

1 Notwithstanding any other provision of law  
 2 to the contrary, the OGS Interchange and  
 3 Transfer Authority and the IT Interchange  
 4 and Transfer Authority as defined in the  
 5 2013-14 state fiscal year state operations  
 6 appropriation for the budget division  
 7 program of the division of the budget, are  
 8 deemed fully incorporated herein and a  
 9 part of this appropriation as if fully  
 10 stated.

11 PERSONAL SERVICE

|    |   |         |
|----|---|---------|
| 12 | Personal service--regular .....             | 527,000 |
| 13 | Holiday/overtime compensation .....         | 10,000  |
| 14 | -----                                       |         |
| 15 | Amount available for personal service ..... | 537,000 |
| 16 | -----                                       |         |

17 NONPERSONAL SERVICE

|    |                              |         |
|----|------------------------------|---------|
| 18 | Supplies and materials ..... | 13,000  |
| 19 | Travel .....                 | 80,000  |
| 20 | Contractual services .....   | 99,000  |
| 21 | Equipment .....              | 30,000  |
| 22 | Fringe benefits .....        | 228,000 |
| 23 | Indirect costs .....         | 13,000  |
| 24 | -----                        |         |

1 Amount available for nonpersonal service ..... 463,000

2 -----

3 § 36. Section 104 of the racing, pari-mutuel wagering and breeding law  
4 is amended by adding a new subdivision 22 to read as follows:

5 22. The commission shall annually conduct an evaluation of video  
6 lottery gaming to consider the various competitive factors impacting  
7 such industry and shall consider administrative changes that may be  
8 necessary to ensure a competitive industry and preserve its primary  
9 function of raising revenue for public education.

10 § 37. Clause (H) of subparagraph (ii) of paragraph 1 of subdivision b  
11 of section 1612 of the tax law, as amended by chapter 454 of the laws of  
12 2012, is amended to read as follows:

13 (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of  
14 this subparagraph, the track operator of a vendor track shall be eligi-  
15 ble for a vendor's capital award of up to four percent of the total  
16 revenue wagered at the vendor track after payout for prizes pursuant to  
17 this chapter, which shall be used exclusively for capital project  
18 investments to improve the facilities of the vendor track which promote  
19 or encourage increased attendance at the video lottery gaming facility  
20 including, but not limited to hotels, other lodging facilities, enter-  
21 tainment facilities, retail facilities, dining facilities, events  
22 arenas, parking garages and other improvements that enhance facility  
23 amenities; provided that such capital investments shall be approved by  
24 the division, in consultation with the state racing and wagering board,  
25 and that such vendor track demonstrates that such capital expenditures  
26 will increase patronage at such vendor track's facilities and increase  
27 the amount of revenue generated to support state education programs. The

1 annual amount of such vendor's capital awards that a vendor track shall  
2 be eligible to receive shall be limited to two million five hundred  
3 thousand dollars, except for Aqueduct racetrack, for which there shall  
4 be no vendor's capital awards. Except for tracks having less than one  
5 thousand one hundred video gaming machines, and except for a vendor  
6 track located west of State Route 14 from Sodus Point to the Pennsylva-  
7 nia border within New York, each track operator shall be required to  
8 co-invest an amount of capital expenditure equal to its cumulative  
9 vendor's capital award. For all tracks, except for Aqueduct racetrack,  
10 the amount of any vendor's capital award that is not used during any one  
11 year period may be carried over into subsequent years ending before  
12 April first, two thousand fourteen. Any amount attributable to a capital  
13 expenditure approved prior to April first, two thousand fourteen and  
14 completed before April first, two thousand sixteen; or approved prior to  
15 April first, two thousand eighteen and completed before April first, two  
16 thousand twenty for a vendor track located west of State Route 14 from  
17 Sodus Point to the Pennsylvania border within New York, shall be eligi-  
18 ble to receive the vendor's capital award. In the event that a vendor  
19 track's capital expenditures, approved by the division prior to April  
20 first, two thousand fourteen and completed prior to April first, two  
21 thousand sixteen, exceed the vendor track's cumulative capital award  
22 during the five year period ending April first, two thousand fourteen,  
23 the vendor shall continue to receive the capital award after April  
24 first, two thousand fourteen until such approved capital expenditures  
25 are paid to the vendor track subject to any required co-investment. In  
26 no event shall any vendor track that receives a vendor fee pursuant to  
27 clause (F) or (G) of this subparagraph be eligible for a vendor's capi-  
28 tal award under this section. Any operator of a vendor track which has

1 received a vendor's capital award, choosing to divest the capital  
2 improvement toward which the award was applied, prior to the full depre-  
3 ciation of the capital improvement in accordance with generally accepted  
4 accounting principles, shall reimburse the state in amounts equal to the  
5 total of any such awards. Any capital award not approved for a capital  
6 expenditure at a video lottery gaming facility by April first, two thou-  
7 sand fourteen shall be deposited into the state lottery fund for educa-  
8 tion aid; and

9 § 38. Item (iii) of clause (I) of subparagraph (ii) of paragraph 1 of  
10 subdivision b of section 1612 of the tax law, as added by section 1 of  
11 part 0 of chapter 61 of the laws of 2011, is amended to read as follows:

12 (iii) less an additional vendor's marketing allowance at a rate of ten  
13 percent for the first one hundred million dollars annually and eight  
14 percent thereafter of the total revenue wagered at the vendor track  
15 after payout for prizes to be used by the vendor track for the marketing  
16 and promotion and associated costs of its video lottery gaming oper-  
17 ations and pari-mutuel horse racing operations, as long as any such  
18 costs associated with pari-mutuel horse racing operations simultaneously  
19 encourage increased attendance at such vendor's video lottery gaming  
20 facilities, consistent with the customary manner of marketing comparable  
21 operations in the industry and subject to the overall supervision of the  
22 division; provided, however, that the additional vendor's marketing  
23 allowance shall not exceed eight percent in any year for any operator of  
24 a racetrack located in the county of Westchester or Queens; provided,  
25 however, a vendor track that receives a vendor fee pursuant to clause  
26 (G) of subparagraph (ii) of this paragraph shall not receive the addi-  
27 tional vendor's marketing allowance; provided, however, except for a  
28 vendor track located west of State Route 14 from Sodus Point to the

1 Pennsylvania border within New York shall continue to receive a market-  
2 ing allowance of ten percent on total revenue wagered at the vendor  
3 track after payout for prizes in excess of one hundred million dollars  
4 annually. In establishing the vendor fee, the division shall ensure the  
5 maximum lottery support for education while also ensuring the effective  
6 implementation of section sixteen hundred seventeen-a of this article  
7 through the provision of reasonable reimbursements and compensation to  
8 vendor tracks for participation in such program. Within twenty days  
9 after any award of lottery prizes, the division shall pay into the state  
10 treasury, to the credit of the state lottery fund, the balance of all  
11 moneys received from the sale of all tickets for the lottery in which  
12 such prizes were awarded remaining after provision for the payment of  
13 prizes as herein provided. Any revenues derived from the sale of adver-  
14 tising on lottery tickets shall be deposited in the state lottery fund.

15 § 39. Subdivision a of section 1617-a of the tax law is amended by  
16 adding a new paragraph 4 to read as follows:

17 (4) at a maximum of two facilities, neither to exceed one thousand  
18 video lottery gaming devices, established within region three of zone  
19 one as defined by section one thousand three hundred ten of the racing,  
20 pari-mutuel wagering and breeding law, one each operated by a corpo-  
21 ration established pursuant to section five hundred two of the racing,  
22 pari-mutuel wagering and breeding law in the Suffolk region and the  
23 Nassau region to be located within a facility authorized pursuant to  
24 sections one thousand eight or one thousand nine of the racing, pari-mu-  
25 tuel wagering and breeding law. The facilities authorized pursuant to  
26 this paragraph shall be deemed vendors for all purposes under this arti-  
27 cle.

1 § 40. Section 1612 of the tax law, as amended by chapter 2 of the laws  
2 of 1995, paragraph 1 of subdivision a as amended by chapter 147 of the  
3 laws of 2010, subparagraph (A) of paragraph 1 of subdivision a as  
4 amended by section 1 of part S of chapter 59 of the laws of 2012, para-  
5 graph 2 of subdivision a as amended by section 1 of part P of chapter 61  
6 of the laws of 2011, paragraphs 3, 4 and 5 and the second undesignated  
7 and closing paragraph of subdivision a as amended by section 1 of part Q  
8 of chapter 61 of the laws of 2011, subdivision 6 as amended by section 1  
9 of part O-1 of chapter 57 of the laws of 2009, the opening paragraph of  
10 paragraph 1 of subdivision b as amended by section 1 of part R of chap-  
11 ter 61 of the laws of 2011, subparagraph (ii) of paragraph 1 of subdivi-  
12 sion b as amended by section 6 of part K of chapter 57 of the laws of  
13 2010, clause (F) of subparagraph (ii) of paragraph 1 of subdivision b as  
14 amended by section 1 of part T of chapter 59 of the laws of 2013, clause  
15 (H) of subparagraph (ii) of paragraph 1 of subdivision b as amended by  
16 chapter 454 of the laws of 2012, clause (I) of subparagraph (ii) of  
17 paragraph 1 of subdivision b as added by section 1 of part O of chapter  
18 61 of the laws of 2011, paragraphs 2 and 3 of subdivision 6 as amended  
19 by section 1 of part J of chapter 55 of the laws of 2013, subdivision c  
20 as amended by section 2 of part CC of chapter 61 of the laws of 2005,  
21 paragraph 1 of subdivision c as amended by section 2 of part R of chap-  
22 ter 61 of the laws of 2011, subdivision d as amended and subdivision e  
23 as added by chapter 18 of the laws of 2008, subdivisions f and g as  
24 amended by chapter 140 of the laws of 2008, paragraph 1 of subdivision f  
25 as amended by section 2 of part J of chapter 55 of the laws if 2013,  
26 subdivision h as added by section 13 of part A of chapter 60 of the laws  
27 of 2012, is amended to read as follows:

1 § 1612. Disposition of revenues. a. The division shall pay into an  
2 account, to be known as the lottery prize account, under the joint  
3 custody of the comptroller and the commissioner, within one week after  
4 collection of sales receipts from a lottery game, such moneys necessary  
5 for the payment of lottery prizes but not to exceed the following  
6 percentages, plus interest earned thereon:

7 (1) sixty percent of the total amount for which tickets have been sold  
8 for a lawful lottery game introduced on or after the effective date of  
9 this paragraph, subject to the following provisions:

10 (A) such game shall be available only on premises occupied by licensed  
11 lottery sales agents, subject to the following provisions:

12 (i) if the licensee does not hold a license issued pursuant to the  
13 alcoholic beverage control law to sell alcoholic beverages for consump-  
14 tion on the premises, then the premises must have a minimum square  
15 footage greater than two thousand five hundred square feet;

16 (ii) notwithstanding the foregoing provisions, television equipment  
17 that automatically displays the results of such drawings may be  
18 installed and used without regard to the square footage if such premises  
19 are used as:

20 (I) a commercial bowling establishment, or

21 (II) a facility authorized under the racing, pari-mutuel wagering and  
22 breeding law to accept pari-mutuel wagers;

23 (B) the rules for the operation of such game shall be as prescribed by  
24 regulations promulgated and adopted by the division, provided however,  
25 that such rules shall provide that no person under the age of twenty-one  
26 may participate in such games on the premises of a licensee who holds a  
27 license issued pursuant to the alcoholic beverage control law to sell  
28 alcoholic beverages for consumption on the premises; and, provided,

1 further, that such regulations may be revised on an emergency basis not  
2 later than ninety days after the enactment of this paragraph in order to  
3 conform such regulations to the requirements of this paragraph; or

4 (2) sixty-five percent of the total amount for which tickets have been  
5 sold for the "Instant Cash" game in which the participant purchases a  
6 preprinted ticket on which dollar amounts or symbols are concealed on  
7 the face or the back of such ticket, provided however up to five new  
8 games may be offered during the fiscal year, seventy-five percent of the  
9 total amount for which tickets have been sold for such five games in  
10 which the participant purchases a preprinted ticket on which dollar  
11 amounts or symbols are concealed on the face or the back of such ticket;  
12 or

13 (3) fifty-five percent of the total amount for which tickets have been  
14 sold for any joint, multi-jurisdiction, and out-of-state lottery except  
15 as otherwise provided in paragraph one of subdivision b of this section  
16 for any joint, multi-jurisdiction, out-of-state video lottery gaming; or

17 (4) fifty percent of the total amount for which tickets have been sold  
18 for games known as: (A) the "Daily Numbers Game" or "Win 4", discrete  
19 games in which the participants select no more than three or four of  
20 their own numbers to match with three or four numbers drawn by the divi-  
21 sion for purposes of determining winners of such games, (B) "Pick 10",  
22 offered no more than once daily, in which participants select from a  
23 specified field of numbers a subset of ten numbers to match against a  
24 subset of numbers to be drawn by the division from such field of numbers  
25 for the purpose of determining winners of such game, (C) "Take 5",  
26 offered no more than once daily, in which participants select from a  
27 specified field of numbers a subset of five numbers to match against a

1 subset of five numbers to be drawn by the division from such field of  
2 numbers for purposes of determining winners of such game; or

3 (5) forty percent of the total amount for which tickets have been sold  
4 for: (A) "Lotto", offered no more than once daily, a discrete game in  
5 which all participants select a specific subset of numbers to match a  
6 specific subset of numbers, as prescribed by rules and regulations  
7 promulgated and adopted by the division, from a larger specific field of  
8 numbers, as also prescribed by such rules and regulations and (B) with  
9 the exception of the game described in paragraph one of this subdivi-  
10 sion, such other state-operated lottery games which the division may  
11 introduce, offered no more than once daily, commencing on or after  
12 forty-five days following the official publication of the rules and  
13 regulations for such game.

