

By: Flores

H.B. No. 58

A BILL TO BE ENTITLED

AN ACT

1
2 relating to authorizing the operation of video lottery games on
3 behalf of this state to provide additional money to fund public
4 education and other governmental programs; the creation, powers,
5 and duties of the Texas Gaming and Boxing Commission; the powers and
6 duties of the Texas Lottery Commission, the Texas Racing
7 Commission, and the Texas Commission of Licensing and Regulation,
8 and the regulation of other gambling activities in this state;
9 appropriating money; providing penalties.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

11 ARTICLE 1. AUTHORIZATION OF VIDEO LOTTERY

12 SECTION 1.01. Section 466.002, Government Code, is amended
13 by amending Subdivisions (2) and (4)-(10) and adding Subdivisions
14 (11)-(36) to read as follows:

15 (2) "Communication technology" means the methods used
16 and the components employed to facilitate the transmission of
17 information, including transmission and reception systems that
18 transmit information through wire, cable, radio, microwave, light,
19 optics, or computer data networks.

20 (3) "Director" means a [the] director employed by the
21 executive director under Section 467.033 [of the division].

22 (4) "Disable" with respect to video lottery terminals
23 means the process that causes a video lottery terminal to cease
24 functioning on issuance of a shutdown command from the video

1 lottery central system.

2 (5) "Distribute," with respect to a video lottery
3 terminal, an electronic computer component of a video lottery
4 terminal, the cabinet in which a video lottery terminal is housed,
5 video lottery equipment, or video lottery game software intended
6 for use or play in this state, including on Indian lands in this
7 state, means the sale, lease, marketing, offer, or other
8 disposition of any of those items.

9 (7) "Electronic storage medium," with respect to video
10 lottery, means the electronic medium on which the operation
11 software for a game playable on a video lottery terminal is stored,
12 in the form of erasable programmable read only memory, compact
13 disc-read only memory, flash random access memory, or other
14 technology medium the commission approves for use in a video
15 lottery terminal.

16 (8) [~~4~~] "Executive director" means the executive
17 director of the commission.

18 (9) "Gaming agreement" means an agreement authorized
19 under Subchapter K between this state and a federally recognized
20 Indian tribe under which this state allows the tribe to conduct
21 limited gaming activities authorized under this chapter or
22 applicable federal law.

23 (10) "House-banked game" means a game of chance:

24 (A) in which the house plays as a participant;

25 (B) in which the house competes against all
26 players, collects from all losers, and pays all winners; and

27 (C) that the house has an opportunity to win.

1 (11) "Indian lands" means land over which an Indian
2 tribe exercises governmental power and:

3 (A) that is held in trust by the United States on
4 January 1, 1998, for the benefit of the Indian tribe or an
5 individual member of the Indian tribe pursuant to the Restoration
6 Acts (25 U.S.C. Section 731 and 25 U.S.C. Section 1300 et seq.); or

7 (B) on which Class III gaming is permitted under
8 the Indian Gaming Regulatory Act (18 U.S.C. Section 1166 et seq. and
9 25 U.S.C. Section 2701 et seq.).

10 (12) "Institutional investor" means:

11 (A) a state or federal government pension plan;
12 or

13 (B) any of the following that meets the
14 requirements of a "qualified institutional buyer" as defined in
15 Rule 144A, Securities Act of 1933 (15 U.S.C. Sections 77a-77aa),
16 and the rules and regulations adopted under that rule by the United
17 States Securities and Exchange Commission:

18 (i) a bank as defined by Section 3(a)(6),
19 Securities Exchange Act of 1934 (15 U.S.C. Sections 78a-78kk), and
20 the rules and regulations adopted under that act by the United
21 States Securities and Exchange Commission;

22 (ii) an insurance company as defined by
23 Section 2(a)(17), Investment Company Act of 1940 (15 U.S.C. Section
24 80a-1 et seq.);

25 (iii) an investment company registered
26 under Section 8, Investment Company Act of 1940 (15 U.S.C. Section
27 80a-1 et seq.);

1 (iv) an employee benefit plan or pension
2 fund subject to the Employee Retirement Income Security Act of 1974
3 (29 U.S.C. Section 1001 et seq.), excluding an employee benefit
4 plan or pension fund sponsored by a publicly traded corporation
5 registered with the Securities and Exchange Commission;

6 (v) a group composed entirely of persons
7 specified by this subdivision; or

8 (vi) any other person the commission
9 recognizes as an institutional investor for reasons consistent with
10 the policies expressed in this chapter.

11 (13) [(5)] "Lottery" means the state lottery
12 established and operated in accordance with the Texas Constitution
13 under this chapter and includes the operation of a state-controlled
14 and determined video lottery system [procedures operated by the
15 state under this chapter through which prizes are awarded or
16 distributed by chance among persons who have paid, or
17 unconditionally agreed to pay, for a chance or other opportunity to
18 receive a prize].

19 (14) [(6)] "Lottery game" means an activity conducted
20 lawfully and in accordance with the Texas Constitution and this
21 chapter that is controlled by this state as part of the lottery and
22 through which prizes are awarded or distributed by chance to
23 persons who have paid or unconditionally agreed to pay, or who
24 otherwise participate in a game, for a chance or other opportunity
25 to receive a prize [includes a lottery activity].

26 (15) [(7)] "Lottery operator" means a person selected
27 under Section 466.014(b) to operate a lottery game.

1 (16) "Manufacture," with respect to a video lottery
2 terminal, an electronic computer component of a video lottery
3 terminal, the cabinet in which a video lottery terminal is housed,
4 video lottery equipment, or video lottery game software intended
5 for use or play in this state, including on Indian lands in this
6 state, means to design, assemble, fabricate, produce, program, or
7 make modifications to any of those items.

8 (17) "Net terminal income" means the total amount of
9 money paid to play video lottery games less the value of all credits
10 redeemed for money, including any progressive prizes, by the
11 players of the video lottery games. The costs associated with
12 progressive prizes may not be deducted from the total amount of
13 money paid to play the video lottery games for purposes of
14 determining net terminal income. Promotional prizes offered by a
15 video lottery retailer or video lottery manager may not be deducted
16 or otherwise considered credits redeemed for money by players for
17 the purpose of determining net terminal income.

18 (18) "Pari-mutuel license holder" means a person
19 licensed to conduct wagering on a greyhound race or a horse race
20 under the Texas Racing Act (Article 179e, Vernon's Texas Civil
21 Statutes).

22 (19) "Person" means, for purposes of video lottery
23 operations, any natural person, corporation, association, trust,
24 partnership, limited partnership, joint venture, subsidiary, or
25 other entity, regardless of its form, structure, or nature.

26 (20) [~~18~~] "Player" means a person who contributes any
27 part of the consideration for a ticket or to play a video lottery

1 game under this chapter.

2 (21) "Racetrack" means a racetrack as defined by
3 Section 1.03(25), Texas Racing Act (Article 179e, Vernon's Texas
4 Civil Statutes), that is:

5 (A) a class 1, class 2, or class 3 horse racetrack
6 for which a pari-mutuel license was in effect on June 1, 2005, or
7 for which a person by that date had applied for a pari-mutuel
8 license to conduct horse racing as a class 1 or class 2 racetrack;
9 or

10 (B) a greyhound racetrack for which a pari-mutuel
11 license was in effect on June 1, 2005, or for which a person by that
12 date had applied for a pari-mutuel license to conduct greyhound
13 racing.

14 (22) [~~(9)~~] "Sales agent" or "sales agency" means a
15 person licensed under this chapter to sell tickets.

16 (23) "Slot machine" means a mechanical, electrical, or
17 other type of device, contrivance, or machine that plays or
18 operates on insertion of a coin, currency, token, or similar object
19 or on payment of any other consideration, and the play or operation
20 of which, through the skill of the operator, by chance, or both, may
21 deliver to the person playing or operating the machine, or entitle
22 the person to receive, cash, premiums, merchandise, tokens, or any
23 other thing of value, whether the payoff is made automatically from
24 the machine or in any other manner. The term does not include any
25 equipment, machine, technological aid, or other device used or
26 authorized in connection with the play of bingo under Chapter 2001,
27 Occupations Code.

1 (24) "Substantial interest holder" means any of the
2 following that is not a bona fide lender, bank, or other authorized
3 or licensed lending institution that holds a mortgage or other lien
4 acquired in the ordinary course of business or a vendor of the
5 applicant or license holder that is not otherwise a substantial
6 business holder:

7 (A) a person who directly, indirectly, or
8 beneficially owns any interest in a privately owned corporation,
9 association, trust, partnership, limited partnership, joint
10 venture, subsidiary, or other entity, regardless of its form,
11 structure, or nature;

12 (B) a person who directly, indirectly, or
13 beneficially owns 10 percent or more of any publicly owned
14 corporation, association, trust, partnership, limited partnership,
15 joint venture, subsidiary, or other entity, regardless of its form,
16 structure, or nature;

17 (C) a person associated with an applicant or
18 license holder who the commission determines has the power or
19 authority to:

20 (i) control the activities of the applicant
21 or license holder; or

22 (ii) elect or select the executive
23 director, the managers, the partners, or a majority of the board of
24 directors of the applicant or license holder; and

25 (D) any key personnel of a video lottery retailer
26 or video lottery manager, including an executive director, officer,
27 director, manager, member, partner, limited partner, executive,

1 employee, or agent, who the commission determines has the power to
2 exercise significant influence over decisions concerning any part
3 of the applicant's or license holder's business operation.

4 (25) [~~(10)~~] "Ticket" means any tangible evidence
5 issued to provide participation in a lottery game authorized by
6 this chapter other than a video lottery game.

7 (26) "Video lottery central system" means the system
8 of procedures and facilities operated and controlled by the
9 commission that is designed to link together all video lottery
10 terminals operated in this state, determines the outcome of all
11 video lottery games, and allows the commission to continuously
12 monitor the activity of each video lottery terminal and to disable
13 any video lottery terminal in this state.

14 (27) "Video lottery central system provider" means a
15 person that, under a contract with the commission, provides the
16 video lottery central system.

17 (28) "Video lottery equipment" means:

18 (A) a video lottery terminal;

19 (B) equipment, a component, or a contrivance used
20 remotely or directly in connection with a video lottery terminal
21 to:

22 (i) affect the reporting of gross revenue
23 and other accounting information, including a device for weighing
24 and counting money;

25 (ii) connect video lottery terminals
26 together for accounting or wide-area prize or promotional purposes;

27 (iii) monitor video lottery terminal

1 operations; and

2 (iv) provide for the connection of video
3 lottery terminals to the video lottery central system; or

4 (C) any other communications technology or
5 equipment necessary for the operation of a video lottery terminal.

6 (29) "Video lottery game" means an electronically
7 simulated game displayed on a video lottery terminal the outcome of
8 which is determined solely by chance based on a computer-generated
9 random selection of winning combinations of symbols or numbers
10 other than roulette, dice, or baccarat game themes associated with
11 casino gambling, except that game themes displaying symbols that
12 roll on drums to simulate a classic casino slot machine or themes of
13 other card games and keno may be used.

14 (30) "Video lottery manager" means a person who:

15 (A) is licensed by the commission under this
16 chapter to manage a video lottery terminal establishment; or

17 (B) provides management services for a video
18 lottery terminal establishment on Indian lands for an Indian tribe
19 that has entered into an agreement with the governor for the
20 operation of video lottery games.

21 (31) "Video lottery retailer" means a person licensed
22 to operate a video lottery terminal establishment at which video
23 lottery games are conducted under Subchapter K.

24 (32) "Video lottery system" means the system
25 authorized under Subchapter K and controlled and operated by the
26 commission under which individuals play lottery games on video
27 lottery terminals as authorized under that subchapter.

1 (33) "Video lottery terminal" means an interactive
2 electronic device that is capable of displaying video lottery
3 games.

4 (34) "Video lottery terminal establishment" means
5 premises at which the operation of video lottery terminals is
6 authorized by the commission under this chapter in accordance with
7 a license or a gaming agreement.

8 (35) "Video lottery terminal provider" means a person
9 in the business of manufacturing or distributing video lottery
10 terminals in this state.

11 (36) "Video lottery ticket" means the tangible
12 evidence issued by a video lottery terminal to reflect winnings
13 from the play of a video lottery game.

14 SECTION 1.02. Section 466.003, Government Code, is amended
15 by amending Subsection (b) and adding Subsection (c) to read as
16 follows:

17 (b) Any [A] contract or authorized agreement between the
18 division and a lottery operator, the video lottery central system
19 provider, a video lottery terminal provider, or a manufacturer or
20 distributor of video lottery games under Section 466.014(b) must
21 contain a provision allowing the contract or authorized agreement
22 to be terminated without penalty should the division be abolished
23 unless another state agency is assigned to control and supervise
24 all video lottery game activity as required by this chapter.

25 (c) Notwithstanding Subsection (a), if any gaming agreement
26 that allows video lottery is in effect, the commission or another
27 state agency designated by the legislature must operate, control,

1 and supervise video lottery games as necessary to comply with a
2 gaming agreement under this chapter.

3 SECTION 1.03. Section 466.004(a), Government Code, is
4 amended to read as follows:

5 (a) A political subdivision of this state may not impose:

6 (1) a tax on the sale of a ticket;

7 (2) a tax on the payment of a prize under this chapter;

8 [~~or~~]

9 (3) an ad valorem tax on tickets;

10 (4) a tax, fee, or other assessment on consideration
11 paid to play a video lottery game; or

12 (5) a tax or fee for attendance at or admission to a
13 video lottery establishment or a racetrack at which a video lottery
14 establishment is located unless specifically authorized by
15 statute.

16 SECTION 1.04. Section 466.014, Government Code, is amended
17 to read as follows:

18 Sec. 466.014. POWERS AND DUTIES OF COMMISSION AND EXECUTIVE
19 DIRECTOR; CONTRACT AUTHORITY. (a) The commission and executive
20 director have broad authority and shall exercise strict control and
21 close supervision over [~~all~~] lottery games [~~conducted in this~~
22 ~~state~~] to promote and ensure integrity, security, honesty, and
23 fairness in the operation and administration of the lottery.

24 (b) The executive director may contract with or employ a
25 person to perform a function, activity, or service in connection
26 with the operation of the lottery as prescribed by the executive
27 director. A contract relating to the operation of video lottery

1 must be consistent with Subchapter K. Except as provided by this
2 subsection, a [A] person with whom the executive director contracts
3 to operate a lottery game must be eligible for a sales agent license
4 under Section 466.155. A person with whom the executive director
5 contracts to provide the video lottery central system must be
6 eligible under the same standards as those applicable to the
7 registration or approval by the commission of a video lottery
8 terminal provider in accordance with Subchapter K.

9 (c) The executive director may award a contract for lottery
10 supplies, equipment, or services, including a contract under
11 Subsection (b), pending the completion of any investigation and
12 licensing, registration, or other approval authorized or required
13 by this chapter. A contract awarded under this subsection must
14 include a provision permitting the executive director to terminate
15 the contract without penalty if the investigation reveals that the
16 person to whom the contract is awarded would not be eligible for a
17 sales agent license under Section 466.155 or with regard to video
18 lottery does not satisfy the applicable requirements for licensing,
19 registration, or other approval under Subchapter K.

20 (d) In the acquisition or provision of facilities,
21 supplies, equipment, materials, or services related to the
22 implementation of video lottery, the commission must comply with
23 procurement procedures prescribed under:

24 (1) Subtitle D, Title 10; and

25 (2) Section 466.101.

26 SECTION 1.05. Section 466.015(b), Government Code, is
27 amended to read as follows:

1 (b) The commission shall adopt rules to the extent they are
2 not inconsistent with Chapters 551 and 552 governing the:

3 (1) security for the lottery and the commission,
4 including the development of an internal security plan;

5 (2) apportionment of the total revenues from the sale
6 of tickets and from all other sources in the amounts provided by
7 this chapter;

8 (3) enforcement of prohibitions on the sale of tickets
9 to or by an individual younger than 21 [~~18~~] years of age; [~~and~~]

10 (4) enforcement of prohibitions on a person playing a
11 lottery game by telephone; and

12 (5) enforcement of prohibitions provided by law on the
13 sale of any purchase or play of a video lottery game.

14 SECTION 1.06. Section 466.017, Government Code, is amended
15 to read as follows:

16 Sec. 466.017. AUDITS. (a) The commission [~~executive~~
17 ~~director~~] shall provide for a certified public accountant to
18 conduct an independent audit of the commission's annual financial
19 statements in accordance with generally accepted auditing
20 standards that requires the accountant to express an opinion on the
21 conformity of the financial statements with generally accepted
22 accounting principles [~~for each fiscal year of all accounts and~~
23 ~~transactions of the lottery~~]. The certified public accountant may
24 not have [~~as determined by the executive director,~~] a significant
25 financial interest in a sales agent, lottery vendor, [~~or~~] lottery
26 operator, video lottery manager, video lottery retailer, video
27 lottery terminal provider, or video lottery central system

1 provider. The certified public accountant shall present an audit
 2 report to the executive director, the commission, the governor, the
 3 comptroller, and the legislature not later than the 30th day after
 4 the submission date for the annual financial report required by the
 5 General Appropriations Act. ~~[The report must contain~~
 6 ~~recommendations to enhance the earnings capability of the lottery~~
 7 ~~and improve the efficiency of lottery operations.]~~ The state
 8 auditor may review the results of and working papers related to the
 9 audit.

10 (b) The records of a [Each] lottery operator, sales agent,
 11 video lottery manager, video lottery retailer, video lottery
 12 terminal provider, or video lottery central system provider
 13 ~~[operator's and sales agent's records]~~ are subject to audit by the
 14 commission and the state auditor. For the purpose of carrying out
 15 this chapter, the executive director or state auditor may examine
 16 all books, records, papers, or other objects that the executive
 17 director or state auditor determines are necessary for conducting a
 18 complete examination under this chapter and may also examine under
 19 oath any officer, director, or employee of a lottery operator, ~~[or]~~
 20 sales agent, video lottery manager, video lottery retailer, video
 21 lottery terminal provider, or video lottery central system
 22 provider. The executive director or state auditor may conduct an
 23 examination at the principal office or any other office of the
 24 person subject to the audit ~~[lottery operator or sales agent]~~ or may
 25 require the person ~~[lottery operator or sales agent]~~ to produce the
 26 records at the office of the commission or state auditor. If a
 27 sales agent, video lottery manager, video lottery retailer, video

1 lottery terminal provider, or video lottery central system provider
2 refuses to permit an examination or to answer any question
3 authorized by this subsection, the executive director may summarily
4 suspend the license or registration of the sales agent, video
5 lottery manager, video lottery retailer, or video lottery terminal
6 provider under Section 466.160 or Subchapter K until the
7 examination is completed as required. A video lottery manager,
8 video lottery retailer, video lottery terminal provider, or video
9 lottery central system provider that is audited as provided by this
10 section is responsible for the costs incurred by the commission or
11 auditor in conducting the audit. Section 321.013(h) does not apply
12 to an audit of a lottery operator, ~~or~~ sales agent, video lottery
13 manager, video lottery retailer, video lottery terminal provider,
14 or video lottery central system provider.

15 SECTION 1.07. Section 466.018, Government Code, is amended
16 to read as follows:

17 Sec. 466.018. INVESTIGATIONS. The attorney general, the
18 district attorney for Travis County, or the district attorney,
19 criminal district attorney, or county attorney performing the
20 duties of district attorney for the county in which the violation or
21 alleged violation occurred may investigate a violation or alleged
22 violation of this chapter and of the penal laws of this state by the
23 commission or its employees, a sales agent, a lottery vendor, ~~or~~ a
24 lottery operator, a video lottery manager, a video lottery
25 retailer, a video lottery terminal provider, or a video lottery
26 central system provider.

27 SECTION 1.08. Sections 466.020(c), (d), and (e), Government

1 Code, are amended to read as follows:

2 (c) A security officer or investigator employed by the
3 department of security or a peace officer who is working in
4 conjunction with the commission or the Department of Public Safety
5 in the enforcement of this chapter may:

6 (1) [→] without a search warrant, [~~may~~] search and
7 seize a lottery vending machine, lottery computer terminal, video
8 lottery terminal, or other lottery or gaming equipment that is
9 located on premises for which a person holds a sales agent, video
10 lottery retailer, or video lottery manager license issued under
11 this chapter; or

12 (2) seize a lottery vending machine, lottery computer
13 terminal, video lottery terminal, or other lottery or gaming
14 equipment that is being used or is in the possession of any person
15 in violation of this chapter.

16 (d) The Department of Public Safety or any other state or
17 local law enforcement agency in this state, at the commission's
18 request and in accordance with an interagency agreement, shall
19 perform a full criminal background investigation of a prospective
20 deputy or investigator of the department of security. The
21 commission shall reimburse the agency [~~Department of Public Safety~~]
22 for the actual costs of an investigation.

23 (e) At least once every two years, the executive director
24 shall employ an independent firm that is experienced in security,
25 including computer security and systems security, to conduct a
26 comprehensive study of all aspects of lottery security, including:

27 (1) lottery personnel security;

- 1 (2) sales agent security;
- 2 (3) lottery operator and vendor security;
- 3 (4) security against ticket counterfeiting and
- 4 alteration and other means of fraudulent winning;
- 5 (5) security of lottery drawings;
- 6 (6) lottery computer, data communications, database,
- 7 and systems security;
- 8 (7) lottery premises and warehouse security;
- 9 (8) security of distribution of tickets;
- 10 (9) security of validation and payment procedures;
- 11 (10) security involving unclaimed prizes;
- 12 (11) security aspects of each lottery game;
- 13 (12) security against the deliberate placement of
- 14 winning tickets in lottery games that involve preprinted winning
- 15 tickets by persons involved in the production, storage,
- 16 transportation, or distribution of tickets; ~~and~~
- 17 (13) security of video lottery retailers, video
- 18 lottery managers, video lottery terminal providers, and video
- 19 lottery central system providers; and
- 20 (14) other security aspects of lottery operations,
- 21 including video lottery game operations.

22 SECTION 1.09. Section 466.021(a), Government Code, is
23 amended to read as follows:

24 (a) The executive director shall, every two years, employ an
25 independent firm experienced in demographic analysis to conduct a
26 demographic study of lottery players. The study must examine
27 ~~include~~ the income, age, sex, race, education, and frequency of

1 participation of players. The study must distinguish between
2 players of traditional lottery games and video lottery games.

3 SECTION 1.10. Section 466.022, Government Code, is amended
4 by amending Subsection (b) and adding Subsections (c), (d), and (e)
5 to read as follows:

6 (b) In addition to commission records excepted from
7 disclosure under Chapter 552, the following information is
8 confidential and is exempt from disclosure:

9 (1) security plans and procedures of the commission
10 designed to ensure the integrity and security of the operation of
11 the lottery;

12 (2) information of a nature that is designed to ensure
13 the integrity and security of the selection of winning tickets or
14 numbers in the lottery, other than information describing the
15 general procedures for selecting winning tickets or numbers; ~~and~~

16 (3) the street address and telephone number of a prize
17 winner, if the prize winner has not consented to the release of the
18 information;

19 (4) information relating to all system operations of
20 video lottery games, including the operation of the video lottery
21 system, security related to video lottery games, and commission
22 plans and procedures intended to ensure the integrity and security
23 of the operation of video lottery games; and

24 (5) information that pertains to an applicant's
25 criminal record, antecedents, and background and is furnished to or
26 obtained by the commission from any source, including information
27 obtained by the commission under Section 411.108(d).

1 (c) Information that qualifies as confidential under
2 Subsection (b)(4) or (5) may be disclosed in whole or in part only
3 as necessary to administer this chapter or under a court order. The
4 commission, subject to appropriate procedures, may disclose the
5 information and data to an authorized agent of a political
6 subdivision of this state, the United States, another state or a
7 political subdivision of another state, a tribal law enforcement
8 agency, or the government of a foreign country.

9 (d) For the annual report required under Section 466.016,
10 the commission may disclose a compilation of statistical
11 information that is otherwise confidential under Subsection (b)(4)
12 if the compilation does not disclose the identity of an applicant,
13 license or registration holder, or video lottery establishment.

14 (e) Notwithstanding any other provision of state law, the
15 information provided under Subsection (d) or (e) may not otherwise
16 be disclosed without specific commission authorization.

17 SECTION 1.11. Section 466.024, Government Code, is amended
18 to read as follows:

19 Sec. 466.024. PROHIBITED GAMES. (a) Except as provided by
20 Chapter 2004, Occupations Code, the [The] executive director, [or]
21 a lottery operator, a video lottery manager, a video lottery
22 retailer, a video lottery terminal provider, or a video lottery
23 central system provider may not establish or operate a lottery game
24 in which the winner is chosen on the basis of the outcome of a sports
25 event.

26 (b) Except as provided by Chapter 2001, Occupations Code,
27 the [The commission shall adopt rules prohibiting the] operation of

1 any game using a video lottery machine, slot [~~or~~] machine, or other
2 gambling device that is not connected to the video lottery central
3 system and controlled and supervised by the commission is
4 prohibited.

5 (c) In this section, "sports[+

6 [~~(1) "Sports~~] event" means a football, basketball,
7 baseball, or similar game, or a horse or dog race on which
8 pari-mutuel wagering is allowed.

9 [~~(2) "Video lottery machine" or "machine" means any~~
10 ~~electronic video game machine that, upon insertion of cash, is~~
11 ~~available to play or simulate the play of a video game, including~~
12 ~~video poker, keno, and blackjack, using a video display and~~
13 ~~microprocessors in which the player may receive free games or~~
14 ~~credits that can be redeemed for cash, coins, or tokens, or that~~
15 ~~directly dispenses cash, coins, or tokens.]~~

16 SECTION 1.12. Section 466.025, Government Code, is amended
17 to read as follows:

18 Sec. 466.025. REPORTS OF TICKETS SOLD, NET TERMINAL INCOME,
19 AND PRIZES AWARDED. For each lottery game, other than a video
20 lottery game, after the last date on which a prize may be claimed
21 under Section 466.408(d), the director shall prepare a report that
22 shows the total number of tickets sold and the number and amounts of
23 prizes awarded in the game. The report must be available for public
24 inspection. For video lottery games, the director shall prepare a
25 weekly report that shows net terminal income for the preceding
26 week.

27 SECTION 1.13. Section 466.103(a), Government Code, is

1 amended to read as follows:

2 (a) Except as provided by Subsection (b), the executive
3 director may not award a contract for the purchase or lease of
4 facilities, goods, or services related to lottery operations to a
5 person who:

6 (1) would be denied a license as a sales agent under
7 Section 466.155; or

8 (2) with regard to video lottery equipment:

9 (A) is not a registered video lottery terminal
10 provider if registration is required; or

11 (B) would be deemed unsuitable to be a video
12 lottery terminal provider under Subchapter K.

13 SECTION 1.14. Section 466.110, Government Code, is amended
14 to read as follows:

15 Sec. 466.110. PROHIBITED ADVERTISEMENTS. The legislature
16 intends that advertisements or promotions sponsored by the
17 commission or the division for the lottery not be of a nature that
18 unduly influences any person to purchase a lottery ticket or number
19 or play a video lottery game.

20 SECTION 1.15. Section 466.151(b), Government Code, is
21 amended to read as follows:

22 (b) The executive director may establish a provisional
23 license or other classes of licenses necessary to regulate and
24 administer the quantity and type of lottery games provided at each
25 licensed location of a sales agent.

26 SECTION 1.16. Section 466.158(a), Government Code, is
27 amended to read as follows:

1 (a) Unless suspended or revoked, a license issued under this
2 subchapter expires on the date specified in the license, which may
3 not be later than the second anniversary of its date of issuance.

4 SECTION 1.17. Section 466.201(a), Government Code, is
5 amended to read as follows:

6 (a) The commission is entitled to conduct an investigation
7 of and is entitled to obtain criminal history record information
8 maintained by the Department of Public Safety, the Federal Bureau
9 of Investigation Identification Division, or another law
10 enforcement agency to assist in the investigation of:

11 (1) a sales agent or an applicant for a sales agent
12 license;

13 (2) a person required to be named in a license
14 application;

15 (3) a lottery operator, video lottery manager, video
16 lottery retailer, video lottery terminal provider, or video lottery
17 central system provider, or prospective lottery operator, video
18 lottery manager, video lottery retailer, video lottery terminal
19 provider, or video lottery central system provider;

20 (4) an employee of a lottery operator, video lottery
21 manager, video lottery retailer, video lottery terminal provider,
22 or video lottery central system provider or prospective lottery
23 operator, video lottery manager, video lottery retailer, video
24 lottery terminal provider, or video lottery central system
25 provider, if the employee is or will be directly involved in lottery
26 operations;

27 (5) a person who manufactures or distributes lottery

1 equipment or supplies, or a representative of a person who
2 manufactures or distributes lottery equipment or supplies offered
3 to the lottery;

4 (6) a person who has submitted a written bid or
5 proposal to the commission in connection with the procurement of
6 goods or services by the commission, if the amount of the bid or
7 proposal exceeds \$500;

8 (7) an employee or other person who works for or will
9 work for a sales agent or an applicant for a sales agent license;

10 (8) a person who proposes to enter into or who has a
11 contract with the commission to supply goods or services to the
12 commission; or

13 (9) if a person described in Subdivisions (1) through
14 (8) is not an individual, an individual who:

15 (A) is an officer or director of the person;

16 (B) holds more than 10 percent of the stock in the
17 person;

18 (C) holds an equitable interest greater than 10
19 percent in the person;

20 (D) is a creditor of the person who holds more
21 than 10 percent of the person's outstanding debt;

22 (E) is the owner or lessee of a business that the
23 person conducts or through which the person will conduct
24 lottery-related activities;

25 (F) shares or will share in the profits, other
26 than stock dividends, of the person;

27 (G) participates in managing the affairs of the

1 person; or

2 (H) is an employee of the person who is or will be
3 involved in:

4 (i) selling tickets; or

5 (ii) handling money from the sale of
6 tickets.

7 SECTION 1.18. Subchapter E, Chapter 466, Government Code,
8 is amended by adding Section 466.206 to read as follows:

9 Sec. 466.206. CRIMINAL HISTORY INVESTIGATION FOR VIDEO
10 LOTTERY. (a) Except as otherwise provided by this section,
11 Sections 466.020 and 466.201, and Subchapter K, a criminal history
12 investigation of a video lottery retailer, video lottery manager,
13 video lottery terminal provider, or video lottery central system
14 provider is governed by commission rules adopted under Subchapter
15 K, which may consider a criminal history investigation conducted
16 under the Texas Racing Act (Article 179e, Vernon's Texas Civil
17 Statutes).

18 (b) The Department of Public Safety or a state or local law
19 enforcement agency in this state, in accordance with an interagency
20 agreement with the commission, shall provide any assistance
21 requested by the commission in the administration and enforcement
22 of this chapter, including conducting background investigations of
23 a person seeking a license, registration, or other commission
24 authorization required under Subchapter K or of any person required
25 to be named in an application for a license, registration, or other
26 commission authorization under that subchapter.

27 (c) This section does not limit the commission's right to

1 obtain criminal history record information from any other local,
2 state, or federal agency. The commission may enter into a
3 confidentiality agreement with the agency as necessary and proper.

4 (d) Except as otherwise provided by Section 411.108(d) or
5 another provision of this chapter, criminal history record
6 information obtained by the commission under this section may be
7 disclosed only:

8 (1) to another law enforcement agency to assist in or
9 further an investigation related to the commission's operation and
10 oversight of video lottery; or

11 (2) under a court order.

12 SECTION 1.19. Section 466.252, Government Code, is amended
13 to read as follows:

14 Sec. 466.252. PLAYER [~~PURCHASE OF TICKET~~] AGREEMENT TO
15 ABIDE BY RULES AND INSTRUCTIONS. (a) By purchasing a ticket in a
16 particular lottery game or participating as a player in a lottery
17 game, a player agrees to abide by and be bound by the commission's
18 rules and instructions, including the rules or instructions
19 applicable to the particular lottery game involved. The player
20 also acknowledges that the determination of whether the player is a
21 valid winner is subject to:

22 (1) the commission's rules, instructions, and claims
23 procedures, including those developed for the particular lottery
24 game involved; [~~and~~]

25 (2) any validation tests established by the commission
26 for the particular lottery game involved; and

27 (3) the limitations and other provisions prescribed by

1 this chapter.

2 (b) If the lottery uses tickets, an abbreviated form of the
3 rules or a reference to the rules may appear on the tickets.

4 SECTION 1.20. Section 466.3011, Government Code, is amended
5 to read as follows:

6 Sec. 466.3011. VENUE. Venue is proper in Travis County or
7 any county in which venue is proper under Chapter 13, Code of
8 Criminal Procedure, for:

9 (1) an offense under this chapter;

10 (2) an offense under the Penal Code, if the accused:

11 (A) is a lottery operator, lottery vendor, sales
12 agent, video lottery manager, video lottery retailer, video lottery
13 terminal provider, video lottery central system provider, or
14 employee of the division; and

15 (B) is alleged to have committed the offense
16 while engaged in lottery activities, including video lottery
17 activities; or

18 (3) an offense that involves property consisting of or
19 including lottery tickets under Title 7 or 11, Penal Code.

20 SECTION 1.21. Subchapter G, Chapter 466, Government Code,
21 is amended by adding Section 466.3031 to read as follows:

22 Sec. 466.3031. UNAUTHORIZED OPERATION, USE, OR POSSESSION
23 OF VIDEO LOTTERY TERMINAL. (a) A person may not operate, use, or
24 possess a video lottery terminal unless the operation, use, or
25 possession is expressly authorized by this chapter or other law.

26 (b) Except for transport to or from a video lottery
27 establishment and as provided by this chapter, a person commits an

1 offense if the person operates, uses, or possesses any video
2 lottery terminal that is not at all times connected to the video
3 lottery central system or that does not generate revenue for this
4 state, except funds retained by the commission to pay
5 administrative costs. An offense under this subsection is a felony
6 of the third degree.

7 (c) Notwithstanding Subsection (b), a video lottery
8 retailer, video lottery manager, or registered or approved video
9 lottery terminal provider may store a video lottery terminal as
10 authorized by the commission for a period not to exceed 120
11 consecutive days, and the commission may possess video lottery
12 terminals for study and evaluation.

13 (d) Nothing in this section shall be construed to prohibit
14 the operation, use, or possession of equipment, machines,
15 technological aids, or other devices allowed in connection with the
16 play of bingo under Chapter 2001, Occupations Code.

17 SECTION 1.22. Section 466.305(a), Government Code, is
18 amended to read as follows:

19 (a) A sales agent, video lottery manager, or video lottery
20 retailer, or an employee of a sales agent, video lottery manager, or
21 video lottery retailer, commits an offense if the person
22 intentionally or knowingly sells a ticket to another person or
23 allows the person to play or conduct a game on a video lottery
24 terminal by extending credit or lending money to the person to
25 enable the person to purchase the ticket or play the game.

26 SECTION 1.23. The heading to Section 466.3051, Government
27 Code, is amended to read as follows:

1 Sec. 466.3051. SALE OF TICKET OR LOTTERY GAME TO OR PURCHASE
2 OF TICKET OR LOTTERY GAME BY PERSON YOUNGER THAN 21 [~~18~~] YEARS OF
3 AGE.

4 SECTION 1.24. Section 466.3051, Government Code, is amended
5 by amending Subsections (a), (b), (c), (d), and (e) and adding
6 Subsection (a-1) to read as follows:

7 (a) A sales agent or an employee of a sales agent commits an
8 offense if the person intentionally or knowingly sells or offers to
9 sell a ticket to an individual that the person knows is younger than
10 21 [~~18~~] years of age.

11 (a-1) A video lottery manager, a video lottery retailer, or
12 an employee of a video lottery manager or video lottery retailer
13 commits an offense if the person intentionally or knowingly allows
14 a person younger than 21 years of age to play a video lottery game.

15 (b) An individual who is younger than 21 [~~18~~] years of age
16 commits an offense if the individual:

17 (1) purchases a ticket;

18 (2) plays a video lottery game; or

19 (3) [~~(2)~~] falsely represents the individual to be 21
20 [~~18~~] years of age or older by displaying evidence of age that is
21 false or fraudulent or misrepresents in any way the individual's
22 age in order to purchase a ticket or play a video lottery game.

23 (c) A person 21 [~~18~~] years of age or older may purchase a
24 ticket to give as a gift to another person, including an individual
25 younger than 21 [~~18~~] years of age.

26 (d) It is a defense to the application of Subsection (b)
27 that the individual younger than 21 [~~18~~] years of age is

1 participating in an inspection or investigation on behalf of the
2 commission or other appropriate governmental entity regarding
3 compliance with this section.

4 (e) An offense under Subsection (a) or (a-1) is a Class C
5 misdemeanor.

6 SECTION 1.25. Section 466.3053, Government Code, is amended
7 to read as follows:

8 Sec. 466.3053. PURCHASE OF TICKET OR VIDEO LOTTERY GAME
9 WITH PROCEEDS OF AFDC CHECK OR FOOD STAMPS. (a) A person commits an
10 offense if the person intentionally or knowingly purchases a ticket
11 or plays a video lottery game with:

12 (1) the proceeds of a check issued as a payment under
13 the Aid to Families with Dependent Children program administered
14 under Chapter 31, Human Resources Code; or

15 (2) a food stamp coupon issued under the food stamp
16 program administered under Chapter 33, Human Resources Code.

17 (b) An offense under this section is a Class C misdemeanor.

18 SECTION 1.26. Section 466.306, Government Code, is amended
19 to read as follows:

20 Sec. 466.306. FORGERY; ALTERATION OF TICKET. (a) A person
21 commits an offense if the person intentionally or knowingly alters
22 or forges a ticket or video lottery ticket.

23 (b) An offense under this section is a felony of the third
24 degree unless it is shown on the trial of the offense that the prize
25 alleged to be authorized by the ticket or video lottery ticket
26 forged or altered is greater than \$10,000, in which event the
27 offense is a felony of the second degree.

1 SECTION 1.27. Section 466.309(a), Government Code, is
2 amended to read as follows:

3 (a) A person commits an offense if the person intentionally
4 or knowingly tampers with, damages, defaces, or renders inoperable
5 any vending machine, electronic computer terminal, video lottery
6 terminal or other video lottery equipment, or other mechanical
7 device used in a lottery game.

8 SECTION 1.28. The heading to Section 466.317, Government
9 Code, is amended to read as follows:

10 Sec. 466.317. PROHIBITION AGAINST SALE OF CERTAIN LOTTERY
11 TICKETS OR OPERATION OF CERTAIN VIDEO LOTTERY SYSTEMS.

12 SECTION 1.29. Section 466.317, Government Code, is amended
13 by adding Subsection (a-1) and amending Subsections (b) and (c) to
14 read as follows:

15 (a-1) A person may not control or operate a video lottery
16 system in this state except as provided by this chapter.

17 (b) The state may enter into a compact with another state or
18 state government [~~or an Indian tribe or tribal government~~] to
19 permit the sale of lottery tickets of this state in the state's[~~7~~
20 ~~tribe's,~~] or government's jurisdiction and to allow the sale of the
21 state's[~~7~~~~tribe's,~~] or government's lottery tickets in this state.

22 (c) A person commits an offense if the person violates this
23 section. An offense under this section is a felony of the third
24 degree [~~Class A misdemeanor~~].

25 SECTION 1.30. Section 466.355, Government Code, is amended
26 by amending Subsection (a) and adding Subsection (d) to read as
27 follows:

1 (a) The state lottery account is a special account in the
2 general revenue fund. The account consists of all revenue received
3 from the sale of tickets, license and application fees under this
4 chapter, other than Subchapter K [~~chapter~~], and all money credited
5 to the account from any other fund or source under law. Interest
6 earned by the state lottery account shall be deposited in the
7 unobligated portion of the general revenue fund.

8 (d) Immediately after the comptroller makes the August
9 transfer to the foundation school fund under Subsection (b)(4) and
10 the transfer to the foundation school fund for the following
11 September 15 under Subsection (c), the comptroller shall determine
12 whether the total amount transferred to the foundation school fund
13 from the state lottery fund in the current fiscal year is less than
14 the total amount transferred to the foundation school fund from the
15 state lottery account in the fiscal year ending August 31, 2005. If
16 the comptroller determines that the total amount transferred to the
17 foundation school fund in the current fiscal year is less than the
18 total amount transferred in the fiscal year ending August 31, 2005,
19 the comptroller not later than August 31 shall transfer to the
20 foundation school fund from the state video lottery account in the
21 general revenue fund an amount equal to the difference.

