate state policy as declared
50 herein, it is necessary that controlled gaming establishments,
51 activities, and equipment be licensed, persons participating in
52 those activities be licensed or registered, certain transactions,

1 events, and processes involving gaming establishments and owners
2 of gaming establishments be subject to prior approval or
3 permission, no unsuitable persons are associated with controlled
4 gambling activities or gambling establishments, and gambling
5 activities take place only in suitable premises.

6 19802. (a) It is the intent of the Legislature, in
7 enacting this chapter, to occupy the field of regulation of
8 gaming activities and gaming establishments within the State of
9 California and to provide uniform, minimum standards of
10 regulation of those activities and the operation of those
11 establishments.

12 (b) Nothing in this chapter shall be construed to
13 preclude any city, county, and city and county from prohibiting
14 gaming, from imposing any valid local controls or conditions upon
15 gaming, from inspecting gaming premises to enforce applicable
16 state and local laws, or from imposing any local tax or license
17 fee, providing the prohibition, control, condition, inspection,
18 tax, or fee is not inconsistent with this chapter.

19 (c)(1) A Level I licensee may petition the commission
20 for exemption from regulations governing any of the following
21 matters:

- 22 (A) Hours of operation.
23 (B) Wagering limitations.
24 (C) The kinds of controlled games that may be played
25 by a Level I licensee.
26 (D) The location of gaming establishments.
27 (E) The number of gaming tables.
28 (F) Any other matter deemed appropriate by the
29 commission.

30 (2) The commission shall grant the exemption if the
31 matter is the subject of regulation by a city or county ordinance
32 applicable to the petitioning Level I licensee, unless the
33 commission concludes that the ordinance governing the matter is
34 inadequate for the protection of public health, safety, and
35 welfare, and the commission makes detailed findings in support of
36 that conclusion.

37 (3) An aggrieved petitioning licensee may seek review
38 of a commission denial of an exemption pursuant to section 1085
39 of the Code of Civil Procedure.

40 (4) Nothing in this subdivision shall be construed to
41 require the commission to adopt regulations governing any of the
42 matters described in paragraphs (A) through (E) of subdivision
43 (1).

44 19803. No applicant for a license, registration, or
45 other affirmative commission approval has any right to a license
46 or the granting of the approval sought. Any license or
47 registration issued or other commission approval granted pursuant
48 to this chapter is a revocable privilege, and no holder acquires
49 any vested right therein or thereunder.

50 In the event of any conflict between provisions of this
51 chapter and any other provision of law, the provisions of this
52 chapter shall prevail.

1 19804. (a) In any action brought pursuant to Chapter
2 8 (commencing with Section 1060) of Title 14 of Part 2 of, or
3 Title 1 (commencing with Section 1067) of Part 3 of, the Code of
4 Civil Procedure, wherein the construction, application, or
5 enforcement of any provision of this chapter, or any regulation
6 adopted pursuant thereto, or any order of the division or
7 commission issued pursuant thereto, is called into question, a
8 court shall not grant any preliminary or permanent injunction, or
9 any writ of mandate, certiorari, or prohibition, in connection
10 therewith, except in the following cases:

11 (1) Upon proof by clear and convincing evidence that
12 the division or commission is abusing or threatens to abuse its
13 discretion.

14 (2) Upon proof by clear and convincing evidence that
15 the division or commission is exceeding or threatens to exceed
16 its jurisdiction.

17 (b) No temporary injunction or other order shall issue
18 to restrain, stay, or otherwise interfere with any action by the
19 division or commission except upon a finding by the court that
20 the public interest will not be prejudiced thereby, and no such
21 order shall be effective for more than 10 calendar days.

22 (c) Nothing herein shall be construed to affect a
23 petitioner's obligation, if any, to exhaust administrative
24 remedies.

25 (d) Notwithstanding any other provision of law, no
26 preliminary injunction, permanent injunction, or peremptory writ
27 issued to restrain or otherwise interfere with any action of the
28 division or commission shall be an appealable order, but the
29 injunction or writ shall be reviewable by petition for
30 extraordinary relief filed in the Court of Appeal.

31 (e) No injunction, writ, or other order shall issue to
32 prevent enforcement of a final order of the commission.

33 19805. As used in this chapter, the following
34 definitions shall apply:

35 (a) "Affiliate" means a person who, directly or
36 indirectly through one or more intermediaries, controls, is
37 controlled by, or is under common control with, a specified
38 person.

39 (b) "Affiliated company" means a subsidiary, holding,
40 or intermediary company, or any other form of business
41 organization if both of the following circumstances exist:

42 (1) It controls, is controlled by, or is under common
43 control with, a corporate licensee.

44 (2) It is involved in gaming activities in this state
45 or involved in the ownership of property in this state upon which
46 gaming is conducted.

47 (c) "Applicant" means any person who has applied for
48 or is about to apply for a state gaming license, manufacturer's
49 or distributor's license, registration or approval of any act or
50 transaction for which commission approval is required or
51 permitted under this chapter.

1 (d) "Commission" means the California Gaming Control
2 Commission.

3 (e) "Controlled gaming" means any of the following:

4 (1) Any controlled game, as defined by subdivision (b)
5 of Section 337j of the Penal Code, that is not prohibited by an
6 ordinance of the county, city, or city and county wherein the
7 game is to be dealt, operated, carried on, conducted, maintained,
8 or exposed for play.

9 (2) Any activity which is made unlawful by Chapter 9
10 (commencing with Section 319) of Title 9 of Part 1 of the Penal
11 Code, but which is both of the following:

12 (A) Permitted by the Indian Gaming Regulatory Act (25
13 U.S.C. Sec. 2701 et seq.) to be conducted on Indian lands in this
14 state in accordance with an approved tribal-state compact.

15 (B) Is conducted on Indian lands pursuant to an
16 approved tribal-state compact.

17 (f) "Director," when used in connection with a
18 corporation, means any director of a corporation or any person
19 performing similar functions with respect to any organization.
20 In any other case, "director" means the Director of the Division
21 of Gaming Control.

22 (g) "Division" means the Division of Gaming Control
23 in the Department of Justice.

24 (h) "Equity security" means any of the following:

25 (1) Any voting stock of a corporation, or similar
26 security.

27 (2) Any security convertible, with or without
28 consideration, into that security, or carrying any warrant or
29 right to subscribe to or purchase that security.

30 (3) Any warrant or right to subscribe to or purchase a
31 security.

32 (4) Any security having a direct or indirect
33 participation in the revenue of the issuer.

34 (i) "Establishment" means any room or other premises
35 wherein or whereon any controlled gaming occurs.

36 (j) "Gambling" or "gaming" means to deal, operate,
37 carry on, conduct, maintain, or expose for play any controlled
38 game.

39 (k) "Game" and "gambling game" means any controlled
40 game as defined in this chapter.

41 (l) "Gaming equipment" means any equipment or
42 mechanical, electromechanical, or electronic contrivance,
43 component, or machine used remotely or directly in connection
44 with gaming or any game.

45 (m) "Gaming license" means any license issued by the
46 state that authorizes the person named therein to engage or
47 participate in controlled gaming.

48 (n) "Gaming operation" or "gaming enterprise" means
49 one or more controlled games that are operated, carried on,
50 conducted, maintained, or exposed for play.

51 (o) Except as provided by the regulation, "gross
52 revenue" means the total of all compensation received for

1 conducting any controlled game, and includes cash received in
2 payment for credit extended by a Level I licensee to a patron for
3 purposes of gaming.

4 (p) "Holding company" means any corporation, firm,
5 partnership, trust, or other form of business organization not a
6 natural person that, directly or indirectly owns, has the power
7 or right to control, or holds with power to vote, all or any part
8 of the limited partnership interests or outstanding voting
9 securities of a corporation that holds or applies for a state
10 gaming license. In addition to any other reasonable meaning of
11 the words used, a holding company indirectly has, holds, or owns
12 any power, right, or security mentioned herein if it does so
13 through any interest in a subsidiary or successive subsidiaries,
14 however many of these subsidiaries may intervene between the
15 holding company and the corporate licensee or applicant.

16 (q) Except as determined by regulation, "independent
17 agent" means any person who does either of the following:

18 (1) Approves or grants the extension of gaming credit
19 on behalf of a Level I gaming licensee or collects debt evidenced
20 by a credit instrument.

21 (2) Contracts with a Level I licensee, or an affiliate
22 thereof, to provide services consisting of arranging
23 transportation or lodging for guests at a licensed gaming
24 establishment.

25 (r) "Indian lands" means Indian lands as defined by
26 the Indian Gaming Regulatory Act (25 U.S.C. Sec. 2701 et seq.).

27 (s) "Intermediary company" means any corporation,
28 firm, partnership, trust, or other form of business organization
29 other than a natural person that is both of the following:

30 (1) A holding company with respect to a corporation or
31 limited partnership which holds or applies for a Level I license.

32 (2) A subsidiary with respect to a holding company.

33 (t) "Level I license" means a state license issued to
34 a designated person, including a business entity, to own a gaming
35 operation, in this state, at a specified site, and under
36 specified terms and conditions, if any.

37 (u) "Level II license" means a state license granted
38 to a designated person, including any business entity, to acquire
39 or hold a direct or indirect financial interest in, or to be
40 substantially involved with, or both, controlled gaming in this
41 state, in a manner, or to an extent, not requiring a Level I
42 license, under specified terms and conditions, if any.

43 (v) "Licensed gaming establishment" means the gaming
44 premises encompassed by a Level I license.

45 (w) "Limited partnership" means a partnership formed
46 by two or more persons having as members one or more general
47 partners and one or more limited partners.

48 (x) "Limited partnership interest" means the right of
49 a general or limited partner to any of the following:

50 (1) To receive from a limited partnership any of the
51 following:

52 (A) A share of the revenue.

1 (B) Any other compensation by way of income.
2 (C) A return of any or all of his or her contribution
3 to capital of the limited partnership.
4 (2) To exercise any of the rights provided under state
5 law.

6 (y) Unless otherwise indicated, "person" includes a
7 natural person, corporation, partnership, limited partnership,
8 trust, joint venture, association, or any other business entity.

9 (z) "Publicly traded corporation" means as follows:

10 (1) Either of the following:

11 (A) Any corporation or other legal entity, except a
12 natural person, to which any of the following applies:

13 (i) It has one or more classes of securities
14 registered pursuant to Section 12 of the Securities Exchange Act
15 of 1934, as amended (15 U.S.C. Sec. 781).

16 (ii) It is an issuer subject to Section 15(d) of the
17 Securities Exchange Act of 1934, as amended (15 U.S.C. Sec. 780).

18 (iii) It has one or more classes of securities
19 exempted from the registration requirements of Section 5 of the
20 Securities Act of 1933, as amended (15 U.S.C. Sec. 77e) solely by
21 reason of an exemption contained in Section 3(a)10, 3(a)11, or
22 3(c) of the Securities Act of 1933, as amended (15 U.S.C. Secs.
23 77c(a)(10), 77c(a)(11), and 77(c), or 17 C.F.R. 230.51 et seq.).

24 (B) Any corporation or other legal entity created
25 under the laws of a foreign country to which both of the
26 following applies:

27 (i) It has one or more classes of securities
28 registered on that country's securities exchange or over-the-
29 counter market.

30 (ii) Its activities have been found by the commission
31 to be regulated in a manner which protects the investors and the
32 State of California.

33 (2) "Publicly traded corporation" does not include any
34 corporation or other legal entity that has securities registered
35 or is an issuer pursuant to subparagraph (A) of paragraph (1)
36 solely because either of the following circumstances exist:

37 (A) It guaranteed a security issued by an affiliated
38 company pursuant to a public offering.

39 (B) It is considered by the Securities and Exchange
40 Commission to be a co-issuer of a public offering of securities
41 pursuant to Section 230.140 of Title 17 of the Code of Federal
42 Regulations.

43 (aa) "Security" means any stock, membership in an
44 incorporated association, bond, debenture or other evidence of
45 indebtedness, investment contract, voting trust certificate,
46 certificate of deposit for a security, or, in general, any
47 interest or instrument commonly known as a "security," or any
48 certificate of interest or participation in, temporary or interim
49 certificate for, receipt for, or warrant or right to subscribe to
50 or purchase, any of the foregoing. Except as may be determined
51 by regulation, all of the foregoing are securities whether or not
52 evidenced by a written document.

1 (bb) "Subsidiary" means either of the following:

2 (1) Any corporation, all of any part of whose
3 outstanding equity securities are owned, subject to a power or
4 right of control, or held with power to vote by any holding
5 company or intermediary company.

6 (2) Any firm, partnership, trust, or other form of
7 business organization not a natural person, all or any interest
8 in which is owned, subject to a power or right of control, or
9 held with power to vote by a holding company or intermediary
10 company.

11 (cc) "Tribal-state compact" means a compact for the
12 conduct of Class III gaming activities as defined by the Indian
13 Gaming Regulatory Act (25 U.S.C. Sec. 2701 et seq.).

14 (dd) "Work permit" means any card, certificate, or
15 permit issued by the division or by a county, city, city and
16 county, whether denominated as a work permit, registration card,
17 or otherwise, authorizing the holder to be employed as a gaming
18 employee or to serve as an independent agent. A document issued
19 by any governmental authority for any employment other than
20 gaming is not a valid work permit for the purposes of this
21 chapter.

22 19807. (a) Nothing in this chapter shall be construed
23 in any way to permit or authorize any conduct made unlawful by
24 any provision of Chapter 9 (commencing with Section 319) or
25 Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of
26 the Penal Code, or any local ordinance, except to the extent that
27 such conduct is made lawful by operation of federal law.

28 (b) It is the intent of the Legislature that this
29 chapter apply to Class III gaming operations conducted on Indian
30 lands located in this state only through the tribal-state
31 compacting process as provided by the Indian Gaming Regulatory
32 Act (25 U.S.C. Sec. 2701 et seq.). Nothing herein shall preclude
33 the negotiation of terms and conditions in a tribal-state compact
34 which depart from the provisions of this chapter.

35 (c) Following completion of negotiations conducted
36 pursuant to subdivision (b) of Section 12012 of the Government
37 Code, the Governor shall submit any proposed tribal-state compact
38 to a joint standing committee of the Legislature responsible for
39 review of tribal-state compacts. Within sixty (60) days after
40 receiving a proposed compact from the Governor, the joint
41 standing committee may conduct hearings on the proposed compact
42 and shall forward its comments, if any, to the Governor. The
43 Governor shall not execute a compact until the expiration of
44 sixty (60) days after submission of the proposed compact to the
45 joint standing committee. If comments are received during this
46 sixty-day period, the Governor shall not execute a compact until
47 he or she has received and considered those comments.

48 Article 2. Administration

49
50
51 19810. There is in the state government the California
52 Gaming Control Commission, consisting of five members.

1 19811. (a) Each member of the commission shall be a
2 citizen of the United States and a resident of this state.

3 (b) No member of the Legislature, no person holding
4 any elective office in state, county, or local government, nor
5 any officer or official of any political party is eligible for
6 appointment to the commission.

7 (c) The chairperson of the commission shall have at
8 least five years of responsible administrative experience in
9 public or business administration or possess broad management
10 skills.

11 (d) At least one member of the commission shall be a
12 certified public accountant licensed by this state, have five
13 years of progressively responsible experience in general
14 accounting and auditing, and have a comprehensive knowledge of
15 the principles and practices of corporate finance.

16 (e) At least one member of the commission shall be
17 selected with special reference to his or her training and
18 experience in the fields of investigation, law enforcement, or
19 criminal law.

20 (f) No more than three members of the commission shall
21 be members of the same political party.

22 19812. (a) Of the members initially appointed, one
23 shall be appointed for a term of two years, one shall be
24 appointed for a term of three years, one shall be appointed for a
25 term of four years, and two shall be appointed for a term of five
26 years. After the initial terms, the terms of office of each
27 member of the commission is five years.

28 (b) The Governor shall appoint the initial members of
29 the commission and designate one member to serve as chairperson.
30 The appointments shall be made within 60 days of the effective
31 date of this chapter. Thereafter, vacancies shall be filled
32 within 60 days by the Governor subject to confirmation by the
33 Senate.

34 (c) The Governor may remove any commissioner for
35 incompetence, neglect of duty, or corruption upon first giving
36 him or her a copy of the charges and an opportunity to be heard.

37 19813. (a) The commission members shall devote that
38 time to the business of the commission as may be necessary to the
39 discharge of their duties.

40 (b) Before entering upon the duties of his or her
41 office, each member shall subscribe to the constitutional oath of
42 office and, in addition, swear that he or she is not pecuniarily
43 interested in, or doing business with, any person, business, or
44 organization holding a gaming license.

45 19814. The members of the commission shall receive a
46 per diem of one hundred dollars (\$100) for each day spent in
47 attendance at meetings scheduled by the chairperson of the
48 commission for the purpose of fulfilling the duties of the
49 commission pursuant to this chapter, and shall be reimbursed for
50 traveling and other expenses necessarily incurred in the
51 performance of official duties.

1 19815. (a) The commission shall have an executive
2 secretary appointed by the commission on recommendation of the
3 Attorney General. The executive secretary may be removed by the
4 commission with the concurrence of the Attorney General.

5 (b) The executive secretary shall receive the annual
6 salary established by the commission and approved by the
7 Department of Personnel Administration. The executive secretary
8 shall be the commission's executive officer and shall carry out
9 and execute the duties as specified by law and by the commission.

10 19816. The division shall furnish to the commission
11 administrative and clerical services as may be necessary for the
12 purpose of carrying out the commission's functions.

13 19817. The commission shall establish and maintain a
14 general office for the transaction of its business in Sacramento.
15 The commission may hold meetings at any place within the state
16 when the interests of the public may be better served. A public
17 record of every vote shall be maintained at the commission's
18 general office. A majority of the members is a quorum of the
19 commission. Meetings of the commission shall be public, except
20 that the commission may, by regulation, provide otherwise for
21 discussions of personnel and litigation, or where security and
22 law enforcement concerns dictate otherwise.

23 19818. The Attorney General is legal counsel to, and
24 attorney for, the commission.

25 19820. (a) The commission shall cause to be made and
26 kept a record of all proceedings at regular and special meetings
27 of the commission. These records shall be open to public
28 inspection.

29 (b) The division shall maintain a file of all
30 applications for licenses under this chapter, together with a
31 record of all action taken with respect to those applications.
32 The file and record shall be open to public inspection.

33 (c) The division and commission may maintain any other
34 files and records as they may deem appropriate. Except as
35 provided in this chapter, the records of the division and
36 commission are exempt from Chapter 3.5 (commencing with Section
37 6250) of Division 7 of Title 1 of the Government Code.

38 (d) Except for matters made public by subdivision (a)
39 or (b), no official, employee, or agent of the commission or
40 division, having obtained access to confidential records or
41 information in the performance of duties pursuant to this
42 chapter, shall knowingly disclose or furnish the records or
43 information, or any part thereof, to any person who is not
44 authorized by law to receive it. A violation of this subdivision
45 is a misdemeanor.

46 19821. (a) All files, records, reports, and other
47 information in possession of any state or local governmental
48 agency that are relevant to an investigation by the division
49 conducted pursuant to this chapter, shall be made available to
50 the division as requested. However, any tax information received
51 from a governmental agency shall be used solely for effectuating
52 the purposes of this chapter. To the extent that these files,

1 records, reports, or information are confidential or otherwise
2 privileged from disclosure under any statute, law, or exercise of
3 discretion, they shall not lose that confidential or privileged
4 status for having been disclosed to the division.

5 (b) All files, records, reports, and other information
6 pertaining to gaming matters in the possession of the division
7 shall be open at all times to inspection by members of the
8 commission.

9 19822. For purposes of carrying out the policy of the
10 state as declared in Section 19800, the division and the
11 commission shall have every and all powers necessary and proper
12 to enable them to carry out fully and effectually the purposes of
13 this chapter.

14 19823. Pursuant to Section 19822, and without
15 limitation as to other powers as provided in this chapter, the
16 commission may act as follows:

17 (a) Require any person to apply for a license or
18 registration as specified in this chapter.

19 (b) Approve or disapprove transactions, events, and
20 processes as provided in this chapter.

21 (c) Take actions deemed to be reasonable to ensure
22 that no unsuitable persons are associated with controlled
23 gambling activities.

24 (d) Take actions deemed to be reasonable to ensure
25 that gambling activities take place only in suitable premises.

26 19824. Pursuant to Section 19822, and without
27 limitation as to other powers that may be exercised, the division
28 may act as follows:

29 (a) Visit, investigate, and place expert accountants,
30 technicians, and any other persons as it may deem necessary in
31 the office, gaming area, or other place of business of any
32 licensee or registrant for the purpose of determining compliance
33 with the rules and regulations promulgated pursuant to this
34 chapter.

35 (b) Require that the books and financial or other
36 statements of any person licensed under this chapter shall be
37 kept in any manner which the commission deems proper.

38 (c) Visit, inspect, and examine all premises where
39 gaming equipment is manufactured, sold, or distributed.

40 (d) Inspect all equipment and supplies in any gaming
41 establishment or in any premises where gaming equipment is
42 manufactured, sold, or distributed.

43 (e) Summarily seize, remove, and impound, any
44 equipment, supplies, documents, or records from any licensed
45 premises for the purpose of examination and inspection.

46 (f) Demand access to, and inspect, examine, photocopy,
47 and audit all papers, books, and records of an applicant or
48 licensee, on the licensee's premises or elsewhere, as
49 practicable, in the presence of the applicant or licensee or his
50 or her agent, respecting the gross income produced by any gaming
51 business, and require verification of income, and all other
52 matters affecting the enforcement of this chapter.

1 (g) Demand access to and inspect, examine, photocopy,
2 and audit all papers, books and records of any affiliate of a
3 licensee whom the division knows or reasonably suspects is
4 involved in the financing, operation, or management of the
5 licensee. The inspection, examination, and photocopying may take
6 place on the affiliate's premises or elsewhere, as practicable,
7 in the presence of the affiliate or his or her agent.

8 (h) Investigate, for purposes of prosecution, any
9 suspected criminal violation of this chapter. However, nothing
10 in this subdivision shall limit the powers conferred by Section
11 19825.

12 (i) Adopt, promulgate, amend, and rescind suitable
13 rules and regulations to carry out its functions and duties
14 pursuant to this chapter.

15 (j) Issue subpoenas to require the attendance and
16 testimony of witnesses and the production of books, records,
17 documents, and physical materials.

18 (k) Administer oaths, examine witnesses under oath,
19 take evidence, and take depositions and affidavits or
20 declarations.

21 (l) Issue temporary licenses or registration to
22 individuals during the pendency of an investigation of an
23 application for a license or registration. However, a temporary
24 license or registration shall not be valid for a period exceeding
25 180 days and the issuance of a temporary license or registration
26 creates no right whatsoever to issuance of the license or
27 registration applied for, and may be revoked at any time, for any
28 reason, without notice or hearing.

29 19825. Agents, special agents, and investigators of
30 the division who otherwise meet all standards imposed by law on a
31 peace officer are peace officers pursuant to subdivision (b) of
32 Section 830.1 of the Penal Code.

33 19826. (a) The commission shall have the power to
34 conduct hearings in accordance with its regulations. Hearings
35 may be conducted by administrative law judges assigned pursuant
36 to Section 11370.3 of the Government Code. So far as
37 practicable, any hearing involving the possible denial,
38 suspension, or revocation of a license approval, or permission
39 shall be conducted in accordance with the Evidence Code.

40 (b) The commission or its executive secretary may
41 issue subpoenas for the attendance of witnesses or the production
42 of any records, books, memoranda, documents, or other papers, or
43 things, as is necessary to enable the commission to effectually
44 discharge its duties, and may administer oaths or affirmations as
45 necessary in connection therewith.

46 (c) The commission may petition a superior court for
47 an order requiring compliance with a subpoena. However, in any
48 proceeding under this section, it shall not be a cognizable
49 objection to the subpoena that the commission lacks jurisdiction
50 over the subject matter of the administrative proceedings, but
51 this objection may be raised only on review of any final decision
52 or order of the commission.

