The meeting was called to order at 8:10 a.m. Senator Close was in the Chair.

PRESENT: Senator Close
Senator Hernstadt
Senator Dodge
Senator Raggio
Senator Sloan

ABSENT: Senator Don Ashworth, excused
Senator Ford, excused

SB 346 Defines crime of commercial bribery and provides penalty.

Pete Kelly, representing the Nevada Retail Association stated, he had with him John Andrew, Regional Counsel for the Association and also for J.C. Penny Company, who would testify on the bill.

John Andrew stated he is here to support the bill, but also to urge an amendment. He stated there are statutes that cover most areas of bribery, generally, but none that cover the practice of bribery in the commercial sector. He passed out a packet of material to the Committee, which he felt would illustrate a need for legislation of this sort (see Attachments A thru N). The first page is a brief statement as to what the Association perceives to be a need. There are several newspaper articles from the past year which illustrate the need fairly well. There are also the New York and Arizona statutes as they now exist (attachments L and M). The last sheet is the amendment that is proposed (see attachment N). The amendment would cover the employee who receives or solicites the bribe, and would make it a misdemeanor. This would conform it to the present language in this bill.

Senator Hernstadt asked if a dollar amount could be placed on this, perhaps over $1,000. There could be a guy that went to MacDonalds for a $3.00 lunch.

Mr. Andrew stated he would not want a dollar limit only. It should be combined with corrupt intent or something of that nature. There are industries where entertainment comes to mind. There is a great deal of gift giving back and forth which is not corrupt but a practice of the trade.

Senator Dodge stated he felt the language should be such that it reachs specifically, the fellow works adversely against the employer, under the influence. He also stated that there isn't something in the general bribery statutes to cover this situation. They are all specific type bribes as Mr. Andrew was talking about.

Senator Sloan stated he felt that what they were trying to get at was the kick-back. So the language should address that.

Senator Close stated he liked the language in the Arizona law. This brings out the fact that an agreement has been made and goes far beyond just the lunch.

Senator Dodge stated this language was also in the New York statute.

Senator Raggio asked what about the tradesman that is handling a good national product and wants to keep his line. A second fellow comes along and wants to get this account. The first guy then takes the buyer and his wife out to dinner. Is that inferring benefit for the purpose of adversely affecting him? Where do you draw the line on it? Actually you are showing appreciation for the business.

Senator Hernstadt stated he would like to see the figure of $1,000 placed in here and below that figure you would then have to show "adversely affected" or "corrupt intent."

Senator Close stated he felt on line 9 "with intent to adversely influence" should be added in. Then you would have both adversely influenced and the corrupt intent.

After a short discussion by the Committee they decided it should be a misdemeanor now and see what happens.

Senator Sloan moved that SB 346 be passed out of Committee with an "amend and do pass" recommendation.

Seconded by Senator Hernstadt.

Motion carried unanimously. Senators Ford, Ashworth and Dodge were absent for the vote.

SB 347 Authorizes additional manufacturing at Department of Prisons.

Charles Wolff, Jr., Director of the Nevada Department of Prisons, stated he had some handouts for the Committee. This is a comparison of three bills that deal with this same matter. Besides this bill, there is AB 346 and AB 446 (see Attachment O). What we would like to suggest to the Committee is that only one bill is needed to get the job done. We would suggest that Sections 3 and 4 from AB 346 be added to this bill, and one section from 446 which would create a revolving fund for the prison industries and establish reasonable deduction for the pay of the offenders. This bill deals primarily with prisoners working inside the institution in the development of prison made products for sale to tax supported institutions and agencies. We would also like to include the opportunity to be able to contract with outside firms, to manufacture at the prison site. The states that have had the most success with their correctional industry are those that placed it on a revolving fund basis, and stated in their legislation that this had to be self-supporting.

Senator Close asked what kinds of industries would be established if the bill were passed.

Mr. Wolff stated this would be wood and metal furniture, refinishing and rejuvenation of furniture, the fabrication of metal lockers and shelving, the manufacturing of dental prosthetics, which we do now on a limited basis. Our main concern is to establish enough work, so we can establish the work ethic within the prison system.

Senator Close asked if this bill would have to go to Finance.

Mr. Wolff stated, not really. Mattresses are being manufactured now as a vocational industry, we would start selling the products at a profit, rather than at cost. On the basis of that, those profits would start generating until we could get to the point where we could purchase equipment. We would certainly like to have a revolving fund with capital in it, but realistically he doubts that it can be accomplished this session.

Senator Dodge asked if they had the room to set this up.

Mr. Wolff stated that there is a vocational and industrial building at the women's facility, currently under construction, that could be used for garment making. There is a vocational and industrial building at the medium security facility. At the maximum prison, we expect to use one of the cell blocks and convert that for this activity.

Senator Close asked, if his recommendation then was to wait until the Assembly bills come over.

Mr. Wolff stated that if these bills were all consolidated, he felt that would then be a very viable bill.

Senator Raggio stated he would like to add that he felt this was a capricious time to get this moving.

No action was taken at this time.

Senator Close stated he had had another request on the Peace Officer's bill. Peggy Glover asked that Buildings and Grounds Division be added into AB 604. The Committee concurred.

SB 174 Amends requirements for notice of check refused for payment because of insufficient funds.

Bob Miller, Clark County District Attorney, stated that he had wanted to testify on this but found that it was passed out of Committee on March 29. His main concern was with the ambiguities if a person writes a check and does not have the funds in the account, or closes the account altogether.

Senator Dodge stated that is prima facie evidence.

Senator Close stated that he had taken this bill downstairs to be re-drafted and perhaps Mr. Miller would look the amendments over and if there is a problem he should check back with the Committee.

SB 131 Increases penalties for violation of certain gaming laws. (See minutes of February 28, March 1, 13 and 26 for testimony)

Senator Close stated that the Committee should look at the amendments proposed by the Board and also those submitted by Bob Faiss and Senator Sloan (see attachments P and Q). He also stated that we are conforming NRS 463.160, which is not in the bill.

Senator Sloan stated he felt that after it was amended it should be brought back to have the gaming people look at it before it was brought up on the floor.

Senator Hernstadt moved that SB 131 be passed out of Committee with an "amend and do pass and re-refer back to Committee" recommendation.

Seconded by Senator Raggio.

Motion carried unanimously. Senators Ashworth and Ford were absent for the vote.

SB 236 Makes various changes to laws regulating gaming. (See minutes of February 28, March 1 and 13 for testimony)

Senator Close stated that the Committee should read through the bill and see if the amendments as proposed were satisfactory (see Attachment R).

It was concurred by the Committee that in Section 4 "Carson City"should be taken out. It would only then require that a regular meeting take place each month. Also the notice would be changed to "three days" to concur with the open meeting law.
They also concurred that on Page 6, line 1 to leave in the word "willful", but limit it to Subsection 1 of NRS 463.160.
Page 11 should be amended to be "60 days after receiving notice", rather than the 20 days that is in there.
In adding the new section to NRS 463.160, Subsection C of Section 9 should be "to the value of goods or services provided"

As they had to go into session on the floor, they agreed to continue this at a later date.

No action was taken at this time.

The meeting was adjourned at 10:10 a.m.

Respectfully submitted,

Virginia C. Letts, Secretary

APPROVED:

Senator Melvin D. Close, Jr., Chairman

COMMERCIAL BRIBERY

The Nevada Revised statutes make bribery of a judicial officer, a legislator, an athlete, a labor representative or a member of certain other select groups a crime. However, they do not cover the situation in which a dishonest employee receives a bribe from a party with whom he is dealing on behalf of his employer in return for an action which may be harmful to the employer - as when an employee enters into a contract without competitive bidding in return for a favor done for him by the contractor.

