

DRAFT LBDC

AN ACT to amend the racing, pari-mutuel wagering and breeding law, the penal law and the state finance law, in relation to commercial gaming; to amend the executive law, the state finance law and the Indian law, in relation to authorizing the settlement of disputes between the Oneida Nation of New York, the state, Oneida county and Madison county; to amend the Indian law and the tax law, in relation to identifying nations and tribes; to amend the election law, in relation to expenditure reporting; to repeal section 11 of the executive law relating to fuel and energy shortage state of emergency; to repeal section 109-a of the racing, pari-mutuel wagering and breeding law relating to labor peace agreements; and to repeal clause (G) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law relating to vendor's fees

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

1 Section 1. This act shall be known and may be cited as the "upstate
2 New York gaming economic development act of 2013."

3 § 2. The racing, pari-mutuel wagering and breeding law is amended by
4 adding a new article 13 to read as follows:

5 ARTICLE 13

6 DESTINATION RESORT GAMING

7 Title 1. General provisions

8 2. Facility determination and licensing

9 3. Occupational licensing

10 4. Enterprise and vendor licensing and registration

11 5. Requirements for conduct and operation of gaming

12 6. Taxation and fees

13 7. Minority and women-owned business enterprises

14 8. Problem gambling

15 9. Miscellaneous provisions

16 10. Gaming inspector general

1 TITLE 1

2 GENERAL PROVISIONS

3 Section 1300. Legislative findings and purpose.

4 1301. Definitions.

5 1302. Auditing duties of the commission.

6 1303. Equipment testing.

7 1304. Commission reporting.

8 1305. Supplemental power of the commission.

9 1306. Powers of the board.

10 1307. Required regulations.

11 1308. Reports and recommendations.

12 1309. Severability and preemption.

13 § 1300. Legislative findings and purpose. The legislature hereby
14 finds and declares that:

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

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

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

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

25 5. Four upstate casinos can boost economic development, create thou-
26 sands of well-paying jobs and provide added revenue to the state;

27 6. The upstate tourism industry constitutes a critical component of
28 our state's economic infrastructure and that four upstate casinos will

1 attract non-New York residents and bring downstate New Yorkers to
2 upstate;

3 7. The casino sites and the licensed owners shall be selected on
4 merit;

5 8. Local impact of the casino sites will be considered in the casino
6 evaluation process;

7 9. Tribes whose gaming compacts are in good standing with the state
8 will have their geographic exclusivity protected by this article;

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

12 11. Casinos will be tightly and strictly regulated by the commission
13 to guarantee public confidence and trust in the credibility and integri-
14 ty of all casino gambling in the state and to prevent organized crime
15 from any involvement in the casino industry;

16 12. The need for strict state controls extends to regulation of all
17 persons, locations, practices and associations related to the operation
18 of licensed enterprises and all related service industries as provided
19 in this article;

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

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

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

26 16. As thoroughly and pervasively regulated by the state, four upstate
27 casinos will work to the betterment of all New York.

1 § 1301. Definitions. As used in this article the following terms
2 shall, unless the context clearly requires otherwise, have the following
3 meanings:

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

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

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

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

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

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

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

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

12 9. "Casino key employee". Any natural person employed by a gaming
13 facility licensee, or holding or intermediary company of a gaming facil-
14 ity licensee, and involved in the operation of a licensed gaming facili-
15 ty in a supervisory capacity or empowered to make discretionary deci-
16 sions which regulate gaming facility operations; or any other employee
17 so designated by the commission for reasons consistent with the policies
18 of this article.

19 10. "Casino vendor enterprise". Any vendor offering goods or services
20 which directly relate to casino or gaming activity, or any vendor
21 providing to gaming facility licensees or applicants goods and services
22 ancillary to gaming activity. Notwithstanding the foregoing, any form of
23 enterprise engaged in the manufacture, sale, distribution, testing or
24 repair of slot machines within the state, other than antique slot
25 machines, shall be considered a casino vendor enterprise for the
26 purposes of this article regardless of the nature of its business
27 relationship, if any, with gaming facility applicants and licensees in
28 this state.

1 11. "Close associate". A person who holds a relevant financial inter-
2 est in, or is entitled to exercise power in, the business of an appli-
3 cant or licensee and, by virtue of that interest or power, is able to
4 exercise a significant influence over the management or operation of a
5 gaming facility or business licensed under this article.

6 12. "Commission". The New York state gaming commission.

7 13. "Complimentary service or item". A service or item provided at no
8 cost or at a reduced cost to a patron of a gaming facility.

9 14. "Conservator". A person appointed by the commission to temporarily
10 manage the operation of a gaming facility.

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

18 16. "Debt". Any legal liability, whether matured or unmatured, liqui-
19 dated or unliquidated, absolute, fixed or contingent, including debt
20 convertible into an equity security which has not yet been so converted,
21 and any other debt carrying any warrant or right to subscribe to or
22 purchase an equity security which warrant or right has not yet been
23 exercised.

24 17. "Encumbrance". A mortgage, security interest, lien or charge of
25 any nature in or upon property.

26 18. "Executive director". The executive director of the New York state
27 gaming commission.

1 19. "Family". Spouse, domestic partner, partner in a civil union,
2 parents, grandparents, children, grandchildren, siblings, uncles, aunts,
3 nephews, nieces, fathers-in-law, mothers-in-law, daughters-in-law, sons-
4 in-law, brothers-in-law and sisters-in-law, whether by the whole or half
5 blood, by marriage, adoption or natural relationship.

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

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

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

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

19 24. "Gaming facility license". Any license issued pursuant to this
20 article which authorizes the holder thereof to own or operate a gaming
21 facility.

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

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

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

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

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

23 29. "Junket". An arrangement intended to induce a person to come to a
24 gaming facility to gamble, where the person is selected or approved for
25 participation on the basis of the person's ability to satisfy a finan-
26 cial qualification obligation related to the person's ability or will-
27 ingness to gamble or on any other basis related to the person's propen-
28 sity to gamble and pursuant to which and as consideration for which, any

1 of the cost of transportation, food, lodging, and entertainment for the
2 person is directly or indirectly paid by a gaming facility licensee or
3 an affiliate of the gaming facility licensee.

4 30. "Junket enterprise". A person, other than a gaming facility licen-
5 see or an applicant for a gaming facility license, who employs or other-
6 wise engages the services of a junket representative in connection with
7 a junket to a licensed gaming facility, regardless of whether or not
8 those activities occur within the state.

9 31. "Junket representative". A person who negotiates the terms of, or
10 engages in the referral, procurement or selection of persons who may
11 participate in, a junket to a gaming facility, regardless of whether or
12 not those activities occur within the state.

13 32. "Operation certificate". A certificate issued by the commission
14 which certifies that operation of a gaming facility conforms to the
15 requirements of this article and applicable regulations and that its
16 personnel and procedures are sufficient and prepared to entertain the
17 public.

18 33. "Person". Any corporation, association, operation, firm, partner-
19 ship, trust or other form of business association, as well as a natural
20 person.

21 34. "Registration". Any requirement other than one which requires a
22 license as a prerequisite to conduct a particular business as specified
23 by this article.

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

26 36. "Restricted casino areas". The cashier's cage, the soft count
27 room, the hard count room, the slot cage booths and runway areas, the
28 interior of table game pits, the surveillance room and catwalk areas,

1 the slot machine repair room and any other area specifically designated
2 by the commission as restricted in a licensee's operation certificate.

3 37. "Qualification" or "qualified". The process of licensure set forth
4 by the commission to determine that all persons who have a professional
5 interest in a gaming facility license, or casino vendor enterprise
6 license, or the business of a gaming facility licensee or gaming vendor,
7 meet the same standards of suitability to operate or conduct business
8 with a gaming facility.

9 38. "Slot machine". A mechanical, electrical or other device, contri-
10 vance or machine which, upon insertion of a coin, token or similar
11 object therein, or upon payment of any consideration whatsoever, is
12 available to play or operate, the play or operation of which, whether by
13 reason of the skill of the operator or application of the element of
14 chance, or both, may deliver or entitle the individual playing or oper-
15 ating the machine to receive cash, or tokens to be exchanged for cash,
16 or to receive merchandise or any other thing of value, whether the
17 payoff is made automatically from the machine or in any other manner,
18 except that the cash equivalent value of any merchandise or other thing
19 of value shall not be included in determining the payout percentage of a
20 slot machine.

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

25 40. "Subsidiary". A corporation, a significant part of whose outstand-
26 ing equity securities are owned, subject to a power or right of control,
27 or held with power to vote, by a holding company or an intermediary
28 company, or a significant interest in a firm, association, partnership,

1 trust or other form of business organization, other than a natural
2 person, which is owned, subject to a power or right of control, or held
3 with power to vote, by a holding company or an intermediary company.

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

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

15 § 1302. Auditing duties of the commission. The commission shall audit
16 as often as the commission determines necessary, but not less than annu-
17 ally, the accounts, programs, activities, and functions of all gaming
18 facility licensees, including the audit of payments made pursuant to
19 section one thousand three hundred fifty-one of this chapter. To
20 conduct the audit, authorized officers and employees of the commission
21 shall have access to such accounts at reasonable times and the commis-
22 sion may require the production of books, documents, vouchers and other
23 records relating to any matter within the scope of the audit. All audits
24 shall be conducted in accordance with generally accepted auditing stand-
25 ards established by the American Institute of Certified Public Account-
26 ants. In any audit report of the accounts, funds, programs, activities
27 and functions of a gaming facility licensee issued by the commission
28 containing adverse or critical audit results, the commission may require

1 a response, in writing, to the audit results. The response shall be
2 forwarded to the commission within fifteen days of notification by the
3 commission.

4 § 1303. Equipment testing. Unless the commission otherwise determines
5 it to be in the best interests of the state, the commission shall
6 utilize the services of an independent testing laboratory that has been
7 qualified and approved by the commission pursuant to this article to
8 perform the testing of slot machines and other gaming equipment and may
9 also utilize applicable data from the independent testing laboratory, or
10 from a governmental agency of a state other than New York, authorized to
11 regulate slot machines and other gaming equipment.

12 § 1304. Commission reporting. The commission shall report monthly to
13 the governor, the senate and the assembly, the senate finance committee
14 and the assembly ways and means committee, and the chairs of the senate
15 racing, gaming and wagering committee and the assembly racing and wager-
16 ing committee on economic development and emerging technologies on the
17 total gaming revenues, prize disbursements and other expenses for the
18 preceding month and shall make an annual report to the same recipients
19 which shall include a full and complete statement of gaming revenues,
20 prize disbursements and other expenses, including such recommendations
21 as the commission considers necessary or advisable. The commission shall
22 also report immediately to the aforementioned on any matter which
23 requires immediate changes in the laws in order to prevent abuses or
24 evasions of the laws, rules or regulations related to gaming or to
25 rectify undesirable conditions in connection with the administration or
26 operation of gaming in the state.

1 § 1305. Supplemental power of the commission. The commission shall
2 have all powers necessary or convenient to carry out and effectuate its
3 purposes including, but not limited to, the power to:

- 4 1. execute all instruments necessary or convenient for accomplishing
5 the purposes of this article;
- 6 2. enter into agreements or other transactions with a person, includ-
7 ing, but not limited to, a public entity or other governmental instru-
8 mentality or authority in connection with its powers and duties under
9 this article;
- 10 3. require an applicant for a position which requires a license under
11 this article to apply for such license and approve or disapprove any
12 such application or other transactions, events and processes as provided
13 in this article;
- 14 4. require a person who has a business association of any kind with a
15 gaming licensee or applicant to be qualified for licensure under this
16 article;
- 17 5. determine a suitable debt-to-equity ratio for applicants for a
18 gaming license;
- 19 6. deny an application or limit, condition, restrict, revoke or
20 suspend a license, registration, finding of suitability or approval, or
21 fine a person licensed, registered, found suitable or approved for any
22 cause that the commission deems reasonable;
- 23 7. monitor the conduct of licensees and other persons having a materi-
24 al involvement, directly or indirectly, with a licensee for the purpose
25 of ensuring that licenses are not issued to or held by and that there is
26 no direct or indirect material involvement with a licensee, by an
27 unqualified or unsuitable person or by a person whose operations are

1 conducted in an unsuitable manner or in unsuitable or prohibited places
2 as provided in this article;

3 8. gather facts and information applicable to the commission's obli-
4 gation to issue, suspend or revoke licenses, work permits or registra-
5 tions for:

6 (a) a violation of this article or any regulation adopted by the
7 commission;

8 (b) willfully violating an order of the commission directed to a
9 licensee;

10 (c) the conviction of certain criminal offenses; or

11 (d) the violation of any other offense which would disqualify such a
12 licensee from holding a license, work permit or registration;

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

15 10. request and receive from the division of criminal justice services
16 and the federal bureau of investigation, such criminal history record
17 information as necessary for the purpose of evaluating applicants for
18 employment by any regulated entity, and evaluating licensees and appli-
19 cants for licensure under this article;

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

22 (a) certifying revenue;

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

25 (c) examining records of revenues and procedures and inspecting and
26 auditing all books, documents and records of licensees;

27 (d) conducting periodic reviews of operations and facilities for the
28 purpose of regulations adopted hereunder; and

1 (e) exercising its oversight responsibilities with respect to gaming;
2 12. inspect and have access to all equipment and supplies in a gaming
3 facility or on premises where gaming equipment is manufactured, sold or
4 distributed;
5 13. seize and remove from the premises of a gaming licensee and
6 impound any equipment, supplies, documents and records for the purpose
7 of examination and inspection;
8 14. demand access to and inspect, examine, photocopy and audit all
9 papers, books and records of any affiliate of a gaming licensee or
10 gaming vendor whom the commission suspects is involved in the financing,
11 operation or management of the gaming licensee or gaming vendor;
12 provided, however, that the inspection, examination, photocopying and
13 audit may take place on the affiliate's premises or elsewhere as practi-
14 cable and in the presence of the affiliate or its agent;
15 15. require that the books and financial or other records or state-
16 ments of a gaming licensee or gaming vendor be kept in a manner that the
17 commission considers proper;
18 16. levy and collect assessments, fees, fines and interest and impose
19 penalties and sanctions for a violation of this article or any regu-
20 lations promulgated by the commission;
21 17. collect taxes, fees and interest under this article;
22 18. restrict, suspend or revoke licenses issued under this article;
23 19. refer cases for criminal prosecution to the appropriate federal,
24 state or local authorities;
25 20. adopt, amend or repeal regulations for the implementation, admin-
26 istration and enforcement of this article; and
27 21. determine a suitable duration for each license, registration or
28 finding of suitability or approval.

1 § 1306. Powers of the board. The New York state resort gaming facility
2 location board shall select, following a competitive process and subject
3 to the restrictions of this article, no more than four entities to apply
4 to the commission for gaming facility licenses. In exercising its
5 authority, the board shall have all powers necessary or convenient to
6 fully carry out and effectuate its purposes including, but not limited
7 to, the following powers. The board shall:

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

11 2. assist the commission in prescribing the form of the application
12 for zone two gaming facility licenses including information to be
13 furnished by an applicant concerning an applicant's antecedents, habits,
14 character, associates, criminal record, business activities and finan-
15 cial affairs, past or present pursuant to section one thousand three
16 hundred thirteen of this article;

17 3. develop criteria, in addition to those outlined in this article, to
18 assess which applications provide the highest and best value to the
19 state, the zone and the region in which a gaming facility is to be
20 located;

21 4. allow for a gaming facility licensee fee to be determined by the
22 applicant and weighed as a factor pursuant to paragraph b of subdivision
23 one of section one thousand three hundred twenty of this article.

24 5. determine, from time to time, whether tribal-state gaming compacts
25 are in or remain in good standing for the purposes of determining wheth-
26 er a gaming facility may be located in areas designated by subdivision
27 two of section one thousand three hundred eleven of this article;

1 6. determine, with the assistance of the commission, the sources and
2 total amount of an applicant's proposed capitalization to develop,
3 construct, maintain and operate a proposed gaming facility license under
4 this article;

5 7. have the authority to conduct investigative hearings concerning the
6 conduct of gaming and gaming operations in accordance with any proce-
7 dures set forth in this article and any applicable implementing regu-
8 lations;

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

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

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

18 11. have the power to administer oaths and examine witnesses, and may
19 issue subpoenas to compel attendance of witnesses, and the production of
20 all relevant and material reports, books, papers, documents, correspond-
21 ence and other evidence;

22 12. be authorized to access the criminal history records of the divi-
23 sion of criminal justice services, pursuant to subdivision eight-a of
24 section eight hundred thirty-seven of the executive law, in connection
25 with executing the responsibilities of the board relating to licensing
26 including fingerprinting, criminal history record checks and background
27 investigations, of entities applying for a gaming facility license. At
28 the request of the board, the division of criminal justice services

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

17 13. be authorized to delegate the execution of any of its powers under
18 this article for the purpose of administering and enforcing this article
19 and the rules and regulations hereunder.

20 § 1307. Required regulations. 1. The commission is authorized:

21 (a) to adopt, amend or repeal such regulations, consistent with the
22 policy and objectives of this article, as amended and supplemented, as
23 it may deem necessary to protect the public interest in carrying out the
24 provisions of this article; and

25 (b) to adopt, amend or repeal such regulations as may be necessary for
26 the conduct of hearings before the commission and for the matters within
27 all other responsibilities and duties of the commission imposed by this
28 article.

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

4 (a) prescribing the methods and forms of application and registration
5 which any applicant or registrant shall follow and complete;

6 (b) prescribing the methods, procedures and form for delivery of
7 information concerning any person's family, habits, character, associ-
8 ates, criminal record, business activities and financial affairs;

9 (c) prescribing such procedures for the fingerprinting of an appli-
10 cant, employee of a licensee, or registrant, and methods of identifica-
11 tion which may be necessary to accomplish effective enforcement of
12 restrictions on access to the casino and other restricted casino areas
13 of the gaming facility;

14 (d) prescribing the method of notice to an applicant, registrant or
15 licensee concerning the release of any information or data provided to
16 the commission by such applicant, registrant or licensee;

17 (e) prescribing the manner and procedure of all hearings conducted by
18 the commission or any presiding officer, including rules of evidence
19 applicable thereto and notices thereof;

20 (f) prescribing the manner and method of collection of payments of
21 taxes, fees, interest and penalties;

22 (g) defining and limiting the areas of operation, the rules of author-
23 ized games, odds, and devices permitted, and the method of operation of
24 such games and devices;

25 (h) regulating the practice and procedures for negotiable transactions
26 involving patrons, including limitations on the circumstances and
27 amounts of such transactions, and the establishment of forms and proce-

1 dures for negotiable instrument transactions, redemptions, and consol-
2 idations;

3 (i) prescribing grounds and procedures for the revocation or suspen-
4 sion of operating certificates, licenses and registrations;

5 (j) governing the manufacture, distribution, sale, deployment, and
6 servicing of gaming devices and equipment;

7 (k) prescribing for gaming operations the procedures, forms and meth-
8 ods of management controls, including employee and supervisory tables of
9 organization and responsibility, and minimum security and surveillance
10 standards, including security personnel structure, alarm and other elec-
11 trical or visual security measures; provided, however, that the commis-
12 sion shall grant an applicant broad discretion concerning the organiza-
13 tion and responsibilities of management personnel who are not directly
14 involved in the supervision of gaming operations;

15 (l) prescribing the qualifications of, and the conditions pursuant to
16 which, engineers, accountants, and others shall be permitted to practice
17 before the commission or to submit materials on behalf of any applicant
18 or licensee; provided, however, that no member of the legislature, nor
19 any firm with which said member is associated, shall be permitted to
20 appear or practice or act in any capacity whatsoever before the commis-
21 sion regarding any matter whatsoever, nor shall any member of the family
22 of the governor or of a member of the legislature be permitted to so
23 practice or appear in any capacity whatsoever before the commission
24 regarding any matter whatsoever;

25 (m) prescribing minimum procedures for the exercise of effective
26 control over the internal fiscal affairs of a licensee, including
27 provisions for the safeguarding of assets and revenues, the recording of
28 cash and evidence of indebtedness, and the maintenance of reliable

1 records, accounts, and reports of transactions, operations and events,
2 including reports to the commission;

3 (n) providing for a minimum uniform standard of accountancy methods,
4 procedures and forms; a uniform code of accounts and accounting classi-
5 fications; and such other standard operating procedures, as may be
6 necessary to assure consistency, comparability, and effective disclosure
7 of all financial information, including calculations of percentages of
8 profit by games, tables, gaming devices and slot machines;

9 (o) requiring quarterly financial reports and the form thereof, and an
10 annual audit prepared by a certified public accountant licensed to do
11 business in this state, attesting to the financial condition of a licen-
12 see and disclosing whether the accounts, records and control procedures
13 examined are maintained by the licensee as required by this article and
14 the regulations promulgated hereunder;

15 (p) governing the gaming-related advertising of licensees, their
16 employees and agents, with the view toward assuring that such advertise-
17 ments are not deceptive; and

18 (q) governing the distribution and consumption of alcoholic beverages
19 on the premises of the licensee.

20 3. The commission shall, in its regulations, prescribe the manner and
21 procedure of all hearings conducted by the commission, including rules
22 of evidence applicable thereto and notices thereof.

23 § 1308. Reports and recommendations. The commission shall carry on a
24 continuous study of the operation and administration of casino control
25 laws which may be in effect in other jurisdictions, literature on this
26 subject which may from time to time become available, and federal laws
27 which may affect the operation of casino gaming in this state. It shall
28 be responsible for ascertaining any defects in this article or in the

1 rules and regulations issued thereunder, formulating recommendations for
2 changes in this article. The commission shall make available to the
3 governor and the legislature within its annual report an accounting of
4 all revenues, expenses and disbursements, and shall include therein such
5 recommendations for changes in this article as the commission deems
6 necessary or desirable.

7 § 1309. Severability and preemption. 1. If any clause, sentence,
8 subparagraph, paragraph, subdivision, section, article or other portion
9 of this article or the application thereof to any person or circum-
10 stances shall be held to be invalid, such holding shall not affect,
11 impair or invalidate the remainder of this article or the application of
12 such portion held invalid to any other person or circumstances, but
13 shall be confined in its operation to the clause, sentence, paragraph,
14 subparagraph, subdivision, section, article or other portion thereof
15 directly involved in such holding or to the person or circumstance ther-
16 ein involved.

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

1 TITLE 22 FACILITY DETERMINATION AND LICENSING3 Section 1310. Development zones and regions.4 1311. License authorization; restrictions.5 1312. Requests for applications.6 1313. Form of application.7 1314. License applicant eligibility.8 1315. Required capital investment.9 1316. Minimum license thresholds.10 1317. Investigation of license applicants.11 1318. Disqualifying criteria.12 1319. Investigative hearings.13 1320. Siting evaluation.14 1321. Intentionally omitted.

15 § 1310. Development zones and regions. 1. There are hereby created
16 two development zones to be known as the zone one and zone two. Zone one
17 shall include the city of New York and the counties of Nassau, Putnam,
18 Rockland, Suffolk and Westchester. Zone two shall include all the other
19 counties of the state.

20 2. Each zone shall be divided into development regions. (a) The three
21 development regions in zone one shall be comprised of the following
22 counties:

23 (1) Region one shall consist of Putnam, Rockland and Westchester coun-
24 ties;

25 (2) Region two shall consist of Bronx, Kings, New York, Queens and
26 Richmond counties. No gaming facility shall be authorized in region
27 two; and

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

1 (b) The six development regions in zone two shall be comprised of the
2 following counties:

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

5 (2) Region two shall consist of Albany, Fulton, Montgomery, Rensse-
6 laer, Saratoga, Schenectady, Schoharie and Washington counties.

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

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

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

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

18 § 1311. License authorization; restrictions. 1. The commission is
19 authorized to award up to four gaming facility licenses, in regions one,
20 two and five of zone two. The duration of such initial license shall be
21 ten years. The term of renewal shall be determined by the commission. No
22 more than two licenses may be awarded within a single region. The
23 commission is not empowered to award any license in zone one. No gaming
24 facilities are authorized under this article for the city of New York or
25 any other portion of zone one.

26 As a condition of licensure, licensees are required to commence gaming
27 operations no less than twenty-four months following license award. No
28 additional licenses may be awarded during the twenty-four month period,

1 nor for an additional sixty months following the end of the twenty-four
2 month period. Should the state legislatively authorize additional
3 gaming facility licenses within these periods, licensees shall have the
4 right to recover the license fee paid pursuant to section one thousand
5 three hundred six of this article.

6 This right shall be incorporated into the license itself, vest upon
7 the opening of a gaming facility in zone one or in the same region as
8 the licensee and entitle the holder of such license to bring an action
9 in the court of claims to recover the license fee paid pursuant to
10 section one thousand three hundred six of this article in the event that
11 any gaming facility license in excess of the number authorized by this
12 section as of the effective date of this section is awarded within seven
13 years from the date that the initial gaming facility license is awarded.

14 Additionally, the right to bring an action in the court of claims to
15 recover the fee paid to the state on the twenty-fourth day of September,
16 two thousand ten, by the operator of a video lottery gaming facility at
17 Aqueduct shall vest with such operator upon the opening of any gaming
18 facility licensed by the commission in zone one within seven years of
19 the effective date of this section. The right to recover any such fee
20 shall be proportionate to the length of the respective period that is
21 still remaining upon the vesting of such right.