22 SECTION 1.31. Subchapter H, Chapter 466, Government Code,
23 is amended by adding Section 466.360 to read as follows:

24 Sec. 466.360. VIDEO LOTTERY TERMINAL REVENUE. Revenue
25 generated from the operation of video lottery terminals is governed
26 by Subchapter K and commission rules.

27 SECTION 1.32. Section 466.402, Government Code, is amended

1 by adding Subsection (e) to read as follows:

2 (e) This section does not apply to the payment of prizes for
3 video lottery games governed by Subchapter K.

4 SECTION 1.33. Section 466.409, Government Code, is amended
5 to read as follows:

6 Sec. 466.409. TREATMENT OF PRIZE PAYABLE ON TICKET PURCHASE
7 BY INELIGIBLE PERSON. If an individual listed in Section 466.254
8 purchases a ticket or claims or otherwise attempts to collect or
9 receive a lottery prize or a share of a lottery prize or an
10 individual younger than 21 [~~18~~] years of age directly purchases a
11 ticket, the individual is not eligible to receive a prize or share
12 of a prize, and the prize or share of a prize otherwise payable on
13 the ticket is treated as an unclaimed prize as provided by Section
14 466.408.

15 SECTION 1.34. Chapter 466, Government Code, is amended by
16 adding Subchapter K to read as follows:

17 SUBCHAPTER K. VIDEO LOTTERY

18 Sec. 466.501. LEGISLATIVE FINDINGS AND DECLARATIONS. The
19 legislature finds and declares the following:

20 (1) This state's public policy prohibiting gambling is
21 subject only to limited exceptions provided by the Texas Racing Act
22 (Article 179e, Vernon's Texas Civil Statutes) or enumerated in the
23 Texas Constitution and approved by the voters.

24 (2) Any game that is a lottery cannot lawfully be
25 operated in this state unless the game is excepted from the
26 constitutional prohibition against lotteries. In 1991, the
27 electorate approved a constitutional amendment authorizing the

1 state to operate lotteries. In 2005, the electorate approved a
2 constitutional amendment allowing expansion of the existing state
3 lottery through a state-controlled video lottery system allowing
4 video lottery terminals connected to a state-controlled and
5 determined video lottery central system to be placed at locations
6 determined in accordance with law enacted by the legislature.

7 (3) The purpose and intent of this chapter is to carry
8 out the intent of the voters as established by the approval of
9 Section 47-a, Article III, Texas Constitution.

10 (4) The people of this state intend to allow only
11 state-controlled video lottery games to be conducted in this state
12 and only in locations licensed by this state to operate video
13 lottery terminals or at locations on Indian lands under an
14 agreement between this state and the appropriate Indian tribe.

15 (5) This state has the authority and responsibility to
16 control the proliferation of gambling by:

17 (A) limiting the total number of video lottery
18 terminals permitted at authorized locations in this state;

19 (B) limiting video lottery to licensed
20 establishments;

21 (C) extending strict and exclusive state
22 oversight and supervision to all persons, locations, practices, and
23 associations related to the operation of video lottery games; and

24 (D) providing comprehensive law enforcement
25 supervision of video lottery game activities.

26 (6) This state's ability to monitor and control the
27 operation of all video lottery terminals ensures the integrity of

1 the system and provides for the most efficient oversight and
2 supervision. Costs incurred for oversight and supervision of
3 gambling will be significantly less than if video lottery terminals
4 were not operated as part of the video lottery system. In addition,
5 providing for the state-controlled and determined system will
6 defend against criminal infiltration of gambling operations.

7 (7) The video lottery games operated at video lottery
8 terminal establishments under this chapter are controlled and
9 determined by this state in a manner that allows this state to
10 continuously monitor all video lottery terminals and to disable any
11 video lottery terminal for the protection of the public and this
12 state.

13 (8) Through the video lottery system this state will
14 monitor the network of video lottery terminals to ensure maximum
15 security unique to state-operated gambling. Except as may
16 otherwise be required by federal law governing Indian lands, each
17 operating video lottery terminal in this state will be connected to
18 a video lottery central system.

19 (9) By limiting the operation of video lottery
20 terminals to those connected to the state-controlled and determined
21 video lottery system and to certain lands and certain types of
22 games, the legislature seeks to foster this state's legitimate
23 sovereign interest in regulating the growth of gambling activities
24 in this state. Limiting video lottery terminals to those
25 controlled by this state and located at licensed establishments is
26 reasonably designed to defend against the criminal infiltration of
27 gambling operations and adverse impacts on communities statewide.

1 By restricting video lottery terminals to limited locations and
2 video lottery terminals controlled by this state that may be
3 disabled by this state if necessary to protect the public, this
4 state furthers the state's purpose of ensuring that such gambling
5 activities are free from criminal and undesirable elements.

6 (10) This chapter is game-specific and may not be
7 construed to allow the operation of any other form of gambling
8 unless specifically allowed by this chapter. This chapter does not
9 allow the operation of slot machines, dice games, roulette wheels,
10 house-banked games, including house-banked card games, or games in
11 which winners are determined by the outcome of a sports contest that
12 are prohibited under other state law.

13 (11) To effectuate the will of the voters, any video
14 lottery games on lands of Indian tribes must be in strict compliance
15 with state law, unless otherwise required by federal law, or in
16 accordance with a gaming agreement negotiated with the governor and
17 ratified by the legislature.

18 (12) This state has conferred a substantial economic
19 benefit on federally recognized Indian tribes by allowing operation
20 of video lottery terminals on lands held in trust by the Indian
21 tribes and on Indian lands on which gaming is allowed under
22 applicable federal law. Federally recognized Indian tribes have
23 the exclusive right to operate video lottery terminals at locations
24 on the Indian lands in this state without incurring the investment
25 necessary to construct, maintain, and operate racetracks for live
26 racing, and through revenue-sharing both the policy of
27 self-governance for the tribes and this state's interests in

1 generating additional revenue to fund governmental programs can be
2 promoted.

3 (13) The public has an interest in video lottery game
4 operations, and other gaming operations conducted under Section
5 47-a, Article III, Texas Constitution, and this chapter represent
6 an exception to the general policy of this state prohibiting
7 wagering for private gain. Therefore, participation in a video
8 lottery game by a holder of a license, registration, or approval
9 under this chapter is considered a privilege conditioned on the
10 proper and continued qualification of the holder and on the
11 discharge of the affirmative responsibility of each holder to
12 provide to the commission or other regulatory and investigatory
13 authorities established by this chapter any assistance and
14 information necessary to assure that the policies declared by this
15 chapter are achieved. Consistent with this policy, the legislature
16 intends this chapter to:

17 (A) preclude the creation of any property right
18 in any license, registration, or approval issued or granted by this
19 state under this chapter, the accrual of any value to the privilege
20 of participation in any video lottery game operation, or the
21 transfer of a license or permit; and

22 (B) require that participation in video lottery
23 game operations be solely conditioned on the individual
24 qualifications of persons seeking this privilege.

25 (14) Only video lottery terminals lawfully operated in
26 connection with a video lottery system authorized by this
27 subchapter may be lawfully operated on Indian lands under the

1 Johnson Act (15 U.S.C. Section 1175).

2 Sec. 466.502. CONSTRUCTION; APPLICABILITY OF OTHER LAWS.

3 (a) Nothing contained in this chapter may be construed to
4 implicitly repeal or modify existing state laws with respect to
5 gambling, except that the state lottery and video lottery terminals
6 are not prohibited by another law if conducted as authorized under
7 this subchapter.

8 (b) To the extent of any inconsistency between Chapter 2003
9 and this subchapter or a commission rule governing video lottery
10 terminals, this subchapter or the commission rule controls in all
11 matters related to video lottery terminals, including hearings
12 before the State Office of Administrative Hearings.

13 (c) Video lottery equipment operated under commission
14 authority and this chapter is exempt from 15 U.S.C. Section 1172.

15 Sec. 466.505. AUTHORITY TO OPERATE VIDEO LOTTERY SYSTEM.

16 (a) The commission may implement and operate a video lottery system
17 and control the operation of video lottery terminals at video
18 lottery terminal establishments in accordance with this chapter
19 and, for a video lottery terminal establishment at a racetrack, the
20 Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).
21 This chapter supersedes any conflicting or inconsistent provision
22 of the Texas Racing Act.

23 (b) The commission may allow the operation of video lottery
24 terminals pursuant to this chapter at locations on Indian lands in
25 accordance with an effective gaming agreement or license and in
26 compliance with applicable federal law.

27 Sec. 466.506. VIDEO LOTTERY GAMES; STATE OWNERSHIP AND

1 PROPRIETARY INTEREST. (a) This state must own all video lottery
2 games conducted through the video lottery system, regardless of
3 ownership of the video lottery terminal on which the game is played.

4 This state must possess a proprietary interest in:

5 (1) the main logic boards and any electronic storage
6 medium used in video lottery equipment or games; and

7 (2) software consisting of computer programs,
8 documentation, and other related materials necessary for the
9 operation of the video lottery system.

10 (b) For purposes of this chapter, this state may acquire a
11 proprietary interest in video lottery game software through:

12 (1) ownership of the software; or

13 (2) an exclusive product license agreement with a
14 provider in which the provider retains copyrighted ownership of the
15 software but the license granted to this state is nontransferable
16 and authorizes this state to operate the software program, solely
17 for the state's own use, on the video lottery central system and
18 video lottery terminals connected to the video lottery central
19 system.

20 Sec. 466.507. STATE CONTROL OF VIDEO LOTTERY SYSTEM. (a)
21 The commission shall control and operate the video lottery system
22 and the video lottery central system.

23 (b) The commission may disable a video lottery terminal if a
24 video lottery retailer's or video lottery manager's license is
25 revoked, surrendered, or summarily suspended under this
26 subchapter.

27 Sec. 466.510. VIDEO LOTTERY CENTRAL SYSTEM. (a) The

1 commission shall establish or cause to be established a video
2 lottery central system to link all video lottery terminals in the
3 video lottery system through which the commission has the exclusive
4 and unilateral ability to:

5 (1) control and determine the outcome of all video
6 lottery games;

7 (2) monitor activity of video lottery terminals and
8 remotely disable video lottery terminals for the public safety,
9 health, and welfare or the preservation of the integrity of the
10 lottery; and

11 (3) provide the auditing and other information
12 required by the commission.

13 (b) The video lottery central system must be a central
14 determinant system that provides lottery outcomes from a central
15 determination computer that are transferred to video lottery
16 terminals in a manner prescribed by the commission.

17 (c) The commission shall provide to a registered video
18 lottery terminal provider or an applicant applying for registration
19 as a video lottery terminal provider the protocol documentation
20 data necessary to enable the provider's or applicant's video
21 lottery terminals to communicate with the commission's video
22 lottery central system for the transmission of auditing information
23 and for activation and disabling of video lottery terminals.

24 (d) The video lottery central system may not limit or
25 preclude potential providers from providing the video lottery
26 terminals, other than providers that fail to meet specifications
27 established by the commission.

1 (e) The video lottery central system provider may not sell
2 or distribute video lottery terminals in this state.

3 (f) The commission may contract with a video lottery central
4 system provider to establish the video lottery central system.

5 (g) The commission may not contract with a person to provide
6 the video lottery central system if within the preceding five years
7 that person owned any interest in a racetrack or pari-mutuel
8 license in this state.

9 Sec. 466.511. VIDEO LOTTERY TERMINAL PROVIDER:
10 REGISTRATION OR APPROVAL REQUIRED. (a) A person may not
11 manufacture or distribute video lottery equipment for use or play
12 in this state unless the person is registered as a video lottery
13 terminal provider or is otherwise approved by the commission to
14 manufacture or distribute video lottery equipment in this state.

15 (b) A person who manufactures and distributes video lottery
16 terminals must obtain a separate certificate of registration or
17 approval for each of those activities.

18 (c) Unless suspended or revoked, the registration or
19 approval expires on the date specified by the commission, which may
20 not be later than the fifth anniversary of the date of the
21 registration or approval. A person may renew an unexpired
22 registration or approval by paying a renewal fee in the amount
23 determined by the commission to cover the costs of administering
24 the renewal application and complying with the requirements of this
25 subchapter and commission rule.

26 (d) To be eligible for registration or commission approval
27 as required by this section, an applicant must satisfy all

1 applicable requirements under this subchapter.

2 Sec. 466.512. VIDEO LOTTERY TERMINAL PROVIDER: APPLICATION;
3 CHANGE IN INFORMATION. (a) The commission shall adopt rules
4 governing the registration or approval of video lottery terminal
5 providers. The rules must require:

6 (1) the application and any other form or document
7 submitted to the commission by or on behalf of the applicant to
8 determine the applicant's qualification under this section to be
9 sworn to or affirmed before an officer qualified to administer
10 oaths; and

11 (2) the certificate of registration or approval to
12 designate whether the provider is a manufacturer or distributor.

13 (b) An applicant seeking registration or approval as a video
14 lottery terminal provider to manufacture and distribute video
15 lottery terminals in this state may apply for both certificates of
16 registration or approvals in a single application.

17 (c) An applicant for a video lottery terminal provider
18 registration or approval must provide the following information:

19 (1) the full name and address of the applicant;

20 (2) the full name and address of each location at which
21 video lottery equipment is or will be manufactured or stored in this
22 state;

23 (3) the name, home address, and share of ownership of
24 the applicant's substantial interest holders;

25 (4) a full description of each separate type of video
26 lottery equipment that the applicant seeks to manufacture or
27 distribute in this state;

1 (5) the brand name under which each type of video
2 lottery equipment is to be distributed;

3 (6) if the applicant is incorporated under law other
4 than the laws of this state, the applicant's irrevocable
5 designation of the secretary of state as the applicant's resident
6 agent for service of process and notice in accordance with the law
7 of this state;

8 (7) a list of all businesses or organizations in this
9 state in which the applicant has any financial interest and the
10 details of that financial interest, including all arrangements
11 through which a person directly or indirectly receives any portion
12 of the profits of the video lottery terminal provider and
13 indebtedness between the license holder and any other person, other
14 than a regulated financial institution, in excess of \$5,000;

15 (8) a list of all affiliated businesses or
16 corporations in which the applicant or an officer, director, or
17 substantial interest-holder of the applicant, either directly or
18 indirectly, owns or controls as a sole proprietor or partner more
19 than 10 percent of the voting stock of a publicly traded
20 corporation;

21 (9) a list of all businesses or corporations licensed
22 to conduct gambling activities or to supply gambling-related
23 equipment, supplies, or services in which the applicant or an
24 officer, director, or substantial interest-holder of the applicant
25 has any interest;

26 (10) a list of all jurisdictions in which the
27 applicant or an officer, director, or substantial interest-holder

1 of the applicant has been licensed, registered, qualified, or
2 otherwise approved to conduct gambling-related activities during
3 the 10 years preceding the date of the filing of the application;

4 (11) a statement, including all related details,
5 indicating whether the applicant or an officer, director, or
6 substantial interest-holder of the applicant has ever had a
7 license, registration, qualification, or other approval for
8 gambling-related activities denied, revoked, or suspended by any
9 jurisdiction or has been fined or otherwise required to pay
10 penalties or monetary forfeitures for gambling-related activities
11 in any jurisdiction; and

12 (12) a statement acknowledging that the applicant will
13 make available for review at the time and place requested by the
14 commission all records related to the ownership or operation of the
15 business.

16 (d) The commission may require the following information
17 from an applicant:

18 (1) personal financial and personal history records of
19 all substantial interest-holders;

20 (2) all records related to the scope of activity,
21 including sales of product, purchases of raw materials and parts,
22 and any contracts, franchises, patent agreements, or similar
23 contracts or arrangements related to manufacturing or distributing
24 video lottery terminals; and

25 (3) records related to any financial or management
26 control of or by customers and suppliers.

27 (e) The applicant must demonstrate the ability to comply

1 with all manufacturing, quality control, and operational
2 restrictions imposed on authorized video lottery equipment,
3 patented or otherwise restricted video lottery games, or other
4 video lottery equipment that the applicant seeks to manufacture or
5 distribute for use in this state. The registration or approval
6 process must include an on-site review of the applicant's
7 manufacturing equipment and process for each separate type of
8 authorized video lottery equipment to ensure compliance with the
9 requirements of this chapter and commission rules.

10 (f) Not later than the 10th day after the date of any change
11 in the information submitted on or with the application form, the
12 applicant shall notify the commission of the change, including a
13 change that occurs after the registration or other commission
14 approval has been granted.

15 (g) The applicant shall comply with all federal and state
16 laws, local ordinances, and rules.

17 Sec. 466.513. VIDEO LOTTERY TERMINAL PROVIDER: APPLICATION
18 AND REGISTRATION OR APPROVAL FEE. (a) An applicant seeking
19 registration or approval or renewal of registration or approval as
20 a video lottery terminal provider must pay a nonrefundable
21 application fee in the amount of \$100,000 and an annual fee due on
22 each anniversary of initial registration or approval of \$100,000.

23 (b) An applicant seeking registration or approval as both a
24 manufacturer and distributor must pay a separate application and
25 annual fee for each registration or approval.

26 (c) Application fees paid under this section shall be
27 retained by the commission to defray costs incurred in the

1 administration and enforcement of this chapter relating to the
2 operation of video lottery terminals.

3 Sec. 466.520. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY
4 MANAGER LICENSE REQUIRED. (a) Except as provided by a gaming
5 agreement, a person may not own or operate a video lottery terminal
6 if the person does not satisfy the requirements of this subchapter
7 and is not licensed by the commission to act as a video lottery
8 retailer or video lottery manager.

9 (b) A federally recognized Indian tribe may obtain a license
10 as a video lottery retailer to conduct video lottery games on Indian
11 lands as an alternative to operating those games under a gaming
12 agreement under this subchapter. A retailer license issued by the
13 commission to the tribe constitutes an agreement between the tribe
14 and this state for purposes of the Indian Gaming Regulatory Act of
15 1988 (25 U.S.C. Sec. 2701 et seq.).

16 Sec. 466.521. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY
17 MANAGER: APPLICATION AND QUALIFICATION. (a) An applicant for a
18 video lottery retailer or video lottery manager license must apply
19 to the commission under rules adopted by the commission, provide
20 the information necessary to determine the applicant's eligibility
21 for a license, and provide other information considered necessary
22 by the commission.

23 (b) Except as provided by Section 466.520(b) or other law,
24 an applicant for a video lottery retailer license must hold a valid
25 racing license granted under the Texas Racing Act (Article 179e,
26 Vernon's Texas Civil Statutes) and operate a racetrack as defined
27 by Section 466.002.

1 (c) An applicant for a video lottery manager license must:

2 (1) have a valid and executed contract with a
3 racetrack that satisfies the requirements of Subsection (b) to act
4 as a video lottery manager for the racetrack subject to licensing
5 under this chapter; or

6 (2) demonstrate to the commission's satisfaction that
7 the applicant seeks to act as a video lottery manager for a
8 federally recognized Indian tribe that:

9 (A) has entered into a gaming agreement with this
10 state that is in effect and governs the regulation of video lottery
11 terminals on Indian lands in this state; or

12 (B) has obtained a license as a video lottery
13 retailer in accordance with this subchapter.

14 (d) Each officer, partner, director, key employee,
15 substantial interest-holder, video lottery game operation
16 employee, and owner of video lottery game operations must be
17 eligible and maintain eligibility in accordance with this
18 subchapter to be involved in video lottery games in this state.

19 (e) An applicant for a video lottery retailer or video
20 lottery manager license has the burden of proving qualification for
21 a license by clear and convincing evidence. In addition to
22 satisfying minimum requirements established by commission rules,
23 an applicant for a video lottery retailer or video lottery manager
24 license must:

25 (1) be a person of good character, honesty, and
26 integrity;

27 (2) be a person whose background and prior activities,

1 including criminal record, reputation, habits, and associations,
2 do not pose a threat to the security and integrity of video lottery
3 or to the public interest of this state or to the effective
4 operation and control of video lottery, or do not create or enhance
5 the dangers of unsuitable, unfair, or illegal practices, methods,
6 and activities in the conduct of video lottery or in the carrying on
7 of the business and financial arrangements incidental to video
8 lottery;

9 (3) if applying for a new license, provide
10 fingerprints for a criminal records evaluation by the Texas
11 Department of Public Safety or other law enforcement agency,
12 including fingerprints for each person required to be named in an
13 application, accompanied by a signed authorization for the release
14 of information to the commission by the department of public safety
15 and the Federal Bureau of Investigation;

16 (4) not have been convicted of an offense under this
17 chapter or of any crime related to theft, bribery, gambling, or
18 involving moral turpitude;

19 (5) demonstrate adequate business probity,
20 competence, experience, and financial stability as defined by the
21 commission;

22 (6) demonstrate adequate financing for the operation
23 of the facility at which the video lottery terminals will be
24 operated from a source that meets the requirements of this
25 subchapter and is adequate to support the successful performance of
26 the duties and responsibilities of the license holder and disclose
27 all financing or refinancing arrangements for the purchase, lease,

1 or other acquisition of video lottery equipment in the degree of
2 detail requested by the commission;

3 (7) when applying for a new license or renewing a
4 license under this chapter, present evidence to the commission of
5 the existence and terms of any agreement regarding the proceeds
6 from the operation of video lottery terminals;

7 (8) demonstrate that each substantial interest-holder
8 in the applicant meets all applicable qualifications under this
9 subchapter;

10 (9) provide all information, including financial data
11 and documents, consents, waivers, and any other materials,
12 requested by the commission for purposes of determining
13 qualifications for a license; and

14 (10) as part of its application, expressly waive any
15 and all claims against the commission, this state, and a member,
16 officer, employee, or authorized agent of the commission or this
17 state for damages resulting from any background investigation,
18 disclosure, or publication relating to an application for a video
19 lottery retailer or video lottery manager license.

20 (f) An application or disclosure form and any other document
21 submitted to the commission by or on behalf of the applicant for
22 purposes of determining qualification for a video lottery retailer
23 or video lottery manager license must be sworn to or affirmed before
24 an officer qualified to administer oaths.

25 (g) An applicant who knowingly fails to reveal any fact
26 material to qualification for a license, finding of suitability, or
27 other approval or who knowingly submits false or misleading

1 material information is ineligible for a video lottery retailer or
2 video lottery manager license.

3 (h) An applicant for a license or renewal of a license as a
4 video lottery retailer or video lottery manager shall notify the
5 commission of any change in the application information for a
6 license or renewal of a license not later than the 10th day after
7 the date of the change, except that a publicly traded corporation or
8 other business association or entity applicant is not required to
9 notify the commission of a transfer by which any person directly or
10 indirectly becomes the beneficial owner of less than 10 percent of
11 the stock of the corporation or association.

12 (i) Except as provided by Section 466.525(c), the
13 commission shall deny an application for a license or shall suspend
14 or revoke a license if the commission finds that the applicant would
15 be subject to denial or revocation of a sales agent license under
16 Section 466.155.

17 Sec. 466.522. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY
18 MANAGER: APPLICATION FEE AND ANNUAL LICENSE. (a) An applicant for
19 a video lottery retailer or video lottery manager license must pay a
20 nonrefundable application fee in the amount of:

21 (1) \$500,000 for an applicant applying to operate a
22 video lottery terminal establishment at a class 1 racetrack or a
23 greyhound racetrack; or

24 (2) \$200,000 for an applicant applying to operate a
25 video lottery terminal establishment at a class 2 or class 3
26 racetrack.

27 (b) A video lottery retailer or video lottery manager must

1 pay an annual license fee due on each anniversary of initial
2 licensing in the amount of:

3 (1) \$50,000 for a license holder operating a video
4 lottery terminal establishment at a class 1 racetrack or a
5 greyhound racetrack; or

6 (2) \$25,000 for a license holder operating a video
7 lottery terminal establishment at a class 2 or class 3 racetrack.

8 (c) An application may not be processed until the applicant
9 pays the application fee. If the application fee is not received by
10 the 30th day after the date the commission notifies the applicant of
11 the amount of the fee, the application is considered withdrawn and
12 may not be considered by the commission.

13 (d) The commission shall set any additional application fee
14 necessary to pay the costs of determining the applicant's
15 eligibility, including costs to conduct all investigations
16 necessary for processing the application. An investigation may not
17 begin until the applicant has submitted all required fees to the
18 commission. If additional fees are required by the commission
19 during the course of the investigation or processing of the
20 application and are not received by the commission by the 15th day
21 after the date the commission notifies the applicant of the amount
22 of the fees, the investigation and evaluation processes shall be
23 suspended.

24 (e) The commission shall retain an application fee paid
25 under this section to defray costs incurred in the administration
26 and enforcement of this chapter relating to the operation of video
27 lottery terminals.

1 Sec. 466.523. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY
2 MANAGER: EMPLOYEE INFORMATION. (a) A video lottery retailer or
3 video lottery manager shall provide to the commission the name and
4 address of each employee involved in the operation of video lottery
5 games and the name and address of the providers of surety and
6 insurance required by Section 466.587.

7 (b) Not later than the 10th day following the date of the
8 change, a license holder must report to the commission any change in
9 an officer, partner, director, key employee, substantial
10 interest-holder, video lottery game operation employee, or owner
11 and any change in a surety or insurance provider.

12 Sec. 466.525. VIDEO LOTTERY TERMINAL ESTABLISHMENT:
13 REQUIREMENTS; LOCATION. (a) A video lottery retailer or video
14 lottery manager may not operate video lottery terminals at any
15 place that is not licensed as a video lottery terminal
16 establishment.

17 (b) The commission by rule shall establish standards for
18 video lottery terminal establishments to ensure that
19 establishments are accessible, safe, comfortable, durable, and of
20 sufficiently high-quality construction to promote investments in
21 establishments and related facilities that foster lasting economic
22 development and continuity in producing state revenue, and that
23 protect the health and welfare of employees, patrons, and all state
24 residents. The standards must include or incorporate high-quality
25 commercial building standards, including safety, air-conditioning,
26 heating, and electrical standards.

27 (c) An applicant for a video lottery terminal establishment

1 license must:

2 (1) consent to the application of state laws with
3 exclusive venue in Travis County, Texas, related to any action
4 arising out of the operation of video lottery terminals;

5 (2) provide office space for at least one commission
6 employee as required by commission rule; and

7 (3) provide free and unrestricted access to the
8 establishment by the commission.

9 (d) An applicant for a video lottery terminal establishment
10 license must provide the maps, surveys, site plans, architectural
11 plans, and financial statements required by the commission and
12 update the information at least annually if required by the
13 commission.

14 (e) Notwithstanding Section 466.155, the commission may not
15 deny, suspend, or revoke a license under this subchapter based on
16 the fact that a video lottery terminal establishment or a proposed
17 video lottery terminal establishment is a location for which a
18 person holds a wine and beer retailer's permit, mixed beverage
19 permit, mixed beverage late hours permit, private club registration
20 permit, or private club late hours permit, issued under Chapter 25,
21 28, 29, 32, or 33, Alcoholic Beverage Code.

22 Sec. 466.526. LICENSE HOLDER AS SALES AGENT. The holder of
23 a video lottery retailer or video lottery manager license may
24 operate as a sales agent for lottery tickets in accordance with this
25 chapter.

26 Sec. 466.527. TERM OF LICENSE, REGISTRATION, OR APPROVAL;
27 RENEWAL ELIGIBILITY. (a) Unless suspended or revoked, a license,

1 certificate of registration, or approval issued under this
2 subchapter expires:

3 (1) except as provided by Subdivision (2), on the date
4 specified in the license, which may not be later than the fifth
5 anniversary of the date of issuance; or

6 (2) for a video lottery retailer license held by a
7 pari-mutuel license holder, on the date the person's pari-mutuel
8 license expires.

9 (b) To be eligible for renewal of a license or certificate,
10 an applicant must satisfy all applicable licensing, registration,
11 or approval requirements under this subchapter, including payment
12 of any renewal fee charged by the commission to cover costs of
13 administering a renewal application.

14 Sec. 466.528. RULES FOR ADDITIONAL LICENSE QUALIFICATIONS.
15 The commission by rule may establish other license qualifications
16 the commission determines are in the public interest and consistent
17 with the declared policy of this state.

18 Sec. 466.529. APPLICATION AS REQUEST FOR CHARACTER
19 DETERMINATION. An application under this subchapter to receive or
20 renew a license, registration, or approval or to be found suitable
21 constitutes a request for a determination of the applicant's
22 general character, integrity, and ability to participate or engage
23 in or be associated with the operation of video lottery terminals.

24 Sec. 466.530. IMMUNITY FOR STATEMENT MADE IN PROCEEDING OR
25 INVESTIGATION. Any written or oral statement made in the course of
26 an official commission proceeding or investigative activities
27 related to an application for commission licensing, registration,

1 or other approval under this subchapter, by any member or agent or
2 any witness testifying under oath that is relevant to the purpose of
3 the proceeding is absolutely privileged and does not impose
4 liability for defamation or constitute a ground for recovery in any
5 civil action.

6 Sec. 466.531. SUITABILITY FINDING. To promote the
7 integrity and security of the lottery, the commission in its
8 discretion may require a suitability finding for any person doing
9 business with or in relation to the operation of video lottery
10 terminals who is not otherwise required to obtain a license,
11 registration, or approval from the commission for the person's
12 video lottery-related operations.

13 Sec. 466.532. SUMMARY SUSPENSION OF VIDEO LOTTERY RETAILER
14 OR VIDEO LOTTERY MANAGER LICENSE; TERMINAL DISABLED. (a) The
15 commission may summarily suspend the license of a video lottery
16 retailer or video lottery manager without notice or hearing if the
17 commission finds the action is necessary to maintain the integrity,
18 security, honesty, or fairness of the operation or administration
19 of the lottery or to prevent financial loss to this state and:

20 (1) the license holder fails to deposit money received
21 from video lottery terminal operations as required by this chapter
22 or commission rule;

23 (2) an event occurs that would render the license
24 holder ineligible for a license under this subchapter;

25 (3) the license holder refuses to allow the
26 commission, the commission's agents, or the state auditor, or their
27 designees, to examine the license holder's books, records, papers,

1 or other objects under Section 466.017; or

2 (4) the executive director learns the license holder
3 failed to disclose information that would, if disclosed, render the
4 video lottery retailer or video lottery manager ineligible for a
5 license under this subchapter.

6 (b) A summary suspension under this section must comply with
7 the notice and procedure requirements provided by Section 466.160.

8 (c) The commission may disable a video lottery terminal
9 operated by a license holder under this subchapter at the time:

10 (1) a proceeding to summarily suspend the license is
11 initiated;

12 (2) the commission discovers the license holder failed
13 to deposit money received from video lottery terminal operation as
14 required if the license is being summarily suspended under this
15 section; or

16 (3) an act or omission occurs that, under commission
17 rules, justifies the termination of video lottery terminal
18 operations to:

19 (A) protect the integrity of the lottery or the
20 public health, welfare, or safety; or

21 (B) prevent financial loss to this state.

22 (d) The commission shall immediately disable a video
23 lottery terminal if necessary to protect the public health,
24 welfare, or safety.

25 Sec. 466.533. LICENSING, REGISTRATION, SUITABILITY, AND
26 REGULATORY APPROVAL AS REVOCABLE PERSONAL PRIVILEGES. (a) An
27 applicant for a license, registration, suitability, or other

1 affirmative regulatory approval under this subchapter does not have
2 any right to the license, registration, suitability, or approval
3 sought.

4 (b) Any license, registration, or suitability or other
5 regulatory approval granted under this subchapter is a revocable
6 privilege, and a holder of the privilege does not acquire any vested
7 right in or under the privilege.

8 (c) The courts of this state do not have jurisdiction to
9 review a decision to deny, limit, or condition the license,
10 registration, suitability, or approval unless the judicial review
11 is sought on the ground that the denial, limitation, or condition is
12 based on a suspect classification, such as race, color, religion,
13 sex, or national origin, in violation of the Equal Protection
14 Clause of the Fourteenth Amendment to the United States
15 Constitution. The state court must affirm the commission's action
16 unless the violation is proven by clear and convincing evidence. If
17 a state court has jurisdiction over a claim under this section, then
18 this state's sovereign immunity is waived only to the extent
19 expressly provided by Section 466.601.

20 (d) A license, registration, suitability, or regulatory
21 approval granted or renewed under this subchapter may not be
22 transferred or assigned to another person, and a license,
23 registration, suitability, or approval may not be pledged as
24 collateral. The purchaser or successor of a person who has been
25 granted a license, registration, suitability, or regulatory
26 approval must independently qualify for a license, registration,
27 suitability, or approval required by this subchapter.

1 (e) The following acts void the license, registration,
2 suitability, or other regulatory approval of the holder unless
3 approved in advance by the commission:

4 (1) the transfer, sale, or other disposition of an
5 interest in the holder that results in a change in the identity of a
6 substantial interest holder; or

7 (2) the sale of the assets of the holder, other than
8 assets bought and sold in the ordinary course of business, or any
9 interest in the assets, to any person not already determined to have
10 met the applicable qualifications of this subchapter.

11 Sec. 466.535. CAPITAL INVESTMENTS AND IMPROVEMENT
12 REQUIREMENTS FOR VIDEO LOTTERY TERMINAL ESTABLISHMENT. (a) A
13 video lottery retailer or video lottery manager shall provide all
14 necessary capital investments and required improvements at a video
15 lottery terminal establishment operated by the retailer or manager.

16 (b) The commission may not issue a license for the operation
17 of a video lottery terminal establishment at a class 2 racetrack
18 that has not made at least \$20 million in capital investments or
19 improvements to new or existing facilities at the racetrack.

20 Sec. 466.536. VIDEO LOTTERY TERMINAL: PROCUREMENT AND FEE.
21 (a) The commission shall provide all video lottery retailers or
22 video lottery managers with a list of registered video lottery
23 terminal providers, video lottery games, and video lottery
24 terminals authorized for operation under this subchapter.

25 (b) At the time and in the manner prescribed by commission
26 rule, a video lottery retailer or video lottery manager shall pay to
27 the commission a fee of \$5,000 for each video lottery terminal

1 delivered to the video lottery terminal establishment operated by
2 the retailer or manager. The commission by rule may allow a video
3 lottery retailer or video lottery manager to replace a
4 malfunctioning video lottery terminal without paying the fee
5 required by this subsection.

6 Sec. 466.537. VIDEO LOTTERY TERMINAL: DISTRIBUTION AND
7 COMMISSION APPROVAL. (a) A video lottery terminal provider may not
8 distribute a video lottery terminal or other video lottery
9 equipment for placement at a video lottery terminal establishment
10 in this state unless the video lottery terminal has been approved by
11 the commission.

12 (b) Only a video lottery terminal provider registered with
13 or approved by the commission may apply for approval of a video
14 lottery terminal or other video lottery equipment.

15 (c) Not later than the 10th day before the date of shipment
16 to a location in this state, a video lottery terminal provider shall
17 file a report with the commission itemizing all video lottery
18 terminals and other video lottery equipment to be provided to a
19 video lottery retailer or video lottery manager in the shipment.

20 Sec. 466.538. VIDEO LOTTERY TERMINAL: TESTING; REPORT. (a)
21 A video lottery terminal provider shall submit two copies of
22 terminal illustrations, schematics, block diagrams, circuit
23 analysis, technical and operation manuals, and any other
24 information requested by the commission for the purpose of
25 analyzing and testing the video lottery terminal or other video
26 lottery equipment.

27 (b) The commission may require up to four working models of

1 a video lottery terminal to be transported to a location designated
2 by the commission for testing, examination, and analysis. The video
3 lottery terminal provider shall pay all the costs of testing,
4 examination, analysis, and transportation of the models. The
5 testing, examination, and analysis of video lottery terminals may
6 require dismantling of the terminal, and some tests may result in
7 damage or destruction to one or more electronic components of the
8 model. The commission may require a video lottery terminal
9 provider to provide specialized equipment or pay for an independent
10 technical expert or laboratory to test the terminal.

11 (c) The video lottery terminal provider shall pay the cost
12 of transporting up to four video lottery terminals to the
13 headquarters of the commission or a location designated by the
14 commission. The commission shall conduct an acceptance test to
15 determine terminal functions and compatibility with the video
16 lottery central system. At the expense of the video lottery
17 terminal provider, the commission may contract with an independent
18 technical expert or laboratory to determine compatibility and
19 terminal functions. If the video lottery terminal fails the
20 acceptance test conducted by the commission, the video lottery
21 terminal provider shall make all modifications required by the
22 commission before distribution in this state.

23 (d) After each test under this section has been completed,
24 the commission shall provide the video lottery terminal provider
25 with a report containing findings, conclusions, and pass or fail
26 results. The report may contain recommendations for modifications
27 to bring a video lottery terminal into compliance with this chapter

1 and commission standards.

2 (e) Before approving a particular video lottery terminal
3 model, the commission may require a field trial period not to exceed
4 60 days for a licensed video lottery terminal establishment to test
5 the terminal. During the trial period, modifications may not be
6 made to the video lottery terminal model unless approved by the
7 commission.

8 Sec. 466.539. VIDEO LOTTERY TERMINAL: INSTALLATION;
9 MODIFICATION REQUEST. (a) A video lottery terminal provider is
10 responsible for the assembly and installation of all video lottery
11 terminals and other video lottery equipment.

12 (b) A video lottery terminal provider or a video lottery
13 retailer or video lottery manager may not change the assembly or
14 operational functions of a video lottery terminal authorized by the
15 commission for placement in this state unless a request for
16 modification of an existing video lottery terminal prototype is
17 approved by the commission. The request must contain:

- 18 (1) a detailed description of the type of change;
19 (2) a detailed description of the reasons for the
20 change; and
21 (3) technical documentation of the change.

22 (c) A video lottery terminal approved by the commission for
23 placement at a video lottery terminal establishment must conform to
24 the exact specifications of the video lottery terminal prototype
25 tested and approved by the commission.

26 Sec. 466.540. VIDEO LOTTERY TERMINAL REMOVAL. (a) If any
27 video lottery terminal that has not been approved by the commission

1 is distributed by a video lottery terminal provider or operated by a
2 video lottery retailer or video lottery manager or if an approved
3 video lottery terminal malfunctions, the commission shall require
4 the terminal to be removed from use and play.

5 (b) The commission may order that an unapproved terminal be
6 seized and destroyed and that a malfunctioning terminal not
7 repaired and returned to play within 30 days or as otherwise
8 prescribed by the commission be disposed of in compliance with
9 Section 466.543(b).

10 (c) The commission may suspend or revoke the license of a
11 video lottery retailer or video lottery manager or the registration
12 of a video lottery terminal provider for the distribution,
13 possession, or operation of an unauthorized video lottery terminal.

14 Sec. 466.541. VIDEO LOTTERY TERMINAL SPECIFICATIONS. (a)
15 The commission shall adopt rules for approval of video lottery
16 terminals, including requirements for video lottery game tickets,
17 maximum and minimum payout, and maximum wagers.

18 (b) A commission-approved video lottery terminal must meet
19 the following minimum specifications:

20 (1) the terminal must:

21 (A) operate through a player's insertion of a
22 coin, currency, voucher, or token into the video lottery terminal
23 that causes the video lottery terminal to display credits that
24 entitle the player to select one or more symbols or numbers or cause
25 the video lottery terminal to randomly select symbols or numbers;

26 (B) allow the player to win additional game play
27 credits, coins, or tokens based on game rules that establish the

1 random selection of winning combinations of symbols or numbers and
2 the number of free play credits, coins, or tokens to be awarded for
3 each winning combination; and

4 (C) allow the player at any time to clear all game
5 play credits and receive a video lottery ticket entitling the
6 player to receive the cash value of those credits;

7 (2) a surge protector must be installed on the
8 electrical power supply line to each video lottery terminal, a
9 battery or equivalent power backup for the electronic meters must
10 be capable of maintaining the accuracy of all accounting records
11 and video lottery terminal status reports for a period of 180 days
12 after power is disconnected from the video lottery terminal, and
13 the power backup device must be in the compartment specified in
14 Subdivision (4);

15 (3) the operation of each video lottery terminal may
16 not be adversely affected by any static discharge or other
17 electromagnetic interference;

18 (4) the main logic boards of all electronic storage
19 mediums must be located in a separate compartment in the video
20 lottery terminal that is locked and sealed by the commission;

21 (5) the instructions for play of each game must be
22 displayed on the video lottery terminal face or screen, including a
23 display detailing the credits awarded for the occurrence of each
24 possible winning combination of numbers or symbols;

25 (6) communication equipment and devices must be
26 installed to enable each video lottery terminal to communicate with
27 the video lottery central system through the use of a

1 communications protocol provided by the commission to each
2 registered video lottery terminal provider, which must include
3 information retrieval and programs to activate and disable the
4 terminal; and

5 (7) a video lottery terminal may be operated only if
6 connected to the video lottery central system, and play on the
7 terminal may not be conducted unless the terminal is connected to
8 the video lottery central system.

