

# **INTERNET GAMING**

Prepared for the meeting of the

## **GAMING POLICY COMMITTEE**

**NEVADA GAMING COMMISSION**

**NEVADA GAMING CONTROL BOARD**



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# TAB 1

## INTRASTATE ONLINE GAMING ACTIVITY BY STATE

## Intrastate Online Gaming Activity by State

State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
Alabama	Constitutional	General Constitutional Prohibition on Gambling		<p>Legislature has no power "to authorize lotteries or gift enterprises" and must "prohibit the sale... of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery."</p> <p>Note: Voters have voted to legalize bingo games in various counties.</p>	
Alaska	Statutory				
Arizona	Statutory				
Arkansas	Constitutional (For gaming not operated by state lottery)	General Constitutional Prohibition on Gambling		<p>"Lotteries and the sale of lottery tickets are prohibited," except for the state lottery, charitable gaming, and parimutuel wagering in Hot Springs, Garland County and West Memphis, Criffenden County.</p> <p>Note: With the passage of Act 1151 in 2005 (regulating Electronic Games of Skill), the two licensed parimutuel facilities were authorized to offer "games of skill" such as poker, blackjack and their electronic versions.</p>	
California	Statutory	Active legislation	February 2012	<p>Types of gambling contemplated: Poker for first 2 years; games permitted under constitution and Penal Code may be phased in thereafter.</p> <p>Who can be licensed:                      Cardrooms, inland casinos, racetracks and online ADW. Corporate subcontractors formed in California may enter into agreements with licensees. Provisional license may be granted to licensee or subcontractor if found suitable by another state meeting California's standards. Allows intrastate poker pooling among licensees.</p> <p>Federal Opt-out Provision: Legislature may pass statute to opt out of or opt into any federal framework, or enter into interstate compacts, but only if permissible under federal law.</p> <p>Points of Discussion:                      - bill's violation of compacts between state and Inbes:                      - \$30 million non-refundable licensing fee,                      - lowering or raising 10% tax on profits;                      - limiting games to online poker;                      - excluding ADW operators and non-compacted tribes from licensing eligibility; and                      - making licenses transferable.</p> <p>SB 1463 is projected to create more than \$1.4 billion in new state revenues over the next decade. \$248 million in economic activity, and 1,300 new jobs in the state.</p>	<p>April 2012: Tribal Alliance of Sovereign Indian Nations issued a letter stating the group's strong opposition to SB 1463. They oppose requiring tribes to waive sovereignty and be subject to state online gaming regulation, might also violate gaming exclusivity clauses of compacts.</p> <p>- Officials close to the bill are not contemplating interstate partnerships for now.</p> <p>- Certain tribes view bill as "non-starter". Tribes threaten to challenge bill in court and withhold tax proceeds from state.</p> <p>March 2012: Bill is being amended and will be acted upon in committee in either late April or early May</p> <p>- Opposing op-eds were published on a major newspaper. Sen. Wright argues for legalization based on raising revenues and consumer protection. On the other hand, Rev. James Butler emphasizes that online gaming taxes will constitute only 1% of budget. He adds that state already has 1 million problem gamblers (500,000 of whom are under 21), costing state \$1 billion. The better approach, he said, is to crack down on the illegal activity.</p> <p>February 2012: Online Poker News reports that Gov. Brown is skeptical about online gaming's ability to boost state's economy.</p>
		Proposed study by the state lottery	December 2011	<p>California state lottery announced its plans to sell lottery tickets online; did not say when the sale would be launched, but mentioned that the agency would study the implications of the DOJ memo on the state lottery.</p>	

State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
		Inactive legislation	December 2010	<p>Types of gambling contemplated: Any authorized game</p> <p>Who can be licensed:</p> <ul style="list-style-type: none"> <li>- Up to 3 operator licenses renewable every 20 years.</li> <li>- Preference points to existing state card room licensees, tribal casinos, and licensed pari-mutuel operators.</li> </ul> <p>Federal Opt-out Provision: "Preserves" state's right to opt out of a federal framework.</p>	1/31/12: No action and was not carried over to the next legislative session
		Inactive legislation	December 2010	<p>Types of gambling contemplated: Online poker</p> <p>Who can be licensed:</p> <ul style="list-style-type: none"> <li>- Bill "presumes" California tribal casinos and licensed card rooms to be "suitable for immediate licensure."</li> <li>- All other applicants must undergo suitability investigation.</li> <li>- All gambling operators who have conducted unauthorized online wagering post-UIGEA are unsuitable.</li> </ul> <p>Federal Opt-out Provision: Governor and Legislature must opt out of Federal scheme. Failure to do so entitles licensees to a refund of their license fees.</p>	8/23/2011: No action and was not carried over to the next session. Senate Pro Tem Darrell Steinberg (D), who supported the bill, decided to postpone online gaming legislation until the 2012 session.
		Statute		Authorizes 'any racing association, racing fair, betting system, or multijurisdictional wagering hub to conduct advance deposit wagering.'	
		General Constitutional Prohibition on Gambling		"Legislature has no power to authorize, and shall prohibit, casinos of the type currently operating in Nevada and New Jersey." Constitution allows state lottery, charitable gaming, pari-mutuel betting on racing events, tribal casino gaming, and cardrooms.	
Colorado	Statutory	Industry study reviewed by policymakers	April 2011	Colorado Gambling Association commissioned a study on online gaming; concluded that US Congress would inevitably regulate online gaming and Colorado casinos would suffer if the state legislature does not immediately legalize online gaming. Association, however, has no plans to push for legislation.	
		Advisory Opinion	April 1993	Concluded that poker, as narrowly defined in the 1991 Limited Gaming Act, Section 12-47.1-103(22), is predominantly based on skill and is therefore not prohibited by Art. XVIII Sec. 2 of the state constitution	

State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
		General Constitutional Prohibition on Gambling		<p>"The general assembly shall have no power to authorize lotteries for any purpose" except for</p> <ul style="list-style-type: none"> <li>- charitable gaming.</li> <li>- state-supervised lottery, and</li> <li>- "limited gaming" in the City of Central, the City of Black Hawk, and the City of Cripple Creek.</li> </ul> <p>"Limited gaming" includes "the use of slot machines and the card games of blackjack and poker." The 1991 Limited Gaming Act regulates commercial gambling and card games in the specified jurisdictions.</p> <p>Note: State Supreme Court ruled that the term "lotteries" under the constitution means "games of chance" and held that parimutuel wagering on racing events is not a "lottery". <u>Ginsberg v. Centennial Turf Club</u>, 126 Conn. 471, 251 P.2d 926 (1952).</p>	
Connecticut	Statutory	Legislative committee hearing	February 2012	<p>State AG testified that new legislation is required to allow online gaming. Committee chairman said the legislature does not intend to propose legalization in the 2012 session.</p> <p>During the hearing, the Mashantucket Pequot and Mohegans vowed to fight any bill that would allow non-tribal operators to run gambling online.</p>	February 2012: Malloy acknowledges that there is "little appetite for" legalization in the legislature. While he does not intend to propose a bill, he will continue to study the issue and the activities of neighboring states.
		Informal discussions; public statements in support of legalization	January 2012	<p>Mashantucket Pequot and Mohegans discussed online gaming with Gov. Malloy. Tribes urged the governor to let tribal gaming handle online gambling in the state. In light of DOJ Wire Act memo, Governor states that intrastate online gaming is "inevitable" in Connecticut, but issue is still in its infancy and he does not plan to introduce a bill in the 2012 session.</p> <p>The Mohegans prefer limiting online gaming to poker, while the Mashantucket Pequot are open to other casino games. Both, however, view letting non-tribal entities to operate interactive gaming in the state as a violation of the tribes' exclusivity compact with the state.</p>	<p>April 2012: Mohegans invest in a Texas company that markets technology to verify the identity of online users.</p> <p>March 2012: Foxwoods Resort Casino partners with online gaming provider, SportingBet, which will provide the land-based casino with an online platform in case interactive gaming becomes legal.</p> <p>February 2012: Senate Minority Leader John McKinney (R) attacked Governor's "inevitability" statement. Online gaming, he said, is already prohibited in Connecticut since any gambling not authorized by law is illegal. McKinney plans to push for felony-level penalties against online gaming operators</p>
		Intention to explore online lottery	January 2012	Connecticut Lottery has no immediate plans to sell tickets online. Agency hopes that lottery officials, state lawmakers, and regulators can iron out issues during next legislative session. Agency would like to sell tickets online to remain competitive with New York and Massachusetts.	

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Delaware	Constitutional	Executive proposal to the state legislature	March 2012	<p>Types of Gaming Contemplated:</p> <ul style="list-style-type: none"> <li>- Internet sale of lottery and instant scratch-off tickets</li> <li>- Online casino gaming through a state-controlled computer system</li> </ul> <p>Who can be licensed: 3 existing racinos</p> <p>Executive proposal also calls for the following:</p> <ul style="list-style-type: none"> <li>- eliminating certain licensing fees and reducing taxes on table gaming profits in the brick-and-mortar context</li> <li>- legalizing NFL sports betting in 20 taverns and Keno in 100 taverns.</li> </ul> <p>Gov. Markell's (D) proposal is part of a comprehensive effort to help racinos adapt in light of out-of-state competition. State will keep 100% of the profits from online casino gaming and slots up to \$3.75 million. Governor's office expects passage of the bill, which is expected to generate an additional \$7.75 million in state revenues each year.</p>	<p>April 2012: 3 racinos are excited to cultivate a national and international presence through interstate and foreign compacts, once the legislature passes the Governor's online gaming proposal. Currently, Rhode Island and West Virginia are seen as the most probable state partners. Racinos foresee an online system running by the 2nd Quarter of 2013. Dover Downs is currently in talks with potential vendors</p> <ul style="list-style-type: none"> <li>- House Majority Leader Pete Schwartzkopf (D) says he sees no major roadblocks to bill's passage.</li> </ul>
		<p>Informal discussions; intention to officially propose legalization</p> <p>Statute</p> <p>General Constitutional Prohibition on Gambling</p>	February 2012	<p>Delaware Secretary of Finance Tom Cook announced that Gov. Jack Markell (D) discussed online gaming with lawmakers. In the meeting, Markell announced his intention to explore and analyze the issue. His administration seeks a path forward by the time legislators return on March 13th.</p> <p>Allows for the operation of Texas Hold'em tournaments "for the purpose of raising funds, by certain nonprofit organizations, for the promotion of charitable or civic purposes."</p> <p>"All forms of gambling are prohibited in this State" except for the state lottery, charitable gaming and parimutuel wagering on racing events.</p>	<p>February 2012: State lawmakers are weighing options for legalizing online gambling, including Internet sale of lottery tickets and online poker.</p>
District of Columbia	Statutory	<p>Intention to officially propose legalization</p> <p>Repeated statute</p> <p>Repealed statute</p>	<p>February 2012</p> <p>December 2010</p> <p>December 2009</p>	<p>Brown said he might reintroduce online gaming legislation at some point, though he is unsure if it could survive another 30-day review on Capitol Hill; hopes to legalize online poker in DC before federal legislation is passed.</p> <p>Provision sought to legalize any type of online gambling authorized by the Council; paved the way for legalization of online poker, bingo, lottery, and blackjack. Manner by which provision was inserted in the budget was later criticized for lack of transparency.</p> <p>DC authorized the contract with Intralot to operate "non-traditional games," a term later interpreted as authorizing online gaming, including poker and lottery. Contract was later criticized for lack of transparency, allegations of bidding irregularities hurled.</p>	<p>February 2012: A \$1 billion casino proposed in Prince Georges County, MD has worried many DC officials. This might affect the attitudes of DC lawmakers about online gambling.</p> <p>February 2012: Repeal bill passed, which voided the online gambling bill.</p> <p>February 2012: Repeal bill passed, which rescinded the contract with Intralot.</p>
Florida	Statutory	Statute	January 2012	In response to Gov. Scott's proposed budget, this appropriations bill authorizes state lottery to lease vending machines to private retailers; machines are allowed to dispense lottery tickets that can be played online.	<p>April 2012: Approved by the Governor</p> <p>March 2012: HB 843 as adopted by the Conference Committee passed both houses (113-4 in the House, and 35-2 in the Senate).</p> <p>February 2012: After failure of passage in the Senate, HB 843 was referred to Conference Committee.</p> <p>January 2012: Introduced in the House and in the Senate</p>



State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
		Legislative study	March 2011	Estimated annual online lottery sales could generate \$10 million for education.	December 2011: Florida Lottery has no immediate plans to sell lottery tickets online. Gov. Rick Scott (R) has not stated a position on online lottery, but has proposed a budget authorizing additional lottery ticket vending machines.
		Inactive legislation	February 2011	Types of games contemplated: Online poker, bingo and domino. Who can be licensed: Similar to HB 77	May 2011: Died in Criminal Justice April 2011: Committee on Criminal Justice voted 2-2; bill cannot advance. March 2011: Committee on Regulated Industries voted 10-2 to advance bill
		Inactive legislation	December 2010	Types of gambling contemplated: Online poker Who can be licensed: - Up to 3 operators. - Illegal online gaming operators post-JIGEA are ineligible - Applicant must have experience with online gaming, or is licensed to operate/provide online gaming in any jurisdiction where it is legal.	May 2011: Died in Business and Consumer Affairs January 2011: Referred to Business and Consumer Affairs Subcommittee
		Statute/Tribal Compact with State	November 2009	Ratifies the Gaming Compact between Florida and the Seminole Tribe as signed by Gov. Charlie Crist (R) and Mitchell Cypress of the Tribal Council on 4/7/2010. Gaming Compact contains a provision significantly decreasing the amount of gaming taxes that the tribe would have to remit to the state it-- 1. intrastate online gaming is legalized; 2. tribal gaming revenues decrease below a certain threshold as a result of online gaming; AND 3. the tribe itself is not allowed to offer online gaming.	April 2010: Approved by the Governor April 2010: Passed the House, 74-39 April 2010: Passed the Senate, 29-9
		Statute		Authorizes commercial cardrooms where pari-mutuel style games are played, including poker. Since the statute does not authorize casino gaming, it is not covered under the state constitution's general prohibition against "lotteries".	
		Advisory Opinion	October 1995	Concluded that online gaming is illegal under Sec. 849.14 of the Florida Statutes	
		General Constitutional Prohibition on Gambling		Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of the constitution, are prohibited. Slot machines in 2 racinos in the state were later legalized through a constitutional amendment. Note: The term "lotteries" does not include poker.	
Georgia	Constitutional	Defeated legislation	February 2005	Type of gambling contemplated: Authorizes purchase of lottery tickets online	January 2006: Senate adjourned with no actions on the measure. March 2005: House passed the measure, 98-48.
		General Constitutional Prohibition on Gambling		"All lotteries, and the sale of lottery tickets, and all forms of pari-mutuel betting and casino gambling are hereby prohibited" except for charitable gaming and the state lottery.	



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Hawaii	Statutory	Inactive legislation	January 2012	<p>Type of gambling contemplated: Establishes Hawaii Internet Lottery and Gambling Corporation to conduct and regulate online lottery.</p> <p>Who may be licensed:</p> <ul style="list-style-type: none"> <li>- A state corporation, which may contract with a private Internet gambling provider.</li> <li>- Provider must have experience in online gaming and has not accepted online wagers prior to release of DOJ Memo.</li> </ul> <p>Historically, no less than 150 attempts have been made to try to legalize gambling in Hawaii. None of them succeeded</p> <p>Establishes 9-member commission to study social and financial impact of gambling, including online gaming. Preliminary report is due 20 days prior to the start of the 2013 regular session, while the final report is due 20 days prior to the start of the 2014 regular session.</p>	<p>March 2012: Rep. Angus McKeivey (D), sponsor of HB 2422, confirms that all pending gaming bills are dead. However, bills commissioning a study of the social impact of casino gambling in Waikiki is still advancing (SB 2893 and HB 2828). While bills only ask for examining the impact of land-based casinos, the language could always be changed to incorporate online gambling and poker as well.</p> <p>January 2012: SB 2980 passed first reading; referred to five committees.</p> <p>January 2012: HB 2422 passed first reading; referred to three house committees.</p> <p>March 2012: SB 2893 passed first reading in the House and referred to House Finance Committee.</p> <p>March 2012: SB 2893 passed third reading in the Senate. 18-6</p> <p>March 2012: SB 2893 passed second reading in the Senate.</p> <p>January 2012: SB 2893 passed first reading; referred to 2 senate committees.</p> <p>January 2012: HB 2828 passed first reading; referred to three House committees.</p>
Idaho	Constitutional	Inactive legislation	January 2011	<p>Type of gambling contemplated: Legalizes online poker</p> <p>Who can be licensed: up to 2 operators</p>	<p>December 2011: Bill carried over to 2012 Regular Session.</p> <p>March 2011: House Finance Committee voted not to advance the bill, 0-14-3</p> <p>March 2011: Passed Senate, 24-1</p>
Idaho	Constitutional	Prohibition on Gambling		Prohibits all gambling except for state lottery, parimutuel betting on racing events, and charitable gaming; explicitly prohibits "casino gambling", "blackjack", and "poker".	
Idaho	Statute	Statute		Any advance deposit wagering on horse races may be legally conducted by telephone or other electronic means (including online bets) so long as the service provider is licensed by the Idaho state racing commission.	
Illinois	Statutory	Public statement in support of online casino gaming	April 2012	Gov. Quinn is not ruling out the idea of online casino gaming if it will truly increase lottery revenues for the state in a "prudent way." Rep Lou Lang, a prominent state Democrat, also commented that online gaming "is ripe for development." Lottery superintendent, on the other hand, downplayed fears about online gaming, stating that legalizing the service gives regulators more control over players' activities.	