More than a dozen states have passed laws dealing directly with commercial bribery, making both the giving and receiving of bribes a crime. These states include Washington, Utah, Hawaii, Alaska, and New York. The New York law, which is the oldest, has been construed to give the employer the right to recover the bribe from the dishonest employee in a civil action (Sears, Roebuck & Co. v. Kelly, 149 N.Y.S. 2d 133 (1956)) and to disregard the contract entered into as a result of the bribe (Shemin v. A. Black & Co., 225 N.Y.S. 2d 805 (1962)).

It is submitted that such a statute should be enacted by the Nevada Legislature as a means of encouraging the observance of ethical standards of conduct in business.

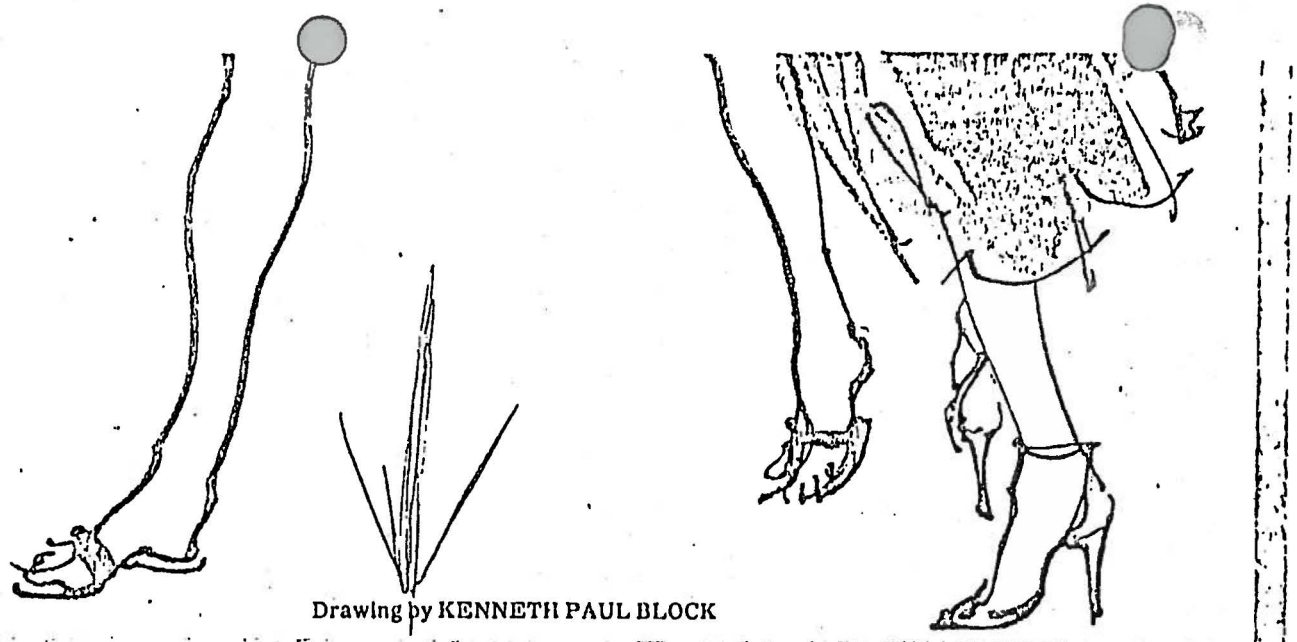
N.Y. Retailers Upbeat

NEW YORK — Washington's Birthday, which triggers heavy promotional activity in New York stores, drew lively traffic Monday, but retail executives were unsure if it will offset the snowstorm losses incurred earlier in the month.

Flagship stores enjoyed a good influx of shoppers Monday, but branch stores were still suffering slowdowns, mainly because snow still hampers mobility. Junior sportswear, coats, men's wear and home furnishings were strongest sale categories but regular price spring merchandise did well at some stores.

Lord & Taylor, for instance, last week sold out of Calvin Klein's shawl-collar wrap dress at $300, his shawl-collar jacket at $170

See N.Y., page 15



Drawing by KENNETH PAUL BLOCK

TODAY

Kickbacks: SA's version of 'Let's Make a Deal'

By TONY DeSTEFANO

NEW YORK — Lane Bryant, Inc., is actively investigating allegations that former staffers, including buyers, benefited from a well entrenched retail and manufacturing tradition: kickbacks.

The company's probe, which may be resolved by a financial settlement, could nevertheless turn into a court fight — perhaps ultimately involving the district attorney if negotiations with the exstaffers fail, industry sources say. If the case does go before a judge, the public will get a rare look at allegations of a prevalent business practice which some experts estimate nets dishonest executives $10 billion to $15 billion a year.

The heat is on from federal investigators as well. In New York, FBI officials confirmed commercial bribery cases and bankruptcy frauds in the garment center. IRS agents and

See THE ANCIENT, page 18

ATTACHMENT "B"

The ancient art of the kickback...

Continued From Page One

government attorneys are also investigating dealings in the New York handbag market, sources said. Government attorneys have declined to comment on that handbag probe.

Federal investigators have made a wise decision to focus on New York — an apparel market where business survival is often precarious.

> *"It's impossible to survive in this business without paying off."*
>
> *— Steve Olfer, a former coat manufacturer*

Steve Olfer, for example, got some, but not much of an edge at Ivan Scott, his women's coat firm at 263 West 38th St. After a few years of hassles he liquidated last June with little regret.

"It's impossible for anybody to survive in this business without paying off. There are people on top of you, below you, to the side of you — it's ultracompetitive. The only question the manufacturer asks himself is not whether he should pay but rather, 'Am I giving the buyer enough?'" Olfer said he did not pay kickbacks.

But another coat manufacturer, currently operating not far from Olfer's old office, was more explicit.

"I want to survive and I want to be big. To do that I have to pay off — everybody in this building does it," the coat manufacturer said.

The manufacturer, who requested anonymity, had no qualms about the payoffs, which he said were crucial for his survival.

"If I stopped tomorrow, about 35 percent of my total volume would disappear — completely. The rest of the stores? Well, the buyers wouldn't like it but would probably stay with me," the manufacturer said. He estimated his loss would amount to $2 million of his average yearly sales figure of $6 million.

"Everything is built into the costs. Figure around 2 percent is tacked on to the price because of payoffs. It's worthless to do less than 15 percent markup in coats so you figure the payoffs like the bottom line to 17 percent," estimated the coat manufacturer.

Buying offices contacted had different views on the payoffs. One irate buying executive said some manufacturers offer graft — they have to her — but that morality will keep the honest buyers clean. Another buyer said payoffs used to be big but are no longer — thanks to higher wages.

Buying offices contacted declined to discuss salaries but one industry consultant said some resident offices pay buyers no more than $18,000 a year. The big-game stores can pay sportswear buyers as much as $35,000 a year and graft there is minimal, the consultants said.

"Salary ranges can be ridiculous. Some girls coming into my shop make less than $12,000 for some of the out-of-town department stores," a coat manufacturer said.

"The pressures are wild in the buying business. Guys and gals are underpaid and play around with people who are all out to seduce them — literally and otherwise," Jules Kroll of Jules Kroll Associates, a management consulting firm, said.

"The success of the seduction depends on the buying office. Some are clean. Others will use every trick in the book," said Kroll.

The most frequent method discovered by investigators is the cash payment, set either by piece rate or by percentage of the business.

A few years ago, a Bond Stores buyer was discovered taking 25-cent kickbacks on men's coats, former store officials said. The buyer was later dismissed and the case ultimately went to the district attorney, who declined to prosecute.

"It's hard to determine what percentage of my business volume is paid out in graft. Some buyers are into the scheme in a heavy way but their replacement wouldn't take anything. So it's hard to estimate," said one coat manufacturer who claims he averages about $500 to $1,000 in payments to some of his buyers.

Steve Olfer said he never paid kickbacks but believes a coat house doing $2 million a year in sales would pay from $10,000 to $20,000 in yearly bribes.