22 2. Notwithstanding the foregoing, no casino gaming facility shall be
23 authorized:

24 (a) in the counties of Clinton, Essex, Franklin, Hamilton, Jefferson,
25 Lewis, Saint Lawrence and Warren, if the tribal-state compact executed
26 pursuant to the Indian Gaming Regulatory Act of 1988 (P.L. 100-497; 25
27 U.S.C. §§ 2701-2721 and 18 U.S.C. §§ 1166-1168) between the Saint Regis
28 Mohawk Tribe and the State of New York as executed pursuant to chapter

1 five hundred ninety of the laws of two thousand four is in good standing
2 as determined from time to time by the commission;

3 (b) within the following area: (1) to the east, State Route 14 from
4 Sodus Point to the Pennsylvania border with New York; (2) to the north,
5 the border between New York and Canada; (3) to the south, the Pennsylva-
6 nia border with New York; and (4) to the west, the border between New
7 York and Canada and the border between Pennsylvania and New York, if the
8 tribal-state compact executed pursuant to the Indian Gaming Regulatory
9 Act of 1988 (P.L. 100-497; 25 U.S.C. §§ 2701-2721 and 18 U.S.C. §§
10 1166-1168), between the Seneca Nation of Indians and the state of New
11 York as executed pursuant to chapter three hundred eighty-three of the
12 laws of two thousand one is in good standing as determined from time to
13 time by the commission; and

14 (c) in the counties of Cayuga, Chenango, Cortland, Herkimer, Lewis,
15 Madison, Oneida, Onondaga, Oswego and Otsego, if the nation-state
16 compact executed pursuant to the Indian Gaming Regulatory Act of 1988
17 (P.L. 100-497; 25 U.S.C. §§ 2701-2721 and 18 U.S.C. §§ 1166-1168),
18 between the Oneida Nation of New York and the state of New York as
19 amended in accordance with the agreement between the Oneida Nation of
20 New York and the state of New York dated the sixteenth day of May, two
21 thousand thirteen, is in good standing as determined from time to time
22 by the commission.

23 § 1312. Requests for applications. 1. The board shall issue within
24 ninety days of a majority of members being appointed a request for
25 applications for a gaming facility license in regions one, two and five
26 in zone two; provided, however, that the board shall not issue any
27 requests for applications for any region in zone one; and further
28 provided that the board shall not issue any requests for applications

1 with respect to any gaming facility subsequently authorized until seven
2 years following the commencement of gaming activities in zone two. All
3 requests for applications shall include:

4 (a) the time and date for receipt of responses to the request for
5 applications, the manner they are to be received and the address of the
6 office to which the applications shall be delivered;

7 (b) the form of the application and the method for submission;

8 (c) a general description of the anticipated schedule for processing
9 the application;

10 (d) the contact information of board employees responsible for handl-
11 ing applicant questions; and

12 (e) any other information that the board determines.

13 2. Board activities shall be subject to section one hundred thirty-
14 nine-j and section one hundred thirty-nine-k of the state finance law.

15 3. Requests for applications pursuant to subdivision one of this
16 section shall be advertised in a newspaper of general circulation and on
17 the official internet website of the commission and the board.

18 4. The board shall establish deadlines for the receipt of all applica-
19 tions. Applications received after the deadline shall not be reviewed by
20 the board.

21 § 1313. Form of application. 1. The commission and the board shall
22 prescribe the initial form of the application for gaming licenses which
23 shall require, but not be limited to:

24 (a) the name of the applicant;

25 (b) the mailing address and, if a corporation, the name of the state
26 under the laws of which it is incorporated, the location of its princi-
27 pal place of business and the names and addresses of its directors and
28 such stockholders as to be determined by the commission;

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

10 (d) an independent audit report of all financial activities and inter-
11 ests including, but not limited to, the disclosure of all contributions,
12 donations, loans or any other financial transactions to or from a gaming
13 entity or operator in the past five years;

14 (e) clear and convincing evidence of financial stability including,
15 but not limited to, bank references, business and personal income and
16 disbursement schedules, tax returns and other reports filed by govern-
17 ment agencies and business and personal accounting check records and
18 ledgers;

19 (f) information and documentation to demonstrate that the applicant
20 has sufficient business ability and experience to create the likelihood
21 of establishing and maintaining a successful gaming facility;

22 (g) a full description of the proposed internal controls and security
23 systems for the proposed gaming facility and any related facilities;

24 (h) the designs for the proposed gaming facility, including the names
25 and addresses of the architects, engineers and designers, and a timeline
26 of construction that includes detailed stages of construction for the
27 gaming facility and non-gaming structures, where applicable, and a
28 proposed date to open for gaming;

- 1 (i) the number of construction hours estimated to complete the work;
2 (j) a description of the ancillary entertainment services and amen-
3 ities to be provided at the proposed gaming facility;
4 (k) the number of employees to be employed at the proposed gaming
5 facility, including detailed information on the pay rate and benefits
6 for employees;
7 (l) completed studies and reports as required by the commission, which
8 shall include, but not be limited to, an examination of the proposed
9 gaming facility's:
10 (1) economic benefits to the region and the state;
11 (2) local and regional social, environmental, traffic and infrastruc-
12 ture impacts;
13 (3) impact on the local and regional economy, including the impact on
14 cultural institutions and on small businesses in the host municipality
15 and nearby municipalities;
16 (4) cost to the host municipality, nearby municipalities and the state
17 for the proposed gaming facility to be located at the proposed location;
18 and
19 (5) the estimated state tax revenue to be generated by the gaming
20 facility;
21 (m) the names of proposed vendors of gaming equipment;
22 (n) the location of the proposed gaming facility, which shall include
23 the address, maps, book and page numbers from the appropriate registry
24 of deeds, assessed value of the land at the time of application and
25 ownership interests over the past twenty years, including all interests,
26 options, agreements in property and demographic, geographic and environ-
27 mental information and any other information requested by the commis-
28 sion;

1 (o) the type and number of games to be conducted at the proposed
2 gaming facility and the specific location of the games in the proposed
3 gaming facility;

4 (p) the number of hotels and rooms, restaurants and other amenities
5 located at the proposed gaming facility and how they measure in quality
6 to other area hotels and amenities;

7 (q) whether the applicant's proposed gaming facility is part of a
8 regional or local economic plan; and

9 (r) whether the applicant purchased or intends to purchase publicly-
10 owned land for the proposed gaming facility.

11 2. Applications for licenses shall be public records; provided howev-
12 er, that trade secrets, competitively-sensitive or other proprietary
13 information provided in the course of an application for a gaming
14 license under this article, the disclosure of which would place the
15 applicant at a competitive disadvantage, may be withheld from disclosure
16 pursuant to paragraph (d) of subdivision two of section eighty-seven of
17 the public officers law.

18 § 1314. License applicant eligibility. 1. Gaming facility licenses
19 shall only be issued to applicants who are qualified under the criteria
20 set forth in this article, as determined by the commission.

21 2. As a condition of filing, each potential license applicant must
22 demonstrate to the board's satisfaction that local support has been
23 demonstrated.

24 3. Within any development region, if the commission is not convinced
25 that there is an applicant that has met the eligibility criteria or the
26 board finds that no applicant has provided substantial evidence that its
27 proposal will provide value to the region in which the gaming facility

1 is proposed to be located, no gaming facility license shall be awarded
2 in that region.

3 § 1315. Required capital investment. 1. The board shall establish the
4 minimum capital investment for a gaming facility by zone and region.
5 Such investment shall include, but not be limited to, a casino area, at
6 least one hotel and other amenities; and provided further, that the
7 board shall determine whether it will include the purchase or lease
8 price of the land where the gaming facility will be located or any
9 infrastructure designed to support the site including, but not limited
10 to, drainage, utility support, roadways, interchanges, fill and soil or
11 groundwater or surface water contamination issues. The board may
12 consider private capital investment made during the three years previous
13 to the effective date of this section, but may, in its discretion,
14 discount a percentage of the investment made. Upon award of a gaming
15 license by the commission, the applicant shall be required to deposit
16 ten percent of the total investment proposed in the application into an
17 interest-bearing account. Monies received from the applicant shall be
18 held in escrow until the final stage of construction, as detailed in the
19 timeline of construction submitted with the licensee's application and
20 approved by the commission, at which time the deposit shall be returned
21 to the applicant to be applied for the final stage. Should the appli-
22 cant be unable to complete the gaming facility, the deposit shall be
23 forfeited to the state. In place of a cash deposit, the commission may
24 allow for an applicant to secure a deposit bond insuring that ten
25 percent of the proposed capital investment shall be forfeited to the
26 state if the applicant is unable to complete the gaming facility.

27 2. Each applicant shall submit its proposed capital investment with
28 its application to the board which shall include stages of construction

1 of the gaming facility and the deadline by which the stages and overall
2 construction and any infrastructure improvements will be completed. In
3 awarding a license, the commission shall determine at what stage of
4 construction a licensee shall be approved to open for gaming; provided,
5 however, that a licensee shall not be approved to open for gaming until
6 the commission has determined that at least the gaming area and other
7 ancillary entertainment services and non-gaming amenities, as required
8 by the board, have been built and are of a superior quality as set forth
9 in the conditions of licensure. The commission shall not approve a
10 gaming facility to open before the completion of the permanent casino
11 area.

12 3. A licensee who fails to begin gaming operations within twenty-four
13 months following license award shall be subject to suspension or revoca-
14 tion of the gaming license by the commission and may, after being found
15 by the commission after notice and opportunity for a hearing to have
16 acted in bad faith in its application, be assessed a fine of up to fifty
17 million dollars.

18 4. The board shall determine the minimum licensing fee for each
19 region, which shall not be less than fifty million dollars, to be paid
20 by a licensee within thirty days after the award of the license which
21 shall be deposited into the commercial gaming revenue fund. The license
22 shall set forth the conditions to be satisfied by the licensee before
23 the gaming facility shall be opened to the public. The commission shall
24 set any renewal fee for such license based on the cost of fees associ-
25 ated with the evaluation of a licensee under this article which shall be
26 deposited into the commercial gaming fund. Such renewal fee shall be
27 exclusive of any subsequent licensing fees under this section.

1 5. The commission shall determine the sources and total amount of an
2 applicant's proposed capitalization to develop, construct, maintain and
3 operate a proposed gaming facility under this article. Upon award of a
4 gaming license, the commission shall continue to assess the capitaliza-
5 tion of a licensee for the duration of construction of the proposed
6 gaming facility and the term of the license.

7 § 1316. Minimum license thresholds. No applicant shall be eligible to
8 receive a gaming license unless the applicant meets the following crite-
9 ria and clearly states as part of an application that the applicant
10 shall:

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

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

19 3. meet the licensee deposit requirement;

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

22 5. demonstrate to the commission how the applicant proposes to address
23 problem gambling concerns, workforce development and community develop-
24 ment and host and nearby municipality impact and mitigation issues;

25 6. identify the infrastructure costs of the host municipality incurred
26 in direct relation to the construction and operation of a gaming facili-
27 ty and commit to a community mitigation plan for the host municipality;

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

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

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

13 10. provide a community impact fee to the host municipality;

14 11. formulate for board approval and abide by a marketing program by
15 which the applicant shall identify specific goals, expressed as an over-
16 all program goal applicable to the total dollar amount of contracts, for
17 utilization of:

18 (1) minority business enterprises, women business enterprises and
19 veteran business enterprises to participate as contractors in the design
20 of the gaming facility;

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

24 (3) minority business enterprises, women business enterprises and
25 veteran business enterprises to participate as vendors in the provision
26 of goods and services procured by the gaming facility and any businesses
27 operated as part of the gaming facility; and

1 12. formulate for board approval and abide by an affirmative action
2 program of equal opportunity whereby the applicant establishes specific
3 goals for the utilization of minorities, women and veterans on
4 construction jobs.

5 § 1317. Investigation of license applicants. 1. Upon receipt of an
6 application for a gaming facility license, the commission shall cause to
7 be commenced an investigation into the suitability of the applicant. In
8 evaluating the suitability of the applicant, the commission shall
9 consider the overall reputation of the applicant including, without
10 limitation:

11 (a) the integrity, honesty, good character and reputation of the
12 applicant;

13 (b) the financial stability, integrity and background of the appli-
14 cant;

15 (c) the business practices and the business ability of the applicant
16 to establish and maintain a successful gaming facility;

17 (d) whether the applicant has a history of compliance with gaming
18 licensing requirements in other jurisdictions;

19 (e) whether the applicant, at the time of application, is a defendant
20 in litigation involving its business practices;

21 (f) the suitability of all parties in interest to the gaming facility
22 license, including affiliates and close associates and the financial
23 resources of the applicant; and

24 (g) whether the applicant is disqualified from receiving a license
25 under this article; provided, however, that in considering the rehabili-
26 tation of an applicant for a gaming facility license, the commission
27 shall not automatically disqualify an applicant if the applicant affir-
28 matively demonstrates, by clear and convincing evidence, that the appli-

1 cant has financial responsibility, character, reputation, integrity and
2 general fitness as such to warrant belief by the commission that the
3 applicant will act honestly, fairly, soundly and efficiently as a gaming
4 licensee.

5 2. If the investigation reveals that an applicant has failed to:

6 (a) establish the applicant's integrity or the integrity of any affil-
7 iate, close associate, financial source or any person required to be
8 qualified by the commission;

9 (b) demonstrate responsible business practices in any jurisdiction; or

10 (c) overcome any other reason, as determined by the commission, as to
11 why it would be injurious to the interests of the state in awarding the
12 applicant a gaming facility license, the commission shall deny the
13 application, subject to notice and hearing.

14 3. If the investigation reveals that an applicant is suitable to
15 receive a gaming facility license, the entity shall recommend that the
16 commission commence a review of the applicant's entire application.

17 § 1318. Disqualifying criteria. 1. The commission shall deny a
18 license to any applicant who is disqualified on the basis of any of the
19 following criteria, subject to notice and hearing:

20 (a) failure of the applicant to prove by clear and convincing evidence
21 that the applicant is qualified in accordance with the provisions of
22 this article;

23 (b) failure of the applicant to provide information, documentation and
24 assurances required by this article or requested by the commission, or
25 failure of the applicant to reveal any fact material to qualification,
26 or the supplying of information which is untrue or misleading as to a
27 material fact pertaining to the qualification criteria;

1 (c) the conviction of the applicant, or of any person required to be
2 qualified under this article as a condition of a license, of any offense
3 in any jurisdiction which is or would be a felony or other crime involv-
4 ing public integrity, embezzlement, theft, fraud or perjury;

5 (d) committed prior acts which have not been prosecuted or in which
6 the applicant, or of any person required to be qualified under this
7 article as a condition of a license, was not convicted but form a
8 pattern of misconduct that makes the applicant unsuitable for a license
9 under this article; or

10 (e) if the applicant, or of any person required to be qualified under
11 this article as a condition of a license, has affiliates or close asso-
12 ciates that would not qualify for a license or whose relationship with
13 the applicant may pose an injurious threat to the interests of the state
14 in awarding a gaming facility license to the applicant;

15 2. Any other offense under present state or federal law which indi-
16 cates that licensure of the applicant would be inimical to the policy of
17 this article; provided, however, that the automatic disqualification
18 provisions of this section shall not apply with regard to any conviction
19 which did not occur within the ten year period immediately preceding
20 application for licensure and which the applicant demonstrates by clear
21 and convincing evidence does not justify automatic disqualification
22 pursuant to this subdivision and any conviction which has been the
23 subject of a judicial order of expungement or sealing;

24 3. Current prosecution or pending charges in any jurisdiction of the
25 applicant or of any person who is required to be qualified under this
26 article as a condition of a license, for any of the offenses enumerated
27 in paragraph (c) of subdivision one of this section; provided, however,
28 that at the request of the applicant or the person charged, the commis-

1 sion may defer decision upon such application during the pendency of
2 such charge;

3 4. The pursuit by the applicant or any person who is required to be
4 qualified under this article as a condition of a license of economic
5 gain in an occupational manner or context which is in violation of the
6 criminal or civil public policies of this state, if such pursuit creates
7 a reasonable belief that the participation of such person in gaming
8 facility operations would be inimical to the policies of this article.
9 For purposes of this section, occupational manner or context shall be
10 defined as the systematic planning, administration, management, or
11 execution of an activity for financial gain;

12 5. The identification of the applicant or any person who is required
13 to be qualified under this article as a condition of a license as a
14 career offender or a member of a career offender cartel or an associate
15 of a career offender or career offender cartel in such a manner which
16 creates a reasonable belief that the association is of such a nature as
17 to be inimical to the policy of this article. For purposes of this
18 section, career offender shall be defined as any person whose behavior
19 is pursued in an occupational manner or context for the purpose of
20 economic gain, utilizing such methods as are deemed criminal violations
21 of the public policy of this state. A career offender cartel shall be
22 defined as any group of persons who operate together as career offen-
23 ders;

24 6. The commission by the applicant or any person who is required to be
25 qualified under this article as a condition of a license of any act or
26 acts which would constitute any offense under paragraph (c) of subdivi-
27 sion one of this section, even if such conduct has not been or may not
28 be prosecuted under the criminal laws of this state or any other juris-

1 diction or has been prosecuted under the criminal laws of this state or
2 any other jurisdiction and such prosecution has been terminated in a
3 manner other than with a conviction;

4 7. Flagrant defiance by the applicant or any person who is required to
5 be qualified under this article of any legislative investigatory body or
6 other official investigatory body of any state or of the United States
7 when such body is engaged in the investigation of crimes relating to
8 gaming, official corruption, or organized crime activity; and

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

15 § 1319. Investigative hearings. The commission and the board shall
16 have the independent authority to conduct investigative hearings
17 concerning the conduct of gaming and applicants for gaming facility
18 licenses in accordance with any procedures set forth in this article and
19 any applicable implementing regulations.

20 § 1320. Siting evaluation. In determining whether an applicant shall
21 be eligible for a gaming facility license, the board shall evaluate and
22 issue a finding of how each applicant proposes to advance the following
23 objectives.

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

27 (a) realizing maximum capital investment exclusive of land acquisition
28 and infrastructure improvements;

- 1 (b) maximizing revenues received by the state and localities;
2 (c) providing the highest number of quality jobs in the gaming facili-
3 ty;
4 (d) building a gaming facility of the highest caliber with a variety
5 of quality amenities to be included as part of the gaming facility;
6 (e) offering the highest and best value to patrons to create a secure
7 and robust gaming market in the region and the state;
8 (f) providing a market analysis detailing the benefits of the site
9 location of the gaming facility and the estimated recapture rate of
10 gaming-related spending by residents travelling to an out-of-state
11 gaming facility;
12 (g) offering the fastest time to completion of the full gaming facili-
13 ty;
14 (h) demonstrating the ability to fully finance the gaming facility;
15 and
16 (i) demonstrating experience in the development and operation of a
17 quality gaming facility.
- 18 2. The decision by the board to select a gaming facility license
19 applicant shall be weighted by twenty percent based on local impact and
20 siting factors including:
- 21 (a) mitigating potential impacts on host and nearby municipalities
22 which might result from the development or operation of the gaming
23 facility;
24 (b) gaining public support in the host and nearby municipalities which
25 may be demonstrated through the passage of local laws or public comment
26 received by the board or gaming applicant; and

1 (c) operating in partnership with and promoting local hotels, restau-
2 rants, retail facilities, and live entertainment establishments so that
3 patrons experience the full diversified regional tourism industry.

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

7 (a) implementing a workforce development plan that utilizes the exist-
8 ing labor force, including the estimated number of construction jobs a
9 proposed gaming facility will generate, the development of workforce
10 training programs that serve the unemployed and methods for accessing
11 employment at the gaming facility;

12 (b) taking additional measures to address problem gambling including,
13 but not limited to, training of gaming employees to identify patrons
14 exhibiting problems with gambling;

15 (c) utilizing sustainable development principles including, but not
16 limited to:

17 (1) having new and renovation construction certified under the appro-
18 priate certification category in the Leadership in Energy and Environ-
19 mental Design Green Building Rating System created by the United States
20 Green Building Council;

21 (2) efforts to mitigate vehicle trips;

22 (3) efforts to conserve water and manage storm water;

23 (4) demonstrating that electrical and HVAC equipment and appliances
24 will be Energy Star labeled where available;

25 (5) procuring or generating on-site ten percent of its annual elec-
26 tricity consumption from renewable sources; and

1 (6) developing an ongoing plan to submeter and monitor all major
2 sources of energy consumption and undertake regular efforts to maintain
3 and improve energy efficiency of buildings in their systems;

4 (d) establishing, funding and maintaining human resource hiring and
5 training practices that promote the development of a skilled and diverse
6 workforce and access to promotion opportunities through a workforce
7 training program that:

8 (1) establishes transparent career paths with measurable criteria
9 within the gaming facility that lead to increased responsibility and
10 higher pay grades that are designed to allow employees to pursue career
11 advancement and promotion;

12 (2) provides employee access to additional resources, such as tuition
13 reimbursement or stipend policies, to enable employees to acquire the
14 education or job training needed to advance career paths based on
15 increased responsibility and pay grades; and

16 (3) establishes an on-site child day care program;

17 (e) purchasing, whenever possible, domestically manufactured slot
18 machines for installation in the gaming facility;

19 (f) implementing a marketing program that identifies specific goals,
20 expressed as an overall program goal applicable to the total dollar
21 amount of contracts, for the utilization of:

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

25 (2) minority business enterprises, women business enterprises and
26 veteran business enterprises to participate as contractors in the
27 construction of the gaming facility; and

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

5 (g) implementing a workforce development plan that:

6 (1) incorporates an affirmative action program of equal opportunity by
7 which the applicant guarantees to provide equal employment opportunities
8 to all employees qualified for licensure in all employment categories,
9 including persons with disabilities;

10 (2) utilizes the existing labor force in the state;

11 (3) estimates the number of construction jobs a gaming facility will
12 generate and provides for equal employment opportunities and which
13 includes specific goals for the utilization of minorities, women and
14 veterans on those construction jobs;

15 (4) identifies workforce training programs offered by the gaming
16 facility; and

17 (5) identifies the methods for accessing employment at the gaming
18 facility; and

19 (h) demonstrating that the applicant has an agreement with organized
20 labor, including hospitality services, and has the support of organized
21 labor for its application, which specifies:

22 (1) the number of employees to be employed at the gaming facility,
23 including detailed information on the pay rate and benefits for employ-
24 ees and contractors in the gaming facility and all infrastructure
25 improvements related to the project; and

26 (2) detailed plans for assuring labor harmony during all phases of the
27 construction, reconstruction, renovation, development and operation of
28 the gaming facility.

1 § 1321. Intentionally omitted.

2 TITLE 3

3 OCCUPATIONAL LICENSING

4 Section 1322. General provisions.

5 1323. Key employee licenses.

6 1324. Gaming employee registration.

7 1325. Approval and denial of employee licenses and registra-
8 tions.

9 § 1322. General provisions. 1. It shall be the affirmative responsi-
10 bility of each applicant or licensee to establish by clear and convinc-
11 ing evidence its individual qualifications, and for a gaming facility
12 license the qualifications of each person who is required to be quali-
13 fied under this article.

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

23 3. All applicants, licensees, registrants, intermediary companies, and
24 holding companies shall consent to inspections, searches and seizures
25 while at a gaming facility and the supplying of handwriting exemplars as
26 authorized by this article and regulations promulgated hereunder.

27 4. All applicants, licensees, registrants, and any other person who
28 shall be qualified pursuant to this article shall have the continuing

1 duty to provide any assistance or information required by the commis-
2 sion, and to cooperate in any inquiry, investigation or hearing
3 conducted by the commission. If, upon issuance of a formal request to
4 answer or produce information, evidence or testimony, any applicant,
5 licensee, registrant, or any other person who shall be qualified pursu-
6 ant to this article refuses to comply, the application, license, regis-
7 tration or qualification of such person may be denied or revoked.

8 5. Each applicant or person who must be qualified under this article
9 shall be photographed and fingerprinted for identification and investi-
10 gation purposes in accordance with procedures set forth by regulation.

11 6. All licensees, all registrants, and all other persons required to
12 be qualified under this article shall have a duty to inform the commis-
13 sion of any action which they believe would constitute a violation of
14 this article. No person who so informs the commission shall be discrimi-
15 nated against by an applicant, licensee or registrant because of the
16 supplying of such information.

17 § 1323. Key employee licenses. 1. No licensee or a holding or inter-
18 mediary company of a licensee may employ any person as a casino key
19 employee unless the person is the holder of a valid casino key employee
20 license issued by the commission.

21 2. Each applicant for a casino key employee license must, prior to the
22 issuance of any casino key employee license, produce information,
23 documentation and assurances concerning the following qualification
24 criteria:

25 (a) Each applicant for a casino key employee license shall produce
26 such information, documentation and assurances as may be required to
27 establish by clear and convincing evidence the financial stability,
28 integrity and responsibility of the applicant, including but not limited

1 to bank references, business and personal income and disbursements sche-
2 dules, tax returns and other reports filed with governmental agencies,
3 and business and personal accounting and check records and ledgers. In
4 addition, each applicant shall, in writing, authorize the examination of
5 all bank accounts and records as may be deemed necessary by the commis-
6 sion.

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

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

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

17 (d) For the purposes of this section, each applicant shall submit to
18 the commission the applicant's name, address, fingerprints and written
19 consent for a criminal history record background check to be performed.
20 The commission is hereby authorized to exchange fingerprint data with
21 and receive criminal history record information from the state division
22 of criminal justice services and the federal bureau of investigation
23 consistent with applicable state and federal laws, rules and regu-
24 lations. The applicant shall bear the cost for the criminal history
25 record check, including all costs of administering and processing the
26 check. The state division of criminal justice services shall promptly
27 notify the commission in the event a current or prospective licensee,
28 who was the subject of a criminal history record check pursuant to this

1 section, is arrested for a crime or offense in this state after the date
2 the check was performed.

