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ON CASINO GAMBLING

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INTRODUCTION

At the Governor's request, the Attorney General and the Treasurer constituted a group of senior staff to make recommendations on casino gambling legislation and related topics. This report summarizes the findings of that group.

At the outset, the staff policy group emphasizes that the casino industry comes to New Jersey with a mixed reputation. It has thus been this group's obligation to identify, describe and seek solutions to problems in the industry which exist elsewhere. In the discharge of that obligation, however, the group has found many instances where casinos are decently run and relatively crime-free, where ordinary, honest citizens can enjoy a respite from their labors without threat to their persons, families or fortunes. We have sought to capture and encourage for the benefit of all New Jersey citizens, the best aspects of casino gambling around the world, consistent with the purposes of the referendum. Notwithstanding the need for continuous vigilance and tough enforcement, the group is enthusiastic about the possibility of establishing an industry which is a true asset to the state, and it unanimously endorses the recommendations in this report as the best means to that end.

The policy group has had the benefit of the extensive work product and recommendations of eight working

groups composed of members of the Divisions of Law, Criminal Justice and State Police. The policy group is grateful for their assistance, but takes sole responsibility for the conclusions expressed herein.

The policy group has conducted extensive interviews with former staff members of the National Gambling Commission; senior representatives of national accounting and consulting firms with casino experience; casino owners and managers, supervisory floor personnel, and gaming staffs, and members and staff of governmental control and prosecutorial agencies in three jurisdictions. The group has greatly profited by, and is appreciative of, the competence and candor which these many individuals brought to bear on this subject in a genuine effort to be helpful.

Finally, the group notes that news accounts of its work have prompted a large number of New Jersey citizens to share their experiences and thoughts for which a special note of thanks is reserved.

* NOTE *

Early copies of this report may not include in its entirety the appendix containing technical legislative language embodying the recommendations in this report, which are being drafted as amendments to Assembly Bill No. 2366. Likewise, empirical data regarding costs and casino taxation, based upon these recommendations, is still under computation and analysis, and no conclusions are reported at this time.

I. LEGISLATIVE GOALS - THE STATE INTEREST

A. The Scope of State Regulation -

Casinos are a unique industry. They cater to markets which deal in cash and, often, in non-negotiable instruments of credit. Their margin of profit is secured by the application of hidden statistical advantages over the player in a variety of games involving innumerable unrecorded transactions. Their revenue is market-oriented, depending on who comes through the door, how much he bets, how long he stays, and how often he returns. Their potential markets are demographically diverse. Profitability is thus not a direct function of the quality of gaming or of the environment in and around the casino. Corporate corruption, cheating, loansharking, overextension of credit, insobriety, prostitution and a honky-tonk atmosphere are not antithetical to a desire for profit, and in the industry are occasionally viewed as legitimate societal overhead so long as they encourage, or at least do not interfere with, the vitality of the gambling market.

The interests of the State in the success of casino gambling are not coterminous with the interests of the entrepreneur. While the latter measures a net return on investment against the degree of risk, the State must measure social and economic benefits against offsetting social, economic and environmental costs. What is acceptable by one measure may be unacceptable by the other. The staff policy group has concluded that the uniqueness

of the industry, taken with its potential societal consequences and its checkered history in other jurisdictions, compels a state regulatory interest in virtually every aspect of casinos and related operations.

It must be emphasized that the state interests to be served by a comprehensive regulatory scheme include more than the traditional law enforcement interest. Although the potential for casino-related crime is extensive, and the police interest is therefore pervasive, the broad impact which the industry will have, especially as a result of any shortcomings or failures, necessitate regulatory oversight in such non-law enforcement areas as protection of the resident population from social dislocation, protection of hotel and casino patrons from a consumer viewpoint, adjudicating the rights of competing casino and non-casino interests, protection of state revenue from all legal gambling activity, guarding against unwise development, negative environmental results, and inequitable strains on public resources, and finally, assuring that the promised revitalization of the tourist and convention industries does in fact take place, and is permanent.

The staff policy group has incorporated these considerations in the findings described in this report. The group notes that the statement of public policy in the current draft of the bill must be expanded to accommodate and support the more comprehensive regulatory scheme suggested herein. Without diminishing the emphasis in the current

draft on keeping undesirable persons out of casino operations, we believe that the state's interest must be more thoroughly defined and any laissez-faire approach to the dynamics of the industry must be definitively rejected.

(See Appendix, p.

B. The Development of Atlantic City - State and Local Coordination -

Proponents of casino gambling offered three incentives for passage of the referendum. The first, and perhaps least heralded, was an increase in state revenue. The National Gambling Commission found casino gambling to be a poor revenue source, both in comparison to other gambling generated revenues and in comparison to general state needs. In New Jersey, the presence of other gambling industries and the State's reliance on the revenue they produce would require a balance of competing interests and would effectively preclude an all-out effort to raise substantial monies from casinos. Casino control is costly, and even if casinos became a major statewide industry, their contribution to the State's total fiscal needs would be meager. The staff policy group holds this incentive to be least significant for planning purposes.

The second motive, of general economic stimulation for the State, will undoubtedly come to some fruition regardless of the character of development in Atlantic City. The construction industry, tourist related service industries, and some supply industries may expect a modicum of stimulation with even the most modest casino model in place. Undoubtedly, the degree of improvement here will increase with success in Atlantic City, but the staff policy group feels that these impacts, while desirable and welcome, are too speculative to have a direct bearing on planning decisions.

The third incentive was that the casinos of Atlantic City would stimulate its convention, family resort and entertainment industries, and would do so by developing a character differing markedly from that of Las Vegas. Notwithstanding the general doubts of the National Gambling Commission on this score, the staff policy group believes that an excellent opportunity to fulfill this promise exists, and it is the most significant consideration for planning purposes.

Experience has shown that casino-related markets will support more than casinos, and indeed some will demand more. In England, it is the common complaint of managers and patrons that casinos are not permitted attendant entertainment facilities of even the most modest sort; in Nevada, where a casino/hotel complex experimented with "dark days" when certain entertainment was eliminated, the drop in hotel visitors and volume of business in the surrounding area was startling; in Spain, which is only considering legalized casinos, the very possibility prompted the construction of a beautiful hotel/casino/entertainment/marina complex, and the casino is still not operational.

The policy group has reviewed various market-demand analyses, which, in the absence of any identical model of Atlantic City elsewhere, vary widely according to their assumptions, methodology and the relative biases and naivete of the analyst. A precise, numerical market assessment is not necessary for purposes of this paper, and the policy group therefore refrains from a recapitulation and resolution

of the issue. It is prepared, however, to offer odds that most assessments it has seen, including those used at the time of the referendum, are quite low. The group has thus proceeded on the premise that, barring decisions which create a competitive disadvantage or fail to choose and cultivate the markets properly, the visitor demand can be high and can support virtually any casino development model in Atlantic City.

A similar flexibility is evident upon examination of alternative types of supply to meet those demands. Although the casino industry is unique, it is in no way homogeneous. Casinos vary greatly in size, mix of games, player rules, amenities, atmosphere and aesthetics, and one can find a casino to suit almost any taste, to cater to any market. The only common denominator which has revealed itself during this inquiry is that, when intelligently regulated, competently managed, of good reputation and free of serious crime, casinos are universally profitable. As such, they can support the development of ancillary facilities by attracting visitors, and by attracting and securing investment capital. The range of possible ancillary development is broad, and the choices are complex.

The staff policy group has been exposed to many intriguing possibilities for casino-related developments. The group is persuaded that, although alternative development schemes should be examined in the future, it is necessary first to keep faith with the basic incentive of the referendum,

the stimulation of convention, resort and entertainment industries, and it has sought to do so in recommendations it offers in this report.

