INTERNET GAMING

Prepared for the meeting of the

GAMING POLICY COMMITTEE

NEVADA GAMING COMMISSION

NEVADA GAMING CONTROL BOARD

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TAB 1

NRS CHAPTER 463

INTERACTIVE GAMING (2011)

INTERACTIVE GAMING

NRS 463.745 Legislative findings and declarations. The Legislature hereby finds and declares that:

1. The State of Nevada leads the nation in gaming regulation and enforcement, such that the State of Nevada is uniquely positioned to develop an effective and comprehensive regulatory structure related to interactive gaming.

2. A comprehensive regulatory structure, coupled with strict licensing standards, will ensure the protection of consumers, prevent fraud, guard against underage and problem gambling and aid in law enforcement efforts.

3. To provide for licensed and regulated interactive gaming and to prepare for possible federal legislation, the State of Nevada must develop the necessary structure for licensure, regulation and enforcement.

(Added to NRS by 2011, 1668)

NRS 463.750 License required for person to operate interactive gaming, to manufacture interactive gaming systems or associated equipment or to act as service provider; powers and duties of Commission; regulations; conditions; limitations; penalty.

1. The Commission shall, with the advice and assistance of the Board, adopt regulations governing the licensing and operation of interactive gaming.

2. The regulations adopted by the Commission pursuant to this section must:

(a) Establish the investigation fees for:

(1) A license to operate interactive gaming;

(2) A license for a manufacturer of interactive gaming systems;

(3) A license for a manufacturer of equipment associated with interactive gaming; and

(4) A license for a service provider to perform the actions described in paragraph (a) of subsection 5 of NRS 463.677.

(b) Provide that:

(1) A person must hold a license for a manufacturer of interactive gaming systems to supply or provide any interactive gaming system, including, without limitation, any piece of proprietary software or hardware;

(2) A person may be required by the Commission to hold a license for a manufacturer of equipment associated with interactive gaming; and

(3) A person must hold a license for a service provider to perform the actions described in paragraph (a) of subsection 5 of NRS 463.677.

(c) Set forth standards for the suitability of a person to be licensed as a manufacturer of interactive gaming systems, manufacturer of equipment associated with interactive gaming or a service provider as described in paragraph (b) of subsection 5 of NRS 463.677 that are as stringent as the standards for a nonrestricted license.

(d) Set forth provisions governing:

(1) The initial fee for a license for a service provider as described in paragraph (b) of subsection 5 of NRS 463.677.

(2) The fee for the renewal of such a license for such a service provider and any renewal requirements for such a license.

(3) Any portion of the license fee paid by a person licensed to operate interactive gaming, pursuant to subsection 1 of NRS 463.770, for which a service provider may be liable to the person licensed to operate interactive gaming.

(e) Provide that gross revenue received by an establishment from the operation of interactive gaming is subject to the same license fee provisions of NRS 463.370 as the games and gaming devices of the establishment, unless federal law otherwise provides for a similar fee or tax.

(f) Set forth standards for the location and security of the computer system and for approval of hardware and software used in connection with interactive gaming.

(g) Define "equipment associated with interactive gaming," "interactive gaming system," "manufacturer of equipment associated with interactive gaming," "manufacturer of interactive gaming systems," "operate interactive gaming" and "proprietary hardware and software" as the terms are used in this chapter.

(h) Provide that any license to operate interstate interactive gaming does not become effective until:

(1) A federal law authorizing the specific type of interactive gaming for which the license was granted is enacted; or

(2) The United States Department of Justice notifies the Board or Commission in writing that it is permissible under federal law to operate the specific type of interactive gaming for which the license was granted.

3. Except as otherwise provided in subsections 4 and 5, the Commission shall not approve a license for an establishment to operate interactive gaming unless:

(a) In a county whose population is 700,000 or more, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices.

(b) In a county whose population is 45,000 or more but less than 700,000, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices or the establishment:

(1) Holds a nonrestricted license for the operation of games and gaming devices;

(2) Has more than 120 rooms available for sleeping accommodations in the same county;

(3) Has at least one bar with permanent seating capacity for more than 30 patrons that serves alcoholic beverages sold by the drink for consumption on the premises;

(4) Has at least one restaurant with permanent seating capacity for more than 60 patrons that is open to the public 24 hours each day and 7 days each week; and

(5) Has a gaming area that is at least 18,000 square feet in area with at least 1,600 slot machines, 40 table games, and a sports book and race pool.

(c) In all other counties, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices or the establishment:

(1) Has held a nonrestricted license for the operation of games and gaming devices for at least 5 years before the date of its application for a license to operate interactive gaming;

(2) Meets the definition of group 1 licensee as set forth in the regulations of the Commission on the date of its application for a license to operate interactive gaming; and

(3) Operates either:

(I) More than 50 rooms for sleeping accommodations in connection therewith; or

(II) More than 50 gaming devices in connection therewith.

4. The Commission may:

(a) Issue a license to operate interactive gaming to an affiliate of an establishment if:

(1) The establishment satisfies the applicable requirements set forth in subsection 3; and

(2) The affiliate is located in the same county as the establishment; and

(3) The establishment has held a nonrestricted license for at least 5 years before the date on which the application is filed; and

(b) Require an affiliate that receives a license pursuant to this subsection to comply with any applicable provision of this chapter.

5. The Commission may issue a license to operate interactive gaming to an applicant that meets any qualifications established by federal law regulating the licensure of interactive gaming.

6. It is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others, to operate interactive gaming:

(a) Until the Commission adopts regulations pursuant to this section; and

(b) Unless the person first procures, and thereafter maintains in effect, all appropriate licenses as required by the regulations adopted by the Commission pursuant to this section.

7. A person who violates subsection 6 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years or by a fine of not more than $50,000, or both.

(Added to NRS by 2001, 3076; A 2011, 213, 1283, 1669)

NRS 463.755 Commission may require license for manufacturer and others selling, transferring or offering equipment associated with interactive gaming.

1. Upon the recommendation of the Board, the Commission may require:

(a) A manufacturer of equipment associated with interactive gaming who sells, transfers or offers equipment associated with interactive gaming for use or play in this state to file an application for a license to be a manufacturer of equipment associated with interactive gaming.

(b) A person who directly or indirectly is involved in the sale, transfer or offering for use or play in this state of equipment associated with interactive gaming who is not otherwise required to be licensed as a manufacturer or distributor pursuant to this chapter to file an application for a license to be a manufacturer of equipment associated with interactive gaming.

2. If a person fails to submit an application for a license to be a manufacturer of equipment associated with interactive gaming within 30 days after a demand by the Commission pursuant to this section, the Commission may pursue any remedy or combination of remedies provided in this chapter.

(Added to NRS by 2001, 3078)

NRS 463.760 Initial license fee for manufacturers; renewal fee.

1. Before issuing a license for a manufacturer of interactive gaming systems or manufacturer of equipment associated with interactive gaming, the Commission shall charge and collect a license fee of:

(a) One hundred and twenty-five thousand dollars for a license for a manufacturer of interactive gaming systems; or

(b) Fifty thousand dollars for a license for a manufacturer of equipment associated with interactive gaming.

2. Each license issued pursuant to this section must be issued for a 1-year period that begins on the date the license is issued.

3. Before renewing a license issued pursuant to this section, but in no case later than 1 year after the license was issued or previously renewed, the Commission shall charge and collect a renewal fee for the renewal of the license for the immediately following 1-year period. The renewal fee for a license for a manufacturer of interactive gaming systems or manufacturer of equipment associated with interactive gaming is $25,000.

(Added to NRS by 2001, 3078)

NRS 463.765 Initial license fee to operate interactive gaming; renewal fee.

1. Before issuing an initial license for an establishment to operate interactive gaming, the Commission shall charge and collect from the establishment a license fee of $500,000.

2. Each initial license for an establishment to operate interactive gaming must be issued for a 2-year period beginning on January 1 of the first year and ending on December 31 of the second year.

3. Notwithstanding the provisions of subsections 1 and 2 to the contrary, a license for an establishment to operate interactive gaming may be issued after January 1 of a calendar year for a period beginning on the date of issuance of the license and ending on the second December 31 following the date of issuance of the license. Before issuing an initial license pursuant to this subsection, the Commission shall charge and collect from the establishment a license fee of $500,000 prorated by 1/24 for each full month between January 1 of the calendar year and the date of issuance of the license.

4. Before renewing a license issued pursuant to this section, but in no case later than the second December 31 after the license was issued or previously renewed, the Commission shall charge and collect a renewal fee of $250,000 for the renewal of the license for the immediately following 1-year period.

(Added to NRS by 2001, 3078)

NRS 463.770 Monthly license fee based on gross revenue from operating interactive gaming; liability of manufacturer entitled to share revenue from interactive gaming system.

1. Unless federal law otherwise provides for a similar fee or tax, all gross revenue from operating interactive gaming received by an establishment licensed to operate interactive gaming, regardless of whether any portion of the revenue is shared with another person, must be attributed to the licensee and counted as part of the gross revenue of the licensee for the purpose of computing the license fee required by NRS 463.370.

2. A manufacturer of interactive gaming systems who is authorized by an agreement to receive a share of the revenue from an interactive gaming system from an establishment licensed to operate interactive gaming is liable to the establishment for a portion of the license fee paid pursuant to subsection 1. The portion for which the manufacturer of interactive gaming systems is liable is 6.75 percent of the amount of revenue to which the manufacturer of interactive gaming systems is entitled pursuant to the agreement.

3. For the purposes of subsection 2, the amount of revenue to which the manufacturer of interactive gaming systems is entitled pursuant to an agreement to share the revenue from an interactive gaming system:

(a) Includes all revenue of the manufacturer of interactive gaming systems that is the manufacturer of interactive gaming systems' share of the revenue from the interactive gaming system pursuant to the agreement; and

(b) Does not include revenue that is the fixed purchase price for the sale of a component of the interactive gaming system.

(Added to NRS by 2001, 3079; A 2003, 20th Special Session, 213; 2011, 1672)

NRS 463.775 Exemptions from certain fees and taxes. The operation of interactive gaming is exempt from the fees and taxes imposed pursuant to NRS 463.375, 463.380, 463.383 and 463.385.

(Added to NRS by 2001, 3078)

NRS 463.780 Enforceability of interactive gaming debts. A debt incurred by a patron for play at an interactive gaming system of an establishment licensed to operate interactive gaming is valid and may be enforced by legal process.

(Added to NRS by 2001, 3078)

TAB 2

MARCH 7, 2002 LETTER

TO

U.S. DEPARTMENT OF JUSTICE

Nevada Gaming Commission
Pete Bernhard, *Chairman*
Augie Gurrola, *Commissioner*
Arthur Marshall, *Commissioner*
Sue Wagner, *Commissioner*
Radha Chanderraj, *Commissioner*

KENNY C. GUINN
Governor

State Gaming Control Board
Dennis K. Neilander, *Chairman*
Bobby L. Siller, *Member*
Scott Scherer, *Member*

STATE OF NEVADA
NEVADA GAMING COMMISSION
STATE GAMING CONTROL BOARD
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555 E. Washington Ave., Suite 2600, Las Vegas, Nevada 89101
3650 South Pointe Cir., P.O. Box 31109, Laughlin, Nevada 89028
557 W. Silver St., Suite 207, Elko, Nevada 89801
495 Apple St., Reno, Nevada 89502

March 7, 2002

Chris Huff, Esq.
Office of Intergovernmental Affairs
United States Department of Justice
Main Justice Building
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Huff:

As you are aware, the Nevada State Legislature enacted a bill last year that enabled the Nevada Gaming Commission, with the assistance of the Nevada Gaming Control Board, to commence the process of adopting regulations to legalize interactive gaming, including on-line gambling. However, the Commission may proceed only if certain conditions are met. As part of this legislation, commonly known as Assembly Bill 466, the Legislature directed the Commission to first determine, among other things, whether such gaming is legal. The answer depends in large part on the interpretation and application of current federal law.

As a result, we asked the Nevada Attorney General's Office and specifically, our counsel Assistant Chief Deputy Attorney General Jeff Rodefer, to provide a written overview of the federal law that may affect the legality of Internet gaming. Enclosed for your review is a copy of this article, which will be published in the next few months.

The results of the legal research are somewhat inconclusive. In the absence of any Congressional action that would definitively resolve this issue, we are seeking guidance with regard to your office's present interpretation of these federal laws and particularly the Wire Act. Nevada's regulatory bodies are neither in favor of nor against any specific policy position and would not seek to "lobby" the Department of Justice. We have been delegated the above-described task and are simply attempting to fulfill this responsibility. Towards these goals, it is our sincere hope and desire that you and the other members of the Department of Justice will review the enclosed article and agree to discuss these vital issues in the very near future.

In the meantime, if you have any questions, please do not hesitate to contact either one of us at the telephone numbers listed below or Assistant Chief Deputy Attorney General Rodefer at (702) 486-3420.

Sincerely,

NEVAD GAMING COMMMISSION

PETER C. BERNHARD, Chairman
(702) 650-6565

NEVADA GAMING CONTROL BOARD

DENNIS K. NEILANDER, Chairman
(775) 684-7742

PCB:DKN:JRR:dkl

Enclosure

By Federal Express

c/enc: Sue Wagner, Commissioner
Augie Gurrola, Commissioner
Arthur Marshall, Commissioner
Radha Chanderraj, Commissioner
Bobby L. Siller, Board Member
Scott Scherer, Board Member
Frankie Sue Del Papa, Attorney General
Keith E. Kizer, Chief Deputy Attorney General
Jeffrey R. Rodefer, Asst. Chief Deputy Attorney General

INTERNET GAMBLING IN NEVADA:
Overview of Federal Law Affecting Assembly Bill 466

JEFFREY R. RODEFER

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On June 14, 2001, Nevada Governor Kenny C. Guinn signed into law Assembly Bill (A.B.) 466 and opened the door to a potential new frontier for gaming on the Internet.[1] This legislation enables the Nevada Gaming Commission to adopt regulations upon the advice and assistance of the Nevada Gaming Control Board. However, before such regulations may be promulgated, the Legislature clearly instructed the Commission to first determine, among other things, whether "interactive gaming"[2] is legal.[3]

Jeffrey R. Rodefer is an Assistant Chief Deputy Attorney General for the Nevada Attorney General's Office, Gaming Division. He represents the Nevada Gaming Commission and the Nevada Gaming Control Board.

[1] The Internet is an international network of thousands of networks linked by Transmission Control Protocol/Internet Protocol (TCP/IP). The Internet is not one network, but a mass of interconnected networks capable of passing information by way of Internet protocols. More specifically, computers are connected by some form of cable creating local area networks or LANs. In turn, special-purpose routers provide links between various LANs. This link creates a wide area network or WAN. *See* Harley J. Goldstein, *On-Line Gambling: Down to the Wire?*, 8 Marq. Sports L.J. 1, 2, (Fall 1997). The Internet was developed and more accurately, the TCP/IP was created by the Defense Advance Research Projects Agency, the brainchild of the United States Department of Defense, in the late 1970s to ensure continual communication between "network's individual components in the event of the destruction of any of the constituent networks . . .", including nuclear attack. *Id.*, at 2 n. 20; *see also American Civil Liberties Union v. Reno*, 929 F. Supp. 824, 830-838 (E.D. Pa. 1996) (for a thorough analysis of the Internet and Worldwide Web); Ari Lanin, *Who Controls the Internet? States' Rights and the Reawakening of the Dormant Commerce Clause*, 73 S. Cal. L. Rev. 1423, 1424-1430 (history of the Internet).

[2] The term "interactive gaming" means:

> [T]he conduct of gambling games through the use of communications technology that allows a person, utilizing money, checks, electronic checks, electronic transfers of money, credit cards, debit cards or any other instrumentality, to transmit to a computer information to assist in the placing of a bet or wager and the corresponding information related to the display of the game, game outcomes or other similar information. The term does not include the operation of a race book or sports pool that uses communications technology approved by the board pursuant to regulations adopted by the commission to accept wagers originating within this state for races or sporting events.

Act of June 14, 2001, ch. 593, § 2, 2001 Nev. Stat. 3075. "Communications technology" has been defined to mean "any method used and the components employed by an establishment to facilitate the transmission of information, including, without limitation, transmission and reception by systems based on wire, cable, radio, microwave, light, optics or computer data networks, including without limitation, the Internet and intranets." *Id.*

[3] *See id.*, § 3.

This article attempts to provide an overview of the various federal statutes that may affect the legality of on-line gaming. It is important to note that the following analysis does not consider the constitutional ramifications of casino advertisements on the Internet in light of the federal district court and United States Supreme Court decisions in *Valley Broadcasting Co. v. United States*[4] and *Greater New Orleans Broadcasting Ass'n v. United States*,[5] respectively.

I.

CONGRESSIONAL HISTORY ON GAMBLING

Gambling has historically been a creature of state regulation governed by the powers reserved to the states under the Tenth Amendment of the United States Constitution.[6] Generally, "[g]ambling is illegal unless regulated by an individual state,"[7] such as Nevada. This "states' rights" stance on the issue of gambling appears be a federal policy aimed at capturing the will of the people.[8] From the colonial-era to post-Civil War America, Congress has consistently taken a hands-off approach towards gambling.[9] In the late 1890's, Congress briefly entered the field of gaming regulation with respect to lotteries.[10]

In 1961, Congress entered the gaming arena again by enacting a series of statutes that were aimed at fighting organized crime.[11] In 1970, Congress strengthened these statutes by passing the Racketeer Influenced and Corrupt Organizations Act.[12] In each instance, Congress exercised its powers to regulate interstate commerce by passing legislation that would assist the various states in enforcing their respective gambling laws.[13] A states' rights position was still evident in the late 1970's with the passage of the Interstate Horseracing Act of

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[4] *See Valley Broadcasting Co. v. United States*, 820 F. Supp. 519 (D. Nev. 1993), *aff'd*, 107 F.3d 1328 (9th Cir. 1997), *cert. denied*, 522 U.S. 1115 (1998) (the wholesale ban of promotional advertising of legalized casino gambling is a violation of commercial free speech under the First Amendment).

[5] *See Greater New Orleans Broadcasting Ass'n v. United States*, 527 U.S. 173 (1999) (application of 18 U.S.C. § 1304 as a prohibition to radio and television broadcasts of advertisements for legal casino gaming is a violation of protected commercial speech under the First Amendment).

[6] *See* U.S. Const. Amend. X; *see also* Beau Thompson, *Internet Gambling*, 2 N.C. J.L. & Tech. 81, 90 (Spring 2001).

[7] *See* Michael P. Kailus, *Do Not Bet on Unilateral Prohibition of Internet Gambling to Eliminate Cyber-Casinos*, 1999 U. Ill. L. Rev. 1045, 1047.

[8] *See* David Goodman, *Proposals for a Federal Prohibition of Internet Gambling: Are There Any Other Viable Solutions to the Perplexing Problem?*, 70 Miss. L.J. 375, 379 (Fall 2000); *see also* Michael J. Thompson, *Give Me $25 on Red and Derek Jeter for $26: Do Fantasy Sports Leagues Constitute Gambling*, 8 Sports Law J. 21, 33 (Spring 2001).

[9] *See United States v. King*, 834 F.2d 109, 111 (6th Cir. 1987), *cert. denied*, 485 U.S. 1022 (1988).

[10] *See infra*, IV(7).

[11] *See infra*, IV(1), (2), (3).

[12] *See infra*, IV(5).

[13] *See infra, e.g.*, IV.

1978,[14] which regulates pari-mutuel wagering on horse racing. Congress specifically found that "the States should have the primary responsibility for determining what forms of gambling may legally take place within their borders."[15]

Now with the advent of the Internet, many believe that Congress can no longer continue to follow the same states' rights doctrine as gambling merges onto the information superhighway. The Internet is inherently an instrument of interstate commerce.[16] As one author states "[b]ecause of the national and international scope of the Internet, state regulation may not be constitutional under the Dormant Commerce Clause."[17] In fact, Congress may be shifting its focus in this direction. On June 28, 2001, the "Jurisdictional Certainty Over Digital Commerce Act" was introduced before the House of Representatives Committee on Energy and Commerce.[18] If the proposed legislation becomes law, Congress would completely preempt state regulation of e-commerce, including gaming.[19]

II.

LOCATION OF INTERNET GAMBLING: JURISDICTION OF THE WAGER

A critical decision, in the analysis of whether Internet gambling is legal, is a determination of where it takes place. Does the physical act of placing a wager take place where the gambler is located or where the Internet site is operated?[20] The answer will be pivotal in analyzing federal statutes that require a predicate state law violation or the relevant exemptions to those laws.

In *Playboy Ent., Inc. v. Chuckleberry Pub., Inc.*,[21] the plaintiff had successfully brought an action against the defendant for trademark infringement.[22] Approximately ten years later, the plaintiff brought a motion for contempt against the defendant claiming it had violated the permanent injunction that had been entered by distributing pictorial images in the United States through the creation of an Internet site.[23] The defendant argued that merely posting the pictures on a computer server in Italy did not constitute distribution

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[14] *See* 15 U.S.C. § 3001, *et seq.*

[15] *See* Interstate Horse Racing Act, Pub. L. No. 95-515, § 2(a)(1), 92 Stat. 1811 (1978).

[16] *See* Ari Lanin, *Who Controls the Internet? States' Rights and the Reawakening of the Dormant Commerce Clause*, *supra*, n. 1, at 1424.

[17] *See* Scott Olson, *Betting No End to Internet Gambling*, 4 J. Tech. L. & Pol'y 2 (Spring 1999); *see also infra*, n. 219.

[18] *See infra*, VI.

[19] *See id.*

[20] *See* Michael P. Kailus, *Do Not Bet on Unilateral Prohibition of Internet Gambling to Eliminate Cyber-Casinos*, *supra*, n. 7, at 1047.

[21] *See Playboy Ent., Inc. v. Chuckleberry Pub., Inc.*, 939 F. Supp. 1032 (S.D.N.Y. 1996).

[22] *See id.* 939 F.Supp. at 1034.

[23] *See id.* at 1035.

within the United States in violation of the permanent injunction since such an act was tantamount to flying to Italy to buy a magazine.[24] The federal district court disagreed and held that the defendant actively solicited United States customers to its website and, as such, it distributed its product in the United States.[25]

In rejecting the defense argument that gambling takes place in the jurisdiction of the Internet operator, the state court in *Vacco v. World Interactive Gaming Corp.* held that "[t]he act of entering the bet and transmitting the information from New York via the Internet is adequate to constitute gambling activity within the State of New York."[26] As one federal prosecutor succinctly stated, "the notion that a person 'travels' to these foreign nations by communicating with computers there is as persuasive as the notion that a person who picks up a telephone and dials a friend in London should first put on a raincoat."[27]

In *Missouri v. Coeur d'Alene Tribe*,[28] a federally registered tribe in Idaho, began operating an Internet lottery site (www.uslottery.com) on June 19, 1997, pursuant to a state compact under the Indian Gaming Regulatory Act (IGRA) [29] of 1988.[30] Patrons in thirty-six states may register from their personal computers by establishing a gambling account funded with their credit cards.[31] The Attorney General of Missouri brought action in Missouri state court seeking to enjoin the Tribe and the operators from offering the Internet lottery to Missouri residents in contravention of state law.[32] The Tribe and the operators removed the case to federal district court claiming that IGRA completely preempts[33] state regulation of tribal gaming.[34] The federal district court agreed with the Tribe and found that IGRA entirely preempts the area of Indian gaming, even if the gaming does not occur on Indian lands.[35] The Eighth Circuit disagreed and held that the language of IGRA and the related legislative history only refer to "gaming on Indian lands."[36] The court stated that:

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[24] *See id.* at 1039.

[25] *See id.*; *see also* Terrence Berg, *www.wildwest.gov: The Impact of the Internet on State Power to Enforce the Law*, 2000 B.Y.U. L. Rev. 1305, 1360 (mere access to the website will not be sufficient to exercise personal jurisdiction).

[26] *Vacco v. World Interactive Gaming Corp.*, 714 N.Y.S.2d 844, 850 (1999).

[27] Joseph V. DeMarco, Assistant United States Attorney, Southern District of New York, *Gambling Against Enforcement – Internet Sports Books and the Wire Act*, United State Attorneys' Bulletin, Vol. 49, No. 2, at 36 (March 2001).

[28] *Missouri v. Coeur d'Alene Tribe*, 164 F.3d 1102 (8th Cir. 1999), *cert. denied*, 527 U.S. 1039 (1999).

[29] *See* 25 U.S.C. §§ 2701-2721.

[30] *See Coeur d'Alene Tribe*, *164* F.3d at 1104.

[31] *See id.*

[32] *See id.*

[33] *See infra*, n. 274.

[34] *See Coeur d'Alene Tribe*, 164 F.3d at 1105.

[35] *See id.*

[36] *Id.* at 1108.

> [O]nce a tribe leaves its own lands and conducts gambling activities on state lands, nothing in the IGRA suggests that Congress intended to preempt the State's historic right to regulate this controversial class of economic activities. For example, if the State of Missouri sought an injunction against the Tribe conducting an internet lottery from a Kansas City hotel room, or a floating crap game in the streets of St. Louis, the IGRA should not completely preempt such a law enforcement action simply because the injunction might "interfere with tribal governance of gaming."[37]

The court concluded that if the Internet lottery were conducted on tribal lands, IGRA would preempt the state's ability to regulate or prohibit the activity.[38] If, on the other hand, the lottery were being run in Missouri, then IGRA would not operate as shield to preempt state action.[39] This question of where the lottery is located was left to the federal district court to resolve on remand.[40]

It is worth noting that the issue on remand appears to have been decided in a prior suit involving the same Tribe in *AT&T Corp. v. Couer d'Arlene Tribe*.[41] Specifically, AT&T sought declaratory relief that it was not required to provide the Tribe with toll-free interstate service to any state in which the operation of a lottery was in violation of that state's laws.[42] The court held that "since the proposal for the 800 number contemplated orders [for chances in the lottery] being placed from states other than Idaho, the proposed gaming activities were not on Indian lands."[43] Since the lottery is not being conducted on Indian lands when a telephone wager is placed from beyond the borders of Idaho, the federal district court in Missouri, as some believe, should reach the same conclusion as to the Internet aspect of this same lottery.[44]

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[37] *Id.*
[38] *See id.* at 1109.
[39] *See id.*
[40] *See id.*
[41] *See AT&T Corp. v. Couer d'Arlene Tribe*, 45 F. Supp. 2d 995 (D. Idaho 1998).
[42] *See id.* 45 F. Supp. 2d at 1005.
[43] *Id.*
[44] *See* Jeffrey A. Dempsey, *Surfing for Wampum: Federal Regulation of Internet Gambling and Native American Sovereignty*, 25 Am. Indian L. Rev. 133, 148 (2000/2001); *see also* Jenna F. Karadbil, *Casinos of the Next Millennium: A Look into the Proposed Ban on Internet Gambling*, 17 Ariz. J. Int'l & Comp. Law 413, 419-421 (Spring 2000).

III.

OVERVIEW OF FEDERAL LAW

Is Internet gambling legal? Numerous federal statutes touch on aspects of this question and are separately considered in this analysis. In 1961, the Wire Act (18 U.S.C. § 1084), the Travel Act (18 U.S.C. § 1952) and the Interstate Transportation of Wagering Paraphernalia Act (18 U.S.C. § 1953) were enacted as part of the same legislation to combat organized crime.

The Wire Act clearly prohibits the use of the Internet for transmission of sports bets or wagers or information assisting in the placement of such bets or wagers, unless the transmission constitutes either a bona fide news report of a sporting event or contest, or information relating to sports betting that is legal in both the state from which it was sent and the state in which it was received.[45] The language of the Wire Act, the related legislative history (including the companion provisions of sections 1953 and 1955), and the case law seem to strongly suggest that the Wire Act should be narrowly construed to sporting events and similar contests, rather than a broader view that would encompass traditional casino games or games of chance.

The Travel Act prohibits the interstate travel or use of an interstate facility in furtherance of an unlawful business enterprise.[46] The Interstate Transportation of Wagering Paraphernalia Act criminalizes the interstate transportation, except by common carrier, of any record, writing, paraphernalia or device used, adapted or devised for use in bookmaking, sports wagering pools, policy, bolita or similar games.[47] By contrast, the Travel Act is not limited to illegal gambling, but addresses a larger spectrum of unlawful activity. Furthermore, the Travel Act does not concentrate on any particular type of materials, but instead focuses upon the use of interstate facilities with the intent of continuing an unlawful business enterprise.

In 1970, as part of the Organized Crime Control Act, Congress enacted the Illegal Gambling Business Act and the Racketeer Influenced and Corrupt Organizations Act, commonly known as RICO. A conviction under the Illegal Gambling Business Act requires a showing that there is a gambling operation which (1) is in violation of state or local law, (2) involves five or more persons that either conduct, finance, manage, supervise, direct or own all or part of the business and (3) remains in substantially continuous operation for thirty days or has a gross revenue of $2,000 in any given day.[48]

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[45] *See* 18 U.S.C. § 1084(a), (b).
[46] *See* 18 U.S.C. § 1952.
[47] *See* 18 U.S.C. § 1953.
[48] *See* 18 U.S.C. § 1955.

RICO, which complements the Illegal Gambling Business Act, imposes both criminal penalties and civil remedies.[49] Although RICO is, in large part, a response to organized crime's infiltration of legitimate businesses, it makes no mention of "organized crime." Instead, RICO targets "racketeering activity," which includes, among other things, illegal gambling that is a felony under state law or a violation of specific provisions of Title 18, including the Wire Act, the Travel Act, the Interstate Transportation of Wagering Paraphernalia Act and the Illegal Gambling Business Act.[50] Whether the action is civil or criminal in nature, a violation of RICO requires proof of (1) the existence of an enterprise, (2) either a pattern of racketeering activity or the collection of an unlawful debt and (3) the enterprise engaging in or affecting interstate commerce.[51]

The Professional and Amateur Sports Protection Act, which was passed in 1992 over the objections of the Justice Department, prohibits state sponsored or sanctioned wagering on professional and amateur sports.[52] Although this legislation was born out of a fear concerning the implications of sports wagering on all Americans, Congress, nevertheless, exempted Nevada's licensed sports pools from the reach of the statute's prohibition.[53] Unlike the Wire Act, this legislation does not require the use of interstate transmissions.