3 3. The commission shall deny a casino key employee license to any
4 applicant who is disqualified on the basis of the criteria contained in
5 section one thousand three hundred eighteen of this title, subject to
6 notice and hearing.

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

10 (a) The applicant for the casino key employee license has filed a
11 completed application as required by the commission;

12 (b) The petition for a temporary casino key employee license certi-
13 fies, and the commission finds, that an existing casino key employee
14 position of the petitioner is vacant or will become vacant within sixty
15 days of the date of the petition and that the issuance of a temporary
16 key employee license is necessary to fill the said vacancy on an emer-
17 gency basis to continue the efficient operation of the casino, and that
18 such circumstances are extraordinary and not designed to circumvent the
19 normal licensing procedures of this article;

20 5. Unless otherwise terminated pursuant to this article, any temporary
21 casino key employee license issued pursuant to this section shall expire
22 nine months from the date of its issuance.

23 § 1324. Gaming employee registration. 1. No person may commence
24 employment as a gaming employee unless such person has a valid registra-
25 tion on file with the commission, which registration shall be prepared
26 and filed in accordance with the regulations promulgated hereunder.

27 2. A gaming employee registrant shall produce such information as the
28 commission by regulation may require. Subsequent to the registration of

1 a gaming employee, the executive director may revoke, suspend, limit, or
2 otherwise restrict the registration upon a finding that the registrant
3 is disqualified on the basis of the criteria contained in section one
4 thousand three hundred eighteen of this title. If a gaming employee
5 registrant has not been employed in any position within a gaming facili-
6 ty for a period of three years, the registration of that gaming employee
7 shall lapse.

8 3. Notwithstanding the provisions of paragraph (b) of this subdivi-
9 sion, no gaming employee registration shall be revoked on the basis of a
10 conviction of any of the offenses enumerated in this article as disqual-
11 ification criteria or the commission of any act or acts which would
12 constitute any offense under section one thousand three hundred eighteen
13 of this title, provided that the registrant has affirmatively demon-
14 strated the registrant's rehabilitation. In determining whether the
15 registrant has affirmatively demonstrated the registrant's rehabili-
16 tation the director shall consider the following factors:

17 (a) The nature and duties of the registrant's position;

18 (b) The nature and seriousness of the offense or conduct;

19 (c) The circumstances under which the offense or conduct occurred;

20 (d) The date of the offense or conduct;

21 (e) The age of the registrant when the offense or conduct was commit-
22 ted;

23 (f) Whether the offense or conduct was an isolated or repeated inci-
24 dent;

25 (g) Any social conditions which may have contributed to the offense or
26 conduct; and

27 (h) Any evidence of rehabilitation, including good conduct in prison
28 or in the community, counseling or psychiatric treatment received,

1 acquisition of additional academic or vocational schooling, successful
2 participation in correctional work-release programs, or the recommenda-
3 tion of persons who have or have had the registrant under their super-
4 vision.

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

19 § 1325. Approval and denial of employee licenses and registrations.
20 1. Upon the filing of an application for a casino key employee license
21 required by this article and after submission of such supplemental
22 information as the commission may require, the commission shall conduct
23 or cause to be conducted such investigation into the qualification of
24 the applicant, and the commission shall conduct such hearings concerning
25 the qualification of the applicant, in accordance with its regulations,
26 as may be necessary to determine qualification for such license.

1 2. After such investigation, the commission may either deny the appli-
2 cation or grant a license to an applicant whom it determines to be qual-
3 ified to hold such license.

4 3. The commission shall have the authority to deny any application
5 pursuant to the provisions of this article following notice and opportu-
6 nity for hearing. When an application for a casino key employee license
7 is denied, the commission shall prepare and file its order denying such
8 application with the general reasons therefor, and if requested by the
9 applicant, shall further prepare and file a statement of the reasons for
10 the denial, including the specific findings of fact.

11 4. When the commission grants an application, the commission may limit
12 or place such restrictions thereupon as it may deem necessary in the
13 public interest.

14 5. Gaming employee registration shall be effective upon issuance, and
15 shall remain in effect unless revoked, suspended, limited, or otherwise
16 restricted by the commission. Notwithstanding the foregoing, if a
17 gaming employee registrant has not been employed in any position within
18 a gaming facility for a period of three years, the registration of that
19 gaming employee shall lapse.

20 6. After an application for a casino key employee license is submit-
21 ted, final action of the commission shall be taken within ninety days
22 after completion of all hearings and investigations and the receipt of
23 all information required by the commission.

24 7. Not later than five years after obtaining a casino key employee
25 license, and every five years thereafter, the licensee shall submit such
26 information and documentation as the commission may by regulation
27 require, to demonstrate to the satisfaction of the commission that it
28 continues to meet the requirements of this article. Upon receipt of such

1 information, the commission may take such action on the license, includ-
2 ing suspension or revocation, as it deems appropriate.

3 8. Registrations for gaming employees issued shall remain valid unless
4 suspended or revoked or unless such registration expires or is voided
5 pursuant to law.

6 9. The commission shall establish by regulation appropriate fees to be
7 paid upon the filing of the required applications. Such fees shall be
8 deposited into the commercial gaming revenue fund.

9 TITLE 4

10 ENTERPRISE AND VENDOR LICENSING AND REGISTRATION

11 Section 1326. Licensing of vendor enterprises.

12 1327. Approval and denial of vendor registration.

13 1328. Junket operator licensing.

14 1329. Lobbyist registration.

15 1330. Registration of labor organizations.

16 § 1326. Licensing of vendor enterprises. 1. Any business to be
17 conducted with a gaming facility applicant or licensee by a vendor
18 offering goods or services which directly relate to gaming activity,
19 including gaming equipment manufacturers, suppliers, repairers, and
20 independent testing laboratories, shall be licensed as a casino vendor
21 enterprise in accordance with the provisions of this article prior to
22 conducting any business whatsoever with a gaming facility applicant or
23 licensee, its employees or agents; provided, however, that upon a show-
24 ing of good cause by a gaming facility applicant or licensee, the execu-
25 tive director may permit an applicant for a casino vendor enterprise
26 license to conduct business transactions with such gaming facility
27 applicant or licensee prior to the licensure of that casino vendor

1 enterprise applicant under this subdivision for such periods as the
2 commission may establish by regulation.

3 2. In addition to the requirements of subdivision one of this section,
4 any casino vendor enterprise intending to manufacture, sell, distribute,
5 test or repair slot machines within the state shall be licensed in
6 accordance with the provisions of this article prior to engaging in any
7 such activities; provided, however, that upon a showing of good cause by
8 a gaming facility applicant or licensee, the executive director may
9 permit an applicant for a casino vendor enterprise license to conduct
10 business transactions with the gaming facility applicant or licensee
11 prior to the licensure of that casino vendor enterprise applicant under
12 this subdivision for such periods as the commission may establish by
13 regulation; and provided further, however, that upon a showing of good
14 cause by an applicant required to be licensed as a casino vendor enter-
15 prise pursuant to this subdivision, the executive director may permit
16 the casino vendor enterprise applicant to initiate the manufacture of
17 slot machines or engage in the sale, distribution, testing or repair of
18 slot machines with any person other than a gaming facility applicant or
19 licensee, its employees or agents, prior to the licensure of that casino
20 vendor enterprise applicant under this subdivision.

21 3. Vendors providing goods and services to gaming facility licensees
22 or applicants ancillary to gaming shall be required to be licensed as an
23 ancillary casino vendor enterprise and shall comply with the standards
24 for casino vendor license applicants.

25 4. Each casino vendor enterprise required to be licensed pursuant to
26 subdivision one of this section, as well as its owners; management and
27 supervisory personnel; and employees if such employees have responsibil-
28 ity for services to a gaming facility applicant or licensee, must quali-

1 fy under the standards, except residency, established for qualification
2 of a casino key employee under this article.

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

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

26 Each ancillary casino vendor enterprise required to be licensed pursu-
27 ant to subdivision three of this section, as well as its owners, manage-
28 ment and supervisory personnel, and employees if such employees have

1 responsibility for services to a gaming facility applicant or licensee,
2 shall establish their good character, honesty and integrity by clear and
3 convincing evidence and shall provide such financial information as may
4 be required by the commission. Any enterprise required to be licensed
5 as an ancillary casino vendor enterprise pursuant to this section shall
6 be permitted to transact business with a gaming facility licensee upon
7 filing of the appropriate vendor registration form and application for
8 such licensure.

9 6. Any applicant, licensee or qualifier of a casino vendor enterprise
10 license or of an ancillary casino vendor enterprise license under subdi-
11 vision one of this section, and any vendor registrant under subdivision
12 five of this section shall be disqualified in accordance with the crite-
13 ria contained in section one thousand three hundred eighteen of this
14 article, except that no such ancillary vendor industry enterprise
15 license under subdivision three of this section or vendor registration
16 under subdivision five of this section shall be denied or revoked if
17 such vendor registrant can affirmatively demonstrate rehabilitation as
18 provided in subdivision three of section one thousand three hundred
19 twenty-four of this article.

20 7. No casino vendor enterprise license or ancillary casino vendor
21 enterprise license shall be issued pursuant to subdivision one of this
22 section to any person unless that person shall provide proof of valid
23 business registration with the department of state.

24 8. For the purposes of this section, each applicant shall submit to
25 the commission the name, address, fingerprints and a written consent for
26 a criminal history record check to be performed, for each person
27 required to qualify as part of the application. The commission is hereby
28 authorized to exchange fingerprint data with and receive criminal histo-

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

10 9. Subsequent to the licensure of any entity pursuant to subdivision
11 one of this section, including any finding of qualification as may be
12 required as a condition of licensure, or the registration of any vendor
13 pursuant to subdivision three of this section, the executive director
14 may revoke, suspend, limit, or otherwise restrict the license, registra-
15 tion or qualification status upon a finding that the licensee, regis-
16 trant or qualifier is disqualified on the basis of the criteria set
17 forth in section one thousand three hundred eighteen of this article.

18 10. After notice and hearing prior to the suspension of any license,
19 registration or qualification issued pursuant to subdivision seven of
20 this section the commission shall have the obligation to prove by
21 substantial evidence that the licensee, registrant or qualifier is
22 disqualified on the basis of the criteria set forth in section one thou-
23 sand three hundred eighteen of this article.

24 § 1327. Approval and denial of vendor registration. 1. A casino
25 vendor registration shall be effective upon issuance, and shall remain
26 in effect unless revoked, suspended, limited, or otherwise restricted by
27 the commission. Notwithstanding the foregoing, if a vendor registrant

1 has not conducted business with a gaming facility for a period of three
2 years, the registration of that vendor registrant shall lapse.

3 2. The commission shall establish by regulation appropriate fees to be
4 imposed on each vendor registrant who provides goods or services to a
5 gaming facility, regardless of the nature of any contractual relation-
6 ship between the vendor registrant and gaming facility, if any. Such
7 fees shall be paid to the commission.

8 § 1328. Junket operator licensing. 1. No junkets may be organized or
9 permitted except in accordance with the provisions of this article. No
10 person may act as a junket representative or junket enterprise except in
11 accordance with this section.

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

19 3. Junket enterprises that, and junket representatives not employed by
20 a gaming facility licensee or an applicant for a gaming facility license
21 or by a junket enterprise who, engage in activities governed by this
22 section shall be licensed as an ancillary casino vendor enterprise in
23 accordance with subdivision three of section one thousand three hundred
24 twenty-six of this title, unless otherwise directed by the commission;
25 provided, however, that any such junket enterprise or junket represen-
26 tative who has disqualified shall not be entitled to establish his or
27 her rehabilitation from such disqualification. Any non-supervisory
28 employee of a junket enterprise or junket representative licensed as an

1 ancillary vendor industry enterprise in accordance with subdivision
2 three of section one thousand three hundred twenty-six of this title
3 shall be registered.

4 4. Prior to the issuance of any license required by this section, an
5 applicant for licensure shall submit to the jurisdiction of the state
6 and shall demonstrate that he or she is amenable to service of process
7 within this state. Failure to establish or maintain compliance with the
8 requirements of this subdivision shall constitute sufficient cause for
9 the denial, suspension or revocation of any license issued pursuant to
10 this section.

11 5. Upon petition by the holder of a gaming facility license, an appli-
12 cant for a casino key employee license intending to be employed as a
13 junket representative may be issued a temporary license by the commis-
14 sion in accordance with regulations promulgated, provided that:

15 (a) the applicant for licensure is employed by a gaming facility
16 licensee; and

17 (b) the applicant for licensure has filed a completed application as
18 required by the commission.

19 6. The commission shall have the authority to immediately suspend,
20 limit or condition any temporary license issued pursuant to this
21 section, pending a hearing on the qualifications of the junket represen-
22 tative.

23 7. Unless otherwise terminated, any temporary license issued pursuant
24 to this section shall expire twelve months from the date of its issu-
25 ance, and shall be renewable by the commission for one additional six
26 month period.

27 8. Every agreement concerning junkets entered into by a gaming facili-
28 ty licensee and a junket representative or junket enterprise shall be

1 deemed to include a provision for its termination without liability on
2 the part of the gaming facility licensee, if the commission orders the
3 termination upon the suspension, limitation, conditioning, denial or
4 revocation of the licensure of the junket representative or junket
5 enterprise. Failure to expressly include such a condition in the agree-
6 ment shall not constitute a defense in any action brought to terminate
7 the agreement.

8 9. A gaming facility licensee shall be responsible for the conduct of
9 any junket representative or junket enterprise associated with it and
10 for the terms and conditions of any junket engaged in on its premises,
11 regardless of the fact that the junket may involve persons not employed
12 by such a gaming facility licensee.

13 10. A gaming facility licensee shall be responsible for any violation
14 or deviation from the terms of a junket. Notwithstanding any other
15 provisions of this article, the commission may order restitution to
16 junket participants, assess penalties for such violations or deviations,
17 prohibit future junkets by the gaming facility licensee, junket enter-
18 prise or junket representative, and order such further relief as it
19 deems appropriate.

20 11. The commission shall, by regulation, prescribe methods, procedures
21 and forms for the delivery and retention of information concerning the
22 conduct of junkets by gaming facility licensees. Without limitation of
23 the foregoing, each gaming facility licensee, in accordance with the
24 rules of the commission, shall:

25 (a) Maintain on file a report describing the operation of any junket
26 engaged in on its premises; and

27 (b) Submit to the commission a list of all its employees who are
28 acting as junket representatives.

1 12. Each gaming facility licensee, junket representative or junket
2 enterprise shall, in accordance with the rules of the commission, file a
3 report with the commission with respect to each list of junket patrons
4 or potential junket patrons purchased directly or indirectly by the
5 gaming facility licensee, junket representative or enterprise.

6 13. The commission shall have the authority to determine, either by
7 regulation, or upon petition by the holder of a gaming facility license,
8 that a type of arrangement otherwise included within the definition of
9 "junket" shall not require compliance with any or all of the require-
10 ments of this section. In granting exemptions, the commission shall
11 consider such factors as the nature, volume and significance of the
12 particular type of arrangement, and whether the exemption would be
13 consistent with the public policies established by this article. In
14 applying the provisions of this subdivision, the commission may condi-
15 tion, limit, or restrict any exemption as it may deem appropriate.

16 14. No junket enterprise or junket representative or person acting as
17 a junket representative may:

18 (a) Engage in efforts to collect upon checks that have been returned
19 by banks without full and final payment;

20 (b) Exercise approval authority with regard to the authorization or
21 issuance of credit;

22 (c) Act on behalf of or under any arrangement with a gaming facility
23 licensee or a gaming patron with regard to the redemption, consol-
24 idation, or substitution of the gaming patron's checks awaiting deposit;

25 (d) Individually receive or retain any fee from a patron for the priv-
26 ilege of participating in a junket; and

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

4 § 1329. Lobbyist registration. 1. For purposes of this section, the
5 terms "lobbyist", "lobbying", "lobbying activities" and "client" shall
6 have the same meaning as those terms are defined by section one-c of the
7 legislative law.

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

14 § 1330. Registration of labor organizations. 1. Each labor organiza-
15 tion, union or affiliate seeking to represent employees who are employed
16 in a gaming facility by a gaming facility licensee shall register with
17 the commission biennially, and shall disclose such information as the
18 commission may require, including the names of all affiliated organiza-
19 tions, pension and welfare systems and all officers and agents of such
20 organizations and systems; provided, however, that no labor organiza-
21 tion, union, or affiliate shall be required to furnish such information
22 to the extent such information is included in a report filed by any
23 labor organization, union, or affiliate with the Secretary of Labor
24 pursuant to 29 U.S.C. § 431 et seq. or § 1001 et seq. if a copy of such
25 report, or of the portion thereof containing such information, is
26 furnished to the commission pursuant to the aforesaid federal
27 provisions. The commission may in its discretion exempt any labor organ-
28 ization, union, or affiliate from the registration requirements of this

1 subdivision where the commission finds that such organization, union or
2 affiliate is not the certified bargaining representative of any employee
3 who is employed in a gaming facility by a gaming facility licensee, is
4 not involved actively, directly or substantially in the control or
5 direction of the representation of any such employee, and is not seeking
6 to do so.

7 2. No person may act as an officer, agent or principal employee of a
8 labor organization, union or affiliate registered or required to be
9 registered pursuant to this section if the person has been found
10 disqualified by the commission in accordance with the criteria contained
11 in section one thousand three hundred eighteen of this article. The
12 commission may, for purposes of this subdivision, waive any disquali-
13 fication criterion consistent with the public policy of this article and
14 upon a finding that the interests of justice so require.

15 3. Neither a labor organization, union or affiliate nor its officers
16 and agents not otherwise individually licensed or registered under this
17 article and employed by a gaming facility licensee may hold any finan-
18 cial interest whatsoever in the gaming facility or gaming facility
19 licensee whose employees they represent.

20 4. The commission may maintain a civil action and proceed in a summary
21 manner, without posting bond, against any person, including any labor
22 organization, union or affiliate, to compel compliance with this
23 section, or to prevent any violations, the aiding and abetting thereof,
24 or any attempt or conspiracy to violate this section.

25 5. In addition to any other remedies provided in this section, a labor
26 organization, union or affiliate registered or required to be registered
27 pursuant to this section may be prohibited by the commission from
28 receiving any dues from any employee licensed or registered under this

1 article and employed by a gaming facility licensee or its agent, if any
2 officer, agent or principal employee of the labor organization, union or
3 affiliate has been found disqualified and if such disqualification has
4 not been waived by the commission in accordance with subdivision two of
5 this section.

6 TITLE 5

7 REQUIREMENTS FOR CONDUCT AND OPERATION OF GAMING

8 Section 1331. Operation certificate.

9 1332. Age for gaming participation.

10 1333. Hours of operation.

11 1334. Internal controls.

12 1335. Games and gaming equipment.

13 1336. Certain wagering prohibited.

14 1337. Gratuities.

15 1338. Limitation on certain financial access.

16 1339. Credit.

17 1340. Alcoholic beverages.

18 1341. Licensee leases and contracts.

19 1342. Required exclusion of certain persons.

20 1343. Exclusion, ejection of certain persons.

21 1344. List of persons self-excluded from gaming activities.

22 1345. Excluded person; forfeiture of winnings; other sanctions.

23 1346. Labor peace agreements for certain facilities.

24 1347. Prohibition of political contributions from gaming licen-
25 sees and applicants.

26 § 1331. Operation certificate. 1. Notwithstanding the issuance of a
27 license therefor, no gaming facility may be opened or remain open to the
28 public, and no gaming activity, except for test purposes, may be

1 conducted therein, unless and until a valid operation certificate has
2 been issued to the gaming facility licensee by the commission. Such
3 certificate shall be issued by the executive director upon a determi-
4 nation that a gaming facility complies in all respects with the require-
5 ments of this article and regulations promulgated hereunder, and that
6 the gaming facility is prepared in all respects to receive and entertain
7 the public.

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

11 3. It shall be an express condition of continued operation under this
12 article that a gaming facility licensee shall maintain either electron-
13 ically or in hard copy at the discretion of the gaming facility licen-
14 see, copies of all books, records, and documents pertaining to the
15 licensee's operations and approved hotel in a manner and location
16 approved by the commission, provided, however, that the originals of
17 such books, records and documents, whether in electronic or hard copy
18 form, may be maintained at the offices or electronic system of an affil-
19 iate of the gaming facility licensee, at the discretion of the gaming
20 facility licensee. All such books, records and documents shall be imme-
21 diately available for inspection during all hours of operation in
22 accordance with the rules of the commission and shall be maintained for
23 such period of time as the commission shall require.

24 § 1332. Age for gaming participation. 1. No person under the age at
25 which a person is authorized to purchase and consume alcoholic beverages
26 shall enter, or wager in, a licensed gaming facility; provided, however,
27 that such a person may enter a gaming facility by way of passage to
28 another room, and provided further, however, that any such person who is

1 licensed or registered under the provisions of this article may enter a
2 gaming facility in the regular course of the person's permitted activ-
3 ities.

4 2. Any person disqualified pursuant to subdivision one of this section
5 entitled to funds, cash or prizes from gambling activity shall forfeit
6 same. Such forfeited funds, cash or prizes shall be remitted to the
7 commission and deposited into the commercial gaming revenue fund.

8 § 1333. Hours of operation. 1. Each gaming facility licensed pursuant
9 to this article shall be permitted to operate twenty-four hours a day
10 unless otherwise directed by the commission.

11 2. A gaming facility licensee shall file with the commission a sched-
12 ule of hours prior to the issuance of an initial operation certificate.
13 If the gaming facility licensee proposes any change in scheduled hours,
14 such change may not be effected until such licensee files a notice of
15 the new schedule of hours with the commission. Such filing must be made
16 thirty days prior to the effective date of the proposed change in hours.

17 3. Nothing in this section shall be construed to limit a gaming facil-
18 ity licensee in opening its casino later than, or closing its casino
19 earlier than, the times stated in its schedule of operating hours;
20 provided, however, that any such alterations in its hours shall comply
21 with the provisions of subdivision one of this section and with regu-
22 lations of the commission pertaining to such alterations.

23 § 1334. Internal controls. 1. Each applicant for a gaming facility
24 license shall create, maintain, and file with the commission a
25 description of its internal procedures and administrative and accounting
26 controls for gaming operations that conform to commission regulations
27 and provide adequate and effective controls, establish a consistent
28 overall system of internal procedures and administrative and accounting

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

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

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

13 (c) Procedures within the cashier's cage for the receipt, storage and
14 disbursal of chips, cash, and other cash equivalents used in gaming; the
15 cashing of checks; the redemption of chips and other cash equivalents
16 used in gaming; the pay-off of jackpots; and the recording of trans-
17 actions pertaining to gaming operations;

18 (d) Procedures for the collection and security of moneys at the gaming
19 tables;

20 (e) Procedures for the transfer and recordation of chips between the
21 gaming tables and the cashier's cage;

22 (f) Procedures for the transfer of moneys from the gaming tables to
23 the counting process;

24 (g) Procedures and security for the counting and recordation of reven-
25 ue;

26 (h) Procedures for the security, storage and recordation of cash,
27 chips and other cash equivalents utilized in the gaming;

1 (i) Procedures for the transfer of moneys or chips from and to the
2 slot machines;

3 (j) Procedures and standards for the opening and security of slot
4 machines;

5 (k) Procedures for the payment and recordation of slot machine jack-
6 pots;

7 (l) Procedures for the cashing and recordation of checks exchanged by
8 casino patrons;

9 (m) Procedures governing the utilization of the private security force
10 within the gaming facility;

11 (n) Procedures and security standards for the handling and storage of
12 gaming apparatus including cards, dice, machines, wheels and all other
13 gaming equipment;

14 (o) Procedures and rules governing the conduct of particular games and
15 the responsibility of gaming facility personnel in respect thereto;

16 (p) Procedures for the orderly shutdown of gaming facility operations
17 in the event that a state of emergency is declared and the gaming facil-
18 ity licensee is unable or ineligible to continue to conduct gaming
19 facility operations during such a state of emergency, which procedures
20 shall include, without limitation, the securing of all keys and gaming
21 assets.

22 2. No minimum staffing requirements shall be included in the internal
23 controls created in accordance with subdivision one of this section.

24 § 1335. Games and gaming equipment. 1. This article shall not be
25 construed to permit any gaming except the conduct of authorized games in
26 a casino in accordance with this article and the regulations promulgated
27 hereunder.

1 2. Gaming equipment shall not be possessed, maintained or exhibited by
2 any person on the premises of a gaming facility except in a casino or in
3 restricted casino areas used for the inspection, repair or storage of
4 such equipment and specifically designated for that purpose by the
5 gaming facility licensee with the approval of the commission. Gaming
6 equipment that supports the conduct of gaming in a gaming facility but
7 does not permit or require patron access, such as computers, may be
8 possessed and maintained by a gaming facility licensee or a qualified
9 holding or intermediary company of a gaming facility licensee in
10 restricted areas specifically approved by the commission. No gaming
11 equipment shall be possessed, maintained, exhibited, brought into or
12 removed from a gaming facility by any person unless such equipment is
13 necessary to the conduct of an authorized game, has permanently affixed,
14 imprinted, impressed or engraved thereon an identification number or
15 symbol authorized by the commission, is under the exclusive control of a
16 gaming facility licensee or gaming facility licensee's employees, or of
17 any individually qualified employee of a holding company or gaming
18 facility licensee and is brought into or removed from the gaming facili-
19 ty following twenty-four hour prior notice given to an authorized agent
20 of the commission.