Regardless of the amounts paid, manufacturers have a number of ways of raising the cash.

> *"If I stopped (paying off) tomorrow, about ... percent of my total volume would disappear — completely."*
>
> *— A coat manufacturer*

"Why do yo think we are open on Saturday?" a coat manufacturer asked. "Everybody thinks we take it all for ourselves — but that isn't so. Saturday business covers a lot of our payoffs. Sure, we take a few bucks. But the vast majority of it goes to buyers.

"And if we don't have enough spare cash left to pay the buyers — I mean we are all human, right? — we have to take it out of business," the manufacturer added.

There are more ingenious schemes which don't gnaw away at a manufacturer's profits.

Short shipping is one common practice and involves a manufacturer, in collusion with a buyer, billing the retail outlet for merchandise never sent. The manufacturer is paid for the phantom merchandise and the extra cash is split with the buyer or purchasing agent.

Some buyers have tried to mask their payments with dummy corporations. That was Mel Goldstein's system apparently. Goldstein used his own homebrewed corporation, M.B.G. Consultants, Inc., to receive bribes from suppliers of J.M. Fields, the discount department-store chain, court papers show. Goldstein admitted taking at least $17,900 in payments from various suppliers as well as $2,000 in tickets and trips, other court records show.

The payments, according to J.M. Fields attorneys, "were made either to Goldstein directly, or to M.B.G., which Goldstein ad-

...SA's version of 'Let's Make a Deal'

mitted was established for the sole purpose of receiving such payments and which performed no legitimate functions."

Goldstein pleaded guilty to one count of taking bribes from Saul Sendar of the Sendar Co., a New York glass firm, court records show. Sendar declined to comment on the case.

Last April, J.M. Fields won a $212,762 judgment against Goldstein in a case which backed the right of an employer to recover the salary paid to an employe taking kickbacks. Goldstein, now living in Hong Kong, is appealing the judgment.

Other gimmicks range from payment for college education of a buyer's child to elaborate wedding gifts and loans. In each case the message is clear: "Do business with me."

New York, as well as about 20 other states, has made commercial bribery a first-degree misdemeanor. Simply stated, it is a crime in New York to offer anything of value to another person's employe to get business done without the knowledge of the employer. Penalties in New York (which are seen by critics as inadequate deterrents) are set at $1,000 fines or twice the amount of the bribe, said Manhattan district attorney Roger Hayes.

Much apparel manufacturing and retailing involve interstate commerce and this means federal investigators can focus on SA, as they are doing now.

Use of a telephone on 38th St. to call a New Jersey retailer to iron out details of a kickback scheme might be a federal crime, particularly if fraud is involved. So is use of the mails to send a dummy check invoice. U.S. attorneys in New York have recently prosecuted several corporate executives under the wire and mail fraud statutes. Some of those convicted have been sentenced to jail.

False bills of lading, according to New York FBI agent Jim Mulroy, can give his investigators enough of a handle on a kickback to start a federal investigation.

Hovering over every kickback case is the IRS. Revenue agents and investigators can descend during normal audit procedures or when tipped by local or state agents, as well as private litigation. Buyers know this.

"Undercover agents always worry the buyers and always raise the big problem — where do I keep the money? Buyers often won't accept my checks because they are too easily traced as taxable income," one manufacturer said.

Kickback cases and other allegations of white collar crime are not confined to the buyer-manufacturer relationship. So desperate were apparel manufacturers in Brooklyn a few years ago that many paid off IRS collection agents to get more time to pay back taxes. The agents were later caught and convicted.

J.C. Penney, Inc., is now suing former employe Andrew Tsanas and several contractors for $23 million over an alleged bribery scheme said to have inflated the value of work and material used during construction at Penney's New York headquarters.

Tsanas, until recently an employe of Penney's administrative services department, was convicted this summer in federal court for evading income tax from 1972 to 1975. Government agents estimated he got $1,300,000 extra income and benefits from contractors — some of it as payment for bills from Bergdorf Goodman, Bonwit Teller, B. Altman and Brooks Bros.

The occasional check also covered over $21,000 in shopping bills of Helga Hensing who, according to court testimony, was Tsanas' mistress. The German-born Hensing was a stockbroker before she met Tsanas, who touted himself as a Greek with "shipping interests." According to Hensing's testimony, Tsanas not only paid for shopping sprees but also helped refurbish her apartment and eventually convinced her to stop work. Once she left her job, Hensing said she began receiving $500 checks from the Penguin Air Conditioning Co.

Delta Air Lines flight attendant Julie Walker, another friend of Tsanas, also spent a $3,000 check on a shopping spree. The check was given to Tsanas by contractor Howard Lazar, government files showed.

Tsanas' conviction and three jail sentences were recently affirmed by the U.S. Court of Appeals.

Kris Kalliades, who was Tsanas' superior at Penney's, pleaded guilty a few months ago to receiving $12,000 worth of remodeling on his home which went unreported on his federal tax return. Kalliades was sentenced to a two-year probation term after paying the IRS nearly $7,500 in back taxes, government attorneys said.

Tsanas' kickback escapades also sparked a recent stockholder derivative suit against J.C. Penney, its officers and directors, charging they conspired to allow the kickbacks.

Two years ago, W.T. Grant charged several employes in the company's real estate department were bribed in an alleged effort to "restrict competition by limiting Grant's access to other shopping center developers and landlords." Records revealed that construction on a stable for the estate of John A. Christensen, an officer with Grant's real estate division, was to be paid by Mid-America Development Co., as a "loan to Christensen." Christensen later admitted in affidavits that he received cash totaling $11,000 but never called the payments kickbacks.

The case against Christensen was settled but continues against seven other defendants.

Clearly, kickback schemes range across all facets of retailing and manufacturing and involve many people. The practice seems unstoppable, at least at the buyer level where nearly 400 offices clog New York alone.

But there may be something more basic to the structures of the apparel and retail industries which account for the pervasiveness of kickbacks.

"I think the fact everybody is doing it is because the goods, when you come down to it, are not really different from the other guy's," said Elkan Abramowitz, former assistant U.S. attorney in New York.

"Maybe the answer is to put in undercover operations. Put undercover buyers in big stores, put them on the streets. The crime is serious. It costs money — everybody pays."

(Fairchild News Service)

> *"The crime is serious. It costs money — everybody pays."*
>
> *— Elkan Abramowitz, former assistant U.S. attorney in New York*

> *"Why do you think we are open on Saturday ... Saturday business covers a lot of our payoffs."*
>
> *— A coat manufacturer*

ATTACHMENT "E"

RETAILING TODAY

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COMMERCIAL BRIBERY

Life-Like Products of Baltimore and Rexdale (Ontario) feels they can bribe your employees for a kickback of less than 2%—were they right? Did you carry Life-Like Products in your toy department? They set forth their bribes in the sheet accompanying their price lists offered the person sending in the order for grass mats, trees, HO SCENICS, and other products for model train enthusiasts. If someone sent in an order for $3500.00 or more, Life-Like would ship a Polaroid SX-70 Camera Outfit anywhere; an LCD Chronograph Watch went for an order of more than $2000.00; and a Flavor Fresh Drip Coffeemaker for an order over $500.00.

RT appreciates the cooperation of retailers in providing this information for dissemination.

ATTACHMENT "F"

Los Angeles Times
Outlook
BUSINESS
PART VII
SUNDAY, DECEMBER 10, 1978

Purchasing Agent: Underpaid and Under Temptation?

WHITE COLLAR CRIME INCREASES AS STAKES GET HIGHER.

BY ALEXANDER AUERBACH
Times Staff Writer

White collar crime. It doesn't necessarily mean conspiracies behind mahogany doors, or tampering with a computer system. It may involve little more than saying "yes" on the telephone.

