NGC #5

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OCT 18 2013
NEVADA GAMING COMMISSION
CARSON CITY, NEVADA

NGC 13-13

STATE OF NEVADA

BEFORE THE NEVADA GAMING COMMISSION

STATE GAMING CONTROL BOARD, Complainant, vs. GOLDEN ROUTE OPERATIONS LLC, dba GOLDEN ROUTE OPERATIONS, Respondent.	**COMPLAINT**

Attorney General's Office
Gaming Division
555 E. Washington Ave., Ste. 3900
Las Vegas, Nevada 89101

The State of Nevada, on relation of its STATE GAMING CONTROL BOARD (hereinafter "BOARD"), Complainant herein, by and through its counsel, CATHERINE CORTEZ MASTO, Attorney General, and EDWARD L. MAGAW, Deputy Attorney General, hereby files this Complaint for disciplinary action against GOLDEN ROUTE OPERATIONS LLC, dba GOLDEN ROUTE OPERATIONS (hereinafter "GRO"), Respondent herein, pursuant to Nevada Revised Statute (NRS) 463.310(2) and alleges as follows:

1. Complainant, BOARD, is an administrative agency of the State of Nevada duly organized and existing under and by virtue of chapter 463 of NRS and is charged with the administration and enforcement of the gaming laws of this State as set forth in Title 41 of NRS (Nevada Gaming Control Act) and the Regulations of the Nevada Gaming Commission (hereinafter "Commission" or "NGC").

2. Respondent, GRO, located at 6595 South Jones Boulevard, Las Vegas, Nevada, holds a nonrestricted gaming license for a slot machine route, and, as such, is charged with the responsibility of complying with all of the provisions of the Nevada Gaming Control Act and the Regulations of the Commission.

RELEVANT LAW

3. The Nevada Legislature has declared under NRS 463.0129(1) that:

> (a) The gaming industry is vitally important to the economy of the State and the general welfare of the inhabitants.
>
> (b) The continued growth and success of gaming is dependent upon public confidence and trust that licensed gaming 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 where gambling devices are operated do not unduly impact the quality of life enjoyed by residents of the surrounding neighborhoods, that the rights of the creditors of licensees are protected and that gaming is free from criminal and corruptive elements.
>
> (c) Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations and activities related to the operation of licensed gaming establishments, 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.

NRS 463.0129(1)(a)-(d).

4. The Commission has full and absolute power and authority to limit, condition, restrict, revoke or suspend any license, or fine any person licensed, for any cause deemed reasonable. *See* NRS 463.1405(4).

5. The BOARD is authorized to observe the conduct of licensees in order to ensure that the gaming operations are not being conducted in an unsuitable manner. *See* NRS 463.1405(1).

6. This continuing obligation is repeated in NGC Regulation 5.040, which provides as follows:

> A gaming license is a revocable privilege, and no holder thereof shall be deemed to have acquired any vested rights therein or thereunder. The burden of proving his qualifications to hold any license rests at all times on the licensee. The board is charged by law with the duty of observing the conduct of all licensees to the

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end that licenses shall not be held by unqualified or disqualified persons or unsuitable persons or persons whose operations are conducted in an unsuitable manner.

Nev. Gaming Comm'n Reg. 5.040.

7. Nevada Gaming Commission Regulation 5.010 provides as follows:

> 1. It is the policy of the commission and the board to require that all establishments wherein gaming is conducted in this state be operated in a manner suitable to protect the public health, safety, morals, good order and general welfare of the inhabitants of the State of Nevada.
>
> 2. Responsibility for the employment and maintenance of suitable methods of operation rests with the licensee, and willful or persistent use or toleration of methods of operation deemed unsuitable will constitute grounds for license revocation or other disciplinary action.

Nev. Gaming Comm'n Reg. 5.010.

8. Nevada Gaming Commission Regulation 5.011 states, in relevant part, as follows:

> The board and the commission deem any activity on the part of any licensee, his agents or employees, that is inimical to the public health, safety, morals, good order and general welfare of the people of the State of Nevada, or that would reflect or tend to reflect discredit upon the State of Nevada or the gaming industry, to be an unsuitable method of operation and shall be grounds for disciplinary action by the board and the commission in accordance with the Nevada Gaming Control Act and the regulations of the board and the commission. Without limiting the generality of the foregoing, the following acts or omissions may be determined to be unsuitable methods of operation:
>
> 1. Failure to exercise discretion and sound judgment to prevent incidents which might reflect on the repute of the State of Nevada and act as a detriment to the development of the industry.
>
> . . . .
>
> 8. Failure to comply with or make provision for compliance with all federal, state and local laws and regulations pertaining to the operations of a licensed establishment including, without limiting the generality of the foregoing, payment of license fees, withholding any payroll taxes, liquor and entertainment taxes and antitrust and monopoly statutes.
>
> The Nevada gaming commission in the exercise of its sound discretion can make its own determination of whether or not the licensee has failed to comply with the aforementioned, but any such determination shall make use of the established precedents in interpreting the language of the applicable statutes. Nothing in this section shall be deemed to affect any right to judicial review.
>
> . . . .

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> 10. Failure to conduct gaming operations in accordance with proper standards of custom, decorum and decency, or permit any type of conduct in the gaming establishment which reflects or tends to reflect on the repute of the State of Nevada and act as a detriment to the gaming industry.

Nev. Gaming Comm'n Reg. 5.011(1), (8), and (10).

9. Nevada Gaming Commission Regulation 5.030 provides as follows:

> ***Violation of any provision of the Nevada Gaming Control Act or of these regulations by a licensee***, his agent or employee ***shall be deemed*** contrary to the public health, safety, morals, good order and general welfare of the inhabitants of the State of Nevada and ***grounds for suspension or revocation of a license***. Acceptance of a state gaming license or renewal thereof by a licensee constitutes an agreement on the part of the licensee to be bound by all of the regulations of the commission as the same now are or may hereafter be amended or promulgated. ***It is the responsibility of the licensee to keep himself informed of the content of all such regulations, and ignorance thereof will not excuse violations***.

Nev. Gaming Comm'n Reg. 5.030 (emphasis added).

10. Nevada Revised Statutes 463.310 states in relevant part as follows:

> 1. The Board shall make appropriate investigations:
> (a) To determine whether there has been any violation of this chapter or chapter 462, 464, 465 or 466 of NRS or any regulations adopted thereunder.
> (b) To determine any facts, conditions, practices or matters which it may deem necessary or proper to aid in the enforcement of any such law or regulation.
>
> . . . .
>
> 2. If, after any investigation the Board is satisfied that a license, registration, finding of suitability, pari-mutuel license or prior approval by the Commission of any transaction for which the approval was required or permitted under the provisions of this chapter or chapter 462, 464 or 466 of NRS should be limited, conditioned, suspended or revoked, it shall initiate a hearing before the Commission by filing a complaint with the Commission in accordance with NRS 463.312 and transmit therewith a summary of evidence in its possession bearing on the matter and the transcript of testimony at any investigative hearing conducted by or on behalf of the Board.

NRS 463.310(1)(a) and (b), and (2).

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11. In response to a Complaint brought by the BOARD, NRS 463.310(4) provides in relevant part that the Commission may:

> (a) Limit, condition, suspend or revoke the license of any licensed gaming establishment or the individual license of any licensee without affecting the license of the establishment;
>
> . . . .
>
> (d) Fine each person or entity or both, who was licensed, registered or found suitable pursuant to this chapter or chapter 464 of NRS . . . :
>
> . . . .
>
> (2) . . . [N]ot more than $100,000 for each separate violation of the provisions of this chapter or chapter 464 or 465 of NRS or of the regulations of the Commission which is the subject of an initial complaint and not more than $250,000 for each separate violation of the provisions of this chapter or chapter 464 or 465 of NRS or of the regulations of the Commission which is the subject of any subsequent complaint.
>
> . . . .

NRS 463.310(4)(a) and (d)(2).

12. Nevada Revised Statute 463.160(1) provides in relevant part:

> 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;
>
> . . . .
>
> (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;
>
> . . . .
>
> ➥ 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.

NRS 463.160(1).

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13. An "operator of a slot machine route" is defined under NRS 463.018 as:

> . . . a person who, under any agreement whereby consideration is paid or payable for the right to place slot machines, engages in the business of placing and operating slot machines upon the business premises of others at three or more locations.

NRS 463.018.

14. Nevada Revised Statute 463.0189 defines a "restricted license" and "restricted operation" as:

> . . . a state gaming license for, or an operation consisting of, not more than 15 slot machines and no other game or gaming device at an establishment in which the operation of slot machines is incidental to the primary business of the establishment.

NRS 463.0189.

15. Nevada Revised Statute 463.161 provides for a restricted gaming license and reads as follows:

> **A license to operate 15 or fewer slot machines** at an establishment in which the operation of slot machines is incidental to the primary business conducted at the establishment **may only be granted to the operator of the primary business or to a licensed operator of a slot machine route.**

NRS 463.161 (emphasis added).

16. Nevada Gaming Commission Regulation 4.060 states as follows:

> Notwithstanding the provisions of Regulation 4.050, a license may be issued to an applicant as a slot machine operator after the applicant has been licensed for three locations or has firm commitments to place machines at three licensed locations. An applicant for such a license shall file a single application showing the name and address of each lessee, the number of machines to be maintained at each location and such other information as may be required by the board or the commission. **This regulation does not alter or negate the requirement that each location of such operator must also be separately licensed.**

Nev. Gaming Comm'n Reg. 4.060 (emphasis added).

17. Nevada Revised Statute 463.162(1)(c) states:

> 1. Except as otherwise provided in subsections 2 and 3, it is unlawful for any person to:

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. . . .

> (c) Furnish services or property, real or personal, on the basis of a contract, lease or license, pursuant to which that person receives payments based on earnings or profits from any gambling game, including any slot machine, without having first procured a state gaming license.

NRS 463.162(1)(c).

18. Pursuant to Nevada Gaming Commission Regulation 5.050:

> Every licensee shall report to the board quarterly the full name and address of every person, including lending agencies, who has any right to share in the profits of such licensed games, whether as an owner, assignee, landlord or otherwise, or to whom any interest or share in the profits of any licensed game has been pledged or hypothecated as security for a debt or deposited as a security for the performance of any act or to secure the performance of a contract of sale. Such report shall be submitted concurrently with application for renewal of license.

Nev. Gaming Comm'n Reg. 5.050.

19. Lastly, pursuant to NRS 463.220(2), no state gaming license may be assigned either in whole or in part. NRS 463.220(2).

BACKGROUND

20. On or about September 8, 2011, GRO, a Nevada licensed slot route operator, entered into a Participation Agreement (hereinafter "Participation Agreement") with Million Dollar Entertainment & Advertising, Inc. (hereinafter "MDEA") to place and/or operate slot machines at The 25 Bar & Grill, located at 4531 North Las Vegas Boulevard, in Las Vegas, Nevada (hereinafter also referred to as "the location").[1]

21. Under the terms of the Participation Agreement, GRO was required to remit a certain percentage of the gaming revenue generated from the slot machines placed at The 25 Bar & Grill to MDEA.

22. On or about September 19, 2011, GRO placed four (4) slot machines at the location, and on or about December 1, 2011, GRO added six (6) additional machines, bringing the total number at the location to ten (10).

. . .

[1] In the Participation Agreement, the location was incorrectly referred to as The New 25 Club.

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23. According to representations made by GRO to the BOARD, the transaction from which the Participation Agreement originated was initiated by the President of MDEA, Paul Bowman.

24. According to GRO, Paul Bowman approached GRO and made false and/or misleading representations that he was the General Manager of The 25 Bar & Grill and that he had authority to enter into the Participation Agreement on behalf of the owner, BJ Property, LLC (hereinafter "BJP").

25. However, prior to entering into the Participation Agreement with GRO, MDEA had entered into a management/sales agreement with BJP (hereinafter "BJP Agreement"), which assigned the entire operation of The 25 Bar & Grill over to MDEA.

26. Based on the terms of the BJP Agreement, when MDEA and GRO entered into the Participation Agreement, Paul Bowman was acting in his capacity as President of MDEA and not as a representative of BJP, as GRO claims he had represented to it.

27. GRO has stated to the Board that it had no knowledge of the BJP Agreement or the arrangement between BJP and MDEA prior to entering into the Participation Agreement.

28. Under the terms of the BJP Agreement, MDEA was given full control over the operation of The 25 Bar & Grill in exchange for making certain set monthly payments to BJP.

29. On the date the BJP Agreement took effect, which was on or about July 20, 2011, MDEA became the operator of The 25 Bar & Grill, replacing BJ Property, LLC, in that capacity.

30. Accordingly, on the date the Participation Agreement was entered into between MDEA and GRO, MDEA was the operator of the primary business at the location, not BJP.

31. Under NRS 463.161, a restricted gaming license may only be issued to the operator of the primary business where the slot machines are operated, or to a licensed slot route operator.

32. At all times relevant to this Complaint, neither the operator of the primary business (MDEA) nor the slot route operator (GRO) had been issued a gaming license for the location.

33. The only entity that was licensed at the time to operate slot machines at the location was the owner of the business, BJP, which was not a party to the Participation Agreement.

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34. In what appears to be an addendum to the BJP Agreement, signed solely by Paul Bowman, BJP purports to assign the rights to "run the gambling under BJ Propertys (*sic*) LLC Burdet (*sic*) Jones (*sic*) license" to MDEA.

35. However, under Nevada law, a gaming license issued by the State of Nevada is nontransferable. NRS 463.220(2).

36. Accordingly, to the extent that the addendum to the BJP Agreement purported to transfer the BJP's gaming license, and the right to expose gaming to the public under that license, the aforementioned addendum to the BJP Agreement had no legal effect. *Id.*

37. To have lawfully operated the slot machines at the location, either MDEA or GRO would have had to have obtained a restricted gaming license for the location, but neither had done so.

38. Accordingly, at all times relevant to this Complaint, the slot machines at issue in this Complaint were operated for play at the location without the proper state gaming license having been issued.

39. In addition, at no time relevant to this Complaint was MDEA authorized by the NGC to receive a share of the gaming revenue from those machines, yet GRO remitted such funds to MDEA pursuant to the Participation Agreement.

40. Over the period of time relevant to this Complaint, GRO remitted a total of $20,552.65 (Twenty Thousand Five Hundred Fifty-Two and 65/100 Dollars) of the gaming revenue from the slot machines at the location to MDEA.

41. In or around December 2011, due to MDEA's alleged breach of the BJP Agreement, BJP resumed control over the business operations at the location from MDEA. As a result, BJP once again became the operator of the primary business.

42. Thereafter, on or about January 23, 2012, BJP entered into an "Assignment of Agreement" with GRO under which BJP fully accepted the assignment of the Participation Agreement entered into between GRO and MDEA for the location.

43. According to statements made by GRO to the BOARD regarding the events discussed in this Complaint, at no time prior to entering into the Participation Agreement with MDEA did

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Las Vegas, Nevada 89101

GRO contact the BOARD to inquire as to whether MDEA was licensed to expose slot machines to the public for play at the location. The only inquiry to the BOARD was whether or not the location was current on its annual taxes and quarterly fees, which it was.

44. According to further statements made by GRO to the BOARD regarding the events discussed in this Complaint, when MDEA requested GRO increase in the number of slot machines from four (4) to ten (10) at the location, GRO personnel examined certain documents obtained from the BOARD, which are believed to have included a letter from Frank Streshley, Chief of the BOARD's Tax and License Division, approving the increase in the number of slot machines at the location upon the payment of the additional annual taxes and quarterly fees required for the additional slot machines, and/or the relevant tax and fee reports submitted to the BOARD with the payment of those additional taxes and fees. On each of those documents the licensee for the location is designated as BJ Property LLC, dba (doing business as) The 25 Bar & Grill, not MDEA. Upon reviewing those documents GRO had actual and/or constructive notice that MDEA was not the licensee at the location.

45. Additionally, when BJP resumed control over the operation of the primary business at the location and GRO entered into the Assignment of Agreement with BJP, GRO had actual and/or constructive notice that MDEA had never been licensed at the location to expose slot machines for play to the public or to share in the gaming revenue generated therefrom.

46. At no time relevant to this Complaint did GRO take steps to notify the BOARD of what had occurred between GRO and MDEA.

COUNT ONE

VIOLATION OF NRS 463.160(1)(a) – UNLAWFULLY OPERATING AND/OR ASSISTING ANOTHER IN UNLAWFULLY OPERATING SLOT MACHINES FOR PLAY IN NEVADA.

47. Complainant BOARD realleges and incorporates by reference as though set forth in full herein paragraphs 1 through 46 above.

48. Nevada Revised Statute 463.160(1)(a) states that it is unlawful to operate slot machines for play in the State of Nevada without having first procured, and thereafter maintain all gaming licenses required by statute.

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49. Under NRS 463.161, a gaming license is required to operate 15 or fewer slot machines at an establishment where the operation of the slot machines is incidental to the primary business.

50. Such gaming license is classified as a "restricted license" under NRS 463.0189.

51. Pursuant to NRS 463.161, a restricted gaming license may only be issued to the operator of the primary business at the location where the machines are operated or to a licensed operator of a slot machine route.

52. As with all state gaming licenses, a restricted gaming license may not be transferred in whole or in part. NRS 463.222(2).

53. Because the ten (10) slot machines placed and operated by GRO were incidental to the primary business operation at The 25 Bar & Grill, NRS 463.161, a restricted license was required in order to lawfully expose those slot machines for play.

54. According to NRS 463.161, the restricted license would have had to been procured and maintained by either MDEA, as the operator of the primary business, or by GRO, as the licensed slot route operator that placed and operated the slot machines, in order for those slot machines to have been lawfully operated for play at The 25 Bar & Grill.

55. However, at no time relevant to this Complaint did either MDEA or GRO hold such a license.

56. By entering into the Participation Agreement with MDEA and placing slot machines for play at The 25 Bar & Grill when neither it nor MDEA had procured the statutorily required restricted gaming license to do so, GRO violated NRS 463.160(1)(a) and/or assisted MDEA in violating NRS 463.160(1)(a).

57. By violating NRS 463.160(1)(a), and/or assisting MDEA in violating NRS 463.160(1)(a), GRO demonstrated an unsuitable method of operation under NGC Regulations 5.011 and 5.011(1) and (8).

58. Such a violation provides grounds for the BOARD to take disciplinary action against GRO. See Nev. Gaming Comm'n Reg. 5.010(1) and (2) and 5.030.

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COUNT TWO

VIOLATION OF NRS 463.160(1)(d) – RECEIVING SHARE OF GAMING REVENUE FROM AN UNLICENSED GAMING OPERATION

59. Complainant BOARD realleges and incorporates by reference as though set forth in full herein paragraphs 1 through 58 above.

60. Nevada Revised Statute 463.160(1)(d) states that it is unlawful for a person to receive, directly or indirectly, any share of the revenue derived from the offering of slot machines for play without first procuring, and thereafter maintaining, all required gaming licenses required under statute or regulation.

61. As discussed above, GRO placed and operated, and/or assisted MDEA to operate, ten (10) slot machines for play at The 25 Bar & Grill without MDEA or itself having procured, and thereafter maintained, the required restricted gaming license to do so.

62. Under the Participation Agreement, as compensation for the placement and operation, and/or assistance to MDEA in the operation, of the slot machines at The 25 Bar & Grill, GRO received a share of the revenue generated therefrom.

63. Because GRO received a share of the revenue from the unlicensed gaming operation at The 25 Bar & Grill, it violated NRS 463.160(1)(d).

64. By violating NRS 463.160(1)(d), GRO demonstrated an unsuitable method of operation under NGC Regulations 5.011 and 5.011(1) and (8).

65. Such a violation provides grounds for the BOARD to take disciplinary action against GRO. See Nev. Gaming Comm'n Reg. 5.010(1) and (2) and 5.030.

COUNT THREE

VIOLATION OF NRS 463.160(1)(d) AND NRS 463.162(1)(c) – PERMITTING A PERSON TO SHARE IN GAMING REVENUE WITHOUT THE PERSON BEING PROPERLY LICENSED.

66. Complainant BOARD realleges and incorporates by reference as though set forth in full herein paragraphs 1 through 65 above.

67. Under NRS 463.160(1)(d), it is unlawful for a person to receive, directly or indirectly, any share of the gaming revenue from a slot machine without first procuring, and thereafter maintaining, all required gaming licenses required under statute or regulation.

. . .

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68. In addition, under NRS 463.162(1)(c), it is unlawful for a person to furnish "services or property, real or personal, on the basis of a contract, lease or license, pursuant to which that person receives payments based on earnings or profits from any gambling game, including any slot machine, without having first procured a state gaming license."

69. Under the Participation Agreement entered into between MDEA and GRO, MDEA was entitled to, and did in fact receive a share of the gaming revenue generated from the ten (10) slot machines GRO placed and operated, and/or assisted MDEA in operating, at The 25 Bar & Grill.

70. MDEA, however, was not licensed by the State of Nevada to receive any share of the gaming revenue from the operation of those slot machines, as it was required to be under NRS 463.162(1)(d).

71. Nor was MDEA licensed by the State of Nevada to receive any payments based on gaming revenue for allowing GRO to place slot machines on the premises of The 25 Bar & Grill as MDEA was required to be under NRS 463.162(1)(c).

72. Over the period of time relevant to this Complaint, GRO remitted a total of $20,552.65 (Twenty Thousand Five Hundred Fifty-Two and 65/100 Dollars) to MDEA in gaming revenue from the slot machines GRO placed and operated at The 25 Bar & Grill as provided for under the Participation Agreement.

73. By providing MDEA a share of the gaming revenue from the slot machines it placed and operated, and/or assisted MDEA in operating, at The 25 Bar & Grill, GRO effectively aided MDEA in its violation of NRS 463.160(1)(d) and NRS 463.162(1)(c).

74. Such conduct by GRO constitutes an unsuitable method of operation under NGC Regulations 5.011 and 5.011(1) and (8) and thus provides the BOARD with grounds upon which to seek disciplinary action against it. See Nev. Gaming Comm'n Reg. 5.010(1) and (2) and 5.030.

PRAYER FOR RELIEF

WHEREFORE, based upon the allegations contained herein, which constitute reasonable cause for disciplinary action against GOLDEN ROUTE OPERATIONS LLC, dba

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GOLDEN ROUTE OPERATIONS, pursuant to NRS 463.310, and NGC Regulations 5.010, 5.011 and 5.030 the BOARD prays for the relief set forth as follows:

1. That the Nevada Gaming Commission serve a copy of this Complaint on GOLDEN ROUTE OPERATIONS LLC, dba GOLDEN ROUTE OPERATIONS, pursuant to NRS 463.312(2);

2. That the Nevada Gaming Commission fine GOLDEN ROUTE OPERATIONS LLC, dba GOLDEN ROUTE OPERATIONS, a monetary sum pursuant to the parameters defined at NRS 463.310(4) for each separate violation of the provisions of the Nevada Gaming Control Act or the Regulations of the Nevada Gaming Commission Regulations;

3. That the Nevada Gaming Commission take action against GOLDEN ROUTE OPERATIONS LLC, dba GOLDEN ROUTE OPERATIONS, license or licenses pursuant to the parameters defined at NRS 463.310(4); and

4. For such other and further relief as the Nevada Gaming Commission may deem just and proper.

DATED this 15th day of October, 2013.

STATE GAMING CONTROL BOARD

A.G. BURNETT, Chairman

SHAWN R. REID, Member

TERRY JOHNSON, Member

Submitted by:

CATHERINE CORTEZ MASTO
Attorney General

By: _____
EDWARD L. MAGAW
Deputy Attorney General
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NGC #6

NEVADA GAMING COMMISSION

Repeal of Nevada Gaming Commission Regulation 22.035 (Registration of Employees) and Amendment To Nevada Gaming Commission Regulation 3.100 (Employee) Report)	))))))

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PETITION

COMES NOW Station Casinos LLC ("Station"), an interested person, and petitions the Nevada Gaming Commission, pursuant to NRS 463.145-1(d), to repeal Regulation 22.035, and to amend Regulation 3.100 (c) to add race book and sports pool to the definition of "Qualifying employee."

Regulation 22.035 provides that any individual who fulfills the function of race book or sports pool manager, race book or sports pool supervisor, manager or supervisor for an operator of a call center or who determines race book or sports pool betting odds, point spreads or betting lines must register with the Gaming Control Board, and sets forth a procedure for such registration. This requirement duplicates the gaming employee registration requirement set forth in NRS 463.335 and Regulations 5.101 through 109. Race book and sports pool employees are gaming employees as defined in NRS 463.0157. Accordingly, all of them must be registered as gaming employees, and those whose functions are listed in Regulation 22.035 must also be separately registered pursuant to that regulation. The duplicative registration requirement of Regulation 22.035 is costly and burdensome, especially to a registered publicly traded company like Station, whose subsidiaries operate numerous race books and sports pools. The heavy costs and burdens associated with Regulation 22.035 do not yield a significant regulatory advantage that is not already achieved by the gaming employee registration requirement. At best, the registration of race book and sports pool supervisory employees provides a tracking mechanism. The same purpose can be achieved by amending Regulation 3.100 (c) to add race book and sports pool to the definition of "Qualifying employee." Such an addition would require nonrestricted licensees to report key employees in race books and sports pools semi-annually, thus providing a tracking mechanism for such employees without a duplicative, costly and burdensome registration requirement.

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For the foregoing reasons, Station requests the repeal Regulation 22.035, and an amendment to Regulation 3.100 (c) to add race book and sports pool to the definition of "Qualifying employee."

DATED this 20th day of September, 2013

STATION CASINOS, LLC

By: David Arrajj
David Arrajj
BROWNSTEIN HYATT FARBER SCHRECK, LLP

Counsel for the Petitioner

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October 9, 2013

VIA E-MAIL AND U.S. MAIL

Adriana G. Fralick, Esq.
Executive Secretary
State Gaming Control Board
1919 East College Parkway
Carson City, NV 89702-8003

RE: In the Matter of: Petition to Amend NGC Regulation 3.100 and to Repeal NGC Regulation 22.035

Dear Ms. Fralick:

Enclosed you will find a draft of a proposed amended NGC Regulation 3.100 in connection with the above-referenced Petition.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

David R. Arrajj

DRA:dkh

Enclosure

cc: John Pasqualotto *(w/copy of encl.)*

RECEIVED/FILED
OCT 11 2013
NEVADA GAMING COMMISSION
CARSON CITY, NEVADA

3.100 Employee report.

1. Definitions. As used in this section:
(a) (No Change)
(b) (No Change)
(c) "Qualifying employee" of a group I or group II nonrestricted licensee means any person whose responsibility is to directly oversee the entirety of the following types of departments or functions of the licensee's operations:
(1) Accounting.
(2) Bingo.
(3) Cage and vault.
(4) Contracts and agreements for entertainment or for the lease of space on the premises of the licensed gaming establishment.
(5) Credit.
(6) Collections.
(7) Entertainment operations.
(8) Finance.
(9) Food and beverage.
(10) Gaming regulatory compliance.
(11) Hotel operations.
(12) Human resources.
(13) Internal audit.
(14) Internal information technology.
(15) Keno.
(16) Marketing.
(17) Pit operations.
(18) Poker operations.
(19) Race book.
(20) Sales.
~~(20)~~(21) Security.
~~(21)~~(22) Slot operations.
(23) Sports pool.
~~(22)~~(24) Surveillance.
(d) (No Change)
2. (No Change)
3. (No Change)
4. (No Change)
5. (No Change)
6. (No Change)

NGC#7

BEFORE THE NEVADA GAMING COMMI

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IN THE MATTER OF THE ADOPTION OF AMENDMENTS TO NEVADA GAMING COMMISSION REGULATIONS 5.115, 14.010, 14.030 and 14.100 GOVERNING MULTI-JURISDICTIONAL PROGRESSIVE PRIZE SYSTEMS.

RECEIVED/FILED
OCT 8 2013
NEVADA GAMING COMMISSION
CARSON CITY, NEVADA

SUPPLEMENT TO PETITION FOR ADOPTION OF REGULATIONS

The Petitioners, Bally Technologies, Inc. ("Bally"), and IGT ("IGT" and collectively with Bally the "Companies"), acting by and through legal counsel, Lionel Sawyer & Collins, respectfully submit to the Nevada Gaming Commission (the "Commission"), this Supplement to Petition (the "Petition Supplement"), for the adoption of amendments to Nevada Gaming Commission Regulations 5.115, 14.010, 14.030 and 14.100 pursuant to Sections 463.143, 463.145(1)(d) and 463.150(2)(j) of the Nevada Revised Statutes ("NRS"). By this Petition Supplement, Bally and IGT provide the following additional information in support of the Petition filed by the Companies on August 7, 2013, namely:

1. As requested by the Nevada State Gaming Control Board during the Regulation Workshop conducted on September 11, 2013, copies of the following public documents:

(a) Minutes of Senate Comm. on Judiciary, 68th Sess., Nev. Legis., *Hearing on Assembly Bill* (May 12, 1995)(**Exhibit 1**, *infra*);

(b) Minutes of Assembly Comm. on Judiciary, 68th Sess., Nev. Legis., *Hearing on Assembly Bill 131* (Mar. 21, 1995)(**Exhibit 2**, *infra*); and

2. In response to matters raised and discussed before the Nevada State Gaming Control Board during the Regulation Workshop conducted on September 11, 2013, a revised draft dated October 1, 2013, of the Proposed Amendments to 5.115,

LIONEL SAWYER & COLLINS
ATTORNEYS AT LAW
1100 BANK OF AMERICA PLAZA
50 WEST LIBERTY STREET
RENO, NEVADA 89501
(775) 788-8666

14.010, 14.030 and 14.100 (**Exhibit 3**, *infra*).

DATED and respectfully submitted this 7th day of October, 2013.

LIONEL SAWYER & COLLINS

By: Dan R. Reaser

Dan R. Reaser, Esq.
Nevada State Bar No. 1170
1100 Bank of America Plaza
50 West Liberty Street
Reno, Nevada 89501
Telephone: 775.788.8666
Electronic mail: dreaser@lionelsawyer.com

Attorneys for Petitioners.

EXHIBIT 1

MINUTES OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Sixty-eighth Session
March 21, 1995

The Committee on Judiciary was called to order at 8:18 a.m., on Tuesday, March 21, 1995, Chairman Humke presiding in Room 332 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Mr. Bernie Anderson, Chairman
Mr. David E. Humke, Chairman
Ms. Barbara E. Buckley, Vice Chairman
Mr. Brian Sandoval, Vice Chairman
Mr. Thomas Batten
Mr. John C. Carpenter
Mr. David Goldwater
Mr. Mark Manendo
Mrs. Jan Monaghan
Ms. Genie Ohrenschall
Mr. Richard Perkins
Mr. Michael A. (Mike) Schneider
Mrs. Dianne Steel
Ms. Jeannine Stroth

GUEST LEGISLATORS PRESENT:

Assemblyman Vivian L. Freeman, District No. 24

STAFF MEMBERS PRESENT:

Dennis Neilander, Research Analyst
Patty Hicks, Committee Secretary

OTHERS PRESENT:

Mr. Orland T. Outland
Mr. Chris C. Fortier

OTHERS PRESENT: (Continued)

Mr. John G. Breeding, President, Shuffle Master, Inc.
P. Gregory Giordana, Esq., Lionel, Sawyer and Collins/Shuffle Master, Inc.
Mrs. Diane Breeding, Shuffle Master, Inc.
Mr. David Bennum
Mrs. Leilani Bennum
Ms. Perla DeCastro
Ann Price McCarthy, Esq., Nevada Trial Lawyers Association
Ms. Ande Engleman, Nevada Press Association
Ms. Kathleen Shane, Washoe County Social Services
Ms. Laurel Stadler, MADD
Honorable Scott Jordan, Second Judicial District Court, Washoe County
Ms. Barbara Pinkston
Mr. Jerry P. Nims, CASA, Washoe City Chapter, Nevada State Psychologists Association
Ms. Lucille K. Lusk, Nevada Concerned Citizens
Deputy Attorney General Donald W. Winne, Jr.
Barry Frank, M.D.
William Torch, M.D.
Deputy Attorney General Cyndy Pizel

Ms. Julie Foley, VP Public Affairs, International Technical Systems
Ms. Ellen Whittemore, Esq., Lionel, Sawyer and Collins/International Technical Systems
Mr. John Sarb, Administrator, Nevada Department of Human Resources, Division of Child and Family Services
Ms. Bobbie Gang, Nevada Chapter, National Association of Social Workers
Ms. Diane Loper, Nevada Women's Lobby
Ms. Shirley Perkins, Counselor, Washoe County School District
Ms. Sheila Leslie, Action for Nevada's Children
Mr. Robert Barengo, Leroy's Horse & Sports Place
Mr. Steve Ghiglieri
Ms. Debra Ballew
Mr. William A. Bible, Chairman, Nevada Gaming Board
Robert D. Faiss, Esq., Lionel, Sawyer and Collins Law Firm

ASSEMBLY BILL NO, 177 - Revises provisions governing best interests of child in termination of parental rights.

ASSEMBLY BILL NO. 302 - Makes best interests of child determining factor in cases concerning termination of parental rights.

Assemblyman Vivian L. Freeman, District No. 24, sponsor, testified the vulnerability of deserted and abused children in Nevada are the focus of this legislation. She stated the bill was endorsed by family court judges and urged consideration of its merits. The Honorable Scott Jordan, Second Judicial District Court, Washoe County, was requested to give testimony, attached as (Exhibit C).

Judge Jordan advised most cases involve parents with addiction problems making them incapable of providing proper parental care. He further advised A.B. 177 and A.B. 302 are the result of collaboration between individuals and agencies involved in working with children. Currently, if the parents fail to comply with a case plan for a six months period, termination of parental rights may be appropriate. Amendments proposed are if a child has been removed from the home for 18 consecutive months, presumption is made parents have not made efforts toward reunification. Therefore, termination of parental rights is in the best interests of the child. He also supported proposed amendments by Deputy Attorney General Donald W. Winne, Jr.

