

Introduced by Senator Wright

December 8, 2010

An act to add Chapter 5.2 (commencing with Section 19990.01) to Division 8 of the Business and Professions Code, relating to Internet gambling, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 45, as introduced, Wright. Internet gambling.

The Gambling Control Act provides for the licensure of certain individuals and establishments that conduct controlled games, as defined, and for the regulation of these gambling activities by the California Gambling Control Commission. Existing law provides for the enforcement of those regulations by the Department of Justice. Any violation of these provisions is punishable as a misdemeanor, as specified.

This bill would establish a framework to authorize intrastate Internet gambling, as specified. The bill would require the department to issue a request for proposals to enter into contracts with up to 3 hub operators, as defined, to provide lawful Internet gambling games to registered players in California for a period of 20 years, as specified.

The bill would provide that it would be a misdemeanor for any person to offer or play any gambling game provided over the Internet that is not authorized by the state pursuant to this bill. By creating a new crime, this bill would impose a state-mandated local program.

The bill would require a hub operator to remit an agreed-upon percentage, but no less than 10%, of its gross revenues to the Treasurer on a monthly basis.

The bill would also create the Internet Gambling Fund which would be administered by the Controller subject to annual appropriation by

the Legislature, and which would not be subject to the formulas established by statute directing expenditures from the General Fund, for appropriation by the Legislature to state agencies , as specified.

Existing law provides that a statute that imposes a requirement that a state agency submit a periodic report to the Legislature is inoperative on a date 4 years after the date the first report is due.

This bill would require the commission, notwithstanding that requirement, in consultation with the department, Treasurer, and Franchise Tax Board, to issue a report to the Legislature describing the state's efforts to meet the policy goals articulated in this bill within one year of the effective date of this bill and, annually, thereafter.

The bill would also require the Bureau of State Audits, 3 years after the commencement date of any hub operations contract with the state, but no later than 4 years after that date, to issue a report to the Legislature detailing the bureau's implementation of this bill, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Chapter 5.2 (commencing with Section 19990.01)
- 2 is added to Division 8 of the Business and Professions Code, to
- 3 read:

1 CHAPTER 5.2. THE INTERNET GAMBLING CONSUMER
2 PROTECTION AND PUBLIC-PRIVATE PARTNERSHIP ACT OF 2011
3

4 Article 1. Title, Legislative Declarations, and Statement of
5 Legislative Intent
6

7 19990.01. This act shall be known and may be cited as the
8 Internet Gambling Consumer Protection and Public-Private
9 Partnership Act of 2011.

10 19990.02. The Legislature hereby finds and declares all of the
11 following:

12 (a) Over 1.5 million Californians participate in illegal online
13 gambling on more than 600 unregulated gambling Internet Web
14 sites every week. These gambling Web sites are operated by
15 offshore operators that are not regulated by United States
16 authorities. As such, neither federal nor California laws provide
17 any consumer protections for California players. California players
18 assume all risks, any negative social or financial impacts are borne
19 by the citizens of California, and the revenues generated from
20 online gambling are being realized by offshore operators and not
21 providing any benefits to the citizens of California.

22 (b) The presence, operation, and expansion of offshore,
23 unlicensed, and unregulated gambling Web sites available to
24 Californians endangers Californians because the current gambling
25 Web sites operate illegally and without regulation as demonstrated
26 by criminal prosecutions of some Internet gambling purveyors,
27 and questions often arise about the honesty and the fairness of the
28 games played on these gambling Web sites as well as about the
29 true purpose for, and use of, proceeds generated by these
30 unregulated gambling Web sites.

31 (c) In October 2006, Congress passed the SAFE Port Act, to
32 increase the security of United States ports. Embedded within the
33 language of that bill was a section called the Unlawful Internet
34 Gambling Enforcement Act of 2006 (UIGEA), which prohibits
35 the use of banking instruments, including credit cards, checks, or
36 fund transfers, for interstate Internet gambling, essentially
37 prohibiting online gambling by United States citizens. UIGEA
38 does include exceptions that permit individual states to create a
39 regulatory framework to enable intrastate Internet gambling,
40 provided the bets or wagers are made exclusively within a single

1 state, and whose state laws or regulations comply with all of the
2 following:

3 (1) Contain certain safeguards regarding those transactions,
4 including both of the following:

5 (A) Age and location verification requirements.

6 (B) Data security standards designed to prevent access to minors
7 and persons located outside of that state.

8 (2) Expressly authorize the bet or wager and the method by
9 which the bet or wager is made.

10 (3) Do not violate any federal gaming statutes, including all of
11 the following:

12 (A) The Interstate Horseracing Act of 1978.

13 (B) The Professional and Amateur Sports Protection Act.

14 (C) The Gambling Devices Transportation Act.

15 (D) The Indian Gaming Regulatory Act (IGRA).

16 (d) State provision of Internet gambling consistent with federal
17 law provides California with the means to protect its citizens and
18 consumers under certain conditions by providing a framework to
19 ensure that, among other things, minors are prevented from
20 gambling, citizens participating in gambling activities are protected,
21 and the state is not deprived of income tax revenues to which it
22 would otherwise be entitled.

23 (e) The state currently maintains and implements substantial
24 regulatory and law enforcement efforts to protect thousands of
25 Californians who gamble and play, among other things, real-money
26 poker in licensed California cardrooms and tribal government
27 casinos, yet the state provides no licensing requirements, regulatory
28 structure, or law enforcement tools to protect millions of
29 Californians who play the same games daily for money on the
30 Internet.

31 (f) In order to protect the millions of Californians who gamble
32 online, allow state law enforcement to ensure consumer protection,
33 and to keep the revenues generated from Internet poker in
34 California, it is in the best interest of the state and its citizens to
35 authorize, implement, and create a legal system for intrastate
36 Internet gambling.

37 (g) The state's interests are best met by a public-private
38 partnership between the state and up to three hub operators, the
39 terms of which would facilitate meeting the important consumer
40 protection interests of the state while ensuring, through the success

1 of the hub operators, that the state receives the benefits of the
2 contract as well as tax revenues that it would otherwise not receive.

3 (h) The state's interests are best met by encouraging competition
4 among qualified hub operators with the technical expertise and
5 systems that comply with federal law, protect registered players,
6 and ensure that the state collects consideration under its contract
7 with the hub operators, personal income taxes owed by registered
8 players, corporate taxes from the earnings of hub operators, and
9 property, employment, and sales and use taxes created from new
10 businesses, jobs, and other economic inducements from the
11 authorization, regulation, and control of Internet gambling.

12 (i) The Department of Justice, in conjunction with other state
13 agencies and private partners, has the expertise to evaluate the
14 qualifications of applicants and responses to a request for proposal
15 for intrastate Internet gambling services that a hub operator will
16 provide, and to enter into a contract with the best qualified and
17 most responsive applicants to meet the needs of the state and its
18 citizens.

19 (j) The authorization of intrastate Internet gambling pursuant
20 to these provisions does not violate the California Constitution or
21 interfere with any right under any compact between the state and
22 any federally recognized Indian tribe. Moreover, the authorization
23 and regulation of intrastate Internet gambling pursuant to these
24 provisions do not violate the exclusivity provisions of any compact
25 between the state and any federally recognized Indian tribe. Internet
26 gambling will take place throughout California on both tribal and
27 nontribal lands. Moreover, the facilities used in the provision of
28 Internet gambling are not slot machines or gaming devices as
29 defined in any of those compacts. While the Indian Gaming
30 Regulatory Act balanced the interests of three sovereigns, the state,
31 the tribes, and the federal government, UIGEA was designed to
32 balance the federal interest in secure financial transactions with
33 the state power to determine how online gambling should take
34 place within the states. Finally, application of UIGEA in California
35 does not violate federal Indian law by impinging upon protected
36 tribal sovereignty.

37 (k) Nothing in this chapter prohibits federally recognized Indian
38 tribes within California from participating in intrastate Internet
39 gambling pursuant to these provisions subject to the jurisdiction
40 of the state.

(l) It is the intent of the Legislature to encourage the Governor, immediately following enactment of this act, to enter into meet and confer negotiations with interested tribal governments with tribal-state gaming compacts with the state, to resolve the questions related to tribal-gaming exclusivity, to ensure that the signatory parties of compacts may exercise their rights under the compacts in a timely manner and that the state may commence the authorization of Internet gambling as provided by this act.

19990.03. It is the intent of the Legislature to create a contractual framework to:

(a) Ensure that authorized games are only offered for play in a manner that is consistent with federal and state law.

(b) Authorize the Department of Justice, pursuant to a request for proposal (RFP) seeking hub applicants issued consistent with the terms and conditions in this chapter, to enter into a 20-year contract with up to three hub operators that meet the background requirements and demonstrate the technical expertise to ensure that wagering authorized by this chapter is only offered to registered players who are physically present within the borders of California at the time of play and who are 21 years of age or older.

(c) Authorize the Department of Justice, after any hub operator has been providing authorized games for five years, and at any time thereafter, to do the following:

(1) Renegotiate the terms and conditions of the contracts with the hub operators, based in large part on the report and recommendations of the Bureau of State Audits to the Legislature pursuant to Section 19990.96 with respect to all aspects of the hub operator's operations, obligations, and economics, and offer existing hub operators the opportunity to agree to these modifications and continue in partnership with the state, subject to the statutory approval of those terms and conditions by the Legislature.

(2) If the Legislature statutorily approves the new contract terms and conditions related to the rights and obligations of the hub operators, the existing hub operators may continue in partnership with the state. If the existing hub operators decline to accept the new terms and conditions, the department may commence a new RFP process to award contracts to new hub operators.

1 (3) If the department recommends no changes to the terms and
2 conditions of the contract, or if the Legislature does not approve
3 any changes to the terms or conditions of the contract, the hub
4 operators shall continue to operate under the existing terms and
5 conditions of the contract, and the contract shall remain in force
6 for the remainder of the term of the contract, or until those terms
7 and conditions are subsequently renegotiated and are approved by
8 the Legislature

9 (4) Issue an RFP consistent with this chapter seeking additional
10 hub applicants should the Legislature determine to increase the
11 number of hub operators.

12 (d) Include all of the provisions in this chapter as terms of the
13 contract between the state and each hub operator subject to the
14 enforcement provisions delineated in this chapter.

15 (e) Ensure that each hub operator complies with federal and
16 state laws and regulations.

17 (f) Grant power to the state agencies authorized in this chapter
18 to oversee the operations of each hub operator and to enforce the
19 terms of the contract to ensure that the interests of the state and
20 registered players are protected.

21 (g) Establish a process that includes a background check and
22 requires that every employee of each hub operator or subcontractor
23 receives an Internet hub employee work permit from the state prior
24 to gaining access to hub facilities.

25 (h) Ensure that the state is able to collect income tax revenues
26 from registered players.

27 (i) Set contractual consideration to be paid by each hub operator
28 to the state without creating a tax or fee.

29 (j) Distribute contractual consideration collected by the state
30 from each hub operator to the Internet Gambling Fund, which shall
31 be administered by the Controller subject to annual appropriation
32 by the Legislature, and which shall not be subject to the formulas
33 established by law directing expenditures from the General Fund,
34 for the following:

35 (1) The actual costs of contractual oversight, consumer
36 protection, state regulation, and problem gaming programs.