14 The moneys in the lottery prize account shall be paid out of such  
15 account on the audit and warrant of the comptroller on vouchers certi-  
16 fied or approved by the director or his or her duly designated official.

17 Prize money derived from ticket sales receipts of a particular game  
18 and deposited in the lottery prize account in accordance with the  
19 percentages set forth above may be used to pay prizes in such game.  
20 Balances in the lottery prize account identified by individual games may  
21 be carried over from one fiscal year to the next to ensure proper payout  
22 of games.

23 b. 1. Notwithstanding section one hundred twenty-one of the state  
24 finance law, on or before the twentieth day of each month, the division  
25 shall pay into the state treasury, to the credit of the state lottery  
26 fund created by section ninety-two-c of the state finance law, not less  
27 than forty-five percent of the total amount for which tickets have been  
28 sold for games defined in paragraph four of subdivision a of this

1 section during the preceding month, not less than thirty-five percent of  
2 the total amount for which tickets have been sold for games defined in  
3 paragraph three of subdivision a of this section during the preceding  
4 month, not less than twenty percent of the total amount for which tick-  
5 ets have been sold for games defined in paragraph two of subdivision a  
6 of this section during the preceding month, provided however that for  
7 games with a prize payout of seventy-five percent of the total amount  
8 for which tickets have been sold, the division shall pay not less than  
9 ten percent of sales into the state treasury and not less than twenty-  
10 five percent of the total amount for which tickets have been sold for  
11 games defined in paragraph one of subdivision a of this section during  
12 the preceding month; and the balance of the total revenue after payout  
13 for prizes for games known as "video lottery gaming," including any  
14 joint, multi-jurisdiction, and out-of-state video lottery gaming, (i)  
15 less ten percent of the total revenue wagered after payout for prizes to  
16 be retained by the division for operation, administration, and procure-  
17 ment purposes; (ii) less a vendor's fee the amount of which is to be  
18 paid for serving as a lottery agent to the track operator of a vendor  
19 track or the operator of any other video lottery gaming facility author-  
20 ized pursuant to section one thousand six hundred seventeen a of this  
21 article:

22 (A) having fewer than one thousand one hundred video gaming machines,  
23 at a rate of thirty-five percent for the first fifty million dollars  
24 annually, twenty-eight percent for the next hundred million dollars  
25 annually, and twenty-five percent thereafter of the total revenue  
26 wagered at the vendor track after payout for prizes pursuant to this  
27 chapter;

1 (B) having one thousand one hundred or more video gaming machines, at  
2 a rate of thirty-one percent of the total revenue wagered at the vendor  
3 track after payout for prizes pursuant to this chapter, except for such  
4 facility located in the county of Westchester, in which case the rate  
5 shall be thirty percent until March thirty-first, two thousand twelve.

6 Notwithstanding the foregoing, not later than April first, two thou-  
7 sand twelve, the vendor fee shall become thirty-one percent and remain  
8 at that level thereafter; and except for Aqueduct racetrack, in which  
9 case the vendor fee shall be thirty-eight percent of the total revenue  
10 wagered at the vendor track after payout for prizes pursuant to this  
11 chapter;

12 (C) notwithstanding clauses (A) and (B) of this subparagraph, when the  
13 vendor track is located in an area with a population of less than one  
14 million within the forty mile radius around such track, at a rate of  
15 thirty-nine percent for the first fifty million dollars annually, twen-  
16 ty-eight percent for the next hundred million dollars annually, and  
17 twenty-five percent thereafter of the total revenue wagered at the  
18 vendor track after payout for prizes pursuant to this chapter;

19 (D) notwithstanding clauses (A), (B) and (C) of this subparagraph,  
20 when the vendor track is located within fifteen miles of a Native Ameri-  
21 can class III gaming facility at a rate of forty-one percent of the  
22 total revenue wagered at the vendor track after payout for prizes pursu-  
23 ant to this chapter;

24 (E) notwithstanding clauses (A), (B), (C) and (D) of this subpara-  
25 graph, when a Native American class III gaming facility is established,  
26 after the effective date of this subparagraph, within fifteen miles of  
27 the vendor track, at a rate of forty-one percent of the total revenue  
28 wagered after payout for prizes pursuant to this chapter;

1 (E-1) for purposes of this subdivision, the term "class III gaming"  
2 shall have the meaning defined in 25 U.S.C. § 2703(8).

3 (F) notwithstanding clauses (A), (B), (C), (D) and (E) of this subpar-  
4 agraph, when a vendor track, is located in Sullivan county and within  
5 sixty miles from any gaming facility in a contiguous state such vendor  
6 fee shall, for a period of six years commencing April first, two thou-  
7 sand eight, be at a rate of forty-one percent of the total revenue  
8 wagered at the vendor track after payout for prizes pursuant to this  
9 chapter, after which time such rate shall be as for all tracks in clause  
10 (C) of this subparagraph.

11 (G) notwithstanding clauses (A), (B), (C), (D), (E) and (F) of this  
12 subparagraph, when no more than one vendor track located in the town of  
13 Thompson in Sullivan county at the site of the former Concord Resort at  
14 which a qualified capital investment has been made and no fewer than one  
15 thousand full-time, permanent employees have been newly hired, is  
16 located in Sullivan county and is within sixty miles from any gaming  
17 facility in a contiguous state, then for a period of forty years the  
18 vendor's fee shall equal the total revenue wagered at the vendor track  
19 after payout of prizes pursuant to this subdivision reduced by the  
20 greater of (i) twenty-five percent of total revenue after payout for  
21 prizes for "video lottery games" or (ii) for the first eight years of  
22 operation thirty-eight million dollars, and beginning in the ninth year  
23 of operation such amount shall increase annually by the lesser of the  
24 increase in the consumer price index or two percent, plus seven percent  
25 of total revenue after payout of prizes. In addition, in the event the  
26 vendor fee is calculated pursuant to subclause (i) of this clause, the  
27 vendor's fee shall be further reduced by 11.11 percent of the amount by  
28 which total revenue after payout for prizes exceeds two hundred fifteen

1 million dollars, but in no event shall such reduction exceed five  
2 million dollars. Provided, further, no vendor is eligible for the  
3 vendor's fee described in this clause who operates or invests in or  
4 owns, in whole or in part, another vendor license or is licensed as a  
5 vendor track that currently receives a vendor fee for the operation of  
6 video lottery gaming pursuant to this article.

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

15 For the purposes of this section "qualified capital investment" shall  
16 mean an investment of a minimum of six hundred million dollars as  
17 reflected by audited financial statements of which not less than three  
18 hundred million dollars shall be comprised of equity and/or mezzanine  
19 financing as an initial investment in a county where twelve percent of  
20 the population is below the federal poverty level as measured by the  
21 most recent Bureau of Census Statistics prior to the qualified capital  
22 investment commencing that results in the construction, development or  
23 improvement of at least one eighteen hole golf course, and the  
24 construction and issuance of certificates of occupancy for hotels, lodg-  
25 ing, spas, dining, retail and entertainment venues, parking garages and  
26 other capital improvements at or adjacent to the licensed video gaming  
27 facility or licensed vendor track which promote or encourage increased  
28 attendance at such facilities.

1 For the purposes of this section, "full-time, permanent employee"  
2 shall mean an employee who has worked at the video gaming facility[,  
3 vendor track] or related and adjacent facilities for a minimum of thir-  
4 ty-five hours per week for not less than four consecutive weeks and who  
5 is entitled to receive the usual and customary fringe benefits extended  
6 to other employees with comparable rank and duties; or two part-time  
7 employees who have worked at the video gaming facility, vendor track or  
8 related and adjacent facilities for a combined minimum of thirty-five  
9 hours per week for not less than four consecutive weeks and who are  
10 entitled to receive the usual and customary fringe benefits extended to  
11 other employees with comparable rank and duties.

12 For the purpose of this section "employment goal" shall mean one thou-  
13 sand five hundred full-time permanent employees after three years of  
14 opening operations of the licensed video gaming facility [or licensed  
15 vendor track].

16 For the purpose of this section "employment shortfall" shall mean a  
17 level of employment that falls below the employment goal, as certified  
18 annually by vendor's certified accountants and the chairman of the  
19 empire state development corporation.

20 For the purposes of this section "recapture amount" shall mean the  
21 difference between the amount of the vendor's fee paid to a vendor  
22 [track] with a qualified capital investment, and the vendor fee other-  
23 wise payable to a vendor [track] pursuant to clause (F) of this subpara-  
24 graph, that is reimbursable by the vendor track to the division for  
25 payment into the state treasury, to the credit of the state lottery fund  
26 created by section ninety-two-c of the state finance law, due to an  
27 employment shortfall pursuant to the following schedule only for the  
28 period of the employment shortfall:

1 (i) one hundred percent of the recapture amount if the employment  
2 shortfall is greater than sixty-six and two-thirds percent of the  
3 employment goal;

4 (ii) seventy-five percent of the recapture amount if the employment  
5 shortfall is greater than thirty-three and one-third percent of the  
6 employment goal;

7 (iii) forty-nine and one-half percent of the recapture amount if the  
8 employment shortfall is greater than thirty percent of the employment  
9 goal;

10 (iv) twenty-two percent of the recapture amount if the employment  
11 shortfall is greater than twenty percent of the employment goal;

12 (v) eleven percent of the recapture amount if the employment shortfall  
13 is greater than ten percent of the employment goal.

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

20 (H) Notwithstanding any provision to the contrary, when a vendor track  
21 is located within regions one, two, or five of development zone two as  
22 defined by section thirteen hundred ten of the racing, pari-mutuel wager-  
23 ing and breeding law, such vendor track shall receive an additional  
24 commission at a rate equal to the percentage of revenue wagered at the  
25 vendor track after payout for prizes pursuant to this chapter less than  
26 ten percent retained by the commission for operation, administration,  
27 and procurement purposes and payment of the vendor's fee, marketing  
28 allowance, and capital award paid pursuant to this chapter and the

1 effective tax rate paid on all gross gaming revenue paid by a gaming  
2 facility within the same region pursuant to section thirteen hundred  
3 fifty-one of the racing, pari-mutuel wagering and breeding law. The  
4 additional commission shall be paid to the vendor tack within sixty days  
5 after the conclusion of the state fiscal year based on the calculated  
6 percentage during the previous fiscal year.

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

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

25 [(I)] (J) Notwithstanding any provision of law to the contrary, free  
26 play allowance credits authorized by the division pursuant to subdivi-  
27 sion f of section sixteen hundred seventeen-a of this article shall not  
28 be included in the calculation of the total amount wagered on video

1 lottery games, the total amount wagered after payout of prizes, the  
2 vendor fees payable to the operators of video lottery facilities,  
3 vendor's capital awards, fees payable to the division's video lottery  
4 gaming equipment contractors, or racing support payments.