Chairman Humke announced that both bills will be referred to a subcommittee for consideration.

Deputy Attorney General Donald W. Winne, Jr., testified as counsel to Division of Child and Family Services and offered the proposed amendments to A.B. 177 attached as (Exhibit D). For the record, Assemblyman Vivian L. Freeman, District No. 24, sponsor, agreed with the proposed amendments.

Mr. John H. Sarb, Administrator, Nevada Department of Human Resources, Division of Child and Family Services, testified in support of A.B. 177 attached as (Exhibit F). Approximately eight hundred children are in custody for 18 months. The state makes a lousy parent. Teenagers are less likely candidates for termination of parental rights and adoption proceedings. Adoptive parents are easily found even for terminally ill children. Normally adoptions are finalized in two to three years. In regard to mixed race adoptions, Mr. Sarb indicated 120 adoptions were finalized. Attempts are made to match the race of the child to the adoptive parents before different race adoptive parents are considered.

Mr. Sarb stated there is no fiscal impact on this bill. Chairman Humke directed the subcommittee to research information on fiscal impact.

This year Division of Child and Family Services received child support of approximately $1.4 million dollars on a budget to care for children that exceeds $21 million. Of the $1.4 million less than $400,000 is from parents. The remainder is from other benefits such as social security, etc.

To achieve permanent reunification, a parent must show successful completion of addiction treatment, period of sobriety, parental education, stable residence, and proof of income. Cases in excess of sixty percent are successful in reunification. Deputy Attorney General Winne clarified the division makes recommendations to the court for final disposition of returning the child back to the family.

Barry S. Frank, M.D., Director of Pediatric Intensive Care Unit, Washoe Medical Center, testified in support of A.B. 177. Yearly he has seen 150-200 deaths of children due to some form of abuse. He urged the judges be given the tools to make rational caring decisions. Dr. Frank read the following quote, "The death of a child is the single most traumatic event in medicine. To lose a child is to lose a piece of yourself."

William Torch, M.D., Director of Neurodevelopmental and Neurodiagnostic Center and Muscular Dystrophy Clinic, testified in support of A.B. 177 and A.B. 302. Nevada needs to make a change. The best interests of children have been neglected through the years in the judicial system to help children.

Deputy Attorney General Donald W. Winne, Jr., stated there is a certain time frame where there is little or no contact with a parent. A case plan was developed. The parents appeared once or twice at a hearing. If no cooperation is received from a parent after six months, parental rights may be terminated to allow for adoption. After 18 months the parents have been allowed enough time for reunification. If parents cannot accomplish reunification in 18 months, the parent has the burden of proving they complied with the court plan in order to be reunited with the child. The best interest of the child has to be shown.

Mr. Jerry P. Nims, Ph.D., CASA, Washoe City Chapter, Nevada State Psychologists Association, testified in support of A.B. 177. The CASA organization desperately wants to see the intent of the bill advanced as hundreds of children are dealt with very unfairly. For years children's lives have been impacted and he implored this body to remedy the situation.

Mr. Orland T. Outland, child abuse victim of Reno, Nevada, testified in support of A.B. 177 and his testimony was distributed as (Exhibit G). He quoted a saying, "rank has its privilege and rank also has its responsibilities."

Mr. Chris Fortier, UNR student, testified stricter measures need to be enacted in severe cases. His testimony is attached as (Exhibit H).

Mr. and Mrs. David Bennum, grandparents, testified regarding a custody suit involving their grandson due to the incarceration of their daughter and addiction problems. Mrs. Lelanie Bennum passed around photographs of the child to the committee. Mr. Bennum read Dr. Nims, psychologist report and Dr. Earl Neilsen's evaluation. The court found the child should remain in the custody of the grandparents with visitation rights to the mother. The rights and best interests of the child may become the deciding factor. Instead the Nevada Supreme Court overturned the district court ruling. The presumption of the parent being unfit has to be found. They filed for stay of execution of the order. Chairman Humke informed the grandparents Assemblyman Freeman has a bill draft which affects this area of the statute.

Ms. Ann Price McCarthy, Esq., of Nevada Trial Lawyers Association, testified in support of A.B. 177 and A.B. 302 and offered her services to the subcommittee in drafting amendments. The best interest of the child should be considered in taking care of the children of this state.

Ms. Kathleen Shane, Director Children's Services Division, testified in support of

A.B. 177 and amendments. Her testimony is attached as (Exhibit I). Similarly, she offered her services to work with the subcommittee.

Ms. Laurel Stadler of MADD testified in support of A.B. 177 and handed out a brochure attached as (Exhibit J). She proposed amending Section 3 to add "conviction of a DUI offense."

Ms. Barbara Pinkston, stalking victim, recently moved from Las Vegas to Reno, testified in support of A.B. 177, as the judge in her particular case did not grant termination of parental rights. In this process the best interest of her daughter is being lost. She was at a loss for help. Assemblyman Freeman was thanked for drafting this bill.

Ms. Lucille K. Lusk, Nevada Concerned Citizens, testified in support of A.B. 177 and proposed amendment to p. 3 to change six months to a "presumption" rather than evidence. She would be pleased to work with the subcommittee.

ASSEMBLY BILL NO. 133 - Makes various changes to provisions governing regulation of gaming.

Mr. William A. Bible, Chairman, Nevada Gaming Control Board, testified in support of A.B. 133. Proposed amendments are attached as (Exhibit K).

Mr. Bible advised the Gaming Control Board reviews every work permit. In most instances the local entities issue work permits for revenue. The state has the ability to object. There is an appellate mechanism. It is common in northern Nevada for people working in more than two jurisdictions to be required to purchase multiple cards. Southern Nevada eliminates double carding by using an updated postal card.

Robert D. Faiss, Esq., of Lionel, Sawyer & Collins Law Firm, counsel to Nevada Resort Association with President Richard Bunker, testified in support of A.B. 131 and A.B. 133. They thanked Chairman Bible for his cooperative approach.

Ms. Ande Engleman, Nevada State Press Association, Inc., testified in support of A.B. 133. Mr. Bible was commended for his work and the amendments are supported.

ASSEMBLY BILL NO. 131 - Provides for regulation of inter-casino linked systems related to gaming.

Mr. William A. Bible, Chairman, Nevada Gaming Control Board, testified in support of A.B. 131 and looks forward to working with the subcommittee. As the technology in the gaming industry advances, this legislation is needed. It is patterned after operations currently being done by slot operators, such as Megabucks. Networking of table games with progressive features, i.e., sports and race books, creates a new classification of the licensee known as an operator of an inter-link system. It would not run afoul of the lottery statute.

Robert D. Faiss, Esq., of Lionel, Sawyer & Collins Law Firm, counsel to Nevada Resort Association, testified in support of A.B. 131.

Ms. Ellen Whittemore, Esq., of Lionel, Sawyer & Collins Law Firm, testified in support of A.B. 131 and new state-of-the-art keno technology through graphics and monitors. She looked forward to working with the subcommittee.

Ms. Julie A. Foley, Vice President, Public Affairs, International Technical Systems, Inc., testified in support of A.B. 131. She indicated a desire to revive interest in a new keno game and offered to confer with the subcommittee.

P. Gregory Giordana, Esq., Lionel, Sawyer and Collins/Shuffle Master, Inc., testified in support of A.B. 131 and agreed to work in cooperation with the subcommittee.

His testimony is attached as (Exhibit L). Chairman Bible and Nevada Resort Association are commended for their support. A proposed amendments to A.B. 131 for "Let It Ride Tournament" is attached as (Exhibit M). The state is estimated to receive $4 million dollars per year in gaming tax revenues from this game alone.

Mr. John G. Breeding, President, Shuffle Master, Inc., advised it is an electronic game and description of how to play is attached as (Exhibit N).

Chairman Humke advised proposed amendments of A.B. 185, A.B. 125, A.B. 151, A.B. 94, A.B. 92, A.B. 106, A.B. 110, A.B. 87, and S.B. 61 were distributed for review and inquiries should be directed to Mr. Neilander, research staff, or the Co-Chairmen.

Chairman Humke appointed a subcommittee on A.B. 177, A.B. 302, A.B. 131, and A.B. 133 composed of Mr. Humke, Mr. Anderson, Ms. Buckley and Mr. Sandoval.

There being no further business, the meeting was adjourned at 11:06 a.m.

RESPECTFULLY SUBMITTED:

Patty Hicks,
Committee Secretary

APPROVED BY:

Assemblyman Bernie Anderson, Chairman

Assemblyman David E. Humke, Chairman

EXHIBIT 2

MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Sixty-eighth Session
May 12, 1995

The Senate Committee on Judiciary was called to order by Chairman Mark A. James, at 8:35 a.m., on Friday, May 12, 1995, in Room 224 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Mark A. James, Chairman
Senator Jon C. Porter, Vice Chairman
Senator Maurice Washington
Senator Mike McGinness
Senator Ernest E. Adler
Senator Dina Titus
Senator O.C. Lee

GUEST LEGISLATORS PRESENT:

Assemblywoman Jeannine Stroth

STAFF MEMBERS PRESENT:

Allison Combs, Senior Research Analyst
Marilyn Hofmann, Committee Secretary

OTHERS PRESENT:

William A. Bible, Chairman, State Gaming Control Board
Harvey Whittemore, Lobbyist, representing Nevada Resort Association
P. Gregory Giordano, Attorney at Law, representing Shuffle Master, Inc.
Ellen Whittemore, Attorney at Law, representing International Technical Systems Julie Foley, Vice President of Public Affairs, International Technical Systems
Richard A. Wright, Attorney at Law, Nevada Attorneys for Criminal Justice
Mike Specchio, Office of the Washoe County District Attorney
Morgan Harris, Office of the Clark County District Attorney

Senator James opened the hearing on Assembly Bill (S.B.) 133.

ASSEMBLY BILL 133: Makes various changes to provisions governing regulation of gaming.

The first to appear was William A. Bible, Chairman, State Gaming Control Board. Mr. Bible indicated S.B. 133 was an "omnibus measure," which makes a number of minor changes to the Gaming Control Act. He first indicated that section 1 provides the mechanism for the Nevada Gaming Commission to remove from its records the names of individuals from whom taxes are uncollectible, principally from bankruptcy filings. Mr. Bible

stated section 2 of the bill will delete the reference to Nevada Revised Statutes (NRS) 453.500. He said section 3 will provide additional flexibility in NRS 453.172, which allows a licensee or individual who owns an interest in a gaming establishment to place that interest into a trust, without having to re-qualify with a background investigation. Mr. Bible indicated an approval would relate back to the date on which the trust was executed. He said sections 4 and 5 of the bill relate to refunds. Mr. Bible indicated section 6 contained certain bill drafting corrections in language. He indicated that section also provides in the Gaming Control Act the ability to require an individual who owns or has a beneficial ownership interest in a debt security of a publicly traded corporation, to stand for suitability. He said the definition of "debt security" appears on page 8 of the bill. Mr. Bible outlined the technical changes in the remaining sections of the bill. With respect to section 11, he indicated there were two "repealers," one being the repeal of NRS 453.500, which currently provides that articles of incorporation of a Nevada corporation engaged in gaming activities contain specific language which indicates gaming is one of the legal focuses for which the corporation was chartered. Mr. Bible stated there was "no particular reason" for that language and indicated he had discussed the matter with the secretary of state. He said the other "repealer" dealt with the issuance of work permits on a limited basis to individuals who had been convicted of misdemeanors or gross misdemeanors. Mr. Bible stated that provision was given a "sunset," and they would ask that the board retain that authority, and the changes approved during the last session of the Legislature be made permanent.

The next person to testify was Harvey Whittemore, Lobbyist, representing the Nevada Resort Association (NRA). Mr. Whittemore indicated the industry supports A.B. 133. He indicated the only unresolved issue was that regarding placement of the definitional section. Mr. Whittemore said the definition of "debt security" should have general application, because the way the bill now exists, it may be read as having "debt security" apply only to one particular section. He wanted to be sure the record was clear that the NRA would like the phrase to have general application throughout the statutes. Senator James asked why the definition would be codified elsewhere in the statutes. Mr. Whittemore answered there could be an amendment preceding a definition section, which would have application throughout the act, or in the alternative, to place the definition with respect to publicly traded corporations. However, he reiterated, to make it perfectly clear, it should be added as a definitional section to chapter 463 of NRS. Appearing to speak to this issue was P. Gregory Giordano, Attorney at Law, with Lionel, Sawyer & Collins, Las Vegas. He said in the statutes at the present time, there were a number of definitions regarding corporations and publicly traded corporations which are set forth in NRS 463.482 et seq. Mr. Giordano said the problem regarding the definition of "debt security" was that it may be limited only to NRS 463.643, and general application would be preferable. He stated, "Debt security means any instrument generally recognized as corporate security, representing money owed and reflected as debt on a financial statement of an entity, including, but not limited to,

bonds, notes and debentures."

There was no further testimony on A.B. 133. The chairman closed the hearing on the bill and opened the hearing on A.B. 131.

ASSEMBLY BILL 131: Provides for regulation of inter-casino linked systems related to gaming.

The first to speak was William A. Bible, Chairman, State Gaming Control Board. Mr. Bible stated the bill would "provide a regulatory environment for table games, in a very similar manner to the existing regulatory environment for linked slot machines." He used as an example of a "linked slot machine," the "Megabucks" machines. Mr. Bible said when a person plays the machine in one casino, he or she is in fact playing a network which is operated throughout the state. He said there have been requests to link table games with progressive "pots" between properties. Mr. Bible said this would increase the amount of prizes available on these games. He said the intent was to "add more sizzle" to such table games. Mr. Bible indicated table games over the years have not grown as rapidly as slot revenues. He said the technology exists today to develop a statewide Keno game, with the numbers being drawn at one location, with players being able to participate in other locations. Mr. Bible stated this would result in increased prizes because of larger participation.

Mr. Bible reviewed the bill, section-by-section. He pointed out section 9 relates to gross revenue in terms of tournament play. Mr. Bible stated the statute would allow an operator of an inter-casino linked system to deduct losses in tournament

play to the extent of payments for that play, so there would be revenue gains to the state, but no revenue loss. He said tournaments at this time are excluded from taxation, both for revenue and payouts. Mr. Bible said this provision of the bill, which was agreed upon by the industry, states if there is a tournament entry fee of, for example, $100, and a payout of $10, $90 would be subject to taxation. Also, he said, if the payout in that situation was $100, there would be no taxation. Mr. Bible stated, however, losses could only be deducted to the extent of revenues. He said in section 10 of A.B. 131, relating to licensure requirements, indicates it will be unlawful to conduct an interlinked casino system without appropriate licensure, except for interlinked systems between affiliated properties. Mr. Bible pointed out section 12 of the bill provides that revenues from the activities, instead of being reported by the operator of the inter-casino linked system, will be reported by the licensee, which is similar to reporting requirements for slot route operators. He stated section 13 indicates when calculating gross revenue, a proportional share of losses would be distributed throughout the system.

Mr. Bible stated he had expressed concerns with respect to interlinked casino systems violating the anti-lottery provisions of the Nevada constitution, but he said he was advised by the Office of the Attorney General that was not the case.

Senator James asked a question regarding the fiscal impact of the bill, and Mr. Bible stated he believed revenue to the state

should be increased, and there should be no impact.

The next to speak were Ellen Whittemore, Attorney at Law, representing International Technical Systems (ITS) and Julie Foley, Vice President of Public Affairs for ITS. Ms. Whittemore indicated Ms. Foley would speak on the issue of interlinked Keno games.

Ms. Foley indicated ITS was fully owned by Si Redd, "a leader in gaming innovation for the past several years." She said Mr. Redd is in support of linked table games. Ms. Foley stated, "Keno is dying all over the state...in a Keno lounge where there once were 100 chairs...now there may be 10 to 14 chairs." She said Mr. Redd has developed an interlinked game in order to "spruce up the game of Keno." Ms. Foley indicated revenue would increase, while casino overhead is decreased. She thanked the NRA and the gaming control board for working on the bill to make sure it is a "win, win, win" for the casinos, for the state and the distributors of gaming devices.

Senator Washington asked if it would be advantageous to allow persons to play Keno on their "Internet" computer systems, which would allow people to play from their homes. Ms. Whittemore answered Keno play in hotel rooms has been discussed, and in the future it may be considered. Senator Adler asked why an interlinked system would increase Keno play. Ms. Foley answered they envision jackpots of $5 to $7 million, with jackpots being hit more frequently. Senator Adler stated he knew why people did not play Keno: "You pick 12 numbers and the casino picks 12 different numbers...I don't know why it has taken people so long to catch on."

The next person to speak was P. Gregory Giordano, Attorney at Law, representing Shuffle Master, Inc. Mr. Giordano offered a prepared statement and an explanation of the game, "Let it Ride,." and how tournament play will be structured. That statement is attached hereto as Exhibit C. Senator Adler asked for information regarding the "Shuffle Master." Mr. Giordano stated the machine deals the cards totally at random every time, and provides maximum security. He said the shuffler is part of the "Let it Ride" package, and a casino cannot run such a game without utilizing the Shuffle Master. Mr. Giordano said the "Let it Ride" tournament will offer $1 million jackpots. He explained that people playing the game at selected casinos, will pay an extra $1 fee per hand to qualify for entry into the tournament. Mr. Giordano stated those bets are tallied by computer, at each participating casino, as are hands high enough to qualify.

Harvey Whittemore, representing the NRA, stated the organization supports A.B. 131. He said there was an industry-supported amendment in section 11(4), wherein a sentence would be added at the end of the new language: "An inter-casino linked system shall not be used to link games other than slot machines, unless such games are located at an establishment that is licensed for games other than slot machines." Mr. Whittemore stated this language will clarify the intent and purposes of the bill.

There was no further testimony, and the chairman closed the

hearing on A.B. 131. Senator James then opened the hearing on S.B. 401.

SENATE BILL 401:Revises provisions governing regulation of gaming.

Mr. Whittemore introduced his sister, Ellen Whittemore, Attorney at Law, as someone "who is brighter and more articulate in the gaming area than I...." Ms. Whittemore provided the committee members with a packet regarding the amendments to the bill (Exhibit D. Original is on file in the Research Library.) and spoke from a prepared statement (Exhibit E).

Senator James indicated the bill includes a raise in salary for gaming commissioners, and that provision will not be heard nor voted upon in the Senate Committee on Judiciary. He stated he would later request a motion to amend and do pass all other sections without recommendation as to commissioners' salaries, and re-referral to the Senate Committee on Finance.

Ms. Whittemore read to the committee from her statement set forth as Exhibit E, which contains a section-by-section explanation of the bill.

Senator Titus asked a question regarding "debit cards." She asked for clarification that a bank automatic teller machine (ATM) card could be placed into a slot machine "...and whatever amount of money you could get from a bank machine will be forwarded to that slot machine." Senator Titus asked if a bank charge (VISA) card could be placed into the machine. Ms. Whittemore confirmed that could not be done. Mr. Whittemore confirmed with respect to an ATM transaction, that it would be subject to the bank's overdraft agreements.

Ms. Whittemore completed her review of the bill with her prepared statement (Exhibit E).

Mr. Whittemore read into the record a statement from Brian McKay, Vice President and General Counsel, International Game Technology (IGT). That statement is set forth herein as Exhibit F.

There was no further testimony on S.B. 401, and the chairman closed the hearing on the bill. He then opened the committee work session.

SENATE BILL 375:Prohibits performance of act or neglect of duty in willful or wanton disregard of safety of persons or property.

Senator James identified this as the "fan man bill." He stated the bill was to be amended to clarify the felony class as category C.

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS S.B. 375.

SENATOR TITUS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR PORTER WAS ABSENT FOR THE VOTE.)

* * * * *

SENATE BILL 400:Limits civil liability of gaming licensee, its affiliate and employer for certain communications regarding employee, former employee or applicant for employment.

Senator James indicated the bill would statutorily adopt a privilege which already exists in common law regarding communication between employers in good faith, under certain circumstances which do not result in liability for defamation or constitute grounds for recovery. He stated he wished to include language indicating that it is not a legitimate purpose to exchange information unlawfully obtained or to blacklist an employee in connection with lawful union activities. The chairman said amendatory language needed to be added at line 15 which says, "...it is privileged to the extent it does not impose liability for defamation or constitute grounds for recovery." He continued, "You could take a deposition...and have them communicate to you in deposition what they said, and there would not be a privilege against that disclosure; there would just be a privilege against predicating liability upon that communication between two employers...." Senator Adler said he was unsure about the use of the word "privilege, " because it has a specific meaning in the law. Mr. Whittemore indicated they would take another look at the language when the amendment is returned from bill drafting. He added he saw no real problem with the direction the committee was going regarding this issue. Senator Adler and Mr. Whittemore disagreed on the necessity for (2) and (3) in the bill. Mr. Whittemore said if the language was watered down too much, substantive changes would be made which would lessen what is present with respect to the common law. Senator James agreed (2) and (3) should remain in the bill.

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS S.B. 400.

SENATOR McGINNESS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TITUS ABSTAINED FROM THE VOTE.)

* * * * *

Senator James called for a motion on S.B. 401, discussed earlier.

SENATOR McGINNESS MOVED TO AMEND AND DO PASS S.B. 401.

SENATOR LEE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

The chairman referenced A.B. 133. He reminded the committee of

amendatory language regarding "debt security, which should have general application and appear in the definitional sections of the bill.

SENATOR ADLER MOVED TO AMEND AND DO PASS A.B. 133.

SENATOR LEE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

Senator James stated the next bill to be discussed was S.B. 314.

SENATE BILL 314:Abolishes criminal defense of insanity.

Senator James indicated the bill had been approved with an amend and do pass vote on April 13, 1995. He said he wished to discuss the amendment at this time. He asked Ben Graham, Nevada District Attorneys Association, to explain the amendment. Mr. Graham stated a defendant will be able to enter a plea of "guilty, but mentally ill." However, he said, prior to that plea being accepted by the court, there would be a hearing to determine whether or not there was sufficient evidence to accept the plea. Mr. Graham said if the plea was accepted, the sentencing process would continue, with a presentence report, advice from the Division of Parole and Probation, input from the defendant and his counsel. He indicated if the defendant were incarcerated, he would be sent either to a mental health facility or to a correctional institution. Mr. Graham stated the defendant would be subject to treatment within that correctional institution to the extent it exists. He said the insanity aspect was still available, and evidence could be offered in order to reduce the mens rea in specific intent crimes. Mr. Graham stated the insanity defense as a "complete defense" has been removed from the bill. Senator James pointed out there was no mandate in the bill for development of new treatment.

Senator James said he would request an interim study of criminal insanity and the treatment available. Senator Adler stated the mental health institute in Reno was "on the edge of losing its accreditation," but the mental health treatment provided in the Department of Prisons is fully accredited and has been approved by the courts. He continued, "Ironically, these people would, I believe, receive as good or better treatment in the Department of Prisons...so this bill puts them where they should go."

There were no further questions regarding the amendment, and the chairman announced S.B. 314 would be reported to the floor of the Senate.

Senator James requested committee introduction of two bill draft requests (BDRs).

BILL DRAFT REQUEST 3-1965: Revises provisions governing civil liability for wrongful acts and revises provisions relating to punitive damages.

BILL DRAFT REQUEST 14-1852: Provides for release of presentencing reports to Immigration and Naturalization Service of United States Department of Justice.

SENATOR ADLER MOVED FOR COMMITTEE INTRODUCTION OF BDR 3-1965 AND BDR 14-1852.

SENATOR PORTER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

Senator James opened the work session to a discussion of A.B. 151.

ASSEMBLY BILL 151: Requires criminal defendant to serve notice to district attorney of witnesses defendant intends to call at trial and allows criminal defendant and district attorney to discover certain matters.

Senator James stated the bill had been voted out of the committee, but was brought back based upon a question regarding the fiscal impact concerns. Appearing in front of the committee was Assemblywoman Jeannine Stroth, the bill's sponsor. Ms. Stroth presented suggested amendatory language, set forth on Exhibit G. She indicated that amendment was agreed upon by the Office of the Clark County Public Defender. Ms. Stroth referenced an article appearing in the Las Vegas Sun regarding the same issue as set forth in A.B. 151. A copy of the article is attached as Exhibit H. She referred to the trial mentioned in the article as "trial by ambush." Ms. Stroth said the witness set forth in the matter should have been disclosed to the prosecution prior to the trial.

Senator Porter stated he knew there were many discussions between the public defender's office and the district attorney's office, in order to develop a compromise. He pointed out there was no agreement on the part of the public defender's office. Senator Porter said he was on record as supporting the bill, but he had fiscal concerns. Ms. Stroth pointed out the language of the amendment, "...shall be on or before calendar call...," and stated that should address any fiscal concerns. She said she felt this was "more than fair and more than a compromise." Senator Adler stated he still had problems with the bill, because it requires a defense attorney to supply information, but does not require the prosecution to do the same. Ms. Stroth said the bill was amended to say that "upon request, the prosecution will provide information, and upon request the defendant will provide...." Ms. Stroth also made a reference to the amendment to S.B. 166, a bill linked to A.B. 151. (See Exhibit I).

SENATE BILL 166:Requires notice of expert witnesses who are

expected to testify at criminal trial and allows criminal defendant and district attorney to discover certain matters.

Senator Lee stated in light of making a motion to bring the bill back to the committee with reference to a fiscal impact, he was personally satisfied there would be no such impact in the bill, as amended.

Senator James asked if there was anyone present from the Office of the Clark County Public Defender's Office. Mr. Morgan Harris was present. Mr. Richard Wright, Nevada Attorneys for Criminal Justice (NACJ) approached the committee. He said considering the amendments he heard concerning "calendar call" for Clark County and "10 days" for Washoe County, as the date witness information must be turned over, there was a problem with the "equal protection clause." Mr. Wright stated there could not be a criminal procedure that differs between the accused and the prosecution. He said there was also a problem with Article 4, sections 20 and 21 of the Nevada constitution, which state "you can't have special legislation for criminal procedure...you can't have a defendant having one set of rights in Washoe County and another set of rights in Clark County." Mr. Wright added an opinion by the Nevada Office of the Attorney General stated, "Criminal law must be of general application."

Mr. Wright stated the reality of the dynamics of criminal trial practice, is that the Clark County Public Defender has 39 trials set every week. He said of those 39 trials which are set, one-third of the defendants plead guilty, two-thirds are continued and only 2 cases go to trial. Mr. Wright stated the public defender will not know at the time of trial setting, which cases will actually go to trial. He said under the "calendar call rule" a defense attorney would have to have the case fully prepared, all witnesses interviewed, and ready to turn over at calendar call, "...when [the case] probably isn't going to go to trial." Mr. Wright reiterated, "When you take the public defender's office...tell him to be trial ready on 39 cases...this financial impact is going to remain." He said if at the time the defense case begins, the names and addresses of defense witnesses who will testify are turned over, there will be no fiscal impact. Senator James asked if those names were originally submitted, and other witnesses were discovered, could those names be turned over within 24 hours of a trial beginning. Mr. Wright answered, "Yes...if you have prepared and interviewed them...and gone over with your client. The first time you turn over the name of a witness...and he provides evidence detrimental to your client...you are going to have a constitutional problem...a malpractice problem...and an ethics problem."

Senator Porter asked Mr. Wright if he would support A.B. 151 if there was no fiscal impact. Mr. Wright answered he believed the bill was unconstitutional, even as amended. Senator Porter indicated there were "at least 15 attorneys in the room...and 7 1/2 agree with one side, and 7 1/2 agree with the other." He added, "We are at a definite disadvantage...we put our trust and faith in the opinions that are put before us...when 7 1/2 say one thing, and 7 1/2 say another, we have to make a judgment

call." Senator Porter indicated there was support for the bill to go forward, but he felt it was incumbent upon him to bring forward the financial information which was presented to him. He said he would like to further discuss that point.

Responding to Senator Porter was Mike Specchio, Washoe County Public Defender. Mr. Specchio stated the impact on Washoe County would be as follows: "It would require...whether 10 days or 21 days...our office to interview witnesses for all cases that are going to be set for trial...that means we would have to hire additional investigators." He said he "did not have the bodies" to send to interview witnesses that are set for trials, which he would have to do under the provisions of the bill. Mr. Specchio stated he would need three or four more investigators, at a minimum, and "...probably another attorney or two...or three." He reiterated, "The financial impact is...I cannot comply." Mr. Specchio said the public defender's office does not have the luxury of preparing cases months ahead of time. He said each attorney in the office has approximately 200 defendants in the county jail that they are working with.

Mr. Specchio stated Washoe County utilized a "motion to confirm trial," which is held approximately four days before trial. Senator Porter asked, "So you are comfortable with 24 hours, but you are not comfortable with 3 or 4 days?" Mr. Specchio answered there were many trials "...in which you don't know who you are going to call until the state rests their case...sometimes you may be forced to give up a name which is not going to help you, but is going to help the state."

Mr. Specchio indicated he agreed with Mr. Wright that there were "all kinds of constitutional problems...but if I were forced to give it up, I would love to give it up 24 hours before I put the witness on the stand...and I could probably live with giving them up the Friday before." Mr. Specchio continued, "The 10 days that is proposed is really of no benefit...I can't comply with the statute...we cannot provide those names. He pointed to a statement by Ms. Stroth that a district attorney advised her "it only takes a secretary 20 minutes to type a list." Mr. Specchio stated, "That is not the point...it is not the issue of typing up the name and delivering it over...it's having to interview those people...."

Morgan Harris, Clark County Public Defender, stated:

It is interesting to me that the Clark County delegation, the Clark County Manager's Office, and Clark County lobbyists...we all say there is a fiscal impact. Mr. Bell [Stewart Bell, Clark County District Attorney] does not run my office. I confronted Mr. Bell with that and he said, `I am not going to say any more.' Mr. Bell is not saying there is not a financial impact at this time.

Mr. Morgan said he had 2,097 trials set last year, and 78 of those cases actually went to trial. He stated, "If this bill goes in...even at calendar call...the financial impact will require at a minimum seven attorneys and seven investigators...with their supplies it is $844,000." Mr. Morgan

stated they can "live with 24 hours," because 24 hours...there is no fiscal impact."

Senator Titus stated:

I want to put this into perspective. This committee has probably been the toughest on crime than any in recent history. We have enhanced penalties...we have created new crimes...we have added aggravated to the death penalty...we have tightened up for habitual criminals...there is no bill that has come before this committee we haven't passed to be tough on crime. A number of those have been sponsored by Ms. Stroth...so we certainly have been receptive to those...but let's look at this one bill. Only two...maybe one other state in the country does it...that is California. Let's look at California's court system...we see it every day on TV...we know how that is going. We hear this is going to cost over $1 million, from the public defender's point of view...we have heard from Washoe County that it is not a problem in 90 percent of the cases...only in the other 10 percent do they want this information. The origin of this comes from a case that didn't even occur in Nevada...and on top of that, you have the possibility that it is unconsitutional. This seems to me to be a number of pretty clear-cut reasons why we wouldn't want to go forward with this bill. I will vote against the bill unless we have that 24-hour compromise. Otherwise, I won't vote for the bill and I will argue against for all of those very obvious reasons.

Senator Adler asked if there was agreement on the issue of documentary exchange, and Mr. Specchio and Mr. Wright answered they had no problem with that provision. Senator Adler specified there was agreement regarding documents and expert witnesses. He indicated the issue remaining had to do with prospective witnesses, and disagreement regarding the 24-hour compromise.

Senator James stated he agreed with testimony that it was wrong to have different rules for different parts of the state, such as "calendar call" in one place and "10 business days" in another. He said those on the committee who supported the bill needed to make a motion to move the bill with the 21-day requirement, the 10-day requirement, the 24-hour requirement or "calendar call" requirement.

SENATOR LEE MOVED TO AMEND AND DO PASS A.B. 151, TO INCLUDE THE CALENDAR CALL REQUIREMENT.

SENATOR PORTER SECONDED THE MOTION.

Senator Adler brought up the fact that some of the rural counties did not have a "calendar call."

THE MOTION CARRIED. (SENATORS ADLER, JAMES AND TITUS VOTED "NO.")

* * * **

There being no further business to come before the committee, the hearing was adjourned.
RESPECTFULLY SUBMITTED:

Marilyn Hofmann,
Committee Secretary

APPROVED BY:

Senator Mark A. James, Chairman

DATE:

Senate Committee on Judiciary
May 12, 1995
Page

EXHIBIT 3

PROPOSED AMENDMENTS TO
REGULATIONS 5.115, 14.010, 14.030 and 14.100

PURPOSE: To amend applicable provisions of Regulation 5.015, Regulation 14.010, Regulation 14.030 and Regulation 14.100 to provide for the regulation and oversight of multi-jurisdictional progressive prize systems; and providing other matters properly related thereto.