9 (c) The commission may reject any instructions for play
10 required under Subsection (b)(5) that the commission determines to
11 be incomplete, confusing, or misleading.

12 Sec. 466.542. VIDEO LOTTERY TERMINALS: HOURS OF OPERATION;
13 COMMUNICATION; LOCATION. (a) The hours of operation for video
14 lottery terminals are subject to restrictions or other conditions
15 provided by commission rules.

16 (b) The commission by rule may prescribe restrictions or
17 conditions on the hours of video lottery terminal operations for
18 purposes determined by the commission, including accounting for and
19 collecting revenue generated by video lottery terminal operations
20 and performing other operational services on the video lottery
21 system.

22 (c) Communication between the video lottery central system
23 and each video lottery terminal must be continuous and on a
24 real-time basis as prescribed by the commission.

25 (d) Except as provided by a gaming agreement, placement or
26 movement of video lottery terminals in a video lottery terminal
27 establishment must be consistent with a commission-approved video

1 lottery terminal establishment floor plan.

2 Sec. 466.543. VIDEO LOTTERY TERMINAL: TRANSPORT;
3 DISPOSITION OF OBSOLETE TERMINAL. (a) The transportation and
4 movement of video lottery terminals into or within this state is
5 prohibited, except as permitted by this subchapter and approved by
6 the commission.

7 (b) An obsolete video lottery terminal or a video lottery
8 terminal that is no longer in operation must be promptly reported to
9 the commission and, if taken out of use and play, must immediately
10 be sold or otherwise transferred to a registered video lottery
11 terminal provider or another person in a jurisdiction outside this
12 state for use in that jurisdiction.

13 Sec. 466.544. VIDEO LOTTERY TERMINALS: MAXIMUM NUMBER.

14 (a) The commission by rule shall establish the maximum number of
15 video lottery terminals that may be operated at each video lottery
16 terminal establishment operated by a video lottery retailer or
17 video lottery manager based on factors prescribed by commission
18 rule, including demographics, to ensure that the number of permits
19 to operate video lottery terminals requested by the retailer or
20 manager is not detrimental to the public health, safety, welfare,
21 and economic development of this state and will result in the
22 optimization of revenue to fund state governmental programs.

23 (b) The commission shall determine the number of video
24 lottery terminals that may be operated by an Indian tribe in
25 connection with the tribe's video lottery system in accordance with
26 the applicable gaming agreement entered into pursuant to this
27 chapter and the criteria prescribed by Subsection (a).

Sec. 466.5445. REGISTRATION OF VIDEO LOTTERY TERMINALS. (a)

A video lottery retailer or video lottery manager may not operate or display a video lottery terminal for play in this state unless the terminal is annually registered with the commission in accordance with this section and the registration certificate is affixed to the terminal.

(b) To obtain a registration certificate under this section, a person must:

(1) file with the commission a registration application on a form prescribed by the commission; and

(2) pay a \$1,000 registration fee to the commission for each video lottery terminal that is the subject of the application.

(c) Chapter 2153 does not apply to a video lottery terminal.

Sec. 466.545. LICENSE AND REGISTRATION INVESTIGATIVE TRUST

FUND. (a) The investigative trust fund is created as a trust fund to pay all expenses incurred by the commission related to oversight investigations of applicants for a license, registration, or approval and of license, registration, or approval holders.

(b) The commission shall determine the amount initially deposited and the amount maintained in the fund by each applicant or license, registration, or approval holder and shall administer the money in the fund as a revolving fund available to the commission.

(c) If the commission does not receive the initial deposit required by Subsection (b) before the 30th day following the date the commission notifies the applicant or license, registration, or approval holder of the initial deposit amount, the commission may

1 not issue or renew the license, registration, or approval. The
2 investigative trust fund is in the state treasury and is held in
3 trust with the comptroller's treasury operations division.

4 (d) Expenses may be advanced from the investigative fund,
5 and expenditures may be made from the fund without regard to any
6 other state law regarding travel expenses of state employees.

7 (e) The commission at least quarterly shall provide each
8 applicant or license, registration, or approval holder a written
9 accounting of the costs and charges incurred in oversight
10 investigations for that applicant or holder. An applicant or a
11 license, registration, or approval holder shall deposit money not
12 later than the 10th day after receipt of the accounting to maintain
13 the fund balance required by the commission.

14 (f) If an applicant for a license, registration, or approval
15 is not licensed, registered, or approved, or if a license,
16 registration, or approval is not renewed, the commission shall
17 refund to the applicant or holder any balance in the fund paid by
18 the applicant or holder not offset by costs incurred in an
19 investigation for that applicant or holder.

20 Sec. 466.546. CONSENT TO COMMISSION DETERMINATION. (a) An
21 application for a license, registration, finding of suitability, or
22 other approval under this chapter constitutes a request to the
23 commission for a decision on the applicant's general suitability,
24 character, integrity, and ability to participate or engage in or be
25 associated with the lottery in the manner or position sought.

26 (b) By filing an application with the commission, the
27 applicant specifically consents to the commission's decision at the

1 commission's election when the application, after filing, becomes
2 moot for any reason other than death.

3 Sec. 466.547. ABSOLUTE AUTHORITY OF COMMISSION. To protect
4 the integrity of the lottery or the public health, welfare, or
5 safety, or to prevent financial loss to this state, the commission
6 has full and absolute power and authority to:

7 (1) deny any application or limit, condition,
8 restrict, revoke, or suspend any license, registration, or finding
9 of suitability or approval; and

10 (2) fine any person licensed, registered, found
11 suitable, or approved for any cause deemed reasonable by the
12 commission.

13 Sec. 466.548. WAIVER OF REQUIREMENTS. (a) The commission
14 may waive, either selectively or by general rule, one or more of the
15 requirements of Sections 466.512 and 466.521 if the commission
16 makes a written finding that the waiver is consistent with the
17 policy of this state, the public health, safety, and welfare, and
18 the integrity of the lottery.

19 (b) The commission may waive any requirement under this
20 chapter for a finding of suitability of an institutional investor
21 that is a substantial interest holder with respect to the
22 beneficial ownership of the voting securities of a publicly traded
23 corporation if the institutional investor holds the securities for
24 investment purposes only and applies for a waiver in compliance
25 with Section 466.549 and commission rules.

26 (c) An institutional investor is not eligible for the
27 waiver, except as otherwise provided by Subsection (f), if the

1 institutional investor beneficially owns, directly or indirectly,
2 more than 15 percent of the voting securities and if any of the
3 voting securities were acquired other than through a debt
4 restructuring.

5 (d) Voting securities acquired before a debt restructuring
6 and retained after a debt restructuring or as a result of an
7 exchange, exercise, or conversion after a debt restructuring, or
8 any securities issued to the institutional investor through a debt
9 restructuring, are considered to have been acquired through a debt
10 restructuring.

11 (e) A waiver granted under Subsection (b) is effective only
12 as long as the institutional investor's direct or indirect
13 beneficial ownership interest in the voting securities meets the
14 limitations set forth in this section, and if the institutional
15 investor's interest exceeds the limitation at any time, the
16 investor is subject to the suitability findings required under this
17 subchapter.

18 (f) An institutional investor that has been granted a waiver
19 under Subsection (b) may beneficially own more than 15 percent, but
20 not more than 19 percent, of the voting securities of a publicly
21 traded corporation registered with or licensed by the commission
22 only:

23 (1) if the additional ownership results from a stock
24 repurchase program conducted by the publicly traded corporation;
25 and

26 (2) on the conditions that:

27 (A) the institutional investor does not purchase

1 or otherwise acquire any additional voting securities of the
2 publicly traded corporation that would result in an increase in the
3 institutional investor's ownership percentage; and

4 (B) the institutional investor reduces its
5 ownership percentage of the publicly traded corporation to 15
6 percent or less before the first anniversary of the date the
7 institutional investor receives constructive notice that it
8 exceeded the 15 percent threshold, based on any public filing by the
9 corporation with the United States Securities and Exchange
10 Commission.

11 (g) The one-year time period under Subsection (f)(2)(B) may
12 be extended for a reasonable time on commission approval.

13 (h) An institutional investor may not be considered to hold
14 voting securities of a publicly traded corporation for investment
15 purposes only unless the voting securities were acquired and are
16 held in the ordinary course of business as an institutional
17 investor and not for the purpose of causing, directly or
18 indirectly, the election of a majority of the members of the board
19 of directors, any change in the corporate charter, bylaws,
20 management, policies, or operations of the corporation registered
21 with or licensed by the commission or any of its gaming affiliates,
22 or any other action which the commission finds to be inconsistent
23 with investment purposes only. The following activities may not be
24 considered to be inconsistent with holding voting securities for
25 investment purposes only:

26 (1) voting, directly or indirectly through the
27 delivery of a proxy furnished by the board of directors, on all

1 matters voted on by the holders of the voting securities;

2 (2) serving as a member of any committee of creditors
3 or security holders formed in connection with a debt restructuring;

4 (3) nominating any candidate for election or
5 appointment to the board of directors in connection with a debt
6 restructuring;

7 (4) accepting appointment or election as a member of
8 the board of directors in connection with a debt restructuring and
9 serving in that capacity until the conclusion of the member's term;

10 (5) making financial and other inquiries of management
11 of the type normally made by securities analysts for information
12 purposes and not to cause a change in management, policies, or
13 operations; and

14 (6) any other activity the commission determines to be
15 consistent with the investment intent.

16 (i) For purposes of this section, "debt restructuring"
17 means:

18 (1) a proceeding under the United States Bankruptcy
19 Code; or

20 (2) any out-of-court reorganization of a person that
21 is insolvent or generally unable to pay the person's debts as they
22 become due.

23 Sec. 466.549. WAIVER APPLICATION REQUIREMENTS. An
24 application for a waiver under Section 466.548(b) must include:

25 (1) a description of the institutional investor's
26 business and a statement as to why the institutional investor meets
27 the definition of an institutional investor set forth in this

1 chapter;

2 (2) a certification, made under oath and penalty of
3 perjury, that:

4 (A) states that the voting securities were
5 acquired and are held for investment purposes only in accordance
6 with Section 466.548;

7 (B) provides that the applicant agrees to be
8 bound by and comply with this chapter and the rules adopted under
9 this chapter, to be subject to the jurisdiction of the courts of
10 this state, and to consent to this state as the choice of forum in
11 the event any dispute, question, or controversy arises regarding
12 the application or any waiver granted under Section 466.548(b); and

13 (C) includes a statement by the signatory
14 explaining the basis of the signatory's authority to sign the
15 certification and bind the institutional investor to its terms;

16 (3) a description of all actions, if any, taken or
17 expected to be taken by the institutional investor related to the
18 activities described in Section 466.548(f);

19 (4) the names, addresses, telephone numbers, dates of
20 birth, and social security numbers of:

21 (A) the officers and directors of the
22 institutional investor or the officers' and directors' equivalents;
23 and

24 (B) the persons that have direct control over the
25 institutional investor's holdings of voting securities of the
26 publicly traded corporation registered with or licensed by the
27 commission;

1 (5) the name, address, telephone number, date of
2 birth, and social security number or federal tax identification
3 number of each person who has the power to direct or control the
4 institutional investor's exercise of its voting rights as a holder
5 of voting securities of the publicly traded corporation registered
6 with or licensed by the commission;

7 (6) the name of each person that beneficially owns
8 more than five percent of the institutional investor's voting
9 securities or other equivalent;

10 (7) a list of the institutional investor's affiliates;

11 (8) a list of all securities of the publicly traded
12 corporation registered with or licensed by the commission that are
13 or were beneficially owned by the institutional investor or its
14 affiliates in the preceding year, including a description of the
15 securities, the amount of the securities, and the date of
16 acquisition or sale of the securities;

17 (9) a list of all regulatory agencies with which the
18 institutional investor or any affiliate that beneficially owns
19 voting securities of the publicly traded corporation registered
20 with or licensed by the commission files periodic reports, and the
21 name, address, and telephone number of the person, if known, to
22 contact at each agency regarding the institutional investor;

23 (10) a disclosure of all criminal or regulatory
24 sanctions imposed during the preceding 10 years and of any
25 administrative or court proceedings filed by any regulatory agency
26 during the preceding five years against the institutional investor,
27 its affiliates, any current officer or director, or any former

1 officer or director whose tenure ended within the preceding 12
2 months, except that for a former officer or director, the
3 information need be provided only to the extent that it relates to
4 actions arising out of or during the person's tenure with the
5 institutional investor or its affiliates;

6 (11) a copy of the institutional investor's most
7 recent Schedule 13D or 13G and any amendments to that schedule filed
8 with the United States Securities and Exchange Commission
9 concerning any voting securities of the publicly traded corporation
10 registered with or licensed by the commission;

11 (12) a copy of any filing made under the Securities
12 Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) with respect to
13 the acquisition or proposed acquisition of voting securities of the
14 publicly traded corporation registered with or licensed by the
15 commission; and

16 (13) any additional information the commission may
17 request.

18 Sec. 466.550. CHANGE IN INVESTMENT FOLLOWING WAIVER;
19 NOTICE. (a) An institutional investor that has been granted a
20 waiver of a finding of suitability under Section 466.548 and that
21 subsequently intends not to hold the investor's voting securities
22 of the publicly traded corporation for investment purposes only or
23 that intends to take any action inconsistent with the investor's
24 prior intent shall, not later than the second business day after the
25 date of the decision, deliver notice to the commission in writing of
26 the change in the investor's investment intent. The commission may
27 then take any action the commission deems appropriate.

1 (b) If the commission finds that an institutional investor
2 has failed to comply with this chapter or should be subject to a
3 finding of suitability to protect the public interest, the
4 commission may require the institutional investor to apply for a
5 finding of suitability.

6 (c) Any publicly traded corporation registered with or
7 licensed by the commission shall immediately notify the commission
8 of any information about, fact concerning, or actions of an
9 institutional investor holding any of its voting securities that
10 may materially affect the institutional investor's eligibility to
11 hold a waiver under Section 466.548.

12 Sec. 466.551. EFFECT OF DENIAL OF LICENSE OR REGISTRATION.

13 (a) A person whose application for a license or registration has
14 been denied may not have any interest in or association with a video
15 lottery retailer or video lottery manager or any other business
16 conducted in connection with video lottery without prior approval
17 of the commission.

18 (b) Any contract between a person holding a license or
19 registration and a person denied a license or registration must be
20 terminated immediately. If the person denied a license or
21 registration has previously been granted a temporary license or
22 registration, the temporary license or registration expires
23 immediately on denial of the permanent license or registration.

24 (c) Except as otherwise authorized by the commission, a
25 person denied a license or registration may not reapply for any
26 license or registration before the second anniversary of the date
27 of the denial.

1 Sec. 466.553. PRACTICE BY VIDEO LOTTERY RETAILER OR VIDEO
2 LOTTERY MANAGER. A video lottery retailer or video lottery manager
3 must:

4 (1) be aware of patron conditions and prohibit play by
5 visibly intoxicated patrons;

6 (2) comply with state alcoholic beverage control laws;

7 (3) at all times maintain sufficient change and cash
8 in denominations accepted by video lottery terminals;

9 (4) promptly report all video lottery terminal
10 malfunctions and down-time;

11 (5) install, post, and display prominently any
12 material required by the commission;

13 (6) prohibit illegal gambling and any related
14 paraphernalia;

15 (7) except as otherwise provided by this chapter, at
16 all times prohibit money lending or other extensions of credit at
17 the video lottery terminal establishment;

18 (8) supervise employees and activities to ensure
19 compliance with all commission rules and this chapter;

20 (9) maintain continuous camera coverage of all aspects
21 of video lottery game operations, including video lottery
22 terminals; and

23 (10) maintain an entry log for each video lottery
24 terminal on the premises of the video lottery terminal
25 establishment and maintain and submit complete records on receipt
26 of each video lottery terminal on the premises as determined by the
27 commission.

1 Sec. 466.554. RACETRACK REQUIREMENTS. (a) Except as
2 provided by Section 466.520(b), other law, or this section, a video
3 lottery retailer at all times must hold a valid pari-mutuel
4 wagering license. The commission may allow a video lottery
5 retailer whose pari-mutuel wagering license has lapsed or been
6 revoked, suspended, or surrendered to reapply for a license in
7 order to operate the video lottery terminal establishment or by
8 rule may establish a period not to exceed two years during which
9 time the video lottery terminal establishment may be operated
10 pending acquisition by a person qualified and licensed under this
11 chapter to operate video lottery terminals.

12 (b) If a video lottery retailer is not licensed as required
13 by Subsection (a) before the second anniversary of the date a
14 license lapses or is revoked, suspended, or surrendered or a new
15 video lottery manager or video lottery retailer is not licensed and
16 authorized to operate the facility before the second anniversary,
17 the racetrack shall permanently lose eligibility under this chapter
18 to operate video lottery terminals.

19 (c) Subject to the commission's discretion, a video lottery
20 retailer may continue to operate the video lottery terminal
21 establishment after the second anniversary of the date a license
22 lapses or is revoked, suspended, or surrendered only to satisfy the
23 establishment's existing outstanding debt attributable to video
24 lottery operation.

25 Sec. 466.556. PRIZE RULES. The commission shall adopt
26 rules governing:

27 (1) the amount a player may be charged to play each

1 video lottery game; and

2 (2) the prizes and credits that may be awarded to the
3 player of a video lottery game.

4 Sec. 466.557. VIDEO LOTTERY CENTRAL SYSTEM: COMMUNICATION
5 TECHNOLOGY. The video lottery central system provider shall pay
6 for the installation and operation of commission-approved
7 communication technology to provide real-time communication
8 between each video lottery terminal and the video lottery central
9 system.

10 Sec. 466.558. RESPONSIBILITY FOR VIDEO LOTTERY GAME
11 OPERATIONS. (a) A video lottery retailer or a video lottery
12 manager, if applicable, is responsible for the management of video
13 lottery game operations, including:

14 (1) the validation and payment of prizes; and

15 (2) the management of cashiers, food and beverage
16 workers, floor workers, security personnel, the security system,
17 building completion, janitorial services, landscaping design, and
18 maintenance.

19 (b) Nothing in Subsection (a) limits the authority of the
20 commission, the Department of Public Safety, or another law
21 enforcement agency to administer and enforce this chapter as
22 related to video lottery.

23 (c) In addition to other requirements under this chapter
24 relating to video lottery, a video lottery retailer or a video
25 lottery manager at all times shall:

26 (1) operate only video lottery terminals that are
27 distributed by a registered video lottery terminal provider and

1 provide a secure location for the placement, operation, and play of
2 the video lottery terminals;

3 (2) prevent any person from tampering with or
4 interfering with the operation of a video lottery terminal;

5 (3) ensure that communication technology from the
6 video lottery central system to the video lottery terminals is
7 connected at all times and prevent any person from tampering or
8 interfering with the operation of the connection;

9 (4) ensure that video lottery terminals are in the
10 sight and control of designated employees of the video lottery
11 retailer or video lottery manager and in the sight of video cameras
12 as required under this subchapter;

13 (5) ensure that video lottery terminals are placed and
14 remain placed in the specific locations in the video lottery
15 terminal establishment that are consistent with the retailer's or
16 manager's commission-approved floor plan;

17 (6) monitor video lottery terminals to prevent a
18 person who is under 21 years of age or who is visibly intoxicated
19 from placing a wager;

20 (7) refuse to accept a credit card payment from a
21 player for the exchange or purchase of video lottery game credits or
22 for an advance of coins, currency, vouchers, or tokens to be used by
23 a player to play video lottery games, refuse to extend credit, in
24 any manner, to a player that enables the player to play a video
25 lottery game, and ensure that any person doing business at the video
26 lottery terminal establishment, including a person operating or
27 managing an auxiliary service such as a restaurant, refuses to

1 accept a credit card payment or to extend credit in a manner
2 prohibited by this subdivision, except that:

3 (A) a license holder may cash a check for a player
4 if the license holder exercises reasonable caution cashing the
5 check and does not cash checks for any player in an amount exceeding
6 \$1,000 in any 24-hour period; and

7 (B) an automated teller machine may be located at
8 a video lottery terminal establishment in compliance with the Texas
9 Racing Act (Article 179e, Vernon's Texas Civil Statutes) or an
10 effective gaming agreement;

11 (8) pay all credits won by a player on presentment of a
12 valid winning video lottery game ticket;

13 (9) conduct only the video lottery game advertising
14 and promotional activities consistent with criteria prescribed by
15 the commission, which must prohibit undue influence, offensive
16 language, and anything that would affect the integrity of video
17 lottery operation;

18 (10) install, post, and display prominently at the
19 licensed location redemption information and other informational
20 or promotional materials as required by the commission;

21 (11) maintain general liability insurance coverage
22 for the video lottery terminal establishment and all video lottery
23 terminals in the amounts required by the commission;

24 (12) assume liability for money lost or stolen from
25 any video lottery terminal; and

26 (13) annually submit an audited financial statement to
27 the commission in a format approved by the commission.

1 Sec. 466.560. TECHNICAL STANDARDS FOR VIDEO LOTTERY
2 EQUIPMENT. The commission by rule shall establish minimum
3 technical standards for video lottery equipment that may be
4 operated in this state.

5 Sec. 466.561. INCIDENT REPORTS. (a) A video lottery
6 retailer or video lottery manager shall record all unusual
7 occurrences related to gaming activity in a video lottery terminal
8 establishment operated by the retailer or manager.

9 (b) A video lottery retailer or video lottery manager shall
10 assign each incident, without regard to materiality, a sequential
11 number and, at a minimum, provide the following information in a
12 permanent record prepared in accordance with commission rules to
13 ensure the integrity of the record:

14 (1) the number assigned to the incident;

15 (2) the date and time of the incident;

16 (3) the nature of the incident;

17 (4) each person involved in the incident; and

18 (5) the name of the employee or other agent of the
19 video lottery retailer or video lottery manager who investigated
20 the incident.

21 Sec. 466.562. EXCLUSION OF PERSONS. (a) The commission
22 shall compile a list of persons that a video lottery retailer or
23 video lottery manager must bar from a video lottery terminal
24 establishment based on a person's criminal history or association
25 with criminal offenders or because the person poses a threat to the
26 integrity of the lottery.

27 (b) A video lottery retailer or video lottery manager shall

1 employ the retailer's or manager's best efforts to exclude such
2 persons from entry into the establishment.

3 (c) A video lottery retailer or video lottery manager may
4 exclude a person for any reason not related to the person's race,
5 sex, national origin, physical disability, or religion.

6 (d) A person who believes the person may be playing video
7 lottery games on a compulsive basis may request that the person's
8 name be placed on the list compiled by the commission under
9 Subsection (a).

10 (e) All video lottery game employees shall receive training
11 in identifying players with a compulsive playing problem and shall
12 be instructed to ask the players to leave the establishment. Signs
13 and other materials shall be readily available to direct compulsive
14 players to agencies that offer appropriate counseling.

15 Sec. 466.563. REPORT ON LITIGATION. (a) A video lottery
16 retailer or video lottery manager shall report to the commission
17 any litigation relating to the retailer's or manager's video
18 lottery terminal establishment, including a criminal proceeding, a
19 proceeding involving an issue related to racing activities that
20 impact video lottery operations, or a matter related to character
21 or reputation relevant to a person's suitability under this
22 subchapter.

23 (b) The report required under Subsection (a) must be filed
24 not later than the fifth day after acquiring knowledge of the
25 litigation.

26 Sec. 466.564. COMMISSION APPROVAL REQUIRED FOR PROCEDURES
27 AND ADMINISTRATIVE AND ACCOUNTING CONTROLS. (a) The commission's

1 approval is required for:

2 (1) all internal procedures and administrative and
3 accounting controls of a video lottery retailer or video lottery
4 manager; and

5 (2) all internal procedures and administrative and
6 accounting controls of a video lottery terminal provider that
7 relate to the manufacturing and distribution of video lottery
8 terminals to be used in this state.

9 (b) The commission by rule shall establish general
10 accounting and auditing requirements and internal control
11 standards for video lottery retailers and video lottery managers.

12 Sec. 466.565. FINANCIAL AND OPERATING INFORMATION. A video
13 lottery retailer or video lottery manager shall submit financial
14 and operating information and statistical data to the commission in
15 a format approved by the commission in order for the financial
16 operating position of the retailer or manager and performance and
17 trends of the video lottery game industry in this state to be
18 evaluated.

19 Sec. 466.566. VIDEO LOTTERY TERMINAL EVENTS. A video
20 lottery retailer or video lottery manager shall keep a database of
21 video lottery terminal events. The commission by rule shall
22 determine what constitutes a video lottery terminal event for
23 purposes of this section.

24 Sec. 466.567. EMPLOYEE REPORTING. (a) On or before the
25 15th day of each month, a video lottery retailer or video lottery
26 manager shall submit to the commission an employee report for the
27 video lottery terminal establishment operated by the retailer or

1 manager. For each employee of the retailer or manager, the report
2 must provide the employee's name, job title, date of birth, and
3 social security number.

4 (b) The employee report is confidential and may not be
5 disclosed except under commission order or in accordance with
6 Section 466.022(c).

7 (c) The commission may conduct criminal history
8 investigations for employees of video lottery retailers and video
9 lottery managers.

10 (d) The commission may prohibit an employee from performing
11 any act relating to video lottery terminals if the commission finds
12 that an employee has:

13 (1) committed, attempted, or conspired to commit any
14 act prohibited by this chapter;

15 (2) concealed or refused to disclose any material fact
16 in any commission investigation;

17 (3) committed, attempted, or conspired to commit
18 larceny or embezzlement;

19 (4) been convicted in any jurisdiction of an offense
20 involving or relating to gambling;

21 (5) accepted employment in a position for which
22 commission approval is required after commission approval was
23 denied for a reason involving personal unsuitability or after
24 failing to apply for a license or approval on commission request;

25 (6) been prohibited under color of governmental
26 authority from being present on the premises of any gaming
27 establishment or any establishment where pari-mutuel wagering is

1 conducted for any reason relating to improper gambling activity or
2 for any illegal act;

3 (7) wilfully defied any legislative investigative
4 committee or other officially constituted body acting on behalf of
5 the United States or any state, county, or municipality that sought
6 to investigate alleged or potential crimes relating to gaming,
7 corruption of public officials, or any organized criminal
8 activities; or

9 (8) been convicted of any felony or any crime
10 involving moral turpitude.

11 (e) The commission may prohibit an employee from performing
12 any act relating to video lottery terminals based on a revocation or
13 suspension of any gaming or wagering license, permit, or approval
14 or for any other reason the commission finds appropriate, including
15 a refusal by a regulatory authority to issue a license, permit, or
16 other approval for the employee to engage in or be involved with the
17 lottery or with regulated gaming or pari-mutuel wagering in any
18 jurisdiction.

19 (f) In this section, "employee" includes any person
20 connected directly with or compensated by an applicant or license
21 holder as an agent, personal representative, consultant,
22 independent contractor, or lobbyist for the advocacy of the
23 adoption or amendment of a law related to gaming or lottery
24 activities or the furtherance of gaming or lottery activities in
25 any jurisdiction or as otherwise specified by commission rule.

26 Sec. 466.568. REPORT OF VIOLATIONS. A person who holds a
27 license or registration under this subchapter shall immediately

1 report a violation or suspected violation of this chapter or a rule
2 adopted under this chapter by any license or registration holder,
3 by an employee of a license or registration holder, or by any person
4 on the premises of a video lottery terminal establishment, whether
5 or not associated with the license or registration holder.

6 Sec. 466.569. SECURITY. (a) In addition to the security
7 provisions applicable under Section 466.020, a video lottery
8 retailer or video lottery manager shall comply with the following
9 security procedures:

10 (1) all video lottery terminals must be continuously
11 monitored through the use of a closed-circuit television system
12 that records activity for a continuous 24-hour period and all video
13 tapes or other media used to store video images shall be retained
14 for at least 30 days and made available to the commission on
15 request;

16 (2) the video lottery retailer or video lottery
17 manager must submit for commission approval a security plan and a
18 floor plan of the area where video lottery terminals are to be
19 operated showing video lottery terminal locations and security
20 camera mount locations; and

21 (3) each license holder shall employ at least the
22 minimum number of private security personnel the commission
23 determines is necessary to provide for safe and approved operation
24 of the video lottery terminal establishment and the safety and
25 well-being of the players.

26 (b) Private security personnel must be present during all
27 hours of operation at each video lottery terminal establishment.

1 (c) An agent or employee of the commission or the Department
2 of Public Safety or other law enforcement personnel may be present
3 at a video lottery terminal establishment at any time.

4 (d) The commission may adopt rules to impose additional
5 surveillance and security requirements related to video lottery
6 terminal establishments and the operation of video lottery
7 terminals.

8 Sec. 466.570. VIDEO LOTTERY TERMINAL ESTABLISHMENT:
9 COMMISSION RIGHT TO ENTER. The commission or the commission's
10 representative after displaying appropriate identification and
11 credentials has the free and unrestricted right to enter the
12 premises of a video lottery terminal establishment and to enter any
13 other locations involved in operation or support of video lottery
14 at all times to examine the systems and to inspect and copy the
15 records of a video lottery retailer or video lottery manager
16 pertaining to the operation of video lottery.

17 Sec. 466.571. APPOINTMENT OF SUPERVISOR. (a) The
18 commission by rule may provide for the appointment of a supervisor
19 to manage and operate a video lottery terminal establishment at the
20 direction of the commission and perform any act that a video lottery
21 retailer or video lottery manager is entitled to perform in the
22 event that:

23 (1) a video lottery retailer license or other license
24 required for operation of the establishment is revoked or
25 suspended, lapses, or is surrendered;

26 (2) a video lottery terminal establishment has been
27 conveyed or transferred to a secured party receiver or trustee who

1 does not hold the licenses necessary to operate the establishment;
2 or

3 (3) any other event occurs that causes the
4 establishment to cease the operation of video lottery terminals.

5 (b) The rules may allow the commission to:

6 (1) take any action or adopt any procedure necessary
7 to operate a video lottery terminal establishment pending the
8 licensing of a video lottery retailer, video lottery manager, the
9 video lottery establishment, or a successor on the transfer or sale
10 of the establishment or property; and

11 (2) if necessary to continue the operation of the
12 video lottery establishment, sell the establishment to a person
13 that holds or has applied for the licenses required to operate the
14 establishment under this subchapter and make appropriate
15 distributions of the proceeds of the sale.

16 Sec. 466.586. OFFENSE: CONVEYANCE OF VIDEO LOTTERY
17 TERMINAL ESTABLISHMENT PROPERTY. (a) A person commits an offense
18 if during the pendency of any proceeding before the commission that
19 may result in the appointment of a supervisor or during the period
20 of supervision the person:

21 (1) sells, leases, or otherwise conveys for less than
22 full market value or pledges as security any property of a video
23 lottery terminal establishment; or

24 (2) removes from this state or secretes from the
25 commission or the supervisor any property, money, books, or records
26 of the video lottery terminal establishment, including evidences of
27 debts owed to the establishment.

1 (b) An offense under Subsection (a) is a felony of the third
2 degree.

3 Sec. 466.587. INDEMNIFICATION, INSURANCE, AND BONDING
4 REQUIREMENTS. (a) A license or registration holder shall
5 indemnify and hold harmless this state, the commission, and all
6 officers and employees of this state and the commission from any and
7 all claims which may be asserted against a license or registration
8 holder, the commission, this state, and the members, officers,
9 employees, and authorized agents of this state or the commission
10 arising from the license or registration holder's participation in
11 the video lottery system authorized under this chapter.

12 (b) Surety and insurance required under this subchapter
13 shall be issued by companies or financial institutions financially
14 rated "A" or better as rated by A.M. Best Company or other rating
15 organization designated by the commission and duly licensed,
16 admitted, and authorized to conduct business in this state, or by
17 other surety approved by the commission.

18 (c) The commission shall be named as the obligee in each
19 required surety and as an additional insured in each required
20 insurance contract.

21 (d) A video lottery retailer or video lottery manager may
22 not be self-insured with regard to video lottery terminal
23 operations under this section.

24 (e) The commission by rule shall establish minimum
25 insurance coverage requirements for a video lottery retailer, video
26 lottery manager, or video lottery terminal provider, including:

27 (1) insurance for performance;

1 (2) insurance against losses caused by fraudulent or
2 dishonest acts by an officer or employee of a video lottery
3 retailer, video lottery manager, or video lottery terminal
4 provider;

5 (3) general liability insurance;

6 (4) property insurance;

7 (5) liability insurance for drivers and vehicles
8 employed by a video lottery retailer or video lottery manager; and

9 (6) crime insurance for the location.

10 Sec. 466.588. LIABILITY FOR CREDIT AWARDED OR DENIED;
11 PLAYER DISPUTE. This state and the commission are not liable for
12 any video lottery terminal malfunction or error by a video lottery
13 retailer, video lottery manager, or video lottery terminal provider
14 that causes credit to be wrongfully awarded or denied to players.

15 Sec. 466.589. STATE VIDEO LOTTERY ACCOUNT. (a) The
16 commission shall deposit money received under this subchapter to
17 the state video lottery account. The state video lottery account is
18 a special account in the general revenue fund. The account consists
19 of all revenue received by this state from the operation of video
20 lottery terminals. Except as otherwise provided by this
21 subchapter, money in the account may be used solely to fund public
22 education and other state governmental programs and the
23 administration of the video lottery system.

24 (b) Not more than two percent of the net terminal income
25 received by this state under Section 466.590 may be used to defray
26 expenses incurred in administering this chapter related to video
27 lottery, including expenses incurred to operate the video lottery

1 central system.

2 Sec. 466.590. ALLOCATION OF NET TERMINAL INCOME; TRANSFER
3 OF MONEY. (a) Net terminal income derived from the operation of
4 video lottery games in this state is allocated as follows:

5 (1) net terminal income generated from the operation
6 of video lottery terminals at a video lottery terminal
7 establishment shall be distributed 65 percent to the establishment
8 and 35 percent to this state; and

9 (2) net terminal income generated from the operation
10 of video lottery terminals on Indian lands under a gaming agreement
11 authorized under this subchapter shall be distributed in the amount
12 set forth in the gaming agreement.

13 (b) One-quarter of one percent of the net terminal income
14 received by this state under Subsection (a)(1) shall be allocated
15 to a compulsive gambling program to be established by the
16 commission.

17 (c) One-quarter of one percent of the net terminal income
18 received by this state under Subsection (a)(1) shall be transferred
19 to the Equine Research Program at the College of Veterinary
20 Medicine at Texas A&M University for use in equine research under
21 Subchapter F, Chapter 88, Education Code, and greyhound research.

22 (c-1) One-quarter of one percent of the net terminal income
23 received by this state under Subsection (a)(1) shall be allocated
24 to:

25 (1) the municipality in which the video lottery
26 terminal establishment is located; and

27 (2) the county in which the video lottery terminal

1 establishment is located.

2 (c-2) If a video lottery terminal establishment is located
3 in an unincorporated area, one-half of one percent of the net
4 terminal income received by this state under Subsection (a)(1)
5 shall be allocated to the county in which the establishment is
6 located.

7 (d) The commission shall require a video lottery retailer or
8 video lottery manager to establish a separate electronic funds
9 transfer account for depositing money from video lottery terminal
10 operations, making payments to the commission or its designee, and
11 receiving payments from the commission or its designee.

12 (e) A video lottery retailer or video lottery manager may
13 not make payments to the commission in cash. As authorized by the
14 commission, a video lottery retailer or video lottery manager may
15 make payments to the commission by cashier's check.

16 (f) The commission at least daily shall transfer this
17 state's share of net terminal income of a video lottery retailer or
18 video lottery manager to the commission through the electronic
19 transfer of the money.

20 (g) The commission by rule shall establish the procedures
21 for:

22 (1) depositing money from video lottery terminal
23 operations into electronic funds transfer accounts; and

24 (2) handling money from video lottery terminal
25 operations.

26 (h) Unless otherwise directed by the commission, a video
27 lottery retailer or a video lottery manager shall maintain in its

1 account this state's share of the net terminal income from the
2 operation of video lottery terminals, to be electronically
3 transferred by the commission on dates established by the
4 commission. On a license holder's failure to maintain this
5 balance, the commission may disable all of a license holder's video
6 lottery terminals until full payment of all amounts due is made.
7 Interest shall accrue on any unpaid balance at a rate consistent
8 with the amount charged under Section 111.060, Tax Code. The
9 interest shall begin to accrue on the date payment is due to the
10 commission.

11 (i) In the commission's sole discretion, rather than
12 disable a license holder's video lottery terminals under Subsection
13 (f), the commission may elect to impose a fine on a license holder
14 in an amount determined by the commission not to exceed \$250,000 for
15 each violation. If the license holder fails to remedy the
16 violation, including payment of any amounts assessed by or due to
17 this state, within 10 days, the commission may disable the license
18 holder's video lottery terminals or use any other means for
19 collection as provided by the penalty chart established by the
20 commission.

21 (j) A video lottery retailer or video lottery manager is
22 solely responsible for resolving any income discrepancies between
23 actual money collected and the net terminal income reported by the
24 video lottery central system. Unless an accounting discrepancy is
25 resolved in favor of the video lottery retailer or video lottery
26 manager, the commission may not make any credit adjustments. Any
27 accounting discrepancies which cannot otherwise be resolved shall

1 be resolved in favor of the commission.

2 (k) A video lottery retailer and video lottery manager shall
3 remit payment as directed by the commission if the electronic
4 transfer of money is not operational or the commission notifies the
5 license holder that other remittance is required. The license
6 holder shall report this state's share of net terminal income, and
7 remit the amount generated from the terminals during the reporting
8 period.

9 Sec. 466.591. COMMISSION EXAMINATION OF FINANCIAL RECORDS.

10 The commission may examine all accounts, bank accounts, financial
11 statements, and records in the possession or control of a person
12 licensed under this subchapter or in which the license holder has an
13 interest. The license holder must authorize and direct all third
14 parties in possession or in control of the accounts or records to
15 allow examination of any of those accounts or records by the
16 commission.

17 Sec. 466.592. FINANCIAL INFORMATION REQUIRED. (a) A video
18 lottery retailer or video lottery manager shall furnish to the
19 commission all information and bank authorizations required to
20 facilitate the timely transfer of money to the commission.

21 (b) A video lottery retailer or video lottery manager must
22 provide the commission 30 days' advance notice of any proposed
23 account changes in information and bank authorizations to assure
24 the uninterrupted electronic transfer of money.

25 (c) The commission is not responsible for any interruption
26 or delays in the transfer of money. The video lottery retailer or
27 video lottery manager is responsible for any interruption or delay

1 in the transfer of money.

2 Sec. 466.593. DEDUCTIONS FROM VIDEO LOTTERY PROCEEDS AT
3 HORSE RACETRACKS. A racetrack that conducts horse races under the
4 Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes)
5 shall allocate a percentage of its share of net terminal income
6 retained under Section 466.590(a) to a purse fund as provided by
7 Section 6.095, Texas Racing Act (Article 179e, Vernon's Texas Civil
8 Statutes).

9 Sec. 466.594. DEDUCTIONS FROM VIDEO LOTTERY PROCEEDS AT
10 GREYHOUND RACETRACKS. A racetrack that conducts greyhound races
11 under the Texas Racing Act (Article 179e, Vernon's Texas Civil
12 Statutes) shall allocate a percentage of its share of net terminal
13 income retained under Section 466.590(a) to a purse fund as
14 provided by Section 6.095, Texas Racing Act (Article 179e, Vernon's
15 Texas Civil Statutes).

16 Sec. 466.595. LIABILITY OF VIDEO LOTTERY RETAILER AND VIDEO
17 LOTTERY MANAGER. (a) A video lottery retailer, video lottery
18 manager, or both, are liable to the commission for the state's share
19 of net terminal income reported by the video lottery central
20 system.

21 (b) Net terminal income received by the video lottery
22 retailer or video lottery manager is held in trust for the benefit
23 of this state before delivery of the state's share to the commission
24 or electronic transfer to the state treasury, and the video lottery
25 retailer or video lottery manager, or both, are liable to the
26 commission for the full amount of the money held in trust.

