

PROGRAM BILL #34

S. Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed, and when printed to be committed to the Committee on

A. Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the Committee on

\*RACPMWLA\*

(Amends commercial gaming bill, as proposed in S. 5883 and A. 8101, to make provisions relating to casino gaming expenditures take effect immediately; repealer)

RWB. casino expdtr: effective dat

AN ACT

to amend the racing, pari-mutuel wagering and breeding law, the penal law and the tax law, in relation to commercial gaming; to amend a chapter of the laws of 2013 amending the racing, pari-mutuel wagering and breeding law and other laws relating to commercial gaming, as proposed in legislative bill numbers S. 5883 and A. 8101, in relation to the effective date of certain provisions

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship of this proposal:

- s20 Adams s17 Felder s63 Kennedy s25 Montgomery s23 Savino
s15 Addabbo s02 Flanagan s34 Klein s54 Nozzolio s29 Serrano
s11 Avella s08 Fuschillo s28 Krueger s55 O'Brien s51 Seward
s40 Ball s59 Gallivan s24 Lanza s58 O'Mara s09 Skelos
s42 Bonacic s12 Gianaris s39 Larkin s21 Parker s14 Smith
s04 Boyle s41 Gipson s37 Latimer s13 Peralta s26 Squadron
s44 Breslin s22 Golden s01 LaValle s30 Perkins s16 Stavisky
s38 Carlucci s47 Griffo s52 Libous s61 Ranzenhofer s35 Stewart-
s50 DeFrancisco s60 Grisanti s45 Little s48 Ritchie Cousins
s32 Diaz s06 Hannon s05 Marcellino s33 Rivera s46 Tkaczyk
s18 Dilan s36 Hassell- s43 Marchione s56 Robach s53 Valesky
s31 Espaillat Thompson s07 Martins s19 Sampson s57 Young
s49 Farley s27 Hoylman s62 Maziarz s10 Sanders s03 Zeldin

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the multi-sponsorship of this proposal:

- a049 Abbate a081 Dinowitz a135 Johns a133 Nojay a140 Schimminger
a092 Abinanti a147 DiPietro a113 Jordan a037 Nolan a087 Sepulveda
a084 Arroyo a115 Duprey a094 Katz a130 Oaks a065 Silver
a035 Aubry a004 Englebright a074 Kavanagh a069 O'Donnell a027 Simanowitz
a120 Barclay a054 Espinal a142 Kearns a051 Ortiz a036 Simotas
a106 Barrett a109 Fahy a076 Kellner a091 Otis a104 Skartados
a060 Barron a071 Farrell a040 Kim a132 Palmesano a099 Skoufis
a082 Benedetto a126 Finch a131 Kolb a088 Paulin a022 Solages
a117 Blankenbush a008 Fitzpatrick a105 Lalor a141 Peoples- a114 Stec
a062 Borelli a124 Friend a013 Lavine Stokes a110 Steck
a055 Boyland a143 Gabryszak a050 Lentol a058 Perry a079 Stevenson
a026 Braunstein a095 Galef a125 Lifton a089 Pretlow a127 Stirpe
a044 Brennan a137 Gantt a102 Lopez, P. a073 Quart a011 Sweeney
a119 Brindisi a007 Garbarino a123 Lupardo a019 Ra a112 Tedisco
a138 Bronson a077 Gibson a010 Lupinacci a098 Rabbitt a101 Tenney
a046 Brook-Krasny a148 Giglio a121 Magee a012 Raia a001 Thiele
a093 Buchwald a080 Gjonaj a129 Magnarelli a006 Ramos a061 Titone
a118 Butler a066 Glick a059 Maisel a134 Reilich a031 Titus
a103 Cahill a023 Goldfeder a064 Malliotakis a078 Rivera a146 Walter
a043 Camara a150 Goodell a030 Markey a128 Roberts a041 Weinstein
a145 Ceretto a075 Gottfried a090 Mayer a056 Robinson a020 Weisenberg
a033 Clark a005 Graf a108 McDonald a068 Rodriguez a024 Weprin
a047 Colton a100 Gunther a014 McDonough a072 Rosa a070 Wright
a032 Cook a139 Hawley a017 McKeivitt a067 Rosenthal a096 Zebrowski
a144 Corwin a083 Heastie a107 McLaughlin a025 Rozic a002
a085 Crespo a003 Hennessey a038 Miller a116 Russell a053
a122 Crouch a028 Hevesi a052 Millman a149 Ryan a086
a021 Curran a048 Hikind a015 Montesano a009 Saladino
a063 Cusick a018 Hooper a136 Morelle a111 Santabarbara
a045 Cymbrowitz a042 Jacobs a057 Mosley a029 Scarborough
a034 DenDekker a097 Jaffee a039 Moya a016 Schimel

1) Single House Bill (introduced and printed separately in either or both houses). Uni-Bill (introduced simultaneously in both houses and printed as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed copies of bill and 4 copies of memorandum in support (single house); or 4 signed copies of bill and 8 copies of memorandum in support (uni-bill).