(LS&C Draft Date October 1, 2013)
New
~~[Deleted]~~

REGULATION 5

OPERATION OF GAMING ESTABLISHMENTS

5.115 Periodic payments.
1. Except as provided in this regulation, a licensee shall remit the total prizes awarded to a patron as the result of conducting any game, including a race book or sports pool, tournament, contest, or promotional activity (hereinafter collectively referred to as "gaming or promotional activity") conducted in Nevada *or arising from the operation of a multi-jurisdictional progressive prize system* upon validation of the prize payout.
2. As used in this section of the regulation:
(a) "Approved funding sources" means cash or U.S. Treasury securities that are used for the funding of a trust pursuant to Regulation 5.115(3)(b) or the reserve method of funding periodic payments pursuant to Regulation 5.115(3)(c).
(b) "Brokerage firm" means an entity that:
(1) Is both a broker-dealer and an investment adviser;
(2) Has one or more classes of its equity securities listed on the New York Stock Exchange or American Stock Exchange, or is a wholly-owned subsidiary of such an entity; and
(3) Has assets under management in an amount of $10 billion or more as reported in its most recent report on Form 10–K or Form 10–Q filed with the United States Securities and Exchange Commission, or is a wholly-owned subsidiary of such an entity.
(c) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account; and:
(1) Is licensed as a broker-dealer with the Nevada Secretary of State pursuant to NRS 90.310, as amended; or
(2) Is exempt from licensing pursuant to NRS 90.320, as amended, and is registered as a broker-dealer with the United States Securities and Exchange Commission and the National Association of Securities Dealers pursuant to Title 15 USC 780 as amended.
(d) "Chairman" means the chairman of the board or his designee.
(e) "Date of calculation" means the last day for which a discount rate was obtained prior to the conclusion of the validation period.
(f) "Discount rate" means the current prime rate as published in the Wall Street Journal. For those licensees using the reserve method of funding pursuant to Regulation 5.115(3)(c), "discount rate" means either: (i) the aforementioned current prime rate, or (ii) a blended rate computed from the various U.S. Treasury securities selected by the licensee for which quotes are obtained at least three times a month.
(g) "Independent financial institution" means an institution that is not affiliated through common ownership with the licensee and is either:
(1) A bank or national banking association that is authorized to do business in this state, a banking corporation formed or regulated under the laws of this state or a wholly-owned subsidiary of such a banking association or corporation that is formed or regulated under the laws of this state or a national bank with an office in Nevada; or
(2) An insurance company admitted to transact insurance in the State of Nevada with an A.M. Best Insurance rating of at least "A+" or such other equivalent rating.
(h) "Investment adviser" means any person who, for compensation, engages in the business of advising others as to the value of securities or as to the advisability of investing in, purchasing or selling securities, or who, for

compensation and as a part of a regular business issues or promulgates analyses or reports concerning securities and:
(1) Is registered as an investment adviser with the Nevada Secretary of State pursuant to NRS 90.330, as amended; or
(2) Is registered as an investment adviser with the United States Securities and Exchange Commission pursuant to Title 15 USC 80b–3a, as amended.
(i) "Periodic payments," for purposes of this regulation only, means a series of payments that are paid at least annually for prizes awarded through gaming or promotional activity.
(j) "Present value" means the current value of a future payment or series of payments, discounted using the discount rate.
(k) "Qualified prize" means the sum of periodic payments, awarded to a patron as a result of any gaming or promotional activity, payable over a period of at least 10 years.
(l) "Qualified prize option" means an option that entitles a patron to receive from a licensee a single cash payment in lieu of receiving a qualified prize, or any remaining portion thereof, which shall be exercised no later than 60 days after validation of the qualified prize.
(m) "Reserve" means a restricted account consisting of approved funding sources used exclusively to satisfy periodic payments of prizes arising from all gaming or promotional activity conducted in Nevada, *including such prizes arising from the operation of a multi-jurisdictional progressive prize system,* and includes any existing funding methods previously approved by the board or commission. The reserve shall not be less than the sum of the following:
Comment [DRR1]: Revision 1
(1) The present value of the aggregate remaining balances owed on all prizes awarded to patrons who are receiving periodic payments. For balances previously funded using U.S. Treasury securities, the discount rate on the date of funding shall be used for calculating the present value of the reserve.
(2) An amount sufficient to pay the single cash payments offered in conjunction with qualified prize options for prizes previously awarded for which elections have not been made by the patrons;
(3) An amount sufficient to fully fund the present value of all prizes currently on public display for which periodic payments are offered;
(4) If cash is used as the approved funding source, an amount equal to satisfy the current liabilities to all patrons receiving periodic payments due and payable within 12 months; and
(5) Any additional amounts administratively required by the chairman.
As used in this paragraph, the term "multi-jurisdictional progressive prize system" shall have the meaning ascribed by subsection 15 of regulation 14.010.
(n) "Restricted account" means an account with an independent financial institution described in Regulation 5.115(2)(g)(1), or a brokerage firm, which is to be exclusively used for the reserve method of funding of gaming or promotional activity as provided in this regulation.
(o) "Single cash payment" means a single discounted, lump-sum cash payment in the amount of the present value of the total periodic payments otherwise due and owing for a qualified prize,
less the amount of any partial payment of such qualified prize previously made by the licensee to a patron.
(p) "Trust" means an irrevocable fiduciary relationship in which one person is the holder of the title to the property subject to an equitable obligation to keep or use the property for the benefit of another.
(q) "U.S. Treasury securities" means a negotiable debt obligation issued and guaranteed by the U.S. government.
(r) "Validation period" means the period of time between when a patron has met the conditions required to receive a prize, and when the prize payout is validated. The validation period shall not exceed 72 hours, unless otherwise extended by the chairman.
3. Periodic payments of prizes awarded to a patron as a result of conducting any gaming or promotional activity may be made if the method of funding the periodic payments provides such payments to a patron through the establishment of any one of the following funding methods:
(a) An irrevocable surety bond or an irrevocable letter of credit with an independent financial institution which will provide for either the periodic payments or a single cash payment for the remaining periodic payments should the licensee default on paying the scheduled periodic payments for any reason. The form of the written agreement establishing an irrevocable surety bond or the irrevocable letter of credit, and a written commitment to execute such bond or letter from the financial institution, shall be submitted to the chairman for approval no less than 45 days prior to the commencement of the gaming or promotional activity.
(b) An irrevocable trust with an independent financial institution in accordance with a written trust agreement, the form of which shall be submitted to the chairman for approval at least 45 days prior to the commencement of any

new gaming or promotional activity, and which provides periodic payments from an unallocated pool of assets to a group of patrons and which shall expressly prohibit the patron from encumbering, assigning or otherwise transferring in any way his right to receive the deferred portion of the prizes except to his estate. The assets of the trust shall consist of approved funding sources in an amount sufficient to meet the periodic payments as required.
(c) A reserve maintained at all times by a licensee, together with the continuing satisfaction of and compliance with certain financial ratios and tests, and monitoring and reporting procedures related thereto. The conditions under which a reserve method may be used shall be prescribed by the chairman in a written notice distributed to licensees and all interested persons. Licensees shall notify the chairman in writing at least 45 days prior to the commencement of any new gaming or promotional activity for which periodic payments may be used. Unless otherwise informed within such time period in writing by the chairman and assuming a stop order has not been issued during such period, the use of a reserve method for funding periodic payments shall be deemed approved.
(d) Another method of providing the periodic payments to a patron consistent with the purpose of this regulation and which is approved by the commission prior to the commencement of the gaming or promotional activity. Proposed modifications to a periodic payment plan previously approved by the commission shall be submitted to the chairman for review at least 45 days prior to the effective date of the change. The chairman, after whatever investigation or review he deems necessary, may administratively approve the modification or require the licensee to submit the requested modification to the commission for review and approval.
4. The funding of periodic payment plans shall be completed within 30 days of the conclusion of the validation period, or where a qualified prize option is offered for such prize payout, within 30 days of the date the patron makes an election thereunder. Where a single cash payment is elected, the licensee shall pay to the patron in cash, certified check or wire transfer the full amount less any prior payment(s) within 15 days after receiving the patron's written notification of such election.
5. Periodic payments shall not be used for prize payouts of $100,000 or less. Periodic payments for total amounts won greater than $100,000 shall be paid as follows:
(a) For amounts won greater than $100,000, but less than $200,000, payments shall be at least $10,000 annually;
(b) For amounts won greater than $200,000 or more, payments shall be no less than 1/20th of the total amount annually;
(c) For amounts won equal to or in excess of $5,000,000, payments shall be made in the manner set forth in (b), above, or in such manner as approved by the commission upon application by the licensee; and
(d) The first installment payment shall be made upon the conclusion of the validation period, notwithstanding that a qualified prize option may be offered to the patron. In the event that a qualified prize option is offered to a patron, it shall not be construed as a requirement that the patron shall receive a single cash payment instead of periodic payments.
Waivers of subsections (a), (b) and (c) of this section that have been previously granted by the commission shall remain in full force and effect pursuant to the current terms and provisions of such waivers.
6. The licensee shall provide the chairman with an appropriate, signed legal document, prior to the commencement of any gaming or promotional activity for which periodic payments are to be offered, that shall irrevocably and unconditionally remise, release, indemnify and forever discharge the State of Nevada, the commission, the board, and their members, employees, agents and representatives, including those of the Attorney General's Office, of and from any and all claims, actions, causes of actions, losses, damages, liabilities, costs, expenses and suits of any nature whatsoever, in law or equity, including reasonable attorney's fees, arising from any act or omission of the commission and the board, and their members, employees, agents and representatives.
7. For any gaming or promotional activity for which periodic payments are used, the licensee shall provide a notice on each gaming device or, if no gaming device is used, then in each gaming or promotional area specifically setting forth the terms of the periodic payment plan, and include in all radio, television, other electronic media, or print advertising that such prizes will be awarded using periodic payments.
8. Notwithstanding any other regulation to the contrary, if a licensee offers a qualified prize option to a patron who is awarded a qualified prize, the licensee shall provide the option to the patron in writing within five days after the conclusion of the validation period. Such written option shall explain the method used to compute the single cash payment, including the discount rate as of the date of calculation, and shall state that the patron is under no obligation to accept the offer of a single cash payment and may nevertheless elect to receive periodic payments for the qualified prize.

9. The licensee shall maintain the following amounts, as applicable, related to each gaming or promotional activity that uses periodic payments in calculating its minimum bankroll requirement for the purpose of complying with Regulation 6.150:
(a) For periodic payment plans approved in accordance with Regulation 5.115(3)(a), the installment payments due within the next 12-month period for all amounts won or on public display for which the licensee will be making periodic payments.
(b) For periodic payment plans approved in accordance with Regulation 5.115(3)(b), the first installment payment, if not yet paid, and the present value of all future payments:
(1) For amounts won or awarded but for which the funding has not been completed; and
(2) For all prizes which have not been won or awarded but are on public display, including a progressive meter.
(c) An alternative amount and/or method required by the chairman to satisfy the minimum bankroll requirement for other approved funding plans used for periodic payments.
10. At all times the licensee is responsible for the payment of all prizes resulting from any gaming or promotional activity upon conclusion of the validation period, regardless of the method used to fund the periodic payments allowed under this regulation. In the event of a default by any financial institution with which the licensee has contracted to guarantee or make periodic payments, the licensee will be liable for the periodic payments owed to patrons.
11. At least annually, the licensee shall verify that the independent financial institution and brokerage firm being used to guarantee or remit periodic payments to patrons or to hold approved funding sources related thereto continues to meet the applicable qualifications required by Regulation 5.115(2). In the event that such entities are found to no longer meet the defined requirements, the licensee shall immediately notify the chairman of the change in status and within 30 days provide a written plan to comply with these requirements.
12. At least 60 days prior to the cessation of operations, a licensee responsible for remitting periodic payments to patrons shall submit a plan to satisfy the liability for approval. The chairman, after whatever investigation or review he deems necessary, may approve the plan.
13. Copies of the related contracts and agreements executed pursuant to Regulation 5.115(3)(a), (3)(b) and (3)(d) shall be submitted to the board within 30 days after execution. For all methods of funding periodic payments, the licensee must maintain documents, executed contracts and agreements for a period no less than the duration of the periodic payments plus five years thereafter.
14. Where a licensee is found to be in noncompliance with the funding requirements provided in this regulation, the chairman may require the licensee to immediately cease offering any gaming or promotional activity for which periodic payments are used or he may require other corrective action.
15. Any failure of the licensee to maintain full compliance with each and every provision set forth in this regulation, including the chairman's requirements established pursuant to Regulation 5.115(3)(c), or any failure of the licensee to immediately notify the chairman of any noncompliance thereof, shall constitute an unsuitable method of operation. Such noncompliance may subject the licensee to disciplinary action.
16. The commission may waive one or more of the requirements of this regulation if it makes a written finding that such waiver is consistent with the public policy set forth in NRS 463.0129.
(Adopted: 2/91. Amended: 11/18/99; 2/22/01.)

* * * * *

DRAFT

REGULATION 14

MANUFACTURERS, DISTRIBUTORS, OPERATORS OF INTER–CASINO LINKED SYSTEMS, GAMING DEVICES, NEW GAMES, INTER–CASINO LINKED SYSTEMS, ON-LINE SLOT METERING SYSTEMS, CASHLESS WAGERING SYSTEMS AND ASSOCIATED EQUIPMENT

14.010 Definitions. As used in this regulation, unless the context otherwise requires:

1. "Assume Responsibility" means to acquire complete control over, or ownership of, a gaming device, cashless wagering system, mobile gaming system or interactive gaming system.

2. "Cashless wagering system" means the collective hardware, software, communications technology, and other associated equipment used to facilitate wagering on any game or gaming device including mobile gaming systems and interactive gaming systems with other than chips, tokens or legal tender of the United States. The term does not include any race and sports computerized bookmaking system that accepts pari-mutuel wagers, or any other race and sports book systems that do not accept wagering instruments or process electronic money transfers.

This type of associated equipment is further defined in NRS 463.014.

3. "Chairman" means the chairman of the state gaming control board or his designee.

4. "Control Program" means any software, source language or executable code which affects the result of a wager by determining win or loss. The term includes, but is not limited to, software, source language or executable code associated with the:

(a) Random number generation process;

(b) Mapping of random numbers to game elements displayed as part of game outcome;

(c) Evaluation of the randomly selected game elements to determine win or loss;

(d) Payment of winning wagers;

(e) Game recall;

(f) Game accounting including the reporting of meter and log information to on-line slot metering system;

(g) Monetary transactions conducted with associated equipment;

(h) Software verification and authentication functions which are specifically designed and intended for use in a gaming device;

(i) Monitoring and generation of game tilts or error conditions; and

(j) Game operating systems which are specifically designed and intended for use in a gaming device.

5. "Conversion" means a change in a gaming device from one pre-approved configuration to another pre-approved configuration or from one approved mode of play to another approved mode of play.

6. "Distribution" or "distribute" means:

(a) The sale, offering for sale, lease, offering for lease, licensing or other offer of any gaming device, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Nevada; or

(b) The sale, offering for sale, lease, offering for lease or other offer of any gaming device, cashless wagering system, mobile gaming system or interactive gaming system from a location within Nevada.

7. "Distributor" means a person or entity that distributes any gaming device, cashless wagering system, mobile gaming system or interactive gaming system.

8. "Distributor of associated equipment" is any person that sells, offers to sell, leases, offers to lease, licenses, markets, offers, or otherwise offers associated equipment in Nevada for use by licensees.

9. "Equipment associated with interactive gaming" means associated equipment as defined within NRS 463.0136.

10. "Interactive gaming system" is a gaming device and means the collective hardware, software, communications technology, and proprietary hardware and software specifically designed or modified for, and intended for use in, the conduct of interactive gaming. The core components of an interactive gaming system, including servers and databases running the games on the interactive gaming system and storing game and interactive gaming account information, must be located in the State of Nevada except as otherwise permitted by the chairman or his designee.

11. "Game outcome" is the final result of the wager.

12. "Game variation" means a change or alteration in a game or gambling game that affects the manner or mode of play of an approved game. This includes, but is not limited to, the addition or removal of wagering opportunities or a change in the theoretical hold percentage of the game. The term game or gambling game is defined in NRS 463.0152.

13. "Independent contractor" means any person who:

(a) Is not an employee of a licensed manufacturer; and

(b) Pursuant to an agreement with a licensed manufacturer:

(1) Designs, develops, programs, produces or composes a control program on behalf of the licensed manufacturer; or

(2) Designs, develops, produces or composes software, source language or executable code intended to be compiled into a control program by the licensed manufacturer.

➥ As used in this regulation "licensed manufacturer" includes any affiliate that is owned or controlled by or under common control with the licensee.

14. "Independent testing laboratory" means a private laboratory that is registered by the commission to inspect and certify games, gaming devices, associated equipment, cashless wagering systems, inter-casino linked systems, mobile gaming systems or interactive gaming systems, and any components thereof and modifications thereto, and to perform such other services as the board and commission may request.

15. "Inter-casino linked system" means ~~[an inter-casino linked system including]~~:

(a) A network of electronically interfaced similar games which are located at two or more licensed gaming establishments that are linked to:

(1) Conduct gaming activities, contests or tournaments; or

(2) Facilitate participation in a common progressive prize system.

➥ *and* the collective hardware, software, communications technology and other associated equipment used *in such system* to link and monitor games or devices located at two or more licensed gaming establishments*, including any associated equipment used to operate a multi-jurisdictional progressive prize system*.

(b) Systems that solely record a patron's wagering activity among affiliated properties are not inter-casino linked systems. ~~[This term is further defined in NRS 463.01643.]~~

(c) The term "multi-jurisdictional progressive prize system" means the collection of hardware, software, communications technology and other associated equipment used to link and monitor progressive slot machines or other games among licensed gaming establishments in this state participating in an inter-casino linked system and one or more lawfully operated gaming locations in other jurisdictions ~~in the United States~~ that participate in a similar system for the purpose of participation in a common progressive prize system.

16. "Inter-casino linked system modification" means a change or alteration to an inter-casino linked system made by an operator who has been previously approved by the commission to operate that system. With regard to inter-casino linked systems that link progressive payout schedules, the term includes, but is not limited to:

(a) A change in a system name or theme; or

(b) A change in gaming device denomination.

17. "Manufacture" means:

(a) To manufacture, produce, program, design, control the design of, maintain a copyright over or make modifications to a gaming device, cashless wagering system, mobile gaming system or interactive gaming system, including proprietary software or hardware;

(b) To direct, control or assume responsibility for the methods and processes used to design, develop, program, assemble, produce, fabricate, compose and combine the components and other tangible objects of any gaming device, cashless wagering system, mobile gaming system or interactive gaming system, including proprietary software or hardware; or

(c) To assemble, or control the assembly of, a gaming device, cashless wagering system, mobile gaming system or interactive gaming system, including proprietary software or hardware.

18. "Manufacturer" means a person who operates, carries on, conducts or maintains any form of manufacture.

19. "Manufacturer of associated equipment" is any person that manufactures, assembles, or produces any associated equipment, including inter-casino linked systems, for use in Nevada by licensees.

Comment [DRR2]: Revision 2.

Comment [DRR3]: Revision 3

Comment [DRR4]: Revision 4.

Comment [DRR5]: Revision 5.

Comment [DRR6]: Revision 6.

20. "Manufacturer of Equipment Associated with Interactive Gaming" means any person that manufactures, assembles, or produces any equipment associated with interactive gaming.

21. "Mobile gaming system" or "system" means a system that allows for the conduct of games through mobile communications devices operated solely within a licensed gaming establishment by the use of communications technology that allows a patron to bet or wager, and corresponding information related to the display of the game, gaming outcomes or other similar information.

22. "Mobile gaming system modification" means any change or alteration to a mobile gaming system made by a manufacturer from its approved configuration.

23. "Modification" means a change or alteration in a gaming device previously approved by the commission for use or play in Nevada that affects the manner or mode of play of the device. The term includes a change to control or graphics programs and, except as provided in paragraphs (d) and (e), in the theoretical hold percentage. The term does not include:

(a) A conversion;

(b) Replacement of one component with another, pre-approved component;

(c) The rebuilding of a previously approved device with pre-approved components;

(d) A change in the theoretical hold percentage of a mechanical or electro-mechanical device, provided that the device as changed meets the standards of Regulation 14.040(1); or

(e) A change in the theoretical hold percentage of an electronic device which is the result of a top award jackpot or bonus jackpot payment which is paid directly by an attendant and which is not accounted for by the device.

24. "On-line slot metering system" means the collective hardware, software and other associated equipment used to monitor, accumulate, and record meter information from gaming devices within a licensed establishment.

25. "Operator" means, *except as otherwise provided,* any person or entity holding a license to operate*:*

(a) ~~[a]~~*A*n inter-casino linked system or mobile gaming system in Nevada~~[.]~~*;*

(b) ~~[a person or entity holding a license to operate a]~~*A* slot machine route that operates an inter-casino linked system for slot machines only~~[, or]~~*;*

(c) ~~[a person or entity holding a license to operate a]~~*A* nonrestricted gaming operation that operates an inter-casino linked system of affiliates*; or*

(d) An inter-casino linked system under the preceding paragraphs (a) or (b) of this section which system also is linked to or otherwise incorporates a multi-jurisdictional progressive prize system.

Comment [DRR7]: Revision 7.

26. "Private residence" means a noncommercial structure used by a natural person as a place of abode and which is not used for a commercial purpose.

27. "Proprietary hardware and software" means hardware or software specifically designed for use in a gaming device including a mobile gaming system and interactive gaming system.

28. "Randomness" is the observed unpredictability and absence of pattern in a set of elements or events that have definite probabilities of occurrence.

29. "Theme" means a concept, subject matter and methodology of design.

14.030 Approval of gaming devices and the operation of new inter-casino linked systems; applications and procedures.

1. A manufacturer or distributor shall not distribute a gaming device in Nevada and a licensee shall not offer a gaming device for play unless it has been approved by the commission or is offered for play pursuant to a field test ordered by the chairman.

2. An operator of an inter-casino linked system shall not install and operate a new inter-casino linked system in Nevada and a licensee shall not offer any gaming device or game for play that is part of such a system unless operation of the inter-casino linked system and all gaming devices or games that are part of or connected to the inter-casino linked system have been approved by the commission or are offered for play pursuant to a field test ordered by the chairman.

3. Applications for approval of a new gaming device or to operate a new inter-casino linked system shall be made and processed in such manner and using such forms as the chairman may prescribe. Only licensed manufacturers may apply for approval of a new gaming device. Only operators may apply for approval to operate a new inter-casino linked system.

4. At the chairman's request an applicant for a manufacturer's or inter-casino linked system operator's license shall, or upon the chairman's prior approval an applicant for a manufacturer's or operator's license may, apply for

a preliminary determination that a new gaming device or new inter-casino linked system meets the standards required by this regulation.

5. Each application shall include, in addition to other items or information as the chairman may require:

(a) A complete, comprehensive, and technically accurate description and explanation in both technical and lay language of the manner in which the device or inter-casino linked system operates and complies will all applicable statutes, regulations and technical standards, signed under penalty of perjury;

(b) A statement under penalty of perjury that, to the best of the manufacturer's knowledge, the gaming device meets the standards of section 14.040 or, in the case of an inter-casino linked system, that to the best of the operator's knowledge the system meets the standards of section 14.045;

(c) In the case of a gaming device, a copy of all executable software, including data and graphic information, and a copy of all source code for programs that cannot be reasonably demonstrated to have any use other than in a gaming device, submitted on electronically readable, unalterable media;

(d) In the case of a gaming device, a copy of all graphical images displayed on the gaming device including, but not limited to, reel strips, rules, instructions and paytables;

(e) In the case of an inter-casino linked system:

(1) An operator's manual;

(2) A network topology diagram;

(3) An internal control system;

(4) A hold harmless agreement;

(5) A graphical representation of the system theme and all related signage; ~~[and]~~

(6) Information sufficient to calculate a theoretical payoff schedule amount including, but not limited to, the base and reset amounts, the total contribution percentage and a breakdown of that percentage including contribution rates to all progressive payoff schedules and all reset funds, the odds of winning the progressive payoff schedule and the amount of the wager required to win the progressive payoff schedule; *and*

(7) The form of any agreement or written specifications permitted or required of an operator by any other state or tribal government and affecting a multi-jurisdictional progressive prize system.

Comment [DRR8]: Revision 8.

(f) In the case of a mobile gaming system:

(1) An operator's manual;

(2) A network topology diagram;

(3) An internal control system; and

(4) A description of the method used to isolate game function to the areas listed in Regulation 5.220(1)(i); and

(g) All materials relating to the results of the registered independent testing laboratory's inspection and certification process that are required under section 14.400.

14.100 Final approval of new gaming devices and new inter-casino linked systems.

1. After completing its evaluation of the new gaming device or the operation of a new inter-casino linked system, the board shall recommend to the commission whether the application for approval of the new gaming device or operation of a new inter-casino linked system should be granted.

2. In considering whether a new gaming device or operation of a new inter-casino linked system will be given final approval, the board and commission shall consider whether:

(a) ~~[a]~~*A*pproval of the new gaming device or operation of a new inter-casino linked system is consistent with the public policy of this state.

(b) The terms of any agreement or written specifications permitted or required of an operator by any other state or tribal government and affecting a multi-jurisdictional progressive prize system comply:

Comment [DRR9]: Revision 9.

(1) With the provisions of these regulations; and

(2) Include procedures satisfactory to the commission for:

Comment [DRR10]: Revision 10.

(A) Ensuring compliance with the requirements of subsection 4 of regulation 14.040(4);

Comment [DRR11]: Revision 11.

(B) Resolution of patron disputes under procedural and substantive requirements equal to or greater than the standards applied by the board;

Comment [DRR12]: Revision 12.

(C) Surveillance and security of gaming devices connected to such system;

(D) Record-keeping and record-retention;

(E) Control of access to any internal mechanism of gaming devices connected to such system;

(F) Prior administrative approval of the chairman for any adjustments to progressive meters;

(G) Access by the board to audit compliance with the requirements of this subparagraph; and

(H) Any special procedures necessary for a multi-jurisdictional progressive prize system with lawfully operated gaming locations participating outside the United States, including without limitation matters of currency conversion and the availability of English translations of all relevant and material documentation and information.

3. Commission approval of a gaming device or inter-casino linked system does not constitute certification of the device's or inter-casino linked system's safety. *Commission approval of a multi-jurisdictional progressive prize system shall include approval of any agreement or written specifications permitted or required by any other state or tribal government and affecting such system. The chairman will complete any written acknowledgement necessary to document the commission's approval of any such agreement or written specifications. The prior administrative approval of the chairman is required of any modification to such agreement or written specifications.*

Comment [DRR13]: Revision 13.

Comment [DRR14]: Revision 14.

Comment [DRR15]: Revision 15.

Draft

NGC #8

PROPOSED AMENDMENTS TO REGULATIONS 6.010 and 6.080

PURPOSE: To revise how the nonrestricted Group I licensee threshold amount is determined; to revise how the threshold amounts used to determine which nonrestricted licensees are subject to audits of financial statements and which are subject to reviews of financial statements in line with recent statutory changes; to revise how the threshold amounts are published; and to take such additional action as may be necessary and proper to effectuate these stated purposes.

REGULATION 6
ACCOUNTING REGULATIONS
(Draft Date: August 6, 2013)
New
~~[Deleted]~~

6.010 Definitions. As used in this regulation:
1. No Change.
2. No Change.
3. No Change.
4. No Change.
5 "Group I licensee" defined.
(a) "Group I licensee" means ~~[either:~~
~~(1) A]~~ *a* nonrestricted licensee having gross revenue *at or above certain amounts ascertained by the board* ~~[of $6,165,000 or more]~~ for ~~[the 12 months ended June 30th each year; or]~~ *a fiscal year. The board shall post such amounts on its website no later than the December 15 preceding the fiscal year for which such amounts shall be effective.*
~~[(2) A nonrestricted licensee, whose operation consists primarily of a race book or sports pool or both, that accepts $69,406,000 or more in wagers during the 12 months ended June 30th each year.]~~
(b) Once a nonrestricted licensee qualifies as a "Group I licensee" pursuant to the definitions contained within this section, it shall remain a "Group I licensee" in subsequent years. This "Group I licensee" designation shall continue unless cancelled in writing by the chairman or his designee, even if the increase or decrease in the Consumer Price Index as provided for in section 7 would otherwise cause the licensee's designation to change to a "Group II licensee."
6. "Group II licensee" defined. "Group II licensee" means ~~[either:~~
~~(a) A]~~ *a* nonrestricted licensee having gross revenue *less than certain amounts ascertained by the board* ~~[of less than $6,165,000]~~ for ~~[the 12 months ended June 30th each year; or]~~ *a fiscal year. The board shall post such amounts on its website no later than the December 15 preceding the fiscal year for which such amounts shall be effective.*
~~[(b) A nonrestricted licensee, whose operation consists primarily of a race book or sports pool or both, that accepts less than $69,406,000 in wagers during the 12 months ended June 30th each year.]~~

7. The amounts of annual gross revenue provided for in subsections 5 and 6 shall be increased or decreased annually in an amount corresponding to the percentage of increase or decrease in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding year. ~~[On or before June 15 of each year starting with the year 2000, the commission shall determine the amount of the increase or decrease required by this subsection, establish the adjusted amounts of annual gross revenue in effect for the succeeding fiscal year and amend subsections 5 and 6 so that they properly reflect these amounts.]~~

8. No Change.

9. No Change.

10. No Change.

11. No Change.

12. No Change.

6.080 Audited financial statements.

1. No Change.

2. Each nonrestricted licensee having gross revenue *at or above certain amounts ascertained by the board pursuant to NRS 463.159(3)* ~~[of $12,330,000 or more, or accepting $91,602,000 or more in wagers if the operation consists primarily of a race book or sports pool or both,]~~ during the 12 months ended December 31st each year, and each operator, shall engage an independent accountant who shall audit the licensee's financial statements in accordance with generally accepted auditing standards. *The board shall post such amounts on its website no later than the December 15 preceding the year such amounts shall be effective.*

3. Each nonrestricted licensee having gross revenue *between certain amounts ascertained by the board pursuant to NRS 463.159(3)* ~~[of $6,165,000 or more but less than $12,330,000 or accepting $41,651,000 or more but less than $91,602,000 in wagers if the operation consists primarily of a race book or sports pool or both,]~~ during the 12 months ended December 31st each year, shall engage an independent accountant who shall review the licensee's financial statements in accordance with the statements on standards for accounting and review services or, if the chairman requires or the licensee engages him to do so, the independent accountant shall audit the financial statements in accordance with generally accepted auditing standards. *The board shall post such amounts on its website no later than the December 15 preceding the year such amounts shall be effective.*

4. The chairman may require any nonrestricted licensee having gross revenue *at or below certain amounts ascertained by the board pursuant to NRS 463.159(3)* ~~[of less than $6,165,000 or accepting less than $41,651,000 in wagers if the operation consists primarily of a race book or sports pool or both,]~~ during the 12 months ended December 31st each year, to prepare financial statements covering all financial activities of the licensee's establishment for a business year and to engage an independent accountant to audit the financial statements in accordance with generally accepted auditing standards or to review the financial statements in accordance with standards for accounting and review services. *The board shall post such amounts on its website no later than the December 15 preceding the year such amounts shall be effective.*

5. No Change.

6. No Change.
7. No Change.
8. No Change.
9. No Change.

NGC #9

PROPOSED NEW REGULATION 6.031

PURPOSE: To adopt regulations prescribing the manner in which transferable tax credits will be administered by the board and to take such additional action as may be necessary and proper to effectuate these stated purposes.

REGULATION 6
ACCOUNTING REGULATIONS
(Draft Date: August 6, 2013)
New
~~[Deleted]~~

6.031 Transferable tax credits.

1. For the purposes of Chapter 463 of the Nevada Revised Statutes, "transferable tax credit" means a tax credit issued by the State of Nevada, Office of Economic Development for use by a licensee subject to the gaming license fees imposed by the provisions of NRS 463.370.

2. A licensee shall notify the board of the amount of transferable tax credits received, the name of the producer from whom the licensee received the transferable tax credits, the amount of transferable tax credits the licensee will apply, and the months and/or years the licensee will apply the transferable tax credits.

3. A licensee subject to the gaming license fees imposed by the provisions of NRS 463.370 shall offset such fees to the extent the licensee tenders to the board any transferable tax credit transferred to the licensee.

4. Transferable tax credits may only be used to reduce the license fees imposed by the provisions of NRS 463.370. Fees paid with transferable tax credits shall not be refunded. An overpayment of fees paid with transferable tax credits may only be credited against the future fees owed by the licensee which overpaid the fees and may not be refunded to the licensee.

5. Transferable tax credits shall expire 4 years after the date on which the transferable tax credits are issued to the producer.

NGC #10

REGULATION 5A
OPERATION OF INTERACTIVE GAMING

PROPOSED AMENDMENTS TO REGULATION 5A

PURPOSE: In accordance with NRS 463.145, NRS 463.750, and A.B. 114 and A.B. 360 passed during the 2013 Legislative Session, to amend Regulation 5A to amend and clarify 5A.120(13) applicable to responsible gambling limit settings for interactive gaming accounts; to amend 5A.140 to provide that operators shall not accept or facilitate wagers from any officer, director, owner or key employee of such an operator or its affiliates; to amend 5A.170(4) to include that gross revenue equals all money received by the operator for conducting any contest or tournament in conjunction with interactive gaming; to delete in its entirety 5A.240 pertaining to the scope and effectiveness of operator of interactive gaming license; and to take such additional action as may be necessary and proper to effectuate these stated purposes.

Draft Date: October 15, 2013

5A.120 Interactive Gaming Accounts.

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

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

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

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

2. An operator shall ensure the following:

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

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

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

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

(a) Cash deposits made directly with the operator;

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

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

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

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

(f) Any other means approved by the chairman.

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

(a) Deposits;

(b) Amounts won by an authorized player;

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

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

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

(a) Amounts wagered by an authorized player;

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

(c) Withdrawals;

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

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

(f) Debits as otherwise approved by the chairman.

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

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

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

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

11. An operator shall neither extend credit to an authorized player nor allow the deposit of funds into an interactive gaming account that are derived from the extension of credit by affiliates or agents of the operator. For purposes of this subsection, credit shall not be deemed to have been extended where, although funds have been deposited into an interactive gaming account, the operator is awaiting actual receipt of such funds in the ordinary course of business.

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

13. An operator shall ensure that an authorized player has the ability, through their interactive gaming account, to select responsible gambling options that include without limitation: ~~a wager limit, loss limit, time-based loss limits, deposit limit, session time limit, and time-based exclusion from gambling~~

(a) Loss limits establishing the net loss that can occur within a specified period of time;
(b) Deposit limits establishing the amount of total deposits an authorized player can make to their interactive gaming account within a specified period of time;
(c) Tournament limits establishing the total dollar amount of tournament entries a patron can purchase within a specified period of time;
(d) Buy in limit establishing the total amount of funds an authorized player can allocate for the play of poker within a specified period of time, exclusive of tournament entries purchased;
(e) Play time limits establishing the total amount of time available for play during a specified period of time; and
(f) Time based exclusion from gambling settings.