21 Notwithstanding any other provision of this section, computer equip-
22 ment used by the slot system operator of a multi-casino progressive slot
23 system to link and communicate with the slot machines of two or more
24 gaming facility licensees for the purpose of calculating and displaying
25 the amount of a progressive jackpot, monitoring the operation of the
26 system, and any other purpose that the commission deems necessary and
27 appropriate to the operation or maintenance of the multi-casino progres-
28 sive slot machine system may, with the prior approval of the commission,

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

21 3. Each gaming facility shall contain a count room and such other
22 secure facilities as may be required by the commission for the counting
23 and storage of cash, coins, tokens, checks, plaques, gaming vouchers,
24 coupons, and other devices or items of value used in wagering and
25 approved by the commission that are received in the conduct of gaming
26 and for the inspection, counting and storage of dice, cards, chips and
27 other representatives of value. The commission shall promulgate regu-
28 lations for the security of drop boxes and other devices in which the

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

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

9 5. All gaming shall be conducted according to rules promulgated by the
10 commission. All wagers and pay-offs of winning wagers shall be made
11 according to rules promulgated by the commission, which shall establish
12 such limitations as may be necessary to assure the vitality of casino
13 operations and fair odds to patrons. Each slot machine shall have a
14 minimum payout of eighty-five percent.

15 6. Each gaming facility licensee shall make available in printed form
16 to any patron upon request the complete text of the rules of the commis-
17 sion regarding games and the conduct of gaming, pay-offs of winning
18 wagers, an approximation of the odds of winning for each wager, and such
19 other advice to the player as the commission shall require. Each gaming
20 facility licensee shall prominently post within a casino, according to
21 regulations of the commission such information about gaming rules, pay-
22 offs of winning wagers, the odds of winning for each wager, and such
23 other advice to the player as the commission shall require.

24 7. Each gaming table shall be equipped with a sign indicating the
25 permissible minimum and maximum wagers pertaining thereto. It shall be
26 unlawful for a gaming facility licensee to require any wager to be
27 greater than the stated minimum or less than the stated maximum;
28 provided, however, that any wager actually made by a patron and not

1 rejected by a gaming facility licensee prior to the commencement of play
2 shall be treated as a valid wager.

3 8. Testing of slot machines and associated devices. (a) Except as
4 herein provided, no slot machine shall be used to conduct gaming unless
5 it is identical in all electrical, mechanical and other aspects to a
6 model thereof which has been specifically tested and licensed for use by
7 the commission. The commission shall also test or cause to be tested any
8 other gaming device, gaming equipment, gaming-related device or gross-
9 revenue related device, such as a slot management system, electronic
10 transfer credit system or gaming voucher system as it deems appropriate.
11 In its discretion and for the purpose of expediting the approval proc-
12 ess, the commission may utilize the services of a private testing labo-
13 ratory that has obtained a plenary license as a casino vendor enterprise
14 to perform the testing, and may also utilize applicable data from any
15 such private testing laboratory or from a governmental agency of a state
16 authorized to regulate slot machines and other gaming devices, gaming
17 equipment, gaming-related devices and gross-revenue related devices used
18 in gaming, if the private testing laboratory or governmental agency uses
19 a testing methodology substantially similar to the methodology approved
20 or utilized by the commission. The commission, in its discretion, may
21 rely upon the data provided by the private testing laboratory or govern-
22 mental agency and adopt the conclusions of such private testing labora-
23 tory or governmental agency regarding any submitted device.

24 (b) Except as otherwise provided in paragraph (e) of this subdivision,
25 the commission shall, within sixty days of its receipt of a complete
26 application for the testing of a slot machine or other gaming equipment
27 model, approve or reject the slot machine or other gaming equipment
28 model. In so doing, the commission shall specify whether and to what

1 extent any data from a private testing laboratory or governmental agency
2 of a state was used in reaching its conclusions and recommendation. If
3 the commission is unable to complete the testing of a slot machine or
4 other gaming equipment model within this sixty day period, the commis-
5 sion may conditionally approve the slot machine or other gaming equip-
6 ment model for test use by a gaming facility licensee provided that the
7 commission represents that the use of the slot machine or other gaming
8 equipment model will not have a direct and materially adverse impact on
9 the integrity of gaming or the control of gross revenue. The commission
10 shall give priority to the testing of slot machines or other gaming
11 equipment that a gaming facility licensee has certified it will use in
12 its gaming facility in this state.

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

21 (d) The commission shall, by regulation, determine the permissible
22 number and density of slot machines in a licensed gaming facility so as
23 to:

24 (1) promote optimum security for gaming facility operations;

25 (2) avoid deception or frequent distraction to players at gaming
26 tables;

27 (3) promote the comfort of patrons;

1 (4) create and maintain a gracious playing environment in the gaming
2 facility; and

3 (5) encourage and preserve competition in gaming facility operations
4 by assuring that a variety of gaming opportunities is offered to the
5 public.

6 Any such regulation promulgated by the commission which determines the
7 permissible number and density of slot machines in a licensed gaming
8 facility shall provide that all casinos shall be included in any calcu-
9 lation of the permissible number and density of slot machines in a
10 licensed gaming facility.

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

22 9. It shall be unlawful for any person to exchange or redeem chips for
23 anything whatsoever, except for currency, negotiable personal checks,
24 negotiable counter checks, other chips, coupons, slot vouchers or
25 complimentary vouchers distributed by the gaming facility licensee, or,
26 if authorized by regulation of the commission, a valid charge to a cred-
27 it or debit card account. A gaming facility licensee shall, upon the
28 request of any person, redeem that licensee's gaming chips surrendered

1 by that person in any amount over one hundred dollars with a check drawn
2 upon the licensee's account at any banking institution in this state and
3 made payable to that person.

4 10. It shall be unlawful for any gaming facility licensee or its
5 agents or employees to employ, contract with, or use any skill or barker
6 to induce any person to enter a gaming facility or play at any game or
7 for any purpose whatsoever.

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

12 § 1336. Certain wagering prohibited. 1. It shall be unlawful for any
13 casino key employee licensee to wager in any gaming facility in this
14 state.

15 2. It shall be unlawful for any other employee of a gaming facility
16 licensee who, in the judgment of the commission, is directly involved
17 with the conduct of gaming operations, including but not limited to
18 dealers, floor persons, box persons, security and surveillance employ-
19 ees, to engage in gambling in any gaming facility in which the employee
20 is employed or in any other gaming facility in this state which is owned
21 or operated by the gaming facility licensee or an affiliated licensee.

22 3. The prohibition against wagering set forth in subdivisions one and
23 two of this section shall continue for a period of thirty days commenc-
24 ing upon the date that the employee either leaves employment with a
25 gaming facility licensee or is terminated from employment with a gaming
26 facility licensee.

27 § 1337. Gratuities. 1. It shall be unlawful for any casino key
28 employee or boxman, floorman, or any other gaming employee who shall

1 serve in a supervisory position to solicit or accept, and for any other
2 gaming employee to solicit, any tip or gratuity from any player or
3 patron at the gaming facility where he is employed.

4 2. A dealer may accept tips or gratuities from a patron at the table
5 at which such dealer is conducting play, subject to the provisions of
6 this section. All such tips or gratuities shall be immediately deposit-
7 ed in a lockbox reserved for that purpose, unless the tip or gratuity is
8 authorized by a patron utilizing an automated wagering system approved
9 by the commission. All tips or gratuities shall be accounted for, and
10 placed in a pool for distribution pro rata among the dealers, with the
11 distribution based upon the number of hours each dealer has worked,
12 except that the commission may, by regulation, permit a separate pool to
13 be established for dealers in the game of poker, or may permit tips or
14 gratuities to be retained by individual dealers in the game of poker.

15 3. Notwithstanding the provisions of subdivision one of this section,
16 a gaming facility licensee may require that a percentage of the prize
17 pool offered to participants pursuant to an authorized poker tournament
18 be withheld for distribution to the tournament dealers as tips or gratu-
19 ities as the commission by regulation may approve.

20 § 1338. Limitation on certain financial access. In order to protect
21 the public interest, the commission shall adopt regulations that include
22 provisions that:

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

25 2. prohibit authorized automated teller machines from accepting elec-
26 tronic benefit cards, debit cards, or similar negotiable instruments
27 issued by the state or political subdivisions for the purpose of access-
28 ing temporary public assistance;

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

4 4. prohibit consumers from cashing paychecks at gaming facilities.

5 § 1339. Credit. 1. Except as otherwise provided in this section, no
6 gaming facility licensee or any person licensed under this article, and
7 no person acting on behalf of or under any arrangement with a gaming
8 facility licensee or other person licensed under this article, shall:

9 (a) Cash any check, make any loan, or otherwise provide or allow to
10 any person any credit or advance of anything of value or which repres-
11 ents value to enable any person to take part in gaming activity as a
12 player; or

13 (b) Release or discharge any debt, either in whole or in part, or make
14 any loan which represents any losses incurred by any player in gaming
15 activity, without maintaining a written record thereof in accordance
16 with the rules of the commission.

17 2. No gaming facility licensee or any person licensed under this arti-
18 cle, and no person acting on behalf of or under any arrangement with a
19 gaming facility licensee or other person licensed under this article,
20 may accept a check, other than a recognized traveler's check or other
21 cash equivalent from any person to enable such person to take part in
22 gaming activity as a player, or may give cash or cash equivalents in
23 exchange for such check unless:

24 (a) The check is made payable to the gaming facility licensee;

25 (b) The check is dated, but not postdated;

26 (c) The check is presented to the cashier or the cashier's represen-
27 tative at a location in the gaming facility approved by the commission
28 and is exchanged for cash or slot tokens which total an amount equal to

1 the amount for which the check is drawn, or the check is presented to
2 the cashier's representative at a gaming table in exchange for chips
3 which total an amount equal to the amount for which the check is drawn;
4 and

5 (d) The regulations concerning check cashing procedures are observed
6 by the gaming facility licensee and its employees and agents. Nothing
7 in this subdivision shall be deemed to preclude the establishment of an
8 account by any person with a gaming facility licensee by a deposit of
9 cash, recognized traveler's check or other cash equivalent, or a check
10 which meets the requirements of subdivision seven of this section, or to
11 preclude the withdrawal, either in whole or in part, of any amount
12 contained in such account.

13 3. When a gaming facility licensee or other person licensed under this
14 article, or any person acting on behalf of or under any arrangement with
15 a gaming facility licensee or other person licensed under this article,
16 cashes a check in conformity with the requirements of subdivision two of
17 this section, the gaming facility licensee shall cause the deposit of
18 such check in a bank for collection or payment, or shall require an
19 attorney or casino key employee with no incompatible functions to pres-
20 ent such check to the drawer's bank for payment, within:

21 (a) seven calendar days of the date of the transaction for a check in
22 an amount of one thousand dollars or less;

23 (b) fourteen calendar days of the date of the transaction for a check
24 in an amount greater than one thousand dollars but less than or equal to
25 five thousand dollars; or

26 (c) forty-five calendar days of the date of the transaction for a
27 check in an amount greater than five thousand dollars.

1 Notwithstanding the foregoing, the drawer of the check may redeem the
2 check by exchanging cash, cash equivalents, chips, or a check which
3 meets the requirements of subdivision seven of this section in an amount
4 equal to the amount for which the check is drawn; or he or she may
5 redeem the check in part by exchanging cash, cash equivalents, chips, or
6 a check which meets the requirements of subdivision seven of this
7 section and another check which meets the requirements of subdivision
8 two of this section for the difference between the original check and
9 the cash, cash equivalents, chips, or check tendered; or he or she may
10 issue one check which meets the requirements of subdivision two of this
11 section in an amount sufficient to redeem two or more checks drawn to
12 the order of the gaming facility licensee. If there has been a partial
13 redemption or a consolidation in conformity with the provisions of this
14 subdivision, the newly issued check shall be delivered to a bank for
15 collection or payment or presented to the drawer's bank for payment by
16 an attorney or casino key employee with no incompatible functions within
17 the period herein specified. No gaming facility licensee or any person
18 licensed or registered under this article, and no person acting on
19 behalf of or under any arrangement with a gaming facility licensee or
20 other person licensed under this article, shall accept any check or
21 series of checks in redemption or consolidation of another check or
22 checks in accordance with this subdivision for the purpose of avoiding
23 or delaying the deposit of a check in a bank for collection or payment
24 or the presentment of the check to the drawer's bank within the time
25 period prescribed by this subdivision.

26 In computing a time period prescribed by this subdivision, the last
27 day of the period shall be included unless it is a Saturday, Sunday, or

1 a state or federal holiday, in which event the time period shall run
2 until the next business day.

3 4. No gaming facility licensee or any other person licensed or regis-
4 tered under this article, or any other person acting on behalf of or
5 under any arrangement with a gaming facility licensee or other person
6 licensed or registered under this article, shall transfer, convey, or
7 give, with or without consideration, a check cashed in conformity with
8 the requirements of this section to any person other than:

9 (a) The drawer of the check upon redemption or consolidation in
10 accordance with subdivision three of this section;

11 (b) A bank for collection or payment of the check;

12 (c) A purchaser of the gaming facility license as approved by the
13 commission; or

14 (d) An attorney or casino key employee with no incompatible functions
15 for presentment to the drawer's bank.

16 The limitation on transferability of checks imposed herein shall apply
17 to checks returned by any bank to the gaming facility licensee without
18 full and final payment.

19 5. No person other than a casino key employee licensed under this
20 article or a gaming employee registered under this article may engage
21 in efforts to collect upon checks that have been returned by banks with-
22 out full and final payment, except that an attorney-at-law representing
23 a gaming facility licensee may bring action for such collection.

24 6. Notwithstanding the provisions of any law to the contrary, checks
25 cashd in conformity with the requirements of this article shall be
26 valid instruments, enforceable at law in the courts of this state. Any
27 check cashed, transferred, conveyed or given in violation of this arti-

1 cle shall be invalid and unenforceable for the purposes of collection
2 but shall be included in the calculation of gross gaming revenue.

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

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

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

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

21 (4) The check is issued by a slot system operator or pursuant to an
22 annuity jackpot guarantee as payment for winnings from a multi-casino
23 progressive slot machine system jackpot; or

24 (5) The check is issued by an entity that holds a gaming facility
25 license in any jurisdiction, is made payable to the person presenting
26 the check, and is issued for a purpose other than employment compen-
27 sation or as payment for goods or services rendered;

1 (b) The check is identifiable in a manner approved by the commission
2 as a check authorized for acceptance pursuant to paragraph (a) of this
3 subdivision;

4 (c) The check is dated, but not postdated;

5 (d) The check is presented to the cashier or the cashier's represen-
6 tative by the original payee and its validity is verified by the drawer
7 in the case of a check drawn pursuant to subparagraph one of paragraph
8 (a) of this subdivision, or the check is verified in accordance with
9 regulations promulgated under this article in the case of a check issued
10 pursuant to subparagraph two, three, four or five of paragraph (a) of
11 this subdivision; and

12 (e) The regulations concerning check-cashing procedures are observed
13 by the gaming facility licensee and its employees and agents. No gaming
14 facility licensee shall issue a check for the purpose of making a loan
15 or otherwise providing or allowing any advance or credit to a person to
16 enable the person to take part in gaming activity as a player.

17 8. Notwithstanding the provisions of subdivisions two and three of
18 this section to the contrary, a gaming facility licensee may, at a
19 location outside the gaming facility, accept a personal check or checks
20 from a person for up to five thousand dollars in exchange for cash or
21 cash equivalents, and may, at such locations within the gaming facility
22 as may be permitted by the commission, accept a personal check or checks
23 for up to five thousand dollars in exchange for cash, cash equivalents,
24 tokens, chips, or plaques to enable the person to take part in gaming
25 activity as a player, provided that:

26 (a) The check is drawn on the patron's bank or brokerage cash manage-
27 ment account;

28 (b) The check is for a specific amount;

1 (c) The check is made payable to the gaming facility licensee;

2 (d) The check is dated but not post-dated;

3 (e) The patron's identity is established by examination of one of the
4 following: valid credit card, driver's license, passport, or other form
5 of identification credential which contains, at a minimum, the patron's
6 signature;

7 (f) The check is restrictively endorsed "For Deposit Only" to the
8 gaming facility licensee's bank account and deposited on the next bank-
9 ing day following the date of the transaction;

10 (g) The total amount of personal checks accepted by any one licensee
11 pursuant to this subdivision that are outstanding at any time, including
12 the current check being submitted, does not exceed five thousand
13 dollars;

14 (h) The gaming facility licensee has a system of internal controls in
15 place that will enable it to determine the amount of outstanding
16 personal checks received from any patron pursuant to this subdivision at
17 any given point in time; and

18 (i) The gaming facility licensee maintains a record of each such tran-
19 saction in accordance with regulations established by the commission.

20 9. A person may request the commission to put that person's name on a
21 list of persons to whom the extension of credit by a gaming facility as
22 provided in this section would be prohibited by submitting to the
23 commission the person's name, address, and date of birth. The person
24 does not need to provide a reason for this request. The commission shall
25 provide this list to the credit department of each gaming facility;
26 neither the commission nor the credit department of a gaming facility
27 shall divulge the names on this list to any person or entity other than
28 those provided for in this subdivision. If such a person wishes to have

1 that person's name removed from the list, the person shall submit this
2 request to the commission, which shall so inform the credit departments
3 of gaming facilities no later than three days after the submission of
4 the request.

5 § 1340. Alcoholic beverages. 1. Notwithstanding any law to the
6 contrary, the authority to grant any license or permit for, or to permit
7 or prohibit the presence of, alcoholic beverages in, on, or about any
8 premises licensed as part of a gaming facility shall exclusively be
9 vested in the commission.

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

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

25 4. Except as otherwise provided in this section, the provisions of the
26 alcoholic beverage control law and the rules, regulations, bulletins,
27 orders, and advisories promulgated by the state liquor authority shall

1 apply to any gaming facility holding a license or permit to sell alco-
2 holic beverages under this section.

3 5. Notwithstanding any provision to the contrary, the commission may
4 promulgate any regulations and special rulings and findings as may be
5 necessary for the proper enforcement, regulation, and control of alco-
6 holic beverages in gaming facilities when the commission finds that the
7 uniqueness of gaming facility operations and the public interest require
8 that such regulations, rulings, and findings are appropriate.

9 6. Notwithstanding any provision of law to the contrary, any manufac-
10 turer or wholesaler licensed under the alcoholic beverage control law
11 may sell alcoholic beverages to a gaming facility holding a license or
12 permit to sell alcoholic beverages issued under this section, and any
13 gaming facility holding a license or permit to sell alcoholic beverages
14 issued under this section may purchase alcoholic beverages from a
15 manufacturer or wholesaler licensed under the alcoholic beverage control
16 law.

17 7. It shall be unlawful for any person, including any gaming facility
18 licensee or any of its lessees, agents or employees, to expose for sale,
19 solicit or promote the sale of, possess with intent to sell, sell, give,
20 dispense, or otherwise transfer or dispose of alcoholic beverages in, on
21 or about any portion of the premises of a gaming facility, unless said
22 person possesses a license or permit issued under this section.

23 8. It shall be unlawful for any person holding a license or permit to
24 sell alcoholic beverages under this section to expose, possess, sell,
25 give, dispense, transfer, or otherwise dispose of alcoholic beverages,
26 other than within the terms and conditions of such license or permit,
27 the provisions of the alcoholic beverage control law, the rules and
28 regulations promulgated by the state liquor authority, and, when appli-

1 cable, the regulations promulgated pursuant to this article. Notwith-
2 standing any other provision of law to the contrary the holder of a
3 license or permit issued under this section may be authorized to provide
4 complimentary alcoholic beverages under regulations issued by the
5 commission.

6 9. In issuing a casino alcoholic beverage license or permit, the
7 commission shall describe the scope of the particular license or permit,
8 and the restrictions and limitations thereon as it deems necessary and
9 reasonable. The commission may, in a single casino alcoholic beverage
10 license, permit the holder of such a license or permit to perform any or
11 all of the following activities, subject to applicable laws, rules and
12 regulations:

13 (a) To sell any alcoholic beverage by the glass or other open recepta-
14 cle including, but not limited to, an original container, for on-premise
15 consumption within a facility; provided, however, that no alcoholic
16 beverage shall be sold or given for consumption; delivered or otherwise
17 brought to a patron; or consumed at a gaming table unless so requested
18 by the patron.

19 (b) To sell any alcoholic beverage by the glass or other open recepta-
20 cle for on-premise consumption within a gaming facility.

21 (c) To sell any alcoholic beverage by the glass or other open recepta-
22 cle or in original containers from a room service location within an
23 enclosed room not in a gaming facility; provided, however, that any sale
24 of alcoholic beverages is delivered only to a guest room or to any other
25 room in the gaming facility authorized by the commission.

26 (d) To possess or to store alcoholic beverages in original containers
27 intended but not actually exposed for sale at a fixed location on a
28 gaming facility premises, not in a gaming facility; and to transfer or

1 deliver such alcoholic beverages only to a location approved pursuant to
2 this section; provided, however, that no access to or from a storage
3 location shall be permitted except during the normal course of business
4 by employees or agents of the licensee, or by licensed employees or
5 agents of wholesalers or distributors licensed pursuant to the alcoholic
6 beverage control law and any applicable rules and regulations; and
7 provided further, however, that no provision of this section shall be
8 construed to prohibit a casino alcoholic beverage licensee from obtain-
9 ing an off-site storage license from the state liquor authority.

10 10. The commission may revoke, suspend, refuse to renew or refuse to
11 transfer any casino alcoholic beverage license or permit, and may fine
12 or penalize the holder of any alcoholic beverage license or permit
13 issued under this section for violations of any provision of the alco-
14 holic beverage control law, the rules and regulations promulgated by the
15 state liquor authority, and the regulations promulgated by the commis-
16 sion.

17 11. Jurisdiction over all alcoholic beverage licenses and permits
18 previously issued with respect to the gaming facility is hereby vested
19 in the commission, which in its discretion may by regulation provide for
20 the conversion thereof into a casino alcoholic beverage license or
21 permit as provided in this section.

22 § 1341. Licensee leases and contracts. 1. Unless otherwise provided
23 in this subdivision, no agreement shall be lawful which provides for the
24 payment, however defined, of any direct or indirect interest, percentage
25 or share of: any money or property gambled at a gaming facility; any
26 money or property derived from gaming activity; or any revenues, profits
27 or earnings of a gaming facility. Notwithstanding the foregoing:

1 (a) Agreements which provide only for the payment of a fixed sum which
2 is in no way affected by the amount of any such money, property, reven-
3 ues, profits or earnings shall not be subject to the provisions of this
4 subdivision; and receipts, rentals or charges for real property,
5 personal property or services shall not lose their character as payments
6 of a fixed sum because of contract, lease, or license provisions for
7 adjustments in charges, rentals or fees on account of changes in taxes
8 or assessments, cost-of-living index escalations, expansion or improve-
9 ment of facilities, or changes in services supplied.

10 (b) Agreements between a gaming facility licensee and a junket enter-
11 prise or junket representative licensed, qualified or registered in
12 accordance with the provisions this article and the regulations of the
13 commission which provide for the compensation of the junket enterprise
14 or junket representative by the gaming facility licensee based upon the
15 actual gaming activities of a patron procured or referred by the junket
16 enterprise or junket representative shall be lawful if filed with the
17 commission prior to the conduct of any junket that is governed by the
18 agreement.

19 (c) Agreements between a gaming facility licensee and its employees
20 which provide for gaming employee or casino key employee profit sharing
21 shall be lawful if the agreement is in writing and filed with the
22 commission prior to its effective date. Such agreements may be reviewed
23 by the commission.

24 (d) Agreements to lease an approved gaming facility or the land there-
25 under and agreements for the complete management of all gaming oper-
26 ations in a gaming facility shall not be subject to the provisions of
27 this subdivision.

1 (e) Agreements which provide for percentage charges between the gaming
2 facility licensee and a holding company or intermediary company of the
3 gaming facility licensee shall be in writing and filed with the commis-
4 sion but shall not be subject to the provisions of this subdivision.

5 (f) Written agreements relating to the operation of multi-casino or
6 multi-state progressive slot machine systems between one or more gaming
7 facility licensees and a licensed casino vendor enterprise or an eligi-
8 ble applicant for such license, which provide for an interest, percent-
9 age or share of the gaming facility licensee's revenues, profits or
10 earnings from the operation of such multi-casino or multi-state progres-
11 sive slot machines to be paid to the casino vendor enterprise licensee
12 or applicant shall not be subject to the provisions of this subdivision
13 if the agreements are filed with and approved by the commission.

14 2. Each gaming facility applicant or licensee shall maintain, in
15 accordance with the rules of the commission, a record of each written or
16 unwritten agreement regarding the realty, construction, maintenance, or
17 business of a proposed or existing gaming facility or related facility.
18 The foregoing obligation shall apply regardless of whether the gaming
19 facility applicant or licensee is a party to the agreement. Any such
20 agreement may be reviewed by the commission on the basis of the reason-
21 ableness of its terms, including the terms of compensation, and of the
22 qualifications of the owners, officers, employees, and directors of any
23 enterprise involved in the agreement, which qualifications shall be
24 reviewed according to the standards enumerated in section one thousand
25 three hundred twenty-three of this article. If the commission disap-
26 proves such an agreement or the owners, officers, employees, or direc-
27 tors of any enterprise involved therein, the commission may require its
28 termination.