The Interstate Wagering Amendment of 1994 revised 18 U.S.C. § 1301 and closed an apparent loophole regarding lottery ticket messenger services. Prior to the amendment, the judicial system made two important holdings. First, the carriage of lottery tickets between states constituted interstate commerce.[54] Second, simply selling an "interest" in a legal and authorized lottery of another state did not violate section 1301.[55]

Finally, in December 2000, despite opposition from the Justice Department, the Interstate Horseracing Act of 1978 was amended to specifically expand the definition of "interstate off-track wager" to include pari-mutuel wagers transmitted between states by way of telephone or other electronic media,[56] arguably opening the door to pari-mutuel wagering on horseracing over the Internet between states that permit such wagering.

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[49] *See* 18 U.S.C. §§ 1963, 1964.
[50] *See* 18 U.S.C. §§ 1961, 1962.
[51] *See* 18 U.S.C. § 1962.
[52] *See* 28 U.S.C. § 3702.
[53] *See* 28 U.S.C. § 3704(a)(2).
[54] *See Champion v. Ames*, 188 U.S. 321, 354 (1903).
[55] *See PIC-A-State PA, Inc. v. Commonwealth of Pennsylvania*, 42 F.3d 175, 177 (3rd Cir. 1994).
[56] *See* 15 U.S.C. § 3002(3).

IV.

REVIEW OF FEDERAL STATUTES AND CASE LAW

1. Wire Act of 1961.

In 1961, Congress enacted the Wire Act[57] as a part of series of anti-racketeering laws. The Wire Act complements other federal bookmaking statutes, such as the Travel Act (interstate travel in aid of racketeering enterprises, including gambling), the Interstate Transportation of Wagering Paraphernalia Act, and the Illegal Gambling Business Act (requires a predicate state law violation). The Wire Act was intended to assist the states, territories and possessions of the United States, as well as the District of Columbia, in enforcing their respective laws on gambling and bookmaking and to suppress organized gambling activities.[58]

Subsection (a) of the Wire Act, a criminal provision, provides:

> Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined under this title or imprisoned not more than two years, or both.[59]

In order to prove a *prima facie* case, the government must establish that:

1. The person was "*engaged in the business of betting or wagering*" (compared with a casual bettor);
2. The person transmitted in interstate or foreign commerce:
   (a) bets or wagers,
   (b) information assisting in the placement of bets or wagers, or
   (c) a communication that entitled the recipient to receive money or credit as a result of a bet or wager;
3. The person used a "*wire communication facility*;" and

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[57] *See* Sporting Events – Transmission of Bets, Wagers, and Related Information Act, Pub. L. No. 87-216, § 2, 75 Stat. 491, 552-553 (1961).

[58] *See United States v. McDonough*, 835 F.2d 1103, 1105 n. 7 (5th Cir. 1988); *see also Martin v. United States*, 389 F.2d 895, 898 n. 6 (5th Cir. 1968), *cert. denied*, 391 U.S. 919 (1968) (*quoting* 2 U.S. Code & Cong. News, 87th Cong., 1st Sess., 2631, 2633 (letter from Attorney General Robert F. Kennedy to Speaker of the House of Representatives, dated April 6, 1961)).

[59] 18 U.S.C. § 1084(a).

4. The person knowingly used a wire communication facility to engage in one of the three prohibited forms of transmissions.

In analyzing the first element, the legislative history[60] of the Wire Act seems to support the position that casual bettors would fall outside of the prosecutorial reach of the statute. During the House of Representatives debate on the bill, Congressman Emanuel Celler, Chairman of the House Judiciary Committee stated "[t]his bill only gets after the bookmaker, the gambler who makes it his business to take bets or to lay off bets. . . It does not go after the causal gambler who bets $2 on a race. That type of transaction is not within the purvue of the statute."[61] In *Baborian*, the federal district court concluded that Congress did not intend to include social bettors within the umbrella of the statute, even those bettors that bet large sums of money and show a certain degree of sophistication.[62]

Some courts have construed the second element concerning transmission to mean just the "sending" of information and not the receipt thereof.[63] Other courts have interpreted the term "transmission" more broadly to include both parties using a wire communication facility.[64]

The term "wire communication facility" is defined, for purposes of transmitting as set forth in the third element above, as:

> [A]ny and all instrumentalities, personnel, and services (among other things, the receipt, forwarding, or delivery of communications) used or useful in the transmission of writings, signs, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission.[65]

The fourth element is that the person acted "knowingly." This does not mean that he or she knew they were violating the statute, but rather, the

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[60] *See* S. 1656, 87th Cong., 1st Sess. (1961); *see also* H.R. 7039, 87th Cong., 1st Sess. (1961).

[61] *United States v. Baborian*, 528 F. Supp. 324, 328 (D.R.I. 1981) (*quoting* 107 Cong. Rec. 16,534 (1961)).

[62] *See id.*

[63] *See Telephone News Sys., Inc. v. Illinois Bell Telephone Co.*, 220 F. Supp. 621, 638 (N.D. Ill. 1963), *aff'd*, 376 U.S. 782 (1964).

[64] *See Sagansky v. United States*, 358 F.2d 195, 200 (1st Cir. 1966), *cert. denied*, 385 U.S. 816 (1966) (focusing on the phrase "uses a wire communication facility for the transmission" the court held that an individual who holds himself out as being willing to and does, in fact, accept offers of bets or wagers over an interstate telephone line has used a wire communication facility); *see also United States v. Pezzino*, 535 F.2d 483, 484 (9th Cir. 1976); *United States v. Tomeo*, 459 F.2d 445, 447 (10th Cir. 1972).

[65] 18 U.S.C. § 1081.

individual knowingly used an interstate wire communication facility to engage in one of the three forms of prohibited transmissions listed above.[66]

Subsection (b) of the Wire Act sets forth exceptions, also known as a "safe harbor" clause and provides:

> Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information [(1)] for the use in news reporting of sporting events or contests, or [(2)] for the transmission of information assisting in the placing of bets or wagers on a sporting event or contest from a State or foreign country where betting on the sporting event or contest is legal into a State or foreign country in which such betting is legal.[67]

"The first exemption was designed to permit 'bona fide news reporting of sporting events or contests.'"[68] The second exemption "was created for the discrete purpose of permitting the transmission of *information* relating to betting on particular sports where such betting was legal in both the state from which the information was sent and the state in which it was received."[69]

Subsection (c) simply provides that nothing contained in the provisions of the Wire Act shall create immunity from criminal prosecution under any state laws.[70] Finally, subsection (d) dictates when a telephone company or other common carrier, subject to the jurisdiction of the Federal Communications Commission, must terminate service when that service is being used to transmit or receive gambling information in violation of law.[71]

The language of the Wire Act clearly prohibits the use of the Internet for transmission of sports bets or wagers or information assisting in the placement of such bets or wagers,[72] unless transmission falls within one of the two exceptions noted above. The statute, however, does not expressly discuss its possible application to other forms of gambling. As a result, differing interpretations have

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[66] *See United States v. Southard*, 700 F.2d 1, 24-25 (1st Cir. 1983), *cert. denied*, 464 U.S. 823 (1983); *United States v. Cohen*, 260 F.3d 68, 76 (2nd Cir. 2001) ("it mattered only that Cohen knowingly committed the deeds forbidden by § 1084, not that he intended to violate the statute").

[67] 18 U.S.C. § 1084(b).

[68] Joseph V. DeMarco, Assistant United States Attorney, Southern District of New York, *Gambling Against Enforcement – Internet Sports Books and the Wire Act*, supra, n. 27, at 35.

[69] *Id.*

[70] *See* 18 U.S.C. § 1084(c).

[71] *See* 18 U.S.C. § 1084(d).

[72] *See e.g., Cohen*, 260 F.3d at 68 (the conviction of Antigua bookmaker who accepted wagers from New York was upheld as a violation of 18 U.S.C. 1804(a)).

arisen over the construction of the phrase "any sporting event or contest," and over whether the 40-year old Wire Act prohibits Internet gambling.

The interpretation of this language turns upon the determination of whether "sporting" is an adjective intended to modify both "event" and "contest."[73] Neither section 1084 nor the definitional section 1081 defines the term "sporting event or contest." A narrow construction would seem to suggest that the phrase is limited to sports-related activities.[74] There is support for this argument in the language of the statute, in the legislative history and in case law.

Statutory language: Section 1081 defines a "gambling establishment" as "any common gaming or gambling establishment operated for the purpose of gaming or gambling, including accepting, recording, or registering bets, or carrying on a policy game or any other lottery, or playing *a game of chance*, for money or other thing of value."[75] However, the term "gambling establishment" does not appear in section 1084.

A narrow construction approach is further bolstered by looking at the Interstate Transportation of Wagering Paraphernalia Act,[76] which was enacted as part of the same anti-organized crime legislation as the Wire Act. Section 1953 separately references bookmaking, wagering pools with respect to a sporting event, numbers, policy, bolita or similar games.[77] By contrast, section 1084 only references bets or wagers on "sporting events or contests." Similarly, the Illegal Gambling Business Act,[78] defines "gambling" to include "but is not limited to pool-selling, bookmaking, maintaining slot machines, roulette wheels or dice tables, and conducting lotteries, policy, bolita or numbers games, or selling chances therein."[79]

Legislative history: The legislative history of the Wire Act seems to provide support for a narrow construction. The title of the legislation is "Sporting Events – Transmission of Bets, Wagers, and Related Information."[80] The House of Representatives Report on Senate Bill 1656, dated August 17, 1961, states that the bill is in response "modern bookmaking."[81] In the "Sectional Analysis" of the report, the terms "sporting event or contest" and "sporting event" seemed to be

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[73] *See* Anthony N. Cabot, *Internet Gambling Report IV*, at 247-248 (2001).

[74] *See United States v. Bergland*, 209 F. Supp. 547, 549-550 (E.D. Wis. 1962), *cert. denied*, 375 U.S. 861 (1963) (a criminal statute, such as the Wire Act should be strictly construed).

[75] 18 U.S.C. § 1081 (emphasis added).

[76] *See* Wagering Paraphernalia – Transportation Act, Pub. L. No. 87-218, § 1, 75 Stat. 492, 553-554 (1961).

[77] *See* 18 U.S.C. § 1953(a).

[78] *See* Organized Crime Control Act, Pub. L. No. 91-452, § 803, 84 Stat. 922, 1091-1092 (1970).

[79] 18 U.S.C. § 1955(b)(2).

[80] *See supra,* n. 57.

[81] *See* U.S. Code & Cong. News, 87th Cong. 1st Sess., 2631.

interchangeable.[82] Included in the report is a letter from Attorney General Robert F. Kennedy to the Speaker of the House of Representatives, dated April 6, 1961, which only refers to wagering on sporting events.[83] Moreover, the Congressional debates on this legislation concerned the bill's impact on "horse racing and other sporting events."[84]

Congress' use of these different terms reflect its knowledge of the various forms of gambling, including traditional casino games or games of chance and specifically limited the Wire Act's application to sporting events or related contests.[85] This is evident from the statement of United States Senator Jon Kyl of Arizona as he introduced the Internet Gambling Prohibition Act of 1997.[86] Specifically, Senator Kyl stated that the bill was necessary, because "[i]t dispels any ambiguity by making it clear that all betting, including sports betting, is illegal. Currently, nonsports betting is interpreted as legal"[87] under the Wire Act.[88]

Case law: most notably the recent decision by the United States District Court for the Eastern District of Louisiana, clearly supports this conclusion. In *In re MasterCard Int'l, et al.*, a class action against several banks and credit card companies alleged unlawful interaction with Internet casinos in violation of RICO.[89] The various defendants moved to dismiss the action under Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief may be granted.[90] The court held that the plain language of the Wire Act was limited to gambling on a sporting event or related contest.[91] The court reasoned that:

> [T]he recent legislative history of internet gambling legislation reinforces the Court's determination that internet gambling on a game of chance is not prohibited conduct under 18 U.S.C. § 1084. Recent legislative attempts have sought to amend the Wire Act to encompass "contest[s] of chance. . ." the "Internet Gambling Prohibition Act of 1999" . . . sought to amend Title 18 to prohibit the use of the internet to

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[82] *See id.* at 2632-2633.

[83] *See id.* at 2633-2634.

[84] *Baborian*, 548 F. Supp. at 328.

[85] "[U]ntil the legislature manifests its intent to include on-line gambling within the purview of present gambling laws, courts should not apply Section 1084 to Internet gambling activities." Harley J. Goldstein, *On-Line Gambling: Down to the Wire?*, *supra*, n. 1, at 8; *see also* Scott Olson, *Betting No End to Internet Gambling*, *supra*, n. 17.

[86] *See* S. 474, 105th Cong., 1st Sess. (1997).

[87] *See* S. 474, 105th Cong., 1st Sess. (1997).

[88] *See e.g.*, Tom Lundin, Jr., *The Internet Gambling Prohibition Act of 1999: Congress Stacks the Deck Against Online Wagering But Deals in Traditional Gaming Industry High Rollers*, 16 Ga. St. U. L. Rev. 845, 863 (Summer 2000).

[89] *See In re MasterCard Int'l, et al.*, 132 F. Supp. 2d 468, 472 (E.D. La. 2001).

[90] *See id.*

[91] *See id.* at 480.

place a bet or wager upon a "contest of others, a sporting event, or a game of chance. . . ."[92]

The case is currently on appeal to the Fifth Circuit.

If on the other hand the term "contest" is to be viewed more broadly to encompass traditional casino games or games of chance, then on-line gaming, as some have argued,[93] will be prohibited by the Wire Act.

Finally, there is a secondary debate ongoing about whether the definition of "wire communication facility" in section 1081 applies to the Internet.[94] Some have pointed to section 1084(d) and its reference to "common carriers" within the jurisdiction of the Federal Communications Commission to support the argument that "wire communication facility" is limited to telephone companies.[95] "Thus, absent a determination that it violates federal, state, or local law, use of the Internet for gambling would not appear to implicate directly any of the FCC's common carrier rules."[96] Others simply argue that Congress chose to broadly define "wire communication facility" to cover a wide range of wire communication modes that were known and unknown in 1961, like the Internet.[97]

"Despite the divergent views . . ., the official position as expressed by the Justice Department [during the Clinton Administration] and several state attorneys general is to treat the Wire Act as applying broadly and covering all forms of Internet gaming."[98]

2. Travel Act of 1961.

As part of United States Attorney General Robert F. Kennedy's program to combat organized crime and racketeering, Congress enacted the Travel Act in 1961 as part of the same series of legislation as the Wire Act discussed above.[99] The Travel Act, which is aimed at prohibiting interstate travel or use of an

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[92] *Id.*

[93] *See* Seth Gorman and Anthony Loo, *Blackjack or Bust: Can U.S. Law Stop Internet Gambling?*, 16 Loy. L.A. Ent. L.J. 667, 671 (1996); *see also* Mark G. Tratos, *Gaming on the Internet*, 3 Stan. J.L. Bus. & Fin. 101, 105 (Winter 1997).

[94] See Cynthia R. Janower, Harvard Law School, *Gambling on the Internet*, 2. J. Computer – Mediated Com. 2, (September 1996) (http://jcmc.huji.ac.il/vol2/issue2/janower.html).

[95] *See id.*

[96] *See* American Gaming Association, *Federal Laws and Regulations Affecting the Use of the Internet for Gambling*, at 1 (September 19, 1995).

[97] *See supra*, n. 94; *see also* Nicholas Robbins, *Baby Needs a New Pair of Cybershoes: The Legality of Casino Gambling on the Internet*, 2 B.U. J. Sci. & Tech. L. 7 (1996).

[98] *See* Adrian Goss, *Jay Cohen's Brave New World: The Liability of Offshore Operators of Licensed Internet Casinos for Breach of United States Anti-Gambling Laws*, 7 Rich. J.L. & Tech. 32 (Spring 2001).

[99] *See* Racketeering Enterprises – Travel or Transportation Act, Pub. L. No. 87-228, 75 Stat. 498, 561-562 (1961).

interstate facility in aid of a racketeering or an unlawful business enterprise, provides as follows:

> (a) Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to –
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> (1) distribute the proceeds of any unlawful activity; or
>
> (2) commit any crime of violence to further any unlawful activity; or
>
> (3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity, and thereafter performs or attempts to perform –
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> (A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both;
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> or
>
> (B) an act described in paragraph (2) shall be fined under this title, imprisoned not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.
>
> (b) As used in this section (i) "unlawful activity" means (1) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances (as defined in section 102(6) of the Controlled Substances Act), or prostitution offenses in violation of the laws of the State in which they are committed or the United States, (2) extortion, bribery, or arson in violation of the laws of the State in which committed or of the United States, or (3) any act which is indictable under subchapter II of chapter 53 of title 31, United States Code, or under section 1956 or 1957 of the titled and (ii) the term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.
>
> (c) Investigations of violations under this section involving liquor shall be conducted under the supervision of the Secretary of the Treasury.[100]

[100] 18 U.S.C. § 1952.

"Unlawful activity," as defined in subsection (b) refers to a business enterprise involving, among other things, illegal gambling. The Sectional Analysis of the House Report on Senate Bill 1653 specifically states that the term "'business enterprise' requires that the activity be a continuous course of conduct."[101]

A conviction under the Travel Act necessitates a violation of either a state or federal law.[102] However, the government need not prove that the defendant specifically intended to violate state or federal law.[103]

The courts have determined that the use of the mail, telephone or telegraph, newspapers, credit cards and tickertapes is sufficient to establish that a defendant "used a facility of interstate commerce" to further an unlawful activity in violation of the Travel Act.[104] It is important to note that the Travel Act "refers to state law only to identify the defendant's unlawful activity, the federal crime to be proved in § 1952 is use of the interstate facilities in furtherance of the unlawful activity, not the violation of state law; therefore § 1952 does not require that the state crime ever be completed."[105]

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[101] U.S. Code & Cong. News, 87th Cong. 1st Sess., 2666; *see also United States v. Ruiz*, 987 F.2d 243, 250-251 (5th Cir. 1993), *cert. denied*, 510 U.S. 855 (1993) (government is not required to prove that the defendant personally engaged in a continuous course of conduct, but rather the government must prove that there was a continuous business enterprise and that the defendant participated in the enterprise); *United States v. Vaccaro*, 816 F.2d 443, 454 (9th Cir. 1987), *cert. denied*, 484 U.S. 914 (1987) (defendant's involvement in three jackpot cheating incidents over a three-year period was sufficient to show a continuous and illegal conduct for a Travel Act conviction).

[102] *See* 18 U.S.C. § 1952(b)(i).

[103] *See United States v. Polizzi*, 500 F.2d 856, 876-877 (9th Cir. 1974), *cert. denied*, 419 U.S. 1120 (1975) (government need only show that the defendants had a specific intent to facilitate an activity they knew to be unlawful under law – i.e., carrying on a hidden ownership interest in the Frontier Hotel in violation of NRS 463.160).

[104] *See United States v. Heacock*, 31 F.3d 249, 255 (5th Cir. 1994) (interstate mailings); *United States .v Villano*, 529 F.2d 1046, 1050-1051 (10th Cir. 1976), *cert. denied*, 426 U.S. 953 (1976) (interstate use of telephones for bookmaking); *United States v. Erlenbaugh*, 452 F.2d 967, 970-973 (7th Cir. 1971), *aff'd* 409 U.S. 239 (1972) (although exempt under 18 U.S.C. § 1953, "scratch sheets" from the Illinois Sporting News newspaper that were transported by train from Chicago to Indiana and used by customers of an illegal bookmaking operation constituted use of an interstate facility under the Travel Act); *United States v. Campione*, 942 F.2d 429, 435-436 (7th Cir. 1991) (use of interstate telephone facilities to secure credit card authorization was use of an interstate facility to promote an unlawful activity, such as prostitution); *United States v. Miller*, 379 F.2d 483, 485 (7th Cir. 1967), *cert. denied*, 389 U.S. 930 (1967) (use of a Western Union tickertape to post baseball scores in furtherance of an unlawful gambling activity under Indiana law constituted use of an interstate facility); *see also United States v. Garner*, 663 F.2d 834, 839(9th Cir. 1981), *cert. denied*, 456 U.S. 905 (1982) (evidence showed that defendant practiced a blackjack cheating scheme in California and Nevada that was later used at Harrah's Lake Tahoe and the court held that the "government is not required to establish an interstate connection with respect to each defendant's activity. . . only. . . that the scheme as a whole had substantial interstate connections").

[105] *Campione*, 942 F.2d at 434; *see also United States v. Peskin*, 527 F.2d 71, 79 n. 3 (7th Cir. 1975), *cert. denied*, 429 U.S. 818 (1976).

3. Interstate Transportation of Wagering Paraphernalia Act of 1961.

In 1961, Congress also enacted the Interstate Transportation of Wagering Paraphernalia Act. According to the House Report, the purpose of the statute was to criminalize the interstate transportation, except by common carrier, "of any record, paraphernalia, ticket, certificate, bills, slip, token, paper, writing, or other device used, or to be used, adapted, devised or designed for use in" bookmaking, wagering pools with respect to sporting events or a numbers, policy, bolita, or similar game.[106]

This statute[107] is designed to accomplish a very specific function. "It erects a substantial barrier to the distribution of certain materials used in the conduct of various forms of illegal gambling" by cutting off gambling supplies.[108] By contrast, the Travel Act is not limited to illegal gambling, but rather addresses a much broader spectrum of "unlawful activity."[109] Unlike section 1953, the Travel Act does not concentrate upon any particular type of materials, but instead focuses on "the use of facilities of interstate commerce with the intent of furthering an unlawful 'business enterprise.'"[110]

Many of the terms utilized in section 1953 are undefined words of general meaning, such as "paraphernalia," "paper," "writing" and "device." Nevertheless, it appears that "Congress employed broad language to 'permit law enforcement to keep pace with the latest developments . . .' because organized crime has shown 'great ingenuity in avoiding the law.'"[111]

Unlike the Travel Act that requires an intent to participate in an illegal business enterprise that is continuous or ongoing, section 1953 does not require specific intent to violate the law.[112] In *Mendelsohn*, the defendants mailed a computer disk from Las Vegas to California for use in a bookmaking operation.[113] The disk was encoded with a program called SOAP, or Sports Office Accounting Program.[114] The program records and analyzes sports wagers.[115] The Ninth Circuit held that the computer disk constituted a "device" within the meaning of the statute.[116] Since section 1953 is not a specific intent statute but rather a general intent criminal provision, the court concluded that it was irrelevant whether the defendants knew that selling such a computer disk encoded with

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[106] U.S. Code. & Cong. News, 87th Cong. 1st Sess., 2635.
[107] *See* 18 U.S.C. § 1953.
[108] *Erlenbaugh v. United States*, 409 U.S. 239, 246 (1972).
[109] *See id.*
[110] *Id.*
[111] *United States v. Mendelsohn*, 896 F.2d 1183, 1187 (9th Cir. 1990).
[112] *See Ruiz*, 987 F.2d at 250-251; *see also Marquez*, 424 F.2d at 240.
[113] *See Mendelsohn*, 896 F.2d at 1184.
[114] *See id.*
[115] *See id.*
[116] *See id.* at 1187.

SOAP outside of Nevada was illegal.[117] As such, the government merely had to prove that the defendants knowingly (not by accident, mistake or ignorance) sent the disk in interstate commerce to be used in an illegal bookmaking operation.[118] Therefore, if a subscriber to an on-line gaming site resides in a state without legalized gambling, sending of hardware and software through interstate commerce may, as some point out, [119] violate section 1953.

4. Illegal Gambling Business Act of 1970.

In 1970, as part of the Organized Crime Control Act, Congress passed the Illegal Gambling Business Act. The statute was aimed at syndicated gambling.[120] Congress determined that large-scale, illegal gambling operations financed organized crime, which, in turn, has a significant impact on interstate commerce.[121] As such, section 1955 is a direct exercise of Congressional power to regulate interstate commerce[122] and, specifically, the activities that substantially affect interstate commerce.[123]

In order to prove a *prima facie* case under this statute, [124] the government must establish that there is a gambling operation which (1) is in violation of state or local law where it is conducted, (2) involves five or more persons that conduct, finance, manage, supervise, direct or own all or part of the business and (3) remains in substantially continuous operation for more than thirty days or has a gross revenue of $2,000 in any given day.[125]

The first element requires a predicate state or local law violation. The second and third elements have been the subject of much discussion in our judicial system. As for the requirement of "five or more persons," it was Congress' intent to include all individuals who participate in the operation of an illegal gambling business, "regardless of how minor their roles, and whether they be labeled agents, runners, independent contractors or the like."[126] However, Congress did not intend for mere bettors to fall within the prosecutorial arm of the

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[117] *See id.* at 1188.

[118] *See id.*

[119] *See* Nicholas Robbins, *Baby Needs a New Pair of Cybershoes: The Legality of Casino Gambling on the Internet, supra*, n. 97.

[120] *See United States v. Sacco*, 491 F.2d 995, 998 (9th Cir. 1974).

[121] *See id.* at 998-1001; *see also United States v. Lee*, 173 F.3d 809, 810-811 (11th Cir. 1999) ("if Congress, or a committee thereof, makes legislative findings that a statute regulates activities with a substantial effect on commerce, a court may not override those findings unless they lack a rational basis").

[122] See *U.S.* Const. art. I, § 8, cl. 7 (Commerce Clause).

[123] *See United States v. Zizzo*, 120 F.3d 1338, 1350 (7th Cir. 1997), *cert. denied*, 522 U.S. 998 (1997).

[124] *See* 18 U.S.C. § 1955.

[125] *See Sacco*, 491 U.S. at 998.

[126] *United States v. Schullo*, 363 F. Supp. 246, 249-250 (D. C. Minn. 1973), *aff'd*, 508 F.2d 1200 (1975), *cert. denied*, 421 U.S. 947 (1975).

statute.[127] The term "conduct" means "any degree of participation in an illegal gambling business, except participation as a mere bettor."[128] The term "participation" is limited to the performance of acts that assist in the gambling business.[129] Therefore, the government need only show that the defendant was involved in the illegal gambling business to be counted and not that the defendant knew the activity involved five or more persons.[130] "The jurisdictional five persons may include unindicted and unnamed persons."[131] Moreover, the government need not prove that the same five individuals were involved for the statutory 30-day period.[132]

As for the third element, "Congress did not purport to require absolute or total continuity in the gambling operations."[133] The term "substantially continuous" has been interpreted to mean an operation conducted with some degree of regularity.[134]

Given the minimal proof required to demonstrate a violation of the Illegal Gambling Business Act, some have argued that computer operators and maintenance crews, accountants and owners may all be included within the ambit of the statute even though their participation may not relate to Internet gaming.[135]

5. Racketeer Influenced and Corrupt Organizations Act of 1970.

In 1970, as part of the Organized Crime Control Act that included the Illegal Gambling Business Act discussed above, Congress, exercised its broad power once again under the Commerce Clause[136] and enacted RICO.[137] Like the Illegal Gambling Business Act, RICO was intended to eradicate organized crime by attacking the sources of its revenue, such as syndicated gambling or bookmakers.[138] RICO imposes both criminal (imprisonment from 20 years to life,

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[127] *See id.*

[128] *Sanabria v. United States*, 437 U.S. 54, 70-71, n. 26 (1978); *cf. King*, 834 F.2d at 113-114 (one isolated incident of laying off a bet with the illegal gambling business is insufficient in light of the Congressional intent to attack the revenue sources of organized crime and the policy of strict construction of criminal statues).

[129] *See United States v. DiMuro*, 540 F.2d 503, 508 (1st Cir. 1976), *cert. denied*, 429 U.S. 1038 (1977).

[130] *See United States v. Trupiano*, 11 F.3d 769, 772-773 (8th Cir. 1993).

[131] *Id.*, at 772.

[132] *See United States v. Murray*, 928 F.2d 1242, 1246 (1st Cir. 1991).

[133] *Trupiano*, 11 F.3d at 773.

[134] *See id.* at 773-774.

[135] *See* Seth Gorman and Anthony Loo, *Blackjack or Bust: Can U.S. Law Stop Internet Gambling?*, *supra*, n. 93, at 676.

[136] *See United States v. Vignola*, 464 F. Supp. 1091, 1098 (E.D. Pa. 1979), *aff'd*, 605 F.2d 1199 (3rd Cir. 1979), *cert. denied*, 444 U.S. 1072 (1980).

[137] *See* Racketeer Influenced and Corrupt Organizations Act, Pub. L. No. 91-452, § 901(a), 84 Stat. 941 (1970).

[138] *See* Ante Z. Udovicic, *Sports and Gambling a Good Mix? I Wouldn't Bet on It*, 8 Marq. Sports L.J. 401, 407 (Spring 1998).

depending on the racketeering activity involved)[139] and civil liability (including treble damages, costs and attorneys fees)[140] for those who engage in certain prohibited acts. Section 1962, sets forth the following prohibited activities:

> (a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.
>
> (b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.
>
> (c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

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[139] *See* 18 U.S.C. § 1963.
[140] *See* 18 U.S.C. § 1964.

> (d) It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.[141]

Essentially, RICO is an aggressive initiative that is remedial in its purpose by supplementing old methods for fighting crime and providing "new weapons of unprecedented scope for an assault upon organized crime and its economic roots."[142] RICO was enacted, in large part, as a Congressional response to organized crime's financial infiltration of legitimate business operations that affected interstate commerce.[143] Congress wanted to remove the profit from organized crime and separate the racketeer from his or her revenue source.[144] Yet, RICO makes no mention of "organized crime." Instead, Congress chose to target "racketeering activity." The provisions of RICO demand a liberal reading to effectuate this broad Congressional intent.[145] Some courts have even interpreted RICO as legislation that ensures marketplace integrity.[146]

"Section 1962 establishes a threefold prohibition aimed at stopping the infiltration of racketeers into legitimate organizations."[147] Subsection (a) makes it unlawful to invest funds derived from a pattern of racketeering activity or collected from an unlawful debt.[148] "Subsection (b) forbids acquiring or maintaining an interest in an enterprise which affects commerce through a pattern of racketeering activity or through collection of an unlawful debt; and subsection (c) forbids participation in the affairs of such an enterprise through those means."[149]

Regardless of whether the action is criminal or civil, a violation of RICO "requires proof of (1) the existence of an enterprise, (2) either a pattern of racketeering activity or the collection of an unlawful debt, and (3) that the enterprise be engaged in or affect interstate commerce."[150] Section 1961 defines several key terms, such as "racketeering activity," "enterprise," "pattern of racketeering activity" and "unlawful debt" as follows:

- "Racketeering activity" generally means (1) any act or threat involving, among other things, gambling, which is a felony under

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[141] 18 U.S.C. § 1962; *see also Salinas v. United States*, 522 U.S. 52, 63 (1997) (unlike the general conspiracy principals applicable to federal crimes, section 1964(d) does not require the conspirator to commit an overt act – i.e., commit or agree to commit two or more predicate acts).

