

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Sixth Session
March 24, 2011**

The Committee on Judiciary was called to order by Chairman William C. Horne at 8:09 a.m. on Thursday, March 24, 2011, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman William C. Horne, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Steven Brooks
Assemblyman Richard Carrillo
Assemblyman Richard (Skip) Daly
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Jason Frierson
Assemblyman Scott Hammond
Assemblyman Ira Hansen
Assemblyman Kelly Kite
Assemblyman Richard McArthur
Assemblyman Tick Segerblom
Assemblyman Mark Sherwood

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Sheila Leslie, Washoe County Senatorial District No. 1

STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Nick Anthony, Committee Counsel
Lenore Carfora-Nye, Committee Secretary
Michael Smith, Committee Assistant

OTHERS PRESENT:

Richard Perkins, representing Rational Services Limited
Scott Scherer, representing Rational Services Limited
Jeremy Aguero, Principal Analyst, Applied Analysis
Tom Goldstein, representing Poker Players Alliance, Bethesda, MD
Tim Craine, Director of Economic Development, Isle of Man Government,
British Isles
Michael Bolcereck, Senior VP of Business Development, Integrity, Aristotle,
San Francisco, CA
Vanessa Rousso, Private Citizen, Las Vegas, NV
Pete Ernaut, representing Nevada Resort Association
Mark Lipparelli, Chairman, Nevada Gaming Control Board

Chairman Horne:

[The roll was called.] This morning we have two bills on the agenda. They are Senate Bill 86 and Assembly Bill 258. We will begin with Senate Bill 86.

Senate Bill 86: Revises provisions governing eminent domain. (BDR 3-132)

Senator Sheila Leslie, Washoe County Senatorial District No. 1:

Thank you, Mr. Chairman and good morning. For the record my name is Sheila Leslie, representing Washoe County Senate District No. 1. I am here on behalf of Senate Bill 86. I have no prepared testimony. I offer the same testimony that we provided on the Chairman's bill several weeks ago. I will be happy to answer any additional questions.

Chairman Horne:

Thank you, Senator. We have had discussions earlier, which we mentioned at the hearing on Assembly Bill 180. The best way to proceed, since the bills are virtually identical, is to amend the sponsors, adding my name as the primary sponsor. The remaining cosponsors from A.B. 180 will be added into S.B. 86. The amendment will then have to be accepted by the Senate before being sent onward.

Senator Leslie:

I will be delighted with that.

Chairman Horne:

Mr. Ziegler, do you have a list of sponsors for A.B. 180?

Dave Ziegler, Committee Policy Analyst:

The cosponsors on A.B. 180 are Assemblyman Ohrenschall, Assemblywoman Pierce, Assemblyman Aizley, Assemblyman Anderson, Assemblyman Atkinson, Assemblyman Bobzien, Assemblyman Conklin, Assemblywoman Flores, Assemblyman Frierson, Assemblyman Hardy, Assemblywoman Kirkpatrick, Assemblyman Ocegueda, Assemblyman Segerblom, and Assemblywoman Smith.

Chairman Horne:

Are there any Senators on that bill?

Dave Ziegler:

Senator Schneider, Senator Parks, Senator Leslie, Senator Breeden, Senator Copening, Senator Roberson, and Senator Settemeyer.

Chairman Horne:

I will entertain a motion to amend and do pass.

ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS
SENATE BILL 86.

ASSEMBLYMAN FRIERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will close the hearing on Senate Bill 86. We will open the hearing on Assembly Bill 258, which I will be presenting.

[Vice Chairman Ohrenschall assumed the Chair.]

Vice Chairman Ohrenschall:

Good morning, Mr. Chairman. It is good to have you presenting another bill this morning. Please begin whenever you are ready.

Assembly Bill 258: Enacts provisions governing the licensing and operation of Internet poker. (BDR 41-657)

Assemblyman William C. Horne, Clark County Assembly District No. 34:

Thank you, Mr. Vice Chairman. I would also like to invite Mr. Richard Perkins and Mr. Scott Scherer up to the table. For the record, I am Assemblyman William Horne of Clark County Assembly District No. 34. The bill before you today is Assembly Bill 258, which addresses the implementation of Internet poker in Nevada. I believe that Nevada has been, and should remain, the leader in the field of gaming and entertainment. The world regards Nevada as the gold standard in gaming regulations. The purpose of A.B. 258 is to provide Nevada with new gaming opportunities, both here in Nevada and around the world. This will make Nevada the leader of interactive gaming, as well as other forms of gaming. Internet poker will provide Nevada with new employment opportunities for Nevadans and new gaming revenue that Nevada has not been able to enjoy. I will provide a cursory run-through of the bill. Attorney Scott Scherer will explain the provisions of the bill in more detail later this morning.

Section 2 of the bill provides a preamble of the legislative intent. Sections 3 through 6 provide for definitions. Regarding section 7, I have had conversations with Senator Reid's office in Washington D.C., and this section has given him some concerns. These concerns have also been expressed to me by some representatives in the gaming industry here in Nevada. The language in section 7, subsection 3 on page 3, line 44 through line 10 on page 4 is known as the "Menendez language." That language was derived from federal legislation. I propose that this language be deleted from the bill. I thought it was important to place it in the bill because I wanted Internet poker operations to feel welcome here in Nevada in order to locate their U.S.-based operations here. After deliberating on this bill, I suggested that language be deleted.

Section 10 of the bill will add Internet poker to the definition of interactive gaming. Section 12 repeals prior regulation authorizing interactive gaming. That regulatory authority is now contained in section 7 of the bill. Section 12, subsection 6, authorizes the Nevada Gaming Commission to issue a license for an operator of Internet poker to a person who has been similarly licensed in another jurisdiction. Subsection 7 authorizes the Gaming Commission to enter into compacts with other jurisdictions where interactive gaming is not prohibited. Section 13, subsection 4, provides that revenue from Internet poker from other jurisdictions be taxed at 4 percent of the gross revenue. Section 14 requires the Commission to adopt regulations before the end of the calendar year.

I would like to make something very clear. Nevada does not want disreputable or dishonest companies. Nevada does not want companies that lack adequate capitalization to protect their players. We do not want companies that cannot

meet suitability standards for licensees. Nothing in this bill will allow for that. What we do want is to attract the major companies in the industry. We want to attract companies that have operated successfully in other well-regulated jurisdictions. We should not drive away companies bringing jobs and revenues to Nevada because of what may be legitimate differences of opinion about what is or what is not permitted under applicable law. I believe our Gaming Control Board and Gaming Commission will consider those purposes and strike an appropriate balance. Thank you for your time. I will be happy to answer any questions. Mr. Vice Chairman, if you would prefer, we can move to hear testimony from Mr. Scherer and Mr. Perkins at this time.

Vice Chairman Ohrenschall:

Mr. Chairman, I do not see any questions from the Committee.

Richard Perkins, representing Rational Services Limited:

We will put together an order of witnesses for you. We have several people waiting to testify. I am here to testify in support of A.B. 258. As Chairman Horne has explained, A.B. 258 is a bill that provides guidance in how Nevada will enter the online poker environment. [Continued reading from written testimony ([Exhibit C](#)).]

Vice Chairman Ohrenschall:

Thank you very much. Are there any questions from the Committee?

Assemblyman Sherwood:

Thank you for the overview. I totally get this, and it is exciting to stay ahead of New Jersey. You stated that the Gaming Control Board will not issue a license to anyone who is not suitable and that the same standards would be held for terrestrial and online. What sort of issues would disqualify someone from obtaining a license?

Richard Perkins:

You have asked a question that I am not sure I am qualified to answer. I can tell you that the bill, particularly after Chairman Horne's suggestion to take out specific language, will clearly not change the stringent procedures that our extraordinary Gaming Control Board and Commission go through to accomplish that. Mr. Scherer is a former gaming regulator and an attorney. He is better suited to answer that question.

Scott Scherer, representing Rational Services Limited:

The types of situations which can disqualify a person now for a license would consist of criminal convictions, an association with organized crime, obtaining financing from organized crime or other sources that may be deemed unsuitable,

or a pattern of fraudulent or inappropriate activity. A person being accused of fraud several times may also be a factor, even if there has been no previous conviction. *Nevada Revised Statutes* (NRS) 463.170 states that a licensee has to be a person of good character, honesty, and integrity. The Board and the Gaming Commission will evaluate each situation accordingly. The Commission currently is evaluating a similar issue today. There are questions for the Board and Commission to consider. Has the person violated the law? Did they know they were violating the law? How clear is the law? You will hear more from Mr. Goldstein, an expert in the field of federal law. He will address many federal law questions. Mr. Goldstein can also explain why this is a murky, gray area despite some of the pronouncements that have been made by the U.S. Department of Justice. There has been a lack of prosecutions in this area. There have been court cases that clearly say that the Federal Interstate Wire Act does not apply to Internet poker.

Assemblyman Sherwood:

We can all buy the concept of innocent until proven guilty on a federal or a Department of Justice accusation. Let us take the scenario of a license being granted, but in the future the licensee is convicted of a federal crime. Would the license be revoked?

Scott Scherer:

A conviction of a federal law would certainly be grounds for revocation. There are certain procedural due process rights such as having a complaint filed and allowing for a hearing. The Gaming Commission can revoke a license for those types of convictions. It is up to the Commission to decide what the circumstances were and whether they are justified to revoke the license. There are frequent disciplinary actions brought against licensees for various violations such as violating a county code or state regulation. They do not all necessarily result in license revocation. Violation of a federal gambling law or illegal gambling would be treated severely.

Vice Chairman Ohrenschall:

I believe we will have witnesses from the Gaming Control Board. Do you have a forecast about how many jobs this bill will bring to Nevada?

Jeremy Aguero, Principal Analyst, Applied Analysis:

I am the principal analyst with Applied Analysis. Our firm was retained by Rational Entertainment Enterprises, Ltd., a subsidiary of Poker Stars. We were retained to prepare an economic and fiscal impact analysis specific to the authorization of online poker in Nevada. I will leave copies of the report with you ([Exhibit D](#)), and I will briefly summarize the findings.

Online poker has been and remains one of the fastest growing industries in the world. There are 8.6 million active players. The 2010 estimated revenues measure in excess of \$5 billion, which is up from an estimated \$33 million in 2001. Roughly 1 in every 4 online poker accounts are held by North Americans, translating into 2.9 million player accounts that generate annual revenue estimated at between \$840 million and \$930 million. It is estimated that there are approximately 2 million annual player-days sourced to Nevada residents generating annual revenue between \$32 million and \$33 million. [Continued reading from written testimony ([Exhibit E](#)).]

Vice Chairman Ohrenschall:

Thank you very much, Mr. Aguero. I question the potential jobs that may come to Nevada, if this bill passes. What type of jobs would they be?