37 (2) Other purposes related to this chapter as the Legislature may
38 decide.

39 (k) Create systems to protect each registered player's private
40 information and prevent fraud and identity theft.

1 (l) Ensure that registered players are able to have their financial
2 transactions processed in a secure and transparent fashion.

3 (m) Ensure that all applicable state agencies will have unfettered
4 access to the premises and records of each hub operator to ensure
5 strict compliance with state law concerning credit authorization,
6 account access, and other security provisions.

7 (n) Require that each hub operator provide registered players
8 with accessible customer service.

9 (o) Require that each hub operator's Internet Web site contain
10 information relating to problem gambling, including a telephone
11 number that an individual may call to seek information and
12 assistance for a potential gambling addiction.

13 (p) Require that each hub operator and all of its subcontractors
14 be organized in California, without precluding foreign entities
15 from creating California subsidiaries for the purposes of applying
16 to become a California hub operator. The hub, its facilities, its
17 bank accounts related to its intrastate online gaming operations,
18 and its registered players' bank accounts shall be located entirely
19 within the state.

20 (q) Ensure that all Internet hub employees are physically present
21 in the state when working on or in hub facilities or when in contact
22 with registered players. However, the hub operator shall have
23 discretion to use the expertise of personnel not physically present
24 in the state when necessary to protect registered players and state
25 interests, including, but not limited to, for the purposes of
26 diagnosing and addressing technological problems, investigating
27 fraud and collusion, and supervising software and configuration
28 changes.

29 (r) Create an express exemption from disclosure, pursuant to
30 the Public Records Act under subdivision (b) of Section 6253 of
31 the Government Code, that exempts from public disclosure
32 proprietary information of a hub applicant or a hub operator in
33 order to permit disclosure of confidential information to state
34 agencies while achieving the public policy goals of deploying
35 secure systems that protect the interests of the state and registered
36 players.

37 (s) Preserve the authority of the Legislature to opt out of, or opt
38 into, any federal framework for Internet gambling, or to enter into
39 any compact with other states to provide Internet gambling.

1 (t) As a matter of statewide concern, preempt any city, county,
2 or city and county from passing any law or ordinance regulating
3 or taxing any matter covered in this chapter.

4
5 Article 2. Definitions
6

7 19990.05. For the purpose of this chapter the following words
8 have the following meanings:

9 (a) “Accepted proposal” means a response by the state to an
10 RFP submitted by a hub applicant selecting that hub applicant to
11 become a hub operator.

12 (b) “Authorized game” means a game played using a hub
13 pursuant to the explicit authority of the state or offered by a hub
14 operator as authorized by the state.

15 (c) “Background check” means a criminal history record check
16 and the electronic submission of fingerprints to the Department of
17 Justice and to the Federal Bureau of Investigation for national
18 processing.

19 (d) “Bet” means the placement of a wager in a game.

20 (e) “Commission” means the California Gambling Control
21 Commission.

22 (f) “Contract” means the agreement entered into between a hub
23 operator and the State of California pursuant to which a hub
24 operator provides authorized games for consideration to the state.

25 (g) “Department” means the Department of Justice.

26 (h) “Finding of suitability” means a finding by the commission
27 that a person meets the qualification criteria described in Section
28 19990.23, and that the person would not be disqualified from being
29 a hub operator on any of the grounds specified in Section 19990.23.

30 (i) “Gambling” means to deal, operate, carry on, conduct,
31 maintain, or expose for play any game for money.

32 (j) “Game” means any gambling game.

33 (k) “Gaming system” means the technology, including hardware
34 and software, used by a hub operator to facilitate the offering of
35 authorized games to registered players.

36 (l) “Gross revenues” means the total amount of money paid to
37 a hub operator pursuant to activities authorized under this chapter.
38 Gross revenues shall not include player deposits and wagers.

39 (m) “Hub” means all facilities and software used to facilitate
40 activities delineated in this chapter.

1 (n) “Hub applicant” means any person that has submitted a
2 proposal to enter into a contract with the state to become a hub
3 operator.

4 (o) “Hub facility” means any physical area used by a hub
5 operator.

6 (p) “Hub operator” means a person that has a contract with the
7 state pursuant to which that person offers authorized games to
8 registered players on the Internet.

9 (q) “Internet Gambling Fund” means the fund established
10 pursuant to this chapter for annual allocation by the Legislature.

11 (r) “Internet hub employee” means any natural person employed
12 in, or serving as a consultant or independent contractor with respect
13 to, the operation of a hub by a hub operator or a subcontractor.

14 (s) “Internet hub employee work permit” means a permit issued
15 to an Internet hub employee by the commission after a background
16 investigation by the department.

17 (t) “Intrastate” means within the borders of California.

18 (u) “Land-based gaming entity” means a card club operated
19 pursuant to Chapter 5 (commencing with Section 19800) or a
20 casino operated by a federally recognized Indian tribe on Indian
21 land in California which provides any game for players on its
22 premises that is offered on a hub.

23 (v) “Online self-exclusion form” means a form on which an
24 individual notifies a hub operator that she or he must be excluded
25 from participation in authorized games for a stated period of time.

26 (w) “Owner” means any person who has a financial interest in
27 or control of a hub operator, subcontractor, or other entity required
28 to be found suitable under this chapter.

29 (x) “Per hand charge” means the amount charged by the hub
30 operator for registered players to play in a per hand game.

31 (y) “Per hand game” means an authorized game for which the
32 hub operator charges the player for each hand.

33 (z) “Person” means an individual, corporation, business trust,
34 estate, trust, partnership, limited liability company, association,
35 joint venture, government, governmental subdivision, agency, or
36 instrumentality, public corporation, or any other legal or
37 commercial entity.

38 (aa) “Play settings” means the options and default parameters
39 made available by a hub operator to a registered player in the play
40 of authorized games.

1 (ab) “Proposal” means any and all submissions by a hub
2 applicant to the state prior to entering into a contract with the state.

3 (ac) “Proprietary information” means and includes all
4 information that, whether or not patentable or registerable under
5 patent, copyright, trademark, or similar statutes, (1) can be
6 protected as a trade secret under California law or any other
7 applicable state law, federal law, or foreign law, or (2) derives
8 independent economic value, actual or potential, from not being
9 generally known to the public or to other persons who can obtain
10 economic value from its disclosure or use. “Proprietary
11 information” includes, but is not limited to, computer programs,
12 databases, data, algorithms, formulae, expertise, improvements,
13 discoveries, concepts, inventions, developments, methods, designs,
14 analyses, drawings, techniques, strategies, new products, reports,
15 unpublished financial statements, budgets, projections, billing
16 practices, pricing data, contacts, client and supplier lists, and
17 business and marketing records, working papers, files, systems,
18 plans and data, and all registrations and applications related thereto.

19 (ad) “Registered player” means a player who has registered with
20 a hub operator to play authorized games.

21 (ae) “Registration information” means the information provided
22 by a person to a hub operator in order to become a registered
23 player.

24 (af) “RFP” means a request for proposal issued by the state.

25 (ag) “Robotic play” means the use of a machine by a registered
26 player to take the next action at any point in a game.

27 (ah) “State” means the State of California.

28 (ai) “Subcontractor” means any person providing goods or
29 services to a hub operator in connection with the operation of
30 authorized games.

31 (aj) “Terms of Use Registered Player’s Agreement” means the
32 agreement offered by a hub operator and accepted by a registered
33 player delineating, among other things, permissible and
34 impermissible activities on a hub and the consequences of engaging
35 in impermissible activities.

36 (ak) “Tournament” means a competition in which registered
37 players play a series of authorized games to decide the winner.

38 (al) “Tournament charge” means the amount charged by the
39 hub operator for registered players to play in a tournament.

1 (am) “Tournament winnings” means the amount of any prize
2 awarded to a registered player in a tournament.

3 (an) “Tribe” means a federally recognized Indian tribe,
4 including, but not limited to, the governing body of that tribe or
5 any entity that is an affiliate of that tribe.

6
7 Article 3. Legal Authorized Games Offered Over the Internet
8 in California
9

10 19990.10. Under the Unlawful Internet Gambling Enforcement
11 Act of 2006, California is permitted to authorize games as long as
12 all players and the online wagering activities are located within
13 the state and the games are not played by minors.

14 19990.11. Notwithstanding any other law, a person in
15 California over 21 years of age is hereby permitted to participate
16 as a registered player in an authorized game provided over the
17 Internet by a hub operator as described in this chapter.

18 19990.12. (a) A person shall not offer any game on the Internet
19 in this state unless that person holds a valid contract entered into
20 with the state to offer authorized games as a hub operator pursuant
21 to this chapter.

22 (b) It is unlawful for any person to offer or play any game
23 provided on the Internet that is not authorized by the state pursuant
24 to this chapter. Any violation of this subdivision is punishable as
25 a misdemeanor.

26 19990.13. Chapter 5 (commencing with Section 19800) of
27 Division 8 shall not apply to this chapter.

28
29 Article 4. Selection of a Hub Operator
30

31 19990.20. Consistent with this chapter, the department shall
32 do the following:

33 (a) Issue an RFP to enter into contracts with up to three hub
34 operators to provide lawful Internet games in California for a period
35 of 20 years.

36 (b) Issue all rules governing the submission of proposals and
37 awarding of hub contracts consistent with this chapter.

38 (c) Require that an authorized officer of a hub applicant execute
39 an undertaking that the proposal and any additional documents

1 submitted in response to a request by a state agency are truthful
2 and accurate subject to penalty of perjury.

3 (d) Adopt emergency regulations to implement this chapter.

4 19990.21. A person shall not have an ownership interest in
5 more than one hub.

6 19990.22. (a) In issuing the RFP, the department shall clearly
7 and precisely describe how any hub applicant's proposal shall be
8 scored and the basis it will use to determine which proposal or
9 proposals it will accept.

10 (1) The department shall establish a minimum score that any
11 hub applicant must achieve in order to be qualified to receive an
12 offer for a state contract to become a hub operator.

13 (2) Factors to be considered in evaluating hub applicants shall
14 include, but are not limited to, quality, competence, experience,
15 past performance, efficiency, reliability, financial viability,
16 durability, adaptability, timely performance, integrity, security,
17 and the consideration promised to the state, including a lump-sum
18 cash offer, and increasing the percentage of revenue sharing with
19 the state, up to, and including, 20 percent of the hub operator's
20 gross revenues.

21 (3) In establishing scoring parameters for evaluation of all the
22 proposals and what weight should be given to the specific elements
23 within each hub applicant's proposal, the department's selection
24 criteria shall give preference to proposals that meet the following
25 criteria:

26 (A) Are most responsive.

27 (B) Are most qualified.

28 (C) Provide the most revenue to the state.

29 (D) Have as a managing general partner or chief executive
30 officer for the proposed hub operator either of the following:

31 (i) A holder of an owner license issued by the commission
32 pursuant to subdivision (a) of Section 19851 of the Business and
33 Professions Code who is in good standing at the time the hub
34 applicant submits its proposal.

35 (ii) An official representative of the government of a federally
36 recognized Indian tribe with a tribal-state gaming compact with
37 the state.

38 (iii) A thoroughbred, quarter horse, or harness association
39 licensed by the California Horse Racing Board to conduct live
40 horse racing meetings in California.