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

13 For the purposes of this subdivision, "gaming facility applicant"
14 includes any person required to hold a gaming facility license who has
15 applied to the commission for a gaming facility license or any approval
16 required.

17 3. Nothing in this article shall be deemed to permit the transfer of
18 any license, or any interest in any license, or any certificate of
19 compliance or any commitment or reservation without the approval of the
20 commission.

21 § 1342. Required exclusion of certain persons. 1. The commission
22 shall, by regulation, provide for the establishment of a list of persons
23 who are to be excluded or ejected from any licensed gaming facility.
24 Such provisions shall define the standards for exclusion, and shall
25 include standards relating to persons:

26 (a) Who are career or professional offenders as defined by regulations
27 promulgated hereunder; or

1 (b) Who have been convicted of a criminal offense under the laws of
2 any state or of the United States, which is punishable by more than
3 twelve months in prison, or any crime or offense involving moral turpi-
4 tude.

5 The commission shall promulgate definitions establishing those catego-
6 ries of persons who shall be excluded pursuant to this section, includ-
7 ing cheats and persons whose privileges for licensure or registration
8 have been revoked.

9 2. Any enumerated class listed in subdivision one of section two
10 hundred ninety-six of the human rights law shall not be a reason for
11 placing the name of any person upon such list.

12 3. The commission may impose sanctions upon a licensed gaming facility
13 or individual licensee or registrant in accordance with the provisions
14 of this article if such gaming facility or individual licensee or regis-
15 trant knowingly fails to exclude or eject from the premises of any
16 licensed gaming facility any person placed by the commission on the list
17 of persons to be excluded or ejected.

18 4. Any list compiled by the commission of persons to be excluded or
19 ejected shall not be deemed an all-inclusive list, and licensed gaming
20 facilities shall have a duty to keep from their premises persons known
21 to them to be within the classifications declared in subdivisions one
22 and two of this section and the regulations promulgated thereunder, or
23 known to them to be persons whose presence in a licensed gaming facility
24 would be inimical to the interest of the state or of licensed gaming
25 therein, or both, as defined in standards established by the commission.

26 5. Prior to placing the name of any person on a list pursuant to this
27 section, the commission shall serve notice of such fact to such person
28 by personal service, by certified mail at the last known address of such

1 person, or by publication daily for one week in a newspaper of general
2 circulation and upon the commission website.

3 6. Within thirty days after service of the petition in accordance with
4 subdivision five of this section, the person named for exclusion or
5 ejection may demand a hearing before the executive director or the exec-
6 utive director's designee, at which hearing the executive director or
7 the director's designee shall have the affirmative obligation to demon-
8 strate by substantial evidence that the person named for exclusion or
9 ejection satisfies the criteria for exclusion established by this
10 section and the applicable regulations. Failure to demand such a hearing
11 within thirty days after service shall be deemed an admission of all
12 matters and facts alleged in the executive director's petition and shall
13 preclude a person from having an administrative hearing, but shall in no
14 way affect his or her right to judicial review as provided herein.

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

1 8. If, upon completion of the hearing on the petition for exclusion or
2 ejection, the executive director determines that the person named there-
3 in does not satisfy the criteria for exclusion established by this
4 section and the applicable regulations, the executive director shall
5 issue an order denying the petition. If the person named in the petition
6 for exclusion or ejection had been placed on the list as a result of an
7 application for preliminary placement, the executive director shall
8 notify all gaming facility licensees of the person's removal from the
9 list.

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

18 § 1343. Exclusion, ejection of certain persons. 1. A gaming facility
19 licensee may exclude or eject from its gaming facility any person who is
20 known to it to have been convicted of a crime, disorderly persons
21 offense, or petty disorderly persons offense committed in or on the
22 premises of any gaming facility.

23 2. Nothing in this section or in any other law of this state shall
24 limit the right of a gaming facility licensee to exercise its common law
25 right to exclude or eject permanently from its gaming facility any
26 person who disrupts the operations of its premises, threatens the secu-
27 rity of its premises or its occupants, or is disorderly or intoxicated.

1 § 1344. List of persons self-excluded from gaming activities. 1. The
2 commission shall provide by regulation for the establishment of a list
3 of persons self-excluded from gaming activities at all licensed gaming
4 facilities. Any person may request placement on the list of self-exclud-
5 ed persons by acknowledging in a manner to be established by the commis-
6 sion that the person is a problem gambler and by agreeing that, during
7 any period of voluntary exclusion, the person may not collect any
8 winnings or recover any losses resulting from any gaming activity at
9 such gaming facilities.

10 2. The regulations of the commission shall establish procedures for
11 placements on, and removals from, the list of self-excluded persons.
12 Such regulations shall establish procedures for the transmittal to
13 licensed gaming facilities of identifying information concerning self-
14 excluded persons, and shall require licensed gaming facilities to estab-
15 lish procedures designed, at a minimum, to remove self-excluded persons
16 from targeted mailings or other forms of advertising or promotions and
17 deny self-excluded persons access to credit, complimentaries, check
18 cashing privileges, club programs, and other similar benefits.

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

23 (a) the failure of a licensed gaming facility to withhold gaming priv-
24 ileges from, or restore gaming privileges to, a self-excluded person; or

25 (b) otherwise permitting a self-excluded person to engage in gaming
26 activity in such licensed gaming facility while on the list of self-ex-
27 cluded persons.

1 4. Notwithstanding any other law to the contrary, the commission's
2 list of self-excluded persons shall not be open to public inspection.
3 Nothing herein, however, shall be construed to prohibit a gaming facili-
4 ty licensee from disclosing the identity of persons self-excluded pursu-
5 ant to this section to affiliated gaming entities in this state or other
6 jurisdictions for the limited purpose of assisting in the proper admin-
7 istration of responsible gaming programs operated by such gaming affil-
8 iated entities.

9 5. A licensed gaming facility or employee thereof shall not be liable
10 to any self-excluded person or to any other party in any judicial
11 proceeding for any harm, monetary or otherwise, which may arise as a
12 result of disclosure or publication in any manner, other than a willful-
13 ly unlawful disclosure or publication, of the identity of any self-ex-
14 cluded person.

15 § 1345. Excluded person; forfeiture of winnings; other sanctions. 1.
16 A person who is prohibited from gaming in a licensed gaming facility by
17 any order of the executive director, commission or court of competent
18 jurisdiction, including any person on the self-exclusion list pursuant
19 to subdivision one of section one thousand three hundred forty-four of
20 this title, shall not collect, in any manner or proceeding, any winnings
21 or recover any losses arising as a result of any prohibited gaming
22 activity.

23 2. For the purposes this section, any gaming activity in a licensed
24 gaming facility which results in a prohibited person obtaining any money
25 or thing of value from, or being owed any money or thing of value by,
26 the gaming facility shall be considered, solely for purposes of this
27 section, to be a fully executed gambling transaction.

1 3. In addition to any other penalty provided by law, any money or
2 thing of value which has been obtained by, or is owed to, any prohibited
3 person by a licensed gaming facility as a result of wagers made by a
4 prohibited person shall be subject to forfeiture following notice to the
5 prohibited person and opportunity to be heard. A licensed gaming facili-
6 ty shall inform a prohibited person of the availability of such notice
7 on the commission's website when ejecting the prohibited person and
8 seizing any chips, vouchers or other representative of money owed by a
9 gaming facility to the prohibited person as authorized by this subdivi-
10 sion. All forfeited amounts shall be deposited into the commercial
11 gaming revenue fund.

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

20 § 1346. Labor peace agreements for certain facilities. 1. As used in
21 this section:

22 (a) "Gaming facility" means any gaming facility licensed pursuant to
23 this article or a video lottery gaming facility as may be authorized by
24 paragraph three of subdivision (a) of section one thousand six hundred
25 seventeen-a of the tax law, as amended by section nineteen of the chap-
26 ter of the laws of two thousand thirteen that added this section
27 licensed by the commission. A gaming facility shall not include any
28 horse racing, bingo or charitable games of chance, the state lottery for

1 education, or any gaming facility operating pursuant to the federal
2 Indian Gaming Regulatory Act, 25 U.S.C. § 2710 et seq. A gaming facility
3 shall include any hospitality operation at or related to the gaming
4 facility.

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

10 (c) "License" means any permit, license, franchise or allowance of the
11 commission and shall include any franchisee or permittee.

12 (d) "Proprietary interest" means an economic and non-regulatory inter-
13 est at risk in the financial success of the gaming facility that could
14 be adversely affected by labor-management conflict, including but not
15 limited to property interests, financial investments and revenue shar-
16 ing.

17 2. The state legislature finds that the gaming industry constitutes a
18 vital sector of New York's overall economy and that the state through
19 its operation of lotteries and video lottery facilities and through its
20 ownership of the properties utilized for horse racing by The New York
21 Racing Association Inc. has a significant and ongoing economic and non-
22 regulatory interest in the financial viability and competitiveness of
23 the gaming industry. The state legislature further finds that the award
24 or grant of a license by the commission to operate a gaming facility is
25 a significant state action and that the commission must make prudent and
26 efficient decisions to maximize the benefits and minimize the risks of
27 gaming. The state legislature further recognizes that casino gaming
28 industry integration can provide a vital economic engine to assist,

1 nurture, develop, and promote regional economic development, the state
2 tourism industry and the growth of jobs in the state. Additionally, the
3 state legislature also finds revenues derived directly by the state from
4 such gaming activity will be shared from gross gaming receipts, after
5 payout of prizes but prior to deductions for operational expenses.

6 Therefore, the state legislature finds that the state has a substan-
7 tial and compelling proprietary interest in any license awarded for the
8 operation of a gaming facility within the state.

9 3. The commission shall require any applicant for a gaming facility
10 license who has not yet entered into a labor peace agreement to produce
11 an affidavit stating it shall enter into a labor peace agreement with
12 labor organizations that are actively engaged in representing or
13 attempting to represent gaming or hospitality industry workers in the
14 state. In order for the commission to issue a gaming facility license
15 and for operations to commence, the applicant for a gaming facility
16 license must produce documentation that it has entered into a labor
17 peace agreement with each labor organization that is actively engaged in
18 representing and attempting to represent gaming and hospitality industry
19 workers in the state. The commission shall make the maintenance of such
20 a labor peace agreement an ongoing material condition of licensure.

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

26 4. Construction for each capital project undertaken by a gaming facil-
27 ity shall be deemed a "public work" to be performed in accordance with
28 the provisions of article eight of the labor law, as well as subject to

1 section two hundred of the labor law and enforcement of prevailing wage
2 requirements by the department of labor.

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

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

16 (b) The commission shall require a gaming facility or contractor ther-
17 eof awarded a contract, subcontract, lease, grant, bond, covenant or
18 other agreement for a project to enter into a project labor agreement
19 during and for the work involved with such project when such requirement
20 is part of the gaming facility project, but only if the commission
21 determines that the record supporting the decision to enter into such an
22 agreement establishes that the interests of the state are best met by
23 requiring a project labor agreement including: obtaining the best work
24 at the lowest possible price; preventing favoritism, fraud and
25 corruption; the impact of delay; the possibility of cost savings; and
26 any local history of labor unrest.

27 (c) Any contract to which the gaming facility is a party, and any
28 contract entered into by a third party acting in place of, on behalf of

1 and for the benefit of the gaming facility pursuant to any lease, permit
2 or other agreement between such third party and the gaming facility, for
3 the construction, reconstruction, demolition, excavation, rehabili-
4 tation, repair, renovation, alteration, or improvement, of a project
5 undertaken pursuant to this chapter, shall be subject to all of the
6 provisions of article eight of the labor law, including the enforcement
7 of prevailing wage requirements by the fiscal officer as defined in
8 paragraph e of subdivision five of section two hundred twenty of the
9 labor law to the same extent as a contract of the state, and shall be
10 deemed public work for purposes of such article.

11 (d) Every contract entered into by the gaming facility for a project
12 shall contain a provision that the contractor shall furnish a labor and
13 material bond guaranteeing prompt payment of moneys that are due to all
14 persons furnishing labor and materials pursuant to the requirements of
15 any contracts for a project undertaken pursuant to this section and a
16 performance bond for the faithful performance of the project, which
17 shall conform to the provisions of section one hundred three-f of the
18 general municipal law, and that a copy of such performance and payment
19 bonds shall be kept by the commission and shall be open to public
20 inspection.

21 (e) For the purposes of article fifteen-A of the executive law, any
22 gaming facility entering into a contract for a project authorized pursu-
23 ant to this section shall be deemed a state agency as that term is
24 defined in such article and such contracts shall be deemed state
25 contracts within the meaning of that term as set forth in such article.

26 (f) Whenever a gaming facility enters into a contract, subcontract,
27 lease, grant, bond, covenant or other agreement for construction, recon-
28 struction, demolition, excavation, rehabilitation, repair, renovation,

1 alteration, or improvement with respect to each project undertaken
2 pursuant to this chapter, the commission shall consider the financial
3 and organizational capacity of contractors and subcontractors in
4 relation to the magnitude of work they may perform, the record of
5 performance of contractors and subcontractors on previous work, the
6 record of contractors and subcontractors in complying with existing
7 labor standards and maintaining harmonious labor relations, and the
8 commitment of contractors to work with minority and women-owned business
9 enterprises pursuant to article fifteen-A of the executive law through
10 partnerships, joint ventures or subcontractor relationships.

11 (g) The commission shall further require, on any contract for
12 construction in excess of three million dollars with respect to any
13 contract for construction, reconstruction, demolition, excavation, reha-
14 bilitation, repair, renovation, alteration, or improvement that each
15 contractor and subcontractor shall participate in apprentice training
16 programs in the trades of work it employs that have been approved by the
17 department of labor for not less than three years. The commission shall
18 further require that each contractor and subcontractor shall have gradu-
19 ated at least one apprentice in the last three years and shall have at
20 least one apprentice currently enrolled in such training program. Addi-
21 tionally it must be demonstrated that the program has made significant
22 efforts to attract and retain minority apprentices, as determined by
23 affirmative action goals established for such programs by the department
24 of labor.

25 § 1347. Prohibition of political contributions from gaming licensees
26 and applicants. 1. The state legislature has a compelling interest in
27 protecting the integrity of both the electoral process and the legisla-
28 tive process by preventing corruption and the appearance of corruption

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

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

15 2. As used in this section:

16 (a) "Affiliated entity" means (1) any corporate parent and operating
17 subsidiary of the business entity applying for or holding a license, (2)
18 each operating subsidiary of the corporate parent of the business entity
19 applying for or holding a license, (3) any organization recognized by
20 the United States Internal Revenue Service as a tax-exempt organization
21 described in Section 501(c) of the Internal Revenue Code of 1986 (or any
22 successor provision of federal tax law) established by one or more busi-
23 ness entities seeking or holding a license, any affiliated entity of
24 such business entity, or any affiliated person of such business entity,
25 and (4) any political committee for which the business entity applying
26 for or holding a license, or any 501(c) organization described in
27 subparagraph three of this paragraph related to that business entity.
28 For purposes of subparagraph four of this paragraph, the funding of all

1 business entities applying for or holding a license shall be aggregated
2 in determining whether such political committee is an affiliated entity.

3 (b) "Affiliated person" means (1) any person with any ownership inter-
4 est or distributive share in excess of seven and one-half percent of any
5 business entity applying for or holding a license, (2) executive employ-
6 ees of any such business entity, (3) any person designated as a key
7 person pursuant to this article, and (4) the spouse of the persons
8 described in subparagraphs one through three of this paragraph.

9 (c) "Business entity" means any entity doing business for profit,
10 whether organized as a corporation, partnership, sole proprietorship,
11 limited liability company, or partnership or otherwise.

12 (d) "Contribution" means a contribution as defined in subdivision nine
13 of section 14-100 of the election law.

14 (e) "Declared candidate" means a person who has filed a statement of
15 candidacy and petition for nomination or election in the principal
16 office of the state board of elections, or in the office of the appro-
17 priate election authority for any host municipality or county in which a
18 gaming facility is located or proposed to be located.

19 (f) "Executive employee" means (1) any person who is an officer or
20 director or who fulfills duties equivalent to those of an officer or
21 director of a business entity applying for or holding a license and (2)
22 any employee of such business entity who is required to register under
23 article one-A of the legislative law.

24 (g) "License" means the gaming license issued pursuant to this arti-
25 cle.

26 (h) "Officeholder" means the governor, lieutenant governor, attorney
27 general, comptroller, member of the assembly or senate, or any office-

1 holder in any host municipality or county in which a gaming facility is
2 located or proposed to be located.

3 3. (a) Any person or business entity applying for or holding a
4 license, any affiliated entities or persons of such business entity, and
5 any entities or persons soliciting a contribution or causing a contrib-
6 ution to be made on behalf of such person or business entity, are
7 prohibited from making any contribution to any officeholder or declared
8 candidate or any political committee affiliated with any officeholder or
9 declared candidate.

10 (b) This prohibition shall commence upon filing of an application for
11 a license and shall continue for a period of two years after termi-
12 nation, suspension or revocation of the license.

13 (c) The commission shall have authority to suspend, revoke or restrict
14 the license and to impose civil penalties of up to one hundred thousand
15 dollars for each violation of this subdivision.

16 (d) A notice of each such violation and the penalty imposed shall be
17 published on the commission's internet website and in the State Regis-
18 ter. Payments received by the state pursuant to this subdivision shall
19 be deposited into the commercial gaming revenue fund.

20 (e) Any officeholder or declared candidate or any political committee
21 affiliated with any officeholder or declared candidate that has received
22 a contribution in violation of this subdivision shall pay an amount
23 equal to the value of the contribution to the state no more than thirty
24 days after notice of the violation concerning the contribution appears
25 in the State Register. Payments received by the state pursuant to this
26 subdivision shall be deposited into the commercial gaming revenue fund.

27 4. The commission shall post on its internet website a list of all
28 persons, business entities, and affiliated entities prohibited from

1 making contributions to any officeholder or declared candidate political
2 committee pursuant to subdivision three of this section, which list
3 shall be updated and published, at a minimum, every six months.

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

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

18 TITLE 6

19 TAXATION AND FEES

20 Section 1348. Machine and table fees.

21 1349. Regulatory investigatory fees.

22 1350. Additional regulatory costs.

23 1351. Tax on gross gaming revenues; permissive supplemental fee.

24 1352. Commercial gaming revenue fund.

25 1353. Determination of tax liability.

26 1354. Unclaimed funds.

27 1355. Distributions to the racing industry.

1 § 1348. Machine and table fees. In addition to any other tax or fee
2 imposed by this article, there shall be imposed an annual license fee of
3 five hundred dollars for each slot machine and table approved by the
4 commission for use by a gaming licensee at a gaming facility; provided,
5 however, that not sooner than five years after award of an original
6 gaming license, the commission may annually adjust the fee for
7 inflation. The fee shall be imposed as of July first of each year for
8 all approved slot machines and tables on that date and shall be assessed
9 on a pro rata basis for any slot machine or table approved for use ther-
10 eafter.

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

14 § 1349. Regulatory investigatory fees. The commission shall establish
15 fees for any investigation into a violation of this article or regu-
16 lation promulgated hereunder by a gaming licensee to be paid by the
17 gaming licensee including, but not limited to, billable hours by commis-
18 sion staff involved in the investigation and the costs of services,
19 equipment or other expenses that are incurred by the commission during
20 the investigation.

21 § 1350. Additional regulatory costs. 1. Any remaining costs of the
22 commission necessary to maintain regulatory control over gaming facili-
23 ties that are not covered by the fees set forth in section one thousand
24 three hundred forty-nine of this title; any other fees assessed under
25 this article; or any other designated sources of funding, shall be
26 assessed annually on gaming licensees under this article in proportion
27 to the number of gaming positions at each gaming facility. Each gaming

1 licensee shall pay the amount assessed against it within thirty days
2 after the date of the notice of assessment from the commission.

3 2. If the fees collected in section one thousand three hundred forty-
4 nine of this title exceed the cost required to maintain regulatory
5 control, the surplus funds shall be credited in proportional shares
6 against each gaming licensee's next assessment.

7 § 1351. Tax on gross gaming revenues; permissive supplemental fee.
8 For a gaming facility in zone two, there is hereby imposed a tax on
9 gross gaming revenues in the amount of twenty-five percent. Should a
10 licensee have agreed within its application to supplement the tax with a
11 binding supplemental fee payment exceeding the aforementioned tax rate,
12 such tax and supplemental fee shall apply.

13 § 1352. Commercial gaming revenue fund. 1. The commission shall pay
14 into an account, to be known as the commercial gaming revenue fund as
15 established pursuant to section ninety-seven-nnnn of the state finance
16 law, under the joint custody of the comptroller and the commissioner of
17 taxation and finance, all taxes and fees imposed by this article; any
18 interest and penalties imposed by the commission relating to those
19 taxes; the appropriate percentage of the value of expired gaming related
20 obligations; all penalties levied and collected by the commission; and
21 the appropriate funds, cash or prizes forfeited from gambling activity.

22 2. The commission shall require at least monthly deposits by the
23 licensee of any payments pursuant to section one thousand three hundred
24 fifty-one of this article, at such times, under such conditions, and in
25 such depositories as shall be prescribed by the state comptroller. The
26 deposits shall be deposited to the credit of the commercial gaming
27 revenue fund as established by section ninety-seven-nnnn of the state
28 finance law. The commission may require a monthly report and reconcil-

1 iation statement to be filed with it on or before the tenth day of each
2 month, with respect to gross revenues and deposits received and made,
3 respectively, during the preceding month.

4 § 1353. Determination of tax liability. The commission may perform
5 audits of the books and records of a gaming facility licensee, at such
6 times and intervals as it deems appropriate, for the purpose of deter-
7 mining the sufficiency of tax or fee payments. If a return or deposit
8 required with regard to obligations imposed is not filed or paid, or if
9 a return or deposit when filed or paid is determined by the commission
10 to be incorrect or insufficient with or without an audit, the amount of
11 tax, fee or deposit due shall be determined by the commission. Notice
12 of such determination shall be given to the licensee liable for the
13 payment of the tax or fee or deposit. Such determination shall finally
14 and irrevocably fix the tax or fee unless the person against whom it is
15 assessed, within thirty days after receiving notice of such determi-
16 nation, shall apply to the commission for a hearing in accordance with
17 the regulations of the commission.

18 § 1354. Unclaimed funds. Unclaimed funds, cash and prizes shall be
19 retained by the gaming facility licensee for the person entitled to the
20 funds, cash or prize for one year after the game in which the funds,
21 cash or prize was won. If no claim is made for the funds, cash or prize
22 within one year, the funds, cash or equivalent cash value of the prize
23 shall be deposited in the commercial gaming revenue fund.

24 § 1355. Distributions to the racing industry. 1. If an applicant
25 possesses a pari-mutuel wagering franchise or license awarded pursuant
26 to article two or three of this chapter is issued a gaming facility
27 license pursuant to this article, the licensee shall:

1 (a) Maintain payments made from video lottery gaming operations to the
2 relevant horsemen and breeders organizations at the same dollar level
3 realized in two thousand twelve, to be adjusted annually pursuant to
4 changes in the consumer price index for all urban consumers, as
5 published annually by the United States department of labor bureau of
6 labor statistics;

7 (b) All racetracks locations awarded a gaming facility license shall
8 maintain racing activity and race dates pursuant to articles two and
9 three of this chapter.

10 2. If an applicant that does not possess either a pari-mutuel wagering
11 license or franchise awarded pursuant to article two or three of this
12 chapter is issued a gaming facility license pursuant to this article,
13 the licensee shall devote five percent of its net revenues from slot
14 machines to support racing activity in the following manner:

15 (a) three percent shall be dedicated to the nearest licensed race-
16 track, to be equally divided between the horsemen, for the support of
17 purses, and the racetrack;

18 (b) one and one-half percent shall be dedicated to the next closest
19 racetrack to be equally divided between the horsemen, for the support of
20 purses, and the racetrack; and

21 (c) one-half of one percent shall be dedicated to and equally divided
22 between the standardbred and thoroughbred breeding funds.

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

26 For purposes of this subdivision, the racetrack of the franchised
27 corporation shall mean the racetrack at which the franchised corporation
28 conducts the plurality of its race dates.

1 TITLE 7

2 MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES

3 Section 1356. Declarations.

4 1357. Definitions.

5 1358. Minority, women's business contracts.

6 1359. Penalties for violations.

7 1360. List of certified enterprises.

8 1361. Intentionally omitted.

9 § 1356. Declarations. The state declares that the opportunity for
10 maximum feasible participation of minority and women's business enter-
11 prises in the casino industry is essential if social and economic parity
12 is to be obtained by minority and women businesses.

13 § 1357. Definitions. As used in this article "gaming facility licen-
14 see" means any entity which holds or is an applicant for a gaming facil-
15 ity license pursuant to this article.

16 Terms used in this section that are not defined herein have such mean-
17 ing as ascribed to such term in section three hundred ten of the execu-
18 tive law.

19 § 1358. Minority, women's business contracts. 1. Notwithstanding the
20 provisions of any law, rule or regulation to the contrary, every gaming
21 facility licensee shall establish goals pursuant to section three
22 hundred thirteen of the executive law. For purposes of article fifteen-A
23 of the executive law, any gaming facility licensee entering into a
24 contract shall be deemed a state agency as that term is defined in such
25 article and such contract shall be deemed a state contract as within the
26 meaning of that term as set forth in such article.