Jeremy Aguero:

There will be a mix of jobs. Certainly it will include the information technology infrastructure along with general and administrative type work. The types of jobs will also include very high-end work like software development, research and development, and security network administration. More jobs will be associated with a high-tech enterprise as opposed to a traditional services enterprise, in terms of the mix of employment and wages and salaries they would earn.

Vice Chairman Ohrenschall:

Do you feel that these jobs will be just at the start-up, or do you think they will continue long-term?

Jeremy Aguero:

With the expectation that headquarters will be moved to Nevada, I think we can expect Nevada to look somewhat similar to where those jurisdictions already exist, such as Gibraltar, Isle of Man, Sweden, et cetera. The estimates that you have been provided with are closely associated with those comparable jurisdictions. The jobs are recurring every single year. With regard to the capital investment option, those would be considered one-time jobs.

Vice Chairman Ohrenschall:

You mentioned the other jurisdictions such as Gibraltar, Isle of Man, Israel, et cetera. Approximately how many people are employed there?

Jeremy Aguero:

In total, there are about 7000 to 9000 employees in the combined jurisdictions. They range from about 500 to about 1500 employees, depending on the jurisdiction.

Vice Chairman Ohrenschall:

Do you think there will be any potential harm to the casino industry from people not gambling in brick-and-mortar casinos?

Jeremy Aguero:

That is a difficult question to answer, largely associated with the fact that the consumers have the option today. The best information we have in that regard was a study that was conducted by the International Gaming Institute in 2007. Although a bit dated, the study asked a series of questions about whether or not the presence of online gaming affected how much someone was gambling in brick-and-mortar casinos. The conclusion which was drawn from that study indicated that roughly 80 percent of consumers said that online gaming was not affecting their play. I would be hard-pressed to believe that the number is zero, which is why we discounted some of our figures to reflect that. In theory, the activity will be open to both the traditional gaming enterprises as well as operators today who theoretically would be operating in Nevada. It is very difficult to determine how that distribution would be allocated and who would benefit from it. There will be equal competition for those revenues within the market.

Vice Chairman Ohrenschall:

Talking about high tech jobs for engineers and computer scientists, do you think our Nevada universities are now producing enough engineers and computer scientists to fill this need?

Jeremy Aguero:

No, I do not.

Assemblywoman Dondero Loop:

I am trying to understand this. If I go into a casino or a bar and play poker on a machine, does the money go to the house where I am playing?

Jeremy Aguero:

Yes.

Assemblywoman Dondero Loop:

If played on the Internet, where does the money go?

Jeremy Aguero:

As the market currently exists today, the money will go to whomever the online service provider is.

Assemblywoman Dondero Loop:

Are both those sets of money taxed?

Jeremy Aguero:

No, not currently today, although it depends on what jurisdiction the player is in. If played in the United States, they are not subject to tax. Under the proposed bill, the idea is that the earnings would be subject to tax. Currently, with the analysis you set forth, such as entering a nonrestrictive gaming operation and playing video poker, the maximum tax rate applied is 6.75 percent of whatever the player loses. Today, if played online, the state does not collect any tax associated with that play.

Assemblywoman Dondero Loop:

What if a player won \$1000 at a tavern?

Jeremy Aguero:

The player is not subject to tax in that scenario. The gaming operator is required to pay the tax on what is collected in terms of their gross gaming win. If a player puts in \$100 but walks away with \$200, it would be a loss for the house, therefore they would not be subject to tax.

Assemblyman Hansen:

If this bill is passed, how would Nevada maintain a monopoly on Internet gambling? In the United States right now, do consumers have the right to gamble legally online?

Jeremy Aguero:

I believe I can answer the first question, but I am not qualified to answer the second question in terms of legality. There are others present who can answer that type of question. With regard to our ability to maintain a monopoly, we are not going to have one. I do not want to leave you with that impression. We will have to do it better than other places. We will have to maintain a competitive advantage for not only our current reputation, but also we must consider the fact that we have a gold standard relative to regulation. This gold standard will likely provide us with some degree of competitive advantage. The idea that we can somehow build up a wall and roll time back to the early 1970s when Nevada had a theoretical monopoly, has well passed.

Assemblyman Hansen:

Regarding the legality, right now if someone wants to legally gamble, they would have to go to a brick-and-mortar casino. If we expand this to online, I cannot see where it will benefit Nevada. People will not even have to come to Nevada to gamble. I have a difficult time seeing how this will benefit Nevada's

top industry, especially under the current economic conditions, and I wonder how this bill will benefit people already in the industry.

Jeremy Aguero:

This is a difficult question being asked from a number of angles. The people that you are referring to are playing today. With regard to the in-state activity, we estimate that activity is somewhere between \$30 million and \$35 million. It will likely increase somewhat. To some extent, those are monies being lost that may otherwise be played. Referring back to the University of Nevada, Las Vegas (UNLV) analysis, which looked at whether the brick-and-mortar players are being affected by online gaming, roughly 80 percent of consumers are indicating their playing is not being affected. I do not necessarily agree with that result wholeheartedly, but in going forward with this bill there will be an open market where the brick-and-mortar casinos will have the ability to compete. I cannot conclude who will win and who will lose. It will ultimately be a question of competition.

Vice Chairman Ohrenschall:

I see no further questions from the Committee.

Richard Perkins:

Our current gaming community industry is in a very difficult spot. I believe this bill will help the gaming community in the way of providing another product. This bill gives casinos another avenue to draw revenue to the properties that participate in Internet poker. Many casino operations want to be involved in this industry. The passing of this bill will provide an opportunity for them to compete worldwide and bring in additional revenues.

Vice Chairman Ohrenschall:

If this bill passes, there will be increased competition. Do you think it will hurt the incumbent members of the industry? Or will it produce more revenue and technology?

Jeremy Aguero:

In the long run, the bill will enhance the industry, because it will open up global markets to allow for some of the most savvy gaming service providers to compete at a higher level. In the short run, it will be pure competition — who can provide the best level of service? Our analysis did not look at how the pie may be split over the next few years. The analysis looked at where the market is today and where the growth may come from.

Vice Chairman Ohrenschall:

Do you believe this will benefit the industry in Nevada in the long-term?

Jeremy Aguero:

Yes, I do.

Assemblyman Kite:

I am not particularly computer savvy, but if I were, could I gamble for money right now on the Internet?

Jeremy Aguero:

Yes, sir, you could.

Assemblyman Kite:

It is my understanding that there is no tax on that.

Jeremy Aguero:

Generally speaking, that is correct.

Assemblyman Kite:

What guarantee do I have that the game that I am involved with is supervised, and what assurance do I have that I will not be cheated?

Jeremy Aguero:

I do not believe you would have a guarantee on that. Certainly the industry has a vested interest in providing security. However, that level of scrutiny and oversight would not extend to every provider who is offering gaming-related activities on the Internet today.

Assemblyman Kite:

If the gaming provider was licensed in Nevada, would that oversight be there?

Jeremy Aguero:

I believe that it would.

Vice Chairman Ohrenschall:

I do not see any further questions from the Committee. Please proceed with your next witness.

Tom Goldstein, representing Poker Players Alliance, Bethesda, MD:

I am an attorney in private practice in Washington, D.C., with the law firm Goldstein, Howe, & Russell, which I have founded. I am here on behalf of the Poker Players Alliance (PPA). By way of professional background, I also teach law school at Stanford Law School and Harvard Law School. I have been recognized as being one of the 40 most influential lawyers in America over the

past decade. I have prepared extensive testimony, which I have provided to the Committee ([Exhibit F](#)). I will summarize the testimony here today.

I appear before you on behalf of PPA, which is the nation's largest organization of poker players and enthusiasts. The PPA recognizes that the game of poker has been an integral part of American culture for centuries, and it specifically recognizes and endorses Nevada's unique leadership role in all gaming matters, including poker. Many of its members reside in Nevada, and the PPA believes that Nevada has a critical role to play in bringing overdue regulatory coherence to online poker play in the United States. Nevada has an important role to play.

The particular subject of my testimony is found in section 7, subsection 3. It provides for the licensing of online poker operations "in the same manner" as other applications. That has been the subject of significant discussions this morning. The PPA fully supports the rigorous examination of the suitability of all applicants, which has been a hallmark of Nevada gaming regulations. Those processes protect consumers who, in this case, are the players who make up the membership of the PPA. Section 7, subsection 3, prior to its amendment, provided that a license shall not be denied to an otherwise suitable applicant on the grounds that it has operated in the United States prior to the legislation's passage. The PPA supports that principle whether in that precise language or not. While the PPA does not endorse any particular poker sites, it recognizes that players, in the market as a whole, are best served when established reputable operators can offer their services.

Mr. Vice Chairman, the following will address the question previously asked by Assemblyman Kite. United States-facing operators, licensed by experienced regulators in Europe, have been serving customers in the United States for years, and the PPA supports a legal rule that permits players to continue accessing these sites. On the other hand, a contrary rule excluding these first-tier United States-facing poker sites would undermine all the goals of a poker regulatory regime. United States-facing sites have the longest track record of compliance with licensing systems, demonstrating their commitment and capacity to combat underage and problem gambling, and to implement rigorous anti-money laundering requirements, and as Mr. Kite has indicated, making sure the game is honest. They also have the largest number of players, and thus the greatest chance to generate jobs and tax revenues. I believe that backs up the economic analysis that you have heard. If you have a purely intrastate Nevada bill, you will have several million dollars in tax revenues. If you include the liquidity of these sites from around the world, the positive impact on the state will be dramatically different.

Another question that has been asked is whether the United States-facing sites have been operating illegally, and therefore are not suitable to receive a license. Assembly Bill 258 says in its second finding that "laws governing Internet poker have been unclear." That is correct. It is a settled principle of American law that criminal prohibitions, such as the anti-gambling laws, must be clear to be enforced. One reason that A.B. 258 is so valuable to everyone including the players is that it will resolve existing ambiguities in the law, ending the uncertainty that has kept many players on the sidelines.

I would like to address the principal issue that has been discussed in this area, which is federal law and what it requires. This is something that I have been studying for several years. I am also prepared to discuss Nevada law. Considering the law as it stands today, the best legal analysis demonstrates that current United States-facing sites are operating in compliance with federal law. The statute that we talk about the most is the Federal Wire Act. The Wire Act only applies to entities "engaged in the business of betting or wagering." That does not describe online poker. The phrase used to describe the online poker site is the "house." That is not true in the traditional sense that the word "house" is used meaning the site has a stake in the bet or wager. For example, if you lose money on craps or blackjack, you are betting back and forth with the house. Of course, the house has the edge. Bets and wagers traditionally in this country refer to games of chance. Poker is recognized in scientific literature as a game of skill. Finally, it is worth noting that the Wire Act specifically refers to "bets or wagers on any sporting event or contest." That language has only been considered by one federal court of appeals in the case of *In re MasterCard International Inc. Internet Gambling Litigation* [313 F.3d 257 (5th Cir. 2002)]. The court correctly held that the statute is limited to sports betting, unlike online poker operators.