[142] *See* 31A Am. Jur. 2d *Extortsion, Blackmail, and Threats* §128 (1989).

[143] *See id.; see also United States v. Cappetto*, 502 F.2d 1351, 1358 (7th Cir. 1974), *cert. denied*, 420 U.S. 925 (1975)

[144] *See supra*, n. 142.

[145] *See United States v. Forsythe*, 560 F.2d 1127, 1135-1136 (3rd Cir. 1977).

[146] *See supra*, n. 142.

[147] S. 30, 91st Cong., 2nd Sess., 1 U.S. Code & Cong. News 4033.

[148] *See* 18 U.S.C. § 1962(a).

[149] *Cappetto*, 502 F.2d at 1358.

[150] *See supra*, n. 142, § 138.

state law, or (2) an act which is indictable under certain provisions of Title 18, such as the Wire Act, the Travel Act, the Interstate Transportation of Wagering Paraphernalia Act, and the Illegal Gambling Business Act.[151]

- "Enterprise" is defined to include "any individual, partnership, corporation, association, or other legal entity, and union or group of individuals associated in fact although not a legal entity."[152]

- "Pattern of racketeering activity" "requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity."[153]

- "Unlawful debt" generally means a debt that is incurred or contracted in a gambling activity or business in violation of federal, state or local law or is unenforceable, in whole or part, due to usury laws.[154] Congress clearly intended that evidence proving the collection of an unlawful debt would substitute for a showing that two or more predicate offenses were engaged in forming a pattern of racketeering activity.[155]

In 1989, the United States Supreme Court rejected the Eighth Circuit's test that a pattern of racketeering activity required proof of multiple illegal schemes.[156] The term "pattern" requires a two-prong showing of a "relationship" between the predicate offenses and the threat of a "continuing activity."[157] A relationship is established where the conduct amounts to a pattern that embraces offenses having the same or similar purposes, results, participants, victims, or methods of commission, or were interrelated by distinguishing characteristics and not merely isolated events.[158] Continuity will be found where the predicate offenses amount to or pose a threat of continued conduct.[159] For example, since Congress was concerned with long-term activity, continuity may be demonstrated by a series of predicate offenses over a substantial period of time, rather than a few weeks or months with no threat of future conduct.[160] Continuity may also be shown by a

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[151] *See* 18 U.S.C. § 1961(1)(A), (B); *see also United States v. Joseph*, 781 F.2d 549, 555 (6th Cir. 1986) (conspiracy to commit a violation of state gambling laws constitutes racketeering activity).

[152] 18 U.S.C. § 1961(4).

[153] 18 U.S.C. § 1961(5).

[154] *See* 18 U.S.C. § 1961(6).

[155] *See United States v. Bertolino*, 964 F.2d 1492, 1496-1497 (5th Cir. 1992).

[156] *See H.J., Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229, 236-237 (1989).

[157] *See id.* at 239.

[158] *See id.* at 240.

[159] *See id.*

[160] *See id.* at 242.

few predicate offenses within a short period of time with the threat of the acts extending indefinitely into the future.[161]

A predicate racketeering activity involving gambling could arise as either violations of a particular state statute or as one of the enumerated provisions in Title 18, such as the Wire Act, the Travel Act, the Interstate Transportation of Wagering Paraphernalia Act or the Illegal Gambling Business Act.[162] In *United States v. Tripp*, the defendant argued that his activities did not constitute "gambling" under either Ohio or Michigan law, but rather larceny by trick since the poker games in question were rigged.[163] The court rejected the defense's argument and found that traditional gambling existed, because the poker games began honestly and subsequent thereto the dealer inserted a marked deck of cards.[164] Even if the element of chance were eliminated, the court found that the conduct still fell within the parameters of the state statutes.[165]

In proving a nexus between the racketeering activity and interstate commerce, it is not necessary that the alleged acts directly involve interstate commerce.[166] Thus, evidence that the supplies used in an illegal Maryland bookmaking operation originated outside the state was sufficient to show a nexus between the enterprise and interstate commerce to trigger RICO.[167] Even minimal evidence is sufficient to demonstrate a nexus.[168] Therefore, merely traveling between states in furtherance of an illegal gambling operation will establish a nexus to interstate commerce.[169]

In dismissing a RICO suit against a credit card company by a disgruntled Internet gaming patron, the federal district court in *Jubelirer v. MaterCard Int'l, Inc.*, held that merely performing financial, accounting or legal services for an alleged RICO enterprise, such as various on-line casinos, does not constitute involvement in that enterprise since the services fell short of participation in the operation or management of the enterprise.[170]

The First Circuit also addressed the requirement of an enterprise in *United States v. London*.[171] The defendant, in *London* operated a bar in Massachusetts and a separate check cashing service in an enclosed area of the bar.[172] The bar

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[161] *See id.*
[162] *See* 18 U.S.C. § 1961(1)(A), (B).
[163] *See United States v. Tripp*, 782 F.2d 38, 42 (6th Cir. 1986), *cert. denied*, 475 U.S. 1128 (1986).
[164] *See id.*
[165] *See id.* at 43.
[166] *See United States v. Allen*, 656 F.2d 964 (4th Cir. 1981).
[167] *See id.*
[168] *See United States v. Mazzio*, 501 F. Supp. 340, 342 (E.D. Pa. 1980), *aff'd*, 681 F.2d 810 (3rd Cir. 1982), *cert. denied*, 457 U.S. 1134 (1982).
[169] *See id.*
[170] *See Jubelirer v. MasterCard Int'l, Inc.*, 68 F. Supp. 2d 1049, 1053 (W.D. Wis. 1999).
[171] *United States v. London*, 66 F.3d 1227 (1st Cir. 1995), *cert. denied*, 517 U.S. 1155 (1996),
[172] *See id.* at 1230.

was organized as a closely held corporation and the check cashing service was a sole proprietorship.[173] Frequently, the check cashing service cashed checks (that banks would not accept) from illegal bookmakers who patronized the bar.[174] The defendant did not inquire about the checks he was cashing nor did he require the checks to be indorsed.[175] Moreover, the defendant did not file cash transaction reports or CTRs notifying the Internal Revenue Service of his many currency transactions in excess of $10,000.[176] These business practices, in turn, were enormously beneficial to the bookmakers who were able to accept more checks and increase their volume of business.[177] The court of appeals found that two or more legal entities, such as a corporation and a sole proprietorship, could form or be a part of an association-in-fact to comprise a RICO enterprise.[178] The court further held that the enterprise in question had a common shared purpose or relationship with those associated with it for which it acted in continuity (i.e., the economic gain of the defendant).[179] Although a RICO defendant and a RICO enterprise cannot be one and the same, the court held that there was sufficient evidence showing separateness, given the fact that the check cashing service employed an additional person and the bar was incorporated and employed several individuals.[180]

The issue of separation was further addressed in *In re MasterCard Int'l.* The district court relying on the Eighth Circuit's test held that the alleged enterprise, consisting of an Internet casino, a credit company and an issuing bank, were separate and distinct from the alleged pattern of racketeering activity, Internet gambling.[181]

If Internet gambling is illegal under a particular state law and/or one of the enumerated provisions of Title 18 of the United State Code that have been discussed herein, then operators of such sites could face civil action or criminal prosecution under RICO.

6. <u>Professional and Amateur Sports Protections Act of 1992</u>.

On June 26, 1991, the Senate Judiciary Subcommittee on Patents, Copyrights and Trademarks held public hearings on Senate Bill 474.[182] As a result, Congress found that "[s]ports gambling is a national problem. The harms

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[173] *See id.*
[174] *See id.*
[175] *See id.*
[176] *See id.*
[177] *See id.*
[178] *See id.* at 1243.
[179] *See id.* at 1244.
[180] *See id.*; *see also* 18 U.S.C. 1962(c).
[181] *See In re MasterCard Int'l*, 132 F. Supp. 2d at 484-486; *see also Handeen v. Lemaire*, 112 F.3d 1339, 1352 (8th Cir. 1997) (to determine if an enterprise is separate and distinct from the pattern of racketeering activity, the court examines whether the enterprise would still exist if the predicate acts were removed from the analysis).
[182] *See* U.S. Code & Cong. News, 102nd Cong. 1st Sess., 3554.

it inflicts are felt beyond the borders of those States that sanction it."[183] Moreover, the Senate Judiciary Committee agreed with the testimony of "David Stern, commissioner for the National Basketball Association, that '[t]he interstate ramifications of sports betting are a compelling reason for federal legislation.'"[184] In light of these findings, it appears that Congress exercised its authority under the Commerce Clause[185] to enact the Professional and Amateur Sports Protection Act (PASPA) in 1992,[186] codified at 28 U.S.C. § 3701, *et seq.* Specifically, PASPA makes it unlawful for:

> (1) a government entity[187] to sponsor, operate, advertise, promote, license, or authorize by law or compact, or
> (2) a person to sponsor, operate, advertise, promote, pursuant to the law or compact of a government entity,
> a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographical references or otherwise), on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.[188]

As documented in the Section-by-Section Analysis of the Senate Report, the Judiciary Committee made it clear that it had no desire to prohibit the lawful sports gambling schemes that were in operation when Senate Bill 474 was introduced.[189] Congress manifested this intent in section 3704 of PASPA by providing a grandfather provision for states that either had (1) operated a legalized sports wagering scheme prior to August 31, 1990, or (2) legalized sports wagering and such operations were conducted during the period of September 1, 1989, through October 2, 1991.[190] Consequently, the sports lotteries conducted in Oregon and Delaware[191] were exempt, as well as the licensed sports pools in Nevada.[192] In addition, Congress provided a one-year

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[183] *Id.*, at 3556.

[184] *Id.*, at 3556-3557.

[185] *See e.g.,* Senator Bill Bradley (D-NJ), *The Professional and Amateur Sports Protection Act – Policy Concerns Behind Senate Bill 474*, 2 Seton Hall J. Sport L. 5 (1992).

[186] *See* Professional and Amateur Sports Protection Act, Pub. L. No. 102-559, 106 Stat. 4227-4229 (1992).

[187] The term "governmental entity" is defined generally as State and local governments, including organized described in 25 U.S.C. § 2703(5) of the Indian Gaming Regulatory Act of 1988. *See* 28 U.S.C. § 3701(2).

[188] 28 U.S.C. § 3702.

[189] *See* U.S. Code & Cong. News, 102th Cong. 1st Sess., 3559.

[190] *See* 28 U.S.C. § 3704(a)(1)-(2).

[191] *See National Football League v. Governor of Delaware*, 435 F. Supp. 1372, 1376-1377 (D. Del. 1977) (description of Delaware's sports lotteries).

[192] *See* U.S. Code & Cong. News, 102th Cong. 1st Sess., 3561.

window of opportunity from the effective date of PASPA (January 1, 1993) for states, which operated licensed casino gaming for the previous ten-year period to pass laws permitting sports wagering.[193] The latter exception was clearly crafted with New Jersey in mind. However, New Jersey failed to take advantage of this opportunity and carve out an exception for itself.[194] Also excluded from the reach of PASPA are jai alai and pari-mutuel horse and dog racing.[195]

Unlike the Wire Act, PASPA does not require the use of interstate wire transmissions. Reading PASPA together with section 1084(b) of the Wire Act, sports wagering is effectively limited to Nevada. As one author remarked, "in order to accept lawful Internet sports wagers on college or professional football, the casino must be located in Nevada and only accept Internet wagers from Nevada residents."[196]

The United States Department of Justice strongly opposed the passage of PASPA based, in part, upon its belief that the legislation was a substantial intrusion on states' rights.[197] The Justice Department outlined three fundamental concerns in its September 24, 1991, letter to Senator Joseph R. Biden, Jr. (D-DE), Chairman of the Senate Judiciary Committee.[198] First, the Justice Department observed that Congress has historically left the decision on how to raise revenue to the states.[199] Second, it noted that if PASPA were construed as anything more than a mere clarification of existing law, it would put into question issues of federalism.[200] Finally, the Justice Department found section 3703 "particularly troubling" in that it permits not only the United States Attorney General to seek enforcement of PASPA through the use of civil injunctions, but also amateur[201] and professional[202] sports organizations as well.[203]

To date, there are no reported cases interpreting PASPA except for the 1999 decision in *Greater New Orleans Broadcasting Ass'n*. In *Greater New Orleans*, the Supreme Court briefly touched upon the interplay between the

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[193] *See* 28 U.S.C. § 3704(a)(3).

[194] *See In re Petition of Casino Licensees for Approval of a New Game, Rule Making, and Authorization of a Test*, 647 A.2d 454, 456 (N.J. 1993).

[195] *See* 28 U.S.C. § 3704(a)(4).

[196] *See* Nicholas Robbins, *Baby Needs a New Pair of Cybershoes: The Legality of Casino Gambling on the Internet*, *supra*, n. 97.

[197] *See* U.S. Code & Cong. News, 102th Cong. 1st Sess., 3563.

[198] *See id.*

[199] *See id.*

[200] *See id.*

[201] "Amateur sports organization" means "(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more amateur athletes participates, or (B) a league or associations of persons or governmental entities described in subparagraph (A)." 28 U.S.C. § 3701(1).

[202] "Professional sports organization" means "(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more professional athletes participates, or (B) a league or associations of persons or governmental entities described in subparagraph." 28 U.S.C. § 3701(3).

[203] *See id.*; *see also* 28 U.S.C. 3703.

exemptions set forth in section 3704 and the scope of section 3702's advertising prohibition, in light of its analysis of whether the Communications Act of 1934 violated First Amendment free speech as applied to radio and television advertisements of private casino gambling in Louisiana.[204]

7. Interstate Wagering Amendment of 1994.

Lotteries played a unique role in our country's early history, which included "financing the establishment of the first English colonies."[205] In the colonial-era, America funded public works projects through the use of lotteries.[206] In the eighteenth century, lotteries were used to underwrite the construction of buildings on the campuses of Harvard and Yale.[207] Following the Civil War, the Southern states utilized lotteries as a simple means by which to raise revenue.[208] With the proliferation of state lotteries came an increase in the number of scandals, most notably the Louisiana State Lottery in the late nineteenth century.[209] In response to the public outcry, Congress made "a brief foray into the field of gambling legislation, . . . [then] resumed its hands-off approach to gambling."[210] During this period in 1890, Congress exercised its postal powers[211] and prohibited the use of the postal service for transportation of lottery paraphernalia.[212] In 1895, Congress, acting under the Commerce Clause for the first time, extended the ban to all interstate commerce with the passage of Federal Anti-Lottery Act.[213] The Act was intended to:

> [S]upplement the provisions of prior acts excluding lottery tickets from the mails and prohibiting the importation of lottery matter from abroad, and to prohibit the causing [of] lottery tickets to be carried, and lottery tickets and lottery advertisements to be transferred, from one State to another by any means or method.[214]

In 1909, the Act was revised and codified at 18 U.S.C. § 387.[215] In turn, the Act was replaced by 18 U.S.C. § 1301 in 1948.[216]

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[204] *See id.* 527 U.S. at 180.

[205] National Gambling Impact Study Commission Report, ch. 2, at 2-1 (June 18, 1999).

[206] *See id.*

[207] *See supra*, n. 205.

[208] *See King*, 834 F.2d at 111-112 (a historical perspective of gambling regulation); *see also* Kristen D. Adams, *Interstate Gambling – Can States Stop the Run for the Boarder?*, 44 Emory L.J. 1025, 1033-1034 (Summer 1995).

[209] *See e.g., id.*

[210] *King*, 834 F.2d at 111.

[211] *See* U.S. Const. art. I, § 8, cl. 3 (Postal Clause).

[212] *See* Act of September 19, 1890, ch. 908, § 1, 26 State. 465 (codified at 18 U.S.C. § 1302).

[213] *See* Act of March 2, 1995, ch. 191, § 1, 28 Stat. 963.

[214] *Champion*, 188 U.S. at 354.

[215] *See* Act of March 4, 1909, ch. 321, § 237, 35 Stat. 1136.

For a period of time state lotteries fell out of favor. In 1964, New Hampshire was the first state to reintroduce the state lottery to the American landscape.[217] By 1999, thirty-seven states had followed New Hampshire's lead.[218] In 1994, Congress made significant revisions to section 1301 in light of a federal district court ruling.

In *Pic-A-State PA, Inc. v. Commonwealth of Pennsylvania*, the federal district court held that a Pennsylvania statute that prohibited the selling of interests in another state's lottery was unconstitutional under the Dormant[219] Commerce Clause.[220] Subsequent to the district court's decision, but prior to arguments before the Third Circuit, Congress amended 18 U.S.C. § 1301[221] to close an apparent loophole[222] in the statute and preserve a state's right to sell its own lottery tickets to the exclusion of other states.[223] As a result, the court of appeals reversed the district court and held that the Pennsylvania statute in question was constitutionally consistent with the newly enacted federal law that prohibited the interstate sale of lottery interests.[224]

As amended, section 1301 provides:

> Whoever brings into the United States for the purpose of disposing of the same, or knowingly deposits with any express company or other common carrier for carriage, or carries in interstate or foreign

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[216] *See* Act of June 25, 1948, ch. 645, 62 Stat. 762; *see also* Kristen D. Adams, *Interstate Gambling – Can States Stop the Run for the Boarder?*, *supra*, n. 208, at 1033.

[217] *See* Scott M. Montpas, *Gambling On-Line: For a Hundred Dollars, I Bet You Government Regulation Will Not Stop the Newest Form of Gambling*, 22 Dayton L. Rev. 163, 165-166 (Fall 1996).

[218] *See id.*; *see also supra*, n. 205.

[219] The Commerce Clause is generally referred to as the "Dormant Commerce Clause," because states are prohibited from regulating in a particular area that discriminates against interstate commerce or unduly burdens interstate commerce, even though Congress has not seen fit to specifically exercise its power to enact a law. *See Maine v. Taylor*, 477 U.S. 131, 151-152 (1986); *see also Prudential Ins. Co. v. Benjamin*, 328 U.S. 408, 431 (1946) (holding that the McCarran Act expressly authorizes states to regulate and tax the business of insurance, even though such regulation and taxation might burden interstate commerce); James E. Gaylord, *State Regulatory Jurisdiction and the Internet: Letting the Dormant Commerce Clause Lie*, 53 Vand. L. Rev. 1095, 1106-1109 (May 1999).

[220] *See Pic-A-State PA, Inc. v. Commonwealth of Pennsylvania*, No. CV-93-0814, 1993 U.S. Dist. LEXIS 12790 at *9-10 (M.D. Pa. July 23, 1993).

[221] *See* Violent Crime Control and Law Enforcement Act, Pub. L. No. 103-322, § 320905, 108 Stat. 2126 (1994).

[222] *See Wenner v. Texas Lottery Comm'n*, 123 F.3d 321, 323 n. 2 (5th Cir. 1997) (for an analysis of the pre-1994 loophole in 18 U.S.C. § 1301).

[223] *See* Kristen D. Adams, *Interstate Gambling – Can States Stop the Run for the Boarder?*, *supra*, n. 208, at 1052.

[224] *See Pic-A-State*, 42 F.3d at 180.

> commerce any paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any advertisement of, or list of prizes drawn or awarded by means of, any such lottery, gift enterprise, or similar scheme; or, being engaged in the business of procuring for a person in 1 State such a ticket, chance, share, or interest in a lottery, gift, enterprise or similar scheme conducted by another State (unless that business is permitted under an agreement between the States in question or appropriate authorities of those States), knowingly transmits in interstate or foreign commerce information to be used for the purpose of procuring such a ticket, chance, share, or interest; or knowingly takes or receives any such paper, certificate, instrument, advertisement, or list so brought, deposited, or transported, shall be fined under this title or imprisoned not more than two years, or both.[225]

The 1994 amendment sought to expressly prohibit lottery ticket messenger services in the absence of a compact between the states in question.[226]

Pic-A-State involved a corporation that conducted business through retail stores in Pennsylvania, where customers participated in the legal and authorized lotteries of other states by placing orders for tickets.[227] In turn, the retail stores transmitted the orders to purchasing agents in the other states by way of a computer terminal.[228] The retail store charged one dollar for each ticket purchased and the customer received a computer-generated receipt, rather than a lottery ticket (i.e., no interstate transport of lottery tickets and thus, the pre-1994 loophole).[229]

In a subsequent challenge to the constitutionality of the 1994 amendment, the Third Circuit held that:

> The Interstate Wagering Amendment regulates lotteries – an activity affecting interstate commerce. It rationally relates to Congress' goals of protecting

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[225] 18 U.S.C. § 1301.
[226] *See supra*, n. 208, at 1056.
[227] *See Pic-A-State*, 42 F.3d at 176-177.
[228] *See id.* at 177; *see also Pic-A-State,* 1993 U.S. Dist. LEXIS, at *4-5.
[229] *See id.*; *see also Champion*, 188 U.S. at 354 (carriage of lottery tickets between states by an independent carrier constitutes interstate commerce).

> state lottery revenues, preserving state sovereignty in the regulation of lotteries, and controlling interstate gambling. The Amendment was a constitutional exercise of Congress' power to legislate under the Commerce Clause.[230]

As one final point of interest, unlike PASPA, which permits its enforcement by professional and amateur sports organizations, there is no private right of action under section 1301 or the companion provisions of sections 1302 (mailing of lottery tickets), 1304 (broadcast of lottery information) and 1307 (exceptions for state lottery advertisements).[231]

8. 2000 Amendment to the Interstate Horseracing Act of 1978.

In December 2000, Congress, in spite of the Justice Department's strong opposition, amended the Interstate Horseracing Act of 1978[232] and specifically expanded the definition of "interstate off-track wager" to include pari-mutuel wagers transmitted between states by way of telephone or other electronic media, as follows:

> [T]he term--. . . 'interstate off-track wager' means a legal wager placed or accepted in one State with respect to the outcome of a horserace taking place in another State and includes pari-mutuel wagers, where lawful in each State involved, placed or transmitted by an individual in one State via telephone or other electronic media and accepted by an off-track betting system in the same or another State, as well as the combination of any pari-mutuel wagering pools;[233]

The plain language of the revised statute would appear to permit interstate pari-mutuel wagering over the telephone or other modes of electronic communication, including the Internet, so long as such wagering is legal in both states. The legislative history of the amendment seems to support this conclusion.

Specifically, Congressman Frank R. Wolf (R-VA) expressed the following concern:

> Mr. Speaker, . . ., this conference report contains a provision that deeply troubles me. I want Members of

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[230] *Pic-A-State PA, Inc. v. Reno*, 76 F.3d 1294, 1304 (3rd Cir. 1996), *cert. denied*, 517 U.S., 1246 (1996).

[231] *See National Football League*, 435 F. Supp. at 1388-1389.

[232] *See* DC Appropriations, Pub. L. No. 106-553, § 629, 114 Stat. 2762A-108 (2000).

[233] 15 U.S.C. § 3002(3).

> this body to be aware that section 629 . . . would legalize interstate pari-mutuel gambling over the Internet. Under the current interpretation of the Interstate Horse Racing Act in 1978, this type of gambling is illegal, although the Justice Department has not taken steps to enforce it. This provision would codify legality of placing wagers over the telephone or other electronic media like the Internet.[234]

In his statement that accompanied the signing of H. R. 4942, former President Clinton acknowledged the Justice Department's objection to the amendment as follows:

> [S]ection 629 of the Act amends the Interstate Horseracing Act of 1978 to include within the definition of the term 'interstate off-track wager,' pari-mutuel wagers on horseraces that are placed or transmitted from individuals in one State via the telephone or other electronic media and accepted by an off-track betting system in the same or another State. The Department of Justice, however, does not view this provision as codifying the legality of common pool wagering and interstate account wagering even where such wagering is legal in the various States involved for horseracing, nor does the Department view the provision as repealing or amending existing criminal statutes that may be applicable to such activity, in particular, sections 1084, 1952 and 1955 of Title 18, United States Code.[235]

V.

ADDITIONAL FEDERAL STATUTES OF NOTE

The following statutes do not directly address the question of whether on-line gaming is a legal venture. Nevertheless, these provisions will certainly affect how Internet gaming is conducted.

1. Transportation of Gambling Devices Act of 1951.

In 1951, Congress enacted the Transportation of Gambling Devices Act.[236] The Act, more commonly known as the Johnson Act,[237] which has been

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[234] 146 Cong. Rec. H 11230, 11232, 106th Cong. 2nd Sess. (2000).
[235] 5 U.S. Code & Cong. News., 106th Cong. 2nd Sess., 2457-2458 (2000).
[236] *See* Act of January 2, 1951, ch. 1194, § 1, 64 Stat. 1134.

amended several times during the intervening years, makes it unlawful to knowingly transport a gambling device to a state where such a device is prohibited by law.[238] The manufacturers and distributors of gaming devices for interstate commerce must register each year with the United States Department of Justice, and the devices must be appropriately marked for shipment.[239]

> (a) The term "gambling device" means--
>
> (1) any so-called "slot machine" or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and (A) which when operated may deliver, as the result of the application of an element of chance, any money or property, or (B) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or
>
> (2) any other machine or mechanical device (including, but not limited to, roulette wheels and similar devices) designed and manufactured primarily for use in connection with gambling, and (A) which when operated may deliver, as the result of the application of an element of chance, any money or property, or (B) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or
>
> (3) any subassembly or essential part intended to be used in connection with any such machine or mechanical device, but which is not attached to any such machine or mechanical device as a constituent part.[240]

The interstate shipment of hardware or software for use in connection with an Internet or Interactive gaming system may trigger the Johnson Act, as well as the Interstate Transportation of Wagering Paraphernalia Act discussed above.[241]

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[237] *See* 15 U.S.C. §§ 1171-1178.
[238] *See* 15 U.S.C. § 1172.
[239] *See* 15 U.S.C. §§ 1173, 1174.
[240] 15 U.S.C. § 1171(a).
[241] *See* Nicholas Robbins, *Baby Needs a New Pair of Cybershoes: The Legality of Casino Gambling on the Internet*, *supra*, n. 97.

2. Bank Records and Foreign Transaction Act of 1970.

In 1970, Congress passed the Bank Records and Foreign Transaction Act,[242] which is better known as the Bank Secrecy Act (BSA).[243] The BSA required "financial institutions" to report all currency transactions greater than $10,000 in effort to fight money laundering. This obligation was first limited to just banks. In 1985, the United States Treasury Department extended the requirement to casinos through the adoption of regulations.[244] Nevada casinos enjoy an exemption from the CTR reporting requirements of the BSA.[245]

Internet or interactive casinos will certainly be subject to some form of currency reporting requirement whether it is the BSA or Nevada Gaming Commission Regulation 6A, or both.

3. Money Laundering Control Act of 1986.

In 1986, Congress enacted the Money Laundering Control Act,[246] codified at 18 U.S.C. §§ 1956, 1957. Section 1956 applies to the knowing and intentional laundering of monetary instruments.[247] Section 1957 pertains to monetary transactions involving property that is "derived from specified unlawful activity," which includes "racketeering activity" under RICO.[248]

4. Electronic Communications Privacy Act of 1986.

In 1986, Congress enacted the Electronic Communications Privacy Act (ECPA),[249] codified at 18 U.S.C. § 2510 *et seq.* The legislation amended Title 18 of the United States Code to extend the prohibition against the unauthorized interception of communications from wire and oral communications to "electronic communications," which are defined as:

> (12) "electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce, but does not include--
>
> (A) any wire or oral communication;

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[242] *See* Bank Records and Foreign Transportation Act, Pub. L. No. 91-508, § 202, 84 Stat. 1118.

[243] *See* 31 U.S.C. §§ 5311-5326.

[244] *See* 31 C.F.R. § 103.11(n)(7)(i).

[245] *See* 31 U.S.C. § 5318(a)(5); *see also* Nev. Gaming Comm'n Reg. 6A.030.

[246] *See* Money Laundering Control Act, Pub. L. No. 99-570, § 1352(a) (1986).

[247] *See* 18 U.S.C. § 1956(a)(1).

[248] 18 U.S.C. § 1957(a); *see also* 18 U.S.C. § 1956(c)(7)(A).

[249] *See* Electronic Communications Privacy Act, Pub. L. No. 99-508, § 101 (1986).

(B) any communication made through a tone-only paging device;

(C) any communication from a tracking device (as defined in section 3117 of this title); or

(D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds.[250]

The term "intercept" means "the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device."[251]

ECPA provides exceptions for the law enforcement to intercept communications where either (1) law enforcement is a party to the communication, or (2) where one of the parties to the communication has given prior consent to such interception.[252] The Nevada Gaming Control Board and Nevada Gaming Commission could take advantage of this exemption and be excluded from the reach of ECPA either through the promulgation of a regulatory provision (i.e., that licensees will permit the Board and Commission to monitor all electronic communications with patrons) or by imposing conditions on the licenses of operators of Interactive gaming.

5. Illegal Money Transmitting Business Act of 1992.

Congress, concerned that those engaged in money laundering were using money transmitting services rather than traditional financial institutions, passed the Illegal Money Transmitting Business Act of 1992,[253] codified at 18 U.S.C. 1960. The Act provides that it is a crime to conduct, control, manage, supervise, direct, "or own all or part of a business, knowing the business is an illegal money transmitting business."[254] The term "illegal money transmitting business" is defined generally to mean a money transmitting business that affects interstate commerce in any manner and fails to comply with either state law or the registration requirements for such a business under 31 U.S.C. § 5330.[255] Possibly more troubling for the operators of on-line gaming is the definition of "money transmitting," which "includes but is not limited to transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier."[256]

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[250] 18 U.S.C. § 2510(12).
[251] 18 U.S.C. § 2510(4).
[252] *See* 18 U.S.C. § 2511(2)(c).
[253] *See* Illegal Money Transmitting Business Act, Pub. L. No. 102-760, § 1512(a) (1992).
[254] 18 U.S.C. § 1960(a).
[255] *See* 18 U.S.C. § 1960(b)(1).
[256] 18 U.S.C. § 1960(b)(2).

VI.

RECENT CONGRESSIONAL ACTIVITIES

The Internet Gambling Prohibition Act in 1997 and 1999, which sought an outright federal ban on e-gaming may have been, if passed, problematic under the principals of federalism and the United States Supreme Court's 1997 ruling in *Reno v. American Civil Liberties Union*.[257] In *Reno*, the court struck down the Communications Decency Act of 1996,[258] aimed at protecting children from harmful or indecent material on the Internet, on the grounds that the law was contrary to First Amendment free speech.[259] The language of the court's holding suggests "that Congress should not dismiss Internet gambling as merely a vice activity that is undeserving of any First Amendment protection."[260] As a result, Congress may be moving away from the principals of a complete prohibition.