State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
		Active legislation	February 2012	<p>Amends internet lottery law to require those purchasing lottery tickets online to use "value added" debit cards, which can only be bought by cash; players must redeem lottery prizes of up to \$600 at convenience stores.</p> <p>Retailers support bill to guarantee their presence in the online lottery business. Bill, they argued, would also allow retailers to verify age of lottery players.</p>	<p>March 2012: Retailers affirm support for the bill despite easing opposition to Sen. Schoenberg's SB 3497, which legalizes the online sale of Powerball tickets.</p> <p>February 2012: Introduced and passed first reading.</p>
		Active legislation	February 2012	<p>An amendment to the Illinois Internet lottery law to legalize the sale of Powerball tickets online. As amended, bill also contains language commissioning a study on the effect of Internet lottery sales on land-based retail sales. Bill opens possibility for land retailers to sell value-added cards that players can use to buy tickets online.</p> <p>State lottery estimates that bill could raise lottery revenues by \$30 million annually, roughly half of which would go to the state.</p> <p>Major Opposition:  Bill faces opposition from land-based retailers who argue that online lottery could mean loss of sales for them since lottery players often buy in-store merchandise. Retailer association also said that 40% of store revenues comes from 5% commission they get from ticket sales, points to data in European countries where in-store ticket sales plummeted after establishment of online lottery.</p>	<p>March 2012: Illinois Senate passes the bill, 36-20. Passed first reading in the House, and referred to House Rules Committee.</p> <p>March 2012: Retailers' association promised not to fight (or to even support) the bill if it contains language that will commission a study on how Internet lottery sales could impact convenience stores. They said bill should provide for a study on requiring online players to buy "value-added" cards.</p> <p>February 2012: Introduced in the Senate.</p>
		Informal discussions	January 2012	<p>To help struggling horse racing industry and alleviate budget woes, a "working group" of state lawmakers and representatives from the gambling industry and Governor's office is considering online gaming as part of gaming expansion bill, could include internet poker.</p> <p>Last year, a gaming expansion bill that would include new casinos and racinos failed due to Gov. Quinn's opposition.</p>	<p>April 2012: Supporters of gaming expansion in Illinois plan to push a comprehensive gaming bill when lawmakers return to session later this month. The still unknown contents of the bill will be based on talks with racetrack, casino, and riverboat operators and other interested parties. The governor continues to oppose racinos, but supports online gaming and a Chicago casino</p>
		Statute	August 2011	<p>Type of gambling contemplated: Legalizes sale of MegaMillions and Lotto tickets over the Internet. This pilot program only lasts for 3-4 years and will finance certain construction projects approved in 2009.</p> <p>Online sales is expected to attract 1 million new players when payouts for MegaMillions exceed \$100 million, will also increase revenues by \$76 million to \$188 million, roughly half of which would go to the state. Supporters deal with 3 political issues: program integrity (which includes verifying age and players' location within Illinois), problem gambling and the economic impact of online lottery to land-based retailers</p> <p>To address some of these concerns, agency will require players to register using their SSN and home address. Geo-location software will be used. Agency also plans to limit players' spending to \$100 per drawing (\$800 per month). Only MegaMillions and Lotto tickets are available for online purchase as they have infrequent drawings.</p>	<p>March 2012: State lottery nets \$30,000 on first 2 days. While robust sales were expected due to huge MegaMillion payout, many saw the pilot program as a success. Retailers are paying close attention to walk-in sales to see how significant online lottery will hurt them.</p> <p>March 2012: Illinois will be first in the nation to launch an online lottery, as state rolls out its interactive service on 3/25/2012. Lottery director said that their ad strategy is to increase customer base so that more people play a little; downplays problem gambling concerns, saying that online sales would enable the agency for the first time to monitor and limit players' spending.</p>

State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
		Statute		Explicitly prohibits online gaming but exempts online parimutuel betting on horse racing events and state online lottery.	
Indiana	Statutory	Intention to explore online lottery	March 2012	State lottery officials are monitoring online lottery trends, as part of their mission to "maximize revenue for Hoosier taxpayers." However, no formal internal review has been set up. Agency plans to include governor, legislature, and network of retailers in any talks. Agency believes no legislative approval is needed to start online service.  Retailer association rep stated that players should be required to redeem tickets at retailers. Legislator said that online sales option is worth a review.	
		Statute		Explicit prohibition on online gaming without exceptions since there are no expressly authorized online gaming in the state.	
Iowa	Statutory	Intention to explore online lottery	March 2012	VP of State Lottery revealed that agency officials have been exploring online lottery sales for the last couple of years. However, there are no immediate plans to launch an online program, but the agency is monitoring trends especially in Illinois.  Agency believes that it does not need legislative approval. Chair of state's Senate Oversight Committee agrees, although he encouraged the agency to get legislative input. Legislature, he said, might be opposed.	
		Inactive legislation	February 2012	Types of gambling contemplated: - Infrastate online poker; out-of-state players may sign up at a licensed Iowa casino and play while in Iowa  Who can be licensed: - Only existing casinos, riverboat gambling, or racetrack operators may apply for a license. - Multiple operator licenses renewable every 3 years. 2 or more applicants may combine to pitch for a single license. - Hub operators can partner with operator licensees. - No restrictions on who can supply a licensee.  3/8/2012: Bill was amended to clarify the licensing of "internet wagering service provider," and exempt existing licensees from further suitability investigations.	March 2012: Sen. David Johnson (R) is unsure if House will take up the bill or if Gov. Bransted will sign it; voted no since there are already enough gambling opportunities in Iowa; also says that state is becoming too reliant on gaming revenues.  March 2012: SF 2275 died after House committee failed to tackle it. Speaker said there is a simple "lack of interest" in the issue. Committee Chair Cownie (R) said they did not expect the bill to come over from Senate, but mentioned that it can still live on as a leadership. Ways and Means, or Appropriations bill. No one in leadership appears to support the idea.  March 2012: SF 2275 passed the Senate, 29-20. 21 Democrats voted aye, 15 Republicans voted nay. House later took issue with how Senate only debated on the bill for 10 minutes. March 2012: SF 2275 was amended. February 2012: Poll showed that only 28% support legalizing online gambling, while 69 percent oppose
		Legislative study	May 2011	Requires Iowa Racing and Gambling Commission to study Internet gambling.  12/1/2011: Study concluded that unregulated online poker occurs in Iowa and that effective controls can be implemented to prevent player fraud; however, online poker would only increase state revenues by about \$3 million to \$13 million, much less than projected.	

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Kansas		Administrative Regulations		Authorizes commercial poker.	
	Constitutional (for new gaming not operated by the state lottery) in: majority of electors voting on the issue in an election for representatives or a special election called by the legislature	Administrative Action	February 2012	The Kansas Racing and Gaming Commission approved a five-table poker room at the Kansas Star Casino. All games at the establishment are owned and operated by the state lottery.	
		Legislative committee hearing	January 2012	Appearing before Senate committee, the Executive Director of the Kansas Lottery urged the legislature and Governor to explore options in light of numerous states expanding into online gambling.	
		Advisory Opinion	March 1996	Concluded that "betting" or "conducting a lottery" over the Internet violates the statutory prohibition against gambling under K.S.A. 21-4304.	
		State Supreme Court Decision	June 1993	Held that a house in which a poker tournament was hosted qualified as a "gambling place" under K.S.A. 21-4303(b) and is therefore illegal.	
		General Constitutional Prohibition on Gambling		"Lotteries and the sale of lottery tickets are forever prohibited" except for charitable gaming, parimutuel wagering on racing events and the state lottery.	
Kentucky	Constitutional	Intention to explore online gambling	February 2012	State lottery is looking at online gaming options. Under state law, the agency can sell Powerball and scratch-offs online to in-state players. However, it does not plan to do so without first discussing with elected officials.  Statutory changes are necessary to offer instant drawing lottery games and Keno; this is probably not happening soon given the Governor's priority to pass a constitutional amendment allowing brick-and-mortar casino gambling	
		Statute		Allows parimutuel betting on horse racing events "by direct telephone call or by communication through other electronic media..."	
		General Constitutional Prohibition on Gambling		"Lotteries and gift enterprises are forbidden" except for the state lottery and charitable gaming.  The state's high court has interpreted "lotteries" to exclude parimutuel wagering on racing events.  The state AG released an advisory opinion in 2009 stating that the state lottery may operate VLTs in racinos.	

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Louisiana	Statutory Amendment Subject to a Referendum "conducted"	Public statements about online gaming	March 2012	In a legislative committee hearing, state lottery director urged lawmakers to consider the online lottery option, no one was interested in the topic but for one legislator. At a later interview, Director admitted that state's conservative political climate would be a roadblock to online lottery.  Rep. Lopinio (R), chair of committee that handles gaming issues, does not expect debate on the topic, as it is unlikely that Gov. Bobby Jindal (R) will approve any gambling expansion bill. Lopinio agrees that online lottery constitutes an expansion of gambling.	
		Statute		Explicitly prohibits "gambling by computer" but exempts online pari-mutuel betting on horse racing events.	
Maine	Statutory	Statute	February 2012	Type of gaming contemplated (as introduced): Bill directs state lottery to submit a proposal for an online lottery system; bill is seen by many as a placeholder for more comprehensive legislation in the future.  LD 1880 as amended and passed (4/4/2012): - Bill clarified that the term "agents" applies strictly to those who are licensed to "sell lottery tickets on behalf of the State from the physical premises of the licensee's retail business establishment." This effectively and expressly illegalizes online lottery. - In response to the December DOJ memo, LD 1880 adds the following phrase to the statutes: "Unlawful" means not expressly authorized by statute. An activity not expressly authorized by statute does not cease to be unlawful solely because it is authorized under federal law or the laws of another state or jurisdiction.	April 2012: Signed by the Governor and effective date April 2012: Passed by the Senate and House as an emergency measure March 2012: Sen. Plowman states that Maine will be watching how online lottery plays out in Illinois. March 2012: During committee hearing, lawmakers drew criticism from retailers who feared loss of sales. Lobbyist for Penn National Gaming (operator of Hollywood Casino in Maine) also opposed the bill, preferring a scheme in which land-based casinos and retailers operate any online gaming. Sen. Plowman apologized to the opponents, clarifying that the bill does not legalize online lottery but merely directs the state lottery to craft a proposal. March 2012: Introduced, referred to Senate Veterans and Legal Affairs Committee
		Legislative committee hearing	February 2012	Senate Veterans and Legal Affairs Committee has been asked to develop legislation regulating state lottery sales via internet.	
		Legislative committee hearing	February 2012	Senate Veterans and Legal Affairs Committee discussed impact of online gambling and the DOJ opinion on the state; committee will first look into impact of online gambling on lottery sales and casinos in Bangor and Oxford; members are scheduled to meet with AG to discuss online gambling's legality.	
		Statute		Specifically illegalizes live poker.  Penal Code states that unlawful "contests of chance" includes games involving "a shuffle of a deck or decks of cards."	



State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
Massachusetts	Statutory	Active legislation	April 2012	<p>Type of gambling contemplated: Online poker</p> <p>Who can be licensed: 3 operator licenses renewable after 10 years.</p> <p>Other provisions:</p> <ul style="list-style-type: none"> <li>- Applicant must pay a \$10 million licensing fee.</li> <li>- Tax rate on GGR is at 25 percent.</li> <li>- Requires poker site to run ads for the lottery.</li> </ul> <p>Political observers believe that Winslow's intent is to stir debate this year, with hopes of passing online poker legislation next year. Newly-formed gaming commission expressed concern over online poker's impact on licensing and market consideration of brick-and-mortar casino applicants; regulators and industry encourage coordination between online and land-based gaming policies.</p>	<p>April 2012: Cambridge Interactive Development Corporation, a Cambridge, MA-based software developer for online poker in legalized European markets, went on record to support Winslow's amendment. Company is also monitoring legislation in New Jersey and Nevada.</p> <p>April 2012: Laid aside on a point of order.</p>
		Executive agency study	February 2012	<p>State Treasurer Steve Grossman (D), whose office oversees the state's lottery, forms a task force to consider whether Massachusetts should institute online lottery sales, in light of the DOJ Wire Act memo. Aside from representatives from the private sector, the task force is also composed of many state treasury and lottery officials.</p> <p>3/8/2012: The state lottery is also hiring its own consultant to look at the possibility of selling tickets online and providing other Internet games.</p>	<p>February 2012: Task force will study "the whole basket of internet gambling options — including online poker" as they relate to the future of the state's lottery.</p> <p>David Schwartz of UNLV suggested that the state lottery can offer games such as video poker or sell "virtual scratch tickets" that act like online slot machines. Rep. Daniel Winslow (R) likes the idea.</p>
		Defeated legislation	September 2011	<p>Type of gambling contemplated: H 3702 expands gambling in Massachusetts; Rep. Winslow added an amendment that would also allow Internet poker.</p> <p>Although Winslow's language was not adopted, legislation required Gambling Commission to develop a future model for intrastate online gambling regulation.</p>	<p>November 2011: H 3708 was signed by the Governor into law.</p> <p>September 2011: House passed H 3702 without Winslow's amendment</p>
		Defeated legislation	January 2011	<p>Authorized the Massachusetts lottery to conduct a pilot program for the Internet sale of lottery tickets</p>	<p>July 2011: Committee hearing scheduled for 07/19/2011 but received no further action</p>
		Statute		<p>Allows pari-mutuel betting on horse and dog races "by direct telephone call or by communication through other electronic media."</p>	

State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
Maryland	Statutory Amendment Subject to a Referendum	Passed legislation	March 2012	Type of gaming contemplated: Exempting online sports fantasy games (that offer cash prizes) from Maryland's prohibition against sports betting. Move responds to a 2006 opinion of the state AG regarding poker, declaring the game as "gambling" since it involves all three elements of "consideration, chance, and prize."	4/1/2012: Passed the Senate, 46-1. 3/22/2012: Passed the House, 115-15.
		Passed legislation	January 2012	Type of Gaming Contemplated: Online lottery Convenience stores vehemently oppose the program, arguing general loss of sales (citing data that average ticket buyer spends about \$4 per visit on in-store merchandise). Retailers also raise the difficulty of verifying the age of online players. Since current regulations prohibit use of credit cards when purchasing tickets, state lottery might require use of store-bought value-added cards to guarantee presence of retailers in the online business.	4/23/2012: Lottery director hopes to launch online lottery by January 1st. Legislature approved \$500,000 for the lottery to start up the program and hire support staff. Agency expects online sale of all traditional lottery games. 4/16/2012: Online sales cannot start in the summer as originally expected after lawmakers defunded the initiative. Instead, the agency will have to use a portion of its own budget to create a proposed regulatory structure and platform for online sales by December 15. 3/22/2012: Maryland House approved, 72-62, a plan to start sale of lottery tickets online. Reacting to age-verification and economic concerns, program requires online players to buy value-added cards from land-based retailers to purchase tickets online. Senate has not yet adopted the amendment. House is expected to vote on a final budget either on 3/23 or 3/24/2012. House-Senate Conference Committee will then hammer out a compromise budget.
Michigan	Statutory Amendment Subject to Referendum	Intention to explore online gambling	January 2012	House Speaker Michael E. Busch said that Maryland is far from considering online gaming as envisioned by the New Jersey legislature, but said that he will monitor the issue	
		Legislative study	2011 Session	Budget committees of the two houses requested the Lottery Commission to conduct a revenue and fiscal analysis of online lottery.	December 2011: The study concluded that revenue will increase by \$2.2 million; there are no legal impediments to online lottery from either state or federal law.
		Statute		Allows operators to accept pari-mutuel betting on horse racing events sent "by telephonic, electronic, or other means of communication."	
		General Constitutional Prohibition on Gambling		Legislature "may not authorize any additional forms or expansion of commercial gaming" except those approved "through a referendum" on a legislative act.	
		Active legislation	March 2012	Prohibits the state lottery commissioner from selling tickets or shares in the state lottery over the Internet.	March 2012: Introduced and referred to the Senate Regulatory Reform Committee.
		Legislative committee hearing	January 2012	State Lottery Commissioner announced to the committee the state lottery's plan to sell online tickets. Republican lawmakers opposed and hinted at introducing new legislation to prohibit online lottery. Michigan AG said starting an online lottery would require voter approval under the state constitution. Includes poker as one of the "gambling games" permitted in Detroit Casinos	February 2012: State Senator Mike Green (R), the most vocal critic of online lottery sales intends to introduce legislation prohibiting online lottery, and possibly online gambling
Statute	1996				



State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
		General Constitutional Prohibition on Gambling		"No law enacted after January 1, 2004, that authorizes any form of gambling shall be effective, nor... shall any new state lottery games utilizing table games or player operated mechanical or electronic devices be established, without [voter] approval" in a referendum. "This section shall not apply to gambling in up to 3 casinos in... Detroit."	
Minnesota	Constitutional	State lottery program	November 2010	Online subscription service allowed in-state players to buy online tickets in periodic increments. Agency did not conduct extensive promotional campaign, and gave notice only to the Governor and three state lawmakers. Program only accounted for 1% of lottery revenues.	November 2011: One year into the pilot program, State Lottery is exploring a long-term program for selling individual tickets online. However, lawmakers finally caught wind of the pilot program through news reports. Many expressed concern over the agency's secrecy. Sen. David Hann (R), a vocal critic of the lottery, hinted at an extensive review of the program's legality. There was also major push back from brick-and-mortar retailers.
		General Constitutional Prohibition on Gambling		"Legislature shall not authorize any lottery or the sale of lottery tickets, other than authorizing [a state-operated lottery]."	
Mississippi	Statutory	Inactive legislation	February 2012	<p><b>Type of gambling contemplated:</b> any game authorized by the Gambling Commission</p> <p><b>Who can be licensed:</b></p> <ul style="list-style-type: none"> <li>- Aside from usual reporting and equipment testing requirements, bill as introduced neither details the criteria for licensing nor limits licenses to specific industry players.</li> <li>- Applicants must pay a \$100,000 non-refundable deposit and a \$200,000 licensing fee. Licensees must pay a \$100,000 renewal fee very year.</li> <li>- Gambling Commission is directed to promulgate rules governing eligibility for licensing operators, gambling service providers or suppliers.</li> <li>- Licenses are renewable every 5 years.</li> </ul>	<p>March 2012: Despite his preference for a federal approach, Moak plans on reintroducing the bill, believes that there is no real opposition to legalization, only a lack of understanding of or interest in the issue of online gaming.</p> <p>March 2012: Bill died in the committees. The industry consensus was that bill's very steep taxes and fees were the primary reasons for its lack of support and eventual demise.</p> <p>February 2012: Referred to House Gambling and Ways &amp; Means committees</p>
		Statute		Includes poker as one of the "gambling games" that can be authorized for licensed casino gaming	
Missouri	Statutory (For online poker)	Statute		Includes commercial poker in the authorized "gambling games" that may be offered by licensed riverboat gaming operators.	
		Court Decision	1994	Held that twenty-one and poker are not "lotteries" within meaning of the state constitution.	