The other statute that I would like to mention is called the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA). This statute is about sending money back and forth between a site. It too applies to "persons engaged in the business of betting or wagering." It further explains that a bet or wager is "the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game subject to chance." As I have already stated, poker is recognized as a game of skill. Even if that were not the case, UIGEA only applies when the person is engaged in the business of betting or wagering in unlawful Internet gambling. Therefore, it depends very much whether the particular game is lawful or unlawful under the law of the state in which the player resides.

Another thing that is important to recognize is that the U.S. Department of Justice has issued press releases stating the federal government's position, in

its prosecutorial capacity, that online poker is illegal. However, in our system of law there is a big difference between a prosecutor issuing a press release and a clear statement of law from a legislature or a regulator, or a court ruling. No court has ever adopted the position in the Department of Justice's press release. In fact, the Department of Justice has never brought an action to enforce that stated position against a company that has only offered poker services to customers in the United States.

The final point I will make is related to the previous point. I do not believe that Nevada should anticipate an objection from the U.S. Department of Justice for the implementation of A.B. 258. The Department's recent statements have objected to the unregulated operations of poker sites, not their operation pursuant to a state licensing regime. I recognize that the Department did state an objection previously to an earlier Nevada licensing statute. Despite significant state legislative activity, including New Jersey where the statute passed, the Department of Justice has not formally or informally stated any objections. My firm impression is that the United States' position on these statutes has changed.

I will not read into the record, but have attached to my testimony and provided the Committee, a further memorandum on one specific point that I know will be considered ([Exhibit G](#)). The point is whether to exclude United States-facing operators or to adopt a monetary penalty with respect to them. Professor Laurence Tribe, who is recognized as the nation's leading constitutional scholar, has written a memorandum on the subject regarding a similar proposal in the federal system. In his memorandum, Mr. Tribe explains that type of legislation would be unconstitutional. I agree with his analysis that there is no rational reason to exclude operators who have not been found to operate illegally, and who have the greatest amount of experience in this field. Again, I will submit the remainder of my testimony for the record. I am available for questions, Mr. Vice Chairman.

Vice Chairman Ohrenschall:

Thank you very much, Mr. Goldstein.

Assemblyman Frierson:

Can you clarify your testimony about how this is not engaging in the business of wagering? I understand the portion about chance, but there was another portion that I did not absorb.

Tom Goldstein:

A bet or wager is generally a term that is used when a person is playing against the house. If I play craps or blackjack, I am literally betting against the house.

The house has the edge, and the house has a stake in playing against me. I am betting or wagering with the house. A casino offering blackjack or craps is in the business of betting or wagering because it is betting or wagering with the player. Poker is different. Online poker sites have no stake in the outcome of whether the player wins or loses. They take a rake because that is their business. They offer the space at the table, but whether a player wins or loses has no effect on them. They are not in the business of betting or wagering.

Assemblyman Frierson:

Is that why in California you sometimes see only poker?

Tom Goldstein:

That is correct. States recognize and provide for poker card rooms based on the principle that it is fundamentally different from house-backed games. If you go into a California card room, you will see some games that are backed by players and not house-backed.

Assemblyman Hansen:

It is a great privilege to be addressed by one of the 40 most important lawyers in the United States. Do you represent Poker Stars?

Tom Goldstein:

I do in another capacity. Today I am representing the PPA.

Assemblyman Hansen:

Do they currently offer these services to U.S. customers, or do they follow the Department of Justice's standard?

Tom Goldstein:

The overwhelming majority of states offer real money play.

Assemblyman Hansen:

It has never been challenged by the Department of Justice?

Tom Goldstein:

That is correct.

Vice Chairman Ohrenschall:

I see no further questions from the Committee. Thank you for your testimony, Mr. Goldstein.

Scott Scherer:

Mr. Vice Chairman, I have been asked to walk you through the provisions of the bill. I will start by giving you some background as to how the bill was drafted. I will skip around to various sections to provide a general overview, and then I will walk you through section by section.

As was discussed with Chairman Horne and others involved in this effort, we sought to apply the existing definitions and existing regulatory processes wherever it made sense to do so. Nevada has one of the finest, if not the finest, gaming regulatory systems in the world. We saw no need to reinvent the wheel. Therefore, we started with the Nevada Gaming Control Act generally, and with Nevada's existing interactive gaming statute in particular. As Chairman Horne and Mr. Perkins discussed earlier, Nevada's interactive gaming statute was enacted in 2001. That statute authorizes the Nevada Gaming Commission to enact regulations and grant licenses for interactive gaming if it first made certain findings with regard to the legality of and ability to regulate interactive gaming. The required findings are in section 12, subsection 2 of the bill, found on page 6, lines 3 through 14. As you can see, we have added the words "Except as otherwise provided in section 7 of this act" to the existing language of the statute. Because of the unique characteristics of Internet poker, section 7 of the bill, located on page 3, directs the Commission to move forward with enacting regulations and licensing in this particular type of interactive gaming. It does not change the law, and there is no intent in this bill to change the law, with regard to any other form of interactive gaming. The same findings will be necessary as the statute currently requires for interactive gaming.

Section 2 provides certain findings that are made by the Legislature. Mr. Goldstein mentioned one of those findings with regard to Internet poker laws being unclear. In effect, the Legislature is making those findings and relieving the commission of the need to make those findings, with regard to Internet poker only, because of the unique aspects of Internet poker. Other witnesses have already addressed, or will, the reasons why we believe those findings are appropriate.

Sections 3 through 6 of the bill set forth certain definitions that are not currently in Nevada law. A note regarding section 4, which defines interactive gaming service providers, Senate Bill 103 is a similar bill pending that also defines interactive gaming service providers. We extracted the language for A.B. 258 straight from S.B. 103 because the Legislative Counsel Bureau had already reviewed that language and felt that it was appropriate. Understanding something about the conflict process that sometimes occurs, if both bills are enacted, we did not want to have a conflict in the language between the two.

Turning to section 7, on page 3 of the bill, it instructs the Commission to direct regulations and issue licenses to operators of Internet poker and to manufacturers of equipment used in Internet poker. Subsection 2 sets forth the specific subjects that the Commission's regulations should address. It does set forth those subjects with regard to Internet poker in particular, but if it makes the findings with regard to allowing other forms of interactive gaming, these are the same types of regulations that have already been adopted for land-based casinos. We assume the Commission will adopt the same kinds of regulations for other forms of interactive gaming as well, or expand the Internet poker regulations to cover other forms of interactive gaming should they decide the other forms are appropriate. Subsection 3 states that applications will be processed and investigated in the same manner as other applications and will be charged the same application and investigative fees. We may want to add the word "nonrestricted" before the word "applications" in the beginning of line 44. This would make it clear that we are talking about the processes and fees that generally apply to nonrestricted license applications. Otherwise, they will be treated as any other license application with the same standards of suitability as already found in the Gaming Control Act. The second sentence of subsection 3, beginning on line 44 is known as the Menendez language, which Chairman Horne has already suggested deleting.

Section 8 is a transitory section. It begins our transition to changes or amendments to the existing statutory language. Sections 9 and 10 of the bill amend existing definitions. Section 9 amends the definition of "establishment" to ensure that the Board and the Commission will have the same jurisdiction over, and allow access to, the locations from which interactive gaming is conducted. Throughout the Gaming Control Act and the gaming regulations, there is reference to the right of access that the Board and agents have to an establishment along with the things an establishment must do. This provision makes sure that Internet operators will be included in that definition.

Section 10 includes Internet poker as a form of interactive gaming. That is just how we look at it. It is just a subset of interactive gaming. There are some unique characteristics that make the findings, with regard to Internet poker, easier to make. Section 11 amends *Nevada Revised Statutes* (NRS) 463.160 to make it a crime to operate interactive gaming in or from Nevada without a license. This language is arguably already covered in existing NRS 463.750. We moved the amended language for two reasons. First, it is included with other provisions of the Gaming Control Act. *Nevada Revised Statutes* 463.160 is where most of the other unlicensed gambling prohibitions appear in the Gaming Control Act. This keeps them all together. Secondly, we modified the language slightly to add the words "in or from Nevada," which are not in the current statute. We hope this will clarify the extraterritorial application of the

license requirement, and will hopefully clear up an ambiguity in Nevada law, which Mr. Goldstein has brought to my attention.

Sections 12 and 13 are amendments to existing provisions of the Interactive Gaming Law. Section 12, subsection 3, deletes the requirement for the Commission to set investigative fees. Section 7 already provides that applications are subject to the same application and investigative fees as other nonrestricted applications. Therefore, there is no need for the Commission to separately set the fees. We can potentially clarify that it is not only for Internet poker but those fees can be set for interactive gaming in general as authorized by the Commission. Section 12, subsection 4, adds a reference to a new exception to the criteria for an interactive gaming license. The new exception is found in subsection 6, which is on page 8, lines 17 through 24. This allows an Internet poker license to be granted to a company that has successfully operated Internet poker for at least two years under a license from a recognized regulatory authority in another jurisdiction with standards similar to ours. The Board and the Commission will determine whether these criteria have been met. They will consider whether it is a recognized regulatory authority and whether they have standards similar to ours. Section 12, subsection 7, authorizes the Commission to enter into compacts with other jurisdictions to share revenues and regulatory responsibilities between jurisdictions. If there are other jurisdictions that do not prohibit Internet poker and want to discuss the best way to commonly regulate across state lines and share revenues, this would authorize the Commission to do so if they find it is in Nevada's best interest.

Section 13 adds new subsections 4 and 5 to NRS 463.770. Subsection 4, found on page 9, states that Nevada will receive 4 percent gross gaming revenue resulting from the play of players in other jurisdictions, assuming that Internet poker is not prohibited in the players' jurisdiction. We are assuming that other jurisdictions will impose a tax on the play of their residents. Some already do. Originally we were considering providing for a tax credit against the gross gaming revenue tax in Nevada. The concern was that it would be too complicated to pay and calculate. If the other jurisdiction has a tax that is as high or higher than Nevada's tax, it would result in Nevada receiving no tax revenue from the play through the Nevada-based operations. We did not feel it was appropriate; therefore, we came up with a flat rate of 4 percent. This rate takes into account other taxes that may be paid in other jurisdictions, but still ensures the State of Nevada gets some revenue from every player that participates through a Nevada-based system regardless of where they reside.