1 (E) Have as a hub applicant or as a subcontractor or
2 subcontractors a small business or microbusiness eligible to
3 participate in the Small Business Procurement and Contract Act
4 (Chapter 6.5 (commencing with Section 14835) of Part 5.5 of
5 Division 3 of Title 2 of the Government Code).

6 (F) Have as a hub applicant or a subcontractor or subcontractors
7 a disabled veteran business enterprise contractor, subcontractor,
8 or supplier eligible to participate in the California Disabled Veteran
9 Business Enterprise Program (Article 6 (commencing with Section
10 999) of Division 4 of the Military and Veterans Code).

11 (G) Propose to locate hub facilities in a distressed area
12 designated by the Office of Planning and Research under the Target
13 Area Contract Preference Act (Chapter 10.5 (commencing with
14 Section 4530) of Division 5 of Title 1 of the Government Code),
15 or the regulations promulgated under that act.

16 (H) Propose to locate hub facilities in an enterprise zone
17 designated by the Department of Housing and Community
18 Development pursuant to the Enterprise Zone Act (Chapter 12.8
19 (commencing with Section 7070) of Division 7 of Title 1 of the
20 Government Code), or the regulations promulgated under that act.

21 (I) Propose to locate hub facilities in a military base area
22 designated by the State Trade and Commerce Agency pursuant to
23 the Local Agency Military Base Recovery Area Act (Chapter 12.97
24 (commencing with Section 7105) of Division 7 of Title 1 of the
25 Government Code), or the regulations promulgated under that act.

26 (4) The department shall not have to comply with the provisions
27 of Section 12103.5 of the Public Contracts Code prior to issuing
28 the RFP.

29 (b) The department shall accept up to three proposals within
30 one year of the operative date of this chapter pursuant to its
31 determination of rules governing the awarding of a hub contract,
32 as described in Section 19990.20.

33 (c) A person , and all subcontractors of that person, submitting
34 a proposal to become a hub operator shall be a resident of
35 California or an entity organized in California and have all of its
36 hub facilities and bank accounts related to intrastate online
37 gambling in California.

38 (1) At all times, a hub applicant or hub operator shall be
39 domiciled in California and in good standing with the Secretary
40 of State and the Franchise Tax Board.

1 (2) All subcontractors of a hub applicant or a hub operator, or
2 otherwise providing goods or performing services in connection
3 with the operation of authorized games for the hub applicant, hub
4 operator, or any of its subcontractors, shall be subject to the
5 provisions of this subdivision. If a hub operator desires to enter
6 into an agreement with a person to provide goods or services in
7 connection with the operation of authorized games, that person
8 shall be subject to the provisions of this subdivision and
9 investigation and a finding of suitability as set forth in Section
10 19990.23.

11 (d) In addition to any other confidentiality protections afforded
12 to applicants for state contracts, the state and its agencies shall
13 treat the proprietary information contained in any proposal of any
14 hub applicant as confidential to protect the hub applicant and to
15 protect the security of any prospective hub. Nothing in this chapter
16 prohibits the exchange of confidential information between or
17 among state agencies considering a proposal by a hub applicant
18 to become a hub operator. The confidentiality provisions in this
19 chapter shall exempt proprietary information supplied by a hub
20 applicant to a state agency from public disclosure consistent with
21 subdivision (b) of Section 6253 of the Government Code.

22 (e) At the time of its submission of a proposal and response to
23 the RFP, a hub applicant shall pay a nonrefundable filing charge
24 of ____ dollars (\$____) to be paid to the state and received by the
25 department for the reasonably anticipated costs to be incurred by
26 the state agencies to evaluate the proposal separate from costs
27 associated with evaluating the suitability of a hub applicant.

28 (f) At the time of its submission of a proposal response to the
29 RFP, any hub applicant shall post a bond payable to the state in
30 the amount of ____ dollars (\$____).

31 (1) The bond shall be returned to the hub applicant if the
32 commission finds that the hub applicant is not suitable to be a hub
33 operator or if its proposal is not accepted by the department.

34 (2) Upon acceptance of a hub applicant's proposal and the
35 granting of a contract to that applicant to operate a hub in the state,
36 the bond shall become immediately due and owing to the state.

37 (3) Notwithstanding paragraph (1), if any documentation
38 submitted by a hub applicant at the time the proposal is submitted
39 or thereafter, including, but not limited to, the proposal or any
40 additional documentation requested by a state agency in

1 conjunction with evaluating the hub applicant's suitability to be a
2 hub operator or other qualifications to be offered a contract with
3 the state, contains materially false assertions, then the bond shall
4 be forfeited, and the state shall retain all proceeds thereof.

5 (g) A federally recognized Indian tribe, including, but not limited
6 to, the governing body of that tribe or any entity that is an affiliate
7 of that tribe, that submits a proposal in response to the RFP issued
8 by the department shall waive its sovereignty for the purpose of
9 evaluation of its proposal. The proposal shall affirmatively declare
10 that the hub applicant is subject to the state's jurisdiction as set
11 forth in this chapter and in the rules adopted by state agencies.
12 Any contract between the state and a federally recognized Indian
13 tribe entered into to provide authorized games as a hub operator
14 shall include that tribe's affirmative agreement, in a form
15 acceptable to the department, to be subject to the jurisdiction of
16 the state for all purposes under this chapter.

17 (h) The department shall establish a process for a hub applicant
18 to request to withdraw its proposal at any time prior to final action
19 on the proposal submitted in response to the RFP .

20 19990.23. In considering any proposal submitted in response
21 to the RFP, the department shall review the hub applicant's
22 suitability to be a hub operator.

23 (a) The department may establish a process to conduct a
24 preliminary determination of suitability based on a partial
25 investigation of hub applicants. The partial investigation is intended
26 to screen out applicants who do not meet the suitability
27 requirements of this chapter. The partial investigation shall include
28 fingerprint-based state and federal criminal history checks, inquiries
29 into various public databases regarding credit history and any civil
30 litigation, and a review of the applicant's financial status, which
31 shall include the required submission of income statements and
32 balance sheets for the prior 12-month period. A full investigation
33 shall be conducted of only those persons who pass partial
34 investigation and who will undergo a full investigation pursuant
35 to subdivision (c). Those applicants that do not pass the partial
36 investigation may appeal the decision to the commission.

37 (b) The department shall conduct a full investigation into the
38 suitability of any hub applicant to be a hub operator. The
39 investigation shall include the following persons:

40 (1) The hub applicant and all of its subcontractors.

1 (2) All officers of a hub applicant and its subcontractors.

2 (3) The owners of the following:

3 (A) A hub applicant.

4 (B) Any affiliate of the hub applicant.

5 (C) Any subcontractors of a hub applicant, or other persons
6 otherwise providing goods or performing services.

7 (c) (1) A department-approved, independent forensic accounting
8 firm shall prepare a report on any applicant undergoing a full
9 investigation, in a form developed by the department, and at the
10 applicant's expense. The report shall include the financial
11 information necessary for the department to make a determination
12 of suitability, as specified in regulation adopted by the department
13 for this purpose.

14 (2) The department may, by regulation, specify additional
15 requirements regarding the contents of the report described in
16 paragraph (1) and any other financial information or documentation
17 required to be submitted with the application.

18 (d) In addition to the filing charge and the bond paid at the time
19 of submitting a proposal response to the RFP pursuant to
20 subdivisions (f) and (g), respectively, of Section 19990.22, a hub
21 applicant shall pay an additional charge, established by the
22 commission, to be paid to the state and received by the department
23 to compensate the commission and the department for the
24 reasonably anticipated costs to be incurred by the commission and
25 the department to determine the suitability of the applicant to be
26 a hub operator.

27 (e) The commission shall issue a finding of suitability for a hub
28 applicant to be a hub operator only if, based on all of the
29 information and documents submitted, and based upon the
30 recommendation of the department, the commission is satisfied
31 that each of the persons subject to investigation pursuant to this
32 section is both of the following:

33 (1) A person of good character, honesty, and integrity, or, if an
34 entity, in good standing in its jurisdiction of organization and in
35 all other jurisdictions in which it is qualified, or should be qualified,
36 to do business.

37 (2) A person whose prior activities, criminal record, if any,
38 reputation, habits, and associations do not pose a threat to the
39 public interest of this state, or to the effective regulation and control
40 of controlled gambling, or create or enhance the dangers of

1 unsuitable, unfair, or illegal practices, methods, and activities in
2 the conduct of controlled gambling or in the carrying on of the
3 business and financial arrangements incidental thereto.

4 (f) The commission shall find both of the following suitable to
5 become a hub operator:

6 (1) A holder of a current state gambling license to own or
7 operate a land-based gambling entity.

8 (2) A federally recognized Indian tribe operating a gambling
9 establishment pursuant to a tribal-state gaming compact.

10 (g) The commission shall issue a finding that a hub applicant
11 is not suitable to be a hub operator if it finds that any person subject
12 to investigation pursuant to subdivision (a):

13 (1) Fails to clearly establish eligibility and qualification in
14 accordance with this chapter.

15 (2) Fails to timely provide information, documentation, and
16 assurances required by this chapter or requested by the department,
17 or, with respect to a hub applicant, fails to reveal any fact material
18 to qualification, or supplies information that is untrue or misleading
19 as to a material fact pertaining to the suitability criteria.

20 (3) Has been convicted of a felony, including a conviction by
21 a federal court or a court in another state or foreign jurisdiction
22 for a crime that would constitute a felony if committed in
23 California.

24 (4) Has been convicted of any misdemeanor involving
25 dishonesty or moral turpitude within the 10-year period
26 immediately preceding the submission of the application, unless
27 the applicant has been granted relief pursuant to Section 1203.4,
28 1203.4a, or 1203.45 of the Penal Code. However, the granting of
29 relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal
30 Code shall not constitute a limitation on the discretion of the
31 commission or affect the applicant's burden.

32 (5) Has associated with criminal profiteering activity or
33 organized crime, as defined in Section 186.2 of the Penal Code.

34 (6) Has contemptuously defied any legislative investigative
35 body, or other official investigative body of any state or of the
36 United States or any foreign jurisdiction, when that body is engaged
37 in the investigation of crimes relating to gambling, official
38 corruption related to gambling activities, or criminal profiteering
39 activity or organized crime, as defined in Section 186.2 of the
40 Penal Code.

1 (7) Is less than 21 years of age.

2 (8) Has offered or allowed games to be played over the Internet
3 for compensation in this state since the passage of the Unlawful
4 Internet Gambling Enforcement Act of 2006 without a valid
5 contract with the state to be a hub operator.

6 (h) The department shall request that the United States
7 Department of Justice or any other federal agency or agency of a
8 state other than California provide any information about any hub
9 applicant or any of its subcontractors as part of its inquiry as to
10 the suitability of a hub applicant to be a hub operator.

11 (i) The department shall reject the response to the RFP of any
12 hub applicant that the commission finds unsuitable to be a hub
13 operator subject to the provisions of this section.

14 (1) If denial of the application is recommended, the department
15 shall prepare and file written reasons upon which the
16 recommendation is based with the commission.

17 (A) Prior to filing a recommendation with the commission, the
18 department shall meet with the applicant, or the applicant's duly
19 authorized representative, and inform the applicant generally of
20 the basis for any proposed recommendation that the application
21 be denied, restricted, or conditioned.