1 19827. (a) A person, other than a state licensee or
2 registrant, and including a business entity, is not required to
3 attend as a witness in any matter under investigation unless the
4 distance is less than 100 miles from the place of his or her
5 residence, or, if a business entity, its principal office.

6 (b) Sections 11186, 11187, 11188, and 11191 of the
7 Government Code shall apply to the process of the division.
8 However, in any proceeding to compel compliance with a subpoena,
9 it shall not be a cognizable defense to the petition that the
10 division lacks jurisdiction over the subject matter of the
11 administrative proceedings, but this objection may be raised only
12 on review of any final decision or order of the commission.

13 19829. Any person who testifies falsely under oath in
14 any proceeding before, or investigation by, the division or
15 commission, shall be guilty of a felony and shall be punished in
16 the same manner prescribed by the Penal Code for the punishment
17 of perjury.

18 19830. (a) The division shall investigate the
19 qualifications of each applicant under this chapter before any
20 license or registration is issued, or approval or permission is
21 granted. The division shall also continue to monitor the conduct
22 of all licensees and registrants and other persons having a
23 material involvement, directly or indirectly, with a licensed
24 gaming operation or holding company. This monitoring is for the
25 purpose of ensuring that licenses are not issued or held by, nor
26 is there any direct or indirect material involvement with a
27 licensed gaming operation or holding company by, unqualified,
28 disqualified, or unsuitable persons, or persons whose operations
29 are conducted in an unsuitable manner or in unsuitable or
30 prohibited places or locations.

31 (b) The division has full and absolute power and
32 authority to recommend the denial of any application, the
33 limitation, conditioning, restriction, suspension, or revocation
34 of any license, registration, or approval, or the imposition of
35 any fine upon any person licensed or approved for any cause
36 deemed reasonable by the division.

37 (c) The commission has full and absolute power and
38 authority to deny any application for a license, registration, or
39 approval, to limit, condition, restrict, suspend, or revoke any
40 license, registration, or approval, or impose a fine upon any
41 person licensed or approved, for any cause deemed reasonable by
42 the commission. The commission may also direct individual
43 natural persons or individual entities to apply for licensure,
44 registration, or approval, as provided in this chapter, and for
45 these purposes, Article 9 (commencing with Section 11120) of
46 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
47 Code shall not apply.

48 19831. A request for withdrawal of any application may
49 be made at any time prior to final action upon the application by
50 the division by filing a written request to withdraw. For
51 purposes of this subdivision, final action of the division means
52 final determination by the director of the recommendation on the

1 application to be made to the commission. The division, in its
2 discretion, may deny the request for withdrawal, or grant the
3 request with or without prejudice. If a request for withdrawal
4 is denied, the division may go forward with its investigation and
5 make a recommendation to the commission upon the application, and
6 the commission may act upon such application as if no request for
7 withdrawal had been made. If a request for withdrawal is granted
8 with prejudice, the applicant shall thereafter be ineligible to
9 renew its application until the expiration of one year from the
10 date of the withdrawal.

11 19832. (a) Any communication or document of, or
12 concerning, an applicant or licensee or registrant is absolutely
13 privileged if any of the following circumstances exist:

14 (1) It was made or published by an agent or employee
15 of the division or commission.

16 (2) It was required to be made or transmitted to the
17 division or commission, or any of its agents or employees by law,
18 regulation, or subpoena of the division or the commission.

19 (3) It was made or transmitted to the division during
20 the course of an investigation conducted pursuant to this
21 chapter.

22 No statement, and no publication of any document,
23 described in this subdivision shall impose liability for
24 defamation or constitute a ground for recovery in any civil
25 action.

26 (b) If any document or communication described in
27 subdivision (a) contains any information which is privileged
28 pursuant to Division 8 (commencing with Section 900) of the
29 Evidence Code, or any other provision of law, that privilege is
30 not waived or lost because the document or communication is
31 disclosed to the division or the commission or any of their
32 agents or employees.

33 19833. (a) The division may institute proceedings or
34 actions appropriate to enforce this chapter.

35 (b) The commission may institute a civil action in any
36 superior court against any person subject to this chapter to
37 restrain a violation of this chapter.

38 (c) An action brought against a person pursuant to
39 this section does not preclude a criminal action or
40 administrative proceeding against that person by the Attorney
41 General or any district attorney or city attorney.

42 19834. Every district attorney, and every state and
43 local law enforcement agency shall furnish to the division, on
44 forms prepared by the division, all information obtained during
45 the course of any substantial investigation or prosecution of any
46 person if it appears that a violation of any law related to
47 gaming has occurred.

48 19835. Except as otherwise provided in this chapter,
49 whenever the division or commission is a defendant or respondent
50 in any proceeding, venue for the proceeding shall be in
51 Sacramento County.
52

1
2
3 Article 3. Regulations

4 19840. The commission shall adopt rules and
5 regulations for the administration and enforcement of this
6 chapter. Except as expressly authorized in this chapter, Chapter
7 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
8 the Government Code shall not apply to any rule or regulation
9 adopted pursuant to this section. Failure to comply with this
10 article shall not affect the validity of any regulation adopted
11 by the commission or the division, or any amendment or repeal of
12 the regulation, if there has been substantial compliance with
13 this article.

14 19841. In emergencies, the commission or the division
15 may summarily adopt, amend, or repeal any regulation, if, at the
16 time, the commission or the division files a finding that the
17 action is necessary for the immediate preservation of the public
18 peace, health, safety, morals, good order, or general welfare,
19 together with a statement of the facts constituting the
20 emergency. Regulations adopted by the commission or the division
21 within 180 days after the effective date of this chapter, for the
22 purposes of implementing this chapter, shall be deemed to be
23 emergency regulations.

24 19842. Regulations adopted by the commission or
25 division pursuant to this article, including orders of repeal,
26 shall be effective upon the filing of a certified copy thereof
27 with the Secretary of State.

28 19843. Except as provided in Section 19841, the
29 commission and division shall adopt, amend, and repeal
30 regulations in accordance with the following procedures:

31 (a) At least 45 days prior to the hearing, if any, and
32 close of the public comment period on the adoption, amendment, or
33 repeal of a regulation, notice of the proposed action shall be
34 mailed to every person who has filed a request for notice of
35 regulatory actions with the commission and may be mailed to any
36 person or group of persons whom the commission or division
37 believes to be interested in the proposed action. The notice of
38 proposed adoption, amendment, or repeal of a regulation shall
39 include all of the following:

40 (1) A statement of the time, place, and nature of the
41 proceedings for adoption, amendment, or repeal of a regulation.

42 (2) A reference to the particular code sections or
43 provisions of law which are being implemented, interpreted, or
44 made specific.

45 (3) An informative digest containing a concise and
46 clear summary of existing laws and regulations, if any, related
47 directly to the proposed action and the effect of the proposed
48 action.

49 (4) The name and telephone number of the officer to
50 whom inquiries concerning the proposed administrative action may
51 be directed.

52 (5) The date by which comments submitted in writing
must be received to present statements, arguments, or contentions

1 in writing relating to the proposed action in order for them to
2 be considered by the commission or division before it adopts,
3 amends, or repeals a regulation.

4 (6) A statement indicating that the full text of the
5 proposed regulation is available from the officer designated in
6 paragraph (4).

7 (b) If a public hearing is held, statements,
8 arguments, or contentions, either oral or in writing, or both
9 shall be permitted. If a public hearing is not scheduled, the
10 commission, consistent with paragraph (5) of subdivision (a),
11 shall afford any interested person or his or her duly authorized
12 representative, the opportunity to present statements, arguments,
13 or contentions in writing. The commission, or the division, as
14 the case may be, shall consider all relevant matter presented to
15 it before adopting, amending, or repealing any regulation. In
16 any hearing held under this subdivision, the commission or
17 division, as the case may be, or the authorized representative of
18 either, shall have authority to administer oaths or affirmations.
19 The commission or division, as the case may be, may continue or
20 postpone a hearing from time to time, to the time and at the
21 place as it determines. However, if a hearing is continued or
22 postponed, the commission or division, as the case may be, shall
23 provide notice to the public advising when the hearing will be
24 resumed or rescheduled.

25 (c) Any interested person may file a written petition
26 with the commission or division requesting the adoption,
27 amendment, or repeal of a regulation. The petition must state,
28 clearly and concisely, all of the following:

29 (1) The substance or nature of the regulation,
30 amendment, or repeal requested.

31 (2) The reasons for the request.

32 (3) Reference to the authority of the commission or
33 division to take the action requested.

34 (d) Upon receipt of a petition described in
35 subdivision (c), the commission or division, as the case may be,
36 shall, within 30 days, deny the request in writing or schedule
37 the matter for action in accordance with subdivision (a).

38 19844. (a) The commission or division, from time to
39 time, shall adopt, amend, or repeal regulations, consistent with
40 the policies, objects and purposes of this chapter, as they may
41 deem necessary or desirable in the public interest in carrying
42 out the policies and provisions of this chapter. Nothing in this
43 article shall be construed to limit the authority of the
44 commission or division to adopt or amend any regulation,
45 consistent with the policies, objects, and purposes of this
46 chapter as they may deem necessary or desirable in the public
47 interest in carrying out the policies and provisions of this
48 chapter.

49 (b) Regulations of the commission shall include the
50 following:

1 (1) Regulations concerning applications,
2 investigations, and fees, including but not limited to,
3 regulations as follows:

4 (A) Prescribing the method and form of application
5 which any applicant for a state license or registration must
6 follow and complete before consideration of the application by
7 the division.

8 (B) Prescribing the information to be furnished by any
9 applicant or licensee or registrant concerning, as appropriate,
10 the person's personal history, habits, character, associates,
11 criminal record, business activities, and financial affairs, past
12 or present.

13 (C) Prescribing the information to be furnished by a
14 Level I licensee relating to the licensee's gaming employees.

15 (D) Requiring fingerprinting of an applicant or
16 licensee or employee of a licensee or other methods of
17 identification.

18 (E) Requiring any applicant for a gaming license to
19 deposit with the division, together with the application
20 therefor, a sum of money which, in the judgment of the division,
21 will be adequate to pay the anticipated costs and charges
22 incurred in the investigation and processing of the application,
23 and to deposit any additional sums as are required by the
24 division to pay final costs and charges.

25 (F) Prescribing the manner and method of collection
26 and payment of fees and issuance of licenses.

27 (2) Regulations defining and limiting the area, games,
28 and equipment permitted, and the method of operation of games and
29 equipment for the purposes of this chapter.

30 (3) Regulations governing the manufacture, sale, and
31 distribution of gambling equipment.

32 (4) Regulations implementing the provisions of this
33 chapter relating to licensing of corporations, limited
34 partnerships, holding companies and intermediary companies.

35 (5) Regulations requiring licensees to report and keep
36 records of all transactions involving cash or credit.

37 19845. (a) The Legislature hereby declares that the
38 exclusion or ejection of certain persons from gaming
39 establishments is necessary to effectuate the policies of this
40 chapter and to maintain effectively the strict regulation of
41 controlled gaming.

42 (b) The commission may by regulation provide for the
43 establishment of a list of persons who are to be excluded or
44 ejected from any gaming establishment. The list may include any
45 person whose presence in the establishment is determined by the
46 commission to pose a threat to the interests of this state or to
47 controlled gaming, or both.

48 (c) In making the determination described in
49 subdivision (b), the commission may consider, but is not limited
50 to, any of the following:

51 (1) Prior conviction of a crime which is a felony in
52 this state or under the laws of the United States, a crime

1 involving moral turpitude, or a violation of the gaming laws of
2 this or any other state.

3 (2) The violation of, or conspiracy to violate, the
4 provisions of this chapter relating to the failure to disclose an
5 interest in a gaming establishment for which the person must
6 obtain a license or the willful evasion of fees;

7 (3) A notorious or unsavory reputation which would
8 adversely affect public confidence and trust that the gaming
9 industry is free from criminal or corruptive elements.

10 (4) An order of exclusion or ejection from the racing
11 enclosure issued by the California Horse Racing Board.

12 (d) The commission shall distribute the list of
13 excluded persons to all Level I licensees and shall provide
14 notice to any persons placed on the list. The commission shall
15 adopt regulations providing procedures for hearing petitions by
16 aggrieved persons.

17 19846. The commission may revoke, limit, condition,
18 suspend, or fine a Level I licensee if that licensee knowingly
19 fails to exclude or eject from the gaming establishment of that
20 licensee any person placed on the list of persons to be excluded
21 or ejected.

22 19847. The commission may adopt regulations to:

23 (a) Prescribe minimum procedures for adoption by Level
24 I licensees to exercise effective control over their internal
25 fiscal and gaming affairs, which shall include, but not be
26 limited to, provisions for both of the following:

27 (1) The safeguarding of assets and revenues,
28 especially the recording of cash and evidences of indebtedness.

29 (2) Prescribe the manner in which compensation from
30 games and gross revenue shall be computed and reported by a
31 licensee.

32 (3) The provision of reliable records, accounts, and
33 reports of transactions, operations, and events, including
34 reports to the division and the commission.

35 (b) Provide for the adoption and use of internal
36 audits, whether by qualified internal auditors or by certified
37 public accountants, in the case of Level I licensees whose gaming
38 operations equal or exceed a specified size. As used in this
39 subdivision, "internal audit" means a type of control that
40 operates through the testing and evaluation of other controls and
41 that is also directed toward observing proper compliance with the
42 minimum standards of control prescribed in subdivision (a).

43 (c) Require periodic financial reports from each Level
44 I licensee.

45 (d) Specify standard forms for reporting financial
46 conditions, results of operations, and other relevant financial
47 information.

48 (e) Formulate a uniform code of accounts and
49 accounting classifications to assure consistency, comparability,
50 and effective disclosure of financial information.

51 (f) Prescribe intervals at which the information in
52 subdivisions (c) to (e), inclusive, shall be furnished. For this

1 purpose, the commission may classify licensees by size of
2 operation.

3 (g) Require audits by the division, to be conducted in
4 accordance with generally accepted auditing standards, of the
5 financial statements of all Level I licensees whose annual gross
6 revenues equal or exceed a specified sum. However, nothing
7 herein shall be construed to limit the commission's authority to
8 require audits of any Level I licensee. Audits, compilations,
9 and reviews provided for in this subdivision shall be made by
10 independent certified public accountants licensed to practice in
11 this state.

12
13 19848. (a) The commission may do both of the
14 following:

15 (1) Adopt regulations governing the sale or offering
16 for sale of securities, by public or other offerings, of any
17 affiliated company of a Level I licensee.

18 (2) Pursue any remedy or combination of remedies
19 provided in this chapter for a violation of any regulation
20 adopted pursuant to this section, but that violation does not
21 affect the validity of the securities issued.

22 (b) As used in this section, unless the context
23 otherwise requires, "sale" means every contract of sale, contract
24 to sell, disposition or transfer, whether or not for value.
25 "Sale" includes any exchange and any material change in the
26 rights, preferences, privileges, or restrictions of, or on,
27 outstanding securities.

28
29 Article 4. Licensing
30

31 19850. This article does not apply to an Indian tribe
32 within the meaning of Section 4(5) of the Indian Gaming
33 Regulatory Act of 1988 (25 U.S.C. Sec. 2703(5)), conducting
34 gaming operations on Indian lands pursuant to an approved tribal-
35 state compact. However, subject to the provisions of subdivision
36 (b) of Section 19848⁰⁷, nothing in this section shall be construed
37 to exempt a management contractor or any other person or entity
38 other than an Indian tribe or a governmental subdivision of an
39 Indian tribe from the requirements of this article.

40
41 19851. (a) The burden of proving his or her
42 qualification or suitability to receive any license or to be
43 registered is on the applicant.

44 (b) An application to receive a license or for
45 registration constitutes a request for a determination of the
46 applicant's general character, integrity, and ability to
47 participate in, engage in, or be associated with, controlled
48 gambling. An application to receive a license or for
49 registration shall not be granted unless the commission or
50 division, as the case may be, is satisfied that the applicant
51 meets all of the following criteria:

1 (1) Is a person of good character, honesty, and
2 integrity.

3 (2) Is a person whose prior activities, criminal
4 record, if any, reputation, habits, and associations do not pose
5 a threat to the public interest of this state or to the effective
6 regulation and control of gambling, or create or enhance the
7 dangers of unsuitable, unfair, or illegal practices, methods, and
8 activities related to gambling or in the conduct of business and
9 financial arrangements incidental thereto.

10 (3) Is a person who in all other respects qualified to
11 be licensed or registered consistent with the declared policy of
12 this state.

13 (c) The commission, by regulation, may limit the
14 number of persons who may be financially interested, and the
15 nature of any interest, in corporations or other organizations or
16 associations licensed under this chapter, and establish any other
17 qualifications for licenses as the commission determines is in
18 accordance with the provisions of this chapter.

19 (d) A person shall be deemed unsuitable to hold a
20 Level I registration in this state if the person, or any partner,
21 officer, director, or shareholder of the person, or any holding
22 company or intermediary company, with respect to the person, has
23 any financial interest in any business or organization which is
24 engaged in any form of gaming prohibited by Section 330 of the
25 Penal Code.

26 19851.1 Every person who owns or proposes to own a
27 gaming operation in this state shall apply for a Level I license.

28
29 19852. (a) The following persons shall apply for and
30 obtain a Level II license:

31 (1) Officers, directors, and shareholders of every
32 corporation that applies for or holds a Level I license.

33 (2) Every general and limited partner of, and every
34 other person having a beneficial interest in, any limited
35 partnership which applies for or holds a Level I license.

36 (3) Every holding company and intermediary company of
37 a person that applies for or holds a Level I license
38 registration. However, the commission shall, by regulation,
39 provide standards for evaluating the suitability and
40 qualification of holding companies and intermediary companies,
41 including publicly traded corporations or other commercial legal
42 entities, that are organized under the laws of another country.

43 (4) Officers, directors, general partners, principals,
44 or trustees, as the case may be, of holding companies and
45 intermediary companies. However, the commission by regulation,
46 may specify terms and conditions under which officers and
47 directors of holding companies or intermediary companies that are
48 publicly traded corporations must apply for or obtain a Level II
49 license.

50 (5) Each shareholder, or beneficial owner of any
51 interest, in any holding company or intermediary company, other
52 than a publicly traded corporation.

1 (6) Every person who, individually or in association
2 with others, acquires, directly or indirectly, the beneficial
3 ownership of more than 10 percent of any class of voting
4 securities of any publicly traded corporation holding a Level II
5 license.

6 (7) Every person who receives any percentage share of
7 the revenue earned by a Level I licensee.

8 (8) Employees, agents, guardians, personal
9 representatives, lenders, or holders of indebtedness of a Level I
10 gaming licensee who, in the judgment of the commission, have the
11 power to exercise a significant influence over the licensee's
12 operation of a gaming establishment.

13 (b) The following persons, if they are not otherwise
14 required to be licensed pursuant to subdivision (a), may be
15 required to obtain a Level II license by the commission, either
16 by regulation or order:

17 (1) Any employee or beneficial owner of interest in, a
18 holding company or intermediary company which is a publicly
19 traded corporation, whom the commission determines is, or is to
20 become, engaged in the administration or supervision of, or has
21 any other significant involvement with, the activities of a
22 corporation or partnership holding a Level I license. (3)

23 (2) Persons who furnish any services or any property
24 to a person holding a Level I license under any arrangement
25 pursuant to which the person receives payments based on the
26 revenue from controlled gaming or from any controlled game.

27 (3) Persons who own an interest in the premises of a
28 gaming establishment or who own an interest in real property used
29 by a gaming establishment.

30
31 19853. The following persons, if they are not
32 otherwise required to be licensed pursuant to Section 19852, may
33 be required to be registered by the commission, either by
34 regulation or order:

35 (a) Any person who does business on the premises of a
36 licensed gaming establishment.

37 (b) Any person who is an independent agent of or does
38 business with, a gaming establishment as a ticket purveyor, a
39 tour operator, the operator of a bus program, or the operator of
40 any other type of gaming establishment travel program or
41 promotion.

42 (c) Any person who provides any goods or services to a
43 gaming establishment for a compensation which the commission
44 finds to be grossly disproportionate to the value of the goods or
45 services.

46 19854. (a) Any person who manufactures or
47 distributes, or proposes to manufacture or distribute, for use
48 within the territorial boundaries of this state, any gaming
49 equipment to be used in connection with controlled gaming, shall
50 apply for and obtain a manufacturer's or distributor's license in
51 accordance with commission regulations.

1 (b) The commission shall, by regulation, provide for
2 the following:

3 (1) The inspection, testing, and approval of gaming
4 equipment to be used within the territorial boundaries of this
5 state in connection with controlled gaming by any person applying
6 for or holding a license pursuant to subdivision (a).

7 (2) The inspection, testing, and approval of any
8 modifications of any gaming equipment described in paragraph (1).

9 (3) The advance deposit of fees to be used in the
10 testing and approval process. All of these fees shall be
11 deposited in the investigative account described in Section
12 19862.

13 19855. Every person who, by statute or regulation, is
14 required to hold a state gaming license, shall obtain the license
15 prior to engaging in the activity or occupying the position with
16 respect to which a state gaming license is required. Every
17 person who, by order of the commission, is required to apply for
18 a gaming license or registration or a finding of suitability
19 shall file the application within 30 days after receipt of the
20 commission's order.

21 19856. (a) A Level I gaming licensee or an affiliate
22 of the licensee shall not, without prior approval of the
23 commission, enter into any contract or agreement with a person
24 who is found unsuitable or who is denied a license or
25 registration, or whose license or registration is suspended or
26 revoked by the commission, or with any business enterprise under
27 the control of that person after the date of receipt of notice of
28 the action by the division.

29 (b) A Level I gaming licensee or an affiliate of the
30 licensee shall not, without prior approval of the commission,
31 employ any person in any capacity for which he or she is required
32 to be licensed, if he or she has been found unsuitable or denied
33 a license or registration, or if his or her license or
34 registration has been suspended or revoked by the commission
35 after the date of receipt of notice of the action by the
36 division.

37 (c) (1) If an employee required to be licensed
38 pursuant to this chapter fails to apply for a license within the
39 time specified by regulations, is denied a license or has his or
40 her license revoked by the commission, the licensee by whom the
41 person is employed shall terminate the person's employment in any
42 capacity in which he or she is required to be licensed and shall
43 not permit the person to exercise a significant influence over
44 the operation of the gaming establishment upon being notified of
45 that action.

46 (2) If an employee required to be licensed pursuant to
47 this chapter has his or her license suspended, the licensee by
48 whom such person is employed shall suspend his or her employment
49 in any capacity in which he or she is required to be licensed and
50 shall not permit the person to exercise a significant influence
51 over the operation of the gaming establishment during the period
52 of suspension, upon being notified of that action.

1 (d) A Level I licensee or an affiliate of the licensee
2 shall not pay to a person whose employment has been terminated
3 pursuant to subdivision (c) any remuneration for any service
4 performed in any capacity in which the person is required to be
5 licensed except for amounts due for services rendered before the
6 date of receipt of notice of the action by the division. Neither
7 a Level I licensee nor an affiliate thereof, shall, during the
8 period of suspension, pay to a person whose employment has been
9 suspended pursuant to subdivision (c), any remuneration for any
10 service performed in any capacity in which the person is required
11 to be licensed, except for amounts due for services rendered
12 before the date of receipt of notice of the action by the
13 division.

14 (e) Except as provided in subdivision (c), a contract
15 or agreement for the provision of services or property to a Level
16 I gaming licensee or an affiliate of the licensee or for the
17 conduct of any activity at a licensed gaming establishment, which
18 is to be performed by a person required by this chapter or by the
19 commission to be licensed or registered or found suitable may be
20 terminated because of a finding by the commission that the person
21 is unsuitable to be associated with a gaming establishment or
22 upon a suspension or revocation of the person's license or
23 registration.