Section 13, subsection 5, simply clarifies that advertising and other nongaming revenue is not gross gaming revenue. This provision is probably not even

necessary because, by definition, the revenues discussed are not gaming revenues. The language is simply a clarification.

Section 14 of the bill gives the Commission until December 31, 2011, to enact the regulations. The purpose of this provision allows for the timely setup of Internet operations in Nevada to preserve our leadership position in the industry and to generate new jobs and revenues. Finally, section 15 makes the bill effective upon passage and approval. Therefore, the Board and the Commission can immediately work to meet the deadline provided in section 14. I will be happy to answer any questions.

Assemblyman Daly:

Waiting for the federal government is like a low percentage bet, and I do not think we should do that. I do believe that Nevada has the best infrastructure with regard to our gaming control. We cannot stop Internet gaming, therefore I believe we should get on the bus. My question is more of a technical one. In his testimony, our Chairman said that the deletions that are proposed in section 12 are now covered in section 7. I would like to be sure the language is correct. Section 7 is authorizing what the regulations should be for Internet poker. Section 12 is deleting language that applies to interactive gaming. I want to be sure we get the language right and that the Gaming Control Board is in approval of it. I have confidence that we can achieve it, but there is a disconnection between the two terms. My goal is to get the words right so the law is not ambiguous.

Scott Scherer:

I understand your concern. We can certainly reevaluate the language in section 7 to clarify that the Commission can adopt regulations for interactive gaming generally and for Internet poker in particular. We have to be careful how we clarify that because we are not trying to mandate that the Commission should go forward with all forms of interactive gaming. There are differences between Internet poker and some forms of Internet gaming such as sports wagering, which is clearly subject to the Wire Act.

Assemblyman Daly:

Thank you for the explanation. That clarification needs to be made, and I do appreciate that.

Scott Scherer:

If there are no further questions, I would like for Mr. Craine to provide his testimony.

Vice Chairman Ohrenschall:

Actually, we do have a few more questions.

Assemblyman Hansen:

Traditional brick-and-mortar casinos in Nevada have been very successful in preventing underage gambling. I notice that section 7 of this bill allows for the Commission to adopt a regulation regarding the prevention of underage gambling. Since this activity is occurring internationally, how successful has this industry been in preventing underage gambling, and how is it possible to prevent underage gambling on a computer?

Scott Scherer:

There is a representative from Aristotle present. They provide the technology that identifies and utilizes age and location verification methods. He is best suited to answer that question.

Assemblyman Brooks:

One of my concerns is in regard to underage users; however, I do have other concerns. We received testimony a few days ago about vouchers and matters of that nature. I received some emails from my constituents who are concerned that when the voucher program came into effect, many people lost jobs. I am always conscientious as to how this will affect the constituency in our districts. Will online poker take away jobs from dealers in Nevada?

Scott Scherer:

We do not believe it will. Mr. Aguero's study does not show the bill will take away jobs from the people in Nevada. In fact, this is an activity that is currently occurring. There are people already playing online. I recently attended a meeting where I heard people talking about playing poker online. When asked if they were playing for fun or for money, they all indicated they were playing for money online right here in Nevada. Mr. Aguero's study shows that this will be a good thing, in the long run, for Nevada. The bill will produce jobs in the short-term and will be good for the economy in the long-term.

Assemblyman Brooks:

If this legislation were approved, how much money will this generate for Nevada prior to returning to the next session? If a provider is planning on moving headquarters to Nevada, how many jobs will it create?

Scott Scherer:

I will have to ask others present to address those questions. I do not recall the exact numbers. I believe Mr. Aguero's study included the numbers. This bill does allow for inclusion of other countries' revenue. The Board and the

Commission will have to be convinced that there is no prohibition within those jurisdictions. I am not in a position to answer your other question. I know that there is a desire by many poker operators to have their U.S. headquarters located in Nevada. I do not know how many jobs it would entail. Someone else may be able to come forward to address that question.

Vice Chairman Ohrenschall:

Right now, does poker represent a large part of the revenue for our brick-and-mortar establishments in Nevada?

Scott Scherer:

It is not a large driver of revenue. It is more a driver of traffic than of revenue. The amount of the rake is relatively small. Considering the amount that it costs to run a poker room, the rake barely covers the expenses in many cases.

Assemblywoman Diaz:

For clarification purposes, can you explain the Menendez language and what it refers to?

Scott Scherer:

The Menendez language is named after New Jersey Senator Robert Menendez. Senator Menendez placed similar language into his federal Internet poker bill, which was pending in Congress last session. That language basically says that if a current Internet poker operator, who is licensed and regulated in another legitimate jurisdiction, is taking players from the United States, this is not necessarily grounds for being found unsuitable for a license in Nevada. The language was created to give major Internet poker operators some comfort. If the poker operators came to Nevada with a clean background, the issue of taking players from the United States would not be used against them. There were people concerned about that. Some were concerned because they said it was weakening our standard of suitability here in Nevada. It was thought that we should leave that part up to the Board and the Commission to weigh all the facts before deciding if a particular applicant is suitable for a license. We agree with the expression of Chairman Horne's intent that we do want to attract the major poker operators. We are confident that the Board and the Commission can weigh the facts and look at the entire circumstances before deciding whether someone is suitable under the Legislature's guidelines.

Assemblywoman Diaz:

Thank you. I noticed that section 12, subsection 7, says that unlicensed interactive gaming will not be allowed or tolerated. I am wondering how we will crack down on people who are operating illegally?

Scott Scherer:

It is difficult to do for operations on the Internet. Civil actions can certainly be taken by getting cease and desist orders against advertising, which is what many states that have bans have done. You can prohibit those companies from advertising in your state. The Unlawful Internet Gambling Enforcement Act was designed to follow the flow of money to stop banks and credit card companies from processing transactions for unlawful Internet sites. If the site is unlawful, the banks will stop the flow of money through those sites. If you find unlawful sites here in Nevada, you can potentially go after them as a criminal sanction. It is difficult to do with someone who is overseas.

Assemblyman Frierson:

Earlier Mr. Aguero was asked whether our current education system would adequately supply professionals to work in this industry. His answer was no. I am also aware that we have hotel management training through local universities as well as gaming law training provided by the law school. Has there been any coordination with Nevada institutions of higher education about developing programs to supply professionals in this industry?

Scott Scherer:

There have been some discussions, but they are only in the initial stages. I have not been a direct party to those discussions. I will see whether someone else can address that question.

Assemblyman Frierson:

Just for clarification purposes, I understand that Nevada is best at gaming regulation. This process is already happening, and if this bill is passed, as mentioned earlier, we can collect 4 percent, per player. Because of our innovation and expertise, other states may not proceed so readily. We are relying on our reputation to remain on the forefront of the industry, therefore keeping other states from proceeding. Is that the feeling from the supporters of the bill?

Scott Scherer:

I believe the theory is not that we are going to prevent other states from doing it, but we are going to get out in front of the other states. We will attract the major operators that have the liquidity that Mr. Goldstein referred to in order to locate their U.S.-based operations here in Nevada, which will provide jobs, revenues and infrastructure. There has been interest in working with the universities here to ensure we have qualified individuals for the high-tech jobs the industry would bring. By being first, and having the gold standard that Nevada has, we will gain a significant competitive advantage over other states.

Vice Chairman Ohrenschall:

Are other states considering this type of legislation?

Scott Scherer:

Yes. There was a bill that had passed in New Jersey. It was vetoed by the Governor, but it will be put on the ballot for a vote of the people. I believe that will occur this coming November. California and Florida have bills pending. Iowa had a bill that was approved by a senate committee. I am not sure whether there has been further action on it yet. There are a number of states with bills pending.

Vice Chairman Ohrenschall:

I do not see any further questions, Mr. Scherer. Thank you, and please bring forth your next witness.

Tim Craine, Director of Economic Development, Isle of Man Government, British Isles:

The main purpose of my testimony today is to share the benefits to the Isle of Man in developing an online gaming industry. Before I proceed, I should provide some background on the Isle of Man. Basically, the Isle of Man is a small island which is 33 x 13 miles. It is located in the very center of the British Isles, and it has the oldest continuous parliament in the world. It is a Crown dependency and the Queen is head of state; however, we set all of our own taxes and laws. Only for foreign affairs and defenses will the United Kingdom act on our behalf. We have a special relationship with the European Union (EU), which gives us trading access. There is no party politics on the Isle of Man. We have a 33-member legislature with no party politics, which is very good for political stability. By law, the Isle of Man must have a balanced budget. We can only spend what we can earn. The population is just over 80,000. Interestingly, 52 percent of the population was not born on the island. We are in our 21st year of unbroken economic growth.

In terms of existing United States and Isle of Man links, we have a double taxation agreement with the United States for shipping and a tax information exchange agreement. The Isle of Man is part of what is called Callship 21. This was established after 9/11 by the United States to be sure that shipping companies operating to the United States did not inadvertently take on anything which could cause harm when the containers reached the United States ports. The Isle of Man shipping fleet, which is quite considerable, has the Callship 21 status with the United States authorities. There is a company on the Isle of Man called Martin-Baker. They make the majority of the world's ejector seats, therefore the Isle of Man has played a major part in protecting lives in the United States, particularly back in the days of the Vietnam War. Optics are

made in the Isle of Man for the F-15, the B-2 Bomber, and the Mars Phoenix Lander. As a matter of fact, such optics were instrumental in discovering high altitude snow over Mars two years ago. Miles Standish was the Captain of the Mayflower, and he was from the Isle of Man.

International recognition and reputation is very important to the Isle of Man. We have regular reviews by the International Monetary Fund (IMF.) On their last inspection, they looked at e-gaming on the Isle of Man to determine whether there were any loopholes or weaknesses in our system in terms of our impact on the global economy. We received a clean bill of health from that inspection. We have also been regularly inspected by the Organisation for Economic Co-operation and Development (OECD.) They have found us to be internationally compliant in terms of our standards and regulations. The Isle of Man is white listed by the United Kingdom, which means that the United Kingdom recognizes the Isle of Man's level of e-gaming regulation to be of a very high standard. Any companies based in the Isle of Man can advertise in the United Kingdom without having to be licensed there. There is only a very small group of jurisdictions that have been given that status. Standard and Poor's and Moody's have given the Isle of Man an AAA credit rating, in terms of the state of the government's finances. It is very good to have that level of recognition.

The attractions for e-gaming in the Isle of Man are our legislation, our positive reputation, our world class telecommunications, our United Kingdom white listing, and the clustering of companies making the step to the Isle of Man previously.

