

# PROGRAM BILL # 10

1 AN ACT to amend the racing, pari-  
2 mutuel wagering and breeding law,  
3 the penal law, and the state  
4 finance law in relation to  
5 commercial gaming; and to amend  
6 the executive law, the state  
7 finance law, the executive law and  
8 the indian law in relation to  
9 authorizing the settlement of  
10 disputes; and to amend the indian  
11 law and the tax law in relation to  
12 identifying nations and tribes  
13

14  
15 The People of the State of New York, represented in Senate  
16 and Assembly, do enact as follows:  
17

18 Section 1. This act shall be known as the upstate New York  
19 gaming economic development act of 2013.  
20

21 §2. The racing, pari-mutuel wagering and breeding law is  
22 amended by adding a new article thirteen to read as follows:  
23

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13 1300. Legislative findings and purpose

14 The legislature hereby finds and declares that:

15 1. New York State is already in the business of gambling with  
16 nine video lottery facilities, five tribal class III casinos,  
17 and three tribal class II facilities;

18 2. New York State has more electronic gaming machines than  
19 any state in the Northeast or Mideast;

1 3. While gambling already exists throughout the state, the  
2 state does not fully capitalize on the economic development  
3 potential of legalized gambling;

4 4. In phase one of its casino development, the state should  
5 authorize three destination resort casinos in upstate New York;

6 5. Three upstate casinos can boost economic development,  
7 create thousands of well-paying jobs and provide added revenue  
8 to the state;

9 6. The upstate tourism industry constitutes a critical  
10 component of our State's economic infrastructure and that three  
11 upstate casinos will attract non-New York residents and bring  
12 downstate New Yorkers to upstate;

13 7. The casino sites and the licensed owners shall be selected  
14 on merit;

15 8. Local impact of the casino sites will be considered in the  
16 casino evaluation process;

17 9. Tribes whose gaming compacts are in good standing with the  
18 state will have their geographic exclusivity protected by this  
19 act;

20 10. Revenue realized from casinos shall be utilized to  
21 increase support for education beyond that of the state's  
22 education formulae and to provide real property tax relief to  
23 localities;

1 11. Casinos will be tightly and strictly regulated by the  
2 commission to guarantee public confidence and trust in the  
3 credibility and integrity of all casino gambling in the state  
4 and to prevent organized crime from any involvement in the  
5 casino industry;

6 12. The need for strict State controls extends to regulation  
7 to all persons, locations, practices and associations related to  
8 the operation of licensed enterprises and all related service  
9 industries as provided in this act;

10 13. The state and the casinos will develop programs and  
11 resources to combat compulsive and problem gambling;

12 14. The state will ensure that host municipalities of casinos  
13 are provided with funding to limit any potential adverse impacts  
14 of casinos;

15 15. Political contributions from the casino industry will be  
16 minimized to reduce the potential of political corruption from  
17 casinos; and

18 16. As thoroughly and pervasively regulated by the state,  
19 three upstate casinos will work to the betterment of all New  
20 York.

21

22 **1301. Definitions**

23 As used in this article the following words shall, unless the  
24 context clearly requires otherwise, have the following meanings:

1 1. "Affiliate". A person that directly or indirectly, through  
2 one or more intermediaries, controls or is controlled by, or is  
3 under common control with, a specified person.

4 2. "Applicant". Any person who on his own behalf or on  
5 behalf of another has applied for permission to engage in any  
6 act or activity which is regulated under the provisions of this  
7 article.

8 3. "Application". A written request for permission to engage  
9 in any act or activity which is regulated under the provisions  
10 of this article.

11 4. "Authorized game". Any game determined by the commission  
12 to be compatible with the public interest and to be suitable for  
13 casino facility use after such appropriate test or experimental  
14 period as the commission may deem appropriate. An authorized  
15 game may include gaming tournaments in which players compete  
16 against one another in one or more of the games authorized  
17 herein or by the commission or in approved variations or  
18 composites thereof if the tournaments are authorized.

19 5. "Board". The New York State gaming commission or a board  
20 established by the commission pursuant to section one hundred  
21 nine-a of this chapter.

22 6. "Business". A corporation, sole proprietorship,  
23 partnership, limited liability company or any other organization  
24 formed for the purpose of carrying on a commercial enterprise.

1 7. "Casino". One or more locations or rooms in a gaming  
2 facility that have been approved by the commission for the  
3 conduct of gaming in accordance with the provisions of this  
4 article.

5 8. "Casino employee". Any natural person, not otherwise  
6 included in the definition of casino key employee, who is  
7 employed by a casino licensee, or a holding or intermediary  
8 company of a casino licensee, and is involved in the operation  
9 of a licensed casino facility or performs services or duties in  
10 a casino facility or a restricted casino area; or any other  
11 natural person whose employment duties predominantly involve the  
12 maintenance or operation of gaming activity or equipment and  
13 assets associated therewith or who, in the judgment of the  
14 commission, is so regularly required to work in a restricted  
15 casino area that registration as a casino employee is  
16 appropriate.

17 9. "Casino key employee". Any natural person employed by a  
18 casino licensee or holding or intermediary company of a casino  
19 licensee, and involved in the operation of a licensed casino  
20 facility in a supervisory capacity or empowered to make  
21 discretionary decisions which regulate casino facility  
22 operations; or any other employee so designated by the  
23 commission for reasons consistent with the policies of this  
24 article.

1 10. "Casino license". Any license issued pursuant to this  
2 article which authorizes the holder thereof to own or operate a  
3 casino.

4 11. "Casino vendor enterprise". Any vendor offering goods or  
5 services which directly relate to casino or gaming activity, or  
6 any vendor providing to casino licensees or applicants goods and  
7 services ancillary to gaming activity. Notwithstanding the  
8 foregoing, any form of enterprise engaged in the manufacture,  
9 sale, distribution, testing or repair of slot machines within  
10 the state, other than antique slot machines, shall be considered  
11 a casino vendor enterprise for the purposes of this article  
12 regardless of the nature of its business relationship, if any,  
13 with casino applicants and licensees in this state.

14 12. "Close associate". A person who holds a relevant  
15 financial interest in, or is entitled to exercise power in, the  
16 business of an applicant or licensee and, by virtue of that  
17 interest or power, is able to exercise a significant influence  
18 over the management or operation of a gaming facility or  
19 business licensed under this article.

20 13. "Commission". The New York state gaming commission.

21 14. "Complimentary service or item". A service or item  
22 provided at no cost or at a reduced cost to a patron of a gaming  
23 facility.

1     15. "Conservator". A person appointed by the commission to  
2 temporarily manage the operation of a gaming facility.

3     16. "Credit card". A card, code or other device with which a  
4 person may defer payment of debt, incur debt and defer its  
5 payment, or purchase property or services and defer payment  
6 therefor, but not a card, code or other device used to activate  
7 a preexisting agreement between a person and a financial  
8 institution to extend credit when the person's account at the  
9 financial institution is overdrawn or to maintain a specified  
10 minimum balance in the person's account at the financial  
11 institution.

12     17. "Debt". Any legal liability, whether matured or  
13 unmatured, liquidated or unliquidated, absolute, fixed or  
14 contingent, including debt convertible into an equity security  
15 which has not yet been so converted, and any other debt carrying  
16 any warrant or right to subscribe to or purchase an equity  
17 security which warrant or right has not yet been exercised.

18     18. "Encumbrance". A mortgage, security interest, lien or  
19 charge of any nature in or upon property.

20     19. "Executive director". The executive director of the New  
21 York state gaming commission.

22     20. "Family". Spouse, domestic partner, partner in a civil  
23 union, parents, grandparents, children, grandchildren, siblings,  
24 uncles, aunts, nephews, nieces, fathers-in-law, mothers-in-law,

1 daughters-in-law, sons-in-law, brothers-in-law and sisters-in-  
2 law, whether by the whole or half blood, by marriage, adoption  
3 or natural relationship.

4 21. "Game". Any banking or percentage game located within  
5 the casino facility played with cards, dice, tiles, dominoes, or  
6 any electronic, electrical, or mechanical device or machine for  
7 money, property, or any representative of value which has been  
8 approved by the commission.

9 22. "Gaming" or "gambling". The dealing, operating, carrying  
10 on, conducting, maintaining or exposing for pay of any game.

11 23. "Gaming device" or "gaming equipment". Any electronic,  
12 electrical, or mechanical contrivance or machine used in  
13 connection with gaming or any game.

14 24. "Gaming facility". The premises approved under a gaming  
15 license which includes a gaming area and any other nongaming  
16 structure related to the gaming area and may include, but shall  
17 not be limited to, hotels, restaurants or other amenities.

18 25. "Gross gaming revenue". The total of all sums actually  
19 received by a casino licensee from gaming operations less the  
20 total of all sums paid out as winnings to patrons; provided,  
21 however, that the total of all sums paid out as winnings to  
22 patrons shall not include the cash equivalent value of any  
23 merchandise or thing of value included in a jackpot or payout;  
24 provided further, that the issuance to or wagering by patrons of

1 a gaming facility of any promotional gaming credit shall not be  
2 taxable for the purposes of determining gross revenue.

3 26. "Holding company". A corporation, association, firm,  
4 partnership, trust or other form of business organization, other  
5 than a natural person, which, directly or indirectly, owns, has  
6 the power or right to control, or has the power to vote any  
7 significant part of the outstanding voting securities of a  
8 corporation or any other form of business organization which  
9 holds or applies for a gaming license; provided, however, that a  
10 "holding company", in addition to any other reasonable use of  
11 the term, shall indirectly have, hold or own any such power,  
12 right or security if it does so through an interest in a  
13 subsidiary or any successive subsidiaries, notwithstanding how  
14 many such subsidiaries may intervene between the holding company  
15 and the gaming licensee or applicant.

16 27. "Host municipality". A city, town or village in which a  
17 gaming facility is located or in which an applicant has proposed  
18 locating a gaming facility.

19 28. "Intermediary company". A corporation, association,  
20 firm, partnership, trust or other form of business organization,  
21 other than a natural person, which is a holding company with  
22 respect to a corporation or other form of business organization  
23 which holds or applies for a gaming license, and is a subsidiary  
24 with respect to a holding company.

1     29. "Junket". An arrangement intended to induce a person to  
2 come to a gaming facility to gamble, where the person is  
3 selected or approved for participation on the basis of the  
4 person's ability to satisfy a financial qualification obligation  
5 related to the person's ability or willingness to gamble or on  
6 any other basis related to the person's propensity to gamble and  
7 pursuant to which and as consideration for which, any of the  
8 cost of transportation, food, lodging, and entertainment for the  
9 person is directly or indirectly paid by a gaming licensee or an  
10 affiliate of the gaming licensee.

11     30. "Junket enterprise". A person, other than a gaming  
12 licensee or an applicant for a gaming license, who employs or  
13 otherwise engages the services of a junket representative in  
14 connection with a junket to a licensed gaming facility,  
15 regardless of whether or not those activities occur within the  
16 state.

17     31. "Junket representative". A person who negotiates the  
18 terms of, or engages in the referral, procurement or selection  
19 of persons who may participate in, a junket to a gaming  
20 facility, regardless of whether or not those activities occur  
21 within the state.

22     32. "Operation certificate". A certificate issued by the  
23 commission which certifies that operation of a casino and, if  
24 applicable, a simulcasting facility conforms to the requirements

1 of this article and applicable regulations and that its  
2 personnel and procedures are efficient and prepared to entertain  
3 the public.

4 33. "Person". Any corporation, association, operation, firm,  
5 partnership, trust or other form of business association, as  
6 well as a natural person.

7 34. "Registration". Any requirement other than one which  
8 requires a license as a prerequisite to conduct a particular  
9 business as specified by this article.

10 35. "Registrant". Any person who is registered pursuant to  
11 the provisions of this article.

12 36. "Restricted Casino Areas". The cashier's cage, the soft  
13 count room, the hard count room, the slot cage booths and runway  
14 areas, the interior of table game pits, the surveillance room  
15 and catwalk areas, the slot machine repair room and any other  
16 area specifically designated by the commission as restricted in  
17 a licensee's operation certificate.

18 37. "Qualification" or "qualified". The process of licensure  
19 set forth by the commission to determine that all persons who  
20 have a professional interest in a gaming license, or gaming  
21 vendor license, or the business of a gaming licensee or gaming  
22 vendor, meet the same standards of suitability to operate or  
23 conduct business with a gaming facility:

1     38. "Slot machine". A mechanical, electrical or other  
2 device, contrivance or machine which, upon insertion of a coin,  
3 token or similar object therein, or upon payment of any  
4 consideration whatsoever, is available to play or operate, the  
5 play or operation of which, whether by reason of the skill of  
6 the operator or application of the element of chance, or both,  
7 may deliver or entitle the individual playing or operating the  
8 machine to receive cash, or tokens to be exchanged for cash, or  
9 to receive merchandise or any other thing of value, whether the  
10 payoff is made automatically from the machine or in any other  
11 manner, except that the cash equivalent value of any merchandise  
12 or other thing of value shall not be included in determining the  
13 payout percentage of a slot machine.

14     39. "Sports wagering". The activity authorized by section one  
15 thousand three hundred sixty-seven of this article, provided  
16 that there has been a change in federal law authorizing such  
17 activity or upon ruling of a court of competent jurisdiction  
18 that such activity is lawful.

19     40. "Subsidiary". A corporation, a significant part of whose  
20 outstanding equity securities are owned, subject to a power or  
21 right of control, or held with power to vote, by a holding  
22 company or an intermediary company, or a significant interest in  
23 a firm, association, partnership, trust or other form of  
24 business organization, other than a natural person, which is

1 owned, subject to a power or right of control, or held with  
2 power to vote, by a holding company or an intermediary company.

3 41. "Table game". A game, other than a slot machine, which  
4 is authorized by the commission to be played in a gaming  
5 facility.

6 42. "Transfer". The sale or other method, either directly or  
7 indirectly, of disposing of or parting with property or an  
8 interest therein, or the possession thereof, or of fixing a lien  
9 upon property or upon an interest therein, absolutely or  
10 conditionally, voluntarily or involuntarily, by or without  
11 judicial proceedings, as a conveyance, sale, payment, pledge,  
12 mortgage, lien, encumbrance, gift, security or otherwise;  
13 provided, however, that the retention of a security interest in  
14 property delivered to a corporation shall be deemed a transfer  
15 suffered by such corporation.

16

17 **1302. Auditing duties of the commission.** The commission  
18 shall audit as often as the commission determines necessary, but  
19 not less than annually, the accounts, programs, activities, and  
20 functions of all gaming facility licensees including the audit  
21 of payments made pursuant to section one thousand three hundred  
22 fifty-one. To conduct the audit, authorized officers and  
23 employees of the commission shall have access to such accounts  
24 at reasonable times and the commission may require the

1 production of books, documents, vouchers and other records  
2 relating to any matter within the scope of the audit, except tax  
3 returns. All audits shall be conducted in accordance with  
4 generally accepted auditing standards established by the  
5 American Institute of Certified Public Accountants. In any audit  
6 report of the accounts, funds, programs, activities and  
7 functions of a gaming facility licensee issued by the commission  
8 containing adverse or critical audit results, the commission may  
9 require a response, in writing, to the audit results. The  
10 response shall be forwarded to the commission within fifteen  
11 days of notification by the commission.

12  
13 **1303. Equipment testing.** Unless the commission otherwise  
14 determines it to be in the best interests of the state, the  
15 commission shall utilize the services of an independent testing  
16 laboratory that has been qualified and approved by the  
17 commission pursuant to this article to perform the testing of  
18 slot machines and other gaming equipment and may also utilize  
19 applicable data from the independent testing laboratory, or from  
20 a governmental agency of a state other than New York, authorized  
21 to regulate slot machines and other gaming equipment.

22  
23 **1304. Commission reporting.** The commission shall report monthly  
24 to the governor, the senate and the assembly, the senate finance

1 committee and assembly ways and means committee, and the chairs  
2 senate and assembly racing and gaming committees on economic  
3 development and emerging technologies on the total gaming  
4 revenues, prize disbursements and other expenses for the  
5 preceding month and shall make an annual report to the same  
6 recipients which shall include a full and complete statement of  
7 gaming revenues, prize disbursements and other expenses,  
8 including such recommendations as the commission considers  
9 necessary or advisable. The commission shall also report  
10 immediately to the aforementioned on any matter which requires  
11 immediate changes in the laws in order to prevent abuses or  
12 evasions of the laws, rules or regulations related to gaming or  
13 to rectify undesirable conditions in connection with the  
14 administration or operation of gaming in the state.

15

16 **1305. Supplemental power of the commission**

17 The commission shall have all powers necessary or convenient  
18 to carry out and effectuate its purposes including, but not  
19 limited to, the power to:

20 1. execute all instruments necessary or convenient for  
21 accomplishing the purposes of this article;

22 2. enter into agreements or other transactions with a person,  
23 including, but not limited to, a public entity or other

1 governmental instrumentality or authority in connection with its  
2 powers and duties under this article;

3 3. require an applicant for a position which requires a  
4 license under this article to apply for such license and approve  
5 or disapprove any such application or other transactions, events  
6 and processes as provided in this article;

7 4. require a person who has a business association of any  
8 kind with a gaming licensee or applicant to be qualified for  
9 licensure under this article;

10 7. determine a suitable debt-to-equity ratio for applicants  
11 for a gaming license;

12 8. deny an application or limit, condition, restrict, revoke  
13 or suspend a license, registration, finding of suitability or  
14 approval, or fine a person licensed, registered, found suitable  
15 or approved for any cause that the commission deems reasonable;

16 9. monitor the conduct of licensees and other persons having  
17 a material involvement, directly or indirectly, with a licensee  
18 for the purpose of ensuring that licenses are not issued to or  
19 held by and that there is no direct or indirect material  
20 involvement with a licensee, by an unqualified or unsuitable  
21 person or by a person whose operations are conducted in an  
22 unsuitable manner or in unsuitable or prohibited places as  
23 provided in this article;

1 10. gather facts and information applicable to the  
2 commission's obligation to issue, suspend or revoke licenses,  
3 work permits or registrations for:

4 a. a violation of this article or any regulation adopted by the  
5 commission;

6 b. willfully violating an order of the commission directed to a  
7 licensee;

8 c. the conviction of certain criminal offenses; or

9 d. the violation of any other offense which would disqualify  
10 such a licensee from holding a license, work permit or  
11 registration;

12 11. conduct investigations into the qualifications of any  
13 regulated entity and all applicants for licensure;

14 12. request and receive from the division of criminal justice  
15 services and the Federal Bureau of Investigation, such criminal  
16 history record information as necessary for the purpose of  
17 evaluating applicants for employment by any regulated entity,  
18 and evaluating licensees and applicants for licensure under this  
19 article;

20 13. be present, through its agents, at all times, in gaming  
21 facility for the purposes of:

22 a. certifying revenue;

23 b. receiving complaints from the public relating to the conduct  
24 of gaming and wagering operations;

1 c. examining records of revenues and procedures and inspecting  
2 and auditing all books, documents and records of licensees;  
3 d. conducting periodic reviews of operations and facilities for  
4 the purpose of regulations adopted hereunder; and  
5 e. exercising its oversight responsibilities with respect to  
6 gaming;

7 14. inspect and have access to all equipment and supplies in  
8 a gaming facility or on premises where gaming equipment is  
9 manufactured, sold or distributed;

10 15. seize and remove from the premises of a gaming licensee  
11 and impound any equipment, supplies, documents and records for  
12 the purpose of examination and inspection;

13 16. demand access to and inspect, examine, photocopy and  
14 audit all papers, books and records of any affiliate of a gaming  
15 licensee or gaming vendor whom the commission suspects is  
16 involved in the financing, operation or management of the gaming  
17 licensee or gaming vendor; provided, however, that the  
18 inspection, examination, photocopying and audit may take place  
19 on the affiliate's premises or elsewhere as practicable and in  
20 the presence of the affiliate or its agent;

21 17. require that the books and financial or other records or  
22 statements of a gaming licensee or gaming vendor be kept in a  
23 manner that the commission considers proper;

1 18. levy and collect assessments, fees, fines and interest  
2 and impose penalties and sanctions for a violation of this  
3 article or any regulations promulgated by the commission;

4 19. collect taxes, fees and interest under this article;

5 20. restrict, suspend or revoke licenses issued under this  
6 article;

7 21. refer cases for criminal prosecution to the appropriate  
8 federal, state or local authorities; and

9 22. adopt, amend or repeal regulations for the  
10 implementation, administration and enforcement of this article.

11  
12 **1306. Powers of the board.** The New York state resort gaming  
13 facility location board shall select, following a competitive  
14 process and subject to the restrictions of this article, no more  
15 than three entities to apply to the commission for gaming  
16 facility licenses. In exercising its authority, the board shall  
17 have all powers necessary or convenient to fully carry out and  
18 effectuate its purposes including, but not limited to, the  
19 following powers.

20 The board shall:

21 1. issue a request for applications for zone two gaming  
22 facility licenses pursuant to section one thousand three hundred  
23 twelve of this article;

1 2. assist the commission in prescribing the form of the  
2 application for zone two gaming facility licenses including  
3 information to be furnished by an applicant concerning an  
4 applicant's antecedents, habits, character, associates, criminal  
5 record, business activities and financial affairs, past or  
6 present pursuant to section one thousand three hundred thirteen  
7 of this article;

8 3. develop criteria, in addition to those outlined in this  
9 article, to assess which applications provide the highest and  
10 best value to the state, the zone and the region in which a  
11 gaming facility is to be located;

12 4. determine a minimum fee for a gaming facility license in  
13 each region in zone two, which shall be not less than  
14 \$50,000,000. Such licensing fee shall be paid into the  
15 commercial gaming revenue fund by a licensee within thirty days  
16 after the award of a commission license;

17 5. determine the minimum tax on gross gaming revenue at a  
18 zone two gaming facility, which rate shall be set at no less  
19 than twenty-five percent, unless a licensee has agreed within  
20 its application to a level of taxation exceeding the  
21 forementioned threshold, in which such rate shall apply;

22 6. determine, from time to time, whether tribal-state gaming  
23 compacts are in or remain in good standing for the purposes of  
24 determining whether a casino gaming facility may be located in

1 areas designated by subdivision two of section one thousand  
2 three hundred eleven of this article;

3 7. have the authority to conduct investigative hearings  
4 concerning the conduct of gaming and gaming operations in  
5 accordance with any procedures set forth in this article and any  
6 applicable implementing regulations;

7 8. issue detailed findings of facts and conclusions  
8 demonstrating the reasons supporting its decisions to select  
9 applicants for commission licensure;

10 9. report annually to the governor, the speaker of the  
11 assembly and the temporary president of the senate, its  
12 proceedings for the preceding calendar year and any suggestions  
13 and recommendations as it shall deem desirable;

14 10. promulgate any rules and regulations that it deems  
15 necessary to carry out its responsibilities;

16 11. have the power to administer oaths and examine witnesses,  
17 and may issue subpoenas to compel attendance of witnesses, and  
18 the production of all relevant and material reports, books,  
19 papers, documents, correspondence and other evidence;

20 12. be authorized to access the criminal history records of  
21 the division of criminal justice services, pursuant to  
22 subdivision eight-a of section eight hundred thirty-seven of the  
23 executive law, in connection with executing the responsibilities  
24 of the board relating to licensing including fingerprinting,

1 criminal history record checks and background investigations, of  
2 entities applying for a gaming facility license. At the request  
3 of the board, the division of criminal justice services shall  
4 submit a fingerprint card, along with the subject's processing  
5 fee, to the federal bureau of investigation for the purpose of  
6 conducting a criminal history search and returning a report  
7 thereon. The board shall also be entitled to request and  
8 receive, pursuant to a written memorandum of understanding filed  
9 with the department of state, any information in the possession  
10 of the state attorney general relating to the investigation of  
11 organized crime, gaming offenses, other revenue crimes or tax  
12 evasion. Provided however, the attorney general may withhold any  
13 information that (a) would identify a confidential source or  
14 disclose confidential information relating to a criminal  
15 investigation, (b) would interfere with law enforcement  
16 investigations or judicial proceedings, (c) reveal criminal  
17 investigative techniques or procedures, that, if disclosed,  
18 could endanger the life or safety of any person, or (d)  
19 constitutes records received from other state, local or federal  
20 agencies that the attorney general is prohibited by law,  
21 regulation or agreement from disclosing; and

22 13. be authorized to delegate the execution of any of its  
23 powers under this article for the purpose of administering and  
24 enforcing this article and the rules and regulations hereunder.

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**1307. Required regulations**

1. The commission is authorized:

- a. to adopt, amend, or repeal such regulations, consistent with the policy and objectives of this article, as amended and supplemented, as it may deem necessary to protect the public interest in carrying out the provisions of this article; and
- b. to adopt, amend or repeal such regulations as may be necessary for the conduct of hearings before the commission and for the matters within all other responsibilities and duties of the commission imposed by this article.

2. The commission shall, without limitation include the following specific provisions in its regulations in accordance with the provisions of this article:

- a. Prescribing the methods and forms of application and registration which any applicant or registrant shall follow and complete;
- b. Prescribing the methods, procedures and form for delivery of information concerning any person's family, habits, character, associates, criminal record, business activities and financial affairs;
- c. Prescribing such procedures for the fingerprinting of an applicant, employee of a licensee, or registrant, and methods of identification which may be necessary to accomplish effective

1 enforcement of restrictions on access to the casino floor and  
2 other restricted areas of the gaming facility;

3 d. Prescribing the method of notice to an applicant, registrant  
4 or licensee concerning the release of any information or data  
5 provided to the commission by such applicant, registrant or  
6 licensee;

7 e. Prescribing the manner and procedure of all hearings  
8 conducted by the commission or any hearing examiner, including  
9 special rules of evidence applicable thereto and notices  
10 thereof;

11 f. Prescribing the manner and method of collection of payments  
12 of taxes, fees, interest and penalties;

13 g. Defining and limiting the areas of operation, the rules of  
14 authorized games, odds, and devices permitted, and the method of  
15 operation of such games and devices;

16 h. Regulating the practice and procedures for negotiable  
17 transactions involving patrons, including limitations on the  
18 circumstances and amounts of such transactions, and the  
19 establishment of forms and procedures for negotiable instrument  
20 transactions, redemptions, and consolidations;

21 i. Prescribing grounds and procedures for the revocation or  
22 suspension of operating certificates, licenses and  
23 registrations;

1 j. Governing the manufacture, distribution, sale, deployment,  
2 and servicing of gaming devices and equipment;

3 k. Prescribing for gaming operations the procedures, forms and  
4 methods of management controls, including employee and  
5 supervisory tables of organization and responsibility, and  
6 minimum security and surveillance standards, including security  
7 personnel structure, alarm and other electrical or visual  
8 security measures; provided, however, that the commission shall  
9 grant an applicant broad discretion concerning the organization  
10 and responsibilities of management personnel who are not  
11 directly involved in the supervision of gaming operations;

12 l. Prescribing the qualifications of, and the conditions  
13 pursuant to which, engineers, accountants, and others shall be  
14 permitted to practice before the commission or to submit  
15 materials on behalf of any applicant or licensee; provided,  
16 however, that no member of the Legislature, nor any firm with  
17 which said member is associated, shall be permitted to appear or  
18 practice or act in any capacity whatsoever before the commission  
19 regarding any matter whatsoever, nor shall any member of the  
20 family of the Governor or of a member of the Legislature be  
21 permitted to so practice or appear in any capacity whatsoever  
22 before the commission regarding any matter whatsoever;

23 m. Prescribing minimum procedures for the exercise of effective  
24 control over the internal fiscal affairs of a licensee,

1 including provisions for the safeguarding of assets and  
2 revenues, the recording of cash and evidence of indebtedness,  
3 and the maintenance of reliable records, accounts, and reports  
4 of transactions, operations and events, including reports to the  
5 commission;

6 n. Providing for a minimum uniform standard of accountancy  
7 methods, procedures and forms; a uniform code of accounts and  
8 accounting classifications; and such other standard operating  
9 procedures, as may be necessary to assure consistency,  
10 comparability, and effective disclosure of all financial  
11 information, including calculations of percentages of profit by  
12 games, tables, gaming devices and slot machines;

13 o. Requiring quarterly financial reports and the form thereof,  
14 and an annual audit prepared by a certified public accountant  
15 licensed to do business in this state, attesting to the  
16 financial condition of a licensee and disclosing whether the  
17 accounts, records and control procedures examined are maintained  
18 by the licensee as required by this article and the regulations  
19 promulgated hereunder;

20 p. Governing the gaming-related advertising of licensees, their  
21 employees and agents, with the view toward assuring that such  
22 advertisements are not deceptive; and

23 q. Governing the distribution and consumption of alcoholic  
24 beverages on the premises of the licensee.