24 (f) In any case where a contract or agreement for the
25 provision of services or property to a Level I gaming licensee or
26 an affiliate of the licensee or for the conduct of any activity
27 at a licensed gaming establishment, is to be performed by a
28 person required by this chapter or by the commission to be
29 licensed or registered or found suitable, the contract shall be
30 deemed to include a provision for its termination without
31 liability on the part of the licensee or its duly licensed
32 holding company upon a finding by the commission that the person
33 is unsuitable to be associated with a gaming establishment or
34 upon a suspension or revocation of the person's license or
35 registration. In any action brought by the division to terminate
36 a contract pursuant to subdivision (c) or (e), it shall not be a
37 defense that the agreement does not expressly include the
38 provision described in this subdivision, nor shall the lack of
39 express inclusion of the provision be a basis for enforcement of
40 the contract by a party thereto.

41 19857. With regard to a person who has had his or her
42 application for a license or registration denied by the
43 commission the following shall apply:

44 (a) The person shall not be entitled to profit from
45 his or her investment in any business entity, other than a
46 publicly traded corporation, that has applied for or been granted
47 a license.

48 (b) The person shall not retain his or her interest in
49 a business entity described in subdivision (a) beyond that period
50 prescribed by the commission.

51 (c) The person shall not accept more for his or her
52 interest in a business entity described in subdivision (a) than

1 he or she paid for it, or the market value on the date of the
2 denial of the license or registration, whichever is higher.

3 (d) Nothing in this section shall be construed as a
4 restriction or limitation on the powers of the commission
5 specified in this chapter.

6 19858. (a) As used in this section the following
7 definitions shall apply:

8 (1) "Bank" means a national banking association which
9 has its chief place of business in this state, a banking
10 corporation formed under the laws of this state, or a trust
11 company formed under the laws of this state which has its chief
12 place of business in this state.

13 (2) "Fiduciary" means an executor, an administrator, a
14 special administrator, a trustee of an inter vivos trust, a
15 trustee of a testamentary trust, an escrow agent, a depository or
16 any combination thereof.

17 (b) The commission may exempt a bank acting as a
18 fiduciary from all, or any portion of, the licensing and
19 registration or suitability provisions of this chapter.

20 (c) The commission may grant, deny, limit, condition,
21 restrict, revoke, or suspend any exemption or application for
22 exemption pursuant to subdivision (b) for any reasonable cause.

23 (d) An exemption granted pursuant to subdivision (b)
24 is a revocable privilege, and no person may acquire any vested
25 rights therein or thereunder.

26 19859. No county, city, or city and county may grant,
27 or permit to continue in effect, a license for gaming to any
28 applicant unless the applicant holds a valid state gaming license
29 issued by the commission. However, the issuance by the
30 commission of a state license imposes no requirements upon the
31 county, city, or city and county to issue a license to the
32 applicant.

33 19860. (a) Application for a state gaming license or
34 registration or other commission action shall be made to the
35 division on forms furnished by the division and in accordance
36 with the regulations of the commission.

37 (b) The application for a license by an individual
38 shall include all of the following:

39 (1) The name of the proposed licensee.

40 (2) The location of his or her place or places of
41 business.

42 (3) The gambling games.

43 (4) The names of all persons directly or indirectly
44 interested in the business and the nature of the interest.

45 (5) Any other information and details as the division
46 or commission may require in order to discharge its duty
47 properly.

48 (c) The division shall furnish to the applicant
49 supplemental forms, which the applicant shall complete and file
50 with the application. Such supplemental forms shall require, but
51 shall not be limited to, complete information and details with
52 respect to the applicant's personal history, habits, character,

1 criminal record, business activities, financial affairs, and
2 business associates, covering at least a 10-year period
3 immediately preceding the date of filing of the application.

4 (d) The application for a license by a business entity
5 other than a natural person, or for registration, and forms
6 supplemental thereto, shall require any information as the
7 commission or division deems reasonably necessary for
8 effectuation of the purposes of this chapter.

9 19861. (a) Within a reasonable time after the filing
10 of an application and any supplemental information as the
11 division may require, the division shall commence its
12 investigation of the applicant and, for that purpose, may conduct
13 any proceedings as it may deem necessary.

14 (b) If denial of the application is recommended, the
15 division shall prepare and file with the commission its written
16 reasons upon which the recommendation is based.

17 (c) A recommendation of denial of an application is
18 without prejudice to a new and different application filed in
19 accordance with applicable regulations.

20 19862. (a) There is within the Gaming Control Fund an
21 investigative account to which is allocated funds received for
22 the purpose of paying expenses incurred by the division for
23 investigation of an application for a license or approval under
24 this chapter. The amount to be paid by each applicant, including
25 advance deposits, shall be determined by regulation.

26 (b) Expenses may be advanced from the investigative
27 account by the division. Any money received from the applicant
28 in excess of the costs and charges incurred in the investigation
29 or the processing of the application shall be refunded pursuant
30 to regulations adopted by the division or the commission. At the
31 conclusion of the investigation, the division shall give to the
32 applicant a written accounting of the costs and charges so
33 incurred.

34 19863. An applicant for licensing or registration, or
35 for any approval or consent required by this chapter, shall make
36 full and true disclosure of all information to the division or
37 commission as necessary to carry out the policies of this state
38 relating to licensing, registration and control of controlled
39 gaming.

40 19864. (a) The division shall prepare a final
41 recommendation as expeditiously as may be practicable and, upon
42 completion thereof, shall present its final recommendation with
43 respect to an application to the commission at the next meeting
44 of the commission.

45 (b) The commission, after considering the
46 recommendation of the division, may issue to the applicant named
47 in the application, with respect to the gaming operation named in
48 the application, under the name or style therein designated, a
49 license or may deny the same. The commission may limit the
50 license or place any conditions thereon as it may deem necessary
51 in the public interest. The commission, if it considers it
52 necessary, may issue a probationary license. The commission may

1 limit or place any conditions as it may deem necessary in the
2 public interest upon any approval for which application has been
3 made.

4 (c) After a recommendation by the division that an
5 application be denied, the commission, after considering the
6 recommendation of the division, may do any of the following:

7 (1) Deny the application.

8 (2) Remand the matter to the division for further
9 investigation and reconsideration.

10 (3) By unanimous vote of the members present, grant
11 the application for a license or approval.

12 (d) All applications shall be acted upon within 180
13 days of submission of a completed application, unless that period
14 is extended by the commission on request of the division, for
15 good cause.

16 (e) Nothing in this chapter shall be construed to
17 require the conduct of any hearing wherein evidence is required
18 to be taken prior to the denial of a license or registration by
19 the commission, and no hearing shall be required for such
20 purposes.

21 19865. (a) An application for a license or for
22 registration may be denied if the person:

23 (1) Is under the age of 18 years.

24 (2) Makes a false statement required to be revealed in
25 an application for registration issued pursuant to this chapter
26 or any application made for permission to conduct a gaming club
27 to a local authority.

28 (3) Has been convicted of a crime punishable as a
29 felony.

30 (4) Has engaged in an act involving dishonesty charged
31 or chargeable as a criminal offense relating to the acquisition
32 of ownership or the operation of a gaming club, or has been
33 convicted of an offense involving dishonesty.

34 (5) Has engaged in bookmaking or other illegal
35 gambling activities or has been convicted of an offense involving
36 such activities.

37 19866. No state gaming license may be assigned or
38 transferred either in whole or in part.

39 19867. (a) The commission shall issue and deliver to
40 the applicant a license entitling him or her to engage in the
41 activity for which the license was issued, together with an
42 enumeration of the specific terms and conditions of the license
43 if the following conditions have been met.

44 (1) The commission is satisfied that an applicant is
45 eligible to receive a Level I gaming license.

46 (2) Upon tender of all license fees required by law
47 and regulations of the commission.

48
49 19868. (a) A Level I gaming license shall be posted
50 by the licensee at all times in a conspicuous place in the area
51 where gaming is conducted in the establishment for which the
52 license is issued until it is replaced by a succeeding license.

1 19869. (a) Subject to the power of the commission to
2 deny, revoke, suspend, condition, or limit any licenses, a Level
3 I gaming license shall be renewed annually from the date of
4 issuance.

5 (b) A valid Level I license may be renewed by the
6 commission for the next succeeding license period upon payment of
7 state license fees as required by law and the regulations of the
8 commission.

9 (c) All state license fees required by law shall be
10 paid to the division on or before their due dates. The
11 commission shall specify dates on which fees for renewal of
12 licenses shall be due and may provide for reasonable monetary
13 penalties for delay in payment of renewal fees.

14 (d) Any person who operates, carries on, or exposes
15 for play any gambling game, or who manufactures, sells, or
16 distributes any gaming equipment, material, or machine used in
17 gaming, after his or her license becomes subject to renewal, and
18 thereafter fails to renew the license as provided in this
19 chapter, is guilty of a misdemeanor and, in addition to the
20 penalties provided by law, is liable to this state for all
21 license fees and penalties which would have been due upon
22 renewal.

23 (e) If any Level I licensee fails to renew his or her
24 license as provided in this chapter, the commission may order the
25 immediate closure of the premises and a cessation of all gaming
26 activity therein until the license is renewed by the payment of
27 the necessary fees and any penalties. Failure to pay any
28 required license fee, within 30 days after the date required by
29 this chapter or regulation shall be deemed a surrender of the
30 license. A license has not been renewed within the meaning of
31 this section until all required renewal fees have been paid.
32

33 Article 5. Licensing of Corporations. 34

35 19870. In order to be eligible to receive a Level I
36 gaming license, a corporation shall comply with all of the
37 following requirements:

38 (a) Be incorporated in this state, although the
39 corporation may be a wholly or partly owned subsidiary of a
40 corporation that is chartered in another state of the United
41 States. However, a publicly traded corporation is not eligible
42 to apply for or hold a Level I license. A publicly traded
43 corporation may apply for a Level II license for the purpose of
44 acquiring an interest in a Level I corporate registrant.

45 (b) Maintain an office of the corporation on the
46 licensed premises.

47 (c) Comply with all of the requirements of the laws of
48 this state pertaining to corporations.

49 (d) Maintain, in the corporation's principal office in
50 California or on the premises described in the Level I gaming
51 license, a ledger that shall meet both of the following
52 conditions:

1 (1) At all times reflect the ownership of every class
2 of security issued by the corporation.

3 (2) Be available for inspection by the division at all
4 reasonable times without notice.

5 19871. (a) No corporation is eligible to receive a
6 Level I gaming license unless the conduct of gaming is among the
7 purposes stated in its articles of incorporation.

8 (b) The Secretary of State shall not accept for filing
9 any articles of incorporation of any corporation which include as
10 a stated purpose the conduct of gaming, or any amendment thereto,
11 or any amendment which adds such purpose to articles of
12 incorporation already filed, unless the articles or amendment
13 have been approved by the commission.

14 19872. (a) The purported sale, assignment, transfer,
15 pledge, or other disposition of any security issued by a
16 corporation that holds a Level I gaming license or the granting
17 of an option to purchase that security, is void unless approved
18 in advance by the commission.

19 (b) If at any time the commission denies an individual
20 owner of the security a license, the owner shall immediately
21 offer the security to the issuing corporation for purchase. The
22 corporation shall purchase the security so offered, for cash at
23 fair market value, within 10 days after the date of the offer.

24 (c) Beginning upon the date when the commission serves
25 notice of the denial upon the corporation, it is unlawful for the
26 denied owner to do any of the following:

27 (1) Receive any dividend or interest upon any security
28 described in subdivision (a).

29 (2) Exercise, directly or through any trustee or
30 nominee, any voting right conferred by any security described in
31 subdivision (a).

32 (3) Receive any remuneration in any form from the
33 corporation, for services rendered or otherwise.

34 (d) Every security issued by a Level I corporate
35 licensee must bear a statement, on both sides of the certificate
36 evidencing the security, of the restrictions imposed by this
37 section.

38 19873. (a) To the extent required by this chapter,
39 officers and directors, shareholders, lenders, holders of
40 evidence of indebtedness, underwriters, key executives, agents,
41 or employees of a corporation that holds a Level I license shall
42 be licensed individually. The corporation shall require such
43 persons to apply for a Level II license, and shall notify the
44 division of every change of corporate officers, directors, or key
45 executives within 10 days after the change. An officer,
46 director, or key executive who is required to apply for a license
47 shall apply for the license within 30 days after he or she
48 becomes an officer, director, or key executive.

49 (b) The corporation shall immediately remove any
50 officer or director required to apply for a license from any
51 office or directorship if the following applies to that officer
52 or director:

1 (1) He or she fails to apply for the license within 30
2 days after becoming an officer or director.

3 (2) He or she is denied a license by the commission.

4 (3) His or her license is revoked after appropriate
5 findings by the commission.

6 (c) If the commission suspends the license of any
7 officer or director, the corporation shall, immediately and for
8 the duration of the suspension, suspend that officer or director.

9 (d) If any shareholder who is required to apply for a
10 Level II license fails to apply for the license within the time
11 required, the shareholder shall be deemed to have been denied a
12 license for purposes of subdivision (b) of Section 19872.

13 (e) If any person other than an officer, director, or
14 shareholder who is required to apply for a Level II license fails
15 to do so, the failure may be deemed to be a failure of the Level
16 I corporate licensee to require the application.

17 19874. (a) Before a corporation holding a Level I
18 license may issue or transfer any security to any person, it
19 shall file a report of its proposed action with the division.
20 The division may make a recommendation to the commission
21 concerning the proposed action. The commission shall have 90
22 days from the date the report is filed with the division within
23 which to approve or deny the request. If the commission denies
24 the request, the corporation shall not issue or transfer the
25 security. If no commission action is taken within 90 days, the
26 request shall be deemed approved.

27 19875. In addition to any other financial documents
28 that the commission may require, a Level I licensee shall furnish
29 the division an annual profit and loss statement and an annual
30 balance sheet. The commission may require that any Level I
31 licensee furnish the division with a copy of its federal income
32 tax return within 30 days after the return is filed with the
33 federal government.

34 19876. (a) If any of the following circumstances
35 apply to an employee of a Level I licensee who is required to be
36 licensed individually, the Level I licensee by whom he or she is
37 employed shall terminate his or her employment in any capacity in
38 which the employee is required to hold a license and shall not
39 permit him or her to exercise a significant influence over the
40 operation of the gaming establishment:

41 (1) The employee fails to apply for a license within
42 30 days after the commission requests him or her to do so.

43 (2) The employee is denied a license.

44 (3) The employee has his or her license revoked by the
45 commission.

46 (b) If the Level I license designates another employee
47 to replace the employee whose employment was terminated, it shall
48 promptly notify the commission and shall require the newly
49 designated employee to apply for a Level II gaming license.
50

1 Article 6. Licensing of Limited Partnerships
2

3 19880. In order to be eligible to receive a Level I
4 gaming license a limited partnership shall comply with all of the
5 following requirements:

6 (a) Be formed under the laws of this state.

7 (b) Maintain an office of the limited partnership on
8 the licensed registered premises.

9 (c) Comply with all requirements of the laws of this
10 state pertaining to limited partnerships.

11 (d) Maintain a ledger in the principal office of the
12 limited partnership in California, that shall meet both of the
13 following conditions:

14 (1) At all times reflect the ownership of all interest
15 in the limited partnership.

16 (2) Be available for inspection by the division at all
17 reasonable times without notice.

18 19881. (a) No limited partnership, except one whose
19 sole limited partner is a publicly traded corporation which is
20 licensed as required by this chapter, is eligible to receive or
21 hold a Level I license unless all persons having a direct or
22 indirect interest therein of any nature whatsoever, whether
23 financial, administrative, policymaking, or supervisory, are
24 individually licensed registered as required by this chapter.

25 (b) No limited partnership is eligible to receive a
26 Level I gaming license unless the conduct of gaming is among the
27 purposes stated in the certificate of limited partnership.

28 19882. (a) The purported sale, assignment, transfer,
29 pledge, or other disposition of any interest in a limited
30 partnership which holds a Level I gaming license, or the granting
31 of an option to purchase the interest, is void unless approved in
32 advance by the commission.

33 (b) If at any time the commission denies a Level II
34 license to an individual owner of any interest described in
35 subdivision (a), the commission shall immediately notify the
36 partnership of that fact. The limited partnership shall, within
37 10 days from the date it receives the notice from the commission
38 return to the denied owner, in cash, the amount of his or her
39 capital account as reflected on the books of the partnership.

40 (c) Beginning upon the date when the commission serves
41 a notice of denial upon the limited partnership, it is unlawful
42 for the denied owner to do any of the following:

43 (1) To receive any share of the revenue or interest
44 upon the limited partnership interest.

45 (2) To exercise, directly or through any trustee or
46 nominee, any voting right conferred by such interest.

47 (3) To receive any remuneration in any form from the
48 limited partnership, for services rendered or otherwise.

49 (d) Every certificate of limited partnership of any
50 limited partnership holding a Level I gaming license shall
51 contain a statement of the restrictions imposed by this section.

1 19883. To the extent required by this chapter, general
2 partners, limited partners, lenders, holders of evidence of
3 indebtedness, underwriters, key executives, agents, or employees
4 of a limited partnership that holds or applies for a Level I
5 state gaming license shall be licensed individually. The limited
6 partnership shall require these persons to apply for and obtain a
7 Level II license. A person who is required to be licensed by
8 this section as a general or limited partner shall not receive
9 that position until he or she secures the required approval of
10 the commission. A person who is required to be licensed pursuant
11 to a decision of the commission shall apply for a license within
12 30 days after the commission requests him or her to do so.

13 19884. (a) In addition to any other financial
14 documents that the commission may require, a Level I limited
15 partnership licensee shall do the following:

16 (1) Report to the division in writing of any change in
17 personnel who have been designated by the division or commission
18 as key executives.

19 (2) Furnish the division an annual profit and loss
20 statement and an annual balance sheet.

21 (b) The commission may require that any Level I
22 limited partnership licensee furnish the division with a copy of
23 its federal income tax return within 30 days after the return is
24 filed with the federal government.

25 19885. (a) If any of the following circumstances
26 apply to an employee of a Level I limited partnership licensee
27 who is required to be licensed individually, the limited
28 partnership licensee by whom he or she is employed shall
29 terminate his or her employment:

30 (1) The employee does not apply for a license within
31 30 days after the commission requests him to do so.

32 (2) The employee is denied a license.

33 (3) The employee has his or her license revoked by the
34 commission.

35 (b) If the Level I limited partnership licensee
36 designates another employee to replace the employee whose
37 employment was terminated, it shall promptly notify the
38 commission and shall require the newly designated employee to
39 apply for a Level II gaming license.

40 41 Article 7. Holding Companies 42

43 19890. (a) If a corporation applying for or holding a
44 Level I license is a subsidiary, or before the corporation
45 becomes a subsidiary, each existing or prospective holding
46 company and each existing or prospective intermediary company
47 with respect thereto shall obtain a Level II license. (b)
48 The division may make any investigations concerning the officers,
49 directors, underwriters, security holders, partners, principals,
50 trustees, or direct or beneficial owners of any interest in any
51 holding company or intermediary company that it deems necessary.

1 (c) If the commission denies a Level II license to any
2 person owning, controlling, or holding with power to vote all or
3 any part of any class of security of, or any interest in, any
4 holding company or intermediary company, the denied person shall
5 immediately offer the security to the issuing corporation, or the
6 interest to the firm, partnership, trust, or other business
7 organization, for purchase. The corporation shall purchase the
8 security so offered, or the firm, partnership, trust, or other
9 business organization shall purchase the interest so offered, for
10 cash at fair market value within 10 days after the date of the
11 offer.

12 (d) Beginning upon the date when the commission serves
13 notice of a denial described in subdivision (c), it is unlawful
14 for the denied person to do any of the following:

15 (1) To receive any dividend or interest upon the
16 securities, or any dividend, payment, or distribution of any kind
17 from any holding company or intermediary company.

18 (2) To exercise, directly or through any proxy,
19 trustee, or nominee, any voting right conferred by the securities
20 or interest.

21 (3) To receive any remuneration in any form from any
22 holding company or intermediary company with respect thereto, for
23 services rendered or otherwise.

24 (e) Every security issued by a holding company or
25 intermediary company which directly or indirectly owns, has the
26 power or right to control, or holds with power to vote all or any
27 part of the outstanding equity securities of a corporate Level I
28 gaming licensee shall bear a statement, on both sides of the
29 certificate evidencing such security, of the restrictions imposed
30 by this section.

31 (f) A holding company or intermediary company shall
32 not make any public offering of any of its securities unless the
33 public offering has been approved by the commission.

34 19891. (a) Holding companies or intermediary companies
35 shall comply with subdivisions (b), (c), and (d) of Sections
36 19870 and 19880.

37 (b) If a holding company or intermediary company is a
38 foreign publicly traded corporation, the corporation shall be
39 qualified to do business in this state.

40 (c) The commission may require that any holding
41 company or intermediary company furnish the division with a copy
42 of the following:

43 (1) A profit and loss statement and a balance sheet of
44 the company as of the end of the year.

45 (2) The company's federal income tax return.

46 (d) A holding company or intermediary company that is
47 a publicly traded corporation shall comply with the following
48 requirements:

49 (1) Mail to the division a copy of any statement, or
50 amendment thereto, received from a stockholder or group of
51 stockholders pursuant to section 13(d) of the Securities Exchange
52 Act of 1934, as amended (15 U.S.C. Sec. 78p(a)), within 10 days

1 after receiving the statement or amendment thereto, and report
2 promptly to the division in writing any changes in ownership of
3 record of its equity securities that indicate that any person has
4 become the owner of record of more than 10 percent of its
5 outstanding equity securities of any class.

6 (2) Upon request of the commission, furnish to it a
7 copy of any document filed by the publicly traded corporation
8 with the Securities and Exchange Commission or with any national
9 or regional securities exchange, including documents considered
10 to be confidential in nature, or any document furnished by it to
11 any of its equity security holders of any class.

12 19892. A publicly traded corporation that was created
13 under the laws of a foreign country shall comply with
14 subdivisions (a) and (b) of Section 19870. Instead of complying
15 with subdivisions (c) and (d) of that section, the publicly
16 traded corporation shall comply with the following requirements:

17 (a) Each year, furnish to the division a profit and
18 loss statement and a balance sheet of the publicly traded
19 corporation as of the end of the year, and, upon request of the
20 commission therefor, a copy of the publicly traded corporation's
21 federal income tax return. All profit and loss statements and
22 balance sheets must be submitted within 120 days after the close
23 of the fiscal year to which they relate, and may be those filed
24 by the publicly traded corporation with, or furnished by it to,
25 the foreign governmental agency that regulates the sale of its
26 securities.

27 (b) Mail to the commission a copy of any statement, or
28 amendment thereto, received from a stockholder or group of
29 stockholders pursuant to law, within 10 days after receiving the
30 statement or amendment thereto, and report promptly to the
31 commission in writing any changes in ownership of record of its
32 equity securities that indicate that any person has become the
33 owner of record of more than 10 percent of its outstanding equity
34 securities of any class.

35 (c) Upon request of the commission, furnish to it a
36 copy of any document filed by the publicly traded corporation
37 with the foreign governmental agency that regulates the sale of
38 its securities or with any national or regional securities
39 exchange, including documents considered to be confidential in
40 nature, or any document furnished by it to any of its equity
41 security holders of any class.

42 19893. (a) Each officer, employee, director, partner,
43 principal, trustee, or direct or beneficial owner of any interest
44 in any holding company or intermediary company, including a
45 publicly traded corporation, whom the commission determines is,
46 or is to become, engaged in the administration or supervision of,
47 or has any other significant involvement with, the activities of
48 a Level I corporate licensee shall apply for and obtain a Level
49 II license.

50 (b) Except as provided in subdivision (a), officers,
51 directors, and shareholders of a holding company that is a

1 publicly traded corporation may be required to apply for a Level
2 II license.

3 (c) (1) If any officer, employee, director, partner,
4 principal, or direct or beneficial owner required to obtain a
5 license pursuant to this chapter fails to apply for the license
6 within the time required, or is denied a license by the
7 commission, or if his or her license is revoked after appropriate
8 findings by the commission division, the holding company or
9 intermediary company, or both, shall immediately remove that
10 person from any position in the administration or supervision of,
11 or any other significant involvement with, the activities of a
12 Level I corporate licensee.