State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
		General Constitutional Prohibition on Gambling		<p>Legislature has no power "to authorize lotteries or gift enterprises for any purpose..." except for</p> <ul style="list-style-type: none"> <li>- the state lottery.</li> <li>- pari-mutuel wagering on horse races.</li> <li>- riverboat gambling on the Missouri and Mississippi Rivers, and</li> <li>- charitable gaming.</li> </ul>	

State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
Montana	Statutory	Statute		Explicitly prohibits online gaming but excludes the state lottery and parimutuel betting on racing events from the definition of unlawful "Internet gambling"	
		Statute		Allows for the licensing of commercial live poker	
Nebraska	Constitutional	Constitutional Prohibition on Gambling		<p>Legislature shall not authorize any game of chance or any lottery or gift enterprise except for</p> <ul style="list-style-type: none"> <li>- the state lottery,</li> <li>- parimutuel wagering,</li> <li>- bingo games operated by non-profit associations, and</li> <li>- gaming intended for "business promotions" or "charitable or community betterment purposes."</li> </ul> <p>"No lottery game shall be conducted as part of the [state] lottery unless the type of game has been approved by a majority of the members of the Legislature."</p>	
		State Supreme Court Decision	November 1975	Applied the dominant-factor test and held that live poker is predominantly a game of chance	
Nevada	Statutory	Executive Advisory Committee Hearings	March 2012	<p>Governor Sandoval (R) convenes 10-member committee to recommend policies to NCGC, GCB, governor and legislature; scheduled for 4 meetings (ending no later than August) to discuss</p> <ul style="list-style-type: none"> <li>- updates on federal and Nevada legislation in regard to interactive gaming and poker;</li> <li>- specific changes to Nevada law on interactive gaming in terms of security, identification management, and standards; and</li> <li>- the economic impact of online gaming on the economy and the Nevada workforce</li> </ul>	<p>March 2012: During first meeting, Governor emphasized importance of being "nimble" and adapting to an evolving gaming landscape; emphasized state's position as the gold standard in gaming regulation. GCB Chair Lipparelli announced that licensing applications may be on the Board's agenda by June, although he "cannot predict" when first license will be issued.</p>
		Statute	June 2011	Directs state regulators to adopt online gaming regulations	<p>April 2012: Jim Barbee is appointed to head GCB's Technology Division, in charge of supervising review and approval of all new and modified gaming technology.</p> <p>March 2012: Lipparelli stated that "the first set of [online poker] systems [may be] approved for initial deployment by late fall [of 2012] and certainly by late winter or the early part of 2013."</p> <p>December 2011: GCB promulgated Regulation 5A to enforce AB 258</p> <p>June 2011: Signed by the Governor</p> <p>May 2011: Passed the Senate, 19-2</p> <p>May 2011: Passed the Assembly, 42-0</p>
		Statute		Licensees may accept parimutuel bets on racing and sporting events "made by wire communication from patrons within the State of Nevada, from other states in which such wagering is legal or from places outside the United States in which such wagering is legal."	

State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
New Hampshire	Statutory	Public statements in support of legalization	November 2011	State Lottery Executive Director appeared before U.S. House Subcommittee on Commerce, Manufacturing, and Trade in a hearing about Internet gambling; announced state lottery's continuing exploration of online lottery; opposed any interstate regulation.	
		Legislative committee hearing on state lottery's program	July 2010	Legislature held informational hearing on state lottery's plan to launch PlaynowNH. Site would have allowed players to buy tickets in a brick-and-mortar retail store, which they could play online. Lawmakers were concerned with agency's failure to inform the legislature about the program, ordered the delay of the launch until further revenue studies.	August 2010: State lottery abandoned launch of PlaynowNH, citing low projected sales as the reason. Agency, however, will continue to provide online subscriptions.
		Intention to propose legalization	April 2010	Governor John Lynch (D) announced that he was coming out with a plan to license online poker and lottery.	
New Jersey	Method of legalization is unclear.	Statute		Allows the Racing and Charitable Gaming Commission to promulgate rules regulating online pari-mutuel betting.	
		Active legislation	February 2012	If Assembly finds that constitutional amendment is required for legalization, this resolution will act as the legislatively-endorsed constitutional amendment initiative.	March 2012: During a hearing on A.2578, Assemblyman Caputo (a former casino exec) states he prefers a referendum; fears that non-vote would set a precedent, citing the current suggestion of expanding gaming in Meadowland Racetrack w/o voter approval. Other assemblymen pointed out that the Racetrack is outside Atlantic City and would be beyond the scope of legalization anyway. February 2012: Introduced and referred to Assembly Regulatory Oversight and Gaming Committee
		Active legislation	February 2012	Bills are similar to S.3019, except the tax on GGR is raised to 10 percent. S.1565 will also allow the state to enter into interstate compacts. To satisfy Gov. Christie, bills also ban Internet cafes and eliminate purse subsidies to the racetracks.  Racetracks have asked to be included in online gaming. However, bill supporters emphasize that including the racetracks would take too much time as the move would require a constitutional amendment. State Casino Revenue Fund Advisory Commission suggests a two-track approach; legalizing online gaming in Atlantic City for now by statute, while also pushing for a constitutional amendment to include racetracks. Commission projects online gambling to generate \$210 million to \$250 million in gross revenues, 1,900 jobs and \$46 million to \$55 million in tax revenues.  Still, Gov. Christie and the state assembly doubt bill's constitutionality. Christie will wait for state AG's opinion before taking a public stance on the pending bills.	4/3/2012: Budget and Appropriations votes to approve S.1565, 11-0-1, a move seen as an important test of the bill's political support. S.1565 is scheduled for a full vote on May 31, while its sister bill in the Assembly will be up for a vote in June. 5 committee members expressed concern with the exclusion of racetracks. Committee Chair Paul Sario whose district includes a racetrack abstained. 3/12/2012: Constitutional law expert said 1976 Amendment allows legalization w/o referendum. Move comports with rationale behind Amendment, which is to revitalize Atlantic City. Online gaming could increase casino revenue and produce an additional \$475 million in annual tax revenue. 3/5/2012: I-gaming law expert testified before Assembly committee that legislature can legalize online gaming w/o referendum. 3/5/2012: Senate Committee voted, 3-0-2, to pass S.1565 with amendments; bill passed 2nd Reading and referred to Senate Budget and Appropriations.
Active legislation	January 2012	Type of gambling contemplated: Both bills direct the state lottery to offer online tickets	March 2012: Assemblyman Burzichelli (D) said online lottery bills will be on back burner for now while several Atlantic City-related issues are being addressed; plans will likely be shelved until early summer. Retailers' association vehemently opposes bill.		

State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
		Inactive legislation	August 2011	Similar to S490 but as a concession to Gov. Christie, bill prohibits advertising of online gaming by establishments other than licensees to prevent Internet gambling cafes.	January 2012: Gov. Christie issued statement supporting online gambling. But Lesniak and Christie agreed to push off S 3019 until next legislative session due to scheduling and lingering constitutional questions. Christie and other lawmakers (like Burzichelli) think that a ballot initiative is necessary. Lesniak disagrees.
		Inactive legislation	January 2010	Type of gambling contemplated: Any authorized online casino games, including poker.  Who can be licensed: - Licenses limited to Atlantic City casinos - Computer servers must be within Atlantic City. Lesniak argued that the 1976 constitutional amendment allowing gambling in Atlantic City would also exempt online gaming so long as the Internet infrastructure is located within Atlantic City.	March 2011: Vetoed by Gov Christie. He was not convinced that the legal fiction "deeming all gambling to have originated in Atlantic city" could pass constitutional muster. January 2011: Passed by the Senate, 35-2, and by the Assembly, 63-11-3
		Statute		Allows panmuetuel bets on horse racing events made "by computer."	
		Constitutional Prohibition on Gambling		"No gambling of any kind shall be authorized by the Legislature" except for - charitable gaming; - the state lottery; - casino gaming in Atlantic City (which includes commercial poker); and - panmuetuel wagering on racing events.	
New Mexico	Statutory	Statute		State's civil statute illegalizes "any game at cards," which includes poker.  Specifically, statutory provision states that "any person who lose[s] any money or property at any game at cards" is entitled to a restitution of his losses.	
		Statute/Tribal Compact with State		Authorizes licensed tribal gaming operators to offer all forms of poker, blackjack and other casino-style card games, both banked and unbanked.	
New York	Constitutional	Expansion of lottery agency program	December 2011	State lottery plans to add two additional jackpot games in its online subscription service (which has been in operation since 2005), and allow New York residents to buy single-draw tickets online this year.	April 2012: State's convenience store lobby strongly opposes the plan to launch online lottery and receives assurance from the Governor that the plan would not go forward without further study. January 2012: New York Lottery seeks guidance from Governor and legislature about how to proceed with online lottery. While state lottery plans to sell tickets online, it is unsure if they can offer instant games such as Quick Draw Keno. Lottery's counsel stated that legislation would probably be needed to provide instant games.
		Inactive legislation	February 2009	Sought to include internet gambling to the definition of unlawful gambling offenses.	January 2010: Billis died in committee.

State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
		Court Decision	July 2006	Federal Second Circuit Appellate Court interpreted New York law and held that playing video poker is within the statutory definition of "contest of chance" since the game "depends in a material degree upon an element of chance."	
		Statute		Any entity "licensed to conduct pari-mutuel racing may maintain telephone betting accounts for wagers placed on races and special events." Applicable to online bets.	
		Statute		Specifically prohibits municipalities from legalizing any charitable poker game that is not house-banked.	
		Constitutional Prohibition on Gambling		The statute provides that "no game of chance shall involve wagering of money by one player against another player." "No lottery or the sale of lottery tickets, pool-selling, book-making, or any other kind of gambling... shall hereafter be authorized or allowed within this state" except for - the state lottery; - pari-mutual wagering; and - charitable gaming (if legalized as specified by a city or municipality).  Note: State Attorney General Louis Leikowitz concluded in 1977 that poker games are proscribed under the state constitution. This led the Governor to veto a bill that would have allowed localities to license charitable poker.	
North Carolina	Statutory	Statute	July 2010	Bans Internet sweepstakes cafes, effective December 2010.	March 2012: A state appeals court struck down the law on First Amendment grounds, finding the statute too broad in terms of how it might restrict the use of video games to promote or conduct sweepstakes.
North Dakota	Statutory	Intention to explore online lottery	February 2012	State Lottery explores selling individual online tickets, but there is major push back from retailers, stating that lottery sales should either be done all online or in-store, but not both. Since 2005, state lottery has been selling online subscriptions, comprising 2 percent of lottery revenues.	
				Allows pari-mutuel bets on racing events made "through other electronic communication."	
Ohio	Constitutional	Active legislation	December 2011	Type of Gaming Contemplated: "gaming products" sold through the Internet and accounted for through the state lottery central system; multistate Internet gaming through compacts with other jurisdictions.  HB 386 as currently passed by the House is a comprehensive gaming legislation that affects racetrack, charitable, Internet cafe and VLT gaming.	February 2012: Referred to Senate Gov'l Oversight & Reform February 2012: Passed House as an emergency measure, 74-19. December 2011: Introduced in the House
		Intention to explore online lottery	January 2012	State lottery intends to discuss online lottery with Governor, John Kasich (R), in light of the DOJ memo. Agency has authority to promulgate rules on how lottery tickets can be sold. Iniralot has already approached the state lottery about the possibility of creating online games for Ohio, but impact on Ohio's VLT market must first be assessed.	



State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
		Administrative Regulations		"Holders of horse racing permits issued by the Ohio state racing commission may manage a telephone account wagering system for the purpose of keeping telephone deposit accounts and accepting telephone wagers." Applicable to online bets.	
		Statute		Specifically includes "poker" in the definition of unlawful "games of chance"	
		General Constitutional Prohibition on Gambling		"Lotteries, and the sale of lottery tickets.. shall forever be prohibited in this State" except for <ul style="list-style-type: none"> <li>- the state lottery.</li> <li>- charitable gaming.</li> <li>- casino gaming in Cincinnati, Cleveland, and Toledo, and within Franklin County, and</li> <li>- parimutuel wagering on racing events.</li> </ul> <p>Note: Neither the constitution nor the state statutes define "lotteries". The Racing Commission submitted a legal memo to Gov. Strickland (D) in 2009 where it concluded that legalizing "table card games" without a constitutional amendment would be risky given that a court could later invalidate the legislative action.</p>	
Oklahoma	Statutory				
Oregon	Constitutional	Postponed state lottery program	October 2011	Oregon Lottery launched ORcade, which allowed second chance drawing Governor Kitzhaber (D), however, halted its launch out of concern that site targets minors. Launch postponed indefinitely.  The Lottery Commission then formed a marketing advisory group made up of people who work with problem gamblers.	March 2012: Major newspaper, The Oregonian, urged lawmakers to allow state lottery to adapt to changing landscape and catch-up to states like Illinois and New York. In light of average age of Oregon lottery players (at 50 years old), the editorial recommended exploring online sales as a way to reliably generate revenue.  March 2012: Advisory Group study came out and urged state lottery to focus more on protecting consumers from problem gambling; asked the agency to stop using cartoon characters to lure younger players and to hire professional health care providers to help gambling addicts. Study estimates that there are 80,000 problem gamblers in the state.
		Statute		Explicitly prohibits online gaming but exempts online parimutuel betting on racing events.	
		General Constitutional Prohibition on Gambling		"Lotteries and the sale of lottery tickets... are prohibited, and the Legislative Assembly shall prevent the same by penal laws" except for <ul style="list-style-type: none"> <li>- charitable gaming,</li> <li>- the state lottery, and</li> <li>- parimutuel wagering on racing events.</li> </ul>	



State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
Pennsylvania	Statutory	Active legislation	April 2012	<p>Types of Gaming Contemplated: Internet poker and blackjack</p> <p>Who can be licensed: Existing slot machine and table gaming licensees.</p> <p>A licensee must pay a \$16.7 million non-refundable licensing fee. After paying this, a licensee shall not be subject to additional renewal or authorization fees. The tax rate on GGR is at 45 percent.</p>	<p>April 2012: Removed from table for consideration</p> <p>April 2012: Gov. Corbett (R) intends to hire a private firm to run the state lottery and make it more technologically innovative and profitable to support programs for the elderly. While the governor has not expressly announced his support for an online expansion, many in the industry look at the proposed privatization as a way to expand into Internet sales of tickets and instant games.</p>
Rhode Island	Constitutional	Intention to explore online lottery	February 2012	<p>State lottery observing online lottery activities of neighboring states with respect to online lottery. No lawmaker has introduced any legislation on Internet gambling this session; Governor does not intend to propose legalization.</p>	
		Statute		Includes commercial poker in the definition of "table games" that the Pennsylvania Gaming Control Board can authorize.	
		Statute		Explicitly permits parimutuel betting on horse racing events by telephone, which also applies to online bets	
		State Supreme Court Advisory Opinion	2004	Held that the state's constitutional prohibition on "lotteries" applies to live poker since the game is predominantly based on chance more than skill.	
		Constitutional Prohibition on Gambling		"All lotteries shall be prohibited... except lotteries operated by the state and except those previously permitted by the general assembly prior to the adoption of this section..."	
		Constitutional Prohibition on Gambling		Parimutuel wagering is legal within track enclosures.	
		Constitutional Prohibition on Gambling		"Only the State may conduct lotteries." But, bingo when conducted by charitable institutions "is not considered a lottery prohibited" by the constitution	
		Advisory Opinion	January 2004	Concluded that a live poker game is an unlawful "game of chance" under the state's "gambling laws."	
		Intention to explore online gambling	December 2011	Governor wants to learn more about online gambling but says any discussion should involve VLT operators, Deadwood casinos, and state's Native American tribes. State lottery is exploring the implications of the DOJ decision. Sen. Tom Nelson (R) cautions that legalizing online gambling in the state could adversely impact Deadwood casinos.	