22 (B) This section neither requires the department to divulge to
23 the applicant any confidential information received from any law
24 enforcement agency or any information received from any person
25 with assurances that the information would be maintained
26 confidential, nor to divulge any information that might reveal the
27 identity of any informer or jeopardize the safety of any person.

28 (2) A recommendation of denial of an application shall be
29 without prejudice to a new and different application filed in
30 accordance with any rules adopted by the department with respect
31 to the submission of proposals.

32 19990.24. In addition to any other data that the RFP shall
33 request from hub applicants as a matter of law and to ensure that
34 any hub applicant is legally, technically, and financially qualified
35 to become a hub operator, the RFP shall request that any hub
36 applicant name, describe, or provide all of the following:

37 (a) The hub applicant's qualification and the qualifications of
38 its executives and Internet hub employees to receive an Internet
39 hub employee work permit as set forth in Section 19990.31.

1 (b) The hub applicant's experience and qualifications to provide
2 the services anticipated of a hub operator as set forth in Article 5
3 (commencing with Section 19990.30).

4 (c) The names of all of the hub applicant's owners, executives,
5 and Internet hub employees as well as sufficient personally
6 identifiable information on each of those persons to conduct
7 background checks as required by the commission and the
8 department.

9 (d) The fingerprints of the owners, directors, managers,
10 executives, and Internet hub employees of the hub operator, its
11 affiliates, and subcontractors taken using live scan technology.

12 (e) Documentation and information relating to the hub applicant
13 and its direct and indirect owners, including, but not limited to, all
14 of the following:

15 (1) With respect to the hub applicant and any of its
16 subcontractors, proof of formation in California, including, as
17 applicable, articles of incorporation, articles of organization,
18 bylaws, operating agreement, partnership agreement, or other
19 formation or charter documents.

20 (2) Current and historical audited financial and accounting
21 records.

22 (3) Any and all documents relating to legal and regulatory
23 proceedings.

24 (4) Any and all documents relating to the hub applicant's
25 business history.

26 (5) Any and all documents relating to the nature and sources of
27 the hub applicant's financing, including, but not limited to,
28 operating agreements, partnership agreements, stock purchase
29 agreements, pro forma cap tables, pro forma statements of profits
30 and loss, investor rights agreements, voting agreements, and
31 shareholder agreements, provided however, that these materials
32 may be submitted subject to a request for confidentiality.

33 (6) Any and all documentation that demonstrates that the hub
34 applicant is financially qualified to perform the obligations of a
35 hub operator as described in this article.

36 (7) An independent financial audit report by a certified public
37 accountant.

38 (f) Documentation and information relating to all proposed
39 subcontractors of the hub applicant, including, but not limited to,
40 all of the following:

1 (1) A description of the services to be provided by each
2 subcontractor.

3 (2) Information for each subcontractor as set forth in
4 subdivisions (b), (c), and (d).

5 (3) For subcontractors that are not formed in California, a
6 commitment in writing by the subcontractor to create a California
7 subsidiary prior to the commencement of authorized games
8 provided by the hub operator. The commitment required pursuant
9 to this paragraph shall be subject to the cure provisions of Section
10 19990.61.

11 (g) A description of the games and services the hub applicant
12 proposes to offer to registered players.

13 (h) A description of how the hub facilities will accomplish the
14 goals of this chapter, including, but not limited to:

15 (1) The hub's location within the state.

16 (2) The hub's security systems.

17 (i) The hub applicant's proposal for how it will facilitate
18 compliance with all of the standards set forth in this chapter and
19 federal law, including, but not limited to, Section 5362(10)(B) of
20 Title 31 of the United States Code, including, but not limited to,
21 all of the following:

22 (1) Age and location verification requirements reasonably
23 designed to block access to minors and persons located out of state.

24 (2) Appropriate data security standards to prevent unauthorized
25 access by any persons whose age and current location have not
26 been verified in accordance with this chapter and applicable
27 regulations.

28 (3) The requirement that the hub is located in California and all
29 bets are initiated and received or otherwise made exclusively within
30 California.

31 (j) The system requirements that the hub applicant plans to
32 implement to achieve the state's goals under the state's contract
33 with a hub operator, including, but not limited to:

34 (1) Connectivity.

35 (2) Hardware.

36 (3) Software.

37 (4) Antifraud systems.

38 (5) Virus prevention.

39 (6) Data protection.

40 (7) Access controls.

- 1 (8) Firewalls.
- 2 (9) Disaster recovery.
- 3 (10) Redundancy.
- 4 (11) Gaming systems, including, but not limited to, hardware
- 5 and software that ensure all of the following:
- 6 (A) The games are legal.
- 7 (B) The games are independent and fair and played by live
- 8 persons.
- 9 (C) Game and betting rules are available to all registered players.
- 10 (D) All data used for the conduct of each game is randomly
- 11 generated and unpredictable.
- 12 (12) Accounting systems, including but not limited to, those for
- 13 any of the following:
- 14 (A) Registered player accounts.
- 15 (B) Per hand charges.
- 16 (C) Transparency and reporting to all state agencies.
- 17 (D) Distribution of funds, pursuant to the contract and this
- 18 chapter, to the state and registered players.
- 19 (E) Ongoing auditing.
- 20 (13) Hub facility security systems to protect the hub from either
- 21 internal or external threats.
- 22 (k) The hub applicant's proposal to facilitate the functions of
- 23 the state agencies with jurisdiction over aspects of the hub's
- 24 operations, including, but not limited to, all of the following:
- 25 (1) The department.
- 26 (2) The commission.
- 27 (3) The Treasurer.
- 28 (4) The Franchise Tax Board.
- 29 (l) An acknowledgment by the hub applicant that the contract
- 30 between the hub operator and the state may be modified by the
- 31 state after five years, and at any time thereafter, at which point the
- 32 hub operator may either agree to be subject to that modification
- 33 or terminate the contract.
- 34 (m) In addition to demonstrating that the hub applicant is legally,
- 35 technically, and financially qualified to become a hub operator, a
- 36 hub applicant's proposal in response to the RFP shall describe how
- 37 it will comply with all contractual obligations as provided in this
- 38 chapter.
- 39 19990.24.5. (a) A holder of an owner license issued by the
- 40 commission pursuant to subdivision (a) of Section 19851 who is

1 in good standing at the time the hub applicant submits its proposal
2 shall not be deemed unqualified to operate a land-based gambling
3 entity by reason of an investment in a hub applicant or a hub
4 operator.

5 (b) An official representative of the government of a federally
6 recognized Indian tribe with a tribal-state gaming compact with
7 the state shall not be deemed unqualified to operate a land-based
8 gambling entity by reason of an investment in a hub applicant or
9 a hub operator.

10 (c) Notwithstanding Chapter 5 (commencing with Section
11 19800), a person who is a hub operator that is operating lawfully
12 in another state is eligible to become a hub operator in California.

13 19990.25. The department, after considering the contents of
14 the proposal, the recommendation of the commission, and any
15 other written comments, shall apply the scoring standard released
16 in issuing the RFP pursuant to Section 19990.22 and shall either
17 deny a proposal or offer to enter into contract with a qualified hub
18 applicant.

19 (a) The department shall determine that a hub applicant is
20 qualified to receive an offer to become a hub operator if both of
21 the following conditions are met:

22 (1) The hub applicant's proposal exceeds the minimum scoring
23 standards established by Section 19990.22.

24 (2) The hub applicant's proposal is among the three highest
25 scoring proposals submitted by all hub applicants.

26 (b) When the department offers to enter into a contract with a
27 hub applicant, the department shall transmit the offer in writing
28 to the hub applicant. The offer may limit or place restrictions that
29 vary from the proposal as may be deemed necessary in the public
30 interest, consistent with the policies described in this chapter.

31 (c) In order for the hub applicant to accept an offer, it shall
32 respond in writing to the department within 10 days.

33 (d) Acceptance of the offer shall create a binding contract
34 between the state and the hub applicant.

35 (e) If the department does not offer a hub applicant a contract
36 with the state, the department shall prepare and issue a detailed
37 statement of the department's reasons.

38 (f) A hub applicant whose proposal has not led to an offer from
39 the department may bring an action to appeal that decision to the
40 Superior Court of the County of Sacramento. The decision of the

1 Superior Court of the County of Sacramento is not appealable. No
2 remedy other than an injunction is available pursuant to this
3 subdivision.

4 (g) The Superior Court of the County of Sacramento shall uphold
5 the decision by the department if there is any substantial evidence
6 to support the department's decision to deny the hub applicant's
7 proposal.

8 (h) If the Superior Court of the County of Sacramento finds for
9 the hub applicant, it shall return the proposal to the department for
10 action consistent with the decision of the court.

11 19990.26. (a) At least three years after the commencement
12 date of any hub operator's contract with the state, but no later than
13 four years after that date, the Bureau of State Audits shall issue a
14 report to the Legislature consistent with Section 19990.96. The
15 department shall consider the recommendations in the report and
16 any other information available to the department in negotiating
17 new or modified contract terms and conditions with hub operators.
18 The Legislature may consider whether to amend the statutes that
19 govern the terms and conditions of the hub operator's contract
20 with the state contained in Article 5 (commencing with Section
21 19990.30) before the commencement of the sixth year of the
22 contracts with hub operators.

23 (b) In the event that the Legislature amends the provisions of
24 Article 5 (commencing with Section 19990.30) that govern a
25 contract between the state and a hub operator, the department shall
26 offer an existing hub operator a modification of its existing contract
27 under the new terms and conditions in accordance with statutory
28 changes approved by the Legislature pursuant to this section. A
29 hub operator shall indicate whether it accepts the new contract
30 within 30 days of receiving the offer from the department. A hub
31 operator's acceptance of the department's offer shall modify the
32 contract between the hub operator and the state for the remaining
33 term of the contract.

34 (c) If the Legislature does not amend the terms and conditions
35 that govern the contract between the state and a hub operator set
36 forth in Article 5 (commencing with Section 19990.30), all existing
37 contracts shall remain in force for the remaining term of the
38 contract, or until those terms and conditions are subsequently
39 modified by the Legislature.

19990.27. In the event that the Legislature authorizes the department to issue an RFP for an additional hub operator or hub operators, the department shall solicit proposals from new hub applicants to enter into a contract with the state for ____-year terms. In establishing scoring parameters for evaluation of all the proposals and what weight should be given to the specific elements within each hub applicant's proposal, the department's selection criteria shall be consistent with this chapter and any amendments to this chapter.

19990.28. At least one year prior to the expiration of a hub operator's contract with the state issued pursuant to Section 19990.26, or as a result of the RFP process established pursuant to Section 19990.27, the department shall issue an RFP to solicit proposals from hub applicants to enter into a contract with the state for a 15-year term. In establishing scoring parameters for evaluation of all the proposals and what weight should be given to the specific elements within each hub applicant's proposal, the department's selection criteria shall give preference to proposals from an existing hub operator in compliance with its contractual obligations.

Article 5. Rights and Obligations of a Hub Operator

19990.30. A hub operator shall comply with the terms of its contract with the state.

(a) An accepted proposal agreed to by the department and any hub applicant shall govern interpretation of the contract entered into between the state and a hub operator.