13 (2) If the commission suspends the license of any
14 officer, employee, director, partner, principal, trustee, or
15 owner, the holding company or intermediary company, or both,
16 shall, immediately and for the duration of the suspension,
17 suspend him or her from performing any duties in administration
18 or supervision of the activities of the Level I corporate
19 licensee and from any other significant involvement therewith.

20 19894. The commission shall adopt regulations
21 specifying the information required to be furnished to the
22 division by each holding company and intermediary company in the
23 event the corporation applying for or holding a license is or
24 becomes a subsidiary.

25 19895. If any Level I corporate or limited partnership
26 licensee, or if any holding company or intermediary company with
27 respect thereto, does not comply with the laws of this state and
28 the regulations of the commission, the commission, in its
29 discretion, may take one or more of the following steps in
30 accordance with state law and the regulations of the commission:

31 (a) Revoke, limit, condition, or suspend the Level I
32 license of the corporate or limited partnership licensee.

33 (b) Fine the persons involved, or the corporate or
34 limited partnership licensee, or such holding company or
35 intermediary company.

36 37 Article 8. Restrictions on Certain Transactions.

38
39 19900. (a) The following security interests may not
40 be enforced without the prior approval of the commission and
41 compliance with the regulations adopted by the commission
42 pursuant to subdivision (b):

43 (1) In a security issued by a corporation which is a
44 holder of a Level I gaming license in this state.

45 (2) In a security issued by a holding company that is
46 not a publicly traded corporation.

47 (3) In a security issued by a holding company that is
48 a publicly traded corporation, if the enforcement of the security
49 interest will result in the creditor acquiring control.

50 (4) In a security issued by a partnership which is a
51 holder of a Level I gaming license in this state.

1 (b) The commission shall adopt regulations
2 establishing the procedure for the enforcement of a security
3 interest. Any remedy provided by the commission in its
4 regulations for the enforcement of the security interest is in
5 addition to any other remedy provided by law.

6 19901. It is unlawful for any person to sell,
7 purchase, lease, hypothecate, borrow or loan money, or create a
8 voting trust agreement or any other agreement of any sort to or
9 with any licensee in connection with any controlled gaming
10 operation licensed under this chapter or with respect to any
11 portion of the gaming operation, except in accordance with the
12 regulations of the commission.

13 19902. When any person contracts to sell or lease any
14 property or interest in property, real or personal, under
15 circumstances which require the approval or licensing of the
16 purchaser or lessee by the commission, the contract shall not
17 specify a closing date for the transaction that is earlier than
18 the expiration of 90 days after the submission of the completed
19 application for such approval for licensing. Any provision of
20 such a contract that specifies an earlier closing date is void
21 for all purposes, but the invalidity does not affect the validity
22 of any other provision of the contract.

23 19903. When any person contracts to sell or lease any
24 property or interest in property, real or personal, under
25 circumstances that require the approval or licensing of the
26 purchaser or lessee by the commission, the contract shall contain
27 a provision satisfactory to the commission regarding
28 responsibility for the payment of any fees due pursuant to any
29 subsequent deficiency determinations made under this chapter
30 which shall encompass any period of time before the closing date
31 of the transaction.

32 33 Article 9. Work Permits 34

35 19910. (a) The Legislature finds that, to protect and
36 promote the health, safety, morals, good order, and general
37 welfare of the inhabitants of this state, and to carry out the
38 policy declared by this chapter, it is necessary that the
39 division do both of the following:

40 (1) Ascertain and keep itself informed of the
41 identity, prior activities, and present location of all gaming
42 employees and independent agents in the State of California.

43 (2) Maintain confidential records of the information
44 described in paragraph (1).

45 (b) (1) A person may not be employed as a gaming
46 employee or serve as an independent agent, except as provided in
47 paragraph (2), unless he or she is the holder of either of the
48 following:

49 (A) A valid work permit issued in accordance with the
50 applicable ordinance or regulations of the county or city in
51 which his or her duties are performed and the provisions of this
52 chapter.

1 (B) A work permit issued by the division, if a work
2 permit is not required by either the county or the city.

3 (2) An independent agent is not required to hold a
4 work permit if he or she is not a resident of this state and has
5 registered with the division in accordance with regulations
6 adopted by the commission.

7 (c) The commission shall adopt regulations providing
8 an opportunity for the division to object to the grant of a work
9 permit by a county or city.

10 (d) Application for a work permit, valid wherever a
11 work permit is not required by any county or city licensing
12 authority, shall be made to the division, and may be granted or
13 denied for any cause deemed reasonable by the division. Whenever
14 the division denies the application, it shall include in its
15 notice of the denial a statement of facts upon which it relied in
16 denying the application.

17 (e) Any person whose application for a work permit has
18 been denied because of an objection by the division or whose
19 application has been denied by the division may apply to the
20 commission for an evidentiary hearing in accordance with
21 regulations.

22 (f) The division may object to the issuance of a work
23 permit or may refuse to issue a work permit for any cause deemed
24 reasonable by the division. The division shall adopt regulations
25 specifying particular grounds for objection to issuance of, or
26 refusal to issue, a work permit.

27 19911. (a) The commission may issue an order
28 summarily suspending a person's work permit upon a finding that
29 the suspension is necessary for the immediate preservation of the
30 public peace, health, safety, morals, good order, or general
31 welfare. The order becomes effective when served upon the holder
32 of the permit.

33 (b) The order of summary suspension shall state facts
34 upon which the finding of necessity for the suspension is based.
35 For purposes of this section, the order of summary suspension
36 shall be deemed an accusation.

37 (c) An order of summary suspension shall be signed by
38 at least three members of the commission.

39 (d) The person whose work permit is summarily
40 suspended has a right to a hearing in not less than 30 days from
41 the date of service.

42 19912. (a) If any gaming employee or independent
43 agent is convicted of a violation of this chapter, or if, in
44 investigating an alleged violation of this chapter by any
45 licensee the commission finds that a gaming employee employed by,
46 or an independent agent contracting with, the licensee has been
47 guilty of cheating, the commission shall, after hearing, take the
48 following action:

49 (1) If the gaming employee or independent agent holds
50 a work permit issued by the division, revoke it.

51 (2) If the gaming employee or independent agent holds
52 a work permit issued by a county or city licensing authority,

1 notify the authority to revoke it, and the county or city
2 licensing authority shall revoke it.

3 (b) The commission may revoke a work permit issued by
4 the division or, if issued by a county or city licensing
5 authority, notify the authority to revoke it, if the commission
6 finds, after a hearing, that the gaming employee or independent
7 agent has failed to disclose, misstated, or otherwise misled the
8 division with respect to any fact contained within any
9 application for a work permit or, if the commission finds,
10 subsequent to being issued a work permit that the gaming employee
11 or independent agent has done any of the following:

12 (1) Committed, attempted, or conspired to do any acts
13 prohibited by this chapter.

14 (2) Knowingly possessed or permitted to remain in or
15 upon any licensed premises any cards, dice, mechanical devices or
16 any other cheating device whatever, the use of which is
17 prohibited by statute or ordinance.

18 (3) Concealed or refused to disclose any material fact
19 in any investigation by the division.

20 (4) Committed, attempted, or conspired to commit any
21 embezzlement or larceny against a Level I gaming licensee or upon
22 the premises of a licensed gaming establishment.

23 (5) Been convicted in any jurisdiction other than
24 California of any offense involving or relating to gambling.

25 (6) Accepted employment without prior commission
26 approval in a position for which he or she could be required to
27 be licensed under this chapter after having been denied a license
28 or after failing to apply for licensing when requested to do so
29 by the commission.

30 (7) Been refused the issuance of any license, permit,
31 or approval to engage in or be involved with gaming or parimutuel
32 wagering in any jurisdiction other than California, or had the
33 license, permit, or approval revoked or suspended.

34 (8) Been prohibited under color of governmental
35 authority from being present upon the premises of any gaming
36 establishment or any establishment where parimutuel wagering is
37 conducted for any reason relating to improper gambling activities
38 or any illegal act.

39 (9) Been convicted of any felony other than one
40 constituting a violation of this chapter.

41 (c) A work permit shall not be issued by any authority
42 in this state to a person whose work permit has previously been
43 revoked pursuant to this section, or to whom the issuance or
44 renewal of a work permit has been denied, except with the
45 unanimous approval of the commission members.

46 (d) Nothing in this section shall be construed to
47 limit any commission powers respecting licensing.

48 19913. The fee for a work permit issued by the
49 division shall be not less than twenty-five dollars (\$25) nor
50 more than two hundred fifty dollars (\$250).
51

1 Article 9. Disciplinary Actions

2
3 19920. (a) The division shall make appropriate
4 investigations as follows:

5 (1) Determine whether there has been any violation of
6 this chapter or any regulations adopted thereunder.

7 (2) Determine any facts, conditions, practices, or
8 matters which it may deem necessary or proper to aid in the
9 enforcement of this chapter or any regulation adopted thereunder

10 (3) To aid in adopting regulations.

11 (4) To secure information as a basis for recommending
12 legislation relating to this chapter.

13 (5) As directed by the commission.

14 (b) If, after any investigation, the division is
15 satisfied that a license, registration, or prior approval by the
16 commission of any transaction for which the approval was required
17 or permitted under the provisions of this chapter, should be
18 limited, conditioned, suspended, or revoked, it shall initiate a
19 hearing before the commission by filing an accusation with the
20 commission in accordance with regulations adopted by the
21 commission.

22 (c) Upon receipt of the accusation of the division,
23 the commission shall review it and all matter presented in
24 support thereof, and shall conduct further proceedings thereon in
25 accordance with regulations adopted by the commission.

26 (d) After hearing, the commission may take such action
27 as it deems necessary to effectuate the purposes of this chapter,
28 including, but limited to, the following:

29 (1) Limiting, conditioning, suspending, or revoking a
30 license, registration, or approval.

31 (2) Excluding any licensee from a gaming
32 establishment.

33 (3) Ordering the exclusion of any person from a gaming
34 establishment.

35 (4) Prohibiting the payment of remuneration or
36 compensation to a licensee.

37 (5) Requiring the payment of fines or penalties.
38 However, no fine imposed by the commission shall exceed twenty
39 thousand dollars (\$20,000) for each separate violation of any
40 provision of this chapter or any regulation adopted thereunder.

41 (e) If the commission limits, conditions, suspends, or
42 revokes any license or registration, or imposes any fine, or
43 limits, conditions, suspends, or revokes any prior approval, it
44 shall issue its written order therefor after causing to be
45 prepared and filed its written decision upon which the order is
46 based.

47 (f) Any limitation, condition, revocation, suspension,
48 or fine made pursuant to subdivision (e) is effective until
49 reversed upon judicial review, except that the commission may
50 stay its order pending a rehearing or judicial review upon such
51 terms and conditions as it deems proper.
52

1 19921. (a) The commission may issue any emergency
2 orders against a licensee or any person involved in a transaction
3 requiring prior approval that the commission deems reasonably
4 necessary for the immediate preservation of the public peace,
5 health, safety, or general welfare.

6 (b) The emergency order shall set forth the grounds
7 upon which it is based, including a statement of facts
8 constituting the alleged emergency necessitating such action.

9 (c) An emergency order may be issued only with the
10 approval of not less than three members of the commission.

11 (d) The emergency order is effective immediately upon
12 issuance and service upon the licensee or any agent of the
13 licensee registered with the commission for receipt of service,
14 or, in cases involving prior approval, upon issuance and service
15 upon the person or entity involved, or upon an agent of such
16 person or entity authorized to accept service of process in this
17 state. The emergency order may suspend, limit, condition, or
18 take other action in relation to the license of one or more
19 persons in an operation without affecting other individual
20 licensees registrants or the licensed gaming establishment. The
21 emergency order remains effective until further order of the
22 commission or final disposition of the case.

23 (e) Within five days after issuance of an emergency
24 order, the commission shall cause an accusation to be filed and
25 served upon the person or entity involved in accordance with
26 regulations adopted by the commission. Thereafter, the person or
27 entity against whom the emergency order has been issued and
28 served is entitled to a hearing in not less than 30 days.

29 19922. (a) Any person aggrieved by a final decision
30 or order of the commission that suspends or revokes a license or
31 registration, or imposes any fine, or limits, conditions,
32 suspends, or revokes any previously granted license,
33 registration, or approval, made after hearing or rehearing by the
34 commission, may petition for judicial review pursuant to Section
35 1094.5 of the Code of Civil Procedure.

36 (b) Notwithstanding any other provision of law, the
37 filing of a petition pursuant to this section shall not stay
38 enforcement of the decision or order of the commission, but the
39 commission itself may grant a stay upon such terms and conditions
40 as it deems proper.

41 (c) The court shall affirm the decision and order of
42 the commission unless it finds that the commission's findings are
43 not supported by substantial evidence in light of the whole
44 record.

45 (d) A court shall have no power to modify an order of
46 the commission, but a judgment of the court may remand the case
47 to the commission for reconsideration of an order.

48 (e) The provisions of this section provide the
49 exclusive means to review adjudicatory decisions of the
50 commission.

1 Article 10. Criminal Acts
2

3 19930. Any person who has been placed on the list of
4 persons to be excluded or ejected from a gaming establishment
5 pursuant to this chapter is guilty of a misdemeanor if he or she
6 thereafter knowingly enters the premises of a licensed gaming
7 establishment.

8 19932. (a) A person under the age of 18 years shall
9 not do any of the following:

10 (1) Play, be allowed to play, place wagers at, or
11 collect winnings from, whether personally or through an agent,
12 any gambling game.

13 (2) Loiter, or be permitted to loiter, in or about any
14 room or premises wherein any licensed game is operated or
15 conducted.

16 (3) Be employed as a gaming employee.

17 (b) Any licensee, employee, dealer, or other person
18 who violates or permits the violation of any of this section and
19 any person, under 18 years of age, who violates this section, is
20 guilty of a misdemeanor.

21 (c) In any prosecution or other proceeding for the
22 violation of this section, it is not a defense for the licensee,
23 employee, dealer, or other person to plead that he or she
24 believed the person to be 18 years of age or older.

25 19933. (a) The conviction of a person for violation
26 of, an attempt to violate, or conspiracy to violate this chapter
27 shall act as an immediate revocation of all licenses and
28 registration issued to the violator, and, in addition, the court,
29 upon application of the district attorney or of the commission,
30 may order that no new or additional license under this chapter be
31 issued to the violator, or be issued to any person for the room
32 or premises in which the violation occurred, for one year after
33 the date of revocation.

34 (b) Any person who willfully fails to report, pay, or
35 truthfully account for and pay over any license registration fee
36 imposed by this chapter, or willfully attempts in any manner to
37 evade or defeat the license fee or payment thereof shall be
38 punished by imprisonment in the state prison, or by a fine of not
39 more than five thousand dollars (\$5,000), or by both the
40 imprisonment and fine.

41 (c) Any person who willfully violates, attempts to
42 violate, or conspires to violate any provision of a regulation
43 adopted pursuant to paragraph (5) of subdivision (b) of Section
44 19844, relating to cash or credit transactions, shall be punished
45 by imprisonment in state prison, by imprisonment in the county
46 jail for not more than one year, by a fine of not less than ten
47 thousand dollars (\$10,000), or by both the imprisonment and fine.

48 (d) A violation of this chapter, the penalty for which
49 is not specifically fixed in this chapter, is punishable by
50 imprisonment in the county jail for not more than one year, by a
51 fine of not more than one thousand dollars (\$1,000), or by both
52 the imprisonment and fine, or by imprisonment in the state

1 prison, by a fine of not more than ten thousand dollars
2 (\$10,000), or by both the imprisonment and fine.

3 19935. Any person who shall willfully resist, prevent,
4 impede, or interfere with the division or the commission or any
5 of their agents or employees in the performance of duties
6 pursuant to this chapter is guilty of a misdemeanor, punishable
7 by imprisonment in the county jail for not more than six months,
8 or by a fine not exceeding one thousand dollars (\$1,000), or both
9 the imprisonment and fine.

10 Article 11. Revenues

11
12
13 19940. (a) All penalties collected pursuant to this
14 chapter shall be deposited in a special account in the General
15 Fund to be available to the Department of Justice to offset costs
16 incurred pursuant to this chapter when appropriated by the
17 Legislature therefor.

18 (b) All fees and revenues collected pursuant to this
19 chapter shall be deposited in the Gaming Control Fund that is
20 hereby created. Notwithstanding Section 13340 of the Government
21 Code, funds deposited in the Gaming Control Fund are hereby
22 continuously appropriated without regard to fiscal years, to the
23 Department of Justice and shall be used exclusively for the
24 support of the Division of Gaming Control and the Gaming Control
25 Commission in carrying out their duties and responsibilities
26 under this chapter.

27 (c) Revenues collected from Indian tribes for purposes
28 of conducting background investigations or for inspections of
29 gaming equipment shall be deposited into the investigative
30 account of the Gaming Control Fund. Other fees and revenues
31 collected from Indian tribes pursuant to a tribal-state compact
32 may be deposited into the Gaming Control Fund or into the General
33 Fund as determined by the Legislature.

34 19941. (a) Except as provided in subdivision (b), the
35 issuance and renewal fees for a Level I license are as follows:

36 (1) For all Level I licenses authorizing one to five
37 game tables, not more than three hundred dollars (\$300) per game
38 table.

39 (2) For all Level I licenses authorizing five to eight
40 game tables, not more than five hundred dollars (\$500) per game
41 table.

42 (3) For all Level I licenses authorizing 9 to 14
43 tables, not more than one thousand two hundred fifty dollars
44 (\$1250) per game table.

45 (4) For all Level I licenses authorizing 15 to 25 game
46 tables, not more than two thousand five hundred dollars (\$2500)
47 per game table.

48 (5) For all Level I licenses authorizing 26 or more
49 game tables, not more than five thousand dollars (\$5000) per game
50 table.

51 (b) Without regard to the number of games authorized
52 by a Level I license, if, at the time of any license renewal, it

1 is determined that the gross revenues of a Level I licensee
2 during the licensee's previous fiscal year fell within the
3 following ranges, the fee for renewal of the license shall be as
4 follows:

5 (1) For a gross revenue of one hundred thousand
6 dollars (\$100,000) to two hundred forty-nine thousand nine
7 hundred ninety-nine dollars (\$249,999), the amount specified by
8 the commission pursuant to subdivision (2) of subdivision (a).

9 (2) For a gross revenue of two hundred fifty thousand
10 dollars (\$250,000) to nine hundred ninety-nine thousand nine
11 hundred ninety-nine dollars (\$999,999), the amount specified by
12 the commission pursuant to paragraph (3) of subdivision (a).

13 (3) For a gross revenue of one million dollars
14 (\$1,000,000) to four million nine hundred ninety-nine thousand
15 nine hundred ninety-nine dollars (\$4,999,999), the amount
16 specified by the commission pursuant to paragraph (4) of
17 subdivision (a).

18 (4) For a gross revenue of five million dollars
19 (\$5,000,000) or more, the amount specified by the commission
20 pursuant to paragraph (5) of subdivision (a).

21 (c) Notwithstanding subdivision (b), the fee for
22 renewal of a Level I license shall not be less than the amount
23 specified in subdivision (a).

24 (d) The commission shall annually review the fees
25 described in subdivision (a) and, by regulation, may provide for
26 the reduction of the maximum amounts stated therein.

27 (e) The commission may provide for payment of Level I
28 license fees on an annual or more frequent basis.

29 (f) For purposes of this section, each table at which
30 a game is played constitutes a single game table.

31 19943. The issuance and renewal fee for a
32 manufacturer's or distributor's license shall be not more than
33 ten thousand dollars (\$10,000).

34
35 19944. Nothing contained in this chapter shall be
36 deemed to restrict or limit the power of any county, city, or
37 city and county to fix, impose, and collect a license tax.

38 39 Article 12. Local Governments

40
41 19950. This chapter shall not prohibit the enactment,
42 amendment, or enforcement of any ordinance by any county, city,
43 or city and county relating to gaming clubs which is not
44 inconsistent with this chapter.

45
46 19951. No Level I registration shall be granted with
47 respect to any gaming establishment located within the
48 territorial limits of any county, city, or city and county which
49 had not permitted gaming clubs prior to January 1, 1984, unless a
50 majority of the electors voting thereon affirmatively approve a
51 measure permitting controlled gaming within that city, county, or

1 city and county. The question shall appear on the ballot in
2 substantially the following form:

3
4 "Shall card clubs in which any games permitted by law,
5 such as draw poker, low-ball poker, panguingue (pan),
6 seven-card stud, pai gow poker, pai gow, and super pan
7 9 are played be allowed in _____?"

8 "Yes _____ No _____"

9
10 In addition, the implementing ordinances shall be
11 drafted and appear in full on the sample ballot and shall set
12 forth at least the following:

- 13
14 (a) The hours of operation.
15 (b) The games to be played.
16 (c) The wagering limits
17

18 Future amendments to the ordinance changing any of
19 those elements shall appear on the sample ballot and be submitted
20 to the voters for approval.
21

22 19953. Any city, county, or city and county permitting
23 gaming may, by ordinance, provide for the exclusion or ejection
24 from any gaming establishment of any individual who has engaged
25 in or been convicted of bookmaking, sale of controlled substances
26 or illegal gambling activities, or whose presence in or about
27 gaming establishments would be inimical to the interests of
28 legitimate gaming.
29

30 19955. (a) Any person who, pursuant to local
31 ordinance, is excluded or ejected from any gaming establishment
32 may apply to the city, county, or city and county licensing
33 authority for a hearing on the question whether the ordinance is
34 applicable. The hearing shall be held within 30 days after
35 receipt of the application or at such time as the applicant and
36 licensing authority may agree.
37

38 (b) If, upon the hearing, the licensing authority
39 determines that the rule does not or should not apply to the
40 applicant, it shall notify all gaming establishments licensed by
41 the city, county, or city and county of such determination. If
42 the licensing authority determines that the exclusion or ejection
43 was proper, it shall make an order to that effect. Such order
44 shall be subject to review by any court of competent jurisdiction
45 in accordance with law.

46 19556. Notwithstanding any other provision of law, no
47 gaming establishment which ejects or excludes any individual
48 based upon an ordinance adopted pursuant to Section 19953 shall
49 be subject to civil liability if such ejection or exclusion was
50 based upon a reasonable and good faith belief that the ordinance
51 applied to the individual in question.
52

1 19957. If any clause, sentence, paragraph, or part of
2 this chapter is, for any reason, adjudged by a court of competent
3 jurisdiction to be invalid, that judgment shall not affect,
4 impair, or invalidate the remainder of this chapter and the
5 application thereof to other persons or circumstances, but shall
6 be confined to the operation of the clause, sentence, paragraph,
7 or part thereof directly involved in the controversy in which the
8 judgment was rendered and to the person or circumstances
9 involved.

10
11 SEC. 3. Section 12012 of the Government Code is
12 amended to read:

13 12012. (a) The Governor is the sole organ of
14 communication between the government of this State and the
15 government of any other State or of the United States.

16 (b) The Governor is authorized and empowered to
17 negotiate and execute, on behalf of the State, compacts with
18 federally recognized Indian tribes in the State of California
19 pursuant to the the federal Indian Gaming Regulatory Act, 25
20 U.S.C. Sec. 2701 et seq., for conducting Class III gaming as
21 defined in the act, on Indian lands. The Governor may delegate
22 responsibility for negotiation of tribal-state compacts to the
23 Attorney General.

24
25 SEC. 4. Section 15001 of the Government Code is
26 amended to read:

27 15001. The department is composed of the Office of the
28 Attorney General, ~~and~~ the Division of Law Enforcement, and the
29 Division of Gaming Control.

