

UBCM RESPONSE TO BILL 30: GAMING CONTROL ACT

1. INTRODUCTION

The Union of BC Municipalities (UBCM) is an organization that has represented the interests of local government for almost 100 years. The association has maintained 100% membership for twenty-one years. The voluntary membership of all 182 local governments is a strong testimonial to the effectiveness of UBCM in meeting member needs and achieving their objectives.

A 19 member Executive Board governs the UBCM and it meets regularly to conduct the business of the organization. The Executive establishes various committees to deal with specific policy matters. One of those committees is the Gaming Committee. Initially an ad hoc advisory body dealt with gaming matters. However, when the provincial government decided to issue a Request For Proposals (RFP) in 1997, for expanded gaming, UBCM recognized that local government had an important role to play in gaming matters and consequently a formal committee was struck. The RFP explicitly recognized the UBCM position that local government approval was a requirement and that a share of revenue to offset costs should be allocated to municipalities. The RFP also extended consultation on gaming projects to adjacent local governments.

The 1999-2000 Gaming Committee is composed of Councillor Mel Kositsky, Chair, Langley Township; Councillor Lynne Kennedy, Vancouver; Mayor Arno Hennig, Greenwood and Councillor Judy Higginbotham, Surrey. The mandate of the Committee is as follows:

- represent the UBCM Executive in consultations with the government
- develop and recommend new policies to the Executive and to the membership at the AGM
- implement the 1996 and 1997 UBCM policy paper recommendations (including a recommendation for a gaming act)
- monitor government activities, court actions and share information on gaming related matters with members.

Over the past few years the Committee has worked to fulfill its mandate. On behalf of the membership, it has continued to press the government to implement gaming legislation through Minister's meetings and policy papers. The Committee has responded to numerous provincial government White Papers and reports on gaming matters. Some of these submissions include:

- UBCM Initial Submission of a Gaming Act – October 1998
- UBCM Submission on the Report on Gaming Legislation and Regulation in British Columbia – April 1999
- UBCM Response to the Report by Dr. Peter Meekison – March 2000

The Committee was also responsible for the Agreement that was reached between the provincial government and UBCM in June 1999, which acknowledged the powers of local governments with respect to gaming.

The process undertaken by UBCM (the Gaming Committee) in preparing this submission included prior consultation with all UBCM members. Based on the feedback received on our draft, member comments have been incorporated, to the greatest extent possible, into this submission. Due to the tight timeframe, some member comments may not have been received by the deadline and may not be reflected. At this time, it is not clear if Bill 30 will be considered at a fall sitting of the legislature. If consideration of the Bill takes place prior to the UBCM Convention, the gaming workshop scheduled for October 26th will focus on implementation of the legislation. However, if the Bill has not completed passage through the House, the workshop will provide members with one final opportunity to review the submission and provide comments on the Bill.

2. BACKGROUND

Over the past eight years, UBCM has continued to monitor and respond to changes in BC gaming policy. While the provincial government has proposed several different gaming policy initiatives over this timeframe, UBCM has been consistent in representing the interests of local government. Based on resolutions dating back to 1993 UBCM's position on gaming has followed six basic principles:

- *that local government:*
 - i) participates in the evaluation of community impacts of any existing or expanded gaming activity;
 - ii) endorses specific gaming locations prior to approval;
 - iii) receives a portion of the revenue of any gaming activity, to mitigate financial impacts of the activity on the local government; and that,
- *the provincial government:*
 - iv) assesses the potential effect of gaming activity on charity gaming revenue levels;
 - v) stipulates a minimum legal age that applies to all gaming activities; and
 - vi) implements a comprehensive program to assist problem gamblers.

These six principles provided the framework for the seven recommendations that were conveyed to the provincial government in UBCM's October 1998 Submission. Since UBCM's position has remained consistent, our response to Bill 30 is framed around these same seven recommendations.

3. STATUS

In the absence of a gaming act, the provincial government attempted to stabilize the gaming policy environment last June by establishing Memorandum of Agreements (MOAs) with UBCM, BC Association of Charitable Gaming and the Charitable Bingo Association Committee of the Bingo Council of British Columbia. In addition to these agreements, the recommendations by Dr. Peter Meekison on the relocation of, and changes to, existing gaming facilities was adopted by the province which provided an interim bridging policy for the government.