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

5A.140 Acceptance of Wagers.

1. Operators shall not accept or facilitate a wager:

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

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

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

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

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

(f) From any officer, director, owner or key employee of such an operator or its affiliates; or

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

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

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

1. Gross revenue received by an establishment from the operation of interactive gaming is subject to the same license fee provisions of NRS 463.370 as the games and

gaming devices of the establishment, unless federal law otherwise provides for a similar fee or tax.

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

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

4. For each game in which the operator is not a party to the wager, gross revenue equals all money received by the operator as compensation for conducting the game, or for conducting any contest or tournament in conjunction with interactive gaming.

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

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

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

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

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

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

rights holder who holds gaming rights at three or more establishments at which restricted gaming is conducted.

2. An applicant for a restricted license shall furnish to the board complete information on any interest held by a gaming rights holder in the gaming establishment, copies of all agreements involving the gaming rights, and such other information as the board may require.

3. In considering any application by a gaming rights holder, the commission may apply the following criteria in determining whether approval of the application is in the best interests of the state:

(a) The total number of premises at which the applicant holds gaming rights and the total number of slot machines at such premises;

(b) The circumstances by which the gaming rights were acquired, the circumstances regarding the creation of such rights and the history of any transfer of such rights;

(c) The effect on competition and the ability of persons to obtain a license and conduct gaming on the premises of suitable locations for gaming establishments; and

(d) Such other criteria deemed by the board and commission to be relevant, including, but not limited to, any criteria provided in Regulation 3.070.

4. The applicant for a restricted gaming license at an establishment at which gaming rights are held by a gaming rights holder must demonstrate that the gaming devices will be adequately supervised.

5. Each licensee shall notify the board of any change in the ownership interests of gaming rights at any establishment where the licensee operates gaming devices at least 30 days before the change or, if the licensee is not a party to the transaction, immediately upon acquiring knowledge of the change.

6. Except in cases where the gaming rights holder is a publicly traded corporation, each licensee shall notify the board of any change in the ownership of the gaming rights holder at any establishment where the licensee operates gaming devices at least 30 days before the change or, if the licensee is not a party to the transaction, immediately upon acquiring knowledge of the change. If the gaming rights holder at the establishment where the licensee operates gaming devices is a publicly traded corporation, the licensee shall notify the board of any change in control of such publicly traded corporation as reported to the Securities and Exchange Commission, immediately upon acquiring such knowledge.

(Adopted: 2/94)

3.015 Applications for restricted licenses.

1. An application for a restricted license may only be granted if the operation of slot machines is incidental to the primary business conducted at the location and the board and commission determine the location is suitable for the conduct of gaming and the applicant meets the requirements of this Section.

2. Except as required in subsection (h), in recommending and determining whether the applicant's proposed restricted location is suitable for the conduct of gaming and meets the requirements of this Section, the board and commission may consider some or all of the following factors:

(a) The amount of floor space used for the slot machines, which space shall include the area occupied by the slot machines, including slot machine seating and circulation, as compared to the floor space used for the primary business;

(b) The amount of investment in the operation of the slot machines as compared to the amount of investment in the primary business;

(c) The amount of time required to manage or operate the slot machines as compared to the amount of time required to manage or operate the primary business;

(d) The revenue generated by the slot machines as compared to the revenue generated by the primary business;

(e) Whether a substantial portion of the financing for the creation of the business has been provided in exchange for the right to operate slot machines on the premises;

(f) Other factors, including but not limited to the establishment's name, the establishment's marketing practices, the public's perception of the business, and the relationship of the slot machines to the primary business;

(g) What other amenities the applicant offers to its customers; and

(h) When a location is a bar, tavern, saloon or other similar location licensed to sell alcoholic beverages by the drink, for on-premises consumption, the location must:

(1) contain a permanent physical bar, subject to standards established by the board, wherein individual seating is available for at least nine (9) customers at all times to consume beverages and/or food items on the side opposite from where the alcoholic liquor is kept, where the sale and service of beverages are by the drink across such structure and which the permanent bar satisfies all applicable health and building code standards;

(2) contain a minimum of two thousand (2,000) square feet of space available for use by patrons and seating capacity for at least twenty (20) persons not related to or associated with gaming positions if the establishment intends to operate more than four (4) slot machines;

(3) establish and maintain a contract or service agreement with a licensed liquor distributor; and

(4) contain a restaurant as defined herein.

3. Except as provided by subsection 6, only the establishments listed below are suitable for the conduct of gaming pursuant to a restricted license:

(a) Bar, tavern, saloon or other similar location licensed to sell alcoholic beverages for on-premises consumption, other than just beer and wine, by the drink;

(b) Convenience store;

(c) Grocery store;

(d) Drug store; and

(e) Liquor store.

Unless the commission determines otherwise, there shall be a limit of no more than 7 slot machines operated at a convenience store, and a limit of no more than 4 slot machines operated at a liquor store.

4. If the commission deems an application for a restricted license to be based on exceptional circumstances, the commission may waive subsection 3 upon a finding that the waiver is consistent with Regulation 3.010 and the public policy of the State of Nevada.

5. Subsection 3 shall not apply to any type of business approved by the commission as suitable for the operation of slot machines pursuant to subsection 6.

6. Any person may apply for a preliminary determination that a type of establishment not listed in subsection 3 is suitable for the conduct of gaming by filing an application with the board together with all applicable fees per Regulation 4.070. The application shall contain (a) a definition of the type of establishment and (b) a demonstration that the operation of slot machines in such a type of establishment is consistent with Regulation 3.010 and the public policy of the State of Nevada. The application shall be considered by the commission, upon recommendation by the board. Public comment shall be accepted when the application is heard by the board and commission.

7. Slot machines exposed for play in grocery stores and drug stores shall be located within a separate gaming area or alcove having not fewer than 3 sides formed by contiguous walls or partial walls. For the purposes of Regulation 3.015, "partial wall" or "wall" may include, without limitation, 1 or more gaming devices, if the gaming devices are configured together or in conjunction with other structures to create a barrier that is similar to a partial wall or wall.

8. In grocery stores or drug stores, automated teller machines shall not be placed within a designated gaming area or alcove and, at all other restricted locations, automated teller machines shall not be placed adjacent to slot machines.

9. The requirements of this Regulation shall apply to all restricted licensees except as provided herein:

(a) Subsections 2(h), 3 and 7 do not apply to an establishment for which a restricted license was granted by the commission by February 1, 2000, provided that the establishment does not cease gaming operations for a period of more than 12 months or, upon the administrative approval of the chairman of the board, for a period of not more than 24 months, that the nature and quality of the primary business of the establishment has not materially changed, and that the number of slot machines operated at the establishment has not been increased;

(b) Subsections 2(h)(2) and 2 (h)(4) do not apply to any Subsection 3(a) establishment for which a restricted license was granted by the commission on or before August 25, 2011, provided that the establishment does not cease gaming operations for a period of more than 12 months or, upon the administrative approval of the chairman of the board, for a period of not more than 24 months, that the nature and quality of the primary business of the establishment has not

materially changed, and that the number of slot machines operated at the establishment has not been increased; and;

(c) For those Subsection 3(a) establishments granted a restricted license from February 2, 2000 through August 25, 2011, they shall have until August 25, 2013 in which to demonstrate compliance with Subsection 2(h)(1) and 2(h)(3) of this Regulation to the board's satisfaction.

This Subsection 9(c) and the requirements of Subsection 2(h)(1) may be waived in whole or in part at the discretion of the Commission upon the filing of an application and a showing by the licensee that the establishment's physical limitations effectively prevent compliance herewith.

10. The requirements of subsection 2(h) may be waived in whole or in part at the sole and absolute discretion of the Commission upon the filing of an application and a showing of circumstances consistent with the public policy of the state.

11. Regardless of whether subsection 9 applies, it shall be an unsuitable method of operation for any subsection 3(a) establishment that is in compliance with subsection 2(h), or any portions thereof on August 25, 2011, to thereafter fail to maintain such compliance or partial compliance, including but not limited to removing a permanent physical bar, reducing the number of bar seats from its current number of nine or less than nine, eliminating a restaurant, or reducing restaurant seating capacity from its current number of seats if 20 or less than 20.

12. It is an unsuitable method of operation to materially change the nature and quality of the primary business after the commission has granted a restricted gaming license to conduct gaming at an establishment, without the prior administrative approval of the board chairman or his designee. A material change in the nature and quality of the primary business is presumed to occur if any of the requirements of Section 2(h) have not been maintained, a zoning change is required, or a new business license, special use permit, or any other license, permit or approval must be obtained from the applicable county, city, or township licensing, zoning or approval authority, in order to change or operate the primary business in a manner that is different from what was being conducted at the time the gaming license was granted.

13. Nothing in this subsection shall be construed to limit or otherwise encumber the ability of any restricted gaming licensee to transfer, sell, or convey the business pursuant to the provisions of NRS chapter 463 and Regulation 8.

14. For purposes of this Regulation 3.015, the term "restaurant" shall mean a space kept, used, maintained, advertised and held out to the public as a place where hot meals are prepared and served on premises, providing a seating capacity of at least twenty (20) persons not related to or associated with gaming positions. The kitchen must be operated no less than fifty percent of the hours per day that the location is open for business.

(Adopted: 10/24/90. Amended: 7/99; 7/05; 11/08, 08/11)

3.020 Ownership of premises where gaming conducted.

1. The commission or the board may deem that premises are unsuitable for the conduct of gaming operations by reason of ownership of any interest whatsoever in such premises by a person who is unqualified or disqualified to hold a gaming license, regardless of the qualifications of the person who seeks or holds a license to operate gaming in or upon such premises.

2. In all cases in which the premises wherein or whereon the gaming operation for which a state gaming license is sought are not wholly owned by the applicant, the applicant shall furnish to the board a statement of the name and address of the owner or owners of such premises, a copy of all agreements whereby the applicant is entitled to possession of the premises, and such other information as the board may require.

3. In all cases in which the premises are wholly or partly owned by the applicant, the applicant shall furnish to the board complete information pertaining to the interest held by any person other than the applicant, including interest held under any mortgage, deed of trust, bonds or debentures, pledge of corporate stock, voting trust agreement, or other device whatever, together with such other information as the board may require.

4. Every licensee shall furnish to the board complete information pertaining to any change of ownership of the premises or of any change of any interest in the premises wherein or whereon the licensed gaming is operated at least 30 days before the date of such change; or, if the licensee is not a party to the transaction effecting such change of ownership, immediately upon acquiring knowledge of such change of ownership or any contemplated change of ownership.

(Amended: 1/82)

Senate Bill No. 416–Committee on Judiciary

CHAPTER.....

AN ACT relating to gaming; providing certain restrictions governing restricted licenses to operate gaming; revising provisions governing the operation of race books or sports pools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) defines a "restricted license" as a state gaming license to operate not more than 15 slot machines at an establishment in which the operation of slot machines is incidental to the primary business of the establishment; and (2) provides that such a license may only be granted to the operator of the primary business or to a licensed operator of a slot machine route. (NRS 463.0189, 463.161) **Section 1** of this bill clarifies that a restricted license means a state gaming license for the operation of not more than 15 slot machines and which does not include a race book or sports pool. **Section 3** of this bill provides that, in a county whose population is 100,000 or more (currently Clark and Washoe Counties), a restricted license may only be granted at certain establishments if the establishment contains: (1) a minimum of 2,500 square feet of space available for patrons; (2) a permanent, physical bar; and (3) a restaurant which meets certain requirements.

Existing law: (1) prohibits certain actions relating to gaming without procuring and maintaining the required licensure; and (2) provides that a single establishment may not contain more than one licensed operation unless the establishment holds a nonrestricted gaming license. (NRS 463.160, 463.245) Existing law also defines: (1) "race book" as the business of accepting pari-mutuel wagers upon the outcome of an event held at a track; and (2) "sports pool" as the business of accepting wagers on sporting events by any system or method of wagering. (NRS 463.01858, 463.0193) **Section 2** of this bill provides that a separate license is required for each location of a race book or sports pool, and further provides that certain activities relating to the acceptance and payment of wagers and transactions in person or through mechanical means, such as a kiosk or similar device, are considered within the operation of a race book or sports pool. **Section 4** of this bill clarifies that the exception to the single license at one establishment only applies to those nonrestricted licenses at an establishment with 16 or more slot machines or at an establishment with any number of slot machines together with any other game, gaming device, race book or sports pool.

Section 7 of this bill provides that the provisions of this bill prohibiting the granting of restricted licenses, unless the establishment meets certain criteria, apply prospectively to new restricted licenses issued on or after July 1, 2013. **Section 7** further provides that certain establishments, which were granted a restricted license before July 1, 2013, must comply with the requirement to contain a permanent bar with a certain number of slot machines embedded in the bar upon the earlier of: (1) a change in ownership of the business or the transfer of 50 percent or more of the stock or other ownership interest; or (2) July 1, 2015. Establishments which were granted a gaming license before December 22, 1990, and which have been operating at the same location since that date, are not required to comply with the requirement associated with a permanent bar. Finally, **section 7** provides that an establishment that was granted a restricted gaming license before July 1, 2013, does not need to occupy at least 2,500 square feet or have a restaurant unless the establishment ceases operation for 18 or more consecutive months.

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

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

Section 1. NRS 463.0189 is hereby amended to read as follows:

463.0189 "Restricted license" or "restricted operation" means a state gaming license for, or an operation consisting of, not more than 15 slot machines and no other game or gaming device ***, race book or sports pool*** at an establishment in which the operation of slot machines is incidental to the primary business of the establishment.

Sec. 2. 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;

(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;

(e) To operate as a cash access and wagering instrument service provider; or

(f) 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. ***For the purposes of this section, the operation of a race book or sports pool includes making the premises available for any of the following purposes:***

(a) Allowing patrons to establish an account for wagering with the race book or sports pool;

(b) Accepting wagers from patrons;

(c) Allowing patrons to place wagers;

(d) Paying winning wagers to patrons; or

(e) Allowing patrons to withdraw cash from an account for wagering or to be issued a ticket, receipt, representation of value or other credit representing a withdrawal from an account for wagering that can be redeemed for cash,

➥ whether by a transaction in person at an establishment or through mechanical means, such as a kiosk or similar device, regardless of whether that device would otherwise be considered associated equipment. A separate license must be obtained for each location at which such an operation is conducted.

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

Sec. 3. NRS 463.161 is hereby amended to read as follows:

463.161 *1.* A license to operate 15 or fewer slot machines at an establishment in which the operation of slot machines is incidental to the primary business conducted at the establishment may only be granted to the operator of the primary business or to a licensed operator of a slot machine route.

2. In a county whose population is 100,000 or more, a license to operate 15 or fewer slot machines at an establishment which is licensed to sell alcoholic beverages at retail by the drink to the general public may only be granted if the establishment meets the requirements of this subsection. The establishment must:

(a) Occupy an area comprised of at least 2,500 square feet which is open and available for use by patrons.

(b) Contain a permanent physical bar.

(c) Contain a restaurant which:

(1) Serves food ordered by patrons from tables or booths.

(2) Includes a dining area with seating for at least 25 persons in a room separate from the on-premise kitchen. For the purposes of determining the number of seats pursuant to this subparagraph, the stools at the bar or the seats outside the dining area must not be counted.

(3) Includes a kitchen which is operated not less than 12 hours each day the establishment is open for business to the public, or the entire time the establishment is open for business to the public if it is open for business 12 hours or less each day.

3. As used in this section:

(a) "Bar" means a physical structure with a flat horizontal counter, on one side of which alcoholic beverages are kept and maintained, where seats may be placed on the side opposite from where the alcohol is kept, and where the sale and service of alcoholic beverages are by the drink across such structure.

(b) "Restaurant" means a public place where hot meals are prepared and served on the premises.

Sec. 4. NRS 463.245 is hereby amended to read as follows:

463.245 1. Except as otherwise provided in this section:

(a) All licenses issued to the same person, including a wholly owned subsidiary of that person, for the operation of any game, including a sports pool or race book, which authorize gaming at the same establishment must be merged into a single gaming license.

(b) A gaming license may not be issued to any person if the issuance would result in more than one licensed operation at a single establishment, whether or not the profits or revenue from gaming are shared between the licensed operations.

2. A person who has been issued a nonrestricted gaming license *for an operation described in subsection 1, 2 or 5 of NRS 463.0177* may establish a sports pool or race book on the premises of the establishment ~~[at which the person conducts a nonrestricted gaming operation]~~ only after obtaining permission from the Commission.

3. A person who has been issued a license to operate a sports pool or race book at an establishment may be issued a license to operate a sports pool or race book at ~~[another]~~ *a second* establishment *described in subsection 1 or 2 of NRS 463.0177 only* if the second establishment is operated by a person who has been issued a nonrestricted license ~~[.]~~ *for that establishment. A person who has been issued a license to operate a race book or sports pool*

at an establishment is prohibited from operating a race book or sports pool at:

(a) An establishment for which a restricted license has been granted; or

(b) An establishment at which only a nonrestricted license has been granted for an operation described in subsection 3 or 4 of NRS 463.0177.

4. ~~[Nothing]~~ ***A person who has been issued a license to operate a race book or sports pool shall not enter into an agreement for the sharing of revenue from the operation of the race book or sports pool with another person in consideration for the offering, placing or maintaining of a kiosk or other similar device not physically located on the licensed premises of the race book or sports pool, except:***

(a) An affiliated licensed race book or sports pool; or

(b) The licensee of an establishment at which the race book or sports pool holds or obtains a license to operate pursuant to this section.

➥ This subsection does not prohibit an operator of a race book or sports pool from entering into an agreement with another person for the provision of shared services relating to advertising or marketing.

5. Nothing in this section limits or prohibits an operator of an inter-casino linked system from placing and operating such a system on the premises of two or more gaming licensees and receiving, either directly or indirectly, any compensation or any percentage or share of the money or property played from the linked games in accordance with the provisions of this chapter and the regulations adopted by the Commission. An inter-casino linked system must not be used to link games other than slot machines, unless such games are located at an establishment that is licensed for games other than slot machines.

~~[5.]~~ ***6. For the purposes of this section, the operation of a race book or sports pool includes making the premises available for any of the following purposes:***

(a) Allowing patrons to establish an account for wagering with the race book or sports pool;

(b) Accepting wagers from patrons;

(c) Allowing patrons to place wagers;

(d) Paying winning wagers to patrons; or

(e) Allowing patrons to withdraw cash from an account for wagering or to be issued a ticket, receipt, representation of value

or other credit representing a withdrawal from an account for wagering that can be redeemed for cash,
➥ whether by a transaction in person at an establishment or through mechanical means such as a kiosk or other similar device, regardless of whether that device would otherwise be considered associated equipment.

7. The provisions of this section do not apply to a license to operate a mobile gaming system or to operate interactive gaming.

Secs. 5 and 6. (Deleted by amendment.)

Sec. 7. 1. Except as otherwise provided in this section, the amendatory provisions of section 3 of this act apply to the issuance of a restricted license on or after July 1, 2013.

2. Except as otherwise provided in subsection 3, an establishment that has been granted a restricted license by the Nevada Gaming Commission before July 1, 2013, but which is not in compliance with the provisions of paragraph (b) of subsection 2 of NRS 463.161, as amended by section 3 of this act, must come into compliance with those provisions upon the earlier of:

(a) A change of ownership of the business or the transfer of 50 percent or more of the stock or other ownership interest in the entity owning the business; or

(b) July 1, 2015.

3. An establishment which was granted a gaming license before December 22, 1990, and which has been operating at the same location since that date is not required to comply with the provisions of paragraph (b) of subsection 2 of NRS 463.161, as amended by section 3 of this act.

4. An establishment that has been granted a restricted license by the Commission before July 1, 2013, but which is not in compliance with the provisions of paragraph (a) or (c) of subsection 2 of NRS 463.161, as amended by section 3 of this act, is not required to come into compliance with those provisions unless the establishment ceases gaming operations for 18 or more consecutive months.

5. The Commission shall not renew the restricted license of an establishment that does not come into compliance with the amendatory provisions of section 3 of this act within the time required by this section.

6. This act applies to all race books, sports pools and associated equipment in existence on July 1, 2013.

Sec. 8. This act becomes effective on July 1, 2013.

Assembly Bill No. 360–Assemblymen Horne, Healey; Bobzien and Kirkpatrick

CHAPTER.....

AN ACT relating to gaming; revising provisions governing interactive gaming; revising provisions governing the registration of persons who hold an ownership interest in certain entities which hold a gaming license; revising provisions relating to the inspection of games, gaming devices, associated equipment, cashless wagering systems, inter-casino linked systems, mobile gaming systems and interactive gaming systems; revising provisions relating to the regulation of independent testing laboratories; providing for an interim study of certain issues concerning the impact of technology upon the regulation of gaming and upon the distinction between restricted and nonrestricted gaming licensees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that the Nevada Gaming Commission may, upon the recommendation of the State Gaming Control Board, adopt regulations allowing promotional schemes to be conducted by licensed operators of interactive gaming in direct association with a licensed interactive gaming activity, contest or tournament that includes a raffle, drawing or other similar game of chance.

Under existing law, the Commission and the Board are required to administer state gaming licenses and manufacturer's, seller's and distributor's licenses, and to perform various acts relating to the regulation and control of gaming. (NRS 463.140) **Sections 2-5** of this bill revise the definitions of the terms "cashless wagering system," "gaming employee," "gross revenue" and "wagering credit" for the purposes of the statutory provisions governing the licensing and control of gaming. **Section 14.5** of this bill repeals a provision contained in section 3 of Senate Bill No. 9 of this session that also revised the definition of the term "gross revenue."

Existing law requires audits of the financial statements of all nonrestricted licensees whose annual gross revenue is $5,000,000 or more, and requires the amount of annual gross revenue to be increased or decreased annually in an amount determined by the Commission and corresponding to the Consumer Price Index. (NRS 463.159) **Section 6** of this bill requires the Board to make such a determination.

Existing law also requires a limited partner holding a 5 percent or less ownership interest in a limited partnership or a member holding a 5 percent or less ownership interest in a limited-liability company, who holds or applies for a state gaming license, to register with the Board and submit to the Board's jurisdiction within 30 days after the person acquires a 5 percent or less ownership interest. (NRS 463.569, 463.5735) **Sections 7 and 8** of this bill remove the requirement to register with the Board after acquiring such an ownership interest, and instead require a person to register upon seeking to hold a 5 percent or less ownership interest.

Existing law requires the Commission to adopt regulations providing for the registration of independent testing laboratories, which may be utilized by the Board to inspect and certify gaming devices, equipment and systems, and any components thereof, and providing for the standards and procedures for the revocation of the registration of such independent testing laboratories. (NRS 463.670) **Section 9** of this bill: (1) extends the requirement of registration to additional persons that own, operate or have significant involvement with an independent testing laboratory; (2) provides that a person who is registered pursuant to **section 9** is subject to the same investigatory and disciplinary procedures as all other gaming licensees; and (3) authorizes the Commission to require a registered independent testing laboratory and certain persons associated with a registered independent testing laboratory to file an application for a finding of suitability.

Assembly Bill No. 114 of this session, which was enacted by the Legislature and approved by the Governor and which became effective on February 21, 2013: (1) required the Commission, by regulation, to authorize the Governor, on behalf of the State of Nevada, to enter into agreements with other states, or authorized agencies thereof, to enable patrons in the signatory states to participate in interactive gaming; (2) required the regulations adopted by the Commission to be adopted in accordance with the Nevada Administrative Procedure Act; and (3) required the regulations to set forth provisions for any potential arrangements to share revenue. **Sections 11 and 12** of this bill amend the provisions of Assembly Bill No. 114 to: (1) allow agreements for interactive agreements to be made with governmental units of other nations, states or local bodies exercising governmental functions; (2) provide that the regulations adopted by the Commission are not required to be adopted in accordance with the Nevada Administrative Procedure Act; and (3) authorize the Commission to include specific requirements for the agreements entered into by the State of Nevada and another government.

Senate Bill No. 416 of this session enacted certain requirements for the issuance of restricted licenses for certain businesses, which were to become effective on July 1, 2013. **Sections 13 and 14** of this bill change the effective date of those provisions to January 1, 2014.

Section 15 of this bill requires the Legislative Commission to create a committee to conduct an interim study concerning the impact of technology upon the regulation of gaming and upon the distinction between restricted and nonrestricted gaming licensees.

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

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

The Commission may, upon the recommendation of the Board, adopt regulations that allow promotional schemes to be conducted by licensed operators of interactive gaming in direct association with a licensed interactive gaming activity, contest or tournament that includes a raffle, drawing or other similar game of chance.

Sec. 2. NRS 463.014 is hereby amended to read as follows:

463.014 "Cashless wagering system" means a method of wagering and accounting:

1. In which the validity and value of a wagering instrument or wagering credits are determined, monitored and retained by a computer operated and maintained by a licensee which maintains a record of each transaction involving the wagering instrument or wagering credits, exclusive of the game or gaming device on which wagers are being made. The term includes computerized systems which facilitate electronic transfers of money directly to or from a game or gaming device; or

2. Used in a race book or sports pool in which the validity and value of a wagering instrument ***or wagering credits*** are determined, monitored and retained on a computer that maintains a record of each transaction involving the wagering instrument ***or wagering credits*** and is operated and maintained by a licensee.

Sec. 3. NRS 463.0157 is hereby amended to read as follows:

463.0157 1. "Gaming employee" means any person connected directly with an operator of a slot route, the operator of a pari-mutuel system, the operator of an inter-casino linked system or a manufacturer, distributor or disseminator, or with the operation of a gaming establishment licensed to conduct any game, 16 or more slot machines, a race book, sports pool or pari-mutuel wagering, including:

(a) Accounting or internal auditing personnel who are directly involved in any recordkeeping or the examination of records associated with revenue from gaming;

(b) Boxpersons;

(c) Cashiers;

(d) Change personnel;

(e) Counting room personnel;

(f) Dealers;

(g) Employees of a person required by NRS 464.010 to be licensed to operate an off-track pari-mutuel system;

(h) Employees of a person required by NRS 463.430 to be licensed to disseminate information concerning racing and employees of an affiliate of such a person involved in assisting the person in carrying out the duties of the person in this State;

(i) Employees whose duties are directly involved with the manufacture, repair, sale or distribution of gaming devices, cashless wagering systems, mobile gaming systems, equipment associated with mobile gaming systems, interactive gaming systems or equipment associated with interactive gaming;

(j) Employees of operators of slot routes who have keys for slot machines or who accept and transport revenue from the slot drop;

(k) Employees of operators of inter-casino linked systems, mobile gaming systems or interactive gaming systems whose duties include the operational or supervisory control of the systems or the games that are part of the systems;

(l) Employees of operators of call centers who perform, or who supervise the performance of, the function of receiving and transmitting wagering instructions;

(m) Employees who have access to the Board's system of records for the purpose of processing the registrations of gaming employees that a licensee is required to perform pursuant to the provisions of this chapter and any regulations adopted pursuant thereto;

(n) Floorpersons;

(o) Hosts or other persons empowered to extend credit or complimentary services;

(p) Keno runners;

(q) Keno writers;

(r) Machine mechanics;

(s) Odds makers and line setters;

(t) Security personnel;

(u) Shift or pit bosses;

(v) Shills;

(w) Supervisors or managers;

(x) Ticket writers;

(y) Employees of a person required by NRS 463.160 to be licensed to operate an information service; ~~[and]~~

(z) ***Employees of a licensee who have local access and provide management, support, security or disaster recovery services for any hardware or software that is regulated pursuant to the provisions of this chapter and any regulations adopted pursuant thereto; and***

(aa) Temporary or contract employees hired by a licensee to perform a function related to gaming.

2. "Gaming employee" does not include barbacks ~~[,]~~ ***or*** bartenders ~~[,]~~ ***whose duties do not involve gaming activities,*** cocktail servers or other persons engaged exclusively in preparing or serving food or beverages.

3. As used in this section, "local access" means access to hardware or software from within a licensed gaming establishment, hosting center or elsewhere within this State.

Sec. 4. NRS 463.0161 is hereby amended to read as follows:

463.0161 1. "Gross revenue" means the total of all:

(a) Cash received as winnings;

(b) Cash received in payment for credit extended by a licensee to a patron for purposes of gaming; and

(c) Compensation received for conducting any game ***, or any contest or tournament in conjunction with interactive gaming,*** in which the licensee is not party to a wager,

➥ less the total of all cash paid out as losses to patrons, those amounts paid to fund periodic payments and any other items made deductible as losses by NRS 463.3715. For the purposes of this section, cash or the value of noncash prizes awarded to patrons in a contest or tournament are not losses, except that losses in a contest or tournament conducted in conjunction with an inter-casino linked system may be deducted to the extent of the compensation received for the right to participate in that contest or tournament.

2. The term does not include:

(a) Counterfeit facsimiles of money, chips, tokens, wagering instruments or wagering credits;

(b) Coins of other countries which are received in gaming devices;

(c) Any portion of the face value of any chip, token or other representative of value won by a licensee from a patron for which the licensee can demonstrate that it or its affiliate has not received cash;

(d) Cash taken in fraudulent acts perpetrated against a licensee for which the licensee is not reimbursed;

(e) Cash received as entry fees for contests or tournaments in which patrons compete for prizes, except for a contest or tournament conducted in conjunction with an inter-casino linked system;

(f) Uncollected baccarat commissions; or

(g) Cash provided by the licensee to a patron and subsequently won by the licensee, for which the licensee can demonstrate that it or its affiliate has not been reimbursed.

3. As used in this section, "baccarat commission" means:

(a) A fee assessed by a licensee on cash paid out as a loss to a patron at baccarat to modify the odds of the game; or

(b) A rate or fee charged by a licensee for the right to participate in a baccarat game.

Sec. 5. NRS 463.01963 is hereby amended to read as follows:

463.01963 "Wagering credit" means a representative of value, other than a chip, token or wagering instrument, that is used for wagering at a game ***,*** ~~[or]~~ gaming device ***, race book or sports pool***

and is obtained by the payment of cash or a cash equivalent, the use of a wagering instrument or the electronic transfer of money.

Sec. 6. NRS 463.159 is hereby amended to read as follows:

463.159 1. The Commission shall by regulation require audits of the financial statements of all nonrestricted licensees whose annual gross revenue is $5,000,000 or more.

2. The Commission may require audits, compiled statements or reviews of the financial statements of nonrestricted licensees whose annual gross revenue is less than $5,000,000.

3. The amounts of annual gross revenue provided for in subsections 1 and 2 must be increased or decreased annually in an amount corresponding to the percentage of increase or decrease in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding year. On or before December 15 of each year, the ~~[Commission]~~ ***Board*** shall determine the amount of the increase or decrease required by this subsection and establish the adjusted amounts of annual gross revenue in effect for the succeeding calendar year. The audits, compilations and reviews provided for in subsections 1 and 2 must be made by independent accountants holding permits to practice public accounting in the State of Nevada.

4. Except as otherwise provided in subsection 5, for every audit required pursuant to this section:

(a) The independent accountants shall submit an audit report which must express an unqualified or qualified opinion or, if appropriate, disclaim an opinion on the statements taken as a whole in accordance with standards for the accounting profession established by rules and regulations of the Nevada State Board of Accountancy, but the preparation of statements without audit does not constitute compliance.

(b) The examination and audit must disclose whether the accounts, records and control procedures maintained by the licensee are as required by the regulations published by the Commission pursuant to NRS 463.156 to 463.1592, inclusive.

5. If the license of a nonrestricted licensee is terminated within 3 months after the end of a period covered by an audit, the licensee may submit compiled statements in lieu of an additional audited statement for the licensee's final period of business.

Sec. 7. NRS 463.569 is hereby amended to read as follows:

463.569 1. Every general partner of, and every limited partner with more than a 5 percent ownership interest in, a limited partnership which holds a state gaming license must be licensed individually, according to the provisions of this chapter, and if, in

the judgment of the Commission, the public interest will be served by requiring any other limited partners or any or all of the limited partnership's lenders, holders of evidence of indebtedness, underwriters, key executives, agents or employees to be licensed, the limited partnership shall require those persons to apply for a license in accordance with the laws and requirements in effect at the time the Commission requires the licensing. Publicly traded corporations which are limited partners of limited partnerships are not required to be licensed, but shall comply with NRS 463.635 to 463.645, inclusive. A person who is required to be licensed by this section as a general or limited partner shall not receive that position until the person secures the required approval of the Commission. A person who is required to be licensed pursuant to a decision of the Commission shall apply for a license within 30 days after the Commission requests the person to do so.

2. All limited partners ~~[holding]~~ ***seeking to hold*** a 5 percent or less ownership interest in a limited partnership, other than a publicly traded limited partnership, which hold or apply for a state gaming license, must register in that capacity with the Board and submit to the Board's jurisdiction. Such registration must be made on forms prescribed by the Chair of the Board. The Chair of the Board may require a registrant to apply for licensure at any time in the Chair's discretion. ~~[A person who is required to be registered by this section shall apply for registration within 30 days after the person becomes a limited partner holding a 5 percent or less ownership interest in a limited partnership.]~~

3. The Commission may, with the advice and assistance of the Board, adopt such regulations as it deems necessary to carry out the provisions of subsection 2.

Sec. 8. NRS 463.5735 is hereby amended to read as follows:

463.5735 1. Every member and transferee of a member's interest with more than a 5 percent ownership interest in a limited-liability company, and every director and manager of a limited-liability company which holds or applies for a state gaming license, must be licensed individually according to the provisions of this chapter.

