STATE OF CALIFORNIA
GAMBLING CONTROL COMMISSION
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
(916) 263-0700 Phone
(916) 263-0499 Fax
www.cgcc.ca.gov

Edmund G. Brown, Jr., Governor
STEPHANIE SHIMAZU, CHAIRPERSON
TIFFANY E. CONKLIN
LAUREN HAMMOND
RICHARD SCHUETZ

April 16, 2012

Mr. Stuart Drown, Executive Director
Little Hoover Commission
925 L Street, Suite 805
Sacramento, CA 95814

Re: Governor's Reorganization Plan Consolidating Functions of the California Gambling Control Commission within the Bureau of Gambling Control (Division of Law Enforcement, Department of Justice)

Dear Mr. Drown:

Thank you for the opportunity to address the Little Hoover Commission regarding the proposed consolidation of certain functions between the California Gambling Control Commission (Commission) and the Bureau of Gambling Control (Bureau), as provided in the Governor's Reorganization Plan No. 2 of 2012 (GRP). My written testimony on this matter is provided below.

Background

California's system of regulation and enforcement of gambling establishments (cardrooms) and review of certain aspects of tribal casinos is conducted by two agencies: the California Gambling Control Commission and the Bureau of Gambling Control. The Commission is an independent entity within the Executive Branch whose commissioners are all gubernatorial appointees subject to Senate confirmation. The Bureau is under the Division of Law Enforcement within the Department of Justice, under the authority of the Attorney General. Generally, the Commission has a policy making role and decision making authority while the Bureau has investigatory responsibilities and enforcement authority. Our authority to perform these duties is derived from the Gambling Control Act, Tribal-State gaming compacts, Executive Orders, and other statutes. Currently, there are 89 cardrooms licensed to operate in California and 59 tribal casinos.

Specifics of Governor's Reorganization Plan

The GRP seeks to streamline government, increase efficiency and reduce unnecessary costs. The Commission supports each of these concepts and is prepared to do our part

to ensure that we meet each of these important goals. We take very seriously our duties of protecting the public and ensuring the integrity of gambling in the State. At the same time, we endeavor to carry out our responsibilities in a way that does not unfairly burden the gaming industry that we regulate and the tribal gaming agencies with whom we work. We continually explore ideas to streamline our processes and increase efficiency wherever possible.

The GRP includes provisions to amend certain sections of the Gambling Control Act and transfer some of the duties currently performed by the Commission to the Bureau. Specifically, the GRP indicates that the Bureau will receive and process applications for any license, permit, or other approval; provide the forms for those applications; collect all related fees; approve Articles of Incorporation; and perform all auditing functions under tribal compacts. We note that the GRP also provides that the Bureau shall perform all investigatory functions; however, since the Bureau currently has full investigatory authority under the Act, we do not foresee any transfer of duties in this area. We assume the purpose of the language addressing such functions was merely to clarify those responsibilities.

GRP's Impact on Commission

Licensing

Currently, the Commission receives all applications and fees for initial and renewal licenses for cardroom owners, key employees, third party proposition players services, gambling businesses, and manufacturers and distributors; registrations for third party proposition player services and gambling businesses; initial and renewal work permits for employees working in local jurisdictions that do not issue permits; and initial and renewal findings of suitability for tribal key employees, gaming resource suppliers, and financial sources. Additionally, it receives applications and any applicable fees related to requests for approval of Articles of Incorporation, temporary cardroom tables, increases and reductions in tables, relocation, and business name changes.