On July 4th, the Honourable Joy MacPhail introduced Bill 30, the gaming control act. The Minister indicated that the government did not plan to undertake any action on the Bill until the next sitting of the legislature to provide ample opportunity for public comment. In early August, the Minister advised that the deadline for comments and submissions would be September 15, 2000. It is UBCM's understanding that if for some reason, legislation is not enacted, the MOAs and Meekison's recommendations will continue to provide an interim bridging policy. UBCM would seek assurances that this is the intention of the provincial government.

The following provides a brief overview of the Bill, with specific reference to those sections that are of key interest to local government.

4. OVERVIEW OF BILL 30

In the July 4th news release the Minister responsible for gaming, the Honourable Joy MacPhail stated that:

“The gaming control act incorporates recommendations from Professor Peter Meekison’s report, the 1999 white paper on gaming, and input from stakeholders in reviews and studies of gaming during recent years.”

“This act recognizes our commitments to municipalities and charities on decision-making and revenue-sharing.... We are building on our good working relationships to incorporate into legislation the agreements we have made.”

In broad terms the Gaming Control Act¹:

- establishes the Gaming Control Authority, as an independent office to oversee all major decisions in gaming and protect the public interest.
- enhances the role of the Gaming Audit and Investigation Office
- confirms the roles and responsibilities of the BC Charitable Gaming Commission, the BC Lottery and Casino Corporation, and the BC Racing Commission; (slight name changes have been made to reflect their mandates)

¹ The full text of the Gaming Control Act can be viewed on the Ministry of Labour's website at: www.labour.gov.bc.ca/gaming.

- incorporates recommendations from the Meekison report, the 1999 White Paper on Gaming, a range of reviews and studies during recent years, and input from stakeholders and the public;
- recognizes commitments to municipalities and charities concerning decision making and revenue sharing; and
- recognizes the government’s commitment to gambling addiction treatment.

Sections in the act of specific interest to local governments include:

Part 2 – Gaming Control Authority

- Section 4. Minister’s general policy directions to the authority
- Section 7. Location, relocation or expansion of gaming facilities require authority’s approval
- Section 8. Local government or first nation approval required for gaming facilities
- Section 9. Matters relevant to location of new gaming facilities or the location of existing ones
- Section 10. Dispute resolution as to location or relocation of gaming facility

Part 6 – Special Account

- Section 66. Payments to local governments and First Nations.²

As noted Bill 30 establishes the gaming control authority with responsibility “for the overall integrity of gaming in British Columbia” (Part 2 s. 3). While some concerns may be raised about creating a new layer of bureaucracy, this does appear to be the only way of establishing a transparent and open decision making process, something that UBCM recommended in its response to the White Paper and draft act in February 1999. It also provides a way of bringing all gaming agencies under the jurisdiction of one body. The authority is to be comprised of seven individuals, each appointed by the Lieutenant Governor in Council. At this point it is not known who these individuals will be, what process will be undertaken to appoint them and if they will be representative of the various gaming sectors, or totally independent. UBCM would seek further information on the composition and process for appointments to the authority. Under the Act, the authority is required to report to the Minister annually. Our assumption is that this is the Minister responsible for gaming. If the authority is to be truly independent in its actions, should it be reporting to this specific Minister, or should some other reporting mechanism be put into place.

The remaining parts of Bill 30 relate to the roles and responsibilities of the other key gaming agencies; the British Columbia Lottery and Casino Corporation, the British Columbia Charitable Gaming Commission, the Racing Commission and

² UBCM notes that a correction should be made to Part 6, s. 66 (1). The last line states “destination” casino and it should read “community” casino. It has also come to our attention that words / lines of text appear to be missing in sections 61 and 62.

the Gaming Audit and Investigation Office. By placing all of these agencies under one act, the Horse Racing Act, the Lottery Act and the Lottery Corporation Act will be repealed. With respect to the Gaming Audit and Investigation Office their role will be expanded to include horse racing. The details of their new role are reflected in Parts 7 and 8.

What does appear to be missing is an overall statement or purpose at the beginning of the act. What is the provincial government's goal or purpose with regard to gaming and what are its expectations for gaming in the future?

5. BILL 30 IN THE CONTEXT OF UBCM'S 1998 RECOMMENDATIONS

In October 1998 UBCM prepared its submission to the province on what elements needed to be included in a Gaming Act. The seven recommendations and accompanying comments provided the framework for evaluating the White Paper and draft gaming act that were released by the province in February 1999. The following overview of Bill 30 is placed in the context of those seven recommendations. While the province's gaming position has changed significantly since February 1999 with the adoption of the Memorandum of Agreement in June 1999 and the Meekison report earlier this year, UBCM's seven recommendations remain a relevant reference point for evaluating Bill 30. Each of the recommendations is outlined, any relevant comments related to the Memorandum of Agreement are noted and the Bill 30 response to the recommendations is evaluated.