2. All members ~~[holding]~~ ***seeking to hold*** a 5 percent or less ownership interest in a limited-liability company, other than a publicly traded limited-liability company, which hold or apply for a state gaming license, must register in that capacity with the Board and submit to the Board's jurisdiction. Such registration must be made on forms prescribed by the Chair of the Board. The Chair of the Board may require a registrant to apply for licensure at any time

in the Chair's discretion. ~~[A person who is required to be registered by this section shall apply for registration within 30 days after the person becomes a member holding a 5 percent or less ownership interest in a limited-liability company.]~~

3. If, in the judgment of the Commission, the public interest will be served by requiring any members with a 5 percent or less ownership interest in a limited-liability company, or any of the limited-liability company's lenders, holders of evidence of indebtedness, underwriters, key executives, agents or employees to be licensed:

(a) The limited-liability company shall require those persons to apply for a license in accordance with the laws and requirements in effect at the time the Commission requires the licensing; and

(b) Those persons shall apply for a license within 30 days after being requested to do so by the Commission.

4. A publicly traded corporation which is a member of a limited-liability company is not required to be licensed, but shall comply with NRS 463.635 to 463.645, inclusive.

5. No person may become a member or a transferee of a member's interest in a limited-liability company which holds a license until the person secures the required approval of the Commission.

6. A director or manager of a limited-liability company shall apply for a license within 30 days after assuming office.

7. The Commission may, with the advice and assistance of the Board, adopt such regulations as it deems necessary to carry out the provisions of subsection 2.

Sec. 9. NRS 463.670 is hereby amended to read as follows:

463.670 1. The Legislature finds and declares as facts:

(a) That the inspection of ***games,*** gaming devices, associated equipment, cashless wagering systems, ***inter-casino linked systems,*** mobile gaming systems and interactive gaming systems is essential to carry out the provisions of this chapter.

(b) That the inspection of ***games,*** gaming devices, associated equipment, cashless wagering systems, ***inter-casino linked systems,*** mobile gaming systems and interactive gaming systems is greatly facilitated by the opportunity to inspect components before assembly and to examine the methods of manufacture.

(c) That the interest of this State in the inspection of ***games,*** gaming devices, associated equipment, cashless wagering systems, ***inter-casino linked systems,*** mobile gaming systems and interactive gaming systems must be balanced with the interest of this State in

maintaining a competitive gaming industry in which games can be efficiently and expeditiously brought to the market.

2. The Commission may, with the advice and assistance of the Board, adopt and implement procedures that preserve and enhance the necessary balance between the regulatory and economic interests of this State which are critical to the vitality of the gaming industry of this State.

3. The Board may inspect every ***game or*** gaming device which is manufactured, sold or distributed:

(a) For use in this State, before the ***game or*** gaming device is put into play.

(b) In this State for use outside this State, before the gaming device is shipped out of this State.

4. The Board may inspect every ***game or*** gaming device which is offered for play within this State by a state gaming licensee.

5. The Board may inspect all associated equipment, every cashless wagering system, ***every inter-casino linked system,*** every mobile gaming system and every interactive gaming system which is manufactured, sold or distributed for use in this State before the equipment or system is installed or used by a state gaming licensee and at any time while the state gaming licensee is using the equipment or system.

6. In addition to all other fees and charges imposed by this chapter, the Board may determine, charge and collect an inspection fee from each manufacturer, seller, distributor or independent testing laboratory which must not exceed the actual cost of inspection and investigation.

7. The Commission shall adopt regulations which:

(a) Provide for the registration of independent testing laboratories ~~[,]~~ ***and of each person that owns, operates or has significant involvement with an independent testing laboratory,*** specify the form of the application required for such registration ***, set forth the qualifications required for such registration*** and establish the fees required for the application, the investigation of the applicant and the registration of the applicant.

(b) Authorize the Board to utilize independent testing laboratories for the inspection and certification of any ***game,*** gaming device, associated equipment, cashless wagering system, ***inter-casino linked system,*** mobile gaming system or interactive gaming system, or any components thereof.

(c) Establish uniform protocols and procedures which the Board and independent testing laboratories must follow during an inspection performed pursuant to subsection 3 or 5, and which

independent testing laboratories must follow during the certification of any ***game,*** gaming device, associated equipment, cashless wagering system, ***inter-casino linked system,*** mobile gaming system or interactive gaming system, or any components thereof, for use in this State or for shipment from this State.

(d) Allow an application for the registration of an independent testing laboratory to be granted upon the independent testing laboratory's completion of an inspection performed in compliance with the uniform protocols and procedures established pursuant to paragraph (c) and satisfaction of such other requirements that the Board may establish.

(e) Provide the standards and procedures for the revocation of the registration of an independent testing laboratory.

(f) Provide the standards and procedures relating to the filing of an application for a finding of suitability pursuant to this section and the remedies should a person be found unsuitable.

(g) Provide any additional provisions which the Commission deems necessary and appropriate to carry out the provisions of this section and which are consistent with the public policy of this State pursuant to NRS 463.0129.

8. ***The Commission shall retain jurisdiction over any person registered pursuant to this section, and any regulations adopted pursuant thereto, in all matters relating to a game, gaming device, associated equipment, cashless wagering system, inter-casino linked system, mobile gaming system or interactive gaming system, or any component thereof or modification thereto, even if the person ceases to be registered.***

9. A person registered pursuant to this section is subject to the investigatory and disciplinary proceedings that are set forth in NRS 463.310 to 463.318, inclusive, and shall be punished as provided in those sections.

10. The Commission may, upon recommendation of the Board, require the following persons to file an application for a finding of suitability:

(a) A registered independent testing laboratory.

(b) An employee of a registered independent testing laboratory.

(c) An officer, director, partner, principal, manager, member, trustee or direct or beneficial owner of a registered independent testing laboratory or any person that owns or has significant involvement with the activities of a registered independent testing laboratory.

11. If a person fails to submit an application for a finding of suitability within 30 days after a demand by the Commission

pursuant to this section, the Commission may make a finding of unsuitability. Upon written request, such period may be extended by the Chair of the Commission, at the Chair's sole and absolute discretion.

12. As used in this section, unless the context otherwise requires, "independent testing laboratory" means a private laboratory that is registered by the ~~[Commission]~~ ***Board*** to inspect and certify ***games,*** gaming devices, associated equipment, cashless wagering systems, ***inter-casino linked systems,*** mobile gaming systems ~~[and]~~ ***or*** interactive gaming systems, and any components thereof ~~[,]~~ ***and modifications thereto,*** and to perform such other services as the Board and Commission may request.

Sec. 10. NRS 465.094 is hereby amended to read as follows:

465.094 The provisions of NRS 465.092 and 465.093 do not apply to a wager placed by a person for the person's own benefit or, without compensation, for the benefit of another that is accepted or received by, placed with, or sent, transmitted or relayed to:

1. A race book or sports pool that is licensed pursuant to chapter 463 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering;

2. A person who is licensed to engage in off-track pari-mutuel wagering pursuant to chapter 464 of NRS, if the wager is accepted or received within this State and otherwise complies with subsection 3 of NRS 464.020 and all other applicable laws and regulations concerning wagering;

3. A person who is licensed to operate a mobile gaming system pursuant to chapter 463 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering;

4. Any other person or establishment that is licensed to engage in wagering pursuant to title 41 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering; or

5. Any other person or establishment that is licensed to engage in wagering in another ~~[state]~~ ***jurisdiction*** and is permitted to accept or receive a wager from patrons within this State under an agreement entered into by the Governor pursuant to section 6 of Assembly Bill No. 114 of this session.

Sec. 11. NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

(a) The Governor.

(b) Except as otherwise provided in NRS 209.221, the Department of Corrections.

(c) The Nevada System of Higher Education.

(d) The Office of the Military.

(e) The State Gaming Control Board.

(f) Except as otherwise provided in NRS 368A.140 and 463.765 , ~~[and section 6 of this act,]~~ the Nevada Gaming Commission.

(g) The Division of Welfare and Supportive Services of the Department of Health and Human Services.

(h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services.

(i) The State Board of Examiners acting pursuant to chapter 217 of NRS.

(j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.

(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.

(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.

(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 590.830.

(n) The Silver State Health Insurance Exchange.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

(d) NRS 90.800 for the use of summary orders in contested cases,

➥ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;

(c) A regulation adopted by the State Board of Education pursuant to NRS 392.644 or 394.1694; or

(d) The judicial review of decisions of the Public Utilities Commission of Nevada.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

Sec. 12. Section 6 of Assembly Bill No. 114 of this session is hereby amended to read as follows:

Sec. 6. 1. ~~[The]~~ ***Upon recommendation of the*** Commission ***,*** ~~[shall, by regulation, authorize]~~ the Governor, on behalf of the State of Nevada, ***is authorized*** to:

(a) Enter into agreements ***, in accordance with the requirements of this section,*** with other ~~[states, or authorized agencies thereof, to enable patrons]~~ ***governments whereby persons who are physically located*** in ~~[the]~~ ***a*** signatory ~~[states to]~~ ***jurisdiction may*** participate in interactive gaming ~~[offered by licensees in those]~~ ***conducted by one or more operators licensed by one or more of the*** signatory ~~[states;]~~ ***governments;*** and

(b) Take all necessary actions to ensure that any agreement entered into pursuant to this section becomes effective.

2. ~~[Any regulations adopted pursuant to subsection 1 must:~~

~~(a) Set forth provisions for any potential arrangements to share revenue between this State and any other state or agency within another state.~~

~~(b) Be adopted in accordance with the provisions of chapter 233B of NRS.~~] *The Commission may:*

(a) Make recommendations to the Governor to enter into agreements pursuant to this section.

(b) Upon the recommendation of the Board, adopt regulations relating to agreements pursuant to this section.

3. The regulations adopted by the Commission pursuant to this section may include, without limitation, provisions prescribing:

(a) The form, length and terms of an agreement entered into by this State and another government, including, without limitation, provisions relating to how:

(1) Taxes are to be treated by this State and another government;

(2) Revenues are to be shared and distributed; and

(3) Disputes with patrons are to be resolved.

(b) The information to be furnished to the Board and the Commission by a government that proposes to enter into an agreement with this State pursuant to this section.

(c) The information to be furnished by the Board to the Commission to enable the Commission to carry out the purposes of this section.

(d) The manner and procedure for hearings conducted by the Board and Commission pursuant to this section, including, without limitation, the need for any special rules or notices.

(e) The information to be furnished by the Commission to the Governor that supports the recommendations of the Commission made pursuant to this section.

(f) Any other procedures to be followed by the Board or Commission to carry out the purposes of this section.

4. The Governor may not enter into an agreement pursuant to this section unless the agreement includes provisions:

(a) For any potential arrangement for the sharing of revenues by this State and a government.

(b) That permit the effective regulation of interactive gaming by this State, including, without limitation, provisions relating to licensing of entities and natural persons, technical standards to be followed, resolution of

disputes by patrons, requirements for bankrolls, enforcement, accounting and maintenance of records.

(c) That each government that is a signatory to the agreement agrees to prohibit operators of interactive gaming, service providers and manufacturers or distributors of interactive gaming systems from engaging in any activity permitted by the agreement unless such operators of interactive gaming, service providers or manufacturers or distributors of interactive gaming systems are licensed or found suitable:

(1) In this State; or

(2) In the signatory jurisdiction pursuant to requirements that are materially consistent with the corresponding requirements of this State.

(d) That no variation or derogation from the requirements of the agreement is permitted for any signatory government absent the consent of this State and all signatory governments.

(e) That prohibit any subordinate or side agreements, except with respect to sharing of revenues, among any subset of governments that are signatories to the agreement.

(f) That, if the agreement allows persons physically located in this State to participate in interactive gaming conducted by another government or an operator of interactive gaming licensed by another government, require that government to establish and maintain regulatory requirements governing interactive gaming that are materially consistent with the requirements of this State in all material respects.

5. As used in this section:

(a) "Government" means any governmental unit of a national, state or local body exercising governmental functions, other than the United States Government. The term includes, without limitation, national and subnational governments, including their respective departments, agencies and instrumentalities and any department, agency or authority of any such governmental unit that has authority over gaming or gambling activities.

(b) "Jurisdiction" means the country, state or other geographic area over which a government exercises legal authority.

Sec. 13. Section 7 of Senate Bill No. 416 of this session is hereby amended to read as follows:

Sec. 7. 1. Except as otherwise provided in this section, the amendatory provisions of section 3 of this act apply to the issuance of a restricted license on or after January 1, 2014.

2. Except as otherwise provided in subsection 3, an establishment that has been granted a restricted license by the Nevada Gaming Commission before January 1, 2014, but which is not in compliance with the provisions of paragraph (b) of subsection 2 of NRS 463.161, as amended by section 3 of this act, must come into compliance with those provisions upon the earlier of:

(a) A change of ownership of the business or the transfer of 50 percent or more of the stock or other ownership interest in the entity owning the business; or

(b) July 1, 2015.

3. An establishment which was granted a gaming license before December 22, 1990, and which has been operating at the same location since that date is not required to comply with the provisions of paragraph (b) of subsection 2 of NRS 463.161, as amended by section 3 of this act.

4. An establishment that has been granted a restricted license by the Commission before January 1, 2014, but which is not in compliance with the provisions of paragraph (a) or (c) of subsection 2 of NRS 463.161, as amended by section 3 of this act, is not required to come into compliance with those provisions unless the establishment ceases gaming operations for 18 or more consecutive months.

5. The Commission shall not renew the restricted license of an establishment that does not come into compliance with the amendatory provisions of section 3 of this act within the time required by this section.

6. This act applies to all race books, sports pools and associated equipment in existence on July 1, 2013.

Sec. 14. Section 8 of Senate Bill No. 416 of this session is hereby amended to read as follows:

Sec. 8. 1. This section and sections 1, 2, 4 and 7 of this act become effective on July 1, 2013.

2. Section 3 of this act becomes effective on January 1, 2014.

Sec. 14.5. Section 3 of Senate Bill No. 9 of this session is hereby repealed.

Sec. 15. 1. The Legislative Commission shall create a committee to conduct an interim study concerning the impact of technology upon the regulation of gaming and upon the distinction between restricted and nonrestricted gaming licensees.

2. The committee created by the Legislative Commission to conduct the study must be composed of six voting members and seven nonvoting members, appointed and designated as follows:

(a) The Legislative Commission shall appoint three voting members of the Senate, at least one of whom must be a member of the minority political party.

(b) The Legislative Commission shall appoint three voting members of the Assembly, at least one of whom must be a member of the minority political party.

(c) The Legislative Commission shall appoint five nonvoting members, with one member representing each of the following:

(1) Manufacturers or developers of gaming technology;

(2) Entities engaged in the business of interactive gaming;

(3) Restricted gaming licensees;

(4) Nonrestricted gaming licensees; and

(5) Operators of race books and sports pools.

(d) The Chair of the Nevada Gaming Commission and the Chair of the State Gaming Control Board serve *ex officio* as nonvoting members of the committee.

3. The Legislative Commission shall appoint a Chair from among the voting members of the committee.

4. The committee shall study, without limitation:

(a) The impact of modern and evolving technology upon gaming and the regulation of gaming;

(b) Interactive gaming in Nevada and other jurisdictions, and any proposed or enacted federal legislation in this area;

(c) The regulatory distinction between restricted and nonrestricted licensure, and the impact of technology upon this distinction;

(d) The determination of whether the operation of slot machines is incidental to the primary business of a restricted gaming licensee, and minimum requirements that are or should be imposed upon such businesses;

(e) The effect of expanding capability of personal and portable electronic devices upon gaming and the regulation of gaming;

(f) The potential effects and consequences of authorizing the acceptance of race book and sports pool wagers made by an entity; and

(g) The effect of legislation approved by the 77th Session of the Nevada Legislature with regard to gaming and the regulation of gaming.

5. The Legislative Commission shall submit a report of the findings of the committee, including, without limitation, any recommendations for legislation, to the 78th Session of the Nevada Legislature.

6. For each day or portion of a day during which a member of the committee who is a Legislator attends a meeting of the committee or is otherwise engaged in the business of the committee, the Legislator is entitled to receive the:

(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session;

(b) Per diem allowance provided for state officers generally; and

(c) Travel expenses provided pursuant to NRS 218A.655.

➥ The compensation, per diem allowances and travel expenses of the members of the committee who are Legislators must be paid from the Legislative Fund.

Sec. 16. 1. This section and section 14.5 of this act become effective on June 1, 2013.

2. Sections 1 to 14, inclusive, and 15 of this act become effective upon passage and approval.

FERTITTA
ENTERTAINMENT

Direct Dial: (702) 495-4233
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Mike H. Sloan
Senior Vice President and Government Relations

September 11, 2013

VIA E-MAIL:
pbernhard@kcnvlaw.com

Re: Legislative Council Opinion regarding SB 416

Dear Mr. Bernhard,

As you may know, is has been asserted by at least one representative of several restricted gaming locations that passage of SB 416 "eliminated" the long standing statutory requirement that gaming be incidental to the primary business of an entity holding a restricted gaming license.

This view was rejected by the Nevada Resort Association as well as by counsel to Station Casinos in letters to the Nevada Gaming Commission (copies of both opinions are attached).

I have just received a copy of an opinion from the Legislative Counsel in response to a request by Assembly Majority Leader Horne for the Legislative Council's understanding of the requirement of NRS 463.161 as amended by SB 416. The opinion states:

Based on the foregoing principles of statutory construction, it is the opinion of this office that in a county whose population is 100,00 or more, an establishment which is licensed to sell alcoholic beverages at retail by the drink to the general public and which is seeking a restricted license must not only comply with the requirements of subsection 2 of NRS 463.161, but must also demonstrate to the satisfaction of the Board and Commission that the operation of the slot machines ins incidental to the primary business conducted at the establishment, based upon the criteria established by regulation, Including, without limitation, the factors set forth in Regulation 3.015.

I have attached a copy of that opinion.

The new subsection 2 of NRS 463.131 clearly provides a minimum requirement for a restricted gaming license in counties with a population of 100,000 or more, in businesses licensed to sell liquor by the glass. It is clear that Nevada law requires such businesses meet both the requirements of the new subsection 2 and the long standing "incidental to a primary business" test of subsection 1 of NRS 463.161.

Yours Truly,

Mike H. Sloan
Senior Vice President of Government Relations

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September 5, 2013

Assemblyman William Horne
2251 North Rampart Boulevard, Suite 357
Las Vegas, NV 89128-7640

Dear Assemblyman Horne:

You have asked this office for an interpretation of the provisions of NRS 463.161, as amended by Senate Bill No. 416 of the 2013 Legislative Session (chapter 396, Statutes of Nevada 2013, at page 2154), which relates to the issuance of a license to operate 15 or fewer slot machines. Specifically, you have asked whether to qualify for the issuance of a restricted license pursuant to NRS 463.161, an establishment that meets the statutory requirements contained in subsection 2 of NRS 463.161 must also meet the statutory requirements contained in subsection 1 of NRS 463.161, which requires that the operation of slot machines is "incidental" to the primary business conducted at the establishment.

BACKGROUND

As an initial matter, it is necessary to provide some background information concerning restricted licenses and the manner in which the Legislature, during the 2013 Legislative Session, amended the law governing the issuance of restricted licenses to certain establishments in certain counties. Pursuant to NRS 463.0189, "[r]estricted license" or "restricted operation" means a state gaming license for, or an operation consisting of, not more than 15 slot machines and no other game or gaming device, race book or sports pool at an establishment in which the operation of slot machines is incidental to the primary business of the establishment."[1] (emphasis added) Before the enactment of Senate Bill No. 416 during the 2013 Legislative Session, NRS 463.161 provided, in its entirety:

> A license to operate 15 or fewer slot machines at an establishment in which the operation of slot machines is incidental to the primary business conducted at the establishment may only be granted to the operator of the primary business or to a licensed operator of a slot machine route.

(emphasis added)

[1] Section 1 of Senate Bill No. 416 amended NRS 463.0189 to include references to a "race book or sports pool." However, the amendment to NRS 463.0189 is not pertinent to the question presented.

During the 2013 Session, the Legislature enacted Senate Bill No. 416, which amended NRS 463.161 by renumbering the existing portion of the statute as subsection 1 and adding new subsections 2 and 3 to the statute, which read as follows:

> 2. In a county whose population is 100,000 or more, a license to operate 15 or fewer slot machines at an establishment which is licensed to sell alcoholic beverages at retail by the drink to the general public may only be granted if the establishment meets the requirements of this subsection. The establishment must:
>
> (a) Occupy an area comprised of at least 2,500 square feet which is open and available for use by patrons.
>
> (b) Contain a permanent physical bar.
>
> (c) Contain a restaurant which:
>
> (1) Serves food ordered by patrons from tables or booths.
>
> (2) Includes a dining area with seating for at least 25 persons in a room separate from the on-premise kitchen. For the purposes of determining the number of seats pursuant to this subparagraph; the stools at the bar or the seats outside the dining area must not be counted.
>
> (3) Includes a kitchen which is operated not less than 12 hours each day the establishment is open for business to the public, or the entire time the establishment is open for business to the public if it is open for business 12 hours or less each day.
>
> 3. As used in this section:
>
> (a) "Bar" means a physical structure with a flat horizontal counter, on one side of which alcoholic beverages are kept and maintained, where seats may be placed on the side opposite from where the alcohol is kept, and where the sale and service of alcoholic beverages are by the drink across such structure.
>
> (b) "Restaurant" means a public place where hot meals are prepared and served on the premises.

Before the enactment of Senate Bill No. 416, the Nevada Gaming Commission adopted Regulation 3.015, which set forth certain criteria that the State Gaming Control Board and the Commission may consider in determining whether the operation of slot machines is incidental to the primary business conducted at an establishment. Subsections 1 and 2 of Regulation 3.015 provide:

> 1. An application for a restricted license may only be granted if the operation of slot machines is incidental to the primary business conducted at the location and the board and commission determine the location is suitable for the conduct of gaming and the applicant meets the requirements of this Section.
>
> 2. Except as required in subsection (h), in recommending and determining whether the applicant's proposed restricted location is suitable for the conduct of gaming and meets the requirements of this Section, the board and commission may consider some or all of the following factors:

(a) The amount of floor space used for the slot machines, which space shall include the area occupied by the slot machines, including slot machine seating and circulation, as compared to the floor space used for the primary business;

(b) The amount of investment in the operation of the slot machines as compared to the amount of investment in the primary business;

(c) The amount of time required to manage or operate the slot machines as compared to the amount of time required to manage or operate the primary business;

(d) The revenue generated by the slot machines as compared to the revenue generated by the primary business;

(e) Whether a substantial portion of the financing for the creation of the business has been provided in exchange for the right to operate slot machines on the premises;

(f) Other factors, including but not limited to the establishment's name, the establishment's marketing practices, the public's perception of the business, and the relationship of the slot machines to the primary business;

(g) What other amenities the applicant offers to its customers; and

(h) When a location is a bar, tavern, saloon or other similar location licensed to sell alcoholic beverages by the drink, for on-premises consumption, the location must:

(1) contain a permanent physical bar, subject to standards established by the board, wherein individual seating is available for at least nine (9) customers at all times to consume beverages and/or food items on the side opposite from where the alcoholic liquor is kept, where the sale and service of beverages are by the drink across such structure and which the permanent bar satisfies all applicable health and building code standards;

(2) contain a minimum of two thousand (2,000) square feet of space available for use by patrons and seating capacity for at least twenty (20) persons not related to or associated with gaming positions if the establishment intends to operate more than four (4) slot machines;

(3) establish and maintain a contract or service agreement with a licensed liquor distributor; and

(4) contain a restaurant as defined herein.

DISCUSSION

You have asked whether, under the provisions of NRS 463.161 as amended by Senate Bill No. 416 of the 2013 Legislative Session, an establishment that meets the statutory requirements contained in subsection 2 of NRS 463.161, must also satisfy the requirement that the operation of slot machines is "incidental" to the primary business conducted at the establishment as set forth in subsection 1 of NRS 463.161. In considering whether the determination that an establishment meets the requirements of subsection 2 of NRS 463.161 would end the inquiry into whether the establishment meets the "incidental" test, thus making it no longer necessary or appropriate to consider other factors pertaining to the establishment, such as the factors set forth in paragraphs (a) to (g), inclusive, of Regulation 3.015, we must

review the provisions of NRS 463.161, as amended by Senate Bill No. 416, and consider the applicable principles of statutory construction.

In interpreting the meaning of a provision of NRS, we are guided by several rules of statutory construction employed by the Nevada Supreme Court. As a general rule of statutory construction, a court presumes that the plain meaning of statutory language reflects a full and complete statement of the Legislature's intent. Villanueva v. State, 117 Nev. 664, 669 (2001). Therefore, when the plain meaning of statutory language is clear and unambiguous on its face, a court generally will apply the plain meaning of the statutory language and will not search for any meaning beyond the language of the statute itself. Erwin v. State, 111 Nev. 1535, 1538-39 (1995); McKay v. Bd. of Supervisors, 102 Nev. 644, 648 (1986) (words in a statute "should be given their plain meaning unless this violates the spirit of the act").

Applying the rule of statutory construction stated above, the plain language of subsection 1 of NRS 463.161 provides that "[a] license to operate 15 or fewer slot machines at an establishment in which the operation of slot machines is incidental to the primary business conducted at the establishment may only be granted to the operator of the primary business or to a licensed operator of a slot machine route." (emphasis added) In enacting Senate Bill No. 416, the Legislature did not amend the plain language of subsection 1 of NRS 463.161 or alter its meaning in any way. The Legislature merely renumbered the existing portion of the statute as a new subsection 1. The plain, unambiguous language of subsection 1 of NRS 463.161 continues to require, as a prerequisite to an establishment obtaining a restricted license, that "the operation of slot machines is incidental to the primary business conducted at the establishment."

With respect to the plain language of subsection 2 of NRS 463.161, the first sentence of subsection 2 states that "[i]n a county whose population is 100,000 or more, a license to operate 15 or fewer slot machines at an establishment which is licensed to sell alcoholic beverages at retail by the drink to the general public may only be granted if the establishment meets the requirements of this subsection." (emphasis added) The remainder of subsection 2 provides that the establishment must occupy an area comprised of a certain square footage, must contain a permanent physical bar and must contain a restaurant which meets the specified criteria.

As indicated by a review of the plain language of subsection 2 of NRS 463.161, the plain language does not contain any provision stating that compliance with the requirements of subsection 2 satisfies the "incidental" requirement in subsection 1 or otherwise has any effect upon the "incidental" requirement for the purposes of the Nevada Gaming Control Act. Instead, the plain language of the statute sets forth certain requirements that certain establishments in larger counties must meet, at a minimum, to obtain a restricted license. The plain language does not provide that meeting those requirements has any other effect or consequence with respect to any other provision of the Nevada Gaming Control Act.

The plain language of subsection 2 of NRS 463.161 is clear and unambiguous, and it is therefore not necessary or appropriate to consider the legislative history of Senate Bill No. 416. The plain, unambiguous language of subsection 2 of NRS 463.161 does not provide that if an establishment meets the statutory requirements contained in subsection 2 of NRS 463.161, then the establishment satisfies the requirement that the operation of slot machines is "incidental" to the primary business conducted at the establishment as set forth in subsection 1 of NRS 463.161. Instead, the plain language of NRS 463.161 clearly indicates that the requirements of subsection 1 must be satisfied, whether or not the requirements of subsection 2 are applicable and are satisfied.

Another principle of statutory construction which is instructive in interpreting NRS 463.161 is the principle that the Legislature is not presumed to intend that which the Legislature could have easily included within a statute, but chose not to include within the statute. *See, e.g.*, Palmer v. Del Webb's High Sierra, 108 Nev. 673, 680 (1992) (Young, J., concurring) (explaining that the Legislature could have easily provided a definition of occupational disease had it chosen to do so); Joseph F. Sanson Inv. Co. v. 268 Ltd., 106 Nev. 429, 432-33 (1990) (quoting In re 268 Ltd., 75 B.R. 37 (Bankr. D. Nev. 1987)) (explaining that the Legislature could have easily worded a statute so as to make attorney's fees in addition to, instead of included within, the expenses of a trust). In enacting Senate Bill No. 416, the Legislature did not amend the provisions of NRS relating to the "incidental" requirement. The Legislature did not amend the definition of "restricted license" or "restricted operation" in NRS 463.0189 and did not amend the requirement in subsection 1 of NRS 463.161 that for a restricted license to be issued to an establishment, the operation of slot machines must be incidental to the primary business conducted at the establishment. Specifically, the Legislature did not amend NRS 463.161 to provide that if an establishment meets the requirements of subsection 2 of NRS 463.161, then operation of slot machines is deemed to be incidental to the primary business conducted at the establishment. If the Legislature had intended to include such an amendment in NRS 463.161, then subsection 2 could have included language, for example, stating that if an establishment satisfies the requirements of subsection 2 of NRS 463.161, then the operation of slot machines shall be deemed to be incidental to the primary business conducted at the establishment for the purposes of the Nevada Gaming Control Act. Consequently, the Legislature cannot be presumed to have intended that if an establishment meets the requirements of subsection 2 of NRS 463.161, then the operation of slot machines is deemed to be incidental to the primary business conducted at the establishment.

Based on the foregoing principles of statutory construction, it is the opinion of this office that in a county whose population is 100,000 or more, an establishment which is licensed to sell alcoholic beverages at retail by the drink to the general public and which is seeking a restricted license must not only comply with the requirements of subsection 2 of NRS 463.161, but must also demonstrate to the satisfaction of the Board and the Commission that the operation of slot machines is incidental to the primary business conducted at the establishment, based upon the criteria established by regulation, including, without limitation, the factors set forth in Regulation 3.015.

If you have any further questions regarding this matter, please do not hesitate to contact this office.

Sincerely,

Brenda J. Erdoes
Legislative Counsel

Bradley A. Wilkinson
Chief Deputy Legislative Counsel

BAW:dtm
Ref No 130903034619
File No OP_Horne130903204941

PISANELLI BICE

August 19, 2013

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VIA U.S. MAIL & E-MAIL

Ms. Adriana Fralick,
Executive Secretary
Nevada Gaming Commission
555 East Washington Avenue, Suite 2600
Las Vegas, NV 89119
afralick@gcb.nv.gov

Re: ***Regulation 3.015 Revisions***

Dear Ms. Fralick:

On behalf of Station Casinos, LLC ("Stations"), I write regarding certain comments made during the Gaming Control Board's (the "Board") July 24, 2013, public workshop on revisions to Regulation 3.015, which sets forth a longstanding requirement that restricted gaming must be "incidental" to the licensee's primary business. I was highly surprised to see in the workshop transcript a suggestion by the Board's counsel that he reads Section 3 of Senate Bill 416 (SB 416) as somehow eliminating the "incidental" requirement for those selling alcohol by the drink in counties with a population of more than 100,000. I note that no analysis, case law or other legal support was proffered for what would be a sweeping reversal of longstanding licensing requirements. As further discussed below, Stations disputes that there is any factual, logical or legal support for such a position.

The Deputy Attorney General's declaration – that the "discussion with regard to incidental is over" – is, respectfully, indefensible hyperbole. It suggests that by articulating additional minimum physical criteria – including bar, restaurant and square footage requirements for establishments licensed to sell alcohol by the drink – the Legislature somehow eliminated the discretion of both the Board and Gaming Commission ("Commission"), but only for those types of businesses and then only for those located within the State's two largest counties. For everyone else, the settled requirement that gaming must be "incidental" to a primary business remains. Apparently, under this proffered view, the Legislature (without ever saying it) intended to completely transform Nevada's regulatory structure by setting forth an exclusive test for determining when an establishment licensed to sell alcohol by the drink in the two largest counties may have restricted gaming, but preserving the long existing criteria for all others. Supposedly, once such operator meets the minimum physical criteria, they become entitled to operate

the maximum number of machines permitted by law (15), regardless of whether they truly have any business purpose other than gaming.

With all due respect to the Deputy Attorney General's suggestion, we submit that there is no basis to assert that SB 416 weakened, let alone eliminated, the requirement that a restricted license is available only when gaming is "incidental" to a primary business purpose. The opposite is true. The plain terms of SB 416, as well as the rules of statutory interpretation, confirm that the Nevada Legislature in no way narrowed the powers of gaming regulators. Rather, what the Legislature narrowed is the class of operators that could even qualify for a restricted license in the first place.

The requirement that restricted gaming be "incidental to the primary business" has existed in Nevada law since 1967. In 1985, the Legislature codified the requirement in NRS 463.161(1) providing that: "A license to operate 15 or fewer slot machines at an establishment in which the operating of slot machines is ***incidental to the primary business*** conducted at the establishment may only be granted to the operator of the primary business or to a licensed operator of a slot machine route." (Emphasis added). In 1989, Senate Bill 301 made the definition of "restricted license" in NRS 463.0189 consistent with the definition in existing regulations. Specifically, "restricted license" is defined as one that authorizes slot machine operation that is "***incidental to the primary business***." (Emphasis added). That definition remains unchanged by SB 416 or any other legislative enactment. This requirement is and remains the foundation for determining who qualifies to conduct restricted gaming.

The policy behind this requirement is long standing. Gaming is a privilege under Nevada law. *State v. Rosenthal*, 93 Nev. 36, 44, 559 P.2d 830, 835 (1977) ("[G]aming is a privilege conferred by the state and does not carry with it the rights inherent in useful trades and occupations."). To promote the State's economic interests, that privilege is reserved for those who will bestow benefits upon the State through job creation and tax revenues. Simply put, gaming for the sake of gaming is not what maximizes the public benefit. The State's interest is in authorizing gaming under circumstances that will promote the public interest. That is why the law has long-precluded what are commonly referred to as "slot parlors." Those operations seek to obtain the benefit of gaming without bestowing a sufficient return to the State and the public.