(b) A contract may be amended by mutual agreement of the department and a hub operator.

(c) In the event of an act by the Legislature that amends this chapter and is adopted after the terms of a contract between the state and any hub operator are established, a hub operator may declare the contract void within 60 days of the effective date of the amendment. If a hub operator does not make that declaration, it agrees to be bound by those amendments to this chapter.

(d) In the event of commercial infeasibility created by a change in federal law rendering the provision of intrastate Internet gaming services illegal or some other event, a hub operator may abandon its contract after providing the department with 90 days advance notice of its intent to end the contract and a statement explaining

1 its interpretation that continuing to provide services under the
2 contract is commercially infeasible. In response to notice provided
3 by the hub operator under this subdivision, the state may file an
4 action in the Superior Court of the County of Sacramento as it
5 deems necessary to protect any state interests, including, but not
6 limited to, the interests of registered players.

7 (e) In the event that any dispute arises between the parties to
8 the contract, either the department or a hub operator may file an
9 action in the superior court of any county in which the department
10 has an office for an interpretation of the contract and the rights
11 and responsibilities of the state and the hub operator pursuant to
12 the contract.

13 19990.31. Prior to initiating operations and thereafter, a hub
14 operator shall ensure that every Internet hub employee has been
15 issued an Internet hub employee work permit by the commission
16 , pursuant to standards adopted by the commission, prior to that
17 person having access to the hub facilities. The permit shall be
18 renewed every two years.

19 (a) No Internet hub employee work permit shall be issued to
20 any person unless, based on all of the information and documents
21 submitted, the commission is satisfied that the applicant is, at a
22 minimum, all of the following:

23 (1) A person of good character, honesty, and integrity.

24 (2) A person whose prior activities, criminal record, if any,
25 reputation, habits, and associations do not pose a threat to the
26 public interest of this state, or to the effective regulation and control
27 of controlled gambling, or create or enhance the dangers of
28 unsuitable, unfair, or illegal practices, methods, and activities in
29 the conduct of controlled gambling or in the carrying on of
30 incidental business and financial arrangements.

31 (3) A person who is in all other respects qualified to hold an
32 Internet hub employee work permit as provided in this chapter.

33 (b) The commission shall disqualify an applicant for an Internet
34 hub employee work permit for any of the following reasons:

35 (1) Failure of the applicant to clearly establish eligibility and
36 qualification in accordance with this chapter.

37 (2) Failure of the applicant to provide timely information,
38 documentation, and assurances required by this chapter or requested
39 by any state official, or failure of the applicant to reveal any fact
40 material to the qualification, or the supplying of information that

1 is untrue or misleading as to a material fact pertaining to the
2 qualification criteria.

3 (3) Conviction of a felony, including a conviction by a federal
4 court or a court in another state for a crime that would constitute
5 a felony if committed in California.

6 (4) Conviction of the applicant for any misdemeanor involving
7 dishonesty or moral turpitude within the 10-year period
8 immediately preceding the submission of the application, unless
9 the applicant has been granted relief pursuant to Section 1203.4,
10 1203.4a, or 1203.45 of the Penal Code. However, the granting of
11 relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal
12 Code shall not constitute a limitation on the discretion of the
13 commission or affect the applicant's burden under subdivision (b).

14 (5) Association of the applicant with criminal profiteering
15 activity or organized crime, as defined by Section 186.2 of the
16 Penal Code.

17 (6) Contemptuous defiance by the applicant of any legislative
18 investigative body, or other official investigative body of any state
19 or of the United States, when that body is engaged in the
20 investigation of crimes relating to gambling, official corruption
21 related to gambling activities, or criminal profiteering activity or
22 organized crime, as defined by Section 186.2 of the Penal Code.

23 (7) The applicant is less than 21 years of age.

24 (c) A hub operator shall apply for an Internet hub employee
25 work permit on behalf of each Internet hub employee.

26 (d) A person shall not be issued an Internet hub employee work
27 permit unless the person meets the qualification standards adopted
28 by the commission.

29 (e) The commission shall establish a fee to be paid by a hub
30 operator in submitting applications for Internet hub employee work
31 permits on behalf of those hub operators' employees. The
32 commission shall establish processes for the revocation or
33 suspension of a gambling license or Internet hub employee work
34 permit, and to withdraw an application for a gambling license or
35 Internet hub employee work permit.

36 (f) A hub operator or subcontractor of a hub operator shall not
37 enter into, without prior approval of the department, any contract
38 or agreement with a person who is denied a gambling license
39 pursuant to Chapter 5 (commencing with Section 19850) or Internet
40 hub employee work permit, or whose gambling license or Internet

1 hub employee work permit is suspended or revoked by the
2 commission or department, or with any business enterprise under
3 the control of that person, after the date of receipt of notice of the
4 commission's or department's action.

5 (g) A hub operator or subcontractor of a hub operator shall not
6 employ, without prior approval of the commission, any person in
7 any capacity for which he or she is required to have an Internet
8 hub employee work permit, if the person has been denied an
9 Internet hub employee work permit or a gambling license pursuant
10 to Chapter 5 (commencing with Section 19850) or if his or her
11 Internet hub employee work permit or gambling license has been
12 suspended or revoked after the date of receipt of notice of the
13 action by the commission. A hub operator or subcontractor of a
14 hub operator shall not enter into a contract or agreement with a
15 person whose application for an Internet hub employee work permit
16 or gambling license has been withdrawn with prejudice, or with
17 any business enterprise under the control of that person, for the
18 period of time during which the person is prohibited from filing a
19 new application for an Internet hub employee work permit or
20 gambling license.

21 (h) If an employee who is required to hold an Internet hub
22 employee work permit pursuant to this chapter is denied an Internet
23 hub employee work permit, or has his or her Internet hub employee
24 work permit revoked by the commission or department, the
25 employee shall be terminated in any capacity. The employee shall
26 not be permitted to exercise a significant influence over the
27 gambling operation, or any part thereof, upon notification to the
28 hub operator of that action.

29 (1) If an employee who is required to hold an Internet hub
30 employee work permit pursuant to this chapter has his or her
31 Internet hub employee work permit suspended, the employee shall
32 be suspended in any capacity. The employee shall not be permitted
33 to exercise a significant influence over the gambling operation, or
34 any part thereof, during the period of suspension, upon notification
35 to the hub operator of that action.

36 (2) If a hub operator or subcontractor of a hub operator
37 designates another employee to replace the employee whose
38 employment was terminated or suspended, the hub operator or
39 subcontractor shall promptly notify the department and shall apply

1 for an Internet hub employee work permit on behalf of the newly
2 designated employee.

3 (i) A hub operator or subcontractor of a hub operator shall not
4 pay to a person whose employment has been terminated pursuant
5 to subdivision (i) any remuneration for any service performed in
6 any capacity in which the person is required to hold an Internet
7 hub employee work permit, except for amounts due for services
8 rendered before the date of receipt of notice of the commission's
9 or department's action of suspension or termination. A hub operator
10 or subcontractor of a hub operator shall not, during the period of
11 suspension, pay to a person whose employment has been suspended
12 pursuant to subdivision (i), any remuneration for any service
13 performed in any capacity in which the person is required to hold
14 an Internet hub employee work permit, except for amounts due
15 for services rendered before the date of receipt of notice of the
16 commission's or department's action.

17 (j) Except as provided in subdivision (i), a contract or agreement
18 for the provision of services or property to a hub operator or
19 subcontractor or for the conduct of any activity pertaining to the
20 operation of a hub, which is to be performed by a person required
21 by this chapter or by regulations adopted pursuant to this chapter,
22 to hold an Internet hub employee work permit, shall be terminated
23 upon a suspension or revocation of the person's Internet hub
24 employee work permit.

25 (k) In any case in which a contract or agreement for the
26 provision of services or property to a hub operator or an affiliate
27 thereof, or for the conduct of any activity at a hub, is to be
28 performed by a person required by this chapter or by regulations
29 adopted by the commission to hold an Internet hub employee work
30 permit, the contract shall be deemed to include a provision for its
31 termination without liability on the part of the hub operator,
32 affiliate, or subcontractor upon a suspension or revocation of the
33 person's Internet hub employee work permit. In any action brought
34 by the department or commission to terminate a contract pursuant
35 to subdivision (k) or this subdivision, it shall not be a defense that
36 the agreement does not expressly include the provision described
37 in this subdivision, and the lack of express inclusion of the
38 provision in the agreement shall not be a basis for enforcement of
39 the contract by a party thereto.

(l) If a hub operator does not comply with the contractual obligations of this section, the department may impose liquidated damages of not more than ____ dollars (\$____) per occurrence. In the event that a hub operator negligently, willfully, or wantonly fails to comply with this contractual obligation, the department may initiate an enforcement action and subject a hub operator to ____ dollars (\$____) in liquidated damages and may begin proceedings to suspend or revoke a hub operator's contract.

19990.32. The hub operator shall be responsible for providing current and accurate documentation on a timely basis to all state agencies as provided in this chapter.

(a) In addition to any other confidentiality protections provided to persons that are in contract with the state, the state and its agencies shall treat the proprietary information provided by a hub operator as confidential to protect the hub operator and to protect the security of the hub.

(b) The confidentiality provisions of this chapter exempt proprietary information supplied by a hub operator to a state agency from public disclosure consistent with subdivision (b) of Section 6253 of the Government Code.

19990.33. (a) Changes in ownership in the hub operator shall be approved by the commission prior to the closing of any proposed transaction.

(b) The department shall investigate to ensure that any person acquiring interest in a hub operator is suitable and otherwise financially, technically, and legally qualified to be a hub operator consistent with the provisions of this chapter. If an acquiring person is found to be unsuitable to be a hub operator or otherwise not financially, technically, and legally qualified to be a hub operator, the hub operator or the acquiring person may challenge that determination consistent with subdivision (f) of Section 19990.25.

19990.34. All facilities, software, including downloadable programs, and any and all other property, both tangible and intangible, used by the hub operator in offering authorized games shall be the property of a hub operator or its subcontractors, and shall be approved by the department.

19990.35. A hub operator shall ensure that registered players are eligible to play authorized games and implement appropriate data security standards to prevent access by a person whose age and location has not been verified in accordance with this chapter.

1 (a) All registered players must be physically located within the
2 State of California at the time of gambling.

3 (b) No registered player may be less than 21 years of age.

4 (1) Online games shall not be provided, directly or indirectly,
5 to any person under 21 years of age.

6 (2) Each hub operator shall do all of the following:

7 (A) Prior to registering a person as a registered player or
8 permitting a person to play an authorized game, the hub operator
9 shall verify that the person is 21 years of age or older. The hub
10 operator or seller shall attempt to match the name, address, and
11 date of birth provided by the person to information contained in
12 records in a database of individuals who have been verified to be
13 21 years of age or older by reference to an appropriate database
14 of government records. The hub operator also shall verify that the
15 billing address on the check or credit card offered for payment by
16 the person matches the address listed in the database.

17 (B) If the hub operator is unable to verify that the person is 21
18 years of age or older pursuant to subparagraph (A), the hub operator
19 shall require the person to submit an age-verification kit consisting
20 of an attestation signed by the person that he or she is 21 years of
21 age or older and a copy of a valid form of government
22 identification. For the purposes of this section, a valid form of
23 government identification includes a driver's license, state
24 identification card, passport, official naturalization or immigration
25 document, such as an alien registration receipt card or an immigrant
26 visa, or military identification. The hub operator also shall verify
27 that the billing address on the check or credit card provided by the
28 person matches the address listed in the government identification.