5 (iii) less an additional vendor's marketing allowance at a rate of ten  
6 percent for the first one hundred million dollars annually and eight  
7 percent thereafter of the total revenue wagered at the vendor track  
8 after payout for prizes to be used by the vendor track for the marketing  
9 and promotion and associated costs of its video lottery gaming oper-  
10 ations and pari-mutuel horse racing operations, as long as any such  
11 costs associated with pari-mutuel horse racing operations simultaneously  
12 encourage increased attendance at such vendor's video lottery gaming  
13 facilities, consistent with the customary manner of marketing comparable  
14 operations in the industry and subject to the overall supervision of the  
15 division; provided, however, that the additional vendor's marketing  
16 allowance shall not exceed eight percent in any year for any operator of  
17 a racetrack located in the county of Westchester or Queens; provided,  
18 however, a vendor track that receives a vendor fee pursuant to clause  
19 (G) of subparagraph (ii) of this paragraph shall not receive the addi-  
20 tional vendor's marketing allowance

21 provided, however, a vendor that receives a vendor fee pursuant to  
22 clause (G-1) of subparagraph (ii) of this paragraph shall receive an  
23 additional marketing allowance at a rate of ten percent of the total  
24 revenue wagered at the video lottery gaming facility after payout for  
25 prizes. the division shall ensure the maximum lottery support for  
26 education while also ensuring the effective implementation of section  
27 sixteen hundred seventeen-a of this article through the provision of  
28 reasonable reimbursements and compensation to vendor tracks for partic-

1 ipation in such program. Within twenty days after any award of lottery  
2 prizes, the division shall pay into the state treasury, to the credit of  
3 the state lottery fund, the balance of all moneys received from the sale  
4 of all tickets for the lottery in which such prizes were awarded remain-  
5 ing after provision for the payment of prizes as herein provided. Any  
6 revenues derived from the sale of advertising on lottery tickets shall  
7 be deposited in the state lottery fund.

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

1 the purpose of enhancing purses at such track. In addition, with the  
2 exception of Aqueduct racetrack, one and one-quarter percent of total  
3 revenue wagered at the vendor track after pay out for prizes, received  
4 pursuant to clause (A), (B), (C), (D), (E), (F), or (G) of subparagraph  
5 (ii) of paragraph one of this subdivision, shall be distributed to the  
6 appropriate breeding fund for the manner of racing conducted by such  
7 track.

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

14 3. Nothing in paragraph two of this subdivision shall affect any  
15 agreement in effect on or before the effective date of this paragraph,  
16 except that the obligation to pay funds to the gaming commission to  
17 promote and ensure equine health and safety shall supersede any  
18 provision to the contrary in any such agreement.

19 c. 1. The specifications for video lottery gaming, including any  
20 joint, multi-jurisdiction, and out-of-state video lottery gaming, shall  
21 be designed in such a manner as to pay prizes that average no less than  
22 ninety percent of sales.

23 2. Of the ten percent retained by the division for administrative  
24 purposes, any amounts beyond that which are necessary for the operation  
25 and administration of this pilot program shall be deposited in the  
26 lottery education account.

27 d. Notwithstanding any law, rule or regulation to the contrary, any  
28 successor to the New York Racing Association, Inc. with respect to the

1 operation and maintenance of video lottery gaming at Aqueduct racetrack  
2 shall be deemed the successor to the New York Racing Association, Inc.  
3 for purposes of being subject to existing contracts and loan agreements,  
4 if any, entered into by the New York Racing Association, Inc. directly  
5 related to the construction, operation, management and distribution of  
6 revenues of the video lottery gaming facility at Aqueduct racetrack.

7 e. The video lottery gaming operator selected to operate a video  
8 lottery terminal facility at Aqueduct will be subject to a memorandum of  
9 understanding between the governor, temporary president of the senate  
10 and the speaker of the assembly. Notwithstanding subparagraph (i) of  
11 paragraph a of subdivision eight of section two hundred twelve of the  
12 racing, pari-mutuel wagering and breeding law, the state, pursuant to an  
13 agreement with the video lottery gaming operator to operate a video  
14 lottery terminal facility at Aqueduct, may authorize, as part of such  
15 agreement or in conjunction with such agreement at the time it is  
16 executed, additional development at the Aqueduct racing facility. The  
17 selection will be made in consultation with the franchised corporation,  
18 but is not subject to such corporation's approval. The franchised corpo-  
19 ration shall not be eligible to compete to operate or to operate a video  
20 lottery terminal facility at Aqueduct. The state will use its best  
21 efforts to ensure that the video lottery terminal facility at Aqueduct  
22 is opened as soon as is practicable and will, if practicable, pursue the  
23 construction of a temporary video lottery terminal facility at Aqueduct  
24 subject to staying within an agreed budget for such video lottery termi-  
25 nal facility and subject to such temporary facility not having an  
26 adverse impact on opening of the permanent facility at Aqueduct. To  
27 facilitate the opening of the video lottery gaming facility at Aqueduct

1 as soon as is practicable, the division of the lottery may extend the  
2 term of any existing contract related to the video lottery system.

3 f. As consideration for the operation of the video lottery gaming  
4 facility at Aqueduct racetrack, the division shall cause the investment  
5 in the racing industry of the following percentages of the vendor fee to  
6 be deposited or paid, as follows:

7 1. Six and one-half percent of the total wagered after payout of  
8 prizes for the first year of operation of video lottery gaming at Aque-  
9 duct racetrack, seven percent of the total wagered after payout of  
10 prizes for the second year of operation, and seven and one-half percent  
11 of the total wagered after payout of prizes for the third year of opera-  
12 tion and thereafter, for the purpose of enhancing purses at Aqueduct  
13 racetrack, Belmont Park racetrack and Saratoga race course. One percent  
14 of such purse enhancement amount shall be paid to the gaming commission  
15 to be used exclusively to promote and ensure equine health and safety in  
16 New York. Any portion of such funding to the gaming commission unused  
17 during a fiscal year shall be returned on a pro rata basis in accordance  
18 with the amounts originally contributed and shall be used for the  
19 purpose of enhancing purses at such tracks.

20 2. One percent of the total wagered after payout of prizes for the  
21 first year of operation of video lottery gaming at Aqueduct racetrack,  
22 one and one-quarter percent of the total wagered after payout of prizes  
23 for the second year of operation, and one and one-half percent of the  
24 total wagered after payout of prizes for the third year of operation and  
25 thereafter, for an appropriate breeding fund for the manner of racing  
26 conducted at Aqueduct racetrack, Belmont Park racetrack and Saratoga  
27 race course.

1 3. Four percent of the total revenue wagered after payout of prizes to  
2 be deposited into an account of the franchised corporation established  
3 pursuant to section two hundred six of the racing, pari-mutuel wagering  
4 and breeding law to be used for capital expenditures in maintaining and  
5 upgrading Aqueduct racetrack, Belmont Park racetrack and Saratoga race  
6 course.

7 4. Three percent of the total revenue wagered after payout for prizes  
8 to be deposited into an account of the franchised corporation estab-  
9 lished pursuant to section two hundred six of the racing, pari-mutuel  
10 wagering and breeding law to be used for general thoroughbred racing  
11 operations at Aqueduct racetrack, Belmont Park racetrack and Saratoga  
12 race course.

13 5. Paragraphs one, two, three and four of this subdivision shall be  
14 known collectively as the "racing support payments".

15 g. In the event the state elects to construct a video lottery terminal  
16 facility at the Aqueduct racetrack, all video lottery terminal revenues  
17 payable to the video lottery gaming operator at the Aqueduct racetrack  
18 remaining after payment of the racing support payments shall first be  
19 used to repay the state's advances for (i) confirmation of the chapter  
20 eleven plan of reorganization and cash advances for the franchised  
21 corporation's operations following confirmation of the chapter eleven  
22 plan of reorganization and (ii) the amount expended by the state to  
23 construct such video lottery terminal facility at Aqueduct racetrack  
24 pursuant to an agreement with the state. Subparagraphs (i) and (ii) of  
25 this paragraph shall be defined as the state advance amount and the  
26 amounts payable to the division of the lottery.

27 h. As consideration for the operation of a video lottery gaming  
28 resort facility located in Sullivan county, the division shall cause the

1 investment in the racing industry at the following amount from the  
2 vendor fee to be paid as follows:

3 As amount to the horsemen for purses at a licensed racetrack in Sulli-  
4 van county and to the agriculture and New York state horse breeding  
5 development fund to maintain racing support payments at the same dollar  
6 levels realized in two thousand thirteen, to be adjusted by the consumer  
7 price index for all urban consumers, as published annually by the United  
8 States department of labor bureau of labor statistics. In no circum-  
9 stance shall net proceeds of the lottery, including the proceeds from  
10 video lottery gaming, be used for the payment of non-lottery expenses of  
11 the gaming commission, administrative or otherwise.

12 (f-1) As consideration for operation of video lottery gaming facility  
13 located in the county of Nassau of Suffolk and operated by a corporation  
14 established pursuant to section five hundred two of the racing, pari-mu-  
15 tuel wagering and breeding law, the division shall cause the in the  
16 racing industry of the following percentages of the vendor fee to be  
17 deposited or paid as follows:

18 (1) Two and three tenths percent of the total wagered after payout of  
19 prizes for the purpose of enhancing purses at Aqueduct racetrack,  
20 Belmont Park racetrack and Saratoga race course, provided, however, that  
21 any amount that is in excess of the amount necessary to maintain purse  
22 support from video lottery gaming at Aqueduct racetrack, Belmont Park  
23 racetrack and Saratoga race course at the same level realized in in two  
24 thousand thirteen, to be adjusted by the consumer price index for all  
25 urban consumers, as published annually by the United States department  
26 of bureau of labor statistics, shall be instead be returned to the  
27 commission.

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

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

22 (4) Nine tenths percent of the total revenue wagered after payout for  
23 prizes to be deposited into an account of the franchised corporation  
24 established pursuant to section two hundred six of the racing, pari-mu-  
25 tuel wagering and breeding law to be used for general thoroughbred  
26 racing operations at Aqueduct racetrack, Belmont Park racetrack and  
27 Saratoga race course, provided, however, that any amount that is in  
28 excess of the amount necessary to maintain payments for general

1 thoroughbred racing operations from video lottery gaming at Aqueduct  
2 racetrack at the same level realized in in two thousand thirteen, to be  
3 adjusted by the consumer price index for all urban consumers, as  
4 published annually by the United States department of bureau of labor  
5 statistics, shall be instead be returned to the commission.

6 § 41. Subdivision a of section 1617-a of the tax law is amended by  
7 adding a new paragraph 5 to read as follows:

8 (5) at a facility established pursuant to a competitive process to be  
9 determined by the state gaming commission, established within region  
10 three of zone one as established by section one thousand three hundred  
11 ten of the racing, pari-mutuel wagering and breeding law, limited to  
12 Nassau county. Such facility may only be authorized by the state gaming  
13 commission following local governmental consultation and consideration  
14 of market factors such as potential revenue impact, job development and  
15 capital investment. The facility authorized pursuant to this paragraph  
16 shall be deemed a vendor for all purposes under this article, and need  
17 not be operated by licensed thoroughbred or harness racing associations  
18 or corporations. The facility authorized pursuant to this paragraph  
19 shall be deemed vendors for all purposes under this article.