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		Statute		Explicitly prohibits online gaming but exempts online parimutuel betting on horse and dog racing events.	
		General Constitutional Prohibition on Gambling		"Legislature shall not authorize any game of chance, lottery, or gift enterprise" except for <ul style="list-style-type: none"> <li>- charitable gaming,</li> <li>- lottery or video lottery as operated by the state, and</li> <li>- limited card games and slot machines within the city limits of Deadwood.</li> </ul>	

State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
Tennessee	Constitutional	Public statements against online lottery	March 2012	In response to online activities in Illinois, Tennessee lottery officials affirmed that the agency does not intend to conduct online lottery.	
		Public statements against online gaming	February 2012	A number of state lottery officials believe that legalizing online poker would cut into agency's revenues, much of which goes towards education programs. These officials say that since the state has no state income tax, alternative revenue sources such as the lottery is integral to public programs.  US Representative Stephen Cohen (D-TN) points out that "Legalizing online poker would not weaken Tennessee's Lottery because online poker caters to a different population of gamblers".	
Texas	Constitutional	Advisory Opinion	October 2005	Stated that "a poker tournament" constitutes "gambling" under Tennessee law. Also, "a Texas Hold'Em poker tournament, with the opportunity to win a jackpot prize, could be considered a lottery prohibited" under the state constitution and the Tennessee Code.	
		Statute		Defines gambling as "risking anything of value for a profit whose return is to any degree contingent on chance."	
		General Constitutional Prohibition on Gambling		"Legislature shall have no power to authorize lotteries. . . and shall pass laws to prohibit the sale of lottery tickets... except" for - the state lottery and - charitable gaming (if legalized as specified in the constitution).	
				"A state lottery means a lottery of the type such as in operation in Georgia, Kentucky and Virginia in 2000, and the amendment. . . does not authorize games of chance associated with casinos, including, but not limited to, slot machines, roulette wheels, and the like."	
		Public statements about online gaming	News Article: February 26, 2012	Sen. Rodney Ellis (D-Houston) states that Texas should consider expanding gaming since Texans already gamble in neighboring states and tribes and through the state lottery. "Piece-meal changes," he said, "is not the right approach." But he hints that focusing on allowing land-based casinos could give the state a far bigger boost in revenues and jobs	
				According to state AG and association of district and county attorneys, Texas law prohibits online wagering. AG says that it might take a constitutional amendment to change this.	
		Intention to explore online lottery	December 2011	State lottery informed the legislature of its intention to explore online sales. Agency had previously introduced online second-chance drawing. This prompted Sen. Jane Nelson (R) to ask the AG's opinion on the legality of the service and whether the agency can conduct any gambling online. No ruling has been made	
		Advisory Opinion	June 2005	Found that live poker is a game of chance under the state's penal code.	

State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
		Advisory Opinion	May 1995	Found that internet betting on a live card game is prohibited under the state penal code.  Also concluded that a third party who assists in the electronic transmission of bets and who acts as the custodian of money operates a "gambling place" within the meaning of the penal code.	
		Advisory Opinion	December 1990	Found that the term "lotteries" in § 47(a) of the Texas Constitution applies to all games where the element of chance predominates the element of skill.  Concluded that that if the legislature and the courts find live poker as being predominantly based on skill and therefore lacking the element of chance, then poker could be legalized without amending the constitution.	
		General Constitutional Prohibition on Gambling		"Legislature shall pass laws prohibiting lotteries and gift enterprises" except for - charitable gaming and - the state lottery  Parimutuel wagers are legal within track enclosures.	
Utah	Constitutional	Active legislation	January 2012	Bill bans mobile and internet gambling so as to prevent IGRA from allowing Indian casinos to enter Utah. PPA successfully lobbied to lessen the offense for illegally playing internet poker from a felony level crime to misdemeanor.  Federal Opt-Out Provision: If a federal law passes allowing states to opt out, Utah shall opt out in the manner prescribed by federal law.  Effective Date: 7/1/2012	March 2012: Gov. Gary Herbert (R) signed HB 108 into law, making Utah the ninth state to have a statute explicitly outlawing online gaming and the first to opt out of a potential federal online gaming framework.  March 2012: House concurs with Senate amendments, 62-10; bill signed by Speaker and Senate President.  March 2012: Passed third reading in the Senate, 25-2. Senate made minor amendments.  February 2012: Full House approved the bill, 61-9, after three readings.
Vermont	Statutory	Public statement against online gaming  General Constitutional Prohibition on Gambling	April 2012	Gov. Gary Herbert (R) urged Sen. Harry Reid (D) and Speaker John Boehner (R) to let states decide gaming laws, instead of the federal government.  "Legislature shall not authorize any game of chance, lottery or gift enterprise under any pretense or for any purpose."	
Virginia	Statutory	Public statements in support of legalization	March 2012	Director likes the idea of online sales as a way to penetrate the younger demographic and increase the percentage of Virginians participating in the lottery. However, there is a Virginia statute that prevents the lottery from selling tickets online.	

State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
		Statute		Permits the Commission to regulate advance deposit wagering on horse races, defined as placement of "pari-mutuel wagers in person or electronically."	

State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
Washington	Statutory Amendment OR Initiative	State Supreme Court Decision	September 2010	<p>Rouso v. State is persuasive authority on constitutionality of state online gaming regulation; ruled that RCW 9.46.240, which prohibits online gambling does not discriminate against out-of-state online gambling operators in favor of in-state land-based casinos.</p> <p>Holding: prohibition does not violate the US constitution.</p> <p>State explicitly prohibits online gaming but specifically authorizes online pari-mutuel betting on horse racing events</p> <p>More importantly, the provision defines unlawful "professional gambling" over the Internet to include any conduct in which a "person pays a fee to participate in a card game." RCW 9.46.0269(1)(b)</p> <p>"Lotteries shall be prohibited except as specifically authorized" by either a statutory amendment or a referendum/initiative.</p>	
West Virginia	Constitutional	Intention to explore online lottery	February 2012	<p>News report cites West Virginia as one of the states looking into selling lottery tickets online.</p> <p>Permits the state lottery to operate table games (including commercial poker) in racetrack facilities.</p> <p>"Legislature shall have no power to authorize lotteries or gift enterprises... and shall pass laws to prohibit the sale of lottery or gift enterprise tickets" except for - the state lottery and - charitable gaming.</p>	
Wisconsin	Constitutional	Public statement about online lottery	April 2012	<p>State lottery spokesman said that online sales "is not on [the agency's] radar screen at all" stressing that online ticket sales are prohibited by the Wisconsin Statutes. Official also believes that selling tickets online would violate the state constitution.</p> <p>Makes it illegal to transmit bets over a "wire communications facility."</p>	

State	Necessary Amendment	Type of Action	Date	Summary	Recent Action
		General Constitutional Prohibition on Gambling		<ul style="list-style-type: none"> <li>- Legislature may not authorize gambling in any form" except for charitable gaming.</li> <li>- pari-mutuel on-track betting.</li> <li>- the state lottery, provided that the state lottery shall not operate "any banking card game," "poker," "roulette", or "slot machines" among others.</li> </ul>	
Wyoming	Statutory	Statute		Authorizes online advance deposit wagering at any premise where a pari-mutuel racing event is authorized	



## TAB 2

# AGA WHITE PAPER: ONLINE GAMBLING FIVE YEARS AFTER UIGEA



# Online Gambling Five Years After UIGEA

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## Executive Summary

By David O. Stewart, Ropes & Gray, LLP

The business of online gambling spans the globe and touches every corner of the United States. Worldwide, online gambling is increasingly a legal and regulated activity that generates almost \$30 billion of revenue a year. In the United States, public policy on the subject has been schizophrenic. Online gambling is presently being conducted domestically for pari-mutuel betting on horse races and for state lotteries, yet government policy has been hostile to other forms of online gambling, and has included criminal prosecutions of online gambling operators and their payment processing partners. Despite this government opposition, millions of Americans spend \$4 billion every year to gamble online. Prosecutions against online gambling operators have driven the more responsible offshore operators out of the U.S. market, leaving Americans to conduct their online gambling through largely unregulated websites.

In contrast, about 85 nations have chosen to legalize and regulate online gambling. Numerous Western nations — including the United Kingdom, France, Italy, and some provinces in Canada — have created structures for tight regulation of the online gambling industry. This course provides consumer protections for individuals while also generating jobs, economic opportunity and government revenue. Beginning with careful confirmation of the identity of every online gambler, which is the foundation for effective regulation, these nations employ technologies that effectively ensure:

- That the games are played fairly, according to their rules, and pay off as promised;
- That underage gamblers are excluded from play;
- That people who struggle to control their gambling have access to tools to limit their deposits, bets, and overall play, or even exclude themselves from gambling websites entirely;
- That online gambling operators do not accept bets from jurisdictions that prohibit online gambling; and
- That gambling websites are not used for money laundering and other illegal purposes.

Similar protections are now required for U.S.-based websites that take bets on horse racing or sell subscriptions for state lottery tickets.

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Although criminal prosecutions and legislation can cause the volume of online gambling to fluctuate in the short run, the track record shows that the demand for online gambling remains, and offshore operators will figure out ways to meet that demand.

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Drawing on these experiences, Congress has a unique opportunity to blend several approaches to Internet gambling to achieve the greater good. First, it should reinforce law enforcement tools and proscriptions to protect Americans from gambling websites that now operate from offshore jurisdictions with minimal or no regulation. Second, it should authorize a state-focused program to license U.S.-based operators to offer online poker only, preserving the ability of every state government to decide whether online poker should be available within its borders. Third, it should ensure that tough regulation ensures the fairness of the games, excludes underage gamblers, and provides tools for pathological gamblers to control their gambling. Such an integrated policy would provide maximum protections to American citizens while generating new jobs, economic opportunities and public revenues.

## Introduction

In little more than a decade, online gambling has exploded from a minor sideshow on the Internet into a substantial global industry. During that time, the United States has struggled to develop a comprehensive policy on Internet gambling. Indeed, federal and state governments have applied fragmented and sometimes inconsistent policies to this new technology for delivering a very old form of entertainment. For example, the government's attitude toward online gambling has been largely hostile — including indictments of major offshore gambling operators — but it has allowed the horseracing industry and state lotteries to conduct online betting.

Because of the enduring popularity of poker in America, this paper will focus on current proposals to legalize only online poker, with particular emphasis on what we have learned since the Unlawful Internet Gambling Enforcement Act (UIGEA) became law five years ago. The broad availability of Internet gambling sites around the world has provided a real-world study of the different ways for public policy to respond to online gambling. That experience teaches three basic lessons:

- First, millions of Americans have continued to bet billions of dollars a year at offshore websites. Americans like to gamble online and have demonstrated that they will do so even if their government tells them it is illegal. Although criminal prosecutions and legislation can cause the volume of online gambling to fluctuate in the short run, the track record shows that the demand for online gambling remains, and offshore operators will figure out ways to meet that demand.
- Second, the current policy on Internet gambling ensures that foreign nations and foreign businesses reap the benefit of the jobs, economic opportunities and tax revenues that are generated

by Americans' online gambling. Legalizing online poker will create, directly and indirectly, an estimated 10,000 high-tech jobs in this country, the sort of jobs that our citizens urgently need. And it will generate an estimated \$2 billion of tax revenue every year for state and federal governments, helping preserve critical public services in a time of increasing budgetary constraints.<sup>1</sup>

- Third, well-designed regulation can control the social risks that some fear from the legalization of online gambling. Based on years of experience with regulated online gambling in the horseracing and lottery sectors in this country, and with legalization in some Canadian provinces and in Europe, we know that a strict regulatory system can ensure that online games (i) are fair to players, (ii) exclude minors, (iii) provide tools that allow customers to limit their gambling, or self-exclude entirely from online gambling; (iv) exclude bets from jurisdictions where online gambling is illegal, and (v) prevent the use of online betting sites for money laundering or other illegal purposes. Indeed, if online gambling is not legalized and regulated, Americans will continue to gamble online at websites that are based in jurisdictions that provide the least protection for their customers and create much higher risks from online gambling.

Experience over the last five years also has taught that a nation cannot build a successful online gambling industry unless it effectively excludes unlicensed operators. To the extent that unlicensed operators are able to attract U.S. residents to their websites, those residents will not gain the protection of the regulatory structures we support, nor will the nation gain the jobs and government revenues that are at stake here. Accordingly, U.S. law should clearly prohibit those forms of Internet gambling that are not legal, clearly authorize those that are and provide strong law enforcement tools to stop illegal gambling online.

A further consideration shapes the AGA's review of this issue: the traditional doctrine in this country that gambling policy should be controlled by local preferences. Any federal authorization of Internet poker should ensure that each individual state can determine whether it wishes to have legalized online poker within its own borders. That approach — broad federal authorization of online poker that preserves each state's autonomy to decide whether or not to allow it — also would avoid the risk that individual states create overlapping, confusing and even inconsistent online gambling regimes.

This white paper will begin with a survey of the global online gambling market and then focus on online gambling in the United States. The second section addresses the challenges and achievements possible in the regulation of online gambling. The concluding section reviews current proposals to legalize online gambling.

# The Online Gambling Market

## Around the World

The United States is not alone in facing the complex policy concerns raised by online gambling. Approximately 85 nations have chosen to legalize Internet gambling. Indeed, in 2010, global revenue for online gambling was nearly \$30 billion, and less than 15 percent came from the U.S.<sup>2</sup> As of June 30, 2010, one survey found 2,679 Internet gambling sites owned by 665 companies. These included:

- 865 online casinos
- 616 online poker rooms
- 516 sports betting sites
- 426 online bingo sites
- 187 lottery and other sites<sup>3</sup>

Of greatest significance, in developed nations the strong trend in recent years is to legalize online gambling in order to capture the jobs and public revenues it generates, and to regulate it closely to control any social risks it might pose.

For purposes of this paper, the nations that have legalized online gambling may be divided into three broad groups.

The first group consists principally of smaller jurisdictions in the Western Hemisphere, such as Costa Rica, Curacao, Antigua and the Kahnawake Mohawk nation in Canada. These jurisdictions offer low-cost licensing to operators, along with low tax rates and little or no regulatory scrutiny. Costa Rica has no regulatory system at all for online gambling companies, while Curacao has outsourced its licensing function to a firm called Cyberluck. These low-regulation jurisdictions are home to most of the online gambling operators that still accept bets from the U.S. These jurisdictions view online gambling purely as a means of economic development and show little concern for the potential social risks associated with it, including criminal activity through the site.

The second group of licensing jurisdictions largely consists of small places in Europe that also use online gambling as an economic development tool, although they have imposed substantial regulations on their licensees. These generally tiny locations — such as Gibraltar, Malta, the Isle of Man and Alderney (an island in the English Channel) — license and host the largest online gambling operators. To attract those operators, they offer low taxes, an educated labor force, reliable Internet service and a European location. Yet they also provide sufficient regulatory oversight to assure customers that the games will be conducted fairly and that many of the social risks will be controlled through regulation (e.g., barring underage gamblers, requiring responsible gaming tools). In one respect,

these jurisdictions have failed to impose important regulations. Accepting the arguments of their licensees that U.S. law does not bar online gambling other than sports betting, they have allowed their licensees to accept bets from U.S. residents, except for sports betting. After the recent federal indictment of offshore poker operators, however, few of those licensed websites still accept U.S.-derived bets.

The third group of jurisdictions that have legalized Internet gambling includes larger, developed countries in Europe, plus some Canadian provinces. The United Kingdom briefly attempted to seize the lead among this group by legalizing online gambling in 2005, but its efforts largely fizzled. The UK set its tax rate relatively high and allowed offshore operators to take bets from UK residents so long as the operators were licensed in a jurisdiction that imposed regulatory standards that satisfied UK gaming regulators. Most online operators have elected to serve the UK market from low-tax, offshore locations and not to seek UK licenses directly.<sup>4</sup>

Some of the countries within this third group reserve online gambling to a state-owned monopoly. In Sweden, for example, only the national monopoly, Svenska Spel, may take online bets. Canadian provinces also are following the monopoly model. The British Columbia Lottery Corporation launched an online casino in the summer of 2010, followed by online poker in February of this year. British Columbia's poker network is shared by Loto-Quebec, which makes it available to residents of that province, and Ontario plans to join that network, as well.<sup>5</sup>

Most of the countries in this third group, however, have elected to license and regulate private gambling operators. Austria, Italy, France, the Netherlands and Estonia are following that model, while Denmark, Belgium and other countries are considering it. Both Italy and France have licensed dozens of online gambling sites while expanding the types of online gambling that are available. In March 2011, Italian licensees began to offer online poker and will add online casino games over the summer. U.S. gaming companies are beginning to enter those legalized European markets for online gambling.<sup>6</sup>

All of the nations in this third group — whether reserving legal online gambling to a state monopoly or licensing private operators — share a challenge: their markets continue to be invaded by websites based in the first two groups of jurisdictions. This pattern reinforces the importance of strong law enforcement measures to exclude unlicensed operators from any regulated online gambling market.<sup>7</sup>

The continuing strength of the operators from the first two groups of jurisdictions flows from a number of causes. The licensed businesses in the larger countries ordinarily must shoulder a substantially higher tax burden. Also, many operators based in Alderney and Gibraltar have developed



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**From 2003 to 2010, Americans spent approximately \$30 billion to gamble online.**

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expertise, brand-name recognition and popular products over the last decade.<sup>8</sup> As a result, in the online poker market, those established operators can offer customers greater “liquidity,” an industry term that refers to the number of players available for games at any time during the 24-hour cycle. If a website has greater liquidity, it can offer a wider range of games and tournaments with a wider range of minimum-bet options and higher prize money, all features that are attractive to customers.<sup>9</sup>

The nations that have legalized online gambling are still developing effective strategies for excluding from their markets the online gambling operators they have not licensed. In Italy, for example, every three weeks the government issues a list of URLs for unlicensed gambling websites and instructs its Internet service providers (ISPs) to block those URLs; this approach resembles the course followed by the FBI in a recent high-profile case, where it seized the Internet domains of the online businesses it targeted. Similarly, France has ordered its ISPs to block several gambling websites based in Costa Rica, though the ISPs have opposed the effort.<sup>10</sup> These techniques should be supplemented by additional technological and legal tools to combat unlicensed operators, which can include creating a list of such operators to ensure that financial institutions do not process their payment transactions.

### **In The United States**

Americans like to gamble online. Over the last decade, an estimated 10 million Americans have gone to Internet websites to place bets on sporting events, to play poker, and to participate in a range of electronic casino games, including slot machines, blackjack, craps and roulette. From 2003 to 2010, Americans spent approximately \$30 billion to gamble online.<sup>11</sup>

Through that period, U.S. policy has been mostly hostile to Internet gambling, though at times its hostility has been inconsistent and even not always hostile:

- Under an amendment to the Interstate Horseracing Act (IHA) adopted in 2000,<sup>12</sup> for a decade the horseracing industry has conducted online wagering that now generates revenues of almost \$300 million a year from bettors in 37 states. Much of this Internet betting flows through hubs authorized and regulated in Oregon.
- This explosive growth has occurred even though DOJ takes the position that the IHA amendment in 2000 did not apply to the federal criminal gambling statutes, such as the Wire Act, and thus that pari-mutuel wagering may not be conducted over the Internet. Despite announcing that position, DOJ has taken no action against online betting on horse races.
- At least a half-dozen state lotteries now sell ticket subscriptions



through their websites to residents of their states.