29 (C) The hub operator shall not permit registered players to make
30 payments by money order or cash. The hub operator shall submit
31 to each credit card company with which it has credit card sales,
32 information in an appropriate form and format so that the words
33 "Internet gambling" may be printed on the purchaser's credit card
34 statement when a payment to a hub operator is made by credit card
35 payment.

36 (3) If a hub operator complies with the requirements of
37 paragraph (2), and a person under 21 years of age participates in
38 an authorized game provided by the hub operator, the hub operator
39 is not in violation of this section.

(4) The department may assess civil penalties against a person that violates this section, according to the following schedule:

(A) Not less than one thousand dollars (\$1,000) and not more than two thousand dollars (\$2,000) for the first violation.

(B) Not less than two thousand five hundred dollars (\$2,500) and not more than three thousand five hundred dollars (\$3,500) for the second violation.

(C) Not less than four thousand dollars (\$4,000) and not more than five thousand dollars (\$5,000) for the third violation.

(D) Not less than five thousand five hundred dollars (\$5,500) and not more than six thousand five hundred dollars (\$6,500) for the fourth violation.

(E) Ten thousand dollars (\$10,000) for a fifth or subsequent violation.

(c) The commission shall, by regulation, provide a process for a hub operator to exclude from play any person who has filled out an Online Self-Exclusion Form.

(1) The commission shall develop an Online Self-Exclusion Form and deliver it to the department within six months of the effective date of this chapter.

(2) The department shall deliver the form to each hub operator.

(3) A hub operator shall prominently display a link to the commission's Responsible Gaming site and the Online Self-Exclusion Form on the Web page that is displayed when either of the following apply:

(A) A person registers as a registered player.

(B) Each time a registered player accesses the Web site of the hub prior to playing.

(4) A hub operator shall retain the Online Self-Exclusion Form to identify persons who want to be excluded from play.

(5) No hub operator that has made commercially reasonable efforts to comply with this subdivision shall be held liable in any way if a person who has filled out an Online Self-Exclusion Form plays despite that person's request to be excluded.

19990.36. A hub operator shall only offer games and process bets in accordance with the specified game and betting rules established by the hub operator and approved by the department consistent with Section 19990.37.

19990.37. A hub operator shall only provide authorized games approved by the department.

1 (a) In order to propose a game for play, a hub operator shall
2 provide the department with both of the following:

3 (1) Game rules and betting rules it proposes to offer to
4 registered players.

5 (2) Documentation relating to development and testing of the
6 game's software.

7 (b) The department shall approve the game rules and betting
8 rules before a hub operator may offer the game to registered
9 players.

10 19990.38. A hub operator shall ensure that games are fair.

11 (a) The gaming system shall display for each game the following
12 information:

13 (1) The name of the game.

14 (2) Any restrictions on play.

15 (3) The rules of the game.

16 (4) All instructions on how to play.

17 (5) The unit and total bets permitted.

18 (6) The registered player's current account balance which shall
19 be updated in real time.

20 (7) Any other information that a hub operator determines is
21 necessary for the registered player to have in real time to compete
22 fairly in the game.

23 (b) Data used to create game results shall be unpredictable so
24 that it is infeasible to predict the next occurrence in a game, given
25 complete knowledge of the algorithm or hardware generating the
26 sequence and all previously generated numbers.

27 (c) A hub operator shall deploy controls and technology to
28 minimize fraud or cheating through collusion, including external
29 exchange of information between different players, robotic play,
30 or any other means.

31 (1) If a hub operator becomes aware that fraud or cheating is
32 taking place or has taken place, it shall take steps to stop those
33 activities immediately and inform the department of all relevant
34 facts.

35 (2) The department may not impose liquidated damages against
36 a hub operator to prevent fraud or cheating if a hub operator can
37 demonstrate that it acted responsibly to prevent those activities as
38 soon as a hub operator became aware of them.

39 (d) In a per-hand game, if the gaming server or software does
40 not allow a game to be completed, the game shall be void and all

1 funds relating to the incomplete game shall be returned to the
2 registered player's account.

3 (e) In a tournament, if the gaming server or software does not
4 allow the tournament to be completed, all prize money will be
5 distributed among players in accordance with the procedure
6 published by the hub operator prior to the commencement of the
7 tournament.

8 19990.39. A hub operator shall register players and establish
9 player accounts prior to play.

10 (a) A person shall not participate in any game provided by a
11 hub operator unless the person is a registered player and holds an
12 account.

13 (b) Accounts shall be established in person, by mail, telephone,
14 or by any electronic means.

15 (c) To register and establish an account, a person shall provide
16 the following registration information:

17 (1) First name and surname.

18 (2) Principal residence address.

19 (3) Telephone number.

20 (4) Social security number.

21 (5) Identification or certification to prove that person is at least
22 21 years of age.

23 (6) Valid e-mail address.

24 (d) A hub operator shall provide registered players with the
25 means to update the registration information provided to the hub
26 operator.

27 (e) Nothing in this section shall prevent a hub operator from
28 entering into a marketing agreement with any third party to recruit
29 people to become registered players if the registration process
30 described in this section is under the sole control of the hub
31 operator.

32 19990.40. A hub operator shall provide a means for registered
33 players to put funds into a registered player account and transfer
34 funds out of that account.

35 (a) A registered player shall identify the source of funds to be
36 used to put money into the account established once the registration
37 process is complete, and a hub operator shall provide a means for
38 a registered player to transfer money into and out of the player's
39 hub account.

1 (b) At the time of establishing a hub account, a registered player
2 shall designate the bank account into which funds from the
3 registered player's hub account are to be transferred.

4 (c) A registered player shall establish only one account on any
5 hub.

6 (d) While playing an authorized game, a hub operator shall not
7 permit a registered player to increase the amount of money in that
8 registered player's account after that hand has started and before
9 its completion.

10 (e) A hub operator shall maintain records on the balance of each
11 registered player's account.

12 (f) A hub operator shall not permit a registered player to place
13 a wager unless the registered player's account has sufficient funds
14 to cover the amount of the wager.

15 (g) A hub operator shall not provide credit to a registered
16 player's account or act as agent for a credit provider to facilitate
17 the provision of funds.

18 (h) No interest shall be paid by a hub operator with respect to
19 registered player accounts.

20 19990.41. A hub operator shall segregate funds it holds in all
21 registered player accounts from all of its other assets.

22 (a) A hub operator shall not commingle funds in the segregated
23 account containing funds paid by registered players with any other
24 funds held by the hub operator. Both the accounts of the hub
25 operator and its segregated registered player accounts shall be held
26 in financial institutions located in the state.

27 (b) Funds held in a registered player's account shall only be
28 used for the following purposes:

29 (1) To pay per hand or tournament charges owed by a registered
30 player to the hub operator for play of authorized games.

31 (2) To transfer funds from one registered player's account to
32 the account of another registered player to reconcile the result of
33 a loss in the play of an authorized game.

34 (3) To transfer funds from a registered player's account to a
35 temporary account to be held by a hub operator pending the
36 outcome of an authorized game.

37 (4) To remit tax proceeds due and owing from a registered player
38 to the Franchise Tax Board.

(5) To transfer funds from a registered player's account with the hub operator to an account specified by a registered player upon that registered player's request.

19990.42. Prior to completing the registration process, a hub operator shall explain to the person who is registering in a conspicuous fashion the privacy policies of the hub, and a person shall assent to the following policies:

(a) No personally identifiable information shall be shared with any nongovernment third parties except as provided in subdivision (j) of Section 19990.47.

(b) All personally identifiable information about registered players shall be shared with state agencies, including, but not limited to, the department, the commission, and the Franchise Tax Board as necessary to assist them in fulfilling their obligations under this chapter.

(c) Personally identifiable information may only be shared with government agencies as set forth in subdivision (b) or subject to court order as provided in subdivision (j) of Section 19990.47.

19990.43. A hub operator may also require that a person must agree to a Terms of Use Registered Player's Agreement applying to registered players.

19990.44. A hub operator may suspend or revoke the account of a registered player for any of the following reasons:

(a) A person or registered player provided false information to the hub operator, including, but not limited to, in the registration process.

(b) The registered player has not updated registration information to keep it current.

(c) The registered player has violated the hub's Terms of Use Registered Player's Agreement.

(d) The person has already been registered.

(e) The hub operator suspects that the registered player has participated in an illegal or unauthorized activity on the hub.

(f) The hub operator is directed by a state agency to suspend or revoke the registered player's account.

19990.45. (a) Upon registration and at each time when a registered player logs into a hub, the hub operator shall permit a registered player to adjust his or her play settings to:

(1) Set a limit on the deposits that can be made per day.

1 (2) Set a limit on the aggregate losses in a registered player's
2 account within a specified period of time.

3 (b) During play, in order to assist a registered player to decide
4 whether to suspend play, the registered player's screen shall do
5 all of the following:

6 (1) Indicate how long the player has been playing.

7 (2) Indicate the net change in value to a registered player's
8 account since the time of last logging in.

9 (3) At least once every six hours require the registered player
10 to confirm that the player has read the message or give an option
11 to the player to end the session or return to the game.

12 19990.46. A hub operator shall establish a toll-free telephone
13 customer service hotline that shall be available to registered players
14 24 hours a day and 365 days a year. All Internet hub employees
15 shall be physically present in the state while in contact with
16 registered players. However, the hub operator shall have discretion
17 to use the expertise of personnel not physically present in the state
18 when necessary to protect registered players and state interests,
19 including, but not limited to, for the purposes of diagnosing and
20 addressing technological problems, investigating fraud and
21 collusion, and supervising software and configuration changes.
22 The hub operator shall give notice to the department when using
23 personnel who are out of state.

24 19990.47. A hub operator shall protect the privacy of registered
25 players and their data.

26 (a) A hub operator shall comply with all state and federal privacy
27 and data protection laws.

28 (b) At the time of registration with a hub operator as a registered
29 player, and at least once a year thereafter, a hub operator shall
30 provide notice in the form of a separate, written statement,
31 delivered via postal service or electronic mail, to the registered
32 player which clearly and conspicuously informs the registered
33 player of all of the following:

34 (1) The nature of personally identifiable information collected
35 or to be collected with respect to the registered player and the
36 nature of the use of that information.

37 (2) The nature, frequency, and purpose of any disclosure which
38 may be made of personally identifiable information, including an
39 identification of the types of persons to whom the disclosure may
40 be made.

1 (3) The period during which personally identifiable information
2 will be maintained by the hub operator.

3 (4) The times and place at which the registered player may have
4 access to personally identifiable information in accordance with
5 subdivision (g).

6 (5) The limitations provided by this section with respect to the
7 collection and disclosure of personally identifiable information by
8 a hub operator and the right of the registered player under
9 subdivision (i) or (j) to enforce those limitations.

10 (c) A hub operator shall not collect personally identifiable
11 information concerning any registered player without the prior
12 written or electronic consent of the registered player concerned.