1 3. The commission shall, in its regulations, prescribe the  
2 manner and procedure of all hearings conducted by the  
3 commission, including special rules of evidence applicable  
4 thereto and notices thereof.

5  
6 **1308. Reports and recommendations.** The commission shall  
7 carry on a continuous study of the operation and administration  
8 of casino control laws which may be in effect in other  
9 jurisdictions, literature on this subject which may from time to  
10 time become available, federal laws which may affect the  
11 operation of casino gaming in this state. It shall be  
12 responsible for ascertaining any defects in this article or in  
13 the rules and regulations issued thereunder, formulating  
14 recommendations for changes in this article. The commission  
15 shall make to the Governor and the Legislature within its annual  
16 report an accounting of all revenues, expenses and  
17 disbursements, and shall include therein such recommendations  
18 for changes in this article as the commission deems necessary or  
19 desirable.

20  
21 **1309. Severability and preemption**

22 1. If any clause, sentence, subparagraph, paragraph,  
23 subsection, section, article or other portion of this article or  
24 the application thereof to any person or circumstances shall be

1 held to be invalid, such holding shall not affect, impair or  
2 invalidate the remainder of this article or the application of  
3 such portion held invalid to any other person or circumstances,  
4 but shall be confined in its operation to the clause, sentence,  
5 paragraph, subparagraph, subsection, section, article or other  
6 portion thereof directly involved in such holding or to the  
7 person or circumstance therein involved.

8 2. If any provision of this article is inconsistent with, in  
9 conflict with, or contrary to any other provision of law, such  
10 provision of this article shall prevail over such other  
11 provision and such other provision shall be deemed to be  
12 amended, superseded or repealed to the extent of such  
13 inconsistency or conflict. Notwithstanding the provisions of any  
14 other law to the contrary, no local government unit of this  
15 state may enact or enforce any ordinance or resolution  
16 conflicting with any provision of this article or with any  
17 policy of this state expressed or implied herein, whether by  
18 exclusion or inclusion. The commission shall have exclusive  
19 jurisdiction over all matters delegated to it or within the  
20 scope of its powers under the provisions of this article.

21  
22 **FACILITY DETERMINATION AND LICENSING**

23  
24 **1310. Development zones and regions**

1 1. Development zones. There are hereby created two casino  
2 development zones to be known as the zone one and zone two. Zone  
3 one shall include the city of New York and the counties of  
4 Nassau, Putnam, Rockland, Suffolk, and Westchester. Zone two  
5 shall include all the other counties of the state.

6 2. Development regions. Each zone shall be divided into  
7 development regions.

8 a. The three development regions in zone one shall be comprised  
9 of the following counties:

10 (1) Region one shall consist of Putnam, Rockland and Westchester  
11 counties;

12 (2) Region two shall consist of Bronx, Kings, New York, Queens  
13 and Richmond counties. No casino shall be authorized in region  
14 two; and

15 (3) Region three shall consist of Nassau and Suffolk counties.

16 b. The four development regions in zone two shall be comprised  
17 of the following counties:

18 (1) Region one shall consist of Columbia, Delaware, Dutchess,  
19 Greene, Orange, Sullivan and Ulster counties;

20 (2) Region two shall consist of Albany, Fulton, Montgomery,  
21 Rensselaer, Saratoga, Schenectady, Schoharie, and Washington  
22 counties

23 (3) Region three shall consist of Clinton, Essex, Franklin,  
24 Hamilton, Jefferson, Saint Lawrence and Warren counties;

1 (4) Region four shall consist of Cayuga, Chenango, Cortland,  
2 Herkimer, Lewis, Madison, Oneida, Onondaga, Oswego and Otsego  
3 counties;

4 (5) Region five shall consist of Broome, Chemung (east of State  
5 Route 14), Seneca, Schuyler (east of State Route 14), Tioga,  
6 Tompkins, and Wayne (east of State Route 14) counties; and

7 (6) Region six shall consist of Allegany, Cattaraugus,  
8 Chautauqua, Chemung (west of State Route 14), Erie, Genesee,  
9 Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler (west of  
10 State Route 14), Steuben, Wayne (west of State Route 14),  
11 Wyoming, and Yates counties.

12

13 **1311. License authorization**

14 1. Three casino gaming facilities shall hereafter be licensed  
15 by the commission to conduct or operate casino gambling within  
16 regions one, two, five, and six of zone two. No more than one  
17 license shall be awarded in any casino development region in the  
18 zone two.

19 2. Notwithstanding the foregoing, no casino gaming facility  
20 shall be authorized:

21 a. in the counties of Clinton, Essex, Franklin, Hamilton,  
22 Jefferson, Lewis, Saint Lawrence and Warren, if the tribal-state  
23 compact executed pursuant to the Indian Gaming Regulatory Act of  
24 1988 (P.L. 100-497; 25 U.S.C. §§ 2701-2721 and 18 U.S.C. §§

1 1166-1168) between the Saint Regis Mohawk Tribe and the State of  
2 New York as executed pursuant to article 590 of the laws of two  
3 thousand four is in good standing as determined from time to  
4 time by the commission;

5 b. within the following area: (i) to the east, State Route 14  
6 from Sodus Point to the Pennsylvania border with New York; (ii)  
7 to the north, the border between New York and Canada; (iii) to  
8 the south, the Pennsylvania border with New York; and (iv) to  
9 the west, the border between New York and Canada and the border  
10 between Pennsylvania and New York, if the tribal-state compact  
11 executed pursuant to the Indian Gaming Regulatory Act of 1988  
12 (P.L. 100-497; 25 U.S.C. §§ 2701-2721 and 18 U.S.C. §§ 1166-  
13 1168), between the Seneca Nation of Indians and the State of New  
14 York as executed pursuant to article 383 of the laws of two  
15 thousand one is in good standing as determined from time to time  
16 by the commission; and

17 c. in the counties of Cayuga, Chenango, Cortland, Herkimer,  
18 Lewis, Madison, Oneida, Onondaga, Oswego and Otsego counties, if  
19 the nation-state compact executed pursuant to the Indian Gaming  
20 Regulatory Act of 1988 (P.L. 100-497; 25 U.S.C. §§ 2701-2721 and  
21 18 U.S.C. §§ 1166-1168), between the Oneida Nation of New York  
22 and the State of New York as amended pursuant to a stipulation  
23 entered in which the United States District Court for the

1 Northern District of New York entered an order in State of New  
2 York, et al. v. Salazar, et al., 6:08-cv-644 (LEK), approving a  
3 Settlement Agreement by the Oneida Nation, the State of New  
4 York, the County of Madison and the County of Oneida and  
5 dismissing that litigation as provided in Section VI(A)(1)(a) of  
6 such Agreement is in good standing as determined from time to  
7 time by the commission.

8

9 **1312. Requests for applications**

10 1. The board shall issue within ninety days of a majority of  
11 members being appointed a request for applications for a casino  
12 gaming facility license in regions one, two, five, and six in  
13 zone two; provided, however, that the board shall not issue any  
14 requests for applications for any region in zone one; and  
15 further provided that the board shall not issue any requests for  
16 applications with respect to any casino subsequently authorized  
17 until five years following the commencement of casino gaming  
18 activities in zone two. Such All requests for applications shall  
19 include:

- 20 a. the time and date for receipt of responses to the request for  
21 applications, the manner they are to be received and the address  
22 of the office to which the applications shall be delivered;  
23 b. the form of the application and the method for submission;

- 1 c. a general description of the anticipated schedule for
- 2 processing the application;
- 3 d. the contact information of board employees responsible for
- 4 handling applicant questions; and
- 5 e. any other information that the board determines.

6 Board activities shall be subject to section one hundred  
7 thirty-nine j and section one hundred thirty-nine k of the state  
8 finance law.

9 2. Requests for applications pursuant to subsection one shall  
10 be advertised in a newspaper of general circulation and on the  
11 official internet website of the commission and the board.

12 3. The board shall establish deadlines for the receipt of all  
13 applications. Applications received after the deadline shall not  
14 be reviewed by the board.

15

16 **1313. Form of application**

17 1. The commission and the board shall prescribe the initial  
18 form of the application for gaming licenses which shall require,  
19 but not be limited to:

20 a. the name of the applicant;

21 b. the mailing address and, if a corporation, the name of the  
22 state under the laws of which it is incorporated, the location  
23 of its principal place of business and the names and addresses  
24 of its directors and stockholders;

1 c. the identity of each person having a direct or indirect  
2 interest in the business and the nature of such interest;  
3 provided, however, that if the disclosed entity is a trust, the  
4 application shall disclose the names and addresses of all  
5 beneficiaries; provided further, that if the disclosed entity is  
6 a partnership, the application shall disclose the names and  
7 addresses of all partners, both general and limited; and  
8 provided further, that if the disclosed entity is a limited  
9 liability company, the application shall disclose the names and  
10 addresses of all members;

11 d. an independent audit report of all financial activities and  
12 interests including, but not limited to, the disclosure of all  
13 contributions, donations, loans or any other financial  
14 transactions to or from a gaming entity or operator in the past  
15 five years;

16 e. clear and convincing evidence of financial stability  
17 including, but not limited to, bank references, business and  
18 personal income and disbursement schedules, tax returns and  
19 other reports filed by government agencies and business and  
20 personal accounting check records and ledgers;

21 f. information and documentation to demonstrate that the  
22 applicant has sufficient business ability and experience to  
23 create the likelihood of establishing and maintaining a  
24 successful gaming facility;

- 1 g. a full description of the proposed internal controls and  
2 security systems for the proposed gaming facility and any  
3 related facilities;
- 4 h. the designs for the proposed gaming facility, including the  
5 names and addresses of the architects, engineers and designers,  
6 and a timeline of construction that includes detailed stages of  
7 construction for the gaming facility, non-gaming structures,  
8 where applicable;
- 9 i. the number of construction hours estimated to complete the  
10 work;
- 11 j. a description of the ancillary entertainment services and  
12 amenities to be provided at the proposed gaming facility;
- 13 k. the number of employees to be employed at the proposed gaming  
14 facility, including detailed information on the pay rate and  
15 benefits for employees;
- 16 l. completed studies and reports as required by the commission,  
17 which shall include, but not be limited to, an examination of  
18 the proposed gaming facility's:
- 19 (i) economic benefits to the region and the state;  
20 (ii) local and regional social, environmental, traffic and  
21 infrastructure impacts;  
22 (iii) impact on the local and regional economy, including the  
23 impact on cultural institutions and on small businesses in the  
24 host and nearby municipalities;

1 (iv) cost to the host municipality, nearby municipalities and  
2 the state for the proposed gaming facility to be located at the  
3 proposed location; and  
4 (v) the estimated state tax revenue to be generated by the  
5 gaming facility;  
6 m. the names of proposed vendors of gaming equipment;  
7 n. the location of the proposed gaming facility, which shall  
8 include the address, maps, book and page numbers from the  
9 appropriate registry of deeds, assessed value of the land at the  
10 time of application and ownership interests over the past 20  
11 years, including all interests, options, agreements in property  
12 and demographic, geographic and environmental information and  
13 any other information requested by the commission;  
14 o. the type and number of games to be conducted at the proposed  
15 gaming facility and the specific location of the games in the  
16 proposed gaming facility;  
17 p. the number of hotels and rooms, restaurants and other  
18 amenities located at the proposed gaming facility and how they  
19 measure in quality to other area hotels and amenities;  
20 q. whether the applicant's proposed gaming facility is part of a  
21 regional or local economic plan; and  
22 r. whether the applicant purchased or intends to purchase  
23 publicly-owned land for the proposed gaming facility.

1 2. Applications for licenses shall be public records;  
2 provided however, that trade secrets, competitively-sensitive or  
3 other proprietary information provided in the course of an  
4 application for a gaming license under this article, the  
5 disclosure of which would place the applicant at a competitive  
6 disadvantage, may be withheld from disclosure pursuant to the  
7 freedom of information law.

8

9 **1314. License applicant eligibility**

10 1. Gaming licenses shall only be issued to applicants who are  
11 qualified under the criteria set forth in this article, as  
12 determined by the commission.

13 2. Within any casino development region, if the commission is  
14 not convinced that there is an applicant that has met the  
15 eligibility criteria or the board finds that no applicant has  
16 provided convincing evidence that its proposal will provide  
17 value to the region in which the gaming facility is proposed to  
18 be located, no gaming license shall be awarded in that region.

19

20 **1315. Required capital investment**

21 1. The board shall establish the minimum capital investment  
22 for a gaming facility by zone and region. Such investment shall  
23 include, but not be limited to, a gaming area, at least one  
24 hotel and other amenities; and provided further, that the board

1 shall determine whether it will include the purchase or lease  
2 price of the land where the gaming establishment will be located  
3 or any infrastructure designed to support the site including,  
4 but not limited to, drainage, utility support, roadways,  
5 interchanges, fill and soil or groundwater or surface water  
6 contamination issues. The board may consider private capital  
7 investment made during the three years previous to the effective  
8 date of this law, but may, in its discretion, discount a  
9 percentage of the investment made. Upon award of a gaming  
10 license by the commission, the applicant shall be required to  
11 deposit ten percent of the total investment proposed in the  
12 application into an interest-bearing account. Monies received  
13 from the applicant shall be held in escrow until the final stage  
14 of construction, as detailed in the timeline of construction  
15 submitted with the licensee's application and approved by the  
16 commission, at which time the deposit shall be returned to the  
17 applicant to be applied for the final stage. Should the  
18 applicant be unable to complete the gaming establishment, the  
19 deposit shall be forfeited to the state. In place of a cash  
20 deposit, the commission may allow for an applicant to secure a  
21 deposit bond insuring that ten percent of the proposed capital  
22 investment shall be forfeited to the state if the applicant is  
23 unable to complete the gaming establishment.

1 2. A licensee who fails to begin gaming operations within one  
2 year after the date specified in its construction timeline, as  
3 approved by the commission, shall be subject to suspension or  
4 revocation of the gaming license by the commission and may,  
5 after being found by the commission after a hearing to have  
6 acted in bad faith in its application, be assessed a fine of up  
7 to \$50,000,000.

8 3. Each applicant shall submit its proposed capital  
9 investment with its application to the board which shall include  
10 stages of construction of the gaming establishment and the  
11 deadline by which the stages and overall construction and any  
12 infrastructure improvements will be completed. In awarding a  
13 license, the commission shall determine at what stage of  
14 construction a licensee shall be approved to open for business;  
15 provided, however, that a licensee shall not be approved to open  
16 for business until the commission has determined that at least  
17 the gaming area and other ancillary entertainment services and  
18 non-gaming amenities, as required by the board, have been built  
19 and are of a superior quality as set forth in the conditions of  
20 licensure; and provided further, that total infrastructure  
21 improvements onsite and around the vicinity of the gaming  
22 establishment, shall be completed before the gaming  
23 establishment shall be approved for opening by the commission.

1 The commission shall not approve a gaming establishment to open  
2 for business before the completion of the permanent gaming area.

3 4. The board shall determine the minimum licensing fee for  
4 each region, which shall not be less than \$50,000,000, to be  
5 paid by a licensee within thirty days after the award of the  
6 license. The license shall set forth the conditions to be  
7 satisfied by the licensee before the gaming establishment shall  
8 be opened to the public. The commission shall set any renewal  
9 fee for such license based on the cost of fees associated with  
10 the evaluation of a licensee under this article which shall be  
11 deposited into the commercial gaming revenue fund. Such renewal  
12 fee shall be exclusive of any subsequent licensing fees under  
13 this section.

14 5. The commission shall determine the sources and total  
15 amount of an applicant's proposed capitalization to develop,  
16 construct, maintain and operate a proposed gaming establishment  
17 under this article. Upon award of a gaming license, the  
18 commission shall continue to assess the capitalization of a  
19 licensee for the duration of construction of the proposed gaming  
20 establishment and the term of the license.

21

22 1316. Minimum license thresholds

1 No applicant shall be eligible to receive a gaming license  
2 unless the applicant meets the following criteria and clearly  
3 states as part of an application that the applicant shall:

4 1. in accordance with the design plans submitted with the  
5 licensee's application to the board, invest not less than the  
6 required capital under this article into the gaming facility;

7 2. own or acquire, within sixty days after a license has been  
8 awarded, the land where the gaming facility is proposed to be  
9 constructed; provided, however, that ownership of the land shall  
10 include a tenancy for a term of years under a lease that extends  
11 not less than sixty years beyond the term of the gaming license  
12 issued under this article;

13 3. meet the licensee deposit requirement;

14 4. demonstrate that it is able to pay and shall commit to  
15 paying the gaming licensing fee;

16 5. demonstrate to the commission how the applicant proposes  
17 to address problem gambling concerns, workforce development and  
18 community development and host and surrounding municipality  
19 impact and mitigation issues;

20 6. identify the infrastructure costs of the host municipality  
21 incurred in direct relation to the construction and operation of  
22 a gaming facility and commit to a community mitigation plan for  
23 the host municipality;

1     7. identify the service costs of the host municipality  
2     incurred for emergency services in direct relation to the  
3     operation of a gaming facility and commit to a community  
4     mitigation plan for the municipality;

5     8. pay to the commission a nonrefundable application fee of  
6     \$1,000,000 to defray the costs associated with the processing of  
7     the application and investigation of the applicant; provided,  
8     however, that if the costs of the investigation exceed the  
9     initial application fee, the applicant shall pay the additional  
10    amount to the commission within thirty days after notification  
11    of insufficient fees or the application shall be rejected;

12    9. comply with state building and fire prevention codes;

13    10. have received the approval required from the host  
14    municipality and the host county pursuant to section one  
15    thousand three hundred twenty of this article;

16    11. provide a community impact fee to the host municipality;

17    12. formulate for board approval and abide by a marketing  
18    program by which the applicant shall identify specific goals,  
19    expressed as an overall program goal applicable to the total  
20    dollar amount of contracts, for utilization of:

21    (i) minority business enterprises, women business enterprises  
22    and veteran business enterprises to participate as contractors  
23    in the design of the gaming facility;

1 (ii) minority business enterprises, women business enterprises  
2 and veteran business enterprises to participate as contractors  
3 in the construction of the gaming facility; and  
4 (iii) minority business enterprises, women business enterprises  
5 and veteran business enterprises to participate as vendors in  
6 the provision of goods and services procured by the gaming  
7 facility and any businesses operated as part of the gaming  
8 facility; and

9 13. formulate for board approval and abide by an affirmative  
10 action program of equal opportunity whereby the applicant  
11 establishes specific goals for the utilization of minorities,  
12 women and veterans on construction jobs.

13

14 **1317. Investigation of license applicants**

15 1. Upon receipt of an application for a gaming license, the  
16 commission shall cause to be commenced an investigation into the  
17 suitability of the applicant. In evaluating the suitability of  
18 the applicant, the commission shall consider the overall  
19 reputation of the applicant including, without limitation:

20 a. the integrity, honesty, good character and reputation of the  
21 applicant;

22 b. the financial stability, integrity and background of the  
23 applicant;

1 c. the business practices and the business ability of the  
2 applicant to establish and maintain a successful gaming  
3 facility;  
4 d. whether the applicant has a history of compliance with gaming  
5 licensing requirements in other jurisdictions;  
6 e. whether the applicant, at the time of application, is a  
7 defendant in litigation involving its business practices;  
8 f. the suitability of all parties in interest to the gaming  
9 license, including affiliates and close associates and the  
10 financial resources of the applicant; and  
11 g. whether the applicant is disqualified from receiving a  
12 license under this article; provided, however, that in  
13 considering the rehabilitation of an applicant for a gaming  
14 license, the commission shall not automatically disqualify an  
15 applicant if the applicant affirmatively demonstrates, by clear  
16 and convincing evidence, that the applicant has financial  
17 responsibility, character, reputation, integrity and general  
18 fitness as such to warrant belief by the commission that the  
19 applicant will act honestly, fairly, soundly and efficiently as  
20 a gaming licensee.

21 2. If the investigating entity determines during its  
22 investigation that an applicant has failed to:

1 (i) establish the applicant's integrity or the integrity of any  
2 affiliate, close associate, financial source or any person  
3 required to be qualified by the commission;  
4 (ii) demonstrate responsible business practices in any  
5 jurisdiction; or  
6 (iii) overcome any other reason, as determined by the  
7 commission, as to why it would be injurious to the interests of  
8 the state in awarding the applicant a gaming license,  
9 the bureau shall cease any further review and recommend that the  
10 commission deny the application.

11 3. If the investigating entity has determined that an  
12 applicant is suitable to receive a gaming license, the entity  
13 shall recommend that the commission commence a review of the  
14 applicant's entire application.

15

16 **1318. Disqualifying criteria**

17 1. The commission shall deny a license to any applicant who  
18 is disqualified on the basis of any of the following criteria:  
19 a. failure of the applicant to prove by clear and convincing  
20 evidence that the applicant is qualified in accordance with the  
21 provisions of this article;  
22 b. failure of the applicant to provide information,  
23 documentation and assurances required by this article or  
24 requested by the commission, or failure of the applicant to

1 reveal any fact material to qualification, or the supplying of  
2 information which is untrue or misleading as to a material fact  
3 pertaining to the qualification criteria;  
4 c. the conviction of the applicant, or of any person required  
5 to be qualified under this article as a condition of a license,  
6 of any offense in any jurisdiction which is or would be a felony  
7 or other crime involving public integrity, embezzlement, theft,  
8 fraud or perjury;  
9 d. committed prior acts which have not been prosecuted or in  
10 which the applicant, or of any person required to be qualified  
11 under this article as a condition of a license, was not  
12 convicted but form a pattern of misconduct that makes the  
13 applicant unsuitable for a license under this article; or  
14 e. if the applicant, , or of any person required to be qualified  
15 under this article as a condition of a license, has affiliates  
16 or close associates that would not qualify for a license or  
17 whose relationship with the applicant may pose an injurious  
18 threat to the interests of the state in awarding a gaming  
19 license to the applicant.

20 2. Any other offense under present state or federal law which  
21 indicates that licensure of the applicant would be inimical to  
22 the policy of this article; provided, however, that the  
23 automatic disqualification provisions of this section shall not  
24 apply with regard to any conviction which did not occur within

1 the ten year period immediately preceding application for  
2 licensure and which the applicant demonstrates by clear and  
3 convincing evidence does not justify automatic disqualification  
4 pursuant to this subsection and any conviction which has been  
5 the subject of a judicial order of expungement or sealing;

6 3. Current prosecution or pending charges in any  
7 jurisdiction of the applicant or of any person who is required  
8 to be qualified under this article as a condition of a license,  
9 for any of the offenses enumerated in paragraph c of subsection  
10 one; provided, however, that at the request of the applicant or  
11 the person charged, the commission shall defer decision upon  
12 such application during the pendency of such charge;

13 4. The pursuit by the applicant or any person who is  
14 required to be qualified under this article as a condition of a  
15 license of economic gain in an occupational manner or context  
16 which is in violation of the criminal or civil public policies  
17 of this state, if such pursuit creates a reasonable belief that  
18 the participation of such person in casino gambling operations  
19 would be inimical to the policies of this article. For purposes  
20 of this section, occupational manner or context shall be defined  
21 as the systematic planning, administration, management, or  
22 execution of an activity for financial gain;

23 5. The identification of the applicant or any person who is  
24 required to be qualified under this article as a condition of a

1 license as a career offender or a member of a career offender  
2 cartel or an associate of a career offender or career offender  
3 cartel in such a manner which creates a reasonable belief that  
4 the association is of such a nature as to be inimical to the  
5 policy of this article. For purposes of this section, career  
6 offender shall be defined as any person whose behavior is  
7 pursued in an occupational manner or context for the purpose of  
8 economic gain, utilizing such methods as are deemed criminal  
9 violations of the public policy of this state. A career offender  
10 cartel shall be defined as any group of persons who operate  
11 together as career offenders;

12 6. The commission by the applicant or any person who is  
13 required to be qualified under this article as a condition of a  
14 license of any act or acts which would constitute any offense  
15 under paragraph c of subsection one, even if such conduct has  
16 not been or may not be prosecuted under the criminal laws of  
17 this state or any other jurisdiction or has been prosecuted  
18 under the criminal laws of this state or any other jurisdiction  
19 and such prosecution has been terminated in a manner other than  
20 with a conviction;

21 7. Flagrant defiance by the applicant or any person who is  
22 required to be qualified under this article of any legislative  
23 investigatory body or other official investigatory body of any  
24 state or of the United States when such body is engaged in the

1 investigation of crimes relating to gaming, official corruption,  
2 or organized crime activity; and

3 8. Failure by the applicant or any person required to be  
4 qualified under this article as a condition of a license to make  
5 required payments in accordance with a child support order,  
6 repay an overpayment for public assistance benefits, or repay  
7 any other debt owed to the state unless such applicant provides  
8 proof to the director's satisfaction of payment of or  
9 arrangement to pay any such debts prior to licensure.

10

11 **1319. Investigative hearings.** The commission and the board  
12 shall have the independent authority to conduct investigative  
13 hearings concerning the conduct of gaming and gaming operations  
14 in accordance with any procedures set forth in this article and  
15 any applicable implementing regulations.

16

17 **1320. Siting evaluation**

18 In determining whether an applicant shall be eligible for a  
19 casino gaming facility license, the board shall evaluate and  
20 issue a finding of how each applicant proposes to advance the  
21 following objectives.

22 1. The decision by the board to select a casino license  
23 facility applicant shall be weighted by sixty-five percent based  
24 on economic activity and business development factors including:

- 1 a. realizing maximum capital investment exclusive of land
- 2 acquisition and infrastructure improvements;
- 3 b. maximizing revenues received by the state and localities;
- 4 c. providing the highest number of quality jobs in the gaming
- 5 facility;
- 6 d. building a gaming facility of the highest caliber with a
- 7 variety of quality amenities to be included as part of the
- 8 gaming facility;
- 9 e. offering the highest and best value to patrons to create a
- 10 secure and robust gaming market in the region and the state;
- 11 f. providing a market analysis detailing the benefits of the
- 12 site location of the gaming facility and the estimated recapture
- 13 rate of gaming-related spending by residents travelling to out-
- 14 of-state gaming facility;
- 15 g. offering the fastest time to completion of the full gaming
- 16 facility;
- 17 h. demonstrating the ability to fully finance the gaming
- 18 facility; and
- 19 i. demonstrating experience in the development and operation of
- 20 quality gaming facility.

21 2. The decision by the board to select a casino gaming  
22 facility license applicant shall be weighted by twenty percent  
23 based on local impact and siting factors including:

1 a. mitigating potential impacts on host and nearby  
2 municipalities which might result from the development or  
3 operation of the gaming facility;  
4 b. gaining public support in the host and nearby municipalities  
5 which may be demonstrated through the passage of local laws or  
6 public comment received by the board or gaming applicant; and  
7 c. operating in partnership with and promoting local hotels,  
8 restaurants , retail facilities, and live entertainment  
9 establishments so that patrons experience the full diversified  
10 regional tourism industry.