Recommendation #1

A CONSULTATIVE MODEL THAT INCLUDES CONSULTATION WITH THE UNION OF BC MUNICIPALITIES AND THE PUBLIC

UBCM recommends that the proposed Gaming Act include the requirement for a broad consultation process as an essential component in gaming policy development. This process should include:

- a) Public consultation*
- b) A mechanism for consultation with UBCM*

The Committee's first recommendation related to the need for an ongoing consultative process to ensure that the general public and local governments have an opportunity to comment on any proposals that would alter existing gaming policy.

a) Public consultation

In its October 1998 Submission UBCM stated:

"The planned Gaming Act should include a requirement for public consultation before changes in gaming policy. The public consultation process planned for the Gaming Act is an important step towards an established process."

While there has been opportunity for wide-spread public consultation on Bill 30, there does not appear to be any provisions in the act that would commit the province to consulting in this manner, with the general public, when it is considering any future changes in provincial gaming policy.

b) A mechanism for consultation with UBCM

With respect to consultation with UBCM, the MOA confirmed that the Province:

- *will consult in a meaningful way with local government in the development of gaming policy changes that may affect local governments;*
- *will consult in a meaningful way with local governments regarding the form and content of gaming legislation before it is introduced into the Legislature.*

The Province has fulfilled these two requirements to date. With respect to the latter point, on June 30th, UBCM was provided with an opportunity to review Bill 30 prior to its introduction into the Legislature on July 4, 2000.

With regard to the first point, the following section identifies how Bill 30 provides local governments with the opportunity to consult in a meaningful way in the development of ongoing gaming policy changes as they impact their community. On a broader scale, local governments, through UBCM, have an opportunity to provide input and advice on gaming regulation and policy through the Minister's Advisory Committee for the Regulation of Gaming. Announced on January 12, 2000 this body includes representation from the key gaming agencies, the problem gambling sector and UBCM. The Terms of Reference for this Committee states that it will provide advice to the Minister responsible for gaming issues affecting the direction of gaming policy, and including the establishment of a rigorous and comprehensive legal and policy framework for gaming, including: governance issues, socio-economic impacts and issues affecting local governments as well as the key gaming agencies; enforcement of provincial gaming regime and future changes to gaming policy.³ Based on the last point it would appear that the Committee would be kept in place to address future changes to gaming policy even after gaming legislation is enacted. If this is the intent of the Minister, it would ensure that UBCM has an opportunity to be consulted prior to changes being made to gaming policy.

BILL 30 - GAMING CONTROL ACT RESPONSE

It would appear that Bill 30 does provide local governments with the opportunity for meaningful consultation. As part of any request for location, relocation or substantial change in the type or extent of gaming events at a gaming facility, the gaming control authority must not give written approval unless it has first received the approval of the municipality, regional district or first nation that has authority over land use planning at the place where the gaming facility is proposed, is proposed to be relocated, or where a substantial change has been requested [s. 8 (1)(a)].

³ January 12, 2000 Ministry of Labour News Release "Smallwood Appoints Broad Based Gaming Advisory Committee."

In addition to receiving written approval from the relevant local government/first nation the gaming control authority must be satisfied that consultation has taken place with adjacent local governments /first nations or others that may be materially affected in the opinion of the gaming control authority [s. 8(1)(b)]. The authority must also ensure that adequate community input has been sought and considered [s. 8 (2)]. This last requirement may address the specific community interests but as indicated in the discussion of recommendation #2, a clear understanding of what constitutes “adequate community input” is needed as well as what is meant by “others that may be materially affected.”

Recommendation #2

THE ABILITY OF LOCAL GOVERNMENTS TO DETERMINE THE EXTENT AND TYPE OF GAMING IN THEIR COMMUNITIES

UBCM recommends that the right of local governments to determine the extent and type of gaming in their communities be recognized in the Gaming Act.

The Memorandum of Agreement between UBCM and the province affirmed:

- the jurisdiction of local governments, specifically with respect to their land-use and by-law making powers;
- the ability of local governments to make decisions as to whether new facilities or re-located facilities will be permitted within their boundaries;
- the ability of local governments to direct and define the extent, scope and type of casino and bingo gaming permitted within their boundaries. It also affirms the ability of local governments to decide whether slot machines or other similar devices could be placed within their boundaries.