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

4 § 1359. Penalties for violations. If the commission determines that
5 the requirements relating to expenditures and assignments to minority
6 and women-owned business enterprises have not been met by a licensee,
7 the commission may suspend or revoke the gaming facility license or fine
8 or impose appropriate conditions on the licensee, to ensure that the
9 requirements for expenditures and assignments to minority and women-
10 owned business enterprises are met; except that if a determination is
11 made by the commission of the division of minority and women's business
12 development that a gaming facility licensee has failed to demonstrate
13 compliance with the provisions of article fifteen-A of the executive
14 law, a gaming facility licensee will have ninety days from the date of
15 the determination of noncompliance within which to come into compliance.

16 § 1360. List of certified enterprises. The empire state development
17 corporation maintains the directory of certified minority and women-
18 owned business enterprises. Such directory shall be made available to
19 gaming facility licensees.

20 § 1361. Intentionally omitted.

21 TITLE 8

22 PROBLEM GAMBLING

23 Section 1362. Prevention and outreach efforts.

24 1363. Advertising restrictions.

25 § 1362. Prevention and outreach efforts. 1. Each gaming facility
26 licensee, management company, and holding company involved in the appli-
27 cation and ownership or management of a gaming facility shall provide to
28 the commission, as applicable, an applicant's problem gambling plan. An

1 applicant's problem gambling plan shall be approved by the commission
2 before the commission issues or renews a license. Each plan shall at
3 minimum include the following:

4 (a) The goals of the plan and procedures and timetables to implement
5 the plan;

6 (b) The identification of the individual who will be responsible for
7 the implementation and maintenance of the plan;

8 (c) Policies and procedures including the following:

9 (1) The commitment of the applicant and the gaming facility licensee
10 to train appropriate employees;

11 (2) The duties and responsibilities of the employees designated to
12 implement or participate in the plan;

13 (3) The responsibility of patrons with respect to responsible gambl-
14 ing;

15 (4) Procedures for compliance with the voluntary exclusion program;

16 (5) Procedures to identify patrons and employees with suspected or
17 known problem gambling behavior, including procedures specific to loyal-
18 ty and other rewards and marketing programs;

19 (6) Procedures for providing information to individuals regarding the
20 voluntary exclusion program and community, public and private treatment
21 services, gamblers anonymous programs and similar treatment or addiction
22 therapy programs designed to prevent, treat, or monitor problem gamblers
23 and to counsel family members;

24 (7) Procedures for responding to patron and employee requests for
25 information regarding the voluntary exclusion program and community,
26 public and private treatment services, gamblers anonymous programs and
27 similar treatment or addiction therapy programs designed to prevent,

1 treat, or monitor compulsive and problem gamblers and to counsel family
2 members;

3 (8) The provision of printed material to educate patrons and employees
4 about problem gambling and to inform them about the voluntary exclusion
5 program and treatment services available to problem gamblers and their
6 families. The applicant shall provide examples of the materials to be
7 used as part of its plan, including, brochures and other printed materi-
8 al and a description of how the material will be disseminated;

9 (9) Advertising and other marketing and outreach to educate the gener-
10 al public about the voluntary exclusion program and problem gambling;

11 (10) An employee training program, including training materials to be
12 utilized and a plan for periodic reinforcement training and a certifi-
13 cation process established by the applicant to verify that each employ-
14 ee has completed the training required by the plan;

15 (11) Procedures to prevent underage gambling;

16 (12) Procedures to prevent patrons impaired by drugs or alcohol, or
17 both, from gambling; and

18 (13) The plan for posting signs within the gaming facility, containing
19 information on gambling treatment and on the voluntary exclusion
20 program. The applicant shall provide examples of the language and graph-
21 ics to be used on the signs as part of its plan;

22 (d) A list of community, public and private treatment services,
23 gamblers anonymous programs and similar treatment or addiction therapy
24 programs designed to prevent, treat, or monitor problem gamblers and to
25 counsel family members; and

26 (e) Any other information, documents, and policies and procedures that
27 the commission requires.

1 2. Each applicant or gaming facility licensee shall submit any amend-
2 ments to the problem gambling plan to the commission for review and
3 approval before implementing the amendments.

4 3. Each gaming facility licensee shall submit an annual summary of its
5 problem gambling plan to the commission.

6 4. Each gaming facility licensee shall submit quarterly updates and an
7 annual report to the commission of its adherence to the plans and goals
8 submitted under this section.

9 § 1363. Advertising restrictions. 1. As used in this section:

10 (a) "advertisement" shall mean any notice or communication to the
11 public or any information concerning the gaming-related business of a
12 gaming facility licensee or applicant through broadcasting, publication
13 or any other means of dissemination, including electronic dissemination.
14 Promotional activities are considered advertisements for purposes of
15 this section.

16 (b) "direct advertisement" shall mean any advertisement as described
17 in paragraph (a) of this subdivision that is disseminated to a specific
18 individual or individuals.

19 2. Advertising shall be based upon fact, and shall not be false,
20 deceptive or misleading, and no advertising by or on behalf of a gaming
21 facility licensee shall:

22 (a) Use any type, size, location, lighting, illustration, graphic
23 depiction or color resulting in the obscuring of any material fact;

24 (b) Fail to clearly and conspicuously specify and state any material
25 conditions or limiting factors;

26 (c) Depict any person under the age of twenty-one engaging in gaming
27 and related activities; or

1 (d) Fail to designate and state the name and location of the gaming
2 facility conducting the advertisement. The location of the gaming facil-
3 ity need not be included on billboards within thirty miles of the gaming
4 facility.

5 3. Each advertisement shall, clearly and conspicuously, state a prob-
6 lem gambling hotline number.

7 4. Each direct advertisement shall, clearly and conspicuously,
8 describe a method or methods by which an individual may designate that
9 the individual does not wish to receive any future direct advertisement.

10 (a) The described method must be by at least two of the following:

11 (1) Telephone;

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

13 (3) Electronic mail.

14 (b) Upon receipt of an individual's request to discontinue receipt of
15 future advertisement, a gaming facility licensee or applicant shall
16 block the individual in the gaming facility licensee's database so as to
17 prevent the individual from receiving future direct advertisements with-
18 in fifteen days of receipt of the request.

19 5. Each gaming facility licensee or applicant shall provide to the
20 commission at its main office a complete and accurate copy of all adver-
21 tisements within five business days of the advertisement's public
22 dissemination. Gaming facility licensees or applicants shall discontinue
23 the public dissemination upon receipt of notice from the commission to
24 discontinue an advertisement.

25 6. A gaming facility licensee or applicant shall maintain a complete
26 record of all advertisements for a period of at least two years.
27 Records shall be made available to the commission upon request.

1 TITLE 9

2 MISCELLANEOUS PROVISIONS

3 Section 1364. Smoking prohibited.

4 1365. Conservatorship.

5 1366. Zoning.

6 1367. Sports wagering.

7 § 1364. Smoking prohibited. Smoking shall not be permitted, and no
8 person shall smoke in the indoor areas of facilities licensed pursuant
9 to this article, except that the provisions of section one thousand
10 three hundred ninety-nine-q of the public health law shall be applicable
11 to facilities licensed pursuant to this article.

12 § 1365. Conservatorship. 1. Upon revocation or suspension of a gaming
13 facility license or upon the failure or refusal to renew a gaming facil-
14 ity license, the commission may appoint a conservator to temporarily
15 manage and operate the business of the gaming licensee relating to the
16 gaming facility. Such conservator shall be a person of similar experi-
17 ence in the field of gaming management and, in the case of replacing a
18 gaming facility licensee, shall have experience operating a gaming
19 facility of similar caliber in another jurisdiction, and shall be in
20 good standing in all jurisdictions in which the conservator operates a
21 gaming facility. Upon appointment, a conservator shall agree to all
22 licensing provisions of the former gaming licensee.

23 2. A conservator shall, before assuming, managerial or operational
24 duties, execute and file a bond for the faithful performance of its
25 duties payable to the commission with such surety and in such form and
26 amount as the commission shall approve.

27 3. The commission shall require that the former or suspended gaming
28 licensee purchase liability insurance, in an amount determined by the

1 commission, to protect a conservator from liability for any acts or
2 omissions of the conservator during the conservator's appointment which
3 are reasonably related to and within the scope of the conservator's
4 duties.

5 4. During the period of temporary management of the gaming facility,
6 the commission shall initiate proceedings under this article to award a
7 new gaming facility license to a qualified applicant whose gaming facil-
8 ity shall be located at the site of the preexisting gaming facility.

9 5. An applicant for a new gaming facility license shall be qualified
10 for licensure under this article; provided, however, that the commission
11 shall determine an appropriate level of investment by an applicant into
12 the preexisting gaming facility.

13 6. Upon award of a new gaming facility license, the new gaming facili-
14 ty licensee shall pay the original licensing fee required under this
15 article.

16 § 1366. Zoning. Notwithstanding any inconsistent provision of law,
17 gaming authorized at a location pursuant to this article shall be deemed
18 an approved activity for such location under the relevant city, county,
19 town, or village land use or zoning ordinances, rules, or regulations.

20 § 1367. Sports wagering. 1. As used in this section:

21 (a) "Casino" means a licensed gaming facility at which gambling is
22 conducted pursuant to the provisions of this article;

23 (b) "Commission" means the commission established pursuant to section
24 one hundred two of this chapter;

25 (c) "Collegiate sport or athletic event" means a sport or athletic
26 event offered or sponsored by or played in connection with a public or
27 private institution that offers educational services beyond the second-
28 ary level;

1 (d) "Operator" means a casino which has elected to operate a sports
2 pool;

3 (e) "Professional sport or athletic event" means an event at which two
4 or more persons participate in sports or athletic events and receive
5 compensation in excess of actual expenses for their participation in
6 such event;

7 (f) "Prohibited sports event" means any collegiate sport or athletic
8 event that takes place in New York or a sport or athletic event in which
9 any New York college team participates regardless of where the event
10 takes place;

11 (g) "Sports event" means any professional sport or athletic event and
12 any collegiate sport or athletic event, except a prohibited sports
13 event;

14 (h) "Sports pool" means the business of accepting wagers on any sports
15 event by any system or method of wagering; and

16 (i) "Sports wagering lounge" means an area wherein a sports pool is
17 operated.

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

21 3. (a) In addition to authorized gaming activities, a licensed gaming
22 facility may when authorized by subdivision two of this section operate
23 a sports pool upon the approval of the commission and in accordance with
24 the provisions of this section and applicable regulations promulgated
25 pursuant to this article. The commission shall hear and decide promptly
26 and in reasonable order all applications for a license to operate a
27 sports pool, shall have the general responsibility for the implementa-
28 tion of this section and shall have all other duties specified in this

1 section with regard to the operation of a sports pool. The license to
2 operate a sports pool shall be in addition to any other license required
3 to be issued to operate a gaming facility. No license to operate a
4 sports pool shall be issued by the commission to any entity unless it
5 has established its financial stability, integrity and responsibility
6 and its good character, honesty and integrity.

7 No later than five years after the date of the issuance of a license
8 and every five years thereafter or within such lesser periods as the
9 commission may direct, a licensee shall submit to the commission such
10 documentation or information as the commission may by regulation
11 require, to demonstrate to the satisfaction of the executive director of
12 the commission that the licensee continues to meet the requirements of
13 the law and regulations.

14 (b) A sports pool shall be operated in a sports wagering lounge
15 located at a casino. The lounge shall conform to all requirements
16 concerning square footage, design, equipment, security measures and
17 related matters which the commission shall by regulation prescribe.

18 (c) The operator of a sports pool shall establish or display the odds
19 at which wagers may be placed on sports events.

20 (d) An operator shall accept wagers on sports events only from persons
21 physically present in the sports wagering lounge. A person placing a
22 wager shall be at least twenty-one years of age.

23 (e) An operator shall not admit into the sports wagering lounge, or
24 accept wagers from, any person whose name appears on the exclusion list.

25 (f) The holder of a license to operate a sports pool may contract with
26 an entity to conduct that operation, in accordance with the regulations
27 of the commission. That entity shall obtain a license as a casino vendor
28 enterprise prior to the execution of any such contract, and such license

1 shall be issued pursuant to the provisions of section one thousand three
2 hundred twenty-seven of this article and in accordance with the regu-
3 lations promulgated by the commission.

4 (g) If any provision of this article or its application to any person
5 or circumstance is held invalid, the invalidity shall not affect other
6 provisions or applications of this article which can be given effect
7 without the invalid provision or application, and to this end the
8 provisions of this article are severable.

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

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

19 5. Except as otherwise provided by this article, the commission shall
20 have the authority to regulate sports pools and the conduct of sports
21 wagering under this article to the same extent that the commission regu-
22 lates other gaming. No casino shall be authorized to operate a sports
23 pool unless it has produced information, documentation, and assurances
24 concerning its financial background and resources, including cash
25 reserves, that are sufficient to demonstrate that it has the financial
26 stability, integrity, and responsibility to operate a sports pool. In
27 developing rules and regulations applicable to sports wagering, the
28 commission shall examine the regulations implemented in other states

1 where sports wagering is conducted and shall, as far as practicable,
2 adopt a similar regulatory framework. The commission shall promulgate
3 regulations necessary to carry out the provisions of this section,
4 including, but not limited to, regulations governing the:

5 (a) amount of cash reserves to be maintained by operators to cover
6 winning wagers;

7 (b) acceptance of wagers on a series of sports events;

8 (c) maximum wagers which may be accepted by an operator from any one
9 patron on any one sports event;

10 (d) type of wagering tickets which may be used;

11 (e) method of issuing tickets;

12 (f) method of accounting to be used by operators;

13 (g) types of records which shall be kept;

14 (h) use of credit and checks by patrons;

15 (i) type of system for wagering; and

16 (j) protections for a person placing a wager.

17 6. Each operator shall adopt comprehensive house rules governing
18 sports wagering transactions with its patrons. The rules shall specify
19 the amounts to be paid on winning wagers and the effect of schedule
20 changes. The house rules, together with any other information the
21 commission deems appropriate, shall be conspicuously displayed in the
22 sports wagering lounge and included in the terms and conditions of the
23 account wagering system, and copies shall be made readily available to
24 patrons.

25 TITLE 10

26 GAMING INSPECTOR GENERAL

27 Section 1368. Establishment of the office of gaming inspector general.

28 1369. State gaming inspector general; functions and duties.

1 1370. Powers.

2 1371. Responsibilities of the commission and its officers and
3 employees.

4 § 1368. Establishment of the office of gaming inspector general.
5 There is hereby created within the commission the office of gaming
6 inspector general. The head of the office shall be the gaming inspector
7 general who shall be appointed by the governor by and with the advice
8 and consent of the senate. The inspector general shall serve at the
9 pleasure of the governor. The inspector general shall report directly to
10 the governor. The person appointed as inspector general shall, upon his
11 or her appointment, have not less than ten years professional experience
12 in law, investigation, or auditing. The inspector general shall be
13 compensated within the limits of funds available therefor, provided,
14 however, such salary shall be no less than the salaries of certain state
15 officers holding the positions indicated in paragraph (a) of subdivision
16 one of section one hundred sixty-nine of the executive law.

17 § 1369. State gaming inspector general; functions and duties. The
18 state gaming inspector general shall have the following duties and
19 responsibilities:

20 1. receive and investigate complaints from any source, or upon his or
21 her own initiative, concerning allegations of corruption, fraud, crimi-
22 nal activity, conflicts of interest or abuse in the commission;

23 2. inform the commission members of such allegations and the progress
24 of investigations related thereto, unless special circumstances require
25 confidentiality;

26 3. determine with respect to such allegations whether disciplinary
27 action, civil or criminal prosecution, or further investigation by an

1 appropriate federal, state or local agency is warranted, and to assist
2 in such investigations;

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

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

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

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

17 § 1370. Powers. The state gaming inspector general shall have the
18 power to:

19 1. subpoena and enforce the attendance of witnesses;

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

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

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

26 5. require any commission officer or employee to answer questions
27 concerning any matter related to the performance of his or her official
28 duties. No statement or other evidence derived therefrom may be used

1 against such officer or employee in any subsequent criminal prosecution
2 other than for perjury or contempt arising from such testimony. The
3 refusal of any officer or employee to answer questions shall be cause
4 for removal from office or employment or other appropriate penalty;

5 6. monitor the implementation by the commission of any recommendations
6 made by the state inspector general; and

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

9 § 1371. Responsibilities of the commission and its officers and
10 employees. 1. Every commission officer or employee shall report prompt-
11 ly to the state gaming inspector general any information concerning
12 corruption, fraud, criminal activity, conflicts of interest or abuse by
13 another state officer or employee relating to his or her office or
14 employment, or by a person having business dealings with the commission
15 relating to those dealings. The knowing failure of any officer or
16 employee to so report shall be cause for removal from office or employ-
17 ment or other appropriate penalty. Any officer or employee who acts
18 pursuant to this subdivision by reporting to the state gaming inspector
19 general improper governmental action as defined in section
20 seventy-five-b of the civil service law shall not be subject to dismiss-
21 al, discipline or other adverse personnel action.

22 2. The commission chair shall advise the governor within ninety days
23 of the issuance of a report by the state gaming inspector general as to
24 the remedial action that the commission has taken in response to any
25 recommendation for such action contained in such report.

26 § 3. Section 225.00 of the penal law is amended by adding eighteen new
27 subdivisions 13 through 30 to read as follows:

1 13. "Authorized gaming establishment" means any structure, structure
2 and adjacent or attached structure, or grounds adjacent to a structure
3 in which casino gaming, conducted pursuant to article thirteen of the
4 racing, pari-mutuel wagering and breeding law, or Class III gaming, as
5 authorized pursuant to a compact reached between the state of New York
6 and a federally recognized Indian nation or tribe under the federal
7 Indian Gaming Regulatory Act of 1988, is conducted and shall include all
8 public and non-public areas of any such building, except for such areas
9 of a building where either Class I or II gaming are conducted or any
10 building or grounds known as a video gaming entertainment facility,
11 including facilities where food and drink are served, as well as those
12 areas not normally open to the public, such as where records related to
13 video lottery gaming operations are kept, except shall not include the
14 racetracks or such areas where such video lottery gaming operations or
15 facilities do not take place or exist, such as racetrack areas or fair-
16 grounds which are wholly unrelated to video lottery gaming operations,
17 pursuant to section sixteen hundred seventeen-a and paragraph five of
18 subdivision a of section sixteen hundred twelve of the tax law, as
19 amended and implemented.

20 14. "Authorized gaming operator" means an enterprise or business enti-
21 ty authorized by state or federal law to operate casino or video lottery
22 gaming.

23 15. "Casino gaming" means games authorized to be played pursuant to a
24 license granted under article thirteen of the racing, pari-mutuel wager-
25 ing and breeding law or by federally recognized Indian nations or tribes
26 pursuant to a valid gaming compact reached in accordance with the feder-
27 al Indian Gaming Regulatory Act of 1988, Pub. L. 100-497, 102 Stat.
28 2467, codified at 25 U.S.C. §§ 2701-21 and 18 U.S.C. §§ 1166-68.

1 16. "Cash equivalent" means a treasury check, a travelers check, wire
2 transfer of funds, transfer check, money order, certified check, cash-
3 iers check, payroll check, a check drawn on the account of the author-
4 ized gaming operator payable to the patron or to the authorized gaming
5 establishment, a promotional coupon, promotional chip, promotional
6 cheque, promotional token, or a voucher recording cash drawn against a
7 credit card or charge card.

8 17. "Cheques" or "chips" or "tokens" means nonmetal, metal or partly
9 metal representatives of value, redeemable for cash or cash equivalent,
10 and issued and sold by an authorized casino operator for use at an
11 authorized gaming establishment. The value of such cheques or chips or
12 tokens shall be considered equivalent in value to the cash or cash
13 equivalent exchanged for such cheques or chips or tokens upon purchase
14 or redemption.

15 18. "Class I gaming" and "Class II gaming" means those forms of gaming
16 that are not Class III gaming, as defined in subsection eight of section
17 four of the federal Indian Gaming Regulatory Act, 25 U.S.C. § 2703.

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

22 20. "Compact" or "gaming compact" means the agreement between a feder-
23 ally recognized Indian tribe and the state of New York regarding Class
24 III gaming activities entered into pursuant to the federal Indian Gaming
25 Regulatory Act, Pub. L. 100-497, 102 Stat. 2467, codified at 25 U.S.C.
26 §§ 2701-21 and 18 U.S.C. §§ 1166-68 (1988 & Supp. II).

27 21. "Gaming activity" means any gambling activity, whether lawful or
28 otherwise.

1 22. "Gaming equipment or device" means any machine or device which is
2 specially designed or manufactured for use in the operation of any Class
3 III or video lottery game.

4 23. "Gaming regulatory authority" means, with respect to any author-
5 ized gaming establishment on Indian lands, territory or reservation, the
6 Indian nation or tribal gaming commission, its authorized officers,
7 agents and representatives acting in their official capacities or such
8 other agency of a nation or tribe as the nation or tribe may designate
9 as the agency responsible for the regulation of Class III gaming, joint-
10 ly with the state gaming agency, conducted pursuant to a gaming compact
11 between the nation or tribe and the state of New York, or with respect
12 to any casino gaming authorized pursuant to article thirteen of the
13 racing, pari-mutuel wagering and breeding law or video lottery gaming
14 conducted pursuant to section sixteen hundred seventeen-a and paragraph
15 five of subdivision a of section sixteen hundred twelve of the tax law,
16 as amended and implemented.

17 24. "Premises" includes any structure, parking lot, building, vehicle,
18 watercraft, and any real property.

19 25. "Sell" means to sell, exchange, give or dispose of to another, or
20 to offer or agree to do the same.

21 26. "State gaming agency" shall mean the New York state gaming commis-
22 sion, its authorized officials, agents, and representatives acting in
23 their official capacities as the regulatory agency of the state which
24 has responsibility for regulation with respect to video lottery gaming
25 or casino gaming.

26 27. "Unfair gaming equipment" means loaded dice, marked cards, substi-
27 tuted cards or dice, fixed roulette wheels, visual devices, or any other

1 device or equipment not in use at the outset of the contest of chance or
2 not permitted by the rules of the gaming activity.

3 28. "Unlawful gaming property" means:

4 (a) any device, not prescribed for use in the gaming activity by its
5 rules, which is capable of assisting a player:

6 (i) to calculate any probabilities material to the outcome of a
7 contest of chance; or

8 (ii) to receive or transmit information material to the outcome of a
9 contest of chance; or

10 (b) any object or article which, by virtue of its size, shape or any
11 other quality, is capable of being used in a gaming activity as an
12 improper substitute for a genuine chip, cheque, token, betting coupon,
13 debit instrument, voucher or other instrument or indicia of value; or

14 (c) any unfair gaming equipment.

15 29. "Video lottery gaming" means any lottery game played on a video
16 lottery terminal, which consists of multiple players competing for a
17 chance to win a random drawn prize pursuant to section sixteen hundred
18 seventeen-a and paragraph five of subdivision a of section sixteen
19 hundred twelve of the tax law, as amended and implemented.

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

24 § 4. The penal law is amended by adding ten new sections 225.55,
25 225.60, 225.65, 225.70, 225.75, 225.80, 225.85, 225.90, 225.95 and
26 225.100 to read as follows:

27 § 225.55 Gaming fraud in the second degree.

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

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

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

11 Gaming fraud in the second degree is a class A misdemeanor.

12 § 225.60 Gaming fraud in the first degree.

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

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

16 2. He or she concurrently uses or possesses unlawful gaming property;
17 or

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

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

22 § 225.65 Use of counterfeit, unapproved or unlawful wagering instru-
23 ments.

24 A person is guilty of use of counterfeit, unapproved or unlawful
25 wagering instruments when in playing or using any gaming activity
26 designed to be played with, received or be operated by chips, cheques,
27 tokens, vouchers or other wagering instruments approved by the appropri-
28 ate gaming regulatory authority, he or she knowingly uses chips,

1 cheques, tokens, vouchers or other wagering instruments other than those
2 approved by the appropriate gaming regulating authority and the state
3 gaming agency or lawful coin or legal tender of the United States of
4 America.

5 Possession of more than one counterfeit, unapproved or unlawful wager-
6 ing instrument described in this section is presumptive evidence of
7 possession thereof with knowledge of its character or contents.

8 Use of counterfeit, unapproved or unlawful wagering instruments is a
9 class D felony.

10 § 225.70 Possession of unlawful gaming property in the third degree.

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

14 Possession of unlawful gaming property in the third degree is a class
15 A misdemeanor.

16 § 255.75 Possession of unlawful gaming property in the second degree.

17 A person is guilty of possession of unlawful gaming property in the
18 second degree when:

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

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

24 3. He or she knowingly possesses unlawful gaming property and the face
25 value of the improper substitute property exceeds one hundred dollars;
26 or

27 4. He or she commits the offense of possession of unlawful gaming
28 property in the third degree and has been previously convicted within

1 the preceding five years of any offense of which an essential element is
2 possession of unlawful gaming property.

3 Possession of unlawful gaming property in the second degree is a class
4 E felony.

5 § 225.80 Possession of unlawful gaming property in the first degree.

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

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

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

16 Possession of unlawful gaming property in the first degree is a class
17 D felony.

18 § 225.85 Use of unlawful gaming property.