Our success started in the year 2000, when we brought in our Online Gambling Regulation Act (OGRA.) There was some nervousness at the time of introducing the legislation. There were concerns about what it would do to the reputation of the island. We decided we would position ourselves at the quality end of the market. Initially when the legislation was introduced, it provided for only 6 licenses to be granted. Those 6 licenses originally went to MGM Mirage, Harrods, Ritz, Littlewoods, Sun Online, and London Clubs. The recent successes on the Isle of Man include Poker Stars, Microgaming, Playtech, SBO Bet, 188 Bet, 12 Bet, and Bet Internet. Currently we have 24 licenses granted by our Gambling Supervision Commission.

Protection is very important to the Isle of Man government. We believe we are quite unique in terms of player protection. When companies look to become licensed on the Isle of Man, they must guarantee protection of player funds, which is done one of two ways. They must either maintain two separate accounts in which one only holds players' funds, have some form of trust

structure, or a bank guarantee. We feel that we are quite unique in providing 100 percent protection to players' funds. Another thing we are conscious about is addressing any form of problem gambling. All operators must contribute 0.1 percent of their gross profit up to a maximum of just under 20,000 USD. When the money is collected, it is split three ways. Part of the money goes to combat problem gambling on the Isle of Man. Another part of the money goes to the United Kingdom, which is where many players come from. The last part goes to the main market penetration of the licensee. There is a three-way split to address any problems from the operation.

In the industry as a whole, we consider e-gaming to be low risk because of our regulation, and because of the system put in place by the operators. They are all state-of-the-art systems in detecting underage gambling or player collusion. We have found that all of our licensees do very well in ensuring that any abuse is detected very early on and is eradicated.

Moving on to economic benefits, we have seen a large number of quality jobs created. The Isle of Man currently has 2 percent unemployment. Like any economy, it is a dynamic economy and certain sectors are continuing to decline and increase. It is fair to say that had we not had e-gaming on the Isle of Man, we would have seen a much higher level of unemployment. The jobs that have been created are quality, well-paid jobs. We have had indirect tax benefits through employees paying their local taxes. Spending in the local economy has been significant. Currently the information communication technology sector is our fastest growing sector of national income. Our latest reports show an increase of 57 percent in that sector, mainly due to e-gaming. We have seen a massive increase in the investments of the telecom infrastructure. The increase is somewhere in the region of \$150 million in the last three years. The Isle of Man has traditionally been a low-bandwidth-using jurisdiction. A low-volume bandwidth user pays the full rate, and there is no discount available. We found that e-gaming brought us massive amounts of bandwidth demand. Poker Stars alone uses seven times what other commercial entities use. They have brought a massive boost to our economy. With the volume that Poker Stars has brought us, we have qualified for the discounted price in accessing bandwidth, which has allowed us to grow other businesses in e-gaming. We have seen a growth in data centers, money transmission agents, et cetera. We also have an increased international profile. Being a small jurisdiction, it is sometimes difficult to sell ourselves, but e-gaming has provided us with a very positive international profile.

Another important issue that we have discovered is that the e-gaming companies are great corporate citizens. They help put money back into the community through sponsorship and charity work. One of our e-gaming

companies alone puts 150,000 USD per year into a medical charity, which is then distributed to people in need of medical help on the island.

In the presentation that I have submitted, I have provided figures that refer to the top five companies from 2006 through 2011 ([Exhibit H](#)). Employment has increased from 230 to 700 currently. Local economy spending has increased from 97 million USD to 268 million USD. The total taxes paid in the Isle of Man have increased from 4.8 million USD to over 30 million USD currently.

Vice Chairman Ohrenschall:

Pardon me, Mr. Craine. Do you attribute that rise in your tax revenue all to Internet gaming? If not, what portion do you attribute to Internet gaming?

Tim Craine:

These figures relate purely to e-gaming. That actually concludes my testimony. Thank you.

Vice Chairman Ohrenschall:

We appreciate you taking the time and trouble to come all the way from the Isle of Man to educate us. You mentioned your licensing process in 2000, and I believe you mentioned a Nevada licensee who had obtained a license in the Isle of Man in 2000. Do you believe your system of licensing is as rigorous as ours here in Nevada, in terms of investigation of applicants?

Tim Craine:

Yes, very much so. With regard to the applicant you referred to, the licensing process in our country did nothing to jeopardize its Nevada license. The standards in the Isle of Man had to be at least equivalent to the Nevada standards to ensure there would be no reputational damage. That is one of the reasons the applicant chose the Isle of Man in 2000.

Vice Chair Ohrenschall:

Once they obtained the license, have they established e-gaming operations on the Isle of Man?

Tim Craine:

Back in 2000, the original six applicants were basically looking to move from brick-and-mortar to online operations. They were rather ahead of the curve because at that time, e-gaming did not have the same amount of general interest by the public. The applicant you refer to was licensed and set up its operations, focused entirely outside of the United States. After a relatively short period of trading, it withdrew its license.

Vice Chairman Ohrenschall:

If this bill passes, are you concerned that you will lose business or jobs in the Isle of Man?

Tim Craine:

No. I believe that the Isle of Man has always had an attitude of being part of the global economy. We constantly have to reinvent ourselves. We have had a great deal of benefit from companies. Some stay and grow while others move on. We are happy to continue to do the best that we can throughout the business cycle. If we lose business because business elsewhere improves, we accept that.

Vice Chairman Ohrenschall:

Here in Nevada, we are very vigilant in preventing minors and people with gambling addictions from gambling. How do you treat this in the Isle of Man? Have you had problems since e-gaming has been established?

Tim Craine:

We provide a contribution for problem gambling. Part of the money collected is contributed to help people with problems. Occasionally, some of the licensees have experienced problems, but because of the excellent detection system we have in place, we are confident that such problems will be addressed appropriately.

Vice Chairman Ohrenschall:

I do not see any questions from the Committee. Thank you very much for traveling so far to testify. Can the next witness please begin?

Michael Bolcerek, Senior VP of Business Development, Integrity, Aristotle, San Francisco, CA:

Aristotle is a leading provider of global verification services for online child protection, utilizing the Integrity Identity Verification Service. With respect to legalizing online poker, it is important to have a clear understanding of what specifically is and is not effective child protection, how it is deployed as a protective ally of parents, and why it is now a federal requirement under the 2010 The Prevent All Cigarette Trafficking Act (the PACT Act.)

Keeping children safe from exposure to inappropriate material, products, or contact is a grave responsibility that all parents, and society as a whole, must live up to. Of course, kids are always looking for new things, including places their parents would never let them go. This potential nightmare is played out daily online, where a youngster is attracted to a website that pretends to offer age verification. However, the website will admit the child as soon as he enters

a date of birth that suggests that he is an adult. That casual fib is a daily ticket for millions of children, as young as eight years old, into websites willing to blindly admit visitors who they might otherwise know should not be there under any circumstances. This fake process is sometimes referred to as voodoo verification. The process will test whether we value our children by utilizing a system that protects them, or will continue using access systems with no real age screening.

What is age verification and how does it work? Integrity is a system that checks databases of government-issued identification in tandem with complimentary sources to verify that someone is an adult. At no point does the system ever collect information on children. Website visitors who are not verified as adults are excluded. That is the general process, and we provide that service for all of our gaming operators, cigarette manufacturers and marketers, and movie providers. Some movie providers show R-rated online movie trailers. We restrict access to underage visitors using that methodology. We have been in this business for ten years. Our technology has grown dramatically through those ten years, making the service more effective. We make it more effective by not allowing children to simply use their parent's credit card information to get online.

We feel that government monitoring agencies have been noticeably slower than the private sector in recognizing progress. That is gradually changing. The Federal Trade Commission (FTC) has urged that reliable state-of-the-art technology be deployed to protect children from accessing promotions intended only for adults. In its 2003 report on marketing of alcohol products, the FTC pointed to the merging of online methods and Aristotle services in particular as addressing this public need. I can provide this FTC report to the members of the Committee.

According to Forbes magazine, Aristotle's Integrity Verification Service is a market leader in online identity and age verification. Integrity is utilized today by global Fortune 1000 companies that are required by law, or by best practice professional codes, to identify individuals requesting permission to enter a facility, a website, open an account, or conduct certain transactions online. Institutions relying on Integrity include government agencies, wineries and distillers, makers of premium cigars, video game publishers, gaming operators, and most major motion picture studios. For example, it is used to comply with the multistate Tobacco Master Settlement Agreement with provisions that prohibit marketing to minors. The service exceeds the strict standards of laws for online verification such as California's business and professional code and the Virginia code governing online tobacco sales. Even Hollywood has seen the wisdom of a parent-friendly approach to marketing, as most of the major studios

use real-time age verification to comply with the Motion Picture Association of America's (MPAA) guidelines for restricting minors' access to studios' promotions with an R-rated content. In fact, a large majority of visitors to studio sites with restricted ads are age-verified through Integrity. Aristotle's Integrity is used by seven of the top ten European gaming companies, as part of a global approach to age and identity verification. Online operators use Integrity on a daily basis to block registrations of underage individuals from gaming sites in more than 130 countries. Vendors in the alcohol business use Integrity as well in this new era of direct wine shipments. Online age verification has become a central component for compliance and responsive marketing across the United States.

Could a savvy child get through? No system is perfect, and it is possible. A child would need to know a great deal of his parents' personal information which is primarily government issued. The child would then sign up with their parents' details bypassing Integrity's many verification checks. Even if the child bypasses the system, if the suspicions persist, the player may be required to use Skype to present their identification, holding it up to the camera, for operator verification. The operator would match the identification to the person holding it. About the standard in verification, the PACT Act, signed by President Obama early in 2010, presents an unambiguous standard for online age verification. The PACT Act states, "verifying the information provided in subclause (l), through the use of a commercially available database or aggregate of databases, consisting primarily of data from government sources, that are regularly used by government and businesses for the purpose of age and identity verification and authentication, to ensure that the purchaser is at least the minimum age required for the legal sale of purchase of tobacco products, as determined by the applicable law at the place of delivery." In this case, the standard for age verification is restricting the marketing of tobacco, a known carcinogen. The PACT Act should be used as an unassailable benchmark for good legislation governing access where a service or product is restricted, and one we strongly recommend you adopt in any online gaming legislation.

In its simplest terms, the need for online child protection by deploying effective age verification has never been more apparent or compelling. Age and identification verification is efficient, effective, reliable, and available nearly everywhere. Whatever else the Committee decides, do not skimp on child protection. I look forward to responding to your questions.

Vice Chairman Ohrenschall:

Thank you, Mr. Bolcere. What is your failure rate? How often is a minor able to get through the system?

Michael Bolcerek:

We indemnify our clients for the process of verifying age. We cover the clients for any fines or penalties. We have never had one claim on the subject of children getting through.

Vice Chairman Ohrenschall:

There has never been an instance of a child getting through your security system?