27 (c) If the video lottery retailer or video lottery manager

1 is not an individual, each officer, director, or owner of the video
2 lottery retailer or video lottery manager is personally liable to
3 the commission for the full amount of the money held in trust,
4 except that shareholders of a publicly held corporation shall be
5 liable in an amount not to exceed the value of their equity
6 investment.

7 Sec. 466.596. PRIZE PAYMENT AND REDEMPTION. (a) Payment of
8 prizes is the sole and exclusive responsibility of the video
9 lottery retailer or video lottery manager. A prize may not be paid
10 by the commission or this state except as otherwise authorized.

11 (b) Nothing in this subchapter limits the ability of a video
12 lottery retailer or video lottery manager to provide promotional
13 prizes, including wide area progressive networks, in addition to
14 prize payouts regulated by the commission.

15 (c) A video lottery ticket must be redeemed not later than
16 the 180th day following the date of issuance. If a claim is not made
17 for prize money on or before the 180th day after the date on which
18 the video lottery ticket was issued, the prize money becomes the
19 property of this state.

20 (d) The commission shall enact rules consistent with this
21 section governing the use and redemption of prizes and credits
22 recorded on electronic player account records, such as players'
23 club cards and smart cards.

24 Sec. 466.597. REVOCATION OF LICENSE, REGISTRATION, OR OTHER
25 REGULATORY APPROVAL. (a) The commission shall revoke or suspend a
26 license, registration, or other regulatory approval issued under
27 this subchapter if the holder of the license, registration, or

1 approval at any time fails to meet the eligibility requirements set
2 forth in this subchapter.

3 (b) Failure to timely remit revenue generated by video
4 lottery terminals to the commission or any tax or other fee owed to
5 this state as demonstrated by report from the applicable taxing
6 authority or to timely file any report or information required
7 under this subchapter as a condition of any license, registration,
8 or other approval issued under this subchapter may be grounds for
9 suspension or revocation, or both, of a license, registration, or
10 other approval issued under this subchapter.

11 Sec. 466.598. HEARING FOR REVOCATION OR SUSPENSION OF
12 REGISTRATION OR LICENSE. (a) Before the commission revokes or
13 suspends a video lottery terminal provider's registration or video
14 lottery retailer's or video lottery manager's license, or imposes
15 monetary penalties for a violation of this subchapter, the
16 commission shall provide written notification to the license or
17 registration holder of the revocation, the period of suspension, or
18 the monetary penalty. The notice shall include:

19 (1) the effective date of the revocation or the period
20 of suspension or the amount of the monetary penalty, as applicable;

21 (2) each reason for the revocation, suspension, or
22 penalty;

23 (3) an explanation of the evidence supporting the
24 reasons;

25 (4) an opportunity to present the license or
26 registration holder's position in response on or before the 15th
27 day after the effective date of the revocation; and

1 (5) a statement explaining the person's right to an
2 administrative hearing to determine whether the revocation,
3 suspension, or penalty is warranted.

4 (b) The notice required under Subsection (a) must be made by
5 personal delivery or by mail to the person's mailing address as it
6 appears on the commission's records.

7 (c) To obtain an administrative hearing on a suspension,
8 revocation, or penalty under this section, a person must submit a
9 written request for a hearing to the commission not later than the
10 20th day after the date notice is delivered personally or is mailed.

11 (d) If the commission receives a timely request under
12 Subsection (c), the commission shall provide the person with an
13 opportunity for a hearing as soon as practicable. If the commission
14 does not receive a timely request under Subsection (c), the
15 commission may impose the penalty, revoke or suspend a license or
16 registration, or sustain the revocation or suspension without a
17 hearing.

18 (e) Except as provided by Subsection (f) the hearing must be
19 held not earlier than the 11th day after the date the written
20 request is submitted to the commission.

21 (f) The commission may provide that a revocation or
22 suspension takes effect on receipt of notice under Subsection (a)
23 if the commission finds that the action is necessary to prevent or
24 remedy a threat to public health, safety, or welfare. The
25 commission by rule shall establish a nonexclusive list of
26 violations that present a threat to the public health, safety, or
27 welfare.

1 (g) A hearing on a revocation or suspension that takes
2 effect on receipt of notice must be held not later than the 14th day
3 after the date the commission receives the request for hearing
4 under this section. The revocation or suspension continues in
5 effect until the hearing is completed. If the hearing is continued,
6 the revocation or suspension shall continue in effect beyond the
7 14-day period at the request of the license or registration holder
8 or on a finding of good cause by the commission or administrative
9 law judge.

10 (h) To prevail in a post-deprivation administrative hearing
11 under this section, the license or registration holder must
12 demonstrate by clear and convincing evidence that the deprivation
13 or imposition of a penalty was unwarranted or otherwise unlawful.
14 The post-deprivation hearing may be conducted by the commission or
15 referred to the State Office of Administrative Hearings.

16 (i) The administrative record created by the hearing
17 conducted by the State Office of Administrative Hearings shall be
18 provided to the commission for review and determination on the
19 revocation or suspension.

20 (j) If an administrative law judge of the State Office of
21 Administrative Hearings conducts a hearing under this section and
22 the proposal for decision supports the commission's position, the
23 administrative law judge shall include in the proposal a finding of
24 the costs, fees, expenses, and reasonable and necessary attorney's
25 fees this state incurred in bringing the proceeding.

26 (k) The commission may adopt the findings for costs, fees,
27 and expenses and make the finding a part of the final order entered

1 in the proceeding. Proceeds collected from a finding made under
2 this section shall be paid to the commission.

3 Sec. 466.599. JUDICIAL REVIEW OF REVOCATION, SUSPENSION, OR
4 PENALTY IMPOSITION. (a) A person aggrieved by a final decision of
5 the commission to revoke or suspend a registration or license or to
6 impose any monetary penalty may obtain judicial review before a
7 district court in Travis County.

8 (b) The judicial review must be instituted by serving on the
9 commission and filing a petition not later than the 20th day after
10 the effective date of the final decision and must identify the order
11 appealed from and the grounds or reason why the petitioner contends
12 the decision of the commission should be reversed or modified.

13 (c) The review must be conducted by the court sitting
14 without jury, and must not be a trial de novo but is confined to the
15 record on review. The reviewing court may only affirm the decision,
16 remand the case for further proceedings, or reverse the decision if
17 the substantial rights of the petitioner have been violated.

18 (d) If any court of competent jurisdiction concludes on
19 judicial review limited to the administrative record before the
20 commission and subject to the substantial evidence standard that
21 the deprivation or penalty was unwarranted or otherwise unlawful,
22 the sole remedy available is invalidation of the penalty or
23 reinstatement of the license or registration and the continued
24 distribution, manufacture, or operation of video lottery
25 terminals.

26 (e) The commission, this state, or the members, officers,
27 employees, and authorized agents of either are not under any

1 circumstances subject to monetary damages, attorney's fees, or
2 court costs resulting from the penalty or license or registration
3 revocation.

4 Sec. 466.600. LICENSE OR REGISTRATION: AGREEMENT TO WAIVE
5 ENFORCEABILITY. A license or registration holder by virtue of
6 accepting the license or registration agrees that the privilege of
7 holding a license or registration under this subchapter is
8 conditioned on the holder's agreement to Sections 466.597-466.599
9 and waives any right to challenge or otherwise appeal the
10 enforceability of those sections.

11 Sec. 466.601. LIMITED WAIVER OF SOVEREIGN IMMUNITY; NO
12 LIABILITY OF STATE FOR ENFORCEMENT. (a) This state does not waive
13 its sovereign immunity by negotiating gaming agreements with Indian
14 tribes or other persons for the operation of video lottery
15 terminals or other lottery games under this chapter. An actor or
16 agent on behalf of this state does not have any authority to waive
17 the state's sovereign immunity absent an express legislative grant
18 of the authority. The only waiver of sovereign immunity relative to
19 video lottery terminal operations is that expressly provided for in
20 this section.

21 (b) With regard to video lottery terminal operations on
22 Indian lands, this state consents to the jurisdiction of the
23 District Court of the United States with jurisdiction in the county
24 where the Indian lands are located, or if the federal court lacks
25 jurisdiction, to the jurisdiction of a district court in Travis
26 County, solely for the purpose of resolving disputes arising from a
27 gaming agreement authorized under this subchapter for declaratory

1 or injunctive relief or contract damages of \$100,000 or more. Any
2 disputes relating to damages or other awards valued at less than
3 \$100,000 shall be arbitrated under the rules of the American
4 Arbitration Association, provided, however, that application of
5 the rules may not be construed as a waiver of sovereign immunity.

6 (c) All financial obligations of the commission are payable
7 solely out of the income, revenues, and receipts of the commission
8 and are subject to statutory restrictions and appropriations.

9 (d) This state and the commission are not liable if
10 performance by the commission is compromised or terminated by acts
11 or omissions of the legislature or the state or federal judiciary.

12 (e) This state and the commission are not liable related to
13 any enforcement of this chapter.

14 Sec. 466.602. ABSOLUTE PRIVILEGE OF REQUIRED
15 COMMUNICATIONS AND DOCUMENTS. (a) Any communication, document, or
16 record of a video lottery central system provider, video lottery
17 terminal provider, video lottery retailer, or video lottery
18 manager, an applicant, or a license or registration holder or
19 holder of a regulatory approval that is made or transmitted to the
20 commission or any of its employees to comply with any law, including
21 a rule of the commission, to comply with a subpoena issued by the
22 commission, or to assist the commission or its designee in the
23 performance of their respective duties is absolutely privileged,
24 does not impose liability for defamation, and is not a ground for
25 recovery in any civil action.

26 (b) If a communication, document, or record provided under
27 Subsection (a) contains any information that is privileged under

1 state law, that privilege is not waived or lost because the
2 communication, document, or record is disclosed to the commission
3 or any of the commission's employees.

4 (c) The commission shall maintain all privileged
5 information, communications, documents, and records in a secure
6 place as determined in the commission's sole discretion that is
7 accessible only to members of the commission and authorized
8 commission employees.

9 Sec. 466.603. INTELLECTUAL PROPERTY RIGHTS OF COMMISSION.

10 The legislature finds and declares that the commission has the
11 right to establish ownership of intellectual property rights for
12 all lottery products, including video lottery terminals and related
13 video lottery equipment.

14 Sec. 466.604. MODEL GAMING AGREEMENT. (a) The governor
15 shall execute, on behalf of this state, a gaming agreement with the
16 Ysleta del Sur Pueblo Indian tribe, the Alabama-Coushatta Indian
17 tribe, or the Kickapoo Traditional Tribe of Texas containing the
18 terms set forth in Subsection (b), as a ministerial act, without
19 preconditions, not later than the 30th day after the date the
20 governor receives a request from the tribe, accompanied by or in the
21 form of a duly enacted resolution of the tribe's governing body, to
22 enter into the gaming agreement.

23 (b) A gaming agreement executed under Subsection (a) must be
24 in the form and contain the provisions as follows:

1 GAMING AGREEMENT GOVERNING
2 VIDEO LOTTERY TERMINAL OPERATIONS

3 Between the [Name of Tribe]
4 and the STATE OF TEXAS

5 This agreement is made and entered into by and between the
6 [Name of Tribe], a federally recognized Indian Tribe ("Tribe"), and
7 the State of Texas ("State"), with respect to the operation of video
8 lottery terminals (as defined by Section 466.002, Texas Government
9 Code) on the Tribe's Indian lands (as defined by Chapter 466, Texas
10 Government Code).

11 SECTION 1.0. TITLE.

12 Sec. 1.1. This document shall be referred to as "The [Name
13 of Tribe] and State of Texas gaming agreement."

14 SECTION 2.0. PURPOSES AND OBJECTIVES.

15 Sec. 2.1. The terms of this agreement are designed and
16 intended to:

17 (a) evidence the good will and cooperation of the Tribe and
18 State in fostering a mutually respectful government-to-government
19 relationship that will serve the mutual interests of the parties;

20 (b) develop and implement a means of regulating limited
21 Class III gaming on the Tribe's Indian lands to ensure fair and
22 honest operation in accordance with the applicable federal and
23 state law, and, through that regulated limited Class III gaming,
24 enable the Tribe to develop self-sufficiency, promote tribal
25 economic development, and generate jobs and revenues to support the
26 Tribe's government and governmental services and programs; and

27 (c) ensure fair operation of video lottery games and

1 minimize the possibilities of corruption and infiltration by
2 criminal influences; promote ethical practices in conjunction with
3 that gaming, through the licensing and control of persons employed
4 in, or providing goods and services to, the Tribe's video lottery
5 operation and protecting against the presence or participation of
6 persons whose criminal backgrounds, reputations, character, or
7 associations make the persons unsuitable for participation in
8 gaming, thereby maintaining a high level of integrity in government
9 gaming.

10 SECTION 3.0. DEFINITIONS.

11 As used in this agreement, all terms have the meaning
12 assigned by Section 466.002, Texas Government Code, unless
13 otherwise specified:

14 Sec. 3.1. "Class III gaming" means the forms of Class III
15 gaming defined in 25 U.S.C. Section 2703(8) and by regulations of
16 the National Indian Gaming Commission.

17 Sec. 3.2. "Financial source" means any person providing
18 financing, directly or indirectly, to the Tribe's video lottery
19 terminal establishment or operation of video lottery terminals
20 authorized under this gaming agreement.

21 Sec. 3.3. "Gaming activities" means the limited Class III
22 gaming activities authorized under this gaming agreement.

23 Sec. 3.4. "Gaming employee" means any person who:

24 (a) operates, maintains, repairs, or assists in any gaming
25 activities, or is in any way responsible for supervising the gaming
26 activities or persons who conduct, operate, account for, or
27 supervise the gaming activities;

1 (b) is in a category under applicable federal or tribal
2 gaming law requiring licensing;

3 (c) is an employee of the Tribal Compliance Agency with
4 access to confidential information; or

5 (d) is a person whose employment duties require or authorize
6 access to areas of the video lottery terminal establishment that
7 are not open to the public.

8 Sec. 3.5. "Gaming ordinance" means a tribal ordinance or
9 resolution authorizing the conduct of Class III Gaming Activities
10 on the Tribe's Indian lands and approved under IGRA or other
11 applicable federal law.

12 Sec. 3.6. "IGRA" means the Indian Gaming Regulatory Act of
13 1988 (18 U.S.C. Sec. 1166 et seq. and 25 U.S.C. Sec. 2701 et seq.),
14 any amendments to the act, and all regulations promulgated under
15 the act.

16 Sec. 3.7. "Key employee" means any person employed by the
17 Tribe as chief operating or executive officer, chief financial
18 officer, chief of security, or manager of a video lottery terminal
19 establishment or operations of video lottery terminals, or any
20 other person who may directly influence the management of a video
21 lottery terminal establishment or the operation of video lottery
22 terminals.

23 Sec. 3.8. "NIGC" means the National Indian Gaming
24 Commission.

25 Sec. 3.9. "Patron" means any person who is on the premises
26 of a video lottery terminal establishment, for the purpose of
27 playing a video lottery game authorized by this gaming agreement.

1 Sec. 3.10. "Principal" means, with respect to any entity,
2 the entity's sole proprietor or any partner, trustee, beneficiary,
3 or shareholder holding 10 percent or more of the entity's
4 beneficial or controlling ownership, either directly or
5 indirectly, or more than 10 percent of the voting stock of a
6 publicly traded corporation, or any officer, director, principal
7 management employee, or key employee of the entity.

8 Sec. 3.11. "Restoration Act" means the Ysleta del Sur
9 Pueblo and Alabama and Coughatta Indian Tribes of Texas Restoration
10 Act (25 U.S.C. Section 731 et seq. and 25 U.S.C. Section 1300g et
11 seq.).

12 Sec. 3.12. "State" means the State of Texas or an authorized
13 official or agency of the state.

14 Sec. 3.13. "Texas regulatory commission" means the state
15 agency that regulates video lottery games in Texas under Chapter
16 466, Texas Government Code, including the Texas Lottery Commission
17 and any successor agency of the state that regulates the games.

18 Sec. 3.14. "Transfer agreement" means a written agreement
19 authorizing the transfer of video lottery terminal operating rights
20 between the Tribe and another Indian tribe.

21 Sec. 3.15. "Transfer notice" means a written notice that
22 the Tribe must provide to the Texas regulatory commission of the
23 Tribe's intent to acquire or transfer video lottery terminal
24 operating rights pursuant to a transfer agreement.

25 Sec. 3.16. "Tribal chairperson" means the person duly
26 elected or selected under the Tribe's organic documents, customs,
27 or traditions to serve as the primary spokesperson for the Tribe.

1 Sec. 3.17. "Tribal Compliance Agency" ("TCA") means the
2 Tribal governmental agency that has the authority to carry out the
3 Tribe's regulatory and oversight responsibilities under this
4 gaming agreement. Unless and until otherwise designated by the
5 Tribe, the TCA shall be the [Name of Tribe] Gaming Commission. A
6 gaming employee may not be a member or employee of the TCA. The
7 Tribe has the ultimate responsibility for ensuring that the TCA
8 fulfills its responsibilities under this gaming agreement. The
9 members of the TCA are subject to background investigations and
10 shall be licensed to the extent required by any applicable Tribal or
11 federal law and in accordance with this gaming agreement. The Tribe
12 shall ensure that all TCA officers and agents are qualified for the
13 position and receive ongoing training to obtain and maintain skills
14 sufficient to carry out their responsibilities in accordance with
15 industry standards.

16 Sec. 3.18. "Tribal law enforcement agency" means a police
17 or security force established and maintained by the Tribe under the
18 Tribe's powers of self-government to carry out law enforcement
19 duties at or in connection with a video lottery terminal
20 establishment.

21 Sec. 3.19. "Tribal gaming license" means any license issued
22 by the TCA as required by and in compliance with this agreement.

23 Sec. 3.20. "Tribe" means [Name of Tribe], a federally
24 recognized Indian tribe.

25 Sec. 3.21. "Video lottery terminal establishment" means any
26 premises at which the operation of video lottery terminals is
27 authorized under this gaming agreement.

1 SECTION 4.0. RECITALS.

2 Sec. 4.1. This agreement governs all operations of video
3 lottery terminals as defined by Section 466.002, Texas Government
4 Code, on the Tribe's Indian lands.

5 Sec. 4.2. A principal goal of Federal Indian policy is to
6 promote tribal economic development and tribal self-sufficiency.
7 The State and the Tribe find the goal to be consistent with
8 applicable federal law, state public policy, and the public health,
9 safety, and welfare to regulate video lottery terminals on Indian
10 lands in accordance with this gaming agreement.

11 Sec. 4.3. The Tribe is a federally recognized Indian tribe
12 possessing sovereign powers and rights of self-government. The
13 Tribe's governing body has authorized the officials of the Tribe to
14 enter into contracts and agreements of every description, including
15 this gaming agreement, with the State.

16 Sec. 4.4. The Tribe exercises governmental authority within
17 the [name of Reservation] (the "Reservation"), which for purposes
18 of this gaming agreement means those lands within the current
19 boundaries of the Reservation and any other Indian lands over which
20 the Tribe exercises governmental authority.

21 Sec. 4.5. The State of Texas is a state of the United States
22 of America possessing the sovereign powers and rights of a state.
23 The State has a legitimate sovereign interest in regulating the
24 growth of Class III gaming activities in Texas. Mindful of that
25 interest, the State of Texas, pursuant to Chapter 466, Texas
26 Government Code, authorized certain gaming agreements with Indian
27 tribal governments in the State of Texas to permit the operation of

1 video lottery terminals on Indian lands. It is the general policy
2 of the State to prohibit commercial gambling throughout the state.
3 The exceptions to this prohibition are limited under Texas law to
4 specified types of gaming and to limited locations that meet
5 specific criteria. Any gaming not expressly authorized is
6 prohibited.

7 Sec. 4.6. The parties recognize that this agreement
8 provides the Tribe substantial benefits that create a unique
9 opportunity for the Tribe to operate video lottery terminals in an
10 economic environment of limited competition from gaming on
11 non-Indian lands in Texas, with the operation of video lottery
12 games on non-Indian lands restricted to licensed racetracks in
13 existence in 2005 or racetracks for which a license application was
14 filed on or before June 1, 2005, and to a limited number of licensed
15 tourist destinations in locations that provide the Tribe with a
16 substantial exclusive territory for its video lottery terminal
17 operations. The parties are mindful that this unique environment
18 is of economic value to the Tribe. In consideration for the
19 substantial rights enjoyed by the Tribe, and in further
20 consideration for the State's willingness to enter into this gaming
21 agreement and allow the Tribe the opportunity to operate video
22 lottery terminals connected to the State's video lottery system,
23 the Tribe has agreed to provide to the State, on a
24 sovereign-to-sovereign basis, a portion of revenue generated by
25 video lottery terminals on Indian lands and to collect and remit to
26 the comptroller State sales and use taxes and State taxes on motor
27 fuels, alcoholic beverages, cigarettes and tobacco products, and

1 hotel occupancy generated at a video lottery terminal
2 establishment. The requirement to collect and remit these State
3 taxes does not apply to an item sold to or used or consumed by a
4 Tribe member.

5 Sec. 4.7. The Tribe desires to offer the play of video
6 lottery terminals, as a means of generating revenue for the support
7 of tribal governmental programs, such as health care, housing,
8 sewer and water projects, police, corrections, fire, judicial
9 services, highway and bridge construction, general assistance for
10 tribal elders, day care for the children, economic development,
11 educational opportunities, and other typical and valuable
12 governmental services and programs for tribal members.

13 Sec. 4.8. The State recognizes that the positive effects of
14 this gaming agreement may extend beyond the Tribe's lands to the
15 Tribe's neighbors and surrounding communities and will generally
16 benefit all of Texas. These positive effects and benefits may
17 include not only those described in Section 4.7, but also may
18 include increased tourism and related economic development
19 activities that, through the Tribe's revenue sharing with the
20 State, will generate additional funds for state governmental
21 programs.

22 Sec. 4.9. The Tribe and the State jointly wish to protect
23 their citizens from any criminal involvement in the gaming
24 operations regulated under this gaming agreement.

25 Sec. 4.10. Nothing in this agreement shall supplant the
26 role or duties of the Texas Department of Public Safety under state
27 law. The Texas Racing Commission and the Texas Comptroller of

1 Public Accounts do not have any role in regulation or oversight of
2 gaming activities conducted by a Tribe.

3 Sec. 4.11. The terms of this gaming agreement strictly
4 define and limit the relationship of the parties. Nothing in this
5 gaming agreement shall be construed to create or imply a joint
6 venture, partnership, principal/agent, or any other relationship
7 between the parties.

8 SECTION 5.0. CLASS III GAMING AUTHORIZED AND PERMITTED.

9 Sec. 5.1. The Tribe is hereby authorized and permitted to
10 engage only in the Class III gaming activities expressly referred
11 to in Section 6.0 and may not engage in Class III gaming that is not
12 expressly authorized in that section. Nothing in this agreement
13 shall be construed to allow Internet gaming.

14 SECTION 6.0. AUTHORIZATION OF VIDEO LOTTERY TERMINALS.

15 Sec. 6.1. Authorized and Permitted Class III Gaming. The
16 Tribe is hereby authorized and permitted to operate the following
17 Class III gaming under the terms and conditions set forth in this
18 agreement.

19 Sec. 6.2. The Tribe and State agree that the Tribe is
20 authorized to operate video lottery terminals only in accordance
21 with this gaming agreement. However, nothing in this agreement
22 limits any right of the Kickapoo Traditional Tribe of Texas to
23 operate any game that is a Class II game under IGRA, and Class II
24 games are not subject to the exclusivity payments required under
25 this gaming agreement.

26 Sec. 6.2.1. Operation of Video Lottery Terminals. Video
27 lottery terminals must be operated in connection with the video

1 lottery system and at all times be connected through communication
2 technology or other video lottery equipment controlled by the State
3 to a State controlled and operated video lottery central system.
4 The Tribe may enter into a management gaming agreement for a third
5 party video lottery manager, or the Tribe may act as its own video
6 lottery manager.

7 (a) Third Party Video Lottery Manager. If the Tribe enters
8 into a management gaming agreement for a third party video lottery
9 manager, the manager must be licensed under Subchapter K, Chapter
10 466, Texas Government Code, and all video lottery operations shall
11 be subject to and in strict compliance with that Subchapter. Any
12 video lottery manager conducting business on Indian lands shall
13 indemnify and hold harmless the State and the Texas regulatory
14 commission and all officers and employees of both from any and all
15 claims which may be asserted against a license holder, the
16 commission, the State, and the members, officers, employees, and
17 authorized agents of either, arising from the license holder's
18 participation in the video lottery system authorized under the
19 gaming agreement.

20 (b) Tribe as Video Lottery Manager. If the Tribe elects to
21 manage video lottery terminal operations, then Sections 7.0 through
22 14.0 of this agreement govern the procurement and operation of the
23 video lottery terminals on the Indian lands of the Tribe.

24 Sec. 6.3. In order to remain eligible to operate video
25 lottery terminals under this gaming agreement, the Tribe must
26 strictly comply with all requirements of the gaming agreement,
27 timely file all reports required by this gaming agreement, and

1 timely remit all payments to the State required under this gaming
2 agreement or applicable state law, including the taxes collected as
3 provided by Section 4.6.

4 Sec. 6.4. Regardless of ownership of video lottery
5 terminals, the State owns all video lottery games.

6 SECTION 7.0. PROCUREMENT OF VIDEO LOTTERY TERMINALS.

7 Sec. 7.1. All video lottery terminals shall be procured
8 only from a video lottery terminal provider registered with the
9 Texas regulatory commission under Subchapter K, Chapter 466, Texas
10 Government Code. The Tribe may not enter into, or continue to make
11 payments pursuant to, any contract or agreement for the provision
12 of video lottery equipment with any person who is not registered by
13 the commission as a video lottery terminal provider under
14 Subchapter K, Chapter 466, Texas Government Code. Any agreement
15 between the Tribe and a video lottery terminal provider shall be
16 deemed to include a provision for the agreement's termination
17 without further liability on the part of the Tribe, except for the
18 bona fide repayment of all outstanding sums, exclusive of interest,
19 owed as of, or payment for services or materials received up to, the
20 date of termination, on revocation or non-renewal of the video
21 lottery terminal provider's registration.

22 Sec. 7.2. The Texas regulatory commission shall provide the
23 Tribe a list of registered video lottery terminal providers,
24 commission approved video lottery games, and commission approved
25 video lottery terminals. The Tribe may not operate a video lottery
26 terminal that has not been authorized by the commission.

27 Sec. 7.3. The Tribe shall file with the Texas regulatory

1 commission any order placed for video lottery terminals
2 simultaneously with the submission of the order to a
3 commission-approved video lottery terminal provider.

4 Sec. 7.4. The Tribe or the video lottery manager shall
5 provide all necessary capital investments and required
6 improvements at a video lottery terminal establishment.

7 SECTION 8.0. LICENSING.

8 Sec. 8.1. Gaming Ordinance and Regulations. All video
9 lottery operations conducted under this agreement, at a minimum,
10 shall comply with all terms and conditions of this gaming
11 agreement, a Gaming Ordinance adopted by the Tribe and approved in
12 accordance with this agreement and any applicable federal law, and
13 with all rules, regulations, procedures, specifications, and
14 standards adopted by the TCA. All licensing related to the
15 operation of video lottery terminals shall be conditioned on an
16 agreement by the license holder to indemnify and hold harmless the
17 State and the Texas regulatory commission and all officers and
18 employees of both from any and all claims which may be asserted
19 against a license holder, the commission, the State and the
20 members, officers, employees, and authorized agents of either
21 arising from the license or registration holder's participation in
22 the video lottery system authorized under this agreement.

23 Sec. 8.2. Tribal Ownership and Regulation of Gaming
24 Operation. Except as otherwise provided by this agreement, the
25 Tribe shall have the sole proprietary interest in the video lottery
26 terminal establishment and video lottery terminals. This provision
27 may not be construed to prevent the Tribe from granting security

1 interests or other financial accommodations to secured parties,
2 lenders or others, or to prevent the Tribe from entering into leases
3 or financing agreements or a gaming management agreement with a
4 video lottery manager.

5 Sec. 8.3. Government-to-Government Cooperation. The
6 parties intend that the licensing process provided for in this
7 gaming agreement shall involve joint cooperation between the TCA
8 and the Texas regulatory commission, as described in this
9 agreement.

10 Sec. 8.4. Video Lottery Terminal Establishment. (a) A
11 video lottery terminal establishment authorized by this agreement
12 shall be operated by a licensed video lottery manager or the Tribe
13 and licensed by the TCA in conformity with the requirements of this
14 gaming agreement, the Tribal Gaming Ordinance, and any applicable
15 federal law. The license shall be reviewed and renewed, if
16 appropriate, every two years. The Tribe shall promptly certify in
17 writing to the Texas regulatory commission each time the license is
18 renewed. The certification must be posted in a conspicuous and
19 public place in the video lottery terminal establishment at all
20 times.

21 (b) In order to protect the health and safety of all video
22 lottery terminal establishment patrons, guests, and employees, all
23 video lottery terminal establishments of the Tribe constructed
24 after the effective date of this gaming agreement, and all
25 expansions or modifications to a site facility for a video lottery
26 terminal establishment in existence as of the effective date of
27 this gaming agreement, shall meet or exceed the building and safety

1 codes of the Tribe. As a condition for engaging in that
2 construction, expansion, modification, or renovation, the Tribe
3 shall amend the Tribe's existing building and safety codes if
4 necessary, or enact such codes if there are none, so that the codes
5 meet the standards of the building and safety codes of any county in
6 which the video lottery terminal establishment is located,
7 including all uniform fire, plumbing, electrical, mechanical, and
8 related codes in effect on the date this agreement takes effect.
9 Nothing in this agreement shall be deemed to confer jurisdiction on
10 any county or the State with respect to any reference to such
11 building and safety codes. Any construction, expansion, or
12 modification must also comply with the federal Americans with
13 Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as amended.

14 (c) The TCA shall issue a video lottery terminal
15 establishment a certificate of occupancy prior to occupancy if it
16 was not used for any lawful gaming prior to the effective date of
17 this gaming agreement, or, if it was so used, within one year after
18 the effective date. The certificate shall be reviewed for
19 continuing compliance once every two years. Inspections by
20 qualified building and safety experts shall be conducted under the
21 direction of the TCA as the basis for issuing any certificate
22 hereunder. The TCA shall determine and certify that, as to new
23 construction or new use for gaming activities, the video lottery
24 terminal establishment meets the Tribe's building and safety code,
25 or, as to facilities or portions of facilities that were used for
26 the Tribe's gaming before this gaming agreement, that the video
27 lottery terminal establishment or portions of the establishment do

1 not endanger the health or safety of occupants or the integrity of
2 the video lottery system. The Tribe may not offer video lottery
3 gaming in a video lottery terminal establishment that is
4 constructed or maintained in a manner that endangers the health or
5 safety of occupants or the integrity of the video lottery system.

6 (d) The State shall designate an agent or agents to be given
7 reasonable notice of each inspection by the TCA's experts, and
8 State agents may participate in any such inspection. The Tribe
9 agrees to correct any video lottery terminal establishment
10 condition noted in an inspection that does not meet the standards
11 set forth in Subsections (b) and (c). The TCA and the State's
12 designated agent or agents shall exchange any reports of an
13 inspection within 10 days after completion of the report, and the
14 reports shall be separately and simultaneously forwarded by both
15 agencies to the Tribal chairperson. On certification by the TCA's
16 experts that a video lottery terminal establishment meets
17 applicable standards, the TCA shall forward the experts'
18 certification to the State within 10 days of issuance. If the
19 State's agent objects to that certification, the Tribe shall make a
20 good faith effort to address the State's concerns, but if the State
21 does not withdraw its objection, the matter will be resolved in
22 accordance with the dispute resolution provisions of this gaming
23 agreement.

24 Sec. 8.5. Suitability Standard Regarding Tribal Gaming
25 Licenses. In reviewing an application for a tribal gaming license,
26 and in addition to any standards set forth in the Tribal gaming
27 ordinance, the TCA shall consider whether issuance of the license

1 is inimical to public health, safety, or welfare, and whether
2 issuance of the license will undermine public trust that the
3 Tribe's operation of video lottery terminals, or tribal government
4 gaming generally, is free from criminal and dishonest elements and
5 would be conducted honestly. A license may not be issued unless,
6 based on all information and documents submitted, the TCA is
7 satisfied that the applicant, in addition to any other criteria in
8 any applicable federal law is all of the following:

9 (a) a person of good character, honesty, and integrity;

10 (b) a person whose prior activities, criminal record (if
11 any), reputation, habits, and associations do not pose a threat to
12 the security and integrity of the lottery or to the public interest
13 of the State or to the effective operation and control of the
14 lottery, or create or enhance the dangers of unsuitable, unfair, or
15 illegal practices, methods, or activities in the conduct of the
16 lottery, or in the carrying on of the business and financial
17 arrangements incidental to the conduct of the lottery; and

18 (c) a person who in all other respects is qualified to be
19 licensed as provided in this gaming agreement, any applicable
20 federal law, the Tribal Gaming Ordinance, and any other criteria
21 adopted by the TCA or the Tribe. An applicant may not be found
22 unsuitable solely on the ground that the applicant was an employee
23 of a tribal gaming operation in Texas that was conducted before the
24 effective date of this gaming agreement. Employment in an
25 unauthorized gaming operation in Texas subsequent to the effective
26 date of this agreement, however, shall impose a presumption of
27 unsuitability.

1 Sec. 8.6. Gaming Employees. (a) Every gaming employee
2 shall obtain, and thereafter maintain current, a valid tribal
3 gaming license, which shall be subject to biennial renewal,
4 provided that in accordance with Section 8.8.2, a person may be
5 employed on a temporary or conditional basis pending completion of
6 the licensing process.

7 (b) Without the concurrence of the Texas regulatory
8 commission, the Tribe may not employ or continue to employ any
9 person whose application to the commission for a registration,
10 license, determination of suitability, or other regulatory
11 approval, or for a renewal of a registration, license,
12 determination of suitability, or other regulatory approval, has
13 been denied or has expired without renewal.

14 Sec. 8.7. Financial Sources. Any person providing
15 financing, directly or indirectly, to the Tribe's video lottery
16 terminal establishment or operation of video lottery terminals must
17 be licensed by the TCA before receipt of that financing, provided
18 that any person who is providing financing at the time of the
19 execution of this gaming agreement must be licensed by the TCA
20 within ninety (90) days of such execution. The TCA shall review
21 licenses at least every two years for continuing compliance. In
22 connection with the review, the TCA shall require the Financial
23 Source to update all information provided in the previous
24 application. Any agreement between the Tribe and a Financial
25 Source is deemed to include a provision for its termination without
26 further liability on the part of the Tribe, except for the bona fide
27 repayment of all outstanding sums, exclusive of interest, owed as

1 of the date of termination, on revocation or non-renewal of the
2 Financial Source's license by the TCA based on a determination of
3 unsuitability by the Texas regulatory commission. The Tribe may
4 not enter into, or continue to make payments pursuant to any
5 contract or agreement for the provision of financing with any
6 person whose application to the commission for a determination of
7 suitability has been denied or has expired without renewal. A video
8 lottery terminal provider who provides financing exclusively in
9 connection with the sale or lease of video lottery equipment
10 obtained from that video lottery terminal provider may be
11 registered solely in accordance with the commission's registration
12 procedures for video lottery terminal providers. The TCA may, in
13 its discretion, exclude from the licensing requirements of this
14 section, financing provided by:

15 (1) a federally regulated or state-regulated bank,
16 savings and loan, or other federally regulated or state-regulated
17 lending institution;

18 (2) any agency of the federal, state, or local
19 government; or

20 (3) any investor who, alone or in conjunction with
21 others, holds less than 10 percent of any outstanding indebtedness
22 evidenced by bonds issued by the Tribe.

23 Sec. 8.8. Processing License Applications. Each applicant
24 for a tribal gaming license shall submit the completed application
25 on forms prescribed by the TCA and approved by the Texas regulatory
26 commission, along with the required information and an application
27 fee, to the TCA in accordance with the rules and regulations of that

1 agency. The parties agree that for purposes of this agreement, the
2 standards set forth under federal law with regard to information
3 required for Tribal gaming operation applications shall govern.
4 Accordingly, at a minimum, the TCA shall require submission and
5 consideration of all information required under federal law,
6 including 25 C.F.R. Section 556.4, for licensing primary management
7 officials and key employees. For applicants who are business
8 entities, the licensing provisions apply to the entity and:

9 (a) each officer and director;

10 (b) each principal management employee, including any chief
11 executive officer, chief financial officer, chief operating
12 officer, and general manager;

13 (c) each owner or partner, if an unincorporated business;

14 (d) each shareholder who owns more than 10 percent of the
15 shares of the corporation, if a corporation; and

16 (e) each person or entity, other than a financial
17 institution the TCA has determined does not require a license under
18 the preceding section, that, alone or in combination with others,
19 has provided financing in connection with any video lottery
20 equipment or video lottery terminal establishment under this gaming
21 agreement, if that person or entity provided more than five percent
22 of:

23 (1) the start-up capital;

24 (2) the operating capital over a 12-month period; or

25 (3) a combination thereof.

26 For purposes of this section, if any commonality of the
27 characteristics identified in Subsections (a) to (e), inclusive,

1 exist between any two or more entities, the entities may be deemed
2 to be a single entity. Nothing herein precludes the Tribe or TCA
3 from requiring more stringent licensing requirements.

4 Sec. 8.8.1. Background Investigations of Applicants. (a)

5 The TCA shall conduct or cause to be conducted all necessary
6 background investigations reasonably required to determine that
7 the applicant is qualified for a tribal gaming license under the
8 standards set forth in this gaming agreement, and to fulfill all
9 requirements for licensing under any applicable federal law, the
10 Tribal Gaming Ordinance, and this gaming agreement. The TCA may not
11 issue any license other than a temporary license until a
12 determination is made that the qualifications have been met.

13 (b) Instead of completing its own background investigation,
14 and to the extent that doing so does not conflict with or violate
15 any applicable federal law or the Tribal Gaming Ordinance, the TCA
16 may contract with the Texas regulatory commission or an independent
17 contractor approved by the commission for the conduct of background
18 investigations. An applicant for a tribal gaming license must
19 provide releases to the commission to make available to the TCA
20 background information regarding the applicant. The commission
21 shall cooperate in furnishing to the TCA that information, unless
22 doing so would violate any agreement the commission has with a
23 source of the information other than the applicant, or would impair
24 or impede a criminal investigation, or unless the TCA cannot
25 provide sufficient safeguards to assure the commission that the
26 information will remain confidential.

27 Sec. 8.8.2. Temporary Licensing of Employees.

1 Notwithstanding any contrary provision in this gaming agreement,
2 the TCA may issue a temporary license and may impose specific
3 conditions on the license pending completion of the applicant's
4 background investigation as the TCA in its sole discretion shall
5 determine, if:

6 (a) the applicant for a tribal gaming license has completed
7 a license application in a manner satisfactory to the TCA; and

8 (b) the TCA has conducted a preliminary background
9 investigation, and the investigation or other information held by
10 the TCA does not indicate:

11 (1) that the applicant has a criminal history that
12 could pose a threat to the security and integrity of the lottery or
13 to the public interest of the State or the effective operation and
14 control of the lottery, or create or enhance the dangers of
15 unsuitable, unfair, or illegal practices, methods, or activities in
16 the conduct of the lottery, or in the carrying on of the business
17 and financial arrangements incidental thereto;

18 (2) other information in the applicant's background
19 that would either disqualify the applicant from obtaining a license
20 or cause a reasonable person to investigate further before issuing
21 a license; or

22 (3) that the applicant is otherwise unsuitable for
23 licensing.

24 (c) The TCA may require special fees to issue or maintain a
25 temporary license.

26 (d) A temporary license shall remain in effect until
27 suspended or revoked, or until a final determination is made on the

1 application. At any time after issuance of a temporary license, the
2 TCA may suspend or revoke the temporary license in accordance with
3 Sections 8.9.1 or 8.9.5, and the Texas regulatory commission may
4 request suspension or revocation in accordance with Section 8.9.

5 (e) For purposes of this agreement, the parties agree that
6 the standards set forth in 25 C.F.R. Part 558 govern licensing and
7 investigations required under the provisions of this agreement.
8 Nothing in this agreement shall be construed to relieve the Tribe of
9 any obligation under this agreement to comply with the standards
10 set forth in 25 C.F.R. Part 558.