BILL 30 - GAMING CONTROL ACT RESPONSE

Section 7 of Bill 30 states that written approval must be provided to the gaming control authority for the location, relocation or substantial change to gaming facilities used for bingo events, horse racing or casinos by the municipality, regional district or first nation that has authority over land use planning. With the inclusion of horse racing, local governments will now have the opportunity to approve requests for location, relocation or substantial change in the operations of these gaming facilities as well.

As noted above under recommendation one, Section 8 of Bill 30 specifically states that the gaming control authority cannot provide approval until approval has been received from the relevant local government or first nation. In addition to receiving written approval from the relevant local government/first nation the gaming control authority must be satisfied that consultation has taken place with adjacent local governments /first nations or others that may be materially affected in the opinion of the gaming control authority [s. 8(1)(b)]. The authority must also ensure that adequate community input has been sought and considered [s. 8 (2)]. Therefore it would appear that Sections 7 and 8 confirm the

first two points noted in the extract from the MOA noted above. However, UBCM would seek some clarification on what constitutes “adequate community input”. Is that to be determined by the individual local governments?

The third point relates to the ability of local governments to direct and define the extent, scope and type of bingo and casino gaming including the issue of slot machines. Upon review of the act it would appear that the issue of slots would constitute “substantial change” and as such the authority would need to seek the approval of the local government before approving a request. However, it is imperative that the definition of substantial change be clear. UBCM notes that some local governments will define substantial change differently. For example, a change in hours of operation or the addition of two gaming tables may be viewed as substantial changes in one community but not in another. This issue was addressed by Dr. Meekison in his discussion of major and minor changes. Recommendation 16 in Meekison’s Report stated: “That requests for changes to existing gaming facilities be classified as being of a major or minor nature. Both the Gaming Control Commission and local governments have an equal say in determining the classification of the change to existing facilities.” Subsequent to that recommendation, he advocated that the gaming control commission and the UBCM develop guidelines for classifying major and minor changes to existing facilities. UBCM would welcome the opportunity to be a part of those consultations to ensure that the interests of local governments are adequately addressed.

It is also not clear if local governments will continue to have the ability to direct and define the extent, scope and type of gaming in the same manner presently in place under the MOA. Under Part 2, section 4 of the act the Minister may issue written directives to the authority on matters of general policy including but not limited to....“(b) the extent, scope and type of gaming in British Columbia.” This section also confirms that the gaming control authority must comply with the directives of the Minister. Our concern is that local governments may have lost some of the power that was provided to them under the Memorandum of Agreement. Since the authority must comply with the directives of the Minister, does the Minister have the ability to override the decisions of the gaming control authority and the local governments. UBCM would have some serious concerns if that is the intent of the act since that was one of the principle objections local governments raised with the draft act that was proposed in February 1999.

Based on the intent of the legislation as announced by the Minister, UBCM would seek assurances from the provincial government that Section Part 2, Section 4 of the Act is not a direct attempt by the Minister to exert power over the gaming control authority and local governments. Any attempt to do so would jeopardize the independence of the authority and derogate the powers that have been provided to local governments under the Memorandum of Agreement.

Recommendation #3**ALLOCATION OF GAMING REVENUES: LOCAL GOVERNMENT COSTS**

UBCM recommends that any local government hosting gaming facilities be allocated a share of gaming revenue to mitigate increased costs from gaming.

In its 1998 submission UBCM requested the province ‘level the playing field’ and provide any local government hosting gaming facilities with a share of gaming revenue to mitigate increased costs from gaming. This recommendation came forward as a result of the provincial government’s RFP process in 1997 which provided revenue sharing with host local governments of destination facilities. The Committee indicated that if the province was willing to share revenues from destination casinos it should also share with those communities hosting charitable/community casinos.

Under the MOA signed with the province in June 1999, the province confirmed that it would share gaming revenue with local governments as set out in the White Paper. The White Paper indicated that revenues would be shared with those local governments that host gaming facilities. The revenue shares set out in the White Paper were 10% for community casinos, 1/6 for destination casinos and an additional 1/6 in development assistance compensation for destination casinos.