On February 12, 2001, Congressman James A. Leach (R-IA) introduced the "Unlawful Internet Gambling Funding Prohibition Act" before the House Committee on Financial Services and the House Judiciary Committee.[261] Five months later, on July 20, 2001, Congressman John J. LaFalce (D-NY) introduced an identical bill, known as the "Internet Gambling Payments Prohibition Act."[262]

The catalyst behind both H.R. 556 and H.R. 2579 can be found in the proposed "Findings" of the bills, which state:

> (1) Internet gambling is primarily funded through personal use of bank instruments, including credit cards and wire transfers.
> (2) The National Gambling Impact Study Commission in 1999 recommended the passage of legislation to prohibit wire transfers to Internet gambling sites or the banks which represent them.[263]
> (3) Internet gambling is a major cause of debt collection problems for insured depository institutions and the consumer credit industry.
> (4) Internet gambling conducted through offshore jurisdictions has been identified by United

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[257] *Reno v. American Civil Liberties Union*, 521 U.S. 844 (1997).

[258] *See* Communications Decency Act, Pub. L. No. 104-104, 110 Stat. 133 (1996); *see also* 47 U.S.C. § 223.

[259] *See Reno,* 521 U.S. at 847.

[260] *See* Stevie A. Kish, *Betting on the Net: An Analysis of the Government's Role in Addressing Internet Gambling*, 51 Fed. Comm. L.J. 449, 451 (March 1999).

[261] *See* H.R. 556, 107th Cong., 1st Sess. (2001).

[262] *See* H.R. 2579, 107th Cong., 1st Sess. (2001).

[263] *See e.g.*, Michael Anastasio, *The Enforceability of Internet Gambling Debts: Laws, Policies, and Causes of Action*, 6 Va. J.L. & Tech. 6 (Spring 2001).

States law enforcement officials as a significant money laundering vulnerability.[264]

Each bill seeks to eliminate nearly all forms of traditional funding for Internet gambling. Ultimately, this purpose, if achieved, would make on-line gaming more difficult if not impossible. Each bill targets the operators of Internet gambling and specifically excludes financial institutions.

In a nutshell, the legislation would prohibit a person engaged in a gambling business from knowingly accepting from a participant of unlawful Internet gaming (1) credit, including credit cards, (2) electronic fund transfers, (3) checks, drafts or similar negotiable instruments drawn on or payable at or through a financial institution and (4) proceeds from any other financial transaction involving a financial institution.[265] The bills provide both civil remedies and criminal penalties.[266]

On February 14, 2001, Senator John Ensign (R-NV) introduced the "National Collegiate and Amateur Athletic Protection Act of 2001" before the Senate Judiciary Committee.[267] The same day, Congressman Jim Gibbons (R-NV) introduced similar legislation before the House Judiciary Committee.[268] The bills provide, among other things, for the establishment of a prosecutorial task force assigned to illegal wagering on amateur and collegiate sporting events and an increase in the related criminal penalties.[269]

Congressman Lindsey Graham (R-SC) introduced the "Student Protection Act" on March 20, 2001, before the House Judiciary Committee.[270] The bill seeks to amend PASPA by proposing an outright ban on sports wagering for high school, collegiate and Olympic events.[271]

On April 5, 2001, Senator John McCain (R-AZ) introduced the "Amateur Sports Integrity Act" before the Senate Committee on Commerce, Science and Transportation.[272] The legislation contains two important points of interest for this discussion. The first component of the bill concerns a prohibition on state-sponsored or sanctioned sports wagering on high school, collegiate and Olympic events.[273] If enacted, this provision would eliminate the exemption Nevada currently enjoys for licensed sports pools under PASPA at 18 U.S.C. § 3704(a)(2). With regard to this on-line gambling analysis, the bill's second

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[264] H.R. 556, § 2, 107th Cong., 1st Sess. (2001); H.R. 2579, § 2, 107th Cong., 1st Sess. (2001).
[265] *See id.* § 3.
[266] *See id.*
[267] *See* S. 338, 107th Cong., 1st Sess. (2001).
[268] *See* H.R. 641, 107th Cong., 1st Sess. (2001).
[269] *See* S. 338, §§ 2, 3; *see also* H.R. 641, §§ 2, 3.
[270] *See* H.R. 1110, 107th Cong., 1st Sess. (2001).
[271] *See id.* § 2.
[272] *See* S. 718, 107th Cong., 1st Sess. (2001).
[273] *See id.* § 201.

component incorporates the "Unlawful Internet Gambling Funding Prohibition Act" mentioned above.[274]

On June 28, 2001, Congressman Cliff Stearns (R-FL) introduced the "Jurisdictional Certainty Over Digital Commerce Act" before the House Committee on Energy and Commerce and the House Judiciary Committee.[275] The legislation, if passed, would leave the Internet the sole domain of Congress to govern. There is no question that this legislation is being offered as an exercise of Congressional power under the Commerce Clause.[276] More important, the bill clearly expresses Congress' intent to totally preempt[277] state regulation of digital commercial transactions and, specifically, Internet commerce, goods and services.[278] The term "digital service" is defined as "any service conducted or provided by means of the Internet."[279] If this bill becomes law, it would not only render Internet gambling and A.B. 466 moot, but the right of each state to manifestly decide its own destiny on the issue of e-commerce, including on-line gaming, would be surrendered to the federal government.

One month later on July 19, 2001, Congressman LaFalce, introduced the "Gambling ATM and Credit/Debit Card Reform Act" before the House Committee on Financial Services.[280] This bill is worth noting, because it would prohibit the placement of an ATM or similar electronic device in the immediate area of a "gambling establishment."[281] Currently, the term "gambling establishment" is broadly defined as any establishment engaged in gambling activity, including arguably, on-line gaming.[282]

Finally, on November 1, 2001, Congressman Bob Goodlatte (R-VA) introduced the "Combatting Illegal Gambling Reform and Modernization Act" before the House Judiciary Committee.[283] The proposed legislation would amend the Wire Act to include all interstate communications and more importantly, expand the scope of Section 1084 to all bets or wagers, including games of chance.[284]

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[274] *See id.* § 301.
[275] *See* H.R. 2421, 107th Cong., 1st Sess. (2001).
[276] *See id.*
[277] *See* U.S. Const. art. VI., § 2; *see also Pic-A-State*, 42 F.3d at 179 ("[w]here Congress has acted to pre-empt state regulation of a particular area of interstate commerce, state regulation, consistent or inconsistent, is precluded).
[278] *See id.* § 3.
[279] *Id.*
[280] *See* H.R. 2572, 107th Cong., 1st Sess. (2001).
[281] *See id.* § 918.
[282] *See* 18 U.S.C. § 1081.
[283] *See* H.R. 3215, 107th Cong., 1st Sess. (2001).
[284] *See id.* §§ 2, 3.

VII.

CONCLUSION

Although recent Congressional activity appears to suggest a realization that the Internet is uniquely a creature of interstate commerce, Congress has so far been unable to pass any legislation that would define the regulatory boundaries of this medium and the role states will play in its governance. Moreover, the Department of Justice under the Bush Administration has yet to announce its policy on Internet gaming.

Therefore, what conclusions, if any, can be reached regarding future federal action? Can the Nevada Gaming Control Board and the Nevada Gaming Commission sufficiently answer the Legislature's directive? Is interactive gaming or on-line gambling legal under current federal law? Absent Congressional guidance, these questions will remain unanswered and subject to the ongoing debate about the interpretation and application of the federal laws that have been enumerated herein.

In the interim, Nevada cannot remain idle. In addition to the legality of this venture, the Legislature further directed the Nevada Gaming Commission to determine whether the related systems are secure and reliable and provide at least a reasonable level of assurance that players will be of a lawful age and that gambling will be available only in legal jurisdictions.[285] As such, Nevada's regulators will still face a daunting task.

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[285] *See* Act of June 14, 2001, ch. 593, § 3, 2001 Nev. Stat. 3076.

TAB 3

AUGUST 23, 2002 DOJ LETTER

TO

DENNIS NEILANDER

U.S. Department of Justice

Criminal Division

Assistant Attorney General

Washington, D.C. 20530

RECEIVED
SEP - 3 2002
G.C.B. CARSON CITY
EXECUTIVE OFFICES

August 23, 2002

Mr. Dennis K. Neilander, Chairman
Nevada Gaming Control Board
P.O. Box 8003
Carson City, Nevada 89706

Dear Chairman Neilander:

Your office recently spoke to Mr. Matthew Martens, who is the Criminal Division's Chief of Staff to the Assistant Attorney General, regarding the application of federal law to Internet gambling and the article on Internet gambling in Nevada that was prepared by Mr. Jeffrey R. Rodefer, who is an Assistant Chief Deputy Attorney General for the Nevada Attorney General's Office. The Criminal Division was recently informed by the Department of Justice's Office of Intergovernmental Affairs that your office is also requesting a written response.

As a general rule, the Department of Justice is limited by statute to providing legal advice within the federal government and the Criminal Division does not issue advisory opinions with respect to the legality of specific gambling operations. This allows the Department to defer the resolution of legal questions until it is confronted with a concrete situation requiring action in a judicial forum.

We may, however, provide general guidance as to relevant statutory provisions that are applicable to Internet gambling. As set forth in prior Congressional testimony, the Department of Justice believes that federal law prohibits gambling over the Internet, including casino-style gambling. While several federal statutes are applicable to Internet gambling, the main statutes are Sections 1084, 1952, and 1955, of Title 18, United States Code. As stated in Mr. Rodefer's article, Section 1084 of Title 18, United States Code, prohibits one in the business of betting or wagering from knowingly using a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers. Section 1952 of Title 18, United States Code, prohibits traveling in interstate or foreign commerce, or using the mails, or using a facility in interstate or foreign commerce with intent to distribute the proceeds of an unlawful activity or otherwise promoting, managing, establishing, carrying on, or facilitating the promotion, management, establishment, or carrying on, of any unlawful activity and thereafter performing or attempting to perform such act. The term "unlawful activity" is defined in Section 1952(b) to mean "any business enterprise involving gambling . . . in violation of the laws of the State in which they are committed or of the United States.". Section 1955 of Title 18, United States Code, prohibits illegal gambling businesses, which involve 1) a violation of state law, 2) five or more persons who conduct, finance, manage,

supervise, direct, or own all or part of such business, and 3) a business that has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of $2000 in any single day . In additional to criminal convictions, Section 1955 can be used to seek civil forfeiture of gambling proceeds. See United States v. $734,578.82 in United States Currency, 286 F.3d 641 (3d Cir. 2002). Moreover, the federal money laundering statutes are applicable to unlawful Internet gambling businesses. Additionally, it is the Department's view that the gambling activity occurs both in the jurisdiction where the bettor is located and the state or foreign country where the gambling business is located.

I trust that this is responsive to your inquiry. Please do not hesitate to contact us if we can be of any further assistance in this or any other matter.

Sincerely,

Michael Chertoff
Assistant Attorney General

TAB 4

MARCH 7, 2005 DOJ LETTER

TO

NORTH DAKOTA ATTORNEY GENERAL

U.S. Department of Justice

Criminal Division

Washington, D.C. 20530

March 7, 2005

Mr. Wayne Stenehjem
Attorney General
State of South Dakota
600 E. Boulevard Avenue, Dept. 125
Bismark, North Dakota

Dear Mr. Stenehjem:

In your conversation with representatives of the Department of Justice's Criminal Division and office of Intergovernmental and Public Liaison, you requested a letter regarding the application of federal law to Internet gambling.

As a general rule, the Department of Justice is limited by statute to providing legal advice within the federal government, and the Criminal Division does not issue advisory opinions with respect to the legality of specific gambling operations. This allows the department to refer the resolution of legal questions until it is confronted with a concrete situation requiring a judicial forum.

We may, however, provide general guidance to relevant statutory provisions that are applicable to Internet gambling. As set forth in prior Congressional testimony, the Department of Justice believes that federal law prohibits gambling over the Internet, including casino-style gambling. While several federal statutes are applicable to Internet gambling, the main statutes are Sections 1084, 1952 and 1955 of Title 18, United States Code.

Section 1084 of Title 18, United States Code, prohibits one in the business of betting or wagering from knowingly using a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers.

Section 19952, Title 18, United States Code, prohibits traveling in interstate of foreign commerce, or using the mails, or using a facility in interstate or foreign commerce with intent to distribute the proceeds of an unlawful activity or otherwise promoting, managing, establishing, carrying on, or facilitating the promotion, management, establishment, or carrying on of

any unlawful activity and thereafter performing or attempting to perform such act. The term "unlawful activity" is defined in Section 1952(b) to mean "any business enterprise involving gambling . . . in violation of the laws of the sate in which they are committed or of the United States."

Section 1955 of Title 18, United States Code, prohibits illegal gambling businesses, which involve 1) a violation of state law, 2) five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business, and 3) a business that has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of $2000 in any single day. In additional to criminal convictions, Section 1955 can be used to seek civil forfeiture of gambling proceeds. See United States v. 5734/578.82 in United States Currency, 286 F.3d 641 (3d Cir. 2002). With respect to all of the above statutes, it is the Department's view that the gambling activity occurs both in the jurisdiction where the bettor is located and the state or foreign country where the gambling business is located.

In addition to the actual gambling business being subject to prosecution under federal law, those persons or entities which knowingly assist the Section 2 of Title 18, United States Code, imposes criminal liability on those individuals or entities that aid, abet, counsel, command, induce, or procure the commission of an offense against the United States. Moreover, the federal money laundering statutes are applicable to unlawful Internet gambling businesses.

I trust that this is responsive to your inquiry. Please do not hesitate to contact us if we can be of any further assistance in this or any other matter.

Sincerely,

Laura H. Parsky
Deputy Assistant Attorney
General

TAB 5

MARCH 26, 2007 LETTER

TO

U.S. DEPARTMENT OF JUSTICE

STATE OF NEVADA

GAMING CONTROL BOARD

1919 College Parkway, P.O. Box 8003, Carson City, Nevada 89702
555 E. Washington Avenue, Suite 2600, Las Vegas, Nevada 89101
3650 S. Pointe Circle, Suite 203, P.O. Box 31109, Laughlin, Nevada 89028
557 W. Silver Street, Suite 207, Elko, Nevada 89801
6980 Sierra Center Parkway, Suite 120, Reno, Nevada 89511

JIM GIBBONS
Governor

DENNIS K. NEILANDER, *Chairman*
MARK A. CLAYTON, *Member*
RANDALL E. SAYRE, *Member*

March 26, 2007

Carson City, Nevada
(775) 684-7742
Fax: (775) 687-8221

Crystal Jezierski, Director
Office of Intergovernmental and Public Liaison
United States Department of Justice
Main Justice Building
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Ms. Jezierski:

As you may be aware, the Nevada State Legislature enacted a bill in 2001, A.B. 466, which authorized the Nevada Gaming Commission ("Commission"), with the assistance of the Nevada Gaming Control Board, to commence the process of adopting regulations to legalize interactive gaming, including online gambling. However, pursuant to this legislation, the Commission could only proceed with the regulation adoption process if certain conditions were met, including, among other things, making a determination that such gambling is legal pursuant to all applicable laws, including federal law.

As a result, pursuant to the enclosed letter and article prepared by Assistant Chief Deputy Attorney General, Jeff Rodefer, Nevada Attorney General's Office, we sought and received general guidance from your office regarding the legality of internet gambling under federal law. Specifically, your office provided us with a letter dated August 23, 2002, wherein Assistant Attorney General, Michael Chertoff, stated, in part, that *"[a]s set forth in prior Congressional testimony, the Department of Justice believes that federal law prohibits gambling over the Internet, including casino-style gambling"*. Based upon this general guidance, the Commission did not pursue the adoption of any regulations legalizing online gambling. Attached is a copy of Mr. Chertoff's letter in which Sections 1084, 1952 and 1955 of Title 18, United States Code are cited in support of the general guidance provided therein.

However with the recent enactment of the Unlawful Internet Gambling Enforcement Act of 2006 ("UIGEA") on October 13, 2006, as the state agencies responsible for regulating gambling within Nevada, we are currently in the process of trying to determine if the exemption set forth in the UIGEA pertaining to "intrastate transactions", together with the associated subsection therein addressing the intermediate routing of electronic data, might authorize the Commission to license and regulate online <u>intrastate</u> gambling within Nevada without running afoul of other federal laws, including those cited in your prior guidance letter. UIGEA at 31 U.S.C. § 5362(10)(B) and (E).

Accordingly, it is our sincere hope and desire that you and other members of the Department of Justice might be willing to, once again, provide general guidance with respect to the parameters, if any, in which intrastate Internet gambling might be legally regulated by a State pursuant to the "intrastate transactions" exemption in the UIGEA. In submitting this request, please bear in mind that we are neither in favor of nor against any specific policy position and would not seek to "lobby" the Department of Justice but, instead, are simply attempting to fulfill our regulatory duties on behalf of the State of Nevada.

In the meantime, if you have any questions, please do not hesitate to contact either one of us at the telephone numbers listed below. Thank you for your time and attention.

Sincerely,

NEVADA GAMING COMMISSION

PETER C. BERNHARD, Chairman
(702) 650-6565

NEVADA GAMING CONTROL BOARD

DENNIS K. NEILANDER, Chairman
(775) 684-7742

PCB:DKN:dkl

Enclosures

c/enc: Radha Chanderraj, Commissioner
Sue Wagner, Commissioner
Arthur Marshall, Commissioner
Raymond Rawson, Commissioner
Mark Clayton, Board Member
Randall Sayre, Board Member
Catherine Cortez Masto, Nevada Attorney General
Michael Wilson, Chief Deputy Attorney General

TAB 6

ASSEMBLY BILL NO. 258

(NEV. LEG. 2011 SESSION)

Assembly Bill No. 258–Committee on Judiciary

CHAPTER.....

AN ACT relating to gaming; requiring the Nevada Gaming Commission to adopt regulations relating to the licensing and operation of interactive gaming; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes certain gaming establishments to obtain a license to operate interactive gaming. (NRS 463.750) This bill requires the Nevada Gaming Commission to establish by regulation certain provisions authorizing the licensing and operation of interactive gaming under certain circumstances. This bill further provides that a license to operate interstate interactive gaming does not become effective until: (1) the passage of federal legislation authorizing interactive gaming; or (2) the United States Department of Justice notifies the Commission or the State Gaming Control Board that interactive gaming is permissible under federal law.

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 463 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ***The Legislature hereby finds and declares that:***

1. The State of Nevada leads the nation in gaming regulation and enforcement, such that the State of Nevada is uniquely positioned to develop an effective and comprehensive regulatory structure related to interactive gaming.

2. A comprehensive regulatory structure, coupled with strict licensing standards, will ensure the protection of consumers, prevent fraud, guard against underage and problem gambling and aid in law enforcement efforts.

3. To provide for licensed and regulated interactive gaming and to prepare for possible federal legislation, the State of Nevada must develop the necessary structure for licensure, regulation and enforcement.

Secs. 3-10. (Deleted by amendment.)

Sec. 10.5. NRS 463.016425 is hereby amended to read as follows:

463.016425 1. "Interactive gaming" means the conduct of gambling games through the use of communications technology that allows a person, utilizing money, checks, electronic checks, electronic transfers of money, credit cards, debit cards or any other

instrumentality, to transmit to a computer information to assist in the placing of a bet or wager and corresponding information related to the display of the game, game outcomes or other similar information. The term ~~[does]~~ ***:***

(a) Includes, without limitation, Internet poker.

(b) Does not include the operation of a race book or sports pool that uses communications technology approved by the Board pursuant to regulations adopted by the Commission to accept wagers originating within this state for races, or sporting events or other events.

2. As used in this section, "communications technology" means any method used and the components employed by an establishment to facilitate the transmission of information, including, without limitation, transmission and reception by systems based on wire, cable, radio, microwave, light, optics or computer data networks, including, without limitation, the Internet and intranets.

Sec. 11. NRS 463.160 is hereby amended to read as follows:

463.160 1. Except as otherwise provided in subsection 4 and NRS 463.172, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others:

(a) To deal, operate, carry on, conduct, maintain or expose for play in the State of Nevada any gambling game, gaming device, inter-casino linked system, mobile gaming system, slot machine, race book or sports pool;

(b) To provide or maintain any information service;

(c) To operate a gaming salon; ~~[or]~~

(d) To receive, directly or indirectly, any compensation or reward or any percentage or share of the money or property played, for keeping, running or carrying on any gambling game, slot machine, gaming device, mobile gaming system, race book or sports pool ~~[,]~~ ***; or***

(e) To operate, carry on, conduct, maintain or expose for play in or from the State of Nevada any interactive gaming system,

➥ without having first procured, and thereafter maintaining in effect, all federal, state, county and municipal gaming licenses as required by statute, regulation or ordinance or by the governing board of any unincorporated town.

2. The licensure of an operator of an inter-casino linked system is not required if:

(a) A gaming licensee is operating an inter-casino linked system on the premises of an affiliated licensee; or

(b) An operator of a slot machine route is operating an inter-casino linked system consisting of slot machines only.

3. Except as otherwise provided in subsection 4, it is unlawful for any person knowingly to permit any gambling game, slot machine, gaming device, inter-casino linked system, mobile gaming system, race book or sports pool to be conducted, operated, dealt or carried on in any house or building or other premises owned by the person, in whole or in part, by a person who is not licensed pursuant to this chapter, or that person's employee.

4. The Commission may, by regulation, authorize a person to own or lease gaming devices for the limited purpose of display or use in the person's private residence without procuring a state gaming license.

5. As used in this section, "affiliated licensee" has the meaning ascribed to it in NRS 463.430.

Sec. 12. NRS 463.750 is hereby amended to read as follows:

463.750 1. ~~[Except as otherwise provided in subsections 2 and 3, the]~~ ***The*** Commission ~~[may,]~~ ***shall,*** with the advice and assistance of the Board, adopt regulations governing the licensing and operation of interactive gaming.

2. ~~[The Commission may not adopt regulations governing the licensing and operation of interactive gaming until the Commission first determines that:~~

~~(a) Interactive gaming can be operated in compliance with all applicable laws;~~

~~(b) Interactive gaming systems are secure and reliable, and provide reasonable assurance that players will be of lawful age and communicating only from jurisdictions where it is lawful to make such communications; and~~

~~(c) Such regulations are consistent with the public policy of the State to foster the stability and success of gaming.~~

~~3.]~~ The regulations adopted by the Commission pursuant to this section must:

(a) Establish the investigation fees for:

(1) A license to operate interactive gaming;

(2) A license for a manufacturer of interactive gaming systems; and

(3) A license for a manufacturer of equipment associated with interactive gaming.

(b) Provide that:

(1) A person must hold a license for a manufacturer of interactive gaming systems to supply or provide any interactive gaming system, including, without limitation, any piece of proprietary software or hardware; and

(2) A person may be required by the Commission to hold a license for a manufacturer of equipment associated with interactive gaming.

(c) Set forth standards for the suitability of a person to be licensed as a manufacturer of interactive gaming systems or manufacturer of equipment associated with interactive gaming that are as stringent as the standards for a nonrestricted license.

(d) Provide that gross revenue received by an establishment from the operation of interactive gaming is subject to the same license fee provisions of NRS 463.370 as the games and gaming devices of the establishment ~~[.]~~ ***, unless federal law otherwise provides for a similar fee or tax.***

(e) Set forth standards for the location and security of the computer system and for approval of hardware and software used in connection with interactive gaming.

(f) Define "equipment associated with interactive gaming," "interactive gaming system," "manufacturer of equipment associated with interactive gaming," "manufacturer of interactive gaming systems," "operate interactive gaming" and "proprietary hardware and software" as the terms are used in this chapter.

~~[4.]~~ ***(g) Provide that any license to operate interstate interactive gaming does not become effective until:***

(1) A federal law authorizing the specific type of interactive gaming for which the license was granted is enacted; or

(2) The United States Department of Justice notifies the Board or Commission in writing that it is permissible under federal law to operate the specific type of interactive gaming for which the license was granted.

3. Except as otherwise provided in ~~[subsection 5,]~~ ***subsections 4 and 5,*** the Commission shall not approve a license for an establishment to operate interactive gaming unless:

(a) In a county whose population is 400,000 or more, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices.

(b) In a county whose population is more than 40,000 but less than 400,000, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices or the establishment:

(1) Holds a nonrestricted license for the operation of games and gaming devices;

(2) Has more than 120 rooms available for sleeping accommodations in the same county;

(3) Has at least one bar with permanent seating capacity for more than 30 patrons that serves alcoholic beverages sold by the drink for consumption on the premises;

(4) Has at least one restaurant with permanent seating capacity for more than 60 patrons that is open to the public 24 hours each day and 7 days each week; and

(5) Has a gaming area that is at least 18,000 square feet in area with at least 1,600 slot machines, 40 table games, and a sports book and race pool.

(c) In all other counties, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices or the establishment:

(1) Has held a nonrestricted license for the operation of games and gaming devices for at least 5 years before the date of its application for a license to operate interactive gaming;

(2) Meets the definition of group 1 licensee as set forth in the regulations of the Commission on the date of its application for a license to operate interactive gaming; and

(3) Operates either:

(I) More than 50 rooms for sleeping accommodations in connection therewith; or

(II) More than 50 gaming devices in connection therewith.

~~[5.]~~ ***4.*** The Commission may:

(a) Issue a license to operate interactive gaming to an affiliate of an establishment if:

(1) The establishment satisfies the applicable requirements set forth in subsection ~~[4; and]~~ ***3;***

(2) The affiliate is located in the same county as the establishment; and

(3) The establishment has held a nonrestricted license for at least 5 years before the date on which the application is filed; and

(b) Require an affiliate that receives a license pursuant to this subsection to comply with any applicable provision of this chapter.

~~[6.]~~ ***5. The Commission may issue a license to operate interactive gaming to an applicant that meets any qualifications established by federal law regulating the licensure of interactive gaming.***

6. It is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others, to operate interactive gaming:

(a) Until the Commission adopts regulations pursuant to this section; and

(b) Unless the person first procures, and thereafter maintains in effect, all appropriate licenses as required by the regulations adopted by the Commission pursuant to this section.

7. A person who violates subsection 6 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years or by a fine of not more than $50,000, or both.

Sec. 12.5. NRS 463.770 is hereby amended to read as follows:

463.770 1. ~~[All]~~ ***Unless federal law otherwise provides for a similar fee or tax, all*** gross revenue from operating interactive gaming received by an establishment licensed to operate interactive gaming, regardless of whether any portion of the revenue is shared with another person, must be attributed to the licensee and counted as part of the gross revenue of the licensee for the purpose of computing the license fee required by NRS 463.370.

2. A manufacturer of interactive gaming systems who is authorized by an agreement to receive a share of the revenue from an interactive gaming system from an establishment licensed to operate interactive gaming is liable to the establishment for a portion of the license fee paid pursuant to subsection 1. The portion for which the manufacturer of interactive gaming systems is liable is 6.75 percent of the amount of revenue to which the manufacturer of interactive gaming systems is entitled pursuant to the agreement.

3. For the purposes of subsection 2, the amount of revenue to which the manufacturer of interactive gaming systems is entitled pursuant to an agreement to share the revenue from an interactive gaming system:

(a) Includes all revenue of the manufacturer of interactive gaming systems that is the manufacturer of interactive gaming systems' share of the revenue from the interactive gaming system pursuant to the agreement; and

(b) Does not include revenue that is the fixed purchase price for the sale of a component of the interactive gaming system.

Secs. 13 and 14. (Deleted by amendment.)

Sec. 14.5. The Nevada Gaming Commission shall, on or before January 31, 2012, adopt regulations to carry out the amendatory provisions of this act.

Sec. 15. This act becomes effective upon passage and approval.

TAB 7

NGC REGULATION 5A

(ADOPTED DECEMBER 22, 2011)

REGULATION 5A

OPERATION OF INTERACTIVE GAMING

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5A.220 Interactive Gaming Service Providers.
5A.230 Waiver of Requirements of Regulation.
5A.240 Scope and Effectiveness of Operator of Interactive Gaming License.

5A.010 Scope. Regulation 5A shall govern the operation of interactive gaming. The provisions of the Gaming Control Act and all regulations promulgated thereunder shall still otherwise apply when not in conflict with Regulation 5A.
(Adopted: 12/11)

5A.020 Definitions. As used in this regulation:
1. "Authorized player" means a person who has registered with the operator of interactive gaming to engage in interactive gaming.
2. "Chairman" means the chairman of the state gaming control board or his designee.
3. "Interactive gaming account" means an electronic ledger operated and maintained by an operator of interactive gaming wherein information relative to interactive gaming is recorded on behalf of an authorized player including, but not limited to, the following types of transactions:
(a) Deposits;
(b) Withdrawals;
(c) Amounts wagered;
(d) Amounts paid on winnings; and
(e) Adjustments to the account.
4. "Interactive gaming service provider" means a person who acts on behalf of an operator of interactive gaming and:
(a) Manages, administers or controls wagers that are initiated, received or made on an interactive gaming system;
(b) Manages, administers or controls the games with which wagers that are initiated, received or made on an interactive gaming system are associated;
(c) Maintains or operates the software or hardware of an interactive gaming system;
(d) Provides the trademarks, trade names, service marks or similar intellectual property under which an operator of interactive gaming identifies its interactive gaming system to patrons;

(e) Provides information regarding persons to an operator of interactive gaming via a database or customer list; or

(f) Provides products, services, information or assets to an operator of interactive gaming and receives therefor a percentage of gaming revenue from the establishment's interactive gaming system.

5. "Interactive gaming system" shall have the same meaning as provided in Regulation 14.010.

6. "Inter-operator poker network" means a pool of authorized players from two or more operators collected together to play the game of poker on one interactive gaming system.

7. "Operate interactive gaming" means to operate, carry on, conduct, maintain or expose for play in or from the State of Nevada interactive gaming on an interactive gaming system.

8. "Operator of interactive gaming" or "operator" means a person who operates interactive gaming. An operator of interactive gaming who is granted a license by the commission is a licensee.

9. "Poker" means the traditional game of poker, and any derivative of the game of poker as approved by chairman and published on the board's website, wherein two or more players play against each other and wager on the value of their hands. For purposes of interactive gaming, poker is not a banking game.

10. "Wagering communication" means the transmission of a wager between a point of origin and a point of reception through communications technologies as defined by NRS 463.016425(2).

(Adopted: 12/11)

5A.030 License Required; Applications.

1. A person may act as an operator of interactive gaming only if that person holds a license specifically permitting the person to act as an operator of interactive gaming.