thereof; to repeal certain provisions of the racing, pari-mutuel wagering and breeding law relating to the tribes that have gaming compacts with the state; and to repeal certain provisions of the tax law relating to disposition of revenues

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

1 Section 1. Subdivisions 9 and 15 of section 1300 of the racing, pari-  
2 mutuel wagering and breeding law, as added by section 2 of a chapter of  
3 the laws of 2013 amending the racing, pari-mutuel wagering and breeding  
4 law and other laws relating to commercial gaming, as proposed in legis-  
5 lative bill numbers S. 5883 and A. 8101, are REPEALED, and subdivisions  
6 10, 11, 12, 13, 14 and 16 are renumbered subdivisions 9, 10, 11, 12, 13  
7 and 14.

8 § 2. Subdivision 5 of section 1306 of the racing, pari-mutuel wagering  
9 and breeding law, as added by section 2 of a chapter of the laws of 2013  
10 amending the racing, pari-mutuel wagering and breeding law and other  
11 laws relating to commercial gaming, as proposed in legislative bill  
12 numbers S.5883 and A.8101, is REPEALED, and subdivisions 6, 7, 8, 9, 10  
13 and 11 are renumbered subdivisions 5, 6, 7, 8, 9 and 10.

14 § 3. Subdivision 15 of section 225.00 of the penal law, as added by  
15 section 3 of a chapter of the laws of 2013 amending the racing, pari-mu-  
16 tuel wagering and breeding law and other laws relating to commercial  
17 gaming, as proposed in legislative bill numbers S. 5883 and A. 8101, is  
18 amended to read as follows:

19 15. "Casino gaming" means games authorized to be played pursuant to a  
20 license granted under article thirteen of the racing, pari-mutuel wager-  
21 ing and breeding law or by federally recognized Indian nations or tribes  
22 pursuant to a [valid] gaming compact reached in accordance with the  
23 federal Indian Gaming Regulatory Act of 1988, Pub. L. 100-497, 102 Stat.  
24 2467, codified at 25 U.S.C. §§ 2701-21 and 18 U.S.C. §§ 1166-68.

25 § 4. Subdivision (f) of section 52 of a chapter of the laws of 2013  
26 amending the racing, pari-mutuel wagering and breeding law and other  
27 laws relating to commercial gaming, as proposed in legislative bill

1 numbers S. 5883 and A. 8101, is amended and a new subdivision (a-1) is  
2 added to read as follows:

3 (a-1) notwithstanding subdivision (a) of this section, section 1330-a  
4 of the racing, pari-mutuel wagering and breeding law, as added by  
5 section two of this act, shall take effect immediately;

6 (f) [section forty] sections forty-three through [forty-eight] fifty-  
7 one of this act shall take effect January 1, 2014; except that the New  
8 York state gaming commission may accept and review applications for  
9 licenses for account wagering and for multi-jurisdictional account  
10 wagering providers commencing on October 1, 2013.

11 § 5. The opening paragraph, the second, fourth, fifth undesignated  
12 paragraphs and the opening paragraph of the 7th undesignated paragraph  
13 of clause (G) of subparagraph (ii) of paragraph 1 of subdivision b of  
14 section 1612 of the tax law, as amended by section 40 of a chapter of  
15 the laws of 2013 amending the racing, pari-mutuel wagering and breeding  
16 law and other laws relating to commercial gaming, as proposed in legis-  
17 lative bill numbers S. 5883 and A. 8101, are amended to read as follows:

18 notwithstanding clauses (A), (B), (C), (D), (E) and (F) of this  
19 subparagraph, when no more than one vendor track located in the town of  
20 Thompson in Sullivan county at the site of the former Concord Resort at  
21 which a qualified capital investment has been made and no fewer than one  
22 thousand full-time, permanent employees have been newly hired, is  
23 located in Sullivan county and is within sixty miles from any gaming  
24 facility in a contiguous state, then for a period of forty years the  
25 vendor's fee shall equal the total revenue wagered at the vendor track  
26 after payout of prizes pursuant to this subdivision reduced by the  
27 greater of (i) twenty-five percent of total revenue after payout for  
28 prizes for "video lottery games" or (ii) for the first eight years of

1 operation thirty-eight million dollars, and beginning in the ninth year  
2 of operation such amount shall increase annually by the lesser of the  
3 increase in the consumer price index or two percent, plus seven percent  
4 of total revenue after payout of prizes. In addition, in the event the  
5 vendor fee is calculated pursuant to subclause (i) of this clause, the  
6 vendor's fee shall be further reduced by 11.11 percent of the amount by  
7 which total revenue after payout for prizes exceeds two hundred fifteen  
8 million dollars, but in no event shall such reduction exceed five  
9 million dollars. [Provided, further, no vendor is eligible for the  
10 vendor's fee described in this clause who operates or invests in or  
11 owns, in whole or in part, another vendor license or is licensed as a  
12 vendor track that currently receives a vendor fee for the operation of  
13 video lottery gaming pursuant to this article.]

