

**Introduced by Senator Wright**December 8, 2010

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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.

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

9 19990.03. It is the intent of the Legislature to create a  
10 contractual framework to:

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

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

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

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

34 (2) If the Legislature statutorily approves the new contract terms  
35 and conditions related to the rights and obligations of the hub  
36 operators, the existing hub operators may continue in partnership  
37 with the state. If the existing hub operators decline to accept the  
38 new terms and conditions, the department may commence a new  
39 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.



1 19990.27. In the event that the Legislature authorizes the  
2 department to issue an RFP for an additional hub operator or hub  
3 operators, the department shall solicit proposals from new hub  
4 applicants to enter into a contract with the state for \_\_\_\_-year  
5 terms. In establishing scoring parameters for evaluation of all the  
6 proposals and what weight should be given to the specific elements  
7 within each hub applicant's proposal, the department's selection  
8 criteria shall be consistent with this chapter and any amendments  
9 to this chapter.

10 19990.28. At least one year prior to the expiration of a hub  
11 operator's contract with the state issued pursuant to Section  
12 19990.26, or as a result of the RFP process established pursuant  
13 to Section 19990.27, the department shall issue an RFP to solicit  
14 proposals from hub applicants to enter into a contract with the state  
15 for a 15-year term. In establishing scoring parameters for evaluation  
16 of all the proposals and what weight should be given to the specific  
17 elements within each hub applicant's proposal, the department's  
18 selection criteria shall give preference to proposals from an existing  
19 hub operator in compliance with its contractual obligations.

20

21 Article 5. Rights and Obligations of a Hub Operator

22

23 19990.30. A hub operator shall comply with the terms of its  
24 contract with the state.

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

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

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

36 (d) In the event of commercial infeasibility created by a change  
37 in federal law rendering the provision of intrastate Internet gaming  
38 services illegal or some other event, a hub operator may abandon  
39 its contract after providing the department with 90 days advance  
40 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.

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

9 19990.32. The hub operator shall be responsible for providing  
10 current and accurate documentation on a timely basis to all state  
11 agencies as provided in this chapter.

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

17 (b) The confidentiality provisions of this chapter exempt  
18 proprietary information supplied by a hub operator to a state agency  
19 from public disclosure consistent with subdivision (b) of Section  
20 6253 of the Government Code.

21 19990.33. (a) Changes in ownership in the hub operator shall  
22 be approved by the commission prior to the closing of any proposed  
23 transaction.

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

32 19990.34. All facilities, software, including downloadable  
33 programs, and any and all other property, both tangible and  
34 intangible, used by the hub operator in offering authorized games  
35 shall be the property of a hub operator or its subcontractors, and  
36 shall be approved by the department.

37 19990.35. A hub operator shall ensure that registered players  
38 are eligible to play authorized games and implement appropriate  
39 data security standards to prevent access by a person whose age  
40 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.

- 1 (4) The department may assess civil penalties against a person  
2 that violates this section, according to the following schedule:
- 3 (A) Not less than one thousand dollars (\$1,000) and not more  
4 than two thousand dollars (\$2,000) for the first violation.
- 5 (B) Not less than two thousand five hundred dollars (\$2,500)  
6 and not more than three thousand five hundred dollars (\$3,500)  
7 for the second violation.
- 8 (C) Not less than four thousand dollars (\$4,000) and not more  
9 than five thousand dollars (\$5,000) for the third violation.
- 10 (D) Not less than five thousand five hundred dollars (\$5,500)  
11 and not more than six thousand five hundred dollars (\$6,500) for  
12 the fourth violation.
- 13 (E) Ten thousand dollars (\$10,000) for a fifth or subsequent  
14 violation.
- 15 (c) The commission shall, by regulation, provide a process for  
16 a hub operator to exclude from play any person who has filled out  
17 an Online Self-Exclusion Form.
- 18 (1) The commission shall develop an Online Self-Exclusion  
19 Form and deliver it to the department within six months of the  
20 effective date of this chapter.
- 21 (2) The department shall deliver the form to each hub operator.
- 22 (3) A hub operator shall prominently display a link to the  
23 commission's Responsible Gaming site and the Online  
24 Self-Exclusion Form on the Web page that is displayed when either  
25 of the following apply:
- 26 (A) A person registers as a registered player.
- 27 (B) Each time a registered player accesses the Web site of the  
28 hub prior to playing.
- 29 (4) A hub operator shall retain the Online Self-Exclusion Form  
30 to identify persons who want to be excluded from play.
- 31 (5) No hub operator that has made commercially reasonable  
32 efforts to comply with this subdivision shall be held liable in any  
33 way if a person who has filled out an Online Self-Exclusion Form  
34 plays despite that person's request to be excluded.
- 35 19990.36. A hub operator shall only offer games and process  
36 bets in accordance with the specified game and betting rules  
37 established by the hub operator and approved by the department  
38 consistent with Section 19990.37.
- 39 19990.37. A hub operator shall only provide authorized games  
40 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.

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

4 19990.42. Prior to completing the registration process, a hub  
5 operator shall explain to the person who is registering in a  
6 conspicuous fashion the privacy policies of the hub, and a person  
7 shall assent to the following policies:

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

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

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

19 19990.43. A hub operator may also require that a person must  
20 agree to a Terms of Use Registered Player’s Agreement applying  
21 to registered players.

22 19990.44. A hub operator may suspend or revoke the account  
23 of a registered player for any of the following reasons:

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

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

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

31 (d) The person has already been registered.

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

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

36 19990.45. (a) Upon registration and at each time when a  
37 registered player logs into a hub, the hub operator shall permit a  
38 registered player to adjust his or her play settings to:

39 (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.

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

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

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

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

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

21 (2) Punitive damages.

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

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

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

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

37 19990.48. A hub operator shall establish a book of accounts  
38 and regularly audit all of its financial records and reports which  
39 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.

29

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