BILL 30 - GAMING CONTROL ACT RESPONSE

The Bill confirms the commitment made under the Memorandum of Agreement. Part 6, Sections 66 and 67 state that revenue sharing will continue with those municipalities, regional districts and First Nations that have entered into agreements with the province. Since the Bill does not confirm the sharing percentages UBCM would seek confirmation that they are in accordance with the present revenue sharing arrangements and that these financial arrangements would also apply to any new or relocated casinos in the future. Also by stipulating that revenue sharing only applies to existing agreements for community and destination casinos, it appears to preclude the sharing of revenues with communities hosting other types of gaming facilities (i.e. horse racing). However, if a casino were to relocate to track, would the revenue sharing arrangement apply?

Bill 30 is also very clear about who shares the revenue. The revenue sharing agreements are with the municipality, regional district or first nation that has the authority over land use planning at the location of a community or destination casino. This appears to preclude the sharing of revenue with adjacent communities.

In its October 1998 submission to the province, UBCM acknowledged that: “New or expanded gaming facilities will have variable impacts on adjacent municipalities. There are situations where gaming venues on First Nations land may be located within a municipality’s boundary and some cases where gaming facilities in one municipality may be “across the street” from an adjacent

municipality. The degree of impact and attendant costs to these municipalities are issues that require further analysis and discussion. Individual UBCM members have indicated this is an issue of concern.”

However, the difficulty arises in determining the costs on adjacent communities and allocating a share that is considered to be an accurate amount of financial compensation. Recognizing that this as an area requiring further consideration and consultation, UBCM recommended that the “consultative mechanism identified in Recommendation #1 could provide the best means of finding a cost sharing formula and resolving this issue to the satisfaction of both levels of government.”

In the absence of a formalized consultation process with the provincial government to develop a revenue sharing formula for adjacent communities, UBCM chose to build on the precedent set by the Province in its 1997 RFP process which provided a revenue sharing formula with host communities only. UBCM pressed the Province to expand revenue sharing to every community that hosted a casino, not just those with destination facilities. The rationale was simple - if the province was willing to acknowledge that communities hosting destination casinos need to be compensated, local governments hosting community facilities should also be afforded the same compensation.

The recent BC Lottery Corporation interim relocation process on Southern Vancouver Island has brought the issue of revenue sharing to the forefront once again. In this regard, UBCM wrote to the Minister indicating our position, as outlined in the 1998 Submission and requested that clarification be provided on the interim relocation process. Specifically UBCM asked if the concerns raised by members in the western communities could be addressed through some form of dispute resolution process. In the absence of legislation, the interim process should reflect the MOA that is in effect which states: “ensure that there is a legislative mechanism in place for consultation/mediation with adjacent communities.”

Feedback on Bill 30 has been received from many local governments. Some communities have requested that Part 6 of the act be amended to provide for the sharing of revenues with adjacent communities. The Mayor of Metchosin has written UBCM indicating that the “unique relationship that Metchosin has with our neighbouring communities” is not addressed in Bill 30. She continues, “A casino that is located in one community has direct and indirect impacts on all of the communities in the market area. Casino revenues should balance the socio-economic costs and infrastructure throughout our municipalities. To this end, Langford, Colwood, Metchosin, Sooke and Esquimalt have agreed in principle to a revenue sharing agreement regardless of which community is the host.” The Mayor concludes by requesting that “the draft Gaming Control Act be amended to permit such agreements between willing communities.”

In contrast, other local governments have indicated that they do not feel that access to revenues by adjacent communities should be a subject of potential

mediation. These communities support the present financial agreements that are in place with the host local governments.

UBCM recognizes and has already acknowledged, in its 1998 Submission, the need to address adjacent community impacts. Discussions need to take place to determine if and how this would be possible. The following questions and points are raised as a way of initiating the discussion with the province on this matter.

1. In its present form, does Bill 30 preclude the establishment of a subsequent revenue sharing arrangement that would provide the host community with the ability to share their revenues with adjacent communities?

2. If a revenue sharing agreement is not legally permitted between communities under Bill 30, would the province consider setting up a separate fund for adjacent communities compensation similar to the provisions under section 67(1) for the proponents of a destination casino for development assistance compensation?