There can be no question as to the renewed focus on enforcing the State's longstanding policy. The proliferation of slot parlors is well-documented and has fueled concerns that the failure to require compliance with the legal obligations to receive the privilege ends up penalizing those who actually comply with the law's requirements. Over time, such noncompliance erodes the State's policy objectives and ultimately leads to even further noncompliance.

It is the State's longstanding policy that the Legislature had in mind when enacting SB 416, which establishes minimum physical facility requirements in those counties with a population of 100,000 or more to even qualify for a restricted gaming license in an establishment that sells alcohol by the drink. To have even one machine, those types of establishments must meet the State's minimum physical requirements. Thereafter, it remains with the Board and/or Commission to determine whether the applicant can meet their burden of demonstrating a primary non-gaming business using, among other things, the factors set forth in Regulation 3.015(2)(a)-(g). That is why the Legislature in SB416 did not even touch the terms of NRS 463.161(1), which continues to mandate that a restricted license ***may only*** be issued to those where gaming will be incidental to primary business.

In making that determination, both the Board and the Commission remain guided by the statutory factors and the plain meaning of the "incidental" to the primary purpose requirement. As the Commission is no doubt aware, this language is hardly unique to Nevada or gaming. *See e.g.*, *Stevens v. U.S.*, 302 F.2d 158, 163 (5th Cir. 1962) (To satisfy "incidental" requirement, operator must demonstrate that the "sale of refreshments plays only a *supporting role* in entertainment operation.") (emphasis added). *Billen v. U.S.*, 273 F.2d 667, 670 (10th Cir. 1960) (sale and service of food and refreshments not incidental within meaning of that word in cabaret tax where it formed 50% of taxpayer's gross revenue).

Applying this statutory language, the Board and Commission must still determine how many machines, if any, the applicant may be allowed to have even if they provide the minimal physical facilities. SB 416 does not relax the State's public policy. The amendment seeks to enhance it by adding minimum requirements for establishments licensed to sell alcohol by the drink to operate restricted gaming in counties whose population is 100,000 or more:

> In a county whose population is 100,000 or more, a license to operate 15 ***or fewer*** slot machines at an establishment which is licensed to sell alcoholic beverages at retail by the drink to the general public ***may only*** be granted if the establishment meets the requirements of this subsection.

As its express language shows, SB 416 did ***not*** repeal the existing language in NRS 463.161(1) requiring restricted gaming to be "incidental to the primary business" or eliminate the Board or Commission's discretion (and obligation) to enforce the State's policy.

Nevada law has long rejected the suggestion that preexisting laws or public policy can be repealed by implication. Such "practice is heavily disfavored, and we will not consider a statute to be repealed by implication unless there is no other reasonable construction of the two statutes." *Washington v. State*, 117 Nev. 734, 739, 30 P.3d 1134, 1137 (2001); *State*

v. Thompson, 89 Nev. 320, 322-23, 511 P.2d 1043, 1045 (1973) ("Repeals by implication are not favored and will not be indulged if there is any other reasonable construction."); *Radzanower v. Touche Ross & Co.*, 426 U.S. 148, 154 (1976) (It is "a cardinal principle of statutory construction that repeals by implication are not favored."). "It is also a well-recognized principle that statutes relating to the same matter which can stand together should be construed so as to make each effective." *State v. Eggers*, 36 Nev. 372, 136 P. 100, 103 (1913).

In keeping with the requirements of Nevada law, both the Board and Commission are still obligated to ensure that restricted gaming is only permitted in those circumstances consistent with the State's policy. This means that applicants licensed to sell alcohol by the drink in counties whose population is 100,000 or more must first meet the newly-minted minimal physical requirements to even apply. But, just because they satisfy those minimal requirements does not mean that they are entitled to a gaming license or to receive 15 machines. They still must demonstrate that the gaming they propose to conduct, regardless of the number of machines, is incidental to the proposed tavern business. That is, of course, the very same criteria which apply to all other counties and all other restricted licenses. The Legislature did not relax the criteria for those that may qualify to conduct restricted gaming in counties of 100,000 or more persons. It increased the criteria by imposing a minimal threshold physical requirement for certain type of businesses.

The law is equally well-settled that statutory amendments must be interpreted so as to carry out the Legislature's intent. *Eggers*, 36 Nev. 372, 136 P. at 103-04 ("In the interpretation of statutes the courts so construe them as to carry out the manifest purpose of the Legislature."). Here, it cannot be seriously doubted that the Legislature intended to tighten the criteria under which certain operations may conduct restricted gaming in those counties exceeding 100,000 in population.

For these reasons, Stations must echo and reinforce the recent letter from the Nevada Resort Association concerning SB 416 and its impact upon the powers and obligations of the Board and this Commission. SB 416 did not eliminate the long-standing requirement that restricted gaming operations be "incidental" to the operator's primary business. Rather, it established a minimum criteria as to the physical requirements any establishment licensed to sell alcohol by the drink in counties whose population is 100,000 or more must satisfy to even qualify to operate one slot machine on its premises.

Sincerely,

Todd L. Bice, Esq.

TLB/zs

NEVADA RESORT ASSOCIATION

August 6, 2013

Ms. Adriana Fralick, Executive Secretary
Nevada Gaming Commission
555 East Washington Avenue
Suite 2600
Las Vegas, NV 89119

RE: Proposed Amendments to Regulation 3.015 and Legal Counsel's Opinion Re "incidental" Test

Dear Ms. Fralick,

At the July 24, 2013, public workshop concerning proposed amendments to Regulation 3.015, legal counsel for the State Gaming Control Board opined that meeting the new statutory requirements in Senate Bill 416 (SB 416) for bars and similar establishments in Clark and Washoe Counties would constitute satisfaction of the "incidental" test. Accordingly, if an applicant were to meet these minimum requirements for licensure, the applicant would not need to demonstrate that the operation of slot machines would be incidental to the primary business of the establishment. The Nevada Resort Association (NRA) respectfully disagrees with this interpretation and strongly urges the Nevada Gaming Commission to reject it.

The language of SB 416 does not indicate that the "incidental" test is being preempted by these new provisions or that the "incidental" test has been amended in any way. Both section 1 and section 3 of SB 416 amend sections that include descriptions of restricted licensure, yet neither section amends the language defining such an operation as one in which "the operation of slot machines is incidental to the primary business" of the establishment. These are not oversights; both sections were in the bill, and neither was amended to change the "incidental" test or to indicate that the new requirements affected it. On the contrary, the plain language of the bill indicates that the new provisions constitute a **minimum** requirement:

> *2. In a county whose population is 100,000 or more, a license to operate 15 or fewer slot machines at an establishment which is licensed to sell alcoholic beverages at retail by the drink to the general public **may only be granted** if the establishment meets the requirements of this subsection.* (Subsection 2 of NRS 463.161, as amended by section 3 of SB 416, emphasis added.)

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The phrase "may only be granted" gives the Commission the power, *but not the duty*, to grant a license if the requirements are met and prohibits ("only") granting a license if they are not.

SB 416 adopted additional requirements that are similar to the existing provisions of subsection 2(h) of Regulation 3.015, though SB 416 limited the new requirements to Clark and Washoe Counties. The adoption of subsection 2(h) of Regulation 3.015 did not eliminate the need to consider the factors in subsections 2(a) through 2(g) (floor space, investment, etc.), which have long been instrumental in determining whether slot machines are incidental to the primary business of an establishment. There is no reason to believe that the Legislature, in adopting additional requirements for licensure similar to those in subsection 2(h), intended anything different; although the Legislature has now specified the minimum requirements for bars and similar establishments in Clark and Washoe Counties, the existing standards in subsection 2 of Regulation 3.015 continue to provide guidance to the Board and Commission in determining whether slot machines are incidental to the primary business of the establishment – a separate, additional determination.

Finally, adopting the proposed legal interpretation would be contrary to public policy. If there is no consideration of the "incidental" test, applicants could engage in the very sort of race to the bottom that SB 416 was intended to prevent. An applicant could make the bare minimum investment in infrastructure necessary to comply with the requirements of SB 416, hire only a few employees, and promote the establishment as a slot parlor. Under this interpretation of SB 416, the applicant will have met the "incidental" test, and the Commission will be precluded from considering whether the slot machines are incidental to the primary business. In the absence of any statutory language or legislative intent to support this interpretation, we do not understand why the Commission would choose to tie its own hands in this manner. The legislation was intended to impose higher standards in Clark and Washoe Counties, not to prohibit the Commission from enforcing the most basic, central requirement of restricted licensure.

We therefore urge the Commission to reject this interpretation and affirm that all applicants for restricted licenses, even those who are also required to meet the minimum requirements for bars and similar establishments in Clark and Washoe Counties, are required to meet the "incidental" test, and a restricted license can only be issued if the operation of slot machines is incidental to the primary business of the establishment.

Sincerely,

Virginia Valentine, President
Nevada Resort Association

Corey Sanders, Chairman
Nevada Resort Association

cc: Peter C. Bernhard, Commission Chairman
John Moran, Commissioner
Tony Alamo, M.D., Commissioner
Joe Brown, Commissioner
Randolph Townsend, Commissioner
A.G. Burnett, Board Chairman
Shawn Reid, Board Member
Terry Johnson, Board Member

NGC #12

REBATES ON WAGERS

STATUTES:

NRS 464.075 Altering value of wager for patron prohibited; regulations; exemptions.
1. Except as otherwise provided in subsection 4, a person who is licensed to engage in off-track pari-mutuel wagering shall not:
(a) Accept from a patron less than the full face value of an off-track pari-mutuel wager;
(b) Agree to refund or rebate to a patron any portion or percentage of the full face value of an off-track pari-mutuel wager; or
(c) Increase the payoff of, or pay a bonus on, a winning off-track pari-mutuel wager.
2. A person who is licensed to engage in off-track pari-mutuel wagering and who:
(a) Attempts to evade the provisions of subsection 1 by offering to a patron a wager that is not posted and offered to all patrons; or
(b) Otherwise violates the provisions of subsection 1,
➥ is subject to the investigatory and disciplinary proceedings that are set forth in NRS 463.310 to 463.318, inclusive, and shall be punished as provided in those sections.
3. The Nevada Gaming Commission shall adopt regulations to carry out the provisions of subsections 1 and 2 of this section.
4. The Nevada Gaming Commission may, by regulation, exempt certain bets, refunds, rebates, payoffs or bonuses from the provisions of subsection 1 if the Commission determines that such exemptions are in the best interests of the State of Nevada and licensed gaming in this state. Any bets, refunds, rebates, payoffs or bonuses that would result in the amount of such bets, refunds, rebates, payoffs or bonuses being directly or indirectly deductible from gross revenue may not be exempt.
(Added to NRS by 1997, 3316; A 2003, 3409)

NGC REGULATIONS:

22.125 Wagers; terms and conditions.
1. No book shall:
(a) Accept from a patron, directly or indirectly, less than the full face value of an off-track pari-mutuel wager;
(b) Agree to refund or rebate to a patron any portion or percentage of the full face value of an off-track pari-mutuel wager; or
(c) Increase the payoff of, or pay a bonus on, a winning off-track pari-mutuel wager.
The provisions of this subsection do not prohibit the granting of room, food, beverage or entertainment admission complimentaries.
2. A book shall not, in an attempt to provide a benefit to the patron in violation of subsection 1, offer a wagering proposition, or set or move its wagering odds, lines or limits.
3. The chairman may require a book to:
(a) Disclose its betting limits in its house rules and obtain approval from the chairman before changing those limits or modifying its house rules; and
(b) Document and report, in such manner as the chairman may approve or require, wagering limits, temporary changes to such limits, or the acceptance of a wager or series of wagers from the same patron that exceeds such limits. The report may include, but is not limited to:
(1) Recording the name of the patron for which betting limits are changed or exceeded;
(2) Recording the name of the employee approving the acceptance of a wager that exceeds betting limits or causes a change in betting limits;
(3) Describing the nature of the temporary change and any related wagers; and
(4) Describing how the temporary change in limit will benefit the licensee.

The chairman shall notify the book, in writing, of the decision to impose such requirements and such decision shall be considered an administrative decision and, therefore, reviewable pursuant to the procedures set forth in Regulations 4.185, 4.190 and 4.195.
4. A book shall not set lines or odds, or offer wagering propositions, designed for the purpose of ensuring that a patron will win a wager or series of wagers.
(Adopted: 12/98. Effective: 1/1/99. Amended 9/05.)

SB 425:

Existing law prohibits a person who is licensed to engage in off-track parimutuel wagering from: (1) accepting less than the full face value of an off-track pari-mutuel wager; (2) agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; or (3) increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager. (NRS 464.075) This bill requires the Nevada Gaming Commission to study and review issues relating to the offering of rebates on pari-mutuel wagers, including the feasibility of: (1) accepting less than the full face value of an off-track pari-mutuel wager; (2) agreeing to refund or rebate a portion or percentage of the full face value of an off-track parimutuel wager; and (3) increasing the payoff of or paying a bonus on a winning offtrack pari-mutuel wager. This bill further requires the Commission to adopt regulations exempting certain bets, refunds, rebates, payoffs or bonuses relating to off-track pari-mutuel wagering from the current prohibition under state law if, after studying and reviewing the issue, the Commission determines that it is in the best interests of this State and licensed gaming in this State.

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1. Not later than January 1, 2014, the Nevada Gaming Commission shall study and review issues relating to the offering of rebates on pari-mutuel wagers. The Commission shall evaluate the feasibility of:
(a) Accepting less than the full value of an off-track pari-mutuel wager;
(b) Agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; or
(c) Increasing the payoff of or paying a bonus on a winning offtrack pari-mutuel wager.
2. If the Commission determines that exempting certain bets, refunds, rebates, payoffs or bonuses from the provisions of subsection 1 of NRS 464.075:
(a) Is in the best interests of the State and licensed gaming in this State, the Commission shall adopt regulations pursuant to subsection 4 of NRS 464.075 not later than April 1, 2014.

(b) Is not in the best interests of the State and licensed gaming in this State, the Commission shall, following the conclusion of the Commission's study and review, report its findings at the next regularly scheduled meeting of the Legislative Commission.

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511

CATHERINE CORTEZ MASTO
Attorney General

KEITH G. MUNRO
Assistant Attorney General
GREGORY M. SMITH
Chief of Staff

MEMORANDUM

Date: October 10, 2013

To: Peter C. Bernhard, Chairman
Tony Alamo, Commissioner
Joseph W. Brown, Commissioner
John Moran, Commissioner
Randolph Townsend, Commissioner
Nevada Gaming Commission

From: John S. Michela, Senior Deputy Attorney General

Through: A.G. Burnett, Chairman
Shawn R. Reid, Member
Terry Johnson, Member
State Gaming Control Board

Subject: Board Analysis of the Pros, Cons, and Staff Impact Concerning the Authorization of Off-Track Pari-Mutuel Rebates

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CONFIDENTIAL Waived 10/11/2013 AGT
ATTORNEY/CLIENT COMMUNICATION

On August 22, 2013, Chairman Bernhard requested an analysis from the Gaming Control Board (Board) concerning the pros, cons, and staff impact concerning the authorization of off-track pari-mutuel rebates. Chairman Burnett designated me as the point person for response from the Board's Audit Division (Audit) and Enforcement Division (Enforcement). On October 10, 2013, Chairman Burnett requested that I provide this memorandum to the Nevada Gaming Commission (Commission).

Audit views the issue of whether or not the Commission should authorize rebates for off-track pari-mutuel wagering as a business decision which properly belongs to the industry. Cantor views being able to offer rebates as something which will increase the handle for pari-mutuel wagering, and, thus, state revenue will increase as well. The

Nevada Pari-Mutuel Association (NPMA) believes allowing rebates will lead to increased track fees and lead to lower profits for many books.

Audit views the staff impact of off-track pari-mutuel rebates as minimal. All active off-track pari-mutuel contracts would need to be amended, and Audit would have to review and approve the amendments. Audit would also have to modify some of its procedures based on the regulation changes. However, Audit does not view these as significant issues. Audit also notes that rebates (promotions) are not new to the industry as rebates are allowed in all areas other than off-track pari-mutuel wagering.

Enforcement acknowledges the NPMA concern that allowing rebates could put the smaller race books out of business. Enforcement is concerned that if this happens, a monopoly could be created in the state with regard to off-track pari-mutuel wagering.

Enforcement is also concerned with the fairness of rebates. That is, a book would not be bound by any rules with regard to which people it gives rebates. Enforcement notes that in the past this has led to books giving rebates only to suspect bettors (i.e., messengers and/or money launderers) who wagered large amounts of money with the book.

In short, Audit is of the opinion that the industry should decide whether or not rebates should be authorized, and Enforcement is of the opinion that authorizing rebates should be approached with caution.

JSM:mkm

LEGISLATIVE HISTORY

2013 SESSION

SB425

Introduced in the Senate on Mar 25, 2013.

By: Judiciary

Authorizes the Nevada Gaming Commission to establish a study group relating to pari-mutuel wagering. (BDR S-1111)

Fiscal Notes

Effect on Local Government: No.
Effect on State: No.

Most Recent History Action: Approved by the Governor. Chapter 498.
(See full list below)

Upcoming Hearings

Past Hearings

Senate Judiciary	Apr 08, 2013 AM	08:00	Agenda	Minutes	No Action
Senate Judiciary	Apr 12, 2013 AM	08:00	Agenda	Minutes	Amend, and do pass as amended
Assembly Judiciary	May 10, 2013 AM	08:00	Agenda	Minutes	No action
Assembly Judiciary	May 17, 2013	See Agenda	Agenda	Minutes	Amend, and do pass as amended

Final Passage Votes

Senate Final Passage	(1st Reprint)	Apr 22, 2013	Yea 21,	Nay 0,	Excused 0,	Not Voting 0,	Absent 0
Assembly Final Passage	(2nd Reprint)	May 24, 2013	Yea 41,	Nay 0,	Excused 1,	Not Voting 0,	Absent 0

Conference Committee

Jun 02, 2013 10: 30 AM Conference Report

Bill Text As Introduced 1st Reprint 2nd Reprint 3rd Reprint As Enrolled

Adopted Amendments Amend. No. 423 Amend. No. 751 Amend. No. CA11

Bill History

Mar 25, 2013
- Read first time. Referred to Committee on Judiciary. To printer.

Mar 26, 2013
- From printer. To committee.

Apr 19, 2013
- From committee: Amend, and do pass as amended.

- Placed on Second Reading File.
- Read second time. Amended. (Amend. No. **423**.) To printer.

Apr 22, 2013

- From printer. To engrossment. Engrossed. **First reprint** .
- Read third time. Passed, as amended. Title approved, as amended. **(Yeas: 21, Nays: None.)** To Assembly.

Apr 23, 2013

- In Assembly.
- Read first time. Referred to Committee on Judiciary. To committee.

May 23, 2013

- From committee: Amend, and do pass as amended.
- Placed on Second Reading File.
- Read second time. Amended. (Amend. No. **751**.) To printer.

May 24, 2013

- From printer. To reengrossment. Reengrossed. **Second reprint** .
- Read third time. Passed, as amended. Title approved, as amended. **(Yeas: 41, Nays: None, Excused: 1.)** To Senate.

May 27, 2013

- In Senate.

May 29, 2013

- Assembly Amendment No. **751** not concurred in. To Assembly.

May 30, 2013

- In Assembly.

May 31, 2013

- Assembly Amendment No. **751** not receded from. Conference requested. Conference Committee appointed by Assembly. To Senate.
- In Senate.

Jun 01, 2013

- Conference Committee appointed by Senate. To committee.

Jun 02, 2013

- From committee: Concur in Assembly Amendment No. **751** and further amend.
- Conference report adopted by Senate.

Jun 03, 2013

- Conference report adopted by Assembly.
- To printer.
- From printer. To re-engrossment. Re-engrossed. **Third reprint** .

Jun 06, 2013

- To enrollment.

Jun 07, 2013

- Enrolled and delivered to Governor.

Jun 11, 2013

- Approved by the Governor. Chapter 498.
- **Effective June 11, 2013.**

Senate Bill No. 425–Committee on Judiciary

CHAPTER.....

AN ACT relating to gaming; requiring the Nevada Gaming Commission to study and review certain issues relating to pari-mutuel wagering; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person who is licensed to engage in off-track pari-mutuel wagering from: (1) accepting less than the full face value of an off-track pari-mutuel wager; (2) agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; or (3) increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager. (NRS 464.075) This bill requires the Nevada Gaming Commission to study and review issues relating to the offering of rebates on pari-mutuel wagers, including the feasibility of: (1) accepting less than the full face value of an off-track pari-mutuel wager; (2) agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; and (3) increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager. This bill further requires the Commission to adopt regulations exempting certain bets, refunds, rebates, payoffs or bonuses relating to off-track pari-mutuel wagering from the current prohibition under state law if, after studying and reviewing the issue, the Commission determines that it is in the best interests of this State and licensed gaming in this State.

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

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

Sections 1-3. (Deleted by amendment.)

Sec. 3.5. 1. Not later than January 1, 2014, the Nevada Gaming Commission shall study and review issues relating to the offering of rebates on pari-mutuel wagers. The Commission shall evaluate the feasibility of:

(a) Accepting less than the full value of an off-track pari-mutuel wager;

(b) Agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; or

(c) Increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager.

2. If the Commission determines that exempting certain bets, refunds, rebates, payoffs or bonuses from the provisions of subsection 1 of NRS 464.075:

(a) Is in the best interests of the State and licensed gaming in this State, the Commission shall adopt regulations pursuant to subsection 4 of NRS 464.075 not later than April 1, 2014.

(b) Is not in the best interests of the State and licensed gaming in this State, the Commission shall, following the conclusion of the Commission's study and review, report its findings at the next regularly scheduled meeting of the Legislative Commission.

Sec. 4. This act becomes effective upon passage and approval.

Chair Segerblom:
I will close the work session on S.B. 415 and open the work session on S.B. 418.

SENATE BILL 418: Revises provisions relating to pari-mutuel wagering. (BDR 41-1106)

Ms. Martini:
I have prepared a work session document for S.B. 418 (Exhibit N). An amendment was submitted by Senator Segerblom, and it can be found on page 2 of Exhibit N. This amendment would do two things. First, it would place the provisions of the bill in NRS 463, which covers licensing and control of gaming, rather than NRS 464, which covers pari-mutuel wagering. Second, it would revise the effective date of the measure to be upon passage and approval for purposes of amending regulations and on January 1, 2014, for all other purposes.

SENATOR HUTCHISON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 418.

SENATOR FORD SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS BROWER AND HAMMOND VOTED NO.)

*****

Chair Segerblom:
I will open the work session on S.B. 425.

SENATE BILL 425: Repeals certain provisions relating to pari-mutuel wagering. (BDR 41-1111)

Ms. Martini:
I have prepared a work session document for S.B. 425 (Exhibit O). We have received two amendments to this bill. The first amendment, on page 2 of Exhibit O, is from Senator Hutchison; it just came in this morning, and I have not had a chance to read it. The second amendment, on page 3 of Exhibit O, is from Lewis and Roca, and it reinstates the provisions of NRS 464.075.

Senator Hutchison:
Let me explain my amendment. When we first heard this measure, it was stated that although rebates are prohibited under our statute, they can be exempted from that prohibition. The policy question became whether we should continue to prohibit rebates but allow them to be exempted or instead allow rebates and let the Nevada Gaming Commission set regulations. This amendment addresses the concerns raised by Chair Bernhard. It would allow us to permit rebates, payoffs and bonuses and gives the State Gaming Control Board and the Commission authority to regulate them.

Senator Jones:
Thank you, Senator Hutchison; I think you got where I wanted to go on this. My only concern is that the original bill did not have an effective date because it was just a deletion. I do not see an effective date in your amendment, and I want to make sure we give the Board and the Commission time to weigh in and adopt regulations. Did you have a time frame in mind?

Senator Hutchison:
I would suggest July 1, but I am open.

Mr. Bernhard:
Statute said rebates and other benefits were prohibited unless the Commission approved them; this amendment reverses that to say they are permitted unless the Commission objects to them. I would like the regulatory agencies to have the ability to look at this, take testimony from the public, go through workshops, and adopt regulations that will govern rebates before the ability to grant rebates goes into effect. It would make sense for us to get a full record on that so we know what types of rebates might present regulatory problems and could resolve them through regulation. I would prefer that the status quo remain in effect until the regulations have been adopted in accord with our procedures. That can be done quickly and efficiently as long as everyone in the industry will cooperate and present testimony for us to make a reasoned decision.

Chair Segerblom:
What is your definition of "quickly and efficiently"?

Mr. Bernhard:
I think 6 months would be adequate. That would allow us to schedule workshops, take testimony, get it transcribed and have public hearings in the north and south.

Senator Jones:
I suggest an effective date of October 1.

Senator Hutchison:
That is fine. My amendment says rebates and bonuses are permitted, and people can do that now. The Commission can adopt regulations regarding this. The intent is to get these rebates going now—test the market and see what kind of response we get, and then have the Commission regulate if there is a problem. If that is not the sentiment of the Committee, we need to make some adjustments.

Chair Segerblom:
If the deadline is October 1, we do not need to do rebates before that. Let us make it contingent upon regulation, with the regulations being due by October 1.

Senator Hutchison:
So this amendment would allow rebates beginning October 1, and then go forward from that point.

Chair Segerblom:
The regulations would be promulgated by then.

Senator Jones:
If the regulations are not promulgated by then, rebates would still be allowed starting October 1.

Senator Hutchison:
We are setting a date by which this law would allow for the rebates and the other activities permitted. As Mr. Bernhard indicated, he understands there is a deadline in terms of the regulations, and if those regulations are not enacted by then, the law kicks in and rebates can proceed.

Mr. Anthony:
To reiterate, the bill would be effective on passage and approval for purposes of adopting regulations, but October 1 would be the effective date.

Senator Jones:
Correct. However, the Commission can promulgate regulations on this issue today under NRS 464.075.

Senator Hutchison:
It sounds like the sentiment is to have the effective date be October 1. That gives the regulators enough time to promulgate regulations, but rebates can start on October 1. With that in mind, I would amend my amendment to include an effective date of October 1.

SENATOR HUTCHISON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 425 WITH THE EFFECTIVE DATE OF OCTOBER 1.

SENATOR FORD SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

*****

Chair Segerblom:
We need to go back to S.B. 278 and make a technical correction to the amendment.

SENATOR FORD MOVED TO RESCIND THE PREVIOUS ACTION TAKEN ON S.B. 278.

SENATOR HUTCHISON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

*****

Senator Ford:
We would like to make one additional change to S.B. 278. As opposed to designating law enforcement to do visual inspections of abandoned property,

Frank Cervantes:
You are correct. That is why I am responding just for Washoe County. The bill at least tries to standardize a higher level of care for corrective room restriction statewide, and I think that is what our target is.

Chairman Frierson:
Are there any other thoughts or questions on the bill? [There were none.] I will seek a motion to amend and do pass.

> ASSEMBLYWOMAN DIAZ MOVED TO AMEND AND DO PASS SENATE BILL 107 (1ST REPRINT) WITH THE AMENDMENT PROVIDED BY SENATOR SEGERBLOM.
>
> ASSEMBLYWOMAN FIORE SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

Assemblyman Ohrenschall will handle the floor statement. The next bill is Senate Bill 425 (1st Reprint).

Senate Bill 425 (1st Reprint): Revises certain provisions relating to pari-mutuel wagering. (BDR 41-1111)

Dave Ziegler, Committee Policy Analyst:
Senate Bill 425 (1st Reprint) has to do with pari-mutuel wagering. It is sponsored by the Senate Committee on Judiciary and was heard in this Committee on May 10, 2013. Senate Bill 425 (R1) authorizes a person who is licensed to engage in off-track pari-mutuel wagering to accept wagers for less than full face value, agree to refund or rebate any portion of the full face value of a wager, or increase payoffs or pay bonuses on winning wagers, unless the Nevada Gaming Commission otherwise prohibits such conduct by regulation (Exhibit LL). On the day of the hearing, the Pari-mutuel Association proposed an amendment, and it was not approved by the sponsor. A copy is attached.

Chairman Frierson:
Is there any discussion on the bill?

Assemblyman Hansen:
I was told there was another amendment proposed this morning, or it is still the original amendment?

Chairman Frierson:
This is the only amendment that I am aware of. Are there any other comments or questions on the bill? [There were none.] I will be seeking a motion to amend and do pass.

ASSEMBLYWOMAN DIAZ MOVED TO AMEND AND DO PASS SENATE BILL 425 (1ST REPRINT).

ASSEMBLYMAN CARRILLO SECONDED THE MOTION.

Chairman Frierson:
Is there any discussion on the motion?

Assemblyman Ohrenschall:
That is with the amendment that is not friendly, the one that is not supported by the sponsor?

Chairman Frierson:
I believe that is the only amendment, and it proposes to direct the Gaming Commission to form a study group consisting of members of the Off-Track Pari-Mutuel Wagering Committee. I will say there was a discussion off the record outside the Committee about requiring that the study group be formed and directing that the study group make recommendations. While that was never submitted, it was something that was discussed. I would assume that was not something Assemblywoman Diaz was including in her motion. Are there any other questions on the motion? [There were none.]

THE MOTION PASSED UNANIMOUSLY.

Chairman Frierson:
Assemblyman Ohrenschall will handle the floor statement. The next bill is Senate Bill 312 (1st Reprint).

Senate Bill 312 (1st Reprint): Makes various changes concerning victim impact panels. (BDR 43-888)

Dave Ziegler, Committee Policy Analyst:
Senate Bill 312 (1st Reprint) is sponsored by Senator Manendo and was heard in this Committee on April 30, 2013. The bill makes the Department of Motor Vehicles (DMV) responsible for regulating and registering the organizations that sponsor and conduct victim impact panels. Each meeting of a victim impact panel must be conducted by a qualified coordinator and have security personnel on site. [Continued to read from the work session document (Exhibit MM).]

Amendment No. CA11

Conference Committee Amendment to Senate Bill No. 425 Second Reprint (BDR 41-1111)

Proposed by: Conference Committee

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) **green bold underlining** is newly added transitory language.

NCA/BAW

Date: 6/2/2013

S.B. No. 425—Authorizes the Nevada Gaming Commission to establish a study group relating to pari-mutuel wagering. (BDR 41-1111)

SENATE BILL NO. 425–COMMITTEE ON JUDICIARY

MARCH 25, 2013

Referred to Committee on Judiciary

SUMMARY—Authorizes the Nevada Gaming Commission to establish a study group relating to pari-mutuel wagering. (BDR ~~[41-1111)]~~ **S-1111)**

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

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

AN ACT relating to gaming; ~~[authorizing]~~ **requiring** the Nevada Gaming Commission to ~~[establish a]~~ study ~~[group]~~ **and review certain issues** relating to pari-mutuel wagering; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person who is licensed to engage in off-track pari-mutuel wagering from: (1) accepting less than the full face value of an off-track pari-mutuel wager; (2) agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; or (3) increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager. (NRS 464.075) This bill ~~[authorizes]~~ **requires** the Nevada Gaming Commission to ~~[establish a]~~ study ~~[group to]~~ **and** review issues relating to the offering of rebates ~~[or]~~ **on** pari-mutuel wagers, including the feasibility of: (1) accepting less than the full face value of an off-track pari-mutuel wager; (2) agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; and (3) increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager. **This bill further requires the Commission to adopt regulations exempting certain bets, refunds, rebates, payoffs or bonuses relating to off-track pari-mutuel wagering from the current prohibition under state law if, after studying and reviewing the issue, the Commission determines that it is in the best interests of this State and licensed gaming in this State.**

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. ~~[NRS 464.075 is hereby amended to read as follows:~~

~~464.075 1. Except as otherwise provided in subsection 4, a person who is licensed to engage in off-track pari-mutuel wagering shall not:~~

~~(a) Accept from a patron less than the full face value of an off-track pari-mutuel wager;~~

~~(b) Agree to refund or rebate to a patron any portion or percentage of the full face value of an off-track pari-mutuel wager; or~~

~~(c) Increase the payoff of, or pay a bonus on, a winning off-track pari-mutuel wager.~~

~~2. A person who is licensed to engage in off-track pari-mutuel wagering and who:~~

~~(a) Attempts to evade the provisions of subsection 1 by offering to a patron a wager that is not posted and offered to all patrons; or~~

~~(b) Otherwise violates the provisions of subsection 1,~~

~~→ is subject to the investigatory and disciplinary proceedings that are set forth in NRS 463.310 to 463.318, inclusive, and shall be punished as provided in those sections.~~

~~3. The Nevada Gaming Commission shall adopt regulations to carry out the provisions of subsections 1 and 2 . [of this section.]~~

~~4. The Nevada Gaming Commission may, by regulation, exempt certain bets, refunds, rebates, payoffs or bonuses from the provisions of subsection 1 if the Commission determines that such exemptions are in the best interests of the State of Nevada and licensed gaming in this state. Any bets, refunds, rebates, payoffs or bonuses that would result in the amount of such bets, refunds, rebates, payoffs or bonuses being directly or indirectly deductible from gross revenue may not be exempt.~~

~~*5. The Commission may establish and appoint a study group to review issues relating to the offering of rebates on pari-mutuel wagers. The study group may:*~~

~~*(a) Be comprised of the members of the Off-Track Pari-Mutuel Wagering Committee established pursuant to NRS 464.020 and any other operators of a race book.*~~

~~*(b) Evaluate the feasibility of:*~~

~~*(1) Accepting less than the full face value of an off-track pari-mutuel wager;*~~

~~*(2) Agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; or*~~

~~*(3) Increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager.*~~

~~*6. The Commission may consider any findings by the study group appointed pursuant to subsection 5 in determining whether to adopt regulations to exempt bets, refunds, rebates, payoffs or bonuses from the provisions of subsection 1.]*~~

(Deleted by amendment.)