Commission licensing staff receives applications and fees, determines whether applications are complete and the submitted fees are correct, and inputs application and fee information in the agencies' shared licensing system. They issue interim key employee licenses and temporary work permits concurrently with the processing of applications. Commission staff also tracks licenses, registrations, and findings of suitability approved by the Commission to determine renewal dates and sends written notices to ensure that renewal applications and fees are submitted in a timely manner. If applicable, licensing staff monitors compliance with conditions imposed by the Commission. Additionally, if renewals or fees are not submitted within the required timelines, staff prepares notices to licensees and prepares items for Commission consideration that may result in suspension of gaming activities or surrender of licenses. Once an application package is deemed complete, staff forwards it to the Bureau to conduct an investigation and, if applicable, a recommendation to the Commission. We

expect that all work performed by Commission staff up to this point in the process will be transferred to the Bureau. We further assume that some portion of the Commission's licensing staff would be transferred to the Bureau.

Once an investigatory report is received from the Bureau, Commission staff reviews and provides any additional relevant information, such as information submitted by the applicant, previous actions taken, historical context, and the effect that one decision may have on other individuals and entities, and provides a recommendation to the commissioners. If individual commissioners request clarifying information, staff assists in obtaining such information. Both licensing and legal staff respond to questions posed by commissioners and assist in drafting potential conditions for licenses and options available to commissioners for specific items. At least twice a month at public meetings, commissioners review the various applications discussed above and either deny or approve them. Denials are subject to administrative hearings with an administrative law judge conducted pursuant to the Administrative Procedures Act or, alternatively, hearings before the Commission conducted pursuant to the Gambling Control Act. The Commission ultimately makes the final decision, which may then be subject to a writ of mandate by the Superior Court. Once final action has been taken, staff will send written notifications to the applicants and, where applicable, issue licenses to owners and badges to employees. We expect that Commission staff's functions during this review and approval/denial process would be maintained.

With the exception of approval of Articles of Incorporation, we believe that pursuant to the provisions of the GRP, the Commission would continue to maintain the authority to make all the aforementioned determinations, as well as those relating to the sale or transfer of interests for cardroom owners, purchase agreements for cardroom businesses and loan transactions entered into by cardroom owners. These latter matters come before the Commission for approval, but are not required to be submitted via an application or with a related fee.

Compliance

The Commission also conducts reviews of four distinct matters provided for in Tribal-State class III gaming compacts. First, it conducts financial reviews of contributions to the Indian Gaming Special Distribution Fund (SDF) or General Fund by certain tribes. While some compacts simply provide for a specified fee per gaming device, most involve complicated computations and analyses of "net win," as defined in the applicable compact, to verify payments to the State. In the event that a tribe does not agree with the staff's findings, it can seek reconciliation with the Commission prior to a meet and confer with the Governor's Office. Those matters are discussed with tribes in a closed session meeting of the Commission. Second, it conducts reviews and inspections of minimum internal control standards promulgated by tribal gaming agencies, as specified in uniform Tribal-State regulation CGCC-8 or applicable Tribal-State gaming compact. Third, it conducts reviews and inspections of electronic gaming devices (slot machines) to determine compliance with provisions of certain compacts

related to testing of those devices. Fourth, it serves as the Trustee and Administrator of the Revenue Sharing Trust Fund (RSTF), which provides quarterly distributions to federally recognized tribes in the State who either do not have class III casinos or have smaller casinos with a limited number of gaming devices.

Given the language in the GRP which provides that all auditing functions under tribal compacts shall be performed by the Bureau, the first three duties discussed above will be transferred to that agency, with two exceptions. With respect to discussing reconciliations of disputes related to financial reviews of payments to the SDF, General Fund, or other designated fund, the Commission would retain that role. The Commission would need to receive the Bureau's compliance reports to carry out this responsibility effectively. Additionally, the Commission would continue to collect and account for contributions to the SDF, provide information to the Controller to calculate amounts available to counties for local mitigation grants from the SDF, and provide annual information to the Department of Finance to calculate the total revenue in the SDF. Due to the unique nature of the responsibilities that will be transferred to the Bureau, and the extensive training provided to our employees, as well as their experience gained in the field, we assume that most of the Commission staff currently assigned to these duties would be transferred to the Bureau.