The state's interest in these development questions is inescapable. For law enforcement purposes if no other, the state must control licensure and the terms of gaming. It thus controls supply and in some ways chooses the markets to be cultivated. Moreover, the state will share in the social impacts and the reputation - good or bad - which follow the introduction of casinos in Atlantic City. The local interest in development issues is likewise pervasive. With the exception of certain regulatory subjects related to casino operations which are preempted by state control, the city possesses broad zoning and planning powers which must be exercised in consonance with state powers according to a mutually agreed plan of development.

The staff policy group has recommended the first specific steps in development in the ensuing sections, and its choices have been relatively easy in light of the priorities set in the referendum. It is convinced, however, that an intelligent plan of city development, and casino development, must be put in place as early as possible to guide regulatory officials and to guard against undue expectations or the development of unusual pressures in the immediate future. We accordingly recommend that a Casino Policy Council be established as an adjunct to the Casino Control Commission. Composed of appropriate state and local officials, and citizen and industry representatives, it shall generally give

advice to the Governor and Legislature on casino policy, and more specifically, be directed to recommend a ten-year plan for casino development by the end of 1978. (See Appendix, P. 13)

In order to fully preserve its work product, the staff policy group wishes to record five general development guidelines which it believes to be sound and which underlie the group's recommendations:

1. Development must be geared to a year-round trade. Ancillary facilities must include sufficient indoor sports, entertainment and shopping facilities to draw the convention and resort trade from competing markets in this geographical region and climate year-round.

2. Development must be geared to the need to compete with other casino markets which may develop. Newport, Rhode Island, the Catskills, the Berkshires, Cape Cod, New York City, the Poconos, and Ocean City, Maryland are likely sources of competition, and as public opinion about gambling shifts, such competition is inevitable. Atlantic City can have a competitive edge if it develops repeat business from carefully selected markets during its initial solo years in this field, and it can only do so by securing its reputation as an excellent convention and resort center, and a safe city.

3. Development must be fashioned to encourage a diversity of investor interest and commitment, in order to achieve the stability and permanency of Atlantic City's revitalization, and avoid an over-concentration of economic power in a few hands.

4. Development must be accompanied by a slight departure from the principle of catering only to unstimulated gambling demand, but only to the extent necessary to attract convention and tourist trade from outside New Jersey. Contrary to some industry sentiment, cutthroat advertising campaigns and a gaudy physical presence are not necessary to success.

5. Development must assure the ready access of all New Jersey citizens to decent resort and entertainment facilities, and avoid a market development which results only in facilities so expensive as to be exclusive.

II. LICENSING

State gaming officials will have the responsibility of assuring insofar as possible and in both appearance and fact, the integrity of the gaming industry and the credibility of the State institutions established to regulate it. At the same time, they must oversee the growth of the industry as well as the economic well-being of Atlantic City and of the State as it relates to the casino industry. Perhaps the most important single facet of any regulatory scheme designed to accomplish these responsibilities is the comprehensiveness of its licensing provisions.

Licensing provisions are required in three areas: casino ownership, casino employees, and ancillary or support service industries. Each of these areas necessarily requires an examination of different considerations; however, several consistent policies underlie the licensing scheme contemplated.

A. General Principles

The staff policy group has studied alternative licensure schemes and has concluded that it is absolutely essential to the proper regulation of this industry that licensure be deemed a privilege and not a right. Likewise, the vitality of the licensing criteria depends on the availability of information pertaining to each applicant. Therefore, the burden of demonstrating qualification as to each eligibility criterion should lie with the applicant, and licensing authorities

should be empowered and required to deny an application where the applicant has failed to establish affirmatively that he qualified for the particular license.

(Appendix, p. 1)

The policy of placing the burden of proving qualification on the applicant, of course, does not negate the responsibility of independent investigation by the regulatory agency. However, the detailed information supplied by the applicant will facilitate such investigation. Moreover, negative verification of any material information supplied by the applicant necessarily should justify disqualification on that basis alone.

Since the burden of producing evidence and proving qualification lies with the applicant, the regulatory scheme must not only provide adequate notice of requirements for licensure, but also a guarantee of adequate notice of the specific deficiency that resulted in denial of the application. Furthermore, it must provide an opportunity to be heard. The notice requirements may give rise to problems of compromising information sources. However, application of the evidence rules of privilege should minimize difficulties in that regard.

The staff policy group has examined the notion of "conditional" licenses and recommends against it. Certificates of compliance will be available to assure that an applicant, his investors, and the public are noticed of the status of an application and the circumstances needed to perfect it.

Granting a license subject to the fulfillment of some future condition fractionalizes the state's regulatory leverage, gives an undue appearance of a vested right, and leaves an inference of negotiability which should be avoided. Moreover, adjudication of individual elements of licensure eligibility before the total capital requirements are in place automatically reduces the risk for one who would secretively alter circumstances which have already been reviewed. Most significantly, any conditional licensure which permits casino operations while major construction is in progress creates unparalleled criminal opportunities and unacceptable security and law enforcement problems.

B. Casino Ownership

The staff policy group believes the following general goals must be served by licensure in this area. Foremost, as noted, is the assurance of integrity within the gaming industry itself. Secondly, the licensing function should minimize economic dependence on the casino industry. Rather than dominate economic, social and ecological decisions, the industry should be considered as only a segment of a well-ordered economic and social plan for the State. Finally, the licensing mechanism should assure a healthy competitive climate within the gaming industry, and protect against an over-saturation of the market which could endanger proper economic growth. The

staff policy group recommends that these goals be enunciated as legislative findings and appropriately incorporated as licensing standards themselves. (Appendix, pp. 1 - 2)

The individual qualifications of each significant or controlling ownership interest as well as the suitability of the proposed casino complex must be reviewed in light of these goals, both at the time of licensure and on an on-going basis.

With respect to the suitability for ownership the staff policy group recommends that not only integrity factors, but also financial stability and necessary management competencies must be established. In a corporate context, controlling or potentially controlling interests must be subject to review and technical safeguards, such as mandatory corporate by-law provisions permitting the repurchase of transferred shares. Among other information bearing on the suitability of applicants, the licensing body must be apprised of: (1) prior arrests and convictions; (2) the reputations of applicants in the community as well as in other jurisdictions which permit gaming; (3) full disclosure of investors and others with a financial interest, as well as all banking and tax records; (4) full disclosure of financial arrangements made by the applicant for entry into the casino industry in Atlantic City; and, (5) full disclosure of professionals serving the applicants, and any clients served by the applicants. (See Appendix, p. 26ff.)

With respect to the suitability of the casino complex itself, the staff policy group believes that the integrity goal can be best served by complementing operational requirements with architectural and other security facilities and equipment requirements, to be detailed largely in regulations.

Service of the development and economic goals demands some analysis. Conventions are planned around: (1) the availability of adequate hotel and meeting space, and; (2) the availability of diversions desired by conventions. It is noted that two medium sized conventions could fill most quality hotel rooms in Atlantic City, and a large "national" convention (10,000+) could overbook the city and strain its eating and entertainment facilities. While there are no figures suggesting that conventioners are more likely to gamble than the general populace, national figures demonstrate that better educated, higher wage earners are more likely to appreciate what casinos have to offer, and are therefore a more likely convention trade. If so, one would expect both more of a demand for, and a greater ability to support, first-rate facilities than ever before.

The tourist market presents a muddier picture since it is demographically diverse and totally oriented to the type and cost of the diversions offered. It is quite clear, however, that casinos alone will not service these markets, particularly if family tourism (both overnighing and day-tripping) is the goal. Restaurants,

theaters, public sports facilities, exhibitions and museums, amusement and entertainment facilities will figure in the proper development of this market.

In the absence of a detailed development plan for Atlantic City, the staff policy group has focused on the question of what is the best first step for the state to take toward stimulating both the convention and tourist industries. It identified four alternatives: (a) an emphasis on medium to large hotel/casino/entertainment complexes; (b) an emphasis on small hotel/casino/entertainment complexes; (c) an emphasis on large non-hotel casino/entertainment and sports complexes; and; (d) various combinations of the foregoing.