30 SEC. 5. Section 15001.1 is added to the Government
31 Code to read:

32 15001.1. The Division of Gaming Control shall be
33 responsible for investigation and enforcement of controlled
34 gaming activity in this state as set forth in the Gaming Control
35 Act (Chapter 5 (commencing with Section 19800) of Division 8 of
36 the Business and Professions Code). The division shall also have
37 investigatory and enforcement responsibilities in connection with
38 gaming activities as may be allocated to the State of California
39 in an approved gaming compact entered into pursuant to the Indian
40 Gaming Regulatory Act (25 U.S.C. Sec. 2701 et seq.), except to
41 the extent that such responsibility is vested by statute in the
42 California Horse Racing Board.

43 SEC. 6. Section 15001.2 is added to the Government
44 Code to read.

45 15001.2. Any process issued by the division for
46 purposes of implementing and enforcing the provisions of the
47 Gaming Control Act (Chapter 5 (commencing with Section 19800) of
48 Division 8 of the Business and Professions Code) may be issued in
49 the name of the Division of Gaming Control. Any hearing
50 conducted by the Attorney General for these purposes may be
51 styled as conducted before the Division of Gaming Control.

1 SEC. 7. Section 337j is added to the Penal Code to read:

2 337j. (a) It is unlawful for any person, as owner, lessee,
3 or employee, whether for hire or not, either solely or in
4 conjunction with others, without having first procured and
5 thereafter maintained in effect, all federal, state, and local
6 licenses that may be required by law, to do any of the following:

7 (1) To deal, operate, carry on, conduct, maintain, or
8 expose for play in this state any controlled game or gaming
9 equipment used in connection with any controlled game.

10 (2) To receive, directly or indirectly, any
11 compensation or reward or any percentage or share of the revenue,
12 for keeping, running, or carrying on any controlled game.

13 (3) To manufacture or distribute within the
14 territorial boundaries of this state any gaming equipment to be
15 used in connection with controlled gaming,

16 (b) (1) As used in this section, the term "controlled
17 game" means any game of chance played for currency, check, credit
18 or any other thing of value which is not prohibited and made
19 unlawful by Chapter 9 (commencing with Section 319) or Chapter 10
20 (commencing with Section 330), or by local ordinance.

21 (2) As used in this section, "controlled game" does
22 not include any of the following:

23 (A) The game of bingo conducted pursuant to Section
24 326.5.

25 (B) Parimutuel racing on horseraces regulated by the
26 California Horse Racing Board.

27 (C) Any lottery game conducted by the California State
28 Lottery.

29 (C) Games played with cards in private homes or
30 residences in which no person makes money for operating the game,
31 except as a player.

32 (c) It is unlawful for any person to knowingly permit
33 any controlled game to be conducted, operated, dealt, or carried
34 on in any house or building or other premises which he or she
35 owns or leases, in whole or in part, if that activity is
36 undertaken by a person who is not licensed as required by state
37 law, or by an employee of that person.

38 (d) Any person who violates, attempts to violate, or
39 conspires to violate this section shall be punished by
40 imprisonment in state prison, or by imprisonment in the county
41 jail for not more than one year, or by a fine of not more than
42 ten thousand dollars (\$10,000), or by both the imprisonment and
43 fine.

44 SEC. 8. (a) Every person possessing a valid
45 registration, issued pursuant to Chapter 721 of the Statutes of
46 1983, and unexpired as of the effective date of this act, shall,
47 as of the effective date of this act, be deemed to hold a
48 provisional controlled gaming license. Until a provisional
49 licensee is summoned pursuant to subdivision (c), no other state
50 gaming license shall be required in connection with a controlled
51 gaming operation owned, managed, or operated by a person holding
52 a provisional license registration. Upon payment of the fees

1 described in subdivision (b), the provisional license shall be
2 valid until the earlier of the following events:

3 (1) December 31, 1994.

4 (2) The granting or denial of an application for a
5 Level I gaming license.

6 (b) Every person holding a provisional license
7 pursuant to subdivision (a), who desires that the provisional
8 license be converted to a Level I gaming license shall, no later
9 than 30 days after the effective date of this chapter, deposit
10 with the division a provisional license fee calculated as the
11 maximum amount specified for each level of operation in
12 subdivision (a) of Section 19950 of the Business and Professions
13 Code, as enacted by this act. However, credit shall be given for
14 any fee paid pursuant to Section 2 of chapter 721 of the Statutes
15 of 1983, codified thereby as Section 19808 of the Business and
16 Professions Code.

17 (c) Commencing July 1, 1994, the Division of Gaming
18 Control shall, in its sole discretion, summon persons holding
19 provisional licenses for the purpose of applying for gaming
20 licenses as may be required under the Gaming Control Act enacted
21 by this act. Thereafter, the license application process shall
22 proceed as an initial application for licensure in accordance
23 with the provisions of such Gaming Control Act, including the
24 advance deposit of fees for investigation of the application or
25 applications.

26 (d) If an application for a Level I license is
27 granted, and upon payment of the fees specified by the commission
28 pursuant to the Gaming Control Act, as enacted by this act, a
29 Level I license may be issued, to expire not later than 12 months
30 thereafter. In the event of this issuance prior to December 31,
31 1994, the licensee shall be entitled to a credit, if any, for the
32 fee paid pursuant to subdivision (b).

33 (e) If an application for a Level I license is denied,
34 the applicant shall be entitled to a pro rata refund of the fee
35 paid pursuant to subdivision (b), and any unused deposit of
36 investigative fees.

37 (f) If the division does not, prior to December 31,
38 1994, summon a person holding a provisional license for the
39 purpose of applying for a Level I gaming license, the commission
40 shall, upon request of the holder of the provisional license, and
41 upon payment of the fees specified by the commission pursuant to
42 the Gaming Control Act, as enacted by this act, extend the
43 provisional license until December 31, 1995. Thereafter, the
44 process described in subdivisions (c), (d), and (e) shall apply
45 in similar fashion.

46 (g) No application for a state gaming license may be
47 submitted to the division prior to July 1, 1994. It is the
48 intent of the Legislature that the commission and division shall
49 be fully operative by July 1, 1994.

50 SEC. 9. Any and all funds remaining in the fund
51 created by Section 2 of Chapter 721 of the Statutes of 1983,
52 codified thereby as Section 19818 of the Business and Professions

1 Code, on December 31, 1993 shall, effective January 1, 1994, be
2 transferred to the Gaming Control Fund created by this act.

3 SEC. 10. No reimbursement is required by this act
4 pursuant to Section 6 of Article XIII B of the California
5 Constitution for those costs which may be incurred by a local
6 agency or school district because this act creates a new crime or
7 infraction, changes the definition of a crime or infraction,
8 changes the penalty for a crime or infraction, or eliminates a
9 crime or infraction.

10 However, notwithstanding Section 17610 of the
11 Government Code, if the Commission on State Mandates determines
12 that this act contains other costs mandated by the state,
13 reimbursement to local agencies and school districts for those
14 costs shall be made pursuant to Part 7 (commencing with Section
15 17500) of Division 4 of Title 2 of the Government Code. If the
16 statewide cost of the claim for reimbursement does not exceed one
17 million dollars (\$1,000,000), reimbursement shall be made from
18 the State Mandates Claims Fund.

19 Notwithstanding Section 17580 of the Government Code,
20 unless otherwise specified in this act, the provisions of this
21 act shall become operative on the same date that the act takes
22 effect pursuant to the California Constitution.
23
24

#

APPENDIX D



**CALIFORNIA GAMING CONTROL COMMISSION
PROPOSED ORGANIZATIONAL CHART
TOTAL COSTS**

<i>Division of Gaming Control (Commissioners' Office) (7 positions)</i>	\$ 210,095
<i>Division of Gaming Control (Director's Office) (13 positions)</i>	\$ 1,070,727
<i>Licensing and Investigations Bureau (27 positions)</i>	\$ 1,927,150
<i>Administration Bureau (13 positions)</i>	\$ 549,521
<i>Enforcement and Intelligence Bureau (23 positions)</i>	\$ 1,673,372
<i>Auditing Bureau (11 positions)</i>	\$ 607,993
<i>(94 pps.) Total</i>	
TOTAL STARTUP COSTS	\$ 6,038,858

CALIFORNIA GAMING CONTROL COMMISSION
(Total Costs - \$210,095)

Commissioner Commissioner Commissioner Commissioner Commissioner

*Executive Secretary
(CEA V)*

*Executive Secretary I
(Clerical)*

The cost estimates for the Commissioner positions are based upon part-time unsalaried Commissioners compensated at \$100 per meeting (2 meetings per month) and to cover per diem and other administrative costs related to their duties. The Executive Secretary (CEA V) is a full-time executive position in support of the Commission handling the day to day operations related to hearings, appeals, revocations, suspensions, etc. In addition, there must be clerical support to the Executive Secretary; however, clerical support to the Commission will be provided by the Gaming Control Division.

DIVISION OF GAMING CONTROL
(Total Costs -\$1,070,727)

<i>Director</i> -----	<i><u>Headquarters</u></i>	<i>Deputy Attorney Generals (4)</i>
<i>Executive Secretary</i>	<i>SAC</i>	
<i>Deputy Director</i> -----	<i>AGPA (2)</i>	
<i>Secretary</i>	<i>SSA</i>	
	<i>WPT</i>	

The Director and Deputy Director provide administrative and operational management to the Gaming Control Division. Sufficient clerical support must be provided for these positions as well as the Deputy Attorney Generals assigned to the Division. Administrative support to Headquarters is required for special projects, legislative proposals, management analysis, research and coordination with Departmental budget and personnel staff.

The Special Agent in Charge will coordinate for the Director, the licensing, background investigations and enforcement activities within the Division.

Licensing and Investigations Bureau
(Total Costs - \$1,927,150)

Chief

Secretary

Public Corporations Section

Sacramento RO

Los Angeles RO

DOJA I

Special Agent III

Special Agent III

AGPA

Special Agent II (6)

Special Agent II (6)

SSA (2)

Investigative Auditor II

Investigative Auditor II

Office Technician

SSA

SSA

Office Technician

Office Technician

The Public Corporations Section will conduct specialized background investigations of corporate ownership and monitor SEC and other changes in ownership of corporately-owned gaming establishments. The licensing and background teams, consisting of agents, auditors and support staff (located in Northern and Southern California) will be responsible for conducting background investigations and issuing new gaming licenses and renewals.

Administration Bureau
(Total Costs - \$549,521)

Chief
DOJA I

Department Admin. Support

Office Technician

AGPA

Research Analyst

SSA (2)

AGPA

PSSII

Program Technician

SSA

OA

Office Technician

Office Technician

The Administration Bureau will prepare and administer the Division budget, personnel transactions, contracts, training, hearing process, legislative bill analyses, special research and administrative/clerical support to the Commission.

Enforcement and Intelligence Bureau
(Total Costs - \$1,673,372)

Chief

Office Technician

Headquarters

Sacramento RO

Los Angeles RO

CIS III

Special Agent III

Special Agent III

CIS II (2)

Special Agent II (6)

Special Agent II (6)

Property Controller

Property Controller

Office Assistant

Office Assistant

The Enforcement and Intelligence Bureau will be responsible for ongoing intelligence gathering and enforcing violations of gaming laws and/or other criminal activities related to gaming and organized crime this will ensure the integrity of the industry protect the public. These personnel will conduct undercover investigations, develop sources of information and locate and arrest suspect to enforce all state and local regulations related to gaming. Additionally, the Bureau will analyze criminal intelligence information and prepare analysis and trends relating to gaming.

Auditing Bureau
(Total Costs - \$607,993)

Chief
Investigative Auditor IV/Sup.

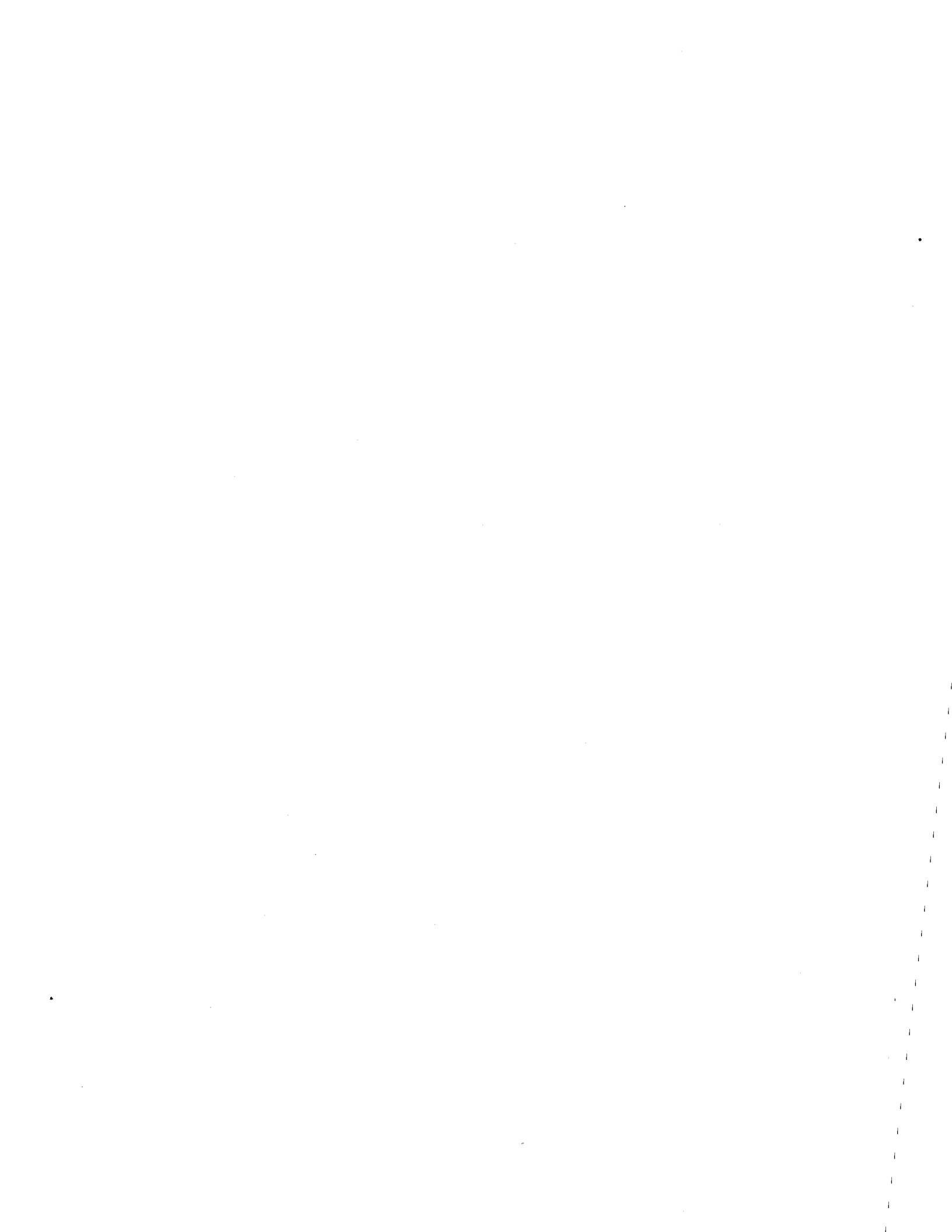
Office Technician

Investigative Auditor III (6)

Investigative Auditor II (2)

Accounting Technician

The Auditing Bureau will conduct financial background analysis of perspective applicants, conduct on-site field audits, track and monitor money flow, research development and special projects, i.e. money laundering, skimming and tax evasion.

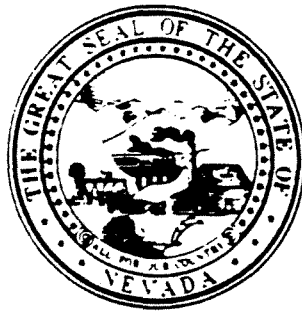


APPENDIX E



GAMING

Nevada Style



NEVADA GAMING COMMISSION
AND
STATE GAMING CONTROL BOARD

Carson City, Nevada



STATE OF NEVADA
EXECUTIVE CHAMBER

Carson City, Nevada 89710

BOB MILLER
Governor

TELEPHONE
702-687-5670



Nevada is proud of its legalized gambling industry and the fine reputation it enjoys around the world. "Gaming Nevada Style" has been produced to provide you with some historical information regarding one of the leading industries in the Silver State, as well as an overview of the importance Nevada places on gaming regulation.

We are well aware that Nevada's continued growth as a leading tourist destination depends in large part on sensible gaming regulation. Stringent but fair gaming laws are administered and enforced throughout the state by agents of Nevada's Gaming Control Board, as well as local law enforcement agencies.

You will find this booklet informative and useful and I hope that through it you gain a greater insight into the nature of gaming and its regulation in the state of Nevada.

Sincerely,

A handwritten signature of Bob Miller in cursive script.

BOB MILLER
Governor

GOVERNOR BOB MILLER
Gaming Policy Committee Chairman
MARILYN EPLING, Executive Secretary

STATE OF NEVADA




JOHN F. O'REILLY, Chairman
KENNETH R. GRAGSON, Member
BOB J. LEWIS, Member
BETTY B. VOGLER, Member
ROBERT N. PECCOLE, Member

NEVADA GAMING COMMISSION

1150 East William Street
Carson City, Nevada 89710
(702) 687-6530

On behalf of the Nevada Gaming Commission, I am pleased with your interest in gaming in our State. If your interest is general in nature or if you are someone considering employment or an equity ownership in the gaming industry, I am sure you will find the information contained in Gaming Nevada Style both interesting and useful.

Gaming in Nevada has been and is recognized as a business and industry that is vitally important to the economy of the State. We invite you to share in our commitment to maintain the integrity of gaming, to foster the stability and success of gaming and to preserve the competitive economy and policies of free competition in the State of Nevada.


JOHN F. O'REILLY
Chairman

BOB MILLER
Governor

STATE OF NEVADA

WILLIAM A. BIBLE, Chairman
DENNIS L. AMERINE, Member
GERALD M. CUNNINGHAM, Member



GAMING CONTROL BOARD

1150 E. William Street
Carson City, Nevada 89710

Gaming Nevada Style is a publication of the Gaming Control Board and is designed to provide a brief overview of the legalized gaming industry and its regulation in our State.

Chapter 1 is a brief narrative of Nevada's early gaming history and provides a glimpse of what gambling was like prior to state regulation. Chapter 2 describes the evolution of gaming from the early days into gaming as we experience it today with many major resort hotel-casinos throughout Nevada. The remaining chapters of Gaming Nevada Style provide information about this agency and the Nevada Gaming Commission, as well as a review of the taxing and licensing structures for gaming licensees.

Detailed statistical and economic reports may be purchased from this agency, including the Nevada Gaming Abstract, Monthly, Quarterly, and Annual Gaming Revenue Analysis reports.

A handwritten signature in cursive script that reads "William A. Bible".

William A. Bible
Chairman

STATE OF NEVADA POLICY CONCERNING GAMING *

1. The legislature hereby finds, and declares to be the public policy of this State, that:

(a) The gaming industry is vitally important to the economy of the State and the general welfare of the inhabitants.

(b) The continued growth and success of gaming is dependent upon public confidence and trust that licensed gaming is conducted honestly and competitively, that the rights of the creditors of licensees are protected and that gaming is free from criminal and corruptive elements.

(c) Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations and activities related to the operation of licensed gaming establishments and the manufacture or distribution of gambling devices and equipment.

(d) All establishments where gaming is conducted and where gambling devices are operated, and manufacturers, sellers and distributors of certain gambling devices and equipment must therefore be licensed, controlled and assisted to protect the public health, safety, morals, good order and general welfare of the inhabitants of the State to foster the stability and success of gaming and to preserve the competitive economy and policies of free competition of the State of Nevada.

2. No applicant for a license or other affirmative commission approval has any right to a license or the granting of the approval sought. Any license issued or other commission approval granted pursuant to the provisions of this chapter or chapter 464 of NRS is a revocable privilege, and no holder acquires any vested right therein or thereunder.

*NRS 463.0129.

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CHAPTER 1

EARLY HISTORY

Gambling is not something peculiar to modern day Nevada, for gaming in this area dates back to at least 300 B.C. Archaeological discoveries in Clark County show that early day inhabitants of the area practiced gambling more than 2,000 years ago. American Indians have been pictured as ardent gamblers, and games of chance were played by virtually all the Indian tribes in North America.

The Nevada State Museum anthropological papers (No. 1, June 1962) report:

The Washo would bet on any game or competition. Footraces * * * were a favorite subject of wagers. Bets were made on the outcome of the men's football games, or the women's stick and rope games. Usually the players themselves would bet. * * * Sometimes the wager would involve only a hit on the head or hand, but often the stakes would get high, requiring payment of baskets, eagle tail feathers, jewelry, buckskins, or even a rabbit skin blanket.

Prior to Nevada's admission to the Union in 1864, the residents of the Nevada Territory had already adopted gambling as a way of life. Although prohibited on occasions, gaming has been legal in Nevada for most of the last 100 years. In 1861, while Nevada was still a territory, the first prohibition of all forms of gaming was made law; however, the Nevada Legislature in 1869 legalized gaming in spite of the Governor's veto. This law approved numerous games and imposed the first license fees—half of which were retained by the counties with the balance going to the state.

Between 1869 and 1907, many changes in regulations and license fees were made with the main concern being where and when gaming could be conducted. The 1907 Legislature redistributed gaming fee revenues so that all fees, except those from slot machines, were retained by the counties, while the slot machine fees went into the state coffers.

In 1909 gaming in all forms was again prohibited effective October 1, 1910. Violation of this new law was a felony, and law officers were authorized to "break down doors" to seize and destroy gaming equipment. On Governor Oddie's recommendation, the 1915 Legislature somewhat relaxed this prohibitions of gaming, permitting slot machines and certain social games, provided the play was for drinks, cigars or other prizes whose value did not exceed \$2. Also permitted were games in which the deal changed after each hand. The operators of these games were required to have licenses.

During the years this law remained on the books, enforcement became less and less effective. The number of illegal operations increased, taking

business from the legal establishments and consequently causing a decrease in state and local license fees.

Birth of Modern Era

Nevada began its modern era of legalized gambling in 1931, when Governor Balzar signed Assemblyman Tobin's so-called "wide open gambling" bill.

A schedule of license fees for all games and machines was established by this bill, with the counties assuming the responsibility for the licensing and for the collection of fees. Twenty-five percent of this revenue went into the state general fund, and the remainder stayed in the counties for county and city use. If the licensee was located in a city or town, 25 percent of the collections was allocated to the local government.

Today, after more than 50 years, it is still in effect.

There were various reasons why gambling was again approved in 1931, not the least of which was the dissatisfaction with the widespread illegal gambling that came into existence under the previous laws. Also, Nevadans probably felt the influence of their mining camp heritage, which in reality was not far removed historically. A further reason for the approval of gambling was stated in the Zubrow Report:¹

Another major factor which prompted legalized gambling was the hope that it would enhance business which had suffered severely in the nationwide depression. Another effort to attract business was the Legislature's passage of the six-week divorce bill in 1931 after passage of a liberal divorce bill in Arkansas. Governor Balzar signed the new divorce law on March 19, the same day he signed the new gambling bill. Finally it was recognized that legalized gambling would provide an additional source of tax revenue and needed relief from other taxes. As stated by the *Nevada State Journal* on January 18, prior to passage of the bill, "there is a strong sentiment, particularly in Southern Nevada, that some state or municipal revenue should be derived from the games which now run on every hand with apparent sanction of public sentiment. * * *"

Most of the nation's press believed Nevada's experiment was doomed to failure and, in fact, growth of the industry was slow for the first 10 years. By 1941, gaming had increased only 49 percent (over the 1931-32 level). However, in the three-year period 1941 through 1944 (war years) it increased another 56 percent, and averaged almost 19 percent for each of the three years.²

This last three-year period can be considered the dividing point between the early history and the modern history of gaming in Nevada.

¹Report to the 1960 Legislature, by R. A. Zubrow, R. L. Decker and E. H. Plank—commonly called the "Zubrow Report."

²Ibid.

CHAPTER 2

MODERN HISTORY

Through the mining camp days and on into this century, Nevada's casinos catered for the most part to the local gamblers. There was no concerted effort to lure big time gamblers from out of the state.