20 § 42. Section 1612 of the tax law, as amended by chapter 2 of the laws  
21 of 1995, paragraph 1 of subdivision a as amended by chapter 147 of the  
22 laws of 2010, subparagraph (A) of paragraph 1 of subdivision a as  
23 amended by section 1 of part S of chapter 59 of the laws of 2012, para-  
24 graph 2 of subdivision a as amended by section 1 of part P of chapter 61  
25 of the laws of 2011, paragraphs 3, 4 and 5 and the second undesignated  
26 and closing paragraph of subdivision a as amended by section 1 of part Q  
27 of chapter 61 of the laws of 2011, subdivision 6 as amended by section 1  
28 of part O-1 of chapter 57 of the laws of 2009, the opening paragraph of

1 paragraph 1 of subdivision b as amended by section 1 of part R of chap-  
2 ter 61 of the laws of 2011, subparagraph (ii) of paragraph 1 of subdivi-  
3 sion b as amended by section 6 of part K of chapter 57 of the laws of  
4 2010, clause (F) of subparagraph (ii) of paragraph 1 of subdivision b as  
5 amended by section 1 of part T of chapter 59 of the laws of 2013, clause  
6 (H) of subparagraph (ii) of paragraph 1 of subdivision b as amended by  
7 chapter 454 of the laws of 2012, clause (I) of subparagraph (ii) of  
8 paragraph 1 of subdivision b as added by section 1 of part O of chapter  
9 61 of the laws of 2011, paragraphs 2 and 3 of subdivision 6 as amended  
10 by section 1 of part J of chapter 55 of the laws of 2013, subdivision c  
11 as amended by section 2 of part CC of chapter 61 of the laws of 2005,  
12 paragraph 1 of subdivision c as amended by section 2 of part R of chap-  
13 ter 61 of the laws of 2011, subdivision d as amended and subdivision e  
14 as added by chapter 18 of the laws of 2008, subdivisions f and g as  
15 amended by chapter 140 of the laws of 2008, paragraph 1 of subdivision f  
16 as amended by section 2 of part J of chapter 55 of the laws if 2013,  
17 subdivision h as added by section 13 of part A of chapter 60 of the laws  
18 of 2012, is amended to read as follows:

19 § 1612. Disposition of revenues. a. The division shall pay into an  
20 account, to be known as the lottery prize account, under the joint  
21 custody of the comptroller and the commissioner, within one week after  
22 collection of sales receipts from a lottery game, such moneys necessary  
23 for the payment of lottery prizes but not to exceed the following  
24 percentages, plus interest earned thereon:

25 (1) sixty percent of the total amount for which tickets have been sold  
26 for a lawful lottery game introduced on or after the effective date of  
27 this paragraph, subject to the following provisions:

1 (A) such game shall be available only on premises occupied by licensed  
2 lottery sales agents, subject to the following provisions:

3 (i) if the licensee does not hold a license issued pursuant to the  
4 alcoholic beverage control law to sell alcoholic beverages for consump-  
5 tion on the premises, then the premises must have a minimum square  
6 footage greater than two thousand five hundred square feet;

7 (ii) notwithstanding the foregoing provisions, television equipment  
8 that automatically displays the results of such drawings may be  
9 installed and used without regard to the square footage if such premises  
10 are used as:

11 (I) a commercial bowling establishment, or

12 (II) a facility authorized under the racing, pari-mutuel wagering and  
13 breeding law to accept pari-mutuel wagers;

14 (B) the rules for the operation of such game shall be as prescribed by  
15 regulations promulgated and adopted by the division, provided however,  
16 that such rules shall provide that no person under the age of twenty-one  
17 may participate in such games on the premises of a licensee who holds a  
18 license issued pursuant to the alcoholic beverage control law to sell  
19 alcoholic beverages for consumption on the premises; and, provided,  
20 further, that such regulations may be revised on an emergency basis not  
21 later than ninety days after the enactment of this paragraph in order to  
22 conform such regulations to the requirements of this paragraph; or

23 (2) sixty-five percent of the total amount for which tickets have been  
24 sold for the "Instant Cash" game in which the participant purchases a  
25 preprinted ticket on which dollar amounts or symbols are concealed on  
26 the face or the back of such ticket, provided however up to five new  
27 games may be offered during the fiscal year, seventy-five percent of the  
28 total amount for which tickets have been sold for such five games in

1 which the participant purchases a preprinted ticket on which dollar  
2 amounts or symbols are concealed on the face or the back of such ticket;  
3 or

4 (3) fifty-five percent of the total amount for which tickets have been  
5 sold for any joint, multi-jurisdiction, and out-of-state lottery except  
6 as otherwise provided in paragraph one of subdivision b of this section  
7 for any joint, multi-jurisdiction, out-of-state video lottery gaming; or

8 (4) fifty percent of the total amount for which tickets have been sold  
9 for games known as: (A) the "Daily Numbers Game" or "Win 4", discrete  
10 games in which the participants select no more than three or four of  
11 their own numbers to match with three or four numbers drawn by the divi-  
12 sion for purposes of determining winners of such games, (B) "Pick 10",  
13 offered no more than once daily, in which participants select from a  
14 specified field of numbers a subset of ten numbers to match against a  
15 subset of numbers to be drawn by the division from such field of numbers  
16 for the purpose of determining winners of such game, (C) "Take 5",  
17 offered no more than once daily, in which participants select from a  
18 specified field of numbers a subset of five numbers to match against a  
19 subset of five numbers to be drawn by the division from such field of  
20 numbers for purposes of determining winners of such game; or

21 (5) forty percent of the total amount for which tickets have been sold  
22 for: (A) "Lotto", offered no more than once daily, a discrete game in  
23 which all participants select a specific subset of numbers to match a  
24 specific subset of numbers, as prescribed by rules and regulations  
25 promulgated and adopted by the division, from a larger specific field of  
26 numbers, as also prescribed by such rules and regulations and (B) with  
27 the exception of the game described in paragraph one of this subdivi-  
28 sion, such other state-operated lottery games which the division may

1 introduce, offered no more than once daily, commencing on or after  
2 forty-five days following the official publication of the rules and  
3 regulations for such game.

4 The moneys in the lottery prize account shall be paid out of such  
5 account on the audit and warrant of the comptroller on vouchers certi-  
6 fied or approved by the director or his or her duly designated official.

7 Prize money derived from ticket sales receipts of a particular game  
8 and deposited in the lottery prize account in accordance with the  
9 percentages set forth above may be used to pay prizes in such game.  
10 Balances in the lottery prize account identified by individual games may  
11 be carried over from one fiscal year to the next to ensure proper payout  
12 of games.

13 b. 1. Notwithstanding section one hundred twenty-one of the state  
14 finance law, on or before the twentieth day of each month, the division  
15 shall pay into the state treasury, to the credit of the state lottery  
16 fund created by section ninety-two-c of the state finance law, not less  
17 than forty-five percent of the total amount for which tickets have been  
18 sold for games defined in paragraph four of subdivision a of this  
19 section during the preceding month, not less than thirty-five percent of  
20 the total amount for which tickets have been sold for games defined in  
21 paragraph three of subdivision a of this section during the preceding  
22 month, not less than twenty percent of the total amount for which tick-  
23 ets have been sold for games defined in paragraph two of subdivision a  
24 of this section during the preceding month, provided however that for  
25 games with a prize payout of seventy-five percent of the total amount  
26 for which tickets have been sold, the division shall pay not less than  
27 ten percent of sales into the state treasury and not less than twenty-  
28 five percent of the total amount for which tickets have been sold for

1 games defined in paragraph one of subdivision a of this section during  
2 the preceding month; and the balance of the total revenue after payout  
3 for prizes for games known as "video lottery gaming," including any  
4 joint, multi-jurisdiction, and out-of-state video lottery gaming, (i)  
5 less ten percent of the total revenue wagered after payout for prizes to  
6 be retained by the division for operation, administration, and procure-  
7 ment purposes; (ii) less a vendor's fee the amount of which is to be  
8 paid for serving as a lottery agent to the track operator of a vendor  
9 track:

10 (A) having fewer than one thousand one hundred video gaming machines,  
11 at a rate of thirty-five percent for the first fifty million dollars  
12 annually, twenty-eight percent for the next hundred million dollars  
13 annually, and twenty-five percent thereafter of the total revenue  
14 wagered at the vendor track after payout for prizes pursuant to this  
15 chapter;

16 (B) having one thousand one hundred or more video gaming machines, at  
17 a rate of thirty-one percent of the total revenue wagered at the vendor  
18 track after payout for prizes pursuant to this chapter, except for such  
19 facility located in the county of Westchester, in which case the rate  
20 shall be thirty percent until March thirty-first, two thousand twelve.

21 Notwithstanding the foregoing, not later than April first, two thou-  
22 sand twelve, the vendor fee shall become thirty-one percent and remain  
23 at that level thereafter; and except for Aqueduct racetrack, in which  
24 case the vendor fee shall be thirty-eight percent of the total revenue  
25 wagered at the vendor track after payout for prizes pursuant to this  
26 chapter;

27 (C) notwithstanding clauses (A) and (B) of this subparagraph, when the  
28 vendor track is located in an area with a population of less than one

1 million within the forty mile radius around such track, at a rate of  
2 thirty-nine percent for the first fifty million dollars annually, twen-  
3 ty-eight percent for the next hundred million dollars annually, and  
4 twenty-five percent thereafter of the total revenue wagered at the  
5 vendor track after payout for prizes pursuant to this chapter;

6 (D) notwithstanding clauses (A), (B) and (C) of this subparagraph,  
7 when the vendor track is located within fifteen miles of a Native Ameri-  
8 can class III gaming facility at a rate of forty-one percent of the  
9 total revenue wagered at the vendor track after payout for prizes pursu-  
10 ant to this chapter;

11 (E) notwithstanding clauses (A), (B), (C) and (D) of this subpara-  
12 graph, when a Native American class III gaming facility is established,  
13 after the effective date of this subparagraph, within fifteen miles of  
14 the vendor track, at a rate of forty-one percent of the total revenue  
15 wagered after payout for prizes pursuant to this chapter;

16 (E-1) for purposes of this subdivision, the term "class III gaming"  
17 shall have the meaning defined in 25 U.S.C. § 2703(8).

18 (F) notwithstanding clauses (A), (B), (C), (D) and (E) of this subpar-  
19 agraph, when a vendor track, is located in Sullivan county and within  
20 sixty miles from any gaming facility in a contiguous state such vendor  
21 fee shall, for a period of six years commencing April first, two thou-  
22 sand eight, be at a rate of forty-one percent of the total revenue  
23 wagered at the vendor track after payout for prizes pursuant to this  
24 chapter, after which time such rate shall be as for all tracks in clause  
25 (C) of this subparagraph.

26 (G) notwithstanding clauses (A), (B), (C), (D), (E) and (F) of this  
27 subparagraph, when [no more than one vendor track] a resort facility to  
28 be operated by other than a presently licensed video lottery gaming

1 operator or any entity affiliated therewith selected by the division  
2 following a competitive process located in [the town of Thompson in]  
3 Sullivan county [at the site of the former Concord Resort] at which a  
4 qualified capital investment has been made and no fewer than one thou-  
5 sand full-time, permanent employees have been newly hired, is located in  
6 Sullivan county and is within sixty miles from any gaming facility in a  
7 contiguous state, then for a period of forty years the vendor's fee  
8 shall equal the total revenue wagered at the vendor track after payout  
9 of prizes pursuant to this subdivision reduced by the greater of (i)  
10 twenty-five percent of total revenue after payout for prizes for "video  
11 lottery games" or (ii) for the first eight years of operation thirty-  
12 eight million dollars, and beginning in the ninth year of operation such  
13 amount shall increase annually by the lesser of the increase in the  
14 consumer price index or two percent, plus seven percent of total revenue  
15 after payout of prizes. In addition, in the event the vendor fee is  
16 calculated pursuant to subclause (i) of this clause, the vendor's fee  
17 shall be further reduced by 11.11 percent of the amount by which total  
18 revenue after payout for prizes exceeds two hundred fifteen million  
19 dollars, but in no event shall such reduction exceed five million  
20 dollars.

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

1 For the purposes of this section "qualified capital investment" shall  
2 mean an investment of a minimum of six hundred million dollars as  
3 reflected by audited financial statements of which not less than three  
4 hundred million dollars shall be comprised of equity and/or mezzanine  
5 financing as an initial investment in a county where twelve percent of  
6 the population is below the federal poverty level as measured by the  
7 most recent Bureau of Census Statistics prior to the qualified capital  
8 investment commencing that results in the construction, development or  
9 improvement of at least one eighteen hole golf course, and the  
10 construction and issuance of certificates of occupancy for hotels, lodg-  
11 ing, spas, dining, retail and entertainment venues, parking garages and  
12 other capital improvements at or adjacent to the licensed video gaming  
13 facility or licensed vendor track which promote or encourage increased  
14 attendance at such facilities.

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

26 For the purpose of this section "employment goal" shall mean one thou-  
27 sand five hundred full-time permanent employees after three years of

1 opening operations of the licensed video gaming facility [or licensed  
2 vendor track].

3 For the purpose of this section "employment shortfall" shall mean a  
4 level of employment that falls below the employment goal, as certified  
5 annually by vendor's certified accountants and the chairman of the  
6 empire state development corporation.

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

16 (i) one hundred percent of the recapture amount if the employment  
17 shortfall is greater than sixty-six and two-thirds percent of the  
18 employment goal;

19 (ii) seventy-five percent of the recapture amount if the employment  
20 shortfall is greater than thirty-three and one-third percent of the  
21 employment goal;

22 (iii) forty-nine and one-half percent of the recapture amount if the  
23 employment shortfall is greater than thirty percent of the employment  
24 goal;

25 (iv) twenty-two percent of the recapture amount if the employment  
26 shortfall is greater than twenty percent of the employment goal;

27 (v) eleven percent of the recapture amount if the employment shortfall  
28 is greater than ten percent of the employment goal.