14 Provided, however, that in the case of [a resort facility] no more  
15 than one vendor track located in the town of Thompson in Sullivan county  
16 at the site of the former Concord Resort with a qualified capital  
17 investment, and one thousand full-time, permanent employees if at any  
18 time after three years of opening operations of the licensed video  
19 gaming facility or licensed vendor track, the [resort facility] vendor  
20 track experiences an employment shortfall, then the recapture amount  
21 shall apply, for only such period as the shortfall exists.

22 For the purposes of this section, "full-time, permanent employee"  
23 shall mean an employee who has worked at the video gaming facility,  
24 vendor track or related and adjacent facilities for a minimum of thir-  
25 ty-five hours per week for not less than four consecutive weeks and who  
26 is entitled to receive the usual and customary fringe benefits extended  
27 to other employees with comparable rank and duties; or two part-time  
28 employees who have worked at the video gaming facility, vendor track or

1 related and adjacent facilities for a combined minimum of thirty-five  
2 hours per week for not less than four consecutive weeks and who are  
3 entitled to receive the usual and customary fringe benefits extended to  
4 other employees with comparable rank and duties.

5 For the purpose of this section "employment goal" shall mean one thou-  
6 sand five hundred full-time permanent employees after three years of  
7 opening operations of the licensed video gaming facility or licensed  
8 vendor track.

9 For the purposes of this section "recapture amount" shall mean the  
10 difference between the amount of the vendor's fee paid to a vendor track  
11 with a qualified capital investment, and the vendor fee otherwise paya-  
12 ble to a vendor track pursuant to clause (F) of this subparagraph, that  
13 is reimbursable by the vendor track to the division for payment into the  
14 state treasury, to the credit of the state lottery fund created by  
15 section ninety-two-c of the state finance law, due to an employment  
16 shortfall pursuant to the following schedule only for the period of the  
17 employment shortfall:

18 § 6. Clause (H) of subparagraph (ii) of paragraph 1 of subdivision b  
19 of section 1612 of the tax law, as added by section 40 of a chapter of  
20 the laws of 2013 amending the racing, pari-mutuel wagering and breeding  
21 law and other laws relating to commercial gaming, as proposed in legis-  
22 lative bill numbers S. 5883 and A. 8101, is REPEALED.

23 § 7. Clauses (I) and (J) of subparagraph (ii) of paragraph 1 of subdi-  
24 vision b of section 1612 of the tax law, as added by section 40 of a  
25 chapter of the laws of 2013 amending the racing, pari-mutuel wagering  
26 and breeding law and other laws relating to commercial gaming, as  
27 proposed in legislative bill numbers S. 5883 and A. 8101, are amended to  
28 read as follows:

1    ~~[(I)]~~ (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) [,] and  
2    ~~[(G-1)]~~ (G) of this subparagraph, the track operator of a vendor track  
3 shall be eligible for a vendor's capital award of up to four percent of  
4 the total revenue wagered at the vendor track after payout for prizes  
5 pursuant to this chapter, which shall be used exclusively for capital  
6 project investments to improve the facilities of the vendor track which  
7 promote or encourage increased attendance at the video lottery gaming  
8 facility including, but not limited to hotels, other lodging facilities,  
9 entertainment facilities, retail facilities, dining facilities, events  
10 arenas, parking garages and other improvements that enhance facility  
11 amenities; provided that such capital investments shall be approved by  
12 the division, in consultation with the state racing and wagering board,  
13 and that such vendor track demonstrates that such capital expenditures  
14 will increase patronage at such vendor track's facilities and increase  
15 the amount of revenue generated to support state education programs. The  
16 annual amount of such vendor's capital awards that a vendor track shall  
17 be eligible to receive shall be limited to two million five hundred  
18 thousand dollars, except for Aqueduct racetrack, for which there shall  
19 be no vendor's capital awards. Except for tracks having less than one  
20 thousand one hundred video gaming machines, each track operator shall be  
21 required to co-invest an amount of capital expenditure equal to its  
22 cumulative vendor's capital award. For all tracks, except for Aqueduct  
23 racetrack, the amount of any vendor's capital award that is not used  
24 during any one year period may be carried over into subsequent years  
25 ending before April first, two thousand fourteen. Any amount attribut-  
26 able to a capital expenditure approved prior to April first, two thou-  
27 sand fourteen and completed before April first, two thousand sixteen  
28 shall be eligible to receive the vendor's capital award. In the event