2. Applications for an operator of interactive gaming license shall be made, processed, and determined in the same manner as applications for nonrestricted gaming licenses, using such forms as the chairman may require or approve.

(Adopted: 12/11)

5A.040 Initial and Renewal License Fees. Before the commission issues an initial license or renews a license for an operator of interactive gaming the operator of interactive gaming shall pay the license fees established pursuant to NRS 463.765.

(Adopted: 12/11)

5A.050 Investigative Fees. Applications for an operator of interactive gaming license shall be subject to the application and investigative fees established pursuant to Regulation 4.070.

(Adopted: 12/11)

5A.060 Interactive Gaming Systems.

1. An operator shall not operate a new interactive gaming system in this state unless the interactive gaming system has been approved by the commission.

2. Operators shall provide the board, prior to commencing operations of their interactive gaming system, with a list of all persons who may access the main computer or data communications components of their interactive gaming system and any changes to that list shall be provided to the board within ten (10) days.

(Adopted: 12/11)

5A.070 Internal Controls for Operators of Interactive Gaming. Each operator shall establish, maintain, implement and comply with standards that the chairman shall adopt and publish pursuant to the provisions of Regulation 6.090. Such minimum standards shall include internal controls for:

1. As specified under Regulation 6.090(1), administrative, accounting and audit procedures for the purpose of determining the licensee's liability for taxes and fees under the Gaming Control Act and for the purpose of exercising effective control over the licensee's internal affairs.

2. Maintenance of all aspects of security of the interactive gaming system;

3. Registering authorized players to engage in interactive gaming;

4. Identification and verification of authorized players to prevent those who are not authorized players from engaging in interactive gaming. The procedures and controls must incorporate

robust and redundant identification methods and measures in order to manage and mitigate the risks of non face-to-face transactions inherent in interactive gaming;

5. Protecting and ensuring confidentiality of authorized players' interactive gaming accounts;

6. Reasonably ensuring that interactive gaming is engaged in between human individuals only;

7. Reasonably ensuring that interactive gaming is conducted fairly and honestly, including the prevention of collusion between authorized players.

8. Testing the integrity of the interactive gaming system on an ongoing basis;

9. Promoting responsible interactive gaming and preventing individuals who have self-excluded from engaging in interactive gaming. Such internal controls shall include provisions for substantial compliance with Regulation 5.170; and

10. Protecting an authorized player's personally identifiable information, including, but not limited to:

(a) The designation and identification of one or more senior company officials having primary responsibility for the design, implementation and ongoing evaluation of such procedures and controls;

(b) The procedures to be used to determine the nature and scope of all personally identifiable information collected, the locations in which such information is stored, and the devices or media on which such information may be recorded for purposes of storage or transfer;

(c) The policies to be utilized to protect personally identifiable information from unauthorized access by employees, business partners, and persons unaffiliated with the company;

(d) Notification to authorized player of privacy policies;

(e) Procedures to be used in the event the operator determines that a breach of data security has occurred, including required notification to the board's enforcement division; and

(f) Provision for compliance with all local, state and federal laws concerning privacy and security of personally identifiable information.

"Personally identifiable information" means any information about an individual maintained by an operator including (1) any information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.

➥ The chairman may determine additional areas that require internal controls having minimum standards. The chairman shall adopt and publish any such additional internal controls and their minimum standards pursuant to the provisions of Regulation 6.090.

(Adopted: 12/11)

5A.080. Detection and Prevention of Criminal Activities. Each operator shall implement procedures that are designed to detect and prevent transactions that may be associated with money laundering, fraud and other criminal activities and to ensure compliance with all federal laws related to money laundering.

(Adopted: 12/11)

5A.090 Access to Premises and Production of Records; Revolving Investigative Fund.

1. Operators holding a license issued by the commission are subject to the provisions of NRS 463.140. It shall be an unsuitable method of operation for an operator holding a license issued by the commission to deny any board or commission member or agent, upon proper and lawful demand, access to, inspection or disclosure of any portion or aspect of their operations.

2. Upon being granted a license by the commission, operators shall deposit with the board and thereafter maintain a revolving fund in an amount of $20,000, unless a lower amount is approved by the chairman, which shall be used to pay the expenses of agents of the board and commission to investigate compliance with this regulation.

(Adopted: 12/11)

5A.100 House Rules. Each operator shall adopt, and adhere to written, comprehensive house rules governing wagering transactions by and between authorized players that are available for review at all times by authorized players through a conspicuously displayed link. Such house rules shall include, but not be limited to, specifying the following:

1. Clear and concise explanation of all fees;

2. The rules of play of a game;

3. Any monetary wagering limits; and
4. Any time limits pertaining to the play of a game.

➥ Prior to adopting or amending such house rules, an operator shall submit such rules to the chairman for his approval.

(Adopted: 12/11)

5A.110 Registration of Authorized Player.

1. Before allowing or accepting any wagering communication from an individual to engage in interactive gaming, an operator must register the individual as an authorized player and create an interactive gaming account for the individual.

2. An operator may register an individual as an authorized player only if the individual provides the operator with the following information:

(a) The identity of the individual;

(b) The individual's date of birth showing that the individual is 21 years of age or older;

(c) The physical address where the individual resides;

(d) The social security number for the individual, if a United States resident,

(e) That the individual had not previously self-excluded with the operator and otherwise remains on the operator's self-exclusion list; and

(f) That the individual is not on the list of excluded persons established pursuant to NRS 463.151 and Regulation 28.

3. Before registering an individual as an authorized player, the operator must have the individual affirm the following:

(a) That the information provided to the operator by the individual to register is accurate;

(b) That the individual has reviewed and acknowledged access to the house rules for interactive gaming;

(c) That the individual has been informed and has acknowledged that, as an authorized player, they are prohibited from allowing any other person access to or use of their interactive gaming account;

(d) That the individual has been informed and has acknowledged that, as an authorized player, they are prohibited from engaging in interactive gaming from a state or foreign jurisdiction in which interactive gaming is illegal and that the operator is prohibited from allowing such interactive gaming;

(e) That the individual has been informed and has acknowledged that, if the operator is unable to verify the information provided by the individual pursuant to subsection 2 within 30 days of registration, any winnings attributable to the individual will be retained by the operator and the individual shall have no right to such winnings;

(f) Consents to the monitoring and recording by the operator and the board of any wagering communications; and

(g) Consents to the jurisdiction of the State of Nevada to resolve disputes arising out of interactive gaming.

4. An operator may allow an individual to register as an authorized player either remotely or in person.

5. Within 30 days of the registration of the authorized player, the operator shall verify the information provided by the individual pursuant to subsection 2. Until such verification has occurred:

(a) The authorized player may not deposit more than $5,000 in their interactive gaming account; and

(b) The authorized player may not withdraw any funds from their interactive gaming account.

6. If verification of the information provided pursuant to subsection 2 has not occurred within 30 days, the operator shall:

(a) Immediately suspend the interactive gaming account and not allow any further interactive gaming;

(b) Retain any winnings attributable to the authorize player; and

(c) Refund the balance of deposits made to the interactive gaming account to the source of such deposit or by issuance of a check and then permanently close the account.

7. Any winnings due to an authorized player prior to completion of the verification process shall be credited to the authorized player's interactive gaming account immediately upon successful verification.

(Adopted: 12/11)

5A.120 Interactive Gaming Accounts.

1. An operator shall record and maintain the following in relation to an interactive gaming account:

(a) The date and time the interactive gaming account is opened or terminated;

(b) The date and time the interactive gaming account is logged in to or is logged out of; and

(c) The physical location, by state or foreign jurisdiction, of the authorized player while logged in to the interactive gaming account.

2. An operator shall ensure the following:

(a) That an individual registered as an authorized player holds only one interactive gaming account with the operator; and

(b) That no authorized player shall occupy more than one position at a game at any given time.

3. An operator shall not set up anonymous interactive gaming accounts or accounts in fictitious names. Authorized players may, while engaged in interactive gaming, represent themselves using a name other than their actual name.

4. Funds may be deposited by an authorized player into an interactive gaming account assigned to them as follows:

(a) Cash deposits made directly with the operator;

(b) Personal checks, cashier's checks, wire transfer and money order deposits made directly or mailed to the operator;

(c) Transfers from safekeeping or front money accounts otherwise held by the licensed gaming establishment holding the operator's license.

(d) Debits from an authorized player's debit card or credit card; ~~or~~

(e) Transfers through the automated clearing house or from another mechanism designed to facilitate electronic commerce transactions; or

(f) Any other means approved by the chairman.

5. Interactive gaming account credits may be made by the following means:

(a) Deposits;

(b) Amounts won by an authorized player;

(c) Promotional credits, or bonus credits provided by the operator and subject to the terms of use established by the operator and as long as such credits are clearly identified as such; and

(d) Adjustments made by the operator following the resolution of a dispute.

6. Interactive gaming account debits may be made by the following means:

(a) Amounts wagered by an authorized player;

(b) Purchases of interactive gaming related merchandise and services requested by an authorized player;

(c) Withdrawals;

(d) Transfers to safekeeping or front money accounts held by the licensed gaming establishment holding the operator's license;

(e) Adjustments made by the operator following the resolution of a dispute; and

(f) Debits as otherwise approved by the chairman.

7. Funds deposited into an interactive gaming account from a financial institution shall not be transferred out of the interactive gaming account to a different financial institution except as otherwise allowed by the commission.

8. Unless there is a pending unresolved player dispute or investigation, an operator shall comply with a request for a withdrawal of funds by an authorized player from their interactive gaming account within a reasonable amount of time.

9. An operator shall not allow an authorized player to transfer funds to any other authorized player.

10. An operator shall not allow an authorized player's interactive gaming account to be overdrawn unless caused by payment processing issues outside the control of the operator.

11. An operator shall neither extend credit to an authorized player nor allow the deposit of funds into an interactive gaming account that are derived from the extension of credit by affiliates or agents of the operator. For purposes of this subsection, credit shall not be deemed to have been

extended where, although funds have been deposited into an interactive gaming account, the operator is awaiting actual receipt of such funds in the ordinary course of business.

12. The language of any agreement used as between an operator and its authorized players pertaining to interactive gaming and authorized players' access to their interactive gaming account shall be submitted to the chairman for his review. The operator shall not allow or engage in any interactive gaming until any such agreement is approved by the chairman.

13. An operator shall ensure that an authorized player has the ability, through their interactive gaming account, to select responsible gambling options that include a wager limit, loss limit, time-based loss limits, deposit limit, session time limit, and time-based exclusion from gambling.

14. Nothing in this regulation prohibits an operator from closing an interactive gaming account and precluding further interactive gaming by an authorized person pursuant to the terms of the agreement between the operator and an authorized player.

(Adopted: 12/11)

5A.125 Reserve Requirements.

1. An operator shall maintain a reserve in the form of cash, cash equivalents, an irrevocable letter of credit, a bond, or a combination thereof for the benefit and protection of authorized players' funds held in interactive gaming accounts.

2. The amount of the reserve shall be equal to the sum of all authorized players' funds held in the interactive gaming accounts. Amounts available to authorized players for play that are not redeemable for cash may be excluded from the reserve requirement.

3. If a reserve is maintained in the form of cash, cash equivalent, or an irrevocable letter of credit, it must be held or issued, as applicable, by a federally-insured financial institution. If the reserve is maintained in the form of a bond, it must be written by a bona fide insurance carrier. The reserve must be established pursuant to a written agreement between the operator and the financial institution or insurance carrier, but the operator may engage an intermediary company or agent acceptable to the chairman to deal with the financial institution or insurance carrier, in which event the reserve may be established pursuant to written agreements between the operator and the intermediary and between the intermediary and the financial institution or insurance carrier.

4. The agreements described in subsection 3 must reasonably protect the reserve against claims of the operator's creditors other than the authorized players for whose benefit and protection the reserve is established, and must provide that:

(a) The reserve is established and held in trust for the benefit and protection of authorized players to the extent the operator holds money in interactive gaming accounts for such authorized players;

(b) The reserve must not be released, in whole or in part, except to the board on the written demand of the chairman or to the operator on the written instruction of the chairman. The reserve must be available within 60 days of the written demand or written notice. The operator may receive income accruing on the reserve unless the chairman instructs otherwise pursuant to subsection 10;

(c) The operator has no interest in or title to the reserve or income accruing on the reserve except to the extent expressly allowed in this section;

(d) Nevada law and this section govern the agreements and the operator's interest in the reserve and income accruing on the reserve;

(e) The agreements are not effective until the chairman's approval has been obtained pursuant to subsection 5; and

(f) The agreements may be amended only with the prior, written approval of the chairman.

5. Each operator shall submit to the chairman all information and copies of all documents relating to its proposed reserve arrangement, including copies of the agreements described in subsections 3 and 4, and must obtain the chairman's approval of the agreements and of the reserve arrangements generally. The chairman shall determine whether the agreements and arrangements satisfy the purposes and requirements of this section, may require appropriate changes or withhold approval if they do not, and shall notify the operator of the determination. Amendments to reserve agreements or arrangements must be approved in the same manner.

6. An operator must calculate its reserve requirements each day. In the event an operator determines that its reserve is not sufficient to cover the calculated requirement, the operator

must, within 24 hours, notify the chairman of this fact in writing and must also indicate the steps the operator has taken to remedy the deficiency.

7. Each operator must engage an independent certified public accountant to examine the pertinent records relating to the reserve each month and determine the reserve amounts required by this section for each day of the previous month and the reserve amounts actually maintained by the operator on the corresponding days. The operator shall make available to the accountant whatever records are necessary to make this determination. The accountant shall report the findings with respect to each day of the month under review in writing to the board and the operator no later than the tenth day of the next month. The report shall include the operator's statement addressing each day of noncompliance and the corrective measures taken. If approved in writing by the chairman, this report may be prepared by an employee of the operator or its affiliate, provided that the employee is independent of the operation of interactive gaming.

8. The chairman may demand that this reserve be increased to correct any deficiency or for good cause to protect authorized players.

9. If the reserve exceeds the requirements of this section, the chairman shall, upon the operator's written request, authorize the release of the excess.

10. When an operator ceases operating and its license lapses, is surrendered, or is revoked, the chairman may demand payment of the reserve, any income accruing on the reserve after operations cease, and, if instructions from the chairman that income accruing on the reserve not be paid to the operator are in effect when operations cease, any income accruing since the instructions took effect. The board may interplead the funds in state district court for distribution to the authorized players for whose protection and benefit the reserve was established and to such other persons as the court determines are entitled thereto, or shall take such other steps as are necessary to effect the proper distribution of the funds, or may do both.

11. In addition to the reserve required pursuant to this section, and other requirements that may be imposed pursuant to Regulation 6.150, the operator shall maintain cash in the sum of the following:

(a) 25% of the total amount of authorized players' funds held in interactive gaming accounts, excluding those funds that are not redeemable for cash; and

(b) The full amount of any progressive jackpots related to interactive gaming.

12. As used in this section, "month" means a calendar month unless the chairman requires or approves a different monthly period to be used for purposes of this section, in which case "month" means the monthly period so required or approved.

(Adopted: 12/11)

5A.130 Self-Exclusion

1. Operators must have and put into effect policies and procedures for self-exclusion and take all reasonable steps to immediately refuse service or to otherwise prevent an individual who has self-excluded from participating in interactive gaming. These policies and procedures include without limitation the following:

(a) The maintenance of a register of those individuals who have self-excluded that includes the name, address and account details of self-excluded individuals;

(b) The closing of the interactive gaming account held by the individual who has self-excluded;

(c) Employee training to ensure enforcement of these policies and procedures; and

(d) Provisions precluding an individual who has self- excluded from being allowed to again engage in interactive gaming until a reasonable amount of time of not less than 30 days has passed since the individual self-excluded.

2. Operators must take all reasonable steps to prevent any marketing material from being sent to an individual who has self-excluded.

(Adopted: 12/11)

5A.135 Compensation. Any compensation received by an operator for conducting any game in which the operator is not party to a wager shall be no more than 10% of all sums wagered in each hand.

(Adopted: 12/11)

5A.140 Acceptance of Wagers.

1. Operators shall not accept or facilitate a wager:

(a) On any game other than the game of poker and its derivatives as approved by the chairman and published on the board's website;

(b) On any game which the operator knows or reasonably should know is not between individuals;

(c) On any game which the operator knows or reasonably should know is made by a person on the self-exclusion list;

(d) From a person who the operator knows or reasonably should know is placing the wager in violation of state or federal law;

(e) Using an inter-operator poker network except as otherwise allowed by the commission; or

(f) Except as provided in subsection 2, from stakes players, proposition players or shills.

2. Operators may use a celebrity player for marketing purposes to attract authorized players if the operator clearly identifies the celebrity player to the authorized players and does not profit beyond the rake. For purposes of this subsection, a "celebrity player" is an authorized player under agreement with the operator whereby the celebrity player is paid a fixed sum by the operator to engage in interactive gaming and whom may or may not use their own funds to engage in interactive gaming.

(Adopted: 12/11)

5A.145 Progressive payoff schedules.

1. As used in this section:

(a) "Base amount" means the amount of a progressive payoff schedule initially offered before it increases.

(b) "Incremental amount'' means the difference between the amount of a progressive payoff schedule and its base amount.

(c) "Progressive payoff schedule" means any payoff schedule associated with a game played on an interactive gaming system, including those associated with contests, tournaments or promotions, that increases automatically over time or as the game(s) or machine(s) are played.

2. To the extent an operator offers any progressive payoff schedule, the operator shall comply with this section.

3. The amount of a progressive payoff schedule shall be conspicuously displayed during an authorized player's play of a game to which the payoff schedule applies. Each operator shall record the base amount of each progressive payoff schedule when first exposed for play and subsequent to each payoff. Explanations for reading decreases shall be maintained with the progressive logs. When the reduction is attributable to a payoff, the operator shall record the payoff form number on the log or have the number reasonably available.

4. An operator may change the rate of progression of any progressive payoff schedule provided that records of such changes are created.

5. An operator may limit a progressive payoff schedule to an amount that is equal to or greater than the amount of the payoff schedule when the limit is imposed. The operator shall conspicuously provide notice of the limit during an authorized player's play of a game to which the limit applies.

6. An operator shall not reduce the amount of a progressive payoff schedule or otherwise eliminate a progressive payoff schedule unless:

(a) An authorized player wins the progressive payoff schedule;

(b) The operator adjusts the progressive payoff schedule to correct a malfunction or to prevent the display of an amount greater than a limit imposed pursuant to subsection 5, and the operator documents the adjustment and the reasons for it; or

(c) The chairman, upon a showing of exceptional circumstances, approves a reduction, elimination, distribution, or procedure not otherwise described in this subsection, which approval is confirmed in writing.

7. Except as otherwise provided by this section, the incremental amount of a progressive payoff schedule is an obligation to the operator's authorized players, and it shall be the responsibility of the operator, if he ceases operation of the progressive game, to arrange satisfaction of that obligation to the satisfaction of the chairman.

8. Distribution of progressive payoffs shall only be made to authorized players.

(Adopted: 12/11)

5A.150 Information Displayed on Website. Operators must provide for the prominent display of the following information on a page which, by virtue of the construction of the website, authorized players must access before beginning a gambling session:

1. The full name of the operator and address from which it carries on business;
2. A statement that the operator is licensed and regulated by the commission;
3. The operator's license number;
4. A statement that persons under the age of 21 are not permitted to engage in interactive gaming.
5. A statement that persons located in a jurisdiction where interactive gaming is not legal are not permitted to engage in interactive gaming; and
6. Active links to the following:

(a) Information explaining how disputes are resolved;

(b) A problem gambling website that is designed to offer information pertaining to responsible gaming;

(c) The state gaming control board's website;

(d) A website that allows for an authorized player to choose to be excluded from engaging in interactive gaming; and

(e) A link to the house rules adopted by the operator.

(Adopted: 12/11)

5A.155 Advertising and Promotions. An operator, including its employees or agents, shall be truthful and non-deceptive in all aspects of its interactive gaming advertising and promotions. An operator which engages in any promotion related to interactive gaming shall clearly and concisely explain the terms of the promotion and adhere to such terms.

(Adopted: 12/11)

5A.160 Suspicious Wagering Report.

1. As used in this section, "suspicious wagering activity" means a wager which an operator licensee knows or in the judgment of it or its directors, officers, employees and agents has reason to suspect is being attempted or was placed:

(a) In violation of or as part of a plan to violate or evade any federal, state or local law or regulation;

(b) Has no business or apparent lawful purpose or is not the sort of wager which the particular authorized player would normally be expected to place, and the licensee knows of no reasonable explanation for the wager after examining the available facts, including the background of the wager.

2. An operator shall file a report of any suspicious wagering activity, regardless of the amount, if the operator believes it is relevant to the possible violation of any law or regulation.

3. The report in subsection 2 shall be filed no later than 7 calendar days after the initial detection by the licensee of facts that may constitute a basis for filing such a report. If no suspect was identified on the date of the detection of the incident requiring the filing of the report, a operator may delay filing a report for an additional 7 calendar days to identify a suspect. In no case shall reporting be delayed more than 14 calendar days after the date of initial detection of a reportable transaction. In situations involving violations that require immediate attention, the operator shall immediately notify, by telephone, the board in addition to timely filing a report.

4. An operator shall maintain a copy of any report filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of filing the report. Supporting documentation shall be identified, and maintained by the operator as such, and shall be deemed to have been filed with the report. An operator shall make all supporting documentation available to the board and any appropriate law enforcement agencies upon request.

5. An operator and its directors, officers, employees, or agents who file a report pursuant to this regulation shall not notify any person involved in the transaction that the transaction has been reported.

(Adopted: 12/11)

5A.170 Gross Revenue License Fees, Attribution, Liability and Computations for Interactive Gaming.

1, Gross revenue received by an establishment from the operation of interactive gaming is subject to the same license fee provisions of NRS 463.370 as the games and gaming devices of the establishment, unless federal law otherwise provides for a similar fee or tax.

2. For a nonrestricted licensee granted an operator of interactive gaming license pursuant to the provisions of NRS 463.750(4), gross revenue received from the operation of interactive gaming shall be attributed to the nonrestricted licensee and counted as part of the gross revenue of the nonrestricted licensee for the purpose of computing the license fee.

3. For an affiliate of a nonrestricted licensee granted an operator of interactive gaming license pursuant to the provisions of NRS 463.750(5), gross revenue received from the operation of interactive gaming by the affiliate is subject to the same licensee fee provisions of NRS 463.370 as the games and gaming devices of the affiliated nonrestricted licensee and shall be attributed to the affiliated nonrestricted licensee and counted as part of the gross revenue of the affiliated nonrestricted licensee for the purpose of computing the license fee, unless federal law otherwise provides for a similar fee or tax. The operator, if receiving all or a share of the revenue from interactive gaming, is liable to the affiliated nonrestricted licensee for the operator's proportionate share of the license fees paid by the affiliated nonrestricted licensee pursuant to NRS 463.370.

4. For each game in which the operator is not a party to the wager, gross revenue equals all money received by the operator as compensation for conducting the game.

5. The nonrestricted licensee holding an operator of interactive gaming license or the nonrestricted licensee affiliated with an operator of interactive gaming licensee is responsible for reporting all gross revenue derived through interactive gaming.

(Adopted: 12/11)

5A.180 Resolution of Disputes

1. In the event that an authorized player has a dispute with an operator regarding interactive gaming, the operator may freeze the disbursement of all disputed amounts until resolution of the dispute.

2. Operators may establish procedures that allow for or require informal arbitration to resolve disputes pertaining to interactive gaming that fall within the provisions of NRS 463.362(1). Upon the completion of informal arbitration, where an authorized player is not satisfied with the resolution of the dispute, the provisions of NRS 463.362 to 463.3668 shall apply.

3. Disputes arising between authorized players which are potentially resolved without board involvement are ultimately the responsibility of the operator.

(Adopted: 12/11)

5A.190 Records. In addition to any other record required to be maintained pursuant to this regulation, each operator shall maintain complete and accurate records of all matters related to their interactive gaming activity, including without limitation the following:

1. The identity of all current and prior authorized players;
2. All information used to register an authorized player;
3. A record of any changes made to an interactive gaming account;
4. A record and summary of all person-to-person contact, by telephone or otherwise, with an authorized player;
5. All deposits and withdrawals to an interactive gaming account;
6. A complete game history for every game played including the identification of all authorized players who participate in a game, the date and time a game begins and ends, the outcome of every game, the amounts wagered, and the amounts won or lost by each authorized player; and
7. Disputes arising between authorized players.

➥ Operators shall preserve the records required by this regulation for at least 5 years after they are made. Such records may be stored by electronic means, but must be maintained on the premises of the operator or must otherwise be immediately available for inspection.

(Adopted: 12/11)

5A.200 Grounds for Disciplinary Action.

1. Failure to comply with the provisions of this regulation shall be an unsuitable method of operation and grounds for disciplinary action.

2. The commission may limit, condition, suspend, revoke or fine any license, registration, finding of suitability or approval given or granted under this regulation on the same grounds as it may take such action with respect to any other license, registration, finding of suitability or approval.
(Adopted: 12/11)

5A.210 Power of Commission and Board.
1. The chairman shall have the power to issue an interlocutory stop order to an operator suspending the operation of its interactive gaming system to allow for examination and inspection of the interactive gaming system by board agents.
2. An operator that is the subject of an interlocutory stop order issued by the chairman shall immediately cease the operation of its interactive gaming system until the interlocutory stop order is lifted. Unless the interlocutory stop order is lifted, the board shall comply with NRS 463.311(5) and (6) within 5 days after issuance of the interlocutory stop order.
(Adopted: 12/11)

5A.220 Interactive Gaming Service Providers
1. An interactive gaming service provider that acts on behalf of an operator to perform the services of an interactive gaming service provider shall be subject to the provisions of this regulation applicable to such services to the same extent as the operator. An operator continues to have an obligation to ensure, and remains responsible for compliance with this regulation regardless of its use of an interactive gaming service provider.
2. A person may act as an interactive gaming service provider only if that person holds a license specifically permitting the person to act as an interactive gaming service provider. Once licensed, an interactive gaming service provider may act on behalf of one or more operators.
3. An operator may only use the services of a service provider that is licensed by the commission as an interactive gaming service provider.
4. License fees.
(a) Before the commission issues an initial license or renews a license for an interactive gaming service provider, the interactive gaming service provider shall pay a license fee of $1,000.
(b) All interactive gaming service provider licenses shall be issued for the calendar year beginning on January 1 and expiring on December 31. If the operation is continuing, the fee prescribed by subsection (a) shall be due on or before December 31 of the ensuing calendar year. Regardless of the date of application or issuance of the license, the fee charged and collected under this section is the full annual fee.
5. Any employee of an interactive gaming service provider whose duties include the operational or supervisory control of the interactive gaming system or the games that are part of the interactive gaming system are subject to the provisions of NRS 463.335 and 463.337 and Regulations 5.100 through 5.109 to the same extent as gaming employees.
6. Interactive gaming service providers holding a license issued by the commission are subject to the provisions of NRS 463.140. It shall be an unsuitable method of operation for an interactive gaming service provider holding a license issued by the commission to deny any board or commission member or agent, upon proper and lawful demand, access to, inspection or disclosure of any portion or aspect of their operations.
7. An interactive gaming service provider shall be liable to the licensee on whose behalf the services are provided for the interactive gaming service provider's proportionate share of the fees and taxes paid by the licensee.
(Adopted: 12/11)

5A.230 Waiver of Requirements of Regulation. Upon written request and good cause shown, the board chairman or his designee may waive one or more of the requirements of 5A.070, 5A.100, 5A.110, 5A.120, 5A.150, or 5A.190. If a waiver is granted, the board chairman or his designee may impose alternative requirements.
(Adopted: 12/11)

5A.240 Scope and Effectiveness of Operator of Interactive Gaming License.

1. A license granted by the commission to be an operator shall not allow such licensee to offer interactive gaming from Nevada to individuals located in jurisdictions outside the state of Nevada unless the commission determines:

(a) That a federal law authorizing the specific type of interactive gaming for which the license was granted is enacted; or

(b) That the board or commission is notified by the United States Department of Justice that it is permissible under federal law to operate the specific type of interactive gaming for which the license was granted.

2. Upon the commission making a determination that 1(a) or (b) of this section has occurred, an operator of interactive gaming licensee that intends to offer interactive gaming from Nevada to individuals located in jurisdictions outside Nevada shall submit a request for administrative approval to the chairman, on such forms as the chairman may require, to begin such interstate interactive gaming. The chairman shall conduct a review of the operator of interactive gaming's operations to ensure that it is able to comply with these regulations and all other applicable state and federal laws. The chairman may approve or deny a request made under this subsection. The affected licensee may request that a denial by the chairman be reviewed by the board and commission pursuant to Regulations 4.185 through 4.195, inclusive.

(Adopted: 12/11)

TAB 8

DECEMBER 23, 2011

U.S. DEPARTMENT OF JUSTICE OPINION LETTER RE: NEW YORK/ILLINOIS LOTTERY PROPOSALS

WHETHER PROPOSALS BY ILLINOIS AND NEW YORK TO USE THE INTERNET AND OUT-OF-STATE TRANSACTION PROCESSORS TO SELL LOTTERY TICKETS TO IN-STATE ADULTS VIOLATE THE WIRE ACT

Interstate transmissions of wire communications that do not relate to a "sporting event or contest" fall outside the reach of the Wire Act.

Because the proposed New York and Illinois lottery proposals do not involve wagering on sporting events or contests, the Wire Act does not prohibit them.

September 20, 2011

MEMORANDUM OPINION FOR THE ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION

You have asked for our opinion regarding the lawfulness of proposals by Illinois and New York to use the Internet and out-of-state transaction processors to sell lottery tickets to in-state adults. *See* Memorandum for David Barron, Acting Assistant Attorney General, Office of Legal Counsel, from Lanny A. Breuer, Assistant Attorney General, Criminal Division (July 12, 2010) ("Crim. Mem."); Memorandum for Jonathan Goldman Cedarbaum, Acting Assistant Attorney General, Office of Legal Counsel, from Lanny A. Breuer, Assistant Attorney General, Criminal Division (Oct. 8, 2010) ("Crim. Supp. Mem."). You have explained that, in the Criminal Division's view, the Wire Act, 18 U.S.C. § 1084 (2006), may prohibit States from conducting in-state lottery transactions via the Internet if the transmissions over the Internet during the transaction cross State lines, and may also limit States' abilities to transmit lottery data to out-of-state transaction processors. You further observe, however, that so interpreted, the Wire Act may conflict with the Unlawful Internet Gambling Enforcement Act ("UIGEA"), 31 U.S.C. §§ 5361-5367 (2006), because UIGEA appears to permit intermediate out-of-state routing of electronic data associated with lawful lottery transactions that otherwise occur in-state. In light of this apparent conflict, you have asked whether the Wire Act and UIGEA prohibit a state-run lottery from using the Internet to sell tickets to in-state adults where the transmission using the Internet crosses state lines, and whether these statutes prohibit a state lottery from transmitting lottery data associated with in-state ticket sales to an out-of-state transaction processor either during or after the purchasing process.