11 3. The decision by the board to select a casino gaming  
12 facility license applicant shall be weighted by fifteen percent  
13 based on workforce and societal enhancement factors including:

14 a. implementing a workforce development plan that utilizes the  
15 existing labor force, including the estimated number of  
16 construction jobs a proposed gaming facility will generate, the  
17 development of workforce training programs that serve the  
18 unemployed and methods for accessing employment at the gaming  
19 facility;

20 b. taking additional measures to address problem gambling  
21 including, but not limited to, training of gaming employees to  
22 identify patrons exhibiting problems with gambling;

23 c. utilizing sustainable development principles including, but  
24 not limited to:

1 (i) having new and renovation construction certified under the  
2 appropriate certification category in the Leadership in Energy  
3 and Environmental Design Green Building Rating System created by  
4 the United States Green Building Council;

5 (ii) efforts to mitigate vehicle trips;

6 (iii) efforts to conserve water and manage storm water;

7 (iv) demonstrating that electrical and HVAC equipment and  
8 appliances will be EnergyStar labeled where available;

9 (v) procuring or generating on-site ten percent of its annual  
10 electricity consumption from renewable sources; and

11 (vi) developing an ongoing plan to submeter and monitor all  
12 major sources of energy consumption and undertake regular  
13 efforts to maintain and improve energy efficiency of buildings  
14 in their systems;

15 d. establishing, funding and maintaining human resource hiring  
16 and training practices that promote the development of a skilled  
17 and diverse workforce and access to promotion opportunities  
18 through a workforce training program that:

19 (i) establishes transparent career paths with measurable  
20 criteria within the gaming facility that lead to increased  
21 responsibility and higher pay grades that are designed to allow  
22 employees to pursue career advancement and promotion;

23 (ii) provides employee access to additional resources, such as  
24 tuition reimbursement or stipend policies, to enable employees

1 to acquire the education or job training needed to advance  
2 career paths based on increased responsibility and pay grades;  
3 and  
4 (iii) establishes an on-site child day-care program;  
5 e. purchasing, whenever possible, domestically manufactured slot  
6 machines for installation in the gaming facility;  
7 f. implementing a marketing program that identifies specific  
8 goals, expressed as an overall program goal applicable to the  
9 total dollar amount of contracts, for the utilization of:  
10 (i) minority business enterprises, women business enterprises  
11 and veteran business enterprises to participate as contractors  
12 in the design of the gaming facility;  
13 (ii) minority business enterprises, women business enterprises  
14 and veteran business enterprises to participate as contractors  
15 in the construction of the gaming facility; and  
16 (iii) minority business enterprises, women business enterprises  
17 and veteran business enterprises to participate as vendors in  
18 the provision of goods and services procured by the gaming  
19 facility and any businesses operated as part of the gaming  
20 facility;  
21 g. implementing a workforce development plan that:  
22 (i) incorporates an affirmative action program of equal  
23 opportunity by which the applicant guarantees to provide equal  
24 employment opportunities to all employees qualified for

1 licensure in all employment categories, including persons with  
2 disabilities;  
3 (ii) utilizes the existing labor force in the state;  
4 (iii) estimates the number of construction jobs a gaming  
5 facility will generate and provides for equal employment  
6 opportunities and which includes specific goals for the  
7 utilization of minorities, women and veterans on those  
8 construction jobs;  
9 (iv) identifies workforce training programs offered by the  
10 gaming facility; and  
11 (v) identifies the methods for accessing employment at the  
12 gaming facility; and  
13 h. demonstrating that the applicant has a contract with  
14 organized labor, including hospitality services, and has the  
15 support of organized labor for its application, which specifies:  
16 (i) the number of employees to be employed at the gaming  
17 facility, including detailed information on the pay rate and  
18 benefits for employees and contractors;  
19 (ii) the total amount of investment by the applicant in the  
20 gaming facility and all infrastructure improvements related to  
21 the project; and  
22 (iii) whether the applicant has included detailed plans for  
23 assuring labor harmony during all phases of the construction,

1 reconstruction, renovation, development and operation of the  
2 gaming facility.

3

4 1321. [intentionally omitted]

5

6 OCCUPATIONAL LICENSING

7

8 1322. General provisions

9 1. It shall be the affirmative responsibility of each  
10 applicant or licensee to establish by clear and convincing  
11 evidence its individual qualifications, and for a casino license  
12 the qualifications of each person who is required to be  
13 qualified under this article.

14 2. Any applicant, licensee, registrant, or any other person  
15 who must be qualified pursuant to this article shall provide all  
16 required information and satisfy all requests for information  
17 pertaining to qualification and in the form specified by  
18 regulation. All applicants, registrants, and licensees shall  
19 waive liability as to the state, and its instrumentalities and  
20 agents, for any damages resulting from any disclosure or  
21 publication in any manner, other than a willfully unlawful  
22 disclosure or publication, of any material or information  
23 acquired during inquiries, investigations or hearings.

1 3. All applicants, licensees, registrants, intermediary  
2 companies, and holding companies shall consent to inspections,  
3 searches and seizures and the supplying of handwriting exemplars  
4 as authorized by this article and regulations promulgated  
5 hereunder.

6 4. All applicants, licensees, registrants, and any other  
7 person who shall be qualified pursuant to this article shall  
8 have the continuing duty to provide any assistance or  
9 information required by the commission, and to cooperate in any  
10 inquiry, investigation or hearing conducted by the commission.  
11 If, upon issuance of a formal request to answer or produce  
12 information, evidence or testimony, any applicant, licensee,  
13 registrant, or any other person who shall be qualified pursuant  
14 to this article refuses to comply, the application, license,  
15 registration or qualification of such person may be denied or  
16 revoked.

17 5. Each applicant or person who must be qualified under this  
18 article shall be photographed and fingerprinted for  
19 identification and investigation purposes in accordance with  
20 procedures set forth by regulation.

21 6. All licensees, all registrants, and all other persons  
22 required to be qualified under this article shall have a duty to  
23 inform the commission of any action which they believe would  
24 constitute a violation of this act. No person who so informs the

1 commission shall be discriminated against by an applicant,  
2 licensee or registrant because of the supplying of such  
3 information.

4

5 **1323. Key employee licenses**

6 1. No licensee or a holding or intermediary company of a  
7 licensee may employ any person as a key casino employee unless  
8 the person is the holder of a valid casino key employee license  
9 issued by the commission.

10 2. Each applicant for a casino key employee license must,  
11 prior to the issuance of any casino key employee license,  
12 produce information, documentation and assurances concerning the  
13 following qualification criteria:

14 a. Each applicant for a casino key employee license shall  
15 produce such information, documentation and assurances as may be  
16 required to establish by clear and convincing evidence the  
17 financial stability, integrity and responsibility of the  
18 applicant, including but not limited to bank references,  
19 business and personal income and disbursements schedules, tax  
20 returns and other reports filed with governmental agencies, and  
21 business and personal accounting and check records and ledgers.

22 In addition, each applicant shall, in writing, authorize the  
23 examination of all bank accounts and records as may be deemed  
24 necessary by the commission.

1 b. Each applicant for a casino key employee license shall  
2 produce such information, documentation and assurances as may be  
3 required to establish by clear and convincing evidence the  
4 applicant's good character, honesty and integrity. Such  
5 information shall include, without limitation, data pertaining  
6 to family, habits, character, reputation, criminal and arrest  
7 record, business activities, financial affairs, and business,  
8 professional and personal associates, covering at least the ten  
9 year period immediately preceding the filing of the application.  
10 Each applicant shall notify the commission of any civil  
11 judgments obtained against such applicant pertaining to  
12 antitrust or security regulation laws of the federal government,  
13 of this State or of any other state, jurisdiction, province or  
14 country. In addition, each applicant shall, upon request of the  
15 commission, produce letters of reference from law enforcement  
16 agencies having jurisdiction in the applicant's place of  
17 residence and principal place of business, which letters of  
18 reference shall indicate that such law enforcement agencies do  
19 not have any pertinent information concerning the applicant, or  
20 if such law enforcement agency does have information pertaining  
21 to the applicant, shall specify what that information is. If the  
22 applicant has been associated with gaming operations in any  
23 capacity, position or employment in a jurisdiction which permits  
24 such activity, the applicant shall, upon request of the

1 commission, produce letters of reference from the gaming  
2 enforcement or control agency, which shall specify the  
3 experience of such agency with the applicant, his associates and  
4 his participation in the gaming operations of that jurisdiction;  
5 provided, however, that if no such letters are received from the  
6 appropriate law enforcement agencies within sixty days of the  
7 applicant's request therefor, the applicant may submit a  
8 statement under oath that he is or was during the period such  
9 activities were conducted in good standing with such gaming  
10 enforcement or control agency.

11 c. Each applicant employed by a casino licensee shall be a  
12 resident of the state prior to the issuance of a casino key  
13 employee license; provided, however, that upon petition by the  
14 holder of a license, the commission may waive this residency  
15 requirement for any applicant whose particular position will  
16 require him to be employed outside the state; and provided  
17 further that no applicant employed by a holding or intermediary  
18 company of a licensee shall be required to establish residency  
19 in this state.

20 d. For the purposes of this section, each applicant shall submit  
21 to the commission the applicant's name, address, fingerprints  
22 and written consent for a criminal history record background  
23 check to be performed. The commission is hereby authorized to  
24 exchange fingerprint data with and receive criminal history

1 record information from the state division of criminal justice  
2 services and the Federal Bureau of Investigation consistent with  
3 applicable state and federal laws, rules and regulations. The  
4 applicant shall bear the cost for the criminal history record  
5 check, including all costs of administering and processing the  
6 check. The state division of criminal justice services shall  
7 promptly notify the commission in the event a current or  
8 prospective licensee, who was the subject of a criminal history  
9 record check pursuant to this section, is arrested for a crime  
10 or offense in this state after the date the check was performed.

11 3. The commission shall deny a casino key employee license to  
12 any applicant who is disqualified on the basis of the criteria  
13 contained in section one thousand three hundred twenty-four.

14 4. Upon petition by the holder of a license, the commission  
15 may issue a temporary license to an applicant for a casino key  
16 employee license, provided that:

17 a. The applicant for the casino key employee license has filed a  
18 completed application as required by the commission;

19 b. The petition for a temporary casino key employee license  
20 certifies, and the commission finds, that an existing casino key  
21 employee position of the petitioner is vacant or will become  
22 vacant within sixty days of the date of the petition and that  
23 the issuance of a temporary key employee license is necessary to  
24 fill the said vacancy on an emergency basis to continue the

1 efficient operation of the casino, and that such circumstances  
2 are extraordinary and not designed to circumvent the normal  
3 licensing procedures of this act;

4 6. Unless otherwise terminated pursuant to this article, any  
5 temporary casino key employee license issued pursuant to this  
6 subsection shall expire nine months from the date of its  
7 issuance.

8  
9 **1324. Gaming employee registration**

10 1. No person may commence employment as a casino employee  
11 unless such person has a valid registration on file with the  
12 commission, which registration shall be prepared and filed in  
13 accordance with the regulations promulgated hereunder.

14 2. A casino employee registrant shall produce such  
15 information as the commission by regulation may require.  
16 Subsequent to the registration of a casino employee, the  
17 executive director may revoke, suspend, limit, or otherwise  
18 restrict the registration upon a finding that the registrant is  
19 disqualified on the basis of the criteria contained in section  
20 one thousand three hundred twenty-four. If a casino employee  
21 registrant has not been employed in any position within a casino  
22 facility for a period of three years, the registration of that  
23 casino employee shall lapse.

1     3. Notwithstanding the provisions of paragraph b of this  
2 section, no casino employee registration shall be revoked on the  
3 basis of a conviction of any of the offenses enumerated in this  
4 article as disqualification criteria or the commission of any  
5 act or acts which would constitute any offense under section one  
6 thousand three hundred twenty-four, provided that the registrant  
7 has affirmatively demonstrated the registrant's rehabilitation.  
8 In determining whether the registrant has affirmatively  
9 demonstrated the registrant's rehabilitation the director shall  
10 consider the following factors:  
11 a. The nature and duties of the registrant's position;  
12 b. The nature and seriousness of the offense or conduct;  
13 c. The circumstances under which the offense or conduct  
14 occurred;  
15 d. The date of the offense or conduct;  
16 e. The age of the registrant when the offense or conduct was  
17 committed;  
18 f. Whether the offense or conduct was an isolated or repeated  
19 incident;  
20 g. Any social conditions which may have contributed to the  
21 offense or conduct;  
22 h. Any evidence of rehabilitation, including good conduct in  
23 prison or in the community, counseling or psychiatric treatment  
24 received, acquisition of additional academic or vocational

1 schooling, successful participation in correctional work-release  
2 programs, or the recommendation of persons who have or have had  
3 the registrant under their supervision.

4 4. For the purposes of this section, each registrant shall  
5 submit to the commission the registrant's name, address,  
6 fingerprints and written consent for a criminal history record  
7 check to be performed. The commission is hereby authorized to  
8 exchange fingerprint data with and receive criminal history  
9 record information from the state division of criminal justice  
10 services and the Federal Bureau of Investigation consistent with  
11 applicable state and federal laws, rules and regulations. The  
12 registrant shall bear the cost for the criminal history record  
13 check, including all costs of administering and processing the  
14 check. The state division of criminal justice services shall  
15 promptly notify the commission in the event a current or  
16 prospective licensee, who was the subject of a criminal history  
17 record background check pursuant to this section, is arrested  
18 for a crime or offense in this state after the date the check  
19 was performed.

20  
21 **1325. Approval and denial of employee licenses and**  
22 **registrations**

23 1. Upon the filing of an application for a casino key  
24 employee license required by this article and after submission

1 of such supplemental information as the commission may require,  
2 the commission shall conduct or cause to be conducted such  
3 investigation into the qualification of the applicant, and the  
4 commission shall conduct such hearings concerning the  
5 qualification of the applicant, in accordance with its  
6 regulations, as may be necessary to determine qualification for  
7 such license.

8 2. After such investigation, the commission may either deny  
9 the application or grant a license to an applicant whom it  
10 determines to be qualified to hold such license.

11 3. The commission shall have the authority to deny any  
12 application pursuant to the provisions of this article. When an  
13 application for a casino key employee license is denied, the  
14 commission shall prepare and file its order denying such  
15 application with the general reasons therefor, and if requested  
16 by the applicant, shall further prepare and file a statement of  
17 the reasons for the denial, including the specific findings of  
18 fact.

19 4. When the commission grants an application, the commission  
20 may limit or place such restrictions thereupon as it may deem  
21 necessary in the public interest.

22 5. Casino employee registration shall be effective upon  
23 issuance, and shall remain in effect unless revoked, suspended,  
24 limited, or otherwise restricted by the commission.

1 Notwithstanding the foregoing, if a casino employee registrant  
2 has not been employed in any position within a casino facility  
3 for a period of three years, the registration of that casino  
4 employee shall lapse.

5 6. After an application for a casino key employee license is  
6 submitted, final action of the commission shall be taken within  
7 ninety days after completion of all hearings and investigations  
8 and the receipt of all information required by the commission.

9 7. Not later than five years after obtaining a casino key  
10 employee license, and every five years thereafter, the licensee  
11 shall submit such information and documentation as the  
12 commission may by regulation require, to demonstrate to the  
13 satisfaction of the commission that it continues to meet the  
14 requirements of this article. Upon receipt of such information,  
15 the commission may take such action on the license, including  
16 suspension or revocation, as it deems appropriate.

17 8. Registrations for casino employees issued shall remain  
18 valid unless suspended or revoked or unless such registration  
19 expires or is voided pursuant to law.

20 9. The commission shall establish by regulation appropriate  
21 fees to be paid upon the filing of the informational filings  
22 required. Such fees shall be deposited into the Casino Gaming  
23 Fund.

1 ENTERPRISE AND VENDOR LICENSING AND REGISTRATION

2  
3 1326. Licensing of vendor enterprises

4 1. Any business to be conducted with a casino applicant or  
5 licensee by a vendor offering goods or services which directly  
6 relate to gaming activity, including gaming equipment  
7 manufacturers, suppliers, repairers, and independent testing  
8 laboratories, shall be licensed as a casino vendor enterprise in  
9 accordance with the provisions of this article prior to  
10 conducting any business whatsoever with a casino applicant or  
11 licensee, its employees or agents; provided, however, that upon  
12 a showing of good cause by a casino applicant or licensee, the  
13 executive director may permit an applicant for a casino vendor  
14 enterprise license to conduct business transactions with such  
15 casino applicant or licensee prior to the licensure of that  
16 casino vendor enterprise applicant under this subsection for  
17 such periods as the commission may establish by regulation.

18 2. In addition to the requirements of subsection one, any  
19 casino vendor enterprise intending to manufacture, sell,  
20 distribute, test or repair slot machines within the state shall  
21 be licensed in accordance with the provisions of this article  
22 prior to engaging in any such activities; provided, however,  
23 that upon a showing of good cause by a casino applicant or  
24 licensee, the executive director may permit an applicant for a

1 casino vendor enterprise license to conduct business  
2 transactions with the casino applicant or licensee prior to the  
3 licensure of that casino vendor enterprise applicant under this  
4 subsection for such periods as the commission may establish by  
5 regulation; and provided further, however, that upon a showing  
6 of good cause by an applicant required to be licensed as a  
7 casino vendor enterprise pursuant to this subsection, the  
8 executive director may permit the casino vendor enterprise  
9 applicant to initiate the manufacture of slot machines or engage  
10 in the sale, distribution, testing or repair of slot machines  
11 with any person other than a casino applicant or licensee, its  
12 employees or agents, prior to the licensure of that casino  
13 vendor enterprise applicant under this subsection.

14 3. Vendors providing goods and services to casino licensees  
15 or applicants ancillary to gaming shall be required to be  
16 licensed as an ancillary casino vendor enterprise and shall  
17 comply with the standards for casino vendor license applicants.

18 4. Each casino vendor enterprise required to be licensed  
19 pursuant to subsection one, as well as its owners; management  
20 and supervisory personnel; and employees if such employees have  
21 responsibility for services to a casino applicant or licensee,  
22 must qualify under the standards, except residency, established  
23 for qualification of a casino key employee under this article.

1     5. Any vendor that offers goods or services to a casino  
2 applicant or licensee that is not included in subsection one or  
3 two including, but not limited to site contractors and  
4 subcontractors, shopkeepers located within the facility, gaming  
5 schools that possess slot machines for the purpose of  
6 instruction, and any non-supervisory employee of a junket  
7 enterprise licensed under subsection three, shall be required to  
8 register with the commission in accordance with the regulations  
9 promulgated under this article.

10     Notwithstanding the provisions aforementioned, the executive  
11 director may, consistent with the public interest and the  
12 policies of this article, direct that individual vendors  
13 registered pursuant to this subsection be required to apply for  
14 either a casino vendor enterprise license pursuant to subsection  
15 one, or an ancillary vendor industry enterprise license pursuant  
16 to subsection three, as directed by the commission. The  
17 executive director may also order that any enterprise licensed  
18 as or required to be licensed as an ancillary casino vendor  
19 enterprise pursuant to subsection three be required to apply for  
20 a casino vendor enterprise license pursuant to subsection one.  
21 The executive director may also, in his discretion, order that  
22 an independent software contractor not otherwise required to be  
23 registered be either registered as a vendor pursuant to this

1 subsection or be licensed pursuant to either subsection one or  
2 three.

3 Each ancillary casino vendor enterprise required to be  
4 licensed pursuant to subsection three, as well as its owners,  
5 management and supervisory personnel, and employees if such  
6 employees have responsibility for services to a casino applicant  
7 or licensee, shall establish their good character, honesty and  
8 integrity by clear and convincing evidence and shall provide  
9 such financial information as may be required by the commission.  
10 Any enterprise required to be licensed as an ancillary casino  
11 vendor enterprise pursuant to this section shall be permitted to  
12 transact business with a casino licensee upon filing of the  
13 appropriate vendor registration form and application for such  
14 licensure.

15 4. Any applicant, licensee or qualifier of a casino vendor  
16 enterprise license or of an ancillary casino vendor enterprise  
17 license under subsection one, and any vendor registrant under  
18 subsection five shall be disqualified in accordance with the  
19 criteria contained in section one thousand three hundred  
20 thirteen, except that no such ancillary vendor industry  
21 enterprise license under subsection three or vendor registration  
22 under subsection five shall be denied or revoked if such vendor  
23 registrant can affirmatively demonstrate rehabilitation as

1 provided in subsection three of section one thousand three  
2 hundred eighteen.

3 5. No casino vendor enterprise license or ancillary casino  
4 vendor enterprise license shall be issued pursuant to subsection  
5 one to any person unless that person shall provide proof of  
6 valid business registration with the New York department of  
7 state.

8 6. For the purposes of this section, each applicant shall  
9 submit to the commission the name, address, fingerprints and a  
10 written consent for a criminal history record check to be  
11 performed, for each person required to qualify as part of the  
12 application. The commission is hereby authorized to exchange  
13 fingerprint data with and receive criminal history record  
14 information from the state division of criminal justice services  
15 and the Federal Bureau of Investigation consistent with  
16 applicable state and federal laws, rules and regulations. The  
17 applicant shall bear the cost for the criminal history record  
18 check, including all costs of administering and processing the  
19 check. The state division of criminal justice services shall  
20 promptly notify the commission in the event a current or  
21 prospective qualifier, who was the subject of a criminal history  
22 record check pursuant to this section, is arrested for a crime  
23 or offense in this state after the date the check was performed.

1 7. Subsequent to the licensure of any entity pursuant to  
2 subsection one, including any finding of qualification as may be  
3 required as a condition of licensure, or the registration of any  
4 vendor pursuant to subsection three, the executive director may  
5 revoke, suspend, limit, or otherwise restrict the license,  
6 registration or qualification status upon a finding that the  
7 licensee, registrant or qualifier is disqualified on the basis  
8 of the criteria set forth in section one thousand three hundred  
9 thirteen.

10 8. A hearing prior to the suspension of any license,  
11 registration or qualification issued pursuant to subsection  
12 seven shall be a limited proceeding at which the commission  
13 shall have the affirmative obligation to demonstrate that there  
14 is a reasonable possibility that the licensee, registrant or  
15 qualifier is disqualified on the basis of the criteria set forth  
16 in section one thousand three hundred thirteen.

17

18 **1327. Approval and denial of vendor registration**

19 1. A casino vendor registration shall be effective upon  
20 issuance, and shall remain in effect unless revoked, suspended,  
21 limited, or otherwise restricted by the commission.

22 Notwithstanding the foregoing, if a vendor registrant has not  
23 conducted business with a casino facility for a period of three  
24 years, the registration of that vendor registrant shall lapse.

1     2. The commission shall establish by regulation appropriate  
2 fees to be imposed on each vendor registrant who provides goods  
3 or services to a casino, regardless of the nature of any  
4 contractual relationship between the vendor registrant and  
5 casino, if any. Such fees shall be deposited into the  
6 commercial gaming revenue fund.

7  
8     **1328.         Junket operator licensing**

9     1. No junkets may be organized or permitted except in  
10 accordance with the provisions of this article. No person may  
11 act as a junket representative or junket enterprise except in  
12 accordance with this section.

13     2. A junket representative employed by a casino licensee, an  
14 applicant for a casino license or an affiliate of a casino  
15 licensee shall be licensed as a casino key employee; provided,  
16 however, that said licensee need not be a resident of this  
17 state. No casino licensee or applicant for a casino license may  
18 employ or otherwise engage a junket representative who is not so  
19 licensed.

20     3. Junket enterprises that, and junket representatives not  
21 employed by a casino licensee or an applicant for a casino  
22 license or by a junket enterprise who, engage in activities  
23 governed by this section shall be licensed as an ancillary  
24 casino vendor enterprise in accordance with subsection three of

1 section one thousand three hundred twenty, unless otherwise  
2 directed by the commission; provided, however, that any such  
3 junket enterprise or junket representative who has disqualified  
4 shall not be entitled to establish his rehabilitation from such  
5 disqualification. Any non-supervisory employee of a junket  
6 enterprise or junket representative licensed as an ancillary  
7 vendor industry enterprise in accordance with subsection three  
8 of section one thousand three hundred twenty shall be  
9 registered.

10 4. Prior to the issuance of any license required by this  
11 section, an applicant for licensure shall submit to the  
12 jurisdiction of the state and shall demonstrate that he is  
13 amenable to service of process within this state. Failure to  
14 establish or maintain compliance with the requirements of this  
15 subsection shall constitute sufficient cause for the denial,  
16 suspension or revocation of any license issued pursuant to this  
17 section.

18 5. Upon petition by the holder of a casino license, an  
19 applicant for a casino key employee license intending to be  
20 employed as a junket representative may be issued a temporary  
21 license by the commission in accordance with regulations  
22 promulgated, provided that:

23 a. the applicant for licensure is employed by a casino licensee;

1 b. the applicant for licensure has filed a completed application  
2 as required by the commission;

3 6. The commission shall have the authority to immediately  
4 suspend, limit or condition any temporary license issued  
5 pursuant to this section, pending a hearing on the  
6 qualifications of the junket representative.

7 7. Unless otherwise terminated, any temporary license issued  
8 pursuant to this subsection shall expire twelve months from the  
9 date of its issuance, and shall be renewable by the commission  
10 for one additional six-month period.

11 8. Every agreement concerning junkets entered into by a  
12 casino licensee and a junket representative or junket enterprise  
13 shall be deemed to include a provision for its termination  
14 without liability on the part of the casino licensee, if the  
15 commission orders the termination upon the suspension,  
16 limitation, conditioning, denial or revocation of the licensure  
17 of the junket representative or junket enterprise,. Failure to  
18 expressly include such a condition in the agreement shall not  
19 constitute a defense in any action brought to terminate the  
20 agreement.

21 9. A casino licensee shall be responsible for the conduct of  
22 any junket representative or junket enterprise associated with  
23 it and for the terms and conditions of any junket engaged in on

1 its premises, regardless of the fact that the junket may involve  
2 persons not employed by such a casino licensee.

3 10. A casino licensee shall be responsible for any violation  
4 or deviation from the terms of a junket. Notwithstanding any  
5 other provisions of this article, the commission may order  
6 restitution to junket participants, assess penalties for such  
7 violations or deviations, prohibit future junkets by the casino  
8 licensee, junket enterprise or junket representative, and order  
9 such further relief as it deems appropriate.

10 11. The commission shall, by regulation, prescribe methods,  
11 procedures and forms for the delivery and retention of  
12 information concerning the conduct of junkets by casino  
13 licensees. Without limitation of the foregoing, each casino  
14 licensee, in accordance with the rules of the commission, shall:  
15 a. Maintain on file a report describing the operation of any  
16 junket engaged in on its premises;  
17 b. Submit to the commission a list of all its employees who are  
18 acting as junket representatives.

19 12. Each casino licensee, junket representative or junket  
20 enterprise shall, in accordance with the rules of the  
21 commission, file a report with the commission with respect to  
22 each list of junket patrons or potential junket patrons  
23 purchased directly or indirectly by the casino licensee, junket  
24 representative or enterprise.

1     13. The commission shall have the authority to determine,  
2 either by regulation, or upon petition by the holder of a casino  
3 license, that a type of arrangement otherwise included within  
4 the definition of "junket" shall not require compliance with any  
5 or all of the requirements of this section. In granting  
6 exemptions, the commission shall consider such factors as the  
7 nature, volume and significance of the particular type of  
8 arrangement, and whether the exemption would be consistent with  
9 the public policies established by this article. In applying the  
10 provisions of this subsection, the commission may condition,  
11 limit, or restrict any exemption as it may deem appropriate.

12     14. No junket enterprise or junket representative or person  
13 acting as a junket representative may:  
14 a. Engage in efforts to collect upon checks that have been  
15 returned by banks without full and final payment;  
16 b. Exercise approval authority with regard to the authorization  
17 or issuance of credit;  
18 c. Act on behalf of or under any arrangement with a casino  
19 licensee or a gaming patron with regard to the redemption,  
20 consolidation, or substitution of the gaming patron's checks  
21 awaiting deposit;  
22 d. Individually receive or retain any fee from a patron for the  
23 privilege of participating in a junket;

1 e. Pay for any services, including transportation, or other  
2 items of value provided to, or for the benefit of, any patron  
3 participating in a junket.

4  
5 **1329. Lobbyist registration**

6 1. For purposes of this section, the terms "lobbyist",  
7 "lobbying", "lobbying activities" and "client" shall have the  
8 same meaning as those terms are defined by legislative law  
9 section one-c.