With one word a purchasing agent for a large corporation or government agency can give business worth millions to a supplier. Some sellers are willing to fork over bribes and kickbacks to get that business, and some purchasing agents are willing to take—or even demand—a payoff.

The problem of corrupt purchasing practices is not new, of course, and most purchasing agents still are honest, thorough negotiators, who work hard to get their firms the best possible price.

But as the Lockheed, General Services Administration, Frito-Lay and other scandals demonstrate, a new element has been introduced. Today's huge organizations buy in vast quantities—not just by the carload, but by the trainload, sometimes even purchasing the entire output of a factory or farm.

Multimillion dollar contracts have become routine. With the escalation in the size of purchases, the temptation to "grease" a transaction and the size of the possible kickbacks have increased dramatically.

In self-defense, many large companies lately have been paying much more attention to their purchasing departments. Some have issued policy statements and ethical guidelines. Others have brought in industrial security experts, or "spies for hire," to ferret out corrupt employes.

But others still turn a blind eye.

A case in point may be a major California company, which for legal reasons cannot be further identified. One of the ingredients it uses in quantity is a certain common commodity. For many years one man at the company had purchased millions of pounds of this commodity annually.

According to a disgruntled salesman for a would-be supplier, much of this business has been channeled to a dealer willing to pay a kickback.

"The business is pretty gossipy, and we all know pretty much what the other fellow is getting," says the salesman. "I would guess that, on average, the (company) was paying about 25 cents a pound over the true market price. In the quantities they were buying, there was plenty to take care of the kickback to the purchasing agent and still leave the dealer a fat profit."

If the salesman is correct, --and he has substantial documentation for his claims--the company would have paid several million dollars above market prices during the years this purchasing agent was in charge of buying the commodity.

Only the company itself could verify or disprove the allegations. That would require an examination of its purchasing practices, including a painstaking comparison of its purchases of the commodity over the past several years with world prices, which fluctuate daily. But, in public at least, it has chosen not to do so.

Many firms are reluctant to undertake a thorough investigation of their internal affairs, say two industrial security experts.

"Some companies are absolutely outraged (by internal corruption) and will investigate carefully and fairly, and will prosecute if a crime is uncovered," says Jules Kroll, whose New York City-based investigative firm, Kroll Associates, has some 100 corporate clients.

"Other companies would just as soon sweep it under the rug, because of the embarrassment to

Please Turn to Page 2, Col. 1

ATTACHMENT "G"

White Collar Crime Increases as Purchasing Contracts Get Bigger

Continued from First Page

top management. That's happening less and less, especially with publicly held companies," he adds.

Don D. Darling, an El Segundo security consultant who has worked for the Atomic Energy Commission, defense contractors and wealthy individuals as well as corporations with relatively prosaic problems of employe dishonesty, says "once internal theft starts, it grows like a cancer.

"If one guy is on the pad, the guy at the next desk soon knows, and he starts figuring out a way he can dip his hand in the till."

Often, says Darling, problems uncovered at the middle-management level reflect questionable conduct higher up. "A purchasing agent making $15,000 a year who sees a senior executive earning two or three times that taking something from the company will quickly figure out how he can get in the game."

Darling was brought in by a large office supplies firm in Los Angeles because of a theft problem, "and we found damn near everybody in the place was stealing something, including the owners.

"Nobody was stealing a lot, except for one guy who went to jail, and they couldn't very well fire the rest because there would be no one left to run the place. The owners finally decided to lay down the law to everyone, including themselves, and made it clear that if the thefts continued they'd all be out of work, because the place would go bankrupt. It was hard, but it worked."

On a much larger scale, that type of pervasive corruption allegedly existed at Frito-Lay Inc., the snack food subsidiary of Pepsico Inc., according to papers filed in a lawsuit in Dallas, the subsidiary's headquarters.

Frito-Lay has sued James H. Stafford, who until he was dismissed Aug. 21 had been its purchasing manager in charge of buying cooking oils, corn and other commodities, spending about $150 million a year for the firm.

The company claims Stafford secretly owned an interest in a Texas grain company that was Frito-Lay's largest supplier of corn. It also says he was a paid "consultant" to an oil supplier, getting $15 per carload or $40,000 a year on Frito-Lay oil purchases.

In recent years, the company's lawsuit contends, Stafford has been getting about $100,000 a year in kickbacks, dividends from his grain company, and other payments by suppliers. His salary is at the company is believed to have been about $40,000 a year.

When Stafford's grain company was acquired by another firm in 1976, according to the legal documents, Stafford was paid $5 million for his interest, and his son-in-law got $4.5 million more for his shares.

Frito-Lay is suing for $18 million in damages.

In his defense, Stafford claims that it is far from uncommon for Frito-Lay executives to have interests in companies that supply the corn [illegible]

[illegible]

and is staffed by three other former Frito-Lay employes.

The stakes in the Frito-Lay case are high for all concerned, notes Kroll, because Texas is one of the few states with a still law aimed at white collar crime. Commercial bribery carries there a maximum sentence of 10 years in prison and a $5,000 fine.

"California and about half of the other states have no specific statute on commercial bribery," says Kroll. "Those that do often treat it as a misdemeanor. In New York you can get a maximum of 90 days in jail and a $500 fine on each count, no matter how large the bribe was."

The FBI and the Justice Department are getting much more active in the field of white collar crime, Kroll says, and they generally try to prosecute bribe recipients under federal statutes against committing fraud by wire or by mail, which carry heavy penalties.

"If a purchasing agent at an aerospace plant doing defense work takes a bribe, he could wind up getting five years on each count. But if one takes the same bribe at a company across the street, he could get away clean. It's all a matter of picking your spot."

Both Kroll and Darling say that in many cases a purchasing agent accused of taking a bribe or kickback is innocent.

"It's very sobering," Kroll says. "In about 25% of our cases we prove the allegations are false. A vendor who has lost out on a contract, for example, may want to blacken the image of his competitor, so he accuses them of giving a bribe and the purchasing agent of taking it.

"In another 25% or so we can't gather enough evidence to prove things one way or the other—the company may not give us enough time or budget.

"But in about half of the cases we investigate we turn up an irregular or illegal act." Since a company only calls in someone like Kroll after its suspicions have been raised, that certainly doesn't mean that 50% of all purchasing agents are dishonest, he stresses.

Darling says that "many times, these investigations clear someone—it turns out to be the executive VP who is on the take, not the purchasing agent, for example."

Frequently, he says, innocent employes ask to be given a polygraph, or "lie detector" test, Darling says, although he cautions that such tests should only be administered by a competent practitioner.

As the scandal at the General Services Administration illustrates, the problem of corruption in purchasing is not limited to the private sector.

The GSA each year buys some $5 billion worth of goods and services for the federal government, ranging from cars and trucks to paper clips, from huge computer systems to hammers. It also buys and manages some 10,000 federal office buildings.

Reports of [illegible] at the GSA have circulated in Washington for years, but the agency has been a [illegible]

pliers have been indicted, and 17 have pleaded guilty.

Much of the fraud was blatant: suppliers would bill the agency for much more than was actually shipped, and GSA employes would approve their bills in return for a kickback. A painting contractor did $60,000 worth of work on government buildings, was paid $310,000, and split the difference with GSA workers. An office furniture company kept shipping shoddy, unusable merchandise, which a GSA official accepted. When it proved unservicable, the firm was given another order for more furniture.

The agency apparently also was the victim of a practice commonly used by corrupt purchasing agents in private industry as well. When items were put out for bid, specifications were written in such a way that only one company's products could meet them. The GSA's specifications for a mousetrap, the Senate found, was 102,000 words long. It has since been cut to half a page.

The bribes at the GSA and at American corporations pale in comparison to the mountains of cash that have been passed to foreign officials by some U.S. companies and their competitors abroad.

Lockheed Aircraft Corp. has acknowledged making foreign secret payments, bribes and kickbacks of more than $30 million, and possibly as much as $35 million, from 1970 to 1975. The money was intended to promote the sale of its military and civilian aircraft to foreign governments.