1 that a vendor track's capital expenditures, approved by the division  
2 prior to April first, two thousand fourteen and completed prior to April  
3 first, two thousand sixteen, exceed the vendor track's cumulative capi-  
4 tal award during the five year period ending April first, two thousand  
5 fourteen, the vendor shall continue to receive the capital award after  
6 April first, two thousand fourteen until such approved capital expendi-  
7 tures are paid to the vendor track subject to any required co-invest-  
8 ment. In no event shall any vendor track that receives a vendor fee  
9 pursuant to clause (F) or (G) of this subparagraph be eligible for a  
10 vendor's capital award under this section. Any operator of a vendor  
11 track which has received a vendor's capital award, choosing to divest  
12 the capital improvement toward which the award was applied, prior to the  
13 full depreciation of the capital improvement in accordance with general-  
14 ly accepted accounting principles, shall reimburse the state in amounts  
15 equal to the total of any such awards. Any capital award not approved  
16 for a capital expenditure at a video lottery gaming facility by April  
17 first, two thousand fourteen shall be deposited into the state lottery  
18 fund for education aid; and

19 [(J)] (I) Notwithstanding any provision of law to the contrary, free  
20 play allowance credits authorized by the division pursuant to subdivi-  
21 sion f. of section sixteen hundred seventeen-a of this article shall not  
22 be included in the calculation of the total amount wagered on video  
23 lottery games, the total amount wagered after payout of prizes, the  
24 vendor fees payable to the operators of video lottery facilities,  
25 vendor's capital awards, fees payable to the division's video lottery  
26 gaming equipment contractors, or racing support payments.

27 § 8. Subparagraph (iii) of paragraph 1 of subdivision b of section  
28 1612 of the tax law, as added by section 40 of a chapter of the laws of

1 2013 amending the racing, pari-mutuel wagering and breeding law and  
2 other laws relating to commercial gaming, as proposed in legislative  
3 bill numbers S. 5883 and A. 8101, is amended to read as follows:

4 (iii) less an additional vendor's marketing allowance at a rate of ten  
5 percent for the first one hundred million dollars annually and eight  
6 percent thereafter of the total revenue wagered at the vendor track  
7 after payout for prizes to be used by the vendor track for the marketing  
8 and promotion and associated costs of its video lottery gaming oper-  
9 ations and pari-mutuel horse racing operations, as long as any such  
10 costs associated with pari-mutuel horse racing operations simultaneously  
11 encourage increased attendance at such vendor's video lottery gaming  
12 facilities, consistent with the customary manner of marketing comparable  
13 operations in the industry and subject to the overall supervision of the  
14 division; provided, however, that the additional vendor's marketing  
15 allowance shall not exceed eight percent in any year for any operator of  
16 a racetrack located in the county of Westchester or Queens; provided,  
17 however, a vendor track that receives a vendor fee pursuant to clause  
18 (G) of subparagraph (ii) of this paragraph shall not receive the addi-  
19 tional vendor's marketing allowance provided, however, a vendor that  
20 receives a vendor fee pursuant to clause (G-1) of subparagraph (ii) of  
21 this paragraph shall receive an additional marketing allowance at a rate  
22 of ten percent of the total revenue wagered at the video lottery gaming  
23 facility after payout for prizes. [the division shall ensure the maxi-  
24 mum lottery support for education while also ensuring the effective  
25 implementation of section sixteen hundred seventeen-a of this article  
26 through the provision of reasonable reimbursements and compensation to  
27 vendor tracks for participation in such program. Within twenty days  
28 after any award of lottery prizes, the division shall pay into the state

1 treasury, to the credit of the state lottery fund, the balance of all  
2 moneys received from the sale of all tickets for the lottery in which  
3 such prizes were awarded remaining after provision for the payment of  
4 prizes as herein provided. Any revenues derived from the sale of adver-  
5 tising on lottery tickets shall be deposited in the state lottery fund.]

6 § 9. The opening paragraph of paragraph 2 of subdivision b of section  
7 1612 of the tax law, as added by section 40 of a chapter of the laws of  
8 2013 amending the racing, pari-mutuel wagering and breeding law and  
9 other laws relating to commercial gaming, as proposed in legislative  
10 bill numbers S. 5883 and A. 8101, is amended to read as follows:

11 As consideration for the operation of a video lottery gaming facility,  
12 the division, shall cause the investment in the racing industry of a  
13 portion of the vendor fee received pursuant to paragraph one of this  
14 subdivision in the manner set forth in this subdivision. With the  
15 exception of Aqueduct racetrack or a facility in the county of Nassau or  
16 Suffolk operated by a corporation established pursuant to section five  
17 hundred two of the racing, pari-mutuel wagering and breeding law [or a  
18 facility in the county of Nassau or Suffolk operated by a corporation  
19 established pursuant to section five hundred two of the racing, pari-mu-  
20 tuel wagering and breeding law], each such track shall dedicate a  
21 portion of its vendor fees, received pursuant to clause (A), (B), (C),  
22 (D), (E), (F), or (G) of subparagraph (ii) of paragraph one of this  
23 subdivision, solely for the purpose of enhancing purses at such track,  
24 in an amount equal to eight and three-quarters percent of the total  
25 revenue wagered at the vendor track after pay out for prizes. One  
26 percent of such purse enhancement amount shall be paid to the gaming  
27 commission to be used exclusively to promote and ensure equine health  
28 and safety in New York. Any portion of such funding to the gaming