10 2. In addition to any other registration and reporting  
11 required by law, each lobbyist seeking to engage in lobbying  
12 activity on behalf of a client or a client's interest before the  
13 commission shall first register with the secretary of the  
14 commission. The secretary shall cause a registration to be  
15 available on the commission's website within five days of  
16 submission.

17  
18 **1330. Registration of labor organizations**

19 1. Each labor organization, union or affiliate seeking to  
20 represent employees who are employed in a casino facility by a  
21 casino licensee shall register with the commission biennially,  
22 and shall disclose such information to the commission may  
23 require, including the names of all affiliated organizations,  
24 pension and welfare systems and all officers and agents of such

1 organizations and systems; provided, however, that no labor  
2 organization, union, or affiliate shall be required to furnish  
3 such information to the extent such information is included in a  
4 report filed by any labor organization, union, or affiliate with  
5 the Secretary of Labor pursuant to 29 U.S.C. §431 et seq. or  
6 §1001 et seq. if a copy of such report, or of the portion  
7 thereof containing such information, is furnished to the  
8 commission pursuant to the aforesaid federal provisions. The  
9 commission may in its discretion exempt any labor organization,  
10 union, or affiliate from the registration requirements of this  
11 subsection where the commission finds that such organization,  
12 union or affiliate is not the certified bargaining  
13 representative of any employee who is employed in a casino  
14 facility by a casino licensee, is not involved actively,  
15 directly or substantially in the control or direction of the  
16 representation of any such employee, and is not seeking to do  
17 so.

18 2. No person may act as an officer, agent or principal  
19 employee of a labor organization, union or affiliate registered  
20 or required to be registered pursuant to this section if the  
21 person has been found disqualified by the commission in  
22 accordance with the criteria contained in section one thousand  
23 three hundred thirteen. The commission may, for purposes of  
24 this subsection, waive any disqualification criterion consistent

1 with the public policy of this article and upon a finding that  
2 the interests of justice so require.

3 3. Neither a labor organization, union or affiliate nor its  
4 officers and agents not otherwise individually licensed or  
5 registered under this article and employed by a casino licensee  
6 may hold any financial interest whatsoever in the casino  
7 facility or casino licensee whose employees they represent.

8 4. The commission may maintain a civil action and proceed in  
9 a summary manner, without posting bond, against any person,  
10 including any labor organization, union or affiliate, to compel  
11 compliance with this section, or to prevent any violations, the  
12 aiding and abetting thereof, or any attempt or conspiracy to  
13 violate this section.

14 5. In addition to any other remedies provided in this  
15 section, a labor organization, union or affiliate registered or  
16 required to be registered pursuant to this section may be  
17 prohibited by the commission from receiving any dues from any  
18 employee licensed or registered under this article and employed  
19 by a casino licensee or its agent, if any officer, agent or  
20 principal employee of the labor organization, union or affiliate  
21 has been found disqualified and if such disqualification has not  
22 been waived by the commission in accordance with subsection two.

23

24 **REQUIREMENTS FOR CONDUCT AND OPERATION OF GAMING**

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**1331. Operation certificate**

1. Notwithstanding the issuance of a license therefor, no casino facility may be opened or remain open to the public, and no gaming activity, except for test purposes, may be conducted therein, unless and until a valid operation certificate has been issued to the casino licensee by the commission. Such certificate shall be issued by the executive director upon a determination that a casino complies in all respects with the requirements of this article and regulations promulgated hereunder, and that the casino facility are prepared in all respects to receive and entertain the public.

2. An operation certificate shall remain in force and effect unless revoked, suspended, limited, or otherwise altered by the commission in accordance with this article.

3. It shall be an express condition of continued operation under this article that a casino licensee shall maintain either electronically or in hard copy at the discretion of the casino licensee, copies of all books, records, and documents pertaining to the licensee's operations and approved hotel in a manner and location approved by the commission, provided, however, that the originals of such books, records and documents, whether in electronic or hard copy form, may be maintained at the offices or electronic system of an affiliate of the casino licensee, at

1 the discretion of the casino licensee. All such books, records  
2 and documents shall be immediately available for inspection  
3 during all hours of operation in accordance with the rules of  
4 the commission and shall be maintained for such period of time  
5 as the commission shall require.

6

7 **1332. Age for gaming participation**

8 1. No person under the age at which a person is authorized to  
9 purchase and consume alcoholic beverages shall enter, or wager  
10 in, a licensed casino; provided, however, that such a person may  
11 enter a casino facility by way of passage to another room, and  
12 provided further, however, that any such person who is licensed  
13 or registered under the provisions of this article may enter a  
14 casino facility in the regular course of the person's permitted  
15 activities.

16 2. Any person disqualified per subsection one entitled to  
17 funds, cash or prizes from gambling activity shall forfeit same.  
18 Such forfeited funds, cash or prizes shall be remitted to the  
19 commission and deposited into the commercial gaming revenue  
20 fund.

21

22 **1333. Hours of operation**

1 1. Each casino licensed pursuant to this article shall be  
2 permitted to operate twenty-four hours a day, unless otherwise  
3 directed by the commission.

4 2. A casino licensee shall file with the commission a  
5 schedule of hours prior to the issuance of an initial operation  
6 certificate. If the casino licensee proposes any change in  
7 scheduled hours, such change may not be effected until such  
8 licensee files a notice of the new schedule of hours with the  
9 commission. Such filing must be made thirty days prior to the  
10 effective date of the proposed change in hours.

11 3. Nothing herein shall be construed to limit a casino  
12 licensee in opening its casino later than, or closing its casino  
13 earlier than, the times stated in its schedule of operating  
14 hours; provided, however, that any such alterations in its hours  
15 shall comply with the provisions of subsection one and with  
16 regulations of the commission pertaining to such alterations.

17  
18 **1334. Internal controls**

19 1. Each applicant for a casino license shall create,  
20 maintain, and file with the commission a description of its  
21 internal procedures and administrative and accounting controls  
22 for gaming operations that conform to commission regulations and  
23 provide adequate and effective controls, establish a consistent  
24 overall system of internal procedures and administrative and

1 accounting controls and conform to generally accepted accounting  
2 principles, and ensure that casino procedures are carried out  
3 and supervised by personnel who do not have incompatible  
4 functions. A casino licensee's internal controls shall contain  
5 a narrative description of the internal control system to be  
6 utilized by the casino, including, but not limited to:

7 a. Accounting controls, including the standardization of forms  
8 and definition of terms to be utilized in the gaming operations;

9 b. Procedures, forms, and, where appropriate, formulas covering  
10 the calculation of hold percentages; revenue drop; expense and  
11 overhead schedules; complimentary service or item; junkets; and  
12 cash equivalent transactions;

13 c. Procedures within the cashier's cage and simulcast facility  
14 for the receipt, storage and disbursal of chips, cash, and other  
15 cash equivalents used in gaming and simulcast wagering; the  
16 cashing of checks; the redemption of chips and other cash  
17 equivalents used in gaming and simulcast wagering; the pay-off  
18 of jackpots and simulcast wagers; and the recording of  
19 transactions pertaining to gaming operations;

20 d. Procedures for the collection and security of moneys at the  
21 gaming tables;

22 e. Procedures for the transfer and recordation of chips between  
23 the gaming tables and the cashier's cage;

- 1 f. Procedures for the transfer of moneys from the gaming tables  
2 to the counting process;
- 3 g. Procedures and security for the counting and recordation of  
4 revenue;
- 5 h. Procedures for the security, storage and recordation of cash,  
6 chips and other cash equivalents utilized in the gaming;
- 7 i. Procedures for the transfer of moneys or chips from and to  
8 the slot machines;
- 9 j. Procedures and standards for the opening and security of slot  
10 machines;
- 11 k. Procedures for the payment and recordation of slot machine  
12 jackpots;
- 13 l. Procedures for the cashing and recordation of checks  
14 exchanged by casino patrons;
- 15 m. Procedures governing the utilization of the private security  
16 force within the casino facility;
- 17 n. Procedures and security standards for the handling and  
18 storage of gaming apparatus including cards, dice, machines,  
19 wheels and all other gaming equipment;
- 20 o. Procedures and rules governing the conduct of particular  
21 games and the responsibility of casino personnel in respect  
22 thereto;
- 23 p. Procedures for the orderly shutdown of casino operations in  
24 the event that a state of emergency is declared and the casino

1 licensee is unable or ineligible to continue to conduct casino  
2 operations during such a state of emergency, which procedures  
3 shall include, without limitation, the securing of all keys and  
4 gaming assets.

5 2. No minimum staffing requirements shall be included in  
6 the internal controls created in accordance with subsection one.

7  
8 **1335. Games and gaming equipment**

9 1. This article shall not be construed to permit any gaming  
10 except the conduct of authorized games in a casino room in  
11 accordance with this article and the regulations promulgated  
12 hereunder.

13 2. Gaming equipment shall not be possessed, maintained or  
14 exhibited by any person on the premises of a casino facility  
15 except in a casino room or in restricted casino areas used for  
16 the inspection, repair or storage of such equipment and  
17 specifically designated for that purpose by the casino licensee  
18 with the approval of the commission. Gaming equipment that  
19 supports the conduct of gaming in a casino facility but does not  
20 permit or require patron access, such as computers, may be  
21 possessed and maintained by a casino licensee or a qualified  
22 holding or intermediary company of a casino licensee in  
23 restricted areas specifically approved by the commission. No  
24 gaming equipment shall be possessed, maintained, exhibited,

1 brought into or removed from a casino room facility by any  
2 person unless such equipment is necessary to the conduct of an  
3 authorized game, has permanently affixed, imprinted, impressed  
4 or engraved thereon an identification number or symbol  
5 authorized by the commission, is under the exclusive control of  
6 a casino licensee or casino licensee's employees, or of any  
7 individually qualified employee of a holding company or casino  
8 licensee and is brought into or removed from the casino room or  
9 simulcasting facility following twenty-four hour prior notice  
10 given to an authorized agent of the commission.

11 Notwithstanding any other provision of this section, computer  
12 equipment used by the slot system operator of a multi-casino  
13 progressive slot system to link and communicate with the slot  
14 machines of two or more casino licensees for the purpose of  
15 calculating and displaying the amount of a progressive jackpot,  
16 monitoring the operation of the system, and any other purpose  
17 that the commission deems necessary and appropriate to the  
18 operation or maintenance of the multi-casino progressive slot  
19 machine system may, with the prior approval of the commission,  
20 be possessed, maintained and operated by the slot system  
21 operator either in a restricted area on the premises of a casino  
22 hotel or in a secure facility inaccessible to the public and  
23 specifically designed for that purpose off the premises of a  
24 casino hotel with the written permission of the commission.

1 Notwithstanding the foregoing, a person may, with the prior  
2 approval of the commission and under such terms and conditions  
3 as may be required by the commission, possess, maintain or  
4 exhibit gaming equipment in any other area of the casino hotel,  
5 provided that such equipment is used for nongaming purposes.  
6 Notwithstanding any other provision of this article to the  
7 contrary, the commission may, by regulation, authorize the  
8 linking of slot machines of one or more casino licensees and  
9 slot machines located in casinos licensed by another state of  
10 the United States. Wagering and account information for a multi-  
11 state slot system shall be transmitted by the operator of such  
12 multi-state slot system to either a restricted area on the  
13 premises of a casino hotel or to a secure facility inaccessible  
14 to the public and specifically designed for that purpose with  
15 the written permission of the commission, and from there to slot  
16 machines of state casino licensees, provided all locations are  
17 approved by the commission.

18 3. Each casino facility shall contain a count room and such  
19 other secure facilities as may be required by the commission for  
20 the counting and storage of cash, coins, tokens, checks,  
21 plaques, gaming vouchers, coupons, and other devices or items of  
22 value used in wagering and approved by the commission that are  
23 received in the conduct of gaming and for the inspection,  
24 counting and storage of dice, cards, chips and other

1 representatives of value. The commission shall promulgate  
2 regulations for the security of drop boxes and other devices in  
3 which the foregoing items are deposited at the gaming tables or  
4 in slot machines, and all areas wherein such boxes and devices  
5 are kept while in use, which regulations may include certain  
6 locking devices. Said drop boxes and other devices shall not be  
7 brought into or removed from a casino room or simulcasting  
8 facility, or locked or unlocked, except at such times, in such  
9 places, and according to such procedures as the commission may  
10 require.

11 4. All chips used in gaming shall be of such size and uniform  
12 color by denomination as the commission shall require by  
13 regulation.

14 5. All gaming shall be conducted according to rules  
15 promulgated by the commission. All wagers and pay-offs of  
16 winning wagers shall be made according to rules promulgated by  
17 the commission, which shall establish such limitations as may be  
18 necessary to assure the vitality of casino operations and fair  
19 odds to patrons. Each slot machine shall have a minimum payout  
20 of 85 percent.

21 6. Each casino licensee shall make available in printed form  
22 to any patron upon request the complete text of the rules of the  
23 commission regarding games and the conduct of gaming, pay-offs  
24 of winning wagers, an approximation of the odds of winning for

1 each wager, and such other advice to the player as the  
2 commission shall require. Each casino licensee shall prominently  
3 post within a casino room, according to regulations of the  
4 commission such information about gaming rules, pay-offs of  
5 winning wagers, the odds of winning for each wager, and such  
6 other advice to the player as the commission shall require.

7 7. Each gaming table shall be equipped with a sign indicating  
8 the permissible minimum and maximum wagers pertaining thereto.  
9 It shall be unlawful for a casino licensee to require any wager  
10 to be greater than the stated minimum or less than the stated  
11 maximum; provided, however, that any wager actually made by a  
12 patron and not rejected by a casino licensee prior to the  
13 commencement of play shall be treated as a valid wager.

14 8. Testing of slot machines and associated devices.  
15 a. Except as herein provided, no slot machine shall be used to  
16 conduct gaming unless it is identical in all electrical,  
17 mechanical and other aspects to a model thereof which has been  
18 specifically tested and licensed for use by the commission. The  
19 commission shall also test or cause to be tested any other  
20 gaming device, gaming equipment, gaming-related device or gross-  
21 revenue related device, such as a slot management system,  
22 electronic transfer credit system or gaming voucher system as it  
23 deems appropriate. In its discretion and for the purpose of  
24 expediting the approval process, the commission may utilize the

1 services of a private testing laboratory that has obtained a  
2 plenary license as a casino vendor enterprise to perform the  
3 testing, and may also utilize applicable data from any such  
4 private testing laboratory or from a governmental agency of a  
5 state authorized to regulate slot machines and other gaming  
6 devices, gaming equipment, gaming-related devices and gross-  
7 revenue related devices used in casino gaming, if the private  
8 testing laboratory or governmental agency uses a testing  
9 methodology substantially similar to the methodology approved or  
10 utilized by the commission. The commission, in its discretion,  
11 may rely upon the data provided by the private testing  
12 laboratory or governmental agency and adopt the conclusions of  
13 such private testing laboratory or governmental agency regarding  
14 any submitted device.

15 b. Except as otherwise provided in paragraph e, the commission  
16 shall, within sixty days of its receipt of a complete  
17 application for the testing of a slot machine or other gaming  
18 equipment model, approve or reject the slot machine or other  
19 gaming equipment model. In so doing, the commission shall  
20 specify whether and to what extent any data from a private  
21 testing laboratory or governmental agency of a state was used in  
22 reaching its conclusions and recommendation. If the commission  
23 is unable to complete the testing of a slot machine or other  
24 gaming equipment model within this sixty day period, the

1 commission may conditionally approve the slot machine or other  
2 gaming equipment model for test use by a casino licensee  
3 provided that the commission represents that the use of the slot  
4 machine or other gaming equipment model will not have a direct  
5 and materially adverse impact on the integrity of gaming or the  
6 control of gross revenue. The commission shall give priority to  
7 the testing of slot machines or other gaming equipment that a  
8 casino licensee has certified it will use in its casino in this  
9 state.

10 c. The commission shall, by regulation, establish such technical  
11 standards for licensure of slot machines, including mechanical  
12 and electrical reliability, security against tampering, the  
13 comprehensibility of wagering, and noise and light levels, as it  
14 may deem necessary to protect the player from fraud or deception  
15 and to insure the integrity of gaming. The denominations of such  
16 machines shall be set by the licensee; the licensee shall  
17 simultaneously notify the commission of the settings.

18 d. The commission shall, by regulation, determine the  
19 permissible number and density of slot machines in a licensed  
20 casino so as to:

21 (1) promote optimum security for casino operations;

22 (2) avoid deception or frequent distraction to players at gaming  
23 tables;

24 (3) promote the comfort of patrons;

1 (4) create and maintain a gracious playing environment in the  
2 casino; and  
3 (5) encourage and preserve competition in casino operations by  
4 assuring that a variety of gaming opportunities is offered to  
5 the public.

6 Any such regulation promulgated by the commission which  
7 determines the permissible number and density of slot machines  
8 in a licensed casino shall provide that all casino floor space  
9 shall be included in any calculation of the permissible number  
10 and density of slot machines in a licensed casino.

11 e. Any new gaming equipment that is submitted for testing to the  
12 commission or to a state licensed independent testing laboratory  
13 prior to or simultaneously with submission of such new equipment  
14 for testing in a jurisdiction other than this state, may,  
15 consistent with regulations promulgated by the commission, be  
16 deployed by a casino licensee on the casino floor fourteen days  
17 after submission of such equipment for testing. If the casino or  
18 casino vendor enterprise licensee has not received approval for  
19 the equipment fourteen days after submission for testing, any  
20 interested casino licensee may, consistent with commission  
21 regulations, deploy the equipment on a field test basis, unless  
22 otherwise directed by the executive director.

23 9. It shall be unlawful for any person to exchange or redeem  
24 chips for anything whatsoever, except for currency, negotiable

1 personal checks, negotiable counter checks, other chips,  
2 coupons, slot vouchers or complimentary vouchers distributed by  
3 the casino licensee, or, if authorized by regulation of the  
4 commission, a valid charge to a credit or debit card account. A  
5 casino licensee shall, upon the request of any person, redeem  
6 that licensee's gaming chips surrendered by that person in any  
7 amount over \$100 with a check drawn upon the licensee's account  
8 at any banking institution in this state and made payable to  
9 that person.

10 10. It shall be unlawful for any casino licensee or its  
11 agents or employees to employ, contract with, or use any skill  
12 or barker to induce any person to enter a casino facility or  
13 play at any game or for any purpose whatsoever.

14 11. It shall be unlawful for a dealer in any authorized game  
15 in which cards are dealt to deal cards by hand or other than  
16 from a device specifically designed for that purpose, unless  
17 otherwise permitted by the rules of the commission.

18

19 **1336. Certain wagering prohibited .**

20 1. It shall be unlawful for any casino key employee licensee  
21 to wager in any casino facility in this state.

22 2. It shall be unlawful for any other employee of a casino  
23 licensee who, in the judgment of the commission, is directly  
24 involved with the conduct of gaming operations, including but

1 not limited to dealers, floor persons, box persons, security and  
2 surveillance employees, to wager in any casino facility in which  
3 the employee is employed or in any other casino facility in this  
4 state which is owned or operated by an affiliated licensee.

5 3. The prohibition against wagering set forth in paragraphs a  
6 and b shall continue for a period of thirty days commencing upon  
7 the date that the employee either leaves employment with a  
8 casino licensee or is terminated from employment with a casino  
9 licensee.

10  
11 **1337. Gratuities**

12 1. It shall be unlawful for any casino key employee or  
13 boxman, floorman, or any other casino employee who shall serve  
14 in a supervisory position to solicit or accept, and for any  
15 other casino employee to solicit, any tip or gratuity from any  
16 player or patron at the casino facility where he is employed.

17 2. A dealer may accept tips or gratuities from a patron at  
18 the table at which such dealer is conducting play, subject to  
19 the provisions of this section.

20 3. All such tips or gratuities shall be immediately deposited  
21 in a lockbox reserved for that purpose, unless the tip or  
22 gratuity is authorized by a patron utilizing an automated  
23 wagering system approved by the commission. All tips or  
24 gratuities shall be accounted for, and placed in a pool for

1 distribution pro rata among the dealers, with the distribution  
2 based upon the number of hours each dealer has worked, except  
3 that the commission may, by regulation, permit a separate pool  
4 to be established for dealers in the game of poker, or may  
5 permit tips or gratuities to be retained by individual dealers  
6 in the game of poker.

7 4. Notwithstanding the provisions of subsection one, a casino  
8 licensee may require that a percentage of the prize pool offered  
9 to participants pursuant to an authorized poker tournament be  
10 withheld for distribution to the tournament dealers as tips or  
11 gratuities as the commission by regulation may approve.

12

13 **1338. Limitation on certain financial access**

14 In order to protect the public interest, the commission shall  
15 adopt regulations that include provisions that:

16 1. limit the number and location of and maximum withdrawal  
17 amounts from automated teller machines;

18 2. prohibit authorized automated teller machines from  
19 accepting electronic benefit cards, debit cards, or similar  
20 negotiable instruments issued by the state or political  
21 subdivisions for the purpose of accessing temporary public  
22 assistance;

1 3. prohibit the use of specified negotiable instruments at  
2 casino gaming facilities and the use of credit cards, debit  
3 cards, and similar devices in slot machines or at table games;

4 4. prohibit consumers from cashing paychecks at video lottery  
5 facilities

6  
7 **1339. Credit**

8 1. Except as otherwise provided in this section, no casino  
9 licensee or any person licensed under this article, and no  
10 person acting on behalf of or under any arrangement with a  
11 casino licensee or other person licensed under this article,  
12 shall:

13 a. Cash any check, make any loan, or otherwise provide or allow  
14 to any person any credit or advance of anything of value or  
15 which represents value to enable any person to take part in  
16 gaming activity as a player; or

17 b. Release or discharge any debt, either in whole or in part, or  
18 make any loan which represents any losses incurred by any player  
19 in gaming activity, without maintaining a written record thereof  
20 in accordance with the rules of the commission.

21 2. No casino licensee or any person licensed under this  
22 article, and no person acting on behalf of or under any  
23 arrangement with a casino licensee or other person licensed  
24 under this article, may accept a check, other than a recognized

1 traveler's check or other cash equivalent from any person to  
2 enable such person to take part in gaming or simulcast wagering  
3 activity as a player, or may give cash or cash equivalents in  
4 exchange for such check unless:

5 a. The check is made payable to the casino licensee;  
6 b. The check is dated, but not postdated;  
7 c. The check is presented to the cashier or the cashier's  
8 representative at a location in the casino approved by the  
9 commission and is exchanged for cash or slot tokens which total  
10 an amount equal to the amount for which the check is drawn, or  
11 the check is presented to the cashier's representative at a  
12 gaming table in exchange for chips which total an amount equal  
13 to the amount for which the check is drawn; and

14 d. The regulations concerning check cashing procedures are  
15 observed by the casino licensee and its employees and agents.

16 Nothing in this subsection shall be deemed to preclude the  
17 establishment of an account by any person with a casino licensee  
18 by a deposit of cash, recognized traveler's check or other cash  
19 equivalent, or a check which meets the requirements of  
20 subsection seven, or to preclude the withdrawal, either in whole  
21 or in part, of any amount contained in such account.

22 3. When a casino licensee or other person licensed under this  
23 article, or any person acting on behalf of or under any  
24 arrangement with a casino licensee or other person licensed

1 under this article, cashes a check in conformity with the  
2 requirements of subsection two, the casino licensee shall cause  
3 the deposit of such check in a bank for collection or payment,  
4 or shall require an attorney or casino key employee with no  
5 incompatible functions to present such check to the drawer's  
6 bank for payment, within:

7 a. seven calendar days of the date of the transaction for a  
8 check in an amount of \$1,000 or less;

9 b. fourteen calendar days of the date of the transaction for a  
10 check in an amount greater than \$1,000 but less than or equal to  
11 \$5,000; or

12 c. forty-five calendar days of the date of the transaction for a  
13 check in an amount greater than \$5,000.

14 Notwithstanding the foregoing, the drawer of the check may  
15 redeem the check by exchanging cash, cash equivalents, chips, or  
16 a check which meets the requirements of subsection seven in an  
17 amount equal to the amount for which the check is drawn; or he  
18 may redeem the check in part by exchanging cash, cash  
19 equivalents, chips, or a check which meets the requirements of  
20 subsection seven and another check which meets the requirements  
21 of subsection two for the difference between the original check  
22 and the cash, cash equivalents, chips, or check tendered; or he  
23 may issue one check which meets the requirements of subsection  
24 two in an amount sufficient to redeem two or more checks drawn

1 to the order of the casino licensee. If there has been a partial  
2 redemption or a consolidation in conformity with the provisions  
3 of this subsection, the newly issued check shall be delivered to  
4 a bank for collection or payment or presented to the drawer's  
5 bank for payment by an attorney or casino key employee with no  
6 incompatible functions within the period herein specified. No  
7 casino licensee or any person licensed or registered under this  
8 act, and no person acting on behalf of or under any arrangement  
9 with a casino licensee or other person licensed under this act,  
10 shall accept any check or series of checks in redemption or  
11 consolidation of another check or checks in accordance with this  
12 subsection for the purpose of avoiding or delaying the deposit  
13 of a check in a bank for collection or payment or the  
14 presentment of the check to the drawer's bank within the time  
15 period prescribed by this subsection.

16 In computing a time period prescribed by this subsection, the  
17 last day of the period shall be included unless it is a  
18 Saturday, Sunday, or a State or federal holiday, in which event  
19 the time period shall run until the next business day.

20 4. No casino licensee or any other person licensed or  
21 registered under this article, or any other person acting on  
22 behalf of or under any arrangement with a casino licensee or  
23 other person licensed or registered under this article, shall  
24 transfer, convey, or give, with or without consideration, a

1 check cashed in conformity with the requirements of this section  
2 to any person other than:

3 a. The drawer of the check upon redemption or consolidation in  
4 accordance with subsection three;

5 b. A bank for collection or payment of the check;

6 c. A purchaser of the casino license as approved by the  
7 commission; or

8 d. An attorney or casino key employee with no incompatible  
9 functions for presentment to the drawer's bank.

10 The limitation on transferability of checks imposed herein  
11 shall apply to checks returned by any bank to the casino  
12 licensee without full and final payment.

13 5. No person other than a casino key employee licensed under  
14 this article or a casino employee registered under this article  
15 may engage in efforts to collect upon checks that have been  
16 returned by banks without full and final payment, except that an  
17 attorney-at-law representing a casino licensee may bring action  
18 for such collection.

19 6. Notwithstanding the provisions of any law to the contrary,  
20 checks cashed in conformity with the requirements of this  
21 article shall be valid instruments, enforceable at law in the  
22 courts of this state. Any check cashed, transferred, conveyed or  
23 given in violation of this article shall be invalid and

1 unenforceable for the purposes of collection but shall be  
2 included in the calculation of gross.

3 7. Notwithstanding the provisions of subsection two to the  
4 contrary, a casino licensee may accept a check from a person to  
5 enable the person to take part in gaming activity as a player,  
6 may give cash or cash equivalents in exchange for such a check,  
7 or may accept a check in redemption or partial redemption of a  
8 check issued in accordance with subsection two, provided that:

9 a. (1) The check is issued by a casino licensee, is made payable  
10 to the person presenting the check, and is issued for a purpose  
11 other than employment compensation or as payment for goods or  
12 services rendered;

13 (2) The check is issued by a banking institution which is  
14 chartered in a country other than the United States on its  
15 account at a federally chartered or state-chartered bank and is  
16 made payable to "cash," "bearer," a casino licensee, or the  
17 person presenting the check;

18 (3) The check is issued by a banking institution which is  
19 chartered in the United States on its account at another  
20 federally chartered or state-chartered bank and is made payable  
21 to "cash," "bearer," a casino licensee, or the person presenting  
22 the check;

1 (4) The check is issued by a slot system operator or pursuant to  
2 an annuity jackpot guarantee as payment for winnings from a  
3 multi-casino progressive slot machine system jackpot; or  
4 (5) The check is issued by an entity that holds a gaming license  
5 in any jurisdiction, is made payable to the person presenting  
6 the check, and is issued for a purpose other than employment  
7 compensation or as payment for goods or services rendered;  
8 b. The check is identifiable in a manner approved by the  
9 commission as a check authorized for acceptance pursuant to  
10 paragraph a of this subsection;  
11 c. The check is dated, but not postdated;  
12 d. The check is presented to the cashier or the cashier's  
13 representative by the original payee and its validity is  
14 verified by the drawer in the case of a check drawn pursuant to  
15 subparagraph one of paragraph a of this subsection, or the check  
16 is verified in accordance with regulations promulgated under  
17 this article in the case of a check issued pursuant to  
18 subparagraphs two, three, four or five of paragraph a of this  
19 subsection; and  
20 e. The regulations concerning check-cashing procedures are  
21 observed by the casino licensee and its employees and agents.  
22 No casino licensee shall issue a check for the purpose of making  
23 a loan or otherwise providing or allowing any advance or credit

1 to a person to enable the person to take part in gaming activity  
2 as a player.