Alternative (a) would best stimulate the convention market, and can go a long way toward servicing the tourist market. It does concentrate considerable economic power in few hands, a risk from several points of view, and initially, at least, would result in a rather uneven physical development of the city.

Alternative (b) does little to stimulate the convention and tourist markets, since the economies of scale do not permit small establishments to support extensive ancillary facilities. While the potential for the most tasteful and lucrative gaming operations (as well as the worst) are present in this alternative, as is the potential for the most even and enduring physical development of the city, standing alone it could put Atlantic City at a serious competitive disadvantage.

Alternative (c) does little for the convention market, although the possibilities are boundless and clearly a stimulus for tourism. Even in that respect, though, it is surely not a guarantee of repeat business or permanent economic recovery.

Various combinations of these alternatives have suggested highly desirable possibilities for long-term development, and they must be closely examined by the Casino Policy Council. There is little doubt, however, that the best first step toward the goals of the referendum, toward the capture of new investment dollars, and toward a permanent mooring against the tides of competition and urban decay, is an initial exclusive emphasis on medium to large hotel/casino/entertainment complexes, and the staff policy group so recommends.

To implement this emphasis, the staff policy group recommends a series of statutory minimums in number of hotel rooms, square footage of meeting or convention space, square footage of indoor entertainment, dining, and sports (exclusive of tennis) facilities, yielding permissible maximum casino size. Based upon its experience and data available to it, the group believes that the following numerical interrelationship between these four factors are reasonable and will assure a balance of facilities without limiting entrepreneurial imagination.

No. of rooms	Mtg. space Sq. Ft.	Dining, entertainment and indoor sports Sq. Ft.	Max. Casino space Sq. Ft.
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M I N I M U M S			
500	25,000	40,000	30,000
750	30,000	50,000	40,000
1,000	35,000	60,000	50,000
1,250	40,000	70,000	60,000
1,500	45,000	80,000	70,000
1,750	50,000	90,000	85,000
2,000	55,000	100,000	100,000

The staff policy group has examined the minimum square footage for hotel rooms in the pending legislation, and believes it to be conservatively small by modern standards but acceptable as a minimum. The group also has no objection to the proposed minimum of 15,000 square feet for casino size in view of the markets to be served, but notes that facilities of a smaller scale can be profitable. In addition, the group recommends that the state establish by rule architectural limitations on casino layout, including controls on multi-level, entrance design, and partitioning. In no event should a casino:

- a. violate space requirements regarding specific games. (See Games)
- b. violate space requirements regarding alcohol sales. (See Players)
- c. have exterior appurtenances or signs identifying it as a casino location.

- d. have street access which leads only to the casino.
- e. permit its interior to be visible from outside the building.
- f. count facilities which open only to the casino toward the total ancillary space required.
- g. partition in such a way that visibility between two areas, regardless of whether contiguous, is obstructed by more than 25%.

These physical restrictions are minimal and reasonable and serve several policy purposes: (a) and (b) are discussed elsewhere, (c), (d), (e), and (f) serve the principle of avoiding unnecessary stimulation of gambling instincts; (c) reduces the potential for competitive advertising which disturbs the aesthetics of the city; (d), (e), and (g) serve law enforcement purposes; (g) further eliminates the possibility that one casino may become two casinos.

Once the foregoing requirements have been met in their entirety, a license shall issue and shall be renewed annually upon a finding by the regulatory agency that the criteria continue to be met. Before a licensed casino opens to the public, it will be necessary to assure that its procedures and personnel in fact comply with legal requirements and stated house rules. Success in such mandatory "dry runs" to get the "bugs" out of the system, will result in the issuance of a certificate to operate. This procedure will raise public confidence during the initial operating periods, and assure investors that licensure will not be jeopardized by minor technical deficiencies.

The policy group has considered other problems associated with initial licensure, particularly in light of intense public interest which will focus on Atlantic City on opening day and in the immediately ensuing weeks. Given the competitive atmosphere noted above, and the likely need to accommodate many visitors to the city, adequate casino facilities must be available on opening day, and the industry must be encouraged to cooperate toward that end. Accordingly, the policy group recommends that no certificate to operate become effective until three casinos so qualify. On the basis of information available to it, the group believes that such a restriction will not delay, but will in fact accelerate opening day.

The staff policy group has considered statutory limitations on the total number of licenses to be issued. The large capital investment required for casino ownership will naturally limit the development possibilities, and the group believes that an arbitrary statutory limitation will serve little purpose in the initial years while adversely affecting the pool of potential owners and investors who may be attracted to the state. As an additional safeguard, however, the group recommends that licensing authorities have the responsibility to limit additional licensure on economic or public interest grounds as is done in other regulated

industries, such as banking.

The group has likewise considered the question of how many licenses should be issued to any one applicant, assuming the other statutory requirements would be separately met for each casino license. Given the closed competitive environment which will exist for casinos in Atlantic City and the general tendency of American casino management to "follow the leader," the group is concerned that the domination of the industry, particularly in the early years, by one or two entrepreneurs, will effectively deaden managerial imagination and more significantly, enhance the opportunities already inherent in a closed environment for anticompetitive mergers, acquisitions and economic pressures to develop. It is also incongruous for the state to be put in a position of authorizing multiple operations for a licensee when it has no experience with his performance. On the other hand, the state should not unreasonably limit development opportunity. Accordingly, the staff policy group recommends that (1) no more than three casino licenses be issued to any one entrepreneur, and no one may have a controlling interest in more than three licensees; (2) the second and third casino licenses may not be issued or a controlling interest therein acquired until the casino(s) authorized by the preceding licenses have been lawfully and continuously operated for a period of two years; and (3) the total square footages of the casinos authorized under the first two licenses so issued shall not exceed

100,000 square feet, and the total square footage of the casinos authorized under three licenses so issued shall not exceed 150,000 square feet

C. Employee Licensure

The staff policy group believes that all casino employees and certain auxiliary personnel be subjected to some form of licensing, with affirmative criteria set forth in the statute. (See Appendix, p. 3, 26ff.)

Generally, the following information concerning an applicant would be indispensable: (1) arrest and conviction record; (2) reputation within the community and in jurisdictions permitting gaming; and, (3) any relevant professional relationships into which the applicant has entered. Again, the statute must be specific in listing disqualifying criteria.

The form of licensure should depend upon the extent of scrutiny, which is determined by the responsibilities of the employment involved. For example, managerial personnel of casinos are key to the integrity of the industry, and exhibit a high mobility rate in the lower echelons. Such personnel, like owners, are in positions which are peculiarly vulnerable to improper influence and corruption. It is therefore recommended that casino management personnel be licensed based upon the same standards as are utilized to determine qualifications for ownership. The terms of employment contracts must also be scrutinized for reasonableness.

Another level of casino employment considered sensitive are those persons involved in the operation of the casino games, whether in supervisory or operating positions. Such persons, and others directly connected with gaming, such as equipment repairmen, credit collection employees, and junket managers and operators, are in high visibility positions in terms of public perception; therefore reasonable efforts must be made to eliminate, through licensure, employment of persons with suspect backgrounds in such positions. Again, the criteria to be utilized in the screening process should be similar to that for ownership and managerial positions with the exception of extensive financial investigation.

Another class of license should be required for other persons employed by the casino/hotel who are authorized access to the casino facilities, irrespective of operating hours, and would be evidenced by physical identification carried or worn at all times. Requirements for employment should include fingerprinting of all applicants, since the screening process should concentrate on examination of criminal history and other law enforcement data already accumulated, rather than independent investigation as with other, more sensitive levels of employment. A list of disqualifying offenses reasonably related to the character of the position and the nature of the industry are proposed. (See Appendix, p.

A third level of licensure should be required of all persons employed by the casino/hotel who do not have

access to the casino. Fingerprinting and physical identification should also be required, and disqualification would be predicated on a record check which shows no disqualifying offense under the standards contained in New Jersey's Rehabilitated Offenders Act (N.J.S.A. 2A:168A-1 et seq.).