Michael Bolcerek:

There may have been. There is no perfect system. We ask a series of questions to enable what are called out-of-pocket questions. If a child signs up as their parent, they have to answer more questions such as how many years they have owned a home, when was the last time they registered to vote, do they have a fishing license, and a number of various other questions about the parent. This process will essentially keep the child from gaining access. We provide an upfront check which verifies against government sources. If we find that someone is not meeting the guidelines, we have additional out-of-pocket questions we ask.

Assemblywoman Dondero Loop:

You have never had children get through the system that you know of?

Michael Bolcerek:

Correct.

Assemblywoman Dondero Loop:

You refer to "age verification questions." I do not have a fishing license, and if you ask my kids, they would know that.

Michael Bolcerek:

Do they know the final four of your Social Security number?

Assemblywoman Dondero Loop:

Yes.

Michael Bolcerek:

Do they know your driver's license number?

Assemblywoman Dondero Loop:

No, but I do not even know my driver's license number unless I have it in front of me. My point is there are things that you leave around your home that older children may know where to find them. I hear and believe what you are saying,

but I have to question how this can really work. If those are the questions you are asking, the answers are pretty easy to find.

Michael Bolcerek:

Typically, the operator will ensure the financial details match the registration information. Essentially, the child would be gambling as the parent. There are other techniques that we can use. We can provide a home phone call after 5:00 p.m. We have actually done this for bud.tv, in which we provided an automated call to the home. The individual had to enter their date of birth as part of the process. In France, we mail a PIN code to the home, which should be entered within 30 days of receipt. It is the French legislation requirement.

Assemblywoman Dondero Loop:

I am still concerned because all information that you are referring to can still be accessed. If I do not own a home, you cannot ask me how long I have owned one. If I am not registered to vote, you cannot ask about that. To me, there are some inherent issues to be concerned with. Are you running a credit check on users?

Michael Bolcerek:

No. We do not use mortgage information, nor do we ask those types of financial questions. If you could not answer any of the usual questions, you will not be given access. We have the ability to provide a personal video chat, face-to-face verification, which is another option if someone cannot answer specific questions. If a user fails the electronic methodology, they can create a Skype account to provide visual contact, showing the person holding their identification. We run algorithm checks on the identification details. If we cannot generate questions for you, because the information does not exist, there is a secondary process to follow. A user may also take a picture of their driver's license and forward it to us by cell phone. We can correlate the license to the cell phone that was used to send in the information. There are layers of risk-based approaches which differ from industry to industry. In the gaming industry specifically, there are levels which can increase the information requirements moving forward.

Assemblywoman Dondero Loop:

I appreciate that, however, having raised three children, I know that kids are pretty clever. I have a hard time believing that there are no children out there that can circumvent the system. Thank you.

Vice Chairman Ohrenschall:

Mr. Bolcerek, is it correct that your questions would be suited to the particular player? In other words, you would not ask Assemblywoman Dondero Loop about her fishing license number since she does not possess a fishing license.

Michael Bolcerek:

That is correct.

Vice Chairman Ohrenschall:

You may ask about her driver's license number or perhaps some other licenses she may have. Correct?

Michael Bolcerek:

Yes, or we may ask where she has lived before. We would ask questions that a fraudster or a child would not have access to.

Assemblyman Brooks:

If a child was able to answer all of the questions, and were to lose thousands of dollars online, at what point do you verify? After the money is lost, is there any way for the parent to recoup the funds?

Michael Bolcerek:

That would be an operator or a regulated approach. That is not something that we would necessarily cover as part of our relationship. If there were fines, we would cover them. We also would cover a court case with regard to our operators. If the child got through the system, it would have been with their parents' information. Our data check will verify that someone is 21 and above. The parents would lose the money in the event that child was able to answer all the questions successfully and go forward. The same situation would apply if they went into a casino and lost the money. I do not know what recourse the parents would have in that regard. We would not be the ones to refund the money because we are not losing the funds, nor are we benefitting from the child's gain. We are a third-party verifier in the process.

Assemblyman Brooks:

For clarification purposes, let us say that a child steals their parent's credit card, as some children do. The child proceeds to get online and pass all pertinent verification questions. The child then proceeds to lose \$2000. After they have lost the first \$500, do you proceed with additional investigation on the player? Or do you allow them to continue to play? I would like to verify that because I am concerned. If that child is in a casino, they will probably get kicked out at some point. If they are online and you do not see that they are underage, they can continue to play.

Michael Bolcerek:

We do not have any knowledge of the subsequent financial transactions after the initial verification. My assumption is the parent can request a charge-back by their credit card issuer for the fraudulent charges, which the online poker company would have to address.

Richard Perkins:

I understand, by conversations with the Poker Stars representatives, that their procedure when a parent makes such a claim is to investigate the situation, and when verified, proceed to make the parent whole in terms of the loss.

Assemblyman Brooks:

So this has happened before, and they have made people whole before?

Richard Perkins:

Yes, sir, they have.

Assemblyman Sherwood:

You said you indemnify your clients. How does indemnification not equate to financial liability?

Michael Bolcerek:

It is financial liability, specific to fines or court activity. In the event that a client was fined by a regulator, we would be responsible for those fines.

Assemblyman Sherwood:

If this bill passes, you are okay with a gold standard regulation, which you may have never seen before? If something like this happened here in Nevada, you would be prepared to accept the financial liability?

Michael Bolcerek:

With regard to the operator, we offer a limited liability. If the standard was one that we felt confident in our ability to meet, we could offer a reasonable extension of our indemnification.

Vice Chairman Ohrenschall:

I see no further questions. May we have the next witness?

Vanessa Rousso, Private Citizen, Las Vegas, NV:

First and foremost, I would like to thank you all for allowing me to testify about some things that impact me a great deal as a professional poker player. You may look at me and think "I am not really sure what a professional poker player is, but she must have gone off the path somewhere to end up as a professional

poker player.” Therefore, I would like to give you some background about my life, what led me to become a professional poker player, and what playing means to me, which should educate you about my industry.

Vice Chairman Ohrenschall:

Ms. Rousso, we do not look down on professional poker players here in Nevada.

Vanessa Rousso:

I grew up in South Florida, and graduated valedictorian in my high school class. I set the record at Duke University for the quickest Bachelors Degree. I graduated in 2.5 years with a degree in economics and political science. I specialized in game theory, writing numerous papers about how to take real world situations and reduce them to mathematics. Since I graduated from undergrad at such a young age, I decided to pursue continued education rather than enter the work world. I took another scholarship to law school in Miami. It was while I was in Miami that I first became serious about poker. I have always been a “one of the guys” kind of girl. The particular group of guys that I hung around with in law school played poker for fun. Since I am competitive by nature, I went to the bookstore and purchased every book on poker strategy and read them all over the next three months. I quickly caught up with my friends and eventually surpassed them. In my second year of law school in 2006, I flew to Las Vegas to play at the Bellagio in the world championship tournament on the World Poker Tour circuit. It was my first major event. There were 601 players on the circuit, and I came in seventh place that year and won a little over \$250,000. That was the day that I decided to make poker my profession. Here I am \$4 million and five years later. I am 28 years old. I travel around the world and represent different companies, in addition to playing for my own bankroll in live tournaments and online.

There were some questions asked throughout the course of the day that indicate to me that there are some common misconceptions about online poker. I would like to clear up some of those questions. I am the best person to do that since playing poker is something that I do all day long. The important thing to understand is when a person is playing online poker, he is not playing against the house, which means he is not playing against a casino or an operator. The reason that this confuses people is, since poker has evolved to take place in casinos, people assume that it must be like blackjack or craps and that you must be playing against the casino. Actually, it is much different. The only thing that poker has in common with those other games is that it is played under the same roof. In actuality, it is much different than the other games. A person is not playing against the house where the rules are set up to pitch you at a loss against the house. In fact, the only purpose the casino serves is to set up a safe environment for people to engage and compete against each

other. When I log on to the Internet to play poker, I send money to my bank account and the bank account wires the money to the online poker site. The online poker site essentially is like a bank. They hold my money in an account that is protected. I can take that money, sit down at a table, and begin to play. I will be playing against other people, who have done something similar to obtain their money. Over the course of a number of hands, there is a little bit of money that is taken out from each pot. It may be a couple of pennies, or a couple of quarters, but it adds up over time to a sum which is known as the rake, which is how the poker sites earn their income.

What makes online poker different from live poker is the fact that online poker does not cost anything for the casino operators to run, which allows them to offer games that could never be offered live. For instance, a casino in Las Vegas could never offer a one-cent or two-cent game. The amount of rake generated from that type of game would never cover the cost for the dealers that are required. There is an added benefit to online poker because they allow a variety of games that are not feasible in a live environment. An online player can play from a one-cent game to a very high amount of money.

Vice Chairman Ohrenschall:

Ms. Rousso, pardon me for interrupting. Can you explain what the rake is?

Vanessa Rousso:

A rake can happen in one of two ways because poker is actually divided into two broad areas. There are tournaments and cash games. In a cash game, where players are playing for real money against each other at the table, every single pot has a very small percentage allocated to the operators of the game, either a live casino or an online site. This small percentage is known as the rake. Obviously, an online site's costs are significantly lower than at a live site. The rake rates online are much lower and therefore make it feasible to have one-cent or two-cent games. A person can play for an amount of money he would never be able to play for live. The other broad area of rake would be in tournaments. In tournaments, people pay an entry fee, which goes into a prize pool. The players will eliminate one another until the last remaining player wins first prize, which is the majority of the money in the prize pool. In tournaments, the rake is deducted from the entry fee. Generally, if I play a \$10,000 game, which is very common on the pro circuit, \$300 is the most rake that I would pay to the casino operators who are hosting the event.

Vice Chairman Ohrenschall:

Thank you very much. Please proceed. I appreciate your testimony but would like to remind you that we have floor session at 11:00 a.m., and there are many others who are waiting to testify.

Vanessa Rousso:

I would like to discuss some of the problems affecting poker players currently. There are other benefits to playing poker online. For instance, poker is a male-dominated game. Many women are uncomfortable sitting at a table with a bunch of guys. I am different, and for me, I felt at home at the poker table. Many of my female peers are different than me and would prefer to play online because it made them more comfortable. It is a great environment to learn because of anonymity. Given all of the benefits of online poker, the legal system has not yet evolved with the industry to provide the protection for all the players currently playing online. That leads us to the situation that we are in currently. We have this huge industry with so much money at stake, and so many people are being impacted due to the lack of regulation.