Sec. 3.5. **1. Not later than January 1, 2014, the Nevada Gaming Commission shall study and review issues relating to the offering of rebates on pari-mutuel wagers. The Commission shall evaluate the feasibility of:**

(a) Accepting less than the full value of an off-track pari-mutuel wager;

(b) Agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; or

(c) Increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager.

2. If the Commission determines that exempting certain bets, refunds, rebates, payoffs or bonuses from the provisions of subsection 1 of NRS 464.075:

(a) Is in the best interests of the State and licensed gaming in this State, the Commission shall adopt regulations pursuant to subsection 4 of NRS 464.075 not later than April 1, 2014.

(b) Is not in the best interests of the State and licensed gaming in this State, the Commission shall, following the conclusion of the Commission's study and review, report its findings at the next regularly scheduled meeting of the Legislative Commission.

Sec. 4. This act becomes effective upon passage and approval.

PUBLIC COMMENTS

From: avford@cox.net [mailto:avford@cox.net]
Sent: Monday, July 29, 2013 6:21 PM
To: Fralick, Adriana
Subject: Rebates on Pari-Mutuel Wagers

Dear Nevada Gaming Commission,

I am a long time horseplayer from Nevada. For the past 20 years there has been a steady decline in wagers with the Nevada Racebooks. The reason is that horseplayers are playing where they can get the best deal. I know of many serious horseplayers that would love to play at the Nevada Racebooks, but since no rebates are offered, they go elsewhere where rebates are given out according to the amounts wagered. New horseplayers are needed to help the sport and I see many new patrons who want to learn and play horses get turned off when they find out that no rebates are given to horseplayers. Please allow Nevada Racebooks to give out rebates as soon as possible. The Nevada Racebooks would see an immediate increase in handle which would increase their profits and ultimately help the state.

Thank you,

A.V. Ford
Henderson, NV

From: avford@cox.net [mailto:avford@cox.net]
Sent: Wednesday, July 31, 2013 6:21 PM
To: Fralick, Adriana
Subject: Pari-Mutuel Rebates

Dear Nevada Gaming Commission,

The main point is to enable the Nevada Racebooks to offer rebates as quickly as possible. Every day serious horseplayers are betting where they get rebates and Nevada Racebooks are missing out on all that handle.

All 3 options listed for comment have some merit.

Option 1) Would decrease the handle a little depending uopn the rebate size.
Option 3) Seems to favor winning players more and winning players are going to bet anyway.

Option 2) Appears to be the most sensible option rewarding players according to their total wagers (win or lose). This option is what most players and Racebooks are familiar with and is probably the easiest for Racebooks to do.

Rebates in the Nevada Racebooks will go a long way in helping the popularity of horseracing which is greatly needed. Pleace act quickly.

Sincerely,

Vic Ford
long time NV resident

Office of the Executive Secretary Nevada Gaming Commission,
Congratulations on joining the modern times of race & sports book rebates which are now similar to overseas sports gaming paying rebates back to players.
I know many people who go overseas & this will now keep money in Nevada.
Sincerely,
Paul Rosa
702-858-6406

MONARCH
CONTENT MANAGEMENT
285 W. Huntington Drive, Arcadia, CA 91007

August 7, 2013

VIA ELECTRONIC MAIL & FEDERAL EXPRESS

Peter C. Bernard, Chairman
Nevada Gaming Commission
c/o Office of the Executive Secretary
1919 College Parkway
P.O. Box 8003
Carson City, NV 89702

Dear Chairman Bernhard:

Monarch Content Management, LLC is the simulcast purchase and sales agent for the following racetracks: California Authority of Racing Fairs, Del Mar, Fairplex, Golden Gate Fields, Gulfstream Park, Hollywood Park, Kentucky Downs, Laurel Park, Lone Star Park, Meadowlands, Monmouth Park, Pimlico, Portland Meadows, Santa Anita Park and Tampa Bay Downs. Please note that the Monarch tracks include every thoroughbred racetrack in the State of California with the sole exception of the Sonoma County Fair.

We understand that the Nevada Gaming Commission is researching the practice of rebating, and is considering regulations that would permit Nevada race books to offer their customers cash rebates on wagers placed on horse races. Monarch and the racetracks we represent are fully supportive of this effort. We would welcome new regulations in Nevada that would permit the payment of cash rebates by Nevada race books.

It has come to our attention that there may be some question as to whether the racetracks would continue to sell their racetrack signals to the Nevada race books if these books offer rebates. Back in the late 1990's, many racetracks were opposed to the payment of cash rebates on wagers placed on the racetracks' signals. However, the racing world has changed in the last 15 years and I can assure you that rebating is now the norm. The tracks represented by Monarch have no intention of severing ties with Nevada books over the issue. Tracks today see efforts to increase pari-mutuel wagering handle as of utmost importance, and the payment of rebates has become a common practice in the horse racing business to stimulate handle growth from large customers. In fact, we find it unusual that the State of Nevada still has a law and regulations prohibiting the practice.

Please feel free to contact me if you have any questions or need any further information.

Very truly yours,

Scott Daruty

Scott Daruty
President

130803.2 MCM

August 8, 2013

Office of the Executive Secretary

Nevada Gaming Commission

1919 College Parkway

P.O. Box8003

Carson City, NV 89702

Fax 775-687-8221

afralick@gcb.nv.gov

Re: Comments on Issues Relating To the Offering of Rebates on Pari-Mutuel Wagers

To Whom it May Concern:

This letter is to express MGM Resorts International, parent company of ARIA, Bellagio, Circus-Circus-Las Vegas, Circus-Circus-Reno, Excalibur, Luxor, Mandalay Bay, MGM, The Mirage, Monte Carlo, New York -New York, and Silver Legacy, opinion on the feasibility of offering rebates on pari-mutuel wagers accepted by race books operated in Nevada.

We are of the opinion that any form of rebating of pari-mutuel wagers, whether it is not accepting payment for the full face value of the wager, bonus/increase the payout of a winning pari-mutuel wager, rebating a percentage of patrons pari-mutuel wagers, or any other structuring of wagers that gives the player a cash reimbursement for their pari-mutuel wagering is not in the best interest of the race book industry in Nevada for numerous reasons.

Our current rate fee structure with the various race tracks around the country/world has been a long and ongoing process of trying to keep the rates as low as possible for the operators in the state in hopes of keeping pari-mutuel racing a viable product in Nevada. A move towards rebating will be seen as a direct threat to the race tracks as most tracks have an interest in an account deposit wagering (ADW) rebating businesses. It is a natural assumption that we would be viewed as a direct competitor for their players and our rates would increase for a product the tracks control and we must have to operate.

The current tax structure, overhead, cost of regulatory requirements, and numerous other fees and expenses required by a brick and mortar operation places us at a competitive disadvantage in the razor thin margin business that is pari-mutuel wagering around the globe. The margin for profitability is the thinnest for those engaged in the rebate business. Most operators offering pari-mutuel rebates operate on a 1%-2% margin giving the players the highest payback possible. Under our current conditions the operators in Nevada have costs that would prohibit us from being competitive in that market and would leave Nevada operators with higher track fees and other expenses and very little , if any, incremental revenue to offset those expenses . As a result the Nevada race book industry would be far worse off for having ventured into this ultra competitive environment with the playing field stacked against us.

I don't think anyone disputes that horse racing handle in Nevada is declining at an alarming rate, however the state of the industry on the national level is experiencing the same fate, slightly less but nonetheless on the decline. Currently, Nevada's race books are benefitting from a favorable rate structure that the Nevada Pari-Mutuel Association and the rate committee work hard in negotiations to keep in place for the common good of all in the race book industry in Nevada. I believe that if our current business model is changed to allow for rebating it will facilitate the rapid increase in track rate fees and other fees incurred resulting in the decline in the profitability of pari-mutuel horse racing in Nevada. As with any area of business faced with an operating deficit decisions will have to be made as to whether to continue or close the failing component of the business. At MGM Resorts International we have discussed contraction of some of our race books if the operational environment ever became fundamentally unprofitable. Permitting rebates will hasten the day of unprofitable operations.

For your consideration.

Sincerely

Jason D. Rood

Jason D. Rood

MGM Resorts International

Vice President of Race and Sports Operations

PEPPERMILL
RENO

August 7, 2013

Office of the Executive Secretary
Nevada Gaming Commission
1919 College Parkway
P.O. Box 8003
Carson City, NV 89702

Sally Elloyan, Executive Secretary:

RE: request for comments relating to rebates on pari-mutuel wagers

Your notice dated July 19, 2013 solicits comments on three different ways to reduce pari-mutuel profit:

1. Allow the player to pay less than the full amount of the bet.
2. A cash kick back to the player determined by a percentage of his wagers.
3. Pay the player more than his bet would actually win.

I think all of these are very bad ideas. I am opposed to any form of cash rebate or discount.

a. There are too many "fingers in the pie" already. To set up a bidding war to see who can pay the most for player business will eventually erode profitability beyond common sense.
b. Our premium players are satisfied with complimentary hospitality. The franchise operators in Nevada should contract with their host properties to provide competitive comps. To allow the franchise operators to give cash rebates gives them an unfair advantage over traditional proprietary race books.
c. We tried this back in the 90's and it was a disaster when the California racetracks withheld their simulcast signals from Nevada race books.

The rebate craze as currently evolving in the horse racing industry worldwide is self destructive and detrimental to the fiscal health of the industry. The high volume rebate shops operating offshore are just a sleight-of-hand capital manipulation done through high-speed computer-generated wagering programs. Most traditional Nevada race books are not competing with these operators. Serious handicappers and industry experts think that this process damages the betting pools and therefore average players everywhere suffer loss of value and interest.

Thank you for the opportunity of expressing our opinion.

Terry Cox
Director of Race/Sports/Keno
Peppermill Reno
775-689-7452
tcox@peppermillreno.com

I am an avid horse player. As I understand the three options for paying the rebate to the bettors, I feel by far the best is option #2, refunding a portion of the full face value of the wager to the customer.

Thank you.

Robert Snyder

LEWIS AND ROCA LLP LAWYERS

Anthony Cabot
3993 Howard Hughes Parkway
Suite 600
Las Vegas, Nevada 89169

Direct Dial: 702 949-8280
Direct Fax: 702 949-8367
ACabot@LRLaw.com
Admitted in: Nevada, Arizona

Our File Number: 53308-00001

August 8, 2013

Via Electronic Mail

Office of the Executive Secretary
Nevada Gaming Commission
1919 College Parkway
P.O. Box 8003
Carson City, NV 89702
Fax 775-687-8221
afralick@gcb.nv.gov

Re: **COMMENTS ON ISSUES RELATING TO THE OFFERING OF REBATES ON PARI-MUTUEL WAGERS**

To Whom it May Concern:

I represent the Nevada Pari-Mutuel Association ("NPMA"). The Nevada Pari-Mutuel Association is a Nevada non-profit corporation comprising 83 race books licensed to conduct pari-mutuel wagering in Nevada and represents the interests of its members in regulatory and public affairs. This letter responds to the Nevada Gaming Commission's ("Commission") request for initial comments regarding the offering of rebates,[1] or similar incentives, on pari-mutuel wagers to aid the Commission's study and review of the issue as required by Section 3.5 of Senate Bill 425 of the 77th Legislative Session. We intend to provide more detailed evidence and testimony at the scheduled Commission hearing.

Let me first start with a historical perspective of horse racing and rebates because of its importance to understanding the issue.

Horse race wagering in Nevada has always been a tightly regulated activity both for oversight and price regulation. This is because the industry depends on others for the product—Nevada has essentially no in-state horse racing[2]—and for the delivery of that product by wire and television into Nevada. Virtually every aspect of the industry is price controlled. Our books must adhere to the same commission schedule as the track. This is about 19.5% of each wager. Each book must pay the same fee to the track, typically about 4.01% on each wager. It also pays

[1] A rebate is a cash reward paid on every wager a player makes, win or lose. The amount of the reward can vary based on several factors, including bet type.

[2] The Elko County Fair does include seven days of horse racing.

the same fees to others such as Las Vegas Dissemination Service, the monopoly provider of hub services. What little remains of the 19.5% after paying track fees, dissemination fees, employee costs and other expenses is the book's gross profit.

Rebates occur when a portion of the 19.5% is returned to the player. These are most associated with electronic clearing houses with low overhead because they do not have the employee and facility costs associated with a physical race book. If the race wagers were simply a commodity, it would be the equivalent of Amazon.com to the neighborhood book store.

The history of the prohibition against rebates in Nevada dates to 1996. At that time, the California racetracks refused to enter into an agreement with the Nevada race books to allow either common pari-mutuel pooling or simulcasting of their races because Nevada permitted rebates on their races. The Nevada books offering rebates resulted in players from California coming to Nevada to place bets on California races rather than going to the tracks. This made no economic sense to California. Why should they permit Nevada race books to offer their races when all we were doing was cannibalizing their patrons? California therefore initiated a blackout of any California races being shown in the State of Nevada that decimated our revenues.

The Nevada Legislature ultimately broke that deadlock after seven months by passing Nevada Revised Statute ("NRS") 464.075, which prohibited rebates unless permitted by regulation adopted by the Commission.[3] NRS 464.075(4) provides that the Commission may, by regulation, exempt certain bets, refunds, rebates, payoffs or bonuses from section 464.075(1) if the Commission determines such exemptions are in the best interests of Nevada and licensed

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[3] **NRS 464.075 Altering value of wager for patron prohibited; regulations; exemptions.**

1. Except as otherwise provided in subsection 4, a person who is licensed to engage in off-track pari-mutuel wagering shall not:

(a) Accept from a patron less than the full face value of an off-track pari-mutuel wager;

(b) Agree to refund or rebate to a patron any portion or percentage of the full face value of an off-track pari-mutuel wager; or

(c) Increase the payoff of, or pay a bonus on, a winning off-track pari-mutuel wager.

2. A person who is licensed to engage in off-track pari-mutuel wagering and who:

(a) Attempts to evade the provisions of subsection 1 by offering to a patron a wager that is not posted and offered to all patrons; or

(b) Otherwise violates the provisions of subsection 1,

➥ is subject to the investigatory and disciplinary proceedings that are set forth in NRS 463.310 to 463.318, inclusive, and shall be punished as provided in those sections.

3. The Nevada Gaming Commission shall adopt regulations to carry out the provisions of subsections 1 and 2 of this section.

4. *The Nevada Gaming Commission may, by regulation, exempt certain bets, refunds, rebates, payoffs or bonuses from the provisions of subsection 1 if the Commission determines that such exemptions are in the best interests of the State of Nevada and licensed gaming in this state. Any bets, refunds, rebates, payoffs or bonuses that would result in the amount of such bets, refunds, rebates, payoffs or bonuses being directly or indirectly deductible from gross revenue may not be exempt.*

(Emphasis added).

gaming in this state. This law provided enough assurance that California permitted their races to go live again in Nevada.

The Nevada Legislature has now instructed the Commission to study and review issues relating to the offering of rebates, or similar incentives, on pari-mutuel wagers in consideration of adopting regulations under NRS 464.075(4). As part of this process, the Commission has sought public comment and concerns from the industry regarding rebates.

Rebates are controversial because large computer bettors will place their wagers with the off-track betting ("OTB") facility that gives the largest rebates. This naturally draws the players away from the track. Track attendance has plummeted. To make up for the lost track revenues, tracks are charging higher simulcast fees and imposing source market fees on ADW rebate wagers providers. A source market fees requires the OTB to pay extra for players located in the same state or geographic location of the track. These higher fees further reduce the already limited revenues for race books and negate the benefits of the increased handle that might accompany rebates.

This presumes tracks are even willing to enter into an agreement with Nevada race books if rebates are again offered. As noted above, in 1996, California tracks shut off the television signal to Nevada for seven months until we agreed not to give rebates. No assurances can be given that rebates will not be an issue in future contracts with out-of-state tracks—as it was with California—or that an out-of-state track will not again shut off the television signal to Nevada if rebates are considered.

Rebates therefore need to be explored from many perspectives.

Rebates will cause rates our books pay to out of state tracks to escalate.

The NPMA has made inquiries to representatives of the major racetracks to determine what the likely increase would be in simulcast fees and/or simulcast market fees if rebates were authorized and the prohibition of rebate language and prohibition of account wagering language were removed from the contracts. Assuming that out-of-state track will not again shut off the television signal to Nevada but will continue to provide it, the NPMA has been advised the host fee/track fee for rebate ADW wagers would be 7-9%, an increase of 3-4% for these wagers. The NPMA also has been advised that a source market fee of 5% on ADW rebate wagers taken from residents of California and New York would be implemented.

Among the largest groups of race tracks that negotiate with the NPMA is Churchill Downs. Churchill Downs, like many of the other larger groups, has its own ADW company, i.e., Twin Spires. These groups would likely demand a high simulcast fee to prevent Nevada race books from competing with them in the ADW rebate market, thereby, further raising costs for Nevada race books if rebates, or similar incentives, are authorized.

Nevada race books cannot compete with rebate houses.

Even if rebates are permitted and regulated, the NPMA does not believe Nevada race books could successfully compete with the rebate houses. Rebate houses operate on margins as low as 1% and pay the rest of the amounts they receive as "hold" from the track back to the track as a simulcast fee and/or host fee and as a rebate to the player. This is due, in part, on such rebate houses operating with much less regulatory and other overhead items, which Nevada sports book cannot eliminate.

Besides having higher regulatory costs, virtually every aspect of the Nevada race book service is price controlled. Our books must adhere to the same commission schedule as the track, which is about 19.5% of each wager. Each book must pay the same fee to the track, typically about 4.01% of each wager. It also pays the same fees to others such as Las Vegas Dissemination Service, the monopoly provider of hub services. Nevada race books therefore do not control their revenue and costs and thus do not control their profits. Further hindering our ability to compete with rebate houses is the inability to deduct the amounts paid as rebates from the gross gaming revenue generated from the race wagering.

Compare this to ADW's that have no bricks and mortar components, limited regulation and a "tax" in Oregon for those who are licensed there of only .25% of the handle (in contrast, assuming Nevada race books hold 19.5% of the wagers made, our "tax" is around 1.31% of the handle—or about five times that of Oregon), it is apparent that Nevada race books have an inherent economic disadvantage that eliminates any ability to realistically compete with rebate houses.

Rebates will change the fundamental nature of the industry.

Historically, the market for Nevada race books is tourists and some locals—the traditional horse players that love the sport. Nevada offers these race books for the convenience of its players. The industry does not make a lot of money off of its books. In fact, the average win per book is small. The average book in Nevada won over $1.2 million in 2005. Last year that number tumbled to under $700,000.

Let's suppose you are an **average book**, and you now have $691,000 in gross win and about $641,000 **annually** after paying your gaming taxes. You still must pay, among other things, your: Employees - race book manager, writers, and others; Track Fees; Systems Operator Fees; Fixed Wire Fees; Equipment Charges - terminals, printers, large screen televisions, electronic boards, wallboards; and Comps. This is not a segment of the industry flush with cash or a healthy bottom line but operates on a thin margin. Both the NPMA and the operators know this.

The NPMA and the operators also know when patrons come to Nevada, they want to have an entertainment experience when they bet on sports and horses. This experience makes them stay longer, spend more money in other parts of the casino and return more often.

Accordingly, Nevada has the most modern race books in the world with the best amenities, e.g., big screen TVs, nice chairs, individual monitors, food and beverage services, etc. In short, Nevada race books cater to flesh and blood patrons (called tourists).

Rebates, in contrast, serve a different purpose. Rebates exist to aid Computerized Robotic Wagering ("CRW"). The term CRW was invented in the U.S. horse racing market to describe people who use software and sophisticated algorithms to analyze pools and odds to find mispriced bets and place multiple, direct bets into the tote system immediately prior to a race.

A dichotomy of interests exist between CRW players and flesh and blood patrons. CRW players do not care about the customer experience nor do they care about our tourists. CRW players do not even need a physical book. They just need a place to bet and which provides the best rebates so they can lower their margins. Because computer-driven betting is mostly about covering a high percentage of combinations, the margins are small. For instance, Rob Terry, vice president of Racing and Gaming Services, a CRW company, told horsemen at a conference last year that the company lost 6% in 2011 not factoring in the track discounts. Essentially, CRW is looking to come out ahead by receiving rebates that exceed the 6%.

For Nevada race books to compete in the rebate arena, they must transform themselves from books that cater to tourists to ones that handle large volumes via remote CRW. This changes the nature of what we have been doing in Nevada and will eliminate the customer experience for in-person patrons in most casinos. If the margins shrink further because of rebates moving some customers to the rebate providers many casinos must close their books. Nevada race books will no longer cater to in-person patrons but out-of-state CRW.

Moreover, because computer teams wager such high volumes, they believe they should be heavily compensated by rebates. Many OTB operators have obliged by giving high-volume CRW teams what amounts to be significant rebates. Specifically, since these CRW teams operate as their own Advance Deposit Wagering outfits, the rebate comes in the form of a lower "host fee" for taking the track's signal. For Nevada race books to compete against tracks that deal directly with CRW teams, the books will have to offer very lucrative rebates. Better rebates for CRW, however, equals increased costs for Nevada race books.

Rebates in Nevada therefore may make it economically feasible for only two or three books to survive instead of the 83 now functioning. For Nevada race books to offset the increased costs associated with offering rebates, a large handle is necessary to spread out the costs associated with the rebates and higher fees, e.g., simulcast fees. Smaller race books, including those used by some casinos as a player convenience, do not have a large enough handle and cannot endure these increased costs. This will cause the closure of such books and the heavy loss of jobs.

The Nevada race book industry will therefore be forced to move away from the smaller, amenity and customer service based approach to a model where patrons are left only with one or two large books to choose between. This few remaining books will be large companies that have

huge amounts of volume. Their focus, however, will no longer be the in-person customer experience. Rather, to compete with out-of-state tracks and rebate houses, they will have to focus on cutting costs and streamlining their amenities to offer the best rebates to CRW play.

Ultimately, the question that has to be answered is what is better for Nevada? Many smaller books that employ numerous people and cater to our current patrons—tourists—or large consolidated books that focus on CRW play. If we want to alienate our current patrons and consolidate the industry down to one or two books that serve CRW play, then the move towards rebates is the road we should go down.

Higher rates caused by offering rebates will cause lower overall revenues to the Nevada books.

Projections indicate that even a substantial increase in Nevada's handle stemming from offering rebates would be offset by increased expenses attributable to the aforementioned increase in track fees and rebates that would have to be given to players. The attached exhibit ("Exhibit A") demonstrates that even if the existing Nevada handle (about $325 million) was to hypothetically expand to 800 million, which is almost two and a half times the current handle, the increased expenses resulting from higher track fees and issuing rebates simultaneously negates any increase in revenue for the race books. In fact, Nevada race books will suffer 12.68% decrease in gross margin.

Moreover, the belief that such a radical expansion of the Nevada handle could even occur is highly unlikely given the current state of the horse racing industry. Over the last decade, the national handle has plummeted 28.3 percent, from $15.18 billion to $10.88 billion, according to The Jockey Club numbers.[4] There simply are not enough players in the marketplace to sufficiently increase our handle to make the offering of rebates profitable.

Finally, even if a sufficient player pool did exist, such a drastic expansion will not happen under current Nevada law because, as detailed throughout, the electronic high volume ADWs do not have to pay Nevada gross revenue taxes on the rebates or the high fees paid the dissemination company. Our books will not be able to compete on price against these ADWs.

Shifting focus from tourists to rebate players introduces different set of regulatory problems.

If the decision is made to move away from tourists to rebate players, the industry will be facing a different set of regulatory challenges, most notably, scrutiny of CRW teams, money laundering and skimming concerns.

In January of 2005, many of the industry's concerns with rebate shops came to the forefront in the Uvari indictment. Several individuals, allegedly associated with the Gambino

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[4] *See* http://www.jockeyclub.com/factbook.asp?section=8.

crime family,[5] (the "Uvari Group") used certain rebate shops to operate an illegal gambling business that brokered more than $200 million in bets on horse racing and other sporting events. According to the Indictment, the Uvari Group typically made money on every bet placed by one of its bettors at an off-site gambling business. The amount of this "commission," or "rebate," was allegedly negotiated by the Uvari Group based on the number of accounts that the Uvari Group opened at the off-site gambling business and represented a percentage of the bet that the Uvari Group received regardless of whether the bettor won or lost. For each bet, the Uvari Group allegedly returned a portion of its commission or rebate to the bettor, as an incentive for the bettor to continue to place bets through the Uvari Group. The Uvari group also concealed the identities of most gamblers in its operation thereby promoting tax fraud and also allegedly engaged in money laundering.

Based on the Uvari indictment, the New York Racing Association – and for a time the New York Racing and Wagering Board – decided that offshore rebators had significant potential for money laundering and stopped doing business with these offshore firms. The end result today is even stricter regulatory control from states. Due diligence programs are being used that look into the ownership and business operations of CRW teams wagering into pari-mutuel pools. Regarding New York, players receiving rebates from Nevada books would likely have to be disclosed to the New York regulators and additional investigation regarding those players could be required.

An additional regulatory challenge stemming from the use of rebates is the unlawful compensation of persons who have not been approved by the Nevada Gaming Commission, as required under NRS 464.025(2). A recent example of this issue was uncovered in 2006 by the Nevada Gaming Control Board ("Board") during its investigation of the Poker Palace. The Board's investigation revealed that the Poker Place had engaged several unlicensed bookmakers by offering an off-track pari-mutuel contest, which effectively guaranteed the bookmakers a rebate on their wagering activity.[6] The contest prize pool consisted of the total contest entry fees plus a percentage of the off-track pari-mutuel handle for the previous week. However, the contest was only held if the prior week's off-track pari-mutuel handle exceeded $200,000, which was the minimum wagering activity the unlicensed bookmakers had agreed to conduct at the Poker Palace.[7]

Throughout the time period in which the contest was held, there were rarely more than four participants and, with few exceptions, every participant was associated with the unlicensed

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[5] *See* http://www.usdoj.gov/usao/nys/pressreleases/January05/uvarietalindictmentpr.pdf.

[6] *See* NGC Case No. 08-17 Complaint, p.7 (May 12, 2009).

[7] *See Id.* at 7-9. Historical data indicated that the handle for the Poker Palace's off-track pari-mutuel wagering operation averaged around $100,000 per month, far below the weekly amount of wagers the unlicensed bookmakers were required to place.

bookmakers.[8] Because each contest provided four prizes, most of the contests resulted in each unlicensed bookmaker receiving a portion of the prize pool.[9] Although the contest was designed to appear legitimate on its face, the manner in which the contest was conducted and the make-up of the cash-prize pool rendered it nothing more than a front for an unlawful rebate scheme in violation of NRS 464.075(1)(b) and NGC Reg. 22.125(1)(b).[10] The issue is illustrative, however, of the use of rebates as a vehicle to accomplish an unlawful activity, e.g., providing illegal compensation incentives. In the absence of sufficient regulations, ostensibly lawful rebates may be designed to disguise other illegal activities.

Rebates can be a tool for predatory pricing.

As noted earlier, Nevada race books must rely on others for the product and for the delivery of that product by wire and television into Nevada. This requires our industry to enter into numerous price controlled contracts. For instance, we have to contract with the tracks to place our wagers into its pools (called track fees), we need contracts for communications and telecasting of the races and we need contracts for the hub services (called hub fees).

The Nevada Gaming Commission has therefore appointed an eleven person committee, representing eleven licensed pari-mutuel books, that has the exclusive right to negotiate these agreements with the tracks and with the systems operator. When the committee agrees to a rate with either a track or the systems operator, the rate must be "**fair** and **equitable**" for all books in the state. The track fees are the same for every book. If the books pay a daily fee to the track as opposed to a percentage fee, books pay a percentage based on their percentage of the handle on that track. So, if the daily fee is $500 and a book has 10% of the total handle on that track, then that book pays $50. If it has 1%, it pays $5.

These fees are paid out from a race book's commission on wagers, also referred to as the takeout.[11] The money left over from the takeout after paying the track fees, hub fees, gaming taxes and all operating expenses is the net revenue of the book. What little revenue left, is a book's small profit margin.

Therefore, a race book that wished to engage in predatory pricing could easily use unregulated rebates to price everyone else out of the industry. Because race books cannot increase their margins as fees are price controlled and revenue percentages are fixed,[12] offering

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[8] *See Id.* at p.7.

[9] *See Id.*

[10] *See Id.*

[11] Takeout means "the amount retained and not returned to patrons by a pari-mutuel book from the total amount of off-track pari-mutuel wagers." NGC Reg. 26A.020(4).

[12] NGC Reg. 26A.150 Deduction of commission on wagers. The total percentage of off-track pari-mutuel wagers that is to be deducted as a commission on wagers must be:
1. For interstate common pari-mutuel pools, the same percentage as deducted by the track, unless a different percentage is otherwise approved by the commission; and

lucrative rebates will likely eliminate the competition. Again, books with smaller handles simply can not absorb the added costs stemming from offering rebates given their already slim profits and will have to close.

Summary

The preceding are not the only potential issues that may arise from shifting the focus of race books from tourists to rebate players. Rebates may lead to other problems such as money laundering and skimming in casinos. Accordingly, new and sophisticated due diligence programs will have to be instituted to ensure the integrity of the wagers made and rebates received via Nevada race books. At a minimum, rebates need to be regulated so they are not abused as a method to return 100% of the wager in "clean" winnings.

The offering of rebates poses serious concern to the NPMA. Most notably, the NPMA does not believe permitting rebates would allow Nevada race books, as they exist today, to continue. Rather, even with an extremely significant increase in Nevada's handle, which is improbable, the increased fees and costs associated with the rebates reflect a substantial increase in cost to do business for Nevada race books and will likely result in decreased profits. The Nevada race book industry will therefore probably be forced to move away from the smaller, amenity and customer service based approach to a model where patrons are left only with one or two large books to choose between that cater to out-of-state CRW play. The NPMA does not believe this would not be in the best interests of Nevada and licensed gaming in the state as required in subsection 4 of NRS § 464.075.

I hope this brief letter is helpful in demonstrating the issues and our concerns relating to the offering of rebates, or similar incentives, on pari-mutuel wagers. Please contact me, if you have any questions regarding the preceding.

Sincerely,

LEWIS AND ROCA LLP

Anthony Cabot

ANC/kr

Enclosures

cc: Patty Jones, Executive Director of the NPMA (w/Encls.)

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2. For intrastate common pari-mutuel pools, a percentage not to exceed 25 percent.

Exhibit A
State of Nevada Rebate Analysis

	Handle	
Current Estimated NV PM Handle	325,000,000	
Revenue Based on 19.5% of estimated Handle	63,375,000	
Paid to the Tracks 4.01% (estimated avg)	(13,032,500)	
Comps 4% (operating costs such as drinks, racing forms, etc.)	(13,000,000)	
Gross Margin Before Additional Expenses	37,342,500	
Hypothetical Total Estimated Handle with Rebates	**$500,000,000**	**$800,000,000**
Handle Under Current Criteria (current handle that is not rebated)	175,000,000	175,000,000
Revenue Based on 19.5% (non-rebate handle of $175M)	34,125,000	34,125,000
Paid to the Tracks 4.01% (estimated avg)	(7,017,500)	(7,017,500)
Comps 4% (operating costs such as drinks, racing forms, etc.)	(7,000,000)	(7,000,000)
Gross Margin Before Additional Expenses	20,107,500	20,107,500
Handle Under Current Criteria (current handle that will convert to rebates)	150,000,000	150,000,000
Revenue Based on 19.5% (converted rebate handle of $150M)	29,250,000	29,250,000
Paid to the Tracks 8% (estimated increased track fees)	(12,000,000)	(12,000,000)
Blended (WPS/Exotics) Rebate Allowance of 8.5%	(12,750,000)	(12,750,000)
Advance Deposit Wagering System 1%	(1,500,000)	(1,500,000)
Gross Margin Before Additional Expenses	3,000,000	3,000,000
Hypothetical Handle Increase due to Rebates	175,000,000	475,000,000
Revenue Based on 19.5% of new rebate handle	34,125,000	92,625,000
Paid to the Tracks 8% (estimated increased track fees)	(14,000,000)	(38,000,000)
Blended (WPS/Exotics) Rebate Allowance of 8.5%	(14,875,000)	(40,375,000)
Advance Deposit Wagering System 1%	(1,750,000)	(4,750,000)
Gross Margin Before Additional Expenses	3,500,000	9,500,000
500M in Handle Based on Rebates		
175M (of 325M current handle that is not rebated)	20,107,500	
150M (of 325M current handle that will convert to rebates)	3,000,000	
175M (Increase due to rebates)	3,500,000	
	26,607,500	
Decrease in Gross Margin	(10,735,000)	
	-28.75%	
800M in Handle Based on Rebates		
175M (of 325M current handle that is not rebated)		20,107,500
150M (of 325M current handle that will convert to rebates)		3,000,000
475M (Increase due to rebates)		9,500,000
		32,607,500
Decrease in Gross Margin		(4,735,000)
		-12.68%

CANTORGAMING

Office of the Executive Secretary
Nevada Gaming Commission
1919 College Parkway
PO Box 8003
Carson City, NV 89702

Re: Rebates on Pari-mutuel Wagers

As an interested party and license holder of 6 race books Cantor Gaming would like to provide the following comments on the feasibility of agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager.

Summary

Nevada's handle has been in steady decline for more than a decade. All States that offer pari-mutuel wagering legally provide patrons with rebating and have little issue in luring significant bettors to move their wagering out of Nevada, and Nevada books have few tools to fight such competition. These states offer an identical product to the one offered in Nevada but provide the customer with a greater return, and current restrictions make it impossible for Nevada books be competitively priced.[1] Brick and mortar race tracks throughout the United States with similar infrastructures to Race & Sports books offer rebates and pay higher signal fees. These tracks have not had a problem adjusting to the revised business model.