3 8. Notwithstanding the provisions of subsection two and  
4 subsection three to the contrary, a casino licensee may, at a  
5 location outside the casino, accept a personal check or checks  
6 from a person for up to \$5,000 in exchange for cash or cash  
7 equivalents, and may, at such locations within the casino as may  
8 be permitted by the commission, accept a personal check or  
9 checks for up to \$5,000 in exchange for cash, cash equivalents,  
10 tokens, chips, or plaques to enable the person to take part in  
11 gaming activity as a player, provided that:

12 a. The check is drawn on the patron's bank or brokerage cash  
13 management account;

14 b. The check is for a specific amount;

15 c. The check is made payable to the casino licensee;

16 d. The check is dated but not post-dated;

17 e. The patron's identity is established by examination of one of  
18 the following: valid credit card, driver's license, passport, or  
19 other form of identification credential which contains, at a  
20 minimum, the patron's signature;

21 f. The check is restrictively endorsed "For Deposit Only" to the  
22 casino licensee's bank account and deposited on the next banking  
23 day following the date of the transaction;

1 g. The total amount of personal checks accepted by any one  
2 licensee pursuant to this subsection that are outstanding at any  
3 time, including the current check being submitted, does not  
4 exceed \$5,000;

5 h. The casino licensee has a system of internal controls in  
6 place that will enable it to determine the amount of outstanding  
7 personal checks received from any patron pursuant to this  
8 subsection at any given point in time; and

9 i. The casino licensee maintains a record of each such  
10 transaction in accordance with regulations established by the  
11 commission.

12 9. A person may request the commission to put that person's  
13 name on a list of persons to whom the extension of credit by a  
14 casino as provided in this section would be prohibited by  
15 submitting to the commission the person's name, address, and  
16 date of birth. The person does not need to provide a reason for  
17 this request. The commission shall provide this list to the  
18 credit department of each casino; neither the commission nor the  
19 credit department of a casino shall divulge the names on this  
20 list to any person or entity other than those provided for in  
21 this subsection. If such a person wishes to have that person's  
22 name removed from the list, the person shall submit this request  
23 to the commission, which shall so inform the credit departments

1 of casinos no later than three days after the submission of the  
2 request.

3

4 **1340. Alcoholic beverages**

5 1. Notwithstanding any law to the contrary, the authority to  
6 grant any license or permit for, or to permit or prohibit the  
7 presence of, alcoholic beverages in, on, or about any premises  
8 licensed as part of a casino facility shall exclusively be  
9 vested in the commission.

10 2. Unless otherwise stated, and except where inconsistent  
11 with the purpose or intent of this article or the common  
12 understanding of usage thereof, definitions contained in the  
13 alcoholic beverage control law shall apply to this section. Any  
14 definition contained therein shall apply to the same word in any  
15 form.

16 3. Notwithstanding any provision of the alcoholic beverage  
17 control law to the contrary, the commission shall have the  
18 functions, powers and duties of the state liquor authority but  
19 only with respect to the issuance, renewal, transfer, suspension  
20 and revocation of licenses and permits for the sale of alcoholic  
21 beverages at retail by any holder of a casino gaming facility  
22 license issued by the commission including, without limitation,  
23 the power to fine or penalize a casino alcoholic beverage  
24 licensee or permittee; to enforce all statutes, laws, rulings,

1 or regulations relating to such license or permit; and to  
2 collect license and permit fees and establish application  
3 standards therefor.

4 4. Except as otherwise provided in this section, the  
5 provisions of the alcoholic beverage control law and the rules,  
6 regulations, bulletins, orders, and advisories by the state  
7 liquor authority shall apply to any casino gaming facility  
8 holding a license of permit to sell alcoholic beverages under  
9 this section.

10 5. Notwithstanding any provision of law to the contrary, the  
11 commission may promulgate any regulations and special rulings  
12 and findings as may be necessary for the proper enforcement,  
13 regulation, and control of alcoholic beverages in casino gaming  
14 facilities when the commission finds that the uniqueness of  
15 casino operations and the public interest require that such  
16 regulations, rulings, and findings are appropriate.

17 6. Notwithstanding any provision of law to the contrary, any  
18 manufacturer or wholesaler licensed under the alcoholic beverage  
19 control law may sell alcoholic beverages to a casino gaming  
20 facility holding a license or permit to sell alcoholic beverages  
21 issued under this section, and any casino gaming facility  
22 holding a license or permit to sell alcoholic beverages issued  
23 under this section may purchase alcoholic beverages from a

1 manufacturer or wholesaler licensed under the alcoholic beverage  
2 control law.

3 7. It shall be unlawful for any person, including any casino  
4 gaming facility licensee or any of its lessees, agents or  
5 employees, to expose for sale, solicit or promote the sale of,  
6 possess with intent to sell, sell, give, dispense, or otherwise  
7 transfer or dispose of alcoholic beverages in, on or about any  
8 portion of the premises of a casino hotel, unless said person  
9 possesses a casino alcoholic beverage license.

10 8. It shall be unlawful for any person holding a license or  
11 permit to sell alcoholic beverages under this section to expose,  
12 possess, sell, give, dispense, transfer, or otherwise dispose of  
13 alcoholic beverages, other than within the terms and conditions  
14 of such license or permit, the provisions of the alcoholic  
15 beverage control law, the rules and regulations promulgated by  
16 the alcoholic beverage control division, and, when applicable,  
17 the regulations promulgated pursuant to this article.

18 Notwithstanding any other provision of law to the contrary,  
19 the holder of a license or permit issued under this section may  
20 be authorized to provide complimentary alcoholic beverages under  
21 regulations issued by the commission.

22 9. In issuing a casino alcoholic beverage license or permit  
23 the commission shall describe the scope of the particular  
24 license or permit and the restrictions and limitations thereon

1 as it deems necessary and reasonable. The commission may, in a  
2 single casino alcoholic beverage license, permit the holder of  
3 such a license to perform any or all of the following  
4 activities, subject to applicable laws, rules and regulations:  
5 a. To sell any alcoholic beverage by the glass or other open  
6 receptacle including, but not limited to, an original container,  
7 for on-premise consumption within a casino facility; provided,  
8 however, that no alcoholic beverage shall be sold or given for  
9 consumption; delivered or otherwise brought to a patron; or  
10 consumed at a gaming table unless so requested by the patron.  
11 b. To sell any alcoholic beverage by the glass or other open  
12 receptacle for on-premise consumption within a casino hotel, but  
13 not in a casino facility, or from a fixed location outside a  
14 building or structure containing a casino but on a casino hotel  
15 premises.  
16 c. To sell any alcoholic beverage by the glass or other open  
17 receptacle or in original containers from a room service  
18 location within an enclosed room not in a casino facility;  
19 provided, however, that any sale of alcoholic beverages is  
20 delivered only to a guest room or to any other room in the  
21 casino hotel authorized by the commission, other than any room  
22 authorized by the commission pursuant to paragraphs a, c, or e.  
23 of this subsection.

1 d. To possess or to store alcoholic beverages in original  
2 containers intended but not actually exposed for sale at a fixed  
3 location on a casino hotel premises, not in a casino facility;  
4 and to transfer or deliver such alcoholic beverages only to a  
5 location approved pursuant to this section; provided, however,  
6 that no access to or from a storage location shall be permitted  
7 except during the normal course of business by employees or  
8 agents of the licensee, or by licensed employees or agents of  
9 wholesalers or distributors licensed pursuant to the alcoholic  
10 beverage control law and any applicable rules and regulations;  
11 and provided further, however, that no provision of this section  
12 shall be construed to prohibit a casino alcoholic beverage  
13 licensee from obtaining an off-site storage license from the  
14 alcoholic beverage control division.

15 10. The commission may revoke, suspend, refuse to renew or  
16 refuse to transfer any casino alcoholic beverage license or  
17 permit, and may fine or penalize the holder of any alcoholic  
18 beverage license or permit issued under this section for  
19 violations of any provision of the alcoholic beverage control  
20 law, the rules and regulations promulgated by the state liquor  
21 authority, and the regulations promulgated by the commission.

22 11. Jurisdiction over all alcoholic beverage licenses and  
23 permits previously issued with respect to the casino facility is  
24 hereby vested in the commission, which in its discretion may by

1 regulation provide for the conversion thereof into a casino  
2 alcoholic beverage license or permit as provided in this  
3 section.

4  
5 **1341. Licensee leases and contracts**

6 1. Unless otherwise provided in this subsection, no agreement  
7 shall be lawful which provides for the payment, however defined,  
8 of any direct or indirect interest, percentage or share of: any  
9 money or property gambled at a casino facility; any money or  
10 property derived from casino gaming activity; or any revenues,  
11 profits or earnings of a casino facility. Notwithstanding the  
12 foregoing:

13 a. Agreements which provide only for the payment of a fixed sum  
14 which is in no way affected by the amount of any such money,  
15 property, revenues, profits or earnings shall not be subject to  
16 the provisions of this subsection; and receipts, rentals or  
17 charges for real property, personal property or services shall  
18 not lose their character as payments of a fixed sum because of  
19 contract, lease, or license provisions for adjustments in  
20 charges, rentals or fees on account of changes in taxes or  
21 assessments, cost-of-living index escalations, expansion or  
22 improvement of facilities, or changes in services supplied.

23 b. Agreements between a casino licensee and a junket enterprise  
24 or junket representative licensed, qualified or registered in

1 accordance with the provisions this article and the regulations  
2 of the commission which provide for the compensation of the  
3 junket enterprise or junket representative by the casino  
4 licensee based upon the actual casino gaming activities of a  
5 patron procured or referred by the junket enterprise or junket  
6 representative shall be lawful if filed with the commission  
7 prior to the conduct of any junket that is governed by the  
8 agreement.

9 c. Agreements between a casino licensee and its employees which  
10 provide for casino employee or casino key employee profit  
11 sharing shall be lawful if the agreement is in writing and filed  
12 with the commission prior to its effective date. Such agreements  
13 may be reviewed by the commission.

14 d. Agreements to lease an approved casino hotel or the land  
15 thereunder and agreements for the complete management of all  
16 casino gaming operations in a casino hotel shall not be subject  
17 to the provisions of this subsection.

18 e. Agreements which provide for percentage charges between the  
19 casino licensee and a holding company or intermediary company of  
20 the casino licensee shall be in writing and filed with the  
21 commission but shall not be subject to the provisions of this  
22 subsection.

23 f. Written agreements relating to the operation of multi-casino  
24 or multi-state progressive slot machine systems between one or

1 more casino licensees and a licensed casino vendor enterprise or  
2 an eligible applicant for such license, which provide for an  
3 interest, percentage or share of the casino licensee's revenues,  
4 profits or earnings from the operation of such multi-casino or  
5 multi-state progressive slot machines to be paid to the casino  
6 vendor enterprise licensee or applicant shall not be subject to  
7 the provisions of this subsection if the agreements are filed  
8 with and approved by the commission.

9 2. Each casino applicant or licensee shall maintain, in  
10 accordance with the rules of the commission, a record of each  
11 written or unwritten agreement regarding the realty,  
12 construction, maintenance, or business of a proposed or existing  
13 casino hotel or related facility. The foregoing obligation shall  
14 apply regardless of whether the casino applicant or licensee is  
15 a party to the agreement. Any such agreement may be reviewed by  
16 the commission on the basis of the reasonableness of its terms,  
17 including the terms of compensation, and of the qualifications  
18 of the owners, officers, employees, and directors of any  
19 enterprise involved in the agreement, which qualifications shall  
20 be reviewed according to the standards enumerated in section one  
21 thousand three hundred twenty-four. If the commission  
22 disapproves such an agreement or the owners, officers,  
23 employees, or directors of any enterprise involved therein, the  
24 commission may require its termination.

1 Every agreement required to be maintained, and every related  
2 agreement the performance of which is dependent upon the  
3 performance of any such agreement, shall be deemed to include a  
4 provision to the effect that, if the commission shall require  
5 termination of an agreement, such termination shall occur  
6 without liability on the part of the casino applicant or  
7 licensee or any qualified party to the agreement or any related  
8 agreement. Failure expressly to include such a provision in the  
9 agreement shall not constitute a defense in any action brought  
10 to terminate the agreement. If the agreement is not maintained  
11 or presented to the commission in accordance with commission  
12 regulations, or the disapproved agreement is not terminated, the  
13 commission may pursue any remedy or combination of remedies  
14 provided in this article.

15 For the purposes of this subsection, "casino applicant"  
16 includes any person required to hold a casino license who has  
17 applied to the commission for a casino license or any approval  
18 required.

19 3. Nothing in this article shall be deemed to permit the  
20 transfer of any license, or any interest in any license, or any  
21 certificate of compliance or any commitment or reservation.

22  
23 **1342. Required exclusion of certain persons**

1 1. The commission shall, by regulation, provide for the  
2 establishment of a list of persons who are to be excluded or  
3 ejected from any licensed casino facility. Such provisions  
4 shall define the standards for exclusion, and shall include  
5 standards relating to persons:

- 6 a. Who are career or professional offenders as defined by  
7 regulations promulgated hereunder;
- 8 b. Who have been convicted of a criminal offense under the laws  
9 of any state or of the United States, which is punishable by  
10 more than twelve months in prison, or any crime or offense  
11 involving moral turpitude; or

12 The commission shall promulgate definitions establishing  
13 those categories of persons who shall be excluded pursuant to  
14 this section, including cheats and persons whose privileges for  
15 licensure or registration have been revoked.

16 2. Race, color, creed, national origin or ancestry, or sex  
17 shall not be a reason for placing the name of any person upon  
18 such list.

19 3. The commission may impose sanctions upon a licensed casino  
20 or individual licensee or registrant in accordance with the  
21 provisions of this article if such casino or individual licensee  
22 or registrant knowingly fails to exclude or eject from the  
23 premises of any licensed casino any person placed by the  
24 commission on the list of persons to be excluded or ejected.

1 4. Any list compiled by the commission of persons to be  
2 excluded or ejected shall not be deemed an all-inclusive list,  
3 and licensed casino facilities shall have a duty to keep from  
4 their premises persons known to them to be within the  
5 classifications declared in subsections one and two and the  
6 regulations promulgated thereunder, or known to them to be  
7 persons whose presence in a licensed casino hotel would be  
8 inimical to the interest of the state or of licensed gaming  
9 therein, or both, as defined in standards established by the  
10 commission.

11 5. Prior to placing the name of any person on a list pursuant  
12 to this section, the commission shall serve notice of such fact  
13 to such person by personal service, by certified mail at the  
14 last known address of such person, or by publication daily for  
15 one week in a newspaper of general circulation and upon the  
16 commission website.

17 6. Within thirty days after service of the petition in  
18 accordance with subsection five, the person named for exclusion  
19 or ejection may demand a hearing before the executive director  
20 or the executive director's designee, at which hearing the  
21 executive director or the director's designee shall have the  
22 affirmative obligation to demonstrate by a preponderance of the  
23 evidence that the person named for exclusion or ejection  
24 satisfies the criteria for exclusion established by this section

1 and the applicable regulations. Failure to demand such a  
2 hearing within thirty days after service shall be deemed an  
3 admission of all matters and facts alleged in the executive  
4 director's petition and shall preclude a person from having an  
5 administrative hearing, but shall in no way affect his or her  
6 right to judicial review as provided herein.

7 7. The commission may make a preliminary placement on the  
8 list of a person named in a petition for exclusion or ejection  
9 pending completion of a hearing on the petition. The hearing on  
10 the application for preliminary placement shall be a limited  
11 proceeding at which the commission shall have the affirmative  
12 obligation to demonstrate that there is a reasonable possibility  
13 that the person satisfies the criteria for exclusion established  
14 by this section and the applicable regulations. If a person has  
15 been placed on the list as a result of an application for  
16 preliminary placement, unless otherwise agreed by the director  
17 and the named person, a hearing on the petition for exclusion or  
18 ejection shall be initiated within thirty days after the receipt  
19 of a demand for such hearing or the date of preliminary  
20 placement on the list, whichever is later.

21 8. If, upon completion of the hearing on the petition for  
22 exclusion or ejection, the executive director determines that  
23 the person named therein does not satisfy the criteria for  
24 exclusion established by this section and the applicable

1 regulations, the executive director shall issue an order denying  
2 the petition. If the person named in the petition for exclusion  
3 or ejection had been placed on the list as a result of an  
4 application for preliminary placement, the executive director  
5 shall notify all casino licensees of the person's removal from  
6 the list.

7 9. If, upon completion of a hearing on the petition for  
8 exclusion or ejection, the executive director determines that  
9 placement of the name of the person on the exclusion list is  
10 appropriate, the executive director shall make and enter an  
11 order to that effect, which order shall be served on all casino  
12 licensees. Such order shall be subject to review by the  
13 commission in accordance with regulations promulgated  
14 thereunder, which final decision shall be subject to review by  
15 the supreme court in accordance with the rules of court.

16

17 **1343. Exclusion, ejection of certain persons**

18 1. A casino licensee may exclude or eject from its casino  
19 facility any person who is known to it to have been convicted of  
20 a crime, disorderly persons offense, or petty disorderly persons  
21 offense committed in or on the premises of any casino facility.

22 2. Nothing in this section or in any other law of this state  
23 shall limit the right of a casino licensee to exercise its  
24 common law right to exclude or eject permanently from its casino

1 facility any person who disrupts the operations of its premises,  
2 threatens the security of its premises or its occupants, or is  
3 disorderly or intoxicated.

4

5 **1344. List of persons self-excluded from gaming activities**

6 1. The commission shall provide by regulation for the  
7 establishment of a list of persons self-excluded from gaming  
8 activities at all licensed casinos. Any person may request  
9 placement on the list of self-excluded persons by acknowledging  
10 in a manner to be established by the commission that the person  
11 is a problem gambler and by agreeing that, during any period of  
12 voluntary exclusion, the person may not collect any winnings or  
13 recover any losses resulting from any gaming activity at such  
14 casino facilities.

15 2. The regulations of the commission shall establish  
16 procedures for placements on, and removals from, the list of  
17 self-excluded persons. Such regulations shall establish  
18 procedures for the transmittal to licensed casino facilities of  
19 identifying information concerning self-excluded persons, and  
20 shall require licensed casino facilities to establish procedures  
21 designed, at a minimum, to remove self-excluded persons from  
22 targeted mailings or other forms of advertising or promotions  
23 and deny self-excluded persons access to credit,

1 complimentaries, check cashing privileges club programs, and  
2 other similar benefits.

3 3. A licensed casino facility or employee thereof shall not  
4 be liable to any self-excluded person or to any other party in  
5 any judicial proceeding for any harm, monetary or otherwise,  
6 which may arise as a result of:

7 a. the failure of a licensed casino facility to withhold gaming  
8 privileges from, or restore gaming privileges to, a self-  
9 excluded person; or

10 b. otherwise permitting a self-excluded person to engage in  
11 gaming activity in such licensed casino facility while on the  
12 list of self-excluded persons.

13 4. Notwithstanding any other law to the contrary, the  
14 commission's list of self-excluded persons shall not be open to  
15 public inspection. Nothing herein, however, shall be construed  
16 to prohibit a casino licensee from disclosing the identity of  
17 persons self-excluded pursuant to this section to affiliated  
18 gaming entities in this state or other jurisdictions for the  
19 limited purpose of assisting in the proper administration of  
20 responsible gaming programs operated by such gaming affiliated  
21 entities.

22 5. A licensed casino facility or employee thereof shall not  
23 be liable to any self-excluded person or to any other party in  
24 any judicial proceeding for any harm, monetary or otherwise,

1 which may arise as a result of disclosure or publication in any  
2 manner, other than a willfully unlawful disclosure or  
3 publication, of the identity of any self-excluded person.

4  
5 **1345. Excluded person; forfeiture of winnings; other**  
6 **sanctions**

7 1. A person who is prohibited from gaming in a licensed  
8 casino facility by any order of the executive director,  
9 commission or court of competent jurisdiction, including any  
10 person on the self-exclusion list pursuant to subsection one of  
11 section one thousand three hundred forty-four, shall not  
12 collect, in any manner or proceeding, any winnings or recover  
13 any losses arising as a result of any prohibited gaming  
14 activity.

15 2. For the purposes this section, any gaming activity in a  
16 licensed casino facility which results in a prohibited person  
17 obtaining any money or thing of value from, or being owed any  
18 money or thing of value by, the casino facility shall be  
19 considered, solely for purposes of this section, to be a fully  
20 executed gambling transaction.

21 3. In addition to any other penalty provided by law, any  
22 money or thing or value which has been obtained by, or is owed  
23 to, any prohibited person by a licensed casino facility as a  
24 result of wagers made by a prohibited person shall be subject to

1 forfeiture following notice to the prohibited person and  
2 opportunity to be heard. A licensed casino facility shall  
3 inform a prohibited person of the availability of such notice on  
4 the commission's website when ejecting the prohibited person and  
5 seizing any chips, vouchers or other representative of money  
6 owed by a casino to the prohibited person as authorized by this  
7 subsection.

8 All forfeited amounts shall be deposited into the  
9 commercial gaming revenue fund.

10 4. In any proceeding brought by the commission against a  
11 licensee or registrant for a willful violation of the  
12 commission's self-exclusion regulations, the commission may  
13 order, in addition to any other sanction authorized, the  
14 forfeiture of any money or thing of value obtained by the  
15 licensee or registrant from any self-excluded person. Any  
16 money or thing of value so forfeited shall be disposed of in the  
17 same manner as any money or thing of value forfeited pursuant to  
18 subsection three.

19

20 **1346. Labor peace agreements for certain facilities**

21 1. Definitions. As used in this section:

22 a. "Gaming facility" means any casino gaming facility, or a  
23 video lottery gaming facility as may be authorized by

24 subdivision three of paragraph a of section one thousand sixteen

1 a of the tax law, as amended by section nineteen of this  
2 chapter, licensed by the commission. A gaming facility or  
3 operation shall not include any horse racing, bingo or  
4 charitable games of chance, the state lottery for education, or  
5 any gaming facility operating pursuant to the federal Indian  
6 Gaming Regulatory Act, 25 U.S.C. § 2710 et seq. A gaming  
7 facility or operation shall include any hospitality operation at  
8 or related to the gaming facility.

9 b. "Labor peace agreement" means an agreement enforceable under  
10 29 U.S.C. § 185(a) that, at a minimum, protects the state's  
11 proprietary interests by prohibiting labor organizations and  
12 members from engaging in picketing, work stoppages, boycotts,  
13 and any other economic interference with operation of the  
14 relevant gaming facility.

15 c. "License" means any permit, license, franchise or allowance  
16 of the commission and shall include any franchisee or permittee.

17 d. "Proprietary interest" means an economic and non-regulatory  
18 interest at risk in the financial success of the gaming facility  
19 that could be adversely affected by labor-management conflict,  
20 including but not limited to property interests, financial  
21 investments and revenue sharing.

22 2. Legislative findings. The state legislature finds that  
23 the gaming industry constitutes a vital sector of New York's  
24 overall economy and that the state through its operation of

1 lotteries and video lottery facilities and through its ownership  
2 of the properties utilized for horse racing by The New York  
3 Racing Association Inc. has a significant and ongoing economic  
4 and non-regulatory interest in the financial viability and  
5 competiveness of the gaming industry. The state legislature  
6 further finds that the award or grant of a license by the  
7 commission to operate a gaming facility is a significant state  
8 action and that the commission must make prudent and efficient  
9 decisions to maximize the benefits and minimize the risks of  
10 gaming. The state legislature further recognizes that casino  
11 gaming industry integration can provide a vital economic engine  
12 to assist, nurture, develop, and promote regional economic  
13 development, the state tourism industry and the growth of jobs  
14 in the state. Additionally, the state legislature also finds  
15 revenues derived directly by the state from such gaming activity  
16 will be shared from gross gaming receipts, after payout of  
17 prizes but prior to deductions for operational expenses.

18 Therefore, the state legislature finds that the state has a  
19 substantial and compelling proprietary interest in any license  
20 awarded for the operation of a gaming facility within the state.

21 3. Requirements. The commission shall require any applicant  
22 for a gaming facility license who has not yet entered into a  
23 labor peace agreement to produce an affidavit stating it shall  
24 enter into a labor peace agreement with labor organizations that

1. are actively engaged in representing or attempting to represent  
2 gaming or hospitality industry workers in the state. In order  
3 for the commission to issue a gaming facility license and for  
4 operations to commence, the applicant for a gaming facility  
5 license must produce documentation that it has entered into a  
6 labor peace agreement with each labor organization that is  
7 actively engaged in representing and attempting to represent  
8 gaming and hospitality industry workers in the state. The  
9 commission shall make the maintenance of such a labor peace  
10 agreement an ongoing material condition of licensure.

11 A license holder shall, as a condition of its license, ensure  
12 that operations at the gaming facility that are conducted by  
13 contractors, subcontractors, licensees, assignees, tenants or  
14 subtenants and that involve gaming or hospitality industry  
15 employees shall be done under a labor peace agreement containing  
16 the same provisions as specified above.

17 4. Construction for each capital project undertaken by a  
18 gaming facility shall be deemed a "public work" to be performed  
19 in accordance with the provisions of article eight of the labor  
20 law, as well as subject to sections two hundred, two hundred  
21 forty, two hundred forty-one and two hundred forty-two of the  
22 labor law and enforcement of prevailing wage requirements by the  
23 New York state department of labor.

1 5. If otherwise applicable, capital projects undertaken by a  
2 gaming facility shall be subject to section one hundred thirty-  
3 five of the state finance law and section two hundred twenty-two  
4 of the labor law.

5 6. Project labor agreements. 1. For the purposes of this  
6 section, "project labor agreement" shall mean a pre-hire  
7 collective bargaining agreement between a gaming facility or  
8 contractor thereof and the N.Y.S. Building and Construction  
9 Trades Council and/or a subdivision thereof, determined by the  
10 commission as representing the largest number of employees  
11 likely to work on the project, establishing the labor  
12 organization as the collective bargaining representative for all  
13 persons who will perform work on the project, and which provides  
14 that only contractors and subcontractors who sign a pre-  
15 negotiated agreement with the labor organization can perform  
16 project work.

17 a. The commission shall require a gaming facility or contractor  
18 thereof awarded a contract, subcontract, lease, grant, bond,  
19 covenant or other agreement for a project to enter into a  
20 project labor agreement during and for the work involved with  
21 such project when such requirement is part of the gaming  
22 facility project, but only if the commission determines that the  
23 record supporting the decision to enter into such an agreement  
24 establishes that the interests of the State are best met by

1 requiring a project labor agreement including: obtaining the  
2 best work at the lowest possible price; preventing favoritism,  
3 fraud and corruption; the impact of delay; the possibility of  
4 cost savings; and any local history of labor unrest. .

5 b. Any contract to which the gaming facility is a party, and any  
6 contract entered into by a third party acting in place of, on  
7 behalf of and for the benefit of the gaming facility pursuant to  
8 any lease, permit or other agreement between such third party  
9 and the gaming facility, for the construction, reconstruction,  
10 demolition, excavation, rehabilitation, repair, renovation,  
11 alteration, or improvement, of a project undertaken pursuant to  
12 this chapter, shall be subject to all of the provisions of  
13 article eight of the labor law, including the enforcement of  
14 prevailing wage requirements by the fiscal officer as defined in  
15 paragraph e of subdivision five of section two hundred twenty of  
16 the labor law to the same extent as a contract of the state, and  
17 shall be deemed public work for purposes of such article.