Having considered the Criminal Division's views, as well as letters from New York and Illinois to the Criminal Division that were attached to your opinion request,[1] we conclude that interstate transmissions of wire communications that do not relate to a "sporting event or contest," 18 U.S.C. § 1084(a), fall outside of the reach of the Wire Act. Because the proposed New York and Illinois lottery proposals do not involve wagering on sporting events or contests,

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[1] *See* Letter for Portia Roberson, Director, Office of Intergovernmental Affairs, from William J. Murray, Deputy Director and General Counsel, New York Lottery (Dec. 4, 2009) ("N.Y. Letter"); Letter for Eric H. Holder, Jr., Attorney General of the United States, from Pat Quinn, Governor, State of Illinois (Dec. 11, 2009) ("Ill. Letter"); Letter for Bruce Ohr, Chief, Organized Crime and Racketeering Section, Criminal Division, from John W. McCaffrey, General Counsel, Illinois Department of Revenue (Mar. 10, 2010); Department of Revenue and Illinois Lottery, State of Illinois Internet Lottery Pilot Program (Mar. 10, 2010) ("Ill. White Paper").

the Wire Act does not, in our view, prohibit them. Given this conclusion, we have not found it necessary to address the Wire Act's interaction with UIGEA, or to analyze UIGEA in any other respect.

I.

In December 2009, officials from the New York State Division of the Lottery and the Office of the Governor of the State of Illinois sought the Criminal Division's views regarding their plans to use the Internet and out-of-state transaction processors to sell lottery tickets to adults within their states. *See* Crim. Mem. at 1; Ill. Letter; N.Y. Letter. According to its letter to the Criminal Division, New York is finalizing construction of a new computerized system that will control the sale of lottery tickets to in-state customers. Most of the tickets will be printed at retail locations and delivered to customers over the counter, but some will be "virtual tickets electronically delivered over the Internet to computers or mobile phones located inside the State of New York." N.Y. Letter at 1. New York also notes that all transaction data in the new system will be routed from the customer's location in New York to the lottery's data centers in New York and Texas through networks controlled in Maryland and Nevada. *Id.* Illinois, for its part, plans to implement a pilot program to sell lottery tickets to adults over the Internet, with sales restricted by geolocation technology to "transactions initiated and received or otherwise made exclusively within the State of Illinois." Ill. Letter at 2 (citation and internal quotation marks omitted). Illinois characterizes its program as "an intrastate lottery, despite the fact that packets of data may intermediately be routed across state lines over the Internet." Ill. White Paper at 12 (italics omitted). Both States argue in their submissions to the Criminal Division that the Wire Act is inapplicable because it does not cover communications related to non-sports wagering, and that their proposed lotteries are lawful under UIGEA. *Id.* at 11-12; N.Y. Letter at 3.

In the Criminal Division's view, both the New York and Illinois Internet lottery proposals may violate the Wire Act. Crim. Mem. at 3. The Criminal Division notes that "[t]he Department has uniformly taken the position that the Wire Act is not limited to sports wagering and can be applied to other forms of interstate gambling." *Id.* at 3; *see also* Crim. Supp. Mem. at 1-2. The Division also explains that "the Department has consistently argued under the Wire Act that, even if the wire communication originates and terminates in the same state, the law's interstate commerce requirement is nevertheless satisfied if the wire crossed state lines at any point in the process." Crim. Mem. at 3; *see also* Crim. Supp. Mem. at 2. Taken together, these interpretations of the Wire Act "lead[] to the conclusion that the [Act] prohibits" states from "utiliz[ing] the Internet to transact bets or wagers," even if those bets or wagers originate and terminate within the state. Crim. Supp. Mem. at 2.

The Criminal Division further notes, however, that reading the Wire Act in this manner creates tension with UIGEA, which appears to permit out-of-state routing of data associated with in-state lottery transactions. Crim. Mem. at 4-5. UIGEA prohibits any person engaged in the business of betting or wagering from accepting any credit or funds from another person in connection with the latter's participation in "unlawful Internet gambling." 31 U.S.C. § 5363; *see* Crim. Mem. at 3. Under UIGEA, "unlawful Internet gambling" means "to place, receive, or otherwise knowingly transmit a bet or wager by any means which involves the use, at least in part, of the Internet" in a jurisdiction where applicable federal or state law makes such a bet illegal. 31 U.S.C. § 5362(10)(A). Critically, however, UIGEA specifies that "unlawful Internet

gambling" does not include bets "initiated and received or otherwise made exclusively within a single State," *id.* § 5362(10)(B), and expressly provides that "[t]he intermediate routing of electronic data shall not determine the location or locations in which a bet or wager is initiated, received, or otherwise made," *id.* § 5362(10)(E).

The Criminal Division is thus concerned that the Wire Act may criminalize conduct that UIGEA suggests is lawful. On the one hand, the Criminal Division believes that the New York and Illinois lottery plans violate the Wire Act because they will involve Internet transmissions that cross state lines or the transmission of lottery data to out-of-state transaction processors. Crim. Mem. at 4; Crim. Supp. Mem. at 2. On the other hand, the Division acknowledges that state-run intrastate lotteries are lawful and that UIGEA specifically provides that the kind of "intermediate routing" of lottery transaction data contemplated by New York and Illinois cannot in itself render a lottery transaction interstate. Crim. Supp. Mem. at 2; Crim. Mem. at 4-5. The Criminal Division further notes that the conclusion that the Wire Act prohibits state lotteries from making in-state sales over the Internet creates "a potential oddity of circumstances" in which "the use of interstate commerce," rather than simply supplying a jurisdictional hook for conduct that is already wrongful, would transform otherwise lawful activity—state-run in-state lottery transactions—into wrongful conduct under the Wire Act. Crim. Supp. Mem. at 2.[2]

In light of this tension, the Criminal Division asked this Office to provide an opinion addressing whether the Wire Act and UIGEA prohibit state-run lotteries from using the Internet to sell tickets to in-state adults (a) where the transmission over the Internet crosses state lines, or (b) where the lottery transmits lottery data across state lines to an out-of-state transaction processor. Crim. Mem. at 5; Crim. Supp. Mem. at 1.

II.

The Criminal Division's conclusion that the New York and Illinois lottery proposals may be unlawful rests on the premise that the Wire Act prohibits interstate wire transmissions of gambling-related communications that do not involve "any sporting event or contest." *See* Crim. Mem. at 3; Crim. Supp. Mem. at 2. As noted above, both Illinois and New York dispute this premise, contending that the Wire Act prohibits only transmissions concerning sports-related wagering. *See* Ill. White Paper at 11-12; N.Y. Letter at 3; *see also In re Mastercard Int'l, Inc., Internet Gambling Litig.*, 132 F. Supp. 2d 468, 480 (E.D. La. 2001) ("[A] plain reading of the statutory language clearly requires that the object of the gambling be a sporting event or contest."), *aff'd*, 313 F.3d 257 (5th Cir. 2002). The sparse case law on this issue is divided. *Compare, e.g.*, *Mastercard*, 313 F.3d at 262-63 (holding that the Wire Act does not extend to non-sports wagering), *with United States v. Lombardo*, 639 F. Supp. 2d 1271, 1281 (D. Utah. 2007) (taking the opposite view), *and* Report and Recommendation of United States Magistrate Judge Regarding Gary Kaplan's Motion to Dismiss Counts 3-12, at 4-6, *United States v. Kaplan*, No. 06-CR-337CEJ (E.D. Mo. Mar. 20, 2008) (same).[3] We conclude that the Criminal

[2] State-run lotteries are exempt from many federal anti-gambling prohibitions. *See, e.g.*, 18 U.S.C. §§ 1307, 1953(b)(4) (2006).

[3] A New York court also found that subsection 1084(a) applied to gambling in the form of "virtual slots, blackjack, or roulette," but did so without analyzing the meaning of the "sporting event or contest" qualification. *See New York v. World Interactive Gaming Corp.*, 714 N.Y.S.2d 844, 847, 851-52 (N.Y. Sup. Ct. 1999).

Division's premise is incorrect and that the Wire Act prohibits only the transmission of communications related to bets or wagers on sporting events or contests.

The relevant portion of the Wire Act, subsection 1084(a), provides:

> Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined under this title or imprisoned not more than two years, or both.

18 U.S.C. § 1084(a) (codifying Pub. L. No. 87-216, § 2, 75 Stat. 491 (1961)).[4]

This provision contains two broad clauses. The first bars anyone engaged in the business of betting or wagering from knowingly using a wire communication facility "for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest." *Id.* The second bars any such person from knowingly using a wire communication facility to transmit communications that entitle the recipient to "receive money or credit" either "as a result of bets or wagers" or "for information assisting in the placing of bets or wagers." *Id.*[5]

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[4] The Wire Act defines "wire communication facility" as "any and all instrumentalities, personnel, and services (among other things, the receipt, forwarding, or delivery of communications) used or useful in the transmission of writings, signs, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission." 18 U.S.C. § 1081 (2006).

[5] The Criminal Division reads this second clause of subsection 1084(a) as if it were two separate clauses: the first prohibiting the use of a wire communication facility "for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers," and the second prohibiting the use of a wire communication facility "for information assisting in the placing of bets or wagers." *See* Crim. Mem. at 3; Crim. Supp. Mem. at 1 n.1. We do not find this reading convincing. Under that reading, the latter clause would prohibit the "use[] [of] a wire communication facility . . . for information assisting in the placing of bets or wagers," but it is unclear what, if anything, "us[ing]" a wire communication facility "for information" would mean. This difficulty could be remedied by reading the phrase "the transmission of" into the statute. However, doing so would both add words to the text and make the last clause in subsection 1084(a)—prohibiting use of a wire facility "for [the transmission of] information assisting in the placing of bets or wagers"—overlap with the first part of subsection 1084(a), which prohibits using wire communications for "the transmission . . . of . . . information assisting in the placing of bets or wagers on any sporting event or contest." This redundancy counsels against the Criminal Division's reading. *See, e.g.*, *Hibbs v. Winn*, 542 U.S. 88, 101 (2004) (invoking "rule against superfluities"). We believe the second half of subsection 1084(a) is better read as a single prohibition barring "the transmission of a wire communication which entitles the recipient *to receive money or credit* [*either*] as a result of bets or wagers[] *or* for information assisting in the placing of bets or wagers." 18 U.S.C. § 1084(a) (emphasis added). This reading avoids the illogic and redundancy of the first reading. It is also supported by the Wire Act's legislative history, which characterizes the second half of subsection 1084(a) as a provision that would prohibit "the transmission of wire communications which entitle the recipient to receive money as the result of betting or wagering," S. Rep. No. 87-588, at 2 (1961)—*not* as a set of two provisions that both would prohibit the transmission of wire communications entitling the recipients to receive money or credit as a result of bets or wagers *and* broadly bar the transmission of information assisting in the placing of bets or wagers. *See* H.R. Rep. No. 87-967, at 2 (1961) (subsection (a) "also prohibits the transmission of a wire communication which entitled the recipient to receive

Our question is whether the term "on any sporting event or contest" modifies each instance of "bets or wagers" in subsection 1084(a) or only the instance it directly follows. The second part of the first clause clearly prohibits a person who is engaged in the business of betting or wagering from knowingly using a wire communication facility to transmit "information assisting in the placing of bets or wagers on any sporting event or contest" in interstate or foreign commerce. *Id.* § 1084(a). It is less clear that the "sporting event or contest" limitation also applies to the first part of the first clause, prohibiting the use of a wire communication facility to transmit "bets or wagers" in interstate or foreign commerce, or to the second clause, prohibiting the transmission of a wire communication "which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers." *Id.* For the reasons set forth below, we conclude that both provisions are limited to bets or wagers on or wagering communications related to sporting events or contests. We begin by discussing the first part of the first clause, and then turn to the second clause.

A.

In our view, it is more natural to treat the phrase "on any sporting event or contest" in subsection 1084(a)'s first clause as modifying both "the transmission in interstate or foreign commerce of bets or wagers" and "information assisting in the placing of bets or wagers," rather than as modifying the latter phrase alone. The text itself can be read either way—it does not, for example, contain a comma after the first reference to "bets or wagers," which would have rendered our proposed reading significantly less plausible. By the same token, the text does not contain commas after *each* reference to "bets or wagers," which would have rendered our proposed reading that much more certain. *See* 18 U.S.C. § 1084(a) ("Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest . . . .").

Reading "on any sporting event or contest" to modify "the transmission . . . of bets or wagers" produces the more logical result. The text could be read to forbid the interstate or foreign transmission of bets and wagers of all kinds, including non-sports bets and wagers, while forbidding the transmission of information to assist only sports-related bets and wagers. But it is difficult to discern why Congress, having forbidden the transmission of *all* kinds of bets or wagers, would have wanted to prohibit only the transmission of information assisting in bets or wagers concerning sports, thereby effectively permitting covered persons to transmit information assisting in the placing of a large class of bets or wagers whose transmission was expressly forbidden by the clause's first part. *See id.*; *see also id.* § 1084(b) (providing exceptions for news reporting, and for transmissions of wagering information from one state where betting is legal to another state where betting is legal, both expressly relating to "sporting events or contests"). The more reasonable inference is that Congress intended the Wire Act's prohibitions to be parallel in scope, prohibiting the use of wire communication facilities to transmit both bets or wagers *and* betting or wagering information on sporting events or contests. Given that this interpretation is an equally plausible reading of the text and makes better sense of the statutory

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money or credit as a result of a bet or wager or for information assisting in the placing of bets or wagers"), *reprinted in* 1961 U.S.C.C.A.N. 2631, 2632.

scheme, we believe it is the better reading of the first clause. *See Ali v. Fed. Bureau of Prisons*, 552 U.S. 214, 222 (2008) ("[O]ur construction . . . must, to the extent possible, ensure that the statutory scheme is coherent and consistent.").

The legislative history of subsection 1084(a) supports this conclusion. As originally proposed, subsection 1084(a) would have imposed criminal penalties on anyone who "leases, furnishes, or maintains any wire communication facility with intent that it be used for the transmission in interstate or foreign commerce of *bets or wagers, or information assisting in the placing of bets or wagers, on any sporting event or contest* . . . ." S. 1656, 87th Cong. § 2 (1961) (as introduced) (emphasis added). The commas around the phrase "or information assisting in the placing of bets or wagers" make clear that the phrase "on any sporting event or contest" modifies both "bets or wagers" and "information assisting in the placing of bets or wagers."

In redrafting subsection 1084(a), the Senate Judiciary Committee altered the provision's first clause, changing the class of covered persons and removing the commas after both references to "wagers," and added a second clause prohibiting transmissions relating to "money or credit" (which we discuss below in section II.B). The Senate Judiciary Committee Report noted that the purpose of this amendment was to limit the subsection's reach to persons engaged in the gambling business, and to expand its reach to include "money or credit" communications:

> The second amendment changes the language of the bill, as introduced (which prohibited the leasing, furnishing, or maintaining of wire communication facility with intent that it be used for the transmission in interstate or foreign commerce of bets or wagers), to prohibit the use of wire communication facility by persons engaged in the business of betting or wagering, in the belief that the individual user, engaged in the business of betting or wagering, is the person at whom the proposed legislation should be directed; and has further amended the bill to prohibit the transmission of wire communications which entitle the recipient to receive money as the result of betting or wagering which is designed to close another avenue utilized by gamblers for the conduct of their business.

S. Rep. No. 87-588, at 2 (1961). Nothing in the legislative history of this amendment suggests that, in deleting the commas around "or information assisting in the placing of bets or wagers" and adding subsection 1084(a)'s second clause, Congress intended to expand dramatically the scope of prohibited transmissions from "bets or wagers . . . on any sporting event or contest" to *all* "bets or wagers," or to introduce a counterintuitive disparity between the scope of the statute's prohibition on the transmission of bets or wagers and the scope of its prohibition on the transmission of information assisting in the placing of bets or wagers. *See also* 107 Cong. Rec. 13,901 (1961) (Explanation of S. 1656, Prohibiting Transmission of Bets by Wire Communications, submitted for the record by Sen. Eastland, Chairman, S. Judiciary Comm.) (describing Senate Judiciary Committee's two major amendments to S. 1656 without mentioning an expansion of prohibited wagering to reach non-sports wagering); *cf. Report of Proceedings: Hearing Before the S. Comm. on the Judiciary, Exec. Sess.*, 87th Cong. 55 (1961) ("Senate Judiciary Comm. Exec. Session") (statement of Byron R. White, Deputy Att'y Gen.) (the bill, as amended, "is aimed now at those who use the wire communication facility for the

transmission of bets or wagers in connection with a sporting event").[6] Given that such changes would have significantly altered the scope of the statute, we think this absence of comment in the legislative history is significant. *Cf. Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 468 (2001) ("Congress . . . does not, one might say, hide elephants in mouseholes.").

B.

We likewise conclude that the phrase "on any sporting event or contest" modifies subsection 1084(a)'s second clause, which prohibits "the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers." 18 U.S.C. § 1084(a). The qualifying phrase "on any sporting event or contest" does not appear in this clause. But in our view, the references to "bets or wagers" in the second clause are best read as shorthand references to the "bets or wagers on any sporting event or contest" described in the first clause.

Although Congress could have made such an intent even clearer by writing "*such* bets or wagers" in the second clause, the text itself is consistent with our interpretation. And the interpretation gains support from the fact that the phrase "in interstate and foreign commerce" is likewise omitted from the second clause, even though Congress presumably intended *all* the prohibitions in the Wire Act, including those in the second clause, to be limited to interstate or foreign (as opposed to intrastate) wire communications. *See* Crim. Mem. at 3 (to violate the Wire Act, the wire communication must "cross[] state lines"); *see also, e.g.*, H.R. Rep. No. 87-967, at 1-2 ("The purpose of the bill is to . . . aid in the suppression of organized gambling activities by prohibiting the use of wire communication facilities which are or will be used for the transmission of bets or wagers and gambling information *in interstate and foreign commerce*.") (emphasis added), *reprinted in* 1961 U.S.C.C.A.N. at 2631. This omission suggests that Congress used shortened phrases in the second clause to refer back to terms spelled out more completely in the first clause.

Reading the entire subsection, including its second clause, as limited to sports-related betting also makes functional sense of the statute. *Cf. Corley v. United States*, 129 S. Ct. 1558, 1567 n.5 (2009) (construing the statute as a whole to avoid "the absurd results of a literal reading"). On this reading, all of subsection 1084(a)'s prohibitions serve the same end, forbidding wagering, information, and winnings transmissions of the same scope: No person may send a wire communication that places a bet on a sporting event or entitles the sender to

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[6] The legislative history indicates that the Department of Justice played a significant role in drafting S. 1656 as part of the Attorney General's program to fight organized crime and syndicated gambling. *See, e.g.*, S. Rep. No. 87-588, at 3 (noting that S. 1656 was introduced by the committee chairman on the recommendation of the Attorney General); *The Attorney General's Program to Curb Organized Crime and Racketeering: Hearings on S. 1653, S. 1654, S. 1655, S. 1656, S. 1657, S. 1658, S. 1665 Before the S. Comm. on the Judiciary*, 87th Cong. 12 (1961) ("Senate Hearings") (statement of Robert F. Kennedy, Att'y Gen.) ("We have drafted this statute carefully to protect the freedom of the press."), *quoted in* S. Rep. No. 87-588, at 3; Senate Judiciary Comm. Exec. Session at 54-55 (statement of Byron R. White, Deputy Att'y Gen.) (describing amendments to S. 1656 negotiated by the Justice Department); *Legislation Relating to Organized Crime: Hearings on H.R. 468, H.R. 1246, H.R. 3021, H.R. 3022, H.R. 3023, H.R. 3246, H.R. 5230, H.R. 6571, H.R. 6572, H.R. 6909, H.R. 7039 Before Subcomm. No. 5 of the H. Comm. on the Judiciary*, 87th Cong. 5 (1961) ("House Hearings") (statement of Rep. McCulloch) (referring to "the legislative proposals of the Kennedy administration").

receive money or credit as a result of a sports-related bet, and no person may send a wire communication that shares information assisting in the placing of a sports-related bet or entitles the sender to money or credit for sharing information that assisted in the placing of a sports-related bet.

Reading subsection 1084(a) to contain some prohibitions that apply solely to sports-related gambling activities and other prohibitions that apply to all gambling activities, in contrast, would create a counterintuitive patchwork of prohibitions. If the provision's second clause is read to apply to *all* bets or wagers, subsection 1084(a) as a whole would prohibit using a wire communication facility to place bets or to provide betting information only when sports wagering is involved, but would prohibit using a wire communication facility to transmit *any and all* money or credit communications involving wagering, whether sports-related or not. We think it is unlikely that Congress would have intended to permit wire transmissions of non-sports bets and wagers, but prohibit wire transmissions through which the recipients of those communications would become entitled to receive money or credit as a result of those bets. We think it similarly unlikely that Congress would have intended to allow the transmission of information assisting in the placing of bets or wagers on non-sporting events, but then prohibit transmissions entitling the recipient to receive money or credit for the provision of information assisting in the placing of those lawfully-transmitted bets.

The legislative history of subsection 1084(a) supports our reading of the text. *Cf. Pub. Citizen v. U.S. Dep't of Justice*, 491 U.S. 440, 454 (1989) ("Where the literal reading of a statutory term would 'compel an odd result,' we must search for other evidence of congressional intent to lend the term its proper scope.") (quoting *Green v. Bock Laundry Mach. Co.*, 490 U.S. 504, 509 (1989)); *cf. Green*, 490 U.S. at 527 (Scalia, J., concurring) (finding it "entirely appropriate to consult all public materials, including the background of [Federal] Rule [of Evidence] 609(a)(1) and the legislative history of its adoption, to verify that what seems to us an unthinkable disposition . . . was indeed unthought of, and thus to justify a departure from the ordinary meaning of the word 'defendant' in the Rule"). To begin, when Congress revised the Wire Act during the legislative process to add the second clause, it indicated (as noted above) that its purpose in doing so was to "further amend[] the bill to prohibit the transmission of wire communications which entitle the recipient to receive money as the result of betting or wagering[,] which is designed to close another avenue utilized by gamblers for the conduct of their business." S. Rep. No. 87-588, at 2. There is no indication that Congress intended the prohibition on money or credit transmissions to sweep substantially more broadly than the underlying prohibitions on betting, wagering, and information communications, let alone any discussion of any rationale behind such a counterintuitive scheme. *Cf. Am. Trucking*, 531 U.S. at 468.

More broadly, the Wire Act's legislative history reveals that Congress's overriding goal in the Act was to stop the use of wire communications for sports gambling in particular. Congress was principally focused on off-track betting on horse races, but also expressed concern about other sports-related events or contests, such as baseball, basketball, football, and boxing. The House Judiciary Committee Report, for example, explains:

> Testimony before your Committee on the Judiciary revealed that modern bookmaking depends in large measure on the rapid transmission of gambling information by wire communication facilities. For example, at present, the immediate receipt of information as to results of a horserace permits a bettor to place a wager on a successive race. Likewise, bookmakers are dependent upon telephone service for the placing of bets and for layoff betting on all sporting events. The availability of wire communication facilities affords opportunity for the making of bets or wagers and the exchange of related information almost to the very minute that a particular sporting event begins.

H.R. Rep. No. 87-967 at 2, *reprinted in* 1961 U.S.C.C.A.N. at 2631-32 (reprinted report entitled "Sporting Events—Transmission of Bets, Wagers, and Related Information"); *see also* 107 Cong. Rec. 16,533 (1961) (statement of Rep. Celler, Chairman, H. Judiciary Comm.) ("This particular bill involves the transmission of wagers or bets and layoffs on horseracing and other sporting events."); House Hearings at 24-26 (statement of Robert F. Kennedy, Att'y Gen.) (describing horse racing bookmaking operations and the importance to the bookmaker of rapid inbound and outbound communications); House Hearings at 236-38 (statement of Frank D. O'Connor, District Attorney, Long Island City, N.Y.) (describing the operation of the Delaware Sports Service, a wire service that enables bookies and gambling syndicates to lay off horse race bets with other bookies, reduce odds on a horse, and even cheat by taking bets after a race has finished).

Legislative history from the Senate similarly suggests that Congress's motive in enacting the Wire Act was to combat sports-related betting. The Explanation of S. 1656, Prohibiting Transmission of Bets by Wire Communications, provided by Chairman Eastland during the Senate debate, describes the problem addressed by the legislation this way:

> Information essential to gambling must be readily and quickly available. Illegal bookmaking depends upon races at about 20 major racetracks throughout the country, only a few of which are in operation at any one time. Since the bookmaker needs many bets in order to operate a successful book, he needs replays, including money on each race. Bettors will bet on successive races only if they know quickly the results of the prior race and the bookmaker cannot accept bets without the knowledge of the results of each race. Thus, information so quickly received as to be almost simultaneous, prior to, during, and immediately after each race with regard to starting horse, scratches of entries, probable winners, betting odds, results and the prices paid, is essential to both the illegal bookmaker and his customers.

107 Cong. Rec. 13,901 (1961); *see also* S. Rep. No. 87-588, at 4 (quoting Letter for Vice President, U.S. Senate, from Robert F. Kennedy, Att'y Gen. (Apr. 6, 1961)); Senate Hearings at 12 (statement of Robert F. Kennedy, Att'y Gen.) ("The people who will be affected [by S. 1656] are the bookmakers and the layoff men, who need incoming and outgoing wire communications in order to operate.").

Although Congress was most concerned about horse racing, testimony during the hearings also highlighted the increasing importance of rapid wire communications to "large-scale betting operations" involving other professional and amateur sporting events, such as baseball, basketball, football, and boxing. House Hearings at 25 (statement of Robert F. Kennedy, Att'y Gen.). The Attorney General testified, for instance, that recent disclosures revealed that gamblers had bribed college basketball players to shave points on games, and that up-to-the-minute information regarding "the latest 'line' on the contest," "late injuries to key players," and the like was critical to bookmakers. *Id.*; *accord* Senate Hearings at 6 (statement of Robert F. Kennedy, Att'y Gen.); *see also* House Hearings at 272 (statement of Nathan Skolnik, N.Y. Comm'n of Investigation) (bookmakers handling illegal baseball, basketball, football, hockey, and boxing wagering need wire communications to obtain "the line," to make layoff bets, and to receive race results); *id.* at 298-99 (statement of Dan F. Hazen, Assistant Vice President, W. Union Tel. Co.) (discussing baseball-sports ticker installations refused or removed by Western Union because of illegal use). This focus on sports-related betting makes sense, as the record before Congress indicated that sports bookmaking was the principal gambling activity for which crime syndicates were using wire communications at the time. *See* Charles P. Ciaccio, Jr., *Internet Gambling: Recent Developments and State of the Law*, 25 Berkeley Tech. L.J. 529, 537 (2010); *see also* Senate Hearings at 277-78 (testimony of Herbert Miller, Assistant Attorney General, Criminal Division).[7]

Our conclusion that subsection 1084(a) is limited to sports betting finds additional support in the fact that, on the same day Congress enacted the Wire Act, it also passed another statute in which it expressly addressed types of gambling other than sports

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[7] As noted above, the Justice Department played a key role in drafting S. 1656, and it understood the bill to reach only the use of wire communications for sports-related wagering and communications. The colloquy between Mr. Miller and Senator Kefauver, chairman of a committee that held hearings to investigate organized crime and gambling in the 1950s, underscores that Congress was well aware of that understanding:

> SENATOR KEFAUVER. The bill [S. 1656] on page 2 seems to be limited to sporting events or contests. Why do you not apply the bill to any kind of gambling activities, numbers rackets, and so forth?
>
> MR. MILLER. Primarily for this reason, Senator: The type of gambling that a telephone is indispensable to is wagers on a sporting event or contest. Now, as a practical matter, your numbers game does not require the utilization of communications facilities.
>
> . . . .
>
> SENATOR KEFAUVER. I can see that telephones would be used in sporting contests, and it is used quite substantially in the numbers games, too.
>
> How about laying off bets by the use of telephones and laying off bets in bigtime gambling? Does that not happen sometimes?
>
> MR. MILLER. We can see that this statute will cover it. Oh, you mean gambling on other than a sporting event or contest?
>
> SENATOR KEFAUVER. Yes.
>
> MR. MILLER. This bill, of course, would not cover that because it is limited to sporting events or contests.

Senate Hearings at 277-78.

gambling, including gambling known as the "numbers racket," which involved lottery-style games. In addressing these forms of gambling, Congress used terms wholly different from those employed in the Wire Act. For example, the Interstate Transportation of Wagering Paraphernalia Act, Pub. L. No. 87-218, 75 Stat. 492 (1961) (codified at 18 U.S.C. § 1953), specifically prohibits the interstate transportation of wagering paraphernalia, including materials used in lottery-style games such as numbers, policy, and bolita.[8] Subject to exemptions, the statute provides, in part:

> Whoever, except a common carrier in the usual course of its business, knowingly carries or sends in interstate or foreign commerce any record, paraphernalia, ticket, certificate, bills, slip, token, paper, writing, or other device used, or to be used, or adapted, devised, or designed for use in (a) bookmaking; or (b) wagering pools with respect to a sporting event; or (c) in a numbers, policy, bolita, or similar game shall be fined under this title or imprisoned for not more than five years or both.

18 U.S.C. § 1953(a) (2006). The legislative history indicates that the reference to "a numbers, policy, bolita, or similar game" under subpart (c) of this provision was intended to cover lotteries. *See* H.R. Rep. No. 87-968, at 2 (1961), *reprinted in* 1961 U.S.C.C.A.N. 2634, 2635; *see also* House Hearings at 29-30 (1961) (statement of Robert F. Kennedy, Att'y Gen.) (highlighting the need for legislation prohibiting the interstate transportation of wagering paraphernalia to help suppress "lottery traffic" and to close loopholes created by judicial decisions).