1 commission unused during a fiscal year shall be returned to the video  
2 lottery gaming operators on a pro rata basis in accordance with the  
3 amounts originally contributed by each operator and shall be used for  
4 the purpose of enhancing purses at such track. In addition, with the  
5 exception of Aqueduct racetrack or a facility in the county of Nassau or  
6 Suffolk operated by a corporation established pursuant to section five  
7 hundred two of the racing, pari-mutuel wagering and breeding law, one  
8 and one-quarter percent of total revenue wagered at the vendor track  
9 after pay out for prizes, received pursuant to clause (A), (B), (C),  
10 (D), (E), (F), or (G) of subparagraph (ii) of paragraph one of this  
11 subdivision, shall be distributed to the appropriate breeding fund for  
12 the manner of racing conducted by such track.

13 § 10. Subdivision (f-1) of section 1612 of the tax law, as added by  
14 section 40 of a chapter of the laws of 2013 amending the racing, pari-  
15 mutuel wagering and breeding law and other laws relating to commercial  
16 gaming, as proposed in legislative bill numbers S. 5883 and A. 8101, is  
17 amended to read as follows:

18 ~~[(f-1)]~~ f-1. As consideration for operation of video lottery gaming  
19 facility located in the county of Nassau ~~[of]~~ or Suffolk and operated by  
20 a corporation established pursuant to section five hundred two of the  
21 racing, pari-mutuel wagering and breeding law, the division shall cause  
22 the investment in the racing industry of the following percentages of  
23 the vendor fee to be deposited or paid as follows:

24 ~~[(1)]~~ 1. Two and three tenths percent of the total wagered after  
25 payout of prizes for the purpose of enhancing purses at Aqueduct race-  
26 track, Belmont Park racetrack and Saratoga race course, provided, howev-  
27 er, that any amount that is in excess of the amount necessary to main-  
28 tain purse support from video lottery gaming at Aqueduct racetrack,

1 Belmont Park racetrack and Saratoga race course at the same level real-  
2 ized [in] in two thousand thirteen, to be adjusted by the consumer price  
3 index for all urban consumers, as published annually by the United  
4 States department of labor, bureau of labor statistics, shall [be]  
5 instead be returned to the commission.

6 [(2)] 2. five tenths percent of the total wagered after payout of  
7 prizes for the appropriate breeding fund for the manner of racing at  
8 Aqueduct racetrack, Belmont Park racetrack and Saratoga race course,  
9 provided, however, that any amount that is in excess of the amount  
10 necessary to maintain payments from video lottery gaming at Aqueduct  
11 racetrack at the same level realized [in] in two thousand thirteen, to  
12 be adjusted by the consumer price index for all urban consumers, as  
13 published annually by the United States department of labor, bureau of  
14 labor statistics, shall [be] instead be returned to the commission.

15 [(3)] 3. one and three tenths percent of the total revenue wagered  
16 after payout of prizes to be deposited into an account of the franchised  
17 corporation established pursuant to section two hundred six of the  
18 racing, pari-mutuel wagering and breeding law to be used for capital  
19 expenditures in maintaining and upgrading Aqueduct racetrack, Belmont  
20 Park racetrack and Saratoga race course, provided, however, that any  
21 amount that is in excess of the amount necessary to maintain payments  
22 for capital expenditures from video lottery gaming at Aqueduct racetrack  
23 at the same level realized [in] in two thousand thirteen, to be adjusted  
24 by the consumer price index for all urban consumers, as published annu-  
25 ally by the United States department of labor, bureau of labor statis-  
26 tics, shall [be] instead be returned to the commission.

27 [(4)] 4. Nine tenths percent of the total revenue wagered after payout  
28 for prizes to be deposited into an account of the franchised corporation

1 established pursuant to section two hundred six of the racing, pari-mu-  
2 tuel wagering and breeding law to be used for general thoroughbred  
3 racing operations at Aqueduct racetrack, Belmont Park racetrack and  
4 Saratoga race course, provided, however, that any amount that is in  
5 excess of the amount necessary to maintain payments for general  
6 thoroughbred racing operations from video lottery gaming at Aqueduct  
7 racetrack at the same level realized [in] in two thousand thirteen, to  
8 be adjusted by the consumer price index for all urban consumers, as  
9 published annually by the United States department of labor, bureau of  
10 labor statistics, shall [be] instead be returned to the commission.