18 c. Every contract entered into by the gaming facility for a  
19 project shall contain a provision that the contractor shall  
20 furnish a labor and material bond guaranteeing prompt payment of  
21 moneys that are due to all persons furnishing labor and  
22 materials pursuant to the requirements of any contracts for a  
23 project undertaken pursuant to this section and a performance  
24 bond for the faithful performance of the project, which shall

1 conform to the provisions of section one hundred three-f of the  
2 general municipal law, and that a copy of such performance and  
3 payment bonds shall be kept by the commission and shall be open  
4 to public inspection.

5 d. For the purposes of article fifteen-A of the executive law,  
6 any person entering into a contract for a project authorized  
7 pursuant to this section shall be deemed a state agency as that  
8 term is defined in such article and such contracts shall be  
9 deemed state contracts within the meaning of that term as set  
10 forth in such article.

11 e. Whenever a gaming facility enters into a contract,  
12 subcontract, lease, grant, bond, covenant or other agreement for  
13 construction, reconstruction, demolition, excavation,  
14 rehabilitation, repair, renovation, alteration, or improvement  
15 with respect to each project undertaken pursuant to this  
16 chapter, the commission shall consider the financial and  
17 organizational capacity of contractors and subcontractors in  
18 relation to the magnitude of work they may perform, the record  
19 of performance of contractors and subcontractors on previous  
20 work, the record of contractors and subcontractors in complying  
21 with existing labor standards and maintaining harmonious labor  
22 relations, and the commitment of contractors to work with  
23 minority and women owned business enterprises pursuant to

1 article fifteen-A of the executive law through joint ventures or  
2 subcontractor relationships.

3 f. The commission shall further require, on any contract for  
4 construction in excess of three million dollars with respect to  
5 any contract for construction, reconstruction, demolition,  
6 excavation, rehabilitation, repair, renovation, alteration, or  
7 improvement that each contractor and subcontractor shall  
8 participate in apprentice training programs in the trades of  
9 work it employs that have been approved by the department of  
10 labor for not less than three years. The commission shall  
11 further require that each contractor and subcontractor shall  
12 have graduated at least one apprentice in the last three years  
13 and shall have at least one apprentice currently enrolled in  
14 such training program. Additionally it must be demonstrated that  
15 the program has made significant efforts to attract and retain  
16 minority apprentices, as determined by affirmative action goals  
17 established for such programs by the department of labor.

18

19 **1347. Prohibition of political contributions from gaming**  
20 **licensees and applicants**

21 1. Legislative findings and purpose. The state legislature  
22 has a compelling interest in protecting the integrity of both  
23 the electoral process and the legislative process by preventing  
24 corruption and the appearance of corruption which may arise

1 through permitting certain political campaign contributions by  
2 certain persons involved in the gaming industry and regulated by  
3 the state. Unlike most other regulated industries, gaming is  
4 especially susceptible to corruption and potential criminal  
5 influence. It is imperative to eliminate any potential corrupt  
6 influence in the gaming industry and the electoral process.

7 Banning political campaign contributions by certain persons  
8 subject to this section to state officeholders and candidates  
9 for such offices and to county and municipal officeholders and  
10 candidates for such offices in counties and municipalities that  
11 receive direct financial benefits from gaming activities is  
12 necessary to prevent corruption and the appearance of corruption  
13 that may arise when political campaign contributions and gaming  
14 that is regulated by the state and that confers benefits on  
15 counties and municipalities are intermingled.

16 2. Definitions. As used in this section:

17 a. "Affiliated entity" means (i) any corporate parent and  
18 operating subsidiary of the business entity applying for or  
19 holding a license, (ii) each operating subsidiary of the  
20 corporate parent of the business entity applying for or holding  
21 a license, (iii) any organization recognized by the United  
22 States Internal Revenue Service as a tax-exempt organization  
23 described in Section 501(c) of the Internal Revenue Code of 1986  
24 (or any successor provision of federal tax law) established by

1 one or more business entities seeking or holding a license, any  
2 affiliated entity of such business entity, or any affiliated  
3 person of such business entity, and (iv) any political committee  
4 for which the business entity applying for or holding a license,  
5 or any 501(c) organization described in item (iii) related to  
6 that business entity. For purposes of item (iv), the funding of  
7 all business entities applying for or holding a license shall be  
8 aggregated in determining whether such political committee is an  
9 affiliated entity.

10 b. "Affiliated person" means (i) any person with any ownership  
11 interest or distributive share in excess of seven and one-half  
12 percent of any business entity applying for or holding a  
13 license, (ii) executive employees of any such business entity,  
14 (iii) any person designated as a key person pursuant to article  
15 thirteen, and (iv) the spouse of the persons described in items  
16 (i) through (iii).

17 c. "Business entity" means any entity doing business for profit,  
18 whether organized as a corporation, partnership, sole  
19 proprietorship, limited liability company, or partnership or  
20 otherwise.

21 d. "Contribution" means a contribution as defined in New York  
22 state elections law section 14-100.9.

23 e. "Declared candidate" means a person who has filed a statement  
24 of candidacy and petition for nomination or election in the

1 principal office of the state board of elections, or in the  
2 office of the appropriate election authority for any host  
3 municipality or county in which as casino gaming facility is  
4 located or proposed to be located.

5 f. "Executive employee" means (i) any person who is an officer  
6 or director or who fulfills duties equivalent to those of an  
7 officer or director of a business entity applying for or holding  
8 a license and (ii) any employee of such business entity who is  
9 required to register under the state lobbying act.

10 g. "License" means the casino gaming license issued pursuant to  
11 this article.

12 h. "Officeholder" means the Governor, Lieutenant Governor,  
13 Attorney General, Comptroller, member of the Assembly or Senate,  
14 or any officeholder in any host municipality or county in which  
15 as casino gaming facility is located or proposed to be located.

16 3. Prohibition.

17 a. Any person or business entity applying for or holding a  
18 license, any affiliated entities or persons of such business  
19 entity, and any entities or persons soliciting a contribution or  
20 causing a contribution to be made on behalf of such person or  
21 business entity, are prohibited from making any contribution to  
22 any officeholder or declared candidate or any political  
23 committee affiliated with any officeholder or declared  
24 candidate.

1 b. This prohibition shall commence upon filing of an  
2 application for a license and shall continue for a period of two  
3 years after termination, suspension or revocation of the  
4 license.

5 c. The commission shall have authority to suspend, revoke, or  
6 restrict the license and to impose civil penalties of up to  
7 \$100,000 for each violation of this subsection.

8 d. A notice of each such violation and the penalty imposed  
9 shall be published on the commission's Internet website and in  
10 the State Register. Payments received by the state pursuant to  
11 this subsection shall be deposited into the commercial gaming  
12 revenue fund.

13 e. Any officeholder or declared candidate or any political  
14 committee affiliated with any officeholder or declared candidate  
15 that has received a contribution in violation of this subsection  
16 shall pay an amount equal to the value of the contribution to  
17 the state no more than thirty days after notice of the violation  
18 concerning the contribution appears in the State Register.  
19 Payments received by the state pursuant to this subsection shall  
20 be deposited into the General Revenue Fund.

21 4. The commission shall post on its Internet website a list  
22 of all persons, business entities, and affiliated entities  
23 prohibited from making contributions to any officeholder or  
24 declared candidate political committee pursuant to subsection

1 three, which list shall be updated and published, at a minimum,  
2 every six months.

3 Any person, business entity, or affiliated entity prohibited  
4 from making contributions to any officeholder or declared  
5 candidate political committee pursuant to subsection three shall  
6 notify the commission within seven days after discovering any  
7 necessary change or addition to the information relating to that  
8 person, business entity, or affiliated entity contained in the  
9 list. An individual who acts in good faith and in reliance on  
10 any information contained in the list shall not be subject to  
11 any penalties or liability imposed for a violation of this  
12 section.

13 5. If any provision of this section is held invalid or its  
14 application to any person or circumstance is held invalid, the  
15 invalidity of that provision or application does not affect the  
16 other provisions or applications of this section that can be  
17 given effect without the invalid application or provision.

18

19 **TAXATION AND FEES**

20

21 **1348. Machine and table fees.** In addition to any other tax  
22 or fee imposed by this article, there shall be imposed an annual  
23 license fee of \$500 for each slot machine and table approved by  
24 the commission for use by a gaming licensee at a gaming

1 facility; provided, however, that not sooner than five years  
2 after award of an original gaming license, the commission may  
3 annually adjust the fee for inflation. The fee shall be imposed  
4 as of July 1 of each year for all approved slot machines and  
5 tables on that date and shall be assessed on a pro rata basis  
6 for any slot machine or table approved for use thereafter.

7 Such assessed fees shall be deposited into the commercial  
8 gaming revenue fund established pursuant to section one thousand  
9 three hundred fifty-two of this article.

10

11 **1349. Regulatory investigatory fees.** The commission shall  
12 establish fees for any investigation into a violation of this  
13 article or regulation promulgated hereunder by a gaming licensee  
14 to be paid by the gaming licensee including, but not limited to,  
15 billable hours by commission staff involved in the investigation  
16 and the costs of services, equipment or other expenses that are  
17 incurred by the commission during the investigation.

18

19 **1350. Additional regulatory costs**

20 1. Any remaining costs of the commission necessary to  
21 maintain regulatory control over gaming facilities that are not  
22 covered by the fees set forth in sections one thousand three  
23 hundred forty-nine; any other fees assessed under this article;

1 or any other designated sources of funding, shall be assessed  
2 annually on gaming licensees under this article in proportion to  
3 the number of gaming positions at each gaming facility. Each  
4 gaming licensee shall pay the amount assessed against it within  
5 thirty days after the date of the notice of assessment from the  
6 commission.

7 2. If the fees collected in sections one thousand three  
8 hundred forty-nine exceed the cost required to maintain  
9 regulatory control, the surplus funds shall be credited in  
10 proportional shares against each gaming licensee's next  
11 assessment.

12  
13 **1351. Tax on gross gaming revenues; permissive supplemental**  
14 **fee.** For a casino gaming facility in zone two, there is hereby  
15 imposed a tax on gross gaming revenues in the amount of twenty-  
16 five percent. Should a licensee have agreed within its  
17 application to supplement the tax with a binding supplemental  
18 fee payment exceeding the aforementioned tax rate, such tax and  
19 supplemental fee shall apply.

20  
21 **1352. Commercial gaming revenue fund**

22 1. The commission shall pay into an account, to be known as  
23 the commercial gaming revenue fund as established pursuant to  
24 state finance law section ninety-nine nnnn, under the joint

1 custody of the comptroller and the commissioner of the  
2 department of taxation and finance, all taxes and fees imposed  
3 by this article; any interest and penalties imposed by the  
4 commission relating to those taxes; the appropriate percentage  
5 of the value of expired gaming related obligations; all  
6 penalties levied and collected by the commission; and the  
7 appropriate funds, cash or prizes forfeited from gambling  
8 activity.

9     2. The commission shall require at least monthly deposits by  
10 the licensee of any payments pursuant to section one thousand  
11 three hundred fifty-one of this article, at such times, under  
12 such conditions, and in such depositories as shall be prescribed  
13 by the state comptroller. The deposits shall be deposited to the  
14 credit of the commercial gaming revenue fund as established by  
15 section ninety-seven nnnn of the state finance law. The  
16 commission may require a monthly report and reconciliation  
17 statement to be filed with it on or before the tenth day of each  
18 month, with respect to gross revenues and deposits received and  
19 made, respectively, during the preceding month.

20  
21 **1353. Determination of tax liability.** The commission may  
22 perform audits of the books and records of a casino licensee, at  
23 such times and intervals as it deems appropriate, for the  
24 purpose of determining the sufficiency of tax or fee payments.

1 If a return or deposit required with regard to obligations  
2 imposed is not filed or paid, or if a return or deposit when  
3 filed or paid is determined by the department to be incorrect or  
4 insufficient with or without an audit, the amount of tax or fee  
5 or deposit due shall be determined by the department. Notice of  
6 such determination shall be given to the licensee liable for the  
7 payment of the tax or fee or deposit. Such determination shall  
8 finally and irrevocably fix the tax or fee unless the person  
9 against whom it is assessed, within thirty days after receiving  
10 notice of such determination, shall apply to the department for  
11 a hearing in accordance with the regulations of such department.

12  
13 **1354. Unclaimed funds.** Unclaimed funds, cash and prizes  
14 shall be retained by the gaming licensee for the person entitled  
15 to the funds, cash or prize for one year after the game in which  
16 the funds, cash or prize was won. If no claim is made for the  
17 funds, cash or prize within one year, the funds, cash or  
18 equivalent cash value of the prize shall be deposited in the  
19 commercial gaming revenue fund.

20  
21 **1355. Distributions to the racing industry**

22 1. If an applicant possesses a pari-mutuel wagering  
23 franchise or license awarded pursuant to articles two or three  
24 of the racing, pari-mutuel wagering and breeding law is issued a

1 casino gaming facility license pursuant to this article, the  
2 licensee shall:

3 a. Maintain payments made from video lottery gaming operations  
4 to the relevant horsemen and breeders organizations at the same  
5 dollar level realized in 2012, to be adjusted by the consumer  
6 price index for all urban consumers, as published annually by  
7 the United States department of labor bureau of labor  
8 statistics;

9 b. For any video lottery gaming facility located in a city of  
10 one million residents or more required to make payments from  
11 video lottery gaming operation to a franchise holder, continue  
12 payments to the franchise holder from slot machines in the same  
13 manner and percentage as that required with video lottery  
14 gaming;

15 c. All racetracks locations awarded a casino gaming facility  
16 license shall maintain racing activity and race dates, as deemed  
17 appropriate by the commission.

18 2. If an applicant that does not possess either a pari-mutuel  
19 wagering license or franchise awarded pursuant to articles two  
20 or three of the racing, pari-mutuel wagering and breeding law is  
21 issued a casino gaming facility license pursuant to this  
22 article, the licensee shall:

23 a. Devote five percent of its net revenues from slot machines to  
24 support racing activity in the following manner:

1 (1) three percent shall be dedicated to the nearest licensed  
2 racetrack, to be equally divided between the horsemen, for the  
3 support of purses, and the racetrack;

4 (2) one and one-half percent shall be dedicated to the next  
5 closest racetrack to be equally divided between the horsemen,  
6 for the support of purses, and the racetrack; and

7 (3) one-half of one percent shall be dedicated to and equally  
8 divided between the standardbred and thoroughbred breeding  
9 funds.

10 However, where either the nearest racetrack or next closest  
11 racetrack itself holds a license issued pursuant to this  
12 article, all moneys shall be dedicated to the racetracks'  
13 horsemen for the support of purses.

14 b. No funds from this subdivision shall be made available to a  
15 franchised corporation or to its horsemen.

16

17 **MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES**

18

19 **1356. Declarations.** The state declares that the opportunity  
20 for full minority and women's business enterprise participation  
21 in the casino industry is essential if social and economic  
22 parity is to be obtained by minority and women business.

23

24 **1357. Definitions**

1 As used in this article:

2 1. "Casino licensee" means any entity which holds or is an  
3 applicant for a casino license pursuant.

4 2. "Minority business enterprise" means a business that is:

5 a. A sole proprietorship, owned and controlled by a minority;

6 b. A partnership or joint venture owned and controlled by  
7 minorities in which at least fifty-one percent of the ownership  
8 interest is held by minorities and the management and daily  
9 business operations of which are controlled by one or more of  
10 the minorities who own it; or

11 c. A corporation or other entity whose management and daily  
12 business operations are controlled by one or more minorities who  
13 own it, and which is at least fifty-one percent owned by one or  
14 more minorities, or if stock is issued, at least fifty-one  
15 percent of the stock is owned by one or more minorities.

16 3. "Minority" means a person who is:

17 a. Black, which is a person having origins in any of the black  
18 racial groups in Africa; or

19 b. Hispanic, which is a person of Spanish or Portuguese culture,  
20 with origins in Mexico, South or Central America, or the  
21 Caribbean Islands, regardless of race; or

22 c. Asian American, which is a person having origins in any of  
23 the original peoples of the Far East, Southeast Asia, Indian  
24 Subcontinent, Hawaii, or the Pacific Islands; or

1 d. American Indian or Alaskan native, which is a person having  
2 origins in any of the original peoples of North America.

3 4. "Women's business enterprise" means a business that is:

4 a. A sole proprietorship owned and controlled by a woman; or

5 b. A partnership or joint venture owned and controlled by women  
6 in which at least fifty-one percent of the ownership is held by  
7 women and the management and daily business operations of which  
8 are controlled by one or more women who own it; or

9 c. A corporation or other entity whose management and daily  
10 business operations are controlled by one or more women who own  
11 it, and which is at least fifty-one percent owned by women, or  
12 if stock is issued, at least fifty-one percent of the stock is  
13 owned by one or more women.

14  
15 **1358. Minority, women's business contracts**

16 1. Notwithstanding the provisions of any law, rule or  
17 regulation to the contrary, every casino licensee shall  
18 establish goals of expending at least five percent of the dollar  
19 value of its contracts for goods and services with minority and  
20 women's business enterprises by the end of third year following  
21 the receipt of a casino license, and ten percent of the dollar  
22 value of its contracts for goods and services with minority and  
23 women's business enterprises by the end of the sixth year  
24 following the receipt of a casino license; and each such

1 licensee shall have a goal of expending fifteen percent of the  
2 dollar value of its contracts for goods and services with  
3 minority and women's business enterprises by the end of the  
4 tenth year following the receipt of a casino license. Each  
5 casino licensee shall be required to demonstrate annually that  
6 the requirements of this article have been met by submitting a  
7 report which shall include the total dollar value of contracts  
8 awarded for goods or services and the percentage thereof awarded  
9 to minority and women's business enterprises.

10 2. As used in this section, "goods and services" shall not  
11 include:  
12 a. utilities and taxes;  
13 b. financing costs, such as mortgages, loans or any other type  
14 of debt;  
15 c. medical insurance;  
16 d. dues and fees to any casino trade association;  
17 e. fees and payments to a parent or affiliated company of the  
18 casino licensee other than those that represent fees and  
19 payments for goods and services supplied by non-affiliated  
20 persons through an affiliated company for the use or benefit of  
21 the casino licensee; and  
22 f. rents paid for real property and any payments constituting  
23 the price of an interest in real property as a result of a real  
24 estate transaction.

1 3. A casino licensee shall make a good faith effort to meet  
2 the requirements of this section and shall annually demonstrate  
3 to the commission that such an effort was made.

4 4. A casino licensee may fulfill no more than seventy  
5 percent of its obligation or part of it under this article by  
6 requiring a vendor to set aside a portion of his contract for  
7 minority or women's business enterprises. Upon request, the  
8 licensee shall provide the commission with proof of the amount  
9 of the set-aside.

10  
11 **1359. Penalties for violations.** If the commission  
12 determines that the requirements relating to expenditures and  
13 assignments to minority and women's business enterprises have  
14 not been met by a licensee, the commission may suspend or revoke  
15 the casino license or fine or impose appropriate conditions on  
16 the licensee, to ensure that the goals for expenditures and  
17 assignments to minority and women's business enterprises are  
18 met; except that if a determination is made that a casino  
19 licensee has failed to demonstrate compliance, a casino licensee  
20 will have ninety days from the date of the determination of  
21 noncompliance within which to comply with the provisions of  
22 those sections.

1 1360. Determining qualifications. A business shall qualify  
2 as a minority and women's business enterprise if it holds a  
3 certification as such issued by the Empire State Development.

4  
5 1361. List of certified enterprises. Empire State  
6 Development maintains the Directory of Certified Minority and  
7 Women-Owned Business Enterprises. Such Directory shall be made  
8 available to casino licensees.

9  
10 PROBLEM GAMBLING

11  
12 1362. Prevention and outreach efforts

13 1. Each casino licensee, management company, and holding  
14 company involved in the application and ownership or management  
15 of a casino facility shall provide to the commission, as  
16 applicable, an applicant's problem gambling plan. An applicant's  
17 problem gambling plan shall be approved by the commission before  
18 the commission issues or renews a license. Each plan shall at  
19 minimum include the following:

20 a. The goals of the plan and procedures and timetables to  
21 implement the plan;

22 b. The identification of the individual who will be responsible  
23 for the implementation and maintenance of the plan;

24 c. Policies and procedures including the following:

- 1 (1) The commitment of the applicant and the casino licensee to  
2 train appropriate employees;
- 3 (2) The duties and responsibilities of the employees designated  
4 to implement or participate in the plan;
- 5 (3) The responsibility of patrons with respect to responsible  
6 gambling;
- 7 (4) Procedures for compliance with the voluntary exclusion  
8 program;
- 9 (5) Procedures to identify patrons and employees with suspected  
10 or known problem gambling behavior, including procedures  
11 specific to loyalty and other rewards and marketing programs;
- 12 (6) Procedures for providing information to individuals  
13 regarding the voluntary exclusion program and community, public  
14 and private treatment services, gamblers anonymous programs and  
15 similar treatment or addiction therapy programs designed to  
16 prevent, treat, or monitor problem gamblers and to counsel  
17 family members;
- 18 (7) Procedures for responding to patron and employee requests  
19 for information regarding the voluntary exclusion program and  
20 community, public and private treatment services, gamblers  
21 anonymous programs and similar treatment or addiction therapy  
22 programs designed to prevent, treat, or monitor compulsive and  
23 problem gamblers and to counsel family members;

1 (8) The provision of printed material to educate patrons and  
2 employees about problem gambling and to inform them about the  
3 voluntary exclusion program and treatment services available to  
4 problem gamblers and their families. The applicant shall provide  
5 examples of the materials to be used as part of its plan,  
6 including, brochures and other printed material and a  
7 description of how the material will be disseminated;  
8 (9) Advertising and other marketing and outreach to educate the  
9 general public about the voluntary exclusion program and problem  
10 gambling;  
11 (10) An employee training program, including training materials  
12 to be utilized and a plan for periodic reinforcement training  
13 and a certification process established by the applicant to  
14 verify that each employee has completed the training required by  
15 the plan;  
16 (11) Procedures to prevent underage gambling;  
17 (12) Procedures to prevent patrons impaired by drugs or alcohol,  
18 or both, from gambling; and  
19 (13) The plan for posting signs within the casino facility,  
20 containing information on gambling treatment and on the  
21 voluntary exclusion program. The applicant shall provide  
22 examples of the language and graphics to be used on the signs as  
23 part of its plan;

1 d. A list of community, public and private treatment services,  
2 gamblers anonymous programs and similar treatment or addiction  
3 therapy programs designed to prevent, treat, or monitor problem  
4 gamblers and to counsel family members; and

5 e. Any other information, documents, and policies and procedures  
6 that the commission requires.

7 2. Each applicant or casino licensee shall submit any  
8 amendments to the problem gambling plan to the commission for  
9 review and approval before implementing the amendments.

10 3. Each casino licensee shall submit an annual summary of its  
11 problem gambling plan to the commission.

12 4. Each casino licensee shall submit quarterly updates and an  
13 annual report to the commission of its adherence to the plans  
14 and goals submitted under this section.

15

16 **1363. Advertising restrictions**

17 1. As used in this section:

18 a. "advertisement" shall mean any notice or communication to the  
19 public or any information concerning the gaming-related business  
20 of a casino licensee or applicant through broadcasting,  
21 publication or any other means of dissemination, including  
22 electronic dissemination. Promotional activities are considered  
23 advertisements for purposes of this section.

1 b. "direct advertisement" shall mean any advertisement as  
2 described in paragraph a. that is disseminated to a specific  
3 individual or individuals.

4 2. Advertising shall be based upon fact, and shall not be  
5 false, deceptive or misleading, and no advertising by or on  
6 behalf of a casino licensee shall:

7 a. Use any type, size, location, lighting, illustration, graphic  
8 depiction or color resulting in the obscuring of any material  
9 fact;

10 b. Fail to clearly and conspicuously specify and state any  
11 material conditions or limiting factors;

12 c. Depict any person under the age of twenty-one engaging in  
13 casino gaming and related activities; or

14 d. Fail to designate and state the name and location of the  
15 casino facility conducting the advertisement. The location of  
16 the casino need not be included on billboards within thirty  
17 miles of the casino facility.

18 2. Each advertisement shall, clearly and conspicuously, state  
19 a problem gambling hotline number.

20 3. Each direct advertisement shall, clearly and  
21 conspicuously, describe a method or methods by which an  
22 individual may designate that the individual does not wish to  
23 receive any future direct advertisement.

1 a. The described method must be by at least two of the  
2 following:

3 (1) Telephone;

4 (2) Regular U.S. mail; or

5 (3) Electronic mail.

6 b. Upon receipt of an individual's request to discontinue  
7 receipt of future advertisement, a casino licensee or applicant  
8 shall block the individual in the casino licensee's database so  
9 as to prevent the individual from receiving future direct  
10 advertisements within fifteen days of receipt of the request.

11 4. Each casino licensee or applicant shall provide to the  
12 commission at its main office a complete and accurate copy of  
13 all advertisements within five business days of the  
14 advertisement's public dissemination. Casino licensees or  
15 applicants shall discontinue the public dissemination upon  
16 receipt of notice from the commission to discontinue an  
17 advertisement.

18 5. A casino licensee or applicant shall maintain a complete  
19 record of all advertisements for a period of at least two years.  
20 Records shall be made available to the commission upon request.

21

22 **MISCELLANEOUS PROVISIONS**

23

1 1364. Smoking prohibited. Smoking shall not be permitted, and  
2 no person shall smoke in the indoor areas of facilities licensed  
3 pursuant to this article, except that the provisions of section  
4 one thousand three hundred ninety nine-g of the public health  
5 law shall be applicable to facilities licensed pursuant to this  
6 article.

7  
8 1365. Conservatorship

9 1. Upon revocation or suspension of a casino gaming facility  
10 license or upon the failure or refusal to renew a casino gaming  
11 facility license, the commission may appoint a conservator to  
12 temporarily manage and operate the business of the gaming  
13 licensee relating to the gaming facility. Such conservator shall  
14 be a person of similar experience in the field of gaming  
15 management and, in the case of replacing a casino gaming  
16 facility licensee, shall have experience operating a gaming  
17 facility of similar caliber in another jurisdiction, and shall  
18 be in good standing in all jurisdictions in which the  
19 conservator operates a gaming facility. Upon appointment, a  
20 conservator shall agree to all licensing provisions of the  
21 former gaming licensee.

22 2. A conservator shall, before assuming, managerial or  
23 operational duties, execute and file a bond for the faithful  
24 performance of its duties payable to the commission with such

1 surety and in such form and amount as the commission shall  
2 approve.

3 3. The commission shall require that the former or suspended  
4 gaming licensee purchase liability insurance, in an amount  
5 determined by the commission, to protect a conservator from  
6 liability for any acts or omissions of the conservator during  
7 the conservator's appointment which are reasonably related to  
8 and within the scope of the conservator's duties.

9 4. During the period of temporary management of the gaming  
10 facility, the commission shall initiate proceedings under this  
11 article to award a new casino gaming facility license to a  
12 qualified applicant whose gaming facility shall be located at  
13 the site of the preexisting gaming facility.

14 5. An applicant for a new casino gaming facility license  
15 shall be qualified for licensure under this article; provided,  
16 however, that the commission shall determine an appropriate  
17 level of investment by an applicant into the preexisting gaming  
18 facility.

19 6. Upon award of a new casino gaming facility license, the  
20 new casino gaming facility licensee shall pay the original  
21 licensing fee required under this article.

22  
23 1366. Zoning. Notwithstanding any inconsistent provision of  
24 law, casino gaming authorized at a location pursuant to this

1 section shall be deemed an approved activity for such location  
2 under the relevant city, county, town, or village land use or  
3 zoning ordinances, rules, or regulations.