Exxon Corp. settled charges by the Securities & Exchange Commission that it paid more than $56.5 million in bribes and illegal political payments, most of it in Italy. The giant oil company did not admit or deny the charges, but agreed to make no such payoffs in the future.

Westinghouse Electric Corp. has acknowledged paying $322,000 to an Egyptian government official in return for a $30 million contract to build a power plant. The firm was fined $300,000 by a federal judge in Washington.

International Telephone & Telegraph Corp. has been charged in an SEC complaint with making $9 million in illegal payments in nine foreign countries. That case has not yet gone to trial.

Although bribes by an American firm made to foreigners on foreign soil may not seem to be in violation of any American laws, federal regulators point out that American investors who buy stock in a company doing business this way have no way of knowing that the firm's fortunes rest partly on bribery. The company thus materially deceives its shareholders, they argue.

That issue is irrelevant today, however, since the Foreign Corrupt Practices Act now specifically forbids any such foreign bribery, and calls for fines of up to $1 million on corporations and five years in jail plus $10,- [illegible]

[illegible]

4, Part VII—Sun., Dec. 10, 1978 Los Angeles Times

White Collar Crime Up as Stakes Increase

Continued from Second Page

been indicted through their U.S. subsidiaries by a Los Angeles grand jury on charges of paying $330,000 in bribes to officials of an Alaska telephone company, allegedly to get a $9 million cable contract.

Marubeni, Japan's fourth largest trading company, was accused in 1976 of paying several million dollars in bribes to Japanese officials on behalf of Lockheed, to promote the sale of its L-1011 jets.

Some American executives, competing abroad with foreign corporations, complain that they are handicapped by moral standards which they must observe but which do not fetter their competitors.

While the new federal law may reduce the incidence of foreign bribery of purchasing officials, and American firms are more acuvely prosecuting instances of massive abuse at home, the professional purchasing agents and salesmen themselves are attempting to weed out the petty corruption that once was overlooked or covered up with a dismissal.

Ralph Nader says his Center for the Study of Responsive Law has received a number of tips from "whistleblowers" about this kind of corporate bribery. "There is tremendous potential here for restoring more balance in the economy," says Nader, who notes that honest vendors cannot compete with a supplier giving bribes, so "the benefits of the enterprise system are lost."

The National Assn. of Purchasing Management, a 23,000-member organization headquartered in New York, "isn't hiding its head in the sand," says Frank J. Winters, its executuve secretary.

A recent survey of the members asked if their companies had explicit policy statements on conflict of interest, and whether the purchasing agents would accept gratuities ranging from lunch with a salesman or tokens such as ballpoint pens, to major items like paid vacations or "loans."

"Generally speaking the response indicated things are pretty good," Winters says, "but about 10% said they might accept some type of gratuity or gift which exceeds what we would think of as reasonable."

Part of the fault lies with top management, he says, which fails to spell out what is acceptable and what isn't—or which sets an example of taking gratuities from suppliers or stealing from the company.

Salaries of purchasing agents are generally below those of other middle management employes with similar responsibilities, "about 10% lower, at least," he says, "and this can be a source of terrific frustration and temptation." (As investigator Kroll puts it, "they are underpaid, under temptation, and under-statused.")

Within the last few years the organization has begun a certification program, based on written examinations in such areas as materials management, data processing, statistics, and so on, plus an evaluation of work experience, aimed at gaining recognition for professional purchasing managers.

Some companies, such as the Western Electric subsidiary of American Telephone & Telegraph, have sharply reduced the possibility of abuses by using team purchasing, which means that several different individuals take responsibility for each buy. Corruption would then require widespread collusion, which generally is not the pattern in the cases of bribery that are uncovered.

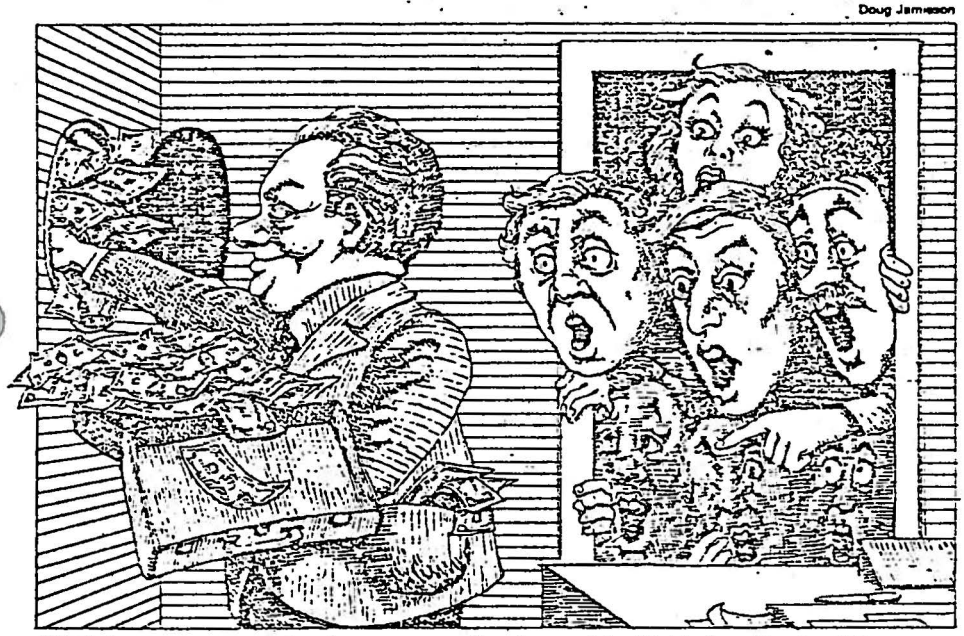
ATTACHMENT "J"

More pressure to prosecute executive crime

For one tense week last September, Francis X. McCormack, senior vice-president and general counsel for Atlantic Richfield Co., and 20 other ARCO executives and staffers pored over internal records, insurance documents, Securities & Exchange Commission regulations, and bank reporting rules, trying to decide how to handle a messy situation that could embroil the company in scandal and cost it millions of dollars.

On Sept. 27, after an investigation into some unusual letters of credit that had surfaced at ARCO's Anaconda Co. subsidiary, Charles H. Kraft, a former Anaconda treasurer, had laid out the details of a series of Anaconda-backed loans that he had arranged without authorization for two companies unrelated to Anaconda. The revelation plunged Los Angeles-based ARCO into an agonizing evaluation of its moral and legal obligations regarding the possibly criminal misconduct of one of its executives.

Doug Jamieson



What does a company do when an executive is caught with his hand in the till?

Examples of misconduct on the scale of the ARCO case are hardly commonplace. But when they do occur, the conflicts they threaten between the interests of shareholders, employees, corporate executives, and society at large make them among the toughest problems executives ever face. Yet most corporations have no set policies on how to handle them. Although most companies have long since issued codes of ethics for employees, they possess no comparable guidelines on what to do when the codes are violated. BUSINESS WEEK interviews with corporate executives and law enforcement authorities indicate that, in almost all cases, companies deal with each problem on an individual, catch-as-catch-can basis.

The Begelman affair. The result has been a dizzying variation from company to company and probably from person to person within companies on how the law is enforced. At ARCO, Kraft was promptly relieved of duty, the SEC and shareholders were quickly informed, and ARCO is currently cooperating with a U.S. Attorney in New York regarding possible criminal prosecution. By contrast, Columbia Pictures Industries Inc. first suspended David Begelman, head of its movie and TV division, in October, 1977, after he admitted misusing company funds and fraudulently cashing checks made out to others; reinstated him in December; then responded to public disapproval in February by removing him from the company payroll and giving him a contract as an independent producer. Begelman has been fined $5,000 and put on probation for three years after pleading no contest to charges of grand larceny of $61,000.