Congress thus expressly distinguished these lottery games from "bookmaking" or "wagering pools with respect to a sporting event," and made explicit that the Interstate Transportation of Wagering Paraphernalia Act applied to all three forms of gambling. 18 U.S.C. § 1953(a).[9] Congress's decision to expressly regulate lottery-style games in addition to sports-related gambling in that statute, but not in the contemporaneous Wire Act, further suggests that Congress did not intend to reach non-sports wagering in the Wire Act. *See Dooley v. Korean Air Lines Co.*, 524 U.S. 116, 124 (1998) (construing one federal statute in light of another congressional enactment the same year).[10]

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[8] As Assistant Attorney General Herbert Miller explained, "numbers, policy, and bolita[] are similar types of lotteries wherein an individual purchases a ticket with a number." House Hearings at 350; *see generally* National Institute of Law Enforcement and Criminal Justice, United States Department of Justice, *The Development of the Law of Gambling: 1776-1976*, at 748-52 (1977) (describing the numbers game and lotteries).

[9] The Supreme Court later held that 18 U.S.C. § 1953 barred the interstate transportation of records, papers, and writings in connection with a sweepstake race operated by the state of New Hampshire. *United States v. Fabrizio*, 385 U.S. 263, 266-70 (1966). In 1975, Congress amended the statute to exempt "equipment, tickets, or materials used or designed for use within a State in a lottery conducted by that State acting under authority of State law," Pub. L. No. 93-583, § 3, 88 Stat. 1916 (1975) (codified at 18 U.S.C. § 1953(b)(4)), and established a new provision, 18 U.S.C. § 1307, exempting state-conducted lotteries from statutory restrictions governing lotteries in 18 U.S.C. §§ 1301-1304, Pub. L. No. 93-583, § 1, 88 Stat. 1916 (1975). No similar exemption for state lotteries was added to the Wire Act.

[10] The legislative history of the Wire Act does contain numerous references to "gambling information." However, in context, this term is best read as a reference to the specific kinds of gambling information covered by the statute being discussed, not evidence of an independent intent to include other kinds of gambling information

In sum, the text of the Wire Act and the relevant legislative materials support our conclusion that the Act's prohibitions relate solely to sports-related gambling activities in interstate and foreign commerce.[11]

III.

What remains for resolution is only whether the lotteries proposed by New York and Illinois involve "sporting event[s] or contest[s]" within the meaning of the Wire Act. We conclude that they do not. The ordinary meaning of the phrase "sporting event or contest" does not encompass lotteries. As noted above, a statute enacted the same day as the Wire Act expressly distinguished sports betting from other forms of gambling, including lotteries. *See supra* pp. 10-11 (discussing § 1953(e)). Other federal statutes regulating lotteries make the same distinction. *See* 18 U.S.C. § 1307(d) (2006) ("'Lottery' does not include the placing or accepting of bets or wagers on sporting events or contests."),[12] Nothing in the materials supplied by the

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within the scope of the statute—let alone an intent to include that other kind of information *only* with respect to money or credit communications. *See, e.g.*, H.R. Rep. No. 87-967, at 3 (citing the exemption in subsection 1084(b) for the transmission of "gambling information" from "a State where the placing of bets and wagers on a sporting event is legal, to a State where betting on that particular event is legal," even though subsection 1084(b) does not refer to "gambling information"), *reprinted in* 1961 U.S.C.C.A.N. at 2632; House Hearings at 353-54 (referring, in discussing H.R. 7039, 87th Cong. (1961), to "[o]ur purpose [being] to prohibit the interstate transmission of gambling information which is essential to the gambling fraternity," even though H.R. 7039 did not refer to "gambling information" but would have prohibited the transmission of wagers and wagering information only with respect to a "sporting event or contest").

We further note that the Wire Act itself uses the term "gambling information" in subsection 1084(d). *See* 18 U.S.C. § 1084(d) ("When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, or local law enforcement agency, acting within its jurisdiction, that any facility furnished by it is being used or will be used for the purpose of transmitting or receiving *gambling information* in interstate or foreign commerce in violation of Federal, State or local law, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber . . . .") (emphasis added). We express no opinion about the scope of that term as it is used in that statutory provision.

[11] We also considered the possibility that, in the Wire Act's reference to "any sporting event or contest," 18 U.S.C. § 1084(a), the word "sporting" modifies only "event" and not "contest," such that the provision would bar the wire transmission of "wagers on any sporting event or [any] contest." This interpretation would give independent meaning to "event" and "contest," but it would also create redundancy of its own. If Congress had intended to cover *any* contest, it is unclear why it would have needed to mention sporting events separately. Moreover, as discussed above, the legislative history of the Wire Act makes clear that Congress was focused on preventing the use of wire communications for sports gambling in particular. And, legislative proposals from the 1950s in which the phrase "any sporting event or contest" originated further confirm that Congress intended to reach only "sporting contests." A key debate at that time concerned whether to regulate "any sporting event or contest" or "any horse or dog racing event or contest." *See, e.g.*, S. Rep. No. 81-1752, at 3, 22, 28 (1950) (explaining committee amendment to bill narrowing the definition of "gambling information" from covering "any sporting event or contest" to "any horse or dog racing event or contest"); *compare* S. 3358, 81st Cong. § 2(b) (1950) (as introduced), *with* S. 3358, 81st Cong. § 2(b) (1950) (as reported by the Interstate and Foreign Commerce Committee). If Congress had intended the Wire Act's predecessors to reach *any* "contest," however, the debate over which adjectival phrase to apply to "event" would have been meaningless.

[12] In addition, the Professional and Amateur Sports Protection Act ("PASPA") prohibits a governmental entity from sponsoring, operating, or authorizing by law "a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly . . . on one or more competitive games in which amateur or

Criminal Division suggests that the New York or Illinois lottery plans involve sports wagering, rather than garden-variety lotteries. Accordingly, we conclude that the proposed lotteries are not within the prohibitions of the Wire Act.

Given that the Wire Act does not reach interstate transmissions of wire communications that do not relate to a "sporting event or contest," and that the state-run lotteries proposed by New York and Illinois do not involve sporting events or contests, we conclude that the Wire Act does not prohibit the lotteries described in these proposals. In light of that conclusion, we need not consider how to reconcile the Wire Act with UIGEA, because the Wire Act does not apply in this situation. Accordingly, we express no view about the proper interpretation or scope of UIGEA.

/s/

VIRGINIA A. SEITZ
Assistant Attorney General

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professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games." 28 U.S.C. § 3702 (2006). While the statute grandfathers some established state gambling schemes, a new state lottery falling within the Act's prohibitions would not be exempt. *Id.* § 3704; *see, e.g.*, *OFC Comm Baseball v. Markell*, 579 F.3d 293, 300-04 (3d Cir. 2009) (PASPA preempted aspects of Delaware statute permitting wagering on athletic contests, which were not saved by any of the statutory exceptions).

TAB 9

OTHER RESOURCES

OTHER RESOURCES

Report on the Possible Regulation of Intrastate Internet Poke in the State of Iowa - http://www.iowa.gov/irgc/Intrastate%20Internet%20Poker.pdf

As States Weigh Online Gambling, Profit May Be Small - http://www.nytimes.com/2012/01/18/us/more-states-look-to-legalize-online-gambling.html

Rep. Barton cheers DOJ online gambling ruling - http://thehill.com/blogs/hillicon-valley/technology/202765-rep-barton-cheers-doj-online-gambling-ruling

Online gambling: Bets set to explode after ruling - http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2012/01/18/NSLU1ML1M6.DTL

Statement on Department of Justice Letter Clarifying Scope of the Wire Act - http://www.americangaming.org/newsroom/press-releases/statement-on-department-of-justice-letter-clarifying-scope-of-the-wire-act

A Present from the DoJ: Internet Lotteries (and Poker?) Are Legal. - http://www.gamblingandthelaw.com/blog/320-a-present-from-the-doj-internet-lotteries-and-poker-are-legal-december-24-2011.html

Justice Department opinion allows states to offer online gambling - http://latimesblogs.latimes.com/money_co/2011/12/online-gambling-states-justice.html

Ruling by Justice Dept. Opens a Door on Online Gambling - http://www.nytimes.com/2011/12/25/us/online-gaming-loses-obstacle-at-justice-department.html?pagewanted=all

Department Of Justice Flip-Flops On Internet Gambling -
http://www.forbes.com/sites/nathanvardi/2011/12/23/department-of-justice-flip-flops-on-internet-gambling/

Nevada Sets Stage for Online Poker -
http://online.wsj.com/article/SB10001424052970203686204577112890018052440.html

State officials studying feds' ruling on online poker -
http://www.vegasinc.com/news/2012/jan/04/state-officials-studying-feds-ruling-online-poker/

TAB 10

GAMING CONTROL BOARD
INFORMATION PACKET

Nevada Gaming Commission

Nevada State Gaming Control Board

January 2012

STATE OF NEVADA

GAMING CONTROL BOARD

1919 College Parkway, P.O. Box 8003, Carson City, Nevada 89702
555 E. Washington Avenue, Suite 2600, Las Vegas, Nevada 89101
3650 S. Pointe Circle, Suite 203, P.O. Box 31109, Laughlin, Nevada 89028
557 W. Silver Street, Suite 207, Elko, Nevada 89801
9790 Gateway Drive, Suite 100, Reno, Nevada 89521
750 Pilot Road, Suite H, Las Vegas, Nevada 89119

BRIAN SANDOVAL
Governor

MARK A. LIPPARELLI, *Chairman*
A.G. BURNETT, *Member*
SHAWN R. REID, *Member*

January 2012

Thank you for your interest in Nevada's gaming regulatory structure. The Nevada Gaming Commission and the State Gaming Control Board are empowered by law to regulate Nevada's gaming industry. Established in 1931 and bolstered by the creation of our agency in 1955, our evolving laws and regulations have been an integral element of the success of gaming in Nevada. The gaming industry is declared to be vitally important to the economy of our State and the general welfare of inhabitants.

During the fiscal year ending June 30, 2011, our 256 non-restricted licensees who grossed more than $1 million in gaming revenue generated total revenues of $22.0 billion, with $10.2 billion, or 46.2%, coming from gaming activities. These 256 non-restricted licensees reported an employee base of 174,381 people. As is evident by these data points, the contribution of gaming and tourism to Nevada is substantial.

Over the past 25 years, casino gaming has become legal in many jurisdictions throughout the United States, and, more recently, around the globe. Our model of regulations is one of many but one that has been adopted successfully by a number of fellow jurisdictions.

On behalf of our agency we hope the information contained herein is helpful to you. You will find more information on our agency's website (gaming.nv.gov).

Sincerely,

Peter C. Bernhard
Chairman
Nevada Gaming Commission

Mark A. Lipparelli
Chairman
State Gaming Control Board

Gaming Regulation in Nevada:

An Overview

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MISSION AND PRINCIPLES

Through its 80-year history, Nevada's gaming regulatory framework and the long standing contributions of legislative and government leaders, gaming commissioners, board members and dedicated employees have developed a reputation around the globe as the leader in the governance of gaming. This reputation has been enhanced by the continued contributions of gaming lawyers, accountants, advisors and members of the academic community who have challenged the system with new ideas.

The Gaming Control Board's reputation is based on the philosophy that gaming, when properly regulated, can thrive and be an important contribution to the economic welfare of our state. The Board's reputation has been built around a philosophy of consistent legal, ethical and fair-minded practices and actions, and bolstered through highly rigorous standards for licensing, suitability and operation. Maintaining a balance between rigorous standards for the industry and the kind of flexibility that permits innovation and prudent expansion is an overarching goal that guides not only day-to-day decision making, but also the consideration of changes to regulations and statutes.

Mission

The Nevada Gaming Commission ("Commission") and the State Gaming Control Board ("Board") govern Nevada's gaming industry through strict regulation of all persons, locations, practices, associations and related activities. The Board is charged with protecting the integrity and stability of the industry through our investigative and licensing practices, and also with enforcing laws and regulations which hold gaming licensees to high standards. Through these practices, the Board also ensures the proper collection of taxes and fees that are an essential source of revenue for Nevada.

Guiding Principles

1. In all decisions and in the performance of our jobs, our highest priority is our duty to protect the citizens of Nevada and visitors to our state by ensuring the interests of the agency, any employee or any licensee are not placed above our duty to our citizens and visitors.

2. We act with a high degree of integrity, honesty and respect in carrying out our duties and in our interactions with our stakeholders.

3. We are committed to protecting the confidentiality of all information entrusted to us by applicants, licensees and other stakeholders.

4. Our objectivity, independence and impartiality are beyond reproach. We avoid all personal or professional circumstances or conflicts that would call these into question.

5. Our processes ensure that actions, decisions and policies are consistently applied and do not result in advantages or disadvantages to any party to the detriment of another.

6. Our investigations, audits and tests, while comprehensive, are objective and fair-minded. Written reports of such actions are made with a high degree of care with special attention to accuracy.

7. We carry out our duties in a rigorous and thorough manner and utilize the resources provided to us wisely and only for the legitimate purposes of the agency.

8. We continuously challenge ourselves to improve the practices and processes of the agency to keep pace with the industry's change, growth and innovation and our legislative mandates.

9. We continuously improve our public communication and public access to provide guidance and assistance to those we hold accountable for compliance.

10. We foster and maintain cooperative relationships with other governmental bodies, domestic and foreign, and our professionalism and competence bolsters our reputation as world class participants in gaming regulation.

11. Our professional work environment is demanding and respects the individual differences of our employees. We set a high standard for hiring and advance employees based on demonstrated achievement.

NEVADA GAMING COMMISSION
STATE GAMING CONTROL BOARD

Gaming Commission	Term Expires
Peter C. Bernhard, Chairman	April 27, 2015
Joseph W. Brown, Vice Chairman/Member	April 27, 2013
Tony Alamo, M.D., Member	April 27, 2012
John T. Moran, Jr., Member	April 27, 2013
Randolph J. Townsend, Member	April 27, 2014

Gaming Control Board	Term Expires
Mark A. Lipparelli, Chairman	January 28, 2013
A.G. Burnett, Member	January 25, 2015
Shawn R. Reid, Member	January 25, 2015

Pursuant to state law, members of the Board and Commission are appointed by the Governor of Nevada to four-year terms. In addition to other requirements, each member must be a resident of Nevada and no member may hold elective office while serving. Members are also not permitted to possess any direct pecuniary interest in gaming activities while serving in their capacity as members.

The Board and Commission conduct public meetings at least once monthly and special meetings as required. The Executive Secretary, who is appointed by the Board with the approval of the Commission, assists the Board and the Commission in administrative matters and facilitates the monthly meetings.

EXECUTIVE SECRETARY: Brian Duffrin e-mail: Bduffrin@gcb.nv.gov

Current and Past Chairs

Commission

Peter Bernhard (2001-current)
Brian Sandoval (1999-2001)
William Curran (1991-1999)
John O'Reilly (1987-1991)
Paul Bible (1983-1987)
Carl Dodge (1981-1983)
Harry Reid (1977-1981)
Peter Echeverria (1973-1977)
John Diehl (1968-1973)
George Dickerson (1967-1968)
Milton Keefer (1965-1967)
Norman Brown (1961-1965)
Milton Keefer (1959-1961)
Miles Pike (1959-1959)

Board

Mark Lipparelli (2011-current)
Dennis Neilander (2001-2010)
Steve DuCharme (1998-2000)
William Bible (1989-1998)
Michael Rumbolz (1987-1989)
Barton Jacka (1985-1987)
James Avance (1983-1984)
Richard Bunker (1980-1982)
Roger Trounday (1977-1979)
Philip Hannifin (1971-1977)
Frank Johnson (1967-1971)
Alan Abner (1967-1967)
Ed Olsen (1961-1966)
Ray Abbaticchio (1959-1961)
Robbins Cahill (1955-1959)

Section A

Overview of Nevada Gaming Agencies

GAMING REGULATION IN NEVADA

History

In 1861, while Nevada was still a territory, the first prohibition on all forms of gaming was passed into law. In 1869, the Nevada Legislature legalized gaming in spite of the Governor's veto. This law approved numerous games and imposed the first license fee.

Between 1869 and 1907, many changes in gambling 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 county, while slot machine fees went into the state coffers. The change was short-lived, as the 1909 Legislature prohibited gaming in all forms effective October 1, 1910.

It was not until 1931 that Nevada's modern era of legalized gaming began with the passage of the "Wide Open Gambling" bill signed into law by Governor Fred Balzar. The bill established a schedule of license fees for all games and machines, with the counties assuming the responsibility for the licensing and the collection of fees.

At about the same time, the State Legislature introduced a new concept in licensing. A state licensing requirement was enacted with fees based on a percentage of gross gaming win. This fee was in addition to the previously established county license fees, which were based on the number of games and machines in operation.

The Nevada Tax Commission, at that time, 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 set apart for administrative costs.

State Gaming Control Board

The 1955 Legislature created the State Gaming Control Board ("Board") within the Nevada Tax Commission, whose purpose was to inaugurate a policy to eliminate the undesirable elements 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 Board consists of three full-time members appointed by the Governor for four-year terms, with one member acting as Chairman, and is responsible for regulating all aspects of Nevada's gaming industry.

The primary purpose of the Board is to protect the stability of the gaming industry through investigations, licensing, and enforcement of laws and regulations; to ensure the collection of gaming taxes and fees which are an essential source of state revenue; and to maintain public confidence in gaming. The Board implements policy enforcing State laws and regulations governing gaming

through six divisions (Administration, Audit, Enforcement, Investigations, Tax and License and Technology). The Board currently has 418.5 full-time equivalent positions, and maintains offices in Carson City, Elko, Las Vegas, Laughlin and Reno.

Nevada Gaming Commission

In 1959, the Nevada Gaming Commission ("Commission") was created by the passage of the Gaming Control Act ("Act"). The Act laid the foundation for what would become modern gaming regulation.

The Commission consists of five members appointed by the Governor to four-year terms, with one member acting as Chairman. The Commission members serve in a part-time capacity.

The primary responsibilities of the Commission include acting on the recommendations of the Board in licensing matters and ruling upon work permit appeal cases. The Commission is the final authority on licensing matters, having the ability to approve, restrict, limit, condition, deny, revoke or suspend any gaming license.

The Commission is also charged with the responsibility of adopting regulations to implement and enforce the State laws governing gaming.

When the Board believes that discipline against a gaming licensee is appropriate, the Board acts in the prosecutorial capacity, while the Commission acts in the judicial capacity to determine whether any sanctions should be imposed.

Gaming Policy Committee

The Gaming Policy Committee ("Committee") was created by the Nevada Legislature in 1961 and meets at the call of the Governor to discuss matters of gaming policy. Recommendations made by this committee are advisory to the Commission and are not binding on the Board or the Commission in the performance of their duties.

The Committee consists of eleven members including: the Governor (who chairs the Committee); one member of the State Senate; one member of the State Assembly; one member of the Nevada Gaming Commission; one member of the State Gaming Control Board; one member of a Nevada Native American Tribe; and five members appointed by the Governor (two representatives of the general public, two representatives of nonrestricted gaming licensees and one representative of a restricted gaming licensee).

Gaming Laws

The Commission and the Board make up the two-tiered system charged with regulating the Nevada gaming industry. The conduct and regulation of gaming in Nevada are primarily governed by Chapters 462, 463, 463B, 464, 465, and 466 of the Nevada Revised Statutes. These statutes are supported by the regulations of the Commission and Board. The Commission and Board administer the State laws and regulations governing gaming for the protection of the public and in the public interest in accordance with the policy of the State.

Nevada Revised Statute 463.0129(1) sets forth the public policy of Nevada regarding gaming. All gaming regulatory decisions must reflect these public policy mandates. Specifically, this statute includes the following statements:

(a) The gaming industry is vitally important to the economy of the State and the general welfare of the inhabitants.

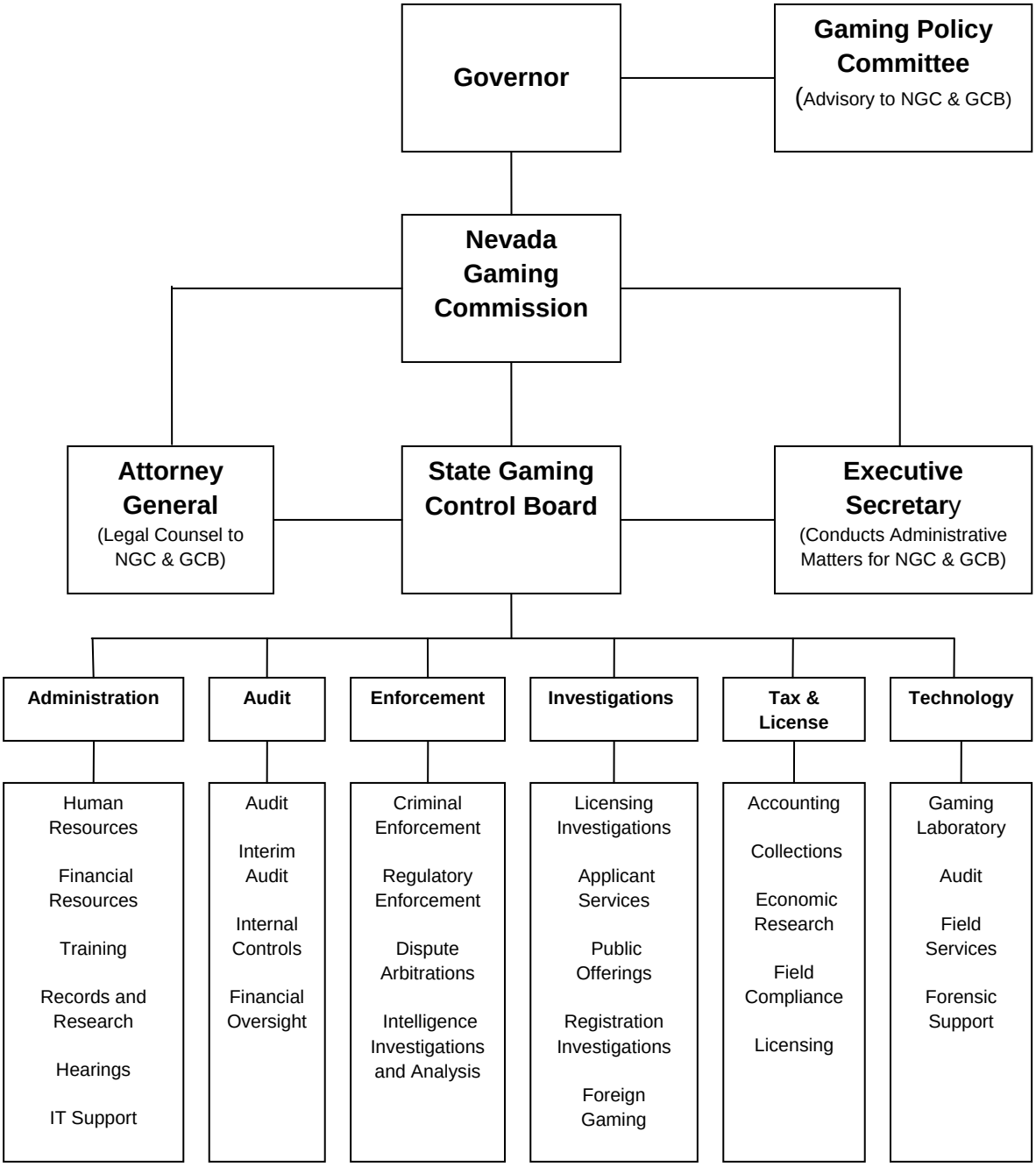
(b) The continued growth and success of gaming is dependent upon public confidence and trust that licensed gaming and the manufacture, sale and distribution of gaming devices and associated equipment are conducted honestly and competitively, that establishments which hold restricted and nonrestricted licenses where gaming is conducted and gambling devices are operated do not unduly impact the quality of life enjoyed by the residents of the surrounding neighborhoods, that the rights of the creditors of the 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, the manufacture, sale or distribution of gaming devices and associated equipment and the operation of inter-casino linked systems.

(d) All establishments where gaming is conducted and where gaming devices are operated, and manufacturers, sellers and distributors of certain gaming devices and equipment, and operators of inter-casino linked systems 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.

(e) To ensure that gaming is conducted honestly, competitively and free of criminal and corruptive elements, all gaming establishments in this state must remain open to the general public and the access of the general public to gaming activities must not be restricted in any manner except as provided by the Legislature.

NEVADA GAMING REGULATION ORGANIZATIONAL STRUCTURE



ADMINISTRATION DIVISION

Division Leadership

CHIEF:	Stacy Woodbury	e-mail: Swoodbury@gcb.nv.gov
DEPUTY CHIEF:	Mary Ashley	e-mail: Mashley@gcb.nv.gov
IT MANAGER:	Andrew Tucker	email: Atucker@gcb.nv.gov
HUMAN RESOURCES MANAGER:	Robert Leedom	email: Rleedom@gcb.nv.gov

Administration Division Staff

The Administration Division currently has 30.5 professional staff positions and a support staff of 20.

Administration Division Responsibilities

The Administration Division serves as the financial hub of the Board and is responsible for developing the $80 million biennial operating budget. The Accounting Section oversees expenditures, payroll, licensee billing reimbursements, purchasing, inventory, supply acquisition, agency contracts and mail services.

Most of the Board's employees are in the unclassified service and, therefore, are exempt from the majority of civil service protections within the State of Nevada classified personnel system. Due to this unique structure, Nevada law authorizes the Board to adopt its own Personnel Manual and administer its own personnel system. The division's Human Resources Section is vested with this responsibility including recruitment, hiring practices, benefits administration and disciplinary procedures.

The Human Resources Section also administers the Board's training program, which is composed of an Administration Division supervisor and a training coordinator for each of the six Board divisions. This section develops, researches, plans, organizes and administers a large and comprehensive training and development program which includes managing and monitoring the training budgets for the six divisions. Additionally, this section is the liaison to state and local law enforcement training representatives, outside training vendors and the University of Nevada to plan, develop, and provide instruction for Board employees.

The Records and Research Services Section of the Administration Division is responsible for maintaining the security and confidentiality of all information received from the various Board divisions for historical preservation and retrieval. It is the principal repository for data maintained on

all Nevada gaming applicants and licensees. All custodial services including court-ordered subpoenas are processed through Records and Research.

The Administration Division is responsible for facilities management for the Board's six locations. Facilities are located in Carson City, Elko, Las Vegas (two locations), Laughlin and Reno.

The Information Technology Section is responsible for the general information technology support and the internal maintenance and development of applications used by the agency. The section also develops online applications that allow online processing of agency submissions such as gaming employee registrations.

The Administration Division also hosts the Board's Professional Standards office. The office performs pre-employment background screenings on all potential candidates for Board employment and conducts a more extensive post-employment background check on all new hires. The office is also responsible for conducting internal investigations regarding employee misconduct.

The Administration Division houses the Board's two hearing officers. These officers conduct hearings and submit recommended decisions to the State Gaming Control Board in matters relating to casino/patron disputes and work permits.

Disputes arising between players and licensed gaming establishments are investigated by Enforcement Division agents. The field agent makes an initial determination, which may be disputed. The hearing officer holds a factual hearing on the dispute and recommends that the agent's decision be affirmed, reversed or modified by the Board

Certain positions within the gaming industry are subject to the gaming employee registration process. Individuals subject to the registration process are required to submit to a background investigation conducted by the Board's Enforcement Division to determine their suitability to work in the gaming industry. If, as a result of the background investigation, an individual is placed into an "object" status, the individual is not permitted to work in certain positions within the gaming industry. Individuals who have been placed into an "object" status have the right to request a hearing. Based on testimony provided by the employee a hearing officer will recommend whether the objection be sustained or reversed, subject to Board approval.

AUDIT DIVISION

Division Leadership

Las Vegas

ACTING CHIEF:	Shirley Springer	e-mail: Sspringer@gcb.nv.gov
DEPUTY CHIEF:	Vacant	
DEPUTY CHIEF:	Joy English	e-mail: Jenglish@gcb.nv.gov
AUDIT MANAGER:	Kelly Colvin	e-mail: Kcolvin@gcb.nv.gov
AUDIT MANAGER:	Vacant	
AUDIT MANAGER:	Dayne Rainey	e-mail: Drainey@gcb.nv.gov

Reno

DEPUTY CHIEF:	Rian Isom	e-mail: Risom@gcb.nv.gov
AUDIT MANAGER:	John Leeming	e-mail: Jleeming@gcb.nv.gov

Audit Division Staff

The Audit Division currently has 85 professional staff members, and a clerical staff of 6. All professionals have degrees and, as Agents of the Board, are peace officers of the State of Nevada.

Certification

Employment with the Audit Division qualifies a person to apply for a certified public accountant (CPA) designation in Nevada. The requisite college degree, four years of experience with the Audit Division and 152 hours of supplemental training (currently provided by the Board) are required to become certified. More than 58% of the Audit Division's professional staff are either CPAs, or have passed the CPA exam and are in the process of satisfying their experience requirement.

Audit Division Responsibilities

Audits

The Audit Division is primarily responsible for auditing Group I casinos throughout the state (the definition of a Group I casino is based upon a gross gaming revenue threshold which is adjusted annually in accordance with the consumer price index). The frequency of audits performed by the Audit Division is determined by the available manpower in relation to the inventory of Group I licensees and is therefore subject to fluctuations. It is the goal of the Audit Division to maintain a cycle that allows for each Group I licensee to be audited approximately once every two-and-one-half years.

The Audit Division employs a comprehensive and structured model for determining risk and meets three times per year with one or more Board Members to review the risk ratings assigned to each property and to brief the Members on issues of regulatory significance. The risk ratings assist the Division in allocating its manpower in relation to perceived risk.

The primary objectives of a Board audit are to determine the proper reporting of gaming revenue and to determine if the casino is in compliance with all applicable gaming laws and regulations. Internal accounting controls are thoroughly analyzed, in-depth analytical review of operating statistics is undertaken and detail tests of transactions are performed to gather sufficient audit evidence to render an audit opinion. At the conclusion of an audit, the division issues a written report to the Board which includes the 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 gathering audit evidence. Covert or surprise observations of casino procedures are routinely conducted on an interim basis throughout the audit period. Interviews with casino personnel are periodically performed to ensure that the casino is complying with documented internal accounting controls. For those casinos with branch offices outside of Nevada (including those outside of the country), inspections of these offices are performed by Audit Division agents to ensure that proper operating procedures are being followed.

Compliance Reviews

Operators of slot machine routes, slot machine manufacturers and distributors, disseminators of racing information, operators of inter-casino linked gaming systems and pari-mutuel systems operators are required to be licensed by the Board and to comply with a number of statutes and regulations. The Audit Division periodically reviews these operations for regulatory and statutory compliance.