11 § 11. The opening paragraph of the first clause (G) of subparagraph  
12 (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as  
13 amended by section 42 of a chapter of the laws of 2013 amending the  
14 racing, pari-mutuel wagering and breeding law and other laws relating to  
15 commercial gaming, as proposed in legislative bill numbers S. 5883 and  
16 A. 8101, is amended to read as follows:

17 notwithstanding clauses (A), (B), (C), (D), (E) and (F) of this  
18 subparagraph, when [a resort facility to be operated by other than a  
19 presently licensed video lottery gaming operator or any entity affil-  
20 iated therewith selected by the division following a competitive process  
21 located] not more than one vendor track located in the town of Thompson  
22 in Sullivan county at the site of the former Concord resort at which a  
23 qualified capital investment has been made and no fewer than one thou-  
24 sand full-time, permanent employees have been newly hired, is located in  
25 Sullivan county and is within sixty miles from any gaming facility in a  
26 contiguous state, then for a period of forty years the vendor's fee  
27 shall equal the total revenue wagered at the vendor track after payout  
28 of prizes pursuant to this subdivision reduced by the greater of (i)

1 twenty-five percent of total revenue after payout for prizes for "video  
2 lottery games" or (ii) for the first eight years of operation thirty-  
3 eight million dollars, and beginning in the ninth year of operation such  
4 amount shall increase annually by the lesser of the increase in the  
5 consumer price index or two percent, plus seven percent of total revenue  
6 after payout of prizes. In addition, in the event the vendor fee is  
7 calculated pursuant to subclause (i) of this clause, the vendor's fee  
8 shall be further reduced by 11.11 percent of the amount by which total  
9 revenue after payout for prizes exceeds two hundred fifteen million  
10 dollars, but in no event shall such reduction exceed five million  
11 dollars. Provided, further, no vendor is eligible for the vendor's fee  
12 described in this clause who operates or invests in or owns, in whole or  
13 in part, another vendor license or is licensed as a vendor track that  
14 currently receives a vendor fee for the operation of video lottery  
15 gaming pursuant to this article.

16 § 12. The second clause (G) of subparagraph (ii) of paragraph 1 of  
17 subdivision b of section 1612 of the tax law, as amended by section 42  
18 of a chapter of the laws of 2013 amending the racing, pari-mutuel wager-  
19 ing and breeding law and other laws relating to commercial gaming, as  
20 proposed in legislative bill numbers S. 5883 and A. 8101, is REPEALED.

21 § 13. Clause (G-1) of subparagraph (ii) of paragraph 1 of subdivision  
22 b of section 1612 of the tax law, as amended by section 42 of a chapter  
23 of the laws of 2013 amending the racing, pari-mutuel wagering and breed-  
24 ing law and other laws relating to commercial gaming, as proposed in  
25 legislative bill numbers S. 5883 and A. 8101, is REPEALED.

26 § 14. Paragraph 2 of subdivision b of section 1612 of the tax law, as  
27 amended by section 42 of a chapter of the laws of 2013 amending the  
28 racing, pari-mutuel wagering and breeding law and other laws relating to

1 commercial gaming, as proposed in legislative bill numbers S. 5883 and  
2 A. 8101, is amended to read as follows:

3 2. As consideration for the operation of a video lottery gaming facil-  
4 ity, the division, shall cause the investment in the racing industry of  
5 a portion of the vendor fee received pursuant to paragraph one of this  
6 subdivision in the manner set forth in this subdivision. With the  
7 exception of Aqueduct racetrack and a facility located in Nassau county  
8 authorized pursuant to paragraph five of subdivision a of section one  
9 thousand six hundred seventeen-a of this article, each such track shall  
10 dedicate a portion of its vendor fees, received pursuant to clause (A),  
11 (B), (C), (D), (E), (F), or (G) of subparagraph (ii) of paragraph one of  
12 this subdivision, solely for the purpose of enhancing purses at such  
13 track, in an amount equal to eight and three-quarters percent of the  
14 total revenue wagered at the vendor track after pay out for prizes. One  
15 percent of such purse enhancement amount shall be paid to the gaming  
16 commission to be used exclusively to promote and ensure equine health  
17 and safety in New York. Any portion of such funding to the gaming  
18 commission unused during a fiscal year shall be returned to the video  
19 lottery gaming operators on a pro rata basis in accordance with the  
20 amounts originally contributed by each operator and shall be used for  
21 the purpose of enhancing purses at such track. In addition, with the  
22 exception of Aqueduct racetrack and a facility located in Nassau county  
23 authorized pursuant to paragraph five of subdivision a of section one  
24 thousand six hundred seventeen-a of this article, one and one-quarter  
25 percent of total revenue wagered at the vendor track after pay out for  
26 prizes, received pursuant to clause (A), (B), (C), (D), (E), (F), or (G)  
27 of subparagraph (ii) of paragraph one of this subdivision, shall be

1 distributed to the appropriate breeding fund for the manner of racing  
2 conducted by such track.

3 Provided, further, that nothing in this paragraph shall prevent each  
4 track from entering into an agreement, not to exceed five years, with  
5 the organization authorized to represent its horsemen to increase or  
6 decrease the portion of its vendor fee dedicated to enhancing purses at  
7 such track during the years of participation by such track, or to race  
8 fewer dates than required herein.