- In 2006, Congress adopted the Unlawful Internet Gambling Enforcement Act (“UIGEA”), which prohibits financial transactions in support of illegal online gambling, but does not define illegal online gambling.<sup>13</sup>
- Congress has enacted no legislation that squarely addresses the legality of online gambling.
- The U.S. Department of Justice (DOJ) has brought criminal prosecutions against major online gambling operators, most often alleging they violated anti-gambling statutes that were adopted in the 1960s, long before the Internet existed. See APPENDIX, *infra*, “U.S. Enforcement Efforts Against Online Gambling Operators.”
- Many online gambling operators have argued that the 1960s statutes, particularly the Wire Act, 18 U.S.C. § 1084, reach only sports betting, and they have pointed to a federal appellate ruling in support of that claim. Two other federal courts, however, have rejected that defense in criminal prosecutions.<sup>14</sup>
- DOJ has collected more than a half-billion dollars in criminal fines and civil seizures in cases against offshore gambling operators and payment processors.
- The FBI, through painstaking and aggressive effort, has used UIGEA to build a criminal case against major online poker operators, but that has proved the legal equivalent of house-to-house combat. As soon as some operators are shut down, others step forward to serve the demand.
- Despite entreaties from financial institutions that the government should create a list of illegal online gambling websites so they will know which ones to refuse to do business with, no such list has been disseminated.
- In defining “unlawful Internet gambling,” UIGEA specifically excludes online gambling conducted solely within the boundaries of a state or tribe, which has served as an implicit recognition that states and tribes have the power to authorize such gambling.<sup>15</sup>
- Several states have enacted bans against online gambling. Several more states are considering legalizing online gambling within their borders, as the District of Columbia recently has. Most states have done nothing about it.

These developments are described in greater detail in the Appendix to this white paper.

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**Enactment of UIGEA In 2006**

**temporarily reduced online gambling by U.S. residents, but the volume of online bets from the United States soon recovered. In 2010, online gambling revenues from U.S. bettors exceeded \$4 billion.**

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The inconsistency of U.S. policy reflects the novelty of the online gambling phenomenon and fluid public attitudes toward that phenomenon. For some, concerns about the social ills associated with excessive gambling are heightened with online gambling, which occurs in the home and could be accessible to young people. Those concerns drove adoption of UIGEA and have driven DOJ's campaign against offshore operators. For others, like the horse-racing and lottery industries, the Internet is a promising new vehicle for serving customers in a convenient and efficient fashion, thereby expanding economic opportunities in their industry and public revenues for the states where they do business.

The popularity of Internet gambling persists despite government attempts to discourage it. Enactment of UIGEA in 2006 temporarily reduced online gambling by U.S. residents, but the volume of online bets from the United States soon recovered. In 2010, online gambling revenues from U.S. bettors exceeded \$4 billion.

A very recent development has prompted a similar downturn in online betting by U.S. residents. On April 15, 2011, the federal government announced that a New York grand jury had indicted the founders of the three largest Internet poker operators that were accepting bets from U.S. residents — PokerStars, Full Tilt Poker and Absolute Poker/Ultimate Bet. The charges focus on the processing of payments to and from their customers, alleging that those transactions involve bank fraud, money laundering and the maintenance of illegal gambling businesses.<sup>16</sup> DOJ filed a parallel civil complaint demanding forfeiture of the Internet domains used by those operators.<sup>17</sup>

Online gamblers responded swiftly to these charges, which are often referred to as the “Black Friday” indictment. Online gambling by U.S. residents promptly dropped; many customers were uncertain about when they would be able to recover funds they had deposited with operators who were leaving the market, and the customers were understandably leery of gambling online again. Before the indictment, PokerStars and Full Tilt held 60 percent of the global Internet poker market; after the indictment, Internet traffic to their websites fell by 26 and 40 percent, respectively, from the previous week. Within a day of the indictment, both firms stopped taking new bets from U.S. residents; the third poker business named in the case, which operates Absolute Poker and Ultimate Bet, continued to allow Americans to play but froze those customers' ability to deposit or withdraw funds.<sup>18</sup>

Nevertheless, an estimated 300 offshore gambling operators — mostly those based in lightly regulated or unregulated jurisdictions in the Western Hemisphere — continue to operate in the U.S. market through more than 1,000 online gambling websites. They stand to prosper greatly in the

current situation. In the immediate aftermath of the Black Friday indictment, those remaining operators saw a surge in their business: traffic at Merge Gaming Network was up 23 percent, Bodog rose 26 percent, and Cake Poker Network rose 19 percent.<sup>19</sup>

The long-term consequences of the Black Friday indictment are not entirely certain. The indictment makes no difference to online betting on horseracing or with state lotteries. Those activities continue to be legal in this country and can be expected to grow. In 2000, Oregon reported that \$6.2 million was wagered through its regulated sites for betting on horseracing; for 2010, it reported wagers of \$1.445 billion, an increase of more than 200-fold. States selling lottery ticket subscriptions online — which include Idaho, Illinois, Maryland, Minnesota, New York and North Dakota — also can be expected to continue to do so.

In the short term, the indictment likely will retard other online gambling activity by U.S. residents, but that dampening effect will erode over time. Following enactment of UIGEA in 2006, several major offshore operators stopped taking bets from U.S. residents, and the volume of online betting from the U.S. shrank. Yet the market recovered all of that lost activity and then some. That pattern suggests that the illegal online gambling market for U.S. bettors will recover again. Moreover, DOJ's enforcement activity has the perverse effect of pushing the market into the hands of online gambling operators that are generally less regulated and less trustworthy. The result is that those U.S. residents still gambling online are at greater risk than before.

Legalization of online gambling in the U.S. could come in very small and inconsistent pieces. In defining "unlawful Internet gambling," UIGEA specifically excludes online gambling within any state or tribal jurisdiction, creating an implicit recognition that states and tribes have the power to authorize Internet gambling within their boundaries. In early 2011, the New Jersey Legislature approved intrastate online gambling under this authority, but the governor vetoed the measure. Similar proposals have been under active consideration in several other states, including Iowa, Nevada, Florida and California, while the District of Columbia is moving forward with a plan to offer online gambling this year.<sup>20</sup> Most states — and certainly the District of Columbia — are too small to provide sufficient liquidity to create a successful online poker market. Moreover, if individual states move forward separately in authorizing online gambling, they are likely to establish inconsistent regulatory practices and authorize different games; some may legalize all forms of Internet gambling. The result could be both confusion and diffusion of the market that will only strengthen the position of unlicensed offshore operators.

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Experience with the regulatory regimes in Western Europe, Canada and the United States demonstrates that regulatory techniques have evolved to address effectively the principal public policy concerns that surround online gambling.

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## **Online Poker Can Be Regulated Effectively**

Experience with the regulatory regimes in Western Europe, Canada and the United States demonstrates that regulatory techniques have evolved to address effectively the principal public policy concerns that surround online gambling:

- To ensure the integrity of the games by preventing cheating by operators, by other gamblers and through the use of “bots” (software designed to play on online gambling sites);
- To restrict access to gambling services to those players who reside within the territorial market the operator is authorized to serve;
- To exclude underage gamblers;
- To give customers the tools to control their own gambling, which can involve limits on the money they deposit with the gambling website, limits on the size of bets they can make, or total self-exclusion from the website; and
- To prevent the use of online gambling sites for money laundering and other illegal purposes.

### **Ensuring the Integrity of the Games**

The most basic requirement of a regulated gambling industry is that customers have confidence that their money is safe and that the games are conducted fairly and in accordance with established rules. Notably, the most notorious scandal in Internet gambling involved insiders connected with an online poker operator, Ultimate Bet, who undermined the website’s procedures to look at the “hole cards” of other players at virtual poker tables.<sup>21</sup>

Protecting the integrity of the games begins with ensuring that only trustworthy individuals and firms qualify for licenses. Regulators also must establish standards for the fairness of the games, and should require both testing of online gambling systems and audits of their financial transactions. Online poker presents particular issues because players compete against each other, so regulatory systems must defend against player collusion. Also, online poker operators must block the use of “bots,” or artificial intelligence, to play the games. Finally, procedures need to minimize the potential that customers will use online poker sites to launder money.

*Suitability Licensing* — Several of the jurisdictions that license online gambling operators have borrowed the “suitability” standard that applies to the commercial casino license holders in the United States. Under that standard, casino operators and those who produce gaming systems must satisfy regulators that their personal and business backgrounds



demonstrate that they may be trusted to operate within legal requirements. They must submit extensive information about their business and professional histories, all of which is subject to further investigation by the regulators.

Suitability-based licensing is effective in excluding individuals with criminal or undesirable backgrounds and in ensuring that gambling operators have proper experience and financial support. That licensing standard can be employed for the same purpose in the licensing of online gambling operators, as is now done in the United Kingdom, France, Alderney and the Isle of Man.<sup>22</sup> Similarly, those seeking licenses from the Oregon Racing Commission to accept online bets on horse races must show that they are of “good repute and moral character.” Such open-ended standards ensure that regulators have the discretion to deny license applications, or revoke previously granted licenses, when they simply doubt the integrity of the license applicant.<sup>23</sup>

*Customer Identification Procedures* — For several essential reasons, online gambling sites must identify their customers accurately. A strong customer identification process ensures that the operator:

- can exclude underage customers from gambling,
- can exclude customers living in jurisdictions that have not legalized online gambling;
- can exclude individuals who have engaged in cheating or otherwise violated the rules of the games; and
- can properly evaluate financial transactions to gauge the risk of money laundering or other offenses.

Because of the importance of customer identification, the better-regulated online gambling sites, like those governed by the Oregon Racing Commission, demand that a customer provide his name, address, telephone and credit card information or bank account data. That information can be checked immediately through sophisticated databases maintained by Experian, Equifax, First Union and similar firms, and through public databases such as motor vehicle registrations. If there is any question as to the customer’s identity, the operator will follow up by demanding additional information, which can include a social security number or personal data that only the customer should know. For example, the British Columbia Lottery Corporation may require the customer to fax copies of essential documents, such as a driver’s license, or speak live to a customer service representative.<sup>24</sup>

*Testing and Auditing* — The software that operates online games can and should be subjected to testing to ensure that the games play out according to their own rules and that they pay off as promised. For online poker, this involves testing the random number generation function that is

used to drive the dealing of cards for each hand. Many jurisdictions that issue online gambling licenses currently prescribe detailed requirements for these critical functions and require certification by outside testing laboratories that the licensee has satisfied those requirements.<sup>25</sup> This technical compliance testing is not materially different from the testing that applies to electronic gaming machines (slot machines, video poker and video lottery machines) that are popular in bricks-and-mortar casinos.

Similarly, regulators of land-based casinos routinely audit licensees to confirm that they have paid off jackpots as required, have applied the rules of their games fairly, and have accounted correctly for funds due to customers and to governments as tax or fee payments.<sup>26</sup> The same oversight is applied to online licensees.<sup>27</sup> Indeed, because all online gambling is recorded electronically, it is easier to audit Internet gambling operators.

*Controlling Player Collusion* — In online poker games, players compete directly against one another. The operator does not participate in the games, and no employee of the operator observes the online poker game as it progresses. This has created concern that two or more players might collude at a virtual poker table to take unfair advantage of other players. They might, for example, communicate by telephone to coordinate their strategies, or even play together in the same real-world room, exchanging information. Online poker providers and regulators deploy strategies that effectively counteract this risk.

The collusive player problem is often policed by the other players at the virtual poker table. When other players note patterns of play that are out of the ordinary, they report them to the online gambling operator, because operators retain a record of every hand of poker played on their systems, they can then analyze the play at that table for suspicious patterns. As one online gambling regulator has stated, “Cheating at poker sticks out a mile.”

Operators also deploy auditing software to review every hand of poker that has been played on the website and to analyze the patterns of play. If two players show up at the same virtual table with any frequency and show winning or losing patterns beyond those predicted by the law of averages, the auditing software will highlight those players for further study. If the gambling operator concludes that the players may be colluding, the operator can refuse to allow them to play at the same virtual table together, or can exclude them from play outright. When collusive play is discovered after it has happened, operators can issue refunds of losses to the other players at the table.<sup>28</sup>

*Poker Bots* — “Poker bots” are software programs that play the games automatically. They are currently marketed on eBay and other Internet sites and have drawn some public notice. Many of the bots, in fact, have been revealed not to play very good poker. In a recent episode, one type of bot played more than 8 million hands but won only \$57,000, a fairly mediocre



performance. Whatever the strengths and limitations of poker bots, online gambling operators bar them and other forms of artificial intelligence, and exclude players whom they suspect of using them. Several strategies control attempts to use poker bots to gain an unfair advantage.<sup>29</sup>

Again, the other players in the game form an early-warning system about the possibility that a poker bot is in use. Other players notice and report machine-like play. Poker bots tend to play in identifiable patterns and not to show the variability that human poker players demonstrate — bluffing, for example, or taking breaks for food or personal hygiene. Also, the audit software used by operators will detect poker bots. Operators routinely download bots into their computer systems in order to analyze how the bots play, which allows the systems to recognize those bots in the future. For example, many bots will click on the same location on the screen for play after play, something that humans cannot do and which is readily detected by audit software.<sup>30</sup>

*Anti-Money Laundering Programs* — Although DOJ has charged that the payments processing systems set up by offshore operators represent a form of money laundering, fears about potential money laundering through online gambling sites have generally not been realized. As a threshold matter, of course, the risk of money laundering with currency is eliminated for online gambling sites that do not accept currency. Moreover, every financial transaction with an online website is recorded and therefore subject to audit and questioning by both the operator and regulators. Nevertheless, the potential for money laundering through online transactions has drawn regulatory attention.

As with bricks-and-mortar casinos, the most common form of money laundering involves the deposit of a large amount of money, followed by very limited gambling activity, and then an attempt to cash the funds out in another form. This pattern of classic money laundering — deposit, limited play, withdrawal — can be identified through auditing software deployed both by operators and regulators. Indeed, regulators in developed nations ordinarily require online operators to report “suspicious transactions,” a requirement that applies to bricks-and-mortar casinos and financial institutions in this country, as well.

Regulators and operators also limit the risk of money laundering by restricting the ways that online sites can transfer money. Many online gambling operators will transfer a customer's money only to a pre-designated account in a financial institution.<sup>31</sup> For example, the British Columbia Lottery Corporation allows a player to have only one account on its website and will transfer funds into or out of that account only from one source, whether it be a credit card or an account at another financial institution.<sup>32</sup>

Another form of potential money laundering in online poker involves

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**To enforce each state's determination, online gambling operators will have to ensure that only bettors from authorized jurisdictions can play on their sites.**

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“chip dumping,” a pattern where one player will attempt to lose to a confederate at the same poker table, thereby transferring assets to that player. Chip dumping can be undertaken to launder funds, or to transfer value from a stolen credit card to a confederate, who then can cash out the value in another, more negotiable format. Other players often will identify and report potential chip dumping situations. Auditing software also will identify chip dumping by detecting players who lose or win more often than they should under the law of averages, and when they do so at the same tables with apparent confederates.

Despite the extensive efforts of online gambling operators to exclude cheaters and money launderers from their websites, the industry does not currently have a mechanism for sharing information about rogue customers. In the commercial casino industry in the United States, regulators ordinarily provide for the sharing of information about undesirable customers through a “black book” or some similar method. Any online gambling legalization in the U.S. should ensure that information about cheating on one licensed gambling site is shared with other online gambling operators.

### **Respecting Territorial Limits on the Market**

Any legalization of online gambling in the United States should provide that each individual state may choose not to have legalized online gambling within its borders. Online betting on horse racing has followed that model, with some states embracing it and others declining to legalize it. Canada has taken a similar approach; two Canadian provinces now allow online gambling and a third will do so shortly, but the others have elected not to join that effort.

To enforce each state’s determination, online gambling operators will have to ensure that only bettors from authorized jurisdictions can play on their sites. Systems for enforcing territorial restrictions have been refined in connection with online betting on horse races, and with Canadian online gambling. In addition, in several European nations, including Italy and France, online gambling licensees can accept bets only from residents of that country. Although no territorial enforcement system will be perfect, a high degree of compliance can be achieved through the customer identification procedures outlined above. All of the public and private data bases consulted through that verification process will confirm or question the customer’s address, allowing the operator to exclude the extraterritorial customer.

The identification checks can be reinforced by a geolocation system that locates the IP address (“Internet protocol” address) of the computer that the customer is using. Except when that location is close to a geographic border or is otherwise cloaked, existing databases of IP

addresses will reveal the jurisdiction in which the customer is located. The British Columbia Lottery Corporation and the New York State Lottery use this technology to ensure that only residents of those jurisdictions gain access to online gambling, as do the U.S. companies that take online bets on horse races through hubs in Oregon. Indeed, these techniques are routinely used to ensure the territorial identity of customers in other industries, such as when Major League Baseball imposes geographic limits on the online distribution of a video version of its games. Although there are techniques for defeating geolocation systems, a territorial screening system can identify when those techniques may be in use. In those situations, an online gambling operator can decline to provide service until the customer provides additional evidence of his location. The British Columbia Lottery Corporation follows this procedure. Regulators also can test how effectively an operator is enforcing territorial limits by using “mystery shoppers” to attempt to register online from forbidden jurisdictions.<sup>33</sup>

Regulators have had less success, however, in keeping out of their markets those offshore operators that have not acquired licenses to serve those markets. For example, after Svenska Spel had strong initial success with its online gambling service in Sweden, it has steadily lost market share to unlicensed offshore operators.<sup>34</sup> Although the Canadian online gambling operation is still in its first year of operation, competition from unlicensed offshore operators has forced it to revise downward its anticipated revenues.<sup>35</sup>

### **Excluding Underage Gamblers**

Many who oppose legalization of online gambling recite first and most prominently the danger that young people will gain access to online gambling sites. This objection overlooks the reality that unlicensed online gambling sites are freely accessible today, and that those operators based in the lightly-regulated jurisdictions in the Caribbean may make little or no effort to exclude underage gamblers. Nevertheless, customer identification procedures can do a thorough job of excluding underage gamblers. Regulators in Canada, Oregon and Europe report that they receive almost no complaints that their operators have permitted underage gamblers on their websites. Comparable age-verification procedures are currently followed with success by online vendors of liquor and tobacco, and by the websites of Hollywood movie studios.<sup>36</sup>

The process of screening out underage gamblers follows many of the steps that are applied to determine the geographic location of customers. Through the customer identification procedures described above, including telephone follow-up when required, online gambling operators can usually determine when an applicant is below the legal age for gambling. Because

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**“Regulatory mechanisms and technological solutions, many of which are currently used in other jurisdictions and industries, can equip online gambling operators with capabilities to selectively exclude minors from engaging in online gambling.”**

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online operators require that customers have credit cards or bank accounts, underage customers ordinarily can gain access to gambling websites only by impersonating a parent or other adult; follow-up screening of such applications by customer service personnel will often reveal the impersonation. In the unlikely event that the online gambling operator is deceived by the impersonation, the deception will be revealed as soon as the parent or other adult receives a monthly bank or credit card statement reflecting the minor’s activity on the website.