Additionally pari-mutuel wagering is at a disadvantage in the Nevada casino environment because all other types of wagering are eligible for forms of discounts, free play or promotional activities to help stimulate wagering activity, patron attraction and retention. We believe that the implementation of pari-mutuel rebates will provide an opportunity to galvanize the states horse wagering business and allow it to be competitive with the rest of the United States.

Nevada Landscape: From the inception of pari-mutuel racing, Nevada enjoyed a competitive landscape with regard to rebating on pari-mutuel wagering until 1997.[2] In 1997, Senate Bill 318, a bill that "*makes various changes to provisions governing gaming*" contained provisions to prohibit rebating. The legislative history shows that other states, and California in particular, were opposed to Nevada permitting its race books to rebate pari-mutuel wagers because it was discounting California's racing product and thus driving customers from California to Nevada and thus depriving California racing of revenue that it would otherwise retain. The following excerpt from the legislative history illustrates the issue clearly:

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[1] Any particular pari-mutuel wager is offered by the track hosting the race. The wager, including the odds and the price before rebate, is the only variable for a consumer shopping to place a wager on the long shot in the third race at Belmont is price.

[2] *Nevada Senate Bill 318 Before the Assembly Judiciary Committee*, (July 2, 1997) (*See* statement of Barry Lieberman, General Counsel, Coast Resorts, Inc. "*He stated rebates were a way that the smaller casinos could compete with the larger casinos. He said the rebate issue was part of his client's marketing plan when the contract they were operating under allowed it. He said the rebate issue could be controlled by the tracks.*")

"Mr. Cabot maintained the biggest problem was the state of California prohibited the tracks in California from giving rebates. Therefore, the state of California claimed the state of Nevada was stealing their customers, and for every customer who bet in Nevada, the state of California got 3.5 percent back, but had they bet in California, they would have gotten 18 percent back. The state of California concluded for every dollar that crossed the state line, because Nevada gave rebates that California could not give, they were losing $6. The NPMA could not argue with that logic, and felt that if the state of California was good enough to sell the state of Nevada their signal and the rights to do pari-mutuel wagering, the state of Nevada should not be competing with them for their own customers. What had happened, according to Mr. Cabot, was that was not the case; there were three books that were still giving rebates, and the state of California said they wanted a significantly larger amount of money for the state of Nevada to do pari-mutuel wagering, if Nevada was going to give rebates and steal California's customers. He emphasized that affected casinos that were not giving rebates.

The other situation, told by Mr. Cabot, was a New Jersey track told the NPMA to specifically exclude the three books giving rebates, or they would not allow the state of Nevada to do pari-mutuel wagering with the state of New Jersey. Mr. Cabot said they told the state of New Jersey the NPMA could not do that; that was not the way the NPMA's system was set up, so therefore, the NPMA was currently not taking pari-mutuel signals from the state of New Jersey. He concluded rebates had created a significant problem in the way the NPMA negotiated contracts with other states which had resulted in a "blackout" in California, and no pari-mutuel wagering with the state of New Jersey."

- *Nevada Senate Bill 318 Before the Senate Judiciary Committee, (June, 1997)*

In 1997, Nevada was threatened with loss of signals or "blackouts" from states that prohibited the practice of rebating in their own states or at their own tracks. As evidenced in the testimony outlined above, Nevada and its rebating practices were blamed for declining local handle. California was particularly vocal regarding the issue and was active in submitting letters to the Nevada legislature in support of statutory prohibitions against rebating. Letters were received from the California Horse Racing Board, the Thoroughbred Owners of California, and the Los Angeles Turf Club, all expressing support for Nevada's prohibition against rebating. Copies of these letters are provided as Exhibit A to this letter. As noted below, these letters do not reflect the current position of California racing, which generally permits rebating on races at California tracks.

Despite Nevada's prohibition against rebating in 1997, handle apparently did not improve significantly elsewhere and California ceased enforcing its anti-rebating regulation shortly after forcing the issue with Nevada. For example, in 2004, Magna Entertainment, began offering rebates through its account wagering subsidiary on races at its California tracks.[3] By 2009, the California Horse Racing Board (the "CHRB") formally and unanimously rescinded its anti-rebating regulation in California.[4] During the discussion, Craig Fravel, then the president of Del Mar Thoroughbred Club in supporting the repeal of the regulation stated that "*I mean, basically, the view that everybody took, including the Board,*

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[3] *See* Jack Shinar, CHRB Moves to Rescind Anti-Rebate Stance, BLOOD-HORSE & BLOODHORSE.COM, February 26, 2009, available at http://www.bloodhorse.com/horse-racing/articles/49388/chrb-moves-to-rescind-anti-rebate-stance

[4] Meeting of the State of California Horse Racing Board Regular Meeting, February 26, 2009, transcript available at http://www.chrb.ca.gov/board/board_meeting_transcripts/TRANSCRIPT%2009-02-26.pdf

was that the rule said you have to place in your contract a prohibition on rebating, which everybody did and everybody ignored it. It didn't say you have to enforce it."[5]

In 2003, the Nevada Pari-mutuel Association (the "NPMA") also sought to soften Nevada's anti-rebating statute by supporting an amendment to NRS 464.075 to permit the Commission by regulation to exempt certain bets, refunds, rebates, payoffs or bonuses from the anti-rebating provisions of NRS 464.075. In written testimony submitted to the Nevada Senate Judiciary Committee on March 21, 2003, Anthony Cabot, Legal Counsel to the NPMA along with Patty Jones, the Executive Director of the NPMA noted that in 1999 Nevada racing handle had risen to $619 million, but by the time of their testimony racing handle had dropped to $470 million.[6] According to the NPMA and its counsel, the drop in handle was attributed to a lack of competitiveness in Nevada caused by to two primary factors, first a lack of account wagering and second a lack of rebating. With regard to rebating their testimony stated as follows:

> *The second requested change involves the prohibition against race books giving rebates to patrons. A rebate is when a patron is given a discount on the face amount of the wager or given a portion of every bet back.*
>
> *The prohibition was implemented in 1997 because the California tracks refuse to provide our books access to their wagering pools without it.*
>
> *We capitulated as a point of diplomacy to end an extended blackout of California racing at our books.*
>
> *California tracks, however are now giving out such rebates. Likewise OTBS and tracks across the country and world are following such practices.*
>
> *We are not requesting that the prohibition be lifted, only that the Nevada gaming Commission be able to carve out exceptions to the prohibitions that are in the best interest of the State...*

The Nevada Legislature ultimately enacted Senate Bill 3, which included the following language granting the Commission the power to exempt certain bets from the statutory prohibitions against rebating:

> *The Nevada Gaming Commission may, by regulation, exempt certain bets, refunds, rebates, payoffs or bonuses from the provisions of subsection 1 if the Commission determines that such exemptions are in the best interests of the State of Nevada and licensed gaming in this state. Any bets, refunds, rebates, payoffs or bonuses that would result in the amount of such bets, refunds, rebates, payoffs or bonuses being directly or indirectly deductible from gross revenue may not be exempt.*

In the ten years since the NPMA successfully lobbied to permit Nevada books to use rebating as a tool to be more competitive nationally and internationally, the horse racing industry has continued to decline and Nevada's competitive position has continued to erode. As recently as the August 2012 Nevada Gaming Commission Meeting, Anthony Cabot while representing the NPMA explained that real

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[5] Id at page 34.

[6] *Senate Committee on Judiciary,* March 21, 2003, (See Testimony of Anthony Cabot, Legal Counsel to the Nevada Pari-mutel Association Before the Nevada Senate Judiciary Committee March 21, 2003, written testimony stamped as Exhibit D).

racing handle is down 37% from its peak in 2003, race days are down 15 percent from 2000, 4 % of the customer base is being lost every year (half of that to death) and the competitors in this space are fighting ever more fiercely over this shrinking pie.[7]

At that same August meeting the NPMA expressed the devastating truth that Nevada's racing handle is just 56.7 percent of what it was just six years ago. Additionally, the news is getting worse because the NPMA projects handle to drop an additional 3 to 5 percent again this year.[8] In fact, the currently published Nevada Gaming Control Board Revenue Report through June (the most current as of the date of this letter), shows Pari-Mutuel Wagering down 6.15% year to date from last year, Pari-Mutuel win was down 8.6% for the last twelve months and down 11.36% comparing June to June. [9] Clearly, race books in Nevada need tools to be more competitive and thankfully, the legislature has provided the opportunity to implement on of these tools if the Commission adopts regulations consistent with the legislative grant.

Condition of pari-mutuel wagering in the state of Nevada

In the nine years since account wagering and exemptions for rebating were introduced into Nevada's statues, Nevada has continued to lose ground to other states with off track betting. The following table shows a comparison of Nevada's handle with Oregon's off track betting handle:

Year	*Nevada OTB*	*Oregon OTB*
2003	$478,806,057	$830,018,121
2004	$502,413,594	$883,019,744
2005	$537,729,331	$961,801,294
2006	$561,936,231	$1,340,375,866
2007	$551,109,806	$1,573,680,479
2008	$464,770,318	$1,308,416,446
2009	$384,333,333	$1,244,690,722
2010	$381,180,012	$1,448,791,376
2011	$363,355,745	$1,844,927,704
2012	$333,980,700	$2,211,317,676

Note that Nevada has been suffering through five straight years of declining handle. In contrast, Oregon has only had two years of decline since 2003 and has managed to more than double its off-track betting handle. While the back-end systems, regulations and laws of Oregon and Nevada may be different, the product offered to customers is the same, namely, pari-mutuel wagers on races at tracks through books that are not part of the track.

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[7] See Before the Nevada Gaming Commission, August 2012 Agenda, Off –Track Pari-Mutuel Wagering Committee, Transcript, Page 18, Comments of Anthony Cabot, Counsel to the Nevada Pari-mutuel Association.

[8] Id. at page 20.

[9] Source Nevada Gaming Control Board

Impact of rebates on related parties

Impact on states handle - The anticipated impact on pari-mutuel handle is that overall handle will significantly increase. This increase will occur due to 2 major factors; first, existing customers will immediately have more liquidity to wager due to having more money in hand and secondly new customers will be driven to wager in the state because they will receive a competitive rebate.

Impact on taxation – Cantor would propose that the rebate be given to the patron as an after tax expense, which could be treated similarly to the way complimentaries's are currently handled. Adopting this methodology would ensure that the process by which operators accumulate tax information and pay taxes based on pari-mutuel wagers would remain unchanged. This is consistent with current statutes that prohibit the deduction of rebates and promotions from pari-mutuel gross revenue.[10] The state would received more tax dollars, since handle would increase and the operators pay tax on revenue which is earned as a commission based upon handle.[11]

Impact on operators – As previously stated if rebates are treated as a complimentary, it is in the sole discretion of the operators as to if and at what levels of rebates are offered. This method would not yield any tax advantages to operators offering rebates. (Exhibit B included within provides an example of the impact to the operator on offering a rebate). However, Cantor Gaming's research regarding rebating in other jurisdictions indicates that most patrons wager rebated amounts, thus the rebated amounts are churned back into the pari-mutuel system, thus further increasing the volume of business for the operator.

Impact on tracks – Currently all track agreements for pari-mutuel wagering are negotiated exclusively by the Rate Committee appointed by the Commission. Tracks are compensated by the state of Nevada either through a negotiated daily fee or percentage of handle. As they currently stand, the track agreements the Rate Committee has negotiated with the various tracks around the country all contain a specific prohibition from rebating. Cantor believes that the tracks would be more than willing to negotiate with the Rate Committee to remove the language prohibiting rebates, if it is allowed by Nevada regulation. A representative of the majority of significant tracks in California sent a letter to the Nevada Legislature during the 2013 session that emphasizes that many of the same tracks that opposed rebating in 1997 are now in favor of rebating today. Likewise, the Chairman of the Thoroughbred Owners of California (who also is a licensee of a small unrestricted casino facility in Carson City) also sent a letter in support of rebating to the 2013 Nevada Legislature and this is the chairman of the same organization that sent a letter to the Nevada Legislature opposing rebating in 1997. Copies of the 2013 letters are attached to this letter as Exhibit C.

One of the concerns that has been raised is that tracks may increase their signal fees if rebates are allowed, which is a possibility, however there is no reason to believe that that the rates may not increase anyway due to the significant decreases in handle in the state of Nevada and the resulting diminished bargaining strength.

Operational feasibility

Operations overview – Cantor believes that the issuance of a cash rebate is feasible from an operational perspective. Rebates can be tracked and processed by various methods including through Smart Button, the race complimentary software program made available to all race books through LVDC, other complimentary management systems currently used by licensees, or through account wagering. A pari-mutuel race customer will be rebated a percentage of his stakes. The rebate amount may vary from track

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[10] See NRS 464.045(3)

[11] Oregon is used as a comparison because other jurisdictions do not publish pari-mutuel handle.

to track, bet type to bet type, and amount wagered and other factors each individual race book may choose to implement, in part guided by the takeout and track fees as may be negotiated with the tracks. Cantor's expectation is that its customers will broadly receive an average rebate credit of up to 8% of their bets depending on their betting volume. Full details of exact rebate terms would be posted in every Cantor Gaming-operated Race Book, and patrons will have access to this 'rebate menu'. Once the race results are officially posted, the rebate can immediately be added to the patron's comp balance for their subsequent use where a significant portion of the rebate amount is likely to be again wagered by the patron.

Operational specifics – A customer would make a race wager through the race book. Each wager would be systematically sent to the disseminator where the wagers will be placed into the pari-mutuel pool the same way as they are currently treated.

The Cantor Race system would receive all race results and pricing directly from the disseminator and the customer's comp balance would be adjusted based on the outcome of the race. In addition to the settlement of the wager the customer's comp balance would also reflect the addition of their rebate, which would be listed as a separate transaction being added to their comp balance. The rebate would be placed into the patron's comp account immediately after the race has been made official, meaning when the result is sent from the disseminator. The customer would be able to re-bet this amount, or make a withdrawal, whichever option they choose. This system would need to be approved by the Gaming Control Board and/or Nevada Gaming Commission as required by regulations.

Reporting and State Tax Revenue affect

Revenue and tax reporting would be no different from the way it is currently treated. The reports generated by the disseminator which are currently used to compile the information on NGC tax forms can still be used. The only change to the process would be that the operators system (in this case Cantor Race) would be used to track player balances and rebates. If rebates are treated as an after tax expense, as discussed previously, this reporting will only be needed by the operator so they can track cash balances, liabilities and expenses, it would not be required when calculating the revenue earned or gaming tax owed, yielding only increased taxable revenue for the State

Conclusion/Recommendation

One of the largest dilemmas pertaining to rebates is balancing the concerns of the smaller operators who believe they cannot afford rebates and of some in the industry who believe that rebates would cripple the Rate Committee's ability to negotiate status quo rates with the tracks against the views of other operators such as Cantor, who believe that despite a potential increase in fees, rebating would be beneficial in drawing bettors back to Nevada to increase race betting, taxes and potentially have a positive spillover effect. Our suggestion is that the Commission direct that dual rates be negotiated with each track if, in fact, the tracks require rate increases to allow rebates. Operators that choose to not participate in a rebate program would then be afforded rates that could be the same as those negotiated today if the tracks are amenable, and those race books can continue their business model of offering complimentaries to customers which may better suit their customer base. Operators who offer rebates would pay a different signal fee, which would be negotiated under the premise that rebates would be offered. This fee should be consistent with what track operators around the country pay while they offer rebates, which are not significantly disparate from the Nevada rates.

Cantor thanks the Commission for its consideration and we look forward to the opportunity to participate in this important discussion.

EXHIBIT A

1997 Letters Submitted To The Nevada Legislature Supporting a Prohibition on Rebating

June 30, 1997 JUN 30 1997

Via Facsimile and Mail

Mr. Bernie Anderson
Chairman
Nevada Assembly Judiciary Committee
401 S. Carson Street
Carson City, Nevada 89701-4747

Re: SB 318

Dear Chairman Anderson:

I am President of the Thoroughbred Owners of California ("TOC"), the organization which represents the approximate 9,000 owners of Thoroughbred horses in California. TOC strongly supports and recommends the passage of SB 318 out of your committee. TOC believes that the existence of rebates in Nevada has seriously interfered in the attempt to resolve the dispute between race books in Nevada, California tracks and TOC. Thank you for your interest in this very serious matter.

The proposed Nevada legislation conforms to Section 1950.1 of the Rules and Regulations of the California Horse Racing Board which became effective on June 20, 1996. The CHRB rule necessitated an amendment to the original agreement dated December 7, 1995 between the Nevada Pari-Mutuel Books and Los Angeles Turf Club (Santa Anita) [illegible] did not contain a provision for the prohibition of rebates as required by Rule 1950.1. The purpose of the amendment was to formally add rebate language to the original agreement and place the parties in compliance with CHRB Rule 1950.1.

Again, we strongly encourage your support of SB 318.

Sincerely,

John K. Van de Kamp
President

JVK:jas

President & General Counsel
John K. Van de Kamp

Executive Committee
Ed Friendly
Chairman of the Board
Ron Charles
Vice President
Jack B. Owens
Vice President
Mace Siegel
Vice President / Treasurer

Directors
Thomas W. Backman
Gary W. Burke
Ron Charles
Marianne Chase
Ed Friendly
Charles R. Kerns
Alan Landsburg
Robert B. Lewis
Frank R. Lonergan
Marvin Malmuth
Jack B. Owens
Mace Siegel

Honorary Director
J. Terrence Lanni

Interim Executive Director
Don L. Johnson

285 W. Huntington Dr.
Arcadia, CA 91007
(818) 574-6620 Phone
(800) 994-9909 Toll-Free
(818) 821-1515 Fax

Submitted to the Committee on Judiciary on 7/2/97
by John Van de Kamp, Thoroughbred Owners of California
EXHIBIT H

Los Angeles Turf Club, Incorporated
Santa Anita Park
285 West Huntington Drive
P.O. Box 60014
Arcadia, California 91066-6014
Telephone: (818) 574-7223
FAX: (818) 446-9565

JUL - 1 1997

President

June 29, 1997

Mr. Bernie Anderson
Chairman
Nevada Assembly Judiciary Committee
401 So. Carson Street
Carson City, Nevada 89701-4747

Dear Chairman Anderson:

It has come to our attention that SB 318 will be heard shortly before your committee.

As President of Santa Anita Park I am writing to recommend passage of this bill out of your committee. In our opinion the existence of rebates in Nevada is what first sparked the current dispute between race books in Nevada and California tracks. Passage of this bill will greatly assist the ability of these two parties to reach an understanding after several months without a California signal.

We strongly urge your support of SB 318.

Best regards,

Clifford C. Goodrich

Submitted to the Committee on Judiciary on 7/27/97
by Clifford Goodrich, Santa Anita Park

EXHIBIT I

STATE OF CALIFORNIA PETE WILSON, GOVERNOR

CALIFORNIA HORSE RACING BOARD
1010 HURLEY WAY, SUITE 300
SACRAMENTO, CA 95825
(916) 263-6000
FAX (916) 263-6042

JUN 30 1997

June 30, 1997

VIA FACSIMILE AND REGULAR MAIL

Mr. Bernie Anderson, Chairman
Nevada Assembly Judiciary Committee
401 S. Carson Street
Carson City, NV 89701-4747

Dear Chairman Anderson:

We are informed that your committee will be hearing S.B. 318 which deals with rebates being paid on pari-mutuel wagering. Our Board has been steadfastly opposed to rebates as evidenced by California Horse Racing Board Rule 1950.1, Rebates on Wagers, which prohibits them. We support the elimination of rebates and support penalties associated with them when they are found to be in use. We thank you for your consideration in this matter and would appreciate your committee's further consideration.

Sincerely,

Ralph M. Scurfield

Ralph M. Scurfield
Chairman

RMS:jb

Submitted to the Committee on Judiciary on 7/2/97
by Ralph Scurfield, California Horse Racing Board
EXHIBIT G

EXHIBIT B

Current Model

	NYRA (Aqueduct)			
	WPS	**Exacta**	**Tri**	
Handle	**$100**	**$100**	**$100**	
Takeout	16.00%	18.50%	24.00%	
Revenue	**$16.00**	**$18.50**	**$24.00**	(Gross Rev to casino operator)
Track Fee	($4.85)	($4.85)	($4.85)	
Net Revenue	**$11.15**	**$13.65**	**$19.15**	
Gaming Tax	($0.75)	($0.92)	($1.29)	(6.75% of Net Revenue)
Net to Operator	**$10.40**	**$12.73**	**$17.86**	
Complimentary	($2.00)	($2.50)	($3.00)	
	2%	2.50%	3%	
Total P&L to Operator	**$8.40**	**$10.23**	**$14.86**	
	8%	10%	15%	

Rebate Model

	NYRA (Aqueduct)			
	WPS	**Exacta**	**Tri**	
Handle	**$100**	**$100**	**$100**	
Takeout	16.00%	18.50%	24.00%	
Revenue	**$16.00**	**$18.50**	**$24.00**	(Gross Rev to casino operator)
Track Fee	($4.85)	($4.85)	($4.85)	
Net Revenue	**$11.15**	**$13.65**	**$19.15**	
Gaming Tax	($0.75)	($0.92)	($1.29)	(6.75% of Net Revenue)
Net to Operator	**$10.40**	**$12.73**	**$17.86**	
Rebate	($5.40)	($7.73)	($12.36)	
	5.40%	7.73%	12.36%	
Total P&L to Operator	**$5.00**	**$5.00**	**$5.50**	
	5%	5%	5%	

As indicated by the above example, the generation of revenue and flow of money is unchanged in the way the current business model runs vs. the way it would with rebates. The only change that occurs is the issuance of a rebate after the generation of revenue, as opposed to the issunace of a complimentary.

EXHIBIT C

LETTERS TO THE 2013 NEVADA LEGISLATURE SUPPORTING REBATING

MONARCH
CONTENT MANAGEMENT
285 W. Huntington Drive, Arcadia, CA 91007

VIA EMAIL

May 16, 2013

The Honorable Jason Frierson
Chairman
Nevada Assembly Judiciary Committee
401 South Carson Street
Carson City, Nevada 89701-4747

Dear Mr. Frierson:

Monarch Content Management, LLC is the simulcast purchase and sales agent for the following racetracks: California Authority of Racing Fairs, Del Mar, Fairplex, Golden Gate Fields, Gulfstream Park, Hollywood Park, Kentucky Downs, Laurel Park, Lone Star Park, Meadowlands, Monmouth, Pimlico, Portland Meadows, Santa Anita Park and Tampa Bay Downs. Please note that the Monarch tracks include every thoroughbred racetrack in the State of California with the sole exception of the Sonoma County Fair.

We understand that the Nevada legislature is considering passing legislation that would permit Nevada race books to offer its customers cash rebates on wagers placed on horse races. Monarch and the racetracks we represent are fully supportive of this legislation. It has come to our attention that there may be some question as to whether the California racetracks would continue to sell their racetrack signals to the Nevada casinos if the casinos offer rebates. I can assure you that they will. The payment of rebates has become a common practice in the horse racing business. In fact, we find it unusual that the State of Nevada still has a law prohibiting the practice.

Please feel free to contact me if you have any questions or need any further information.

Very truly yours,

Scott Daruty

Scott Daruty
President

130528.1 MCM

Dear Chairman and Members of the Assembly Judiciary Committee,

It has come to my attention that you are considering a bill (SB425) to permit Nevada race books to engage in rebating or price competition on pari-mutuel racing. As you may know, I own two Nevada non-restricted casino locations with race and sports operations in Northern Nevada. I am also a Thoroughbred Owners of California Board Member. As such I am in a somewhat unique position to weigh in on this bill as I can see this issue from the view points of both Nevada race book operator's perspective and that of California racing.

Unfortunately, my commitments related to the Kentucky Derby and Triple Crown racing have dominated my time and I was unable to testify in person regarding SB425 before your committee. However, I can say without any reservation that enactment of SB425 is essential to the health and survival of Nevada race books.

Nevada racing has been in decline for more than a decade. The Nevada Pari-mutuel Association and our attorneys have made great efforts in the past to provide us with tools to compete. But without the ability to compete on price these other tools – the ability to use account wagering, taking wagers from bettor in other states, advanced deposit wagering and call centers – can never reach their full potential.

I know there have been arguments that track costs to Nevada race books will likely go up with rebating. However, as a participant in California racing I can inform you that costs are likely to go up for Nevada books in any event. This is because the discounts offered to Nevada in the past were an accommodation made based largely on the volume of wagering provided by Nevada and that volume is no longer what it was. Therefore, as Nevada racing handle has dropped, its negotiating power based on its volume to get the best track pricing in the nation has dropped.

I have also learned that there are rumors that rebating will result in a return to having racing signals cut off to Nevada. This is ridiculous as rebating is the industry norm outside of Nevada. From the perspective of the racing product provider, there is a realization that growing handle is good for the racing industry. It is handle and the takeout from handle that funds the entire industry.

Additionally, I have also learned that there was an argument that rebating will raise all sorts of legal issues with Nevada licensees. As I recall, Nevada invented rebating and conducted rebating within the scope of Nevada's regulatory system without any significant issues prior to 1997. Additionally, the rebating will be done by Nevada licensees, the same licensees that have been deemed suitable to hold a Nevada nonrestricted gaming license.

Finally, Nevada pari-mutuel racing has been in decline for decades. As a licensee I can tell you that there is nothing to indicate that the status quo is likely to alter this decline. SB425 merely puts Nevada race books on a level playing field with race books in other states. SB425 gives Nevada race books a fighting chance to recover handle and the associated tax revenue.

Thank you.

Michael E. Pegram
Bodine's and Carson Valley Inn

KEENELAND

Keeneland Association, Inc.
4201 Versailles Road
Lexington, KY 40510
P.O. Box 1690
Lexington, KY 40588-1690
859 254-3412 Tel.
800 456-3412
859 288-4347 Fax
www.keeneland.com

August 8, 2013

Peter C. Bernhard, Esq.
Chairman
c/o Office of the Executive Secretary
Nevada Gaming Commission
1919 College Parkway
P.O. Box 8003
Carson City, NV 89702

Dear Chairman Bernhard:

Keeneland Association is a Thoroughbred Sales and Racing Company based in Lexington, Kentucky. We offer year-round simulcasting and serve as the world's largest marketplace for Thoroughbreds.

We understand that the Nevada Gaming Commission is researching the practice of rebating that may result in regulations that would permit Nevada race books to offer its customers cash rebates on wagers placed on horse races. Keeneland is very supportive of this effort. Tracks today see efforts to increase pari-mutuel wagering handle as a benefit to a quality racing product, and the payment of rebates has become a common practice in the horse racing business to stimulate handle growth. In fact, we find it unusual that the State of Nevada still has a law and regulations prohibiting the practice.

Of more concern to our tracks is the significant drop in racing handle being experienced by Nevada's off-track books. While it has come to our attention that there may be some question regarding the impact rebating will have over pricing, pricing is a complex topic with many influencing criteria, of which a significant criterion is handle volume. As you know from the Nevada Gaming Control Board's own revenue reports, Nevada's pari-mutuel handle volume continues to drop at significant rates and is already down 7.31% year-to-date as of May compared to a national industry that is off only .66% year-to-date for the same period. Nevada's historically low pricing is tied to its historically high handle volume, which it appears to be unlikely to retain or regain

under current legal constraints. While there is likely to be a cost associated with rebating, there is also likely to be a cost associated with loss of handle volume and the loss of discounted pricing that was associated with higher handle volume.

We are appreciative of any efforts that Nevada is doing to increase the amount of handle and thus further the growth and interest in Thoroughbred racing.

If you have any questions or need any additional information, please do not hesitate to contact me.

Sincerely,

Vince Gabbert
Vice President & Chief Operating Officer

FAX COVER SHEET

DATE: August 9, 2013

TO: Office of the Executive Secretary
Nevada Gaming Commission
775-687-8221

FROM: Gregory Wright – COO & CFO
Vincent Magliulo – VP
Las Vegas Dissemination Company

RE: Notice of Request for Comments and Notice of Public Workshop

---

Good Afternoon – Please find attached comments relating to the offering of rebates on pari-mutuel wagers (Notice 2013-56).

If you have any questions, please feel free to reach either of us at 702-739-8781.

Thank you

LVDC
LAS VEGAS DISSEMINATION COMPANY
A Worldwide Full Service Pari-Mutuel Company.

August 9, 2013

Office of the Executive Secretary
Nevada Gaming Commission
1919 College Parkway
P.O. Box 8003
Carson City, NV 89702

Re: Notice of request for comments and workshop on issues relating to the offering of rebates on pari-mutuel wagers (Notice 2013-56)

Based on current rebate practices in the pari-mutuel industry, both national and international, along with the past rebate practices in Nevada, it is the position of Las Vegas Dissemination Company that it is feasible and necessary for Nevada pari-mutuel books to have the flexibility of 1) accepting less than the full value of an off-track pari-mutuel wager, 2) agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager, and 3) increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager.

Nevada was at the forefront of rebating in the mid 1990's. By giving back a portion of their commission to the customers (rebate), the annual Nevada pari-mutuel handle grew to over $600,000,000. The increase of handle came from a small number of the Nevada pari-mutuel books. With regulatory guidelines, each property could decide whether to rebate and the extent of the rebates.

Since the banishment of rebates in Nevada, rebating has become a multi-billion dollar business. Based on the off-track pari-mutuel rebate model created in Nevada in the 90's, the rest of the world has accepted the rebate practice. In the last five years on-line betting sites and race tracks have began offering rebates to their customers. In that time Nevada's pari-mutuel handle declined to approximately $337,000,000 in 2012. In 2013, the pari-mutuel handle is down approximately 7% year-to-date. There is a direct correlation of the declining Nevada handle and the growth of betting outlets that offer rebates. Nevada's race handle has continued to decline as pari-mutuel rebates and account wagering expand in other jurisdictions.

Without rebates, Nevada is at a competitive disadvantage with the rest of the pari-mutuel race industry. In the past, Nevada has overcome competitive disadvantages, such as the change of off-time as post-time through regulatory changes. Over the years many customers have inquired about rebates at Nevada books only to be declined. Many rebates players will "churn" their money, benefiting properties, patrons and the state. There is a very strong probability that rebates and/or incentives received by the patrons will be bet back thus increasing the handle. Rebates would be well received by current patrons and could help create new patrons.

Wynn LAS VEGAS

john avello
executive director, race & sports book
direct dial: (702) 770-3072
e-mail: john.avello@wynnlasvegas.com

August 9, 2013

RECEIVED/FILED
AUG 12 2013
NEVADA GAMING COMMISSION
CARSON CITY, NEVADA

Office of the Executive Secretary
Nevada Gaming Commission
1919 College Parkway
PO Box 8003
Carson City, NV 89702

The Nevada Gaming Commission has requested comments regarding the offering of rebates or other cash inducements on Pari-Mutuel wagers in connection with a Commission study mandated by recent legislation passed by the Nevada legislature. Wynn Las Vegas is aware that the Nevada Pari-Mutuel Association has responded to the Commission's request for comments and we are in support of the position set forth in the Association's letter to the Commission. However, Wynn Las Vegas also believes that it is important that it submit a separate letter as the operator of a Nevada racing book. Accordingly for the reasons set forth herein, Wynn Las Vegas strongly opposes the offering of rebates or other cash inducements on Pari-Mutuel wagers and respectfully urges that the Commission not take any action that could lead to changes in the current Pari-Mutuel program in Nevada.

Major racetracks throughout the United States and Canada offer their racing signals and the right to co-mingle wagers into their Pari-Mutuel wagering pools to Nevada Gaming Licensees, racetracks, other casinos, off-track betting parlors and advanced deposit wagering outlets for estimated fees ranging from a low of 3% for track to track transmissions and as high as 10% for outlets commonly known as "Discount Houses".

Nevada Race Books for 2012 enjoyed a highly competitive blended fee structure of only 4.01%. This beneficial fee structure was extended to Nevada Race Books and generally not offered to other Pari-Mutuel wagering outlets throughout the rest of the country, primarily due to the following factors unique to Nevada:

1. Most major simulcast and Pari-Mutuel agreements between the Nevada Pari-Mutuel Association and tracks prohibit discounts.
2. The Nevada Pari-Mutuel Association exercises pricing leverage as it acts as a single unit on behalf of all Nevada Race Books in negotiating fees.

3. Nevada Race Books are unique in that without a Pari-Mutuel agreement they are positioned to exclude wagers from a race track's wagering pool by booking race wager themselves.

Although Nevada books still would maintain a limited degree of bargaining leverage (although waning) from points 2 and 3 above, our rate negotiation position would be significantly diminished if we were allowed to offer discounts as the tracks would then view us as a competitor on a national scale. If Nevada permits discounts on Pari-Mutuel wagering, then, in response the racetracks would automatically increase fees charged by a significant factor. Furthermore, we believe that any incremental handle attributable to a discount policy will be insufficient to cover the incremental costs associated with the newly introduced discounts and increased track fees.

Race handle throughout the country has been in rapid decline. The sport's popularity is a shadow from its heyday of 50 years ago. Competitive gaming products introduced throughout the last 40 years have continued to dilute the portion of legal gaming dollars directed to racing. Furthermore, the sport continually fails to attract newer and younger fans to replace the typical older customer. Sadly, racing's customer base is literally "dying off". Reflective of this, racetracks throughout the country continue to close on a regular basis. We believe that a state wide discount program is a desperate misguided attempt to try and maintain handle in an already seriously depressed market and may accelerate the decline of race books.

Further, Wynn Las Vegas and the other Nevada race books are better positioned to continue to service the visitors to Nevada at a reasonable profit margin instead of jeopardizing existing profitability by chasing a few individual or syndicated professional race handicappers at minimal or non-existent profitability levels.

Unfortunately, Nevada's race handle and profitability will probably continue to decline in the years ahead. However, this is a result of a severely wounded race industry and not because of Nevada's existing prohibition against race discounts.

Wynn Las Vegas representatives are available to further discuss this matter with you at your convenience.

Best regards,

John Avello

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