Other Responsibilities

The Audit Division has a number of additional responsibilities, including but not limited to:

- Audit Division agents periodically perform cash counts to ensure that the casinos have sufficient funds, pursuant to Regulation 6.150, to operate.
- The Audit Division analyzes annual financial statements submitted by Group I Licensees to monitor the entities' continuing financial viability.
- Certain transactions (e.g., loans and leases) made with casinos must be approved by the Board and Commission. The Audit Division prepares a report for the Board to summarize the key details of such transactions, including the source of funds, which have been reported as required by regulation ensuring that a casino receives funds only from reputable sources, thus reducing the potential for improper influence over the gaming licensee.
- The Audit Division routinely monitors 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.

ENFORCEMENT DIVISION

Division Leadership

Las Vegas

CHIEF:	Jerry Markling	e-mail:	Jmarkling@gcb.nv.gov
DEPUTY CHIEF:	Dave Salas	e-mail:	Dsalas@gcb.nv.gov
DEPUTY CHIEF:	Teresa Zellhoefer	e-mail:	Tzellhoefer@gcb.nv.gov

Carson City

SUPERVISOR:	Dave Andrews	e-mail:	Dandrews@gcb.nv.gov

Elko

SUPERVISOR:	Brian McIntosh	e-mail:	Bmcintosh@gcb.nv.gov

Laughlin

SUPERVISOR:	Joseph Gilleo	e-mail:	Jgilleo@gcb.nv.gov

Reno

DEPUTY CHIEF:	Karl Bennison	e-mail:	Kbennison@gcb.nv.gov
SUPERVISOR:	Russell Niel	e-mail:	Rneil@gcb.nv.gov

Enforcement Division Staff

The Enforcement Division currently has 90 sworn personnel and 28 clerical staff located in five offices throughout the state. All sworn agents have a college degree or a combination of education and investigative experience. The division is made up of agents from diverse backgrounds including law enforcement, gaming, accounting, computer science and law.

Certification

Enforcement Division agents are required to be certified peace officers in Nevada. Agents are required to perform the duties of a peace officer and meet all requirements, including physical fitness and firearms proficiency. Agents are also required to successfully complete a Gaming Academy and a Field Training Program. Once certified, agents are required to retain their certification by completing 24 hours of approved training each calendar year. Agents receive new and updated training on a variety of subjects including licensed games, cheating techniques, arbitration of disputes, defensive tactics, arrest techniques, criminal law, detention and firearms use and safety.

Enforcement Division Responsibilities

The division is the law enforcement arm of the Board and operates 24 hours a day, seven days a week. Primary responsibilities are to conduct criminal and regulatory investigations and to arbitrate disputes between patrons and licensees. Investigations range from simple to detailed and complex involving violations of gaming regulations and/or statutes. The division is also responsible for processing and conducting background investigations and registering all gaming employees who work in the State of Nevada.

The division collects intelligence information regarding criminals and criminally oriented persons, as well as individuals engaged in organized crime and other activities relating to the gaming industry. It also makes recommendations on potential candidates for the "List of Excluded Persons" or Black Book. In their investigative capacity, agents are responsible for interviewing witnesses and complainants, interrogating of suspects, conducting covert surveillance operations and obtaining information from confidential informants and other cooperating individuals.

The Enforcement Division's Operations Section conducts inspections of licensee's surveillance systems, various gaming devices including slot machines, cards and dice. The section is also responsible for inspecting and approving new games, chips and tokens, charitable lotteries and bingo.

The division provides assistance to other domestic and international jurisdictions in gaming-related matters and works closely with federal, state and local law enforcement agencies on cases of mutual interest and in the exchange of information as appropriate.

Special Investigations

Special investigations often entail developing evidence to prove skimming (the diversion of funds to avoid the payment of taxes) or money laundering in a casino. This work may be performed in conjunction with other state or federal agencies such as the Federal Bureau of Investigation, Internal Revenue Service, etc.

INVESTIGATIONS DIVISION

Division Leadership

Carson City

CHIEF:	Mike LaBadie	e-mail: Mlabadie@gcb.nv.gov
DEPUTY CHIEF:	Thomas Hanna	e-mail: Thanna@gcb.nv.gov
DEPUTY CHIEF OF CORPORATE SECURITIES:	Marc Warren	e-mail: Mwarren@gcb.nv.gov
COORDINATOR OF APPLICANT SERVICES:	Sally Elloyan	e-mail: Selloyan@gcb.nv.gov

Las Vegas

DEPUTY CHIEF:	John Flynn	e-mail: Jflynn@gcb.nv.gov
AGENCY LIAISON:	Diane Presson	e-mail: Dpresson@gcb.nv.gov

Investigations Division Staff

The Investigations Division currently has a professional staff of 83 agents and a clerical staff of 13.

Certification

Investigative agents generally have college degrees in business or financial disciplines, criminal justice, or extensive law enforcement experience. As agents of the Board, investigators are peace officers of the State of Nevada.

Investigations Division Responsibilities

Finding of Suitability/Licensing Application Investigations

The Investigations Division is charged with investigating all individuals and companies seeking a privileged Nevada gaming license, registration, finding of suitability or other approval. Applicants for these approvals are subject to extensive investigation of personal background and financial activity to verify suitability.

Agents further investigate and analyze the activities of all privately held business entities seeking a gaming license or registration in the State of Nevada. Division investigators produce detailed reports which are used by the Board and the Commission as the basis for licensing and approval recommendations or decisions.

The Investigation Division is also charged with the following program responsibilities:

Applicant Services and Agency Liaison

The Investigations Division provides and receives all application forms and ensures each application is properly completed and that all necessary forms are filed in accordance with statutory and regulatory requirements. The division also collects all required application fees. The Agency Liaison responds to requests for information from governmental agencies around the world.

NGC Regulation 25 Independent Agents

The Investigations Division registers and investigates individuals who bring patrons to Nevada casinos through junket programs. This is performed by receiving all application forms for Independent Agents and ensuring each application is properly completed, that all necessary forms are filed in accordance with statutory and regulatory requirements and that all application fees are collected.

NGC Regulation 3.100 Employee Reports

The Investigations Division receives, inputs and monitors all semi-annual reports on key employees submitted by nonrestricted gaming licensees.

NGC Regulation 22.035 Race & Sports Books

The Investigations Division receives, inputs and monitors all reports on Race & Sports Book key personnel submitted for registration by nonrestricted gaming licensees.

Corporate Securities Section Responsibilities

Finding of Suitability/Licensing Application Investigations

The Corporate Securities Section monitors, investigates and analyzes activities of registered, publicly traded corporations and their subsidiaries involved in the Nevada gaming industry. Actions which might affect the industry, such as changes in control, public offerings, involvement in foreign gaming and recapitalization plans are scrutinized by the Section and reported to the Board.

Section investigators produce detailed reports which are used by the Board and the Commission as the basis for licensing/approval recommendations/decisions.

Publicly Traded Corporations

The Corporate Securities Section is responsible for investigating and analyzing publicly traded corporations for suitability, licensing and financial viability. At the conclusion of an investigation, a written report is issued which is used by the Board and the Commission as the basis for licensing/approval recommendations/decisions.

Compliance Reviews

Publicly traded corporations are required by their Orders of Registration to establish and maintain a regulatory compliance plan. The Corporate Securities Section evaluates plans and periodically performs reviews of these companies for compliance with the requirements of their plan.

Monitoring

Publicly traded corporations' activities are continually monitored for any changes to company structure, management and financial viability through review of Securities and Exchange Commission filings, Board submissions, press releases and news articles.

Special Projects/Investigations

On occasion, the Corporate Securities Section is assigned special projects and investigative work such as debt analysis, litigation review or financial viability.

Foreign Gaming Reporting

The Corporate Securities Section monitors foreign gaming reporting submissions which are reports required to be filed by any Nevada licensee who conducts gaming activity outside the State of Nevada. These quarterly and annual submissions detail foreign gaming locations, violations in foreign gaming jurisdictions and fines levied.

TAX & LICENSE DIVISION

Division Leadership

Carson City

CHIEF:	Frank Streshley	e-mail: Fstreshley@gcb.nv.gov

Las Vegas

DEPUTY CHIEF:	Dan Douglas	e-mail: Ddouglas@gcb.nv.gov

Tax & License Division Staff

The Tax & License Division currently has 23 professional staff, including 3 CPAs, and a clerical staff of 6. The division is split into four units; Collections, Compliance, Licensing and Economic Research.

Tax & License Division Responsibilities

Collections Unit

The Collections Unit is responsible for all deposits (with exception to Gaming Employee Registration) and distributes gaming taxes, fees, penalties, interest and fines. Responsibilities include the management of accounts receivables, collecting on delinquent accounts and performing write-offs on bad accounts.

Additionally, the Collections Unit is responsible for processing Holiday or Special Event applications (NGC-16), requests for Temporary Closures (Nevada Gaming Commission Regulation 9.010), requests to add licensed games, requests to allow fee-based gaming and the monitoring of such locations (Nevada Gaming Commission Regulation 5.120) and holding surety bonds for new nonrestricted locations.

Compliance Unit

The Compliance Unit performs reviews on Group II casinos throughout the state and conducts reviews on all manufacturers, distributors, slot route operators, operators of inter-casino linked systems and mobile gaming operators (not associated with a Group I casino). The unit also completes reviews of restricted locations which report live entertainment revenue.

The primary objectives of a Board review are to determine the proper reporting of revenue (casinos and restricted locations with live entertainment revenue) and to determine if the licensee is in compliance with all applicable gaming statutes and regulations. Internal accounting controls are thoroughly analyzed, in-depth analytical review of operating statistics is undertaken and detail tests of transactions are performed. At the conclusion of a review, the unit issues a written report to the Chairman of the Board.

The unit employs various means in gathering audit evidence. Covert or surprise observations of casino procedures are routinely conducted on an interim basis throughout the audit period. Interviews with casino personnel are periodically performed to ensure that the casino is complying with documented internal accounting controls.

The Compliance Unit has a number of additional responsibilities, including but not limited to:

- Performing periodic cash counts to ensure that casino licensees (and restricted locations when necessary) have sufficient funds, pursuant to Nevada Gaming Commission Regulation 6.150, to operate.
- Analyzing annual financial statements submitted by operators of inter-casino linked systems to monitor continuing financial viability. The unit also reviews reports from external auditors performing reviews on the licensees' systems (Wide Area Progressive Agreed Upon Procedures).
- Approval of diagrams and any subsequent changes for all restricted locations.
- Processing violation letters for restricted locations with the assistance of the Technology Division.
- Monitor Indian Gaming which includes the gaming compacts and developments in other jurisdictions.

Licensing Unit

The Licensing Unit issues all gaming licenses approved by the Commission. Additionally, this unit is tasked with maintaining the license database, which includes owners, key employees and conditions. Annually the unit sends requests to all licensees to verify the owners and conditions placed on their licenses. Any requests for licensing history are also processed through this unit. In addition, trusts are processed through this unit.

Economic Research Unit

The Economic Research Unit is responsible for forecasting gaming tax and fee revenues. Those forecasts are presented to the State's Economic Forum as part of the General Fund revenue projection process. In addition, the unit prepares the Legislative Report which takes into account net incomes and assessed values of licensees. This unit also prepares the monthly press releases on Gaming Win and the Percentage Fee Collections. Additionally, it compiles the Nevada Gaming Abstract which includes financial statements, rate of room occupancy, square foot analysis and ratios and average number of employees. Furthermore, the unit performs special research projects at the request of the Board, the Nevada Legislature and/or the Governor.

TECHNOLOGY DIVISION

Division Leadership

Las Vegas:

ACTING CHIEF: Jim Barbee e-mail: Jbarbee@gcb.nv.gov

LAB MANAGER: Vacant

Technology Division Staff

The Technology Division currently has 32 professional staff and a clerical staff of two.

Technology Division Responsibilities

Technology Approvals

The Technology Lab is primarily responsible for the review and approval of all new and modified gaming technology used by casino licensees in Nevada, including traditional gaming devices and multi-player devices as well as associated equipment such as keno systems, bingo systems, and race and sports systems. With constantly changing conditions in technology, the Lab also regularly conducts meetings with applicants, licensees, trade association representatives and fellow regulators to assess possible changes to technical standards and regulations.

Technology Field Inspections

Technology Lab staff inspect every licensed location at least once every two-and-one-half to three years to ensure compliance and identify products which are no longer approved for use. The Technology Lab also assists the Enforcement Division in analyzing circumstances relating to patron disputes and complaints regarding gaming technology.

Other Responsibilities

The Technology Division performs technical forensic analysis in support of criminal investigations and mathematical analysis as part of the new game approval process, and providing support to the applicant investigation process through data acquisitions and manufacturer practice assessments.

Section B

Selected Data and Information

SELECTED DATA AND INFORMATION

GAMING LICENSES (June 30, 2011)

Nonrestricted (Group I)	150
Nonrestricted (Group II)	297
Slot Route Operator	57
Manufacturer/Distributor	336
Other	19
Restricted	2,016
Total	**2,875**

License Descriptions

There are four primary gaming licenses approved by the Commission including: (1) nonrestricted gaming license; (2) slot route operator's license; (3) manufacturer's and/or distributor's license; and (4) restricted gaming license.

A nonrestricted gaming license is typically granted for the operation of: (1) a property having 16 or more slot devices; (2) a property having any number of slot devices together with any other live game, gaming device, race book or sports pool; (3) a slot machine route, (4) an inter-casino linked system; or (5) a mobile gaming system.

A slot route operator license is a nonrestricted license authorizing the holder to place slot devices in a licensed location and share in the gaming revenues without being on the license issued for the location. An operator's license will normally be issued only to an applicant already licensed at three locations or having firm commitments to place machines at three licensed locations upon licensing.

A manufacturer's license authorizes the holder to manufacture, assemble or produce any device, equipment, material or machines used in gambling, except pinball machines, in the State of Nevada in accordance with Nevada Gaming Commission Regulation 14.

A distributor's license authorizes the holder to sell, distribute or market any gambling device, machine or equipment in the State of Nevada in accordance with Nevada Gaming Commission Regulation 14.

Restricted gaming licenses are granted to the operator of 15 or fewer gaming devices (and no table games) at certain locations within Nevada such as bars, taverns, supper clubs, and convenience stores.

The Board and the Commission also have statutory authority to require the licensure of any individual or entity that: (1) has influence over any gaming operations in the State of Nevada; (2) shares in gaming revenues with a licensee; (3) is a lender to a gaming licensee; or (4) is the owner of land upon which gaming is conducted.

Nevada also requires approvals and licenses for transactions which affect the ownership and/or control of any gaming operation in the State and for any individual who could exert any similar influence.

SLOT DEVICES AND TABLE GAMES

Slot Devices

Nonrestricted Locations (by Denomination)	
$0.01	44,140
$0.25	14,614
Multi-denom	89,777
Other	22,540
Total	**171,071**

Restricted Locations (by Denomination)	
$0.01	323
$0.25	2,468
Multi-denom	5,780
Other	10,575
Total	**19,146**

Grand Total Slot Devices	**190,217**

Table Games/Race Pools and Sports Books

Twenty-One	3,052
Roulette	487
Craps	426
Baccarat	305
Mini-Baccarat	158
Race Books	159
Sports Pools	187
Keno	103
Poker	1,070
Other Games	1,071
Grand Total Table Games	**7,018**

GAMING REVENUES

Five Year Gaming Win (Statewide by County) (in thousands)

County	FY 2011	FY 2010	FY 2009	FY 2008	FY 2007
Clark	$ 9,162,503	$ 8,806,177	$ 9,108,504	$10,590,748	$10,743,189
Douglas	303,614	320,874	369,826	437,125	445,145
Elko	261,139	260,026	278,558	300,432	288,975
Washoe	751,467	788,546	867,202	996,614	1,069,608
Balance	155,975	151,824	162,539	176,029	192,214
Statewide	$10,634,698	$10,327,447	$10,786,629	$12,500,948	$12,739,131

Five Year Gaming Win (by Revenue Category) (in thousands)

Type	FY 2011	FY 2010	FY 2009	FY 2008	FY 2007
Slot Devices	$ 6,685,162	$ 6,676,259	$ 7,216,657	$ 8,269,722	$ 9,344,608
Tables and Games	3,949,537	3,651,188	3,569,972	4,231,226	4,394,523
Total	$10,634,699	$10,327,447	$10,786,629	$12,500,948	$12,739,131

Five Year Overall Revenues[1] (Nonrestricted Licensees/$1 million and over) (in thousands)

Revenue	FY 2011	FY 2010	FY 2009	FY 2008	FY 2007
Gaming	$10,168,621	$ 9,906,559	$10,514,718	$12,040,880	$12,480,791
Rooms	4,345,020	3,938,031	4,264,648	5,113,021	5,129,980
Food	3,252,131	3,040,918	3,191,257	3,518,857	3,401,217
Beverage	1,503,719	1,370,074	1,328,325	1,331,969	1,398,854
Other	2,742,573	2,597,979	2,712,418	3,000,097	2,846,185
Total	$22,012,064	$20,853,561	$22,011,365	$25,004,824	$25,257,027

1 - Overall Revenues are derived from Nonrestricted Licensees grossing $1 million or more in gaming revenue during the applicable year.

TAXES AND LICENSE FEE COLLECTIONS

The gaming industry in Nevada produces a substantial portion of the overall revenues to the state's General Fund. The Board and Commission function as the taxing authority on behalf of the state. Generally, the largest share of gaming taxes are generated from a tax on the gaming revenue or "house win" with other fees and taxes associated with equipment placement and live entertainment. Casino licensees are also responsible for other federal, state and local taxes not administered by the Board or Commission.

Gaming fees on gross revenues are applied monthly under a graduated rate schedule:

- 3.5% on the first $50,000 of gross gaming revenue, plus
- 4.5% on the next $84,000 of gross gaming revenue, plus
- 6.75% on gross gaming revenues exceeding $134,000.

Annual and quarterly taxes are also collected on each gaming device and table game exposed for play in a nonrestricted gaming location within the state:

- An annual fee of $250 per slot device, plus
- A quarterly fee of $20 per slot device.
- Table games are taxed on a quarterly and annual basis based on the number of table games available for play during each fiscal year and each quarter.

Restricted gaming locations are required to pay the following annual and quarterly taxes:

- An annual fee of $250 per slot device, plus
- A quarterly fee of $81 per slot device for the first five slot devices, plus
- A quarterly fee of $141 per slot device for each slot device after the first five.

Under Nevada Gaming Law, the failure to pay such taxes within 30 days will automatically result in the surrender of the gaming license and require immediate closure of the gaming operations.

Five Year Tax Collections (Statewide by County)

County	FY2011	FY2010	FY2009	FY2008	FY 2007
Clark	$ 737,773,155	$ 709,993,045	$ 730,603,021	$ 831,400,762	$ 880,339,709
Douglas	23,257,286	24,512,665	27,269,106	34,330,280	34,581,023
Elko	20,077,789	20,288,918	21,020,580	23,189,474	22,828,504
Washoe	60,064,415	62,452,974	66,435,646	77,529,505	84,215,802
Balance	12,282,702	12,056,234	12,679,360	13,602,406	14,723,512
Statewide	$ 853,455,347	$ 829,303,836	$ 858,007,713	$ 980,052,427	$1,036,688,550

Five Year Tax Collections (Statewide by Category)

Category	FY2011	FY2010	FY2009	FY2008	FY2007
Percentage Fees	$ 652,013,226	$ 630,788,144	$ 655,155,974	$ 771,324,301	$ 820,448,136
Entertainment Tax	118,538,336	108,244,011	112,405,395	121,638,259	121,655,196
Quarterly Non-Restricted Slot Tax	12,275,845	12,425,211	12,662,476	12,771,871	13,098,863
Quarterly Games Tax	6,673,087	6,699,150	6,926,985	6,990,365	7,217,562
Quarterly Restricted Slot Tax	8,417,549	8,578,006	8,999,245	9,507,690	9,610,619
Annual Slot Tax	47,438,586	48,390,092	49,581,281	49,931,555	51,703,362
Annual Games Tax	2,580,167	2,638,667	2,689,625	2,732,000	2,796,783
Other Collections	5,518,552	11,540,555	9,586,732	5,156,386	10,158,029
Statewide	$ 853,455,347	$ 829,303,836	$ 858,007,713	$ 980,052,427	$1,036,688,550

While the Board acts as the taxing authority for the State of Nevada with respect to gaming activities, the revenues derived are not retained by the agency and, instead, are remitted to the state General Fund and other dedicated accounts.

Distribution of Tax Collections

Fund	FY2011	FY2010	FY2009	FY2008	FY2007
General Fund	802,064,909	$ 776,725,582	$ 804,166,335	$ 925,926,097	$ 980,674,834
Problem Gambling[1]	1,494,981	1,535,172	1,570,472	1,582,108	1,618,432
Dedicated Fund[2]	49,895,457	51,043,082	52,270,906	52,544,222	54,395,284
Statewide	$ 853,455,347	$ 829,303,836	$ 858,007,713	$ 980,052,427	$1,036,688,550

1 *– Problem Gambling – Distributions are from the General Fund*

2 *– Dedicated Fund – Distributed to Schools and Counties*

Section C

Resources

LIST OF PUBLICATIONS

The publications listed below are available at no charge for downloading or printing on the Gaming Control Board website (http://gaming.nv.gov/publications.htm). Questions regarding these publications can be e-mailed to: publications@gcb.nv.gov.

Publication	Description
Abbreviated Revenue Release	Two-page abbreviated monthly release reflecting total gaming win and percentage fee tax collections for nonrestricted licensees for the month and the comparative data from one year earlier.
Board Agenda	Meeting agenda of the State Gaming Control Board.
Chip and Token Report	Listing of approved/disapproved chips and tokens submitted by Nevada licensees.
Commission Agenda	Meeting agenda of the Nevada Gaming Commission.
Corporate Securities Orders	Sets forth a description of Registered Publicly Traded Corporations affiliated companies and intermediary companies, and the various gaming licenses and approvals obtained by those entities. Orders included are from April 1993 to present. For Orders prior to April 1993, contact Corporate Securities at (775) 684-7860.
Detailed Report of Locations - Distributors	Listing of distributors, addresses and licensed individuals.
Detailed Report of Locations - Manufacturers	Listing of manufacturers, addresses and licensed individuals.
Detailed Report of Locations - Mobile Gaming Operators	Listing of mobile gaming operators, addresses and licensed individuals.
Detailed Report of Locations - Nonrestricted	Listing of nonrestricted locations, addresses and licensed individuals.
Detailed Report of Locations - Operator of Inter-Casino Linked Systems	Listing of operators of inter-casino linked systems, addresses and licensed individuals.

Publication	**Description**
Detailed Report of Locations - Restricted	Listing of restricted locations, addresses and licensed individuals.
Detailed Report of Locations - Slot Route Operators	Listing of slot route operators, addresses and licensed individuals.
Disposition Agenda	Agenda of Gaming Control Board and Nevada Gaming Commission meetings, reflecting Board recommendation and Commission final action.
Distributors	Listing of distributors and addresses.
Gaming Regulation in Nevada: An Update	A primer regarding the gaming regulators in the State of Nevada.
Gaming Revenue Report	Summary of gaming revenue information for nonrestricted gaming activity; each report reflects 1-month, 2-month and 3-month data.
List of Excluded Persons	Listing of persons who are required to be excluded or ejected from licensed gaming establishments that conduct pari-mutuel wagering or operate any horse race book, sports pool or games, other than slot machines only.
Manufacturers	Listing of manufacturers and addresses.
Minimum Internal Control Standards	Minimum requirements for internal controls over gaming operations.
Mobile Gaming Operators	Listing of mobile gaming operators and addresses.
Nevada Gaming Abstract	An annual financial analysis of nonrestricted gaming licensees producing $1 million or more in gaming revenue (July-June), issued each February.
Nevada Gaming Control Act	Nevada Revised Statutes regarding gaming, horse racing and sporting events (NRS Chapters 462 - 466).
Nonrestricted/Nonrestricted Slots Only Locations	Listing of nonrestricted and nonrestricted slots only locations including addresses.
Nonrestricted Count Report	Listing of nonrestricted locations reflecting the quantity and denomination of gaming devices and the type and quantity of table games. (Also available in comma-delimited text format, which can be imported into spreadsheets.)
Nonrestricted Square Footage Report	Annual list of nonrestricted locations reflecting the square footage allotted to specific types of gaming activities at each location. (Also available in comma-delimited text format, which can be imported into spreadsheets.)

Publication	**Description**
Notices to Licensees	Industry notices, newsletters and policy memoranda released by the State Gaming Control Board and Nevada Gaming Commission.
Operators of Inter-Casino Linked Systems	Listing of operators of inter-casino linked systems and addresses.
Quarterly Statistical Report	General summary of Nevada's taxable gaming revenue and fee and tax collections.
Racebooks/Sports Pools	Listing of racebook/sportsbook pool locations and addresses.
Regulations of the Nevada Gaming Commission and State Gaming Control Board	Gaming regulations adopted by the Nevada Gaming Commission.
Restricted Locations	Listing of restricted locations and addresses.
Slot Route Operators	Listing of slot machine route operators and addresses.

OFFICE LOCATIONS AND MAILING ADDRESSES

Carson City Office Address:
1919 College Parkway
Carson City, NV 89706

Carson City Mailing Address:
P.O. Box 8003
Carson City, NV 89702-8003

Elko Office & Mailing Address:
557 West Silver Street, Suite 207
Elko, NV 89801

Las Vegas Main Office & Mailing Address:
555 East Washington Avenue, Suite 2600
Las Vegas, NV 89101

Las Vegas Technology Division Lab Address & Mailing Address:
750 Pilot Road, Suite H
Las Vegas, NV 89119

Laughlin Office Address:
3650 South Pointe Circle, Suite 203
Laughlin, NV 89029

Laughlin Mailing Address:
P.O. Box 31109
Laughlin, NV 89028

Reno Office & Mailing Address:
9790 Gateway Drive, Suite 100
Reno, NV 89521

OFFICE PHONE AND FAX NUMBERS

Carson City Office	**Phone Numbers**	**Fax Numbers**
Nevada Gaming Commission	(775) 684-7752	(775) 687-8221
State Gaming Control Board	(775) 684-7740	(775) 687-8221
Administration Division	(775) 684-7704	(775) 687-5817
Administration Division – Human Resources	(775) 684-7712	(775) 684-7729
Administration Division – Training	(775) 684-7732	(775) 687-2290
Enforcement Division	(775) 684-7900	(775) 687-5362
Investigations Division	(775) 684-7800	(775) 687-1372
Investigations Division – Applicant Services	(775) 684-7840	(775) 687-1372
Investigations Division – Corporate Securities Section	(775) 684-7860	(775) 687-1219
Legal – Attorney General's Office	(775) 684-4154	
Tax & License Division	(775) 684-7770	(775) 684-7787
Technology Division	(775) 684-7731	
TDD Service	(775) 687-6116	

Elko Office	**Phone Number**	**Fax Number**
Enforcement Division	(775) 738-7191	(775) 738-3608

Las Vegas Office	**Phone Numbers**	**Fax Numbers**
State Gaming Control Board	(702) 486-2000	(702) 486-2045
Administration Division	(702) 486-2000	(702) 486-2045
Audit Division	(702) 486-2060	(702) 486-3543
Employee Registration Unit	(702) 486-3340	(702) 486-2591
Enforcement Division	(702) 486-2020	(702) 486-2230
Investigations Division	(702) 486-2260	(702) 486-2011
Investigations Division – Applicant Services	(702) 486-2007	(702) 486-2011
Investigations Division – Corporate Securities Section	(702) 486-2365	
Legal - Attorney General's Office	(702) 486-3420	(702) 486-2377
Tax & License Division	(702) 486-2008	(702) 486-3727

Las Vegas Office (cont'd)	**Phone Numbers**	**Fax Numbers**
Technology Division	(702) 486-3274	(702) 486-2241
Technology Division – Lab	(702) 486-2043	(702) 486-2241
TDD Service	(702) 486-2497	

Laughlin Office	**Phone Number**	**Fax Number**
Enforcement Division	(702) 298-0669	(702) 298-6049

Reno Office	**Phone Numbers**	**Fax Numbers**
Audit Division	(775) 823-7200	(775) 823-7272
Enforcement Division	(775) 823-7250	(775) 823-7272
Legal – Attorney General's Office	(775) 850-4154	(775) 850-1150
Tax & License Division	(775) 823-7240	(775) 823-7272
Technology Division	(775) 823-7290	(775) 823-7295

GAMING LINKS ON THE INTERNET

Nevada Gaming Control Board

Gaming Control Board Website	www.gaming.nv.gov
About the Gaming Control Board	www.gaming.nv.gov/about_board.htm
Agency Forms and Applications	www.gaming.nv.gov/agency_forms.htm
Excluded, Wanted and Denied Persons	www.gaming.nv.gov/loep_main.htm
Gaming License Fees and Tax Rate Schedule	www.gaming.nv.gov/taxfees.htm
Gaming Revenue Information	www.gaming.nv.gov/gaming_revenue_rpt.htm
Gaming Statutes and Regulations	www.gaming.nv.gov/stats_regs.htm
Notices, Press Releases, etc.	www.gaming.nv.gov/ industry_notices.htm
Problem Gambling	www.gaming.nv.gov/problem_gambling.htm

Associations, Boards and Commissions

American Gaming Association	www.americangaming.org
Gaming Commission and Boards	www.gamingfloor.com/Commissions.htm
Gaming Regulators European Forum	www.gref.net
International Association of Gaming Advisors	www.iaga.org
International Association of Gaming Regulators	www.iagr.org
North American Association of State and Provincial Lotteries	www.naspl.org
State Gambling Agency Sites	www.gambling-law-us.com
Association of Gaming Equipment Manufacturers	www.agem.org
Gaming Standards Association	www.gamingstandards.com

Nevada University and College Links

UNLV Institute	www.igi.unlv.edu
UNR Institute	www.business.unr.edu/gaming/
College of Southern Nevada Casino Management Program	www.csn.edu/pages/204.asp#3

Problem Gambling

Gam-Anon.org	www.gam-anon.org
Gamblers Anonymous	www.gamblersanonymous.org
National Center for Responsible Gaming	www.blog.ncrg.org
National Council on Problem Gambling	www.ncpgambling.org
National Gambling Impact Study	www.govinfo.library.unt.edu/ngisc/index.htm
National Gambling Impact Study Commission	www.govinfo.library.unt.edu/ngisc/reports
Nevada Council on Problem Gaming	www.nevadacouncil.org

Tribal Gaming

National Congress of American Indians	www.ncai.org
National Congress of American Indians – Gaming Compacts	www.ncai.org/Gaming_Compacts.103.0.html
National Indian Gaming Association	www.indiangaming.org
National Indian Gaming Commission	www.nigc.gov