A report prepared in 2009 by a professor from the Kennedy School of Government at Harvard University concluded that current methods of excluding underage gamblers from online websites are effective: “Regulatory mechanisms and technological solutions, many of which are currently used in other jurisdictions and industries, can equip online gambling operators with capabilities to selectively exclude minors from engaging in online gambling.”<sup>37</sup>

### **Implementing Responsible Gambling Programs**

Research has demonstrated that only about 1 percent of the people in any community become pathological gamblers. Indeed, researchers also have found no evidence that online gamblers are more likely to be pathological gamblers.<sup>38</sup> A major British study found no increase in the rate of pathological gambling between 1999 and 2007, even though online gambling became widely available during that period. Similar results emerged in a study of Swedish gamblers.<sup>39</sup>

Although the prevalence of pathological gambling is low, and even though there is no evidence that online gambling will change that pattern, many jurisdictions require that online gambling operators include tools to help customers control their gambling. These steps involve the display of information on players’ screens about the availability of counseling and other assistance for those unable to control their gambling. In addition, customers are given access to current information about how much they have wagered and lost, and how long they have played. Other tools can be provided that allow the customers to impose limits on their own play:

- Allowing the customer to direct the website to exclude him from play for a specific period of time, or indefinitely.
- Allowing the customer to direct the website to cease sending promotional notices to him.
- Allowing the customer to establish limits on his activity on the website, including:
  - how much he can deposit into his gambling account per transaction, or over a period of time (for example, per week),<sup>40</sup>

- the maximum bet the player can make,
- the total amount he wishes to be able to lose in a specific period of time, or
- the total amount he may maintain in his account (for example, in the British Columbia system, an account may not hold more than \$9,999 for more than 72 hours).<sup>41</sup>

In many systems, customers must wait out a specified period (often seven days) before they can change the settings they have set on these “player protection” features; that “cooling-off period” is intended to ensure that the customer fully considers any changes in the limits he has imposed on his own play.<sup>42</sup>

Academic research suggests that relatively few online gamblers use the limits that are made available through social responsibility programs, but a substantial majority of those gamblers like having those player protection tools available on gambling websites.<sup>43</sup> By requiring that licensed websites include those social responsibility protections, legalization of online gambling would actually improve efforts to assist pathological gamblers. Today, without any U.S. regulation, there are no uniform requirements for player protection tools at gambling websites. Indeed, many foreign jurisdictions, especially in the Caribbean, require no such tools, so gambling operators located in those jurisdictions often do not provide them. In addition, a portion of online gambling tax revenues and license fees can be directed to research about pathological gambling, as well as to treatment and public education on the subject. For these reasons, the report prepared by the Harvard Kennedy School professor concluded that “regulators should be able to design sufficient protections to prevent any significant growth in problem gambling that results from legalization.”<sup>44</sup>

## **Legalization Proposals in the United States**

Both federal and state lawmakers have proposed legalization and regulation of online gambling, arguing that such a move will (i) provide consumer protections for Americans who will continue to bet online despite government policies banning the activity, (ii) establish appropriate law enforcement tools to prevent illegal online gambling, (iii) generate jobs and economic opportunities in this country, and (iv) provide tax revenues for government.

As noted above, UIGEA included an implicit recognition that any state or tribal government may authorize Internet gambling that is confined to its own jurisdiction. Several states have been considering such a course, but none has done so yet. The District of Columbia is moving forward with an online gambling plan now, though Congress could obstruct it.<sup>45</sup>



Although each state should have the discretion to decide whether or not to permit online gambling within its borders, as is done under the Interstate Horseracing Act, individual states should not be able to create their own online gambling regimes. The result would be a legal patchwork that would make little economic sense, with online poker permitted in one state, a state lottery offering casino games in a second state, and a third state authorizing only Internet blackjack. The result would be confusion for consumers and an inefficient overlap in regulatory effort.

Legalization by individual states might spur congressional action on pending legalization proposals. At the national level, two major legalization initiatives have emerged. Rep. Barney Frank, while he was chair of the House Financial Services Committee, introduced and held hearings on a bill that would have created a licensed Internet gambling industry, subject to federal regulation. The Internet Gambling Regulation, Consumer Protection, and Enforcement Act was reported favorably by the House Financial Services Committee in July 2010, but progressed no further. Reps. John Campbell and Frank have reintroduced the legislation in the 112th Congress.<sup>46</sup>

At the very end of 2010, when the outgoing Congress met in a “lame duck” session, Senate Majority Leader Harry Reid of Nevada actively considered presenting a bill to legalize only Internet poker, though he never moved forward on that plan.<sup>47</sup>

Through these legislative activities, several central issues have been defined concerning the possible legalization of online gambling in the United States, including:

- What games should be legalized: the more modest course, followed by Sen. Reid, would legalize only online poker.
- Preserving traditional state control over gambling matters: both federal legislative efforts would allow each individual state to exclude online gambling from its borders.
- What regulatory body should oversee online gambling operators: the Campbell-Frank legislation would create a federal regulator, while Sen. Reid was considering an approach that would use existing state gaming commissions to regulate online operators.
- Whether regulatory measures can protect key social values by ensuring that underage gamblers are excluded, that bets are not accepted from jurisdictions that have barred online gambling and that pathological gamblers have tools to help them control their gambling. Both legislative initiatives would require such social responsibility protections.
- The need to create effective law enforcement tools to combat illegal online gambling, including establishing a list of illegal operators so financial institutions may refuse to complete payment transactions.



The federal legislative proposals also would preserve the status quo with respect to sports betting (explicitly barring it) and online betting on horse races (explicitly preserving the current betting arrangements under the Interstate Horseracing Act) and with state lotteries.

For a viable online poker business to thrive, some core economic questions will have to be addressed. First, legislation would have to specify the eligibility for licensing of online poker operators that are currently based overseas. These fall into several categories. A number of those operators have not been accepting bets from U.S. residents since UIGEA was enacted in 2006. Others, like PokerStars, Full Tilt, and Absolute Poker and Ultimate Bet, continued to accept bets up until the recent Black Friday indictment. And many offshore sites now continue to accept bets from U.S. residents. In defining what offshore operators are eligible for licensing in the U.S., federal legislation properly would recognize the different equitable positions of those different types of offshore operators.

In addition, any overseas operators who already are serving large numbers of online poker players would have a substantial liquidity advantage if they could combine new American customers with their existing pool of players. That increased liquidity would allow them to offer a much more attractive range of games and tournaments in the early months following legalization. To avoid that unfair advantage, both France and Italy have barred their licensees from pooling customers from within their countries with foreign customers. The United States would be well advised to follow that model.

The most vexing problem, as explained above, is how to exclude unlicensed operators. After legalization, licensed and unlicensed operators each would enjoy certain competitive advantages. The licensed operators would be able to offer customers greater assurance that their games are honest and that the operators will honor their financial commitments. In addition, many of the licensed operators already have their own brand names from operating bricks-and-mortar casinos or operating online in other markets. Operators with land-based properties in this country would be able to cross-market those properties and offer participation in their existing customer loyalty programs.

Moreover, DOJ enforcement against payment processors for foreign operators has increased the cost of taking online bets from the United States by any unlicensed operator. The payment processing schemes described in the Black Friday indictment were elaborate and expensive to follow. In order for offshore companies to continue to take bets from the United States, they will have to develop new schemes for processing payments. Those schemes would be at least as elaborate and expensive to consummate. Operators serving the U.S. market without a license also would have to expect occasional seizures of their funds from U.S. bank

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**(f) It will be important to create clear criminal statutes that exclude unlicensed operators and to fashion law enforcement tools to make that exclusion a reality.**

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accounts. One industry participant estimates that, in current conditions, foreign operators taking U.S. bets must pay 10 percent or more of their revenue to process payments; in contrast, that cost would be less than 1 percent if conventional credit card merchants like Visa or MasterCard were able to handle the transactions.

Yet the unlicensed operators would enjoy advantages from not having to compete on a level playing field. They would be free to pool American players with those from overseas markets, and thus offer greater liquidity. They often have their own brand names, built up over years of flouting American law. Because the unlicensed firms would usually be subject to less regulation in their home jurisdictions, their costs of operation are likely to be lower, though that advantage would be somewhat offset by the higher costs they would incur to arrange sub rosa payment processing. Finally, if the U.S. were to legalize only online poker, then unlicensed offshore operators would continue to be the only option for those U.S. residents who prefer other online gambling activity, such as casino games or sports betting.

Perhaps most important, the effective tax rate on licensed gaming operators would loom large in any competition between licensed and unlicensed operators. Gambling websites based in the Caribbean now pay almost no taxes and minimal license fees. For example, Costa Rica imposes a maximum tax of \$54,000 per year on its online gambling operators; Antigua requires only an annual license fee of \$75,000; the Kahnawake Mohawks in Canada charge only \$10,000 per year. For U.S.-licensed operators to compete effectively with unlicensed operators from those jurisdictions, it will be essential to set a moderate tax rate. Both France and the United Kingdom found that their tax rates were initially set too high, which made it far too easy for unlicensed operators to continue to command substantial market shares in their countries.

In view of these countervailing advantages in the marketplace, the unlicensed poker operators will continue to be able to command a significant market share. In addition, they will be the only providers of online gambling other than poker. That would leave many American consumers still exposed to the risks of doing business with lightly regulated firms and would reduce the tax and license fee revenue generated by legalization. Consequently, it will be important to create clear criminal statutes that exclude unlicensed operators and to fashion law enforcement tools to make that exclusion a reality.

A high priority will be to build tough technological fences that keep unlicensed offshore operators out of the U.S. market. This could involve an adaptation of a current program to control money laundering through the Office of Foreign Asset Control ("OFAC"). Just as OFAC maintains a constantly-updated list of individuals and entities whose financial

transactions should be questioned, law enforcement agencies can maintain a similar list of unlicensed offshore gambling operators. Italy now follows a similar policy. With legalization of online poker in this country, U.S. regulators also will be able to coordinate with their counterparts in foreign countries to further refine and target their enforcement efforts. Other approaches may include adapting technologies now used to exclude spam from e-mail accounts, or affixing an electronic signature to transmissions relating to licensed Internet gambling sites and thereby making it easy to screen unlicensed transmissions. All of these techniques should be authorized as part of the essential law enforcement element of U.S. policy.

## Conclusion

In the almost five years since UIGEA was enacted, we have learned critical basic lessons about online gambling in the United States. Those lessons should guide the nation's policy response to online gambling today.

*First*, despite energetic and creative enforcement efforts by DOJ, online gambling by U.S. residents continues in every community, largely unabated. Until now, the principal effect of DOJ enforcement has been to drive the more responsible online gambling operators out of the market, leaving U.S. residents at the mercy of relatively unregulated operators.

*Second*, the tools have been developed to regulate online gambling effectively, protecting key values: excluding underage gamblers, protecting the integrity of the games, ensuring that bets are not accepted from jurisdictions where online gambling is prohibited, barring money laundering and providing tools for the customers themselves to control their own gambling. A top priority should be achieving equal regulatory effectiveness in the exclusion of unlicensed operators from a market.

*Third*, it is possible to create a tightly-regulated online poker industry that protects consumers, grows jobs and generates meaningful new tax revenues.

From these lessons, Congress can build a comprehensive policy on Internet gambling that includes (i) legalization of Internet poker at the option of each individual state, (ii) a uniform regulatory structure to ensure essential consumer protections, and (iii) reinforced law enforcement tools to exclude lightly-regulated offshore operators who would take advantage of an un-level playing field to siphon dollars from the U.S. market. The result would be a limited online gambling industry, subject to strict regulation, which generates jobs, economic opportunity and public revenues.

## **APPENDIX: U.S. Enforcement Efforts Against Online Gambling Operators**

The dominant U.S. policy toward online gambling has been to prohibit the activity and pursue legal enforcement actions against operators and those providing financial services to operators. The legal foundation for this policy and its results have been mixed.

### **U.S. Laws On Internet Gambling**

Because Congress has never enacted a specific prohibition on Internet gambling, federal prosecutors have had to rely on two statutes that were adopted in the 1960s to deal with telephone betting operations, plus the recently-enacted UIGEA.

For much of the last 10 years, the Wire Act has been the principal tool used in online gambling prosecutions, beginning with the prosecution in 1999 of Jay Cohen, who ran an Internet gambling business in Antigua.<sup>48</sup> A controversy over the scope of the Wire Act quickly emerged. The statute applies to people who transmit information over wires that relates to “bets or wagers on any sporting event or contest.” Ruling in a civil lawsuit in 2002, the U.S. Court of Appeals for the Fifth Circuit held that the Wire Act reaches only betting on sporting events, concluding that the term “sporting” in the key phrase modifies both “event” and “contest.” That ruling emboldened many Internet gambling operators, who concluded that U.S. law prohibited only online sports betting. That ruling, however, has never been applied in a criminal case. Indeed, federal courts in Utah and Missouri have rejected that reasoning in two criminal prosecutions, specifically holding that the Wire Act reaches all forms of online betting — in effect, that “sporting” in the key statutory passage does not modify “contest.”<sup>49</sup>

In a recent prosecution, DOJ has charged online gambling operators with violating the federal Unlawful Gambling Business Act, which applies to “illegal gambling businesses.” That statute defines an illegal gambling business as one that (i) violates state law, (ii) is operated by five or more persons and (iii) receives at least \$2,000 per day in revenue. Both this statute and the Wire Act were adopted in the early 1960s as part of a drive against telephone bookmaking services, long before the Internet was operating.<sup>50</sup>

At the end of 2006, Congress attached UIGEA as an amendment to the Safe Ports Act. The statute does not apply directly to online gambling, attempting instead to choke off financial transactions related to “unlawful Internet gambling.” The law provides only a circular definition of “unlawful Internet gambling,” describing it as online gambling that is “unlawful under any applicable Federal or State law in the State or Tribal

lands.” UIGEA bars online gambling businesses from engaging in financial transactions relating to unlawful Internet gambling, even though those businesses are ordinarily located offshore, beyond the reach of American prosecutors. The law also may be used against a person or financial institution for aiding and abetting such transactions.<sup>51</sup>

Although most gambling over the Internet crosses state and national borders, eight states have nevertheless enacted legislation barring online gambling.<sup>52</sup> In five additional states, the state attorney general has issued an advisory opinion that Internet gambling is contrary to the state’s law.<sup>53</sup>

A major exception to the general government hostility toward Internet gambling concerns betting on horse races. Under the Interstate Horseracing Act of 1978 (IHA), as it was amended in 2000, the horseracing industry has developed an online system of “advanced deposit wagering” (ADW) through “hubs” that are regulated by the states that authorize them; the largest hubs are based in Oregon and regulated by the Oregon Racing Commission. If the state in which a bettor resides has authorized ADW, the individual may deposit funds with one of the hubs for pari-mutuel wagering on races at tracks across the country. The individual then may direct that the funds be wagered as he wishes. The amount wagered through Oregon’s hubs has increased from \$6.4 million in 2000 to \$1.445 billion in 2010.

This explosive growth has occurred even though DOJ takes the position that the IHA amendment in 2000 did not apply to the federal criminal gambling statutes, such as the Wire Act, and thus that pari-mutuel wagering may not be conducted over the Internet.<sup>54</sup> Despite announcing that position, DOJ has taken no action against online betting on horse races, which has flourished.