3. If local governments are not precluded from establishing an agreement:

a) How would the accounting or reporting of the funds be done? Under the present arrangements host communities report to the Minister annually on how they have spent their allocations. Would the host community still be required to perform the accounting and reporting function to the Minister on behalf of all of the communities sharing or would each individual community be required to report to the Minister?

b) Could this only apply to relocated facilities that wish to share or would all communities presently hosting casinos be obligated to consider establishing sharing agreements with their adjacent communities? This would create serious concerns for many communities who have hosted facilities for a number of years and may not feel that sharing is warranted.

c) Would it apply only to situations where all parties, including the host communities are willing to participate? If the host is not willing to share, could they be forced? Is this an issue that would trigger the dispute resolution process?

d) Criteria would need to be established to evaluate the impacts on adjacent communities and their associated costs to determine an adequate amount of compensation.

These are only a few of the issues and questions that need to be explored through an appropriate consultation process between local governments and the provincial government.

Recommendation #4**A FORMULA TO DETERMINE THE ANNUAL ALLOCATION OF REVENUE TO A CHARITABLE TRUST FUND**

UBCM recommends that there be a provision in the Gaming Act for a formula to determine the annual allocation of revenue to the charitable trust fund. The formula must reflect the increase in government gaming revenue.

The UBCM recommended that a formula be developed that will provide a stable and adequate level of funding in the charitable trust fund. The formula should be tied to government gaming revenue increases and acknowledged in the gaming statute.

BILL 30 - GAMING CONTROL ACT RESPONSE

Under s. 63 Part 6 of Bill 30, the formula for determining the annual funding allocated to charities is outlined. The Act reaffirms the existing charitable guarantee of \$125 million annually, indexed annually at the rate of Vancouver Consumer Price Index, with a formula that ensures charity entitlement to an amount, after accounting for retained bingo revenues, equal to 1/3 of ongoing government net community casino gaming revenue.

While the formula outlined in the Act provides for increases based on the Consumer Price Index it is not tied to overall increases in government gaming revenues, which is what UBCM had recommended.

Recommendation #5**ALLOCATION OF GAMING REVENUE: CHARITIES**

UBCM recommends that there be a provision in the Gaming Act for a fair and open process for allocating gaming revenues to charities.

UBCM recommended that a Crown agency, such as the Gaming Commission, be responsible for allocating gaming revenues in a fair and open process.

BILL 30 - GAMING CONTROL ACT RESPONSE

The BC Charitable Gaming Commission, previously known as the BC Gaming Commission will continue in its present capacity. Under Part 4 Division 40(1) the responsibilities of the charitable gaming commission are outlined. Subsection (f) states: “The charitable gaming commission, in the exercise of the licensing discretion delegated to the charitable gaming commission under section 34(2), is responsible for gaming event licences, including, but not limited to licenses to be issued to eligible charitable or religious organizations in respect of all forms of bingo events the conduct and management of which is lawful under the *Criminal Code*.” In addition subsection (i) states that the charitable gaming commission “must monitor compliance by eligible charitable or religious organizations that

receive funding under section 68 with this Act, the regulations and the rules of the charitable gaming commission.”

The present role of the Gaming Commission appears to be confirmed in the act.

Recommendation #6

ALLOCATION OF GAMING REVENUE: PROBLEM GAMBLING

UBCM recommends that the Act include a provision for the allocation of gaming revenue for problem gambling education, prevention and treatment, and that there be a provision for a funding base tied to the increase in government gaming revenues.

BILL 30 - GAMING CONTROL ACT RESPONSE

Under Part 6, Bill 30 outlines the payments that must be made by the Minister of Finance and Corporate Relations during each fiscal year. Section 69 (b) states: “an amount, not exceeding the amount prescribed by the Lieutenant Governor in Council, towards the responsible minister’s costs incurred for establishing and carrying out

- i) programs with respect to gaming awareness and research, and
- ii) programs for the prevention and treatment of gaming addiction.”

While the Bill provides for the funding of prevention and treatment for gaming addiction, there is no formula that will ensure that this amount increases as gaming revenue increases. The amount dedicated to these programs will be determined by the provincial government.

Recommendation #7

ECONOMIC AND SOCIAL IMPACT STUDIES

UBCM recommends that there be an assessment of the economic and social impacts of gaming activities prior to the introduction of new or expanded gaming venues and a regular assessment of the economic and social impacts of existing gaming activities.