During this time, Reno and other parts of Washoe County were the leading areas, both in population and in amount of gambling.

Las Vegas, prior to World War II, had been little more than a water stop on the Union Pacific Railroad. Even in 1940, Clark County (of which Las Vegas is the county seat) accounted for less than 15 percent of the state's total population.

Turning Point

In December 1946, the Flamingo opened outside the city limits of Las Vegas on the highway to Los Angeles. This was Nevada's first major, plush resort hotel-casino, and it marked a turning point in the history of Nevada's gaming. Today there are many hotel-casino resorts on The Strip and Clark County has now assumed the dominant position in the state.

New Concept in Licensing

At about the same time the style of gambling in Southern Nevada was changing, the State Legislature introduced a new concept in licensing. A state licensing requirement was enacted, with fees based on a percentage of gross win. This fee was in addition to the previously established county license fees, which were based on the number of games and machines to be operated. The Nevada Tax Commission was designated as the administrative agency under this new licensing requirement. The fees collected went into the state general fund, with a maximum of five percent of total collections being set apart for administrative costs.

Aside from changes in fees (which are discussed in the section entitled "Taxation"), there were no major legislative changes until 1955.

Start of Gaming Agencies

The 1955 Legislature created the Nevada Gaming Control Board within the Nevada Tax Commission, whose purpose was to inaugurate a policy to eliminate the undesirable element in Nevada gaming and to provide regulations for the licensing and the operation of gaming. The Board was also to establish rules and regulations for all tax reports that were to be submitted to the state by gaming licensees.

The Gaming Control Board consists of three full-time members (one of whom is designated as chairman), who are appointed by the Governor.

They are provided with a working staff of auditors, investigators, enforcement personnel, clerical and secretarial support.

Complete Gaming Control Act

In 1959, the Nevada Gaming Commission was created by the passage of a complete Gaming Control Act. The Commission consists of five members who are appointed by the Governor. In order to aid the five-member commission, which meets at least once a month, the Gaming Control Act further called for the employment of a full-time executive secretary and a complete office staff. The Commission was to have full and absolute power to grant or to deny any application for a license. It also was to have the power to enact regulations and to act as the collection agency for all gaming taxes.

The Gaming Control Board was removed from the Tax Commission to become the enforcement and investigative arm for the newly formed Gaming Commission.

On July 1, 1971, the tax collection responsibility again changed hands due to a legislative act. At this time the State Gaming Control Board took over all administrative functions for the Commission. The Commission, sitting in a quasi-judicial capacity, still retains its decision-making powers in regard to granting and denying applications for gaming licenses.

Over the years since the state assumed the responsibility for control of the gaming industry, the internal organization of the agency staff has changed considerably. Functions such as tax collection, auditing, enforcement and investigation have remained; however, techniques used in performing the functions have become more sophisticated.

Accounting Regulations

Among the first regulations enacted by the Gaming Commission was an accounting regulation. The Commission realized that in order to maintain control over the gaming industry, casino accounting systems had to be regulated. The first accounting regulation was a modest, two-page document, whereas the present version is more than 18 pages and covers such varied subjects as requirements for accounting records, financial reporting, internal controls, cash counting procedures, and procedures for reporting and computing gross revenue.

In order to keep abreast of modern developments in business methods, this regulation is subject to more changes and revisions than any other regulation.

Corporate Gaming Laws

For many years after the legalization of gaming in 1931, most of the business enterprises conducting gaming were organized as sole proprie-

torships and partnerships. This worked satisfactorily as long as the casinos remained fairly small.

As some of them grew and required larger investments, it became necessary to involve more investors. In some instances this was done by taking in more and more partners. One partnership, for example, grew to approximately 50 partners, while others had from 20 to 30 partners.

The corporate form, while not prohibited by the state, was certainly not encouraged. It was, in fact, discouraged by requiring all stockholders, as well as the corporation, to be licensed.

This restriction did not deter all groups though, as several corporations were formed from time to time to operate a casino. Of course, most of them had only a few stockholders. Even two or three publicly traded corporations managed to get into gaming. A limited number of officers or directors of the publicly traded corporations would form an independent Nevada corporation or a partnership to conduct the gaming and operate the other facilities. In some cases these new corporations or partnerships purchased the land and buildings, and acted as landlord to another newly formed entity, which conducted the gaming.

With goal of providing a broader base for investment in the industry, and in the hope of changing the image of gaming from the "Green Felt Jungle" to the "Gray Flannel Suit," the Legislatures of 1967 and 1969 passed acts that permitted publicly traded corporations to be registered. Instead of requiring all stockholders to be licensed, now only controlling stockholders, officers, and directors of a publicly held corporation must apply for and obtain gaming licenses. If the corporation is merely the parent, landlord, or holding company of a licensee, the Commission, if it chooses, may require licensing or "finding of suitability."

This new law maintains the important right to remove any stockholder of a publicly held corporation from his position as a stockholder if it is determined to be contrary to the best interests of Nevada.

Employee Labor Organizations (NRS 463A)

To further protect the integrity of the gaming industry, the 1975 Nevada Legislature passed legislation which provides a mechanism to determine the suitability of union officials who represent gaming employees. The law permits gaming authorities to disqualify union representatives under certain conditions.

This legislation grew out of a concern by state officials that organized crime would seek to gain a foothold in Nevada's gaming industry through gaming employee unions.

Supervision (NRS 463B)

Nevada officials recognized that adverse economic impact to the state, casino employees, investors, and creditors could result in occasions when

it would be necessary for the Gaming Commission to suspend or revoke the license of individual licensees or a gaming establishment. The 1979 Legislature, seeking a means to allow a casino to remain open until a suitable buyer could be found, enacted the Supervision Chapter. The law provides for the appointment of a supervisor to manage and control a gaming establishment when the licensees are determined to be unsuitable. The appointment is made by the district court from names recommended by the Gaming Commission.

Organization of Gaming Agencies

A Gaming Policy Board, whose exclusive purpose is to discuss matters of gaming policy, was created by legislation in 1961. Initially, the make-up of the Gaming Policy Board consisted of the Governor as Chairman, the five-member Nevada Gaming Commission and the three-member State Gaming Control Board.

Legislation in 1971 changed the name from the Gaming Policy Board to the Gaming Policy Committee. Also, the membership, with the exception of the Governor as chairman, was changed to include one member representing the Nevada Gaming Commission, one member representing the State Gaming Control Board, two members representing the general public, and two members representing the gaming industry. As a result of 1977 legislation, the Gaming Policy Committee membership was expanded to include two additional members, one representing the Nevada Senate and one representing the Nevada Assembly. Recommendations concerning gaming policy made by this committee are advisory and not binding on the State Gaming Control Board or the Nevada Gaming Commission in the performance of their duties or functions.

Figure 1 reflects the current structure of the Board and Commission.

CHAPTER 3

GAMING CONTROL BOARD

The Gaming Control Board maintains a staff of more than 350; approximately half are permanently located in Las Vegas, with the balance in Carson City, Reno and Elko.

The Board employs a wide variety of personnel including attorneys, investigators, accountants, electronics technicians, and law enforcement experts. Only those divisions that commonly come in contact with the public and the industry are described below; however, in addition to these, there is a general administrative group consisting of a payroll and personnel section, a purchasing section, and a files department, all of which are necessary in the operation of the Board and Commission.

Investigations Division

The issuance of a gaming license in Nevada is not a right, but a revocable privilege. The Board and the Gaming Commission must be satisfied that each potential licensee is competent to operate a gaming enterprise and is of good moral character.

Every applicant for a state gaming license must submit to a thorough background investigation. Agents of the Investigations Division search out the sources of all money the applicant plans to invest in the proposed casino—whether it is his own money or borrowed. The sources themselves must be identified and acceptable to the Board and Commission; the burden of proving acceptability rests entirely on the applicant.

Agents carefully scrutinize the planned method of operation, trace the applicant's personal history, and contact other law enforcement and investigative bodies (such as the F.B.I., local sheriffs and police departments) to check for any undesirable background information.

Gaming agents have the powers of peace officers, and, in fact, many had law enforcement backgrounds prior to working for the Board.

Some investigative work is done in the Board offices in Carson City and Las Vegas by utilizing the extensive files maintained by the Board. Over the years many thousands of personal history files have been developed for the agents' use.

However, investigations cannot be completed in the office, and agents are required to travel extensively—in some instances, to other parts of the world. The applicant bears the entire cost of the investigation—which can be quite high—and the funds, which are prepaid, cannot be refunded, even if the license is denied.

In early 1971, the Corporate Securities Unit of the Investigations Division was created to maintain a constant review of all publicly traded corporations that are involved in any way in Nevada's gaming industry.

This was done as a result of legislation regarding corporate gaming to assure all publicly traded corporations are properly registered and the officers and directors are suitable for licensing. Stockholder lists are reviewed and monitored for stockholders with holdings large enough to be considered a controlling interest.

Special Investigations and Intelligence Division

The Special Investigations and Intelligence Division devotes itself to investigating post-licensing, non-routine gaming problems such as hidden ownership interests in casinos, organized crime involvement in Nevada, and intelligence gathering.

Enforcement Division

The Enforcement Division is the law enforcement arm of the Gaming Control Board. It maintains offices in Las Vegas, Reno and Elko, all of which are manned 24 hours a day, 7 days a week. The Division is responsible for the enforcement of the Gaming Control Act and the Regulations of the Board and Commission.

In fulfillment of these responsibilities, cards and dice are routinely picked up from play for inspection. Undercover observations of gaming activities are made, and cheaters may be arrested and turned over to local authorities. In addition, reports of violations of laws and regulations are investigated.

Many investigations result from a patron's complaint against a casino. In some instances, the complaint is groundless due to a misunderstanding of the rules of the game involved. In those cases where a player's complaint is valid, the Board insures appropriate action by virtue of its power. Two additional steps are provided in the complaint process: a hearing is conducted by the Hearing Examiner if either party is dissatisfied with the initial decision, followed by a judicial review if the matter remains unresolved.

The Division is also responsible for reviewing the work card applications of all potential casino employees and monitoring existing work permits to determine an employee's suitability for continued employment in the industry.

Electronic Services Division

Our world is becoming dependent on electronics, and gaming is no exception. This Division is responsible, among other areas, for the development of standards for electronic and mechanical gaming devices. The electronics lab tests and recommends approval or disapproval of newly designed machines, and develops methods for detecting malfunctions in existing machines. Periodic checks of slot machines in play are made to insure proper operation.

Audit Division

The Audit Division audits the accounting records of licensees to determine if gaming and entertainment taxable revenues have been properly reported and if the licensees have complied with regulations. Audit procedures include a review and evaluation of internal control systems and interim observations of a licensee's compliance with these systems, surprise observations of cash-counting procedures, and substantive tests of the accounting records as may be deemed appropriate.

The Audit Division, which is the largest division of the Board, also performs many additional functions with respect to licensees. For instance, gaming auditors conduct special investigations involving financial records and procedures and advise the Board as to the source of equity or debt funds received by licensed establishments. Additionally, audit agents monitor the financial stability of licensees by determining the adequacy of a licensee's bankroll and review financial statements.

All agents of the Audit Division have accounting degrees; many are Certified Public Accountants.

Tax and License and Economic Research

Many taxes and license fees are paid by gaming licensees, the collection of which generates a large volume of paperwork. Major casinos, for instance, may file more than 30 returns annually resulting in the collection of millions of dollars by the Board.

To accomplish the collection of taxes and license fees effectively and efficiently, the Tax and License Division was created in 1959, and in 1971, the responsibility was transferred to the State Gaming Control Board.

The Tax and License Division is charged with the collection, control and accounting of the tax and license fees, and consists of agents trained in accounting, tax document examiners and secretarial personnel.

The Economic Research Unit came into being in 1967, when the Legislature charged the Gaming Commission with the responsibility of conducting an economic study of the industry. The Economic Research Unit conducts a continuing economic study of the gaming industry and reports its findings to the Legislature, the industry and the general public when appropriate.

CHAPTER 4

NEVADA GAMING COMMISSION

The Nevada Gaming Commission, created by the 1959 Nevada Legislature, is a five-member lay body appointed by the Governor, serving in a part-time capacity. By statute, the membership of the Commission limits plural representation by members of a profession or major industry. Members are appointed to four-year terms.

The primary responsibilities of the Commission include acting on the recommendations of the State Gaming Control Board in licensing matters, and ruling over work permit appeal cases. The Commission is the final authority on licensing matters, holding the power to approve, restrict, limit, condition, deny, revoke or suspend any gaming license.

Additionally, the Commission is charged with the responsibility for adoption, amendment, or repealing of regulations consistent with the policy, objectives and purpose of the statutes of this state.

CHAPTER 5

LICENSING AND TAXING**Licensing**

A person or group of people (partnerships or corporations) wishing to open a casino in Nevada must apply to the Gaming Control Board for a gaming license. The Board thoroughly investigates applicants' backgrounds—personal as well as financial—and, at public meetings, held once each month, presents its findings and recommends approval, denial or deferral of the application. The Gaming Commission, also at a public meeting, acts on the Board's recommendations, and may approve, deny, defer, or condition the license, or take any other action it deems appropriate.

When the Commission approves an application for a gaming license, the applicant must pay the license fees, taxes, provide necessary bonds, and fulfill any other requirements the Commission may have imposed before his license is issued. An applicant who has been denied a license by the Commission must normally wait one year before reapplying.

Types of Gaming Licenses

Various types of gaming licenses are issued:

Restricted—Issued when the operation consists of 15 or fewer slot machines and no other gaming. It is issued on an annual basis and renewed quarterly.

Nonrestricted—Issued when the operation consists of 16 or more slot machines, or one or more games or tables. This is also issued on an annual basis and renewed quarterly.

Manufactures and/or Distributors—Issued to manufacturers, sellers, and distributors of gaming devices, equipment and related materials. It is issued on an annual basis.

Slot Machine Route Operators—Issued to individuals or businesses that place slot machines in licensed restricted or nonrestricted locations pursuant to a lease, rental or percentage agreement. This license is issued on an annual basis.

The above information on licenses is quite general in nature and is not intended, nor is it adequate, to serve as instructions in obtaining a gaming license.

Taxation

When gambling was legalized in 1931, provisions were made for licensing the games and machines by the counties:

QUARTERLY COUNTY LICENSE FEES
(NRS 463.390)

- Card games (stud and draw poker, bridge, whist, solo and panguin-gui): \$25 monthly for each table, payable quarterly in advance.
- Other games such as twenty-one, craps, roulette, excluding slot machines: \$50 monthly each game, payable quarterly in advance.
- Slot machines: \$10 monthly for each handle, payable quarterly in advance.

Collection of fees under this legislation is the responsibility of each county.

PERCENTAGE FEES BASED ON GROSS REVENUE
(NRS 463.370)

A new concept of taxation on gaming activities became effective July 1, 1945. This legislation provided for a Quarterly State License Fee based on gross gaming revenue. The fee amounted to 1 percent of all gross gaming revenue exceeding \$3,000 each quarter. In 1949, legislation removed the \$3,000 base and increased the percentage fee to two percent for all gross gaming revenue quarterly.

A graduated rate scale for the quarterly license fees, enacted in 1955, has been revised through the years. Legislation passed in 1983 changed the reporting concept from quarterly to monthly, which requires monthly payment of license fees at the following rates:

- Three percent of all gross gaming revenue up to \$50,000 per month, plus
- Four percent of all gross gaming revenue above \$50,000, but less than \$134,000 each month, plus
- Six percent of all gross gaming revenue each month above \$134,000.

ANNUAL STATE LICENSE FEE
(NRS 463.380)

In 1949, the Legislature assessed an Annual State License Fee based on the number of games operated by an establishment. The schedule of rates was expanded in 1955 and again in 1957. The annual rates are as follows and are subject to change in subsequent legislative sessions.

1 game.....	\$100
2 games.....	200
3 games.....	400
4 games.....	750
5 games.....	1,750
6 or 7 games.....	3,000

8 to 10 games.....	\$6,000
11 to 13 games.....	650 for each game
14 to 16 games.....	1,000 for each game
17 or more games.....	16,000 plus \$200 for each game in excess of 16

Originally the Annual State License Fees went into the state general fund for use by the state; however, effective April 1957, legislation provided for distribution of the fees equally among the 17 counties (after administrative costs had been deducted).

SLOT MACHINE LICENSE FEES

(NRS 463.373 and NRS 463.375)

Another new approach to licensing and taxation resulted from 1967 legislation—the quarterly fees based on the number of slot machines to be operated:

NRS 463.373—Quarterly state license fees for operation of not more than 15 slot machines and no other games: \$45 per machine payable quarterly in advance if the number of slot machines does not exceed five; or \$90 per machine payable quarterly in advance if the slot machines number more than five, but less than 16. (These fees are in lieu of the percentage tax, NRS 463.370, for licensees in this category.)

NRS 463.375—State license fees for operation of 16 or more slot machines or slot machines with games: \$20 per machine payable quarterly in advance.

QUARTERLY LICENSE FEES ON GAMES

(NRS 463.383)

In addition to the quarterly fees on slot machines, the 1967 Legislature assessed Quarterly State License fees based on the number of games to be operated, payable quarterly in advance:

1 game.....	\$12.50
2 games.....	25.00
3 games.....	50.00
4 games.....	93.75
5 games.....	218.75
6 or 7 games.....	375.00
8 to 10 games.....	750.00
11 to 16 games.....	125.00 for each game from 1 through 16, inclusive
17 to 26 games.....	2,000.00 plus \$1,200 for each game 17 through 26

27 to 35 games.....	\$14,000.00	plus \$700 for each game 27 through 35
36 games and over.....	20,300.00	plus \$25 for each game over 35

CASINO ENTERTAINMENT TAX
(NRS 463.401)

Legislation, effective July 1, 1965, initiated a Casino Entertainment Tax based upon the then existing Federal Cabaret Tax. The rate established at that time was five percent, half of the federal tax. When the Federal Cabaret Tax was repealed in December 1965, the state Casino Entertainment Tax rate was increased to 10 percent on all sales of merchandise, food and beverages, and admissions while the casino is actually furnishing entertainment.

In 1967, legislation amended the Casino Entertainment Tax to exempt gaming establishments having 50 or fewer slot machines and/or not more than three games. The State Legislature amended the Casino Entertainment Tax again in 1983 to exempt gaming establishments having 50 or fewer slot machines and/or not more than five games.

ANNUAL SLOT MACHINE TAX
(NRS 463.385)

Prior to July 1, 1972, all licensees operating slot machines were required to pay the Internal Revenue Service \$250 annually for a Federal Tax Stamp on each slot machine operated. As a part of the revenue sharing program of the federal government, the U.S. Congress enacted legislation in 1972 giving Nevada federal tax stamp payors a credit of 80 percent (\$200) of this revenue.

In anticipation of such federal action, the 1967 Nevada Legislature enacted a law (NRS 463.385) that would enable the state to assess a tax on licensees equal to any credit offered by the federal government. Also, the legislation enabled the state to assess a tax on licensees when federal slot machine taxes were repealed. For the fiscal year beginning July 1, 1972, Nevada collected this \$200 per machine from the licensees. Proof of payment entitled the licensee to a credit of \$200 against the Federal Tax Stamp.

For fiscal 1980, Nevada received 95 percent of this tax, and, effective July 1, 1980 the Federal Tax was repealed. At this point Nevada assumed the entire \$250.

Proceeds of the tax are specifically earmarked for various education funds in Nevada.

RACE WIRE SERVICE LICENSE FEE
(NRS 463.450)

In 1949, the Legislature placed the dissemination of horse racing information (race wire services) under the control of the state, and charged a license fee of \$10 per day for each race book service.

PARI-MUTUEL WAGERING
(NRS 464 and 466)

Pari-mutuel wagering is a system of wagering in which the payoff on winning tickets is determined by calculations based on the total amount of money bet on the winning entry and the amount wagered on all entries in the event.

In 1949, the Legislature imposed licensing requirements to be administered by the Tax Commission on persons offering pari-mutuel wagering on horse and dog races. In 1965 the Nevada Racing Commission assumed responsibility for licensing and taxing these racing events. In 1981 the Gaming Control Board entered the picture. Under present law the Gaming Control Board has the responsibility for the investigation of applicants for licenses, the issuing of the licenses and for disciplinary action. The Racing Commission governs the running of events, taxation, and other post-licensing matters.

Sports events, such as Jai Alai, are monitored, licensed and taxed—at three percent of total wagers—by the Gaming Control Board and the Gaming Commission.

Other Direct Levies on Gaming

Gaming in Nevada is also taxed at the federal and local government levels.

The federal government levies a wagering excise tax on all wagers accepted by bookmakers on horse racing and sports events throughout the United States.

Local governments (counties, cities and towns) also levy fees on gaming, which vary considerably between counties and between cities and towns.

All the foregoing taxes and license fees are levied on gaming licensees directly as a result of gaming activities, and do not include the many other taxes, such as income taxes, property taxes and sales taxes, paid by all businesses.

CHAPTER 6

CONCLUSION

During the early years referred to in the opening pages of this report, gaming was not a major industry in the state. Nevada was known as a mining and ranching state. Gambling was merely a recreation for the residents, and a business to only a relatively few professional gamblers. It was not until after World War II that tourism, with gaming as its prime attraction, emerged as Nevada's primary industry.

The casinos pay their way in our society through taxation, for in addition to the taxes collected from them by the state, the federal government has taxes on gaming in addition to income taxes; and the counties, cities and towns may tax the casinos (see Chapter 5 on Licensing and Taxing). All in all, these taxes amount to approximately five percent of the total sales, a percentage which is greater than that of most business enterprises. The rate is higher because casinos must pay all taxes other businesses pay, plus the special taxes assessed on the gaming activity.

Thus, what started a little over a century ago as an evening of fun, and perhaps a means of separating the miner and cowboy from his money, has developed into a respected industry, the mainstay of Nevada.

APPENDIX F





GAMING CONTROL BOARD

1150 E. William St., Carson City, NV 89710
4220 S. Maryland Pkwy., Bldg. D, Las Vegas, NV 89158
495 Apple St., Reno, NV 89502
(702) 486-6400

AUDIT DIVISION INFORMATION SHEET October 1, 1993

Agency Overview

The State Gaming Control Board is an agency of the executive branch of Nevada government, and is responsible for the regulation of the gaming (casino) industry in Nevada. The three members of the Board, one of whom is designated as the Chairman, are appointed to full-time, four-year terms by the Governor. The Board has approximately 380 employees statewide who are assigned to one of the agency's seven divisions: Investigations, Audit, Corporate Securities, Enforcement, Administration, Tax and License, and Electronic Services.

The primary objective of the Gaming Control Board is to insure that all casinos in the State are operated in a manner suitable to protect the public health, safety, morals, good order and general welfare of the inhabitants of the State of Nevada. This objective is satisfied by insuring that only qualified individuals are granted a gaming license and, after licensing, by insuring that casinos are properly operated.

The Nevada Gaming Commission consists of five members who are appointed to part-time, four-year terms by the Governor. The Commission, sitting in a quasi-judicial capacity, acts on recommendations made by the Gaming Control Board and has final decision-making powers in granting and denying applications for gaming licenses, the adoption of gaming regulations, and the imposition of disciplinary actions against licensees.

Audit Division Personnel

The Audit Division consists of 89 professional staff (64 located in Las Vegas and 25 located in Reno), and 11 clerical staff. All professionals have degrees and, as Audit Agents of the Board, are peace officers of the State of Nevada. As peace officers, Audit Agents carry an appropriate badge and identification. The Audit Division is organized much like a large CPA firm, but with different job titles (i.e., Chief, Deputy Chief, Supervisor, Senior Agent, and Staff Agent). Attached is an organization chart depicting this structure.

CPA Certification

The Board's audit experience qualifies for CPA certification experience in Nevada. Four years experience with the Audit Division and 152 hours of supplemental training (currently provided by the Board) are required to become certified. Presently, over one-half of the Audit Division's professional staff are either CPA's, or have passed the CPA exam and are in the process of satisfying their experience requirement.