The licensure apparatus must guard against the occasional industry practice of firing an employee for improper or illegal contact but providing good recommendations to a prospective employer. Without interfering with management's rights to discharge, an obligation to obtain and return a work permit on hiring and termination will enable licensing authorities to consider appropriate action when patterns of discharge occur.

Finally, the licensure scheme should assure a minimum level of competence on the part of all who are responsible for actual gaming. Competencies vary widely in this field, as do the procedures for the conduct of games. While the better houses attempt to enforce consistency among their dealers and assure basic skills through in-house training, their success is often marginal. Both casino patrons and law enforcement officers will be in a better position to detect deviations from proper procedures if they are consistent in every establishment. The staff policy group therefore recommends that standard "New Jersey procedures" be incorporated by regulation, in the rules of play, and that demonstrated competence in these procedures, by successful completion of an approved course at an accredited New Jersey school, or otherwise, be required for licensure.

D. Ancillary Industries

Casinos and their host facilities will be serviced, under contracts or on a need basis, by dozens of supporting industries. Gambling equipment must be manufactured, bought and repaired. Food and beverages must be procured, along with linens, toilet articles, vending products, and other room and business supplies. Janitorial and garbage services may be retained; promotional activities may be sought.

In varying degrees, relationships with these ancillary concerns can affect casino operations; and without state oversight, they can affect operations in most unhealthy ways. Denied direct association with casino ownership or management, unsavory persons will look to supporting industries as a way to influence casino finances. Exorbitant contracts might be negotiated, under market pressure or more direct threats. Or extra-contractual returns might be exacted as a cost of receiving essential services.

To anticipate and reduce these dangers, the policy committee recommends a three-tiered regulatory scheme. Any business offering a product or service which bears directly on activities in the playing area of a casino must be licensed, following a background investigation. Employees work directly with casino clients must themselves be licensed. Included in this most sensitive sector of the casino-service industry are gambling equipment manufacturers, suppliers and repair services, schools teaching gaming and either playing or dealing techniques, and casino security services.

Next, those industries which have continuing relationships with casino/hotels, i.e., regular suppliers, must register and names and addresses of all owners and employees filed.

Finally, one-time or job contractors will be excused from licensing or registration but will be required to file the terms and conditions of their casino-related employment with the Commission.

In all three instances, casino/hotels must file all contract documents defining their relationships with ancillary industries. Regulatory authorities should review these contracts under standards of reasonableness and where circumstances require, after appropriate hearings and findings, be empowered to disapprove further implementation of a contract. The contract review power is intended not only to prevent illicit or unsavory relationships, but also to alert state authorities to signs of economic concentration and dependence, thereby permitting corrective regulatory action to be taken. Moreover, where such concentrations pose a serious threat to a competitive market, action can be taken by state anti-trust officials.

III. GAMES AND PLAYERS

A. Games -

The Casino Gambling amendment to the State Constitution permits the legislature to authorize the establishment of "gambling houses or casinos" where "gambling games" may be conducted. In trade terms, "casino games" includes a great variety of card, dice, wheel, slot, bingo and carnival games which are found in various forms, mixes and playing odds around the world.

The range of permissible games will have a bearing on the image and atmosphere of Atlantic City and on the kind of players who are attracted to its casino establishments. Games which are easily rigged and are difficult to monitor generate disputes and ill will and should be avoided. Carnival games which attract boisterous play at long-shot odds are resented by players who seek a more sedate and gracious environment. In any case, the state has an interest in assuring that the games are operated honestly, that the rules and true odds are plainly disclosed and that the play is not contentious nor unconscionably one-sided.

That interest is best served by a definition of permissible games which embraces the traditional casino games of roulette, blackjack or twenty-one, craps, baccarat or punto banco, and slot machines. These games generate virtually all the profits of legal casinos in other jurisdictions. They are familiar to most players and to the law enforcement and professional accounting communities.

Side games, to the extent they are permitted at all, should only be countenanced where the odds are conscionable and the style of play consistent with the atmosphere and decor of a casino. The staff policy group believes that of all such games, only the "big six" wheel should be permitted, and then only two per casino.

The omission of certain games from this list deserves explanation. Chem-de-fer is very similar to baccarat and punto banco and they are often confused. Unlike the latter, however, chemin requires players to bid for the bank, and a player thus becomes the "house" against whom others play. The casino itself merely takes a "commission", and has a reduced incentive to assure the integrity of the play. The dangers of credit transactions and collusive arrangements between players is thus increased. Poker presents a similar situation. There has been increased play in the poker rooms at the larger Nevada casinos, and Atlantic City, it is contended, could expect similarly high interest. However, poker, like chemin, is intrinsically different from other casino games. It is played against other players instead of the house. It creates special monitoring problems, and it generates disputes between players. Since the nature of the demand for casino poker is not clear, it should be omitted from the list of permissible games at this time. Bingo and other bingo derivatives, such as keno, should also be omitted for the present, due to their current legalized presence elsewhere in our society. However, the

policy group notes that games such as keno can be slow paced and played in a gracious social setting with low stakes, and are therefore not inconsistent with the desired family atmosphere.

The rules of the games, including the standard New Jersey procedures for the conduct of the games, must be detailed in regulations set after public hearing. It is noted that the house advantage is a function of the rules of play, and the state has an interest in assuring that odds be fair and certain for player protection. As a matter of statutory mandate, the rules, procedures and odds should be appropriately posted and available to players on demand.

Slot machines present problems of control different from those of table games, so much so that many casinos have an entirely separate department responsible for them. Opportunities for tampering by both patrons and employees abound. The state has an interest in assuring that slots pay according to their stated odds and that the models in use provide the best available security for management and revenue collection purposes. At the same time, there should be statutory flexibility to take advantage of new technological advances and changes in market taste. The staff policy group recommends that minimum technical standards be set by rule, as in Nevada, and that laboratory examination, field testing, rules on odds and licensure of individual models be required.

The mix of games and their density is clearly a matter of state interest, since the atmosphere of a casino is very much dependent on these factors. The staff policy group has carefully examined mix and density in four jurisdictions, and recommends certain minimum guidelines which assure the representation of the traditional table games, eliminate the undesirable features of arcade-like "grind joints", and leave substantial flexibility for management creativity:

1. Slot machines, including minimum walkways, should occupy no more than 30% of the floor space in a casino of up to 50,000 square feet, and no more than 25% of the floor space in a larger casino. The permissible density of slot machines, depending upon the noise levels and other distracting aspects of the models in use, should be set by regulation.

2. The minimum available floor space for each table game should be set as follows:

Baccarat or Punto Banco -	300	Sq. Ft.
Blackjack or Twenty-one -	100	Sq. Ft.
Craps -	200	Sq. Ft.
Roulette -	150	Sq. Ft.
Big Six -	150	Sq. Ft.

3. Table games should be minimally represented on the floor as follows:

1 Baccarat or Punto Banco for every 25,000 sq. ft. or part thereof;

4 Blackjack or Twenty-one for every 10,000 sq. ft. or part thereof;

- 1 Craps for every 10,000 sq. ft. or part thereof;
- 1 Roulette for every 10,000 sq. ft. or part thereof;
- 2 Big Six wheels per casino, as noted.

B. Advertising

The policy group has examined advertising practices in various jurisdictions, which range from complete prohibitions to no restrictions at all. Where restricted, the underlying interests are the desire to avoid stimulation of gambling demand in the resident population or others, and the desire to avoid deceptive practices and preserve a modicum of good taste. The first interest is clearly inconsistent with the goals of New Jersey's referendum. The second interest is just as clearly applicable, and can be served without an absolute prohibition on advertising. The policy group recommends that media advertisements containing descriptive information about the casino be permitted (such as location, hours of operation, types of games and other amenities available) but that in no circumstance should such advertisements contain representations of the available odds ("Best slot odds in A.C.!",), size of casino ("world's largest!"), number of games ("1001 slots!"), or such other information proscribed by rule according to statutory standards of non-deceptiveness and social graciousness consistent with the atmosphere of a family resort.