11 Sec. 8.9. Tribal Gaming License Issuance. (a) On
12 completion of the necessary background investigation, the TCA may
13 issue a tribal gaming license on a conditional or unconditional
14 basis. Nothing herein shall create a property or other right of an
15 applicant in an opportunity to be licensed, or in a license itself,
16 both of which shall be considered to be privileges granted to the
17 applicant in the sole discretion of the TCA subject to oversight by
18 the Texas regulatory commission as provided herein. Any license,
19 registration, suitability, qualification issued, or other
20 regulatory approval granted pursuant to or in compliance with this
21 gaming agreement is a revocable privilege, and a holder does not
22 acquire any vested right therein or thereunder.

23 (b) State and Tribal courts shall have no jurisdiction to
24 review decisions to deny, limit, or condition a license,
25 registration, suitability, qualification, or request for approval
26 unless the judicial review is sought on the ground that such a
27 denial, limitation, or condition is proven by clear and convincing

1 evidence to be based on a suspect classification such as race,
2 color, religion, gender, or national origin, protected under the
3 Equal Protection Clause of the United States Constitution.

4 Sec. 8.9.1. Denial, Suspension, or Revocation of Licenses.

5 (a) The TCA may deny any application for a tribal gaming license
6 and may revoke any license issued if the TCA determines the
7 application is incomplete or deficient or if the applicant is
8 determined to be unsuitable or otherwise unqualified for the gaming
9 license. Pending consideration of revocation, the TCA may
10 summarily suspend a license in accordance with Section 8.9.5. All
11 rights to notice and hearing shall be governed by tribal law. The
12 TCA shall notify the applicant in writing of the tribal law
13 provisions and of the intent to suspend or revoke the license.

14 (b) On receipt of notice that the Texas regulatory
15 commission has determined a person would be unsuitable for
16 licensure in a video lottery terminal establishment or related to
17 video lottery terminal operations subject to the jurisdiction of
18 the commission, the TCA shall promptly revoke any license issued to
19 the person.

20 Sec. 8.9.2. Renewal of Licenses; Extensions; Further
21 Investigation. The term of a tribal gaming license may not exceed
22 five years, and application for renewal of a license must be made
23 before the license's expiration. An applicant for renewal of a
24 license must provide updated material as requested, on the
25 appropriate renewal forms, but, at the discretion of the TCA, may
26 not be required to resubmit historical data previously submitted or
27 that is otherwise available to the TCA. At the discretion of the

1 TCA, an additional background investigation may be required at any
2 time if the TCA determines the need for further information
3 concerning the applicant's continuing suitability or eligibility
4 for a license. Before renewing a license, the TCA shall deliver to
5 the Texas regulatory commission copies of all information and
6 documents received in connection with the application for renewal.

7 Sec. 8.9.3. Identification Cards. The TCA shall require
8 all persons who are required to be licensed to wear, in plain view
9 at all times while in the video lottery terminal establishment,
10 identification badges issued by the TCA. Identification badges
11 must include a photograph and an identification number that is
12 adequate to enable TCA agents to readily identify the person and
13 determine the validity and date of expiration of the license.

14 Sec. 8.9.4. Fees for Tribal Gaming License. The fees for
15 all tribal gaming licenses shall be set by the TCA.

16 Sec. 8.9.5. Summary Suspension of Tribal Gaming License.
17 The TCA may summarily suspend a tribal gaming license if the TCA
18 determines that the continued licensing of the person or entity
19 could constitute a threat to the public health or safety or may
20 violate the TCA's licensing or other standards or any provision of
21 applicable federal or state law or of this agreement. Any right to
22 notice or hearing in regard to the suspension are governed by tribal
23 law provided the law is not inconsistent with any provision of this
24 agreement.

25 Sec. 8.9.6. State Certification Process. (a) On receipt of
26 a completed tribal gaming license application and a determination
27 by the TCA that it intends to issue the earlier of a temporary or

1 permanent license, the TCA shall transmit to the Texas regulatory
2 commission a notice of intent to license the applicant, together
3 with all of the following:

4 (i) a copy of all tribal license application materials
5 and information received by the TCA from the applicant;

6 (ii) an original set of fingerprint cards;

7 (iii) a current photograph; and

8 (iv) except to the extent waived by the commission,
9 the releases of information, waivers, and other completed and
10 executed forms obtained by the TCA.

11 (b) Except for an applicant for licensing as a non-key
12 gaming employee, the TCA shall require the applicant to file an
13 application with the Texas regulatory commission, before issuance
14 of a temporary or permanent tribal gaming license, for a
15 determination of suitability for licensure under Subchapter K,
16 Chapter 466, Texas Government Code. Investigation and disposition
17 of that application is governed entirely by State law, and the
18 commission shall determine whether the applicant would be found
19 suitable for licensure in a video lottery terminal establishment or
20 in relation to video lottery terminal operations at a video lottery
21 terminal establishment subject to the commission's jurisdiction.
22 Additional information may be required by the commission to assist
23 in a background investigation, provided that the commission
24 requirement is no greater than that which may be required of
25 applicants for a video lottery retailer license in connection with
26 video lottery operations at a video lottery terminal establishment
27 under Subchapter K, Chapter 466, Texas Government Code. A

1 determination of suitability is valid for the term of the tribal
2 license held by the applicant, and the TCA shall require a license
3 holder to apply for renewal of a determination of suitability at the
4 time the license holder applies for renewal of a tribal gaming
5 license. The commission and the TCA, together with tribal gaming
6 agencies under other gaming agreements, shall cooperate in
7 developing standard licensing forms for tribal gaming license
8 applicants, on a statewide basis, that reduce or eliminate
9 duplicative or excessive paperwork, and the forms and procedures
10 must take into account the Tribe's requirements under any
11 applicable federal law and the expense thereof.

12 (c) Background Investigations of Applicants. On receipt of
13 completed license application information from the TCA, the Texas
14 regulatory commission may conduct a background investigation
15 pursuant to state law to determine whether the applicant would be
16 suitable to be licensed for association with a video lottery
17 terminal establishment or operation subject to the jurisdiction of
18 the commission. If further investigation is required to supplement
19 the investigation conducted by the TCA, the applicant will be
20 required to pay an application fee charged by the commission in an
21 amount that reimburses the commission for actual costs incurred,
22 provided that in requesting any deposit, the commission shall take
23 into consideration reports of the background investigation already
24 conducted by the TCA and the NIGC, if any. Failure to pay the
25 application fee or deposit may be grounds for denial of the
26 application by the commission. The commission and TCA shall
27 cooperate in sharing as much background information as possible to

1 maximize investigative efficiency and thoroughness and to minimize
2 investigative costs. On completion of the necessary background
3 investigation or other verification of suitability, the commission
4 shall issue a notice to the TCA certifying the State has determined
5 that the applicant would be suitable or that the applicant would be
6 unsuitable for licensure in a video lottery terminal establishment
7 subject to the jurisdiction of the commission and, if unsuitable,
8 stating the reasons for unsuitability.

9 (d) The Tribe, on a monthly basis, shall provide the Texas
10 regulatory commission with the name, badge identification number,
11 and job descriptions of all non-key gaming employees.

12 (e) The Tribe shall, at all times, have a list of key
13 employees on file with the Texas regulatory commission and shall
14 advise the commission of any change to the list not later than the
15 10th day following the date of the change.

16 (f) Before denying an application for a determination of
17 suitability, the Texas regulatory commission shall notify the TCA
18 and afford the Tribe an opportunity to be heard. The courts of the
19 State and the Tribe shall have no jurisdiction to review decisions
20 to deny, limit, or condition a license, registration, suitability,
21 qualification, or request for approval unless the denial,
22 limitation, or condition is proven by clear and convincing evidence
23 to be based on a suspect classification such as race, color,
24 religion, sex, or national origin, protected under the Equal
25 Protection Clause of the United States Constitution. Under these
26 circumstances, any requirement for tribal court exhaustion is
27 hereby waived by the Tribe.

1 Sec. 8.9.7. State Assessment for Costs of Oversight. (a)

2 The State shall make annually an assessment sufficient to
3 compensate the State for actual costs of oversight of the operation
4 of video lottery terminals pursuant to this gaming agreement.

5 (b) On or before August 1, annually, beginning with the
6 first such date following the implementation of video lottery
7 operations under this gaming agreement, the State shall render to
8 the TCA a statement of the total cost of oversight and any law
9 enforcement for the preceding fiscal year ending July 31 together
10 with proposed assessments for the forthcoming fiscal year based on
11 the preceding fiscal year cost. In the first year of the effective
12 date of this gaming agreement, however, the assessment must be
13 prospective and based on a pro rata allocation of costs if this
14 gaming agreement becomes operative in the course of a fiscal year
15 and must be established following consultation with the TCA. On
16 September 1, annually, the State, after receiving any objections to
17 the proposed assessments and making such changes or adjustments as
18 may be indicated, shall provide a written notice that assesses the
19 Tribe for the costs of the oversight and any necessary law
20 enforcement. Annually, the Tribe shall pay one-third of the
21 assessment within 20 days of the receipt of the written notice and
22 shall pay the remaining two-thirds of the assessment in two equal
23 payments on January 1 and April 1. The payments must be deposited
24 with the Texas regulatory commission in a video lottery account
25 established solely for funds related to video lottery terminals
26 operated by the Tribe.

27 (c) In the event that the total assessment paid by the Tribe

1 during any fiscal year of the State exceeds the actual costs of the
2 oversight and any necessary law enforcement during that fiscal
3 year, the State shall adjust the assessment for the succeeding
4 fiscal year in the amount necessary to offset such excess
5 assessment. If the Tribe is aggrieved because of any failure by the
6 State to make such an adjustment, any claim for such an adjustment
7 must be presented in the appeal of the assessment as provided in
8 Section 8.9.8.

9 Sec. 8.9.8. Procedure for Appeal of Assessments or Payments
10 Made to the State. If the Tribe is aggrieved because of any
11 assessment levied or payment made to the State as required by this
12 gaming agreement, the Tribe, not later than the 30th day following
13 the date provided for the payment, may appeal an assessment or
14 payment to the Texas regulatory commission. If the Tribe is
15 aggrieved by the commission's decision, it may invoke the dispute
16 resolution provisions of this agreement provided that the Tribe
17 must prove by clear and convincing evidence that any collection or
18 assessment of payment to the State was inappropriate.

19 Sec. 8.9.9. Collection and Distribution of Revenue. (a)
20 The Tribe shall establish separate electronic funds transfer
21 accounts for the purposes of depositing money from video lottery
22 terminal operations, making payments to the Texas regulatory
23 commission, and receiving payments from the commission.

24 (b) The State's share of net terminal income of the Tribe's
25 video lottery terminal operations shall be transferred to the Texas
26 regulatory commission through the electronic transfer of funds
27 daily by the commission. The commission shall establish the

1 procedures for depositing money from video lottery terminal
2 operations into electronic funds transfer accounts and the
3 procedures for the handling of money from video lottery terminal
4 operations. The State's share of net terminal income from video
5 lottery terminal operations shall be held in trust for the State.

6 (c) Unless directed otherwise by the Texas regulatory
7 commission, the Tribe shall maintain in its account the State's
8 share of the net terminal income from the operation of video lottery
9 terminals, to be electronically transferred by the commission. On
10 the Tribe's failure to maintain this balance, the commission may
11 disable all of the Tribe's video lottery terminals until full
12 payment of all amounts due is made. Interest shall accrue on any
13 unpaid balance at a rate consistent with the amount charged under
14 Section 111.060, Texas Tax Code. The interest shall begin to accrue
15 on the date payment is due to the commission. In the commission's
16 sole discretion, rather than disable the Tribe's video lottery
17 terminals, the commission may elect to impose contract penalties in
18 an amount to be determined by the commission not to exceed \$250,000
19 for each violation. If the Tribe fails to remedy the violation,
20 including payment of any amounts due to the State, within 10 days,
21 the commission may disable the Tribe's video lottery terminals or
22 use any other means for collection agreed to by the Tribe instead of
23 disabling the Tribe's video lottery terminals.

24 (d) The Tribe is solely responsible for resolving any income
25 discrepancies between actual money collected and the net terminal
26 income reported by the video lottery central system. Unless an
27 accounting discrepancy is resolved in favor of the Tribe, the Texas

1 regulatory commission may not make any credit adjustments. Any
2 accounting discrepancies which cannot be resolved shall be resolved
3 in favor of the commission.

4 (e) Tribes shall remit payment as directed by the Texas
5 regulatory commission if the electronic transfer of funds is not
6 operational or the commission notifies the Tribe that remittance by
7 this method is required. The Tribe shall report the State's share
8 of net terminal income, and remit the amount as generated from its
9 terminals during the reporting period.

10 (f) The Tribe agrees to furnish to the Texas regulatory
11 commission all information and bank authorizations required to
12 facilitate the timely transfer of money to the commission. The
13 Tribe agrees to provide the commission 30 days' advance notice of
14 any proposed account changes in order to assure the uninterrupted
15 electronic transfer of funds. However, in no event shall the
16 commission be responsible for any interruption or delays in
17 transferring of funds. Rather, the Tribe shall be responsible for
18 any interruption or delay in transferring of funds.

19 SECTION 9.0. RULES AND REGULATIONS; MINIMUM REQUIREMENTS
20 FOR OPERATIONS.

21 Sec. 9.1. Regulations. The Tribe shall promulgate any
22 rules and regulations necessary to implement this gaming agreement,
23 which at a minimum shall expressly include or incorporate by
24 reference all requirements of this gaming agreement. Nothing in
25 this gaming agreement shall be construed to affect the Tribe's
26 right to amend its rules and regulations, provided that any such
27 amendment shall be in conformity with this gaming agreement. The

1 Texas regulatory commission may propose additional rules and
2 regulations related to implementation of this gaming agreement to
3 the TCA at any time, and the TCA shall give good faith consideration
4 to such suggestions and shall notify the commission of its response
5 or action with respect thereto.

6 Sec. 9.2. Compliance; Internal Control Standards. All
7 video lottery operations shall comply with, and all video lottery
8 games approved under the procedures set forth in this gaming
9 agreement shall be operated in accordance with the requirements set
10 forth in this gaming agreement and applicable state law. The
11 parties agree that for purposes of this agreement, the standards
12 set forth in 25 C.F.R. Part 542 shall govern minimum requirements
13 for tribal internal control standards. Accordingly, the Tribe
14 agrees that all tribal video lottery operations shall comply with
15 tribal internal control standards that provide a level of control
16 equal to or exceeding that provided by the standards set forth in 25
17 C.F.R. Part 542.

18 Sec. 9.3. Records. (a) In addition to other records
19 required to be maintained herein, the Tribe shall maintain in
20 permanent written or electronic form the following records related
21 to implementation of this gaming agreement:

22 (1) a log recording all surveillance activities of the
23 video lottery terminal establishment, including surveillance
24 records kept in the normal course of operations and in accordance
25 with industry standards; provided, notwithstanding anything to the
26 contrary herein, surveillance records may, at the discretion of the
27 Tribe, be destroyed if no incident has been reported within one (1)

1 year following the date the records were made;

2 (2) payout from the conduct of all video lottery
3 games;

4 (3) maintenance logs for all video lottery gaming
5 equipment used by the video lottery terminal establishment;

6 (4) security logs as kept in the normal course of
7 conducting and maintaining security at the video lottery terminal
8 establishment, which at a minimum must conform to industry
9 practices for such reports;

10 (5) books and records on video lottery terminals, as
11 described more particularly in Section 9.4, which shall be
12 maintained in accordance with generally accepted accounting
13 principles (GAAP) and the standards set forth in Section 9.4; and

14 (6) all documents generated in accordance with this
15 gaming agreement.

16 (b) The Tribe shall make the records maintained under
17 Subsection (a) of this section available for inspection by the
18 Texas regulatory commission for not less than four years from the
19 date the records are generated.

20 (c) The security logs required under Subsection (a) of this
21 section must document any unusual or nonstandard activities,
22 occurrences, or events at or related to the video lottery terminal
23 establishment or in connection with the video lottery terminal
24 operations. Each incident, without regard to materiality, shall be
25 assigned a sequential number for each such report. At a minimum,
26 the security logs shall consist of the following information, which
27 shall be recorded in a reasonable fashion noting:

- 1 (1) the assigned number of the incident;
- 2 (2) the date of the incident;
- 3 (3) the time of the incident;
- 4 (4) the location of the incident;
- 5 (5) the nature of the incident;
- 6 (6) the identity, including identification
7 information, of any persons involved in the incident and any known
8 witnesses to the incident; and
- 9 (7) the Tribal compliance officer making the report
10 and any other persons contributing to its preparation.

11 Sec. 9.4. ACCOUNTING.

12 Sec. 9.4.1. Accounting Records Required. The Tribe agrees
13 with regard to any video lottery terminal operations, to keep
14 accurate, complete, legible, and permanent records of all
15 transactions pertaining to revenue for six years. If the Tribe
16 keeps permanent records in a computerized or microfiche fashion, it
17 shall provide the Texas regulatory commission, on request, with a
18 detailed index to the microfiche or computer records that is
19 indexed by date.

20 Sec. 9.4.2. Accounting Systems. The Tribe agrees with
21 regard to all video lottery terminal operations, to keep general
22 accounting records on a double entry system of accounting,
23 maintaining detailed, supporting, and subsidiary records,
24 including:

- 25 (a) detailed records that identify the revenues, expenses,
26 assets, liabilities, and equity of the video lottery terminal
27 establishment and operations;

1 (b) records required by the Tribe's Minimum Internal
2 Control System;

3 (c) journal entries prepared by the Tribe and its
4 independent accountant; and

5 (d) any other records that the TCA may require.

6 Sec. 9.4.3. Net Terminal Income and Expenses. The Tribe
7 agrees with regard to all video lottery terminal operations, to
8 create and maintain records sufficiently accurate to reflect the
9 net terminal income and expenses of the video lottery terminal
10 establishment and operation of video lottery terminals.

11 Sec. 9.4.4. Financial Statements. (a) The Tribe agrees to
12 prepare financial statements covering all financial activities of
13 the video lottery terminal establishment and operation of video
14 lottery terminals for a business year. The statements required by
15 this subsection must be presented on a comparative basis.

16 (b) If the Tribe changes its business year, it must prepare
17 and submit audited or reviewed financial statements to the Texas
18 regulatory commission covering the "stub" period from the end of
19 the previous business year to the beginning of the new business year
20 not later than 120 days after the end of the stub period or
21 incorporate the financial results of the stub period in the
22 statements for the new business year.

23 Sec. 9.5. Audits. The parties agree that for purposes of
24 this agreement, the standards set forth in 25 C.F.R. Section 571.12
25 govern audits required under this agreement. The TCA shall ensure
26 that an annual independent financial audit of the Tribe's conduct
27 of video lottery games subject to this gaming agreement and of the

1 video lottery terminal establishment is secured. The audit shall,
2 at a minimum, examine revenues and expenses in connection with the
3 operation of video lottery terminals in accordance with generally
4 accepted auditing standards and shall include those matters
5 necessary to verify the determination of net terminal income and
6 the basis of the payments made to the State pursuant to this gaming
7 agreement.

8 (a) The auditor selected by the TCA shall be a firm of known
9 and demonstrable experience, expertise, and stature in conducting
10 audits of this kind and scope and shall be approved by the Texas
11 regulatory commission.

12 (b) The audit shall be concluded within five months
13 following the close of each calendar year, provided that extensions
14 may be requested by the Tribe and may not be refused by the State if
15 the circumstances justifying the extension request are beyond the
16 Tribe's control. An extension, however, may not extend the
17 conclusion of an audit required by this gaming agreement to more
18 than 12 months following the close of the relevant calendar year.

19 (c) The audit of the operation of video lottery terminals
20 may be conducted as part of or in conjunction with the audit of the
21 video lottery terminal establishment, but if so conducted shall be
22 separately stated for the reporting purposes required herein.

23 (d) The audit shall conform to generally accepted auditing
24 standards. As part of the audit report, the auditor shall certify
25 to the TCA that, in the course of the audit, the auditor did not
26 discover any matters within the scope of the audit which were
27 determined or believed to be in violation of any provision of this

1 gaming agreement. If the auditor discovers matters determined or
2 believed to be in violation of any provision of this gaming
3 agreement, the auditor shall immediately notify the Texas
4 regulatory commission of the alleged violation and the basis for
5 the auditor's conclusion.

6 (e) The Tribe shall assume all costs in connection with the
7 audit.

8 (f) The audit report for the conduct of video lottery games
9 shall be submitted to the Texas regulatory commission within thirty
10 (30) days of completion. The auditor's work papers concerning
11 video lottery games shall be made available to the commission on
12 request.

13 (g) Representatives of the Texas regulatory commission may,
14 on request, meet with the auditors to discuss the work papers, the
15 audit, or any matters in connection therewith; provided such
16 discussions are limited to video lottery information and pursue
17 legitimate state video lottery interests.

18 Sec. 9.6. Security. (a) All video lottery terminals shall
19 be continuously monitored through the use of a closed circuit
20 television system that records all activity for a continuous
21 24-hour period. All video tapes or other media used to store video
22 images shall be retained for a period of at least 30 days.

23 (b) Access to video lottery terminal locations shall be
24 restricted to persons legally entitled by age under State law to
25 play video lottery games.

26 (c) The Tribe must submit for approval by the Texas
27 regulatory commission a security plan and a floor plan of the area

1 or areas where video lottery terminals are to be operated showing
2 video lottery terminal locations and security camera mount
3 locations. This commission approved security plan shall be subject
4 to review by the commission which may require revision of the plan
5 on a biennial basis.

6 (d) Security personnel shall be present during all hours of
7 operation at each video lottery terminal establishment. The Tribe
8 shall employ at least the number of security personnel the Texas
9 regulatory commission determines is necessary to provide for safe
10 and approved operation of the video lottery terminal establishment
11 and the safety and well-being of the players.

12 (e) The communication technology used in connection with
13 video lottery operations must meet accepted industry standards for
14 security sufficient to minimize the possibility of any third party
15 intercepting any data transmitted to or from the video lottery
16 terminals.

17 Sec. 9.7. Exclusion of Persons. The Tribe's rules and
18 regulations shall require at a minimum the exclusion of persons
19 based on their prior conduct at the video lottery terminal
20 establishment or who, because of their criminal history or
21 association with criminal offenders, pose a threat to the integrity
22 of the conduct of video lottery games or may be playing video
23 lottery games compulsively.

24 (a) The TCA shall establish a list of the persons to be
25 excluded from any video lottery terminal establishment under this
26 provision.

27 (b) The Tribe shall employ its best efforts to exclude

1 persons on such list from entry into its video lottery terminal
2 establishment.

3 (c) Patrons who believe they may be playing video lottery
4 games on a compulsive basis may request that their names be placed
5 on the list. All gaming employees shall receive training on
6 identifying players who have a problem with compulsive playing and
7 shall be instructed to ask them to leave. Signs and other materials
8 shall be readily available to direct such compulsive players to
9 agencies where they may receive counseling. Notwithstanding any
10 other provision of this agreement, the TCA's list of self-excluded
11 persons shall not be open to public inspection.

12 (d) The Tribe or video lottery manager also may exclude any
13 other person for any reason not related to that person's race, sex,
14 national origin, physical disability, or religion.

15 Sec. 9.8. Sale of Alcoholic Beverages. The sale and service
16 of alcoholic beverages in a video lottery terminal establishment
17 shall be in compliance with state, federal, and tribal law in regard
18 to the licensing and sale of such beverages.

19 Sec. 9.9. Age Restrictions. (a) No person under the age of
20 21 may be allowed to play video lottery games or be allowed to
21 operate, or obtain a prize from or in connection with the operation
22 of, any video lottery game, directly or indirectly. If during the
23 term of this agreement, the State amends its law to allow play of
24 video lottery terminals by persons under the age of 21, the Tribe
25 may amend tribal law to reduce the lawful gaming age under this
26 agreement to correspond to the lawful gaming age under state law.

27 (b) No person under the age of 21 may be employed as a gaming

1 employee unless the employment would be allowed under state law.

2 (c) No person under the age of 21 may be employed in the
3 service of alcoholic beverages at any video lottery terminal
4 establishment, unless such employment would be allowed under state
5 law.

6 Sec. 9.10. Destruction of Records. Books, records, and
7 other materials documenting the operation of video lottery
8 terminals may be destroyed only in accordance with rules and
9 regulations adopted by the TCA, which at a minimum shall provide as
10 follows:

11 (a) material that might be utilized in connection with a
12 prize claim, including incident reports, surveillance records,
13 statements, and the like, shall be maintained at least 180 days
14 beyond the time which a claim can be made under this gaming
15 agreement or, if a prize claim is made, beyond the final disposition
16 of such claim; and

17 (b) except as otherwise provided in Section 9.3(a)(1), all
18 books and records with respect to the operation of video lottery
19 terminals or the operation of the video lottery terminal
20 establishment, including all interim and final financial and audit
21 reports and materials related thereto which have been generated in
22 the ordinary course of business, shall be maintained for the
23 minimum period of four years.

24 Sec. 9.11. Location. The Tribe may establish facilities
25 for and operate video lottery terminals only on its Indian lands
26 defined by Chapter 466, Texas Government Code. The Tribe shall
27 notify the Texas regulatory commission of any potential new video

1 lottery terminal establishment following the effective date of this
2 gaming agreement. Nothing herein shall be construed as expanding
3 or otherwise altering the term "Indian lands," as that term is
4 defined by Chapter 466, Texas Government Code.

5 Sec. 9.12. Placement and Movement of Video Lottery
6 Terminals. Placement and movement of video lottery terminals
7 within a video lottery terminal establishment must be consistent
8 with a video lottery terminal floor plan approved by the Texas
9 regulatory commission.

10 Sec. 9.13. Monitoring of Operation of Video Lottery
11 Terminals. All terminals connected to the video lottery system
12 will be continuously monitored by the Texas regulatory commission
13 and disabled, when, in the commission's discretion, a problem
14 arises threatening the public health, safety or welfare, or
15 financial loss to the State, or jeopardizing the integrity of the
16 video lottery. Circumstances justifying termination include
17 malfunction of a video lottery terminal or any game displayed on a
18 video lottery terminal, misuse of any video lottery terminal or
19 video lottery game, or a material breach by the Tribe in the
20 operating requirements or a material provision of this agreement.

21 Sec. 9.14. Wager Limitations. The TCA shall set the maximum
22 wager authorized for any single play of a video lottery terminal
23 consistent with any maximum wager set by rule of the Texas
24 regulatory commission. During the term of this agreement, the
25 wager limitation set forth in this section shall be automatically
26 increased without the need to amend this agreement on each two-year
27 anniversary of the effective date to an amount equal to the wager

1 limitation multiplied by the CPI adjustment rate, rounded up to the
2 next whole dollar.

3 Sec. 9.15. Prizes. (a) Payment of prizes shall be the sole
4 and exclusive responsibility of the Tribe or video lottery manager.
5 No prizes shall be paid by the Texas regulatory commission or the
6 State except as otherwise authorized. Video lottery tickets shall
7 be redeemable only for a period of 180 days following the date of
8 issuance. If a claim is not made for prize money on or before the
9 180th day after the date on which the video lottery ticket was
10 issued, the prize money shall be treated as net terminal income.
11 The Tribe agrees to enact rules consistent with this provision and
12 authorized by the commission, governing use and redemption of
13 prizes and credits recorded on electronic player account records,
14 such as players' club cards and smart cards.

15 (b) Nothing herein shall limit the ability of the Tribe or
16 video lottery manager to provide promotional prizes, including wide
17 area progressive networks, in addition to prize payouts regulated
18 by the commission.

19 Sec. 9.16. Patron Disputes. (a) The State and the Texas
20 regulatory commission shall not be liable for any video lottery
21 terminal malfunction or error by the Tribe or video lottery manager
22 that causes credit to be wrongfully awarded or denied to players.
23 Any disputes arising between players and the Tribe or video lottery
24 manager shall be resolved:

25 (1) if the fair market value of the prize is less than
26 \$1,000, in accordance with commission approved written policies of
27 the TCA with no relief available from the commission or the State;

1 or

2 (2) if the fair market value of the prize is \$1,000 or
3 more, by the commission in its sole discretion pursuant to rules
4 established by the commission.

5 (b) No court of this state or of the Tribe shall have
6 jurisdiction to review the decision of the commission resolving a
7 dispute between players and the Tribe or a video lottery manager.

8 Sec. 9.17. Transfer of Gaming Device Operating Rights.
9 During the term of this agreement, the Tribe may enter into a
10 transfer agreement with one or more federally recognized Indian
11 tribes with Indian lands in this state to acquire or transfer video
12 lottery terminal operating rights on Indian lands. The Tribe's
13 acquisition or transfer of video lottery terminal operating rights
14 is subject to the following conditions:

15 (a) Gaming Agreement. Each Indian tribe that is a party to a
16 transfer agreement must have a valid and effective gaming agreement
17 with the State that contains a provision substantially similar to
18 the provision herein permitting transfers of the Indian tribe's
19 video lottery terminal operating rights.

20 (b) Forbearance Agreement. If the Tribe enters into a
21 transfer agreement to transfer some or all of its video lottery
22 terminal operating rights, the Tribe also shall execute a
23 forbearance agreement with the State. The forbearance agreement
24 shall include a waiver of all rights of the Tribe to put into play or
25 operate the number of video lottery terminal operating rights
26 transferred during the term of the transfer agreement.

27 (c) The Tribe must be operating video lottery terminals at

1 least equal to its current video lottery terminal allocation
2 before, or simultaneously with, the Tribe acquiring the right to
3 operate additional video lottery terminals by a transfer agreement.
4 The Tribe is not required to utilize any video lottery terminal
5 operating rights it acquires, or to utilize them before acquiring
6 additional video lottery terminal operating rights.

7 (d) The Tribe shall not at any time simultaneously acquire
8 video lottery terminal operating rights and transfer video lottery
9 terminal operating rights pursuant to transfer agreements.

10 Sec. 9.17.1. Transfer Agreements. The transfer of video
11 lottery terminal operating rights may be made pursuant to a
12 transfer agreement between two Indian tribes. A transfer agreement
13 must include the following provisions:

14 (a) the number of video lottery terminal operating rights
15 transferred and acquired;

16 (b) the duration of the transfer agreement;

17 (c) the consideration to be paid by the Indian tribe
18 acquiring the video lottery terminal operating rights to the Indian
19 tribe transferring the video lottery terminal operating rights and
20 the method of payment;

21 (d) the dispute resolution and enforcement procedures,
22 including a provision for the State to receive notice of any such
23 proceedings; and

24 (e) a procedure to provide quarterly notice to the Texas
25 regulatory commission of payments made and received, and to provide
26 timely notice to the commission of disputes, revocation, amendment,
27 and termination.

1 Sec. 9.17.2. Transfer Notice. At least 30 days before the
2 execution of a transfer agreement the Tribe shall send to the Texas
3 regulatory commission a transfer notice of intent to acquire or
4 transfer video lottery terminal operating rights. The transfer
5 notice shall include a copy of the proposed transfer agreement, the
6 proposed forbearance agreement, and a copy of the tribal resolution
7 authorizing the acquisition or transfer.

8 Sec. 9.17.3. Texas Regulatory Commission Denial of
9 Transfer. (a) The Texas regulatory commission may deny a transfer
10 as set forth in a transfer notice only if:

11 (1) the proposed transfer violates the conditions set
12 forth in this agreement; or

13 (2) the proposed transfer agreement does not contain
14 the minimum requirements listed in this agreement.

15 (b) The commission's denial of a proposed transfer must be
16 in writing, must include the specific reasons for the denial
17 (including copies of all documentation relied upon by the
18 commission to the extent allowed by state law), and must be received
19 by the Tribe within 60 days of the commission's receipt of the
20 transfer notice. If the Tribe disputes the commission's denial of a
21 proposed transfer, the Tribe shall have the right to have the
22 dispute resolved pursuant to the dispute resolution process
23 provided in Section 15.0 herein.

24 Sec. 9.17.4. Effective Date of Transfer. If the Tribe does
25 not receive a notice of denial of the transfer from the Texas
26 regulatory commission within the time period specified in Section
27 9.17.3, the proposed transfer agreement shall become effective on

1 the later of the 61st day following the commission's receipt of the
2 transfer notice or the date set forth in the transfer agreement.

3 Sec. 9.17.5. Use of Brokers. The Tribe shall not contract
4 with any person to act as a broker in connection with a transfer
5 agreement. No person shall be paid a percentage fee or a commission
6 as a result of a transfer agreement, nor shall any person receive a
7 share of any financial interest in the transfer agreement or the
8 proceeds generated by the transfer agreement. Any person acting as
9 a broker in connection with a transfer agreement is providing
10 gaming services.

11 Sec. 9.17.6. Revenue from Transfer Agreements. The Tribe
12 agrees that all proceeds received by the Tribe as a transferor under
13 a transfer agreement shall be used for the governmental purposes
14 permitted under this agreement for revenue generated by video
15 lottery terminal operations. The Tribe shall include the proceeds
16 in an annual audit and shall make available to the State that
17 portion of the audit addressing proceeds from transfer agreements.

18 Sec. 9.17.7. Agreed Upon Procedures Report. The Tribe
19 agrees to provide to the Texas regulatory commission, either
20 separately or with the other party to the transfer agreement, an
21 agreed upon procedures report from an independent certified public
22 accountant. The procedures to be examined and reported upon are
23 whether payments made under the transfer agreement were made in the
24 proper amount, made at the proper time, and deposited in an account
25 of the Indian tribe transferring the video lottery terminal
26 operating rights.

27 Sec. 9.17.8. State Payment. Proceeds received by the Tribe

1 as a transferor under a transfer agreement from the transfer of
2 video lottery terminal operating rights are not subject to any
3 payment to the State under this agreement or otherwise.

4 Sec. 9.17.9. Access to Records Regarding Transfer
5 Agreements. The Texas regulatory commission shall have access to
6 all records of the Tribe directly relating to transfer agreements
7 and forbearance agreements.

8 Sec. 9.18. Supervision of Patrons. The Tribe agrees to
9 ensure that gaming employees, at all times, monitor video lottery
10 terminals to prevent access to or play by persons who are under the
11 age of 21 years or who are visibly intoxicated.

12 Sec. 9.19. Hours of Operation. The Tribe may establish by
13 ordinance or regulation the permissible hours and days of operation
14 of video lottery terminal operations; provided, however, that with
15 respect to the sale of liquor, the Tribe agrees to adopt and comply
16 with standards at least as restrictive as any applicable state
17 liquor laws at all video lottery terminal establishments.

18 Sec. 9.20. Automatic Teller Machines. The Tribe agrees to
19 adopt and comply with a Tribal ordinance establishing responsible
20 restrictions on the provision of financial services at video
21 lottery terminal establishments. At a minimum, the ordinance shall
22 prohibit:

23 (a) locating an automatic teller machine ("ATM") adjacent
24 to, or in proximity to, any video lottery terminal, however, an ATM
25 may be installed in a video lottery terminal establishment,
26 provided that the Tribe adopts and complies with an ordinance
27 establishing standards no less restrictive than any state and

1 federal law governing installation of ATMs within a gaming
2 facility;

3 (b) locating in a video lottery terminal establishment an
4 ATM that accepts electronic benefit transfer cards issued pursuant
5 to a state or federal program that is intended to provide for needy
6 families or individuals; and

7 (c) accepting checks or other non-cash items issued
8 pursuant to a state or federal program that is intended to provide
9 for needy families or individuals.

10 Sec. 9.21. Advertising. Advertisements or promotions must
11 comply with guidelines established by the TCA that are consistent
12 with criteria established by the Texas regulatory commission.

13 Sec. 9.22. Remedies and Penalties for Unlawful Gaming.
14 Operation or possession of any gaming devices not expressly
15 authorized under this gaming agreement or Texas law (excluding any
16 Class II gaming authorized under applicable federal law) shall be
17 considered a material breach of the gaming agreement and justify
18 termination of the agreement. Under those circumstances, the State
19 may bring an action in state court and shall be entitled to an
20 injunction prohibiting the continued operation of any unlawful
21 gaming activity upon a showing by a preponderance of evidence that
22 the breach has occurred. In any such proceeding, it is the finding
23 of the legislature that irreparable injury and inadequate remedy at
24 law shall be presumed once the State has demonstrated the violation
25 has occurred. If the State does not seek an injunction for such a
26 material breach of the gaming agreement, the Tribe agrees to pay a
27 contract penalty of \$10,000 per day for every day the violation or

1 breach continues. If the breach or violation is not cured within 30
2 days, the State shall bring an action to enjoin the unlawful conduct
3 and may disable all video lottery terminals operated by the Tribe or
4 operated by a video lottery manager on the Indian lands of the
5 Tribe.

6 SECTION 10.0. ENFORCEMENT OF GAMING AGREEMENT PROVISIONS.

7 Sec. 10.1. The Tribe and TCA shall be responsible for
8 regulating activities pursuant to this gaming agreement. As part
9 of its responsibilities, the Tribe shall:

10 (a) take reasonable measures to assure the physical safety
11 of video lottery terminal establishment patrons and personnel,
12 prevent illegal activity at the video lottery terminal
13 establishment, and protect any rights of patrons under the Indian
14 Civil Rights Act of 1968 (25 U.S.C. Sections 1301-1303);

15 (b) promptly notify appropriate law enforcement authorities
16 of persons who may be involved in illegal acts in accordance with
17 applicable tribal, federal, and state law;

18 (c) assure that the construction and maintenance of the
19 video lottery terminal establishment meets or exceeds federal and
20 Tribal standards for comparable buildings and minimum standards
21 under this gaming agreement; and

22 (d) prepare adequate emergency access and preparedness
23 plans to ensure the health and safety of all video lottery terminal
24 establishment patrons. On finalization of the emergency access and
25 preparedness plans, the TCA or the Tribe shall forward copies of the
26 plans to the Texas regulatory commission.

27 Sec. 10.2. Members and employees of the TCA shall be

1 licensed in accordance with the provisions of this agreement. All
2 licenses for members and employees of the TCA shall be issued
3 according to the same standards and terms applicable to video
4 lottery terminal establishment employees. The TCA shall employ
5 qualified compliance officers under the authority of the TCA. The
6 compliance officers shall be independent of the video lottery
7 terminal establishment, and shall be supervised by and accountable
8 only to the TCA. A TCA compliance officer shall be available to the
9 video lottery terminal establishment during all hours of operation
10 on reasonable notice, and shall have immediate access to any and all
11 areas of the video lottery terminal establishment for the purpose
12 of ensuring compliance with the provisions of this gaming
13 agreement. The TCA shall investigate any suspected or reported
14 violation of this gaming agreement and shall require the correction
15 of the violation. The TCA shall prepare and retain in its files a
16 timely written report of each investigation and any action taken in
17 response to the investigation, and shall forward copies of the
18 report to the Texas regulatory commission within 15 days of the date
19 of the filing. Any such violations shall be reported immediately to
20 the TCA, and the TCA shall immediately forward the same to the
21 commission. In addition, the TCA shall promptly report to the
22 commission any such violations that it independently discovers.

23 Sec. 10.3. In order to develop and foster a positive and
24 effective relationship in the enforcement of the provisions of this
25 gaming agreement, representatives of the TCA and the Texas
26 regulatory commission shall meet at least annually to review past
27 practices and examine methods to improve the regulatory scheme

1 created by this gaming agreement. The meetings shall take place at
2 a location mutually agreed to by the TCA and the commission. The
3 commission, before or during such meetings, shall disclose to the
4 TCA any concerns, suspected activities, or pending matters
5 reasonably believed to possibly constitute violations of this
6 gaming agreement by any person, organization, or entity, if such
7 disclosure will not compromise the interest sought to be protected.

8 Sec. 10.4. Financial Obligations of the Texas Regulatory
9 Commission. Any financial obligation of the Texas regulatory
10 commission or of the State, under this gaming agreement or arising
11 from the operation of the video lottery on the Tribe's Indian lands,
12 shall be payable solely out of the income, revenues, and receipts of
13 the commission resulting from the operation of video lottery
14 terminals on Indian lands of the Tribe.

15 Sec. 10.5. Penalties and Remedies for Noncompliance. (a)
16 Failure to timely remit revenue generated by video lottery
17 terminals to the Texas regulatory commission or any sales tax or
18 other fee owed to the State or to timely file any report or
19 information required under this gaming agreement or by applicable
20 federal or state law shall constitute a material breach of this
21 gaming agreement. After receiving at least 24 hours written notice
22 from the commission and an additional 48 hours for the opportunity
23 to remedy the breach or otherwise correct the violation, the Tribe
24 shall be subject to contract penalties in the amount of \$10,000 per
25 day for the breach. If the breach is not cured within 30 days, the
26 commission shall disable all video lottery terminals operated by
27 the Tribe.