Audit Division Responsibilities

The Audit Division is charged with performing the following specific responsibilities:

1. Audit - The Audit Division is primarily responsible for auditing casinos throughout the state with annual gaming revenues of \$1 million or more. Presently, there are 205 such casinos, and the audit cycle is approximately three years. These casinos generate annual gaming revenues in excess of \$6 billion.

The primary objectives of a Board audit are to determine the proper reporting of gaming revenue, and to determine if the casino has complied with all applicable gaming laws and regulations. In meeting these objectives, the division utilizes procedures common to the auditing profession. Internal accounting controls are thoroughly analyzed, in-depth analytical review of operating statistics is undertaken, and detail tests of transactions are performed. The objective of these procedures is to build sufficient audit evidence on which to base an opinion. At the conclusion of an audit the division issues a written report to the Gaming Control Board, which includes this audit opinion. The Audit Division is required by regulation to perform audits in accordance with generally accepted auditing standards.

The division employs various means in developing audit evidence. Covert, surprise observations of casino procedures are routinely conducted on an interim basis throughout the audit period. Interviews with casino personnel are periodically performed to insure that the casino is complying with documented internal accounting controls. For those casinos with branch offices outside of Nevada (and in some cases, outside of the country), surprise visits to these offices are performed by Audit Agents to insure that proper operating procedures are being used by the offices.

2. Research and Development - The Nevada gaming industry's use of casino computer systems has expanded dramatically in the last few years. Most keno operations and all race/sports books are computerized. Many casinos have their slot machines linked to an on-line computer monitoring system. The Audit Division is responsible for reviewing these computerized gaming systems, and recommending these systems for approval to the Board. The division uses EDP audit techniques in performing these reviews.

The Audit Division is tied into the Gaming Control Board's mainframe computer with numerous terminals. All Audit Agents are trained in the use of the computer, and perform a portion of their audit work on the computer. The Audit Division utilizes portable terminals with modems during the performance of field work.

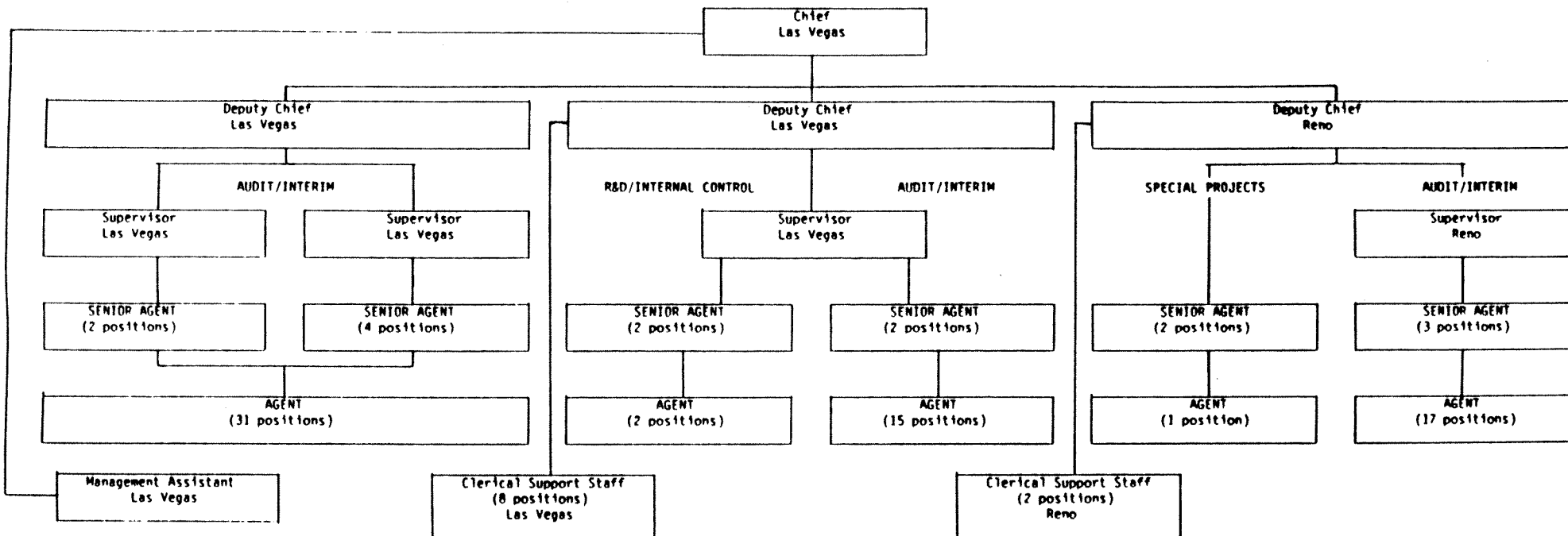
3. Special Investigations - Periodically, the Audit Division is assigned special investigations work. These investigations often entail developing evidence to prove skimming (the diversion of funds to avoid the payment of taxes) in a casino. This work may be performed in conjunction with other state or federal agencies such as the FBI, IRS, etc.
4. Currency Transaction Monitoring - State gaming Regulation 6A entitled "Certain Cash Transactions" is designed to prevent money laundering in casinos. This regulation dictates that casino currency exchanges in excess of \$2,500 are prohibited in Nevada's casinos, and other cash transactions in excess of \$10,000 must be reported to the State. It is the Audit Division's responsibility to insure that casinos are complying with this regulation. Violations of the regulation may result in fines ranging from \$10,000 to \$250,000 per violation, and/or criminal prosecution.
5. Other Responsibilities - The Audit Division has numerous additional responsibilities:
 - a. Audit Agents periodically perform casino cash counts to insure that the casinos have sufficient funds to operate.
 - b. The larger casinos are required to submit annual audited financial statements. The Audit Division analyzes these statements using ratio analysis to monitor the continuing financial viability of Nevada's casinos.

- c. Certain loans made to casinos must be approved by the Board and Nevada Gaming Commission. The Audit Division reports to the Board all loans that have been submitted, along with the source of the funds. This is necessary to insure that the casinos only receive loans from reputable sources.

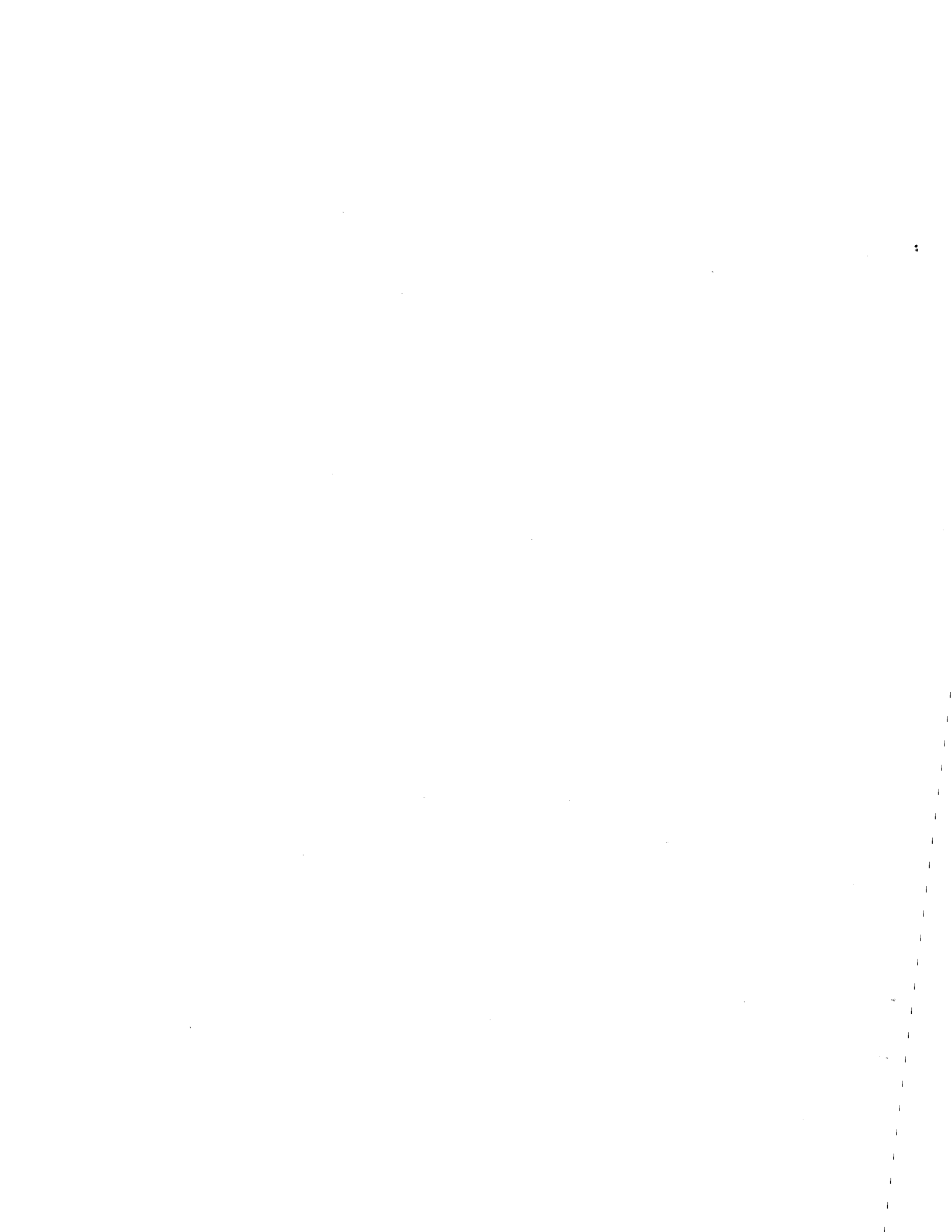
- d. The Audit Division routinely monitors, through numerous statistical reports, the performance of all casino games in the state. If substandard performance is observed, various types of follow-up work are performed to determine the reasons for this poor performance.

NEVADA GAMING CONTROL BOARD

AUDIT DIVISION
ORGANIZATION CHART
October 1, 1993



APPENDIX G



NEVADA STATE GAMING CONTROL BOARD
CORPORATE SECURITIES DIVISION

NOVEMBER 19, 1993

I. REGULATION OF PUBLICLY TRADED CORPORATIONS ("PTC's")

A. Structure

1. PTC--100%-- corporate licensee
2. PTC as a corporate licensee
3. Register PTC and/or grant gaming license to the PTC or subsidiary corporation
4. NRS 463.625 to 463.645 and NGC Reg. 16 govern the PTC
5. NRS 463.500 to 463.560 and NGC Reg. 15 govern the corporate licensee

B. Individuals

1. License all officers and directors of the corporate licensee, NRS 463.530
2. For PTC, find suitable officer who "actively and directly engage in the administration and supervision" of gaming
 - CEO
 - CFO
 - Secretary
 - Employee who is also a directorNGC Reg. 16.410
3. For PTC, find suitable directors who "actively and directly engage in the administration and supervision" of gaming
 - Chairman of the Board
 - Beneficial owner of +1% of PTC stock
 - Member of executive committeeNGC Reg. 16.415

C. Necessary Approvals/Applications

1. For corporate licensee any sale, issuance, transfer or other disposition of stock, NRS 463.510
2. For PTC
 - a. public offerings if proceeds for Nevada purposes, NGC Reg. 16.110
 - b. continuous or delayed public offering, NGC Reg. 16.115
 - c. change in control, plan of recapitalization or exceptional repurchase of stock, NGC Reg. 16.200 to 16.280
 - d. proxy statement, NGC Reg. 16.310
 - e. official forms

II. MONITORING OF PTC

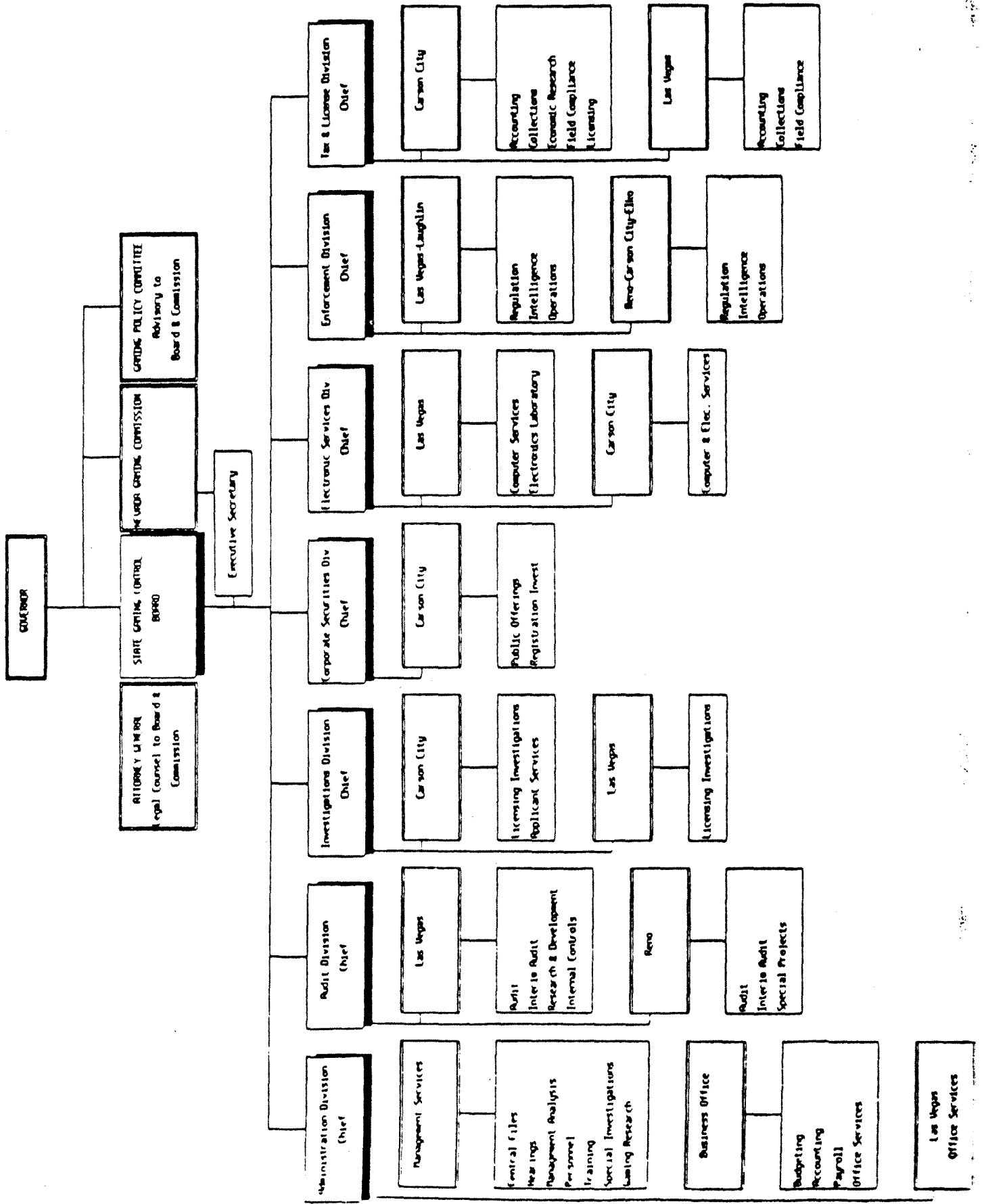
- A. PTC has on-going reporting requirement to the Board, NRS 463.639 and 463.643 and NGC Reg. 16.330
- B. Must file with the Board:
 - 1. Registration Statements
 - 2. Proxy Statements
 - 3. Quarterly Reports to SEC and Stockholders
 - 4. Annual Reports to SEC and Stockholders
 - 5. Reports to beneficial ownership of PTC stock
 - 6. Stockholders list
 - 7. Press Releases
 - 8. Additional reports on appointment of directors and officers and disposition of stock by controlling person.
- C. Monitor 42 PTC's

III. DIVISIONAL STATISTICS

- A. Application Processing Time
 - 1. Continuous or delayed public offering approvals, 2-3 months
 - 2. Initial public offerings/corporate restructuring, 4-6 months
 - 3. New property, up to 6 months
- B. Staff
 - 1. Chief
 - 2. Supervisor - coordinates agents, case assignments, etc.
 - 3. 3 Senior Agents
 - 4. 6 Agents
 - 5. Qualifications
 - a. Financial Background
 - b. Accounting, Finance, Business or Economic Undergraduate Degrees
 - c. Investigative experience (only 2 of the current agents came directly to Corporate Securities)

APPENDIX H

ORGANIZATION OF THE STATE GAMING CONTROL BOARD





APPENDIX I

GCB/NGC BUDGET

FY 93 \$19,030,376

FY 94 \$19,753,133

PERSONNEL (Reflects authorized full-time equivalent positions by Division including half-time positions)

		Admin	Audit	Enf	Elec	Inv	T&L	A.G.	Corp. Sec.
- Classified	87.0	28.5	11	19	2	13	8	3.5	2
- Unclassified	285.0	15.0	91	86	18	52	12	1.0	10
TOTAL	*372.0	43.5	102	105	20	65	20	4.5	12

*Does not include attorneys.

LICENSEES (06/30/93)

Restricted	1,843
Nonrestricted	372
(Group I&II = 228)	
(Group III = 144)	
Mfg/Distributors	154
Slot Operators	70
Wire Services & Simulcasts	7
TOTAL	2,446

SLOTS

Restricted	15,328
Nonrestricted	138,136
TOTAL	153,464

GAMES (2)

Twenty One	3,162
Race Books	61
Sports Pools	103
Craps, Roulette Etc.	1,335
TOTAL	4,661

TABLES

Poker	516
Pan & other	39
TOTAL	555

COLLECTIONS FY 1993 (State Gaming Taxes and License Fees) (1)

General Fund	\$412,747,404
Dedicated funds (Schools, counties)	42,434,154
TOTAL	\$455,181,558

TAXABLE NONRESTRICTED GROSS GAMING REVENUE, FY 1993 (2)

Slot Revenue	\$3,814,325,590
Games Revenue	2,057,514,602
TOTAL	\$5,871,840,192

Ranking of Games/Slots to Total Gaming Win (2)
 29.9% - \$.25 Slots
 20.9% - \$1.00 Slots
 14.8% - Twenty One Games
 6.2% - Crap Games

FISCAL YEAR ENDED JUNE 30, 1993

Area	Taxable Gross Gaming Revenue (2)	Percent of Statewide	State Gaming Taxes (1)	Percent of Statewide
Clark	\$4,391,042,038	74.78	\$340,198,643	74.74
Douglas	347,109,451	5.91	26,161,467	5.75
Washoe	884,283,247	15.06	68,757,495	15.11
Balance	249,405,456	4.25	20,063,953	4.40
Statewide	\$5,871,840,192	100.00	\$455,181,558	100.00

- 1) Restricted & Nonrestricted
- 2) Nonrestricted Only

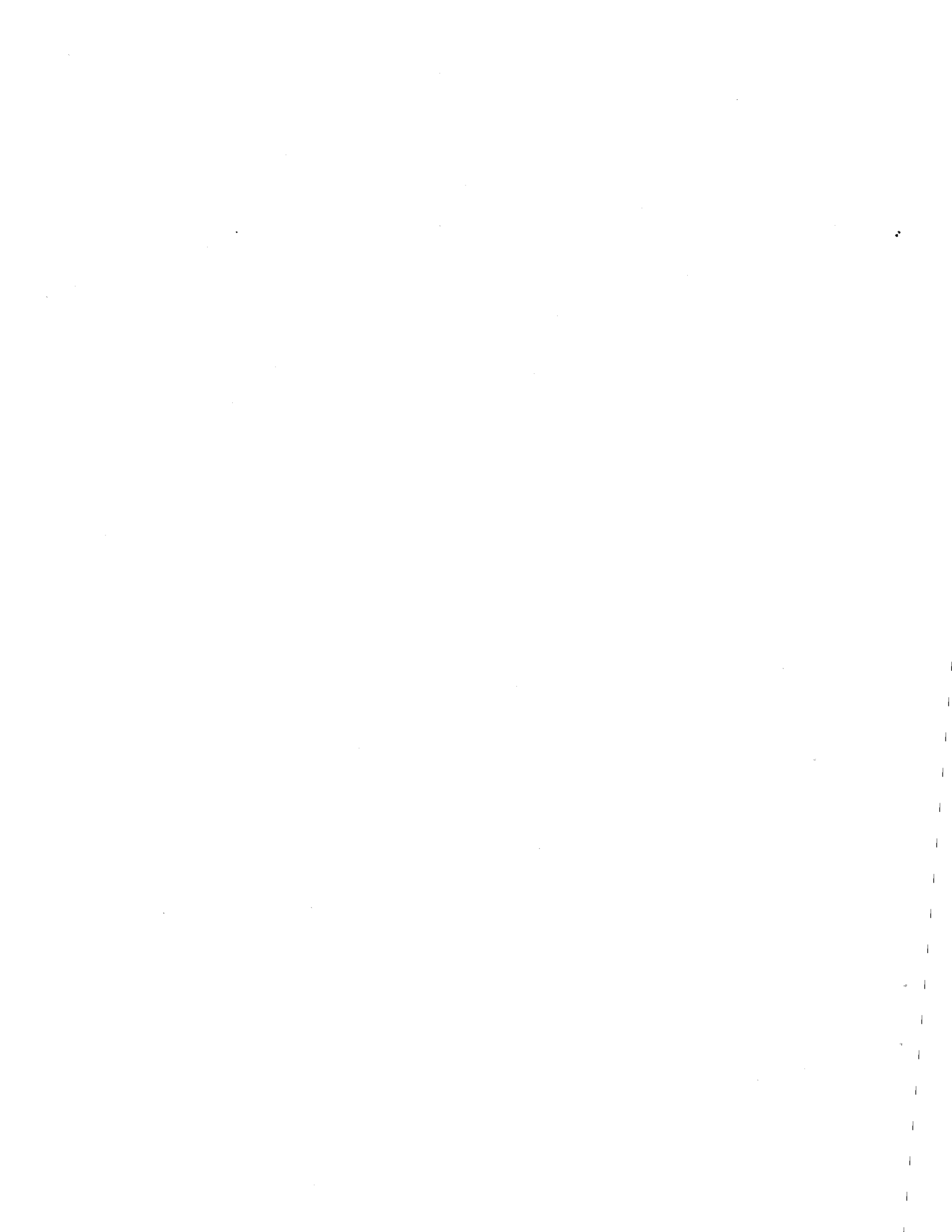
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To: JERRY McETTRAGE	From: JANE Hammack
Co.:	Co. GCB
Phone:	Phone:
Fax: 916 327 3517	Fax:

APPENDIX J



APPENDIX J



GENE LIVINGSTON
ATTORNEY AT LAW

LIVINGSTON & MATTESICH
LAW CORPORATION
1201 K STREET, SUITE 1100
SACRAMENTO, CA 95814
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TESTIMONY OF GENE LIVINGSTON
TO THE GOVERNMENTAL ORGANIZATION COMMITTEES
OF THE CALIFORNIA SENATE AND ASSEMBLY
November 30, 1993

Chairman Tucker, Chairman Dills, Members of the Committees:

My name is Gene Livingston. I am an attorney with the law firm of Livingston & Mattesich. In addition to representing clients in the California Legislature, we also represent clients before administrative agencies in both rule-making proceedings and administrative adjudicatory proceedings. Also, as your agenda notes, I am former director of the Office of Administrative Law. In fact, I was the first director and I was responsible for establishing the office interpreting the California Administrative Procedure Act and establishing the policies followed by the office to implement that act.

I am here today at the request of Mr. Tucker. He asked me to testify about the differences between the rule making and the administrative adjudication

portions of the California Administrative Procedure Act in specific provisions in the Attorney General's proposal. Pursuant to his request, I reviewed Article 3, titled "Regulations," beginning on page 14 of the Revised mockup made available for this hearing. I also reviewed the second Article 9 beginning on page 41 of the same mockup. As an aside, the mockup contains another Article 9 beginning on an earlier page. The Article 9 I reviewed is titled "Disciplinary Actions."