But companies may not be able to stick with their ad hoc policies much longer. Pressures are building for the establishment of official, consistent guidelines for handling corporate crime. The pressures are threefold:

- Growing public awareness of the sheer volume of white-collar crime and its impact on the economy is forcing companies to step up their crime prevention and law enforcement efforts.
- More and more, corporate executives are being held personally responsible, legally and socially, for misdeeds at all levels of the company.
- Threats of shareholder and employee lawsuits are making it a matter of self-preservation for companies to follow uniform policies toward criminal infractions within their ranks.

Even Congress has begun to study the subject. Says Steven G. Raikin, counsel to the subcommittee on crime of the House Judiciary Committee, which began hearings on white-collar crime last summer: "We are asking to what extent can large corporations be expected and encouraged to police themselves and to diligently report violations?"

Although solid statistics on the subject are sparse, the most widely quoted figure for the total dollar cost of white-collar crime is the U.S. Chamber of Commerce's estimate of $44 billion a year—more than 10 times the estimated annual cost of street crime. Most experts agree that by far the largest share of these crimes are committed by employees, with the employer as victim. This means that shareholders and customers are bearing the burden of these losses. And yet most law enforcement authorities believe that only a small part of the total losses suffered by companies is ever reported.

Most companies have no guidelines on how to handle criminal misconduct

"Prosecutors may not prosecute unless the injured party presses charges," says Christopher D. Stone, professor of law at the University of Southern California and author of several works on corporate social responsibility. "If the magnitude [of unreported crime] is as large as I think it is, it becomes a significant social problem. It's one of the major undiscussed problems in business today."

Two approaches. Most companies take a fairly hard line on crime when it comes to the continued employment of the suspected person. "We have one policy with respect to employees involved in white-collar crime," says the security director of a major office equipment company. "Fire them, regardless of the amount involved." But this is as far as most companies go.

Two things are wrong with this approach, says Los Angeles District

Attorney John K. Van de Kamp. "Companies don't recognize that they're putting the culprit back out into the job market, giving him a chance to repeat his behavior with another employer," Van de Kamp says. "Even worse, they are telling their own employees, 'The worst that can happen if you steal from us is that we'll fire you.' "

In some industries, companies have pooled data on people accused of shoplifting or workers' compensation abuse to reduce the likelihood that such employees will be hired elsewhere. But such "blacklists" have inspired lawsuits and have come under fire from the American Civil Liberties Union.

More commonly, employers spread the word about a suspected former employee via the grapevine. "You're not going to make a statement on a recommendation that you don't have full proof of," says James L. Ketelson, chairman of Tenneco Corp. At the same time, notes an oil company executive, "You can damn a guy with faint praise."

Some real problems discourage corporations from pressing charges. Reporting friends and fellow workers to the authorities is socially awkward. "I guess we'd rather take small losses than try to put somebody in jail," says Herbert A. Phillips, vice-president and treasurer of Equifax Inc., an Atlanta-based company that investigates private citizens for insurance companies, credit grantors, and potential employers. Phillips knows only three cases of substantial employee theft, totaling about $65,000, at Equifax. In all three cases, Equifax fired the implicated employee but did not give the evidence to law enforcement authorities for prosecution.

Suits and countersuits. Even where no paternalistic feelings are involved, it is far easier to fire a suspected employee than to put together a tight legal case against him. "Courts of law require that the defendant be guilty beyond a reasonable doubt," says Walter W. Sapp, Tenneco's senior vice-president and chief counsel. "That's a difficult burden. But the corporation doesn't have to establish that degree of proof to fire someone."

Companies also note that they might jeopardize their insurance coverage of the loss if they pressed criminal charges and lost the case. "What it takes to convince us may not convince a jury," says C. Daniel Drake, vice-president of the bond department at Insurance Co. of North America, in Philadelphia. "What if we have paid a claim, the company presses charges, and the jury says, 'No, there's room for doubt'? Then, wow. . ."

At that point, the company could face an employee countersuit. Drake suggests. Indeed, even if the company has a hard-and-fast case against an employee, it may choose not to press charges simply to protect its insurance coverage. "Our bonding company, which makes the decision on whether to press charges, is more interested in restitution," says John C. Malone, president of Tele-Communications Inc., in Denver. "You can't get restitution from someone who is making license plates in the state pen."

A case in point. The experience of Lloyd's Electronics Inc., a Compton (Calif.) consumer electronics manufacturer, illustrates the dangers companies risk by pressing charges or seeking restitution. Last spring, Lloyd's accountants uncovered $1.1 million in fictitious sales at Products International, a company owned 50% by a Lloyd's subsidiary. Bernard R. Lavitch, operating head of Products International, denied responsibility for the erroneous entries. William Friedland, Lloyd's vice-chairman, took the case to the Los Angeles police, but came away dissatisfied. "The police wanted to know who was hurt," Friedland says. "They wanted to see blood on the carpet. When there was none, the attitude was, 'We'll get around to it eventually.' "

John Grossman

Tenneco's Sapp: He feels it is easier to fire someone than take him to court.

So Lloyd's filed suit against Lavitch, seeking $2.2 million in damages. "We had to disclose the problem, and the suit was a demonstration to our stockholders that we were taking action to protect their interests," Friedland says. Lavitch then countersued both Lloyd's and Friedland in a multi-million-dollar suit that sought to implicate Friedland in the manipulation of the figures. "There's a definite danger in a corporation hanging its own wrongdoings on one individual," says Lavitch's lawyer.

For their part, law enforcement authorities charge that companies avoid bringing in cases, because executives fear the publicity and implications of sloppy management such cases produce.

Mitchell S. Cohen, deputy chief of the special prosecutions division of the U. S. Attorney's office in Philadelphia, claims that he often has more trouble getting information out of the companies than out of the accused employees. "I've been lied to, material I've asked for has not been turned over, and I've had to go back a second or third time to get a piece of evidence," he says. "When we subpoena corporate personnel and materials, the attorneys stall, delay, do everything a good defense attorney should do to protract an investigation. But they're not the defendants. I just do not understand why I have to fight the victim as well as the defendant."

Says Denver District Attorney Dale Tooley: "Businesses feel they have no duty to report crime. It's a real problem." Tooley applauds a proposed law to be introduced before the Colorado legislature in January. By requiring the reporting of white-collar crime, it would have the double effect of encouraging companies to report crimes and discouraging employees from countersuing, because the company would be protected from civil liability as long as it had a "reasonable basis" for its charge.

Stone: Unreported crime is a 'major undiscussed problem in business today'

In the absence of comprehensive, mandatory reporting legislation, the company's legal responsibility may vary with every case and every state. But whatever the responsibility, Pittsburgh District Attorney Robert E. Colville cautions companies against trying to nail a suspected employee without due regard for his rights to privacy and due process of the law. "Someone who tries to play policeman generally fouls it up pretty badly," he says.

Tell all. Some experts even believe that the issues are so complex that a company is better off without a policy. "I don't think it makes sense to try to write a code that would cover every conceivable circumstance," says Donald J. Evans, chairman of the counsel responsibility committee of the American Bar Assn.'s corporate law section.

This same complexity, however, appears to be prompting a growing number of companies to define in advance the roles they will play when confronted with corporate crime. In most cases, they have concluded that, despite the risk of bad publicity, both prudence and morality dictate that they dump all evidence in the laps of law enforcement authorities. At Kemper Insurance Cos., of Chicago, for instance, Vincent L. Inserra, director of internal security, says: "I feel that if anybody is going to decline the responsibility of prosecution, it's going to be the local, state, or federal authorities—not me. I'm not going to be the judge and jury." ■

NEW YORK PENAL LAW

§ 180.00 Commercial bribing

A person is guilty of commercial bribing when he confers, or offers or agrees to confer, any benefit upon any employee, agent or fiduciary without the consent of the latter's employer or principal, with intent to influence his conduct in relation to his employer's or principal's affairs.