1 (b) If the Tribe is in material breach of this agreement and
2 the Texas regulatory commission exercises its right to disable all
3 video lottery terminals operated by the Tribe, the commission shall
4 have the right to enter the premises of any video lottery terminal
5 establishment on the Tribe's Indian lands and remove any video
6 lottery games or other video lottery equipment owned by the State.

7 Sec. 10.6. No Liability of the State Related to
8 Enforcement. The State and the Texas regulatory commission are not
9 liable for any enforcement of the provisions of this gaming
10 agreement.

11 SECTION 11.0. STATE MONITORING OF GAMING AGREEMENT.

12 Sec. 11.1. (a) The Texas regulatory commission shall,
13 pursuant to the provisions of this gaming agreement, have the
14 authority to monitor the conduct of video lottery games to ensure
15 video lottery games are conducted in compliance with the provisions
16 of this gaming agreement. In order to properly monitor the conduct
17 of video lottery games, in addition to the State's operation and
18 control of the central system and video lottery system, agents of
19 the commission shall have reasonable access to all areas of the
20 video lottery terminal establishment related to the conduct of
21 video lottery games as provided herein:

22 (1) the commission shall have access to the video
23 lottery terminal establishment only during the video lottery
24 terminal establishment's normal operating hours; provided that to
25 the extent such inspections are limited to areas of the video
26 lottery terminal establishment where the public is normally
27 allowed, commission agents may inspect the video lottery terminal

1 establishment without giving prior notice to the Tribe;

2 (2) any suspected or claimed violations of this gaming
3 agreement or of law shall be directed in writing to the TCA;
4 commission agents may not interfere with the functioning of the
5 video lottery terminal establishment unless the public safety,
6 welfare, or financial loss to the State, or integrity of the state
7 lottery so requires; and

8 (3) before entering any nonpublic area of the video
9 lottery terminal establishment, commission agents must provide
10 proper photographic identification to the TCA.

11 (b) A TCA agent shall accompany a commission agent in
12 nonpublic areas of the video lottery terminal establishment. A
13 one-hour notice by the commission to the TCA may be required to
14 assure that a TCA officer is available to accompany commission
15 agents at all times.

16 Sec. 11.2. Subject to the provisions herein, agents of the
17 Texas regulatory commission shall have the right to review and copy
18 documents or other records related to the operation of video
19 lottery terminals. The review and copying of those records shall be
20 during normal business hours or hours otherwise at the Tribe's
21 discretion. However, the commission may not copy those portions of
22 any records related to the Tribe's operation of video lottery
23 terminals that contain business or marketing strategies or other
24 proprietary and confidential information, including customer
25 lists, business plans, marketing studies, and customer
26 demographics or profiles. No records of the Tribe related to its
27 conduct of video lottery games or copies thereof shall be released

1 to the public by the State. All such records shall be deemed
2 confidential records owned by the Tribe and are not subject to
3 public disclosure by the State.

4 Sec. 11.3. At the completion of any commission inspection
5 or investigation, the Texas regulatory commission shall forward a
6 written report thereof to the TCA. The TCA shall be apprised on a
7 timely basis of all pertinent, nonconfidential information
8 regarding any violation of federal, or state laws, rules or
9 regulations, or this gaming agreement. Nothing herein prevents the
10 commission from contacting Tribal or federal law enforcement
11 authorities concerning suspected criminal wrongdoing involving the
12 TCA. The TCA may interview commission agents and inspectors upon
13 reasonable notice and examine work papers in the same fashion that
14 commission agents and inspectors may examine auditors' notes and
15 make auditor inquiry unless providing such information to the TCA
16 will compromise the interests sought to be protected.

17 Sec. 11.4. Nothing in this gaming agreement shall be deemed
18 to authorize the State to regulate the Tribe's government,
19 including the TCA, or to interfere in any way with the Tribe's
20 selection of its governmental officers, including members of the
21 TCA. The Texas regulatory commission and the Tribe, however, on
22 request of the Tribe, shall jointly employ, at the Tribe's expense,
23 an independent firm to perform on behalf of the commission the
24 duties set forth in Sections 11.2 and 11.3.

25 SECTION 12.0. JURISDICTION.

26 Sec. 12.1. Except as expressly provided herein, this gaming
27 agreement shall not alter tribal, federal, or state civil

1 adjudicatory or criminal jurisdiction.

2 Sec. 12.2. The Tribe expressly consents to the State's
3 jurisdiction to enforce the terms of this gaming agreement
4 including any request for judicial injunctive relief to prohibit
5 unlawful gaming activities.

6 SECTION 13.0. PUBLIC AND WORKPLACE HEALTH, SAFETY, AND
7 LIABILITY.

8 Sec. 13.1. The Tribe will not conduct any gaming activity in
9 a manner that endangers the public health, safety, or welfare.

10 Sec. 13.2. For the purposes of this gaming agreement, the
11 Tribe agrees to:

12 (a) adopt and comply with standards at least as stringent as
13 state public health standards for food and beverage handling at any
14 video lottery terminal establishment. The Tribe will allow
15 inspection of food and beverage services at any video lottery
16 terminal establishment by state or county health inspectors, during
17 normal hours of operation, to assess compliance with these
18 standards, unless inspections are routinely made by an agency of
19 the United States government to ensure compliance with equivalent
20 standards of the United States Public Health Service. Nothing
21 herein shall be construed as submission of the Tribe to the
22 jurisdiction of those state or county health inspectors, but any
23 alleged violations of the standards shall be treated as alleged
24 violations of the gaming agreement;

25 (b) adopt and comply with standards at least as stringent as
26 federal water quality and safe drinking water standards applicable
27 in Texas at any video lottery terminal establishment. The Tribe

1 will allow for inspection and testing of water quality at any video
2 lottery terminal establishment by state or county health
3 inspectors, as applicable, during normal hours of operation, to
4 assess compliance with these standards, unless inspections and
5 testing are made by an agency of the United States pursuant to, or
6 by the Tribe under express authorization of, federal law, to ensure
7 compliance with federal water quality and safe drinking water
8 standards. Nothing herein shall be construed as submission of the
9 Tribe to the jurisdiction of those state or county health
10 inspectors, but any alleged violations of the standards shall be
11 treated as alleged violations of this gaming agreement;

12 (c) comply with the building and safety standards set forth
13 in Section 8.4 of this agreement;

14 (d) carry not less than one million dollars (\$1,000,000) in
15 public liability insurance for patron claims. The Tribe herein
16 provides reasonable assurance that such claims will be promptly and
17 fairly adjudicated, and that legitimate claims will be paid;
18 provided that nothing herein requires the Tribe to agree to
19 liability for punitive damages or attorneys' fees. On or before the
20 effective date of this gaming agreement or not less than 30 days
21 before the commencement of operation of video lottery terminals
22 under this gaming agreement, whichever is later, the Tribe shall
23 adopt and make available to patrons a tort liability ordinance
24 setting forth the terms and conditions, if any, under which the
25 Tribe waives immunity to suit for money damages resulting from
26 intentional or negligent injuries to person or property at the
27 video lottery terminal establishment or in connection with the

1 Tribe's operation of video lottery terminals. The tort liability
2 ordinance shall include procedures for processing any claims for
3 such money damages. Nothing in this section shall require the Tribe
4 to waive its immunity to suit except to the extent of the policy
5 limits set out in this subsection. Any insurance policy provided in
6 compliance with the terms of this subsection shall provide that the
7 policy provider shall not raise the Tribe's sovereign immunity as a
8 defense or otherwise to avoid payment of a claim under this
9 subsection;

10 (e) adopt and comply with standards at least as stringent as
11 federal workplace and occupational health and safety standards at
12 any video lottery terminal establishment. The Tribe will allow for
13 inspection of video lottery terminal establishment workplaces by
14 state inspectors, during normal hours of operation, to assess
15 compliance with these standards, unless inspections are regularly
16 made by an agency of the United States government to ensure
17 compliance with federal workplace and occupational health and
18 safety standards. Nothing herein shall be construed as submission
19 of the Tribe to the jurisdiction of those state inspectors, but any
20 alleged violations of the standards shall be treated as alleged
21 violations of this gaming agreement;

22 (f) comply with tribal codes and any applicable federal law
23 regarding public health and safety;

24 (g) adopt and comply with standards at least as stringent as
25 federal laws and state laws forbidding employers generally from
26 discriminating in the employment of persons to work for the Tribe in
27 relation to its operation of video lottery terminals or in the video

1 lottery terminal establishment on the basis of race, color,
2 religion, national origin, gender, sexual orientation, age, or
3 disability. However, nothing herein shall preclude the Tribe from
4 giving a preference in employment to Indians, pursuant to a duly
5 adopted tribal ordinance;

6 (h) adopt and comply with standards that are at least as
7 stringent as state laws prohibiting a video lottery manager or any
8 employee thereof from cashing any check drawn against a federal,
9 state, county, or city fund, including social security,
10 unemployment insurance, disability payments, or public assistance
11 payments;

12 (i) adopt and comply with standards that are at least as
13 stringent as state laws governing the extension of credit to, the
14 cashing of checks for, and other financial transactions with
15 patrons calculated to protect players from problem and pathological
16 gambling; and

17 (j) adopt and comply with the provisions of the Bank Secrecy
18 Act (31 U.S.C. Sections 5311-5314), as amended, and all reporting
19 requirements of the Internal Revenue Service, insofar as such
20 provisions and reporting requirements are applicable to gaming
21 facilities.

22 Sec. 13.2.1. The Tribe agrees to adopt and, not later than
23 30 days after the effective date of this gaming agreement, make
24 available on request the standards described in Subsections (a)-(c)
25 and (e)-(j) of Section 13.2 to which the Tribe is held with regard
26 to operation of video lottery terminals. In the absence of a
27 promulgated tribal standard in respect to a matter identified in

1 those subsections, or the express adoption of an applicable federal
2 statute or regulation instead of a tribal standard in respect to any
3 such matter, an applicable state statute or regulation shall be
4 deemed to have been adopted by the Tribe as the applicable standard.

5 Sec. 13.3. Participation in State Statutory Programs
6 Related to Employment. (a) Instead of allowing the Tribe to
7 participate in the state statutory workers' compensation system for
8 employees of a video lottery terminal establishment or otherwise
9 engaged in the operation of video lottery terminals, the Tribe may
10 create and maintain a system that provides redress for employee
11 work-related injuries through requiring insurance or
12 self-insurance. The system must include a scope of coverage,
13 availability of an independent medical examination, right to
14 notice, hearings before an independent tribunal, a means of
15 enforcement against the employer, and benefits comparable to those
16 mandated for comparable employees under state law. Not later than
17 the effective date of this gaming agreement, or 60 days before the
18 commencement of video lottery terminal operations under this gaming
19 agreement, the Tribe will advise the State of its election to
20 participate in the statutory workers' compensation system or,
21 alternatively, will forward to the State all relevant ordinances
22 that have been adopted and all other documents establishing the
23 system and demonstrating that the system is fully operational and
24 compliant with the comparability standard set forth in this
25 subsection. The parties agree that independent contractors doing
26 business with the Tribe must comply with all state workers'
27 compensation laws and obligations.

1 (b) The Tribe agrees to participate in the State's program
2 for providing unemployment compensation benefits and unemployment
3 compensation disability benefits with respect to employees of the
4 video lottery terminal establishment, and the Tribe consents to the
5 jurisdiction of the state agencies charged with the enforcement of
6 that code and of the courts of the State for purposes of
7 enforcement.

8 (c) As a matter of comity, with respect to persons employed
9 at the video lottery terminal establishment in capacities otherwise
10 related to the operation of video lottery terminals, other than
11 members of the Tribe, the Tribe shall withhold all taxes due to the
12 State as provided by Texas law, and shall forward the amounts as
13 provided by State law.

14 Sec. 13.4. Emergency Service Accessibility. The Tribe
15 shall make reasonable provisions for adequate emergency fire,
16 medical, and related relief and disaster services for patrons and
17 employees of the video lottery terminal establishment.

18 Sec. 13.5. The Tribe agrees to prohibit the intentional,
19 knowing, or reckless possession of a firearm, illegal knife, club,
20 explosive weapon, machine gun, firearm silencer, knuckles,
21 armor-piercing ammunition, a chemical dispensing device, or a zip
22 gun, as those terms are defined in Section 46.01, Texas Penal Code,
23 at all times in the video lottery terminal establishment. The
24 defenses that apply to the prohibition of possession of those
25 weapons on the premises of a racetrack under Section 46.03, Texas
26 Penal Code, shall also apply to the prohibition of possession of the
27 weapons in video lottery terminal establishments. In addition,

1 Tribal security or Tribal law enforcement personnel, shall be
2 allowed to possess firearms and clubs at a video lottery terminal
3 establishment as authorized by Tribal law.

4 Sec. 13.6. Tribal Law Enforcement Plan. The Tribe agrees to
5 implement a written tribal law enforcement services plan that
6 provides a comprehensive and effective means to address criminal
7 and undesirable activity at the video lottery terminal
8 establishment. The plan shall provide that sufficient tribal law
9 enforcement resources are available 24 hours a day, seven days per
10 week to protect the public health, safety, and welfare at the video
11 lottery terminal establishment. To accommodate investigations and
12 intelligence sharing, the Tribe will provide that a police officer
13 holding a current Texas police officer standards and training
14 certification is employed by the Tribe and assigned to handle video
15 lottery terminal related matters when they arise. Intelligence
16 liaisons will be established at the tribal police department or TCA
17 and also at the Texas regulatory commission. There will be federal,
18 tribal, and state cooperation in task force investigations. The
19 commission's intelligence unit will gather, coordinate,
20 centralize, and disseminate accurate and current intelligence
21 information pertaining to criminal and undesirable activity that
22 may threaten patrons, employees, and assets of a video lottery
23 terminal establishment or the video lottery system. The State and
24 the Tribe will coordinate the use of resources, authority, and
25 personnel of the State and the Tribe for the shared goal of
26 preventing and prosecuting criminal or undesirable activity by
27 players, employees, or businesses in connection with tribal video

1 lottery terminal operations.

2 Sec. 13.7. Annual Statement of Compliance Regarding Use of
3 Revenue. The Tribe agrees to submit to the Texas regulatory
4 commission an annual statement of compliance regarding the use of
5 its share of revenue generated from video lottery terminal
6 operations and a copy of a current tribal ordinance requiring that
7 revenue generated from video lottery terminal operations be used
8 exclusively for the establishment and improvement of governmental
9 services and programs.

10 SECTION 14.0. EXCLUSIVITY AND FEES.

11 Sec. 14.1. The parties acknowledge and recognize that this
12 gaming agreement provides the Tribe territorial exclusivity
13 through the permitted operation of video lottery terminals without
14 requiring construction or operation of a racetrack for live horse
15 or dog racing. This territorial exclusivity and the additional
16 benefits to the Tribe are of substantial benefit to the Tribe and,
17 consistent with Federal Indian policy, provide special
18 opportunities for tribal economic opportunity through gaming
19 within the external boundaries of Texas. In consideration thereof,
20 as long as the State does not after the effective date of this
21 gaming agreement authorize a person to operate video lottery
22 terminals or any additional form of gaming that would be considered
23 a lottery or gift enterprise under Section 47(a), Article III,
24 Texas Constitution, without the Tribe's written consent within the
25 exclusive territory designated by this gaming agreement for the
26 operation of video lottery games by the Tribe, the Tribe agrees to
27 pay the fees described in this section.

1 (a) The Tribe covenants and agrees to pay to the State a fee
2 derived from net terminal income calculated as set forth in
3 Subsection (b) of this section. The fee shall be deducted from the
4 daily deposit of funds into the State's account from the video
5 lottery terminal operations prior to the State's transfer of funds
6 back to the Tribe for such operations.

7 (b) The fee shall be eight percent of all net terminal
8 income received by the Tribe in a calendar year.

9 Sec. 14.2. Start-Up Assessment. On the effective date of
10 this gaming agreement, the Tribe shall deposit with the Texas
11 regulatory commission the sum of \$10,000 ("Start-Up Assessment").
12 The purpose of the Start-Up Assessment shall be to assist the State
13 in initiating its administrative and oversight responsibilities
14 hereunder, and shall be a one-time payment to the State for such
15 purposes.

16 Sec. 14.3. Nothing in this gaming agreement shall be deemed
17 to authorize the State to impose any tax, fee, charge, or assessment
18 on the Tribe or the video lottery terminal establishment except as
19 expressly authorized pursuant to this gaming agreement under
20 Sections 4.6 and 13.3(c). To the extent that the Tribe is required
21 under federal law to report prizes awarded, the Tribe agrees to copy
22 such reports to the Texas regulatory commission. Any state sales
23 tax on the sale of goods and services to non-Indians at video
24 lottery terminal establishments shall be conclusively presumed to
25 be a direct tax on the retail consumer, pre-collected for the
26 purpose of convenience and facility.

27 Sec. 14.4. In consideration for the covenants and

1 agreements contained herein, the State agrees that it will not,
2 during the term of this gaming agreement, allow the nontribal
3 operation of any video lottery games or other gaming that would be
4 considered a lottery or gift enterprise under Section 47(a),
5 Article III, Texas Constitution, without the Tribe's written
6 consent within _____ [limitation on state video lottery or other
7 new lottery gaming in exclusive Indian video lottery territory].
8 The state recognizes the importance of this provision to the Tribe
9 and agrees, in the event of a breach of this provision by the State,
10 to require any nontribal entity that operates any such games within
11 the prohibited territory to remit to the State not less than 50
12 percent of any revenue from those games. The State further agrees
13 to remit that revenue at least quarterly to Eligible Tribes, as
14 liquidated damages. For purposes of this part, "Eligible Tribes"
15 shall mean those tribes that have entered into a gaming agreement
16 with the State under Section 466.604, Texas Government Code, and
17 are operating gaming pursuant to the gaming agreement within _____
18 [description of exclusive territory for tribal video lottery].
19 Such liquidated damages shall be allocated pro rata to the Eligible
20 Tribes based on the number of video lottery terminals operated by
21 each Eligible Tribe in the time period when those revenues were
22 generated.

23 SECTION 15.0. DISPUTE RESOLUTION.

24 Sec. 15.1. Voluntary Resolution; Reference to Other Means
25 of Resolution. In recognition of the government-to-government
26 relationship of the Tribe and the State, the parties shall make
27 their best efforts to resolve disputes that occur under this gaming

1 agreement by good faith negotiations whenever possible. Therefore,
2 without prejudice to the right of either party to seek injunctive
3 relief or specific relief provided in this agreement against the
4 other when circumstances are deemed to require immediate relief,
5 the parties hereby establish a threshold requirement that disputes
6 between the Tribe and the State first be subjected to a process of
7 meeting and conferring in good faith in order to foster a spirit of
8 cooperation and efficiency in the administration and monitoring of
9 performance and compliance by each other with the terms,
10 provisions, and conditions of this gaming agreement, as follows:

11 (a) either party shall give the other, as soon as possible
12 after the event giving rise to the concern, a written notice setting
13 forth, with specificity, the issues to be resolved;

14 (b) the parties shall meet and confer in a good faith
15 attempt to resolve the dispute through negotiation not later than
16 10 days after receipt of the notice, unless both parties agree in
17 writing to an extension of time;

18 (c) if the dispute is not resolved to the satisfaction of
19 the parties within 30 calendar days after the first meeting, then
20 either party may seek to have the dispute resolved by an arbitrator
21 in accordance with this section; and

22 (d) disagreements that are not otherwise resolved by
23 arbitration or other mutually acceptable means as provided herein
24 may be resolved in the United States District Court with
25 jurisdiction over the location or planned location of the Tribe's
26 video lottery terminal establishment or, if the federal courts lack
27 jurisdiction, in a state district court in Travis County. The

1 disputes to be submitted to court action are limited to claims of
2 breach or violation of this gaming agreement or failure to
3 negotiate in good faith as required by the terms of this gaming
4 agreement. The parties agree that, except in the case of imminent
5 threat to the public health, safety, or welfare or the integrity of
6 the lottery, reasonable efforts will be made to explore alternative
7 dispute resolution avenues prior to resorting to judicial process.

8 Sec. 15.2. Arbitration Rules. Arbitration shall be
9 conducted in accordance with the policies and procedures of the
10 Commercial Arbitration Rules of the American Arbitration
11 Association, provided that application of these rules shall not be
12 construed to waive the State's sovereign immunity to an extent
13 greater than otherwise authorized herein. Arbitration shall be
14 held at such location as the parties may agree. Each side shall
15 bear its own costs, attorneys' fees, and one-half the costs and
16 expenses of the American Arbitration Association and the
17 arbitrator, unless the arbitrator rules otherwise. Only one
18 neutral arbitrator may be named, unless the Tribe or the State
19 objects, in which case a panel of three arbitrators (one of whom is
20 selected by each party) will be named. The decision of the
21 arbitrator(s) shall be in writing, shall give reasons for the
22 decision, and shall be binding. Judgment on the award may be entered
23 in any federal or state court having jurisdiction thereof.

24 Sec. 15.3. Limited Waiver of Sovereign Immunity. (a) In
25 the event that a dispute is to be resolved in federal court or a
26 state court of competent jurisdiction as provided in this section,
27 the State and the Tribe expressly consent to be sued therein and

1 waive any immunity therefrom that they may have provided that:

2 (1) the dispute is limited solely to issues arising
3 under this gaming agreement;

4 (2) neither side makes any claim for monetary damages
5 (that is, only injunctive, specific performance, including
6 enforcement of a provision of this gaming agreement requiring
7 payment of money to one or another of the parties, or declaratory
8 relief is sought); and

9 (3) no person or entity other than the Tribe and the
10 State is party to the action, unless failure to join a third party
11 would deprive the court of jurisdiction, provided that nothing
12 herein shall be construed to constitute a waiver of the sovereign
13 immunity of either the Tribe or the State in respect to any such
14 third party.

15 (b) In the event of intervention by any additional party
16 into any such action without the consent of the Tribe and the State,
17 the waivers of either the Tribe or the State provided for herein may
18 be revoked, unless joinder is required to preserve the court's
19 jurisdiction, provided that nothing herein shall be construed to
20 constitute a waiver of the sovereign immunity of either the Tribe or
21 the State in respect to any such third party.

22 (c) The waivers and consents provided for under this section
23 shall extend to civil actions authorized by this gaming agreement,
24 such as actions to compel arbitration, any arbitration proceeding
25 herein, any action to confirm or enforce any judgment or
26 arbitration award as provided herein, and any appellate proceedings
27 emanating from a matter in which an immunity waiver has been

1 granted. Except as stated herein or elsewhere in this gaming
2 agreement, no other waivers or consents to be sued, either express
3 or implied, are granted by either party.

4 (d) The State only waives sovereign immunity to the extent
5 authorized by Section 466.601, Texas Government Code.

6 SECTION 16.0. CONSTRUCTION OF GAMING AGREEMENT; FEDERAL
7 APPROVAL.

8 Sec. 16.1. Each provision, section, and subsection of this
9 gaming agreement shall stand separate and independent of every
10 other provision, section, or subsection. In the event that a
11 federal district court or a state court of competent jurisdiction
12 as provided in this agreement shall find any provision, section, or
13 subsection of this gaming agreement to be invalid, the remaining
14 provisions, sections, and subsections of this gaming agreement
15 shall remain in full force and effect, unless the invalidated
16 provision, section, or subsection is material. It is a material
17 provision of this gaming agreement that Class III gaming be limited
18 to that expressly authorized under this gaming agreement, and
19 Subchapter K, Chapter 466, Texas Government Code. If any final and
20 nonappealable judicial determination authorizes or requires the
21 State to authorize that any Class III gaming be operated by the
22 Tribe other than video lottery terminals connected to the video
23 lottery system or to a government operated video lottery system
24 structured identically to that expressly authorized under
25 Subchapter K, Chapter 466, Texas Government Code, if so required by
26 federal law, then this gaming agreement shall be null and void for
27 all purposes.

1 Sec. 16.2. Each party hereto agrees to defend the validity
2 of this gaming agreement and the legislation in which it is
3 embodied.

4 Sec. 16.3. The parties shall cooperate in seeking approval
5 of this gaming agreement from an appropriate federal agency if so
6 required by federal law.

7 SECTION 17.0. NOTICES.

8 All notices required under this gaming agreement shall be
9 given by certified mail, return receipt requested, commercial
10 overnight courier service, or personal delivery, to the following
11 persons:

12 Governor

13 Chair, State-Tribal Relations Committee

14 Attorney General

15 [Principal Chief, Governor or Chair]

16 [Name of Tribe]

17 [Address]

18 With copies to: _____

19 SECTION 18.0. DURATION, NEGOTIATION, AND TERMINATION.

20 Sec. 18.1. This gaming agreement shall become effective on
21 the last date of the satisfaction of the following requirements:

22 (a) due execution on behalf of the Tribe, including
23 obtaining all tribal resolutions and completing other tribal
24 procedures as may be necessary to render the Tribe's execution
25 effective including a final and nonappealable decision of a tribal
26 court of competent jurisdiction that the Tribe's execution of this
27 gaming agreement is effective and that all parts and provisions of

1 the gaming agreement are enforceable by and against the Tribe as set
2 forth herein;

3 (b) any federal regulatory approval required under federal
4 law and, if so required, publication in the Federal Register or
5 satisfaction of any other requirement of federal law; and

6 (c) payment of the Start-up Assessment provided for in
7 Section 14.2 of this gaming agreement.

8 Sec. 18.2. This gaming agreement shall have an initial term
9 of 10 years from the effective date, renewable for an additional 10
10 years; provided that the Tribe and the State, acting through its
11 Governor, may renegotiate the terms of this gaming agreement after
12 the initial term. The Tribe's noncompliance with any operational,
13 reporting, or other requirements under this gaming agreement shall
14 justify termination of operation of video lottery terminals on the
15 Tribe's Indian lands. The Tribe shall be entitled to notice and a
16 hearing on the compliance issue as set forth under Chapter 466,
17 Texas Government Code, and accompanying rules of the Texas
18 regulatory commission. If the Tribe does not remedy the
19 noncompliance issue within 180 days of the termination or 60 days
20 after a final decision of the commission that the Tribe is out of
21 compliance, then this gaming agreement shall terminate without
22 penalty against the commission or the State.

23 Sec. 18.3. This gaming agreement shall remain in full force
24 and effect until the sooner of expiration of the term, termination
25 as provided herein, or termination by mutual consent of the
26 parties. In addition to the remedies set forth above, either party
27 may bring an action in federal court, after providing a 60-day

1 written notice of an opportunity to cure any alleged breach of this
2 gaming agreement, for a declaration that the other party has
3 materially breached this gaming agreement. On issuance of such a
4 declaration, the complaining party may unilaterally terminate this
5 gaming agreement on service of written notice on the other party.
6 In the event a federal court determines that it lacks jurisdiction
7 over such an action, the action may be brought in the district court
8 for the county in which the Tribe's video lottery terminal
9 establishment is located. The parties expressly waive their
10 immunity to suit for purposes of an action under this subsection,
11 subject to the qualifications stated herein. Nothing in this
12 provision shall be construed to limit other remedies available to
13 and contract penalties enforceable by the Texas regulatory
14 commission, as expressly provided herein, in the event of the
15 Tribe's material breach. The Tribe and the State recognize and
16 agree that the narrow and enumerated provisions for such immediate
17 remedies and enforcement by the State are necessary to protect the
18 public health, safety, and welfare and the integrity of the video
19 lottery.

20 SECTION 19.0. AMENDMENTS; RENEGOTIATIONS.

21 Sec. 19.1. The terms and conditions of this gaming
22 agreement may be amended at any time by the mutual and written
23 agreement of both parties.

24 Sec. 19.2. This gaming agreement is subject to
25 renegotiation in the event the Tribe wishes to engage in forms of
26 Class III gaming other than those games authorized herein and
27 requests renegotiation for that purpose, provided that no such

1 renegotiation may be sought for 24 months following the effective
2 date of this gaming agreement.

3 SECTION 20.0. AUTHORITY TO EXECUTE.

4 This gaming agreement, as an enactment of the State
5 Legislature, is deemed approved by the State. On valid execution by
6 the Tribe and the Governor of the State, no further action by the
7 State or any state official is necessary for this gaming agreement
8 to take effect on any necessary approval by any federal agency as
9 required by applicable federal law, including publication in the
10 Federal Register, if required. The undersigned tribal official(s)
11 represents that he or she is duly authorized and has the authority
12 to execute this gaming agreement on behalf of the Tribe for whom he
13 or she is signing.

14 APPROVED:

15 [Name of Tribe]

16 _____ Date: _____

17 [CHIEF EXECUTIVE OFFICER]

18 State of Texas

19 _____ Date: _____

20 Governor of Texas

21 Sec. 466.605. NEGOTIATION FOR DIFFERENT GAMING AGREEMENT
22 TERMS. (a) Nothing in this subchapter may be construed to limit
23 the ability of a federally recognized Indian tribe to request that a
24 gaming agreement be negotiated with this state on terms that are
25 different from those set forth in the gaming agreement under
26 Section 466.604, or the ability of this state to engage in
27 negotiations and to reach agreement under any applicable federal

1 law.

2 (b) In offering to enter into a gaming agreement with Indian
3 tribes in this state under Section 466.604(b), and, except for
4 assessments by this state as provided in that section of the amounts
5 necessary to defray state costs of regulating activities as
6 provided under the gaming agreement, nothing in this chapter may be
7 construed to mean that:

8 (1) this state is imposing any tax, fee, charge, or
9 other assessment on an Indian tribe or on any other person or entity
10 authorized by an Indian tribe as a condition to engaging in a Class
11 III activity; or

12 (2) this state is refusing to enter into gaming
13 agreement negotiations based on the lack of authority of this state
14 or a political subdivision of this state to impose the tax, fee,
15 charge, or other assessment.

16 (c) If any federally recognized tribe with jurisdiction
17 over Indian lands in this state requests that the governor enter
18 into negotiations for a gaming agreement under federal law
19 applicable to the tribe, including the Indian Gaming Regulatory Act
20 (18 U.S.C. Section 1166 and 25 U.S.C. Section 2701 et seq.), on
21 terms different than those prescribed in the gaming agreement in
22 Section 466.604(b), the governor shall enter into those
23 negotiations under the federal law applicable to the tribe and
24 without preconditions and is authorized to reach agreement and
25 execute the agreement on behalf of this state, provided that the
26 gaming agreement does not expand the scope of gaming expressly
27 authorized under this chapter and entitles the tribe only to

1 operate video lottery terminals in strict compliance with state
2 law, unless otherwise required by applicable federal law, and
3 provided that the gaming agreement includes the following
4 provisions:

5 (1) a provision prescribing that the tribe is
6 authorized and allowed to engage only in the Class III gaming
7 activities expressly referred to in the gaming agreement or
8 authorized under Texas law and may not engage in Class III gaming
9 that is not expressly authorized in the agreement or under Texas
10 law;

11 (2) a provision prescribing that any operation or
12 possession by the tribe of any gaming devices not expressly
13 authorized under the gaming agreement or other Texas law, excluding
14 any Class II gaming authorized under applicable federal law, shall
15 be considered a material breach of the gaming agreement and justify
16 termination of the agreement and this state may bring an action in
17 federal court or, in the event the federal court declines
18 jurisdiction, in state court and shall be entitled to an injunction
19 prohibiting the continued operation of any unlawful gaming activity
20 on the tribal lands on a showing by a preponderance of evidence that
21 the breach has occurred;

22 (3) a provision waiving state and tribal sovereign
23 immunity for purposes of operation of video lottery terminals and
24 enforcement of the gaming agreement, provided that this state may
25 not waive sovereign immunity except to the extent expressly
26 permitted under Section 466.601;

27 (4) a provision establishing minimum internal control

1 standards at least as restrictive as those provided under this
2 subchapter and any standards set forth under applicable federal
3 law;

4 (5) a provision requiring any video lottery manager
5 doing business on Indian lands to indemnify and hold harmless the
6 commission, this state, and the members, officers, employees, and
7 authorized agents of the commission and this state from any and all
8 claims which may be asserted against a license or registration
9 holder, the commission, this state, or the employees arising from
10 the license or registration holder's participation in the video
11 lottery system authorized under the gaming agreement;

12 (6) a provision requiring the tribe to pay all
13 regulatory costs incurred by this state in relation to the
14 operation of video lottery terminals on the Indian lands of the
15 tribe to assure compliance with all federal and state law and all
16 provisions of the agreement;

17 (7) a provision recognizing the substantial benefit of
18 the exclusivity or other substantial benefits afforded to the Tribe
19 under the agreement and providing for the sharing of net terminal
20 revenue between the tribe and this state as payment for the
21 exclusivity or other substantial benefit;

22 (8) a provision establishing investigative and
23 licensing standards at least as restrictive as those provided under
24 this subchapter and under any applicable federal law;

25 (9) a provision requiring video lottery terminals and
26 facilities operating the video lottery terminals authorized under
27 the gaming agreement to be owned by the tribe;

1 (10) a provision requiring the video lottery
2 authorized by the gaming agreement to be licensed by the tribe in
3 conformity with the requirements of the agreement, the Tribal
4 Gaming Ordinance, and any applicable federal law, every five years
5 and the tribe shall review and renew the license, if appropriate,
6 and the tribe shall provide to the commission verification that
7 this requirement has been satisfied;

8 (11) a provision requiring the licensing of all video
9 lottery employees and any person extending financing, directly or
10 indirectly, to the tribe's video lottery operation before extending
11 that financing, provided that any person who is extending financing
12 at the time of the execution of the agreement must be licensed by
13 the tribe not later than the 90th day after the date of execution,
14 and the provision may allow the tribe, in its discretion, to exclude
15 from the licensing requirements of this section financing provided
16 by:

17 (A) a federally regulated or state-regulated
18 bank, savings and loan, or other federally or state-regulated
19 lending institution;

20 (B) any federal, state, or local government
21 agency; or

22 (C) any investor who, alone or in conjunction
23 with others, holds less than 10 percent of any outstanding
24 indebtedness evidenced by bonds issued by the tribe;

25 (12) a provision allowing the commission, under the
26 provisions of the agreement, to monitor the conduct of video
27 lottery games to ensure that the video lottery games are conducted

1 in compliance with the provisions of the agreement, and granting
2 the Department of Public Safety and agents of the commission
3 reasonable access to all areas of the facility related to the
4 conduct of video lottery games in order to properly monitor the
5 conduct of video lottery games;

6 (13) a provision specifying jurisdiction of tribal,
7 state, and federal courts with regard to matters arising from the
8 agreement or the operation of video lottery terminals, or both, as
9 authorized by the agreement and consistent with Section 466.601;

10 (14) a provision requiring the tribe to adopt and
11 comply with standards at least as stringent as state public health
12 standards for food and beverage handling at any facilities where
13 video lottery terminals are operated;

14 (15) a provision requiring the tribe to adopt and
15 comply with standards at least as stringent as federal water
16 quality and safe drinking water standards applicable in this state
17 at any facilities where video lottery terminals are operated, and
18 requiring the Tribe to allow for inspection and testing of water
19 quality by state or county health inspectors, as applicable, during
20 normal hours of operation, to assess compliance with these
21 standards, unless inspections and testing are made by an agency of
22 the United States pursuant to or by the Tribe under express
23 authorization of federal law to ensure compliance with federal
24 water quality and safe drinking water standards;

25 (16) a provision requiring the tribe to carry at least
26 \$5 million in public liability insurance for patron claims and
27 providing reasonable assurance that the claims will be promptly and

1 fairly adjudicated and that legitimate claims will be paid;

2 (17) a provision requiring the tribe to adopt and
3 comply with standards at least as stringent as federal workplace
4 and occupational health and safety standards for any facilities
5 where video lottery terminals are operated, and requiring the tribe
6 to allow for inspection of the workplaces by state inspectors
7 during normal hours of operation to assess compliance with these
8 standards, unless inspections are regularly made by an agency of
9 the United States government to ensure compliance with federal
10 workplace and occupational health and safety standards;

11 (18) a provision requiring the tribe to adopt and
12 comply with standards at least as stringent as federal laws and
13 state laws forbidding employers generally from discriminating in
14 the employment of persons to work for the facility operating video
15 lottery terminals on the basis of race, color, religion, national
16 origin, gender, sexual orientation, age, or disability, provided
17 that nothing in the provision precludes the tribe from giving a
18 preference in employment to Indians, pursuant to a duly adopted
19 tribal ordinance;

20 (19) a provision requiring the tribe to adopt and
21 comply with standards that are at least as stringent as state laws
22 prohibiting the use of proceeds of a check issued as a payment under
23 the Aid to Families with Dependent Children program administered
24 under Chapter 31, Human Resources Code, or a food stamp coupon
25 issued under the food stamp program administered under Chapter 33,
26 Human Resources Code, for gaming or other wagering;

27 (20) a provision requiring the tribe to adopt and

1 comply with standards at least as stringent as state laws governing
2 the extension of credit to, the cashing of checks for, and other
3 financial transactions with patrons calculated to protect players
4 from problem and pathological gambling;

5 (21) a provision requiring the tribe to participate in
6 state statutory programs related to employment in video lottery
7 terminal operations or instead of participation in this state
8 workers' compensation system, allowing the tribe to create and
9 maintain a system that provides redress for employee work-related
10 injuries through requiring insurance or self-insurance that
11 includes a scope of coverage, availability of an independent
12 medical examination, right to notice, hearings before an
13 independent tribunal, a means of enforcement against the employer,
14 and benefits comparable to those mandated for comparable employees
15 under state law;

16 (22) a provision requiring the tribe to make
17 reasonable provisions for adequate emergency fire, medical, and
18 related relief and disaster services for patrons and employees of
19 the video lottery terminal operations;

20 (23) a provision requiring the tribe to prohibit the
21 intentional, knowing, or reckless possession of a firearm, illegal
22 knife, club, explosive weapon, machine gun, firearm silencer,
23 knuckles, armor-piercing ammunition, a chemical dispensing device,
24 or a zip gun, as those terms are defined in Section 46.01, Penal
25 Code, at all times in the video lottery terminal establishment; and
26 requiring the defenses that apply to the possession of weapons on
27 the premises of a racetrack under Section 46.03, Penal Code, to

1 apply to possession of the weapons in a video lottery terminal
2 establishment; and requiring tribal security or tribal law
3 enforcement personnel to be allowed to possess firearms and clubs
4 at a video lottery terminal establishment as authorized by tribal
5 law;

6 (24) a provision requiring the tribe to agree that on
7 or before the effective date of the agreement, or not less than 90
8 days before the commencement of any project constructed to serve as
9 the site of video lottery terminals, the tribe shall adopt an
10 ordinance providing for the preparation, circulation, and
11 consideration by the tribe of environmental impact reports
12 concerning potential off-reservation environmental impacts of the
13 construction to be commenced on or after the effective date of the
14 agreement;

15 (25) a provision requiring the tribe to agree to
16 establish separate electronic funds transfer accounts for the
17 purposes of depositing money from video lottery terminal
18 operations, making payments to the commission, and receiving
19 payments from the commission, which must prohibit the tribe from
20 making payments to the commission in cash, but as authorized by the
21 commission may allow a tribe to make payments to the commission by
22 cashier's check;

23 (26) a provision requiring the tribe to adopt and
24 comply with the Bank Secrecy Act (31 U.S.C. Sections 5311-5314), as
25 amended, and all reporting requirements of the Internal Revenue
26 Service, insofar as the provisions and reporting requirements are
27 applicable to gaming facilities; and

1 (27) a provision requiring the tribe to collect and
2 remit to the comptroller state sales and use taxes and state taxes
3 on motor fuels, alcoholic beverages, cigarettes and tobacco
4 products, and hotel occupancy generated at a video lottery terminal
5 establishment, other than on an item sold to or used or consumed by
6 a tribe member.

7 (d) The legislature finds that, in any proceeding described
8 by Subsection (c)(2), irreparable injury and inadequate remedy at
9 law shall be presumed once this state has demonstrated the
10 violation has occurred. If this state does not seek an injunction
11 for such a material breach of the gaming agreement, the tribe agrees
12 to pay a contract penalty of \$10,000 per day for every day the
13 violation or breach continues. If the violation or breach is not
14 cured within 10 days, this state may bring an action to enjoin the
15 unlawful conduct.