I propose to discuss Article 3, the procedures for adoption of regulations, first to compare the Article 3 provisions with the rule-making portion of the California Administrative Procedure Act, and then to discuss briefly the administrative adjudicatory provisions of Article 9 of the Attorney General's proposal to contrast those provisions with the administrative adjudication portion of the Administrative Procedure Act and to point out other issues, in particular issues relating to judicial review of disciplinary decisions.

Article 3, Regulations

I note at the outset what I found to be confusing in Article 3. Section 19840 provides in the first sentence that "The commission shall adopt rules and regulations" The last sentence of that same section refers to the validity of "any regulation adopted by the commission or the division," Similarly, Section 19841 refers to the commission *or* the division summarily adopting emergency regulations. Also, the principal section relating to the procedure for adopting regulations, Section 19843, provides that "the commission *and* division shall adopt" On the other hand, in Section 19845, the language refers to

"The commission may by regulation" In Section 19847, the language provides "The commission may adopt regulations to:"

Perhaps some explanation exists as to why some language refers to the authority of the commission to adopt regulations and other language refers to both the commission and division. That explanation, however, is not apparent in Article 3, and it begs for clarification.

The California Administrative Procedure Act in Section 11346 provides that the provisions of the act shall not be superseded or modified by subsequent legislation unless such legislation shall do so expressly. The Attorney General, in his proposal, seeks to expressly exempt regulations adopted pursuant to this article from the Administrative Procedure Act provisions. The precise language is that the Administrative Procedure Act "shall not apply to any rule or regulation adopted pursuant to this section." This section, as noted before, authorizes the commission to adopt regulations in the first sentence. The section does not authorize the division to adopt regulations. However, the last sentence of the section refers to the validity of any regulation adopted by the commission or the division. Hence, it appears that the exemption language excludes regulations adopted by the commission.

Section 19840 contains another significant provision. It provides that "Failure to comply with this article shall not affect the validity of any regulation adopted by the commission or the division, . . . , if there is substantial compliance with this article." This provision not only differs from the Administrative Procedure Act, but it also raises uncertainty about what procedures the

commission or division is obligated to follow for there to be "substantial compliance."

The substantial compliance provision in the Attorney General's proposal contrasts with three specific provisions in the Administrative Procedure Act. First, Section 11343.2 of the Government Code provides that no regulation is valid unless the regulation is consistent with and reasonably necessary to effectuate purpose of the statute that the regulation is intended to implement, interpret or make specific. Section 11343.6 provides that the filing of a certified copy of a regulation raises the rebuttable presumption that the regulation was duly adopted. The affect of this section is to shift the burden of proof to the person challenging the regulation. It does not, however, immunize a regulation against challenge for failing to comply with the Administrative Procedure Act. Finally, Section 11346.5, referring to the notice of proposed regulatory action, provides in subdivision (c) that the requirements of the section shall not be construed to invalidate a regulation because of alleged inadequacies of the notice content or the summary or cost estimates if there has been substantial compliance with those requirements. This substantial compliance division is narrowly focused to refer to the content of the notice and not to the whole of the Administrative Procedure Act.

The Attorney General's proposal contains in Section 19841 authority for the commission or the division to summarily adopt emergency regulations. The section calls for the commission or division to file a finding. The section does not specify where the finding is to be filed or how notice of it is to be made

available to the public. The the finding required is that "the action is necessary for the immediate preservation of the public peace, health, safety, morals, good order or general welfare, together with a statement of the facts constituting the emergency." This standard for adopting emergency regulations is broader than the standard for emergency regulations in the Administrative Procedure Act. Government Code Section 11346.1 provides for emergency regulations if "the adoption is necessary for the immediate preservation of the public peace, health and safety or general welfare." The Attorney General's proposal adds morals and good order.

Moreover, the Administrative Procedure Act provides in Section 11349.6 for the Office of Administrative Law to review emergency regulations and to determine whether the regulation is necessary for the immediate preservation of the public peace, health, safety or general welfare. No administrative check exists on the declaration of the emergency finding in the Attorney General's proposal.

Section 19841 relating to emergency regulations also provides that all regulations adopted within the first 180 days shall be deemed to be emergency regulations. No similar provision exists in the Administrative Procedure Act. However, from time to time, the Legislature has authorized agencies to implement new programs by adopting emergency regulations rather than providing for notice and public hearing.

Finally, the emergency regulation section, Section 19841, provides that emergency regulations shall remain in effect for 180 days. By then, permanent

regulations are to have been adopted. In contrast, the Administrative Procedure Act provides that emergency regulations shall remain in effect for only 120 days.

Another procedural distinction between the Attorney General's proposal and the Administrative Procedure Act exists in Section 19842. That section provides that regulations shall be effective when filed with the Secretary of State. The Administrative Procedure Act provides in Government Code Section 11346.2 that regulations shall become effective 30 days after filing with the Secretary of State. The purpose for the 30-day period is to provide time for the regulation to be published in the California Code of Regulations and distributed to the subscribers of that code. The goal is to make notice of the regulation available simultaneously with the regulation becoming effective.

Section 19843 contains the principal procedure in the Attorney General's proposal for the commission and division adopting regulations. That section calls for 45-day notice. That time period coincides with the Administrative Procedure Act provision contained in Section 11346.5.

The Attorney General's proposal calls for the notice to be mailed to persons who filed request for notice, and may be mailed to any person believed to be interested by the commission or the division. A significant distinction exists in the method of notice to be given between the Attorney General's proposal and the Administrative Procedure Act. The Administrative Procedure Act also requires the notice to be published in the California Regulatory Notice Register. Notices of all proposed regulatory actions are published in the Notice Register, and the Notice Register is available to people by subscription. It is published weekly, and

relied on for information about proposed regulatory action. Attorneys in our firm review it as soon as it arrives each week.

The Administrative Procedure Act contains a provision that is missing from the Attorney General's proposal. The Administrative Procedure Act provides that the effective date of a notice is one year. If the regulation has not been adopted within that year, it has to be re-noticed. Such a provision prevents regulations being noticed and months passing with no action, and then unexpectedly the agency adopts the regulation. No time limitation is contained in the Attorney General's proposal.

The Attorney General's proposal in Section 19843 sets out the content of the notice. It specifies six categories of information. The Administrative Procedure Act contains at least six additional items beyond what is set out in the Attorney General's proposal. For example, the Administrative Procedure Act requires the notice to reference the section authorizing the agency to adopt a regulation, as well as referencing the section being implemented, interpreted or made specific by the regulation. The Attorney General's proposal simply requires a reference to the statute being implemented, interpreted or made specific.

The Legislature has also required agencies to consider alternative regulatory approaches that would be more effective or as effective or less burdensome. No such provision is contained in the Attorney General's proposal. Similarly, the Legislature requires other state agencies to estimate the potential cost impact of the proposed action on private persons or businesses directly

affected by the proposed regulation. No similar provision exists in the Attorney General's proposal.

The Administrative Procedure Act requires other statements referring specifically to procedural safeguards contained in the Administrative Procedure Act. The Attorney General's proposal with respect to the notice does not contain those statements because the procedural safeguards are not contained in his proposal. I will detail some of those procedural safeguards shortly. However, one of those provisions is found in Government Code Section 11346.8 relating to public hearings. The Attorney General's language in subdivision (b) of Section 19843 is very similar. It provides that if a public hearing is held, oral or written comments shall be permitted. If no public hearing is scheduled, then only written comments shall be allowed. This language tracks the Administrative Procedure Act as far as it goes. The Administrative Procedure Act, however, goes on to provide that if no public hearing is scheduled, any interested person may request one if done so no later than 15 days prior to the close of the written comment. The Administrative Procedure Act provides an opportunity for members of the public to make public the rule-making process.

Before mentioning other procedural safeguards that are designed to enhance public participation in the rule-making proceeding, I would like to mention a practical problem with the rule-making process proposed by the Attorney General being exempt entirely from the Administrative Procedure Act. As noted before, one of the significant ways in which other agencies provide notice of proposed regulatory action is to the Notice Register. The exemption

eliminates that form of providing notice. Also, the Administrative Procedure Act requires the Office of Administrative Law to compile, print and publish the California Code of Regulations. No provision is made in the Attorney General's proposal for the compilation, printing or publishing of the commission or division's regulations. Finally, the Legislature has provided that all regulations shall conform to the style prescribed by the Office of Administrative Law. The purpose of such a provision is to facilitate uniformity and to ease the use and research of state regulations. Again, the exemption from all provisions of the Administrative Procedure Act eliminates that provision as well.

Finally, the Administrative Procedure Act contains five provisions to enhance public participation in the rule-making process. None of these provisions are contained in the Attorney General's proposal. Accordingly, I will simply outline them briefly.

First, Section 11346.7 requires other state agencies to prepare an initial statement of reasons to accompany proposed adoption of a regulation. The initial statement of reasons is to contain the following: 1) a description of the public problem or administrative requirement that the regulation is intended to address; 2) a description of the specific purpose of the regulation and rationale for the agency determining that the regulation is reasonably necessary to carry out the purpose for which it is proposed; 3) identification of each study or report upon which the agency is relying to propose the adoption of the regulation; and 4) description of alternative regulatory approaches considered by the agency that would lessen the adverse impact on small businesses.

Similarly, the Administrative Procedure Act requires an agency to prepare a final statement of reasons. The final statement of reasons is to contain the following: 1) an update of the information contained in the initial statement of reasons; . . . 3) a summary of each objection or suggestion made by members of the public and an explanation from the agency of how the proposed action has been changed in response to the objection or suggestion or the reasons the agency chose to make no change; 4) the agency's determination, with supporting information, that no alternative regulatory approach considered by the agency would be more effective in carrying out the purpose for which the regulation is proposed; and 5) an explanation for rejecting all alternatives.

Section 11346.8 relating to the public hearing provides that an agency shall not adopt a regulation which has been changed from that which was originally made available to the public unless the change is non-substantial or sufficiently related so the public was adequately placed on notice that the change could result. In the latter situation, the change is to be made available for 15 days for the public to submit further comment.

Section 11347.3 requires the agency to maintain a file of the rule-making proceeding. This section sets out the contents of that file. This section also provides that this file should be made available to the public and, in the event of a challenge, to the courts to review.

Finally, Section 11349.1 sets out six standards that regulations adopted by other state agencies must meet to be valid. Those standards, necessity, authority, clarity, consistency, reference and non-duplication, are used by the Office of

Administrative Law for reviewing regulations and used by the courts for determining the validity of regulations, as well.

This testimony addresses the principal differences between the Attorney General's proposal in Article 3 relating to regulations, and the procedure that other state agencies must follow as set out in the California Administrative Procedure Act.

Administrative Adjudication

As I mentioned previously, the Attorney General's proposal contains a procedure for administrative adjudication in Article 9 beginning on page 41 of the mockup.

I should note at the outset that the adjudicatory portion of the Administrative Procedure Act applies to those state agencies enumerated in Section 11501 of the Government Code and to other agencies whose specific statutes provide for them to follow the Administrative Procedure Act. In that regard, Section 11501 enumerates the Attorney General. Hence, disciplinary action taken by the Attorney General would be conducted pursuant to the Administrative Procedure Act absent legislative exemption. Of course, the Attorney General proposes to create a new commission to undertake the disciplinary action. That commission's actions would not be conducted pursuant to the Administrative Procedure Act absent a legislative provision making the act applicable to the commission.

Rather than contrast specific provisions in the Attorney General's proposal with specific provisions in the Administrative Procedure Act, I would prefer to briefly outline the provisions in the Attorney General's proposal. Only a brief outline is required because the provisions are scant, leaving most of what we think of as the elements of due process hearing to be articulated by regulations adopted by the commission.

Section 19920 sets out the principal procedure. Subdivision (b) contemplates the division conducting an investigation and filing an accusation with the commission "in accordance with regulations adopted by the commission." Subdivision (d) provides that the commission shall conduct further proceedings "in accordance with regulations adopted by the commission." Subdivision (d) provides "after hearing, the commission make take the following actions: . . ." and five specific actions are set out. Subdivision (e) provides that the commission shall issue its written order after preparing and filing its written decision. This is not a summary. It is a virtual verbatim description of the administrative adjudicatory process. The reference to regulations adopted by the commission make it clear that the details are to be filled in by the commission.

In contrast, the Legislature, in the Administrative Procedure Act, has specified provisions on a number of issues relating to administrative adjudicatory actions.

The Administrative Procedure Act provides that administrative adjudicatory action is also initiated by an accusation. Government Code Section

11506 sets out the requirement for the content of the accusation and standards for clarity. It also provides that the accusation shall be served on the accused or the respondent. It also provides that the respondent may file a Notice of Defense and shall do so within 15 days, otherwise the respondent waives the right to a hearing.

Section 11507.6 makes discovery rights available to the respondent. The respondent is able to obtain the names and addresses of witnesses and to make copies of statements of other parties and witnesses, documents and investigative reports. Further, Section 11511 permits respondent to take depositions under limited circumstances. The Administrative Procedure Act authorizes the respondent to petition the court for an order if the agency refuses to comply with the discovery request. These discovery provisions can be very important to enable the respondent to prepare for a hearing and to defend against an accusation.

Government Code Section 11509 provides that the respondent shall be given notice of a hearing at least 10 days prior to the date of the hearing. Section 11510 confers on the respondent the right to process, that is, the right to have subpoenas issued to compel the attendance of witnesses. Section 11513 sets out rules of evidence. Section 11514 relates to the use of affidavits and to reduce the cost and burden on out-of-town witnesses. Section 11513.5 prohibits *ex parte* communications with the hearing officer. Such a provision applied to the Attorney General's proposal would prevent the division staff from discussing a case with the commissioners while an accusation is pending.

The contrast between Article 9, disciplinary action, and the Attorney General's proposal and the Administrative Procedure Act simply highlights two questions. What kind of rights is a gaming licensee entitled to and should those rights be specified in statute or left to the commission to adopt as regulations?

The Attorney General's proposal in Section 19921 also provides for the commission to issue an emergency order against a licensee. The emergency order can suspend, limit, condition or take other action in relationship to the license. The section goes on to require the service of an accusation within five days after the issuance of the emergency order, and the conduct of a hearing within 30 days.

The section authorizing the issuance of emergency orders is not standard in Business and Professions Code licensing situations. However, neither is it unheard of. The significant issue, however, is whether the Attorney General's proposal precludes a licensee served with an emergency order from seeking judicial review immediately or not.

Section 19922 provides the exclusive means of judicial review. This section provides for judicial review only of a final decision after a hearing. The apparent consequence of that section is to deprive a licensee of the right to judicial review of an emergency order. That may not be the intent; nevertheless, that appears to be the effect. That effect raises a substantial due process issue.

Further, Section 19922 also calls for judicial review to be conducted pursuant to Section 1094.5 of the Code of Civil Procedure. That is the administrative mandamus review section.

Section 1094.5 provides that a court may stay an administrative decision pending judicial review and decision. It also provides that a court may set aside a decision of an agency if the agency: 1) proceeded contrary to its procedural laws; 2) rendered a decision that was not supported by findings; or 3) adopted findings that are not supported by evidence. Section 1094.5 also provides that in certain circumstances, the evidence to support the findings has to be clear and convincing. This is generally applicable where a license to pursue an occupation or a business is involved.

In contrast, the Attorney General's proposal in Section 19922 seems to remove the court's authority to stay a decision of the commission by limiting the authority to grant stays to only the commission. This section also limits the court's authority to set aside the decision to only one ground, that is, when the findings are not supported by evidence. The standard set out in Section 19922 is that the findings need be supported only by substantial evidence rather than clear and convincing evidence.

The reference to Section 1094.5 and the specific provisions of Section 19922 create an ambiguity. Does Section 1094.5 apply or do the more limited provisions of Section 19922 apply?

Again the question is what judicial review rights does the Legislature believe appropriate for a gaming licensee.

As in the comparison of the rule-making portion of the Administrative Procedure Act, several other differences between the disciplinary action provisions in Article 9 and the administrative adjudicatory portions of the

Administrative Procedure Act exist. Nevertheless, these examples suffice to raise the policy issues that are left with the Legislature to address.

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APPENDIX K



**Hotel
Employees &
Restaurant
Employees International
Union** AFL-CIO, CLC

1219 28TH STREET N.W. WASHINGTON, D.C. 20007 202-393-HERE 202-393-4373 FAX 202-333-0468

EDWARD T. HANLEY
General President
THOMAS HANLEY
Director of Organization

HERMAN LEAVITT
General Secretary-Treasurer
JOHN M. O'GARA
General Vice President

November 30 1993

Chairman Curtis Tucker
Government Organization Committee
State Capitol
Room 4016
Sacramento, CA 95814

Dear Chairman Tucker:

I would like to submit this letter for the record in connection with your joint Hearing to review the Attorney General's proposal to create a State Gaming Commission. Our Union, the Hotel Employees and Restaurant Employees International Union represents more than 55,000 employees in the casino industry primarily in Nevada and New Jersey. 85% of the major casinos in Las Vegas and 100% of those in Atlantic City are unionized.

Over the course of representing workers in this industry we have come to understand the difficult challenge of effectively regulating casino operations. We are very familiar with the regulatory systems in place in Nevada and New Jersey and have come to appreciate their relative strengths and weaknesses.

I want to briefly make a few suggestions for you to consider in the course of this debate over the future of gaming regulation in California.

To begin with, as a general premise, we concur with those who detect a need for a statewide body to regulate gaming. As various forms of gaming grow ever more prevalent in California, it will be increasingly important to have a centralized and expert commission whose sole responsibility is to ensure the integrity of this lucrative industry. Conversely, relying on a hodgepodge of local regulatory bodies leads to an environment in which jurisdictions compete with one another to attract operators on the basis of relative leniency. Relying exclusively on such an array of regulatory systems also creates a multitude of opportunities for corruption. However, we are not here today in order to take a particular side with the existing players in this debate. Rather we hope to add a useful, *additional* perspective to this discussion.

The Commission

In our view, a Statewide Commission should include a range of experts including, as is the case in Nevada for example, representatives from the fields of public administration, law, and finance.

We also feel it important that the Commission effectively represent the public interest and the interest of the thousands of Californians employed in this sector. Toward that end, we suggest the Commission include a representative of organized labor.

Our state like many others across the country is looking to gaming as a means of fostering economic development. In that context, it is critical that the commission not exclude the perspective of people who work in these licensed establishments. Such a representative would, for example, help ensure that work conditions in gaming facilities are a matter of regulatory concern.

It is also important that an ethics policy be implemented such that regulators are not rewarded with lucrative positions within the industry shortly after leaving the Commission.

Finally, in our view, appointment to the gaming commission should not be the exclusive purview of the Governor, but should require confirmation by the California Legislature.

Access to Information

Next, I would like to address the need for the Commission to ensure that the public have access to information regarding gaming licensees. Such access is fundamental to the question of accountability and protection of the public interest.

To begin with, all meetings of the commission should be open and publicly noticed. Certainly, California public meeting law should apply to all Gaming Commission proceedings.

Additionally, the public should have access to any non-proprietary information regarding licensees including but not limited to:

- ▶ applications on file
- ▶ compliance history/investigation information
- ▶ notification and/or settlement agreements pertaining to potential regulatory non-compliance.

Chairman Curtis Tucker
November 30 1993
Page 3

We would also recommend that California learn from the Atlantic City model and require that licensees submit monthly financial reports detailing expense and revenue information so as to make ongoing financial disclosure a matter of public record.

Regulatory Language

Let me now make some general suggestions about regulatory criteria which our Union feels should be included in any regulations enforced by such a commission. I would be happy to provide you in a timely fashion with draft language on any of these concepts, if the Committee feels that would be useful.

1) General Welfare Language

At the broadest level, our experience in Nevada and New Jersey suggests that it is very important to include enforceable language which requires licensees to operate gaming establishments in a manner consistent with the general welfare of the State and its inhabitants. This section of the regulations should specify that licensees must adhere to all federal, state, and local laws -- *both civil and criminal* as well as standards of conduct in keeping with the best interests of the people of California.

Our now 26 month long dispute with the Frontier Hotel and Casino in Las Vegas provides the rationale for such language. The systematic civil violations of state and federal law on the part of this Nevada licensee have gone largely unredressed by the State Gaming regulators, despite obvious damage suffered by employees, customers, and the Nevada public.

For example, the Frontier has been the subject of the largest proposed fine for health and safety violations in the history of the State Division of Occupational Safety and Health. The Frontier has also committed extensive violations of federal labor law. However, the Nevada regulators have consistently argued that such illegal activity is outside of their purview and cannot be a matter of licensability. Meanwhile, workers, customers, and the reputation of Nevada's primary industry are suffering at the hands of a flagrant lawbreaker. The Nevada legislature is taking steps to broaden the scope of gaming regulation in response to such behavior.

Current federal preemption issues regarding labor law violations notwithstanding, broad language focused on violations of civil as well as criminal law should be crafted in order to effectively protect employees and customers of the California gaming industry.

2) *Financial Stability Standards*

We also advocate language which establishes industry-wide standards of financial stability. Again, from the perspective both of the state's interest in viable economic development and our organization's concern about the nature and security of jobs offered in this burgeoning industry, such standards are critical. Specifically, we think it useful to consider establishing minimum financial criteria for ongoing suitability of a licensed operation.

3) *Employee Compensation Reserve Accounts*

Related to the question of financial stability, we further propose that in the event that a licensed establishment falls below specified financial stability criteria, the licensee be obligated to establish reserve accounts to ensure coverage of payroll and benefit obligations for all employees. Given the privileged status of a California gaming licensee and the lucrative nature of this industry, such protections are appropriate to ensure that these employers do not impose an undue burden on the state's already strained resources.

4) *Political Contribution Language*

California's historical experience with this industry also points up the need for strict controls and disclosure requirements regarding political campaign contributions and gifts to elected officials.

The justification for such regulation is underlined by the well-publicized example of Frank Sansone. According to a March 3, 1985 *Los Angeles Times* story, Sansone was a "card room manager" at the MGM Grand in Las Vegas in 1982 who "headed the Nevada group that offered the (City of) Commerce officials secret shares of the California Commerce Club in return for being granted the license to open the gambling establishment." The fact that MGM Grand is currently interested in returning to the California gaming market serves as a useful reminder in this regard.

5) *Regular Licensing Reviews*

We would recommend that as is the case in Atlantic City a licensee have an ongoing obligation to prove his suitability to operate a licensed facility. This is best ensured by requiring licensees to submit to a regular review (every two years for example) wherein the burden of proof rests with the casino operator to establish suitability.

Chairman Curtis Tucker
November 30 1993
Page 5

6) *Disclosure/Licensing of "Controlling" Shareholders*

We agree with those who have raised concerns regarding disclosure and licensing of all owners associated with a given gaming establishment. We would recommend that, as is the case in Nevada, all private company shareholders be licensed and that any entity which owns 10% or more of the outstanding shares in a public company licensee be subject to the licensing process. In the instance of a publicly traded mutual fund or similar investment vehicle which holds investments in a public company licensee, we recommend the minimum level of 15% which is also consistent with Nevada regulations.

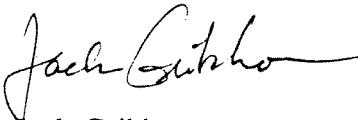
In general, I would like to point out (without venturing into the separate debate over the role of public companies in California gaming) that in our experience, public gaming companies have posed less of a challenge to regulatory bodies. Notwithstanding the problems which a former employee MGM Grand has reportedly posed for California card club regulators, public corporations, due to their preexisting accountability to shareholders and securities regulators, have generally developed effective regulatory compliance programs.

Conversely, it has been the single proprietorships and family-owned establishments which have more consistently applied a cost-benefit analysis to regulatory compliance and, hence, tested the bounds of regulatory tolerance. This is the case with the family-owned Frontier, for example.

Conclusion

I hope that these concepts prove useful to the committee in defining an appropriate regulatory framework for California gaming. As I indicated at the beginning of my testimony, should you desire draft language regarding any of the proposals set forth here, I would be happy to provide it.

Sincerely yours,



Jack Gribbon
Western Regional Political Coordinator