13 (d) A hub operator may collect personally identifiable
14 information in order to do both of the following:

15 (1) Obtain information necessary to operate the hub and offer
16 authorized games to registered players pursuant to this chapter.

17 (2) Detect unauthorized play, activities contrary to a hub
18 operator's Terms of Use Registered Player's Agreement, or
19 activities contrary to state or federal law.

20 (e) Except as provided in subdivision (f), a hub operator shall
21 not disclose personally identifiable information concerning any
22 registered player without the prior written or electronic consent of
23 the registered player concerned and shall take actions necessary
24 to prevent unauthorized access to that information by a person
25 other than the registered player or hub operator.

26 (f) A hub operator may disclose personally identifiable
27 information if the disclosure is any of the following:

28 (1) Necessary to render, or conduct a legitimate business activity
29 related to, the provision of authorized games to the registered
30 player by the hub operator.

31 (2) Subject to subdivision (j), made pursuant to a court order
32 authorizing the disclosure, if the registered player is notified of
33 the order by the person to whom the order is directed.

34 (3) A disclosure of the names and addresses of registered players
35 to any tournament third party, if both of the following apply:

36 (A) The hub operator has provided the registered player the
37 opportunity to prohibit or limit the disclosure.

38 (B) The disclosure does not reveal, directly or indirectly, the
39 nature of any transaction made by the registered player over the
40 hub.

(4) To the department to fulfill its obligations under this chapter or a state agency as authorized in this chapter.

(g) A registered player shall be provided access to all personally identifiable information regarding that registered player which is collected and maintained by a hub operator. The information shall be made available to the registered player at reasonable times and at a place designated by the hub operator. A registered player shall be provided reasonable opportunity to correct any error in the information.

(h) A hub operator shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected, and there are no pending requests or orders for access to the information under subdivision (j).

(i) Any person aggrieved by any act of a hub operator in violation of this section may bring a civil action in any superior court. The court may award:

(1) Actual damages but not less than liquidated damages computed at the rate of ____ a day for each day of violation or ____, whichever is higher.

(2) Punitive damages.

(3) Reasonable attorney's fees and other litigation costs reasonably incurred.

(j) Except as provided in subdivision (f), a governmental or nongovernmental third party may obtain personally identifiable information concerning a registered player pursuant to a court order only if, in the court proceeding relevant to the court order, both of the following apply:

(1) The third party offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity or otherwise relevant to a pending civil action and that the information sought would be material evidence in the case.

(2) The registered player about whom the information is requested is afforded the opportunity to appear and contest the third-party's claim.

19990.48. A hub operator shall establish a book of accounts and regularly audit all of its financial records and reports which shall, at a minimum, include all of the following:

1 (a) Monthly auditable and aggregate financial statements of
2 gaming transactions.

3 (b) Monthly calculation of all amounts payable to the state.

4 (c) The identity of players.

5 (d) The balance on each player's account at the start of a session
6 of play, the amount won or lost by each player during a game, and
7 the balance on the player's account.

8 (e) The wagers placed on each game, time stamped by the games
9 server.

10 (f) The result of each game, time stamped by the games server.

11 (g) The amount, if any, as determined by the player, withheld
12 from winnings for federal or state income tax purposes.

13 19990.49. A hub operator shall make all financial records
14 established and maintained pursuant to Section 19990.48,
15 including, but not limited to, all books, records, documents,
16 financial information, and financial reports, on both an electronic
17 basis and in hard copy, as required by the commission, as required
18 by the state agencies to the division, the commission, the
19 department, the Treasurer, and the Franchise Tax Board so that
20 those state agencies can fulfill their responsibilities under this
21 chapter.

22 (a) The hub operator's data shall be retained in a manner by
23 which it may be accessed by the state agencies online.

24 (b) Notwithstanding subdivision (a), data covered by
25 subdivisions (d), (e), and (f) of Section 19990.48 shall be accessible
26 to the state agencies online for 120 days, and, thereafter, archived
27 and retained for one year.

28 19990.50. A hub operator shall implement technical systems
29 that materially aid the department in the protection of registered
30 players.

31 (a) A hub operator shall define and document its methodology
32 for developing software and applications and describe the manner
33 in which software protects registered players from fraud and other
34 risks in the play of authorized games and in the management of
35 registered player accounts.

36 (b) A hub operator shall meet minimum game server
37 connectivity requirements to ensure that players are protected from
38 losses due to connectivity problems.

1 (c) A hub operator shall ensure that all transactions involving
2 player funds shall be recoverable by the system in the event of a
3 failure or malfunction.

4 (d) All information required for reviewing a game interrupted
5 due to loss of connectivity shall be recoverable by the hub operator.

6 (e) Preventative and detective controls addressing money
7 laundering and fraud risks shall be documented and implemented
8 by the hub operator.

9 19990.51. A hub operator shall be permitted to charge
10 registered players to play in authorized games .

11 (a) Per hand charges are permitted.

12 (1) A per hand charge shall be designated and conspicuously
13 posted on the screen prior to the start of each authorized game.

14 (2) A hub operator shall be permitted to vary the per hand
15 charges to registered players based on betting limits or other
16 factors.

17 (b) Tournament charges shall be permitted.

18 (1) A tournament charge shall be designated and conspicuously
19 posted on the screen prior to the start of the first authorized game
20 of any tournament.

21 (2) A hub operator shall be permitted to vary tournament charges
22 based on tournament prizes or other factors.

23 (c) A hub operator shall provide notice to the department of the
24 charges to registered players prior to initiating play.

25 19990.52. A hub operator shall be permitted to enter into an
26 agreement with any third party to sponsor or underwrite prizes for
27 a tournament, subject to the approval of the department.

28 19990.53. A hub operator shall be permitted to enter into an
29 agreement to sell advertisement space on any Web site it controls,
30 subject to the approval of the department.

31 19990.53.5. A hub operator shall be permitted to enter into an
32 agreement with a third party for marketing, or any other purpose
33 consistent with this chapter, including, but not limited to, displaying
34 the name of a marketing partner on a screen viewed by a registered
35 player.

36 19990.54. A hub operator shall be permitted to enable a chat
37 function between registered players as long as it has in place
38 effective controls against collusion, subject to the approval of the
39 department.

1 19990.55. A hub operator shall be permitted to post Web links
2 on the Web site it controls to permit registered players to access
3 remote Web sites, subject to the approval of the department.

4 19990.56. A hub operator may enter into contractual
5 agreements with one or more hub operators for the purpose of
6 ensuring adequate player liquidity, subject to the approval of the
7 department.

8 19990.57. A hub operator may allow a registered player to
9 participate simultaneously in multiple games or tournaments, as
10 long as the hub operator has demonstrated to the department that
11 it has technical controls that prohibit a registered player from
12 playing multiple hands simultaneously in the same game, subject
13 to the approval of the department.

14 19990.58. In consideration for its contract with the state, and
15 in recognition of the initial investments and efforts required to
16 start up this business venture, and to ensure the state hub operators
17 are in the best position to compete with offshore operators and be
18 successful, a hub operator shall remit to the Treasurer on a monthly
19 basis that percentage of its gross revenues as is agreed in the
20 contract between the state and the hub operator, but no less than
21 10 percent of its gross revenues.

22 (a) Each monthly payment shall be due on the 10th of the
23 following month.

24 (b) A hub operator shall make all electronic and written financial
25 records available to the Treasurer, the commission, and the
26 department on an electronic basis.

27 (c) For the purposes of determining gross revenues, the hub
28 operator and the Treasurer shall use generally accepted accounting
29 principles.

30 (d) With respect to the dispensation of the bond posted by a hub
31 applicant pursuant to subdivision (f) of Section 19990.22, both of
32 the following apply:

33 (1) In the event that the aggregate amount due to the state in
34 consideration for a hub operator's contract is an amount greater
35 than _____ dollars (\$_____) in the first year of operation of the
36 hub, the bond referred to in subdivision (f) of Section 19990.22
37 shall be released in the final calendar quarter of the hub operator's
38 first year of operation, determined on a rolling basis.

39 (2) In the event that the aggregate amount due to the state in
40 consideration for a hub operator's contract is an amount less than

1 _____ dollars (\$_____) in the first year of operation of the hub,
2 under the hub operator's contract with the state, the bond referred
3 to in subdivision (f) of Section 19990.22 shall not be released and
4 an amount equal to the difference between the dollar amount of
5 the bond and the amount due to the state shall be collected by the
6 state in the final calendar quarter of the hub operator's first year
7 of operation, determined on a rolling basis.

8 19990.59. The hub operator shall facilitate the collection of
9 personal income taxes from registered players by the Franchise
10 Tax Board.

11 (a) The hub operator shall withhold 5 percent of tournament
12 winnings for state income tax if the winnings minus the tournament
13 charge are more than six hundred dollars (\$600) and are at least
14 300 times the tournament charge.

15 (1) The hub operator shall transfer that withheld income to the
16 Franchise Tax Board.

17 (2) Winnings and losses of the registered player from other
18 tournaments sponsored by the hub operator during the year are not
19 taken into account in arriving at the six-hundred-dollar (\$600)
20 amount. Required withholding is determined on a
21 tournament-by-tournament basis.

22 (b) Within six months of the effective date of this chapter, the
23 Franchise Tax Board shall publish a form to be used annually by
24 a hub operator to ensure that the state is able to collect income tax
25 revenues from registered players. The Franchise Tax Board shall
26 provide a date by which the form is required to be filed. The form
27 shall include, but shall not be limited to, the following information:

28 (1) The registered player's first name and surname.

29 (2) Social security number.

30 (3) The total amount the registered player deposited in their
31 account during the year.

32 (4) The registered player's total winnings, if any, during the
33 year.

34 (5) The registered player's total losses, if any, during the year.

35 (6) The total amount withheld by the hub operator, if any, during
36 the year for purposes of federal or state income taxes.

37 (7) Whether the registered player opened or closed his or her
38 account during the year.

39 (c) The hub operator shall electronically file a copy of the form
40 with the Franchise Tax Board for each registered player who held

1 an account with the hub operator for all, or any portion of, the
2 taxable year. The hub operator shall electronically provide each
3 registered player with a copy of the form.

4 19990.60. A hub operator shall not engage in business
5 transactions without prior approval of the department. The
6 department shall adopt contract provisions establishing the
7 procedures for these transactions.

8 (a) A security interest in a hub operator shall not be enforced
9 without the prior approval of the department.

10 (b) It is unlawful for any person to sell, purchase, lease,
11 hypothecate, borrow, or loan money, or create a voting trust
12 agreement or any other agreement of any sort with a hub operator
13 with a contract with the state pursuant to this chapter or with
14 respect to any portion of the provision of authorized games, except
15 in accordance with the department.

16 (c) Every hub operator that is involved in a transaction for the
17 extension or redemption of credit by the hub operator, or for the
18 payment, receipt, or transfer of coin, currency, or other monetary
19 instruments, as specified by the department, in an amount,
20 denomination, or amount and denomination, or under
21 circumstances prescribed by regulations, and any other participant
22 in the transaction, as specified by the department, shall, if required
23 by regulation, make and retain a record of, or file with the
24 department a report on, the transaction, at the time and in the
25 manner prescribed in the hub operator's contract.

26 19990.61. A hub operator shall act expeditiously to cure any
27 failure in performance under its contract in the offering or
28 administering of legal games that interferes with its obligations
29 to the state or registered players under this chapter.