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

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

23 § 225.90 Manipulation of gaming outcomes at an authorized gaming estab-
24 lishment.

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

27 1. Knowingly conducts, operates, deals or otherwise manipulates, or
28 knowingly allows to be conducted, operated, dealt or otherwise manipu-

1 lated, cards, dice or gaming equipment or device, for themselves or for
2 another, through any trick or sleight of hand performance, with the
3 intent of deceiving or altering the elements of chance or normal random
4 selection which determines the result or outcome of the game, or the
5 amount or frequency of the payment in a game; or

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

15 3. Knowingly uses, or possesses with the intent to use, any cards,
16 dice or other gaming equipment or devices other than that provided by an
17 authorized gaming operator for current use in a permitted gaming activ-
18 ity; or

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

22 Possession of altered, marked or tampered with dice, cards, or gaming
23 equipment or devices at an authorized gambling establishment is presump-
24 tive evidence of possession thereof with knowledge of its character or
25 contents and intention to use such altered, marked or tampered with
26 dice, cards, or gaming equipment or devices in violation of this
27 section.

1 Manipulation of gaming outcomes at an authorized gaming establishment
2 is a class E felony.

3 § 225.95 Unlawful manufacture, sale, distribution, marking, altering or
4 modification of equipment and devices associated with gaming.

5 A person is guilty of unlawful manufacture, sale, distribution, mark-
6 ing, altering or modification of equipment and devices associated with
7 gaming when if he or she:

8 1. Manufactures, sells or distributes any cards, chips, cheques,
9 tokens, dice, vouchers, game or device and he or she knew or reasonably
10 should have known it was intended to be used to violate any provision of
11 this article; or

12 2. Marks, alters or otherwise modifies any associated gaming equipment
13 or device in a manner that either affects the result of the wager by
14 determining win or loss or alters the normal criteria of random
15 selection in a manner that affects the operation of a game or determines
16 the outcome of a game, and he or she knew or reasonably should have
17 known that it was intended to be used to violate any provision of this
18 article.

19 Unlawful manufacture, sale, distribution, marking, altering or modifi-
20 cation of equipment and devices associated with gaming is a class E
21 felony.

22 § 225.100 Employment or participation without a license, registration or
23 certification.

24 A person is guilty of employment or participation without a license,
25 registration or certification when, knowing such person's employment or
26 business with the authorized gaming establishment requires obtaining a
27 requisite license, registration or certification, such person commences
28 employment or business with the authorized gaming establishment without

1 having first obtained the requisite license, registration or certif-
2 ication.

3 Employment or participation without a license, registration or certif-
4 ication is a class A misdemeanor.

5 § 5. Section 109-a of the racing, pari-mutuel wagering and breeding
6 law is REPEALED and a new section 109-a is added to read as follows:

7 § 109-a. Separate board for facility siting. Should the commission
8 elect to establish a separate board to perform designated functions
9 under article thirteen of this chapter, the following provisions shall
10 apply to the board:

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

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

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

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

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

25 (d) significant service as an executive with fiduciary responsibil-
26 ities in charge of a large organization or foundation.

27 3. No member of the board:

1 (a) may have an official relationship to a person that holds a license
2 under this chapter;

3 (b) may have any direct or indirect financial interest, ownership, or
4 management, including holding any stocks, bonds, or other similar finan-
5 cial interests in any gaming activities, including horse racing, lottery
6 or gambling;

7 (c) may receive or share in, directly or indirectly, the receipts or
8 proceeds of any gaming activities, including horse racing, lottery or
9 gambling;

10 (d) may have a beneficial interest in any contract for the manufacture
11 or sale of gaming devices, the conduct of any gaming activity, or the
12 provision of any independent consulting services in connection with any
13 establishment licensed under this chapter.

14 4. Board members are entitled to actual and necessary expenses
15 incurred in the discharge of their duties but may not receive compen-
16 sation for their service on the board.

17 5. (a) The commission shall provide staff to the board.

18 (b) The board shall contract with an outside consultant to provide
19 analysis of the gaming industry and to support the board's comprehensive
20 review and evaluation of the applications submitted to the board for
21 gaming facility licenses.

22 (c) The board may contract with attorneys, accountants, auditors and
23 financial and other experts to render necessary services.

24 (d) All other state agencies shall cooperate with and assist the board
25 in the fulfillment of its duties under this article and may render such
26 services to the board within their respective functions as the board may
27 reasonably request.

1 6. Utilizing the powers and duties prescribed for it by article thir-
2 teen of this chapter, the board shall select, through a competitive
3 process consistent with provisions of article thirteen of this chapter,
4 not more than four gaming facility license applicants. Such selectees
5 shall be authorized to receive a gaming facility license, if found suit-
6 able by the commission. The board may select another applicant for
7 authorization to be licensed as a gaming facility if a previous selectee
8 fails to meet licensing thresholds, is revoked or surrenders a license
9 opportunity.

10 § 6. Subdivision 2 of section 99-h of the state finance law, as
11 amended by section 1 of part V of chapter 59 of the laws of 2006, is
12 amended to read as follows:

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

19 § 7. Subdivision 3 of section 99-h of the state finance law, as
20 amended by section 1 of part W of chapter 60 of the laws of 2011, is
21 amended to read as follows:

22 3. Moneys of the account, following the segregation of appropriations
23 enacted by the legislature, shall be available for purposes including
24 but not limited to: (a) reimbursements or payments to municipal govern-
25 ments that host tribal casinos pursuant to a tribal-state compact for
26 costs incurred in connection with services provided to such casinos or
27 arising as a result thereof, for economic development opportunities and
28 job expansion programs authorized by the executive law; provided, howev-

1 er, that for any gaming facility located in the city of Buffalo, the
2 city of Buffalo shall receive a minimum of twenty-five percent of the
3 negotiated percentage of the net drop from electronic gaming devices the
4 state receives pursuant to the compact, and provided further that for
5 any gaming facility located in the city of Niagara Falls, county of
6 Niagara a minimum of twenty-five percent of the negotiated percentage of
7 the net drop from electronic gaming devices the state receives pursuant
8 to the compact shall be distributed in accordance with subdivision four
9 of this section, and provided further that for any gaming facility
10 located in the county or counties of Cattaraugus, Chautauqua or Allega-
11 ny, the municipal governments of the state hosting the facility shall
12 collectively receive a minimum of twenty-five percent of the negotiated
13 percentage of the net drop from electronic gaming devices the state
14 receives pursuant to the compact; and provided further that pursuant to
15 chapter five hundred ninety of the laws of two thousand four, a minimum
16 of twenty-five percent of the revenues received by the state pursuant to
17 the state's compact with the St. Regis Mohawk tribe shall be made avail-
18 able to the counties of Franklin and St. Lawrence, and affected towns in
19 such counties. Each such county and its affected towns shall receive
20 fifty percent of the moneys made available by the state; and provided
21 further that the state shall annually make twenty-five percent of the
22 negotiated percentage of the net drop from all gaming devices the state
23 actually receives pursuant to the Oneida Settlement Agreement confirmed
24 by section eleven of the executive law as available to the county of
25 Oneida, and a sum of three and one-half million dollars to the county of
26 Madison. Additionally, the state shall distribute for a period of nine-
27 teen and one-quarter years, an additional annual sum of two and one-half
28 million dollars to the county of Oneida. Additionally, the state shall

1 distribute the one-time eleven million dollar payment received by the
2 state pursuant to such agreement with the Oneida Nation of New York to
3 the county of Madison by wire transfer upon receipt of such payment by
4 the state; and (b) support and services of treatment programs for
5 persons suffering from gambling addictions. Moneys not segregated for
6 such purposes shall be transferred to the general fund for the support
7 of government during the fiscal year in which they are received.

8 § 7-a. Subdivision 3 of section 99-h of the state finance law, as
9 amended by section 1 of part QQ of chapter 59 of the laws of 2009, is
10 amended to read as follows:

11 3. Moneys of the account, following appropriation by the legislature,
12 shall be available for purposes including but not limited to: (a)
13 reimbursements or payments to municipal governments that host tribal
14 casinos pursuant to a tribal-state compact for costs incurred in
15 connection with services provided to such casinos or arising as a result
16 thereof, for economic development opportunities and job expansion
17 programs authorized by the executive law; provided, however, that for
18 any gaming facility located in the city of Buffalo, the city of Buffalo
19 shall receive a minimum of twenty-five percent of the negotiated
20 percentage of the net drop from electronic gaming devices the state
21 receives pursuant to the compact, and provided further that for any
22 gaming facility located in the city of Niagara Falls, county of Niagara
23 a minimum of twenty-five percent of the negotiated percentage of the net
24 drop from electronic gaming devices the state receives pursuant to the
25 compact shall be distributed in accordance with subdivision four of this
26 section, and provided further that for any gaming facility located in
27 the county or counties of Cattaraugus, Chautauqua or Allegany, the
28 municipal governments of the state hosting the facility shall collec-

1 tively receive a minimum of twenty-five percent of the negotiated
2 percentage of the net drop from electronic gaming devices the state
3 receives pursuant to the compact; and provided further that pursuant to
4 chapter five hundred ninety of the laws of two thousand four, a minimum
5 of twenty-five percent of the revenues received by the state pursuant to
6 the state's compact with the St. Regis Mohawk tribe shall be made avail-
7 able to the counties of Franklin and St. Lawrence, and affected towns in
8 such counties. Each such county and its affected towns shall receive
9 fifty percent of the moneys made available by the state; and provided
10 further that the state shall annually make twenty-five percent of the
11 negotiated percentage of the net drop from all gaming devices the state
12 actually receives pursuant to the Oneida Settlement Agreement as
13 confirmed by section eleven of the executive law as available to the
14 county of Oneida, and a sum of three and one-half million dollars to the
15 county of Madison. Additionally, the state shall distribute for a period
16 of nineteen and one-quarter years, an additional annual sum of two and
17 one-half million dollars to the county of Oneida. Additionally, the
18 state shall distribute the one-time eleven million dollar payment
19 received by the state pursuant to such agreement with the Oneida Nation
20 of New York to the county of Madison by wire transfer upon receipt of
21 such payment by the state; and (b) support and services of treatment
22 programs for persons suffering from gambling addictions. Moneys not
23 appropriated for such purposes shall be transferred to the general fund
24 for the support of government during the fiscal year in which they are
25 received.

26 § 8. Subdivision 3 of section 99-h of the state finance law, as
27 amended by section 23 of part HH of chapter 57 of the laws of 2013, is
28 amended to read as follows:

1 3. Moneys of the account, following the segregation of appropriations
2 enacted by the legislature, shall be available for purposes including
3 but not limited to: (a) reimbursements or payments to municipal govern-
4 ments that host tribal casinos pursuant to a tribal-state compact for
5 costs incurred in connection with services provided to such casinos or
6 arising as a result thereof, for economic development opportunities and
7 job expansion programs authorized by the executive law; provided, howev-
8 er, that for any gaming facility located in the county of Erie or
9 Niagara, the municipal governments hosting the facility shall collec-
10 tively receive a minimum of twenty-five percent of the negotiated
11 percentage of the net drop from electronic gaming devices the state
12 receives pursuant to the compact and provided further that for any
13 gaming facility located in the county or counties of Cattaraugus, Chau-
14 tauqua or Allegany, the municipal governments of the state hosting the
15 facility shall collectively receive a minimum of twenty-five percent of
16 the negotiated percentage of the net drop from electronic gaming devices
17 the state receives pursuant to the compact; and provided further that
18 pursuant to chapter five hundred ninety of the laws of two thousand
19 four, a minimum of twenty-five percent of the revenues received by the
20 state pursuant to the state's compact with the St. Regis Mohawk tribe
21 shall be made available to the counties of Franklin and St. Lawrence,
22 and affected towns in such counties. Each such county and its affected
23 towns shall receive fifty percent of the moneys made available by the
24 state; and provided further that the state shall annually make twenty-
25 five percent of the negotiated percentage of the net drop from all
26 gaming devices the state actually receives pursuant to the Oneida
27 Settlement Agreement confirmed by section eleven of the executive law
28 available to the county of Oneida, and a sum of three and one-half

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

12 § 9. Section 99-h of the state finance law, as amended by chapter 747
13 of the laws of 2006, is amended by adding a new subdivision 3-a to read
14 as follows:

15 3-a. Ten percent of any of the funds actually received by the state
16 pursuant to the tribal-state compacts and agreements described in subdi-
17 vision two of this section that are retained in the fund after the
18 distributions required by subdivision three of this section, but prior
19 to the transfer of unsegregated moneys to the general fund required by
20 such subdivision, shall be distributed to counties in each respective
21 exclusivity zone provided they do not otherwise receive a share of said
22 revenues pursuant to this section. Such distribution shall be made among
23 such counties on a per capita basis, excluding the population of any
24 municipality that receives a distribution pursuant to subdivision three
25 of this section.

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

1 § 97-nnnn. Commercial gaming revenue fund. 1. There is hereby estab-
2 lished in the joint custody of the comptroller and the commissioner of
3 taxation and finance an account in the miscellaneous special revenue
4 fund to be known as the "commercial gaming revenue fund".

5 2. Such account shall consist of all revenues from all taxes and fees
6 imposed by article thirteen of the racing, pari-mutuel wagering and
7 breeding law; any interest and penalties imposed by the New York state
8 gaming commission relating to those taxes; the percentage of the value
9 of expired gaming related obligations; and all penalties levied and
10 collected by the commission. Additionally, the state gaming commission
11 shall pay into the account any appropriate funds, cash or prizes
12 forfeited from gambling activity.

13 3. Moneys of the account shall be available as follows, unless other-
14 wise specified by the upstate New York gaming economic development act
15 of two thousand thirteen, following appropriation by the legislature:

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

18 b. ten percent of the moneys in such fund shall be appropriated or
19 transferred from the commercial gaming revenue fund equally between the
20 host municipality and host county.

21 c. ten percent of the moneys in such fund, as attributable to a
22 specific licensed gaming facility, shall be appropriated or transferred
23 from the commercial gaming revenue fund among counties within the
24 region, as defined by section one thousand three hundred ten of the
25 racing, pari-mutuel wagering and breeding law, hosting said facility for
26 the purpose of real property tax relief and for education assistance.
27 Such distribution shall be made among the counties on a per capita
28 basis, subtracting the population of host municipality and county.

1 4. a. As used in this section, the term "base year gaming revenue"
2 shall mean the sum of all revenue generated to support education from
3 video lottery gaming as defined by section sixteen hundred seventeen-a
4 of the tax law in the fiscal year preceding the operation of any gaming
5 facility pursuant to article thirteen of the racing, pari-mutuel wager-
6 ing and breeding law.

7 b. Amounts transferred in any year to support elementary and secondary
8 education shall be calculated as follows:

9 (i) an amount equal to the positive difference, if any, between the
10 base year gaming revenue amount and the sum of all revenue generated to
11 support education from video lottery gaming as defined by section
12 sixteen hundred seventeen-a of the tax law in the current fiscal year
13 provided that such positive amount, if any, shall be transferred to the
14 state lottery fund; and

15 (ii) the amount of revenue collected in the prior state fiscal year,
16 after the distributions made pursuant to paragraphs b and c of subdivi-
17 sion three of this section, and in excess of any amounts transferred
18 pursuant to subparagraph (i) of this paragraph in such prior fiscal
19 year, if any.

20 c. Notwithstanding any provision of law to the contrary, amounts
21 appropriated or transferred from the commercial gaming revenue fund
22 pursuant to subparagraph (ii) of this paragraph shall not be included
23 in: (i) the allowable growth amount computed pursuant to paragraph dd of
24 subdivision one of section thirty-six hundred two of the education law,
25 (ii) the preliminary growth amount computed pursuant to paragraph ff of
26 subdivision one of section thirty-six hundred two of the education law,
27 and (iii) the allocable growth amount computed pursuant to paragraph gg

1 of subdivision one of section thirty-six hundred two of the education
2 law.

3 5. Notwithstanding the foregoing, monies received pursuant to:

4 a. sections one thousand three hundred forty-five and one thousand
5 three hundred forty-eight of this article shall be exclusively appropri-
6 ated to the office of alcoholism and substance abuse services to be used
7 for problem gambling education and treatment purposes.

8 b. section one thousand three hundred forty-nine of this article shall
9 be exclusively appropriated to the commission for regulatory investi-
10 gations.

11 c. section one thousand three hundred fifty of this article shall be
12 exclusively appropriated to the commission for costs regulation.

13 6. Moneys not distributed for such purposes shall be transferred to
14 the general fund for the support of government during the fiscal year in
15 which they are received.

16 § 11. The penal law is amended by adding a new section 156.40 to read
17 as follows:

18 § 156.40 Operating an unlawful electronic sweepstakes.

19 1. As used in this section the following words and terms shall have
20 the following meanings:

21 (a) "Electronic machine or device" means a mechanically, electrically
22 or electronically operated machine or device that is owned, leased or
23 otherwise possessed by a sweepstakes sponsor or promoter, or any spon-
24 sors, promoters, partners, affiliates, subsidiaries or contractors ther-
25 eof; that is intended to be used by a sweepstakes entrant; that uses
26 energy; and that is capable of displaying information on a screen or
27 other mechanism; provided, that an electronic machine or device may,
28 without limitation:

- 1 (1) be server-based;
- 2 (2) use a simulated game terminal as a representation of the prizes
- 3 associated with the results of the sweepstakes entries;
- 4 (3) utilize software such that the simulated game influences or deter-
- 5 mines the winning or value of the prize;
- 6 (4) select prizes from a predetermined finite pool of entries;
- 7 (5) utilize a mechanism that reveals the content of a predetermined
- 8 sweepstakes entry;
- 9 (6) predetermine the prize results and stores those results for deliv-
- 10 ery at the time the sweepstakes entry results are revealed;
- 11 (7) utilize software to create a game result;
- 12 (8) require deposit of any money, coin or token, or the use of any
- 13 credit card, debit card, prepaid card or any other method of payment to
- 14 activate the electronic machine or device;
- 15 (9) require direct payment into the electronic machine or device, or
- 16 remote activation of the electronic machine or device;
- 17 (10) require purchase of a related product having legitimate value;
- 18 (11) reveal the prize incrementally, even though it may not influence
- 19 if a prize is awarded or the value of any prize awarded;
- 20 (12) determine and associate the prize with an entry or entries at the
- 21 time the sweepstakes is entered; or
- 22 (13) be a slot machine or other form of electrical, mechanical, or
- 23 computer game.
- 24 (b) "Enter" or "entry" means the act or process by which a person
- 25 becomes eligible to receive any prize offered in a sweepstakes.
- 26 (c) "Entertaining display" means any visual information, capable of
- 27 being seen by a sweepstakes entrant, that takes the form of actual game
- 28 play or simulated game play.

1 (d) "Prize" means any gift, award, gratuity, good, service, credit or
2 anything else of value, which may be transferred to a person, whether
3 possession of the prize is actually transferred, or placed on an account
4 or other record as evidence of the intent to transfer the prize.

5 (e) "Sweepstakes" means any game, advertising scheme or plan, or other
6 promotion, which, with or without payment of any consideration, a person
7 may enter to win or become eligible to receive any prize, the determi-
8 nation of which is based upon chance.

9 2. A person is guilty of operating an unlawful electronic sweepstakes
10 when he or she knowingly possesses with the intent to operate, or place
11 into operation, an electronic machine or device to:

12 (a) conduct a sweepstakes through the use of an entertaining display,
13 including the entry process or the reveal of a prize; or

14 (b) promote a sweepstakes that is conducted through the use of an
15 entertaining display, including the entry process or the reveal of a
16 prize.

17 3. Nothing in this section shall be construed to make illegal any
18 activity which is lawfully conducted as the New York state lottery for
19 education as authorized by article thirty-four of the tax law; pari-mu-
20 tuel wagering on horse races as authorized by articles two, three, four,
21 five-A, and ten of the racing, pari-mutuel wagering and breeding law;
22 the game of bingo as authorized pursuant to article fourteen-H of the
23 general municipal law; games of chance as authorized pursuant to article
24 nine-A of the general municipal law; gaming as authorized by article
25 thirteen of the racing, pari-mutuel wagering and breeding law; or pursu-
26 ant to the federal Indian Gaming Regulatory Act.

27 Operating an unlawful electronic sweepstakes is a class D felony.

1 § 12. The legislature hereby finds that long-standing disputes between
2 the Oneida Nation of New York and the State of New York, Madison County
3 and Oneida County, have generated litigation in state and federal courts
4 regarding property and other taxation, the status of Oneida Nation lands
5 and transfer of such lands to the United States to be held in trust for
6 the Oneida Nation, and that such litigation and disputes have caused
7 decades of unrest and uncertainty for the citizens and residents of the
8 Central New York region of this state. The legislature further finds
9 that it is in the best interests of all citizens, residents and poli-
10 tical subdivisions of this state to remove any uncertainty that such
11 litigation or disputes have created regarding the title to and jurisdic-
12 tional status of land within the state. The legislature recognizes that
13 negotiated settlement of these disputes will facilitate a cooperative
14 relationship between the state, the counties and the Oneida Nation.
15 Therefore, the legislature declares that the following provisions are
16 enacted to implement the settlement agreement that has been negotiated
17 and executed by the governor on behalf of the people of this state.

18 § 13. Section 11 of the executive law is REPEALED and a new section 11
19 is added to read as follows:

20 § 11. Indian settlement agreements. 1. Oneida settlement agreement.
21 Notwithstanding any other provision of law, upon filing with the secre-
22 tary of state, the settlement agreement executed between the governor,
23 the counties of Oneida and Madison, and the Oneida Nation of New York
24 dated the sixteenth day of May, two thousand thirteen, to be known as
25 the Oneida Settlement Agreement, including, without limitation, the
26 provisions contained therein relating to arbitration and judicial review
27 in state or federal courts and, for the sole purpose thereof, a limited
28 waiver of the state's Eleventh Amendment sovereign immunity from suit,

1 shall upon its effective date be deemed approved, ratified, validated
2 and confirmed by the legislature. It is the intention of the legislature
3 in enacting this section to ensure that the settlement agreement shall
4 be fully enforceable in all respects as to the rights, benefits, respon-
5 sibilities and privileges of all parties thereto.

6 § 14. Notwithstanding any inconsistent provision of law, the Nation-
7 State compact entered into by the State on April 16, 1993 and approved
8 by the United States Department of the Interior on June 4, 1993, which
9 approval was published at 58 Fed. Reg. 33160 (June 15, 1993), is deemed
10 ratified, validated and confirmed nunc pro tunc by the legislature.

11 § 15. Sections 2 and 3 of the Indian law are renumbered sections 3 and
12 4 and a new section 2 is added to read as follows:

13 § 2. New York state Indian nations and tribes. The term "Indian nation
14 or tribe" means one of the following New York state Indian nations or
15 tribes: Cayuga Nation, Oneida Nation of New York, Onondaga Nation, Poos-
16 patuck or Unkechaug Nation, Saint Regis Mohawk Tribe, Seneca Nation of
17 Indians, Shinnecock Indian Nation, Tonawanda Band of Seneca and Tuscaro-
18 ra Nation.

19 § 16. The Indian law is amended by adding a new section 16 to read as
20 follows:

21 § 16. Indian settlement agreements. Notwithstanding any other
22 provision of law, the provisions of the Oneida Settlement Agreement
23 referenced in section eleven of the executive law shall be deemed to
24 supersede any inconsistent laws and regulations.

25 § 17. Subdivision 18 of section 282 of the tax law, as added by
26 section 3 of part K of chapter 61 of the laws of 2005, is amended to
27 read as follows:

1 18. "Indian nation or tribe" means one of the following New York state
2 Indian nations or tribes: Cayuga [Indian] Nation [of New York], Oneida
3 [Indian] Nation of New York, Onondaga Nation [of Indians], Poospatuck or
4 Unkechaugue Nation, [St.] Saint Regis Mohawk Tribe, Seneca Nation of
5 Indians, Shinnecock [Tribe] Indian Nation, Tonawanda Band of [Senecas]
6 Seneca and Tuscarora Nation [of Indians].

7 § 18. Subdivision 14 of section 470 of the tax law, as added by
8 section 1 of part K of chapter 61 of the laws of 2005, is amended to
9 read as follows:

10 14. "Indian nation or tribe." One of the following New York state
11 Indian nations or tribes: Cayuga [Indian] Nation [of New York], Oneida
12 [Indian] Nation of New York, Onondaga Nation [of Indians], Poospatuck or
13 Unkechaugue Nation, [St.] Saint Regis Mohawk Tribe, Seneca Nation of
14 Indians, Shinnecock [Tribe] Indian Nation, Tonawanda Band of [Senecas]
15 Seneca and Tuscarora Nation [of Indians].

16 § 19. Subdivision a of section 1617-a of the tax law, as amended by
17 section 2 of part O-1 of chapter 57 of the laws of 2009, is amended to
18 read as follows:

19 a. The division of the lottery is hereby authorized to license, pursu-
20 ant to rules and regulations to be promulgated by the division of the
21 lottery, the operation of video lottery gaming:

22 (1) at Aqueduct, Monticello, Yonkers, Finger Lakes, and Vernon Downs
23 racetracks,

24 (2) or at any other racetrack licensed pursuant to article three of
25 the racing, pari-mutuel wagering and breeding law that are located in a
26 county or counties in which video lottery gaming has been authorized
27 pursuant to local law, excluding the licensed racetrack commonly
28 referred to in article three of the racing, pari-mutuel wagering and

1 breeding law as the "New York state exposition" held in Onondaga county
2 and the racetracks of the non-profit racing association known as Belmont
3 Park racetrack and the Saratoga thoroughbred racetrack,

4 (3) at a maximum of two facilities established, pursuant to a competi-
5 itive process to be determined by the state gaming commission within
6 each of regions one, two, five and six of zone two as established by
7 section one thousand three hundred ten of the racing, pari-mutuel wager-
8 ing and breeding law. The facilities authorized pursuant to this para-
9 graph shall be deemed vendors for all purposes under this article, and
10 need not be operated by licensed thoroughbred or harness racing associ-
11 ations or corporations.