16 Sec. 466.606. IMPLEMENTATION OF GAMING AGREEMENT. The
17 governor shall execute any documents that may be necessary to
18 implement a gaming agreement authorized under this subchapter.

19 Sec. 466.607. INCORPORATION INTO STATE LAW. The model
20 gaming agreement set out in Section 466.604(b) is hereby
21 incorporated into state law, and the operation of video lottery
22 terminals authorized under the agreement is expressly authorized as
23 a matter of state law for any Indian tribe entering into the gaming
24 agreement in accordance with this subchapter.

25 Sec. 466.608. REGULATORY MONEY RECEIVED UNDER GAMING
26 AGREEMENT. All money received by the commission under a gaming
27 agreement for regulatory costs incurred relative to tribal

1 operations of video lottery terminals shall be deposited to the
2 credit of the state video lottery account to defray expenses of the
3 commission incurred in the oversight, compliance with, and
4 enforcement of video lottery terminal operations conducted
5 pursuant to a gaming agreement.

6 Sec. 466.609. INJUNCTION; CIVIL PENALTY. (a) If the
7 commission, the appropriate governing body for an Indian tribe, or
8 the attorney general has reason to believe that this chapter has
9 been or is about to be violated, the attorney general may petition a
10 court for appropriate injunctive relief to restrain the violation.
11 Filing of the petition does not waive applicable sovereign
12 immunity.

13 (b) Venue for an action by this state seeking injunctive
14 relief is in a district court in Travis County.

15 (c) If the court finds that this chapter has been knowingly
16 violated, the court shall order all proceeds from any illegal
17 gambling to be forfeited to the appropriate governing body as a
18 civil penalty.

19 (d) The remedies provided herein are not exclusive. The
20 commission may suspend or revoke a license, impose an
21 administrative penalty, or seek injunctive or civil penalties or
22 both, depending on the severity of the violation.

23 SECTION 1.35. Section 467.001, Government Code, is amended
24 by amending Subdivision (9) and adding Subdivision (12) to read as
25 follows:

26 (9) "Person that has a significant financial interest
27 in the lottery" means:

1 (A) a person or a board member, officer, trustee,
2 or general partner of a person that manufactures, distributes,
3 sells, or produces lottery equipment, video lottery equipment,
4 video lottery games, video lottery central systems, supplies,
5 services, or advertising;

6 (B) an employee of a video lottery terminal
7 provider, video lottery central system provider, or person that
8 manufactures, distributes, sells, or produces lottery equipment,
9 supplies, services, or advertising or video lottery equipment or
10 games and that employee is directly involved in the manufacturing,
11 distribution, selling, or production of lottery equipment,
12 supplies, services, or advertising or video lottery equipment or
13 games;

14 (C) a person or a board member, officer, trustee,
15 or general partner of a person that has made a bid to operate the
16 lottery in the preceding two years or that intends to make a bid to
17 operate the lottery or an employee of the person if the employee is
18 directly involved in making the bid; or

19 (D) a sales agent, video lottery retailer, video
20 lottery manager, video lottery terminal provider, or video lottery
21 central system provider.

22 (12) "Video lottery central system," "video lottery
23 equipment," "video lottery game," "video lottery manager," "video
24 lottery retailer," and "video lottery terminal provider" have the
25 meanings assigned by Section 466.002.

26 SECTION 1.36. Section 467.031, Government Code, is amended
27 to read as follows:

1 Sec. 467.031. DIVISIONS. The commission shall establish
2 separate divisions to oversee bingo and the state lottery. The
3 commission shall create a division to oversee video lottery and
4 delegate responsibilities in the administration of Chapter 466 to
5 the executive director, the director of the appropriate division,
6 and the division's staff; provided, however, that the commission
7 may not delegate the following actions:

8 (1) a final determination in any application or
9 request for licensing or registration under Chapter 466;

10 (2) a final determination in any proceeding involving
11 the suspension or revocation of a registration or license under
12 Chapter 466;

13 (3) a final determination that Chapter 466 has been
14 violated; or

15 (4) a final determination or imposition of an
16 assessment of fines or penalties under a law administered by the
17 commission.

18 SECTION 1.37. Section 467.035(a), Government Code, is
19 amended to read as follows:

20 (a) The commission may not employ or continue to employ a
21 person who owns a financial interest in:

22 (1) a bingo commercial lessor, bingo distributor, or
23 bingo manufacturer; or

24 (2) a lottery sales agency, ~~or~~ a lottery operator, a
25 video lottery retailer, a video lottery manager, a video lottery
26 terminal provider, a video lottery central system provider, or a
27 manufacturer of video lottery games.

1 SECTION 1.38. Section 411.108, Government Code, is amended
2 by adding Subsection (d) to read as follows:

3 (d) The Texas Lottery Commission or a successor agency may
4 obtain from the department, subject to an interagency agreement
5 entered into under Section 466.020(d) or 466.206, criminal history
6 record information maintained by the department that relates to any
7 natural person, corporation, association, trust, partnership,
8 limited partnership, joint venture, government, subsidiary, or
9 other entity, regardless of its form, structure, or nature that the
10 commission has the authority to investigate under Chapter 466 as
11 related to the commission's operation and oversight of video
12 lottery. Criminal history record information obtained by the
13 commission under this subsection may be released or disclosed only
14 as provided in Sections 466.022(c) and 466.206.

15 SECTION 1.39. Article 6, Texas Racing Act (Article 179e,
16 Vernon's Texas Civil Statutes), is amended by adding Section 6.095
17 to read as follows:

18 Sec. 6.095. SPECIAL ALLOCATION TO PURSES. (a) A
19 pari-mutuel license holder that owns or operates a racetrack at
20 which video lottery games are conducted under Subchapter K, Chapter
21 466, Government Code, and the state breed registry representing the
22 breed conducting live racing at the license holder's racetrack
23 shall enter into a written agreement to allocate a percentage of the
24 share of the video lottery proceeds received by the racetrack under
25 Section 466.590(a)(1), Government Code, for purses at that
26 racetrack as provided by this section and to specify the time period
27 for which the percentage is in effect. If the racetrack is a horse

1 racetrack:

2 (1) the officially recognized horsemen's organization
3 must also be a party to the agreement; and

4 (2) the purse amounts shall be deposited in accordance
5 with Section 6.08(b)(3) of this Act.

6 (a-1) At a greyhound racetrack, the agreement under
7 Subsection (a) must require that 50 percent of the purse amount set
8 aside as provided by Subsection (a) of this section be allocated to
9 Texas-bred greyhounds.

10 (b) If an agreement cannot be reached under Subsection (a),
11 any party that would be a necessary party to the agreement may
12 submit the matter to the commission 60 days after failure to reach
13 an agreement for determination of the matter in accordance with a
14 procedure established by commission rule.

15 (c) The commission in a determination under Subsection (b):

16 (1) may not set the percentage of net terminal income
17 to be used for purses at the racetrack at less than 10 percent of the
18 share of the video lottery proceeds received by the racetrack under
19 Section 466.590(a)(1), Government Code, and must allocate an
20 additional percentage if necessary to ensure the purses at the
21 racetracks are nationally competitive; and

22 (2) may not establish a time period for which the
23 percentage is to be in effect that is less than two years.

24 (d) Each officially designated breed registry may use a
25 portion, not to exceed 10 percent, of the amount allocated for
26 purses under this section for administration, Accredited Texas Bred
27 awards, enhancement and promotion of championship Texas-bred race

1 days, and marketing and promotion of the Accredited Texas Bred
2 Incentive Program.

3 (e) The commission shall adopt rules to administer this
4 section and to require a horse racetrack to allocate from the amount
5 set aside for purses under Subsection (a) of this section:

6 (1) two percent to the purse account for Arabians;

7 (2) one percent to the purse account for Paints;

8 (3) 29.1 percent to the purse account for quarter
9 horses; and

10 (4) 67.9 percent to the purse account for
11 thoroughbreds.

12 (f) A matter considered by the commission under this section
13 is a contested case requiring a public hearing under Chapter 2001,
14 Government Code.

15 SECTION 1.40. Article 6, Texas Racing Act (Article 179e,
16 Vernon's Texas Civil Statutes), is amended by adding Section 6.20
17 to read as follows:

18 Sec. 6.20. LIVE RACING REQUIREMENT. (a) Except as provided
19 by Subsections (b) and (c) of this section, a person who holds a
20 class 1 or class 2 racetrack license for a racetrack that is a video
21 lottery terminal establishment under Subchapter K, Chapter 466,
22 Government Code, shall conduct the greater of:

23 (1) for each breed, not less than the number of live
24 racing days conducted by the racetrack for that breed in 2002; or

25 (2) for quarter horses and thoroughbreds, not less
26 than 50 live race days or 500 live races.

27 (b) A class 2 racetrack that has not previously conducted

1 live racing and that becomes licensed as a video lottery
2 establishment under Subchapter K, Chapter 466, Government Code,
3 shall conduct live racing not later than the second anniversary of
4 the date the license is issued under that subchapter.

5 (c) A person who holds a class 1 or class 2 racetrack license
6 may conduct fewer live racing days than required by Subsection (a)
7 of this section if the racetrack, the affected breed registry, and
8 the recognized horsemen's organization enter into a written
9 agreement to conduct fewer races.

10 (d) A greyhound racetrack that is a video lottery terminal
11 establishment under Subchapter K, Chapter 466, Government Code,
12 shall offer for pari-mutuel wagering not less than 420 live
13 greyhound racing performances in each calendar year, unless
14 otherwise agreed to in writing by the racetrack and the official
15 state greyhound breed registry. For purposes of this subsection,
16 "greyhound racing performance" means the consecutive running of not
17 fewer than 12 greyhound races.

18 SECTION 1.41. Section 16.18, Texas Racing Act (Article
19 179e, Vernon's Texas Civil Statutes), is amended by adding
20 Subsection (d) to read as follows:

21 (d) This section does not apply to a county in which is
22 located a racetrack that is authorized to operate video lottery
23 terminals under Subchapter K, Chapter 466, Government Code.

24 SECTION 1.42. The Legislature finds and declares the
25 following:

26 (1) This state is facing a crisis in providing funding
27 for state governmental programs. Contingent on the approval of the

1 voters, in order to generate additional revenue to fund state
2 governmental programs, a limited and narrow exception to the
3 constitutional prohibition on lotteries has been proposed to
4 authorize a state-controlled and state-operated video lottery
5 system in accordance with this article.

6 (2) In light of the financial emergency faced by the
7 state and the need to fund state governmental programs, in the event
8 the voters approve this limited state-controlled and
9 state-operated video lottery system, the Texas Lottery Commission
10 must be authorized to commence operation of the video lottery
11 system in accordance with this article at the earliest possible
12 date, consistent with the intent of the voters and legislative
13 directive.

14 (3) The implementation of the video lottery system
15 will require significant time for application investigations and
16 determinations and for video lottery terminal and video lottery
17 central system providers and manufacturers of video lottery games
18 to develop prototypes for testing for the video lottery central
19 system and video lottery terminals and games.

20 (4) The state's budget crisis constitutes an imminent
21 peril to the public welfare, requiring the adoption of rules and
22 authorization for the Texas Lottery Commission to conduct certain
23 limited pre-implementation activities related to the establishment
24 of the video lottery system to promote and ensure the integrity,
25 security, honesty, and fairness of the operation and administration
26 of the video lottery system.

27 (5) In order to commence operation of the video

1 lottery system at the earliest possible date and to maintain the
2 integrity of state-controlled and state-operated video lottery
3 established by this article, the Texas Lottery Commission may
4 conduct limited pre-implementation acts before the constitutional
5 amendment proposed by the 79th Legislature, 1st Called Session,
6 2005, to authorize the state video lottery system is submitted to
7 the voters for approval.

8 SECTION 1.43. (a) As soon as practicable after the
9 constitutional amendment to authorize the state video lottery
10 system proposed by the 79th Legislature, 1st Called Session, 2005,
11 is approved by the voters and becomes effective, the Texas Lottery
12 Commission shall adopt the rules necessary to implement video
13 lottery in accordance with Subchapter K, Chapter 466, Government
14 Code, as added by this Act.

15 (b) Before the proposed constitutional amendment is
16 submitted to the voters, the Texas Lottery Commission may expend
17 money from the commission's appropriation for the 2006-2007
18 biennium for purposes of conducting pre-implementation activities
19 to establish the state video lottery system in accordance with
20 Subchapter K, Chapter 466, Government Code, as added by this Act.
21 Notwithstanding Section 466.355, Government Code, the money
22 authorized to be expended under this section may be withdrawn from
23 the state lottery account to fund the establishment of the state
24 video lottery system.

25 (c) Before the proposed constitutional amendment is
26 submitted to the voters, the Texas Lottery Commission may develop
27 and approve forms for applications for licensing and registration

1 required under Subchapter K, Chapter 466, Government Code, as added
2 by this Act.

3 (d) Before the proposed constitutional amendment is
4 submitted to the voters, the Texas Lottery Commission may accept
5 pre-implementation applications for video lottery retailers and
6 video lottery managers under Subchapter K, Chapter 466, Government
7 Code, as added by this Act. On receipt of a complete application,
8 completion of all investigations, and submittal of the
9 nonrefundable investigatory fees the commission requires
10 consistent with Subchapter K, Chapter 466, Government Code, as
11 added by this Act, the commission may make preliminary findings of
12 suitability for an applicant and location of a video lottery
13 terminal establishment. If the commission determines that all the
14 requirements under Subchapter K, Chapter 466, Government Code, have
15 been satisfied, the commission may issue a letter advising the
16 applicant of the status of approval of the application pending
17 approval by the voters of the proposed constitutional amendment to
18 authorize the state video lottery system. If the commission
19 determines that any requirements under Subchapter K, Chapter 466,
20 Government Code, have not been satisfied, the commission may
21 request additional information or conduct further investigations
22 the commission considers necessary and may issue a letter advising
23 the applicant of the status of the application.

24 (e) Before the proposed constitutional amendment is
25 submitted to the voters, the Texas Lottery Commission may request
26 and receive information related to applications for licensing and
27 registration under Subchapter K, Chapter 466, Government Code, as

1 added by this Act. An applicant's failure to comply with any
2 requests made by the Texas Lottery Commission under this subsection
3 may be considered grounds for denial of an application.

4 (f) The Texas Lottery Commission may not issue any license,
5 registration, or temporary license related to the state video
6 lottery system under Subchapter K, Chapter 466, Government Code, as
7 added by this Act, unless and until the constitutional amendment
8 authorizing the state video lottery system is approved by the
9 voters and becomes effective.

10 (g) Before the proposed constitutional amendment is
11 submitted to the voters, the Texas Lottery Commission may conduct
12 investigations and collect investigative fees related to
13 information requested and received for pre-implementation
14 applications under this section and necessary for the commission's
15 evaluation and determination of an application for any licensing,
16 registration, or commission approval required under Subchapter K,
17 Chapter 466, Government Code, as added by this Act.

18 (h) Before the proposed constitutional amendment is
19 submitted to the voters, the Texas Lottery Commission may conduct
20 preregistration of potential video lottery terminal providers. To
21 qualify for preregistration under this subsection, an applicant
22 must satisfy the minimum application requirements under Section
23 466.512, Government Code, as added by this Act, except that the
24 application fee required under Section 466.513(a), Government
25 Code, as added by this Act, is not due until the applicant files an
26 application for registration under Subchapter K, Chapter 466,
27 Government Code, as added by this Act. A preregistration

1 application must be accompanied by a nonrefundable deposit to the
2 Texas Lottery Commission in the amount of \$25,000. A
3 preregistration applicant shall submit additional money not later
4 than the 10th day after the date the applicant receives notice from
5 the commission that it has incurred actual costs for the
6 preregistration investigation in excess of the initial deposit
7 required under this subsection. If the commission does not receive
8 the additional money from the applicant on or before the 15th day
9 after the date the applicant receives the commission's notice, the
10 commission shall suspend the application until the money is
11 received by the commission. Any deposit or other nonrefundable
12 money provided under this subsection shall be credited toward an
13 application fee required under Section 466.513(a), Government
14 Code, as added by this Act.

15 (i) The Texas Lottery Commission may not register any video
16 lottery terminal providers unless and until the constitutional
17 amendment authorizing the state video lottery system is approved by
18 the voters and becomes effective.

19 (j) Notwithstanding Section 466.513, Government Code, as
20 added by this Act, a video lottery terminal provider that has been
21 preregistered by the Texas Lottery Commission in accordance with
22 this section, a video lottery central system provider, or a
23 manufacturer of video lottery games, under a contract with the
24 commission, may manufacture and test prototypes of or existing
25 video lottery equipment for a video lottery central system, video
26 lottery terminals, and video lottery games for the commission's
27 consideration.

1 (k) Before the proposed constitutional amendment is
2 submitted to the voters, the Texas Lottery Commission may negotiate
3 contracts with preregistered video lottery terminal providers. The
4 commission may enter into contracts with preregistered video
5 lottery terminal providers, video lottery central system
6 providers, and manufacturers of video lottery games as required for
7 the creation and testing of a video lottery central system, video
8 lottery terminals, and video lottery games for the commission's
9 consideration.

10 (l) Before the proposed constitutional amendment is
11 submitted to the voters, the Texas Lottery Commission may negotiate
12 and enter contracts as necessary to establish the video lottery
13 system.

14 (m) Before the proposed constitutional amendment is
15 submitted to the voters, the Texas Lottery Commission may employ
16 additional full-time equivalent employees to administer this Act
17 and establish the video lottery system.

18 SECTION 1.44. Sections 1.01 through 1.41 of this article
19 take effect on the date the amendment adding Section 47-a, Article
20 III, Texas Constitution, authorizing the operation of video lottery
21 games at racetracks and on Indian lands to provide additional money
22 to fund public education and other governmental programs proposed
23 by the 79th Legislature, 1st Called Session, 2005, becomes
24 effective. Sections 1.42 and 1.43 of this article and this section
25 take effect immediately if this Act receives a vote of two-thirds of
26 all the members elected to each house, as provided by Section 39,
27 Article III, Texas Constitution. If this Act does not receive the

1 vote necessary for immediate effect, Sections 1.42 and 1.43 of this
2 article and this section take effect on the 91st day after the last
3 day of the legislative session. Sections 1.42 and 1.43(m) of this
4 article expire March 1, 2006.

5 ARTICLE 2. ESTABLISHMENT OF TEXAS GAMING AND BOXING COMMISSION

6 SECTION 2.01. Subtitle A, Title 13, Occupations Code, is
7 amended by adding Chapter 2004 to read as follows:

8 CHAPTER 2004. TEXAS GAMING AND BOXING COMMISSION

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 2004.001. DEFINITIONS. In this chapter:

11 (1) "Commission" means the Texas Gaming and Boxing
12 Commission.

13 (2) "Commission member" means a member of the
14 commission.

15 (3) "Executive director" means the executive director
16 of the commission.

17 Sec. 2004.002. APPLICATION OF SUNSET ACT. (a) The Texas
18 Gaming and Boxing Commission is subject to Chapter 325, Government
19 Code (Texas Sunset Act). Unless continued in existence as provided
20 by that chapter, the commission is abolished and this chapter
21 expires September 1, 2017.

22 (b) On the date the commission is abolished under Subsection
23 (a), the following statutes are repealed:

24 (1) Chapter 2001 of this code;

25 (2) Chapter 2052 of this code;

26 (3) Chapter 466, Government Code; and

27 (4) the Texas Racing Act (Article 179e, Vernon's Texas

1 Civil Statutes).

2 Sec. 2004.003. REFERENCES TO LICENSE INCLUDE REGISTRATION
3 OR OTHER APPROVAL. Except as expressly provided by this chapter,
4 other law, or commission rule, a reference in this chapter to a
5 license applies to a certificate of registration, finding of
6 suitability, or prior approval under this chapter, other law, or
7 commission rule.

8 [Sections 2004.004-2004.050 reserved for expansion]

9 SUBCHAPTER B. TEXAS GAMING AND BOXING COMMISSION

10 Sec. 2004.051. COMMISSION; MEMBERSHIP. (a) The Texas
11 Gaming and Boxing Commission is composed of seven members. Six
12 members shall be appointed by the governor with the advice and
13 consent of the senate. The chairman of the Public Safety Commission
14 is an ex officio voting member of the commission.

15 (b) Appointments to the commission shall be made without
16 regard to the race, color, disability, sex, religion, age, or
17 national origin of the appointee.

18 Sec. 2004.052. QUALIFICATIONS OF COMMISSION MEMBERS. (a)
19 To be eligible for appointment to the commission, an individual:

20 (1) must be a citizen of the United States;

21 (2) must have resided in this state for the two years
22 preceding the date of the person's appointment;

23 (3) must submit a financial statement that contains
24 the information required by Chapter 572, Government Code;

25 (4) may not own a financial or other interest in a
26 person engaged in the conduct of gaming, or in a security issued by
27 that person, or be related within the second degree by affinity or

1 the third degree by consanguinity, as determined under Chapter 573,
2 Government Code, to an individual who owns a financial or other
3 interest or security;

4 (5) may not be an applicant for or holder of a license
5 registration or approval under a law administered by the
6 commission; and

7 (6) may not be a member of the governing body of a
8 political subdivision of this state.

9 (b) A person holding an elective office or an officer or
10 official of a political party is not eligible for appointment to the
11 commission.

12 (c) A person is not eligible for appointment as a member of
13 the commission if the person or the person's spouse:

14 (1) is registered, certified, or licensed by an
15 occupational regulatory agency in the field of gaming;

16 (2) is employed by or participates in the management
17 of a business entity or other organization regulated by the
18 commission or receiving funds from the commission;

19 (3) owns or controls, directly or indirectly, more
20 than a 10 percent interest in a business entity or other
21 organization regulated by the commission or receiving funds from
22 the commission; or

23 (4) uses or receives a substantial amount of tangible
24 goods, services, or money from the commission, other than
25 compensation or reimbursement authorized by law for commission
26 membership, attendance, or expenses.

27 Sec. 2004.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)

1 In this section, "Texas trade association" means a cooperative and
2 voluntarily joined association of business or professional
3 competitors in this state designed to assist its members and its
4 industry or profession in dealing with mutual business or
5 professional problems and in promoting their common interest.

6 (b) A person may not be a member of the commission or an
7 employee of the commission employed in a "bona fide executive,
8 administrative, or professional capacity," as that phrase is used
9 for purposes of establishing an exemption to the overtime
10 provisions of the federal Fair Labor Standards Act of 1938 (29
11 U.S.C. Section 201 et seq.) if:

12 (1) the person is an officer, employee, manager, or
13 paid consultant of a Texas trade association in the field of gaming;
14 or

15 (2) the person's spouse is an officer, manager, or paid
16 consultant of a Texas trade association in the field of gaming.

17 (c) A person may not be a member of the commission or act as
18 general counsel to the commission if the person is required to
19 register as a lobbyist under Chapter 305, Government Code, because
20 of the person's activities for compensation on behalf of a
21 profession related to the operation of the commission.

22 Sec. 2004.054. TERMS; VACANCIES. (a) Appointed members of
23 the commission serve staggered six-year terms. The terms of two
24 members expire on February 1 of each odd-numbered year.

25 (b) A vacancy in an appointive position on the commission
26 shall be filled by appointment of the governor with the advice and
27 consent of the senate.

1 Sec. 2004.055. PRESIDING OFFICER. The governor shall
2 designate a member of the commission as presiding officer of the
3 commission to serve in that capacity at the pleasure of the
4 governor.

5 Sec. 2004.056. MEETINGS; OFFICIAL RECORD. (a) The
6 commission shall meet not less than six times each year.

7 (b) The commission may meet at other times at the call of the
8 presiding officer or as provided by commission rule.

9 (c) The commission shall keep an official record of all
10 commission meetings and proceedings.

11 Sec. 2004.057. GROUNDS FOR REMOVAL. (a) It is a ground for
12 removal from the commission that a member:

13 (1) does not have at the time of taking office the
14 qualifications required by Section 2004.052;

15 (2) does not maintain during service on the board the
16 qualifications required by Section 2004.052;

17 (3) is ineligible for membership under Section
18 2004.053;

19 (4) cannot, because of illness or disability,
20 discharge the member's duties for a substantial part of the member's
21 term; or

22 (5) is absent from more than half of the regularly
23 scheduled commission meetings that the member is eligible to attend
24 during a calendar year without an excuse approved by a majority vote
25 of the commission.

26 (b) The validity of an action of the commission is not
27 affected by the fact that it is taken when a ground for removal of a

1 commission member exists.

2 (c) If the executive director has knowledge that a potential
3 ground for removal of a commission member exists, the executive
4 director shall notify the presiding officer of the commission of
5 the potential ground. The presiding officer shall then notify the
6 governor and the attorney general that a potential ground for
7 removal exists. If the potential ground for removal involves the
8 presiding officer, the executive director shall notify the next
9 highest officer of the commission, who shall notify the governor
10 and the attorney general that a potential ground for removal
11 exists.

12 Sec. 2004.058. TRAINING. (a) A person who is appointed to
13 and qualifies for office as a member of the commission may not vote,
14 deliberate, or be counted as a member in attendance at a meeting of
15 the commission until the person completes a training program that
16 complies with this section.

17 (b) The training program must provide the person with
18 information regarding:

19 (1) this chapter and the other laws administered by
20 the commission and the commission's programs, functions, rules, and
21 budget;

22 (2) the results of the most recent formal audit of the
23 commission;

24 (3) the requirements of laws relating to open
25 meetings, public information, administrative procedure, and
26 conflict of interest; and

27 (4) any applicable ethics policies adopted by the

1 commission or the Texas Ethics Commission.

2 (c) A person appointed to the commission is entitled to
3 reimbursement, as provided by the General Appropriations Act, for
4 travel expenses incurred in attending the training program
5 regardless of whether the attendance at the program occurs before
6 or after the person qualifies for office.

7 Sec. 2004.059. QUALIFICATIONS AND STANDARDS OF CONDUCT
8 INFORMATION. The executive director or the executive director's
9 designee shall provide to members of the commission, as often as
10 necessary, information regarding their:

11 (1) qualifications for office under this chapter; and
12 (2) responsibilities under applicable laws relating
13 to standards of conduct for state officers.

14 Sec. 2004.060. BOND. (a) Before assuming the duties of
15 office, an appointed member of the commission must execute a bond in
16 the amount of \$25,000 payable to the state and conditioned on the
17 member's faithful performance of the member's duties of office.

18 (b) The bond must be approved by the governor.

19 (c) The cost of the bond shall be paid by the commission.

20 Sec. 2004.061. PROHIBITION OF CERTAIN ACTIVITIES. (a) An
21 appointed member of the commission may not:

22 (1) use the member's official authority to affect the
23 result of an election or nomination for public office; or

24 (2) directly or indirectly coerce, attempt to coerce,
25 command, or advise a person to pay, lend, or contribute anything of
26 value to another person for political purposes.

27 (b) A commission member or the spouse of a commission member

1 may not solicit or accept employment from a license, registration,
2 or approval holder under a law administered by the commission or
3 from an applicant for such a license, registration, or approval
4 before the second anniversary of the date the commission member's
5 service on the commission ends.

6 (c) A person who violates this section commits an offense.
7 An offense under this subsection is a Class B misdemeanor.

8 Sec. 2004.062. APPLICATION OF FINANCIAL DISCLOSURE LAW.
9 For purposes of Chapter 572, Government Code, a member of the
10 commission, the executive director, and the division directors are
11 appointed officers of a major state agency.

12 Sec. 2004.063. PER DIEM; EXPENSES. (a) Each appointed
13 member of the commission is entitled to:

14 (1) a per diem in an amount prescribed by
15 appropriation for each day spent in performing the duties of the
16 member; and

17 (2) reimbursement for actual and necessary expenses
18 incurred in performing those duties.

19 (b) Reimbursement for expenses under this section is
20 subject to any applicable limitation in the General Appropriations
21 Act.

22 (c) The ex officio member is entitled to reimbursement for
23 expenses from that member's agency as provided by law for expenses
24 incurred in the performance of that member's other official duties.

25 Sec. 2004.064. EXECUTIVE DIRECTOR. (a) The commission
26 shall appoint an executive director, who serves at the pleasure of
27 the commission.

1 (b) A person holding an elective office or an officer or
2 official of a political party is not eligible for appointment as
3 executive director.

4 (c) The executive director must have five or more years of
5 responsible administrative experience in public or business
6 administration or possess broad management skills.

7 (d) The executive director may not pursue any other business
8 or occupation or hold any other office for profit.

9 (e) The executive director must meet all eligibility
10 requirements relating to members of the commission, except the
11 requirement for prior residency in this state.

12 (f) The executive director is entitled to an annual salary
13 and other compensation specified by the commission.

14 (g) The executive director may not, before the second
15 anniversary of the date the director's service to the commission
16 ends, acquire a direct or indirect interest in or be employed by a
17 person licensed or registered by the commission in connection with
18 the conduct of gaming in this state.

19 Sec. 2004.065. OFFICES. The commission shall maintain its
20 primary office in Travis County and may maintain other offices
21 determined to be necessary by the commission.

22 Sec. 2004.066. AUTHORITY TO SUE OR BE SUED. (a) The
23 commission may sue and be sued.

24 (b) Service of process in a suit against the commission may
25 be secured by serving the executive director.

26 (c) A suit against the commission must be brought in Travis
27 County.

1 Sec. 2004.067. AUDIT. The transactions of the commission
2 are subject to audit by the state auditor under Chapter 321,
3 Government Code.

4 Sec. 2004.068. ACCESS TO CRIMINAL HISTORY RECORDS. (a)
5 The governor shall conduct an investigation of and is entitled to
6 obtain criminal history record information maintained by the
7 Department of Public Safety, the Federal Bureau of Investigation
8 Identification Division, or another law enforcement agency
9 relating to an individual the governor intends to appoint to the
10 commission.

11 (b) The commission shall conduct an investigation of and is
12 entitled to obtain criminal history record information maintained
13 by the Department of Public Safety, the Federal Bureau of
14 Investigation Identification Division, or another law enforcement
15 agency relating to an individual the commission intends to employ.

16 [Sections 2004.069-2004.100 reserved for expansion]

17 SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION

18 Sec. 2004.101. GENERAL POWERS. (a) The commission has
19 broad authority and shall exercise strict control and close
20 supervision over all activities authorized and conducted in this
21 state under a law administered by the commission, including:

- 22 (1) Chapter 2001;
23 (2) this chapter;
24 (3) Chapter 2052;
25 (4) Chapter 466, Government Code; and
26 (5) the Texas Racing Act (Article 179e, Vernon's Texas
27 Civil Statutes).

1 (b) The commission shall ensure that all gaming activities
2 subject to the oversight or regulatory authority of the commission
3 are conducted fairly and in compliance with the law.

4 (c) The commission also has the powers and duties granted
5 under:

6 (1) Chapter 2001;

7 (2) Chapter 2052;

8 (3) Chapter 466, Government Code; and

9 (4) the Texas Racing Act (Article 179e, Vernon's Texas
10 Civil Statutes).

11 (d) All aspects of this chapter and the other laws
12 administered by the commission, including those relating to
13 licensing, qualification, execution, and enforcement, shall be
14 administered by the executive director and the commission for the
15 protection of the public and in the public interest.

16 (e) The commission and the executive director have full
17 power and authority to hold hearings, and in connection to the
18 hearings, to issue subpoenas, to compel the attendance of witnesses
19 at any place in this state, to administer oaths, and to require
20 testimony under oath. Any process or notice relating to a hearing
21 may be served in the manner provided for service of process and
22 notices in civil actions. The commission and the executive
23 director may pay transportation and other expenses of witnesses as
24 they consider reasonable.

25 (f) The executive director and the executive director's
26 authorized employees may:

27 (1) inspect and examine a premises where gaming is

1 conducted or equipment or supplies, including a gaming device, or
2 associated equipment is manufactured, assembled, produced,
3 programmed, sold, leased, marketed, distributed, repaired, or
4 modified for use in gaming;

5 (2) for good cause, seize and remove from a premises
6 and impound equipment or supplies for the purpose of examination
7 and inspection; and

8 (3) demand access to, inspect, examine, photocopy, or
9 audit papers, books, and records of applicants and license and
10 registration holders, on their premises or elsewhere as
11 practicable, in the presence of the license or registration holder
12 or the license or registration holder's agent, reporting the gross
13 income produced by a gaming business, verification of the gross
14 income, and other matters affecting the enforcement of this
15 chapter.

16 (g) For the purpose of conducting audits after the cessation
17 of gaming by a license or registration holder, a former license
18 holder shall furnish, on demand of the executive director or the
19 executive director's authorized employees, books, papers, and
20 records as necessary to conduct the audits. The former license or
21 registration holder shall maintain all books, papers, and records
22 necessary for audits for three years after the date of the surrender
23 or revocation of the license and is responsible for the costs
24 incurred by the commission in the conduct of an audit under this
25 section. If the former license or registration holder seeks
26 judicial review of a deficiency determination or files a petition
27 for a redetermination, the former license or registration holder

1 must maintain all books, papers, and records until a final order is
2 entered on the determination.

3 Sec. 2004.102. RULEMAKING AUTHORITY. (a) The commission
4 shall adopt rules as the commission considers necessary or
5 desirable in the public interest in carrying out the policy and
6 provisions of this chapter and the other laws administered by the
7 commission.

8 (b) The rules shall set out:

9 (1) the method and form of application that an
10 applicant for a license must follow and complete before
11 consideration of an application by the commission;

12 (2) the information to be furnished by an applicant or
13 license holder concerning antecedents, habits, character,
14 associates, criminal record, business activities, and financial
15 affairs;

16 (3) the criteria to be used in the award, revocation,
17 and suspension of licenses;

18 (4) the information to be furnished by a license
19 holder relating to the license holder's employees;

20 (5) the manner and procedure of hearings conducted by
21 the commission or a hearing examiner of the commission;

22 (6) the payment of fees or costs an applicant or
23 license holder must pay;

24 (7) the manner and method of collection and payment of
25 fees and the issuance of licenses;

26 (8) the definition of "unsuitable method of
27 operation";

1 (9) the conditions under which the nonpayment of a
2 gambling debt by a license holder constitutes grounds for
3 disciplinary action;

4 (10) the manner of approval of new games and gaming
5 devices and the method to determine whether the gaming device is a
6 video lottery terminal that must comply with Subchapter K, Chapter
7 466, Government Code;

8 (11) access to confidential information obtained
9 under this chapter or other law and means to ensure that the
10 confidentiality of the information is maintained and protected;

11 (12) financial reporting and internal control
12 requirements for license holders;

13 (13) requirements for the annual audit of the
14 financial statements of a license holder;

15 (14) requirements for periodic financial reports from
16 each license holder consistent with standards and intervals
17 prescribed by the commission; and

18 (15) the procedures for exempting or waiving
19 institutional investors from the licensing requirements for
20 shareholders of publicly traded corporations.

21 Sec. 2004.103. AUTHORITY OF EXECUTIVE DIRECTOR. (a) With
22 commission approval, the executive director may create executive
23 positions as the director considers necessary to implement the
24 provisions of this chapter and any other law administered by the
25 commission.

26 (b) The executive director shall employ directors in the
27 areas of audit, investigation, and enforcement. The audit director

1 must be a certified public accountant, have five or more years of
2 progressively responsible experience in general accounting, and
3 have a comprehensive knowledge of the principles and practices of
4 corporate finance or must possess qualifications of an expert in
5 the field of corporate finance and auditing, general finance,
6 gaming, and economics. Other directors must possess five or more
7 years of training and experience in the fields of investigation,
8 law enforcement, law, or gaming.

9 (c) The executive director may investigate, for the purpose
10 of prosecution, a suspected criminal violation of this chapter or
11 another law administered by the commission. For the purpose of the
12 administration and enforcement of this chapter or another law
13 administered by the commission, the executive director and
14 employees designated by the executive director may be commissioned
15 as peace officers.

16 (d) The executive director, to further the objectives and
17 purposes of this chapter or another law administered by the
18 commission, may:

19 (1) direct and supervise all administrative actions of
20 the commission;

21 (2) bring legal action in the name and on behalf of the
22 commission;

23 (3) make, execute, and effect an agreement or contract
24 authorized by the commission;

25 (4) employ the services of persons considered
26 necessary for consultation or investigation and set the salaries of
27 or contract for the services of legal, professional, technical, and

1 operational personnel and consultants, except that outside legal
2 assistance may be retained only with the approval of the attorney
3 general;

4 (5) acquire furnishings, equipment, supplies,
5 stationery, books, and all other things the executive director
6 considers necessary or desirable in carrying out the executive
7 director's functions; and

8 (6) perform other duties the executive director may
9 consider necessary to effect the purposes of this chapter or
10 another law administered by the commission.

11 (e) Except as otherwise provided in this chapter, the costs
12 of administration incurred by the executive director shall be paid
13 in the same manner as other claims against the state are paid.

14 Sec. 2004.104. OFFICE OF HEARING EXAMINERS. (a) The
15 commission shall create an office of hearing examiners to assist
16 the commission in carrying out its powers and duties.

17 (b) The office of hearing examiners shall:

18 (1) hold hearings under the authority of the
19 commission on matters relating to the commission's administration
20 of this chapter or another law administered by the commission as the
21 commission orders; and

22 (2) report after hearing in the manner prescribed by
23 the commission.

24 (c) The commission shall refer any contested case arising
25 under this chapter or another law administered by the commission to
26 the office of hearing examiners.

27 (d) The office of hearing examiners is independent of the

1 executive director and is under the exclusive control of the
2 commission.

3 (e) The office of hearing examiners is under the direction
4 of a chief hearing examiner appointed by the commission.

5 (f) The commission may authorize the chief hearing examiner
6 to delegate to one or more hearing examiners the authority to hold
7 any hearing called by the chief hearing examiner.

8 (g) The chief hearing examiner and all assistant hearing
9 examiners employed by the office of hearing examiners must be
10 attorneys licensed to practice law in this state.

11 (h) The chief hearing examiner and all assistant hearing
12 examiners may administer oaths, receive evidence, and issue
13 subpoenas to compel the attendance of witnesses and the production
14 of papers and documents in all matters delegated by the commission.

15 (i) The chief hearing examiner and all assistant hearing
16 examiners are entitled to an annual salary and other compensation
17 specified by the commission.

18 (j) The office of hearing examiners may contract for
19 additional services it considers necessary to carry out its powers.

20 Sec. 2004.105. JUDICIAL REVIEW IN CONTESTED CASES. A final
21 ruling of the commission in a contested case is subject to judicial
22 review under Chapter 2001, Government Code. Judicial review is
23 under the substantial evidence rule.

24 Sec. 2004.106. RECORDS. (a) The executive director shall
25 maintain a file of all applications for licenses, registrations, or
26 approvals under a law administered by the commission, together with
27 a record of all action taken with respect to the applications.

1 (b) The commission and the executive director may maintain
2 other records they consider desirable.

3 (c) The information made confidential by this subsection
4 may be revealed, wholly or partly, only in the course of the
5 necessary administration of this chapter or other law administered
6 by the commission or on the order of a court of competent
7 jurisdiction, except that the executive director or the commission
8 may disclose the information to an authorized agent of any agency of
9 the United States, another state, or a political subdivision of
10 this state authorized under commission rules. Notice of the
11 content of any information furnished or released under this
12 subsection may be given to any affected applicant or license,
13 registration, or approval holder as prescribed by commission rule.
14 The following information is confidential:

15 (1) information requested by the commission or the
16 executive director to be furnished to either of them under this
17 chapter or another law administered by the commission or that may
18 otherwise be obtained relating to the finances, earnings, or
19 revenue of an applicant or license, registration, or approval
20 holder;

21 (2) information pertaining to an applicant's criminal
22 record, antecedents, and background that has been furnished to or
23 obtained by the commission or the executive director from any
24 source;

25 (3) information provided to the commission or the
26 executive director or a commission employee by a governmental
27 agency or an informer or on the assurance that the information will

1 be held in confidence and treated as confidential; and

2 (4) information obtained by the executive director or
3 the commission from a license holder relating to the manufacturing,
4 modification, or repair of gaming devices.

5 Sec. 2004.107. REPRESENTATION BY ATTORNEY GENERAL. (a)
6 The attorney general shall represent the commission and the
7 executive director in any proceeding to which the commission or the
8 executive director is a party under this chapter or another law
9 administered by the commission or in any suit filed against the
10 commission or executive director.

11 (b) The office of the attorney general on request shall
12 advise the commission and the executive director in all other
13 matters, including representing the commission when the commission
14 acts in its official capacity.