### **Criminal Prosecutions**

Since 2006, DOJ has consistently pressed to build criminal prosecutions against some of the largest online gambling operators. Although criminal prosecutions had occurred earlier, the DOJ campaign crashed into public consciousness in July 2006 with the arrest of David Carruthers of BetOnSports.com, a Costa Rica-based sports betting business, while he was changing planes at the Dallas-Fort Worth Airport. Nine months later, the founder of that business, Gary Kaplan, was seized in the Dominican Republic and taken to the United States to stand trial. Both men pled guilty in federal court in St. Louis to conspiracy to violate the Wire Act. Kaplan was sentenced to 51 months in prison and paid a fine of \$43 million; Carruthers received a sentence of 33 months.<sup>55</sup>

DOJ next challenged PartyGaming PLC, which was the largest online poker company until the enactment of UIGEA persuaded it to exit the U.S. market. In 2008, one of the company’s founders, Anurag Dikshit, entered



a guilty plea to a charge of violating the Wire Act. He was sentenced to probation and forfeited \$300 million. The company entered into a non-prosecution agreement in return for forfeiting \$105 million.<sup>56</sup> An online betting firm based in the United Kingdom, Sportingbet PLC, forfeited \$33 million in a September 2010 deal with prosecutors.<sup>57</sup>

DOJ also challenged a number of payment processors, which perform the financial transactions between online gambling firms and their customers. Two founders of NETeller, a major payment processor based in Canada, pled guilty to money laundering charges in New York in 2007. The parent company of NETeller entered a separate agreement to forfeit \$19.2 million.<sup>58</sup> Another payment processor, Douglas Rennick, was indicted in 2009. He later pled guilty to violating the Wire Act, forfeiting \$17 million in return for a sentence of six months probation.<sup>59</sup> An Australian payment processor, Daniel Tzvetkoff, was arrested while visiting Las Vegas in April 2010 and charged with bank fraud, money laundering and the first criminal charges brought under UIGEA. He is cooperating with prosecutors, leading to speculation that he provided key information supporting recent criminal charges against leading online poker companies.<sup>60</sup> Other payment processors have faced federal criminal charges in Utah, Pennsylvania and Maryland.<sup>61</sup>

The most sensational DOJ action was the recent indictment of 11 individuals associated with the three largest Internet poker operators that still accepted bets from U.S. residents — PokerStars, Full Tilt Poker, and Absolute Poker/Ultimate Bet. Because eight of the named defendants in that indictment reside overseas, the government has arrested only three individuals so far. Once more, the charges focus on payment processing activities, which have emerged as an Achilles heel for the offshore operators that continue to take U.S. bets. The gambling operators generally can keep all of their gambling operations beyond the physical reach of United States law enforcement, but have to form U.S. connections in order to arrange financial transactions with their U.S. customers.<sup>62</sup> DOJ filed a parallel civil complaint against the corporate entities controlled by the three online poker operators, demanding the forfeiture of their Internet domains.<sup>63</sup>

The market's response to these charges — often referred to as the Black Friday indictment — was swift. Until those charges were announced, PokerStars and Full Tilt enjoyed a dominant position in the global Internet poker market, with a combined market share of more than 60 percent. They achieved that dominance to a considerable degree because they continued to serve American players. Within a day of the



indictment, both firms stopped taking new bets from U.S. residents; the third poker business involved, which operates Absolute Poker and Ultimate Bet, continued to allow Americans to play but not to deposit or withdraw any funds. Overall online gambling activity by U.S. residents immediately dropped; the Internet traffic on Full Tilt Poker, for example, fell by 40 percent from the previous week. Those operators still willing to take bets from U.S. residents, however, showed some increases in traffic.<sup>64</sup>

The criminal and civil charges filed on Black Friday accuse the defendants of engaging in bank fraud and money laundering, as well as violating UIGEA and operating unlawful gambling businesses. The charges describe several ways that the defendants were able to evade UIGEA and keep the money flowing between them and their U.S. customers.

First, the government contends, the defendants created phony online businesses with innocuous-sounding names, such as [www.petfoodstore.biz](http://www.petfoodstore.biz) and [www.bedding-superstore.tv](http://www.bedding-superstore.tv). The offshore operators routed credit card transactions with their customers through those front companies, which also involved mis-coding the transactions so the credit card companies did not realize that the funds were connected to online gambling.

Second, the government alleges that the defendants fostered the expansion of pre-paid, anonymous credit cards (or “stored value cards”) which could be purchased in local retail locations, including CVS, Target and Wal-Mart. Although those stored value cards can theoretically be used in other types of commercial transactions, the government asserts that they were almost exclusively applied to online gambling.

A third financial arrangement described by the prosecutors was more elaborate. The operators arranged for third parties to open bank accounts through which they could funnel customers’ funds in the form of “e-checks,” which are electronic payments conducted through the Automated Clearinghouse (“ACH”) system. Again, the defendants allegedly first ran the customers’ payments through phony businesses, such as a website devoted to environmentally friendly living, [Green2YourGreen](http://Green2YourGreen.com), or [www.oneshopcenter.com](http://www.oneshopcenter.com) or [www.mygolflocation.com](http://www.mygolflocation.com).

A final arrangement for payment processing, as described by the government, involved gaining effective control over SunFirst Bank of St. George, Utah, a struggling financial institution. The defendants allegedly invested \$3.4 million in the bank and paid its president \$20,000. In return for processing payments for Pokerstars and Full Tilt, the bank received above-market fee compensation on each transaction.

### **Civil Enforcement Strategies**

At least three different civil enforcement strategies have been employed against online gambling in the United States: (i) challenging Internet firms for accepting advertising for illegal online gambling, (ii) seizing online gambling funds from bank accounts where they reside temporarily, and (iii) shutting down the Internet domains that are used for illegal online gambling.

*Internet Advertising* — In late 2007, the three largest Internet firms entered into settlements with the U.S. Attorney in St. Louis, who charged them with accepting advertising that promoted illegal Internet gambling. Microsoft paid \$21 million, Yahoo paid \$7.5 million, and Google paid \$3 million.<sup>65</sup> The case drove advertising by offshore Internet gambling operators from major Internet sites.

*Bank Seizures* — In more than a half-dozen actions, DOJ has seized more than \$100 million of bank funds that were deposited by payment processors working for offshore gambling websites. These actions exploited the vulnerability of the payment processing system and laid the groundwork for the Black Friday indictment:

- ESI Entertainment Systems (\$9.1 million, 2008).<sup>66</sup>
- Wachovia, Bank of America, Sun Trust, Regions Bank (\$24 million, 2008).<sup>67</sup>
- Zippayments.com (\$9.8 million, 2009).<sup>68</sup>
- Wells Fargo, Citibank, Goldwater Bank, Alliance Bank of Arizona (\$34 million, 2009).<sup>69</sup>
- Mercantile Bank (\$860,000 2010).<sup>70</sup>
- Electracash, Direct Channel, HMD, Forshay Enterprises, Atrium Group (\$5 million, 2010).<sup>71</sup>
- Allied Wallet, Allied Systems (\$13 million, 2010).<sup>72</sup>
- Etegrity Processing, Arrow Checks, Secure Money, Anaya Trading Solutions, Blue Lake Capital Management and Logistics (\$8 million, 2011)<sup>73</sup>

*Shutting Down Internet Domains* — Two states have tried different strategies for closing down websites that conduct illegal online gambling, though neither strategy has worked very well. In 2009, the Minnesota Department of Public Safety gave notice to 11 Internet service providers (ISPs) that they should block 200 sites that were accepting online bets in alleged violation of the Wire Act. After a trade association of online sites challenged the state’s action in federal court, the state abandoned its effort. None of the ISPs had taken any steps to implement the state’s demand.

In September 2008, Kentucky filed an *in rem* action in state court seeking the forfeiture of 141 Internet domains used for illegal online gambling. The lawsuit still continues almost three years later. A trial court granted the state’s petition, but the Kentucky Court of Appeals granted an emergency petition to overrule that order, holding that a domain name was not a “gambling device” that can be seized under Kentucky law. The Kentucky Supreme Court then found that the prevailing party in that appeal lacked standing to conduct the case, so a new petitioner has been substituted, and the case has been returned to the trial court to decide whether the new petitioner has standing.<sup>74</sup>

## Endnotes

<sup>1</sup> Our estimate is adapted from a paper issued by H2 Gambling Capital, "United States: Regulated Internet Gambling Economic Impact Assessment," April 15, 2010.

<sup>2</sup> H2 Gambling Capital, "Quarterly Interactive Gambling" (April 2011).

<sup>3</sup> Spectrum Gaming, White Paper for National Indian Gaming Association, p. 5 (2010).

<sup>4</sup> Marcos Charif, "UK Online Gaming – Where Did Things Go Wrong?," *European Gaming Lawyer* (Winter 2010); "It's all about the tax," Global Betting and Gaming Consultants, [www.gbgc.com](http://www.gbgc.com), February 9, 2011.

<sup>5</sup> [www.playnow.com](http://www.playnow.com); "BCLC share online poker with Loto Quebec," *Gambling News*, November 20, 2010.

<sup>6</sup> Eric Pfanner, "Governments in Europe Warming to Online Gambling," *New York Times*, July 28, 2010. A listing of current licensed gambling sites in European jurisdictions can be found at [www.GamingZion.com](http://www.GamingZion.com). See also "Italy the Clear Online Gaming Frontrunner," *Online Casino Reports*, February 10, 2011; "Italy Preparing to Implement Additional Online Wagering," *Online Casino Spotlight*, February 17, 2011; "Dutch Government Seeks to Allow Online Gambling," Reuters, March 19, 2011; "Online Gambling: Estonia Issued the Second License," *Estonian Free Press*, April 14, 2011; "Nevada regulators back Caesars' Internet Gambling Gambit," Reuters, March 25, 2011.

<sup>7</sup> France recently reported that revenues from online sports betting had dropped by 26.5 percent in the first quarter of 2011, and some estimate that unlicensed operators command more than three-fourths of the online sports betting market in that country. After initial success, Svenska Spel in Sweden has steadily lost market share to offshore operators from the first two groups of licensing jurisdictions. (Jonas Odman, "Trouble Ahead for Poker in France?," *EGR Magazine*, December 7, 2010; James Kilsby, "Svenska Spel Retreats as Pokerstars Shine in Sweden," *Gambling Compliance*, February 16, 2010.) Although only in its early months of operation, the Canadian online gambling operation is struggling with the same offshore competition and has had to revise downward its anticipated revenues. (Bob Mackin, "Lotto corp. feels heat as gambling support wanes," 24 Hours Vancouver, February 15, 2011.)

<sup>8</sup> Jonas Odman, "Trouble ahead for poker in France?," *EGR Magazine*, December 7, 2011; Graham Wood, "Le Débat," IGB Affiliate, February/March 2011, p. 23; "La cote des paris sportifs sur Internet plonge," *Le Figaro*, April 10, 2011.

<sup>9</sup> "Italy and France – Will Start-ups bother to get a license?," Global Betting and Gaming Consultants, [www.gbgc.com](http://www.gbgc.com), February 9, 2011;

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## About the Author

David O. Stewart joined Ropes & Gray as a partner in 1989 to begin a litigation group in the Washington, D.C. office. His experience in complex litigation includes appellate and Supreme Court litigation, antitrust and commercial disputes, white-collar criminal defense work, health care law, gaming law and a variety of challenges to government regulation and enforcement.

David has served as principal counsel in federal jury trials, state court trials, administrative proceedings, numerous appeals, and the impeachment trial of Judge Walter L. Nixon, Jr. before the U.S. Senate. David argued before the *Supreme Court* in *Ludwig v. Variable Annuity Life Insurance*, 115 S. Ct. 810 (1995), concerning the power of national banks to sell annuities, and also argued for the petitioner in *United States v. Nixon*, 506 U.S. 224 (1993).

David lectures to professional groups on topics including antitrust, gaming law, health care law, money laundering, cable television litigation, and white-collar criminal issues.

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**TAB 3**

**NSTIC AND IDGO PROPOSAL SUMMARY**

## **State of Nevada – NSTIC and Nevada IdGO proposal summary**

### **Introduction**

On March 7, 2012, the State of Nevada submitted a preliminary grant proposal to participate in the National Strategy for Trusted Identities in Cyberspace (“NSTIC”) program. NSTIC is a White House initiative designed to encourage collaboration between public and private sector organizations to improve the privacy, security and convenience of online transactions. The strategy centers around the development of interoperable technology standards and policies—termed an “Identity Ecosystem”—where individuals, organizations, and underlying infrastructure can be authoritatively authenticated. The ultimate goal is to protect individuals from theft and fraud, and to help ensure the Internet continues to drive innovation and provide a reliable marketplace of products and ideas.

On February 1, 2012, the National Institute of Science and Technology (“NIST”), which oversees the NSTIC program, announced a \$10 million grant program to fund pilot projects that advance trusted identities in cyberspace, consistent with the NSTIC program objectives. NIST anticipates funding five to eight projects for up to two years in the range of approximately \$1.25 million to \$2 million per year. On April 6, 2012, the State was notified that it was selected as one of twenty-seven finalists out of 186 preliminary applicants. The State thus qualified to submit a final grant proposal. The State’s final proposal was submitted on May 10, 2012. The centerpiece of the State’s proposal is the State of Nevada Identifies for Gaming Online (“IdGO”) program.

The IdGO program will create a comprehensive, interoperable, fully functional trust framework for online gaming. The approach will address the objectives outlined in the NSTIC through a collaborative effort between public and private sector stakeholders representing the four elements of the trust framework: identity providers, attribute providers, relying parties, and accreditation authority. The State is requesting initial Year 1 grant funds of \$2 million for a planned \$4 million 2-Year program.

The IdGO program will analyze the solution requirements; evaluate identity management and strong authentication technology alternatives; propose policies, standards and supporting operational processes; develop a prototype solution; and pilot the solution in a production online gaming environment. Our approach will satisfy the three major challenges identified by NSTIC, as well as those unique to online gaming.

### **NSTIC Challenges in the online gaming context**

The online gaming environment brings into sharp relief each of the challenges and barriers outlined in the NSTIC program. Each of these challenges, plus several challenges unique to the online gaming environment, provides a unique opportunity to develop innovative solutions, driven by market realities, with applicability to the entire identity ecosystem, making the State’s proposal compelling. The challenges unique to the online gaming environment fall into three broad categories: financial, jurisdiction, and regulatory. The more general NSTIC challenges

include: effectively identifying individuals, multiple accounts and the cost of managing customer accounts, and online privacy challenges and consumer trust.

### *Financial*

Online gaming is unique in that financial transactions occur between businesses (casinos) and consumers (players), and have the potential to exceed most common e-commerce transactions in value. In addition, the flow of money is bidirectional and can include large payments to individual players; financial transactions will foreseeably involve millions of dollars and require exceptional security measures. The potential for money laundering activities in support of criminal or terrorist activities is a known risk. Robust identity management and authentication practices can substantially reduce the risk of criminal activity related online gaming.

### *Jurisdiction*

Gaming is one of the most highly regulated industries with over 200 separate jurisdictions around the world. Nevada requires online players to be located in a jurisdiction where online gaming activities are permissible under local law. The challenge for an online gaming authentication solution includes evaluating the physical location of a player to ensure they are geographically located within a legal gaming jurisdiction. Including geolocation information in the authentication process increases the complexity from a technical perspective and introduces additional privacy concerns. Additionally, an online gaming identity and authentication solution must include validation that a player is of legal age, prevent a user from sharing credentials, and ensure that while a user is playing they remain physically located in a legal gaming jurisdiction.

### *Regulatory*

The Nevada Gaming Control Board ("GCB") and the Nevada Gaming Commission ("NGC") has the regulatory responsibility associated with online gaming. This involves the creation of new regulations that address the security and privacy challenges in a manner consistent with evolving standards. Current regulations, such as GCB Regulation 5A, establish some of the initial requirements for identity management in online gaming environment. The challenge for both NSTIC and the GCB/NGC is to ensure that future regulations incorporate and are consistent with the generally accepted standards of the identity ecosystem. While this represents a challenge, it also represents an opportunity to address one of the barriers identified in the NSTIC; a lack of commonly accepted technical standards to ensure interoperability among different authentication solutions.

### *Effectively identifying individuals*

The ability to identify an individual with a high degree of confidence and assurance is a fundamental component of a trustworthy online gaming environment. Individuals playing Internet poker want to know with absolute certainty that they are playing against human opponents and not a computer. The game hosts are also interested in ensuring that an individual is not manipulating the game by using multiple identities simultaneously, in effect playing multiple hands at the same table. Establishing an effective identity validation process,

strong authentication, and regulated access will provide the necessary confidence and assurance that an individual identity is authentic. The requirements for identity authenticity combined with geolocation and age validation make online gaming one of the most rigorous environments in the identity ecosystem.

Recognizing that the players in the online gaming environment represent a broad spectrum of society and an equally broad spectrum of technical expertise, the authentication solution must incorporate the NSTIC principle of ease-of-use, and address the barrier of usability for strong authentication technologies. The end-user platforms will cover a wide range of devices and operating systems and any authentication solution will have to interoperate in a heterogeneous environment and remain cost-effective for the operators.

#### *Multiple accounts and the cost of managing customer accounts*

The current model of independent identity management systems and websites has created challenges for users and operators of these sites. For users it is the challenge of managing multiple accounts and the associated weak authentication mechanism in the form of passwords. For operators of websites is the overhead associated with establishing and administering an identity management system, as well as the risk associated with a compromise of that system and the exposure of personally identifiable information. The IdGO program will address this challenge directly by providing an alternative to the independent identity management model and establishing an interoperable model consistent with the trust framework and identity ecosystem proposed by NSTIC.

One of the critical dimensions of the interoperable model will be addressing the barrier of liability and the monetization of transactions. Liability issues will have to be addressed as functions in the trust framework are spread from a single company to multiple organizations. One aspect of the program will address the requirement for agreements between organizations participating in the IdGO pilot and attempt to formalize expectations around liability and monetization issues.

#### *Online privacy challenges and consumer trust*

The objective of establishing a trustworthy online gaming environment makes addressing online privacy challenges of paramount concern. Online gaming will necessitate the collection of certain types of sensitive information on individual players and Regulation 5A already prescribes certain data retention requirements for online gaming operators. Individual players will provide personally identifiable information ("PII") and create additional forms of sensitive information such as player profiles, wagering history, frequency and duration of play. In aggregate, this information represents valuable business intelligence for game hosts, and is considered one of their most sensitive information assets. It must be handled with appropriate concern for the individual's privacy.

Incorporating privacy is one of the primary concerns and fundamental design constraints. The IdGO program will address the privacy challenges in online gaming. Adhering to the fair information practice principles ("FIPP") outlined in the NSTIC, and adopting generally accepted



privacy standards into the development of both processes and supporting technologies, the IdGO program will ensure that both privacy and consumer trust are enhanced.

Addressing privacy across multiple organizations forming the trust framework for online gaming will address the barrier of a lack of common standards for privacy protection and data reuse by creating expectations for privacy and data reuse, identifying generally accepted privacy standards, and where appropriate proposing regulations to enforce privacy expectations.