Commercial bribing is a class B misdemeanor.

L.1965, c. 1030.

§ 180.05 Commercial bribe receiving

An employee, agent or fiduciary is guilty of commercial bribe receiving when, without the consent of his employer or principal, he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that such benefit will influence his conduct in relation to his employer's or principal's affairs.

Commercial bribe receiving is a class B misdemeanor.

L.1965, c. 1030.

STATE OF ARIZONA

34th LEGISLATURE

1st REGULAR SESSION

REFERENCE TITLE: ATTACHMENT ("M") commercial bribery classification

RELEVANT

Referred on February 1, 1979

Rules

Judiciary

Commerce

HOUSE

H. B. 2244

Introduced
February 1, 1979

Introduced by Representatives McConnell, Carlson, Cooper, Corpstein, Hawke, Jones, Kunasek, Lewis, Ratliff

AN ACT

RELATING TO CRIMES; PROVIDING FOR DEFINITION AND CLASSIFICATION OF CRIME OF COMMERCIAL BRIBERY, AND AMENDING TITLE 13, CHAPTER 26, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2605.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 13, chapter 26, Arizona Revised Statutes, is amended by adding section 13-2605, to read:

13-2605. Commercial bribery; classification

A. A PERSON COMMITS COMMERCIAL BRIBERY IF: with Corrupt Intent.

1. SUCH PERSON OFFERS, CONFERS OR AGREES TO CONFER ANY BENEFIT ON AN EMPLOYEE, AGENT OR FIDUCIARY WITHOUT THE CONSENT OF SUCH EMPLOYEE'S, AGENT'S OR FIDUCIARY'S EMPLOYER OR PRINCIPAL, WITH INTENT TO INFLUENCE HIS CONDUCT IN RELATION TO THE EMPLOYER'S OR PRINCIPAL'S AFFAIRS. Commercial

2. WHILE AN EMPLOYEE, AGENT OR FIDUCIARY OF AN EMPLOYER OR PRINCIPAL, SUCH PERSON SOLICITS, ACCEPTS OR AGREES TO ACCEPT ANY BENEFIT FROM ANOTHER PERSON UPON AN AGREEMENT OR UNDERSTANDING THAT SUCH BENEFIT WILL INFLUENCE HIS CONDUCT IN RELATION TO THE EMPLOYER'S OR PRINCIPAL'S Comm AFFAIRS.

B. COMMERCIAL BRIBERY IS A CLASS 6 FELONY IF THE VALUE OF THE BENEFIT IS MORE THAN ONE THOUSAND DOLLARS. COMMERCIAL BRIBERY IS A CLASS 1 MISDEMEANOR IF THE VALUE OF THE BENEFIT IS NOT MORE THAN ONE THOUSAND DOLLARS.

ATTACHMENT "N"

March 30, 1979

Proposed Amendment to Nevada S.B. 346

Any employee, agent or fiduciary who, without the consent of his employer, principal or the person who has placed his confidence in the fiduciary, solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that such benefit will influence his conduct in relation to the business affairs of the employer, principal or person placing such confidence, commits commercial bribe receiving and shall be punished for a misdemeanor.

BILL COMPARISONS

	ADVANTAGES	DISADVANTAGES
SB 347	1) Permits establishment of prison industry. 2) Provides for employment of offenders. 3) Allows the hiring of craftsmen, supervisory personnel. 4) Establishes Enterprise Fund. 5) Mandates purchasing by state agencies. 6) Permits purchasing by local gov't, certain non-profit entities. 7) Amends both the local gov't and state purchasing acts (Chapters 332, 333 NRS). 8) Provides punishment for unauthorized sales. 9) Does not impact present outside work progs.	1) Requires a specified sworn annual report. 2) Mandates a separate inventory (to be included in annual report). 3) Unencumbered balance to be reverted, but does not state who determines that balance; limits amount retained to supplies, tools, machinery with no consideration for other operational costs. 4) Inadequate discretion regarding general operation. 5) Prohibits sale to general public except by parolees and probationers. 6) Establishes a general fund account for receipt of moneys due for 'labor performed' (ill defined). 7) No minimum wage requirement. 8) No requirement for offender wage deductions such as room and board, restitution, etc. 9) No specified training requirement.
AB 346	1) Allows the establishment of both prison industries and contracted private industry. 2) Provides for offender employment and training programs. 3) Allows the hiring of supervisory personnel. 4) May contract outside employment for offenders. 5) Augments offender work release programs; permits outside vo/ed trg (trg release prog). 6) Excess earnings to be prison revenue source. 7) General operation at discretion of director and board.	1) Requires employment of all offenders (except behavioral problems) on 40 hour week. (No discretion as to variable work weeks.) 2) No specified market for goods. 3) No requirement for offender wage deductions such as room and board, restitution, etc. 4) No minimum wage requirement. 5) Does not establish an Enterprise Fund or accounting procedures (what are 'excess earnings').
AB 446	1) Provides for employment of offenders. 2) Permits offender wage deductions for room and board, restitution, etc. 3) General operation at discretion of director and board. 4) Does not impact present outside work progs.	1) Concerned with private industry only which limits employment potential. 2) Creates an industry advisory board. 3) Does not establish accounting procedures. 4) Does not require training (would limit employment).

ATTACHMENT "O"

BILL COMPARISONS

	ADVANTAGES	DISADVANTAGES
SB 347	1) Permits establishment of prison industry. 2) Provides for employment of offenders. 3) Allows the hiring of craftsmen, supervisory personnel. 4) Establishes Enterprise Fund. 5) Mandates purchasing by state agencies. 6) Permits purchasing by local gov't, certain non-profit entities. 7) Amends both the local gov't and state purchasing acts (Chapters 332, 333 NRS). 8) Provides punishment for unauthorized sales. 9) Does not impact present outside work progs.	1) Requires a specified sworn annual report. 2) Mandates a separate inventory (to be included in annual report). 3) Unencumbered balance to be reverted, but does not state who determines that balance; limits amount retained to supplies, tools, machinery with no consideration for other operational costs. 4) Inadequate discretion regarding general operation. 5) Prohibits sale to general public except by parolees and probationers. 6) Establishes a general fund account for receipt of moneys due for 'labor performed' (ill defined). 7) No minimum wage requirement. 8) No requirement for offender wage deductions such as room and board, restitution, etc. 9) No specified training requirement.
AB 346	1) Allows the establishment of both prison industries and contracted private industry. 2) Provides for offender employment and training programs. 3) Allows the hiring of supervisory personnel. 4) May contract outside employment for offenders. 5) Augments offender work release programs; permits outside vo/ed trg (trg release prog). 6) Excess earnings to be prison revenue source. 7) General operation at discretion of director and board.	1) Requires employment of all offenders (except behavioral problems) on 40 hour week. (No discretion as to variable work weeks.) 2) No specified market for goods. 3) No requirement for offender wage deductions such as room and board, restitution, etc. 4) No minimum wage requirement. 5) Does not establish an Enterprise Fund or accounting procedures (what are 'excess earnings').
AB 446	1) Provides for employment of offenders. 2) Permits offender wage deductions for room and board, restitution, etc. 3) General operation at discretion of director and board. 4) Does not impact present outside work progs.	1) Concerned with private industry only which limits employment potential. 2) Creates an industry advisory board. 3) Does not establish accounting procedures. 4) Does not require training (would limit employment).

ATTACHMENT "O"

S.B. 131

Provides for automatic revocation of a gaming license for attempts and conspiracies to violate NRS Chapter 463, 464 or 465, and provides felony penalties and forfeitures of property in cases involving violation of the licensing statutes.

Page 1, line 5, section 1, paragraph 1: Amend to read as follows: "... 464 or 465 of NRS may act as an immediate revocation of all...." The previously proposed new language "effects the immediate revocation" should be deleted.