C. Players -

Admission to casino establishments is restricted to some degree in virtually every legal gaming jurisdiction. Age limits are universal. In Puerto Rico and the Bahamas, local residents are refused entry. At Monte Carlo, tickets of admission are required. In England, prospective players must pay a "membership" fee and wait 48 hours before entering a gaming "club". The State of Nevada identifies certain undesirable persons and instructs its casino licensees to bar them. Dress codes vary from country to country and from casino to casino.

The staff policy group considered each of these player restrictions. It recommends statutory prohibitions against the admission of minors (under 18) and intoxicated persons. Neither possesses the judgment to function properly in a gambling establishment.

The policy group recommends against the mandatory imposition of entry or club fees. Admission charges are favored by some as a means to protect impulse gamblers and to keep the idle passer-by from casually entering a casino. The decision to gamble, it is argued, should be a considered one in which the dollar risk is weighed against the entertainment derived. That argument has obvious force where the gambling population is indigenous. In Atlantic City, though, the great portion of players will be non-city residents who have come with the decided intention of visiting a casino floor. For these players, a state imposed admission fee is

a nuisance charge. Unless it is exorbitant, it is not likely to deter playing. It will leave the players with less money to gamble and with less inclination to casino-hop and treat an evening in Atlantic City as an entertainment tour. In the policy group's judgment, the imposition of admission fees would have a negative effect on Atlantic City's tourist appeal without serving any clear state policy.

The group does, however, recommend the imposition of minimum dress requirements -- no bathing suits or barefeet. A stricter code in the elitist manner of some European resorts would not be desirable. But these basic dress standards, plus those required by management, distinguish gaming from boardwalk activities and help create an atmosphere of social graciousness which enhances Atlantic City's appeal to family vacationers and convention groups.

Another state concern in the area of player restrictions involves the exclusion or "blacklisting" of certain undesirable persons. In New Jersey, there is certain case law supporting the common law right of racetrack operators to exclude or eject patrons. That case law should be codified for the benefit of casino operators and the many decent people who will patronize the casinos. The state's interest, though, is in seeing that persons with certain criminal backgrounds and associations are barred by law from Atlantic City casinos.

Nevada statutes provide for the distribution of a state-prepared list of undesirables whom casinos are required to exclude. The scheme is under constitutional attack for its vagueness and its procedural defects; but application of

the police power, properly focused and exercised, is well recognized. The policy group recommends that a system of "undesirable" exclusion, based on carefully defined standards, be provided.

Casino jurisdictions are divided as to legal restrictions on serving and consuming alcohol in the gaming area. England forbids alcohol on the gaming floor, but permits it in readily adjacent, designated areas. In other locations, notably Nevada, alcohol is not only permitted, it is served throughout the playing pits -- not uncommonly, compliments of the house -- so players may continue to drink and gamble without break. For a number of reasons, the policy group recommends the English practice.

Confined to adjacent facilities, alcohol becomes an amenity which offers respite from gaming and places casinos in a larger social and entertainment context. Alcohol at the table is an inducement not merely to gamble uninterrupted, but to gamble with impaired judgment. The family vacationer or convention visitor is ill used when he is encouraged to build false confidence and abandon normal caution during an infrequent exposure to gaming. English casinos have prospered, both in receipts and in social appeal, without tableside alcohol. New Jersey casinos can and should do the same.

For the protection of players and as in recognition of the fact that casinos can be profitable without the use of fraud and deceptive inducement to play, the staff policy group recommends that the use of skills be strictly prohibited.

Finally, the staff policy group has carefully considered limitations on operating hours. Almost all jurisdictions impose "dark times" when play must cease. These "dark times" occur when play is at a minimum and no social advantage is gained by permitting casino operations. Without them, the state would encourage the worst aspects of casino gambling, a honky-tonk, "wide-open" atmosphere and player gambling with reduced capacity. In jurisdictions which permit 24 hour gambling, law enforcement problems, particularly with predatory crime, mount.

The policy group therefore recommends that casinos be permitted to operate for a total of 112 hours per week (16 per day x 7); that mandatory dark times be 4 a.m. to 12 noon, Monday through Friday, and 8 a.m. to 12 noon on Saturday, Sunday and holidays; that a casino be permitted to take advantage of the longer weekend and holiday hours, in management's discretion, by setting later opening times and/or earlier closing times during the weekdays; and that casino operations must notify and secure approval of their schedules from gaming authorities three months in advance. The policy group believes these operating hours will permit generous casino profits, leave management an appropriate flexibility, and avoid disastrous social consequences.

IV. CREDIT AND COMPLIMENTARIES

A. Credit -

Casino-conferred gambling credit has conflicting aspects. Freely available, it can discourage players from carrying large and inviting amounts of cash. It may also discourage them from patronizing loansharks or other illicit money sources. At the same time, credit can lead to skimming and employee embezzlement and a variety of collection abuses. Undeniably, credit increases the house handle and potential profit, although it is clear that a reasonable profit can be made without it. Also undeniable is the pernicious effect ready credit can have on the compulsive or imprudent player.

The policy group examined alternative credit arrangements, assessing the potential impact of each on casino revenues, loansharking, internal controls, and player conduct. Its conclusion is that a system of check-cashing within verified credit limits would accommodate the legitimate interests of both casinos and players and would minimize some of the troubling features of open or "marker" credit.

A cash-only limitation would reduce skimming and facilitate accounting and tax control. It would also provide comfort to pickpockets, muggers, and loansharks. It would frustrate the commendable desire of players, particularly those in driving range of Atlantic City who may come on the spur-of-the-moment, to travel without cash. Worst of all, a cash-only policy could scare off investors in Atlantic City -- investors who are understandably concerned with the City's competitive prospects.

A house credit system, whether limited to "commercially reasonable" lines of credit or left to management discretion, carries the potential for employee abuse and player calamity. The Atlantic City vacationer who is invited to gamble with future income is being urged to gamble imprudently. In the heat of the moment, when he is anxious to win back his lost cash stake, access to a credit marker can seem like easy money -- a loan that's not really a loan since the next card or dice roll will square it. Besides, settlement of a marker can always be worked out, sometime in the future. Too often, law enforcement officials report, it is worked out by employee embezzlement and worse. The Vacation Capital of the World can well avoid association with unrestricted gambling credit.

Check cashing for casino patrons, with deposit required two business days after drawing, would serve players who wish to gamble beyond their immediate cash resources. They would be dealing in a familiar transaction with consequences which are predictable and certain. For all but the most compulsive players, the use of a currently dated personal check, or a counter check made negotiable with the player's bank information, should bring a more careful, considered decision on whether to gamble beyond cash on hand. In England, where casinos attract both local players and high-rolling visitors, check-cashing has functioned to the satisfaction of players and to the profit of owners. It should function as well in Atlantic City. Contrary to the English restrictions, the policy group recommends that patrons be permitted to con-

solidate several checks into one, and redeem their checks at any time prior to deposit by the casino.

Checks should be honored up to limits established after a bona fide credit check, including inquiry into whether checks are outstanding at other casinos. Properly endorsed, the checks should be enforceable in courts of appropriate jurisdiction. The policy group considered retaining the historic prohibition against the enforcement of gambling debts, but concluded that the creation of a second-rate class of checks would confuse casino patrons and undermine the state's efforts to prevent imprudent gambling.

Procedures for the collection of "bounced" checks must be filed with state gaming authorities and rigorously adhered to. Collections in-state or out-of-state must be made only by employees or agents of the casino approved by the state for that purpose, and not by independent contractors working on a discount or commission basis. Checks received by the licensee in either the casino or the hotel may only be endorsed for deposit in a licensed banking institution. Finally, employees of the casino/hotel are prohibited from personally cashing patron's checks.