I truly believe that this bill is a very feasible, practical, and sensible solution to the problems that currently exist, and I would like to quickly list five specific benefits that I see. Currently there is a lack of legal protection. For example, if I am playing at a poker table online, I am cheated and think I can prove it, there is no legal recourse available to me. If there is any form of legal recourse available to me, it is within an international domain which may not be reliable. Fortunately, Poker Stars, which is the only one I play on, is registered in the Isle of Man, and is very well-regulated. But, there are many other sites that do not offer the same protection. Giving players regulation and allowing for legal recourse would be a huge benefit. The second benefit would help contain the money-laundering issue. Obviously, regulating the game would greatly abate our fears about online poker being used as a medium for money laundering, giving great control to our governments. The third benefit involves the regulatory feasibility, which is a very big issue. I have been listening to all of your questions about minors and problem gamblers. To me, online poker is even more suited to identify and protect problem and minor gamblers than any live environment is. If I could provide a list to a gaming regulator, which included the time a gamer entered a casino, how long they stayed, what they wagered, what their betting patterns were, and when they left, in order to analyze the statistics to identify the problem gamers, the regulators would be ecstatic. In online poker, accomplishing such a feat is a reality. There is a record of every transaction that occurs, and there are ways to identify problem gamblers.

With regard to minors gambling, it seems to me the problem is a parenting issue. If someone's kid steals their identification to gamble with, something has gone wrong along the way, which to me, is a parenting issue. Parents should be encouraged to raise their kids well. At the age of 17, I would never have stolen one of my parent's identifications to gamble. Beyond that, minority gambling is something that we have to be concerned about. We cannot just

ignore it, although it is primarily a parental issue. It was suggested that if a 17-year-old kid with a fake identification was playing live and lost \$500 at the table, the live casino would kick him out. The live casino would not kick him out. The kid would be allowed to lose whatever money was in his pocket, once he made it past the door with his identification. Comparatively, since online transactions must consistently come out of a bank account, there is a greater likelihood that the parents will notice the transactions taking place and do something about it.

Additionally, it is important to ensure the games are fair, which was previously covered by other testimony. Finally, regarding the financial revenue, online poker can benefit tourism for Nevada. In January, I attended a tournament which took place in the Bahamas. Poker Stars sponsored the tournament and brought 1,600 players to the Atlantis Casino in the Bahamas. All the players had won their seats while playing online, allowing them to participate in this \$10,000 event. Over the last 5 years, the Atlantis in the Bahamas has had a huge growth in tourism due to this annual poker tournament. This is just a small example of how online poker can work together with live casinos to hold events which will bring a clear tourism benefit to Las Vegas. Thank you for your time. I am available for questions.

Vice Chairman Ohrenschall:

We really appreciate your time and expertise. Are there any questions from the Committee? I see none. Are there any other witnesses who wish to speak in favor of the bill? Is there anyone opposed to the bill? Please come forward and present your testimony.

Pete Ernaut, representing Nevada Resort Association

I am here today on behalf of the Nevada Resort Association. In the 22 years that I have been in or around this building, I can probably count on one hand the number of times that I have ever opposed a bill from the chairman of a committee. Unfortunately for me, it has been twice in the last 72 hours. I hope that the Chairman in this Committee will accept that as a coincidence and certainly not a pattern. I would also like to say that there are a number of things that we agree upon in this bill. Legalization of Internet poker is inevitable. We also believe and want Nevada to be a leader in the industry, both competitively and from a regulatory standard. We, respectfully, do not believe this is the appropriate way to go about the process. Previous speakers have testified that in the early part of the last decade, we were supporters of Internet gaming. That is true, but our position has since changed. The reason is a simple one. Internet gaming is illegal. I did not go to Harvard or Stanford, but I will read a passage from the Department of Justice's statement from 2002, which is written in plain English. The statement reads, "The number of

Internet gambling sites has increased substantially in recent years. [Continued reading from the Statement of John G. Malcolm, Deputy Assistant Attorney General ([Exhibit I](#)).] The sending jurisdiction and the receiving jurisdiction is the essence of this bill.

Furthermore, our own Gaming Control Board was asked about their position on their partnering with a company who is in violation of a federal act. I will read you a few of the passages from their response. [Read passage of a letter from the Gaming Control Board dated May 28, 2010 ([Exhibit J](#)).] There are a number of other issues referenced, but in the interest of time, I believe you get the point. The point being that whether this is legal or illegal is not in contest by the Department of Justice. It is also not in question by our gaming regulators. The reason that our Internet gaming regulations stopped in 2002 was because they were directed by the Department of Justice to do so. Gambling on the Internet is an interstate activity, and based upon the passages I just read, illegal by reasonable standard. This bill would penalize any operators which have operated legally, which includes every nonrestricted licensee in the State of Nevada, as well as a number of Internet gaming companies. There was a conversation earlier today about a partnership between Caesar's Entertainment and 888 Holdings. There is one major difference between 888 Holdings and other companies. They chose not to take bets from United States citizens in contravention to the United States ban. The Chairman of the Control Board has been waiting patiently to testify. The Chairman may go into more detail on that issue.

We have also discussed the many economic issues. It is important for our own brick-and-mortar gaming industry to weigh in on the subject. The issue is not that we will be competing for poker players among our own companies. We will now be competing with poker players in their own living rooms. Our concern is not just the loss of revenue in poker play, which is not a significant amount of revenue to our brick-and-mortar licensees. What is lost is all of the ancillary taxation. The players will not be physically in the building. Someone talked about traffic, which is the point. The players will not be eating in the restaurants. They will not be drinking in the bars, or attending shows, et cetera.

I would like to applaud the author of the bill, and the Chairman of the Committee for removing the issues regarding the lower standard of licensure. We agreed on that issue, and it is a very positive first step. Clearly, Nevada has always held itself as the standard of regulation that all others should aspire to. The original language in this bill probably brought that into question, and I certainly applaud the Chairman for removing the language.

My last point here is the fact that this bill is unnecessary. You should hear from the regulators that sufficient authorization for our Gaming Commission exists today to go forward to establish sufficient regulation for Internet gaming appropriately, when the federal ban is lifted. Nevada does not want to be behind. Nevada wants to be a leader, and there is an issue of timing. Not so much in the smaller states, but clearly we do not want to be behind California. My contention is that our Gaming Commission can achieve that now. This bill is largely unnecessary. I will end where I began. Despite the fact that we have a disagreement on the method of this bill, we do not have a disagreement on the principles. Internet poker is inevitable, and Nevada should be a leader. We want to give it a competitive advantage. We also want it to be under the regulatory standard that others aspire to. I believe that is the purpose of the bill. Ultimately, I am hopeful, in working with the Chairman and the Committee, we can find a more viable alternative for Nevada to keep its place at the top of the gaming industry, whether it is in brick-and-mortar, or on the Internet. I will conclude my remarks and ask whether there are any questions.

Vice Chairman Ohrenschall:

Thank you very much, Mr. Ernaut. I would like to clarify something. Nevada Resort Association is opposed to this bill, yet they are supporting a similar bill on a federal level. Is this correct?

Pete Ernaut:

That is true. There are some big differences. If the Committee will allow, I will go through some of the issues with the federal bill which makes it different. The federal bill opens up the entire domestic marketplace to our brick-and-mortar casino operators. This bill would essentially cannibalize the main revenues from Internet gaming. It would also run counter to the federal law. Also, there are some major tax provisions which are very important in the proposed federal law. This may have many changes along the way. The version that was introduced in the lame duck session essentially divided the tax revenue into three areas. The states in which the company is domiciled would take a major portion of the tax revenue. The federal government receives a portion. Lastly, the state of origin of the player attains their share. The goal is for us to be the leader and have more companies domiciled in Nevada to dominate the lion's share of the tax revenue. That goes back to the points that we agree upon in this bill. We should be out in front, but we disagree with the methodology.

Vice Chairman Ohrenschall:

I believe it was either Mr. Scherer or Professor Goldstein who testified that a similar bill in New Jersey has been vetoed but will now go on to the ballot. California is considering a bill. There is some movement in Iowa. If one of

those jurisdictions passes this first, would the Resort Association feel that we may lose that advantage?

Pete Ernaut:

Yes, but we believe there are other methods to enable it. Sufficient authorization for our Commission exists today to begin establishing the regulatory framework, which could be directed by the Legislature or the Governor as soon as this afternoon. Certainly, that may be something the Committee should contemplate from the standpoint that neither the gaming industry nor the online poker industry should necessarily dictate what the regulations should be. Should the industries participate? Of course they should. That is how the Gaming Commission process works. There is public testimony built in to the way all regulations are created. I believe we have a long history and, regardless of what house or party you are in, we are all pulled together in the notion that we want our regulatory structure to be objective, and the standard that all others aspire to. There is no reason that we cannot speed towards that goal using a different method.

Vice Chairman Ohrenschall:

Earlier you testified that if this bill passed, it may mean less traffic in the brick-and-mortar casinos here in Nevada. If the potential federal legislation passes, we would be in that situation? Correct?

Pete Ernaut:

That is a great question. The answer is yes; however, this bill, as written, in its inception would essentially allow for only those companies within the border of the State of Nevada to compete. Ultimately, it allows going into compact with other states where it is legal. Currently there are none. The whole aspect of being intrastate actually makes the problem worse, because all that does is to have our current brick-and-mortar companies compete for the same players. It does not generate money; it simply moves the money around. The federal bill would potentially take players outside of the casino. It also opens up the entire domestic and international market to our companies. The federal bill also has incredible cross-marketing opportunities. While someone is playing online, there are marketing opportunities generated by our companies, such as bringing the players to Las Vegas for the weekend. The economic scale is nowhere relative. We must discuss this bill as written. As the bill is written, it would initially only be within the State of Nevada, until those compacts are potentially created as other states pass similar bills making this legal.

Vice Chairman Ohrenschall:

Is there any evidence showing that people are already playing Internet poker in Nevada for money? Or is there evidence showing that if this bill passed, there

will be a big rush of people who will stop playing at the casinos? I imagine that many people who want to play Internet poker for money are probably already doing it.

Pete Ernaut:

I am sure they are doing it, but it is an illegal activity. We want this industry to flourish. We want partnerships between our brick-and-mortar gaming companies and Internet providers. In some respects, it is the perfect partnership. We have a regulatory standard. In many cases, we have great marketable, internationally-known brands with the operating expertise. However, it is not legal. We must go about this process in the right way. In federal legislation there was some concern that those who had chosen to take illegal bets would be placed in a "penalty box," meaning the other companies who chose not to break the federal prohibition would then gain market share while the others would not, making the playing field level. There are risks that can put our state behind. We think Internet poker is inevitable and want the partnerships to happen. We are just asking you to do it in the right order.

Vice Chairman Ohrenschall:

You mentioned some other methods from the Gaming Control Board that could be an alternative to this bill. Can you provide the Committee with some examples?