30 (a) If a hub operator becomes aware of any failure of
31 performance, it shall notify the department immediately and work
32 with the department to develop a plan to rectify the failure.

33 (b) If the department becomes aware of any failure of, or
34 suspected failure of, performance under the contract between the
35 state and a hub operator, or if it becomes aware of any activities
36 that might lead to a failure to perform, the department shall provide
37 notice of that failure to the hub operator and a reasonable
38 opportunity to cure the failure. The department shall also provide
39 the notice to the commission.

1 (c) All state agencies with responsibilities under this chapter
2 shall report any actual or suspected failure of performance of the
3 hub operator's duty under the contract, or activities that may lead
4 to that failure, to the department and commission immediately so
5 that the department can assess whether it needs to commence an
6 investigation or enforcement action.

7 (d) A hub operator shall be afforded a reasonable time period
8 to cure any reported failure of performance. The department may
9 assess damages for failure of performance.

10 (e) Prior to the issuance of the RFP, the department shall issue
11 a schedule of liquidated damages that will be part of the contract
12 with a hub operator and shall delineate damages that will be owed
13 to the state for failure of the hub operator to perform specific duties
14 under this chapter.

15 (1) Liquidated damages shall not exceed ____ (\$____) for each
16 failure of a hub operator to perform under its contract or for a
17 violation of this chapter.

18 (2) All liquidated damages payments imposed and remitted to
19 the state shall be deposited in the Internet Gambling Fund, as
20 created by Section 19990.86.

21 (3) The imposition of liquidated damages shall not make
22 performance by the hub operator commercially infeasible.

23 (f) Prior to the issuance of the RFP, the commission and the
24 department shall issue rules relating to enforcement proceedings
25 under the contract consistent with this chapter.

26 (1) The rules shall describe the procedures for the development
27 of a record and give the hub operator the opportunity to comment
28 in advance of any final action.

29 (2) The rules shall describe enforcement provisions, including
30 intermediate procedures it shall take prior to the imposition of
31 liquidated damages on the hub operator.

32 (3) The department shall have the subpoena power in any
33 investigation.

34 (4) The rules shall give a hub operator the opportunity to respond
35 to any allegation of failure of performance prior to the issuance of
36 a specific order from the commission or department to cure any
37 failure of performance or any order to pay liquidated damages.

38 (5) The commission or department may revoke or suspend a
39 hub operator's contractual rights under this chapter upon reaching

1 a finding that the hub operator is in willful or wanton violation of
2 any provision of this chapter.

3 (g) A hub operator may appeal any decision of the commission
4 to the superior court. The superior court shall hear any appeal de
5 novo.

6 19990.62. The commission shall protect the rights and assets
7 of registered players on a hub should that hub operator's contract
8 with the state be revoked or should the hub operator become
9 bankrupt.

10 19990.63. A hub operator shall at all times indemnify, defend,
11 and hold harmless the state and its agencies from and against any
12 and all claims, damages, liabilities, costs, and expenses, including
13 reasonable attorney's fees and expenses arising out of any
14 third-party claim made against the state or any of its agencies
15 relating to actions of the hub operator and the provisions of this
16 chapter. However, the state shall not enter into a settlement
17 agreement related to any of those claims, damages, liabilities,
18 costs, or expenses without the prior written approval of the hub
19 operator.

20 (a) The state and its agencies shall promptly notify a hub
21 operator of any claim or litigation to which the indemnity set forth
22 in Section 19990.62 applies.

23 (b) At the option of a hub operator, it may assume the defense
24 of any claim or litigation. If a hub operator assumes the defense
25 of any claim or litigation, the hub operator's obligation with respect
26 thereto shall be limited to the payment of any settlement approved
27 by the hub operator, or any judgment in connection with that claim
28 or litigation.

30 Article 6. Authority of State Agencies

31
32 19990.70. State agencies may adopt rules to perform the duties
33 described in this chapter and in all ways facilitate the operation of
34 the hub in compliance with this chapter.

35 (a) Any rule adopted by a state agency shall be consistent with
36 this chapter.

37 (1) Any rule of a state agency that this chapter intends to be part
38 of a hub operator's contract shall be adopted in advance of issuance
39 of the RFP by the department.

1 (2) Any rule adopted after the issuance of the RFP by the
2 department shall facilitate a hub operator's responsibilities to
3 registered players, and state revenue raising functions and other
4 responsibilities under its contract with the state.

5 (b) Each state agency with responsibility under the contract
6 between a hub operator and the state shall identify an employee
7 or employees of the agency to act as the point of contact with the
8 hub operator and describe the responsibility or responsibilities of
9 the employee or employees with respect to the state agency's
10 function.

11 (c) Any notice provided by a hub operator to a state agency with
12 responsibility under the contract between a hub operator and the
13 state shall be addressed to the point of contact identified by the
14 state agency pursuant to subdivision (b).

15 (d) Unless otherwise provided by this chapter, notice by a hub
16 operator to the state shall be deemed effectively given upon
17 personal delivery, three days after deposit in the United States mail
18 by certified or registered mail, return receipt requested, one
19 business day after its deposit with any return receipt express
20 courier, prepaid, or one business day after electronically confirmed
21 transmission by facsimile.

22
23 Article 7. Protection of Registered Players
24

25 19990.75. A hub operator shall use its best efforts to protect
26 registered players. Subject to the approval of the department, and
27 consistent with uniform standards established by the department
28 by regulation, each hub operator shall establish administrative
29 procedures to resolve registered player complaints.

30 19990.76. In the event a registered player has a complaint
31 against a hub operator, the exclusive remedy shall be to register
32 the complaint with the commission, unless an action is brought
33 pursuant to the remedies described in subdivision (i) of Section
34 19990.47.

35 19990.77. The department, in consultation with the
36 commission, shall establish rules with respect to registered player
37 complaints.

38 (a) Under the rules, the department shall do all of the following:

1 (1) Investigate registered player complaints to determine if a
2 hub operator has failed to meet its obligation under its contract to
3 a registered player.

4 (2) Attempt to resolve complaints by registered players if a hub
5 operator fails to meet an obligation under its contract to a registered
6 player.

7 (3) Initiate enforcement actions to require specific performance
8 of any obligation that a hub operator has under a contract with the
9 state and to impose mitigated damages on a hub operator consistent
10 with the rules adopted pursuant to this chapter.

11 (4) Recommend to the commission, the imposition of liquidated
12 damages upon a hub operator based upon clear and convincing
13 evidence that the hub operator is required to pay liquidated
14 damages under its contract with the state.

15 (b) The commission shall adopt rules to do both of the
16 following:

17 (1) Impose liquidated damages upon a hub operator based upon
18 clear and convincing evidence that the hub operator is required to
19 pay liquidated damages under its contract with the state.

20 (2) Order payment by the hub operator of restitution to a
21 registered player for actual losses and interest thereon.

22 19990.78. A hub operator may appeal the imposition of
23 liquidated damages by the commission to the superior court which
24 shall review the appeal de novo.

25 26 Article 8. Disposition of State Proceeds 27

28 19990.86. The Treasurer shall transfer all amounts received
29 from a hub operator pursuant to Section 19990.58 to the Controller
30 for deposit in the Internet Gambling Fund which is created in the
31 State Treasury and which shall be administered by the Controller
32 subject to annual appropriation by the Legislature, and which shall
33 not be subject to the formulas established by statute directing
34 expenditures from the General Fund.

35 (a) The state agencies shall submit revenue needs to fulfill their
36 obligations under this chapter for the upcoming fiscal year to the
37 Senate Committee on Budget and Fiscal Review and the Assembly
38 Committee on Budget, as well as the Senate and Assembly
39 Committees on Governmental Organization and the Department
40 of Finance by March 31 of the preceding fiscal year. A justification

1 of those costs shall be provided with each submission of revenue
2 needs.

3 (b) The State Department of Alcohol and Drug Programs, Office
4 of Problem Gambling shall submit revenue needs for programs to
5 alleviate problem gaming that results from the offering of
6 authorized games for the upcoming fiscal year to the Senate
7 Committee on Budget and Fiscal Review and the Assembly
8 Committee on Budget, as well as the Senate and Assembly
9 Committees on Governmental Organization, the Senate and
10 Assembly Committees on Human Services, and the Department
11 of Finance by March 31 of the preceding fiscal year. A justification
12 of those costs shall be provided with each submission of revenue
13 needs.

14 (c) All remaining proceeds not allocated to subdivisions (a) and
15 (b) shall remain in the Internet Gaming Fund subject to
16 appropriation by the Legislature.

17
18 Article 9. Preemption of Local Regulation

19
20 19990.90. A city, county, or city and county shall not regulate,
21 tax, or enter into a contract with respect to any matter related to
22 this chapter.

23
24 Article 10. Reports to the Legislature

25
26 19990.95. Notwithstanding Section 10231.5 of the Government
27 Code, within one year of the effective date of this chapter and,
28 annually thereafter, the commission, in consultation with the
29 department, Treasurer, and Franchise Tax Board, shall issue a
30 report to the Legislature describing the state's efforts to meet the
31 policy goals articulated in this chapter. The report shall be
32 submitted in compliance with Section 9795 of the Government
33 Code.

34 19990.96. At least three years after the commencement date
35 of any hub operator's contract with the state, but no later than four
36 years after that date, the Bureau of State Audits shall issue a report
37 to the Legislature detailing its implementation of this chapter. The
38 State Auditor may advise the Legislature on whether the state
39 should solicit additional hub applicants beyond the number of
40 existing hub operators as of that date, as well as, any other

1 recommendations regarding the terms of the contract, including
2 the consideration paid to the state, the economic and operational
3 impacts upon the hub operator and the state, and any other issues
4 that may be relevant to the state's decision whether to impose
5 modifications on existing hub operators. The report may also advise
6 the Legislature as to any proposed changes to Article 5
7 (commencing with Section 19990.30) of this chapter. The State
8 Auditor shall advise the Legislature whether continuation of the
9 moratorium on state gaming contained in Section 19962 is justified,
10 given statewide competition with legalized Internet gaming.

11 SEC. 2. The Legislature finds and declares that Section 1 of
12 this act, which adds Chapter 5.2 to the Business and Professions
13 Code, imposes a limitation on the public's right of access to the
14 meetings of public bodies or the writings of public officials and
15 agencies within the meaning of Section 3 of Article I of the
16 California Constitution. Pursuant to that constitutional provision,
17 the Legislature makes the following findings to demonstrate the
18 interest protected by this limitation and the need for protecting
19 that interest:

20 The limitations of the people's rights of access set forth in this
21 chapter are necessary to protect the privacy and integrity of
22 information submitted by the registered players as well as the
23 proprietary information of the hub applicants and hub operators.

24 SEC. 3. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

33 SEC. 4. This act is an urgency statute necessary for the
34 immediate preservation of the public peace, health, or safety within
35 the meaning of Article IV of the Constitution and shall go into
36 immediate effect. The facts constituting the necessity are:

37 In order to protect the interests of Californians who play online
38 gambling games and to ensure that people play fair games, that
39 the state realizes the revenues, and that suitable persons operate

- 1 online gambling Web sites, it is necessary that this act take effect
- 2 immediately.

O