12 (4) at a facility established pursuant to a competitive process to be
13 determined by the state gaming commission, subject to unanimous approval
14 of such commission, such approval not to be unreasonably withheld, in
15 region two of zone one, excepting the county of New York, as established
16 by section one thousand three hundred ten of the racing, pari-mutuel
17 wagering and breeding law, to house not more than five thousand video
18 lottery gaming devices. The facility authorized pursuant to this para-
19 graph shall be deemed a vendor for all purposes under this article, and
20 need not be operated by licensed thoroughbred or harness racing associ-
21 ations or corporations.

22 Such rules and regulations shall provide, as a condition of licensure,
23 that racetracks to be licensed are certified to be in compliance with
24 all state and local fire and safety codes, that the division is afforded
25 adequate space, infrastructure, and amenities consistent with industry
26 standards for such video gaming operations as found at racetracks in
27 other states, that racetrack employees involved in the operation of
28 video lottery gaming pursuant to this section are licensed by the racing

1 and wagering board, and such other terms and conditions of licensure as
2 the division may establish. Notwithstanding any inconsistent provision
3 of law, video lottery gaming at a racetrack pursuant to this section
4 shall be deemed an approved activity for such racetrack under the rele-
5 vant city, county, town, or village land use or zoning ordinances,
6 rules, or regulations. No entity licensed by the division operating
7 video lottery gaming pursuant to this section may house such gaming
8 activity in a structure deemed or approved by the division as "tempo-
9 rary" for a duration of longer than eighteen-months. Nothing in this
10 section shall prohibit the division from licensing an entity to operate
11 video lottery gaming at an existing racetrack as authorized in this
12 subdivision whether or not a different entity is licensed to conduct
13 horse racing and pari-mutuel wagering at such racetrack pursuant to
14 article two or three of the racing, pari-mutuel wagering and breeding
15 law.

16 The division, in consultation with the racing and wagering board,
17 shall establish standards for approval of the temporary and permanent
18 physical layout and construction of any facility or building devoted to
19 a video lottery gaming operation. In reviewing such application for the
20 construction or reconstruction of facilities related or devoted to the
21 operation or housing of video lottery gaming operations, the division,
22 in consultation with the racing and wagering board, shall ensure that
23 such facility:

24 (1) possesses superior consumer amenities and conveniences to encour-
25 age and attract the patronage of tourists and other visitors from across
26 the region, state, and nation.

27 (2) has adequate motor vehicle parking facilities to satisfy patron
28 requirements.

1 (3) has a physical layout and location that facilitates access to and
2 from the horse racing track portion of such facility to encourage patro-
3 nage of live horse racing events that are conducted at such track.

4 § 20. Subparagraph (ii) of paragraph 1 of subdivision b of section
5 1612 of the tax law is amended by adding two new clauses (H-1) and (H-2)
6 to read as follows:

7 (H-1) Notwithstanding clauses (A), (B), (C), (D), (E), (F), (H) and
8 (H-2) of this subparagraph where the vendor is authorized pursuant to
9 paragraph three of subdivision a of section sixteen hundred seventeen-a
10 of this article, at a rate of forty percent of the total revenue wagered
11 at the facility after payout for prizes. All facilities authorized
12 pursuant to paragraph three of subdivision a of section sixteen hundred
13 seventeen-a of this article shall not be eligible for any vendor's capi-
14 tal award but are entitled to the vendor's marketing allowance of ten
15 percent authorized by subparagraph (iii) of this paragraph. Facilities
16 authorized by paragraph three of subdivision a of section sixteen
17 hundred seventeen-a of this article shall pay (i) nine percent of the
18 total wagered after payout for prizes to be split equally to the two
19 nearest licensed racing corporations and associations within region six
20 of zone two as established by section one thousand three hundred ten of
21 the racing, pari-mutuel wagering and breeding law. Half of the funds
22 received by licensed racing associations and corporations shall be
23 utilized for the support of purses at such facilities and (ii) one
24 percent of the total wagered after payout of prizes split equally
25 between the New York state thoroughbred breeding and development fund
26 established pursuant to section two hundred fifty-two of the racing,
27 pari-mutuel wagering and breeding law and the agriculture and New York
28 state horse breeding development fund established pursuant to section

1 three hundred thirty of the racing, pari-mutuel wagering and breeding
2 law.

3 (H-2) Notwithstanding clauses (A), (B), (C), (D), (E), (F), (H) and
4 (H-1) of this subparagraph where the vendor is authorized pursuant to
5 paragraph four of subdivision a of section sixteen hundred seventeen-a
6 of this article, at a rate of thirty-eight percent of the total revenue
7 wagered at the facility after payout for prizes. All facilities author-
8 ized pursuant to paragraph three of subdivision a of section sixteen
9 hundred seventeen-a of this article shall not be eligible for any
10 vendor's capital award but are entitled to the vendor's marketing allow-
11 ance of ten percent authorized by subparagraph (iii) of this paragraph.
12 A facility authorized by paragraph three of subdivision a of section
13 sixteen hundred seventeen-a of this article shall pay (i) ten percent of
14 the total wagered after payout for prizes to a franchised corporation,
15 to be equally divided between the franchised corporation and the horse-
16 men for the support of purses, (ii) four percent of the total wagered
17 after payout for prizes to a harness racing corporation located in West-
18 chester county to be equally divided between the harness corporation and
19 the horsemen for the support of purses, and (iii) one percent of the
20 total wagered after payout of prizes split equally between the New York
21 state thoroughbred breeding and development fund established pursuant to
22 section two hundred fifty-two of the racing, pari-mutuel wagering and
23 breeding law and the agriculture and New York state horse breeding
24 development fund established pursuant to section three hundred thirty of
25 the racing, pari-mutuel wagering and breeding law.

26 § 21. Section 54-1 of the state finance law, as added by section 1 of
27 part J of chapter 57 of the laws of 2011, paragraph b of subdivision 2

1 as amended by section 1 of part EE of chapter 57 of the laws of 2013, is
2 amended to read as follows:

3 § 54-1. State assistance to eligible cities and eligible municipi-
4 palities in which a video lottery gaming facility is located. 1. Defi-
5 nitions. When used in this section, unless otherwise expressly stated:

6 a. "Eligible city" shall mean a city with a population equal to or
7 greater than one hundred twenty-five thousand and less than one million
8 in which a video lottery gaming facility is located and operating as of
9 January first, two thousand nine pursuant to section sixteen hundred
10 seventeen-a of the tax law.

11 b. "Eligible municipality" shall mean a county, city, town or village
12 in which a video lottery gaming facility is located pursuant to section
13 sixteen hundred seventeen-a of the tax law that is not located in a city
14 with a population equal to or greater than one hundred twenty-five thou-
15 sand.

16 c. "Newly eligible city" shall mean a city with a population equal to
17 or greater than one hundred twenty-five thousand and less than one
18 million in which a video lottery gaming facility pursuant to section
19 sixteen hundred seventeen-a of the tax law is located and which was not
20 operating as of January first, two thousand thirteen.

21 d. "Newly eligible municipality" shall mean a county, city, town or
22 village in which a video lottery gaming facility is located pursuant to
23 section sixteen hundred seventeen-a of the tax law that is not located
24 in a city with a population equal to or greater than one hundred twen-
25 ty-five thousand and which was not operating as of January first, two
26 thousand thirteen.

27 e. "Estimated net machine income" shall mean the estimated full annual
28 value of total revenue wagered after payout for prizes for games known

1 as video lottery gaming as authorized under article thirty-four of the
2 tax law during the state fiscal year in which state aid payments are
3 made pursuant to subdivision two of this section.

4 2. a. Within the amount appropriated therefor, an eligible city shall
5 receive an amount equal to the state aid payment received in the state
6 fiscal year commencing April first, two thousand eight from an appropri-
7 ation for aid to municipalities with video lottery gaming facilities.

8 b. Within the amounts appropriated therefor, eligible municipalities
9 shall receive an amount equal to fifty-five percent of the state aid
10 payment received in the state fiscal year commencing April first, two
11 thousand eight from an appropriation for aid to municipalities with
12 video lottery gaming facilities.

13 c. A newly eligible city shall receive a state aid payment equal to
14 two percent of the "estimated net machine income" generated by a video
15 lottery gaming facility located in such eligible city. Such state aid
16 payment shall not exceed twenty million dollars per eligible city.

17 d. A newly eligible municipality shall receive a state aid payment
18 equal to two percent of the "estimated net machine income" generated by
19 a video lottery gaming facility located within such newly eligible muni-
20 cipality as follows: (i) twenty-five percent shall be apportioned and
21 paid to the county; and (ii) seventy-five percent shall be apportioned
22 and paid on a pro rata basis to eligible municipalities, other than the
23 county, based upon the population of such eligible municipalities. Such
24 state aid payment shall not exceed twenty-five percent of an eligible
25 municipality's total expenditures as reported in the statistical report
26 of the comptroller in the preceding state fiscal year pursuant to
27 section thirty-seven of the general municipal law.

1 3. a. State aid payments made to an eligible city or to a newly eligi-
2 ble city pursuant to [paragraph] paragraphs a and c of subdivision two
3 of this section shall be used to increase support for public schools in
4 such city.

5 b. State aid payments made to [an] eligible [municipality] municipi-
6 palities and newly eligible municipalities pursuant to [paragraph] para-
7 graphs b and d of subdivision two of this section shall be used by such
8 eligible municipality to: (i) defray local costs associated with a video
9 lottery gaming facility, or (ii) minimize or reduce real property taxes.

10 4. Payments of state aid pursuant to this section shall be made on or
11 before June thirtieth of each state fiscal year to the chief fiscal
12 officer of each eligible city and each eligible municipality on audit
13 and warrant of the state comptroller out of moneys appropriated by the
14 legislature for such purpose to the credit of the local assistance fund
15 in the general fund of the state treasury.

16 § 22. Section 14-100 of the election law is amended by adding three
17 new subdivisions 12, 13, and 14 to read as follows:

18 12. "clearly identified candidate" means that:

19 (a) the name of the candidate involved appears;

20 (b) a photograph or drawing of the candidate appears; or

21 (c) the identity of the candidate is apparent by unambiguous refer-
22 ence.

23 13. "general public audience" means an audience composed of members of
24 the public, including a targeted subgroup of members of the public;
25 provided, however, it does not mean an audience solely comprised of
26 members, retirees and staff of a labor organization or their immediate
27 family members or an audience solely comprised of employees of a corpo-

1 ration, unincorporated business entity or members of a business, trade
2 or professional association or organization.

3 14. "labor organization" means any organization of any kind which
4 exists for the purpose, in whole or in part, of representing employees
5 employed within the state of New York in dealing with employers or
6 employer organizations or with a state government, or any political or
7 civil subdivision or other agency thereof, concerning terms and condi-
8 tions of employment, grievances, labor disputes, or other matters inci-
9 dental to the employment relationship. For the purposes of this article,
10 each local, parent national or parent international organization of a
11 statewide labor organization, and each statewide federation receiving
12 dues from subsidiary labor organizations, shall be considered a separate
13 labor organization.

14 § 23. Section 14-106 of the election law, as amended by section 2 of
15 part E of chapter 399 of the laws of 2011, is amended to read as
16 follows:

17 § 14-106. Political communication. The statements required to be filed
18 under the provisions of this article next succeeding a primary, general
19 or special election shall be accompanied by a copy of all broadcast,
20 cable or satellite schedules and scripts, internet, print and other
21 types of advertisements, pamphlets, circulars, flyers, brochures,
22 letterheads and other printed matter purchased or produced, and reprod-
23 uctions of statements or information published to one thousand or more
24 members of a general public audience by computer or other electronic
25 device including but not limited to electronic mail or text message,
26 purchased in connection with such election by or under the authority of
27 the person filing the statement or the committee or the person on whose
28 behalf it is filed, as the case may be. Such copies, schedules and

1 scripts shall be preserved by the officer with whom or the board with
2 which it is required to be filed for a period of one year from the date
3 of filing thereof.

4 § 24. The election law is amended by adding a new section 14-107 to
5 read as follows:

6 § 14-107. Independent expenditure reporting. 1. For purposes of this
7 article:

8 (a) "Independent expenditure" means an expenditure made by a person
9 for an audio or video communication via broadcast, cable or satellite or
10 a written communication to a general public audience via advertisements,
11 pamphlets, circulars, flyers, brochures, letterheads or other printed
12 matter and statements or information conveyed to one thousand or more
13 members of a general public audience which: unambiguously refers to and
14 advocates for or against a clearly identified candidate or expressly
15 advocates the success or defeat of a ballot proposal, and such candi-
16 date, the candidate's political committee or its agents, or a political
17 committee formed to promote the success or defeat of a ballot proposal
18 or its agents, did not authorize, request, suggest, foster or cooperate
19 in any such communication. For the purposes of this definition, a commu-
20 nication advocates for or against a candidate when it (i) irrespective
21 of when such communication is made, contains words such as "vote,"
22 "oppose," "support," "elect," "defeat," or "reject," which call for the
23 election or defeat of the clearly identified candidate, or (ii) within
24 one year of the election but more than sixty days before a general or
25 special election for the office sought by the candidate or thirty days
26 before a primary election, could only be interpreted by a reasonable
27 person as advocating for the election or defeat of the clearly identi-
28 fied candidate in such election based upon unequivocal, unambiguous

1 terms of support or opposition, or (iii) within sixty days prior to a
2 general or special election for the office sought by the candidate or
3 thirty days before a primary election, includes or references a clearly
4 identified candidate.

5 (b) Independent expenditures do not include expenditures in connection
6 with:

7 (i) a written news story, commentary, or editorial or a news story,
8 commentary, or editorial distributed through the facilities of any
9 broadcasting station, cable or satellite unless such publication or
10 facilities are owned or controlled by any political party, political
11 committee or candidate; or

12 (ii) a communication that constitutes a candidate debate or forum; or

13 (iii) internal communication by members to other members of a member-
14 ship organization, for the purpose of supporting or opposing a candidate
15 or candidates for elective office, provided such expenditures are not
16 used for the costs of campaign material or communications used in
17 connection with broadcasting, telecasting, newspapers, magazines, or
18 other periodical publication, billboards, or similar types of general
19 public communications; or

20 (iv) a communication published on the Internet, unless the communi-
21 cation is a paid advertisement.

22 (c) For purposes of this section, the term "person" shall mean person,
23 group of persons, corporation, unincorporated business entity, labor
24 organization or business, trade or professional association or organiza-
25 tion, or political committee.

26 2. Whenever any person makes an independent expenditure that costs
27 more than one thousand dollars in the aggregate, such communication
28 shall clearly state the name of the person who paid for, or otherwise

1 published or distributed the communication and state, with respect to
2 communications regarding candidates, that the communication was not
3 expressly authorized or requested by any candidate, or by any candi-
4 date's political committee or any of its agents.

5 3. (a) Any person who makes any independent expenditure in an upcoming
6 calendar year shall first register with the state board of elections as
7 a political committee in conformance with this article.

8 (b) Any person who is registered pursuant to paragraph (a) of this
9 subdivision shall report independent expenditures over one thousand
10 dollars to the state board of elections on a statement in the form set
11 forth in subdivision four of this section and at times set forth in this
12 subdivision.

13 (c) Any contribution over one thousand dollars made to any person who
14 has registered with the state board of elections pursuant to paragraph
15 (a) of this subdivision prior to thirty days before any primary, gener-
16 al, or special election shall be disclosed by such person to the state
17 board of elections electronically within forty-eight hours of receipt.

18 (d) Any contribution over one thousand dollars made to any person who
19 has registered with the state board of elections pursuant to paragraph
20 (a) of this subdivision within thirty days before any primary, general,
21 or special election shall be disclosed by such person to the state board
22 of elections electronically within twenty-four hours of receipt.

23 (e) A knowing and willful violation of the provisions of this subdivi-
24 sion shall subject the person to a civil penalty equal to five thousand
25 dollars or the cost of the communication, whichever is greater, in a
26 special proceeding or civil action brought by the board or imposed
27 directly by the board of elections.

1 4. Each such statement in subdivision three of this section shall
2 include, in addition to any other information required by law:

3 (a) the name, address, occupation and employer of the person making
4 the statement;

5 (b) the name, address, occupation and employer of the person making
6 the independent expenditure;

7 (c) the name, address, occupation and employer of any person providing
8 a contribution, gift, loan, advance or deposit of one thousand dollars
9 or more for the independent expenditure, or the provision of services
10 for the same, and the date it was given; provided, however, the name and
11 address of a member of a labor organization is not required for a
12 contribution, gift, loan, advance or deposit to a labor organization;
13 and provided further that the name and address of an employee of a
14 corporation, unincorporated business entity or a member of a business,
15 trade or professional association or organization is not required for a
16 contribution, gift, loan, advance or deposit to such corporation, unin-
17 corporated business entity or business, trade or professional associ-
18 ation or organization respectively;

19 (d) the dollar amount paid for each independent expenditure, the name
20 and address of the person or entity receiving the payment, the date the
21 payment was made and a description of the independent expenditure; and

22 (e) the election to which the independent expenditure pertains and the
23 name of the clearly identified candidate or the ballot proposal refer-
24 enced.

25 5. A copy of all political communications paid for by the independent
26 expenditure, including but not limited to broadcast, cable or satellite
27 schedules and scripts, advertisements, pamphlets, circulars, flyers,
28 brochures, letterheads and other printed matter and statements or infor-

1 mation conveyed to one thousand or more members of a general public
2 audience by computer or other electronic devices shall be filed with the
3 state board of elections with the statements required by this section.

4 6. Every statement required to be filed pursuant to this section shall
5 be filed electronically with the state board of elections.

6 7. The state board of elections shall promulgate regulations with
7 respect to the statements required to be filed by this section and shall
8 provide forms suitable for such statements.

9 § 25. The election law is amended by adding a new section 14-125 to
10 read as follows:

11 § 14-125. Required sharing of information. Any item required by this
12 article to be filed with the New York state board of elections relating
13 to any referendum authorized by the state legislature following second
14 passage of a concurrent resolution to amend the state constitution to
15 permit or authorize casino gaming shall be shared forthwith by the New
16 York state board of elections with the New York state gaming commission.

17 § 26. Subdivisions 3, 4 and 5 of section 14-126 of the election law
18 are renumbered subdivisions 4, 5 and 6 and a new subdivision 3 is added
19 to read as follows:

20 3. Any person who falsely identifies or fails to identify any inde-
21 pendent expenditure as required by subdivision two of section 14-107 of
22 this article shall be subject to a civil penalty equal to one thousand
23 dollars or the cost of the communication, whichever is greater, in a
24 special proceeding or civil action brought by the state board of
25 elections chief enforcement counsel or imposed directly by the state
26 board of elections. For purposes of this subdivision, the term "person"
27 shall mean a person, group of persons, corporation, unincorporated busi-

1 ness entity, labor organization or business, trade or professional asso-
2 ciation or organization or political committee.

3 § 27. Subdivisions 1 and 2 of section 14-108 of the election law,
4 subdivision 1 as amended by chapter 955 of the laws of 1983, and subdi-
5 vision 2 as amended by chapter 109 of the laws of 1997, are amended to
6 read as follows:

7 1. The statements required by this article shall be filed at such
8 times as the state board of elections, by rule or regulation, shall
9 specify; provided, however, that in no event shall the board provide for
10 fewer than three filings in the aggregate in connection with any prima-
11 ry, general or special election, or in connection with a question to be
12 voted on and two of said filings shall be before any such election,
13 including one such filing not less than thirty days nor more than
14 forty-five days prior to such election and one such filing not less than
15 eleven days nor more than fifteen days prior to such election. In addi-
16 tion, the board shall provide that every political committee which has
17 filed a statement of treasurer and depository shall make at least one
18 filing every six months between the time such statement of treasurer and
19 depository is filed and the time such committee goes out of business. If
20 any candidate or committee shall be required by the provisions of this
21 section, or by rule or regulation hereunder, to effect two filings with-
22 in a period of five days, the state board of elections may, by rule or
23 regulation, waive the requirement of filing the earlier of such state-
24 ments, except that the requirement to file any statement pursuant to
25 section 14-107 of this article shall not be waived. If a statement filed
26 by a candidate or committee after the election to which it pertains is
27 not a final statement showing satisfaction of all liabilities and dispo-
28 sition of all assets, such candidate or committee shall file such addi-

1 tional statements as the board shall, by rule or regulation provide
2 until such a final statement is filed.

3 2. Each statement shall cover the period up to and including the
4 fourth day next preceding the day specified for the filing thereof[;
5 provided, however, that]. The receipt of any contribution or loan in
6 excess of one thousand dollars shall be disclosed within forty-eight
7 hours of receipt, and shall be reported in the same manner as any other
8 contribution or loan on the next applicable statement. However, any
9 contribution or loan in excess of one thousand dollars, if received
10 after the close of the period to be covered in the last statement filed
11 before any primary, general or special election but before such
12 election, shall be reported, in the same manner as other contributions,
13 within twenty-four hours after receipt.

14 § 28. Section 104 of the racing, pari-mutuel wagering and breeding law
15 is amended by adding a new subdivision 21 to read as follows:

16 21. The commission shall promptly make available for public inspection
17 and copying via electronic connection to the commission's website a copy
18 of any report received from the New York state board of elections pursu-
19 ant to article fourteen of the election law.

20 § 29. Section 1617-a of the tax law is amended by adding two new
21 subdivisions g and h to read as follows:

22 g. Every video lottery gaming license, and every renewal license,
23 shall be valid for a period of five years, except that video gaming
24 licenses issued before the effective date of this subdivision shall be
25 for a term expiring on June thirtieth, two thousand fourteen.

26 The gaming commission may decline to renew any license after notice
27 and an opportunity for hearing if it determines that:

1 (1) the applicant has violated section one thousand six hundred seven
2 of this article;

3 (2) the applicant has violated any rule, regulation or order of the
4 gaming commission;

5 (3) the applicant or its officers, directors or significant stockhold-
6 ers, as determined by the gaming commission, have been convicted of a
7 crime involving moral turpitude; or

8 (4) that the character or fitness of the applicant is such that the
9 participation of the applicant in video lottery gaming or related activ-
10 ities would be inconsistent with the public interest, convenience or
11 necessity or with the best interests of video gaming generally.

12 h. (1) Every video lottery gaming licensee shall adopt a code of
13 ethics and conduct periodic ethics audits assessing compliance with and
14 the efficacy of the code of ethics.

15 (2) On an annual basis, the gaming commission shall conduct an ethics
16 audit of every video lottery gaming licensee including reviews of the
17 officers, directors, and ownership of every video lottery gaming licen-
18 see. The video lottery gaming licensee shall reimburse the commission
19 for the cost of the ethics audit.

20 (i) Such audit shall review compliance with the licensee's code of
21 ethics and the efficacy of the licensee's code of ethics.

22 (ii) Such audit shall establish, if necessary, an ethics implementa-
23 tion plan for resolving ethical issues found in the licensee's oper-
24 ations.

25 (iii) Such audit shall review the overall character and fitness of the
26 officers, directors, and significant stockholders, as determined by the
27 gaming commission, to determine whether the continued participation of
28 such officers, directors, and significant stockholders would be incon-

1 sistent with the public interest, convenience or necessity or with the
2 best interests of video gaming generally.

3 (iv) Based upon the findings of the audit, the gaming commission,
4 subject to notice and an opportunity for hearing, may revoke, suspend,
5 and condition the license of the video gaming licensee, order the video
6 gaming licensee to terminate the continued appointment, position or
7 employment of officers and directors, or order the video gaming licensee
8 to require significant stockholders to divest themselves of all inter-
9 ests in the video gaming licensee.

10 § 30. Clause (G) of subparagraph (ii) of paragraph 1 of subdivision b
11 of section 1612 of the tax law is REPEALED.

12 § 31. This act shall take effect immediately; provided, however, that:

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

18 (b) sections six, seven, fourteen and sixteen of this act shall take
19 effect on the same date as the agreement between the Oneida Nation of
20 New York and the state of New York entered into on the sixteenth day of
21 May, two thousand thirteen takes effect; provided, further, that the
22 amendments to subdivision 2 of section 99-h of the state finance law
23 made by section six of this act shall take effect on the same date as
24 the reversion of such section as provided in section 2 of chapter 747 of
25 the laws of 2006, as amended; provided, further, that the amendments to
26 subdivision 3 of section 99-h of the state finance law made by section
27 seven of this act shall be subject to the expiration and reversion of
28 such subdivision as provided in section 3 of part W of chapter 60 of the

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

18 (c) Notwithstanding the foregoing, sections nineteen, twenty and twen-
19 ty-one of this act, shall only be effective in the event that an amend-
20 ment to the constitution to authorize casino gambling is defeated.

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

1 the official text of the laws of the state of New York in furtherance of
2 effecting the provisions of section 44 of the legislative law and
3 section 70-b of the public officers law.