Pete Ernaut:

In approximately 2001, Mr. Scherer was a member of the Board. We began putting together regulations in anticipation of Internet gaming, which was moving along at an appropriate pace until the Department of Justice asked our regulators to cease. Clearly, things have matured and changed since 2001. There are some changes which would be required. My point is that our regulators could begin tomorrow morning, although I do not know if there would be a 90-day or 120-day process. The Control Board Chairman could probably provide the details on that. There is a protocol by which the regulations are posted and are required to have public hearings. There is some time involved in processing but clearly not longer than 120 days. If this became the policy of this Legislature and the Governor, I would contend that the process could probably be sped up.

Vice Chairman Ohrenschall:

Chairman Lipparelli is present in Las Vegas. I show that he signed in as neutral to the bill. I can take him out of order, if you would like to do so.

Pete Ernaut:

If there are no more questions, that would be fine.

Vice Chairman Ohrenschall:

Actually, I do have a few more questions. Chairman Lipparelli, if you can hold on for another minute, we will appreciate it.

Assemblyman Hansen:

One thing that Nevada has done traditionally is to exclude a criminal element from our gaming industry. I did some research on Poker Stars and the family that founded it. According to my findings, the founder, Isai Scheinberg, is currently wanted by the Department of Justice for what they believe to be illegal Internet gambling. My findings also say, "The move to the Isle of Man was driven by the establishment of a 0 percent corporate tax rate, and the removal of rules barring companies from accepting casino and poker bets from America." Do we know whether this man is actually wanted by the Department of Justice for this operation?

Pete Ernaut:

I do not know.

Assemblyman Hansen:

Perhaps the Chairman of the Gaming Control Board can answer that.

Mark Lipparelli, Chairman, Nevada Gaming Control Board

I do not have information on Poker Stars. We have no knowledge of them until they come into our system. I would not offer a judgment of any kind on them.

Assemblyman Hansen:

Thank you. That issue is something I would like to hear more about, since that company apparently is the genesis behind this whole movement.

Vice Chairman Ohrenschall:

Earlier, I asked Mr. Craine a question pertaining to the licensing procedure in the Isle of Man. He mentioned that one of our Nevada licensees had become licensed there in 2000. Do you feel by your investigation that their licensing is comparable to our licensing?

Mark Lipparelli:

I have spent time analyzing licensing procedures outside of Nevada. I believe that our standards are much higher than the rest of the world. My findings are shown in our analysis with respect to background investigations of companies which are engaged in that business. On a positive note, jurisdictions that have

legalized Internet wagering are probably ahead of Nevada in that regard. As it relates to company backgrounds, our diligence probably exceeds most other jurisdictions around the world, including the United States.

Assemblyman Frierson:

You cited sources that have concluded that it is currently illegal. Can these sources be provided to us? If the federal government is considering developing legislation on this, does that mean they are considering overturning a ban on it?

Pete Ernaut:

I quoted from two documents, which I will provide to the Committee. The first document was a published opinion from the Department of Justice in 2002. It is a rather lengthy document. The other is a letter from our Gaming Control Board in response to one of our licensees asking for clarification from the Board on a potential partnership with an Internet gaming company. If the federal bill passes, which was the effort led by the majority leader of the United States Senate during the lame duck session, the federal ban would be lifted. The activity is illegal now, but as a result of the bill being passed, it would become legal.

Assemblyman Frierson:

With that in mind, I have two questions. Do you anticipate a different reaction this time regarding the federal government lifting the ban? Do you think there is room for creation of regulations if that does occur?

Pete Ernaut:

Yes. I remain very hopeful that the federal ban will be lifted. Clearly, there have been some changes. There has been another party taking control of Congress, which may have a slightly different opinion. I do not know if it makes the challenge more difficult, but we certainly support, and have supported as an industry, Senator Reid's efforts to overturn that ban. As I stated earlier, I am very hopeful and believe it is extremely possible to have our regulations in place immediately after the overturning of the federal ban.

Vice Chairman Ohrenschall:

Are there any existing Nevada licensees trying to get involved in the business, either on their own, or with the companies allowing e-gaming, such as Gibraltar, Isle of Man, or Sweden?

Mark Lipparelli:

I am not sure I understand the question. Do you mean are there Nevada-based companies that are seeking to do business in this manner in Nevada? Or do you mean elsewhere?

Vice Chairman Ohrenschall:

I mean seeking a partnership with any of the existing e-gaming companies overseas?

Mark Lipparelli:

There has been an increase in activity with the potential relationships among licensees who participate in our business. In fact, right now the Commission is meeting to entertain an item that we had on our agenda with respect to Harrah's and 888 Holdings. There is a series of ongoing conversations as to what plans the State of Nevada has with respect to rulemaking in this area, which I believe is what Chairman Horne's bill is intending to address. The quick answer is yes. I do believe there is a fair amount of partnership activity being discussed.

Vice Chairman Ohrenschall:

Is the company that you mentioned an overseas Internet gambling company similar to Poker Stars?

Mark Lipparelli:

It is.

Assemblyman Segerblom:

Do you feel that right now you have the authority to promulgate regulations which would allow for Internet poker, or do you believe legislation is required?

Mark Lipparelli:

I believe that the 2001 law provides for the ability of the Board and the Commission to promulgate rulemaking in this area. There may be particular intentions of Chairman Horne's bill that he may believe must be addressed specifically. There would be nothing to prohibit us from immediately engaging in rulemaking in this area. For the record, there are two primary driving factors over the last ten years resulting in rulemaking not proceeding. The first factor was whether there was a comfort level that activities could overcome prohibitions of law. I think you have heard both sides arguing for and against that issue. The second factor is we did not have business entities approaching the Board suggesting they were prepared to enter into operations in Nevada, which would justify the time and expense of our staff drafting significant regulations. My predecessor, Chairman Nielander, believed that unless someone approached the Board with a viable business plan that they were prepared to move forward with, engaging in rulemaking could wait until such an entity came forward.

Assemblyman Segerblom:

Obviously if we authorized or ordered you to do so, you could do so immediately.

Mark Lipparelli:

That is certainly your power as a legislative body.

Vice Chairman Ohrenschall:

I do not see any more questions. Mr. Ernaut, please proceed with your next witness. Ms. Baumgartner, do you wish to speak? [Ms. Baumgartner opted out of speaking.] Is there anyone else in Las Vegas wishing to speak in opposition? Is there anyone in Carson City or in Las Vegas in the neutral position? Chairman Lipparelli, you signed in as neutral. Do you wish to add anything?

Mark Lipparelli:

We are neutral to the bill. We do not have any particular position on it. The accommodation from Chairman Horne, with respect to any potential limitation from the Commission or the Board, to make an independent judgment on suitability of anyone wishing to enter into this business, is critical to the overall process for analyzing applicants. There are a few other areas that I can supplement specifically to the bill, or I could submit those in writing to the Committee. I am prepared to make the comments now or in writing.

Vice Chairman Ohrenschall:

We have to attend floor session shortly. It would be preferable if you would submit the comments in writing.

Mark Lipparelli:

I will happily do that.

Vice Chairman Ohrenschall:

Are there any questions? I see none. Is there anyone else to testify? Mr. Perkins or Chairman Horne, is there anything you would like to add?

Richard Perkins:

Thank you for the opportunity to come back to the table. I would like to comment based upon Mr. Hansen's research and statement. In the last few minutes, I have been in contact with counsel for Mr. Scheinberg and Poker Stars. I have been told he is absolutely not wanted by the Department of Justice. They have regular, ongoing communications with the Department of Justice. I did not want to leave that unknown, potentially damaging statement unanswered.

Chairman Horne:

I would like to close by saying that we are in a unique position to move Nevada forward in this area, and to be first. I believe we should take it. Despite Mr. Ernaut's assertion that what this bill proposes to do is illegal, you have heard from legal bodies that say differently. There is a dispute, but I believe that this is a gray area. The Department of Justice has not made any arrests. I do not believe they have issued any legal correction or an official opinion from the Department of Justice stating that Internet poker would be a violation of the Wire Act. I believe the issue with the opposition is one of competition. We have heard over and over again, "We believe as an industry that this is going forward and we want to be a part of it, but there are other methods in which to do it." I do not want to speak for Mr. Ernaut, but I believe he said that the brick-and-mortar companies want to work with Internet poker companies. This suggests a partnership. Even if it may not have been his intent to suggest an amendment, the suggestion he was making was that as long as they are reaping the revenue from the online gaming, they can work with it, but if someone comes in to set up an operation without us, we are opposed.

I believe that out-of-work Nevadans would enjoy these new employment opportunities and cannot afford to wait 18 to 24 months. Nevada should enjoy this revenue today. We should move this legislation forward. I also believe that our existing gaming properties are good enough and have the expertise to be competitive as they always have been in Nevada. I thank the Committee for its time today.

Vice Chairman Ohrenschall:

I do not see any questions. I was handed a letter from Progress Now Nevada in support of the bill ([Exhibit K](#)). It is posted on NELIS. [Another exhibit not previously discussed is titled "Nevada Internet Poker Bill is Good for Players and State," and was provided by the Poker Players Alliance ([Exhibit L](#)).] I will close the hearing on A.B. 258, and will hand the gavel over to Chairman Horne.

[Chairman Horne reassumed the Chair.]

Chairman Horne:

Thank you, ladies and gentlemen, for your patience today, as it was a long hearing. We will gladly address any other questions you may have. Is there any other business to come before the Committee? Seeing none, we are adjourned [at 11:02 a.m.].

RESPECTFULLY SUBMITTED:

Lenore Carfora-Nye
Committee Secretary

APPROVED BY:

Assemblyman William C. Horne, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: March 24, 2011

Time of Meeting: 8:09 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 258	C	Richard Perkins, representing Rational Services Limited	Written Testimony
A.B. 258	D	Jeremy Aguero, Principal Analyst, Applied Analysis	The Economic and Fiscal Impact of Authorizing Internet Poker in the State of Nevada
A.B. 258	E	Jeremy Aguero, Principal Analyst, Applied Analysis	Written Testimony
A.B. 258	F	Tom Goldstein, representing Poker Players Alliance, Bethesda, MD	Written Testimony
A.B. 258	G	Tom Goldstein, representing Poker Players Alliance, Bethesda, MD	Memorandum from Laurence H. Tribe
A.B. 258	H	Tim Craine, Director of Economic Development, Isle of Man Government, British Isles	Economic Benefits of E- Gaming
A.B. 258	I	Pete Ernaut, representing Nevada Resort Association	Statement of John G. Malcolm, Deputy Assistant Attorney General
A.B. 258	J	Pete Ernaut, representing Nevada Resort Association	Letter dated May 28, 2010
A.B. 258	K	Erin Neff, Progress Now Nevada	Written Testimony
A.B. 258	L	The Poker Players Alliance	Nevada Internet Poker Bill is Good for Players and State