### **IdGO Program Vision**

The vision for the IdGO program is to create a fully functional trust framework to support the online gaming environment by engaging in the program of work that will produce the pilot solution within the two-year period of the NSTIC pilot grant. The principal objectives of the program are as follows:

1. Engage the full spectrum of stakeholders necessary to support the complete trust framework including, casino operators, online gaming service providers, gaming systems manufacturers, technology solution providers, the Nevada gaming control board and Nevada Gaming Commission, and other relevant State of Nevada participants.
2. Develop detailed requirements and specifications for all aspects of the fully functional trust framework. Requirements will encompass both technology and process dimensions to address policies and standards, privacy practices, legal issues, and operational procedures, along with technical functionality and interoperability. The complete set of requirements and specifications will be used to evaluate potential technologies for conformance and viability and select vendors to support the development of the prototype solution.
3. The program will engage in the necessary development activities to create a working prototype of the pilot solution, subject that prototype to extensive testing and quality assurance, and deploy the pilot solution in a production online gaming environment.

### **Conclusion**

Overall, online gaming represents an ideal target for the NSTIC pilot grant IdGO program's vision of a fully functional trust framework production pilot. It will foster the objectives of the NSTIC and promote both economic development and a significant Internet industry. IdGo's proponents therefore believe the State's NSTIC application represents a competitive effort in the pursuit of the relevant grant funding and a unique opportunity for the State of Nevada.

**TAB 4**

**ASSEMBLY BILL NO. 258 (NEV. LEG. 2011)**

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-matter~~) is material to be omitted.

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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~~; *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 ~~is~~, *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. ~~{A}~~ *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 5**

**GAMING CONTROL BOARD  
INFORMATION PACKET**



## Nevada Gaming Commission



## Nevada State Gaming Control Board

April 2012







BRIAN SANDOVAL  
*Governor*

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

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

April 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](http://gaming.nv.gov)).

Sincerely,

Handwritten signature of Peter C. Bernhard.

Peter C. Bernhard  
Chairman  
Nevada Gaming Commission

Handwritten signature of Mark A. Lipparelli.

Mark A. Lipparelli  
Chairman  
State Gaming Control Board

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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

Peter C. Bernhard, Chairman  
Joseph W. Brown, Vice Chairman/Member  
Tony Alamo, M.D., Member  
John T. Moran, Jr., Member  
Randolph J. Townsend, Member

### Term Expires

April 27, 2015  
April 27, 2013  
April 27, 2016  
April 27, 2013  
April 27, 2014

### Gaming Control Board

Mark A. Lipparelli, Chairman  
A.G. Burnett, Member  
Shawn R. Reid, Member

### Term Expires

January 28, 2013  
January 25, 2015  
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:            Vacant                            e-mail:



**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)

**Gaming Regulation in Nevada:  
An Overview**

## **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

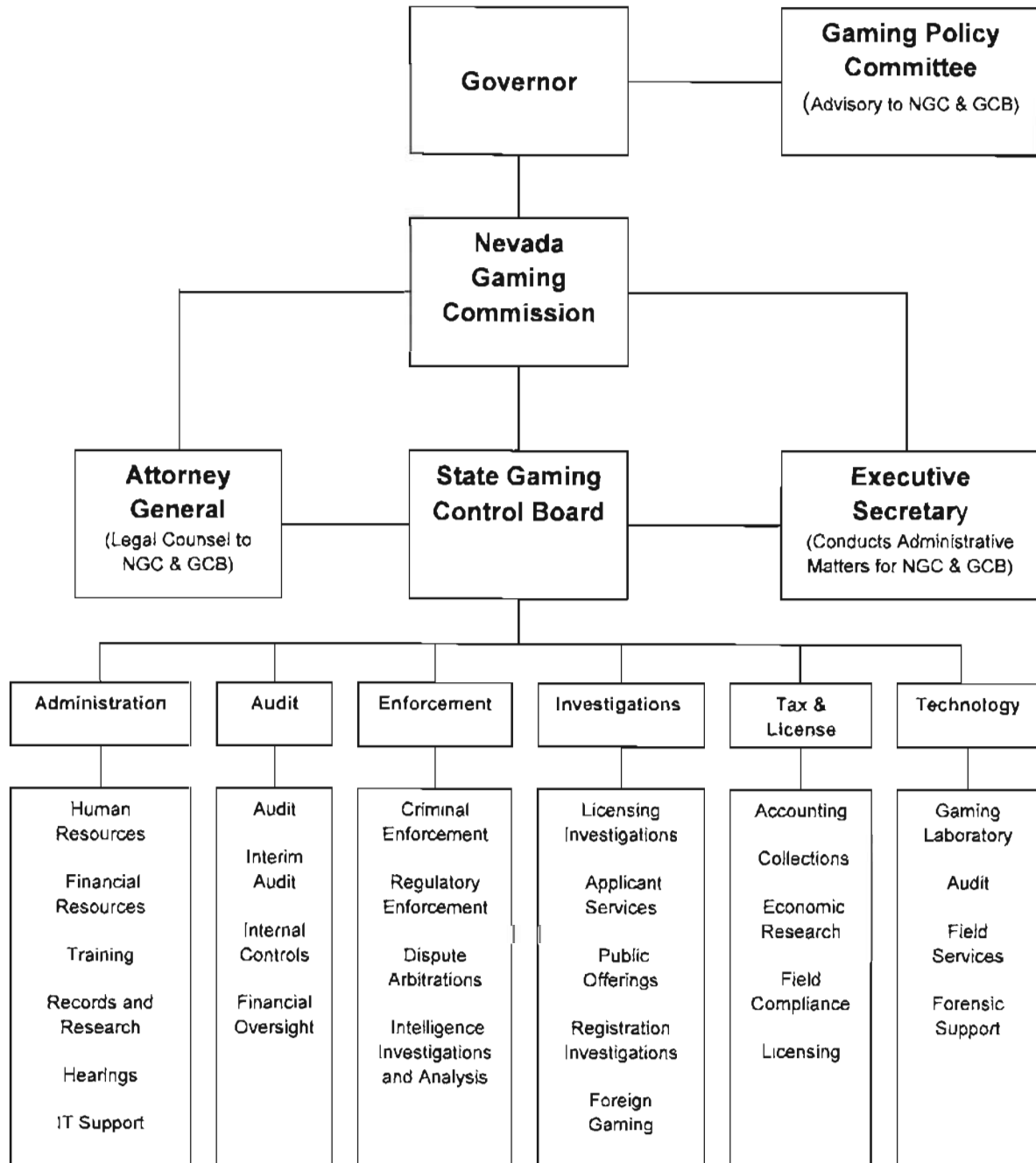
The Commission and the Board make up the two-tiered system charged with regulating the Nevada gaming industry. The conduct and regulation of gaming in Nevada are primarily governed by Chapters 462, 463, 463B, 464, 465, and 466 of the Nevada Revised Statutes. These statutes are supported by the regulations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



## **Section A**

### **Overview of Nevada Gaming Agencies**

## ADMINISTRATION DIVISION

### Division Leadership

CHIEF:	Brian Duffrin	e-mail: Bduffrin@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

CHIEF:	Shirley Springer	e-mail: Sspringer@gcb.nv.gov
DEPUTY CHIEF:	Dayne Rainey	e-mail: Drainey@gcb.nv.gov
DEPUTY CHIEF:	Joy English	e-mail: Jenglish@gcb.nv.gov
AUDIT MANAGER:	Kelly Colvin	e-mail: Kcolvin@gcb.nv.gov
AUDIT MANAGER:	Vanessa Vuong	e-mail: Vvuong@gcb.nv.gov
AUDIT MANAGER:	Linda Tobin	e-mail: Ltobin@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 120 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
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#### **Elko**

SUPERVISOR:	Brian McIntosh	e-mail: Bmcintosh@gcb.nv.gov
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#### **Laughlin**

SUPERVISOR:	Joseph Gilleo	e-mail: Jgilleo@gcb.nv.gov
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#### **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:

CHIEF:	Jim Barbee	e-mail: Jbarbee@gcb.nv.gov
LAB MANAGER:	Jason Elison	e-mail: Jelison@gcb.nv.gov

### 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	<u>2,016</u>
<b>Total</b>	<b><u>2,875</u></b>

#### 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	<u>22,540</u>
<b>Total</b>	<b><u>171,071</u></b>

Restricted Locations (by Denomination)

\$0.01	323
\$0.25	2,468
Multi-denom	5,780
Other	<u>10,575</u>
<b>Total</b>	<b><u>19,146</u></b>

**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
<b>Grand Total Table Games</b>	<b><u>7,018</u></b>

**GAMING REVENUES**

Five Year Gaming Win (Statewide by County) (in thousands)

<b><u>County</u></b>	<b><u>FY 2011</u></b>	<b><u>FY 2010</u></b>	<b><u>FY 2009</u></b>	<b><u>FY 2008</u></b>	<b><u>FY 2007</u></b>
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	<u>155,975</u>	<u>151,824</u>	<u>162,539</u>	<u>176,029</u>	<u>192,214</u>
<b>Statewide</b>	<b><u>\$10,634,698</u></b>	<b><u>\$10,327,447</u></b>	<b><u>\$10,786,629</u></b>	<b><u>\$12,500,948</u></b>	<b><u>\$12,739,131</u></b>

Five Year Gaming Win (by Revenue Category) (in thousands)

<b><u>Type</u></b>	<b><u>FY 2011</u></b>	<b><u>FY 2010</u></b>	<b><u>FY 2009</u></b>	<b><u>FY 2008</u></b>	<b><u>FY 2007</u></b>
Slot Devices	\$ 6,685,162	\$ 6,676,259	\$ 7,216,657	\$ 8,269,722	\$ 9,344,608
Tables and Games	<u>3,949,537</u>	<u>3,651,188</u>	<u>3,569,972</u>	<u>4,231,226</u>	<u>4,394,523</u>
<b>Total</b>	<b><u>\$10,634,699</u></b>	<b><u>\$10,327,447</u></b>	<b><u>\$10,786,629</u></b>	<b><u>\$12,500,948</u></b>	<b><u>\$12,739,131</u></b>

Five Year Overall Revenues<sup>1</sup> (Nonrestricted Licensees/\$1 million and over) (in thousands)

<b><u>Revenue</u></b>	<b><u>FY 2011</u></b>	<b><u>FY 2010</u></b>	<b><u>FY 2009</u></b>	<b><u>FY 2008</u></b>	<b><u>FY 2007</u></b>
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	<u>2,742,573</u>	<u>2,597,979</u>	<u>2,712,418</u>	<u>3,000,097</u>	<u>2,846,185</u>
<b>Total</b>	<b><u>\$22,012,064</u></b>	<b><u>\$20,853,561</u></b>	<b><u>\$22,011,365</u></b>	<b><u>\$25,004,824</u></b>	<b><u>\$25,257,027</u></b>

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)**

<b><u>County</u></b>	<b><u>FY2011</u></b>	<b><u>FY2010</u></b>	<b><u>FY2009</u></b>	<b><u>FY2008</u></b>	<b><u>FY 2007</u></b>
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	<u>12,282,702</u>	<u>12,056,234</u>	<u>12,679,360</u>	<u>13,602,406</u>	<u>14,723,512</u>
<b>Statewide</b>	<b><u>\$ 853,455,347</u></b>	<b><u>\$ 829,303,836</u></b>	<b><u>\$ 858,007,713</u></b>	<b><u>\$ 980,052,427</u></b>	<b><u>\$1,036,688,550</u></b>

**Five Year Tax Collections (Statewide by Category)**

<b><u>Category</u></b>	<b><u>FY2011</u></b>	<b><u>FY2010</u></b>	<b><u>FY2009</u></b>	<b><u>FY2008</u></b>	<b><u>FY2007</u></b>
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	<u>5,518,552</u>	<u>11,540,555</u>	<u>9,586,732</u>	<u>5,156,386</u>	<u>10,158,029</u>
<b>Statewide</b>	<b><u>\$ 853,455,347</u></b>	<b><u>\$ 829,303,836</u></b>	<b><u>\$ 858,007,713</u></b>	<b><u>\$ 980,052,427</u></b>	<b><u>\$1,036,688,550</u></b>



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

<u>Fund</u>	<u>FY2011</u>	<u>FY2010</u>	<u>FY2009</u>	<u>FY2008</u>	<u>FY2007</u>
General Fund	802,064,909	\$ 776,725,582	\$ 804,166,335	\$ 925,926,097	\$ 980,674,834
Problem Gambling <sup>1</sup>	1,494,981	1,535,172	1,570,472	1,582,108	1,618,432
Dedicated Fund <sup>2</sup>	<u>49,895,457</u>	<u>51,043,082</u>	<u>52,270,906</u>	<u>52,544,222</u>	<u>54,395,284</u>
<b>Statewide</b>	<b><u>\$ 853,455,347</u></b>	<b><u>\$ 829,303,836</u></b>	<b><u>\$ 858,007,713</u></b>	<b><u>\$ 980,052,427</u></b>	<b><u>\$1,036,688,550</u></b>

*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](mailto:publications@gcb.nv.gov).

<b><u>Publication</u></b>	<b><u>Description</u></b>
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.

<b><u>Publication</u></b>	<b><u>Description</u></b>
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

	<u>Phone Numbers</u>	<u>Fax Numbers</u>
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

	<u>Phone Number</u>	<u>Fax Number</u>
Enforcement Division	(775) 738-7191	(775) 738-3608

### Las Vegas Office

	<u>Phone Numbers</u>	<u>Fax Numbers</u>
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)**

	<b><u>Phone Numbers</u></b>	<b><u>Fax Numbers</u></b>
Technology Division	(702) 486-3274	(702) 486-2241
Technology Division – Lab	(702) 486-2043	(702) 486-2241
TDD Service	(702) 486-2497	

**Laughlin Office**

	<b><u>Phone Number</u></b>	<b><u>Fax Number</u></b>
Enforcement Division	(702) 298-0669	(702) 298-6049

**Reno Office**

	<b><u>Phone Numbers</u></b>	<b><u>Fax Numbers</u></b>
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	<a href="http://www.gaming.nv.gov">www.gaming.nv.gov</a>
About the Gaming Control Board	<a href="http://www.gaming.nv.gov/about_board.htm">www.gaming.nv.gov/about_board.htm</a>
Agency Forms and Applications	<a href="http://www.gaming.nv.gov/agency_forms.htm">www.gaming.nv.gov/agency_forms.htm</a>
Excluded, Wanted and Denied Persons	<a href="http://www.gaming.nv.gov/loep_main.htm">www.gaming.nv.gov/loep_main.htm</a>
Gaming License Fees and Tax Rate Schedule	<a href="http://www.gaming.nv.gov/taxfees.htm">www.gaming.nv.gov/taxfees.htm</a>
Gaming Revenue Information	<a href="http://www.gaming.nv.gov/gaming_revenue_rpt.htm">www.gaming.nv.gov/gaming_revenue_rpt.htm</a>
Gaming Statutes and Regulations	<a href="http://www.gaming.nv.gov/stats_regs.htm">www.gaming.nv.gov/stats_regs.htm</a>
Notices, Press Releases, etc.	<a href="http://www.gaming.nv.gov/industry_notices.htm">www.gaming.nv.gov/industry_notices.htm</a>
Problem Gambling	<a href="http://www.gaming.nv.gov/problem_gambling.htm">www.gaming.nv.gov/problem_gambling.htm</a>

### **Associations, Boards and Commissions**

American Gaming Association	<a href="http://www.americangaming.org">www.americangaming.org</a>
Gaming Commission and Boards	<a href="http://www.gamingfloor.com/Commissions.htm">www.gamingfloor.com/Commissions.htm</a>
Gaming Regulators European Forum	<a href="http://www.gref.net">www.gref.net</a>
International Association of Gaming Advisors	<a href="http://www.iaga.org">www.iaga.org</a>
International Association of Gaming Regulators	<a href="http://www.iagr.org">www.iagr.org</a>
North American Association of State and Provincial Lotteries	<a href="http://www.naspl.org">www.naspl.org</a>
State Gambling Agency Sites	<a href="http://www.gambling-law-us.com">www.gambling-law-us.com</a>
Association of Gaming Equipment Manufacturers	<a href="http://www.agem.org">www.agem.org</a>
Gaming Standards Association	<a href="http://www.gamingstandards.com">www.gamingstandards.com</a>

**Nevada University and College Links**

UNLV Institute	<a href="http://www.igi.unlv.edu">www.igi.unlv.edu</a>
UNR Institute	<a href="http://www.business.unr.edu/gaming/">www.business.unr.edu/gaming/</a>
College of Southern Nevada Casino Management Program	<a href="http://www.csn.edu/pages/204.asp#3">www.csn.edu/pages/204.asp#3</a>

**Problem Gambling**

Gam-Anon.org	<a href="http://www.gam-anon.org">www.gam-anon.org</a>
Gamblers Anonymous	<a href="http://www.gamblersanonymous.org">www.gamblersanonymous.org</a>
National Center for Responsible Gaming	<a href="http://www.blog.ncrg.org">www.blog.ncrg.org</a>
National Council on Problem Gambling	<a href="http://www.ncpgambling.org">www.ncpgambling.org</a>
National Gambling Impact Study	<a href="http://www.govinfo.library.unt.edu/ngisc/index.htm">www.govinfo.library.unt.edu/ngisc/index.htm</a>
National Gambling Impact Study Commission	<a href="http://www.govinfo.library.unt.edu/ngisc/reports">www.govinfo.library.unt.edu/ngisc/reports</a>
Nevada Council on Problem Gaming	<a href="http://www.nevadacouncil.org">www.nevadacouncil.org</a>

**Tribal Gaming**

National Congress of American Indians	<a href="http://www.ncai.org">www.ncai.org</a>
National Congress of American Indians – Gaming Compacts	<a href="http://www.ncai.org/Gaming_Compacts.103.0.html">www.ncai.org/Gaming_Compacts.103.0.html</a>
National Indian Gaming Association	<a href="http://www.indiangaming.org">www.indiangaming.org</a>
National Indian Gaming Commission	<a href="http://www.nigc.gov">www.nigc.gov</a>