1 (G) notwithstanding clauses (A), (B), (C), (D), (E) and (F) of this  
2 subparagraph, when no more than one vendor track located in the town of  
3 Thompson in Sullivan county at the site of the former Concord Resort at  
4 which a qualified capital investment has been made and no fewer than one  
5 thousand full-time, permanent employees have been newly hired, is  
6 located in Sullivan county and is within sixty miles from any gaming  
7 facility in a contiguous state, then for a period of forty years the  
8 vendor's fee shall equal the total revenue wagered at the vendor track  
9 after payout of prizes pursuant to this subdivision reduced by the  
10 greater of (i) twenty-five percent of total revenue after payout for  
11 prizes for "video lottery games" or (ii) for the first eight years of  
12 operation thirty-eight million dollars, and beginning in the ninth year  
13 of operation such amount shall increase annually by the lesser of the  
14 increase in the consumer price index or two percent, plus seven percent  
15 of total revenue after payout of prizes. In addition, in the event the  
16 vendor fee is calculated pursuant to subclause (i) of this clause, the  
17 vendor's fee shall be further reduced by 11.11 percent of the amount by  
18 which total revenue after payout for prizes exceeds two hundred fifteen  
19 million dollars, but in no event shall such reduction exceed five  
20 million dollars.

21 Provided, however, that in the case of no more than one vendor track  
22 located in the town of Thompson in Sullivan county at the site of the  
23 former Concord Resort with a qualified capital investment, and one thou-  
24 sand full-time, permanent employees if at any time after three years of  
25 opening operations of the licensed video gaming facility or licensed  
26 vendor track, the vendor track experiences an employment shortfall, then  
27 the recapture amount shall apply, for only such period as the shortfall  
28 exists.

1 For the purposes of this section "qualified capital investment" shall  
2 mean an investment of a minimum of six hundred million dollars as  
3 reflected by audited financial statements of which not less than three  
4 hundred million dollars shall be comprised of equity and/or mezzanine  
5 financing as an initial investment in a county where twelve percent of  
6 the population is below the federal poverty level as measured by the  
7 most recent Bureau of Census Statistics prior to the qualified capital  
8 investment commencing that results in the construction, development or  
9 improvement of at least one eighteen hole golf course, and the  
10 construction and issuance of certificates of occupancy for hotels, lodg-  
11 ing, spas, dining, retail and entertainment venues, parking garages and  
12 other capital improvements at or adjacent to the licensed video gaming  
13 facility or licensed vendor track which promote or encourage increased  
14 attendance at such facilities.

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

26 For the purpose of this section "employment goal" shall mean one thou-  
27 sand five hundred full-time permanent employees after three years of

1 opening operations of the licensed video gaming facility or licensed  
2 vendor track.

3 For the purpose of this section "employment shortfall" shall mean a  
4 level of employment that falls below the employment goal, as certified  
5 annually by vendor's certified accountants and the chairman of the  
6 empire state development corporation.

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

16 (i) one hundred percent of the recapture amount if the employment  
17 shortfall is greater than sixty-six and two-thirds percent of the  
18 employment goal;

19 (ii) seventy-five percent of the recapture amount if the employment  
20 shortfall is greater than thirty-three and one-third percent of the  
21 employment goal;

22 (iii) forty-nine and one-half percent of the recapture amount if the  
23 employment shortfall is greater than thirty percent of the employment  
24 goal;

25 (iv) twenty-two percent of the recapture amount if the employment  
26 shortfall is greater than twenty percent of the employment goal;

27 (v) eleven percent of the recapture amount if the employment shortfall  
28 is greater than ten percent of the employment goal.

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

7 (G-2) Notwithstanding clause (A) and (B) of this subparagraph, when a  
8 video lottery gaming facility is located in the county of Nassau estab-  
9 lished pursuant to a competitive process pursuant to paragraph (5) of  
10 section six thousand seventeen-a of this article at a rate of thirty-  
11 five percent of the total revenue wagered at the vendor track after  
12 payout for prizes pursuant to this chapter;

13 (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of  
14 this subparagraph, the track operator of a vendor track shall be eligi-  
15 ble for a vendor's capital award of up to four percent of the total  
16 revenue wagered at the vendor track after payout for prizes pursuant to  
17 this chapter, which shall be used exclusively for capital project  
18 investments to improve the facilities of the vendor track which promote  
19 or encourage increased attendance at the video lottery gaming facility  
20 including, but not limited to hotels, other lodging facilities, enter-  
21 tainment facilities, retail facilities, dining facilities, events  
22 arenas, parking garages and other improvements that enhance facility  
23 amenities; provided that such capital investments shall be approved by  
24 the division, in consultation with the state racing and wagering board,  
25 and that such vendor track demonstrates that such capital expenditures  
26 will increase patronage at such vendor track's facilities and increase  
27 the amount of revenue generated to support state education programs. The  
28 annual amount of such vendor's capital awards that a vendor track shall

1 be eligible to receive shall be limited to two million five hundred  
2 thousand dollars, except for Aqueduct racetrack, for which there shall  
3 be no vendor's capital awards. Except for tracks having less than one  
4 thousand one hundred video gaming machines, each track operator shall be  
5 required to co-invest an amount of capital expenditure equal to its  
6 cumulative vendor's capital award. For all tracks, except for Aqueduct  
7 racetrack, the amount of any vendor's capital award that is not used  
8 during any one year period may be carried over into subsequent years  
9 ending before April first, two thousand fourteen. Any amount attribut-  
10 able to a capital expenditure approved prior to April first, two thou-  
11 sand fourteen and completed before April first, two thousand sixteen  
12 shall be eligible to receive the vendor's capital award. In the event  
13 that a vendor track's capital expenditures, approved by the division  
14 prior to April first, two thousand fourteen and completed prior to April  
15 first, two thousand sixteen, exceed the vendor track's cumulative capi-  
16 tal award during the five year period ending April first, two thousand  
17 fourteen, the vendor shall continue to receive the capital award after  
18 April first, two thousand fourteen until such approved capital expendi-  
19 tures are paid to the vendor track subject to any required co-invest-  
20 ment. In no event shall any vendor track that receives a vendor fee  
21 pursuant to clause (F) or (G) of this subparagraph be eligible for a  
22 vendor's capital award under this section. Any operator of a vendor  
23 track which has received a vendor's capital award, choosing to divest  
24 the capital improvement toward which the award was applied, prior to the  
25 full depreciation of the capital improvement in accordance with general-  
26 ly accepted accounting principles, shall reimburse the state in amounts  
27 equal to the total of any such awards. Any capital award not approved  
28 for a capital expenditure at a video lottery gaming facility by April

1 first, two thousand fourteen shall be deposited into the state lottery  
2 fund for education aid; and

3 (I) Notwithstanding any provision of law to the contrary, free play  
4 allowance credits authorized by the division pursuant to subdivision f  
5 of section sixteen hundred seventeen-a of this article shall not be  
6 included in the calculation of the total amount wagered on video lottery  
7 games, the total amount wagered after payout of prizes, the vendor fees  
8 payable to the operators of video lottery facilities, vendor's capital  
9 awards, fees payable to the division's video lottery gaming equipment  
10 contractors, or racing support payments.

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

1 seventeen-a of this article through the provision of reasonable  
2 reimbursements and compensation to vendor tracks for participation in  
3 such program. Within twenty days after any award of lottery prizes, the  
4 division shall pay into the state treasury, to the credit of the state  
5 lottery fund, the balance of all moneys received from the sale of all  
6 tickets for the lottery in which such prizes were awarded remaining  
7 after provision for the payment of prizes as herein provided. Any reven-  
8 ues derived from the sale of advertising on lottery tickets shall be  
9 deposited in the state lottery fund.

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

1 pursuant to clause (A), (B), (C), (D), (E), (F), or (G) of subparagraph  
2 (ii) of paragraph one of this subdivision, shall be distributed to the  
3 appropriate breeding fund for the manner of racing conducted by such  
4 track.

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

11 3. Nothing in paragraph two of this subdivision shall affect any  
12 agreement in effect on or before the effective date of this paragraph,  
13 except that the obligation to pay funds to the gaming commission to  
14 promote and ensure equine health and safety shall supersede any  
15 provision to the contrary in any such agreement.

16 c. 1. The specifications for video lottery gaming, including any  
17 joint, multi-jurisdiction, and out-of-state video lottery gaming, shall  
18 be designed in such a manner as to pay prizes that average no less than  
19 ninety percent of sales.

20 2. Of the ten percent retained by the division for administrative  
21 purposes, any amounts beyond that which are necessary for the operation  
22 and administration of this pilot program shall be deposited in the  
23 lottery education account.

24 d. Notwithstanding any law, rule or regulation to the contrary, any  
25 successor to the New York Racing Association, Inc. with respect to the  
26 operation and maintenance of video lottery gaming at Aqueduct racetrack  
27 shall be deemed the successor to the New York Racing Association, Inc.  
28 for purposes of being subject to existing contracts and loan agreements,

1 if any, entered into by the New York Racing Association, Inc. directly  
2 related to the construction, operation, management and distribution of  
3 revenues of the video lottery gaming facility at Aqueduct racetrack.

4 e. The video lottery gaming operator selected to operate a video  
5 lottery terminal facility at Aqueduct will be subject to a memorandum of  
6 understanding between the governor, temporary president of the senate  
7 and the speaker of the assembly. Notwithstanding subparagraph (i) of  
8 paragraph a of subdivision eight of section two hundred twelve of the  
9 racing, pari-mutuel wagering and breeding law, the state, pursuant to an  
10 agreement with the video lottery gaming operator to operate a video  
11 lottery terminal facility at Aqueduct, may authorize, as part of such  
12 agreement or in conjunction with such agreement at the time it is  
13 executed, additional development at the Aqueduct racing facility. The  
14 selection will be made in consultation with the franchised corporation,  
15 but is not subject to such corporation's approval. The franchised corpo-  
16 ration shall not be eligible to compete to operate or to operate a video  
17 lottery terminal facility at Aqueduct. The state will use its best  
18 efforts to ensure that the video lottery terminal facility at Aqueduct  
19 is opened as soon as is practicable and will, if practicable, pursue the  
20 construction of a temporary video lottery terminal facility at Aqueduct  
21 subject to staying within an agreed budget for such video lottery termi-  
22 nal facility and subject to such temporary facility not having an  
23 adverse impact on opening of the permanent facility at Aqueduct. To  
24 facilitate the opening of the video lottery gaming facility at Aqueduct  
25 as soon as is practicable, the division of the lottery may extend the  
26 term of any existing contract related to the video lottery system.

27 f. As consideration for the operation of the video lottery gaming  
28 facility at Aqueduct racetrack, the division shall cause the investment

1 in the racing industry of the following percentages of the vendor fee to  
2 be deposited or paid, as follows:

3 1. Six and one-half percent of the total wagered after payout of  
4 prizes for the first year of operation of video lottery gaming at Aqueduct  
5 racetrack, seven percent of the total wagered after payout of  
6 prizes for the second year of operation, and seven and one-half percent  
7 of the total wagered after payout of prizes for the third year of operation  
8 and thereafter, for the purpose of enhancing purses at Aqueduct  
9 racetrack, Belmont Park racetrack and Saratoga race course. One percent  
10 of such purse enhancement amount shall be paid to the gaming commission  
11 to be used exclusively to promote and ensure equine health and safety in  
12 New York. Any portion of such funding to the gaming commission unused  
13 during a fiscal year shall be returned on a pro rata basis in accordance  
14 with the amounts originally contributed and shall be used for the  
15 purpose of enhancing purses at such tracks.

16 2. One percent of the total wagered after payout of prizes for the  
17 first year of operation of video lottery gaming at Aqueduct racetrack,  
18 one and one-quarter percent of the total wagered after payout of prizes  
19 for the second year of operation, and one and one-half percent of the  
20 total wagered after payout of prizes for the third year of operation and  
21 thereafter, for an appropriate breeding fund for the manner of racing  
22 conducted at Aqueduct racetrack, Belmont Park racetrack and Saratoga  
23 race course.

24 3. Four percent of the total revenue wagered after payout of prizes to  
25 be deposited into an account of the franchised corporation established  
26 pursuant to section two hundred six of the racing, pari-mutuel wagering  
27 and breeding law to be used for capital expenditures in maintaining and

1 upgrading Aqueduct racetrack, Belmont Park racetrack and Saratoga race  
2 course.

3 4. Three percent of the total revenue wagered after payout for prizes  
4 to be deposited into an account of the franchised corporation estab-  
5 lished pursuant to section two hundred six of the racing, pari-mutuel  
6 wagering and breeding law to be used for general thoroughbred racing  
7 operations at Aqueduct racetrack, Belmont Park racetrack and Saratoga  
8 race course.

9 5. Paragraphs one, two, three and four of this subdivision shall be  
10 known collectively as the "racing support payments".