B. Junket Activities and other Complimentaries -

A junket is an arrangement whereby a group of people are induced to visit and gamble some specified minimum amount at a casino establishment in exchange for free or reduced-price accommodations. Junkets are a well established feature of casino operations in Nevada and certain Caribbean jurisdictions. They account for a significant portion of casino business. Estimates are imprecise, but some of the major "strip" establishments in Las Vegas trace a reported 20% of handle to junketeers. Some estimates run higher.

Typically, junket operations involve major extensions of credit. The operator or "junket representative" negotiates an agreement covering the complimentary services, the wagering commitments, and credit terms -- including collection procedures. At least occasionally, these arrangements are abused. Unscrupulous junket operators misrepresent the quality of complimentary services, or they manipulate credit terms to their advantage or to the gain of junketeer confederates. In some instances, junkets have been used by organized crime groups to swindle unsuspecting casinos. Collection practices have been extortionate or worse.

The need for rigorous regulation of junket operations -- to protect junketeers, host facilities, and the reputation of the resort community -- has been long recognized in Nevada. By eliminating "marker" credit, New Jersey removes a troubling aspect of junket activity. But it should go further and require licensing of junket operators, full written dis-

closure of junket terms to all parties, prefiling of the names of junketeers and conditions of the junket, and bonding by junket operators to the benefit of parties damaged by unlawful operator conduct.

Junket operators, who will be representing a reconstructed Atlantic City to potential visitors around the world, should be subject to the same licensing standards applied to other casino employees, and indeed, should be legally considered the casino's agent. State authorities must be authorized to require disclosure of the terms of the junket operator's employment and the terms of each proposed junket. A violation of the rules on disclosure or conduct of junkets should subject the operator (or casino licensee) to an order of restitution or to possible license suspension or revocation.

The state's interest in disclosure and regulation extends beyond the narrow definition of junkets to include all situations in which complimentary services are bestowed for a quid pro quo. Only licensed employees should be permitted to bargain for commitments to play, and the terms of all such arrangements -- whether or not they involve travel and regardless of the number of players involved -- must be disclosed. All such transactions carry the potential for disputes and player complaints, and revenue skim. They should be consummated only within guidelines set by rule,

The policy group also examined the practice, common at casinos almost everywhere, of employees offering

complimentaries to heavy or regular players. Typically, a pit boss will confer amenities ranging from drinks to dinner or show tickets or even room accommodations to a player, especially a loser, who is betting heavily or is new to the casino. No gambling commitment is asked and none given. The largesse is intended simply to win over the player's continuing business. At a major Las Vegas casino, the value of such "comps" may run into thousands of dollars nightly.

The policy group concluded that the dispensing of complimentaries -- so long as they are truly complimentary -- was properly within the discretion of casino management. When quid pro quos are asked or given, though, the transaction falls within the regulatory scope of the state.

V. INTERNAL CONTROLS

The peculiarity of casino operation causes significant problems in accurately accounting for revenue and in establishing audit controls to prevent and to detect theft by casino management, employees or patrons. Effective internal controls are particularly necessary with respect to the receipt, exchange and transfer of cash, checks and gaming chips, and in supervising the conduct of employees and management.

A. Operating Standards

The casino industry is, by its nature, a cash business. There is no record of patrons' chip purchases, of each gaming event, or of each win or loss. Rather, the casino and the state must rely on the daily aggregate amount of cash and checks collected by the gaming tables (and other games) and the aggregate amount of chips remaining at the respective table, in order to determine gross revenue, profit and loss. In relying upon aggregate amounts, the accuracy of tabulation is directly dependent upon proper handling of cash, checks and gaming chips. If the dispersal, collection or transfer of cash, checks or chips is inaccurate, fraudulent or improper, the aggregate amounts reaching the counting process will be inaccurate. Similarly, if the counting process is inaccurate or fraudulent, the revenue reported will be misleading.

There are innumerable schemes, quite apart from negligent handling, that compound the difficulty of accurately

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assessing the revenue aspect of casino operation. Among them are the cash skim, i.e. removing money before it is recorded as income; the recorded credit skim, i.e. the substitution of cash for a higher value check so that the receivable is not recorded in income; the unrecorded credit skim, where a receivable is simply not recorded in income; false fills, where a fill of cash or chips is recorded without the occurrence of the stated transaction; unrecorded collections, where receivable payments are not remitted and later written off as bad debts; advances to fictitious players, where monies are divided among the parties involved and later written off as bad debts; the use of fictitious winners in collusion with casino employees; and the payment of kickbacks by various devices.

Unlike many other types of unlawful conduct, however, it is extremely difficult to detect many forms of skimming and embezzlement after the illegal act has taken place. As a practical matter, if such activity is to be controlled, it must be prevented before occurrence or those engaged in such criminality must be caught in the act.

The State's interest in this regard is clear. If the State is to tax either the gross or net profit of a casino, it is imperative that the State also mandate sufficient controls to assure that the revenue reported is accurate. Since the diversion of monies prior to recordation of gross revenue can occur readily and in large amounts, the revenue derived by the State through the taxation of gross or net

profit also will be depleted substantially by such illegal activity. Aside from its revenue interest, the state has an obligation to protect the integrity of the casino operations from unlawful diversion of revenue. The success of casino operations, and of the revitalization of Atlantic City, depends to no small degree on the confidence which the public has in the integrity of the casinos operating there. If skimming operations are permitted to go unchecked by adequate state controls, the public may well view the entire casino system as dishonest. Moreover, financial dishonesty in the industry spills over into other areas, and reflects adversely on the integrity of the state in failing to provide adequate controls over unlawful activities. Therefore, the staff policy group recommends that the control legislation established minimum standards for security systems and internal control procedures.

Most systems in operation in casinos of the size contemplated in Atlantic City involve surveillance, both through concealed physical observation and closed circuit television. Through the television system, monitors can be placed in strategic locations throughout the casino structure, including the gaming area, the cashier's cage and the count room. Apart from the value of such surveillance systems as investigative and evidence gathering devices, a psychological deterrent to improper conduct exists since casino employes never know when they are under observation. In order to best facilitate control through electronic video systems,

it is recommended that casinos possess monitoring capabilities for the state's use, in a centralized location.

The best security systems reviewed by the staff policy group also include extensive internal controls primarily based upon division of responsibility among employees and departments. By making two or more employees or departments responsible for each significant casino transaction, including the requirement of written verification, a system of internal checks and balances is established where each party to the transaction monitors the other persons involved. In short, impropriety is infinitely more difficult absent extensive, interdisciplinary collusion. These internal management controls should be established in each phase of the casinos operation, and be subject to approval and surveillance by the regulatory agency as to adequacy and as to compliance with the minimum standards established.

The personnel structure inside the casino must be designed to create an elaborate system of employee checks and balances. Such a system will better assure propriety in the flow of cash and chips, and that the conduct of each employee will be in accordance with the casino's policies and the laws governing casino gambling. The personnel structure also serves as a basis for more specific internal, standardized "paper" controls. When tied to these "paper" controls, a significant check on individual employee or patron conduct is provided. Although each casino's personnel structure need not mirror another, it must, to be adequate, provide for primary and secondary supervisory

positions to oversee the activities at the tables and slot machines, the cashier's cage and the count room. These supervisory positions must also be established so that their area of responsibility is not so extensive as to be impractical for a person to monitor. Therefore, the personnel system adopted by a casino must provide a practical as well as theoretical control for the operations of that casino. This can be accomplished by requiring testing and approval of personnel and security systems adopted by the casinos based upon minimum standards established by legislation and regulation.

There are, in addition, several critical transactions occurring in the casino that must be rigidly controlled through establishment of standard procedures. These areas include the collection of monies at the gaming tables (drop boxes); the transfer of chips from the cashier's cage to the gaming tables; the transfer of chips from the gaming tables to the cashier's cage; the cashing of checks for casino patrons; the payment of slot machine jackpots; the transfer of drop boxes from the gaming tables to the count room, and the counting and recordation of the contents of drop boxes in the count room. The specific minimum standards necessary to control these transactions can be, as well, particularized by legislation and regulation.