With respect to functions related to the RSTF, the Commission's designation as Trustee of the RSTF cannot be transferred to DOJ, as it is a provision of the Tribal-State compacts that is not subject to change unless amended by the Tribes and the State. Currently, the Commission's activities include invoicing tribes for payments to the RSTF, preparing and approving Quarterly Distribution Reports, conducting RSTF eligibility reviews (including document reviews and on-site counts of gaming devices), administering the RSTF shortfall process whereby funds are transferred from the Special Distribution Fund to the RSTF, conducting gaming device license draws and issuing licenses, and conducting reviews to ensure gaming devices are placed in commercial operation within 12 months of licensure. Because the Bureau will be conducting activities in the field, it is expected that its staff will conduct eligibility reviews and "commercial operation" reviews, and report those findings to the Commission. The Commission would retain all other activities, including the distribution of the funds. It should be noted that the agencies would need to maintain a high level of coordination as the Commission would need pertinent information on a quarterly basis to ensure that RSTF distributions were appropriate and completed in a timely manner.

Actions Needed to Implement the Proposed Consolidation

In order to fully execute and implement the proposal in the GRP, we believe the following processes would need to take place by the Commission, the Bureau and/or the Administration:

- Amend regulations to transfer responsibilities to the Bureau, including intake and processing of applications and fees. Revise all forms regarding these matters to reflect the Bureau's information.

- Revoke or replace Executive Order D-66-03, which authorizes the Commission to calculate, invoice, audit, and accept reconciliations of payments by certain gaming tribes to the Special Distribution Fund. The Bureau should be designated as the agency responsible for conducting audits of the SDF.

- Provide written notice to tribes, as specified in applicable Tribal-State Gaming Compacts, that the State Gaming Agency shall be the Bureau of Gambling Control for those purposes currently delegated to the Commission.

- Create a working group composed of executive staff from the Commission and the Bureau to determine duties and responsibilities not clearly delineated in the GRP.

- Seek amendments to the Gambling Control Act or other statutes, if necessary, to clarify any ambiguity or address other matters not provided for in the GRP. (For example, Business and Professions Code Section 19876(b) should be amended to require licensees to file renewal applications with the Bureau rather than the Commission.).

- Obtain guidance from the Department of Finance and the Department of Personnel Administration to facilitate the transfer of appropriate staff from the Commission to the Bureau.

Outstanding Issues to be Addressed

- **Registrations:** Currently, Commission staff receives and processes applications and fees for registration of Third Party Proposition Player Services and Gambling Businesses. These are not subject to approval of the Commission, but, instead, are approved or denied by the Executive Director. Approvals result in certificates signed by the Chair of the Commission. Additionally, players and supervisors for these businesses must be registered and receive badges to provide services in cardrooms. Because registrations are not subject to the approval of the Commission and the Bureau will receive the applications and fees and conduct the required reviews, we believe that it would be appropriate to transfer all of these related functions to the Bureau.

- **Staffing Levels:** Because the Commission will retain its jurisdiction over licensing, policies, and regulations, we expect to retain some level of staffing to ensure that we continue to carry out these responsibilities and other essential functions efficiently. In addition to some licensing staff, we will need to maintain

some minimal level of auditing staff, as well as support in our Legal, Support Services, and Legislation/Regulation divisions. We will work with the appropriate agencies to determine the Commission's staffing needs and coordinate the transfer of staff to the Bureau.

Thank you again for accepting this written testimony. I look forward to responding to questions by the commissioners during the public meeting. In the meantime, should you have any additional questions, please feel free to contact me or Tina Littleton, Executive Director, at (916) 263-0700.

Sincerely,

STEPHANIE K. SHIMAZU
Chairperson

cc: Tina Littleton, Executive Director, CGCC
Martin Horan Jr., Acting Bureau Chief, Bureau of Gambling Control
Jacob A. Appelsmith, Director, Alcoholic Beverage Control and Senior Advisor, Office of the Governor