BILL 30 - GAMING CONTROL ACT RESPONSE

There are provisions in the act for assessments of the economic and social impacts of gaming activities prior to any changes being made as well as provisions for the authority to undertake research of a more general nature. Under Part 2 the gaming control authority has the power to issue directives applicable to:

“5. 1. (i) establishing criteria for the review and evaluation of proposals for new gaming facilities or for the relocation of existing gaming facilities,” and it may also

“2(c) make enquiries and carry out research into any matter that affects or could reasonably be expected to affect the integrity of gaming, “

With respect to the first item pertaining to relocations, locations or expansion of gaming facilities the authority must first receive the approval of the municipality, regional district or first nation that has authority over land use planning where the facility is located or proposed. The gaming control authority must be satisfied that the potential host community has consulted with adjacent communities or others that may be materially affected and that adequate community input has been sought and considered.

Part 2, section 9 of the Bill also states that the authority may take into account factors that it considers relevant but that it “must consider:

- a) any views communicated to it by
 - (i) the racing commission, the charitable gaming commission and the lottery and casino corporation, as to the expected impact of the gaming facility on other gaming facilities or activities in affected communities,
 - (ii) the gaming services providers that are operating other gaming facilities in affected communities
 - (iii) the charitable or religious organizations that are participating or wish to participate in lottery events or horse racing, as the case may be, in the affected communities, and
 - (iv) administrators of problem gambling programs or services in affected communities.”

In addition the authority must consider any objection filed as part of a dispute resolution process and if the authority has required participation in alternate dispute resolution, it must consider the report of the results of the alternate dispute resolution proceedings.

By considering the views of these various interests, the authority should be able to adequately evaluate the various social and economic impacts prior to indicating its approval for a location or relocation of a facility. By also providing the authority with the power to “carry out research” it is able to monitor the overall gaming policy environment and undertake studies at any time that it feels appropriate.

While there appears to be provision for the socio-economic impact analysis within a specific area, there is no provision in the act for a broad social or economic impact analysis being undertaken to determine what the overall provincial impacts would be if changes were made to gaming policy.

6. ADDITIONAL COMMENTS ON BILL 30

In its October 1998 Submission UBCM included a list of other issues that it felt needed to also be addressed in a gaming act. Many appear to be addressed and others do not. The following is a brief overview.

Issues Addressed:

- all gaming agencies and activities brought together under one act.
- provides for defined roles and responsibilities of the key gaming agencies and establishes the gaming control authority as an independent body.
- expands the role of the Gaming Audit and Investigation office .
- establishes a dispute resolution process for local governments.
- yearly financial reporting by each of the key gaming agencies.
- regulations to be established for governing conflict of interest for employees and officials of key gaming agencies.
- regulations to be established regarding the handling of money and money equivalents; and the authority would have the mandate to issue directives relating to prohibiting or restricting the extension of credit to participants in gaming events and governing the extension of credit and establishing policies to address problem gambling at gaming facilities.

Issues Requiring Clarification or Not Addressed:

- What constitutes substantial change?
There is no definition given for substantial change in the act. Meekison's Report indicated that UBCM should be consulted prior to determining what constitutes minor and major change. Under the MOA, local governments have the "ability to direct and define the extent, scope and type of casino and bingo gaming within their boundaries." If the province is to determine what is considered "substantial" this could potentially undermine this key principle in the MOA. Since the intent of the legislation is to reflect the principles in the MOA, it is imperative that this issue be addressed.
- The definition of gaming facility includes casino, bingo and horse racing facilities.
This creates a level of uncertainty for local governments. Where do convenience stores fit into the act, or do they? Will this allow the province to expand gaming through the lottery outlets at corner stores since these do not appear to be captured in the definition of gaming facility? Based on the Minister's comments, and provincial government's past experience with VLTs, we do not believe this is the provincial government's intent.
- How will the dispute resolution process work?
Presently there is no definition of non-binding dispute resolution in the act. What issues will trigger the dispute resolution process? Would revenue sharing be one of those issues as referenced in our discussion under recommendation #3? What timelines will be set for completion of the dispute resolution process? Who will pay for the process? Who will arbitrate the process? This is one area that needs further consultation. Also, in the event that legislation is not brought into force, will a dispute resolution process be put into place as part of the present interim relocation process that the BCLC is conducting?