9 § 15. Subdivision (f-2) of section 1612 of the tax law, as added by  
10 section 42 of a chapter of the laws of 2013 amending the racing, pari-  
11 mutuel wagering and breeding law and other laws relating to commercial  
12 gaming, as proposed in legislative bill numbers S. 5883 and A. 8101, is  
13 amended to read as follows:

14 [(f-2)] f-2. As consideration for operation of a video lottery gaming  
15 facility located in the county of Nassau established pursuant to a  
16 competitive process pursuant to paragraph [(5)] five of subdivision a of  
17 section [six] one thousand [seventeen a] six hundred seventeen-a of this  
18 article, the division shall cause the investment in the racing industry  
19 of the following percentages of the vendor fee to be deposited or paid  
20 as follows:

21 [(1)] 1. Two and three tenths percent of the total wagered after  
22 payout of prizes for the purpose of enhancing purses at Aqueduct race-  
23 track, Belmont Park racetrack and Saratoga race course, provided, howev-  
24 er, that any amount that is in excess of the amount necessary to main-  
25 tain purse support from video lottery gaming at Aqueduct racetrack,  
26 Belmont Park racetrack and Saratoga race course at the same level real-  
27 ized [in] in two thousand thirteen, to be adjusted by the consumer price  
28 index for all urban consumers, as published annually by the United

1 States department of labor, bureau of labor statistics, shall [be]  
2 instead be returned to the commission.

3 [(2)] 2. five tenths percent of the total wagered after payout of  
4 prizes for the appropriate breeding fund for the manner of racing at  
5 Aqueduct racetrack, Belmont Park racetrack and Saratoga race course,  
6 provided, however, that any amount that is in excess of the amount  
7 necessary to maintain payments from video lottery gaming at Aqueduct  
8 racetrack at the same level realized [in] in two thousand thirteen, to  
9 be adjusted by the consumer price index for all urban consumers, as  
10 published annually by the United States department of labor, bureau of  
11 labor statistics, shall [be] instead be returned to the commission.

12 [(3)] 3. one and three tenths percent of the total revenue wagered  
13 after payout of prizes to be deposited into an account of the franchised  
14 corporation established pursuant to section two hundred six of the  
15 racing, pari-mutuel wagering and breeding law to be used for capital  
16 expenditures in maintaining and upgrading Aqueduct racetrack, Belmont  
17 Park racetrack and Saratoga race course, provided, however, that any  
18 amount that is in excess of the amount necessary to maintain payments  
19 for capital expenditures from video lottery gaming at Aqueduct racetrack  
20 at the same level realized [in] in two thousand thirteen, to be adjusted  
21 by the consumer price index for all urban consumers, as published annu-  
22 ally by the United States department of labor, bureau of labor statis-  
23 tics, shall [be] instead be returned to the commission.

24 [(4)] 4. Nine tenths percent of the total revenue wagered after payout  
25 for prizes to be deposited into an account of the franchised corporation  
26 established pursuant to section two hundred six of the racing, pari-mu-  
27 tuel wagering and breeding law to be used for general thoroughbred  
28 racing operations at Aqueduct racetrack, Belmont Park racetrack and

1 Saratoga race course, provided, however, that any amount that is in  
2 excess of the amount necessary to maintain payments for general  
3 thoroughbred racing operations from video lottery gaming at Aqueduct  
4 racetrack at the same level realized [in] in two thousand thirteen, to  
5 be adjusted by the consumer price index for all urban consumers, as  
6 published annually by the United States department of labor, bureau of  
7 labor statistics, shall [be] instead be returned to the commission.

8 § 16. Subdivision 6 of section 1340 of the racing, pari-mutuel wager-  
9 ing and breeding law, as added by section 2 of a chapter of the laws of  
10 2013 amending the racing, pari-mutuel wagering and breeding law and  
11 other laws relating to commercial gaming, as proposed in legislative  
12 bill numbers S. 5883 and A. 8101, is amended to read as follows:

13 6. Notwithstanding any provision of law to the contrary, any manufac-  
14 turer or wholesaler licensed under the alcoholic beverage control law  
15 may, as authorized under the alcoholic beverage control law, sell alco-  
16 holic beverages to a gaming facility holding a retail license or permit  
17 to sell alcoholic beverages for consumption on the premises issued under  
18 this section, and any gaming facility holding a retail license or permit  
19 to sell alcoholic beverages for consumption on the premises issued under  
20 this section may, as authorized under the alcoholic beverage control  
21 law, purchase alcoholic beverages from a manufacturer or wholesaler  
22 licensed under the alcoholic beverage control law.