11 (f-2) As consideration for operation of a video lottery gaming facili-  
12 ty located in the county of Nassau established pursuant to a competitive  
13 process pursuant to paragraph (5) of section six thousand seventeen a of  
14 this article, the division shall cause the in the racing industry of the  
15 following percentages of the vendor fee to be deposited or paid as  
16 follows:

17 (1) Two and three tenths percent of the total wagered after payout of  
18 prizes for the purpose of enhancing purses at Aqueduct racetrack,  
19 Belmont Park racetrack and Saratoga race course, provided, however, that  
20 any amount that is in excess of the amount necessary to maintain purse  
21 support from video lottery gaming at Aqueduct racetrack, Belmont Park  
22 racetrack and Saratoga race course at the same level realized in in two  
23 thousand thirteen, to be adjusted by the consumer price index for all  
24 urban consumers, as published annually by the United States department  
25 of bureau of labor statistics, shall be instead be returned to the  
26 commission.

27 (2) five tenths percent of the total wagered after payout of prizes  
28 for the appropriate breeding fund for the manner of racing at Aqueduct

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

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

20 (4) Nine tenths percent of the total revenue wagered after payout for  
21 prizes to be deposited into an account of the franchised corporation  
22 established pursuant to section two hundred six of the racing, pari-mu-  
23 tuel wagering and breeding law to be used for general thoroughbred  
24 racing operations at Aqueduct racetrack, Belmont Park racetrack and  
25 Saratoga race course, provided, however, that any amount that is in  
26 excess of the amount necessary to maintain payments for general  
27 thoroughbred racing operations from video lottery gaming at Aqueduct  
28 racetrack at the same level realized in in two thousand thirteen, to be

1 adjusted by the consumer price index for all urban consumers, as  
2 published annually by the United States department of bureau of labor  
3 statistics, shall be instead be returned to the commission.

4 g. In the event the state elects to construct a video lottery terminal  
5 facility at the Aqueduct racetrack, all video lottery terminal revenues  
6 payable to the video lottery gaming operator at the Aqueduct racetrack  
7 remaining after payment of the racing support payments shall first be  
8 used to repay the state's advances for (i) confirmation of the chapter  
9 eleven plan of reorganization and cash advances for the franchised  
10 corporation's operations following confirmation of the chapter eleven  
11 plan of reorganization and (ii) the amount expended by the state to  
12 construct such video lottery terminal facility at Aqueduct racetrack  
13 pursuant to an agreement with the state. Subparagraphs (i) and (ii) of  
14 this paragraph shall be defined as the state advance amount and the  
15 amounts payable to the division of the lottery.

16 h. In no circumstance shall net proceeds of the lottery, including the  
17 proceeds from video lottery gaming, be used for the payment of non-lot-  
18 tery expenses of the gaming commission, administrative or otherwise.

19 § 43. Section 1001 of the racing, pari-mutuel wagering and breeding  
20 law, as added by chapter 363 of the laws of 1984, subdivisions n, o and  
21 p as added by chapter 445 of the laws of 1997, is amended to read as  
22 follows:

23 § 1001. Definitions. As used in this article, the following terms  
24 shall have the following meanings:

25 a. "Simulcast" means the telecast of live audio and visual signals of  
26 running, harness or quarter horse races [conducted in the state] for the  
27 purposes of pari-mutuel wagering;

1 b. "Track" means the grounds or enclosures within which horse races  
2 are conducted by any person, association or corporation lawfully author-  
3 ized to conduct such races in accordance with the terms and conditions  
4 of this chapter or the laws of another jurisdiction;

5 c. "Sending track" means any track from which simulcasts originate;

6 d. "Receiving track" means any track where simulcasts originated from  
7 another track are displayed;

8 e. "Applicant" means any association [or], corporation or business  
9 entity applying for a simulcast license in accordance with the  
10 provisions of this article;

11 f. "Operator" means any association [or], corporation or business  
12 entity operating a simulcast facility in accordance with the provisions  
13 of this article;

14 g. "Regional track or tracks" means any or all tracks located within a  
15 region defined as an off-track betting region, except that for the  
16 purposes of section one thousand eight of this article any track located  
17 in New York city, or Nassau, Suffolk and Westchester counties, shall be  
18 deemed a regional track for all regions located in district one, as  
19 defined in this section;

20 h. "[The board]Commission" means the state [racing and wagering board]  
21 gaming commission;

22 i. "Branch office" means an establishment maintained and operated by  
23 an off-track betting corporation, where off-track pari-mutuel betting on  
24 horse races may be placed in accordance with the terms and conditions of  
25 this chapter and rules and regulations issued pursuant thereto;

26 j. "Simulcast facility" means those facilities within the state that  
27 are authorized pursuant to the provisions of this article to display  
28 simulcasts for pari-mutuel wagering purposes;

1 k. "Off-track betting region" means those regions as defined in  
2 section five hundred nineteen of this chapter;

3 l. "Simulcast theater" means a simulcast facility which is also a  
4 public entertainment and wagering facility, and which may include any or  
5 all of the following: a large screen television projection and display  
6 unit, a display system for odds, pools, and payout prices, areas for  
7 viewing and seating, a food and beverage facility, and any other conven-  
8 ience currently provided at racetracks and not inconsistent with local  
9 zoning ordinances;

10 m. "Simulcast districts" means one or more of the following named  
11 districts comprised of the counties within which pari-mutuel racing  
12 events are conducted as follows:

|    |            |                                     |
|----|------------|-------------------------------------|
| 13 | District 1 | New York City, Suffolk, Nassau, and |
| 14 |            | Westchester counties                |
| 15 | District 2 | Sullivan county                     |
| 16 | District 3 | Saratoga county                     |
| 17 | District 4 | Oneida county                       |
| 18 | District 5 | Erie, Genesee and Ontario counties  |

19 n. "Initial out-of-state thoroughbred track" means the track commenc-  
20 ing full-card simulcasting to New York prior to any other out-of-state  
21 thoroughbred track after 1:00 PM on any calendar day.

22 o. "Second out-of-state thoroughbred track" means the track (or subse-  
23 quent track or tracks where otherwise authorized by this article)  
24 conducting full-card simulcasting to New York after the race program  
25 from the initial out-of-state thoroughbred track that has commenced  
26 simulcasting on any calendar day.

1 p. "Mixed meeting" means a race meeting which has a combination of  
2 thoroughbred, quarter horse, Appaloosa, paint, and/or Arabian racing on  
3 the same race program.

4 q. "Account wagering" means a form of pari-mutuel wagering in which a  
5 person establishes an account with an account wagering licensee and  
6 subsequently communicates via telephone or other electronic media to the  
7 account wagering licensee wagering instructions concerning the funds in  
8 such person's account and wagers to be placed on the account owner's  
9 behalf.

10 r. "Account wagering licensee" means racing associations, and corpo-  
11 rations; franchised corporations, off-track betting corporations, and  
12 commission approved multi-jurisdictional account wagering providers that  
13 have been authorized by the commission to offer account wagering.

14 s. "Dormant account" means an account wagering account held by an  
15 account wagering licensee in which there has been no wagering activity  
16 for three years.

17 t. "Multi-jurisdictional account wagering provider" means a business  
18 entity domiciled in a jurisdiction, other than the state of New York,  
19 that does not operate either a simulcast facility that is open to the  
20 public within the state of New York or a licensed or franchised race-  
21 track within the state, but which is licensed by such other jurisdiction  
22 to offer pari-mutuel account wagering on races such provider simulcasts  
23 and other races it offers in its wagering menu to persons located in or  
24 out of the jurisdiction issuing such license.

25 § 44. Section 1002 of the racing, pari-mutuel wagering and breeding  
26 law, as added by chapter 363 of the laws of 1984, subdivision 2 as  
27 amended by chapter 18 of the laws of 2008, is amended to read as  
28 follows:

1 § 1002. General jurisdiction. 1. The [state racing and wagering board]  
2 commission shall have general jurisdiction over the simulcasting of  
3 horse races and account wagering within the state, and the [board]  
4 commission may issue rules and regulations in accordance with the  
5 provisions of this article.

6 2. The [board] commission shall annually submit reports on or before  
7 July first following each year in which simulcasting and account wager-  
8 ing is conducted to the director of the budget, the chairman of the  
9 senate finance committee and the chairman of the assembly ways and means  
10 committee evaluating the results of such simulcasts and account wagering  
11 on the compatibility with the well-being of the horse racing, breeding  
12 and pari-mutuel wagering industries in this state and make any recommen-  
13 dations it deems appropriate. Such reports may be submitted together  
14 with the reports required by subdivision two of section two hundred  
15 thirty-six and subparagraph (iii) of paragraph a and subparagraph (i) of  
16 paragraph b of subdivision one of section three hundred eighteen of this  
17 chapter.

18 § 45. Section 1003 of the racing, pari-mutuel wagering and breeding  
19 law, as added by chapter 363 of the laws of 1984, subdivision 1 as sepa-  
20 rately amended by chapters 2 and 70 of the laws of 1995, paragraph (a)  
21 of subdivision 1 as amended by section 1 of part U of chapter 59 of the  
22 laws of 2013, the opening paragraph of paragraph a of subdivision 2 as  
23 amended by chapter 538 of the laws of 1999 and subdivision 5 as amended  
24 by chapter 287 of the laws of 1985, is amended to read as follows:

25 § 1003. Licenses for simulcast facilities. 1. (a) Any racing associ-  
26 ation or corporation or regional off-track betting corporation, author-  
27 ized to conduct pari-mutuel wagering under this chapter, desiring to  
28 display the simulcast of horse races on which pari-mutuel betting shall

1 be permitted in the manner and subject to the conditions provided for in  
2 this article may apply to the [board] commission for a license so to do.  
3 Applications for licenses shall be in such form as may be prescribed by  
4 the [board] commission and shall contain such information or other mate-  
5 rial or evidence as the [board] commission may require. No license shall  
6 be issued by the [board] commission authorizing the simulcast trans-  
7 mission of thoroughbred races from a track located in Suffolk county.  
8 The fee for such licenses shall be five hundred dollars per simulcast  
9 facility and for account wagering licensees that do not operate either a  
10 simulcast facility that is open to the public within the state of New  
11 York or a licensed racetrack within the state, twenty thousand dollars  
12 per year payable by the licensee to the [board] commission for deposit  
13 into the general fund. Except as provided [herein] in this section, the  
14 [board] commission shall not approve any application to conduct simul-  
15 casting into individual or group residences, homes or other areas for  
16 the purposes of or in connection with pari-mutuel wagering. The board  
17 may approve simulcasting into residences, homes or other areas to be  
18 conducted jointly by one or more regional off-track betting corporations  
19 and one or more of the following: a franchised corporation, thoroughbred  
20 racing corporation or a harness racing corporation or association;  
21 provided (i) the simulcasting consists only of those races on which  
22 pari-mutuel betting is authorized by this chapter at one or more simul-  
23 cast facilities for each of the contracting off-track betting corpo-  
24 rations which shall include wagers made in accordance with section one  
25 thousand fifteen, one thousand sixteen and one thousand seventeen of  
26 this article; provided further that the contract provisions or other  
27 simulcast arrangements for such simulcast facility shall be no less  
28 favorable than those in effect on January first, two thousand five; (ii)

1 that each off-track betting corporation having within its geographic  
2 boundaries such residences, homes or other areas technically capable of  
3 receiving the simulcast signal shall be a contracting party; (iii) the  
4 distribution of revenues shall be subject to contractual agreement of  
5 the parties except that statutory payments to non-contracting parties,  
6 if any, may not be reduced; provided, however, that nothing herein to  
7 the contrary shall prevent a track from televising its races on an  
8 irregular basis primarily for promotional or marketing purposes as found  
9 by the board. For purposes of this paragraph, the provisions of section  
10 one thousand thirteen of this article shall not apply. Any agreement  
11 authorizing an in-home simulcasting experiment commencing prior to May  
12 fifteenth, nineteen hundred ninety-five, may, and all its terms, be  
13 extended until June thirtieth, two thousand fourteen; provided, however,  
14 that any party to such agreement may elect to terminate such agreement  
15 upon conveying written notice to all other parties of such agreement at  
16 least forty-five days prior to the effective date of the termination,  
17 via registered mail. Any party to an agreement receiving such notice of  
18 an intent to terminate, may request the board to mediate between the  
19 parties new terms and conditions in a replacement agreement between the  
20 parties as will permit continuation of an in-home experiment until June  
21 thirtieth, two thousand fourteen; and (iv) no in-home simulcasting in  
22 the thoroughbred special betting district shall occur without the  
23 approval of the regional thoroughbred track.