Page 1, line 19, section 1, paragraph 3: Amend to read as follows: "... to violate any of the provisions of NRS 463.160 , subsection 1 shall be punished by...."

Page 2, line 1, section 1, paragraph 3: Amend to read as follows: "... has acquired or maintained in violation of NRS 463.160 , subsection 1 and its related...."

Page 2, line 6, section 1, paragraph 3: Amend to read as follows: "... participated in the conduct of in violation of NRS 463.160 , subsection 1 and its related provisions."

Additionally, NRS 465.010 "Unlicensed gambling games unlawful" and NRS 465.020 "Penalty for permitting unlicensed games" should be repealed. These two sections of NRS Chapter 465 merely duplicate the penalties which are provided for

in NRS 463.360. All violations of the licensure provisions of the Gaming Control Act are currently classified as gross misdemeanors by both NRS 463.360 and 465.010 and 465.020. If S.B. 131 is passed, with the amendments proposed by the Board, all violations of NRS 463.160 would remain gross misdemeanors, with the exception of violations of NRS 463.160(1), which would then be classified as felony violations.

3/21/79

SB 131

PROPOSED AMENDMENT

Section 1. NRS 463.160 is hereby amended to read as follows:

463.160

1. --

2. --

3. --

4. --

5. [Any person who shall] It is unlawful for any person to knowingly permit any gambling game, slot machine or device to be conducted, operated, dealt or carried on in any house or building or other premises owned by him, in whole or in part, except by a person who is licensed hereunder, or his employee [, is guilty of a gross misdemeanor] .

[6. --]

[7.] 6. --

[8.] 7. --

[9.] 8. --

Section 2. NRS 463.360 is hereby amended to read as follows:

463.360 1. (As in S.B. 131)

2. (As is)

3. Except as provided in subsection 4 of NRS 463.360, any person who willfully violates, attempts to violate, or conspires to violate any of the provisions of subsections 1, 2, 3, 4 or 5 of NRS 463.160 (remainder as is in S.B. 131, except change references to NRS 463.160 to "subsections 1, 2, 3, 4 or 5 of NRS 463.160").

4. Any licensee who puts additional games or slot machines into play or displays such games or slot machines in a public area without first procuring all required licenses and approvals is subject only to the penalties provided in NRS 463.310 and any pertinent ordinance of any county, incorporated city or unincorporated city or town.

5. (present subsection 4 of S.B. 131).

S.B. 236

This is the Gaming Control Board's omnibus bill. It amends various sections of the Gaming Control Act.

This set of changes incorporates all those changes previously requested by the Board.

Page 1, line 9, section 1, paragraph 1: Eliminate the reference to "sic bo," and change to read as follows: "... baccarat, pai gow, beat the banker, panguingui or slot machine, or any other game or device approved by the Nevada gaming commission, but [shall] does not include social games played solely for drinks, or ...."

Page 1, line 16, section 2, paragraph 1: NRS 463.075 should be amended to read as follows:

[1.] The board shall be organized in [three] the following functional divisions: Administrative, [fiscal and surveillance.] audit, investigations, enforcement, corporate securities and economic research, and tax and license.

Paragraphs 2, 3, 4, and 5 would be deleted, as they currently are in the bill as is before the committee. It should be noted that the above amendment would make NRS 463.075 consistent with the provisions of NRS 463.080. NRS 463.080 currently provides that the board may, "Establish, and from time to time alter, such plan of organization as it may deem expedient." NRS 463.080(1)(a).

It should also be noted that the qualifications of the individual Board members, outlined in NRS 463.040, would not be amended. Assignment of functional divisions would still be made, as appropriate.

Page 3, lines 18-21, section 5, paragraph 4(c): This section should be amended to read as follows: "(c) To a duly authorized agent of a federal or state agency, including but not limited to agents of the Federal Bureau of Investigation, the United States Treasury Department, [or] the Commissioner of the Internal Revenue Service of the United States, or the Securities and Exchange Commission of the United States pursuant to [rules and] regulations adopted by the commission.

Page 6, line 1, section 8, paragraph 9(a)(3): Eliminate the word "willful," so that that line reads: "(3) There has been a violation of NRS 463.160; or"

Page 10, line 23, section 10, paragraph 1(a): That line should be amended to read as follows: "... including, but not limited to: ...."

Section 10, page 10, paragraph 1(a) should also be amended at lines 39-40, to include count room personnel in the definition

and to remove junket representatives. Those lines should, therefore, read as follows:

"(15) Ticket writers; and

"(16) Count room personnel."

Page 12, line 38, section 10, paragraph 9: This section should be amended to add the language of A.B. 361. That line should then read: "... enforcement agency. Any record of the board or commission which shows a conviction of an applicant for a crime committed in a state other than the State of Nevada must show the classification of the crime, as a misdemeanor, gross misdemeanor, felony, or other class of crime, under the law of the state of conviction, and in any disclosure of such a conviction a reference to the classification of the crime may be made only to the classification in the state where the crime was committed.

Page 14, line 34, section 12, paragraph 5(b): This section should be amended to change "an application" to "his application." Line 34 would then read as follows: "... submit his application for licensing, finding of suitability or registration; ...."

Add a new section to amend NRS 463.160: NRS 463.160 is hereby amended to read as follows:

463.160 License required.

1. No amendment.

2. No amendment.

3. No amendment.

4. No amendment.

5. No amendment.

6. No amendment.

7. No amendment.

8. No amendment.

9. [If the premises of a licensed gaming establishment are directly or indirectly owned or under the control of the licensee therein, or of any person controlling, controlled by, or under common control with such licensee, the commission may, upon recommendation of the board, require the licensee to present the application of any business or person doing business on the premises for a determination of suitability to be associated with a gaming enterprise in accordance with the procedures set forth in this chapter.] If the premises of a licensed gaming establishment are directly or indirectly owned or under the control of the licensee therein, or of any person controlling, controlled by, or under common control with such licensee, the commission may, upon recommendation of the board, require the licensee to present the application of any business or person for a determination of suitability to be associated with a gaming enterprise if such business or person:

(a) Does business on the premises of the licensed gaming establishment;

(b) Does business with the licensed gaming establishment in the capacity as junket representative or ticket purveyor; or

(c) Provides any goods or services to the licensed gaming establishment for a compensation found by the board in its recommendation to be grossly disproportionate to the goods or services provided.

If the commission determines that such business or person is unsuitable to be associated with a gaming enterprise, such association shall be terminated. Any agreement which entitles a business other than gaming to be conducted on such premises or with the licensed gaming establishment as set forth above is subject to termination upon a finding of unsuitability of the business or of any person associated therewith. Every such agreement shall be deemed to include a provision for its termination without liability on the part of the licensee upon a finding by the commission that the business or any person associated therewith is unsuitable to be associated with a gaming enterprise. Failure expressly to include such a condition in the agreement is not a defense in any action brought pursuant to this section to terminate the agreement. If the application is not presented to the board within 30 days following demand or the unsuitable association is not terminated, the commission may pursue any remedy or combination of remedies provided in this chapter.

SENATE BILL NO. 346—SENATOR KOSINSKI

MARCH 21, 1979

Referred to Committee on Judiciary

SUMMARY—Defines crime of commercial bribery and provides penalty. (BDR 16-1144)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to crimes and punishments; defining the crime of commercial bribery; providing a penalty; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 207 of NRS is hereby amended by adding thereto a new section which shall read as follows:

Any person who confers, or offers or agrees to confer, a benefit upon any employee, agent or fiduciary without the consent of the employer, principal or person who has placed his confidence in the fiduciary, and who does so with the intent to influence the conduct of the employee, agent or fiduciary in relation to the business affairs of the employer, principal or person placing such confidence, commits commercial bribery and shall be punished for a misdemeanor.