23 § 17. Paragraph 3 of subdivision a of section 1617-a of the tax law,  
24 as amended by section 32 of a chapter of the laws of 2013 amending the  
25 racing, pari-mutuel wagering and breeding law and other laws relating to  
26 commercial gaming, as proposed in legislative bill numbers S. 5883 and  
27 A. 8101, is amended to read as follows:

1 (3) at [facilities] one facility per region established, pursuant to a  
2 competitive process to be determined by the state gaming commission  
3 within regions one, two, and five of zone two as established by section  
4 one thousand three hundred ten of the racing, pari-mutuel wagering and  
5 breeding law following local governmental consultation and consideration  
6 of market factors including potential revenue impact, anticipated job  
7 development and capital investment to be made. The facilities authorized  
8 pursuant to this paragraph shall be deemed vendors for all purposes  
9 under this article, and need not be operated by licensed thoroughbred or  
10 harness racing associations or corporations.

11 § 18. Clause (G-1) of subparagraph (ii) of paragraph 1 of subdivision  
12 b of section 1612 of the tax law, as added by section 40 of a chapter of  
13 the laws of 2013 amending the racing, pari-mutuel wagering and breeding  
14 law and other laws relating to commercial gaming, as proposed in legis-  
15 lative bill numbers S. 5883 and A. 8101, is amended to read as follows:

16 (G-1) Notwithstanding clause (A) and (B) of this subparagraph, when a  
17 video lottery gaming facility is located in either the county of Nassau  
18 or Suffolk and is operated by a corporation established pursuant to  
19 section five hundred two of the racing, pari-mutuel wagering and breed-  
20 ing law at a rate of thirty-five percent of the total revenue wagered at  
21 the vendor [track] after payout for prizes pursuant to this chapter;

22 § 19. Clause (G-2) of subparagraph (ii) of paragraph 1 of subdivision  
23 b of section 1612 of the tax law, as added by section 42 of a chapter of  
24 the laws of 2013 amending the racing, pari-mutuel wagering and breeding  
25 law and other laws relating to commercial gaming, as proposed in legis-  
26 lative bill numbers S. 5883 and A. 8101, are amended to read as follows:

27 (G-2) Notwithstanding clause (A) and (B) of this subparagraph, when a  
28 video lottery gaming facility is located in the county of Nassau estab-

1 lished pursuant to a competitive process pursuant to paragraph [(5)]  
2 five of subdivision a of section [six] one thousand six hundred seven-  
3 teen-a of this article at a rate of thirty-five percent of the total  
4 revenue wagered at the vendor [track] after payout for prizes pursuant  
5 to this chapter;

6 § 20. Subdivision 1 of section 1311 of the racing, pari-mutuel wager-  
7 ing and breeding law, as added by section 2 of a chapter of the laws of  
8 2013 amending the racing, pari-mutuel wagering and breeding law and  
9 other laws relating to commercial gaming, as proposed in legislative  
10 bill numbers S. 5883 and A. 8101, is amended to read as follows:

11 1. The commission is authorized to award up to four gaming facility  
12 licenses, in regions one, two and five of zone two. The duration of such  
13 initial license shall be ten years. The term of renewal shall be deter-  
14 mined by the commission. The commission may award a second license to a  
15 qualified applicant in no more than a single region. The commission is  
16 not empowered to award any license in zone one. No gaming facilities are  
17 authorized under this article for the city of New York or any other  
18 portion of zone one.

19 As a condition of licensure, licensees are required to commence gaming  
20 operations no [less] more than twenty-four months following license  
21 award. No additional licenses may be awarded during the twenty-four  
22 month period, nor for an additional sixty months following the end of  
23 the twenty-four month period. Should the state legislatively authorize  
24 additional gaming facility licenses within these periods, licensees  
25 shall have the right to recover the license fee paid pursuant to section  
26 one thousand three hundred six of this article.

27 This right shall be incorporated into the license itself, vest upon  
28 the opening of a gaming facility in zone one or in the same region as

1 the licensee and entitle the holder of such license to bring an action  
2 in the court of claims to recover the license fee paid pursuant to  
3 section one thousand three hundred fifteen of this article in the event  
4 that any gaming facility license in excess of the number authorized by  
5 this section as of the effective date of this section is awarded within  
6 seven years from the date that the initial gaming facility license is  
7 awarded. This right to recover any such fee shall be proportionate to  
8 the length of the respective period that is still remaining upon the  
9 vesting of such right.

10 Additionally, the right to bring an action in the court of claims to  
11 recover the fee paid to the state on the twenty-fourth day of September,  
12 two thousand ten, by the operator of a video lottery gaming facility in  
13 a city of more than one million shall vest with such operator upon the  
14 opening of any gaming facility licensed by the commission in zone one  
15 within seven years from the date that the initial gaming facility  
16 license is awarded; provided however that the amount recoverable shall  
17 be limited to the pro rata amount of the time remaining until the end of  
18 the seven year exclusivity period, proportionate to the period of time  
19 between the date of opening of the video lottery facility until the  
20 conclusion of the seven year period.

21 § 21. This act shall take effect on the same date and in the same  
22 manner as a chapter of the laws of 2013 amending the racing, pari-mutuel  
23 wagering and breeding law and other laws relating to commercial gaming,  
24 as proposed in legislative bill numbers S. 5883 and A. 8101, takes  
25 effect.