24 (b) Any agreement authorizing in-home simulcasting pursuant to this  
25 section shall be in writing, and upon written request, a copy shall be  
26 provided to the representative horsemen's group of the racing associ-  
27 ation or corporation that is party to said agreement. Such agreement  
28 shall include a categorical statement of new and incremental expenses

1 directly related and attributable to the conduct of in-home simulcast-  
2 ing. The representative horsemen's group may, within thirty days of  
3 receiving the agreement, petition the board for a determination as to  
4 the appropriateness and reasonableness of any expenses attributed by  
5 either the racing association or corporation or the off-track betting  
6 corporation.

7 2. Before it may grant such license, the [board] commission shall  
8 review and approve a plan of operation submitted by such applicant  
9 including, but not limited to the following information:

10 a. A feasibility study denoting the revenue earnings expected from the  
11 simulcast facility and the costs expected to operate such facility. No  
12 feasibility study shall be received for a simulcast facility that is  
13 applying to renew its license. The form of the feasibility study shall  
14 be prescribed by the [board] commission and may include:

15 (i) the number of simulcast races to be displayed;

16 (ii) the types of wagering to be offered;

17 (iii) the level of attendance expected and the area from which such  
18 attendance will be drawn;

19 (iv) the level of anticipated wagering activity;

20 (v) the source and amount of revenues expected from other than pari-  
21 mutuel wagering;

22 (vi) the cost of operating the simulcast facility and the identifica-  
23 tion of costs to be amortized and the method of amortization of such  
24 costs;

25 (vii) the amount and source of revenues needed for financing the  
26 simulcast facility;

27 (viii) the probable impact of the proposed operation on revenues to  
28 local government;

1 b. The security measures to be employed to protect the facility, to  
2 control crowds, to safeguard the transmission of the simulcast signals  
3 and to control the transmission of wagering data to effectuate common  
4 wagering pools;

5 c. The type of data processing, communication and transmission equip-  
6 ment to be utilized;

7 d. The description of the management groups responsible for the opera-  
8 tion of the simulcast facility;

9 e. The system of accounts to maintain a separate record of revenues  
10 collected by the simulcast facility, the distribution of such revenues  
11 and the accounting of costs relative to the simulcast operation;

12 f. The location of the facility and a written confirmation from appro-  
13 priate local officials that the location of such facility and the number  
14 of patrons expected to occupy such facility are in compliance with all  
15 applicable local ordinances;

16 g. The written agreements and letters of consent between specified  
17 parties pursuant to sections one thousand seven, one thousand eight and  
18 one thousand nine of this article.

19 3. Within forty-five days of receipt of the plan of operation provided  
20 in subdivision two of this section, the [board] commission shall issue  
21 an order approving the plan, approving it with modifications or denying  
22 approval, in which latter case the [board] commission shall state its  
23 reasons therefor. Within such period the [board] commission may request  
24 additional information or suggest amendments. If the [board] commission  
25 fails to approve the plan, the applicant may request a public hearing to  
26 be held within thirty days of the issuance of an order denying it. The  
27 [board] commission shall issue its final determination within ten days

1 of such hearing. The applicant may submit an amended application no  
2 sooner than thirty days after a denial.

3 4. No racing association, franchised corporation or corporation or  
4 regional off-track betting corporation shall be allowed to operate a  
5 simulcast facility except according to the provisions of an approved  
6 plan of operation. No change in such plan of operation may occur until  
7 an amendment proposing a change to the plan is approved by the [board]  
8 commission. A plan of operation may be amended from time to time at the  
9 request of either the operator or the [board] commission. The operator  
10 shall have the right to be heard concerning any amendment to the plan  
11 and the [board] commission shall dispose of such proposed amendments as  
12 expeditiously as practicable, but no later than thirty days following  
13 submission by the operator or, in the case of amendments proposed by the  
14 [board] commission, objection by the operator.

15 5. For the purpose of maintaining proper control over simulcasts  
16 conducted pursuant to this article, the [state racing and wagering  
17 board] commission shall license any person, association or corporation  
18 participating in simulcasting, as the [board] commission may by rule  
19 prescribe, including, if the [board] commission deem it necessary so to  
20 do, any or all persons, associations or corporations who create,  
21 distribute, transmit or display simulcast signals. In the case of  
22 thoroughbred racing simulcasting or harness racing simulcasting, such  
23 licenses shall be issued in accordance with and subject to the  
24 provisions governing licenses for participants and employees in article  
25 two or article three of this chapter as may be applicable to such type  
26 of racing.

27 § 46. Section 1012 of the racing, pari-mutuel wagering and breeding  
28 law, as amended by chapter 18 of the laws of 2008, subdivision 4-b as

1 added by chapter 402 of the laws of 2011 and subdivision 5 as amended by  
2 section 10 of part U of chapter 59 of the laws of 2013, is amended to  
3 read as follows:

4 § 1012. [Telephone accounts and telephone] Account wagering. [Any  
5 regional off-track betting corporation, and any franchised corporation,  
6 harness, thoroughbred, quarter horse racing association or corporation  
7 licensed to conduct pari-mutuel racing may maintain telephone betting  
8 accounts for wagers placed on races and special events offered by such  
9 corporation or association.] Racing associations and corporations, fran-  
10 chised corporations, off-track betting corporations and multi-jurisdic-  
11 tional account wagering providers may apply to the commission to be  
12 licensed to offer account wagering.

13 1. Racing associations and corporations, franchised corporations,  
14 off-track betting corporations and multi-jurisdictional account wagering  
15 providers may form partnerships, joint ventures, or any other affil-  
16 iations or contractual arrangement in order to further the purposes of  
17 this section. Multi-jurisdictional account wagering providers involved  
18 in such joint affiliations or contractual arrangements shall follow the  
19 same distributional policy with respect to retained commissions as their  
20 in-state affiliate or contractual partner.

21 2. The commission shall promulgate rules and regulations to license  
22 and regulate all phases of account wagering.

23 3. The commission shall specify a non-refundable application fee which  
24 shall be paid by each applicant for an account wagering license or  
25 renewal thereof.

26 4. Account wagering licensees shall utilize personal identification  
27 numbers and such other technologies as the commission may specify to

1 assure that only the account holder has access to the advance deposit  
2 wagering account.

3 5. Account wagering licensees shall provide for: a. withdrawals from  
4 the wagering account only by means of a check made payable to the  
5 account holder and sent to the address of the account holder or by means  
6 of an electronic transfer to an account held by the verified account  
7 holder or b. that the account holder may withdraw funds from the wager-  
8 ing account at a facility approved by the commission by presenting veri-  
9 fiable personal and account identification information.

10 6. Account wagering licensees may engage in interstate wagering trans-  
11 actions only where there is compliance with chapter fifty-seven of title  
12 fifteen of the United States code, commonly referred to as the "inter-  
13 state horse racing act".

14 7. The account holder's deposits to the wagering account shall be  
15 submitted by the account holder to the account wagering licensee and  
16 shall be in the form of one of the following: a. cash given to the  
17 account wagering licensee; b. check, money order, negotiable order of  
18 withdrawal, or wire or electronic transfer, payable and remitted to the  
19 account wagering licensee; or c. charges made to an account holder's  
20 debit or credit card upon the account holder's direct and personal  
21 instruction, which instruction may be given by telephone communication  
22 or other electronic means to the account wagering licensee or its agent  
23 by the account holder if the use of the card has been approved by the  
24 account wagering licensee.

25 8. a. Each wager shall be in the name of a natural person and shall  
26 not be in the name of any beneficiary, custodian, joint trust, corpo-  
27 ration, partnership or other organization or entity.

1 b. A wagering account may be established by a person completing an  
2 application form approved by the commission and submitting it together  
3 with a certification, or other proof, of age and residency. Such form  
4 shall include the address of the principal residence of the prospective  
5 account holder and a statement that a false statement made in regard to  
6 an application may subject the applicant to prosecution.

7 c. The prospective account holder shall submit the completed applica-  
8 tion to the account wagering licensee. The account wagering licensee may  
9 accept or reject an application after receipt and review of the applica-  
10 tion and certification, or other proof, of age and residency for compli-  
11 ance with this section.

12 d. No person other than the person in whose name an account has been  
13 established may issue wagering instructions relating to that account or  
14 otherwise engage in wagering transactions relating to that account.

15 9. A wagering account shall not be assignable or otherwise transfera-  
16 ble.

17 10. Except as otherwise provided in this article or in regulations  
18 which the commission may adopt pursuant thereto, all account wagers  
19 shall be final and no wager shall be canceled by the account holder at  
20 any time after the wager has been accepted by the account wagering  
21 licensee.

22 11. Dormant accounts shall be treated as abandoned property pursuant  
23 to section three hundred of the abandoned property law.

24 12. Account wagering providers must possess appropriate totalizator  
25 and accounting controls that will safeguard the transmission of wagering  
26 data and will keep a system of accounts which will maintain a separate  
27 record of revenues and an accounting of costs relative to the operation  
28 of the wagering provider.

1 13. Wagers placed with the account wagering providers shall result in  
2 the combination of all wagers placed with such provider with the wager-  
3 ing pools at the host track so as to produce common pari-mutuel betting  
4 pools for the calculation of odds and the determination of payouts from  
5 such pools, which payout shall be the same for all winning tickets,  
6 irrespective of whether a wager is placed at a host track or at an  
7 account wagering provider.

8 14. Any [regional off-track betting corporation and any franchised  
9 corporation, harness, thoroughbred, quarter horse racing association or  
10 corporation licensed to conduct pari-mutuel racing] account wagering  
11 licensee may require a minimum account balance in an amount to be deter-  
12 mined by such entity.

13 [2.] 15. a. Any regional off-track betting corporation may suspend  
14 collection of the surcharge imposed under section five hundred thirty-  
15 two of this chapter on winning wagers placed in [telephone] wagering  
16 accounts maintained by such regional corporation.

17 b. In a city of one million or more any regional off-track betting  
18 corporation, with the approval of the mayor of such city, may suspend  
19 collection of the surcharge imposed under section five hundred thirty-  
20 two of this chapter in winning wagers placed in [telephone] wagering  
21 accounts maintained by such regional corporation.

22 [3. Any telephone account maintained by a regional off-track betting  
23 corporation, franchised corporation, harness, thoroughbred, quarter  
24 horse association or corporation, with inactivity for a period of three  
25 years shall be forfeited and paid to the commissioner of taxation and  
26 finance. Such amounts when collected shall be paid by the commissioner  
27 of taxation and finance into the general fund of the state treasury.

1 4.] 16. The maintenance and operation of such [telephone] wagering  
2 accounts provided for in this section shall be subject to rules and  
3 regulations of the [state racing and wagering board] commission. The  
4 [board] commission shall include in such regulation a requirement that  
5 [telephone] wagering account information pertaining to surcharge and  
6 nonsurcharge [telephone] wagering accounts shall be separately reported.

7 [4-a.] 17. For the purposes of this section, "telephone [betting]  
8 wagering accounts" [and "telephone wagering"] shall mean and include all  
9 those wagers which utilize any wired or wireless communications device,  
10 including but not limited to wireline telephones, wireless telephones[,]  
11 and the internet[,], to transmit the placement of wagers on races and  
12 special events offered by any regional off-track betting corporation,  
13 and any harness, thoroughbred, quarter horse racing association or  
14 corporation licensed or franchised to conduct pari-mutuel racing in [New  
15 York] this state.

16 [4-b.] 18. Every racing association, off-track betting corporation,  
17 franchised corporation, harness, thoroughbred, quarter horse racing  
18 association or corporation or other entity licensed or franchised in  
19 this state to conduct pari-mutuel racing and wagering, or authorized to  
20 conduct races within the state, which operates [an account] a wagering  
21 [platform] account for the acceptance of wagers, shall locate the call  
22 center where such wagers are received within the state of New York.

23 [5. The provisions of this section shall expire and be of no further  
24 force and effect after June thirtieth, two thousand fourteen.]