B. Employee Conduct

The staff policy group has examined various problems in the area of the welfare and control of casino employees. While the licensure and operating controls will go a long way toward assuring employee integrity, those who work in casinos are subject to tremendous crime incentives and pressures, and instances of employee drug dependence, compulsive gambling, and consequent cheating, loansharking, drug dealing and other criminal involvement are not uncommon. Further difficulties are encountered when external pressures are used to place corrupt individuals in casino employment, or for other extortionate schemes during both construction and operation of casino/hotels. The state's interest is two-fold: (1) protecting its citizen employees from such pressures, and (2) maintaining the integrity and tastefulness of its gaming. Intelligence reports from both Nevada and New Jersey give plain indication that these problems will be faced here, and the staff policy group has searched widely for tools to deal with them.

Where permitted, tipping of gaming employees by patrons has been characterized as an incentive to favoritism and an impediment to employee concentration at best; at worst, tipping is an open invitation to collusion and criminality. Unrestricted, tips and other gifts constitute a substantial financial hold on employees and create a public perception that improper services or arrangements can be bought in a casino. The policy group strongly recommends a prohibition on tipping.

Some jurisdictions exclude their entire resident population, and thus their casino work force, from gambling at any casino. Almost all casinos prohibit employee gambling at the employer's casino, and place certain other establishments off-limits. The opportunities for collusion among a highly mobile group of employees with skill and inside knowledge of casino operations is too great to tolerate, and an absolute bar on casino gambling by gaming employees in this jurisdiction is recommended.

Many jurisdictions require submission to a polygraph, when ordered and conducted by state authorities (not the employer), as a condition of licensure. A necessary investigatory tool as well as a deterrent, this provision is recommended for New Jersey.

Both legally recognized and unrecognized employee organizations have been reported to be a source of corruption in other jurisdictions. Without interfering with legally protected organizational or bargaining activities, the state must assure that these activities are conducted by individuals of integrity. The policy group recommends a provision similar to that in the New Jersey Waterfront Commission Act, prohibiting any union or its affiliates from receiving dues from casino/ hotel employees, or administering pension or welfare funds for such employees, if any officer, agent or employee of the union has been convicted of a crime of moral turpitude or otherwise cannot meet the integrity standards for licensure of the employees they represent. Given their

fiduciary obligations and conflicts of interest potential inherent in the situation, such unions, their affiliates, and their officers and agents who are not otherwise employed in a casino/hotel should be prohibited from holding a financial interest in casino/hotel whose employees they represent. This restriction would not preclude casino/hotel employees from participating in a profit-sharing plan.

In order to foster stability in the labor market and further assure an industry commitment to the quality of life here, the policy group recommends that all casino/hotel employees, including management, be required to maintain their principle residence in New Jersey. Finally, the policy group endorses affirmative action requirements similar to those contained in the pending legislation.

VI. ENFORCEMENT AGENCIES

A. State Enforcement -

The varied controls on the gaming industry which are required must, of necessity, be supervised by a regulatory agency whose structure is calculated to accomplish the legislative policies declared. In considering the various alternatives available, each must be judged on the basis of economy of resources, prevention of corrupting influences and efficiency of form. Most important, however, is the selection of the regulatory structure most likely to preserve the interests of the state while developing a successful gaming industry.

The responsibilities of the regulatory agency properly include the screening of license applicants, both potential casino operators and their employees, as well as registration and supervision of ancillary services and support industries. Regulations should be promulgated by an agency dedicated to developing expertise in the gaming field. Fact-finding will be necessary, both in terms of licensure and disqualification, and enforcement of regulatory provisions. Research has disclosed unanimity in all jurisdictions for which information was available in the conclusion that the primary regulatory and adjudicatory process be administrative in nature. The policy group concurs in that conclusion. In sum, an effective regulatory scheme must include an over-seeing body with a developed expertise of the gaming industry, and with the responsibility of securing the social and state

interests which stand in potential conflict with those of the private gaming entrepreneur.

These quasi-legislative and quasi-judicial responsibilities inexorably lead to a corollary responsibility, that is to assure the availability of that information necessary to fulfill these functions. Investigative activities, both in the licensure and regulatory areas, will inevitably produce disagreement as to the application of the facts accumulated to the legal standards established. Industry interests will, of course, advocate their views before the regulatory agency.

After making the threshold determination that the advocacy phase should, in the first instance, be presented to an administrative agency rather than the courts, the staff policy group considered various alternatives to agency structure, ranging from a totally independent Commission with a self-employed police force, to utilization of an existing police agency with staff regulatory and adjudicatory functions. In both extremes noted, a single agency would be charged with investigation and enforcement, and simultaneously with licensure and regulatory decision-making authority. In effect, a single agency would dictate the scope of an investigation, decide the action to be taken, determine what facts are to be presented, and reach a conclusion on the basis of those facts. Such a concentration of authority in an area as sensitive as casino gaming control is, in short, dangerous. The danger lies not in the possible abuse of administrative due process, but in the absence

of any check or balance to the authority of the regulatory agency.

The importance of checks and balances through efficient division of responsibilities cannot be minimized. The likelihood of mistake or misjudgment is minimized. Corruption of the process is infinitely more difficult. Nor does division of authority necessarily result in resource wasting or inefficiency. A definitive, legislative outline of responsibility could effectively alleviate problems in this regard.

In reaching the conclusion that there should exist a division of responsibility, and in selecting the model considered most appropriate to the responsibilities involved, the policy group has placed significance upon the historical value of the adversary system, including the value of judicial review of administrative judgments which are arguably adverse to the state's interest. Thus it recommends that the quasi-legislative and quasi-judicial functions associated with the administrative gaming control process be stationed in an independent body created specially for such purposes. The enforcement responsibility, that is, the investigative and advocacy functions, should be placed under the direct authority of the Attorney General and be exercised through a Division dedicated to these responsibilities. In placing the enforcement authority in the Attorney General, this group is mindful of the resources of the Department of Law and Public Safety, and the necessity for coordinated use of those resources. Equally important, the proposed enforcement

structure would alleviate the difficulties experienced by interagency law enforcement in terms of information sharing and resource conservation. In the policy group's view, a coordinated enforcement effort will be the foundation of a well-ordered regulatory scheme. Without a unified structure under the Attorney General, under whose jurisdiction all law enforcement agencies fall, the availability of intelligence information, particularly important to the licensing function, may be curtailed. The enforcement function should not be separated from the existing law enforcement community.

On this basis, the staff policy group recommends the creation of a commission "in but not of" the Department of the Treasury whose members are appointed by the Governor for a definite term of five years, subject to removal on grounds similar to those in force for judicial removal. The Commission should be composed of five members with its full-time Chairman designated as its chief executive officer. Each member of the Commission, and all employees, must be subject to the state's conflicts of interest laws, and stringent pre-and-post employment restrictions. The Commission employees, other than the clerical staff, should serve at the pleasure of the Commission. The agency itself should be subject to the "Open Meetings Act". Its functions should be expressly defined by statute to be within the realm of quasi-legislative and quasi-judicial responsibilities. (See Appendix, p. 7ff.)

The Division of Gaming Enforcement should likewise be created by statute within the Attorney General's office, and affirmatively charged with the responsibility of conducting all background and other investigations, of presenting the results of such activities to the Commission, and when appropriate, advocating denial or disqualification of an application or prosecuting violations of the Act and of Commission regulations. (See Appendix, p.9ff.)

The balance struck between the authority of the Commission and the enforcement responsibility of the Attorney General is constructive. The advocacy role envisioned for the Division of Gaming Enforcement should better assure that the social policies and legislative goals are implemented by providing a check on the authority of the Commission. At the same time, the independent nature of the Commission should ensure that there is an objective review of all matters involving casino gambling according to the standards created by the legislature.