4  
5 **1367. Sports wagering**

6 1. Definitions. As used in this section:

7 a. "Casino" means a licensed casino gaming facility at which  
8 casino gambling is conducted pursuant to the provisions of  
9 article thirteen of the racing, pari-mutuel wagering and  
10 breeding law;

11 b. "Commission" means the commission established pursuant to  
12 section one hundred two of the racing, pari-mutuel wagering and  
13 breeding law;

14 c. "collegiate sport or athletic event" means a sport or  
15 athletic event offered or sponsored by or played in connection  
16 with a public or private institution that offers educational  
17 services beyond the secondary level;

18 d. "operator" means a casino which has elected to operate a  
19 sports pool;

20 e. "professional sport or athletic event" means an event at  
21 which two or more persons participate in sports or athletic

1 events and receive compensation in excess of actual expenses for  
2 their participation in such event;

3 f. "prohibited sports event" means any collegiate sport or  
4 athletic event that takes place in New York or a sport or  
5 athletic event in which any New York college team participates  
6 regardless of where the event takes place;

7 g. "sports event" means any professional sport or athletic event  
8 and any collegiate sport or athletic event, except a prohibited  
9 sports event;

10 h. "sports pool" means the business of accepting wagers on any  
11 sports event by any system or method of wagering; and

12 i. "sports wagering lounge" means an area wherein a sports pool  
13 is operated.

14 2. General prohibition of sports wagering

15 No casino gaming facility may conduct sports wagering until  
16 such time as there has been a change in federal law authorizing  
17 such or upon a ruling of a court of competent jurisdiction that  
18 such activity is lawful.

19 3. Casino may operate sports pool

20 a. In addition to authorized gaming activities, a licensed  
21 casino gaming facility may, when authorized by subdivision two

1 of this section, operate a sports pool upon the approval of the  
2 commission and in accordance with the provisions of this section  
3 and applicable regulations promulgated pursuant to this title.  
4 The commission shall hear and decide promptly and in reasonable  
5 order all applications for a license to operate a sports pool,  
6 shall have the general responsibility for the implementation of  
7 this section and shall have all other duties specified in that  
8 section with regard to the operation of a sports pool. The  
9 license to operate a sports pool shall be in addition to any  
10 other license required to be issued to operate a casino gaming  
11 facility. No license to operate a sports pool shall be issued by  
12 the commission to any entity unless it has established its  
13 financial stability, integrity and responsibility and its good  
14 character, honesty and integrity.

15 No later than five years after the date of the issuance of a  
16 license and every five years thereafter or within such lesser  
17 periods as the division may direct, a licensee shall submit to  
18 the commission such documentation or information as the  
19 commission may by regulation require, to demonstrate to the  
20 satisfaction of the director of the commission that the licensee  
21 continues to meet the requirements of the law and regulations.

22 b. A sports pool shall be operated in a sports wagering lounge  
23 located at a casino. The lounge shall conform to all

1 requirements concerning square footage, design, equipment,  
2 security measures and related matters which the commission shall  
3 by regulation prescribe.

4 c. The operator of a sports pool shall establish or display the  
5 odds at which wagers may be placed on sports events.

6 d. An operator shall accept wagers on sports events only from  
7 persons physically present in the sports wagering lounge. A  
8 person placing a wager shall be at least twenty-one years of  
9 age.

10 e. An operator shall not admit into the sports wagering lounge,  
11 or accept wagers from, any person whose name appears on the  
12 exclusion list maintained by the commission pursuant to section  
13 1344 of this article.

14 f. The holder of a license to operate a sports pool may contract  
15 with an entity to conduct that operation, in accordance with the  
16 regulations of the commission. That entity shall obtain a  
17 license as a casino vendor enterprise prior to the execution of  
18 any such contract, and such license shall be issued pursuant to  
19 the provisions of section one thousand three hundred twenty-  
20 seven and in accordance with the regulations promulgated by the  
21 commission.

1 g. If any provision of this act or its application to any person  
2 or circumstance is held invalid, the invalidity shall not affect  
3 other provisions or applications of this act which can be given  
4 effect without the invalid provision or application, and to this  
5 end the provisions of this act are severable.

6 4. Employees, licensed, registered.

7 a. All persons employed directly in wagering-related activities  
8 conducted within a sports wagering lounge shall be licensed as a  
9 casino key employee or registered as a casino employee, as  
10 determined by the commission. All other employees who are  
11 working in the sports wagering lounge may be required to be  
12 registered, if appropriate, in accordance with regulations of  
13 the commission.

14 b. Each operator of a sports pool shall designate one or more  
15 casino key employees who shall be responsible for the operation  
16 of the sports pool. At least one such casino key employee shall  
17 be on the premises whenever sports wagering is conducted.

18 5. Authority of commission to regulate

19 a. Except as otherwise provided by this act, the commission  
20 shall have the authority to regulate sports pools and the  
21 conduct of sports wagering under this act to the same extent  
22 that the commission regulates other casino games. No casino

1 shall be authorized to operate a sports pool unless it has  
2 produced information, documentation, and assurances concerning  
3 its financial background and resources, including cash reserves,  
4 that are sufficient to demonstrate that it has the financial  
5 stability, integrity, and responsibility to operate a sports  
6 pool. In developing rules and regulations applicable to sports  
7 wagering, the commission shall examine the regulations  
8 implemented in other states where sports wagering is conducted  
9 and shall, as far as practicable, adopt a similar regulatory  
10 framework. The commission shall promulgate regulations necessary  
11 to carry out the provisions of this section, including, but not  
12 limited to, regulations governing the:

13 (1) amount of cash reserves to be maintained by operators to  
14 cover winning wagers;

15 (2) acceptance of wagers on a series of sports events;

16 (3) maximum wagers which may be accepted by an operator from any  
17 one patron on any one sports event;

18 (4) type of wagering tickets which may be used;

19 (5) method of issuing tickets;

20 (6) method of accounting to be used by operators;

21 (7) types of records which shall be kept;

- 1 (8) use of credit and checks by patrons;
- 2 (9) type of system for wagering; and
- 3 (10) protections for a person placing a wager.

4 6. Adoption of comprehensive house rules. Each operator  
5 shall adopt comprehensive house rules governing sports wagering  
6 transactions with its patrons. The rules shall specify the  
7 amounts to be paid on winning wagers and the effect of schedule  
8 changes. The house rules, together with any other information  
9 the commission deems appropriate, shall be conspicuously  
10 displayed in the sports wagering lounge and included in the  
11 terms and conditions of the account wagering system, and copies  
12 shall be made readily available to patrons.

13

14 **GAMING INSPECTOR GENERAL**

15

16 **1368. Establishment of the office of gaming inspector general.**

17 There is hereby created within the commission the office of  
18 gaming inspector general. The head of the office shall be the  
19 gaming inspector general who shall be appointed by the governor  
20 by and with the advice and consent of the senate. The inspector  
21 shall serve at the pleasure of the governor. The inspector shall

1 report directly to the governor. The person appointed as  
2 inspector shall, upon his or her appointment, have not less than  
3 ten years professional experience in law, investigation, or  
4 auditing. The inspector shall be compensated within the limits  
5 of funds available therefor, provided, however, such salary  
6 shall be no less than the salaries of certain state officers  
7 holding the positions indicated in paragraph a of subdivision  
8 one of section one hundred sixty-nine of the executive law.

9

10 **1369. State gaming inspector general; functions and duties.** The  
11 state gaming inspector general shall have the following duties  
12 and responsibilities:

13 1. receive and investigate complaints from any source, or  
14 upon his or her own initiative, concerning allegations of  
15 corruption, fraud, criminal activity, conflicts of interest or  
16 abuse in the commission;

17 2. inform the commission members of such allegations and the  
18 progress of investigations related thereto, unless special  
19 circumstances require confidentiality;

20 3. determine with respect to such allegations whether  
21 disciplinary action, civil or criminal prosecution, or further  
22 investigation by an appropriate federal, state or local agency  
23 is warranted, and to assist in such investigations;

1 4. prepare and release to the public written reports of such  
2 investigations, as appropriate and to the extent permitted by  
3 law, subject to redaction to protect the confidentiality of  
4 witnesses. The release of all or portions of such reports may be  
5 deferred to protect the confidentiality of ongoing  
6 investigations;

7 5. review and examine periodically the policies and  
8 procedures of the commission with regard to the prevention and  
9 detection of corruption, fraud, criminal activity, conflicts of  
10 interest or abuse;

11 6. recommend remedial action to prevent or eliminate  
12 corruption, fraud, criminal activity, conflicts of interest or  
13 abuse in the commission;

14 7. establish programs for training commission officers and  
15 employees regarding the prevention and elimination of  
16 corruption, fraud, criminal activity, conflicts of interest or  
17 abuse in the commission.

18

19 **1370. Powers**

20 The state gaming inspector general shall have the power to:

21 1. subpoena and enforce the attendance of witnesses;

22 2. administer oaths or affirmations and examine witnesses  
23 under oath;

1 3. require the production of any books and papers deemed  
2 relevant or material to any investigation, examination or  
3 review;

4 4. notwithstanding any law to the contrary, examine and copy  
5 or remove documents or records of any kind prepared, maintained  
6 or held by the commission;

7 5. require any commission officer or employee to answer  
8 questions concerning any matter related to the performance of  
9 his or her official duties. No statement or other evidence  
10 derived therefrom may be used against such officer or employee  
11 in any subsequent criminal prosecution other than for perjury or  
12 contempt arising from such testimony. The refusal of any officer  
13 or employee to answer questions shall be cause for removal from  
14 office or employment or other appropriate penalty;

15 6. monitor the implementation by the commission of any  
16 recommendations made by state inspector general;

17 7. perform any other functions that are necessary or  
18 appropriate to fulfill the duties and responsibilities of  
19 office.

20  
21 **1371. Responsibilities of the commission and its officers and**  
22 **employees**

23 1. Every commission officer or employee shall report promptly  
24 to the state gaming inspector general any information concerning

1 corruption, fraud, criminal activity, conflicts of interest or  
2 abuse by another state officer or employee relating to his or  
3 her office or employment, or by a person having business  
4 dealings with the commission relating to those dealings. The  
5 knowing failure of any officer or employee to so report shall be  
6 cause for removal from office or employment or other appropriate  
7 penalty. Any officer or employee who acts pursuant to this  
8 subdivision by reporting to the state gaming inspector general  
9 improper governmental action as defined in section seventy-five-  
10 b of the civil service law shall not be subject to dismissal,  
11 discipline or other adverse personnel action.

12 2. The commission chair shall advise the governor within  
13 ninety days of the issuance of a report by the state gaming  
14 inspector general as to the remedial action that the agency has  
15 taken in response to any recommendation for such action  
16 contained in such report.

17  
18 §3. Section 225.00 of the penal law is amended by adding  
19 nineteen new subdivisions to read as follows:

20 13. "Authorized gaming establishment" means any structure,  
21 structure and adjacent or attached structure, or grounds  
22 adjacent to a structure in which casino gaming, conducted  
23 pursuant to article thirteen of the racing, pari-mutuel wagering  
24 and breeding law, or Class III gaming, as authorized pursuant to

1 a compact reached between the State of New York and a federally  
2 recognized Indian nation or tribe under the federal Indian  
3 Gaming Regulatory Act of 1988, is conducted on nation or tribal  
4 lands and shall include all public and non-public areas of any  
5 such building, except for such areas of a building where either  
6 Class I or II gaming are conducted or any building or grounds  
7 known as a video gaming entertainment facility, including  
8 facilities where food and drink are served, as well as those  
9 areas not normally open to the public, such as where records  
10 related to video lottery gaming operations are kept, except  
11 shall not include the racetracks or such areas where such video  
12 lottery gaming operations or facilities do not take place or  
13 exist, such as racetrack areas or fairgrounds which are wholly  
14 unrelated to video lottery gaming operations, pursuant to Part  
15 C, Chapter 383, Laws of 2001, as amended and implemented.

16 14. "Authorized gaming operator" means an enterprise or  
17 business entity authorized by state or federal law to operate  
18 casino or video lottery gaming.

19 15. "Casino gaming" means games authorized to be played  
20 pursuant to a license granted under article thirteen of the  
21 racing, pari-mutuel wagering and breeding law or by federally  
22 recognized Indian nations or tribes pursuant to a valid gaming  
23 compact reached in accordance with the federal Indian Gaming

1 Regulatory Act of 1988, Pub.L. 100-497, 102 Stat. 2467, codified  
2 at 25 U.S.C. §§ 2701-21 and 18 U.S.C. §§ 1166-68.

3 16. "Cheating" means to alter the elements of chance, method  
4 of selection or criteria which determine the result or outcome  
5 of a game or the amount or frequency of payment in a game.

6 17. "Cash Equivalent" means a Treasury check, a travelers  
7 check, wire transfer of funds, transfer check, money order,  
8 certified check, cashiers check, payroll check, a check drawn on  
9 the account of the authorized gaming operator payable to the  
10 patron or to the authorized gaming establishment, a promotional  
11 coupon, promotional chip, promotional cheque, promotional token,  
12 or a voucher recording cash drawn against a credit card or  
13 charge card;

14 18. "Cheques" or "Chips" or "Tokens" means nonmetal, metal,  
15 or partly metal representatives of value, redeemable for cash or  
16 cash equivalent, and issued and sold by an authorized casino  
17 operator for use at an authorized gaming establishment. The  
18 value of such cheques or chips or tokens shall be considered  
19 equivalent in value to the cash or cash equivalent exchanged for  
20 such cheques or chips or tokens upon purchase or redemption.

21 19. "Class I gaming" and "Class II gaming" means those forms  
22 of gaming that are not Class III gaming, as defined in  
23 subsections eight of section four of the federal Indian Gaming

1 Regulatory Act, 25 U.S.C. § 2703 and subsection 8 of this  
2 section.

3 20. "Class III gaming" means those forms of gaming that are  
4 not Class I or Class II gaming, as defined in subsections six  
5 and seven of section four of the federal Indian Gaming  
6 Regulatory Act, 25 U.S.C. § 2703 and those games enumerated in  
7 Appendix of a gaming compact.

8 21. "Compact" or "gaming compact" means the agreement between  
9 a Federally recognized Indian Tribe and the State of New York  
10 regarding class III gaming activities entered into pursuant to  
11 Indian Gaming Regulatory Act, Pub.L. 100-497, 102 Stat. 2467,  
12 codified at 25 U.S.C. §§ 2701-21 and 18 U.S.C. §§ 1166-68 (1988  
13 & Supp. II).

14 22. "Gaming activity" means any gambling activity, whether  
15 lawful or otherwise.

16 23. "Gaming equipment or device" means any machine or device  
17 which is specially designed or manufactured for use in the  
18 operation of any Class III or video lottery game.

19 24. "Gaming regulatory authority" means, with respect to any  
20 authorized gaming establishment on Indian lands, territory or  
21 reservation, the Indian nation or tribal gaming commission, its  
22 authorized officers, agents and representatives acting in their  
23 official capacities or such other agency of a nation or tribe as  
24 the nation or tribe may designate as the agency responsible for

1 the regulation of Class III gaming, jointly with the State  
2 gaming agency, conducted pursuant to a gaming compact between  
3 the nation or tribe and the State of New York, or with respect  
4 to any casino gaming authorized pursuant to article thirteen of  
5 the racing, pari-mutuel wagering and breeding law or video  
6 lottery gaming conducted pursuant to Part C, Chapter 383, Laws  
7 of 2001, as amended and implemented.

8 25. "Premises" includes any structure, parking lot, building,  
9 vehicle, watercraft, and any real property.

10 26. "Sell" means to sell, exchange, give or dispose of to  
11 another, or to offer or agree to do the same.

12 27. "State gaming agency" shall mean the New York state  
13 gaming commission, its authorized officials, agents, and  
14 representatives acting in their official capacities as the  
15 regulatory agency of the State which has responsibility for  
16 regulation with respect to video lottery gaming or casino  
17 gaming.

18 28. "Unfair gaming equipment" means loaded dice, marked  
19 cards, substituted cards or dice, fixed roulette wheels, visual  
20 devices, or any other device or equipment not in use at the  
21 outset of the contest of chance or not permitted by the rules of  
22 the gaming activity.

23 29. "Unlawful gaming property" means:

1 (a) any device, not prescribed for use in the gaming activity by  
2 its rules, which is capable of assisting a player  
3 (i) to calculate any probabilities material to the outcome of a  
4 contest of chance or  
5 (ii) to receive or transmit information material to the outcome  
6 a contest of chance;  
7 (b) any object or article which, by virtue of its size, shape or  
8 any other quality, is capable of being used in a gaming activity  
9 as an improper substitute for a genuine chip, cheque, token,  
10 betting coupon, debit instrument, voucher or other instrument or  
11 indicia of value; or  
12 (c) any unfair gaming equipment.

13 30. "Video lottery gaming" means any lottery game played on a  
14 video lottery terminal, which consists of multiple players  
15 competing for a chance to win a random drawn prize pursuant to  
16 Part C, Chapter 383, Laws of 2001, as amended and implemented.

17 31. "Voucher" means an instrument of value generated by a  
18 video lottery terminal representing a monetary amount and/or  
19 play value owed to a customer at a specific video lottery  
20 terminal based on video lottery gaming winnings and/or amounts  
21 not wagered.

22  
23 §4. Article 225 of the penal law is amended by adding twelve  
24 new sections, to read as follows:

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**225.55 Gaming fraud in the second degree**

A person is guilty of gaming fraud in the second degree when he or she:

1. commits a gaming fraud with intent to defraud and in violation of the rules of the gaming activity, misrepresents, changes or attempts to change the amount bet or wagered on, or the outcome or possible outcome of the contest or event which is the subject of the bet or wager, or the amount or frequency of payment in the gaming activity; or

2. with intent to defraud, obtains or attempts to obtain anything of value from a gaming activity without having won such amount by a bet or wager contingent thereon.

**225.60 Gaming fraud in the first degree**

A person is guilty of gaming fraud in the first degree when he or she commits a gaming fraud in the second degree and:

1. The value of the gaming fraud exceeds one thousand dollars; or

2. He or she concurrently uses or possesses unfair gaming property; or

3. He or she has been previously convicted within the preceding five years of any offense of which an essential element is the commission of a gaming fraud.

1 Gaming fraud in the first degree is a class E felony.

2  
3 **225.65 Use of counterfeit, unapproved or unlawful wagering**  
4 **instruments**

5 A person is guilty of use of counterfeit, unapproved or  
6 unlawful wagering instruments when in playing or using any  
7 gaming activity designed to be played with, received or be  
8 operated by chips, cheques, tokens, vouchers or other wagering  
9 instruments approved by the appropriate gaming regulatory  
10 authority, he or she knowingly uses chips, cheques, tokens,  
11 vouchers or other wagering instruments other than those approved  
12 by the appropriate gaming regulating authority and the State  
13 gaming agency or lawful coin or legal tender of the United  
14 States of America.

15 Possession of more than one counterfeit, unapproved or  
16 unlawful wagering instrument described in this section is  
17 presumptive evidence of possession thereof with knowledge of its  
18 character or contents.

19 Use of counterfeit, unapproved or unlawful wagering  
20 instruments is a class D felony.

21  
22 **225.70 Possession of unlawful gaming property in the third**  
23 **degree**

1 A person is guilty of possession of unlawful gaming property  
2 in the third degree when he or she knowingly possesses unlawful  
3 gaming property at a premises being used for gaming activity.

4 Possession of unlawful gaming property in the third degree is  
5 a class A misdemeanor.

6

7 **225.75 Possession of unlawful gaming property in the second**  
8 **degree**

9 A person is guilty of possession of unlawful gaming property  
10 in the second degree when:

11 1. He or she possesses, with intent to use, unlawful gaming  
12 property at a premises being used for gaming activity; or

13 2. He or she makes, sells, or possesses with intent to sell,  
14 any unlawful gaming property, with intent that it be made  
15 available to a person for unlawful use; or

16 3. He or she knowingly possesses unlawful gaming property and  
17 the face value of the improper substitute property exceeds one  
18 hundred dollars; or

19 4. He or she commits the offense of possession of unlawful  
20 gaming property in the third degree and has been previously  
21 convicted within the preceding five years of any offense of  
22 which an essential element is possession of unlawful gaming  
23 property.

1 Possession of unlawful gaming property in the second degree  
2 is a class E felony.

3

4 **225.80 Possession of unlawful gaming property in the first**  
5 **degree**

6 A person is guilty of possession of unlawful gaming property  
7 in the first degree when:

8 1. He or she knowingly possesses unlawful gaming property and  
9 the face value of the improper substitute property exceeds five  
10 hundred dollars; or

11 2. He or she commits the offense of possession of unlawful  
12 gaming property in the second degree as defined in subdivision  
13 one, two or three of section 225.75 of this article and has been  
14 previously convicted within the preceding five years of any  
15 offense of which an essential element is possession of unlawful  
16 gaming property.

17 Possession of unlawful gaming property in the second degree  
18 is a class D felony.

19

20 **225.85 Use of unlawful gaming property**

21 A person is guilty of use of unlawful gaming property when he  
22 or she knowingly uses unlawful gaming property at a premises  
23 being used for gaming activity.

24 Use of unlawful gaming property is a class D felony.

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**225.90 Manipulation of gaming outcomes at an authorized gaming establishment**

A person is guilty of manipulation of gaming outcomes at an authorized gaming establishment when he or she:

1. Knowingly conducts, operates, deals or otherwise manipulates, or knowingly allows to be conducted, operated, dealt or otherwise manipulated, cards, dice or gaming equipment or device, for themselves or for another, through any trick or sleight of hand performance, with the intent of deceiving or altering the elements of chance or normal random selection which determines the result or outcome of the game, or the amount or frequency of the payment in a game; or

2. Knowingly uses, conducts, operates, deals, or exposes for play, or knowingly allows to be used, conducted, operated, dealt or exposed for play any cards, dice or gaming equipment or device, or any combination of gaming equipment or devices, which have in any manner been altered, marked or tampered with, or placed in a condition, or operated in a manner, the result of which tends to deceive or tends to alter the elements of chance or normal random selection which determine the result of the game or outcome, or the amount or frequency of the payment in a game; or

1 3. Knowingly uses, or possesses with the intent to use, any  
2 cards, dice or other gaming equipment or devices other than that  
3 provided by an authorized gaming operator for current use in a  
4 permitted gaming activity.

5 4. Alters or misrepresents the outcome of a game or other  
6 event on which bets or wagers have been made after the outcome  
7 is made sure but before it is revealed to players.

8 Possession of altered, marked or tampered with dice, cards,  
9 or gaming equipment or devices at an authorized gambling  
10 establishment is presumptive evidence of possession thereof with  
11 knowledge of its character or contents and intention to use such  
12 altered, marked or tampered with dice, cards, or gaming  
13 equipment or devices in violation of this section.

14 Manipulation of gaming outcomes at an authorized gaming  
15 establishment is a class E felony.

16  
17 **225.95 Unlawful manufacture, sale, distribution, marking,**  
18 **altering or modification of equipment and devices**  
19 **associated with gaming**

20 A person is guilty of unlawful manufacture, sale,  
21 distribution, marking, altering or modification of equipment and  
22 devices associated with gaming when he or she:

23 1. Manufactures, sells or distributes any cards, chips,  
24 cheques, tokens, dice, vouchers, game or device and he or she

1 knew or reasonably should have known it was intended to be used  
2 to violate any provision of this article; or

3 2. Marks, alters or otherwise modifies any associated  
4 equipment or gaming device in a manner that either affects the  
5 result of the wager by determining win or loss or alters the  
6 normal criteria of random selection in a manner that affects the  
7 operation of a game or determines the outcome of a game, and he  
8 or she knew or reasonably should have known that it was intended  
9 to be used to violate any provision of this article.

10 Unlawful manufacture, sale, distribution, marking, altering  
11 or modification of equipment and devices associated with gaming  
12 is a class E felony.

13

14 **225.100 Unlawful instruction**

15 A person is guilty of unlawful instruction when he or she  
16 instructs another in cheating or in the use of any device for  
17 the purpose of cheating, with the knowledge or intent that the  
18 information or use so conveyed may be employed to violate any  
19 provision of this article.

20 Unlawful instruction is a class A misdemeanor.

21

22 **225.105 Employment or participation without a license,**  
23 **registration or certification**

1 A person is guilty of employment or participation without a  
2 license, registration or certification when, knowing his or her  
3 employment or business with the authorized gaming establishment  
4 requires obtaining a requisite license, registration or  
5 certification, he or she commences employment or business with  
6 the authorized gaming establishment without having first  
7 obtained the requisite license, registration or certification.

8 Employment or participation without a license, registration  
9 or certification is a class A misdemeanor.

10  
11 **225.120 Making false written statements regarding gaming**  
12 **licenses, registrations or certification**

13 A person is guilty of making a false written statement on a  
14 gaming license, registration or certification form when, during  
15 the course of attempting to secure a license, registration or  
16 certification required for employment at, or to do business  
17 with, an authorized gaming establishment, or renewal thereof, he  
18 or she knowingly makes a false statement in a written instrument  
19 bearing a legally authorized form notice to the effect that  
20 false statements made therein are punishable.

21 Making false written statements regarding gaming licenses,  
22 registrations or certification is a class E felony.

1 §5. Section 109-a of the racing, pari-mutuel wagering and  
2 breeding law is repealed and replaced with a new section to read  
3 as follows:

4 **§109-a Separate Board for Facility Siting**

5  
6 Should the commission elect to establish a separate board to  
7 perform designated functions under article thirteen of this  
8 chapter, the following provisions shall apply to the board:

9 1. The commission shall select the individual members of the  
10 board and name the chairman of the board. Each member of the  
11 board shall be a resident of the state of New York. No member of  
12 the legislature or person holding any elective or appointive  
13 office in federal, state or local government shall be eligible  
14 to serve as a member of the board.

15 2. Qualifications of members. Members of the board shall each  
16 possess no less than ten years of responsible experience in  
17 fiscal matters and shall have any one or more of the following  
18 qualifications:

19 a. significant service as an accountant economist, or financial  
20 analyst experienced in finance or economics;

21 b. significant service in an academic field relating to finance  
22 or economics;

23 c. significant service and knowledge of the commercial real  
24 estate industry; or

1 d. significant service as an executive with fiduciary  
2 responsibilities in charge of a large organization or  
3 foundation.

4 3. No member of the board:

5 a. may have an official relationship to a person that holds a  
6 license under this chapter;

7 b. may have any direct or indirect financial interest,  
8 ownership, or management, including holding any stocks, bonds,  
9 or other similar financial interests in any gaming activities,  
10 including horse racing, lottery or casino gambling;

11 c. may receive or share in, directly or indirectly, the receipts  
12 or proceeds of any gaming activities, including horse racing,  
13 lottery or casino gambling;

14 d. may have a beneficial interest in any contract for the  
15 manufacture or sale of gaming devices, the conduct of any gaming  
16 activity, or the provision of any independent consulting  
17 services in connection with any establishment licensed under  
18 this chapter.

19 4. Board members are entitled to actual and necessary  
20 expenses incurred in the discharge of their duties but may not  
21 receive compensation for their service on the board.

22 5. a. The commission shall provide staff to the board.

1 b. The board shall contract with an outside consultant to  
2 provide analysis of the gaming industry and to support the  
3 board's comprehensive review and evaluation of the applications  
4 submitted to the board for gaming facility licenses.

5 c. The board may contract with attorneys, accountants, auditors  
6 and financial and other experts to render necessary services.

7 d. All other state agencies shall cooperate with and assist the  
8 board in the fulfillment of its duties under this article and  
9 may render such services to the board within their respective  
10 functions as the board may reasonably request.

11 6. Utilizing the powers and duties prescribed for it by  
12 article thirteen of this title, the board shall select, through  
13 a competitive process consistent with provisions of article  
14 thirteen of this title, not more than three gaming casino  
15 licenses applicants. Such selectees shall be authorized to  
16 receive a casino gaming facility license, if found suitable by  
17 the commission. The board may select another applicant for  
18 authorization to be licensed as a gaming facility if a previous  
19 selectee fails to meet licensing thresholds, is revoked or  
20 surrenders a license opportunity.

21

1 §6. Subdivision two of section ninety-nine-h of the state  
2 finance law, as amended by section one of part V of chapter 59  
3 of the laws of 2006, is amended to read as follows:

4 2. Such account shall consist of all revenues resulting from  
5 tribal-state compacts executed pursuant to article two of the  
6 executive law, [and] a tribal-state compact with the St. Regis  
7 Mohawk tribe executed pursuant to chapter five hundred ninety of  
8 the laws of two thousand four and the Oneida Settlement  
9 Agreement referenced in section eleven of the executive law.