25 § 47. The racing, pari-mutuel wagering and breeding law is amended by  
26 adding a new section 1012-a to read as follows:

1 § 1012-a. Multi-jurisdictional account wagering providers. A multi-  
2 jurisdictional account wagering provider shall only be licensed under  
3 the following conditions:

4 1. the multi-jurisdictional account wagering provider is licensed by  
5 the state in which it is located and, if required, by each state in  
6 which it operates;

7 2. the character and the background of the multi-jurisdictional  
8 account wagering provider is such that granting the applications for a  
9 license is in the public interest and the best interest of honest horse  
10 racing;

11 3. the multi-jurisdictional account wagering provider shall utilize  
12 the services of an independent third party to perform identity and  
13 verification services with respect to the establishment of wagering  
14 accounts for persons who are residents of the state of New York;

15 4. the commission shall be allowed access to the premises of the  
16 multi-jurisdictional account wagering provider to visit, investigate  
17 and, place such expert accountants and other persons it deems necessary  
18 for the purpose of insuring compliance with the rules and regulations of  
19 the commission;

20 5. if not already registered, the multi-jurisdictional account wager-  
21 ing provider shall agree promptly to take those steps necessary to qual-  
22 ify to do business in New York state, and to maintain such status in  
23 good standing throughout the license period;

24 6. multi-jurisdictional account wagering providers shall pay a market  
25 origin fee equal to five per centum on each wager accepted from New York  
26 residents. Multi-jurisdictional account wagering providers shall make  
27 the required payments to the market origin account on or before the  
28 fifth business day of each month and such required payments shall cover

1 payments due for the period of the preceding calendar month; provided,  
2 however, that such payments required to be made on April fifteenth shall  
3 be accompanied by a report under oath, showing the total of all such  
4 payments, together with such other information as the commission may  
5 require. A penalty of five per centum and interest at the rate of one  
6 per centum per month from the date the report is required to be filed to  
7 the date the payment shall be payable in case any payments required by  
8 this subdivision are paid when due. If the commission determines that  
9 any moneys received under this subdivision were paid in error, the  
10 commission may cause the same to be refunded without interest out of any  
11 moneys collected thereunder, provided an application therefor is filed  
12 with the commission within one year from the time the erroneous payment  
13 was made. The commission shall pay into the racing regulation account,  
14 under the joint custody of the comptroller and the commission, the total  
15 amount of the fee collected pursuant to this section.

16 § 48. Subdivision 2 of section 1017 of the racing, pari-mutuel wager-  
17 ing and breeding law, as amended by chapter 18 of the laws of 2008, is  
18 amended to read as follows:

19 2. a. Maintenance of effort. Any off-track betting corporation which  
20 engages in accepting wagers on the simulcasts of thoroughbred races from  
21 out-of-state or out-of-country as permitted under subdivision one of  
22 this section shall submit to the [board] commission, for its approval, a  
23 schedule of payments to be made in any year or portion thereof, that  
24 such off-track corporation engages in nighttime thoroughbred simulcast-  
25 ing. In order to be approved by the [board] commission, the payment  
26 schedule shall be identical to the actual payments and distributions of  
27 such payments to tracks and purses made by such off-track corporation  
28 pursuant to the provisions of section one thousand fifteen of this arti-

1 cle during the year two thousand two, as derived from out-of-state  
2 harness races displayed after 6:00 P.M. If approved by the [board]  
3 commission, such scheduled payments shall be made from revenues derived  
4 from any simulcasting conducted pursuant to this section and section one  
5 thousand fifteen of this article.

6 b. Additional payments. During each calendar year, to the extent, and  
7 at such time in the event, that aggregate statewide wagering handle  
8 after 7:30 P.M. on out-of-state and out-of-country thoroughbred races  
9 exceeds one hundred million dollars, each off-track betting corporation  
10 conducting such simulcasting shall pay to its regional harness track or  
11 tracks, an amount equal to two percent of its proportionate share of  
12 such excess handle. In any region where there are two or more regional  
13 harness tracks, such two percent shall be divided between or among the  
14 tracks in a proportion equal to the proportion of handle on live harness  
15 races conducted at such tracks during the preceding calendar year. Fifty  
16 percent of the sum received by each track pursuant to this paragraph  
17 shall be used exclusively for increasing purses, stakes and prizes at  
18 that regional harness track. For the purpose of determining whether  
19 such aggregate statewide handle exceeds one hundred million dollars, all  
20 wagering on such thoroughbred races accepted by licensed multi-jurisdic-  
21 tional account wagering providers from customers within New York state  
22 shall be excluded.

23 § 49. Section 503 of the racing, pari-mutuel wagering and breeding law  
24 is amended by adding a new subdivision 12-a to read as follows:

25 12-a. To enter into, amend, cancel and terminate agreements for the  
26 performance among themselves, licensed racing associations and corpo-  
27 rations, and multi-jurisdictional account wagering providers, as defined

1 in section one thousand one of this chapter, of their respective func-  
2 tions, powers and duties on a cooperative or contract basis.

3 § 50. The racing, pari-mutuel wagering and breeding law is amended by  
4 adding a new section 115-b to read as follows:

5 § 115-b. Market origin credits. 1. Notwithstanding any other provision  
6 of law to the contrary, any racing associations and corporations, fran-  
7 chised corporations, and off-track betting corporations that makes a  
8 payment of the regulatory fees imposed by this chapter may reduce such  
9 payment by an amount equal to the market origin credit allocated to such  
10 racing association or corporation, franchised corporation, or off-track  
11 betting corporation by the commission. The commission shall allocate  
12 credits in an amount equal to ninety percent of the amount received from  
13 the market origin fee paid pursuant to subdivision six of section one  
14 thousand twelve-a of this chapter for the period from the sixteenth day  
15 of the preceding month through the fifteenth day of the current month.  
16 The commission shall notify participants of allocations on or before the  
17 twentieth day of the current month.

18 2. The commission shall allocate credits to racing associations and  
19 corporations, franchised corporations, and off-track betting corpo-  
20 rations in the following amounts:

21 a. Forty percent of the amount received from the market origin fee  
22 paid pursuant to subdivision six of section one thousand twelve-a of  
23 this chapter to regional off-track betting corporations. Allocations to  
24 individual regional off-track betting corporations shall be made based  
25 on a ratio where the numerator is the regional corporation's total  
26 in-state handle for the previous calendar year as calculated by the  
27 commission and the denominator is the total in-state handle of all the

1 regional off-track betting corporations for the previous calendar year  
2 as calculated by the commission;

3 b. Fifty percent of the amount received from the market origin fee  
4 paid pursuant to subdivision six of section one thousand twelve-a of  
5 this chapter to the racing associations and corporations and franchised  
6 corporations. Allocations to individual racing associations and corpo-  
7 rations and franchised corporations shall be made as follows:

8 (i) Sixty percent to thoroughbred racing associations and franchised  
9 corporations. Five-sixths shall be allocated to a franchised corpo-  
10 ration and one-sixth shall be allocated to a thoroughbred racing associ-  
11 ation.

12 (ii) Forty percent to harness racing associations and corporations.  
13 Allocations to individual harness racing associations and corporations  
14 shall be made based on a ratio where the numerator is the association's  
15 or corporation's total in-state handle on live racing for the previous  
16 calendar year as calculated by the commission and the denominator is the  
17 total in-state on live handle for all harness racing associations and  
18 corporations for the previous calendar year as calculated by the commis-  
19 sion.

20 3. As a condition for any racing association or corporation or fran-  
21 chised corporation to claim any market origin credits allocated to it,  
22 such racing association or corporation or franchised corporation must  
23 make payments for moneys otherwise to be used to pay the regulatory fee  
24 as follows:

25 (i) Payment of an amount equal to forty percent of the allocated cred-  
26 its into an account used solely for the purpose of enhancing purses at  
27 such racing association or corporation or franchised corporation. Such  
28 payment shall be made within five days from receipt of notification of

1 an allocation by the commission of an allocation of market origin cred-  
2 its;

3 (ii) Payment of an amount equal to twenty percent of the allocated  
4 credits to the state's breeding funds. Sixty percent of the payments to  
5 the breeding funds shall be allocated to the New York state thoroughbred  
6 breeding and development fund corporation established pursuant to  
7 section two hundred fifty-two of this chapter, and forty percent to the  
8 agriculture and New York state horse breeding development fund estab-  
9 lished pursuant to section three hundred thirty of this chapter. Such  
10 payment shall be made within five days from receipt of notification of  
11 an allocation by the commission of an allocation of market origin cred-  
12 its.

13 4. The commission shall promulgate any rules and regulations necessary  
14 for the administration of the market origin credit.

15 § 51. Section 99-i of the state finance law, as added by section 26 of  
16 part F3 of chapter 62 of the laws of 2003, is amended to read as  
17 follows:

18 § 99-i. Racing regulation account. 1. There is hereby established in  
19 the joint custody of the comptroller and the [racing and wagering board]  
20 gaming commission a special revenue fund to be known as the "racing  
21 regulation account".

22 2. The racing [revenue] regulation account shall consist of all money  
23 received by the [board] commission as regulatory fees and market origin  
24 fees pursuant to the provisions of the racing, pari-mutuel wagering and  
25 breeding law.

26 3. Moneys of this account shall be available to the [board] commission  
27 to pay for the costs of carrying out the purposes of the racing, pari-  
28 mutuel wagering and breeding law; provided, however, an amount equal to

1 five percent of the amount received by the account from the market  
2 origin fee imposed by subdivision six of section one thousand twelve-a  
3 of the racing, pari-mutuel wagering and breeding law shall be trans-  
4 ferred to the state department of taxation and finance and the depart-  
5 ment shall deem this transfer as a payment of a pari-mutuel tax.

6 4. All payments from the fund shall be made on the audit and warrant  
7 of the comptroller.

8 (f) Sections forth through forty-eight of this act shall take effect  
9 January 1, 2014; except that the New York state gaming commission may  
10 accept and review applications for licenses for account wagering and for  
11 multi-jurisdictional account wagering providers commencing on October 1,  
12 2013.

13 § 52. This act shall take effect immediately; provided, however, that:

14 (a) sections one, two, five, nine, ten, twenty-seven and thirty-one of  
15 this act shall take effect on the first of January next succeeding the  
16 date upon which the people shall approve and ratify amendments to subdi-  
17 vision 1 of section 9 of article I of the constitution by a majority of  
18 the electors voting thereon relating to casino gambling in the state;

19 (b) sections six, seven, fourteen and sixteen of this act shall take  
20 effect on the same date as the agreement between the Oneida Nation of  
21 New York and the state of New York entered into on the sixteenth day of  
22 May, 2013 takes effect; provided, further, that the amendments to subdi-  
23 vision 2 of section 99-h of the state finance law made by section six of  
24 this act shall take effect on the same date as the reversion of such  
25 section as provided in section 2 of chapter 747 of the laws of 2006, as  
26 amended; provided, further, that the amendments to subdivision 3 of  
27 section 99-h of the state finance law made by section seven of this act  
28 shall be subject to the expiration and reversion of such subdivision as

1 provided in section 3 of part W of chapter 60 of the laws of 2011, as  
2 amended when upon such date the provisions of section seven-a of this  
3 act shall take effect; provided, further, that the amendments to subdi-  
4 vision 3 of section 99-h of the state finance law made by section  
5 seven-a of this act shall be subject to the the expiration and reversion  
6 of such section as provided in section 2 of chapter 747 of the laws of  
7 2006, as amended when upon such date the provisions of section eight of  
8 this act shall take effect; provided, further, however, that the amend-  
9 ment to section 99-h of the state finance law made by section nine of  
10 this act shall not affect the expiration of such section and shall be  
11 deemed repealed therewith; provided, further, that the state gaming  
12 commission shall notify the legislative bill drafting commission upon  
13 the occurrence of such agreement between the Oneida Nation and the state  
14 of New York becoming effective in order that the commission may maintain  
15 an accurate and timely effective data base of the official text of the  
16 laws of the state of New York in furtherance of effecting the provisions  
17 of section 44 of the legislative law and section 70-b of the public  
18 officers law;

19 (c) section 1368 of the racing, pari-mutuel wagering and breeding law,  
20 as added by section two of this act, shall take effect upon a change in  
21 federal law authorizing the activity permitted by such section or upon a  
22 ruling by a court of competent jurisdiction that such activity is  
23 lawful. The state gaming commission shall notify the legislative bill  
24 drafting commission upon the occurrence of the change in federal law or  
25 upon the ruling of a court of competent jurisdiction in order that the  
26 commission may maintain an accurate and timely effective data base of  
27 the official text of the laws of the state of New York in furtherance of

1 effecting the provisions of section 44 of the legislative law and  
2 section 70-b of the public officers law;

3 (d) section thirty-five of this act shall be deemed to have been in  
4 full force and effect on and after April 1, 2013;

5 (e) notwithstanding the foregoing, sections thirty-two, thirty-three,  
6 thirty-four, forty-one and forty-two of this act, shall only be effec-  
7 tive in the event that an amendment to the constitution to authorize  
8 casino gambling is defeated.

9 (f) section forty through forty-eight of this act shall take effect  
10 January 1, 2014; except that the New York state gaming commission may  
11 accept and review applications for licenses for account wagering and for  
12 multi-jurisdictional account wagering providers commencing on October 1,  
13 2013.