- The Minister has the power to determine type, scope and extent of gaming. As noted in our earlier comments we are concerned that this provision will allow the Minister to override the powers that have been provided to local governments as well as the gaming control authority.
- Slots are not presently included in the definition of gaming event, because the definition excludes s. 207(1)(a) of the Criminal Code.
- There does not appear to be any independent appeal process available. Once a decision is made by the gaming control authority, it appears to be final. In its original submission, UBCM recommended that an independent appeal process should be made available.
- There does not appear to be a minimum age established for gaming. Under Part 9, s. 120 (m) there is the provision for “prohibiting, restricting or allowing the presence of minors at a gaming facility or a gaming event, in circumstances, or on conditions, that may be set out in the directives.” It would appear that different age limits will be set depending on the type of gaming activity. UBCM had requested that a minimum age for all forms of gaming be established.
- As stated earlier there is no overall statement or vision at the beginning of the act that outlines the parameters for gaming in BC. The province has previously indicated that video lottery terminals will not be permitted in the province. This is not confirmed in the act.
- While there are provisions for consulting with the public via local governments on specific gaming policy decisions within a community there is no overall commitment by the provincial government to undertake wide-spread public consultation on gaming policy. In those instances where the provincial government is contemplating a change in gaming policy direction, there should be some requirement for broad public consultation.

7. CONCLUSIONS

After a number of years of consultation, policy changes and several discussion papers, the provincial government has introduced its gaming legislation. The intent of the legislation, as indicated by the Minister, is to provide stability and certainty for gaming in BC. Bill 30 is an attempt to encompass the commitments made to UBCM through the Memorandum of Agreement that was signed in June 1999 and the recommendations of the Meekison Report.

Like the provincial government, local governments wish to have a stable and certain gaming policy environment. However, certain issues relating to the powers of the Minister and the definition of substantial change need to be clarified before UBCM can signal its full support for this legislation. As stated earlier, UBCM could not support any piece of legislation that derogates the

powers of local governments. The legislation must encompass the principles outlined in the Memorandum of Agreement. One of the reasons why UBCM could not support the draft legislation in February 1999 was due to the override powers that were provided to the Minister. In addition to seeking clarification on these issues, UBCM will want to review the accompanying regulations to evaluate the details of the legislation.

Further clarification and discussion is necessary on revenue sharing and the dispute resolution process. The issue of revenue sharing is certainly one area where we would seek further consultation with the provincial government. As stated UBCM identified it as an area requiring further work in 1998. The points raised under Recommendation #3 could provide the starting point for those discussions. With respect to the dispute resolution process, UBCM has identified a number of issues under section 6 of this submission. This process and the steps involved need to be clearly understood by local governments if it is going to work effectively.

In conclusion, UBCM appreciates the opportunity to comment on this important piece of legislation. We wish to thank the provincial government for its ongoing consultation and look forward to working together to develop a stable and certain gaming policy environment for BC.

APPENDIX A**CHRONOLOGY OF EVENTS**

The following provides an overview of the significant events that have taken place in gaming policy

DATE	POLICY DIRECTION
October 1994	- no Vegas-style casinos but provide for moderate, controlled expansion including video lottery games.
May 9, 1995	- gaming negotiations between the province and first nations end;
May 24, 1995	- provincial government rules out video lottery terminals as a result of public opposition
December 1996	- senior civil servant Peter Clark is appointed to undertake a review of gaming expansion options for BC
March 1997	- as a result of Clark's report the province advises: <ul style="list-style-type: none">• no VLTs in bars or pubs• no Vegas-style casinos• enhancement of charity casinos including slot machines• new destination and charity casinos and bingo halls will require local government support and input from surrounding areas before approved.• minimum age of 19 established for gaming• gambling addiction program to be established• new Lotteries Advisory Committee established to oversee process of charitable gaming expansion• province to fund dedicated police and prosecution resources to address illegal gaming.• electronic bingo in charitable bingo halls to go ahead
July 1997	- request for proposals for destination and additional charitable gaming facilities announced which includes revenue sharing of 1/6 for host local governments.
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| December 1997 | - 49 proposals received to host destination and additional charitable gaming facilities. Once evaluated, Cabinet will make all approval decisions. |
| April 1998 | - Minister reorganizes gaming, announces development of a gaming act, |
| May 14, 1998
principle | - three destination sites given approval in principle |
| August 14, 1998 | - four more applications receive approval in principle |
| December 1998 | - three new facilities approved in principle |
| January 1999 | - White Paper and gaming act released for comment UBCM expresses serious concerns |
| April 1999 | |
| June 1999 | - UBCM signs MOA with the provincial government confirming key local government principles |
| October 1999 | - revenue sharing agreements issued with host local governments |
| June 30, 2000 | - UBCM Gaming Committee receives briefing on Bill 30 |
| July 4, 2000 | - Minister MacPhail introduces Bill 30 - Gaming control act |