10

11 §7. Subdivision three of section ninety-nine h of the state  
12 finance law, as amended by section one of chapter seven hundred  
13 forty-seven of the laws of 2006, is amended to read as follows:

14 3. Moneys of the account, following appropriation by the  
15 legislature, shall be available for purposes including but not  
16 limited to: (a) reimbursements or payments to municipal  
17 governments that host tribal casinos pursuant to a tribal-state  
18 compact for costs incurred in connection with services provided  
19 to such casinos or arising as a result thereof, for economic  
20 development opportunities and job expansion programs authorized  
21 by the executive law; provided, however, that for any gaming  
22 facility located in the city of Buffalo, the city of Buffalo  
23 shall receive a minimum of twenty-five percent of the negotiated

1 percentage of the net drop from electronic gaming devices the  
2 state receives pursuant to the compact, and provided further  
3 that for any gaming facility located in the city of Niagara  
4 Falls, county of Niagara a minimum of twenty-five percent of the  
5 negotiated percentage of the net drop from electronic gaming  
6 devices the state receives pursuant to the compact shall be  
7 distributed in accordance with subdivision four of this section,  
8 and provided further that for any gaming facility located in the  
9 county or counties of Cattaraugus, Chautauqua or Allegany, the  
10 municipal governments of the state hosting the facility shall  
11 collectively receive a minimum of twenty-five percent of the  
12 negotiated percentage of the net drop from electronic gaming  
13 devices the state receives pursuant to the compact; and provided  
14 further that pursuant to chapter five hundred ninety of the laws  
15 of two thousand four, a minimum of twenty-five percent of the  
16 revenues received by the state pursuant to the state's compact  
17 with the St. Regis Mohawk tribe shall be made available to the  
18 counties of Franklin and St. Lawrence, and affected towns in  
19 such counties. Each such county and its affected towns shall  
20 receive fifty percent of the moneys made available by the state;  
21 and provided further that the State shall annually make twenty-  
22 five percent of the negotiated percentage of the net drop from  
23 all gaming devices the state receives pursuant to the Oneida  
24 Settlement Agreement confirmed by section eleven of the

1 executive law available to the county of Oneida, and a sum of  
2 three and one-half million dollars to the county of Madison.  
3 Additionally, the state shall distribute, for a period of  
4 nineteen and one-quarter years, an additional annual sum of two  
5 and one-half million dollars to the county of Oneida.  
6 Additionally, the state shall distribute the one-time eleven  
7 million dollar payment received by the state pursuant to the  
8 Oneida Settlement Agreement to the county of Madison by wire  
9 transfer upon receipt of such payment by the state; and (b)  
10 support and services of treatment programs for persons suffering  
11 from gambling addictions. Moneys not appropriated for such  
12 purposes shall be transferred to the general fund for the  
13 support of government during the fiscal year in which they are  
14 received.

15  
16 §8. Subdivision three of section ninety-nine h of the state  
17 finance law, as amended by section one of part QQ of chapter  
18 fifty-nine of the laws of 2009, is amended to read as follows:

19 3. Moneys of the account, following appropriation by the  
20 legislature, shall be available for purposes including but not  
21 limited to: (a) reimbursements or payments to municipal  
22 governments that host tribal casinos pursuant to a tribal-state  
23 compact for costs incurred in connection with services provided  
24 to such casinos or arising as a result thereof, for economic

1 development opportunities and job expansion programs authorized  
2 by the executive law; provided, however, that for any gaming  
3 facility located in the county of Erie or Niagara, the municipal  
4 governments hosting the facility shall collectively receive a  
5 minimum of twenty-five percent of the negotiated percentage of  
6 the net drop from electronic gaming devices the state receives  
7 pursuant to the compact and provided further that for any gaming  
8 facility located in the county or counties of Cattaraugus,  
9 Chautauqua or Allegany, the municipal governments of the state  
10 hosting the facility shall collectively receive a minimum of  
11 twenty-five percent of the negotiated percentage of the net drop  
12 from electronic gaming devices the state receives pursuant to  
13 the compact; and provided further that pursuant to chapter five  
14 hundred ninety of the laws of two thousand four, a minimum of  
15 twenty-five percent of the revenues received by the state  
16 pursuant to the state's compact with the St. Regis Mohawk tribe  
17 shall be made available to the counties of Franklin and St.  
18 Lawrence, and affected towns in such counties. Each such county  
19 and its affected towns shall receive fifty percent of the moneys  
20 made available by the state; and provided further that the State  
21 shall annually make twenty-five percent of the negotiated  
22 percentage of the net drop from all gaming devices the state  
23 receives pursuant to the Oneida Settlement Agreement confirmed  
24 by section eleven of the executive law available to the county

1 of Oneida, and a sum of three and one-half million dollars to  
2 the county of Madison. Additionally, the state shall  
3 distribute, for a period of nineteen and one-quarter years, an  
4 additional annual sum of two and one-half million dollars to the  
5 county of Oneida. Additionally, the state shall distribute the  
6 one-time eleven million dollar payment received by the state  
7 pursuant to the Oneida Settlement Agreement to the county of  
8 Madison by wire transfer upon receipt of such payment by the  
9 state; and (b) support and services of treatment programs for  
10 persons suffering from gambling addictions. Moneys not  
11 appropriated for such purposes shall be transferred to the  
12 general fund for the support of government during the fiscal  
13 year in which they are received.

14  
15 §9. Section ninety-nine h of the state finance law is amended  
16 by adding a new paragraph three-a to read as follows:

17 3-a. Ten percent of any of the funds received by the state  
18 pursuant to the tribal-state compacts and agreements described  
19 in paragraph 2 of this section that are retained in the fund  
20 after the distributions required by paragraph three of this  
21 section, but prior to the transfer of unsegregated moneys to the  
22 general fund required by that paragraph, shall be distributed to  
23 counties in each respective exclusivity zone provided they do

1 not otherwise receive a share of said revenues pursuant to this  
2 section. Such distribution shall be made among such counties on  
3 a per capita basis.

4  
5 §10. The state finance law is amended by adding a new section  
6 97-nnnn to read as follows:

7 **97-nnnn. Commercial gaming revenue fund**

8 1. There is hereby established in the joint custody of the  
9 comptroller and the commissioner of taxation and finance an  
10 account in the miscellaneous special revenue fund to be known as  
11 the "commercial gaming revenue fund".

12 2. Such account shall consist of all revenues from all taxes  
13 and fees imposed by article thirteen of the racing, pari-mutuel  
14 wagering and breeding law; any interest and penalties imposed by  
15 the New York state gaming commission relating to those taxes;  
16 the percentage of the value of expired gaming related  
17 obligations; and all penalties levied and collected by the  
18 commission. Additionally, the commission shall pay into the  
19 account any appropriate funds, cash or prizes forfeited from  
20 gambling activity.

21 3. Moneys of the account shall be available as follows,  
22 unless otherwise specified by the destination resort casino act  
23 of 2013, following appropriation by the legislature:

1 a. eighty percent of the moneys in such fund shall be  
2 appropriated or transferred only for elementary and secondary  
3 education.

4 Notwithstanding any provision of law to the contrary, amounts  
5 appropriated or transferred from the commercial gaming revenue  
6 fund shall not be included in: (i) the allowable growth amount  
7 computed pursuant to paragraph (dd) of subdivision one of  
8 section thirty-six hundred two of the education law, (ii) the  
9 preliminary growth amount computed pursuant to paragraph (ff) of  
10 subdivision one of section thirty-six hundred two of the  
11 education law, and (iii) the allocable growth amount computed  
12 pursuant to paragraph (gg) of subdivision one of section thirty-  
13 six hundred two of the education law.

14 b. ten percent of the moneys in such fund shall be appropriated  
15 or transferred from the commercial gaming revenue fund equally  
16 between the host municipality and host county.

17 c. ten percent of the moneys in such fund, as attributable to a  
18 specific licensed casino gaming facility, shall be appropriated  
19 or transferred from the commercial gaming revenue fund among  
20 counties within the region, as defined by section one thousand  
21 three hundred ten of the racing, pari-mutuel wagering and  
22 breeding law, hosting said facility for the purpose of real  
23 property tax relief and for education assistance. Such  
24 distribution shall be made among the counties on a per capita

1 basis, subtracting the population of host municipality and  
2 county.

3 4. Notwithstanding the foregoing, monies received pursuant  
4 to:

5 a. section one thousand three hundred forty-five and one  
6 thousand three hundred forty-eight of this article shall be  
7 exclusively appropriated to the office of alcohol and substance  
8 abuse services for problem gaming education and treatment  
9 purposes.  
10 b. section one thousand three hundred forty-nine of this article  
11 shall be exclusively appropriated to the commission for  
12 regulatory investigations.

13 c. section one thousand three hundred fifty of this article  
14 shall be exclusively appropriated to the commission for costs of  
15 regulation.

16 5. Moneys not appropriated for such purposes shall be  
17 transferred to the general fund for the support of government  
18 during the fiscal year in which they are received.

19  
20 §11. The penal law is amended by adding a new section 156.40  
21 to read as follows:

22 **156.40. Operating an unlawful electronic sweepstakes**

23 1. As used in this section the following words and terms  
24 shall have the following meanings:

1 a. "Electronic machine or device" means a mechanically,  
2 electrically or electronically operated machine or device that  
3 is owned, leased or otherwise possessed by a sweepstakes sponsor  
4 or promoter, or any sponsors, promoters, partners, affiliates,  
5 subsidiaries or contractors thereof; that is intended to be used  
6 by a sweepstakes entrant; that uses energy; and that is capable  
7 of displaying information on a screen or other mechanism;  
8 provided, that an electronic machine or device may, without  
9 limitation:  
10 i. be server-based;  
11 ii. use a simulated game terminal as a representation of the  
12 prizes associated with the results of the sweepstakes entries;  
13 iii. utilize software such that the simulated game influences or  
14 determines the winning or value of the prize;  
15 iv. select prizes from a predetermined finite pool of entries;  
16 v. utilize a mechanism that reveals the content of a  
17 predetermined sweepstakes entry;  
18 vi. predetermine the prize results and stores those results for  
19 delivery at the time the sweepstakes entry results are revealed;  
20 vii. utilize software to create a game result;  
21 viii. require deposit of any money, coin or token, or the use of  
22 any credit card, debit card, prepaid card or any other method of  
23 payment to activate the electronic machine or device;

1 ix. require direct payment into the electronic machine or  
2 device, or remote activation of the electronic machine or  
3 device;

4 x. require purchase of a related product having legitimate  
5 value;

6 xi. reveal the prize incrementally, even though it may not  
7 influence if a prize is awarded or the value of any prize  
8 awarded;

9 xii. determine and associate the prize with an entry or entries  
10 at the time the sweepstakes is entered; or

11 xiii. be a slot machine or other form of electrical, mechanical,  
12 or computer game;

13 b. "Enter" or "entry" means the act or process by which a person  
14 becomes eligible to receive any prize offered in a sweepstakes.

15 c. "Entertaining display" means any visual information, capable  
16 of being seen by a sweepstakes entrant, that takes the form of  
17 actual game play or simulated game play.

18 d. "Prize" means any gift, award, gratuity, good, service,  
19 credit or anything else of value, which may be transferred to a  
20 person, whether possession of the prize is actually transferred,  
21 or placed on an account or other record as evidence of the  
22 intent to transfer the prize.

23 e. "Sweepstakes" means any game, advertising scheme or plan, or  
24 other promotion, which, with or without payment of any

1 consideration, a person may enter to win or become eligible to  
2 receive any prize, the determination of which is based upon  
3 chance.

4 2. A person is guilty of operating an unlawful electronic  
5 sweepstakes when he or she knowingly possesses with the intent  
6 to operate, or place into operation, an electronic machine or  
7 device to:

8 a. conduct a sweepstakes through the use of an entertaining  
9 display, including the entry process or the reveal of a prize;  
10 or

11 b. promote a sweepstakes that is conducted through the use of an  
12 entertaining display, including the entry process or the reveal  
13 of a prize.

14 3. Nothing in this section shall be construed to make illegal  
15 any activity which is lawfully conducted as the New York state  
16 lottery for education as authorized by article thirty-four of  
17 the tax law; pari-mutuel wagering on horse races as authorized  
18 by articles two, three, four, five-a, and ten of the racing,  
19 pari-mutuel wagering and breeding law; the game of bingo as  
20 authorized pursuant to article fourteen-h of the general  
21 municipal law; games of chance as authorized pursuant to article  
22 nine-a of the general municipal law; gaming as authorized by  
23 article thirteen of the racing, pari-mutuel wagering and

1 breeding law; or pursuant to the federal Indian Gaming  
2 Regulatory Act.

3 Operating an unlawful sweepstakes is a class D felony.

4

5 §12. The legislature hereby finds that long-standing disputes  
6 between the Oneida Nation of New York and the State of New York,  
7 Madison County and Oneida County, have generated litigation in  
8 state and federal courts regarding property and other taxation,  
9 the status of Oneida Nation lands and transfer of such lands to  
10 the United States to be held in trust for the Oneida Nation, and  
11 that such litigation and disputes have caused decades of unrest  
12 and uncertainty for the citizens and residents of the Central  
13 New York region of this state. The legislature further finds  
14 that it is in the best interests of all citizens, residents and  
15 political subdivisions of this state to remove any uncertainty  
16 that such litigation or disputes have created regarding the  
17 title to and jurisdictional status of land within the state.  
18 The legislature recognizes that negotiated settlement of these  
19 disputes will facilitate a cooperative relationship between the  
20 state, the counties and the Oneida Nation. Therefore, the  
21 legislature declares that the following provisions are enacted  
22 to implement the settlement agreement that has been negotiated  
23 and executed by the governor on behalf of the people of this  
24 state.

1 § 13. Section eleven of the executive law is REPEALED and a  
2 new section eleven is added to read as follows:

3 §11. Indian settlement agreements. 1. Oneida settlement  
4 agreement. Notwithstanding any other provision of law, upon  
5 filing with the secretary of state, the settlement agreement  
6 executed between the governor, the counties of Oneida and  
7 Madison, and the Oneida Nation of New York and dated the  
8 sixteenth day of May, two thousand thirteen, to be known as the  
9 Oneida Settlement Agreement, including, without limitation, the  
10 provisions contained therein relating to arbitration and  
11 judicial review in state or federal courts and, for the sole  
12 purpose thereof, a limited waiver of the state's Eleventh  
13 Amendment sovereign immunity from suit, shall upon its effective  
14 date be deemed approved, ratified, validated and confirmed by  
15 the legislature. It is the intention of the legislature in  
16 enacting this section to ensure that the settlement agreement  
17 shall be fully enforceable in all respects as to the rights,  
18 benefits, responsibilities and privileges of all parties  
19 thereto.

20 §14. Notwithstanding any inconsistent provision of law, the  
21 Nation-State compact entered into by the State on April 16, 1993  
22 and approved by the United States Department of the Interior on  
23 June 4, 1993, which approval was published at 58 Fed. Reg. 33160

1 (June 15, 1993), is deemed ratified, validated and confirmed  
2 nunc pro tunc by the legislature.

3 §15. Sections two and three of the indian law are designated  
4 as sections three and four, respectively, and a new section two  
5 is added to read as follows:

6 § 2. New York State Indian nations and tribes. The term  
7 "Indian nation or tribe" means one of the following New York  
8 state Indian nations or tribes: Cayuga Nation, Oneida Nation of  
9 New York, Onondaga Nation, Poospatuck or Unkechauge Nation,  
10 Saint Regis Mohawk Tribe, Seneca Nation of Indians, Shinnecock  
11 Indian Nation, Tonawanda Band of Seneca and Tuscarora Nation.

12 §16. The indian law is amended by adding a new section sixteen  
13 to read as follows:

14 § 16. Indian settlement agreements. Notwithstanding any other  
15 provision of law, the provisions of the Oneida Settlement  
16 Agreement referenced in section eleven of the executive law  
17 shall be deemed to supersede any inconsistent laws and  
18 regulations.

19 §17. Subdivision eighteen of section two hundred eighty-two of  
20 the Tax law is amended to read as follows:

21 18. "Indian nation or tribe" means one of the following New  
22 York state Indian nations or tribes: Cayuga [~~Indian~~] Nation [~~of~~  
23 ~~New York~~], Oneida [~~Indian~~] Nation of New York, Onondaga Nation  
24 [~~of Indians~~], Poospatuck or Unkechauge Nation, [~~St.~~] Saint Regis

1 Mohawk Tribe, Seneca Nation of Indians, Shinnecock Indian Nation  
2 [~~Tribe~~], Tonawanda Band of Seneca[~~s~~] and Tuscarora Nation [~~of~~  
3 ~~Indians~~].

4 §18. Subdivision fourteen of section four hundred seventy of  
5 the Tax law is amended to read as follows:

6 14. "Indian nation or tribe" means one of the following New  
7 York state Indian nations or tribes: Cayuga [~~Indian~~] Nation [~~of~~  
8 ~~New York~~], Oneida [~~Indian~~] Nation of New York, Onondaga Nation  
9 ~~of Indians~~], Poospatuck or Unkechaugue Nation, [~~St.~~] Saint Regis  
10 Mohawk Tribe, Seneca Nation of Indians, Shinnecock Indian Nation  
11 [~~Tribe~~], Tonawanda Band of Seneca[~~s~~] and Tuscarora Nation[~~of~~  
12 ~~Indians~~].

13

14 §19. Subdivision a of section 1617-a of the tax law, is  
15 amended to read as follows:

16 § 1617-a. Video lottery gaming. a. The division of the  
17 lottery is hereby authorized to license, pursuant to rules and  
18 regulations to be promulgated by the division of the lottery,  
19 the operation of video lottery gaming:

20 (1) at Aqueduct, Monticello, Yonkers, Finger Lakes, and Vernon  
21 Downs racetracks,

1 (2) at any other racetrack licensed pursuant to article three of  
2 the racing, pari-mutuel wagering and breeding law that are  
3 located in a county or counties in which video lottery gaming  
4 has been authorized pursuant to local law, excluding the  
5 licensed racetrack commonly referred to in article three of the  
6 racing, pari-mutuel wagering and breeding law as the "New York  
7 state exposition" held in Onondaga county and the racetracks of  
8 the non-profit racing association known as Belmont Park  
9 racetrack and the Saratoga thoroughbred racetrack,  
10 (3) at a maximum of two facilities established, pursuant to a  
11 competitive process to be determined by the state gaming  
12 commission within region six of zone two as established by  
13 section one thousand three hundred ten of the racing, pari-  
14 mutuel wagering and breeding law. The facilities authorized  
15 pursuant to this paragraph shall be deemed vendors for all  
16 purposes under this article, and need not be operated by  
17 licensed thoroughbred or harness racing associations or  
18 corporations.

19 Such rules and regulations shall provide, as a condition of  
20 licensure, that racetracks to be licensed are certified to be in  
21 compliance with all state and local fire and safety codes, that  
22 the division is afforded adequate space, infrastructure, and  
23 amenities consistent with industry standards for such video

1 gaming operations as found at racetracks in other states, that  
2 racetrack employees involved in the operation of video lottery  
3 gaming pursuant to this section are licensed by the racing and  
4 wagering board, and such other terms and conditions of licensure  
5 as the division may establish. Notwithstanding any inconsistent  
6 provisions of law, video lottery gaming as authorized pursuant  
7 to this section shall be deemed an approved activity for such  
8 facility under the relevant city, county, town, or village land  
9 use or zoning ordinances, rules, or regulations. No entity  
10 licensed by the division operating video lottery gaming pursuant  
11 to this section may house such gaming activity in a structure  
12 deemed or approved by the division as "temporary" for a duration  
13 of longer than eighteen-months. Nothing in this section shall  
14 prohibit the division from licensing an entity to operate video  
15 lottery gaming at an existing racetrack as authorized in this  
16 subdivision whether or not a different entity is licensed to  
17 conduct horse racing and pari-mutuel wagering at such racetrack  
18 pursuant to article two or three of the racing, pari-mutuel  
19 wagering and breeding law.

20 The division, in consultation with the racing and wagering  
21 board, shall establish standards for approval of the temporary  
22 and permanent physical layout and construction of any facility  
23 or building devoted to a video lottery gaming operation. In

1 reviewing such application for the construction or  
2 reconstruction of facilities related or devoted to the operation  
3 or housing of video lottery gaming operations, the division, in  
4 consultation with the racing and wagering board, shall ensure  
5 that such facility:

6 (1) possesses superior consumer amenities and conveniences to  
7 encourage and attract the patronage of tourists and other  
8 visitors from across the region, state, and nation.

9 (2) has adequate motor vehicle parking facilities to satisfy  
10 patron requirements.

11 (3) for racetrack facilities, has a physical layout and location  
12 that facilitates access to and from the horse racing track  
13 portion of such facility to encourage patronage of live horse  
14 racing events that are conducted at such track.

15

16 §20. A new clause H-1 is added to subparagraph (ii) of  
17 paragraph 1 of subdivision b of section 1612 of the tax law, to  
18 read as follows:

19 H-1. Notwithstanding clauses (A), (B), (C), (D), (E), (F) and  
20 (G) and (H) of this subparagraph where the vendor is authorized  
21 pursuant to paragraph three of subdivision a. of section sixteen  
22 hundred seventeen-a of this article, at a rate of forty per cent

1 of the total revenue wagered at the facility after payout for  
2 prizes. All facilities authorized pursuant to paragraph three of  
3 subdivision a. of section sixteen hundred seventeen-a of this  
4 article shall not be eligible for any vendor's capital award but  
5 are entitled to the vendor's marketing allowance of ten percent  
6 authorized by subparagraph iii of this paragraph. Facilities  
7 authorized by paragraph three of subdivision a. of section  
8 sixteen hundred seventeen-a of this article shall pay (i) nine  
9 percent of the total wagered after payout for prizes to be split  
10 equally to the two nearest licensed racing corporations and  
11 associations within region six of zone two as established by  
12 section one thousand three hundred ten of the racing, pari-  
13 mutuel wagering and breeding law. Half of the funds received by  
14 licensed racing associations and corporations shall be utilized  
15 for the support of purses at such facilities and (ii) one  
16 percent of the total wagered after payout of prizes split  
17 equally between the New York state thoroughbred breeding and  
18 development fund established pursuant to section two hundred  
19 fifty-two of the racing, pari-mutuel wagering and breeding law  
20 and the agriculture and New York state horse breeding  
21 development fund established pursuant to section three hundred  
22 thirty of the racing, pari-mutuel wagering and breeding law.

23

1 §21. Section 54-1 of the state finance law is amended to read  
2 as follows:

3 State assistance to eligible cities and eligible municipalities  
4 in which a video lottery gaming facility is located.

5 1. Definitions. When used in this section, unless otherwise  
6 expressly stated:

7 a. "Eligible city" shall mean a city with a population equal to  
8 or greater than one hundred twenty-five thousand and less than  
9 one million in which a video lottery gaming facility is located  
10 and operating as of January first, two thousand nine pursuant to  
11 section sixteen hundred seventeen-a of the tax law.

12 b. "Eligible municipality" shall mean a county, city, town or  
13 village in which a video lottery gaming facility is located  
14 pursuant to section sixteen hundred seventeen-a of the tax law  
15 that is not located in a city with a population equal to or  
16 greater than one hundred twenty-five thousand.

17 c. "Newly eligible city" shall mean a city with a population  
18 equal to or greater than one hundred twenty-five thousand and  
19 less than one million in which a video lottery gaming facility  
20 pursuant to section sixteen hundred seventeen-a of the tax law  
21 is located and which was not operating as of January first, two  
22 thousand thirteen

1 d. "Newly eligible municipality "shall mean a county, city, town  
2 or village in which a video lottery gaming facility is located  
3 pursuant to section sixteen hundred seventeen-a of the tax law  
4 that is not located in a city with a population equal to or  
5 greater than one hundred twenty-five thousand and which was not  
6 operating as of January first two thousand thirteen.

7 e. "Estimated net machine income" shall mean the estimated full  
8 annual value of total revenue wagered after payout for prizes  
9 for games known as video lottery gaming as authorized under  
10 article thirty-four of the tax law during the state fiscal year  
11 in which state aid payments are made pursuant to subdivision two  
12 of this section.

13 2. a. Within the amount appropriated therefor, an eligible  
14 city shall receive an amount equal to the state aid payment  
15 received in the state fiscal year commencing April first, two  
16 thousand eight from an appropriation for aid to municipalities  
17 with video lottery gaming facilities.

18 b. Within the amounts appropriated therefor, eligible  
19 municipalities shall receive an amount equal to fifty-five  
20 percent of the state aid payment received in the state fiscal  
21 year commencing April first, two thousand eight from an  
22 appropriation for aid to municipalities with video lottery  
23 gaming facilities.

1 c. A newly eligible city shall receive a state aid payment equal  
2 to two percent of the "estimated net machine income" generated  
3 by a video lottery gaming facility located in such eligible  
4 city. Such state aid payment shall not exceed twenty million  
5 dollars per eligible city.

6 d. A newly eligible municipality shall receive a state aid  
7 payment equal to two percent of the "estimated net machine  
8 income" generated by a video lottery gaming facility located  
9 within such newly eligible municipality as follows: (i) twenty-  
10 five percent shall be apportioned and paid to the county; and  
11 (ii) seventy-five percent shall be apportioned and paid on a pro  
12 rata basis to eligible municipalities, other than the county,  
13 based upon the population of such eligible municipalities. Such  
14 state aid payment shall not exceed twenty-five percent of an  
15 eligible municipality's total expenditures as reported in the  
16 statistical report of the comptroller in the preceding state  
17 fiscal year pursuant to section thirty-seven of the general  
18 municipal law.

19 3. a. State aid payments made to an eligible city or to a newly  
20 eligible city pursuant to paragraphs a and c of subdivision two  
21 of this section shall be used to increase support for public  
22 schools in such city.

1 b. State aid payments made to eligible municipalities and newly  
2 eligible municipalities pursuant to paragraphs b and d of  
3 subdivision two of this section shall be used by such  
4 municipalities to: (i) defray local costs associated with a  
5 video lottery gaming facility, or (ii) minimize or reduce real  
6 property taxes.

7 4. Payments of state aid pursuant to this section shall be  
8 made on or before June thirtieth of each state fiscal year to  
9 the chief fiscal officer of each eligible city and each eligible  
10 municipality on audit and warrant of the state comptroller out  
11 of moneys appropriated by the legislature for such purpose to  
12 the credit of the local assistance fund in the general fund of  
13 the state treasury.

14

15 §22. Effective date. This act shall take effect on the  
16 first of January next succeeding the date upon which casino  
17 gambling facilities are authorized by amendment to subdivision  
18 one of section nine of article one of the state constitution;  
19 excepting sections six, seven, fourteen and sixteen of this act  
20 shall take effect upon the effective date of the Agreement  
21 between the Oneida Nation of New York and the State of New York  
22 entered into on the sixteenth of May, two thousand thirteen; and  
23 further excepting that sections one, three, four, eleven,

1 twelve, thirteen, fifteen, seventeen and eighteen shall be  
2 effective immediately.

3 Notwithstanding the foregoing, sections nineteen, twenty,  
4 and twenty-one of this act, shall only be effective in the event  
5 that an amendment to the constitution to authorize casino  
6 gambling is defeated and the commission determines that a  
7 tribal-state compact between the Seneca Nation of Indians and  
8 the State is not in good standing.

9 Notwithstanding the foregoing, section one thousand three  
10 hundred sixty-eight as added by section two of this act shall be  
11 effective upon change in federal law authorizing such activity  
12 or upon ruling of a court of competent jurisdiction that such  
13 activity is lawful, and section eight of this act shall take  
14 effect upon the effective date of the Agreement between the  
15 Oneida Nation of New York and the State of New York entered into  
16 on the sixteenth of May, two thousand thirteen or on the thirty-  
17 first of December, two thousand sixteen, whichever is later.