B. Sanctions -

The ideal enforcement scheme must include complementary sets of civil and criminal penalties. Undeniably, criminal sanctions are essential for effective regulation of the casino gambling industry. Strong enforcement of the criminal law will insure the integrity and credibility of the industry by deterring the influence of organized crime, racketeering or corrupt practices which may intrude on the industry. However, effective enforcement of the criminal laws applicable to the gaming industry is dependent upon a set of criminal sanctions which is devised to anticipate the type of illicit activities peculiar to the gaming industry. Five areas have been identified which will require criminal sanctions: casino licensee, casino employees, general public, organized crime and official corruption.

One aim, however, is to avoid the enactment of criminal legislation which will overlap, duplicate or contravene present law. Generally, the extant penal statutes, plus new legislation focusing upon the specific offense related to casino gambling, will be sufficiently responsive to the illegal activity which can be generated by casino gambling. Furthermore, although criminal sanctions should act as the ultimate deterrent, it is the opinion of the policy group that sanctions imposed for conduct violative of the regulations governing casino gaming should avoid over-criminalization. Not only would classification of certain offenses as high

misdemeanors constitute unduly harsh treatment but also would be inconsistent with the current trend in classification of offenses articulated in the proposed penal code.

The policy group does not believe that effective enforcement of the regulations governing casino gaming is solely a function of criminal sanctions. To the contrary, it endorses the concept of a strong scheme of civil sanctions, because of the speed of determination and the informality of the proceedings. As a threshold matter, the body which issues licenses and regulations governing the industry, rather than the courts, should have the power to enforce its regulations. The Commission's enforcement powers should be broad-based; the powers should cover the spectrum of available remedies from letters of censure and reprimand to monetary penalties to license revocation. Furthermore, the statute should clearly state that the Commission shall be vested with wide discretion regarding enforcement of the Casino Control Act. Of paramount importance is a need for flexible civil sanctions. The Commission should be clearly empowered to devise the remedy best suited to the offense. To this end, there should be emphasis on alternative or cumulative sanctions. Unquestionably, the Commission should be empowered to issue and enforce cease and desist orders, and letters of censure or reprimand. Regarding monetary penalties, the Commission should be empowered to impose a range of fines; however, it must be emphasized that penalties must be of sufficient magnitude to eliminate the possibility that a

penalty becomes simply a cost of doing business in this State. Furthermore, the Commission should be empowered to levy a monetary fine in lieu of more drastic action. A monetary penalty of sufficient magnitude would provide the desired deterrent effect and should also provide a stimulus for efficient completion of any disciplinary proceedings. The policy group recommends that casino licensees be subject to penalties of up to \$100,000 per violation and other licenses be subject to penalties of up to \$25,000. The Commission should also be vested with the authority to order restitution in appropriate cases, e.g. junket operations. The Commission's authority to suspend, revoke or limit a work permit or a certificate to operate should be broad. For example, the Commission should be authorized to suspend play at a table or group of tables for a designated period, or to confiscate suspect gaming equipment. Furthermore, the Commission must be vested with clear authority to respond to emergent situations which threaten the integrity of the industry. Thus, it is imperative that the Commission be empowered to order summary suspension of a certificate to operate in appropriate circumstances. Finally, the Commission must be empowered to revoke a license permanently. This ultimate sanction, which normally results in a change of ownership and management with little or no interruption in the operation of a hotel and ancillary facilities, has been used by other jurisdictions, and its availability is deemed absolutely essential.

In summary, the policy group notes that even the best controls will fail unless supported by this comprehensive scheme of criminal and civil sanctions.

C. State/Local Coordination -

In recommending that a comprehensive legislative and regulatory system be devised to implement the public policies recognized as vital in casino gaming, the staff policy group has been sensitive to the spectrum of local interests and concerns, and feels that certain areas of regulatory overlap must be explicitly addressed.

The construction of hotels with casino, the alteration of existing hotels to create casinos and the maintenance of food service establishments in the casino/hotel operation are subject to regulation in a number of areas. Although many of the regulations impose state-wide standards, enforcement is primarily delegated to local authorities. These areas include pre-construction approvals, such as site plan, subdivision and zoning approvals, police and fire protection, health and safety inspections and enforcement, consumption and distribution of alcoholic beverages. It is recognized that the local authorities have a valid interest in the appearance and composition of their city. Similarly, many of the regulatory efforts undertaken by local authorities involve matters which have traditionally devolved on the municipality, e.g. police and fire protection. On the other hand, the state has certain overriding interests which require that local regulation does not compromise exclusive state concerns such as the integrity of the games,

the decorum of the gaming establishments and the law enforcement objectives.

These interests are best served by continuing, except in certain areas, the jurisdiction of local authorities in areas which involve casino and non-casino establishments to the same degree on the condition that local regulation cannot modify or eliminate requirements deemed necessary by the Casino Control Commission. For example, local authorities should have no power to revise architectural requirements imposed by casino gaming authorities in the interest of effective law enforcement. The Casino Control Act should therefore be preemptive in all areas it touches.

The issue of consumption and distribution of alcoholic beverages, however, requires separate treatment. Pursuant to the laws governing the liquor industry, municipal authorities are authorized to issue and continue licenses to distribute alcoholic beverages, subject to state supervision and appeals. However, as noted, the policy group feels that the use of alcohol in and around a casino will have a demonstrable affect on the atmosphere of a gaming establishment. Any decision regarding the use of alcohol on casino/hotel premises is directly related to the conduct of gaming within the State; as such, it is a matter of state concern which dictates that municipal authority over issuance and continuance of liquor licenses in casino/hotel establishments be preempted and that exclusive authority concerning such licenses be vested in the state casino gaming authorities.

In a similar vein, on-site enforcement responsibility in the casino itself, and in facilities or offices wherein functions or operations regulated under the casino act, must be vested in the Division of Gaming Enforcement and its agents, since the state interests underlying these regulations are clear and unequivocal.

An area of considerable state concern which must be left to local police authorities is the problem of street crime, and the policy group wishes to emphasize the need for support of local police efforts to combat it. Statistical data from Federal and State crime reports comparing Las Vegas with Philadelphia, Asbury Park/Long Branch and Atlantic City show that Las Vegas has a significantly higher rate of street crime, especially in the specific crimes of hotel room burglary, automobile larceny, automobile burglary, pick-pocketing, muggings, trafficking in narcotics substances, prostitution, armed robbery, possession of dangerous weapons, rape and murder.

Although crime rates have limited application, their primary drawback being a tendency to distort the picture in resort areas because they are based on a smaller, permanent residential population, it is clear that casino gambling is a direct casual factor in Las Vegas' disproportionately high incidence of street crime. Casinos in effect draw together all the classical components for large scale increases in these activities - a large transient tourist population, a permissive social environment, accelerated commercial activity, large amounts of loose money in circulation and an influx of

a large number of persons attracted to such an atmosphere for criminal purposes.

Included in the licensing proposal is a review of the architectural design of the proposed casino model from a law enforcement perspective for the purpose of controlling predatory crime, as well as employee misconduct. This review will undoubtedly result in such regulatory mandates as installation of burglar proof locks and night latch in all hotel rooms, valet parking, and adequate lighting of the outer premises including the parking facilities.

The policy group encountered evidence that the criminal element preys on victims who are carrying large sums of cash or leave valuables in their hotel rooms in other casino locations. While some casinos provide certain services for the protection of their patrons, it is not normally a requirement that the casinos provide this service. The policy group has concluded that subject to specific regulatory standards, legislation should mandate that all casino/hotels provide the service of issuing checks for winnings upon customer request, and provide facilities for safekeeping of customer's valuables. Appropriate signs should be displayed at the registration desk and the casino cage alerting the patron of these available services. The policy group also recommends that, in addition to licensure, the Commission approve the private security organizational structure and operation so that adequate surveillance is maintained in both the hotel and casino twenty-four hours daily to insure the

utmost protection of the guests and the public.

These measures alone will not solve the problem of predatory crime. The policy group urges that local officials continue planning already begun for a high police visibility and rigorous enforcement policy. By securing its streets, Atlantic City will better secure its development goals and its reputation as a thoroughly safe, thoroughly enjoyable family entertainment resort.