15 Sec. 2004.108. RULES RESTRICTING ADVERTISING OR
16 COMPETITIVE BIDDING. (a) The commission may not adopt rules
17 restricting advertising or competitive bidding by a person
18 regulated by the commission except to prohibit false, misleading,
19 or deceptive practices by that person.

20 (b) The commission may not include in its rules to prohibit
21 false, misleading, or deceptive practices by a person regulated by
22 the commission a rule that:

23 (1) restricts the use of any advertising medium;

24 (2) restricts the person's personal appearance or the
25 use of the person's voice in an advertisement;

26 (3) relates to the size or duration of an
27 advertisement by the person; or

1 (4) restricts the use of a trade name in advertising by
2 the person.

3 Sec. 2004.109. RULES ON CONSEQUENCES OF CRIMINAL
4 CONVICTION. (a) The commission shall adopt rules necessary to
5 comply with Chapter 53.

6 (b) In its rules under this section, the commission shall
7 list the specific offenses for which a conviction would constitute
8 grounds for the commission to take action under Section 53.021.

9 Sec. 2004.110. SUBPOENA. (a) The commission may request
10 and, if necessary, compel by subpoena:

11 (1) the attendance of a witness for examination under
12 oath; and

13 (2) the production for inspection and copying of
14 records and other evidence relevant to the investigation of an
15 alleged violation of this chapter or another law administered by
16 the commission.

17 (b) If a person fails to comply with a subpoena issued under
18 this section, the commission, acting through the attorney general,
19 may file suit to enforce the subpoena in a district court in Travis
20 County or in the county in which a hearing conducted by the
21 commission may be held.

22 (c) The court shall order a person to comply with the
23 subpoena if the court determines that good cause exists for issuing
24 the subpoena.

25 Sec. 2004.111. USE OF TECHNOLOGY. The commission shall
26 implement a policy requiring the commission to use appropriate
27 technological solutions to improve the commission's ability to

1 perform its functions. The policy must ensure that the public is
2 able to interact with the commission on the Internet.

3 Sec. 2004.112. NEGOTIATED RULEMAKING AND ALTERNATIVE
4 DISPUTE RESOLUTION POLICY. (a) The commission shall develop and
5 implement a policy to encourage the use of:

6 (1) negotiated rulemaking procedures under Chapter
7 2008, Government Code, for the adoption of commission rules; and

8 (2) appropriate alternative dispute resolution
9 procedures under Chapter 2009, Government Code, to assist in the
10 resolution of internal and external disputes under the commission's
11 jurisdiction.

12 (b) The commission's procedures relating to alternative
13 dispute resolution must conform, to the extent possible, to any
14 model guidelines issued by the State Office of Administrative
15 Hearings for the use of alternative dispute resolution by state
16 agencies.

17 (c) The commission shall designate a trained person to:

18 (1) coordinate the implementation of the policy
19 adopted under Subsection (a);

20 (2) serve as a resource for any training needed to
21 implement the procedures for negotiated rulemaking or alternative
22 dispute resolution; and

23 (3) collect data concerning the effectiveness of those
24 procedures, as implemented by the commission.

25 Sec. 2004.113. COMMITTEES. The commission may appoint
26 committees that it considers necessary to carry out its duties.

27 Sec. 2004.114. ANNUAL REPORT. (a) The commission shall

1 file annually with the governor and the presiding officer of each
2 house of the legislature a complete and detailed written report
3 accounting for all money received and disbursed by the commission
4 during the preceding fiscal year.

5 (b) The annual report must be in the form and be reported in
6 the time provided by the General Appropriations Act.

7 Sec. 2004.115. GIFT OR POLITICAL CONTRIBUTION TO OFFICER OR
8 EMPLOYEE. (a) A commission member, the executive director, or an
9 employee of the commission may not intentionally or knowingly
10 accept a gift or political contribution from:

11 (1) a person that has a significant financial interest
12 in the lottery or in any other activity regulated under a law
13 administered by the commission;

14 (2) a person related in the first degree of
15 consanguinity or affinity to a person that has a significant
16 financial interest in the lottery or in any other activity
17 regulated under a law administered by the commission;

18 (3) a person that owns more than a 10 percent interest
19 in an entity that has a significant financial interest in the
20 lottery or in any other activity regulated under a law administered
21 by the commission;

22 (4) a political committee that is directly
23 established, administered, or controlled, in whole or in part, by a
24 person that has a significant financial interest in the lottery or
25 in any other activity regulated under a law administered by the
26 commission; or

27 (5) a person who, within the two years preceding the

1 date of the gift or contribution, won a lottery prize exceeding \$600
2 in amount or value.

3 (b) A person may not make a gift or political contribution
4 to a person known by the actor to be a commission member, the
5 executive director, or an employee of the commission, if the actor:

6 (1) has a significant financial interest in the
7 lottery or in any other activity regulated under a law administered
8 by the commission;

9 (2) is related in the first degree of consanguinity or
10 affinity to a person that has a significant financial interest in
11 the lottery or in any other activity regulated under a law
12 administered by the commission;

13 (3) owns more than a 10 percent interest in an entity
14 that has a significant financial interest in the lottery or in any
15 other activity regulated under a law administered by the
16 commission;

17 (4) is a political committee that is directly
18 established, administered, or controlled, in whole or in part, by a
19 person that has a significant financial interest in the lottery or
20 in any other activity regulated under a law administered by the
21 commission; or

22 (5) within the two years preceding the date of the gift
23 or contribution, won a lottery prize exceeding \$600 in amount or
24 value.

25 (c) A person commits an offense if the person violates this
26 section. An offense under this section is a Class A misdemeanor.

27 Sec. 2004.116. DIVISIONS. (a) The commission shall

1 establish separate divisions to oversee and regulate:

- 2 (1) bingo;
- 3 (2) the state lottery;
- 4 (3) video lottery;
- 5 (4) boxing; and
- 6 (5) pari-mutuel racing.

7 (b) To facilitate the operations of the commission or a
8 division of the commission, the commission or executive director
9 may delegate to a division or a division director a specific power
10 or duty given to the commission or executive director under this
11 chapter or other law.

12 (c) A division director shall, at the request of the
13 executive commissioner, assist in the development of rules and
14 policies for the operation and provision of a division of the
15 commission. The division director:

- 16 (1) acts on behalf of the executive director in
17 performing the delegated function; and
- 18 (2) reports to the executive director regarding the
19 delegated function and any matter affecting commission programs and
20 operations.

21 Sec. 2004.117. RESTRICTIONS ON EMPLOYMENT. (a) The
22 commission may not employ or continue to employ a person who owns a
23 financial interest in:

- 24 (1) a bingo commercial lessor, bingo distributor, or
25 bingo manufacturer;
- 26 (2) a lottery sales agency or a lottery operator;
- 27 (3) any video lottery activity regulated under

1 Subchapter K, Chapter 466, Government Code, or a person licensed,
2 registered, or approved under that subchapter;

3 (4) combative sports regulated under Chapter 2052; or

4 (5) pari-mutuel wagering regulated under the Texas
5 Racing Act (Article 179e, Vernon's Texas Civil Statutes).

6 (b) The commission may not employ or continue to employ a
7 person who is a spouse, child, brother, sister, or parent residing
8 as a member of the same household in the principal place of
9 residence of a person who is subject to a disqualification
10 prescribed by Subsection (a).

11 (c) In employing the executive director and other
12 employees, the commission shall strive to reflect the diversity of
13 the population of the state as regards race, color, handicap, sex,
14 religion, age, and national origin.

15 [Sections 2004.118-2004.150 reserved for expansion]

16 SUBCHAPTER D. PUBLIC PARTICIPATION AND COMPLAINT PROCEDURES

17 Sec. 2004.151. PUBLIC INTEREST INFORMATION. (a) The
18 commission shall prepare and disseminate consumer information that
19 describes the regulatory functions of the commission and the
20 procedures by which consumer complaints are filed with and resolved
21 by the commission.

22 (b) The commission shall make the information available to
23 the public and appropriate state agencies.

24 Sec. 2004.152. COMPLAINTS. (a) The commission by rule
25 shall establish methods by which consumers and service recipients
26 are notified of the name, mailing address, and telephone number of
27 the commission for the purpose of directing complaints to the

1 commission. The commission may provide for that notice:

2 (1) on each form, application, or written contract for
3 services of a person regulated under this chapter;

4 (2) on a sign prominently displayed in the place of
5 business of each person regulated under this chapter; or

6 (3) in a bill for service provided by a person
7 regulated under this chapter.

8 (b) The commission shall list with its regular telephone
9 number any toll-free telephone number established under other state
10 law that may be called to present a complaint about a person
11 regulated under this chapter.

12 Sec. 2004.153. RECORDS OF COMPLAINTS. (a) The commission
13 shall maintain a system to promptly and efficiently act on
14 complaints filed with the commission. The commission shall
15 maintain:

16 (1) information about the parties to the complaint and
17 the subject matter of the complaint;

18 (2) a summary of the results of the review or
19 investigation of the complaint; and

20 (3) information about the disposition of the
21 complaint.

22 (b) The commission shall make information available
23 describing its procedures for complaint investigation and
24 resolution.

25 (c) The commission shall periodically notify the parties of
26 the status of the complaint until final disposition of the
27 complaint.

1 Sec. 2004.154. GENERAL RULES REGARDING COMPLAINT
2 INVESTIGATION AND DISPOSITION. The commission shall adopt rules
3 concerning the investigation of a complaint filed with the
4 commission. The rules must:

5 (1) distinguish between categories of complaints;

6 (2) ensure that complaints are not dismissed without
7 appropriate consideration;

8 (3) require that the commission be advised of a
9 complaint that is dismissed and that a letter be sent to the person
10 who filed the complaint explaining the action taken on the
11 dismissed complaint;

12 (4) ensure that the person who files a complaint has an
13 opportunity to explain the allegations made in the complaint; and

14 (5) prescribe guidelines concerning the categories of
15 complaints that require the use of a private investigator and the
16 procedures for the commission to obtain the services of a private
17 investigator.

18 Sec. 2004.155. DISPOSITION OF COMPLAINT. (a) The
19 commission shall:

20 (1) dispose of each complaint in a timely manner; and

21 (2) establish a schedule for conducting each phase of
22 a complaint that is under the control of the commission not later
23 than the 30th day after the date the commission receives the
24 complaint.

25 (b) Each party shall be notified of the projected time
26 requirements for pursuing the complaint. The commission shall
27 notify each party to the complaint of any change in the schedule

1 established under Subsection (a)(2) not later than the seventh day
2 after the date the change is made.

3 (c) The executive director shall notify the commission of a
4 complaint that is not resolved within the time prescribed by the
5 commission for resolving the complaint.

6 Sec. 2004.156. PUBLIC PARTICIPATION. (a) The commission
7 shall develop and implement policies that provide the public with a
8 reasonable opportunity to appear before the commission and to speak
9 on any issue under the commission's jurisdiction.

10 (b) The commission shall prepare and maintain a written plan
11 that describes how a person who does not speak English may be
12 provided reasonable access to the commission's programs.

13 Sec. 2004.157. INFORMAL SETTLEMENT CONFERENCE. The
14 commission shall establish guidelines for an informal settlement
15 conference related to a complaint filed with the commission.

16 SECTION 2.02. Section 47.01, Penal Code, is amended by
17 amending Subdivisions (4) and (9) and adding Subdivision (10) to
18 read as follows:

19 (4) "Gambling device" means any device:

20 (A) on which a game or other activity can be
21 played or conducted for consideration; and

22 (B) that is designed, constructed, adapted, or
23 maintained to afford a user of the device an opportunity to obtain a
24 thing of value based solely or partially on chance ~~[electronic,~~
25 ~~electromechanical, or mechanical contrivance not excluded under~~
26 ~~Paragraph (B) that for a consideration affords the player an~~
27 ~~opportunity to obtain anything of value, the award of which is~~

1 ~~determined solely or partially by chance, even though accompanied~~
2 ~~by some skill, whether or not the prize is automatically paid by the~~
3 ~~contrivance. The term:~~

4 ~~[(A) includes, but is not limited to, gambling~~
5 ~~device versions of bingo, keno, blackjack, lottery, roulette, video~~
6 ~~poker, or similar electronic, electromechanical, or mechanical~~
7 ~~games, or facsimiles thereof, that operate by chance or partially~~
8 ~~so, that as a result of the play or operation of the game award~~
9 ~~credits or free games, and that record the number of free games or~~
10 ~~credits so awarded and the cancellation or removal of the free games~~
11 ~~or credits; and~~

12 ~~[(B) does not include any electronic,~~
13 ~~electromechanical, or mechanical contrivance designed, made, and~~
14 ~~adapted solely for bona fide amusement purposes if the contrivance~~
15 ~~rewards the player exclusively with noncash merchandise prizes,~~
16 ~~toys, or novelties, or a representation of value redeemable for~~
17 ~~those items, that have a wholesale value available from a single~~
18 ~~play of the game or device of not more than 10 times the amount~~
19 ~~charged to play the game or device once or \$5, whichever is less].~~

20 (9) "Thing of value" means any property, money, right,
21 privilege, or other benefit, including a representation of value
22 redeemable for any property, money, right, privilege, or other
23 benefit [~~but does not include an unrecorded and immediate right of~~
24 ~~replay not exchangeable for value].~~

25 (10) "Device" includes all or part of an operable or
26 inoperable mechanical, electronic, or electromechanical
27 contrivance, machine, or apparatus.

1 SECTION 2.03. Section 47.02(c), Penal Code, is amended to
2 read as follows:

3 (c) It is a defense to prosecution under this section that
4 the actor reasonably believed that the conduct:

5 (1) was permitted under Chapter 2001, Occupations
6 Code;

7 (2) was permitted under Chapter 2002, Occupations
8 Code;

9 (3) consisted entirely of participation in the state
10 lottery or video lottery authorized by the State Lottery Act
11 (Chapter 466, Government Code);

12 (4) was permitted under the Texas Racing Act (Article
13 179e, Vernon's Texas Civil Statutes); or

14 (5) consisted entirely of participation in a drawing
15 for the opportunity to participate in a hunting, fishing, or other
16 recreational event conducted by the Parks and Wildlife Department.

17 SECTION 2.04. Section 47.06(e), Penal Code, is amended to
18 read as follows:

19 (e) An offense under this section is a felony of the third
20 degree [~~Class A misdemeanor~~].

21 SECTION 2.05. Section 47.09(a), Penal Code, is amended to
22 read as follows:

23 (a) It is a defense to prosecution under this chapter that
24 the conduct:

25 (1) was authorized under:

26 (A) Chapter 2001, Occupations Code (Bingo
27 Enabling Act);

1 (B) Chapter 2002, Occupations Code (Charitable
2 Raffle Enabling Act); or

3 (C) the Texas Racing Act (Article 179e, Vernon's
4 Texas Civil Statutes);

5 (2) consisted entirely of participation in the state
6 lottery or video lottery authorized by Chapter 466, Government
7 Code; or

8 (3) was a necessary incident to the operation of the
9 state lottery or video lottery and was directly or indirectly
10 authorized by[+]

11 [~~(A)~~] Chapter 466, Government Code[+]

12 [~~(B) the lottery division of the Texas Lottery~~
13 ~~Commission,~~

14 [~~(C) the Texas Lottery Commission; or~~

15 [~~(D) the director of the lottery division of the~~
16 ~~Texas Lottery Commission]~~.

17 SECTION 2.06. Chapter 47, Penal Code, is amended by adding
18 Section 47.091 to read as follows:

19 Sec. 47.091. DEFENSES FOR CERTAIN AMUSEMENT DEVICES. (a)
20 It is a defense to prosecution under Section 47.02 that the conduct
21 consists entirely of the use of a gambling device in which:

22 (1) skill is the predominate requirement for the user
23 to win or be awarded a thing of value; and

24 (2) the user may not win or be awarded a thing of value
25 for playing or using the device other than:

26 (A) noncash merchandise available only on the
27 premises where the device is located; or

1 (B) a ticket, coupon, or other representation of
2 value redeemable only on the premises where the device is located
3 for noncash merchandise.

4 (b) For purposes of Subsection (a)(2):

5 (1) the noncash merchandise or representation of value
6 redeemable for noncash merchandise that may be won or awarded for a
7 single play of a game or activity on the device may not have a
8 wholesale value of more than 10 times the amount charged for a
9 single play or \$5, whichever is less; and

10 (2) an item of noncash merchandise that may be won or
11 awarded for playing or using the device or for which a person may
12 redeem one or more tickets, coupons, or other representations of
13 value won or awarded for playing or using the device may not have a
14 wholesale value of more than \$50.

15 (c) It is a defense to prosecution under Section 47.02 that:

16 (1) the conduct consists entirely of the use of a
17 gambling device for which the user of the device may win or be
18 awarded only the opportunity to continue playing the game or
19 conducting an activity on the device; and

20 (2) the opportunity to continue is not exchangeable
21 for another thing of value.

22 (d) It is a defense to prosecution under Section 47.03,
23 47.04, or 47.06 that the conduct consists of or is a necessary
24 incident to offering, using, or maintaining one or more gambling
25 devices used exclusively for conduct for which Subsection (a) or
26 (c) provides a defense to a person using the device, including the
27 manufacturing, transporting, storing, or repairing of such a

1 device.

2 (e) In this section, "noncash merchandise" does not
3 include:

4 (1) cash;

5 (2) an item of cash equivalent, including a check,
6 money order, cashier's check, or traveler's check; or

7 (3) a gift certificate, gift card, coupon, voucher, or
8 other item that entitles the bearer to receive money or any other
9 thing of value at a location other than the premises where the
10 gambling device is located.

11 SECTION 2.07. Chapter 47, Penal Code, is amended by adding
12 Section 47.095 to read as follows:

13 Sec. 47.095. INTERSTATE OR FOREIGN COMMERCE DEFENSE. It is
14 a defense to prosecution under this chapter that a person sells,
15 leases, transports, possesses, stores, or manufactures a gambling
16 device with the authorization of the Texas Lottery Commission or
17 the Texas Gaming and Boxing Commission under Chapter 466,
18 Government Code.

19 SECTION 2.08. The governor shall make the initial
20 appointments to the Texas Gaming and Boxing Commission not later
21 than January 1, 2006. In making the initial appointments to the
22 Texas Gaming and Boxing Commission, the governor shall designate
23 two members for terms expiring in 2007, two members for terms
24 expiring in 2009, and two members for terms expiring in 2011.

25 SECTION 2.09. Section 47.02(e), Penal Code, is repealed.

26 SECTION 2.10. The change in law made by this article applies
27 only to an offense committed on or after the effective date of this

1 article. An offense committed before the effective date of this
2 article is covered by the law in effect when the offense was
3 committed, and the former law is continued in effect for that
4 purpose. For purposes of this section, an offense was committed
5 before the effective date of this article if any element of the
6 offense was committed before that date.

7 SECTION 2.11. This article takes effect on the date the
8 constitutional amendment proposed by the 79th Legislature, 1st
9 Called Session, 2005, authorizing a state video lottery system to
10 operate video lottery games at racetracks and on Indian lands to
11 provide additional money to fund public education and other
12 governmental programs is approved by the voters. If that amendment
13 is not approved by the voters, this article has no effect.

14 ARTICLE 3. TRANSFER OF POWERS AND DUTIES OF OTHER STATE AGENCIES TO
15 TEXAS GAMING AND BOXING COMMISSION

16 SECTION 3.01. Sections 466.002(1) and (3), Government Code,
17 are amended to read as follows:

18 (1) "Commission" means the Texas Gaming and Boxing
19 [~~Lottery~~] Commission.

20 (6) [~~(3)~~] "Division" means the state lottery division
21 established by the commission under Chapter 2004, Occupations Code
22 [~~467~~].

23 SECTION 3.02. Section 2001.002(8), Occupations Code, is
24 amended to read as follows:

25 (8) "Commission" means the Texas Gaming and Boxing
26 [~~Lottery~~] Commission.

27 SECTION 3.03. Sections 2052.002(5), (7), (9), and (20),

1 Occupations Code, as amended by Senate Bill No. 796, Acts of the
2 79th Legislature, Regular Session, 2005, are amended to read as
3 follows:

4 (5) "Commission" means the Texas Gaming and Boxing
5 Commission [~~of Licensing and Regulation~~].

6 (7) "Division" [~~"Department"~~] means the combative
7 sports division of the commission [~~Texas Department of Licensing~~
8 ~~and Regulation~~].

9 (9) "Executive director" means the executive director
10 of the commission [~~department~~] or the executive director's
11 designated representative.

12 (20) "Ringside physician" means an individual
13 licensed to practice medicine in this state who is registered with
14 the division [~~department~~].

15 SECTION 3.04. Section 2052.051, Occupations Code, is
16 amended to read as follows:

17 Sec. 2052.051. ADMINISTRATION OF CHAPTER. The commission
18 [~~department~~] shall administer this chapter.

19 SECTION 3.05. Section 2052.052(b), Occupations Code, as
20 amended by Senate Bill No. 796, Acts of the 79th Legislature,
21 Regular Session, 2005, is amended to read as follows:

22 (b) The commission may adopt rules:

23 (1) governing boxing, kickboxing, martial arts, or
24 mixed martial arts contests and exhibitions;

25 (2) establishing reasonable qualifications for an
26 applicant seeking a license or registration from the division
27 [~~department~~] under this chapter;

1 (3) recognizing a sanction, medical suspension, or
2 disqualification of a licensee or registrant by a combative sports
3 authority in any state, provided that if licensure or registration
4 is denied based on those actions, an applicant has an opportunity
5 for a hearing as prescribed by rule;

6 (4) establishing practice requirements or specialty
7 certifications that a person licensed to practice medicine in this
8 state must meet to register as a ringside physician;

9 (5) requiring a contestant to present with an
10 application for licensure or license renewal documentation of
11 recent blood test results that demonstrate whether the contestant
12 is free from hepatitis B virus, hepatitis C virus, human
13 immunodeficiency virus, and any other communicable disease
14 designated by commission rule and providing that a contestant's
15 failure to provide the required blood test results disqualifies the
16 contestant;

17 (6) providing that to participate in any event a
18 contestant must be free of hepatitis B virus, hepatitis C virus,
19 human immunodeficiency virus, and any other communicable disease
20 designated by rule;

21 (7) requiring that a contestant present with an
22 application for licensure or license renewal documentation of the
23 results of a physical examination, including an ophthalmologic
24 examination, and providing for disqualification of a contestant who
25 is determined by an examining physician to be unfit;

26 (8) establishing additional responsibilities for
27 promoters; and

1 (9) governing regulated amateur events.

2 SECTION 3.06. Section 2052.055(a), Occupations Code, as
3 amended by Senate Bill No. 796, Acts of the 79th Legislature,
4 Regular Session, 2005, is amended to read as follows:

5 (a) The presiding officer of the commission, with the
6 commission's approval, may appoint a medical advisory committee to
7 advise the division [~~department~~] concerning health issues for
8 combative sports event contestants.

9 SECTION 3.07. Section 2052.109(c), Occupations Code, is
10 amended to read as follows:

11 (c) A company that issues a bond shall notify the division
12 [~~department~~] in writing of the cancellation of the bond not later
13 than the 30th day before the date on which the bond is canceled.

14 SECTION 3.08. Section 2052.114(b), Occupations Code, is
15 amended to read as follows:

16 (b) The holder of a license, registration, or permit may
17 renew the license, registration, or permit by paying a renewal fee
18 and complying with other renewal requirements prescribed by
19 division [~~department~~] rule before the expiration date. The
20 division [~~department~~] shall issue a renewal certificate to the
21 holder at the time of renewal.

22 SECTION 3.09. Sections 2052.152(a) and (c), Occupations
23 Code, as amended by Senate Bill No. 796, Acts of the 79th
24 Legislature, Regular Session, 2005, are amended to read as follows:

25 (a) A person on whom a tax is imposed under Section
26 2052.151, not later than three business days after the end of the
27 event or telecast for which the tax is due, shall submit to the

1 division [~~department~~] a verified report on a form acceptable to the
2 division [~~department~~] stating:

- 3 (1) the number of tickets sold to the event;
4 (2) the ticket prices charged;
5 (3) the gross price charged for the sale or lease of
6 broadcasting, television, and motion picture rights without any
7 deductions for commissions, brokerage fees, distribution fees,
8 advertising, or other expenses or charges; and
9 (4) the amount of gross receipts obtained from the
10 event.

11 (c) The division [~~department~~] may audit a report filed under
12 Subsection (b).

13 SECTION 3.10. Section 2052.302(b), Occupations Code, is
14 amended to read as follows:

15 (b) The promoter shall surrender any purse or funds withheld
16 as provided by Subsection (a) to the executive director on demand.
17 Not later than the fifth working day after the event, the division
18 [~~department~~] shall notify in writing the promoter and any person
19 from whom a sum was withheld of the date of a hearing to determine
20 whether all or part of the purse or funds withheld should be
21 forfeited to the state. The hearing must be scheduled for a date
22 not later than the 10th day after the date of the notice. Not later
23 than the 10th day after the date of the hearing, the executive
24 director shall enter an order with findings of fact and conclusions
25 of law determining whether all or part of the purse or funds should
26 be forfeited. Any funds not forfeited shall be distributed to the
27 persons entitled to the funds.

1 SECTION 3.11. Section 2052.303(b), Occupations Code, is
2 amended to read as follows:

3 (b) The attorney general or the commission [~~department~~] may
4 file a civil suit to:

5 (1) assess and recover a civil penalty under
6 Subsection (a); or

7 (2) enjoin a person who violates or threatens to
8 violate this chapter or a rule adopted under this chapter from
9 continuing the violation or threat.

10 SECTION 3.12. Sections 1.03(3) and (5), Texas Racing Act
11 (Article 179e, Vernon's Texas Civil Statutes), are amended to read
12 as follows:

13 (3) "Commission" means the Texas Gaming and Boxing
14 [~~Racing~~] Commission.

15 (5) "Executive secretary" means the executive
16 director [~~secretary~~] of the Texas Gaming and Boxing [~~Racing~~]
17 Commission.

18 SECTION 3.13. The heading to Article 2, Texas Racing Act
19 (Article 179e, Vernon's Texas Civil Statutes), is amended to read
20 as follows:

21 ARTICLE 2. TEXAS GAMING AND BOXING [~~RACING~~] COMMISSION

22 SECTION 3.14. Section 3.09(b), Texas Racing Act (Article
23 179e, Vernon's Texas Civil Statutes), is amended to read as
24 follows:

25 (b) The commission shall deposit the money it collects under
26 this Act in the State Treasury to the credit of a special fund to be
27 known as the Texas Racing [~~Commission~~] fund. The Texas Racing

1 ~~[Commission]~~ fund may be appropriated only for the administration
2 and enforcement of this Act. Any unappropriated money remaining in
3 that special fund at the close of each fiscal biennium shall be
4 transferred to the General Revenue Fund and may be appropriated for
5 any legal purpose. The legislature may also appropriate money from
6 the General Revenue Fund for the administration and enforcement of
7 this Act. Any amount of general revenue appropriated for the
8 administration and enforcement of this Act in excess of the
9 cumulative amount deposited in the Texas Racing ~~[Commission]~~ fund
10 shall be reimbursed from the Texas Racing ~~[Commission]~~ fund not
11 later than one year after the date on which the general revenue
12 funds are appropriated, with 12 percent interest per year until
13 August 31, 1993, and 6 3/4 percent interest thereafter with all
14 payments first attributable to interest.

15 SECTION 3.15. Section 6.091(a), Texas Racing Act (Article
16 179e, Vernon's Texas Civil Statutes), is amended to read as
17 follows:

18 (a) An association shall distribute from the total amount
19 deducted as provided by Sections 6.08(a) and 6.09(a) of this Act
20 from each simulcast pari-mutuel pool and each simulcast
21 cross-species pool the following shares:

22 (1)(A) until January 1, 1999, an amount equal to 0.25
23 percent of each simulcast pari-mutuel pool and each simulcast
24 cross-species simulcast pool as the amount set aside to reimburse
25 the general revenue fund for amounts that are appropriated for the
26 administration and enforcement of this Act and that are in excess of
27 the cumulative amount of funds deposited in the Texas Racing

1 ~~[Commission]~~ fund, until the excess amount and interest on the
2 excess amount are fully reimbursed;

3 (B) an amount equal to one percent of each
4 simulcast pool as the amount set aside for the state; and

5 (C) an amount equal to 1.25 percent of each
6 cross-species simulcast pool as the amount set aside for the state;

7 (2) an amount equal to 0.25 percent of each pool set
8 aside to reimburse the general revenue fund for amounts that are
9 appropriated for the administration and enforcement of this Act and
10 that are in excess of the cumulative amount of funds deposited in
11 the Texas Racing ~~[Commission]~~ fund, until the excess amount and
12 interest on the excess amount are fully reimbursed;

13 (3) if the association is a horse racing association,
14 an amount equal to one percent of a multiple two wagering pool or
15 multiple three wagering pool as the amount set aside for the
16 Texas-bred program to be used as provided by Section 6.08(f) of this
17 Act;

18 (4) if the association is a greyhound association, an
19 amount equal to one percent of a multiple two wagering pool or a
20 multiple three wagering pool as the amount set aside for the
21 Texas-bred program for greyhound races, to be distributed and used
22 in accordance with rules of the commission adopted to promote
23 greyhound breeding in this state; and

24 (5) the remainder as the amount set aside for purses,
25 expenses, the sending association, and the receiving location
26 pursuant to a contract approved by the commission between the
27 sending association and the receiving location.

1 SECTION 3.16. The following are repealed:

2 (1) Sections 2.01-2.05, Texas Racing Act (Article
3 179e, Vernon's Texas Civil Statutes);

4 (2) Sections 2.073-2.11, Texas Racing Act (Article
5 179e, Vernon's Texas Civil Statutes); and

6 (3) Sections 6.093(a) and 18.01(a), Texas Racing Act
7 (Article 179e, Vernon's Texas Civil Statutes).

8 SECTION 3.17. (a) On September 1, 2007, or an earlier date
9 specified in the transition plan required under Section 3.19 of
10 this article, the following powers, duties, functions, programs,
11 and activities are transferred to the Texas Gaming and Boxing
12 Commission:

13 (1) all powers, duties, functions, programs, and
14 activities related to administrative support services, such as
15 strategic planning and evaluation, audit, legal, human resources,
16 information resources, accounting, purchasing, financial
17 management, and contract management services, of a state agency or
18 entity abolished by Section 3.22 of this article;

19 (2) all powers, duties, functions, programs, and
20 activities of the Texas Lottery Commission related to:

21 (A) the operation of the state lottery or video
22 lottery under Chapter 466, Government Code; and

23 (B) the regulation of bingo under Chapter 2001,
24 Occupations Code;

25 (3) all powers, duties, functions, programs, and
26 activities of the Texas Racing Commission under the Texas Racing
27 Act (Article 179e, Vernon's Texas Civil Statutes); and

1 (4) all powers, duties, functions, programs, and
2 activities of the Texas Commission of Licensing and Regulation and
3 the Texas Department of Licensing and Regulation under Chapter
4 2052, Occupations Code.

5 (b) On the date specified by Subsection (a) of this section:

6 (1) all obligations and contracts of a state agency or
7 entity that are related to a power, duty, function, program, or
8 activity transferred from the agency or entity under Subsection (a)
9 of this section are transferred to the Texas Gaming and Boxing
10 Commission;

11 (2) all property and records in the custody of a state
12 agency or entity that are related to a power, duty, function,
13 program, or activity transferred from the agency or entity under
14 Subsection (a) of this section and all funds appropriated by the
15 legislature for the power, duty, function, program, or activity
16 shall be transferred to the Texas Gaming and Boxing Commission; and

17 (3) all complaints, investigations, or contested
18 cases that are pending before a state agency or entity or the
19 governing body of the agency or entity and that are related to a
20 power, duty, function, program, or activity transferred from the
21 agency or entity under Subsection (a) of this section are
22 transferred without change in status to the Texas Gaming and Boxing
23 Commission.

24 (c) A rule or form adopted by a state agency or entity that
25 relates to a power, duty, function, program, or activity
26 transferred from the agency or entity under Subsection (a) of this
27 section is a rule or form of the Texas Gaming and Boxing Commission

1 and remains in effect until altered by the commission.

2 (d) A reference in law to a state agency or entity abolished
3 by Section 3.22 of this article, or to the governing body of the
4 agency or entity, that relates to a power, duty, function, program,
5 or activity transferred under Subsection (a) of this section means
6 the Texas Gaming and Boxing Commission.

7 (e) A license, permit, or certification in effect that was
8 issued by a state agency or entity abolished by Section 3.22 of this
9 article or described in Subsection (a)(4) of this section and that
10 relates to a power, duty, function, program, or activity
11 transferred under Subsection (a) of this section is continued in
12 effect as a license, permit, or certification of the Texas Gaming
13 and Boxing Commission.

14 SECTION 3.18. (a) The Texas Gaming and Boxing Commission
15 Transition Legislative Oversight Committee is created to
16 facilitate the transfer of powers, duties, functions, programs, and
17 activities between the state's gaming agencies and the Texas Gaming
18 and Boxing Commission as provided by this article with a minimal
19 negative effect on the operation of those regulated activities in
20 this state.

21 (b) The committee is composed of seven members, as follows:

22 (1) two members of the senate, appointed by the
23 lieutenant governor not later than December 1, 2005;

24 (2) two members of the house of representatives,
25 appointed by the speaker of the house of representatives not later
26 than December 1, 2005; and

27 (3) three members of the public, appointed by the

1 governor not later than December 1, 2005.

2 (c) Once the other members of the committee have been
3 appointed, the executive director of the Texas Gaming and Boxing
4 Commission serves as an ex officio member of the committee.

5 (d) An appointed member of the committee serves at the
6 pleasure of the appointing official.

7 (e) The lieutenant governor and the speaker of the house of
8 representatives shall alternate designating a presiding officer
9 from among their respective appointments. The speaker of the house
10 of representatives shall make the first appointment after the
11 effective date of this section.

12 (f) A member of the committee may not receive compensation
13 for serving on the committee but is entitled to reimbursement for
14 travel expenses incurred by the member while conducting the
15 business of the committee as provided by the General Appropriations
16 Act.

17 (g) The committee shall:

18 (1) facilitate the transfer of powers, duties,
19 functions, programs, and activities between the state's gaming
20 agencies and the Texas Gaming and Boxing Commission as provided by
21 this article with a minimal negative effect on the gaming
22 activities regulated in this state;

23 (2) with assistance from the Texas Gaming and Boxing
24 Commission and the gaming agencies listed in Section 3.17(a) of
25 this article, advise the executive commissioner of the Texas Gaming
26 and Boxing Commission concerning:

27 (A) the powers, duties, functions, programs, and

1 activities transferred under this article and the funds and
2 obligations that are related to the powers, duties, functions,
3 programs, or activities; and

4 (B) the transfer of the powers, duties,
5 functions, programs, activities, records, property, funds,
6 obligations, and employees by the entities as required by Section
7 3.17 of this article;

8 (3) meet at the call of the presiding officer;

9 (4) research, take public testimony, and issue reports
10 on other appropriate issues or specific issues requested by the
11 lieutenant governor, speaker, or governor; and

12 (5) review specific recommendations for legislation
13 proposed by the Texas Gaming and Boxing Commission or the other
14 agencies.

15 (h) The committee may request reports and other information
16 from the Texas Gaming and Boxing Commission, other state agencies,
17 and the attorney general relating to gaming in this state and other
18 appropriate issues.

19 (i) The committee shall use existing staff of the senate,
20 the house of representatives, and the Texas Legislative Council to
21 assist the committee in performing its duties under this section.

22 (j) Chapter 551, Government Code, applies to the committee.

23 (k) The committee shall report to the governor, lieutenant
24 governor, and speaker of the house of representatives not later
25 than November 15 of each even-numbered year. The report must
26 include:

27 (1) identification of significant issues within

1 gaming regulation, with recommendations for action;

2 (2) an analysis of the effectiveness and efficiency of
3 gaming regulation, with recommendations for any necessary
4 research; and

5 (3) recommendations for legislative action.

6 SECTION 3.19. (a) The transfer of powers, duties,
7 functions, programs, and activities under Section 3.17 of this
8 article to the Texas Gaming and Boxing Commission must be
9 accomplished in accordance with a schedule included in a transition
10 plan developed by the executive commissioner of the Texas Gaming
11 and Boxing Commission and submitted to the governor and the
12 Legislative Budget Board not later than September 1, 2006. The
13 executive commissioner shall provide to the governor and the
14 Legislative Budget Board transition plan status reports and updates
15 on at least a quarterly basis following submission of the initial
16 transition plan. The transition plan must be made available to the
17 public.

18 (b) Not later than March 1, 2006, the Texas Gaming and
19 Boxing Commission shall hold a public hearing and accept public
20 comment regarding the transition plan required to be developed by
21 the executive commissioner of the Texas Gaming and Boxing
22 Commission under Subsection (a) of this section.

23 (c) In developing the transition plan, the executive
24 commissioner of the Texas Gaming and Boxing Commission shall hold
25 public hearings in various geographic areas in this state before
26 submitting the plan to the governor and the Legislative Budget
27 Board as required by this section.

1 SECTION 3.20. An action brought or proceeding commenced
2 before the date of a transfer prescribed by this article in
3 accordance with the transition plan required under Section 3.19 of
4 this article, including a contested case or a remand of an action or
5 proceeding by a reviewing court, is governed by the laws and rules
6 applicable to the action or proceeding before the transfer.

7 SECTION 3.21. (a) The Texas Gaming and Boxing Commission
8 shall implement the powers, duties, functions, programs, and
9 activities assigned to the commission under this article in
10 accordance with a work plan designed by the commission to ensure
11 that the transfer of gaming regulation in this state is
12 accomplished in a careful and deliberative manner.

13 (b) A work plan designed by the commission under this
14 section must include the following phases:

15 (1) a planning phase, during which the commission will
16 focus on and stabilize the organization of the agency's powers,
17 duties, functions, programs, and activities, and which must
18 include:

19 (A) initiation of recommendations made by the
20 Texas Gaming and Boxing Commission Transition Legislative
21 Oversight Committee;

22 (B) creation of interagency and intra-agency
23 steering committees;

24 (C) development of global visions, goals, and
25 organizational strategies; and

26 (D) development of communications and risk
27 management plans;

1 (2) an integration phase, during which the commission
2 will identify opportunities and problems and design customized
3 solutions for those problems, and which must include:

4 (A) identification of key issues related to costs
5 or legal requirements for other commission activities;

6 (B) planning for daily operations; and

7 (C) validation of fiscal and program synergies;

8 (3) an optimization phase, during which the commission
9 will complete and expand on the initial transitions, and which must
10 include:

11 (A) optimization of initial implementation
12 initiatives;

13 (B) use of enterprise teaming operations;

14 (C) building infrastructures to support and
15 facilitate changes in gaming regulation and oversight; and

16 (D) identification and use of beneficial assets
17 management and facilities approaches; and

18 (4) a transformation phase, during which the
19 commission will continue implementing initial and additional
20 changes in gaming regulation and oversight, and which must include
21 implementation of changes in agency management activities.

22 SECTION 3.22. (a) The Texas Lottery Commission and the
23 Texas Racing Commission are abolished on the date on which their
24 respective powers, duties, functions, programs, and activities are
25 transferred under Section 3.17 of this article, and after that date
26 a reference in any law to the Texas Lottery Commission or to the
27 Texas Racing Commission means the Texas Gaming and Boxing

1 Commission.

2 (b) The abolition of a state agency or entity listed in
3 Subsection (a) of this section and the transfer of its powers,
4 duties, functions, programs, activities, obligations, rights,
5 contracts, records, property, funds, and employees as provided by
6 this article do not affect or impair an act done, any obligation,
7 right, order, permit, certificate, rule, criterion, standard, or
8 requirement existing, or any penalty accrued under former law, and
9 that law remains in effect for any action concerning those matters.

10 SECTION 3.23. (a) Except as provided by Subsection (b),
11 Sections 3.01 through 3.16 of this article take effect on the date
12 the Texas Lottery Commission and the Texas Racing Commission are
13 abolished under Section 3.22 of this article.

14 (b) Sections 3.17 through 3.22 of this article and this
15 section take effect on the date the amendment adding Section 47-a,
16 Article III, Texas Constitution, authorizing the operation of video
17 lottery games at racetracks and on Indian lands to provide
18 additional money to fund public education and other governmental
19 programs proposed by the 79th Legislature, 1st Called Session,
20 2005, becomes effective. If that amendment is not approved by the
21 voters, this article has no effect.